PLAYING THE (POLICY) FIELDS: THE LESBIAN AND GAY MOVEMENT AND THE DEVELOPMENT OF THE MODERNIZATION OF BENEFITS AND OBLIGATIONS BILL

A Thesis
Submitted to the Faculty of Graduate Studies and Research
In Partial Fulfillment of the Requirements
For the Degree of

Master of Public Policy
University of Regina

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December, 2016

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UNIVERSITY OF REGINA

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Abstract

The lesbian and gay rights movement in Canada has a rich history comprised of numerous groups and individuals that worked tirelessly for decades to promote lesbian and gay rights and champion for protections to the community at a number of levels. One of the primary challenges that occurred was in relation to relationship recognition. Throughout the 1970s, 80s, and 90s in Canada, the lesbian and gay movement worked to achieve relationship recognition, challenging the criminal code, human rights protections, and finally full relationship recognition through the Modernization of Benefits and Obligations Act in 2000.

Using the theory of fields as outlined by Fligstein and McAdam (2012), this thesis will provide a comprehensive view to understanding select challenges that occurred to key policy fields in order to create the conditions which allowed for the passing of Bill C-23 in Canada. I address the question of how the lesbian and gay community worked to challenge the policies that supported the Criminal Code and Human Rights frameworks – both of which inform understandings of ‘relationship politics’ – in order to re-define the underlying logic within the strategic action field of ‘relationship politics’, leading to a reconceptualization of it through the passing of Bill C-23 in 2000.

In Chapter One, I introduce the lesbian and gay movement in Canada, presenting key achievements the movement made throughout the late-20th century. In Chapter Two, I provide a comprehensive overview of the ‘theory of fields’ as conceptualized by Fligstein and McAdam (2012), specifically how I will utilize their theory in order to explain the ways in which challenger groups and incumbent groups worked to effect change, or maintain the status quo, in relation to the various policy fields that were
impacted leading to Bill C-23. In Chapter Three I introduce the field of ‘relationship politics’ that will provide the overview of my primary analysis, situating it in the context of the lesbian and gay movement.

In Chapter Four I explore the lesbian and gay movement as a challenger group to ‘relationship politics’, paying close attention to the community mobilization and specific ‘shocks’ to ‘relationship politics’ that the movement was able to take advantage of, which opened up both the policy fields of the criminal code and human rights to lead to Bill C-23. Finally, in Chapter Five I will focus on the incumbent group, Members of Parliament who were most in control of those policy fields that served to reinforce ‘relationship politics’. I will look at how the incumbent group worked to assert their views of ‘relationship politics’ when debating challenges that came forward, providing a deeper analysis around the specific episodes of contention to the main fields within my analysis.

This analysis, while being somewhat unique to the lesbian and gay movement, will provide a framework for understanding how other social movement groups, through collective action and understanding the logic and composition of a variety of policy and public fields, may be able to affect change on a broad scale. The challenge for relationship recognition is somewhat unique in terms of the relative speed with which it came to be implemented, happening within a period of about 30 years. Understanding the numerous spaces through which change occurred, where challenges emerged, and how both challengers and incumbents worked to assert their relative positions, can allow for an understanding as to how other social movements may succeed – or, alternatively, fail – to achieve substantive social and policy change.
Acknowledgements

I would like to acknowledge the support I received from the University of Regina, the Faculty of Graduate Studies and Research, as well as Johnson-Shoyama Graduate School of Public Policy.

The funding I received from the Faculty of Graduate Studies and Research, along with the research assistantship I was able to take on provided me invaluable support throughout this program.
Post Defense Acknowledgement

I would like to thank Dr. Nick Mulé for his terrific insight and thoughtful defense questions. If I do decide to do the PhD, I guarantee I will seek out your wisdom and expertise!
Dedication

I would like to thank Dr. Bruno Dupeyron for being a wonderful supervisor and guide on this inspiring, and tiring, journey. The feedback, support, and wonderful chats made this thesis into what it is, and I am forever grateful for your guidance. I would also like to thank my thesis committee, Dr. Daniel Béland, Dr. Amy Zarzeczny, and Dr. Claire Carter for the amazing feedback and patience.

My time at JSGS was long but unforgettable, and I am eternally grateful to all the staff and faculty at the school for giving me such a rewarding academic experience. I also have to thank my family and friends who, for some strange reason, supported my decision to do this whole process a second time. I think you are all crazy, and can assure you that this will be my last thesis (for now).
# TABLE OF CONTENTS

Abstract................................................................................................................................. i
Acknowledgements................................................................................................................ iii
Post Defense Acknowledgement.......................................................................................... iv
Dedication.............................................................................................................................. v
Table of Contents................................................................................................................ vi
List of Tables........................................................................................................................... vii

**Chapter One: Introduction**.............................................................................................. 1
   The Lesbian and Gay Movement in Canada from the 1960s to 2000............................. 3
   An Excurses on Terminology....................................................................................... 10
   Research Question.......................................................................................................... 11

**Chapter Two: Theoretical and Methodological Framework**........................................ 15
   Theoretical Framework................................................................................................. 15
   The Theory of Fields................................................................................................. 16
   Methodological Framework....................................................................................... 24
   Field Definitions......................................................................................................... 24
   Discourse Analysis...................................................................................................... 26
   Data Sources................................................................................................................ 29
   Method........................................................................................................................... 31
   Researcher Positionality............................................................................................. 34
   Concluding Remarks.................................................................................................... 36

**Chapter Three: The Stable Field of ‘Relationship Politics’**.......................................... 37
   ‘Relationship Politics’ in the mid-20th Century.......................................................... 38
   Marriage and the Family............................................................................................. 39
   Regulated Sexualities................................................................................................. 44
   The Role of Church and State.................................................................................... 46
   The Field of ‘Relationship Politics’................................................................................ 48
   Early Challenges.......................................................................................................... 49
   Reinforcing and Challenging the Strategic Action Field............................................ 51
   Constructing and Maintaining the Field: Incumbents............................................... 51
   Changing the Field: Challengers................................................................................. 52
   Order Within the Field: Internal Governance Units.................................................. 53
   Supporting Relationship Politics: The Broader Field Environment.......................... 54
   Concluding Remarks.................................................................................................... 55

**Chapter Four: Exogenous Shocks and Mobilization**.................................................... 57
   Early Shocks and the Growth of the Lesbian and Gay Movement............................ 57
   The Decriminalization of Homosexuality.................................................................... 58
   Diverse Challengers and Defining the Movement....................................................... 60
   Choosing the Challenges............................................................................................. 65
   Continued Shocks and Mobilization: Challenges for Human Rights and Judicial Support......................................................................................................................... 67
   The Rise of Human Rights: Respect for the Lesbian and Gay Movement................ 67
   The Charter, Legal Rights-Talk and Continued Court Challenges............................. 75
   Challenging Structures and the State........................................................................... 81
   Concluding Remarks..................................................................................................... 83
List of Tables

Table One: Elements of ‘Relationship Politics’ .......................................................... 55
CHAPTER ONE: INTRODUCTION

The lesbian and gay rights movement in Canada has a rich history comprised of numerous groups and individuals that worked tirelessly for decades to promote lesbian and gay rights and champion for protections to the community at a number of levels. The emergence of the lesbian and gay rights movement in Canada came in concert with the rise of other social movements such as the women's movement and the civil rights movement throughout the 1960s (Lahey 1999; Staggenborg 2012). Staggenborg (2012) notes that much of this initial community building emerged as a result of the ability for people to connect throughout the war, and in the post-war period, the community gradually grew as more organizations developed related to the new left political movements.

World War II was a key point in the emergence of a lesbian and gay community: with many individuals having left home for the first time, they were able to create and find new networks and subcultures (Smith 2008a; Stein 2012). Some of the earliest organizations emerged in the United States, namely the Mattachine Society in 1950 and the Daughters of Bilitis in 1955 (Bernstein 2002; Smith 2008a). These homophile organizations, as they were called, were focused on increasing education and acceptance towards homosexuality, with a view to de-pathologizing homosexuality and in general increasing social acceptance through education efforts. These groups produced newsletters and sent them to other English-speaking countries, including Canada, where they had a great impact on homophile organizing in the early-1960s. Through the growth of social movements throughout the 1960s, homophile organizing gradually became
focused on gay liberation, with goals shifting to challenging structures, and asserting the value and equality of same-sex relationships (Smith 2008a).

The rise of publications studying sexuality throughout the 1940s and 1950s showed that homosexual acts were more common than previously thought, and allowed for many homophile groups and organizations to begin to grow (Lahey 1999). It was with the Stonewall Rebellion in 1969 that the beginning of the modern gay rights movement really emerged in the United States (Staggenborg 2012). However, it was not until 1971 that the movement in Canada took on a cohesive ‘structure’ – it was in this year that protesters marched on Parliament Hill as part of the ‘We Demand’ demonstration; the same year, the first issue of The Body Politic, a prominent magazine for the gay community in Canada, was released (McLeod 1996; Smith 1999). Smith (1999) notes that the early development of the movement within Canada “grew out of the counter-culture of the sixties and its meaning frames were transformational, aimed at the elimination of heterosexism, patriarchy and sex and gender roles (43). Indeed, the ‘gay liberation’ movement was focused on the need to construct a specifically ‘gay and lesbian’ identity, and build institutional and organizational supports to affirm that identity (Smith 1999).

Beginning in the late-1960s, the lesbian and gay movement emerged on a public scale and worked to challenge for civil and relationship rights throughout the late-20th century. In the following section, I will provide an overview of some of the key work and challenges that the lesbian and gay movement brought forward throughout this period.
1.1 The Lesbian and Gay Movement in Canada from the 1960s to 2000

The early organizational years of the lesbian and gay movement in Canada can be best characterized as ones of community building. Individuals, such as James Egan, Barbara Findlay, Douglas Sanders, and Diana Smith began organizing, and community groups such as the Association for Social Knowledge (ASK), International Sex Equality Anonymous (ISEA), and the Gay Action Committee emerged in cities such as Toronto, Montreal, and Vancouver throughout the 1950s and 60s (McLeod 1996; Smith 1999). However, there was still a great deal of discrimination, as homosexual acts were still illegal during this period.

From the beginning, while the ‘lesbian and gay movement’ began organizing and working towards somewhat common goals, it is important to keep in mind that the ‘movement’ was not singular and cohesive. At the outset it was comprised of a number of groups and individuals who all had a number of challenges that they were fighting for. However, it was with the publication of the Kinsey Reports in the 1940s that previous understandings regarding homosexuality became challenged on a larger scale, allowing for the opportunity for the lesbian and gay movement to begin to organize and connect in a more public way (Lahey 1999).

In part due to the influence of the civil rights and women’s movements throughout the 1960s, views of sexuality and relationships were changing dramatically, becoming more liberal than in the past. As a result of the changing of the criminal code in Britain in 1967, along with the influence of these new social movements, Pierre Trudeau, as Justice Minister, introduced a series of reforms to the Criminal Code in 1967, which included decriminalizing homosexual acts between two consenting adults over the age of
21 (Warner 2002). It was in 1969, this time with Trudeau as Prime Minister, that amendments to the criminal code decriminalizing homosexuality were passed, included in a package of additional amendments (Chambers 2010). Despite these reforms, a number of other ways to police homosexuality remained, including the ability to charge owners of bathhouses with ‘operating a bawdy house’, as well as various pieces of legislation which were used to censor a variety of lesbian and gay material (Smith 2011; Cossman 2014).

While there was a burgeoning lesbian and gay movement throughout the 1960s, a great deal of the more public awareness and organizing did not occur in earnest until the 1970s. While the decriminalization of homosexuality provided the movement with more opportunities to increase their presence, it still left many obstacles to the movement in terms of gaining widespread social acceptance. Concerns surrounding protections in employment, housing, censorship, and the creation of more focused spaces, among others, were constant throughout the 1970s. Indeed, while some measure of ‘equality’ was argued to have been achieved through the decriminalization of homosexuality, many argued that this merely served to change a piece of the Criminal Code that was difficult to enforce to begin with, as well as reinforcing a couplist view focused on private sexual activity. As such, the lesbian and gay community still experienced a great deal of discrimination, including police in Montreal invoking the War Measure Act to justify closing known gay bars in the city (McLeod 1996).

As I mentioned above, it was the ‘We Demand’ brief and demonstration that was arguably the turning point for the lesbian and gay movement in Canada. This brief was submitted to the Federal Government on August 21st, 1971, and argued that the
amendment from 1969 served to not necessarily legalize homosexuality, but recognized “the non-enforceable nature of the Criminal Code as it existed” (The August 28th Gay Day Committee, as cited in Jackson 1981: 217). On August 28th 1971, the first large-scale demonstration by the lesbian and gay community in Canada occurred when hundreds came together on Parliament Hill to support the brief and listen to speeches by key members of the gay community in Canada (Canadian Lesbian and Gay Archives (CLGA) 1998). The brief was composed of 10 demands that would become the key focus of the lesbian and gay community in Canada for the next 30 years, and included such things as employment protections for homosexuals and all legal rights for homosexuals that existed for heterosexuals, changes that would be hard-fought through the following decades (The August 28th Gay Day Committee as cited in Jackson 1981).

While the demands by The August 28th Gay Day Committee were lofty, at the time, they provided a key framework through which the lesbian and gay community could coalesce into a more structured movement than they had previously been. As a result, the 1970s became a period of community organizing and activism which served to bring the lesbian and gay movement to the forefront of public discourse. A key part of which included encouraging individuals to ‘come out’ as lesbian or gay (Smith 1999). Groups in Montreal, Toronto, and Vancouver led the charge in creating lesbian and gay communities, primarily as a result of the size of these cities (Nash 2005). However, organizing spread and groups emerged throughout the country which worked to bring acceptance to the lesbian and gay community (McLeod 1996; Warner 2002).

Many individuals continued to face extreme discrimination throughout this time in areas such as housing and employment, and as a result, the lesbian and gay community
began to challenge human rights frameworks and create formal protections against
discrimination towards homosexuals. Slowly throughout the 1970s, 80s and 90s,
provinces began adding ‘sexual orientation’ as a protected grounds of discrimination into
their human rights codes, with Quebec being the first province to do so in 1977 (Laroque
2006; Staggenborg 2012). It was throughout this period, and in the context of working to
change human rights frameworks, that the courts became a key avenue through which the
lesbian and gay movement in Canada engaged in primary challenges (Smith 2008b).
Activists believed that engaging in challenges through the courts “could be used to draw
attention to the problem of lesbian and gay discrimination and […] build a sense of
collective identity, to overturn the stigma associated with homosexuality, and to bring
other lesbians and gays out of the closet” (Smith 2008b: 48).

When discussions regarding the Charter of Rights and Freedoms began to take
shape in Canada in the 1980s, there was a special focus on equality provisions that were
to be added. These provisions were to provide equality protections to a number of groups
that had experienced discrimination historically, including women, and individuals with a
disability. While there were discussions with a variety of groups in deciding which
groups may be included within these protections, the lesbian and gay community was not
necessarily involved as much in these debates as other groups were, due largely to the
AIDS epidemic and – to this point – rather weak organizing on a national level (Smith
1999; Fisher 2004). Ultimately, ‘sexual orientation’ was not added within the final
equality provisions, but it was argued that the language within the Charter remained
open-ended such that lesbian and gay individuals would be covered, albeit largely
through the Human Rights structure (Lahey 1999).
The Charter had very important impacts on the ways in which the lesbian and gay movement could further work to challenge the status quo and gain more formal rights and protections (Simpson 1994). Smith (1999) argues that it encouraged and supported the development of new organizations devoted specifically to equality seeking; it drew existing organizations into ‘rights-talk’ based within the Charter; and it allowed for increased litigation for lesbian and gay groups to engage in to formally challenge existing structures. It also encouraged more official organizing at the national level, and it was within this setting that Equality for Gays and Lesbians Everywhere (EGALE) was formed (Smith 1999).

Some of the early cases that EGALE, as well as other provincial groups, worked on during this period provided a more national platform and awareness to the myriad issues and ways in which the lesbian and gay community still faced discrimination (Smith 1999). While the period of the 1970s could be seen as building community and working to gain civil rights, the 1980s, with the advent of the Charter, became a decade of rights claims, which challenged the more formal structure of access to rights on a federal level (Cotter 2010).

The challenges in respect to relationships, the family, and rights claims throughout the 1980s largely carried over into the 1990s, including continued debates regarding adding sexual orientation protections to the Canadian Human Rights Act (Rayside 1998). Cases were brought forward dealing with issues such as being released from the Military on the basis of being homosexual (Haig and Birch), bereavement leave for a partner’s father (Mossop), the ability to access a partner’s OAS benefits (Egan), adoption rights (Rosenberg), and the appeal for spousal supports after the breakdown of a
long-term lesbian relationship (*M v. H*) (Smith 1999; Warner 2002; Fisher 2004; Wintemute 2004). Through each court challenge, more individuals became aware of the issues that lesbian and gay individuals still faced on a daily basis (Smith 1999; Warner 2002).

With the rise in legal rights claims put forward by the lesbian and gay community, these issues also began to make their way onto the floor of the House of Commons. This was not only as a result of the media coverage that they achieved, but also as a result of key Members of Parliament (MPs) who either supported or were active against the lesbian and gay movement. Members such as Svend Robinson and Real Menard (both gay men), would bring issues such as relationship recognition, access to benefits, and human rights protections into discussions regularly (Everit and Camp 2014). It was in the 1990s that the greatest movement on a federal level occurred in regards to the lesbian and gay movement. Primarily, in 1996, Bill C-33, an amendment to add sexual orientation to the Canadian Human Rights Act was introduced and ultimately passed, although it included very divisive debate within the House of Commons. (Rayside 1998).

It was from here that, in 2000, the Modernization of Benefits and Obligations Act (Bill C-23) began to take shape. The goal of this act was to essentially update a number of federal laws and regulations that previously applied to heterosexual married couples to include same-sex and common-law couples (Laroque 2006; Pettinicchio 2010). While the debate surrounding this bill discussed the potential for the legalization of same-sex marriage, there was still significant opposition, both from politicians and the public. The bill itself was the subject of heated debates, with many MPs still opposed to recognizing homosexuality due to religious or personal beliefs, similar to the many debates that
surrounded Bill C-33 (Rayside 1998). Supporters of the bill urged the separation of religion from the state, and focused on the issue of discrimination (Laroque 2006). While the bill eventually passed, right before it was up to vote, there was a note added reaffirming that marriage was still recognized as a union between a man and a woman.

The passing of Bill C-23 represented a key movement in support of rights for the lesbian and gay community. However, it was the result of years of community activism and challenging a number of policy fields to provide the conditions under which it was able to be accepted. This bill also succeeded in opening up the debate to same-sex marriage, which was first legalized in Ontario in 2003, followed by Quebec and British Columbia, and federally recognized in 2005 with the passing of the Civil Marriage Act (Boyd and Young 2003; Staggenborg 2012).

As the above discussion highlights, the path to this bill was not a simple one, and it required a number of substantive policy changes to occur before it could be accepted. These included changes to the Criminal Code through the decriminalization of homosexuality, protections to the lesbian and gay community within human rights legislation, as well as changes in general social attitudes which increased the acceptance of the lesbian and gay community, to name a few. A number of groups supported the changes that challenged the status-quo of the time, including members of the lesbian and gay community, heterosexual allies, as well as some people within the church and political spheres. However, there were also those who pushed-back at any progress or change that occurred, including church leaders, politicians, and community members, among others who worked to keep the status-quo intact.
1.2 An Excursus on Terminology

It is important to be aware of how the terminology used within – and about – the lesbian and gay movement reflects the history of the movement, as well as is reflected by the history of the culture through which challenges took place. Smith (1999) details concerns regarding essentialist and constructionist views related to identity and sexual identification. Not only has the movement itself taken on different concerns and challenges from the 1960s, but the way in which the movement was able to use language shifted as well over the decades.

Warner (2002) and Stein (2012) provide invaluable discussions on the terminology used by the lesbian and gay movement throughout history. Beginning with ‘homophile’ groups throughout the 1950s and 60s, these emerged as part of an effort at raising awareness and educating, highlighting a focus on same-sex love, a description used partly as “a strategy to disarm movement enemies” (Stein 2012: 5). As the movement progressed to focus on issues related explicitly to sexuality, the use of ‘homosexual’ was used, yet this term has largely reflected a more medicalized view of the movement, which focused on “classification, diagnosis, and treatment” (Stein 2012: 5). As the movement became more prominent throughout the 20th century, the term ‘gay’ became more popular, however this term came with specific class and gender connotations, representing a specific experience of same-sex relationships that was reflective more of white, middle-class men (Stein 2012). Many women resisted the use of ‘gay’ as an all-encompassing descriptor, and favoured the use instead of ‘lesbian’ in order to adequately represent the unique experiences of women within the movement (Stein 2012).
Throughout this thesis, while the ‘lesbian and gay movement’ will be my primary focus of analysis, I will refer to the different terms within the specific social context and time in which they were used, as well as how the various sources I utilize reference the movement actors. I argue that much of the focus politically and through legal and legislative means, given the focus of this research on relationship recognition more specifically, has been within the framework of ‘lesbian and gay’ rights. For the majority of this thesis, I will refer primarily to the ‘lesbian and gay movement’ as the social movement within my analysis, and in Chapter Four I will provide a more detailed analysis as to the specific reasons why I have chosen to focus primarily on ‘lesbian and gay’ rights within the context of civil rights. In the concluding chapter, I will address in more detail the broader identities and communities that comprise the queer community (lesbian, gay, bisexual, transgender, queer), and how future research using this theoretical framework could be done.

1.3 Research Question

Using the theory of fields as outlined by Fligstein and McAdam (2012), this thesis will provide a comprehensive view to understanding select challenges that occurred to key policy fields in order to create the conditions which allowed for the passing of Bill C-23 in Canada. I engage in a meso-level analysis of the policy fields of the criminal code and human rights legislation that were challenged by the lesbian and gay community; challenges which led to the eventual passing of the Modernization of Benefits and Obligations Act (Bill C-23) in 2000.

Within Fligstein and McAdam’s framework, the primary element under analysis is the ‘strategic action field’. A strategic action field is “a constructed mesolevel social
order in which actors (who can be individual or collective) are attuned to and interact with one another on the basis of shared (which is not to say consensual) understandings about the purposes of the field, relationships to others in the field (including who has power and why), and the rules governing legitimate action in the field” (Fligstein and McAdam 2012: 9). Fligstein and McAdam (2012) provide an example through which they explore the field of ‘racial politics’ within the United States, and the challenges faced by the civil rights movement; in this case, the strategic action field under study is that of ‘racial politics’. Borrowing from their example, I have chosen to focus on the strategic action field of ‘relationship politics’ in my research. While I will define this strategic action field in Chapter Three, it comprises the key understandings and logic which guided legitimate ‘relationships’ through the 20th century. Focusing on this strategic action field, I will use the lesbian and gay movement in Canada as a case study as to how the theory of fields can be used in understanding the broad level legislative and formal policy changes that social movements can influence.

My research question is: how did the lesbian and gay movement work to challenge the policies that supported the Criminal Code and Human Rights frameworks – both of which inform understandings of ‘relationship politics’ – in order to re-define the underlying logic within the strategic action field of ‘relationship politics’, leading to a reconceptualization of it through the passing of Bill C-23 in 2000?

In Chapter Two, I will provide a concise overview of the theoretical and methodological framework that will guide my analysis. This will include a comprehensive overview of the ‘theory of fields’ as conceptualized by Fligstein and McAdam (2012), highlighting how I will utilize their theory in order to explain the ways
in which challenger groups and incumbent groups worked to effect change, or maintain the status quo, in relation to the various policy fields that were impacted leading to Bill C-23. This chapter will also provide an overview of the methodological framework that I utilize within my analysis, paying close attention to the work of Fairclough (1989) on Discourse Analysis that I will engage with throughout my analysis.

In Chapter Three I will introduce the field of ‘relationship politics’ that will provide the overview of my primary analysis. This chapter will include a comprehensive historical overview of ‘relationship politics’, situating it in the context of the lesbian and gay movement. In this chapter I will also introduce the key elements to ‘relationship politics’ as highlighted within the theory of fields, including outlining the challengers, incumbents, and the key ‘fields’ that my analysis will focus on.

Chapter Four will feature the first part of my analysis through exploring the lesbian and gay movement as a challenger group to ‘relationship politics’. In this chapter, I will introduce the movement as a challenger group, paying attention to challenges within the group itself that influenced the activities the movement took throughout the 1970s and 1980s. I will pay close attention to the community mobilization and specific ‘shocks’ to ‘relationship politics’ that the movement was able to take advantage of, which opened up both the policy fields of the criminal code and human rights to lead to Bill C-23. The focus on this chapter is in understanding how the movement worked to challenge each policy field, and how the changes which occurred within fields created the conditions to support the eventual passing of Bill C-23.

In Chapter Five I will focus on the incumbent group, Members of Parliament who were most in control of those policy fields that served to reinforce ‘relationship politics’.
I will look at how the incumbent group worked to assert their views of ‘relationship politics’ when debating challenges that came forward, providing a deeper analysis around the specific episodes of contention to the main fields within my analysis. Looking specifically at the debates around the decriminalization of homosexuality, the addition of sexual orientation to the Canadian Human Rights Act, and finally the Modernization of Benefits and Obligations Bill, this chapter will focus on those primary episodes of contention that ultimately resulted in resettling the field of ‘relationship politics’ such that same-sex relationships were accepted within legislation.

This analysis, while being somewhat unique to the lesbian and gay movement, will provide a framework for understanding how other social movement groups, through collective action and understanding the logic and composition of a variety of policy and public fields, may be able to affect change on a broad scale. The challenge for relationship recognition is somewhat unique in terms of the relative speed with which it came to be implemented, happening within a period of about 30 years. Understanding the numerous spaces through which change occurred, where challenges emerged, and how both challengers and incumbents worked to assert their relative positions, can allow for an understanding as to how other social movements may succeed – or, alternatively, fail – to achieve substantive social and policy change.
CHAPTER TWO: THEORETICAL AND METHODOLOGICAL FRAMEWORK

The lesbian and gay movement in Canada has a rich, varied history, with many policy areas challenged in the quest for equal rights and relationship recognition. As such, there are a variety of policies and issues that I could focus on. However, for this current research I will be focusing specifically on the challenge for relationship recognition, highlighted by the Modernization of Benefits and Obligations Bill (Bill C-23), which was passed in 2000. In order to explore the development of the social and legislative conditions under which this bill was able to be passed, I will look at two additional bills which both led to significant social and political change in the public lives of the lesbian and gay community: Bill C-150 in 1969, which decriminalized homosexuality; and Bill C-33 in 1996, which added ‘sexual orientation’ as a protected grounds of discrimination within the Canadian Human Rights Act.

In this chapter, I will outline the theoretical framework that I will use in my analysis, and then provide a discussion regarding my specific methodology. A key consideration is the breadth of information that it would be possible to use throughout my analysis; this will be addressed by specific questions and hypotheses proposed within my theoretical framework that will allow me to effectively frame my research question, and focus on the specific information I will use throughout my analysis.

2.1 Theoretical Framework

The theoretical framework that will guide my analysis is the theory of fields as outlined by Fligstein and McAdam (2012). This theory provides a significant framework through which to examine the challenges that occurred to the policy fields of the Criminal Code and Human Rights frameworks that created the eventual conditions which led to the
passing of Bill C-23 (2000). In the following section, I will provide an outline of the theory of fields, including how I will use it to look at the history of the lesbian and gay movement in Canada and the subsequent development of Bill C-23.

2.1.1 The Theory of Fields

The theory of fields is a recent scholarly contribution that seeks to provide a comprehensive view as to how "stability and change are achieved by social actors in circumscribed social arenas" (Fligstein and McAdam 2012: 3). While recent, the theory of fields draws on a number of previous theories related to change within policy or social fields, such as the work of Bourdieu (Fligstein and McAdam 2012). Where previous work has centred upon “the central importance of interests and power, [Fligstein and McAdam] insist that strategic action in field turns on a complicated blend of material and ‘existential’ considerations” (Fligstein and McAdam 2012: 3). While previous theories focused on field change through understandings of power and organizations, the theory of fields focused on the existential, social elements of field change. Along with this, where theories on social movements tend to focus on the rise of collective understandings and consciousness raising, the theory of fields explores how these groups are able to, through that collective action, challenge specific policy fields and create significant social change.

Strategic Action Fields

The guiding piece within the theory of fields is in understanding the strategic action field that is under analysis. As I introduced previously, strategic action fields are “socially constructed arenas within which actors with varying resource endowments vie for advantage” (Fligstein and McAdam 2012: 10). Strategic action fields are ‘socially constructed’ in three key ways: membership is based on subjective ‘standing’ as opposed
to any objective criteria; the boundaries shift depending on the definition of the situation and; they are based on a set of understandings developed over time by members of the field (Fligstein and McAdam 2012: 10).

In their example of racial politics, they describe it as a national field, in the sense that there were a number of broad pieces of legislation that created the conditions for which other policies, such as Jim Crow, were accepted. From this, the first point in my analysis will be highlighting the strategic action field that will be central in my research. With a view to understanding the challenges that led to the development of the Modernization of Benefits and Obligations Act (Bill C-23), I will be focusing on the strategic action field of ‘relationship politics’. The lesbian and gay rights movement has focused on a number of key issues since the 1960s, but primary among them has been the challenge for equal recognition of same-sex relationships (Smith 1999, 2005; Boyd and Young 2003; Laroque 2006). Following this, I will be analyzing the development and eventual assent of Bill C-23 within the context of the field of ‘relationship politics’. In the following chapter, I will describe the development and composition of this strategic action field in more detail.

Fligstein and McAdam (2012) note that strategic action fields can be understood as similar to a policy domain or subsystem, and it is important to note as well that fields are constantly in a state of flux. Actors are engaged in a continual process within fields of reaffirming their positions and interpretations of the field, to varying success. Therefore, challenges arise in regards to the more broadly accepted definitions and understandings of the field. The resources that actors within a field have access to serve to assist in this definition, and when challenges arise, often those with more resources are the ones who
are best able to assert their preferred view of a field over others who may not have access to the same resources. Key to my analysis is the understanding of ‘relationship politics’ as a field in and of itself, with a detailed history of political and institutional frameworks that have served to legitimate it within the sociopolitical realm. Legislation, policies regarding collective understandings of the family, religious institutions, and the welfare state have all contributed to the common understanding of relationships as it was – prior to challenges by proponents of Bill C-23.

**Incumbents, Challengers, and Internal Governance Units**

Along with strategic action fields, Fligstein and McAdam (2012) highlight six additional elements within the theory of fields, the second of which is incumbents, challengers, and internal governance units. Incumbents are those actors currently controlling the most within a field, those "whose interests and views tend to be heavily reflected in the dominant organization of the strategic action field" (Fligstein and McAdam, 2012: 13). For the present analysis, incumbents will be those who controlled the field of ‘relationship politics’ throughout the mid-20th century; those whose views and understandings created the definitions that were accepted as ‘normal’.

Challengers are those who may be a part of the field, but will have little control within a field, or limited ability to control how it operates. While part of the field, challengers are often "awaiting new opportunities to challenge the structure and logic of the system" (Fligstein and McAdam 2012: 13). Challengers in this case will be those who began to champion for the formal recognition of same-sex relationships, who found the opportunity to begin to challenge the 'structure and logic' of relationships as had been defined and understood. It is key to note that while an individual or group may be an
incumbent in one field, they may be a challenger in another field, or they may shift roles as the structure of a field changes.

Finally, internal governance units are present in every field, and are "charged with overseeing compliance with field rules and, in general, facilitating the overall smooth functioning and reproduction of the system" (Fligstein and McAdam 2012: 13-14).

Internal governance units serve to reinforce the status-quo and protect the interests of the incumbents through ensuring stability and order within a field. In the case of the field of ‘relationship politics’, internal governance units would include those pieces of legislation that serve to ensure that recognized relationships were strictly heterosexual; for example, welfare state provisions regarding who is able to access certain welfare state benefits as a 'spouse'. Internal governance units are responsible not only for internal processes, but also dealing with external stakeholders in order to reaffirm a field position. For example, a representative of a religious group may speak on hearings regarding equality rights within the Charter, reinforcing the field structure that is held by the religious organization.

Social Skill and the Existential Functions of the Social

The third element within the theory of fields is that of social skill and the existential functions of the social. This element "highlights the way in which individuals or collective actors possess a highly developed cognitive capacity for reading people and environments, framing lines of action, and mobilizing people in the service of broader conceptions of the world and of themselves" (Fligstein and McAdam, 2012: 17).

Within this framework, social skill allows actors within fields to either continue to define and reinforce a stable field, or build collective action to challenge an unstable
field. As Fligstein and McAdam (2012) argue, this element rests on “the existential capacity and need for meaning and membership [that is] the core for understanding how people create and sustain mesolevel social worlds […] the need for meaning is at the basis of people’s efforts to get and sustain collective action” (46). Therefore, incumbents within a field will utilize their social skill to maintain the current group order and solidarity, while challengers will use theirs in order to encourage others to find alternative meaning within fields, and work to reframe the understandings of those fields.

**The Broader Field Environment**

The fourth element that Fligstein and McAdam highlight is that of the broader field environment. This is essentially the social context in which the field exists, and highlights the fact that all fields are located within webs of other fields. Fligstein and McAdam argue that "[t]he stability of any given field is largely a function of its relations to other fields. While fields can devolve into conflict as a result of internal processes, it is far more common for an 'episode of contention' to develop as a result of change pressures emanating from proximate state and/or nonstate fields" (Fligstein and McAdam 2012: 19). Therefore, the environment in which a field is located is important in order to assess where a challenge may occur. Within this element, it is important to be aware of the fact that a challenge may not immediately be levied towards the field that challengers may hope to eventually change, but on proximate fields that gradually, over time, create the changes and conditions necessary for a final shift in the strategic action field to take place. So for example, the lesbian and gay community did not immediately work to challenge the field of ‘relationship politics’, but there were challenges to related fields which allowed for this eventual challenge to occur.
While ‘relationship politics’ is the strategic action field under analysis, it is comprised of a number of fields which serve to support the rules and internal governance units that construct its current definition. These fields are all related to relationship politics in such a way that actions that occur within them have an influence on the broader field environment (Fligstein and McAdam 2012). Key is how the broader context that each field is located within has a large impact on the ways in which it moved forward or was challenged to include lesbian and gay rights. Where one field is challenged and renegotiated, this can allow for another field to then be challenged, creating a ripple that opens up proximate fields to challenges. Since the emergence of the lesbian and gay rights movement in the 1960s, various challenges have been levied towards a number of policy fields, which have all contributed to creating the conditions under which the legal provision of benefits was finally able to be challenged (Pettinicchio 2010).

Exogenous Shocks, Mobilization, and the Onset of Contention

The fifth element expands on the importance of the broader field environment by highlighting exogenous shocks, mobilization, and the onset of contention within a field. Essentially, as noted above, Fligstein and McAdam (2012) suggest that "the broader field environment is a source of routine, rolling turbulence in modern society" (19). They highlight a process of three linked mechanisms through which this occurs, including the attribution of threat/opportunity, social appropriation, and innovative action. Fligstein and McAdam (2012) argue that the process through which these mechanisms occur is vital to the progression of a shock within a field to becoming an episode of contention (which will be discussed below).
First is understanding the threat or opportunity, which is how the incumbents and challengers interpret a destabilizing change as being able to lead to contention. If it is thought that there is a threat to a field or the ability to challenge it, then each group will work to take charge of the various organization resources. This is the mechanism of social appropriation, whereby each group works to “mobilize and sustain action” (Fligstein and McAdam 2012: 21). Second is the use of innovative action, through which previously unutilized or prohibited forms of collective action are used in order to mobilize and further challenge the current field. For challengers especially this piece is important, as the use of ‘traditional’ means will not necessarily allow for contention to emerge (as the internal governance units, discussed previously, would most likely prevent challenges from occurring within the governed structure of a field).

Episodes of Contention

Following the shocks and mobilization noted in the fifth element, the sixth element of the theory is that of the key episodes of contention. Within this element, the focus turns to those episodes or events which brought the issue and challenges to a field to the forefront, and worked to allow for the creation of entry points through which challengers can begin to restructure and redefine a field to their purposes. Along with the innovative action discussed above, there is a shared uncertainty within a field that emerges throughout an episode of contention. It is within this uncertainty that both incumbents and challengers work to assert their preferred structure and organization of a field. Fligstein and McAdam (2012) note that the uncertainty and length of the contention “can be expected to last as long as the shared sense of uncertainty regarding the structure and dominant order of the field persists” (21). This uncertainty also allows for the consciousness of actors within the
field to be challenged by bringing into question the rules and structures that had previously been taken for granted. It is in this space that challengers are then able to further mobilize actors to challenge and, ultimately, work to change, the structure of a field.

Settlement

The final element of the theory is that of settlement. This is the structure that a field takes after various shocks and challenges have occurred. For Fligstein and McAdam (2012), “a field is no longer in crisis when a generalized sense of order and certainty returns and there is once again consensus about the relative positions of incumbents and challengers” (22-3). For this analysis, settlement will involve an examination of the current form of relationship politics as it stands having been resettled to include Bill C-23. Keeping in mind the various shifts that have occurred, this piece also involves an understanding of the current incumbents and challengers, including in this case those who were once incumbents and may now have had their positions within a field changed, such as those politicians who were against Bill C-23.

Each element that Fligstein and McAdam (2012) highlight as comprising the theory of fields will be invaluable in order to engage in a fulsome analysis of how broad-level social change occurs to a strategic action field. However, it is also one that requires a large amount of historical and contextual information. This research will use the lesbian and gay movement and the challenges which led to Bill C-23 as one specific example to highlight how theory of fields can be applied to an analysis of substantive policy changes.
2.2 Methodological Framework

As I noted above, the theory of fields can provide an extremely in-depth look at changes to strategic action fields. Using this framework, however, can involve a large amount of research. To begin this section, I will highlight a number of key questions that Fligstein and McAdam (2012) put forward in order to focus an analysis using their framework. Next, I will introduce Discourse Analysis and how I will use it in conjunction with the questions highlighted by Fligstein and McAdam in order to provide a more detailed analysis of the challenges to the strategic action field of ‘relationship politics’. Next, I will outline in greater detail the key sources of data that I will use in my analysis, as well as their relationship to the specific policy fields that comprise ‘relationship politics’. I will conclude with an overview of the key methods that I used to collect and analyze my data, along with a brief discussion as to my specific positionality as a researcher.

2.2.1 Field Definition

A central piece to the theory of fields is a consideration of the ways in which fields are established, remain stable, and become challenged. Fligstein and McAdam provide a number of questions to consider, and these will guide my analysis as I explore the ways in which the lesbian and gay community and their allies were able to gradually increase the acceptance of same-sex relationships, and work to slowly change the policy fields I will focus on.

The Stable Field

The first framework is analyzing 'the stable field'. Fligstein and McAdam (2012: 165-166) highlight the following questions, which I will use to provide an outline of the field of ‘relationship politics’ as it was defined prior to the more widespread emergence of the
lesbian and gay movement. While constructions of relationships, including definitions of marriage, have a varied history (Arnup 2001), it will also be important to highlight the point within this field that I will begin my analysis from.

The questions that follow, provided by Fligstein and McAdam, will provide the background to serve as the guiding framework to locate the stable field and address the key features that currently make it up:

- What are the boundaries of the field? Are they formally prescribed or socially constructed?
- Who are the principal incumbents and challengers?
- How strong is the consensus with respect to this settlement?

**Rupture/Crisis/Resettlement**

The second framework is analyzing 'rupture/crisis/resettlement' within a field through exploring the ways in which fields are challenged, where crises emerge, and the form that eventual field resettlement takes. It is these questions which will guide my analysis of the rise of the lesbian and gay movement, what shocks and challenges were made to the fields under analysis, and how ‘relationship politics’ was eventually resettled with Bill C-23 (Fligstein and McAdam 2012: 166-167).

The questions that follow provide the guiding framework through which I will be able to analyze the specific ways in which fields become ruptured, pinpoint where crises emerged and understand how the field is resettled:

- What mix of exogenous 'shocks' and internal processes precipitate the field crisis?
- What specific social processes mediate between the destabilizing events and the actual mobilization of challengers?
- How do the crises and the new settlement affect proximate fields?

These questions will allow me to narrow down the specific questions I will ask throughout my analysis and assist me in limiting the amount of research and data that I
will collect. Through the following chapters, I will use this framework to guide my analysis and provide a more detailed and fulsome overview of the specific fields that comprise ‘relationship politics’, as well as how changes were brought forward, and finally how the field was ultimately resettled through the passing of Bill C-23.

While Fligstein and McAdam (2012) address key questions that I will bring into my analysis, in terms of exploring the specific ways in which fields were challenged, resettled, and where crises emerged, I also need to take a more detailed look at key documents which make up each of the fields that comprise the strategic action field of ‘relationship politics’. The primary source I will use will be Hansard Records of Debate from the House of Commons that deal with the three bills I will be studying. I will also utilize a number of comprehensive sources that provide a history of the lesbian and gay movement in Canada, along with the key fields and challenges that I am focusing on in relation to ‘relationship politics’.

In order to explore the ways that actors engaged with the policy fields under study, it is first necessary to outline the specific methodology that I will use: Discourse Analysis (DA), primarily informed by the work of Norman Fairclough (1989, 1992). In the following section, I will provide an overview of the key reasons as to why I believe DA will be valuable to my research, tying it in specifically with the theory of fields in regards to how it will better inform my analysis.

2.2.2 Discourse Analysis

While Fligstein and McAdam (2012) provide a framework through which to engage with the data that will be used in an analysis using the theory of fields, it will be necessary to explore the specific methodological framework that will allow me to understand the key
ways in which fields are reinforced by incumbents, but also reconstructed by challengers. This understanding of discourse focuses on the impact that it has on individuals and society, providing a way of understanding the effect that it has on both representing society and social structures, as well as reinforcing these structures: “social structures not only determine social practice, they are also a product of social practice” (Fairclough 1989).

The focus is on the ways in which discourse is both constitutive and constructive; constitutive in the sense that it “contributes to the constitution of all those dimensions of social structure which directly or indirectly shape and constrain it,” including not only norms of speech but also relations and dimensions which lie behind it (Fairclough 1992: 64). It is constructive in that it contributes to the creation of social identities, social relationships, and specific knowledges (Fairclough 1992: 64). In terms of analyzing my key data sources, then, I will be paying close attention to the numerous ways these materials serve to both reinforce and redefine the field at hand, and the key structures which support it. A key feature within discourse analysis is the focus on how those with the most power and resources have the best ability to reproduce or redefine a field (a key element within the theory of fields) (Fairclough 1989). Using DA will allow me to see in detail the specific ways that those in power (ie: federal legislators) discuss and make sense of fields, as well as the ways in which those ‘on the ground’, the lesbian and gay movement, created and took advantage of changes.

A primary theme within DA is the focus on discourse as social, “in the sense that whenever people speak or listen or write or read, they do so in ways which are determined socially and have social effects” (Fairclough, 1989: 23). Indeed, Drazenovich
(2012) describes discourses as “social, political and cultural arrangements of ideas and concepts through which the world as we know it is communicated and constructed; they are observed in terms of the elements of knowledge and power inherent in them” (261). I think in terms of examining my data, then, in understanding discourse as a social phenomenon, I will be able to explore how the field of relationship politics was initially constructed, and then how it was reinforced by those in power. I will then also be able to explore the ways the social movement challenged relationship politics as well as its associated fields. As Fairclough (1989) notes, discourse involves ‘social conditions of production’ and ‘social conditions of interpretation’; vital within the theory of fields is how fields are constructed and reaffirmed by those incumbents, and how individuals then work within those parameters to effect change.

An additional feature of discourse that Fairclough (1989; 1992) discusses is that of power and ideology. It is this feature which I think makes it a key tool to use in terms of exploring how fields are reaffirmed or challenged. As Fairclough (1989) notes, “Institutional practices which people draw upon without thinking often embody assumptions which directly or indirectly legitimize existing power relations. Practices which appear to be universal and commonsensical can often be shown to originate in the dominant class or the dominant bloc, and to have become naturalized … the power to project one’s practices as universal and ‘common sense’, is a significant complement to economic and political power, and of particular significance here because it is exercised in discourse” (33). In the first part of my analysis, I will be essentially exploring the ways in which ‘relationship politics’ was defined in the mid-20th century, looking specifically at where these institutional practices emerged. Throughout my analysis I will be paying
close attention then to the ways in which specific power relations, and specific views of acceptable behaviour, became established as ‘common’. In the second part of my analysis as I look at the emergence of crises and episodes of contention, I will be exploring the ways in which these assumptions become challenged, but also then how they are reaffirmed by incumbents within the fields.

The importance of using DA to engage in my analysis of the ways in which fields become settled and challenged is due to the idea that “social structures not only determine social practice, they are also a product of social practice” (Fairclough 1989: 37). It is this point which I think reinforces why this method is so valuable in respect to the theory of fields – it provides a key framework for understanding how structures are defined, but also redefined by, discourse, and how actors engage with discourse in order to define or redefine structures to their own views.

2.2.3 Data Sources

The primary data source that I will use throughout my analysis will be Hansard Records from the Federal House of Commons. Specifically, I will examine debates related to challenges made to three specific bills related to the strategic action field of ‘relationship politics’: Bill C-150, an act to amend the Criminal Code (1968); Bill C-33, an act to amend the Canadian Human Rights Act (1996), and; Bill C-23, the Modernization of Benefits and Obligations Bill (2000). Hansard Records are the debates that occurred in the House of Commons related to issues of the day and bills that Members of Parliament (MPs) bring forward. Each bill that I am focusing on brought forward a significant amount of debate that featured the views and perspectives of both challengers and incumbents. These debates, as reflecting the key episodes of contention to the field of
‘relationship politics’, will also highlight the numerous ways each group worked to use their resources in order to either maintain or redefine the accepted structure and logic of the field that they represent.

The reason that I will use these records as my primary analysis is due to the fact that the field of ‘relationship politics’ is largely a federal one; the ways in which the broader environment is defined and governed is largely based upon federal legislation. How that legislation is defined and debated is key to understanding where those incumbents and challengers work in regards to redrawing the boundaries of the field to their interests. As well, Members of Parliament are the official representatives of the population in politics. As such, they in effect represent the interests and views of their constituents on a national level. Analyzing how they engaged in this throughout the years in debates, and also how those debates shifted over the years, will also allow me to understand how public perceptions over this period changed.

However, Hansard Records will not provide the entire picture of understanding the specific boundaries of each field, key actors, as well as key points where challenge and shocks occurred. I will also rely on key pieces of secondary research related specifically to the lesbian and gay movement in Canada. This will include a number of books that provide a comprehensive historical overview of the movement in Canada, specifically *Never Going Back: A History of Queer Activism in Canada* (Warner 2002) and *Lesbian and Gay Rights in Canada: Social Movements and Equality Seeking, 1971-1995* (Smith 1999), among others. These sources will allow me to effectively map out the limits of each field, who some of the key actors were and what actions occurred to create and take advantage where shocks occurred.
The secondary data sources are important as well in terms of providing an alternative view to the field of ‘relationship politics’, and understanding how the social movement was vital to the challenge and contention within the fields under study. Hansard Debates, as the official records of discussion for the Federal Legislature, are representative of a few key voices, and while there were a number of MPs who were indeed challengers within that space, it is a forum that is not as freely accessible to the larger population. For many of the debates where additional voices were heard, these voices were chosen specifically by MPs or by the committees responsible for the issue under discussion. Therefore, providing an alternative view based on additional research will allow me to better understand the views and actions of the broader social movement, and tie it in with what became the ‘official’ discourse regarding each event.

2.3 Method

Fligstein and McAdam caution that the theory of fields lends itself to rather large data requirements when they note that, “a field is defined by the relationships between all of the players who view themselves as members of the field. Finding those players and tracking their relationships is a huge challenge to scholars” (Fligstein and McAdam 2012: 188). This warning is one that, as I progressed through my research, I should have heeded with more caution than I initially did.

When I began my research, the first step in my analysis was to outline the strategic action field of ‘relationship politics’, including the key fields that serve to support it. Initially, this broader field environment included the criminal code, human rights frameworks, the legal/judicial field, and the welfare state. From here, I began highlighting the primary incumbents and challengers who worked prominently to either
reinforce or challenge each field. This initially included drafting tables of key figures within the movement, as well as key legislators and notable public figures who may have contributed to any of the above fields. From this point, I engaged in a preliminary review of some primary resources to highlight the key events that occurred over the years that allowed a space for the lesbian and gay movement to take advantage of or create shocks within fields, as well as which episodes of contention provided the key means through which fields were ultimately resettled.

With the key information in relation to ‘relationship politics’ outlined, I searched the Hansard Records online for key terms related to the lesbian and gay community, those key actors I identified previously, as well as key events or episodes of contention. Hansard Records are available online in PDF format (www.parl.gc.ca). After engaging in a preliminary search of historical records beginning in 1967 with discussions of decriminalizing homosexuality, I went through each issue with my key terms, and could save the appropriate pages.

When I began, my key terms were any that represented the ‘lesbian and gay movement’ in general, including ‘homosexuality’, ‘sexual orientation’, ‘same sex’, ‘gay’, and references to specific individuals such as Klippert and Egan, and specific court cases, such as Haig and Birch and M v. H. This brought up many debates between 1969 and 2000, which caused me to re-evaluate what my specific research question was.

As I began reading through each debate, making notes and attempting to keep track of each field, shock, episode of contention, and actor who may have contributed to the field, I soon realized the challenge that this breadth of information was posing. As a result, I revisited the guiding research questions posed by Fligstein and McAdam (2012),
and re-evaluated my specific research question, leading me to drastically narrow down my initial research question, along with the data that I would use for my analysis.

In doing so, I considered what I wanted to understand regarding the challenges for relationship recognition. As I outlined the strategic action field of ‘relationship politics’, I became more aware that there is a large variety of elements which have served to support it. However, given the scope of this current research, I chose to focus on a more specific sample of the lesbian and gay movements challenges for relationship recognition. Therefore, I ultimately settled on providing a more high-level overview of the challenger and incumbent groups, as well as featuring debates specific to three bills. Along with Bill C-23, I chose Bill C-150 and Bill C-33 as each represented a key episode of contention that drastically opened up both public and legislative spaces for the lesbian and gay movement to act.

Focusing specifically on these three bills also allowed me to see within Hansard what actors, events, and challenges were featured in the official federal discourse, as well as how those key legislators worked to either reinforce specific field views, or redefine them. Finally, I engaged in my secondary sources to draw more information from each event or theme, either through seeing the alternative views where present (for example, those who were not able to be represented in Hansard debates), as well as those who had their voices further reinforced by debates in the House of Commons.

Within these specific sources, I read them with a view to understanding explicitly where challenges and discussions occurred around the field of ‘relationship politics’, and focused on key themes that referenced such things as marriage, the family, and views surrounding acceptable sexuality. I also searched within these debates for key court cases,
again focusing on those that had an influence upon the field of ‘relationship politics’, such as Klippert, Egan, Haig and Birch and notably M v. H. I also paid attention to how the terminology that was used in Hansard changed throughout the years, moving from medicalized references to ‘homosexuality’ to focusing on ‘sexual orientation’ and ‘same sex’.

2.4 Researcher Positionality

Gillian Rose (1997) argues that researchers should make their positions within systems of meaning and power clear so as to make their specific perspectives clear, while England (1994) argues that a researcher’s biography impacts their fieldwork. Following the examples of each, I think it is important at this point to engage in a brief reflection of my subjective position, locating my own biography as it will influence the following research. As a heterosexual woman, I have never had to question my ability to access the rights associated with marriage, or worry that my relationships would ever be viewed as ‘less-than’. This position situates me somewhat as an incumbent within the field of ‘relationship politics’, as my relationships would be reflected by the dominant field structure (this will be explored in more detail in the following chapter). As a feminist and an academic however, I have continuously learned about areas where individuals are denied things that seem so basic to me on the basis of their identity, which instilled in me a strong desire to challenge the structures that perpetuate these inequalities.

While I am interested in fairness and equality for any group of people that are not part of the ‘mainstream’, the experiences of the lesbian and gay community have interested me for a number of years. Spending time with my cousin, who is a gay man, and his friends made me curious as to how rights that I could take for granted were not
always accessible to them. As I became more familiar with the changes that had occurred over the years, I became more interested in understanding how it was that access to these resources – relationship recognition – had been achieved in the timeframe it had.

While I approach my research with an objective view to understanding how this access has been drawn, it is important to understand for myself that I come to my research with certain experiences and understandings of policy that those who I am representing here, members of the lesbian and gay community, do not have. As well, I am unaware of a great deal of the lived experiences that members of this community have experienced, and it will be important as I engage in my analysis to ensure that I am not recreating patterns of dominance that have been present, nor that I am misrepresenting activities and challenges that the movement experienced throughout the period under study.

Despite my ability to be positioned as an ‘incumbent’ within much of this policy, I consider myself a strong ally to the lesbian and gay community, and I recognize as well that many of the debates and views I read will go against much of what I believe. While working to understand the experiences of the community, I also have to be careful to not discredit those views of the ‘incumbent’ group that I may disagree with. As with C. Wright Mills, ‘I have tried to be objective. I do not claim to be detached’ (Darlington and Dobson 2013).

Concluding Remarks
In exploring the development of the Modernization and Benefits and Obligations Bill (C-23), it is vital to examine the myriad ways in which the lesbian and gay movement in Canada worked to challenge a variety of policy fields in order to achieve widespread policy change. The theory of fields provides a framework through which I can examine in greater detail the key ways in which incumbents and challengers worked to either reaffirm or redefine the numerous policy fields which are all connected within the broader field of ‘relationship politics’. In order to do this, I will utilize the key questions provided by Fligstein and McAdam (2012) to engage in a discourse analysis of Hansard Records of Debates from the House of Commons. Through doing so, I will be able to understand how actors within each field worked to reaffirm or redefine the field, where shocks and episodes of contention emerged, and, ultimately, the numerous events which transpired to lead to the development of Bill C-23 in 2000.

In the next chapter, I will begin my analysis by introducing the strategic action field of ‘relationship politics’, including a detailed historical overview of how it came to be understood as the frame through which views of ‘relationships’ were interpreted.
CHAPTER THREE: THE STABLE FIELD OF ‘RELATIONSHIP POLITICS’

In this chapter I will provide the framework for the strategic action field of ‘relationship politics’ in the mid-20th century. I have chosen to begin my analysis at this point for two reasons: the first is that within the framework provided by Fligstein and McAdam (2012), an analysis of changes within fields can begin at field formation, within the stable field, or during rupture and crisis. In this present research, while the primary focus is on the rupture, crisis and eventual resettlement of the field of ‘relationship politics’, it is first imperative to highlight the field as it was understood by those who sought to challenge it, as well as those who worked to maintain this understanding of it. Second, I have chosen to begin in the mid-20th century as it is at this point that the lesbian and gay movement began to take shape and become an organized, public, ‘movement’.

I will begin with an examination of ‘relationship politics’ – which includes ideas surrounding ‘marriage’, ‘the family’, and ‘sexuality’ – as it was understood and defined into the mid-20th century by legislation, policy makers, and the church, among others. Next, I will provide an overview of the key challengers, incumbents, and internal governance units within ‘relationship politics’. This will provide the framework for understanding who controlled the fields before they were challenged, how the challengers began to take advantage of shocks within fields, and what the rules and understandings within the fields were as they came to be challenged. Finally, I will provide a more detailed discussion regarding the broader field environment of ‘relationship politics’ that I will focus on within my analysis, including highlighting why I have chosen to focus on the two key fields of the Criminal Code and Human Rights as reflected by Bills C-150 and C-33.
3.1 ‘Relationship Politics’ in the mid-20th Century

In this section, I will begin by providing an overview of the history of ‘marriage’ and ‘the family’ in Canada, focusing on those definitions that were most prominent from the late-19th to the mid-20th century. This will include examining the shifting definitions and roles that the economy, gender, the state, and the church had in reinforcing these constructions. Next, I will explore the ways in which ‘sexuality’ was defined throughout this same period, and how understandings of sexuality were both impacted by, and also influenced those of ‘marriage’ and ‘the family’. I will then pay special attention to the unique roles that the church and the state had in the regulation of these ideologies, before providing more detail as to the ways in which these constructions became hegemonic and normalized, therefore creating the field of ‘relationship politics’ as it was understood in the mid-20th century. Finally, I will briefly examine some of the key early challenges that began to ‘set the stage’, in effect, for the eventual challenges that would be brought by the lesbian and gay movement to ‘relationship politics’.

I am choosing to begin from a historical perspective in order to follow the example of Fligstein and McAdam (2012). In their analysis of the civil rights struggle in the United States, they begin as far back as 1781, highlighting the initial responses the US government made to ‘settle’ the field of ‘racial politics’, along with responses to it including Lincoln’s election and the Civil War. Moving forward, the field of ‘racial politics’ that Fligstein and McAdam highlight is that between the years 1877-1932; they begin in 1877, as it was at this stage that the ‘settlement’ to move the issue of civil rights to a regional, rather than federal, purview occurred. In their analysis, the Depression and the Cold War serve as the destabilizing changes that allowed civil rights challengers to
have space within the strategic action field to act. This action led to the rise of the civil rights movement and the episode of contention that was the civil rights movement in the 1960s, followed by the ‘new settlement’ of the field of ‘racial politics’ that emerged in the 1970s. This is by no means a conclusive end, however, as even though ‘institutionalized’ settlement may have occurred, “countless episodes of contention were unfolding in a host of fields as ‘norm entrepreneurs’ sought to actualize movement goals in a wide range of institutional settings” (Fligstein and McAdam 2012: 135). In order to fully understand that challenges that were brought forward by the lesbian and gay movement through which Bill C-23 became a reality, it is vital to have an understanding of what frames and ideologies were being challenged, and how these frames informed the ways through which challenges were brought forward.

3.1.1 Marriage and The Family

The history of marriage and the family is one of rather significant change throughout the past two centuries (Arnup 2001; Young 2012). The family has traditionally been understood in many analyses as “the primary element of social order” (Comacchio 2000: 176), socializing members in specific ways to fulfill certain roles within society. While it is a central social institution among virtually all societies throughout history, it is one that has a varied history, with constantly shifting definitions and understandings (Coontz 2005). One definition that has been used is a “social group characterized by a common residence, economic cooperation and reproduction [including] adults of both sexes, at least two of whom maintain a socially approved sexual relationship, and one or more children, own or adopted, of the sexually cohabitating adults” (Murdock as cited in McDaniel and Tepperman 2004: 4).
The above definition provides a number of key pieces of the family that have, historically, been included in definitions: it is based on reproduction and child-rearing, economic cooperation and support, and a *socially approved* sexual relationship (Coontz 2005; Chambers 2012; Young 2012). Marriage is, arguably, the central way through which the family has been historically formed, and indeed has been viewed as “without question the most privileged and highly regarded relationship between men and women” (Arnup 2001: 3). Due to its large influence within the home and family, it has been viewed as the key way through which the state is able to influence citizens, and those who have been in a socially approved (heterosexual) marriage have been provided many benefits (Arnup 2001). These benefits have carried on throughout the 20th century, as Comacchio (2000) argues that social policy has tended to reproduce a male-breadwinner model, normalizing a heterosexual, patriarchal family structure.

Through the 18th and 19th centuries in Canada, rules governing marriage were based upon a combination of religious and local civil laws (Young 2012). It was through the influence of the church that marriage became patriarchal and paternalistic: women’s submission to their husbands was expected, and the authority of the church within married couples’ lives was accepted. However, there were also economic conditions that greatly influenced how people viewed marriage. Prior to industrialization, marriage provided the economic partnership through which men and women could survive, with both men and women contributing to the household (Arnup 2001). As the economy shifted, women’s roles became more centralized within the home to focus on child rearing and caregiving, while men became the ‘breadwinners’ (Comacchio 2000; Arnup 2001). As Chambers (2012) notes, sociologists argued this resulted in a shift from the
family as unit of production to one of consumption. Families became smaller, and activities such as education and production, previously performed by the family, came under the control of the state (Chambers 2012).

As the economy and gender roles shifted, ‘marriage’ and ‘the conjugal family’ became both an ideological and legal construct, sustained and produced through economic and political means (Arnup 2001). Chambers (2012) notes that during this time ‘the family’ “became a more specialized institution that provides for socialization, emotional needs and mutual support of its members” (21). Comacchio (2000) echoes this, noting that many have found that the ‘family’ serves as a setting through which the socioeconomic order is reinforced.

The division of gender roles within marriage was entrenched through policy and legal frameworks that were designed “to encourage men and women to enter into (and remain within) conjugal units, and to punish those who lived outside of them” (Arnup 2001). Throughout the late-19th and early 20th centuries, restrictions were placed on who could and could not marry, largely as a result of the shifting cultural and social changes that were occurring as part of industrialization, urbanization and immigration (Arnup 2001). Marriage became a privilege, and state authorities began to place restrictions on mixed-race marriages, and also on single mothers and illegitimate children (Arnup 2001; Young 2012).

It was in the 1940s in Canada that definitions of marriage began to shift, moving from procreation to “companionship, as well as sexual, personal and emotional fulfillment” (Young 2012: 45). This shift has been conceptualized as “a continuum of married female statuses in relation to husbands, namely wife as property, wife as
complement, wife as junior partner, and wife as equal partner” (Nett 1979: 61). These shifting roles emerged as a result of the transition of definitions of marriage towards one of affection, communication, and acceptance of the division of labour and decision making (Burgess et al., as cited in Nett 1979: 61).

While women’s roles were shifting throughout the mid-20th century, so too was the centrality of the church within individuals’ lives (Hay 2014). As the primacy of religious understandings of ‘marriage’ – and the accompanying roles within it – lessened, definitions centring upon companionship and fulfillment became more prominent. This allowed for gender roles within ‘marriage’ and ‘the family’ to shift, creating a challenge to the power that church definitions held. Along with this, the rise of second-wave feminism and the phenomenon of the ‘trapped housewife’ opened up a space through which women began to question their roles within marriage, challenging further the homemaker mother and breadwinner father distinctions (Nelson and Robinson 2002).

Prior to the rise of industrialization and the other shifts that began to occur throughout the 1940s and 1950s, a variety of efforts had been made by governments to provide support for women within the patriarchal structure of ‘marriage’ and ‘the family’, notably in regards to property laws and in cases of divorce (Arnup 2001). However, initial efforts were minor, and often not reinforced. Throughout the early 20th century, some women were still largely discouraged from, and in some cases prohibited from, engaging in the paid workforce, which further served to reinforce women’s dependence on marriage for survival, and further welfare state legislation tied solely to the heterosexual family was gradually implemented throughout the early-20th century (Kinsman 1996; Arnup 2001).
There are a number of ways in which this dominant form of ‘the family’ came to be reinforced. Comacchio (2000) notes that discourses entrenched in “popular media, educational literature, film, and government reports … were explicitly meant to affirm traditional understandings of masculinity, femininity and “normal” heterosexuality” (195). Religious institutions had also formalized these understandings through their practices regulating who could be married, and the ensuing teachings surrounding marriage and the family (Young 2012). In these ways as well, sexuality became intertwined through understandings of marriage and the family, through this regulation of relationships and the reinforcement of a heterosexual conjugal family structure as the most normal, formalized and acceptable; anything that deviated became problematic (Comacchio 2000; Arnup 2001).

Deviance from accepted forms of relationships were routinely discriminated against in a variety of ways. Arnup (2001) highlights racial discrimination which prevented individuals from marrying outside of their specific ethnic group. As Fligstein and McAdam (2012) argue, it is through this continued strategic action within fields that those in power work to both create and sustain the composition of fields by securing cooperation from others (17), whether through ideological or forceful means. It is through this continued reinforcement and reproduction of the status quo, this ‘collective definition’ of the acceptable forms of ‘marriage’ and ‘the family’ that these ideologies became hegemonic and institutionalized, creating the field of ‘relationship politics’ as one based upon heterosexual, male-breadwinner, conjugal families.
3.1.2 Regulated Sexualities

A primary role of ‘marriage’ and ‘the family’ throughout the 19th and 20th centuries especially has been the regulation of sexuality (Young 2012). It has been through marriage that sexuality was embraced and acceptable, and deviations from this have been viewed as wrong (Kinsman 1996; Dubinsky 2012). Most important within this current research is the treatment not of those sexualities determined to be ‘normal’, but rather, how those definitions of ‘normal’ emerged and how those sexualities which deviated from it were treated. The primary dichotomy became that of heterosexuality versus homosexuality, with heterosexual the de facto accepted construction, and homosexuality viewed as deviant and problematic (Kinsman 1991; Drazenovich 2012).

Kinsman (1991) argues that over time, sexuality and sexual politics are not separate, but are rather central elements to social relations, and as a result he uses the term ‘heterosexual hegemony’ to understand this process. It is “the generalized social tension between the lived experiences of lesbians and gay men, and ruling relations that organize heterosexuality as ‘normal’, ‘natural’ and ‘healthy’ while at the same time constructing same-gender eroticism as ‘unnatural’, ‘deviant’, ‘sick’, or ‘dangerous’” (Kinsman 1991: 94).

Hegemonic heterosexuality is, arguably, the guiding frame through which sexualities have been understood through the 19th and 20th centuries. Many of these discussions only emerged, however, in the mid-19th century, as Canada moved to becoming more industrialized and urban (Kinsman 1996). While lower class and immigrant families began working, many middle class families began asserting their views upon social and public policy. These improper behaviours that became associated
with the lower and working classes became understood as deviant, and in need of fixing (Kinsman 1996). A social purity movement emerged which worked to regulate ideas surrounding appropriate ways to be a father, mother, and family in general. A large part of their focus was on sexuality, where sex outside of a heterosexual marriage became a ‘social evil’ in need of eradication (Kinsman 1996).

The social purity movement was supported by many with a religious background, and was deeply informed by religious teachings. Sexual purity was seen as the only path, and this included no masturbation, sex outside of marriage, or ‘too close’ same gender relationships (Kinsman 1996). Prior to World War I the social purity movement began to focus on various problems, including the rise of venereal disease. This led to public health regulations surrounding “sexual disease, prostitution, sexual ‘promiscuity’ and ‘deviance’, with many ensuing laws focused on prostitutes and ‘loose women’ (Kinsman 1996: 120). Kinsman (1996) argues that this shift to a social purity framework allowed for the emergence of sex psychology, which shifted these social ills to the realm of a medicalized discourse. While this allowed for homosexuality to become recognized as a ‘social ill’ and ‘pathology’, Drazenovich (2012) also argues that this allowed for individuals to recognize homosexuality within themselves, creating an identity that individuals could use to seek out others who were like them.

Following World War I, Kinsman (1996) notes that the emergence of welfare state policies served to reinforce the dominant family model of the time: “Women’s social, economic, and sexual dependence and institutionalized heterosexuality were cornerstones of these State social policies, so that the heterosexual family unit became the only legally and socially sanctioned way of life” (Kinsman 1996: 135). It was in World
War II that the ability for homosexuals to create community really flourished, as many were away from home and able to connect with others from all over the country (Kinsman 1996). These bonds held after the war, and in the 1940s and 1950s, gay and lesbian communities became stronger in larger urban areas throughout Canada.

3.1.3 The Role of Church and State

As has been discussed in the previous sections, understandings of ‘marriage’, ‘the family’, and ‘sexuality’ are largely created, and reinforced by, both the church and the state. Early constructions of ‘social purity’ were largely defined and propagated by Protestant, white, middle-class individuals (Kisman 1996), while state policies reinforcing the ‘conjugal family’ and hegemonic heterosexuality were constructed post-World War I. It is at this point that visiting Fligstein and McAdam’s (2012) discussion of the state will be valuable. It is the state that can often define the rules of interaction within a field, and can also use physical force to reinforce these rules (Fligstein and McAdam 2012). As will be seen in the next chapter, the state did indeed use force in terms of conducting raids on gay bars and bath houses, further strengthening the dominant definition of ‘acceptable’ relationships and behaviour.

Traditional definitions of ‘marriage’ and ‘the conjugal family’ were largely based on capitalistic forms of production and work, and “family formation is intrinsic to nation building and state formation, not only in the crucial material sense of necessary bodies, but also because families forge the links between personal identity and public roles, effectively reproducing both the citizenry and the constellation of values concerning citizenship” (Comacchio 2000: 206).
It was during the development of traditional understandings of the family that the state was still largely influenced by the church. As was discussed previously, the church had a large role in defining ‘marriage’, ‘the family’, and ‘sexuality’ (Young 2012). In Canada especially, the relationship between the church and state was relatively ambiguous, lacking the explicit separation in the United States, but not as entrenched as in Britain with the Church of England (Reidel 2008). This created a more blurred line between the church and state, where the church – historically in Canada primarily the Roman Catholic, Anglican and United Churches – had a rather large influence upon social and political life (Reidel 2008). Indeed, as the lesbian and gay movement successfully challenged policy, both Evangelical Christians and the Catholic Church have continued to reaffirm a heterosexual view of relationships, with Pope John Paul II, in 2003, “directing Catholics to actively work against the recognition of same-sex marriage” (Reidel 2008: 274).

Religious groups have historically defined accepted relationships as based upon procreation and the ‘wholeness’ created when the ‘masculine’ and ‘feminine’ are united (Young 2006). Drazenovich (2012) argues that practices such as confession emerged as a means through which the church could regulate sexuality; the act serving to further reinforce certain acts as ‘deviant’ and requiring penance. It is interesting to note the frames of this regulation: Young (2012) notes that while some religions regulate sexuality in certain ways, if practiced within the correct context it is celebrated. Therefore, the context through which the church defined acceptable ‘sexuality’ is important, as the church and the state were largely intertwined – with legislation and most importantly,
criminal law, being informed through a Judeo-Christian worldview – throughout the years leading up to the 1960s.

3.2 The Field of Relationship Politics

As I noted previously, I am borrowing the concept of ‘relationship politics’ from Fligstein and McAdam (2012) and their discussion of the field of ‘racial politics’. Through their discussion of the civil rights movement in the United States, the strategic action field they study is that of ‘racial politics’. In their example, ‘racial politics’ is a national policy field, “It is a field composed primarily of elected federal officials … federal jurists, leaders of the two major parties, and, at times, national civil rights and segregationist groups, supplemented at especially contentious moments by other significant national interest groups” (118-119). From this understanding, I will view the field of ‘relationship politics’ as composed of a national framework that was itself comprised of elected officials and public leaders who worked to maintain a specific understanding of ‘relationships’ through both ideological and legislative means. As I highlighted in the previous sections, many factors have combined to create the ideology of ‘relationship politics’ both through legal and religious means, as well as others more controlled by the state including mass consumer culture (Kinsman 1996) and education (Rayside 1998). Through the continued use of discourse to reinforce ‘relationship politics’ as heterosexual, married, and monogamous, this field became continuously reproduced, as actions by individuals were guided by this discourse (Coates 2013). What this creates, then, is a heteronormative understanding of relationships, wherein “social organization is structured around the assumption that heterosexual sexual preference and heterosexual coupling is the dominant mode of sexual, intimate, and family organization
and that homosexuality is deviant” (Smith 2008a: 182). ‘Relationship politics’ then became entrenched as the strategic action field within which discussions of romantic, sexual relationships could take shape.

### 3.2.1 Early Challenges

Fligstein and McAdam (2012) argue that there is always some ‘change and contestation’ happening in fields, no matter how ‘settled’ they may appear. While they note that this change often serves to reinforce current field positions, it can create shocks that may begin to provide deeper challenges to the current field structure. In this section I will highlight a few of these ‘preliminary’ shocks. While they did not serve to change the field of ‘relationship politics’ outright, they did begin to bring into question the, at the time, hegemonic understandings related to ‘relationship politics’.

It was in the 1960s that these preliminary challenges began to occur on a more widespread scale, with the women’s movement acting as “a key force in lobbying for legal changes in women’s subordinate status within marriage” (Arnup 2001: 25). More women began to enter the workforce, and challenges to access birth control, provide support to single mothers, and revise divorce laws all contributed to shifting how ‘marriage’ and ‘the conjugal family’ were viewed both politically and socially. Prior to these more prominent shifts in the 1960s, however, early challenges largely centred upon providing more rights to women within marriage, and included changes to property rights laws, as well as custody access to children (Arnup 2001).

It was the rise of both the civil rights and women’s movements throughout the 1960s that really allowed for more concrete challenges to occur to many policy areas (Staggenborg 2012). While women entered the labour force during the World War II,
once the war ended they were encouraged to return home as the federal government “cut funding for child care, denied married women tax exemptions, barred women from service jobs, and ran a public relations campaign urging preferential hiring for male (breadwinner) veterans” (Sangster 2010: 18). Despite this, women continued to move into the workforce on a more permanent basis, they became more independent and definitions of ‘marriage’ wherein the male was the sole provider became challenged, and gradually began to shift (Sangster 2010). With the rise of feminism and other social movements in the 1960s, it became clear that certain hegemonic ideas regarding ‘marriage’ and ‘the family’, as well as the various policies and institutions which supported them, could, in fact, be challenged.

These early challenges served to provide preliminary ‘shocks’ to the field of ‘relationship politics’. By bringing into question ideologies regarding equity in marriage, traditional understandings came into question, and challenger groups, those social movements of the 1960s, were able to begin to change the structure of these broader fields. It is within this space that the lesbian and gay movement began to see opportunities to create bigger change.

While many of these initial challenges were centred upon marriage and the family, there were smaller challenges related to understandings of sexuality that gradually challenged the dominant constructions. As was noted, World War II provided invaluable opportunities for lesbian and gay individuals to connect with others like them and begin to not only make sense of their identity, but also form a community (Kinsman 1996; Staggenborg 2012). Further, studies on sexuality that emerged throughout the mid-20th century began to chip away at ideas regarding ‘normal’ sexuality, showing that
homosexuality was more common than some initially thought, for example the Kinsey reports in the United States, as well as the Wolfenden Report in the United Kingdom (Lahey 1999; Kirby 2008). This allowed lesbian and gay individuals to begin to affirm their identities on a broader scale.

3.3 Reinforcing and Challenging the Strategic Action Field

The second element within the theory of fields is an examination of the incumbents, challengers, and internal governance units that comprise the strategic action field under study. In this section I will provide an overview of the primary incumbents and challengers that will feature throughout my analysis of the challenges that the lesbian and gay movement had within the field of ‘relationship politics’, along with a brief outline of the key internal governance units which provided the framework of rules of appropriate action within ‘relationship politics’.

3.3.1 Constructing and Maintaining the Field: Incumbents

According to Fligstein and McAdam (2012), incumbents are those whose views tend to be reflected in the dominant field structure. Incumbents are both products and architects of “the worldview and set of understandings they have helped to create” (Fligstein and McAdam 2012: 96). In the case of ‘relationship politics’, the incumbents are any whose interests are most served through traditional understandings of ‘marriage’ and ‘the family’ as outlined previously. They are responsible for reacting to any shocks and challenges that emerge in order to reinforce the current status quo, and the fewer challenges that occur, the less difficulty reproducing power they will have. A primary way incumbents work to reproduce their version of a field is through defining and producing rewards that are provided to those who also support the structure of a field. An
example of this related to ‘relationship politics’ is the use of rewards within the welfare state, where tax, pension, and other benefits were provided to heterosexual, married couples (Commachio 2000; Arnup 2001).

With my question being how the lesbian and gay social movement contributed to challenging ‘relationship politics’ through a focus on three specific federal bills, the incumbents that I focus on will be those federal legislators who were positioned in ways that resulted in them being impacted by, or providing an impact to, the challenges brought forward to the criminal code, human rights framework, and finally ‘relationship politics’ through Bill C-23.

### 3.3.2 Changing the Field: Challengers

As with incumbents, there are a large number of challengers that have impacted the field of relationship politics. According to Fligstein and McAdam (2012), until opportunities to create significant change within a field emerge through shocks, challengers will take what they can from the system and wait for “opportunities to challenge the structure and logic of the system” (13) to open up to them. For this present research, the primary challengers will be the lesbian and gay community along with their supporters who worked to mobilize and bring forward challenges which led to a rethinking of ‘relationship politics’. It is important to note that, as Fligstein and McAdam (2012) argue, many individuals will occupy spaces as both incumbents and challengers, depending on the situation or specific field under challenge. In some instances, legislators may pose a challenge to a field that influences ‘relationship politics’, but in another will take on the position of an incumbent working to maintain the status quo.
3.3.3 Order Within the Field: Internal Governance Units

The primary role of internal governance units (IGUs) is to “reinforce the dominant perspective and guard the interests of the incumbents” (Fligstein and McAdam 2012: 14). IGUs are specific rules and ways of acting that will defend the status quo and essentially support incumbents. During periods of conflict, IGUs act as a conservative force, further reinforcing the dominant field position (Fligstein and McAdam 2012). As Fligstein and McAdam note, IGUs “serve to monitor and enforce the rules enacted as part of the initial field ‘settlement’. They also engage in various ‘external’ activities – lobbying, education – designed to stabilize and promote the field and the interests of its most powerful members” (97). While IGUs are responsible for ensuring compliance to field rules, they are specifically internal to a field, and are “distinct from external [sic] state structures that hold jurisdiction over all, or some aspect of, the strategic action field” (Fligstein and McAdam 2012: 14).

While Fligstein and McAdam (2012) argue that IGUs can be imposed in order to ‘level’ a playing field by limiting the power of incumbents, they are more often implemented during the formation of a field or during a time of crisis, as a way “to institutionalize the worldview and advantages of incumbents” (78). Therefore, the IGUs that will be most important throughout my analysis are those regulations, administrative guidelines, and rules of enforcement that serve to reinforce the field of ‘relationship politics’. These can include laws regarding marriage and divorce, including who has access to becoming married, and also who has access to administering marriage licenses and ceremonies; which ‘marriages’ are recognized as ‘legal and binding’ within a legal framework. They can also include welfare state regulations which determine the
definition of ‘spouse’ in regards to pension provisions, as well as the rules of the bureaucratic actors who are in charge of administering or denying various benefits.

3.4 Supporting ‘Relationship Politics’: The Broader Field Environment

The final section in this chapter will focus on the broader field environment that will comprise the basis of my analysis. As has been alluded to throughout this chapter, there are a number of fields which serve to provide the framework of ‘relationship politics’. Each is important in not only understanding ‘relationship politics’ as the strategic action field under study, but Fligstein and McAdam (2012) note that it is “far more common for an ‘episode of contention’ to develop as a result of change pressure emanating from proximate state and/or nonstate fields” (19).

For this research, I am focusing on the criminal code and human rights frameworks as the broader field environment of ‘relationship politics’. The broader field environment includes fields that serve to shape the development and history of the strategic action field, and they have an impact on the stability and instability a field may face. Further, the relationships between fields influences resources, interaction that may be beneficial between each field, as well as sharing power and affirming legitimacy. Both the criminal code and human rights frameworks provided rules which supported the specific construction of ‘relationship politics’ as it stood in the mid-20th century. The following chapters will show in more detail how these rules were understood by both challengers and incumbents, along with how the changes to them opened up spaces through which the lesbian and gay movement could more easily create change to ‘relationship politics’.
In the following table, I highlight the key fields, actors, and challenges that I will use as I explore the challenge to ‘relationship politics’ and the passing of the Modernization of Benefits and Obligations Bill.

**Table 1: Elements of ‘Relationship Politics’**

<table>
<thead>
<tr>
<th>Strategic Action Field</th>
<th>‘Relationship Politics’</th>
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</thead>
<tbody>
<tr>
<td>Incumbents, Challengers, Internal Governance Units</td>
<td>Incumbents: Legislators and members of the public who were supporters of ‘Relationship Politics’</td>
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<tr>
<td></td>
<td>Challengers: Members of the lesbian and gay movement who began to challenge ‘Relationship Politics’ as well as allies to the movement goals</td>
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<tr>
<td></td>
<td>Internal Governance Units: Rules and regulations surrounding access to ‘marriage’ and recognized and protected relationships</td>
</tr>
<tr>
<td>Broader Field Environment</td>
<td>Criminal Code through Bill C-150</td>
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<td></td>
<td>Human Rights Framework through Bill C-33</td>
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<tr>
<td>Exogenous Shocks, Mobilization and the Onset of Contention</td>
<td>Challenges and activities that led to the changes to each bill to be brought forward</td>
</tr>
<tr>
<td>Episodes of Contention</td>
<td>Debates on each bill, and the subsequent changes that occurred within each field</td>
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<tr>
<td>Settlement</td>
<td>The post-Bill C-23 era where equal ‘relationship recognition’ within the law has been achieved</td>
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**Concluding Remarks**

In this chapter I have set out the key framework that will inform my analysis. Through understanding in detail how the strategic action field of ‘relationship politics’ was formed and reinforced through a variety of formal and ideological ways, it becomes clear how it was such a challenge to begin to change. Understanding the key incumbents, challengers, and internal governance units that have a part in maintaining the structure of ‘relationship
politics’ or worked to challenge it will allow me to examine in greater detail where specific shocks emerged and how challenger groups mobilized to take advantage where these shocks did occur. Finally, being aware of the broader field environment in which ‘relationship politics’ is located, as well as how each of these additional fields influences ‘relationship politics’, will again provide a more detailed framework through which to examine how shocks in one field created the ability for shocks to occur in another. In the following chapter, I will begin to explore the challenges that took place, focusing on the shocks that the lesbian and gay movement, as the challenger group, took which began to set the stage for each subsequent bill to ultimately become challenged.
CHAPTER FOUR: EXOGENOUS SHOCKS AND MOBILIZATION

While the previous chapter outlined the strategic action field of ‘relationship politics’, in the following chapters I will go into detail regarding the specific shocks, episodes of contention, challengers, and incumbents that will be the focus of my analysis, and how each contributed in their own way to shifting the field of ‘relationship politics’ such that the Modernization of Benefits and Obligations Bill became a possibility.

In this chapter, I will explore the development of the lesbian and gay movement as a challenger group, and provide an overview of a number of the specific activities that the movement took in order to challenge the strategic action field of ‘relationship politics’. I begin with an examination of the movement as a challenger group, highlighting specific issues within the movement that led to challenges in organizing, along with a discussion as to how the focus on relationship recognition, and ‘relationship politics’, came to the forefront. I will then examine a number of ‘shocks’ that occurred throughout the 20th century, including providing analysis as to how the lesbian and gay movement took advantage of these shocks in order to mobilize and bring challenges forward. In the following chapter, I will focus in more detail on the specific episodes of contention that created the eventual ‘resettlement’ to ‘relationship politics’.

4.1 Early Shocks and the Growth of the Lesbian and Gay Movement

I will begin this chapter with an examination of the early shocks that allowed the lesbian and gay community to fully situate themselves as a challenger group within ‘relationship politics’. I will first provide a brief overview of the first shock which occurred through the decriminalization of homosexuality, and then provide an in-depth view of how the
lesbian and gay movement organized more fully as a challenger group, including examining challenges that emerged within the group.

4.1.1 The Decriminalization of Homosexuality

As I noted previously, the lesbian and gay movement in Canada formed in earnest throughout the post-World War II period, when many young people found others like them after being brought together during the War (Kinsman 1991). The years that followed were ones of social change, with many social movements forming through the 1950s and 1960s. It was within this setting that the lesbian and gay movement emerged. Throughout the 1960s, a number of groups devoted to organizing and education were developed in cities throughout Canada, creating the ability for those who identified as lesbian and gay to potentially find and connect with others like them. Yet homosexuality was still illegal at this time, creating a challenge in terms of the level of awareness and exposure these groups were able to bring to themselves. Groups and clubs in cities such as Vancouver, Montreal and Toronto would open but would experience great police pressure, as many feared a spread of homosexuality through introduction to these clubs (McLeod 1996). The focus then for many of these early organizers was on increasing education and awareness about homosexuality to the public (Warner 2002).

There were a number of ‘shocks’ occurring in other countries that began to challenge the dominant views related to sexuality at this time, including the Kinsey Reports in the 1940s, the American Law Association recommending the decriminalization of homosexuality in 1955, and the Wolfenden Report, which was released in the United Kingdom in 1957. The Wolfenden Report “concluded that the criminal-deviance image of gay existence […] was not as appropriate as the ‘modern’
images of ‘private morality’ and ‘individual choice’” (Lahey 1999: 7), effectively separating religious belief and private life (Kirby 2008). Further, the report argued that being gay was not a sign of a pathology, and was in fact normal: “Instead of homosexuality being labeled as abnormal, social prejudice was viewed as more likely the root cause of any psychosis” (Chambers 2010: 252).

Along with the Wolfenden Report, the arrest of Everett George Klippert provided a second ‘shock’ which opened up the opportunity for the Criminal Code to be challenged (Chambers 2010). Klippert was a gay man who, in 1965, was arrested for admitting to engaging in homosexual acts (McLeod 1996; Smith 1999; Chambers 2010). In 1967, the Supreme Court of Canada sentenced Klippert to life in prison due to the fact that, after being interviewed by psychiatrists in prison, they believed he was likely to engage in the activities again (Mazur 2002; Chambers 2010). This decision by the Supreme Court to uphold his sentence resulted in challenges to bring the criminal code up to par with the social changes that were being witnessed within society at large. Both The Wolfenden Report and the case of Klippert led Pierre Trudeau, as Minister of Justice in 1967, to begin the process of updating the Criminal Code. While not necessarily a direct result of the Klippert decision – indeed, the decriminalization of homosexuality was included along with a number of additional proposed amendments – these shocks represented a larger shift towards a “classical liberal human rights perspective” (Chambers 2010: 250).

These shocks – the Wolfenden Report and the Klippert case – both created conditions which allowed for the opportunity to amend the field of the Criminal Code to open up. Fligstein and McAdam (2012) argue that turbulence within a field brought about
by shocks offer challengers the opportunity to change the current logic and structure of
the field. It is interesting to note that, in this case, it was not necessarily the lesbian and
gay movement that was acting as the challenger group within the field of the criminal
code. While the community was indeed organizing through the post-World War II period,
much of this was focused on education and working to begin building a community,
which was a challenge given that practicing and admitting to being ‘homosexual’ was
itself illegal. What these shocks did was provide a space through which the
decriminalization of homosexuality could be presented as a movement towards a more
progressive society. This allowed for those who were situated as incumbents, such as
Trudeau as Prime Minister, to become challengers within the field of the Criminal Code.

As I will show in the next chapter, the debates that occurred around Bill C-150
framed the challenge in a very specific way, positioning the ultimate episode of
contention not necessarily as one to ‘relationship politics’. Despite this, it opened up a
space through which the underlying logic of ‘relationship politics’ could be questioned,
and also provided some legitimacy from the state that provided the space for the lesbian
and gay movement to organize in a more open, formal way. Essentially, the ultimate
passing of Bill C-150 allowed the lesbian and gay community to more fully embrace their
identities and organize on a more widespread level.

4.1.2 Diverse Challengers and Defining the ‘Movement’

The change brought by Bill C-150 was not one of widespread change to ‘relationship
politics’, but it was one that allowed for the lesbian and gay movement to become a
‘movement’, and begin to position itself more formally as a challenger group to
‘relationship politics’. It was with the ‘We Demand’ demonstration that the lesbian and
gay movement in Canada emerged as a challenger group to the field of ‘relationship politics’, creating a community with key demands and proposed actions that would largely frame the debates and challengers in the coming years.

At this point I think it is helpful to provide a brief discussion as to the challenges in defining the lesbian and gay movement as one group within my research. While it is tempting to describe the growth of the lesbian and gay movement as a challenger group in a way that highlights it as a unified force, this is far from the case. As Smith (1999) argues, “the movement itself is a product of diverse communities. It is very much a networked and provisional subject rather than a unified and coherent actor” (10). This diversity of concerns and voices provided a key challenge within the movement as a challenger group. The lesbian and gay movement is one of many ‘sexualities’ and identities, one that Smith (1999) likens to “a set of loose networks, a web of associations rather than a coherent actor” (27). Lesbian, gay, bisexual, transgender, genderqueer, and others are all found within, and impacted by, policy decisions related to sexual orientation (Kinsman 1991; Smith 1999; Lahey 1999; MacDougall 2000). This has created myriad communities within a community of ‘other’ – those outside of the ‘heterosexual framework’ of traditional policy understandings (Lahey 1999). Within the ‘homosexual’ community, decisions regarding what challenges to pose to this heterosexual framework were constantly debated, creating divisions within the movement itself.

A great deal of the ‘lesbian and gay’ liberation movement was informed by the numerous social movements of the 1950s and 1960s, including the civil rights, anti-war, and women’s movements, with the latter providing arguably the greatest impact on the
‘lesbian and gay movement’ (Smith 1999; Warner 2002). Smith (1999) notes that many women who were early lesbian organizers came into their identity as lesbians from their involvement with feminist organizing. Further, she notes that for many gay men, the fact that the feminist movement began to question sex and gender roles allowed them to begin to form their own identity, and bring those roles even further into question.

Despite seemingly common goals, Smith (1999) and Warner (2002) highlight examples of lesbian women who faced discrimination and homophobia within feminist groups that they were part of, causing challenges in terms of having their unique views brought forward on a more public scale. However, there were also tensions when lesbians joined gay liberation groups, as their concerns were not as focused on the civil rights agenda that emerged throughout the 1970s, as it did not address the multiple sources of oppression lesbians, as women, faced (Smith 1999). As well, many lesbians were challenged by the sexism and misogyny present from gay men within a number of organizations, and struggled to become involved within the power and hierarchical structures presented in these groups. Concerns regarding class, income, sexual exploitation, and safety were not as readily addressed within the broader ‘gay liberation’ movement that, early on, was focused largely on sexual liberation and freedom (Rousseau 2015). Many men within the gay liberation community argued that feminist concerns regarding pornography and sexual exploitation were quite counter to what they, at the time, were challenging in terms of increasing awareness to their unique sexual identities and perspectives (Smith 1999).

What emerged was a more autonomous lesbian organizing, which centred upon “the struggle against neo-liberalism and the right-wing backlash against lesbian and gay
visibility that had started to emerge […] during the seventies” (Smith 1999: 30). Warner (2002) notes that this organizing focused on the need to work with both women’s groups and gay liberation groups, but provided spaces free from the homophobia and sexism present in them where lesbian women could be supported to come out. Indeed, these organizations did not focus on legislation or human rights challenges, but rather on creating safe spaces for organizing and developing community (Warner 2002). These autonomous organizations did not necessarily survive as separate groups, primarily as a result of the lack of focus or issue identification present. As the ‘lesbian and gay movement’ moved forward, both lesbian women and gay men forged a common, if not always cooperative, alliance in the major field challenges that followed throughout the latter part of the 20th century.

Cohen (2001) notes that a large part of who and what has been given priority within the ‘lesbian and gay’ movement has been based upon the – at the time – dominant social orders. Therefore ‘homosexual’ was framed as not heterosexual, but fractions within the homosexual identity also focused on not white, or not middle class, all intersections working in competing ways with one another. Rayside (1998) echoes this issue, with conflicts in the movement itself centering upon an underrepresentation of concerns regarding gender, class, and race, among others. Smith (1999) argues that “preferences and values of collective actors could not be assumed: they were constructed, contingent, and in process rather than given, or coherent” (7). As Cohen (2001) argues, there was a challenge of definition not only between lesbians and gay men, but that also cut across racial and class divisions as well, informed by, and reflective of, the society and norms in which the movement emerged. This caused conflict, not only in terms of
how people were represented, but also in respect to which challenges were given priority, as well as how those challenges were framed. While I will discuss this in more detail later in this chapter, Rousseau (2015) raises a key challenge that lesbian women faced within the community: “while gay men certainly face oppression because of their refusal to adhere to heterosexuality, their position as men […] gives them more social (and economic) capital than women” (368).

Further, there were geographic barriers to people being able to form community and really come forward into their identity as lesbian or gay. Many early community organizations, bars, and clubs used for networking were located primarily in the larger cities of Vancouver, Montreal, and Toronto (Warner 2002). The size of these cities and the available spaces allowed for community to form and grow through word of mouth, yet many of these spaces were located in rundown or unsafe areas within the cities (Warner 2002). Despite the smaller size of areas such as London, Windsor, Edmonton, Calgary, and Regina, however, clubs emerged and avenues for connection grew as more people met and connected with others like themselves (Warner 2002).

The lesbian and gay movement, while somewhat homogenous to those on the outside, was anything but within. Yet, in order to begin to change social attitudes and gain rights or respect, there had to be a cohesive image or identity presented. This will be a theme that will come up throughout the remainder of this chapter: how did the ‘lesbian and gay movement’ negotiate an identity to put forward when challenging the various fields?
4.1.3 Choosing the Challenges

Along with challenges in defining the community itself, there were also challenges in deciding which spaces to challenge. Rayside (1998) notes a divergence between “direct action and confrontational strategies on the one hand, and tactics that work with and, if possible, inside existing political and legal structures on the other” (25). He goes on to suggest that a primary dichotomy was between those who championed for ‘liberation’ on the one hand to ‘legitimation’ on the other. Smith (1999) notes that there were many in the early days of the community that called for a challenge to the entire ideology surrounding ‘sexuality’. However, she notes that in terms of challenging certain fields or spaces, “the particular politics of each movement […] are shaped by domestic contexts, in particular, the institutional opportunities and existing patterns of interaction between collective actors and the state” (Smith 1999: 11).

In their early stages, many organizations were focused primarily on “providing social services for the growing lesbian and gay community” (Warner 2002: 59). In fact, while there were those who argued for a deconstruction of sexuality and gender roles, much of the early community organizations focused specifically on the provision of and access to social services and community support, as well as raising awareness and challenging discrimination towards homosexuality (Smith 1999; Warner 2002).

Within the framework of ‘relationship politics’, I think it becomes more clear how the avenues for challenge had to be focused on ‘legitimation’, at least in the beginning stages. Within a hegemonic understanding of acceptable sexual and conjugal relationships so focused upon heterosexuality and the nuclear family, in order to begin to challenge, it had to focus on ways that could be incorporated into the dominant
discourses. As Fligstein and McAdam (2012) note, challenger groups must find ways to challenge the existing rules of a field within the current field structure. It makes sense then that given the recognition of ‘relationship politics’, and how encompassing a field it is to daily life, that members of the lesbian and gay movement would find it worthwhile to focus on challenges to question the structure and logic of it, as opposed to challenging for liberation from the outset. Indeed, Smith (2008b) somewhat echoes this when she notes that “institutions provide the strategic context for political actors, structuring the play of social forces in the policy process” (3).

I think as well that in terms of the social movement activities, in order to gain supporters, the movement had no choice but to focus on a framework of legitimation. As I will explore in the following chapter, the discussions on decriminalizing homosexuality highlighted just how deeply rooted the understandings of ‘relationship politics’ were, with many people hostile to even considering ‘homosexuality’ as anything other than a pathology. The challenging movement had to work within a very restrictive framework in order to gain the support of incumbents and begin to change the structure and logic of the associated fields. I think a process of legitimation, and highlighting similarities as opposed to differences, was perhaps the only way in which the lesbian and gay movement could begin to challenge for recognition and equal rights.

This focus was not without its losses, however, as Young and Boyd (2006) argue that through a focus on legitimation, “more radical perspectives on the institution of marriage, the exclusivity of the nuclear family and familial ideology have been marginalised” as the focus has been on achieving relationship recognition within these heterosexual frameworks (217). Indeed, a focus on legitimation has led to lesbian and gay
individuals having to show that their relationships are as “marriage-like as possible, in turn leaving intact the hierarchies that are ideologically imbedded within marriage”, further marginalizing those who deviate from this image of an acceptable lesbian or gay person (Young and Boyd 2006: 218).

While the focus on legitimation and relationship recognition reinforced specific models of ‘relationships’ and ‘the family’, Smith (1999) argues that the demands of social movements “are shaped by the context of the political opportunity structure. Movements, in turn, may shape the political opportunity structures at key historical moments” (14) including, as I will highlight, during debates on decriminalization, through demanding changes to human rights regulations, as well as in legal challenges that emerged after the Charter. The remainder of this chapter will highlight this interplay between the opportunities provided by, and the opportunities to shape, the political opportunity structure as it relates to the field of ‘relationship politics’, further highlighting the focus on legitimation throughout the latter part of the 20th century.

4.2 Continued Shocks and Mobilization: Challenges for Human Rights and Judicial Support

The period after the decriminalization of homosexuality arguably witnessed the greatest work by the lesbian and gay movement to challenge not only ‘relationship politics’, but a number of fields that were part of it, including human rights codes. In the following section I will highlight some of the primary challenges that occurred during this time as they relate to human rights legislation as well as the legal framework surrounding ‘relationship politics’ at the time.
4.2.1 The Rise of Human Rights: Respect for the Lesbian and Gay Movement

After the passing of Bill C-150, the lesbian and gay community gradually began to take part in more public actions such as public displays through demonstrations, pride events, rallies, and press conferences, as well as ‘behind the scenes’ activities such as writing briefs and letters, and lobbying elected officials (Warner 2002: 71). Many in the movement discussed the importance of simply getting the term ‘gay’ into the public discourse, arguing that this visibility not only created awareness among the public, but offered other lesbians and gays the ability to see that they were not alone (Warner 2002). This served to further politicize the somewhat ‘personal’ element of sexual orientation, with a view to bringing “lesbians and gays out of the closet, to build gay community, to gain social acceptance for homosexuality and, generally, to liberate sexuality from the rigid constraints of a patriarchal and heterosexist social system” (Smith 1999: 44).

One of the first of these actions was the ‘We Demand’ Brief, discussed previously. This brief was prepared by Toronto Gay Action, and was brought to the federal government in August, 1971, with a march on Parliament Hill following (CLGA 1997). The brief was written in response to the legalization of homosexuality brought by Bill C-150, but argued that this “change had hardly made homosexuals equal in the law” (CLGA 1998: 2). To mark the second anniversary of these changes to the criminal code, community members in Toronto created demands that would reflect true equality. These demands included further criminal code amendments around ‘gross indecency’ and ‘buggery’, a uniform age of consent for all female and male homosexual and heterosexual acts, rights to equal employment and promotion, all legal rights for homosexuals that
exist for heterosexuals, and that all public officials and law enforcement agents use their office to bring change to the negative attitudes and discrimination against homosexuals, among others (CLGA 1998).

This brief and demonstration set the stage for the actions that the movement would focus on in the coming decades. As I discussed previously, the ‘lesbian and gay movement’ as a challenger group took two distinct forms – assimilationist (also referred to as legitimation) or liberationist. The assimilationist view argued that lesbians and gays deserved respect and equality because they were essentially the same as heterosexuals, save for their choice in sexual partner (Nash 2005). The liberationist view, on the other hand, centred upon “the release of human sexuality from what they regarded as the bondage of the current sex/gender system with its proscribed sexualized and gendered social roles” (Nash 2005). The ‘We Demand’ activities focused heavily on actions related more to the assimilationist view.

It was the assimilationist view that brought the key challenges towards gaining equality through civil rights throughout the 1970s and 1980s. Challenges within the ‘lesbian and gay movement’ at this time came as a result of the disjointed network of lesbian and gay organizing across the country: yet as the focus shifted towards civil rights, it became easier for groups all over the country to join together in challenging specific frameworks. This is where human rights became a focus:

“… the existence of provincial human rights legislation provided political and legal frameworks within which an agenda for social change could be promoted. Advocating that sexual orientation become a prohibited ground of discrimination in such laws was a strategy that could be embraced by gays and lesbians in large urban centres and in smaller communities alike.” (Warner 2002: 70).
Warner (2002) argues that human rights was an attractive area as the movement could engage in a number of strategies in order to challenge this field. Further, the achievement of civil rights through human rights legislation provided an avenue through which the very disparate community of lesbian and gay activists throughout Canada could come together (Warner 2002). As has been discussed, the ‘lesbian and gay movement’ throughout the 1960s and 1970s was not one of a unilateral focus, and Warner (2002) argues that “Civil rights were simple to understand, even for those lesbians and gays having no use for demonstrations or other public actions. Heterosexual civil libertarians and progressive politicians also could appreciate the need to protect lesbians and gay men from discrimination, even if they did not approve of homosexuality” (70).

Key challenges throughout this time focused on a number of areas, but primarily concentrated upon challenging human rights frameworks and creating formal protections against discrimination towards the lesbian and gay community. Some of the first activities included groups submitting briefs to various provinces outlining specific examples of ways in which individuals had experienced discrimination based on their sexual orientation. Up to this point, many provincial human rights commissions argued that they did not need to incorporate protections because they had not heard accounts of people being discriminated against (McLeod 1996; Smith 1999).

It was largely as a result of working to change human rights frameworks that the courts became a key avenue through which the lesbian and gay movement in Canada engaged in primary challenges (Smith 2008b). As Smith (2008b) argues, activists believed that engaging in challenges through the courts “could be used to draw attention
to the problem of lesbian and gay discrimination and [...] build a sense of collective identity, to overturn the stigma associated with homosexuality, and to bring other lesbians and gays out of the closet” (48). Many of these demonstrations and legal challenges were featured in the mainstream media, which provided the first public forum for many of these issues and individuals, and it was in large part because of the constant challenges that mainstream exposure occurred, which had a great influence on public perceptions and attitudes towards the lesbian and gay community (Smith 2008b).

While key challenges were levied towards the human rights field, there was a recognition that gaining human rights protections was not the be all and end all for the movement, but that this challenge would allow many within the lesbian and gay movement the opportunity to develop pride and a higher level of consciousness (Warner 2002) The focus on Human Rights legislation had two other key goals that Warner (2002) highlights: the ability to unite the lesbian and gay movement in the long-term, as well as a proactive response to continued reactions to “police, the state, the church, or other institutions” (72). Where groups were able to do so, legal challenges were brought forward highlighting discrimination that many lesbian and gay individuals faced, and, beginning with Quebec in 1977, provinces gradually began to amend their human rights codes to add protections on the grounds of ‘sexual orientation’ (Laroque 2006; Staggenborg 2012).

An opportunity presented itself when the federal government, in 1978, adopted the Canadian Human Rights Act (Nierobz, Searl and Theroux 2008). The Act brought protections to a number of personal and social characteristics, focusing on equality rights (Nierobz, Searl and Theroux 2008). While the Act ultimately did not include sexual
orientation as a grounds for protection, beginning in 1979 the Canadian Human Rights Commission began recommending that it be added (Nierobz, Searl and Theroux 2008). The commission argued that sexual orientation was irrelevant to such things as employment, job performance, and access to services. It is important to note, however, that “the commission made it clear from the beginning that it neither approved nor disapproved of homosexuality; rather, it was simply opposed to discrimination in employment and in the provision of services that occurred on the basis of sexual orientation” (Nierobz, Searl and Theroux 2008: 246). This represents a small, but vital, shock to ‘relationship politics’ through the role that the Canadian Human Rights Commission took: while not approving of homosexuality outright, by arguing that discrimination on the basis of sexual orientation was wrong, they opened up another space for the lesbian and gay movement to work within.

Calls to include ‘sexual orientation’ within the Canadian Human Rights Act continued throughout the 1980s and into the 1990s. Despite the support of a number of MPs, and continued attempts to put forward bills that would amend the Canadian Human Rights Act to include protections based on sexual orientation, the Act was not ultimately amended throughout this period. At the time that a few Members of Parliament had been using their positions to continue to challenge the Human Rights field, the lesbian and gay movement continued to engage in challenges to bring civil rights for lesbian and gay individuals to the forefront of public discourse. I will discuss three here: the John Damien case in Ontario, the Doug Wilson case in Saskatchewan, and the Gay Tide case in Vancouver (Smith 1999; Warner 2002).
John Damien was fired from the Ontario Racing Commission in 1975 because he was gay, and after declining a settlement offered by his former employer, he reached out to GATE Toronto and began a legal battle. This challenge carried on into the 1980s: with initial support gained through press conferences and public demonstrations, the challengers could not maintain the support needed to continue fighting against the Racing Commission, who had their legal fees covered by the Ontario Government (Warner 2002). While the case became quieter into the 1980s, in 1986 it was finally settled out of court.

The case of Doug Wilson in Saskatoon followed a similar course. Wilson had been denied a teaching position by the University of Saskatchewan due to the fact that he was gay and involved in a local gay liberation organization (Warner 2002). He filed a complaint with the Saskatchewan Human Rights Commission, which ruled that sexual orientation was an analogous ground to sex, and should be covered within the code. The university, however, filed a court injunction against this ruling, and the Commission declined to appeal. Wilson did not pursue further legal action.

The Gay Tide case in Vancouver was the first challenge on sexual orientation brought to the Supreme Court (Smith 1999). In it, the Vancouver Sun refused to print an ad placed by the Gay Tide group, and while the British Columbia Human Rights Commission argued that this did constitute discrimination, the Sun appealed to the British Columbia court of appeal, who overturned the Commission’s ruling. Gay Tide appealed to the Supreme Court of Canada, which found in favour of the Sun on the grounds that freedom of press was included within the Canadian Bill of Rights.
These legal cases highlight one of the primary challenges faced by the lesbian and gay movement during this time: access to resources. Notably in the Damien case, part of the reason that the challenge to have him reinstated failed was due to a lack of financial resources available to continue a sustained legal challenge, especially when the incumbent view as represented by his former employer was supported by the provincial government. This is a key issue within Fligstein and McAdam’s framework: what resources are available to challenger and incumbent groups will largely determine the ultimate success they will have in changing the structure of a field. It is interesting to note here as well the inter-relatedness of the fields in play: while the lesbian and gay movement had succeeded in raising the amount of public support, as well as in gaining support of the Canadian Human Rights Commission, the legal field was still largely defined by the original framework of ‘relationship politics’. As a result, challenges brought forward in an effort to shift the field of Human Rights as represented through the Canadian Human Rights Commission were stalled by the structure of the judicial/legal framework. That is not to say that these challenges had no impact, however, as they served to mobilize more within both fields that would prove beneficial to the movement in the long run.

Challenges for resources can be financial, but also political and social. While the Canadian Human Rights Commission was providing a resource in terms of arguing for civil rights for the lesbian and gay movement, there remained many political challenges that continued to prevent the movement from gaining certain social resources. Politically, many of the governing parties around this time were Conservative, and focused primarily on ‘family values’ which served to reinforce ‘relationship politics’ as a heterosexual,
‘traditional’ family-centred field. Further, public opinion was divided, and religious views promulgated by legislators along with public figures like Anita Bryant further served to reinforce the dominant views regarding homosexuality as negative at the time, focusing on a public discourse of morality. The rise of AIDS in the early 1980s limited organizing, as efforts by groups turned towards providing health supports and services. Further, this crisis resulted in greater division within the lesbian and gay movement emerging, with the liberationists who championed for sexual liberation stifled by this health crisis.

However, the rights challenges continued, especially in the face of renewed discrimination to the lesbian and gay movement brought on by the AIDS epidemic. While Human Rights challenges had not yet resulted in the addition of protection on the basis of ‘sexual orientation’ in any jurisdiction other than Quebec, the beginning of Charter discussions would provide a new ‘shock’ through which the movement could again renew efforts to bring forward challenges to the structure of ‘relationship politics’ on a larger basis. In the following section I will look at how the Charter impacted the lesbian and gay movement and efforts to challenge ‘relationship politics’, as well as the further opportunities for mobilization that it afforded.

4.2.2 The Charter, Legal Rights-Talk and Continued Court Challenges

While challenges were still being called for to amend the Canadian Human Rights Act to include sexual orientation, the beginning of discussions around the Charter of Rights and Freedoms provided another avenue through which the lesbian and gay movement could work to increase equality and essential human rights protections. However, the Charter process again reinforced a key challenge faced by the lesbian and gay movement: access
to political and legal resources. During the process of drafting the Charter, the lesbian and gay movement had to compete for resources on a number of levels: not only were general public perceptions still largely homophobic, but other groups, such as feminist groups, had greater political and economic resources through which to engage in the Charter process.

Lahey (1999) also argues that the equality provisions served to fragment the identities potentially covered within it, further challenging the process for these groups. During the three years before the equality provisions were enacted, “groups formed to organize community and professional support, identify their policy positions, draft submissions, and develop structures – journals, litigation groups, educational groups – that could be deployed once section 15 came into effect” (Lahey 1999:35). For a movement that had seen its resources decreased during lengthy human rights challenges throughout the 1970s, and that had been recently challenged by the AIDS epidemic and renewed conservative presence on a political level, this proved extremely challenging (Smith 1999).

When section 15 came into effect, ‘sexual orientation’ remained absent, yet there were promises that the language was ‘open-ended’ enough that lesbians and gays would be covered within it. Despite this promise, when challenges were brought to the courts, the governments had resources available to resist these claims by the movement for equality guarantees; lesbians and gays had to frame their complaints within already present categories such as ‘sex’ or ‘family status’, but the courts challenged that their complaints were based on ‘sexual orientation’, which of course, was not prohibited (Lahey 1999). With limited change occurring as a result of the Charter discussions, the
lesbian and gay movement took to the judicial/legal field in order to continue to challenge for formal equality rights and protections (Smith 1999; Lahey 1999).

Smith (1999) argues that what the Charter allowed for was a shift to ‘rights talk’, which “defines social and political change as legal change” (75). The Charter had a profound impact on the legal status of lesbian and gays in Canada (Warner 2002); the influence of the Charter allowed for a “policy discourse of human rights that would send lesbian and gay policies in Canada in a much more expansive direction” (Smith 2008: 59). Indeed, Cauchon (2002) notes that “[w]hen the Canadian Charter of Rights and Freedoms was added to our Constitution in 1982, Parliament and the legislatures decided to make explicit the right of Canadians to go to court and challenge laws” (as cited in Department of Justice: 2). The Charter provides an avenue through which distinct identities can be affirmed in the political realm (Simpson 1994). This represents the key shock provided to ‘relationship politics’ by the Charter: the increased move towards rights-talk, and the increased use of the courts to bring challenges to the human rights field forward.

Therefore, while challenges remained in terms of access to resources – especially political ones – the lesbian and gay movement was able to move more towards the legal field in order to continue to challenge for rights. Smith (1999) also notes that a number of new groups were formed as a result of the equality discussions, including Equality for Gays and Lesbian Everywhere (EGALE), which became a dominant challenger for the lesbian and gay movement throughout the 1980s. During the discussions on equality rights in 1985, EGALE was formed by a group of lawyers in Ottawa. Along with being located in the capital and with the experience of their members, EGALE was able to
engage in more formal challenges and litigation that dramatically altered the rights that
the lesbian and gay community had access to. However, EGALE faced many of the same
challenges, at least early on, that earlier groups did in regards to representation, with a
largely gay, male, middle-class membership (Smith 1999; Warner 2002). Warner (2002)
argues that as leadership of lesbian and gay groups shifted towards more professional,
middle-class representation by individuals “who embraced heterosexual models and
mores”, equality rights came to be seen as ends in themselves, as opposed to a means to
the end of eventual liberation (192).

The post-Charter time throughout the 1980s and 1990s became one of litigation
for the lesbian and gay movement, and while there were a number of legal cases brought
up throughout this time, I will focus on three here: Haig and Birch, Egan and Nesbit, and
M v. H (Smith 1999; Warner 2002). These cases highlight the ways in which the lesbian
and gay movement were able to take advantage of ‘shocks’ within fields and bring
forward more concentrated episodes of contention, but they also highlight challenges
within the movement itself as it formed and developed into a more ‘cohesive’ public
form.

The case of Haig and Birch involved Birch, a man who was in the Canadian
military. Birch was told that his homosexuality prevented him from receiving
“promotions, postings, or further military career training”, and he was subsequently
released from the military on the basis of ‘medical grounds’ (Lahey 1999: 49). As a
result, he filed a complaint with the Human Rights Commission of Canada, but was
turned away as ‘sexual orientation’ was not in the Canadian Human Rights Act, and
therefore not under the purview of the Commission. Birch then took on a Section 15
challenge, and the appeal through the Ontario Court supported Birch’s case, effectively reading in sexual orientation as an analogous ground of discrimination. The Federal government did not appeal this ruling (Lahey 1999). While this was not a case of ‘relationship recognition’, nor was it the first ruling based on Section 15 of the Charter, it was unique in the sense that it provided a turning point for the lesbian and gay movement in terms of achieving formal protections: the Ontario Court of Appeals ruled on including ‘sexual orientation’ within the Human Rights Act, and argued that by not including ‘sexual orientation’ as a protected grounds of discrimination, it was in fact a violation of Section 15 of the Charter, providing a concrete tool for eliminating discrimination (Cotter 2010).

The next case of Egan and Nesbit centred upon relationship recognition, as it involved Egan applying for Old Age Security (OAS) benefits for his partner, Nesbitt; benefits that are provided to spouses. EGALE took on this case while Egan had been an activist within the lesbian and gay movement for years prior to this challenge (Smith 1999). The argument before the court was, “is the restriction of the OAS spousal benefit to heterosexual couples a violation of section 15 of the Charter and, if so, is such a violation justified as a reasonable limit in a free and democratic society?” (Smith 1999: 91). The EGALE challenge focused upon the definition of relationships, arguing that discrimination based on spousal status is still discrimination based on sexual orientation, as it implies that lesbian and gay relationships are not spousal similar to heterosexual ones (Smith 1999). While the ruling from the Supreme Court reinforced the fact that ‘sexual orientation’ is an analogous ground of discrimination, it also argued that denying OAS benefits was a reasonable limit on the rights of lesbian and gay couples (Smith
1999). Despite this loss, challenges were still brought forward in regards to relationship recognition specifically, as the court had, through their support of reading in sexual orientation as an analogous ground of discrimination, empowered the lesbian and gay movement to continue to seek changes and equality.

The final case I will look at is that of M v H, which had arguably the greatest impact on challenging ‘relationship politics’. The ultimate decision in this case was a result of not only previous rulings, but of changes that had begun at the provincial level, with provinces beginning to address inequalities in relationship status. In British Columbia, the NDP government in 1995 began this process by changing the Adoption Act and allowing same-sex couples and single people to adopt. The government then amended Acts related to spousal and child supports, and in 1999 adopted the Definition of Spouse Amendment Act (Warner 2002). Other provinces followed suit throughout the late-1990s, with Newfoundland and Labrador and Quebec amending at least some legislation to include same-sex couples as spouses (Warner 2002).

In Ontario, while the government was not necessarily acting as quickly as other provinces, there were many lesbian and gay organizations that were continuing to bring challenges forward. The M v. H case was a result of the breakdown of the relationship between M and H, and the appeal for spousal benefits for one of the parties. Brought to the Supreme Court, it was ruled that the definition of spouse within Ontario’s Family Law Act did contravene the Charter (Warner 2002: 238). The government had a number of options, but had to change the Act, and they ultimately did so; however, the resulting amendment was not necessarily a sweeping show of support for the lesbian and gay movement, as it was titled ‘An Act to Amend Certain Statutes as a Result of the Supreme
Court Decision in M v. H’ (Warner 2002). Nonetheless, the creation of a category of ‘same-sex partner’, which allowed for the same legal rights and responsibilities as heterosexual couples was viewed as a victory – although one requiring continued work (Warner 2002).

4.3 Challenging Structures and the State

As the examples above highlight, there were a number of opportunities that the lesbian and gay movement had to take advantage of shocks and create further challenges to a number of fields in order to gain access to equality. One piece that I have not discussed yet, but is a key feature within the theory of fields, is the structure of the state which has allowed for these political opportunities to be available. In this final section, I will discuss how the structure of the state allowed for these opportunities to be present to the lesbian and gay movement, essentially creating the setting through which Bill C-23 became available.

While a large part of the success of the lesbian and gay movement throughout the late-20th century rests on the tireless efforts of a number of individuals and groups, it is also the result of an institutional structure that lends itself to challenges and change through “empowered courts, the effects of the centralized Westminster parliamentary institutions, and the specific jurisdictions of federalism which have played a key role in shaping legal and policy change” (Smith 2011: 74). In the case of the criminal code reform, for example, the federal government did not need to consult with the provinces in order to enact amendments, unlike in the United States or Australia, where criminal law comes under the purview of individual states (Smith 2011). And while challenges for human rights protections were a key part of the lesbian and gay movement throughout the
1970s, the formal achievement of these protections was not the end goal; these campaigns “sought to build the gay and lesbian community, to encourage lesbians and gays to come out, and to raise consciousness and challenge dominant heterosexist social and political norms” (Smith 2011: 76-77). The presence of human rights commissions provincially allowed for the lesbian and gay movement – which was better organized at the local, urban and provincial levels - easier access to this particular structural opportunity.

The entrenchment of the Charter in the 1980s provided additional structural ways for the lesbian and gay community to mobilize, primarily through empowering the judiciary and allowing for legal challenges to emerge (Smith 2011). It served to empower the lesbian and gay movement to further challenge provincial human rights commissions, as well as the federal human rights commission, to create explicit protections. Through a variety of challenges at the provincial and federal levels, by the late 1990s it had been accepted that protections based on sexual orientation were to be ‘read-in’ to both provincial and, ultimately, federal legislation. However, while the case of Egan concluded that sexual orientation be read-in to the Charter as an analogous ground of discrimination, there was a limitation placed on the rights of same-sex couples based on section 1, the general limitation clause (Smith 2011). This again shows the numerous structural and institutional ways through which the lesbian and gay community had to work – while the Charter provided key access to formulating rights claims, it also allowed for certain protections that would allow those challenges to only go so far.

Fligstein and McAdam (2012) argue that states are able to “shape the prospects for change and stability in virtually all nonstate strategic action fields” (67), and I think this becomes clear when exploring the challenges that the lesbian and gay movement
focused on. As I noted above, the focus on ‘legitimation’ emerged as a result of the opportunities presented to the movement. It is the state that creates the rules on interaction between groups, and it is the state which defines laws and regulations governing acceptable action. The state also “formalizes the problem of creating new social spaces in two ways: it provides for or enables expansion into known and unknown social spaces, and it limits that expansion by setting the rules by which that expansion can occur” (Fligstein and McAdam 2012: 70). The structure of the state, and the rules governing action within it, had a marked impact on what challengers were able to achieve, and where the opportunities for action would emerge.

It was in this sense that the Charter provided what is arguably the greatest shock to ‘relationship politics’ that the lesbian and gay movement could take advantage of: by creating a framework of rights, the lesbian and gay community was able to assert their civil and human rights through the provincial need to be in-line with this federal legislation. The presence of the Supreme Court allowed for legislation changes to be brought upon provinces in-line with the decision that was reached. It was this unique structure that allowed for the lesbian and gay movement to have greater access to policy changes in Canada (Smith 2011).

**Concluding Remarks**

The lesbian and gay movement faced a number of challenges in order to bring about change and fight for equality. Both within the movement itself as well as with additional fields, challenges to ‘relationship politics’ throughout the 1970s and 80s primarily centred upon gaining civil rights and protections within human rights frameworks. Shocks created by the Canadian Human Rights Act along with the Charter provided the
movement the ability to bring formal challenges forward through the context of ‘rights’, and opened up the courts as a way to challenge for equality. Despite continued debates within the movement regarding the focus that challenges should take, many recognized the importance of entrenching same-sex relationships within the law as a way to ensure social acceptance, arguing that if there is discrimination and inequality in law, it gives the message that discrimination is still accepted (Warner 2002).

While I have highlighted the key shocks and development of the lesbian and gay movement as a challenger group in this chapter, the next step is to understand how these shocks led to specific episodes of contention, which essentially opened the doors to fully restructuring the field of ‘relationship politics’. In the following chapter, I will highlight the key episodes of contention, concluding with the debates around the Modernization of Benefits and Obligations Bill, which created this eventual resettlement.
CHAPTER FIVE: EPISODES OF CONTENTION

In the previous chapter, I highlighted the lesbian and gay movement as a challenger group, along with the key shocks and mobilization that occurred around the field of ‘relationship politics’, focusing primarily on the challenge for civil rights and the impacts that the Charter had. In this chapter I will focus on the primary episodes of contention that served to redefine the field of ‘relationship politics’, along with exploring the resources and views that incumbents brought to debates and challenges.

I will begin this chapter with a brief discussion of the incumbent group to ‘relationship politics’, highlighting why I have chosen to focus primarily on Members of Parliament. I will then turn my analysis to the three primary episodes of contention that led to the resettlement of ‘relationship politics’, starting first with an analysis of the emergence of Bill C-150 along with the debates that occurred regarding the decriminalization of homosexuality. I will then pay more attention to the numerous debates surrounding the addition of sexual orientation to the Canadian Human Rights Act, which culminated in Bill C-33 in 1996. After examining the debates around this Bill, I will look at the situation which allowed for Bill C-23 to come forward, and explore the ensuing debates around this bill.

5.1 Reactive Incumbents

While I have highlighted the ‘lesbian and gay movement’ as a challenger group to ‘relationship politics’, at this point it is necessary to focus on the incumbents, those who have the most influence on a field, and whose views are the ones that serve to structure and reinforce field definitions (Fligstein and McAdam 2012). In this case, I have chosen to highlight Members of Parliament as the primary incumbents within my analysis. I have
done this for two key reasons: within my analysis, I am focusing primarily on
‘relationship politics’ as it has been defined and reinforced by legislation, and as such,
elected officials are the official representatives of these fields, and the ones with the
ability to define and reaffirm the structure and logic surrounding field definition.
Secondly, the activities focused on by the lesbian and gay movement, as discussed in the
previous chapter, largely related to federal legislation; many of the primary ‘shocks’ were
those which occurred to federal legislation which allowed for episodes of contention to
emerge around these fields.

Incumbents are those who have the most influence within a field, and their “views
tend to be heavily reflected in the dominant organization of the strategic action field”
(Fligstein and McAdam 2012: 13). In this sense, MPs provide and reinforce the current
understandings of a field. That is not to say that there are no challenges within the
incumbent group, however; just as there were challenges among the lesbian and gay
movement as a challenger group, the incumbent group as well faces challenge in terms of
their understanding of the structure that a field should take, views that do shift over time.
Fligstein and McAdam (2012) argue that field stability is achieved “through the
imposition of hierarchical power by a single dominant group [resulting in competition] or
the creation of some kind of political coalition based on the cooperation of a number of
groups” (14). In relation to ‘relationship politics’, MPs engage in both competition and
cooperation at various points, depending on which field is being challenged.

MPs represent a number of groups with individual interests, and throughout this
chapter I will highlight how, at different times, incumbents worked through both
competition and cooperation, depending on the episode at hand. What is most interesting,
and will be discussed below, is how these roles shifted as the lesbian and gay movement created shocks and took advantage of opportunities as challenges arose; what may have first been a strong internal cooperation gradually shifted to greater competition as more incumbents shifted their roles to be aligned with the challenger group, resulting in the ultimate challenge to ‘relationship politics’ to take place.

Fligstein and McAdam (2012) argue that “in stable social worlds, skilled strategic actors in incumbent groups help to produce and reproduce a status quo. They are aided by a collective set of meanings shared by other actors that defines those actors’ identities and interests. It is also the case that in ‘institutionalized’ social worlds, meanings can be ‘taken for granted’ and actions are readily framed in relation to those meanings” (17). In this sense, the status-quo become hegemonic, and incumbents have very little to do in terms of reinforcing the field structure; it is so ingrained and internalized that it largely reproduces itself through the actions of most individuals. It is when these definitions become challenged that the work must occur, which is the case for ‘relationship politics’. Once it became challenged, then incumbents had to work to reinforce the structure in whatever ways they could, leading to these episodes of contention.

The incumbents, then, were rather reactive to the numerous shocks which the lesbian and gay movement took advantage of to bring challenges forward. Beginning with a rather strong sense of cooperation, as they responded to these shocks and challenges roles shifted as more incumbents began to align themselves to the views of the challenger group. This turned the relationship between incumbents to one of competition, leading to episodes of contention that more directly challenged ‘relationship politics’. I will now turn to the three key episodes of contention, highlighting how MPs, influenced
by the challenger group, worked to both reaffirm yet also redefine the structure and logic of each field.

5.2 The Decriminalization of Homosexuality

As I have discussed previously, both the Wolfenden Report and the case of Klippert provided key shocks to the Criminal Code, providing an opportunity for the ultimate decriminalization of homosexuality to take place. In fact, before Trudeau would table Bill C-195, the first attempt at criminal code amendments in 1967, both The Wolfenden Report and the case of Klippert were directly referenced in the House of Commons. MP Stafford noted that:

… The Wolfenden committee on homosexual and prostitution offences in 1957 was the first real effort to determine the fundamental basis of the criminal law. The whole thrust of criminology since then has been founded on the proposition that the criminal law is a sociological device to prevent acts which are harmful to the community (1967).

MP Comtois was not as kind in his evaluation of the impact of The Wolfenden Report, arguing:

… We have reached the point of collective folly of legalized crime; legislation is sought favouring all crimes against nature such as homosexuality and abortion. We will undoubtedly reach mercy killings at an early date (1967).

These quotes highlight that it is not necessarily challenger groups who may bring challenges to fields forward; in this case, it was those incumbents within the field of the criminal code, MPs and legislators, who were questioning the, at the time, logic and structure of the field. It was from this that the amendments to the criminal code which ultimately decriminalized homosexuality first emerged.

Bill C-150 was introduced in December 1968 during the 1st Session of the newly formed 28th Parliament, which featured Trudeau as Prime Minister and John Turner as
Minister of Justice (Chambers 2010). Stuart Chambers (2010) in his article *Pierre Elliott Trudeau and Bill C-150: A Rational Approach to Homosexual Acts, 1968-69* provides a valuable account of the proceedings that occurred throughout these debates. While Chambers’ analysis of the Hansard Debates brings up key pieces of discourse that were found throughout the proceedings, I think it is important to explore in more detail the unique ways in which these discourses were influenced by the – at the time – hegemonic understandings of the family and sexuality, and ‘relationship politics’, as well as the ways they served to further reinforce or challenge those understandings.

The ensuing debates brought up a number of key issues related to the views of ‘homosexuality’ at the time. Discussions focused on a medicalized understanding of homosexuality, and many members were sure to state that their acceptance of the criminal code amendments were not an acceptance of the lesbian and gay community. I will focus on two primary themes which emerged from the debates, before discussing how this challenge began to shift the structure of ‘relationship politics’.

### 5.2.1 Homosexuality as Pathology

The first theme that emerges through the debates is that of viewing homosexuality as pathology. This theme is repeated by a number of members debating Bill C-150, and reinforces the views of the time of the medicalized discourse of homosexuality (Kinsman 1991; Drazenovich 2012). Chambers (2010) argues that this view allowed all parties to be more empathetic and understanding, yet it reinforces more common ideologies around ‘relationship politics’ at the time. Rather than focusing on decriminalization as a form of acceptance through the law, many of the debates – even from those who supported the
amendments – focused upon the fact that homosexuality was a disease that incarceration
or criminalization was unable to help. MP Lewis stated:

“I know that to normal people this practice is an odious one, an
unaesthetic one if you like; but to make it a crime in all cases
is to be insensitive and cruel because this deviationism
obviously is due to certain psychological and other factors.
This behaviour requires charity and treatment rather than
criminal prosecution” (1969a)

MP Hogarth compared homosexuality to alcoholism, noting that “Although the
homosexual’s affliction is not the same as the alcoholics in kind, it is in substance. The
homosexual has no control over his behaviour. He is either born that way or develops his
sickness at an early age.” (1969).

In keeping with this theme, suggestions for treatment came to the centre of
debates, with members suggesting the government try to find ways to “cure these people
instead of legalizing a loathsome act” (Matte 1969). MP Matte goes on to suggest: “If
[…] we are dealing here with a sickness, then let the Department of Health take of it and
not the Department of Justice” (1969). MP Laprise compared it to tuberculosis when he
argued “we have managed to control Tuberculosis. With the appropriate means, we can
control homosexuality” (1969). Again, this theme reflects a slow change in terms of
acceptance of homosexuality. Highlighting it as a pathology reinforces the view of it as
‘other than’ and outside of acceptable relationships; in fact, as something that could be
treated and potentially changed. However, it did create an increased awareness as to the
existence of homosexuality, providing a space for more challenge and awareness-raising
to occur in the future.
5.2.2 The Role of the Law

The second, and most notable, theme that I will explore is one that had been mentioned during the Wolfenden Report as well (Lahey 1999): that of the role of the law in relation to morality. As Chambers (2010) notes, the position that the Liberal government, under Trudeau, was taking represented a more “classical liberal human rights perspective”, focusing on the separation of church and state (250). When Bill C-150 was brought up for second reading, then Minister of Justice Turner stated:

... We are witnessing what has been described as a new search for human values and relationships – relationships between man and man and between men and government, new relationships that have new meaning in the technical and psychological context of our age. [...] yesterday’s order, if unresponsive to change, becomes tomorrow’s oppression” (1969a).

In this, Turner is recognizing the importance of the law to move forward given the vast social changes occurring throughout the period. Later on, he notes that this requires “many of us to search their own hearts thoroughly”, recognizing that many Members may have personal objections to the amendments within the bill itself.

The discussions related to the relationship between law and morality centred upon how much the law should be able to regulate morality as it relates to homosexuality and private behaviour. MP Turner argued that “We do not condone adultery, yet it is not a crime. We do not condone fornication, yet it is not a crime” (1969b). This argument draws a line around private behaviour and that which would be regulated publicly, through the law. MP McLeave suggested that, despite the private nature of the amendments, Canadians still “are entitled to regard the parliamentary attitude toward the Criminal Code as a reflection of what morality should be in Canada” (1969). He further
asks, “What is the whole criminal law about if it is not to enact something that imposes sanctions against what we regard as behaviour that is anti-social or against the interests of our society?” (McCleave 1969). In this, the law is viewed as protecting Canadians, and reaffirming what is ‘acceptable’ or ‘moral’ behaviour. MP Diefenbaker reasserted in his position that “We live in an age that is becoming more and more permissive. Some say there is no God, that each man should be able to live his own life as he wills as long as he does so in private. I do not find any support for that philosophy in the scriptures” (1969).

In this argument the law is still, and should be, informed by the Judeo-Christian Religious framework. MP Latulippe went so far as to suggest that this “degrading legislation […] will lead our nation to suicide” (1969).

However, others took the more liberal approach promoted by Trudeau and, by extension, Turner. MP Lewis perhaps provided the best discussion in support of this amendment when he argued:

“…our law ought to be alive and dynamic. It ought to be responsive to emerging situations in society. At present it is not. […] In trying to reform the criminal law we must remember that in 1969 we cannot define as a public crime certain actions which come within the ambit of personal conscience. We cannot define as criminal certain actions which, in another context, may be defined as sinful, or whatever other word one wishes to apply to them. […] As society develops, and as the separation of church and state developed, the influence of the church in the formation of laws has become less and less. I urge that we do not term public crimes those actions which are matters for an individual’s conscience. Behaviour which is governed in private by an individual’s conscience ought not to be the subject of any provision in the criminal law” (1969a).

This theme raises a few key issues. The first is that while the Kinsey and Wolfenden Reports had achieved a great deal in terms of changing attitudes surrounding
sexuality, perhaps the largest shock to this field was that of the importance of religion in terms of guiding morality and the law. As many of the debates highlight, a key theme was not necessarily that of the acceptability of homosexuality in and of itself, but rather, the role of morality within the law, and the place of the law in defining morality. Rather than creating a shift within the field of ‘relationship politics’, this first episode of contention essentially worked to challenge and redefine the role that religion has in defining the law, which provided a space through which legislation on issues of morality could be more easily questioned. It also reflected a recognition, on the part of legislators, to the changing views in society that were occurring at the time. MP Lewis even discusses this in his address when he notes that “the young people of Canada and of the world are rebelling against the restrictions and constrictions which are impinging upon them in a modern, technological, complicated society” (1969b).

Discussion

While the ultimate passing of Bill C-150 and subsequent decriminalization of homosexuality can be seen as a step forward for acceptance for the lesbian and gay movement, Lahey (1999) suggests that it was still a small shift, as it focused strongly on behaviour in private. As she argues, “the true measure of progress in deploying legal discourse to gain access to ‘full life’ for sexual minorities lies not in the uses sexual minorities have been able to make of those secret, invisible, and private spaces, but in the extent to which they have been permitted to occupy ‘public’ space as their ‘full selves’ (Lahey 1999: 5).

The debates by legislators highlight the ways that they, as incumbents, had the resources to define and interpret the field of ‘relationship politics’ at the time. As
Fligstein and McAdam (2012) note, a limit for challengers is their access to resources, not only financial but also social. As the debates around Bill C-150 show, Members of Parliament, as representatives of citizens and legislators who can reinforce the field of the ‘criminal code’, had dedicated political resources through which to redefine the field in the way they saw fit. While the ultimate change succeeded in decriminalizing homosexuality and removing one barrier to the lesbian and gay movement, the debates served to shift the discourse and construction of the field in a rather slight way. This initial episode of contention served not to create sweeping acceptance for homosexuality and the lesbian and gay movement, but rather to provide a shift in the role that the law and criminal code played in defining ‘relationship politics’ in general; through recognizing a separation of the law and religion or ‘morality’, the importance of this in defining acceptable sexuality became limited, thus opening up a space through which more challenges could occur.

5.3 Human Rights Protections

With the decriminalization of homosexuality, the lesbian and gay community was able to embrace their identity more fully, and as a result the focus for action turned towards gaining civil and human rights. This was done largely through challenging for protections to sexual orientation in provincial rights frameworks. Nierobz, Searl and Theroux (2008) note that “By publicising equality rights and the existence of a system of rights-based programs and institutions, human rights commissions are seen as playing an important role in shaping public demands for a more expansive set of rights” (240).

From its formation, the Canadian Human Rights Commission was seen as “an autonomous, non-partisan body that operates in the public interest” (Nierobz, Searl and
Theroux 2008: 243); positioned in this sense as a challenger to ‘relationship politics’ that
the lesbian and gay movement could gain support from. The first chair of the
commission, Gordon Fairweather had been an MP and left politics for this role, and
“believed the commission had to ‘represent those without a strong voice’ in order to
demonstrate its commitment to social justice” (Nierobz, Searl and Theroux 2008: 245).

While sexual orientation was not included as a grounds of protection in the initial
Act, with the support of a few key MPs the addition of sexual orientation protections was
regularly brought up within the House of Commons throughout the 1980s and 1990s,
reflecting a move from cooperation amongst all members in regards to views surrounding
homosexuality to the competition that carried into future debates. As part of their
platform in the 1993 federal election, the Liberal party had campaigned on a promise to
add sexual orientation into the protected grounds of discrimination within the Canadian
Human Rights Act, providing supportive MPs a stronger case to bring challenges forward
(Rayside 1998). MP Real Menard was one of the primary voices bringing forward
challenges at this time, consistently calling on the government to explain why it was not
bringing the issue forward with more speed. In the session on April 12th, 1994, Menard
asked specifically if the government was prepared to table a bill that fall.

In his response, Mr. Russell MacLellan, Parliamentary Secretary to the Minister
of Justice stressed that the government was committed to updating the law, and brought
up the Haig and Birch decision. He noted that in this ruling, “the Court of Appeal of
Ontario ordered that the Canadian Human Rights Act must be read to include that ground
as of the date. The Attorney General of Canada at the time did not appeal the order to the
Supreme Court of Canada. The government views this as the current and correct state of the law” (1994).

It becomes clear through the government responses to continued requests about formally updating the Human Rights Act that, with the Haig and Birch decision, they were committed to upholding the law as it was interpreted. While the government seemed in support, and with more MPs calling for a formal update to the Act, there were a number of MPs who still challenged the government to not include sexual orientation within the Act. MPs would routinely bring petitions forward throughout the 1990s from their constituents asking that Parliament not amend the Human Rights Act. This highlights the contention within the field that still existed – despite a seemingly supportive government and many MPs who favoured amending the Act, this was by no means universally supported, and both views continued to champion their respective concerns.

It was in 1996, during the 2nd Session of the 35th Parliament that the Liberal Government, led by Jean Chretien, fulfilled their campaign promise to add ‘sexual orientation’ to the Canadian Human Rights Act. In his opening remarks on the Bill, Justice Minister Allan Rock referred again to the Haig and Birch decision, and argued that this amendment was a matter of “simple human justice and equality…[and] the right thing to do” (1996). While the Liberal government was working to push the bill through rather quickly, debates were very spirited, and brought up a number of important themes reflecting not only how much progress the lesbian and gay movement had made to this point, but also how far they still had to go in their challenge towards ‘relationship politics’. While there were a number of themes brought up throughout these debates, I
have chosen to highlight two here: a reframing of ‘morality’, and a challenge to special interest rights.

5.3.1 Relative Morality

One of the primary themes that came up throughout the debates on Bill C-33 was the idea of ‘morality’ and ‘what is right’. Minister Rock discusses tolerance as a ‘family value’, presenting a challenge to those who suggested this amendment would result in an erosion and challenge to ‘the family’ as it was understood at this time (indeed, in this sense, ‘the family’ represents ‘relationship politics’). As Rock argues, “This amendment is a matter of fundamental justice, or protecting those who are discriminated against in our society, of tolerance, of treating all our fellow citizens with dignity and respect and of looking out for one another” (1996). Other MPs challenged the static nature of ‘the family’, arguing that while this Bill does not change it, “the concept of family changes with time” (Bernier 1996).

“There is a belief that protecting gays and lesbians from discrimination will bring about the end of the family as we know it. I am offended by the implication that somehow gays and lesbians are not part of the Canadian family. Let us not forget the human side of this issue. Gays and lesbians are not aliens from outer space. They are our brothers, sisters, grandchildren, sons and daughters” (Sheridan 1996).

MP Regan appealed to a religious morality when he stated: “When I think of Christian principles and the life of Christ, who showed more concern for outcasts than he did? From my point at least, my Christian values require me to support this bill. It is not okay to treat these people because of their sexual orientation as less than human” (1996). Along with this recognition of tolerance and acceptance, MP Harvard discusses this view as one emerging within a changing society; while things may come forward that scare
people, this is about fairness and tolerance. He is also sure to reaffirm his position as a ‘family man’ like Rock did; in this way they can show that they are part of that overarching field of ‘relationship politics’, they are just ‘family men’ wanting to show tolerance and equality. “The bill is not about special rights. It is about equal rights.” (Harvard 1996).

While the overwhelming theme was one of tolerance, morality, and adding protections based on sexual orientation as the right thing to do, there was also a minimization that occurred by proponents of this Bill in order to garner support. Often this involved stressing what the bill would not do; that this would not lead to same-sex marriage, adoption, or any legal understandings of ‘the family’ that were still held at this time. MP Harvard sums this up best when he argues: “We are talking two words, sexual orientation. Those two words are being added to the list of prohibited grounds of discrimination. There is nothing more to this, nothing less. It simply means Canadians, after the bill becomes law, will not be able to discriminate on the grounds of sexual orientation.” (1996).

5.3.2 Special Interests and Homosexual Advantage

While supporters of Bill C-33 focused on adding protections as the right thing to do in order to promote respect, tolerance, and acceptance, the main theme many opponents to the bill brought forward reflected the idea that while discrimination is indeed wrong, there is in fact no need to protect based on what many of these MPs viewed as a ‘special interest’. In fact, many argued, through protecting a special interest group like the lesbian and gay community, they are giving more rights to this group, and some asked where those rights would end. In one dissenting opinion, MP Hayes noted: “We affirm that all
Canadians, including homosexuals, are entitled to life, liberty, security of person and freedom from discrimination regardless of personal characteristics and that these entitlements should be strictly enforced. We affirm that these entitlements should be based on personhood, not on sexual orientation or on any other personal characteristics” (1996). Hayes goes on to define what constitutes ‘discrimination’, focusing on three touchstones: a history of social oppression by lack of opportunity; that the group exhibits immutable characteristics; and that the group experiences political powerlessness. He suggests that the lesbian and gay community fulfills none of these:

“Under homosexual advantage legislation whose rights would stand: a parent who resisted a homosexual’s influence on their children within their school or within their community; school teachers or administrators, public or private, who are forced to persuade children that homosexuality is normal and attractive even though they do not personally agree; employers, business owners or the military that would be under coercion to recruit and promote homosexuals within some type of affirmative action program; employees who would be forced to value homosexual behaviour of they might lose their jobs; health care workers or victims who remain vulnerable because of privacy rights of the very serious but very deadly disease of AIDS; landlords who would be forced to rent to homosexuals when they or other tenants within their building may conscientiously disagree with this behaviour; or churches or parent church ministries that are faced with the contradiction to their firmly held doctrine and belief in hiring or perhaps even speaking of this behaviour?” (Hayes 1996).

In framing the bill as ‘advantage legislation’, opponents are presenting human rights protections as superfluous, arguing that all discrimination is bad. MP Solberg equates it to a zero sum issue: “Equality has to come willingly from people. Respect has to come willingly from people. It cannot be forced…when we grant someone a particular rights [sic] that means we are taking away a bit of a right from somebody else. Rights are nothing but power. Power is something that is a zero sum. There is only so much power
out there” (1996). He goes on to reinforce the importance of tradition, custom, and the ‘traditional family’, arguing that it is important and special for a reason.

Presenting anti-discrimination legislation as problematic due to the fact that ‘rights are power’, and power is zero-sum, suggests that there is currently a group that holds the power; the argument is that by giving rights to the lesbian and gay community through human rights protections, the ‘family’ (‘relationship politics’) would lose its power. This highlights the effort to protect and maintain the structure and logic of the strategic action field itself. MP Hayes reinforced his previous argument, suggesting that “This is a special interest group hijacking the provisions in law that are meant for the disadvantaged of our society. Again I say the gay and lesbian community has the same rights, privileges and protections under law as the rest of the population” (1996).

In contrast with the idea that adding sexual orientation to the Human Rights Act will take away power, MP McClelland offers an interesting dissention by arguing that “I do not think that by adding the two words sexual orientation to the Canadian Human Rights Act will change anything. It will not change discrimination against gay persons one iota. If I felt there was any evidence to support the notion that by amending the Canadian Human Rights Act to add those two word would somehow magically change the Canadian populace so that there would be no more discrimination against gays or anyone else, then I would vote for it in a minute. But it will not. All that will possibly change that is education and enlightenment.” (1996). This comment is interesting because it moves away from recognizing the value inherent within the legislation; by suggesting that the only solution is ‘education and enlightenment’, the value of the Act itself becomes questionable. MP Graham challenges this by arguing that “it is the rankest
sophistry to say that one is in favour of eliminating discrimination or against discrimination but against a measure which is destined to eliminate that discrimination…These provisions are in the bill because those were categories of people who were discriminated against by a dominant class. That is the position we find ourselves in with respect to sexual orientation today” (1996).

Discussion

In contrast to the debates around the decriminalization of homosexuality, those on Bill C-33 highlight the progress that the lesbian and gay movement had made throughout the 1970s and 1980s. With increased social change and awareness, the incumbent group shifted from a model of cooperation to one more of competition, as the interpretations and desired structure of the Human Rights field gradually began to move farther apart.

It is interesting to see in debates on Bill C-33 the shift in terms of the issue of morality from the debates on Bill C-150. With the decriminalization of homosexuality, a large point of discussion highlighted the separation of morality in legislation, moving towards a classical liberal view of governing. However, in Bill C-33, we see a redrawing of the role of morality in law, through redefining what that ‘morality’ represents. In this case, rather than based in socially conservative values – those predicated upon traditional understandings of ‘relationship politics’ – morality has become a positive, guiding, accepting force. Morality is good in the sense of supporting tolerance and equality, and is therefore drawn back into debates by proponents as a necessity in increasing acceptance of the lesbian and gay community.

While those who supported the bill largely focused on this understanding of morality as respect and tolerance, they recognized that human rights protections exist in
order to correct discrimination. Opponents, however, brought into question the idea of ‘discrimination’ in general, suggesting that creating a list of ‘special interest groups’ in fact results in ‘reverse discrimination’, as those not on the list can then be discriminated against. Having so many incumbents shifting their roles and interpretations of the Human Rights Field was a direct result of the lesbian and gay community taking advantage of shocks and mobilizing throughout the 1970s and 80s. Having spaces opened up with Provincial Human Rights codes, and the Charter debates allowing for action within the judicial field, this episode of contention was able to open up and address a formal, federal recognition of support to the lesbian and gay community.

One of the most interesting, and I think more helpful, themes was that of ‘the family’; in presenting tolerance and acceptance as ‘family’ values, supportive MPs were shifting ‘relationship politics’ in very symbolic ways that I think allowed for the modernization of benefits and obligations bill to come forward so quickly. A key piece within ‘relationship politics’ is ‘the family’, and how ‘the family’ as a unit is understood. Where MPs challenged the traditional, heterosexual unit of ‘the family’, this opened up the space for alternative definitions to arise. As well, where opponents discuss rights as power, arguing that ‘the family’ is important and that it should not be changed, they are again reinforcing the importance that it has to ‘relationship politics’, working to maintain the definition as it stood at the time. It was in this sense that I think the largest fracture emerged, that competition for the symbolic resource of what ‘the family’ means, which ultimately resulted from this particular episode of contention.

Bill C-33 was ultimately passed on May 8th, 1996, and it only took four years before Bill C-23 came forward. This is in sharp contrast to the 27 years between Bills C-
150 and C-33. While Bill C-150 presented a space for the lesbian and gay movement to begin to challenge, I think that the work that was done ‘on the ground’ had a large impact on how fast legislation was able to progress after this point. Through the shocks created by the Charter which opened up the judicial field, bringing formal challenges forward became more accessible. But I think the most important asset was gaining support of incumbents, whether through their own positions as members of the challenger group, or through awareness and greater understanding; the shocks that the lesbian and gay community were able to take advantage of opened up not only legislation but a greater social awareness, which I think had a larger impact on the episodes of contention that emerged.

5.4 The Modernization of Benefits and Obligations Bill

As more lesbian and gay individuals began living ‘out’ lives with partners and children, the need for legislation regarding relationship recognition came to the forefront (Wintemute 2004). In 2000, after the decision of M v. H in Ontario (discussed in the previous chapter), the federal government worked quickly to bring legislation in line with this decision. This bill “explicitly recognized the rights and obligations of same-sex couples in all areas of federal law and policy, short of full legal marriage” (Smith 2008b: 143). When debate began on Bill C-23 in February of 2000, MP McClellan stated:

“Bill C-23 ensures that federal laws reflect the core values of Canadians, values that are enshrined in the Canadian Charter of Rights and Freedoms. The fundamental tenets of Canadian society – fairness, tolerance, respect and equality – are touchstones of our national identity and serve to enhance our international reputation. Bill C-23 brings federal statutes into line with these values. It ensures that the principle of equal treatment under the law, in relation to individuals in committed common law relationships, is respected. Equally important, Bill C-23 does so while
preserving the existing legal definition and societal consensus that marriage is the union of one man and one woman to the exclusion of all others.” (2000).

This introduction touches on a number of issues that were brought up throughout the debates on this bill. While proponents, much as they did in the discussion on Bill C-33 brought up tolerance, fairness and equality, those against the bill centred their oppositions on reinforcing the importance of marriage as an institution and working to ensure that the definition of marriage as between a man and a woman to the exclusion of all others could not be challenged by this bill.

5.4.1 Morality as Tolerance and Equality
The primary themes that emerged through discussions on Bill C-33 largely carried through to the debates on Bill C-23. Proponents of this bill focused their discussions on the importance of Bill C-23 in terms of bringing Canadian law in line with equality. As McLellan states, Bill C-23, a direct result of the M v. H decision, allowed the government to “ensure that our laws confer both benefits and obligations equally to all common law relationships, whether of the opposite sex or the same sex” (2000).

This focus on equality, fairness and tolerance carried throughout debates. MP Desjarlais argues that “[t]his act is not about special rights, as some in the House would suggest. It is not about special treatment. It is about fairness and equality, responsibility and accountability” (2000). MP Gallaway discusses the importance of values, and recognizes that while individuals may not agree with this move due to their own personal beliefs, that “[w]e have to look beyond our own individual belief and value systems to the wider, larger picture” (2000). The discussion on values continues when MP Menard suggests that “when one is passing a bill, when one is a lawmaker, it cannot be issues of
morality that guide us, because, in politics, such issues are the most likely to suffer from the passage of time. […] Every member rising in this House to vote against Bill C-23 will send a negative message to Canadians and Quebecers, who will think that when one is gay, one does not deserve full protection in every piece of legislation passed by parliament” (2000a).

The ‘morality’ Menard refers to in this sense is socially conservative, and he is suggesting that those who may argue against this bill on the basis of morality are doing so from a place of discrimination. It is interesting in this to see how morality is framed by proponents: as with Bill C-33, morality in terms of promoting equality and tolerance is a positive, while opposing this bill on the basis of morality is a negative. The way each side interprets morality reinforces how they ultimately view ‘relationship politics’: those with a liberal view of morality will see the traditional structure as discriminatory and in need of change, whereas those who want to hold on to the traditional definition of ‘relationship politics’ will hold a more traditional, conservative view of morality.

It is clear that, to supporters, this bill is one of equality, and that tolerance and respect and fairness are very much Canadian values. Along with this, however, was a tendency, again, to gain support through a minimization of impacts. As MP McLellan introduced the bill she was sure to stress that not only would the bill not change the definition of marriage, but it was about both benefits and obligations. As she noted, “[w]e are not simply extending existing access to certain social benefits to same sex couples, we are also imposing obligations on them” (McLellan 2000). Indeed, the bill was also framed as ‘housekeeping’, in the sense that it was the government doing its part, as MP Wasylycia-Leis argues: “some individuals would like to portray this debate, this issue,
this bill, as trend setting, ground-breaking and innovative. I wonder if it makes more sense to portray the legislation in terms of housekeeping and necessary work on our part to bring federal statutes in line with the values of Canadians and with numerous judicial and legislative rulings in the country to date” (2000).

In this way, the extension of benefits and obligations to same-sex and common law couples was framed as a necessary act of tolerance and extension of equality. Supporters were sure to highlight what it would not do (as they did with Bill C-33), while arguing that it was time to bring this legislation in line with the reality of Canadian life.

5.4.2 Marriage and the (Traditional) Family

As with debates on Bill C-33, a great deal of opposition to this bill focused on the challenge that Bill C-23 would bring to the family and the institution of marriage. MP Lowther argues that:

“[m]arriage as it has been defined throughout history is significant to people for a variety of reasons. […] It is enough to say that the institution of marriage has been important to Canadian society from the very beginning of our nation. In marriage a man in relationship to a woman gains the insights, sensitivities and strengths that she brings to the relationship and vice versa. A lifelong committed union of a man and a woman in marriage creates a unit that is stronger than the sum of the individuals because the differences complement each other. […] Marriage is more than just a legal concept defined here; it is an institution that works for families” (2000).

In much of the debate against the bill, opponents were clear to suggest that same-sex couples did not, in fact, constitute a ‘family’ – again reinforcing the hegemonic understanding of ‘relationship politics’ through defining a ‘family’ as a man and woman with children.
Perhaps the clearest articulation of this view was presented by MP McNally who argued that “[t]he end result of the bill is to enshrine in law that two homosexual partners who live together for just one year will be afforded the same benefits and obligations as a married couple, a couple who have commitments to live together and love each other through sickness and health until death do them part, a commitment which is fundamental to the continuation and well-being of any society, the building block of society where children learn about right and wrong, good and bad, how to treat others, and how to be positive functioning members of society” (2000). In this, the importance of ‘the family’, the traditional understanding of it, is again being reinforced. Married couples have a commitment, the family is where children are taught morality and values, and same-sex relationships do not fall into this understanding. As one MP suggested, “[t]his bill may soon become known as the end of marriage act” (2000).

Suggestions that providing rights to the lesbian and gay community through Bill C-23 would undermine the ‘traditional’ family again highlights the ideological power that ‘relationship politics’ holds in defining ‘marriage’ and ‘the family’. While challengers had worked to take bring forward changes to legislation, and been successful to this point, Bill C-23 represented a more explicit challenge to the inherent structure of this strategic action field. Those who did not support this bill challenged it by reinforcing ‘relationship politics’ and ‘marriage’ as a fundamental, central, and vital piece of Canadian society. Indeed, “for the [opponents], the homosexual reality undermines the family reality” (Menard 2000b).

An interesting discussion brought forward by opponents centred upon the definition of ‘conjugal’ within the bill itself. MP Reynolds argues that “[t]he bill is an
inappropriate intrusion and in fact is discriminatory. It extends benefits based on sexual activity and excludes all other types of dependency relationships. [...] the bill has one spin and it is based solely on conjugal relationships. It is unfair” (2000). With this, the suggestion is routinely brought forward that by extending benefits to same-sex couples, they should also be extended to other dependency relationships, such as siblings or those caring for a parent. I think this speaks to, again, the difference being brought up between acceptable marriage relations as opposed to other family relationships. By suggesting that same-sex relationships are on the same level as other familial relationships – at least in terms of benefits and obligations through legislation – I think we see a minimization of the importance and value these romantic relationships hold, which again reinforces the importance of heterosexual marriage within the framework of ‘relationship politics’.

This reflects a trend that also emerged in debates on Bill C-33: opponents, while against the bill itself, worked to frame their opposition not as being against the lesbian and gay community outright, but rather as being against something else the bill itself represented. Where debates against Bill C-33 highlighted the issue of special interest rights and reverse discrimination, debates against Bill C-23 focused on what exactly ‘conjugal’ meant, and that it should open benefits to other relationships. In this way, opponents were able to challenge these bills while not outright challenging the lesbian and gay community.

Discussion

While many of the debates around Bill C-23 reflected those from Bill C-33, I think they also show a further split in the incumbent group. This greater shift to competition from cooperation reflects the impact that the lesbian and gay movement had through their
activity and the shocks that they were able to take advantage of. The debates around Bill C-23 reflect a more specific parting of opinions amongst the incumbent group – while many supporters had been gained, there were still many who saw this move as a challenge to ‘relationship politics’.

One theme that really stands out is the idea of rights. As came forward in the debates on Bill C-33, the idea that ‘rights’ are absolute also came through in these debates. Again, this reinforces how deeply held the structure and logic of ‘relationship politics’ was: seeing a shift in the definition and understanding of ‘relationship politics’ was viewed as taking away rights, as opposed to a broadening of this strategic action field. This again reinforces the existential, symbolic power that ‘relationship politics’ has, that challenges to it are seen as automatically reducing the rights and privileges of those who are covered within this understanding.

Despite this, I think that the shifting themes through Bills C-33 and C-23 reflect the impact that the lesbian and gay movement had in redefining ‘relationship politics’. Through taking advantage of numerous shocks throughout the late-20th century, they were able to bring incumbents to their fight, which provided the necessary legitimate resources to bring formal, legislative change.

**Concluding Remarks**

Changing the field of ‘relationship politics’ required a significant amount of social and political effort. While early changes to the criminal code provided opportunities for the lesbian and gay movement to begin to organize and raise awareness, it was with substantial legislative changes that a formal shift in the structure and logic of ‘relationship politics’ was possible. With the passing of Bill C-23, the boundary of
‘relationship politics’ had been shifted and redefined to include both common-law and same-sex couples. Supported by decades of action at the community level, along with a number of MPs federally, those who supported a redefinition of the field gradually became the majority, and those who wanted to maintain the traditional understandings of ‘relationship politics’ soon became the minority.

However, as the debates around these bills show, redefining ‘relationship politics’ required a large effort by challengers, with the primary successes arising from work that brought into question definitions of morality, of fairness and equality – questions that came forward as the lesbian and gay movement challenged for rights. The impact of the Charter and the move towards rights-talk provided an invaluable opportunity for the movement to bring court challenges forward, which then allowed for these issues to come forward in legislation.
CONCLUSION

Within the span of 31 years, lesbian and gay people in Canada went from engaging in illegal behaviour to having their relationships viewed as – for all intents and purposes – equal to their heterosexual counterparts. There were a number of reasons why this shift happened with such expediency. The theory of fields provides a key framework through which I could outline the numerous ways in which the lesbian and gay movement was able to challenge for rights and recognition, leading to the eventual passing of the Modernization of Benefits and Obligations Bill in 2000.

Summary of Findings

By first outlining the strategic action field of ‘relationship politics’ I situated the field as one comprised of traditional understandings of marriage, the family, and sexuality. This field provided the frame for understanding acceptable romantic and sexual relationships that initially defined ‘homosexuality’ as wrong. However, beginning with the decriminalization of homosexuality in 1969, the lesbian and gay movement was able to bring challenges forward which increasingly shifted this view of relationships. First focusing on human rights frameworks, protections on the basis of sexual orientation were gradually added at the provincial level, being finally changed at the federal level in 1996.

In concert with these challenges to human rights frameworks, the Canadian Charter of Rights and Freedoms afforded groups the opportunity to bring equality challenges forward on the federal level, providing an invaluable space through which the lesbian and gay movement was able to transition from challenging at the provincial level to the federal one, beginning to champion for change at a broader level. Through the opportunity to bring equality challenges to the courts, the movement was able to bring
challenges to the floor of the House of Commons, and the increased awareness and education that came along with these challenges resulted in more and more people beginning to champion for and support these rights.

While changes were occurring that were bringing forward rights to the lesbian and gay movement, and indeed creating shocks to the field of ‘relationship politics’, there were many who still worked to push-back against these changes. These ‘incumbents’ within ‘relationship politics’ worked to maintain the current structure of the field as heterosexual by reinforcing the importance and value of traditional definitions of ‘marriage’ and ‘the family’. Despite these concerns, Bill C-23 was passed, and represented a vital change to ‘relationship politics’ which reflected the equality of lesbian and gay relationships to heterosexual ones at the legislative level.

In their discussion on re-establishing field stability, Fligstein and McAdam (2012) stress the importance of “the social skill [sic] of incumbents and challengers and the stabilizing hand of state actors [sic]” (105). Within this current research, the redrawing of ‘relationship politics’ was indeed dependent on the skill of the lesbian and gay community and their allies, as challengers, in taking advantage not only of political opportunities, but also in the social movement activity that allowed for the challenging of the ideological (‘existential’ in Fligstein and McAdam’s framework) power that ‘relationship politics’ held.

Through challenging for relationship recognition and expanding the boundaries of ‘relationship politics’, the lesbian and gay movement was able to challenge the inherent logic of the field, allowing for those boundaries to be expanded. While the incumbents worked hard to reinforce their own views, the lesbian and gay movement was more
successful in using their social skill; so successful, in fact, that they ultimately redrew the boundaries enough that those who were against Bill C-23 have become ‘challengers’ to the resettled field of ‘relationship politics’.

**Limitations and Future Research**

While ‘relationship politics’ has been resettled to include lesbian and gay relationships that does not mean that the field is without continued challenges. Indeed, future research could well explore the compromise of views that resulted during the early activity of the lesbian and gay movement that resulted in a focus on civil rights. While the political structure of ‘relationship politics’ essentially forced this perspective, there were many who argued that the movement should challenge for broader understandings of gender and sexuality in general. This liberationist view was largely unserved by the assimilationist one that took precedence in challenging ‘relationship politics’.

In contrast to the ‘normalizing’ efforts of the challenges for civil rights, the liberationist view as represented in queer theory presents a challenge to “the socially constructed nature of sexuality and sexual categories, but also the varying degrees and multiple sites of power distributed within all categories of sexuality” (Cohen 1997: 439). This moves away from ‘relationship politics’ as I have defined it here; while the civil rights challenges reinforced the importance of ‘relationship politics’ while working to challenge it, what resulted was a redefinition of the field through expansion, as opposed to a complete eradication of the institutions of ‘marriage’, ‘the family’, and sex and gender roles which comprise it.

This indeed reflects a limitation of this current research. While I chose to focus on the challenges to ‘relationship politics’ within the frame of civil rights, that does not
exclude the fact that liberationist challenges were occurring throughout this time as well. Much as the ultimate challenge to ‘relationship politics’ was framed by the political opportunity structures of the state, so too was my focus on civil rights framed by my decision to explore ‘relationship politics’ as a field represented by ‘marriage’, ‘the family’, and compulsory heterosexuality. In this sense, I chose to limit my research within a framework of civil rights, excluding the liberationist perspective and queer theorizing from my study. Future research could explore the liberationist work that was occurring congruent with the challenges for legitimation, and explore how this focus is continuing into the 21st century.

An additional challenge and resulting limitation was, again, the sheer breadth of information that I could have explored. As I noted in Chapter Two, the theory of fields is a fulsome framework, and I had to be careful when deciding what specific bills and events to include. While I focused primarily on the criminal code and human rights fields, other fields such as the judicial field, the welfare state, and education fields would all be valuable to explore in looking at changes to the field of ‘relationship politics’. As well, the way I chose to define ‘relationship politics’ as a field itself was based on what I thought was most important related to the lesbian and gay movement. Additional work could explore this field in different ways, opening up additional shocks and challenges that could be studied. Alternatively, future research could reframe the strategic action field under study and focus on a liberationist view that incorporates queer theory, providing again a more comprehensive overview of the lesbian, gay, bisexual, transgender, and queer community.
Policy Implications and Recommendations

Despite these limitations, I think that the theory of fields offers a valuable framework for understanding how broad-scale social change can occur. While much of the research focused on specific elements of the challenge for relationship recognition by the lesbian and gay movement, the theory of fields allowed for a comprehensive understanding as to how the movement as challengers worked within the political opportunity structure to bring their concerns forward to allow for formal, legislative change.

I think the most significant policy implication of the current research is in understanding how others who want to challenge a status-quo can do so at both a social and political level. The lesbian and gay movement was able to bring their challenges to the highest political level and create substantive change to policy. Their example may be a guide to others who are struggling to bring their concerns forward. However, this can also provide a guide to policy makers to see their influence in creating social change. Through understanding how the social change can influence policy fields, and how policy fields interact with and influence change upon one another, those responsible for creating legislation can better see and understand their position and ability to create change within a strategic action field.

Policy recommendations from this research can be used by both Canadian and international actors. For other Canadian social movements, this case study highlights how the political opportunity structure allows for challenges to come about from a number of fields, but that the court provides invaluable opportunities to bring challenges forward. However, where legal challenges are not always available, movement actors can use the theory of fields to note where other opportunities for action may exist, and where change
may be able to brought forward. For policy makers, this case study highlights how social movements are able to access resources and begin to mobilize for change to occur. In making policy decisions, taking into consideration what current challenges exist within a policy field, and where actors may begin to challenge, can support the development of proactive social policy.

Those in international settings may not have the same success challenging through the legal field. In countries with different political opportunities, challengers can take note of the ability for challenges to be brought forward in more incremental ways, through paying attention to the opportunities that exist to bring challenges forward, where opportunities are present, and how incumbents may be challenges through social mobilization. The strategic action field is a key piece of this theory that I think social movement and policy actors can learn from; in understanding the comprehensive histories that comprise understandings of social relationships, social movement actors, policy makers, and any actor interested in challenging or reinforcing a certain frame of understanding can know what spaces to challenge or work to maintain in order to ultimately succeed in challenging or maintaining that understanding.

This research is one example of how the theory of fields can be used to understand the myriad forces and actors at work in challenging not only political structures but the hegemonic ideologies that frame constructions of various fields as well.
REFERENCES


