Lobbyists' Views on Civil Discourse and Institutional Gridlock: Results from a National Survey of State Legislative Lobbyists and Public Agency Legislative Liaison Officers

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Abstract

We examine the relationship between legislative civility and legislative productivity in U.S. state legislatures by employing data from the National Survey of State Legislative Lobbyists and state policy innovation and diffusion (SPID) database. The former dataset is used to generate an overall civility index for each state as developed by Kettler et al. (2021). The SPID database allows us to measure the productivity of state legislature. Employing these data, our negative binomial and Poisson regression models reveal that state legislatures rated as more civil by lobbyists who interact with these bodies produced significantly more pieces of noteworthy legislation than those legislative bodies rated as less civil, suggesting that internal legislative dynamics matter for legislative productivity

Introduction[1]

We examine the extent to which civility produces important results in the legislative process. Specifically, this paper examines the role greater civility among state legislators can play in legislative productivity. We assess the extent to which legislatures that are rated as more civil produce more legislation on important topics of contemporary public policy concern. We take advantage of two recently produced datasets to carry out this analysis. The first dataset contains results of a national survey of state legislative lobbyists conducted in 2018 and 2019 which asked them to rate the degree to which they believe the legislators with whom they work in their respective states treat each other in a civil manner (Lovrich et al. 2021). The second dataset was created by Boehmke et al. (2021) and measures the number of pieces of noteworthy legislation (beyond housekeeping and technical corrections bills) produced each year by each of the 50 state legislatures.

The standard approach to explaining state-level policy innovation has been to examine the characteristics of the state. Since Grey's (1973) methodological critique of Walker's (1969) comparative approach, much of the scholarship into public policy adoption, innovation, and diffusion has largely focused on single-issue event-history analyses studies of a small handful of high visibility policies (Boehmke et al. 2020). As a result, much of this research has focused largely on state-level characteristics that predict *specific* major policy adoptions, such as lotteries and abortion bans. The state-level characteristics that predict "innovative" policy include such variables as the size of the population of the state, the presence of unified of government, the size of the states' population, the health of the economy, and the ideological or partisan leanings of the state.

More recently, Boehmke et al.'s (2021) state policy innovation and diffusion database (SPID) allows one to examine variables related to the internal dynamics of creating new policy. This approach permits research to adopt a large-N approach to studying policy innovation across multiple policy areas (LaCombe et al. 2021). Thus, in this study, we explore the extent to which legislators have a collective, positive working relationship in the form of civility and whether this civility among legislators is related to greater legislative productivity in the form of passing more noteworthy legislation. As our preliminary analytical models show, civility is indeed linked to higher rates of policy adoption. This study suggests that internal legislative dynamics do indeed matter for legislative productivity. We find this relationship while taking into account the effects of other possible determinants shown to have an impact have on innovation in prior research (Berry and Berry 1990).[2]

Civility in the U.S.

Although a decline in civility in American government has been a concern for some time (Uslaner 1993; Loomis 2004), a rigorous understanding of the legislative dynamics of civility is still in its relative infancy. Nonetheless, considerable steps have been taken with the publication of the edited volume *Outside Looking In* (Lovrich et al. 2021). The chapters in that volume report the findings of the National Survey of State Legislative Lobbyists. Along with the work of Kettler et al. (2021), these works find that states with higher rated levels of civility tend to have more professionalized legislatures, lack term limits for their members, have more nonwhite legislators serving, and perhaps unsurprisingly, less polarized political parties in their legislatures. It also has been found that states with less

competitive political parties, and less economic inequality have more civil legislatures (Schreckhise et al. 2021; Schreckhise and Benjamin 2021; Kettler et al. 2021).

In this paper, we ask the question: to what extent does incivility inhibit legislative productivity in state legislatures? To be sure, as Burdett Loomis (2000, 2) quite correctly noted, "the connection between civility and [legislative] deliberation seems straightforward. Comity would seem a necessary, if not sufficient, condition for deliberation on the major issues of the day." Although declining levels of civility in American politics are a concern, in general, it remains unclear to what extent incivility demonstrably hampers the deliberative process and governance in state legislatures.

There are reasons leading us to suspect that more civil state legislatures would be more productive. At the national level, Dodd and Schraufnagel (2012) found that landmark legislation in the U.S. Congress occurred during times when the combined effects of polarization and incivility were at *moderate* levels. Similarly, Schraufnagel (2005) found that increasing delays in judicial nominees in the U.S. Senate are related to increases in interpersonal incivility among its members. At the local level, Yuan and Schraufnagel (2019) found that local government bodies in the U.S. were viewed as less productive when members believed greater incivility existed among the members of their boards.

Why should it be expected that more civil legislatures would produce more legislation? Legislative bodies are themselves social entities that require interpersonal cooperation for their successful operation. When individuals elected to legislative offices are able to cooperate because of their personal relationships and interpersonal trust it could be assumed this diffuse trust will elevate their

shared organization's level of productivity. As Eric Uslaner (2000, 35) noted in his observations of the U.S. Senate,

> "[s]trong friendship circles across party lines signify a legislature marked by trust. This is where civility turns into comity. Comity is more than being civil to others. It also involves reciprocity, which simply means that people must respect their promises and obligations to others. They must also recognize that another point of view is legitimate. Reciprocity involves respecting other people and their expertise. It means willingness to make deals and committing oneself to sticking with the agreement. Without reciprocity, you get either rule by a partisan majority or stalemate."

As such, we posit that members of more civil legislatures are more likely to work in a bipartisan fashion on issues on which they can agree. This would be especially true with rising levels of ideological and partisan polarization in state legislatures. Additionally, in less civil legislatures, members are less likely to trust one another. Much of the legislative process requires trust that members will keep their word when brokering deals. Indeed, James Thurber (2000) found that declining levels of trust among U.S. Senate Budget Committee members led to a decline in the quality of deliberations held on that committee. Members would be more likely to work in a way that fosters trust. Conversely, in uncivil legislatures, interpersonal conflict resulting in uncivil behavior could render members of those legislatures to unable to cooperate on otherwise consensual matters.

Although some attention has been given to what contributes to civility and incivility, to date there has not been a systematic examination to determine the extent to which it affects governance by state legislatures. In what follows, we examine the extent to which legislative civility helps the legislative process get its work done. In other words, we ask: are more civil legislatures more likely to adopt new legislation than ones with uncivil behavior.?

Data and Hypothesis

Dependent Variable

We employ two primary independent variables produced by Boehmke and his colleagues (2021) in their state policy innovation and diffusion (SPID) dataset. The first is the number of "important" new laws adopted by each state in 2017, the most recent year reported. Their scores include additional measures of policy adoption recorded by other researchers such as measures related to health policy by (Silver and Macinko 2013), abortion policy by Kreitzer (2015), elections legislation by Biggers and Hanmer (2015) and others (e.g., Boushey 2016: Warshaw and Caughey 2017). Each of the 50 state's scores reflect the number of new policies adopted within the set of 728 potential policies that could be adopted (i.e., the state had not adopted it previously) for the year 2017. A second dependent variable is similarly used which is a count of the number of these laws passed during the years 2012 to 2017. It is important to note that our analyses are not directed toward examining which states were early adopters of specific policies (i.e., "innovators), nor do we examine patterns of diffusion of new policies across states. Instead, we are only examining the number of new pieces of legislation as identified by Boehmke et al. (2021) adopted by state legislatures during the two time periods examined.

Independent Variables

It is important to note that we measure civility as *perceived* civility in our dependent variable. Data from this measure come for the National Survey of State Legislative Lobbyists, a survey conducted in collaboration between academic researchers at 12 U.S. universities with support from the National Institute for Civil Discourse at the University of Arizona, the Thomas S. Foley Institute for Public Policy and Public Service, the William

Ruckleshaus Center, and the Division of Governmental Studies and Services at Washington State University. The lobbyists' names and contact information were collected from each of the 50 states' secretary of states' offices which maintained lists of lobbyists registered with the state. In states without such listings, extra effort was expended to gather contact information. The survey itself was internet-based (Qualtrics platform) with follow-up mail surveys in 2018-2019.[3]

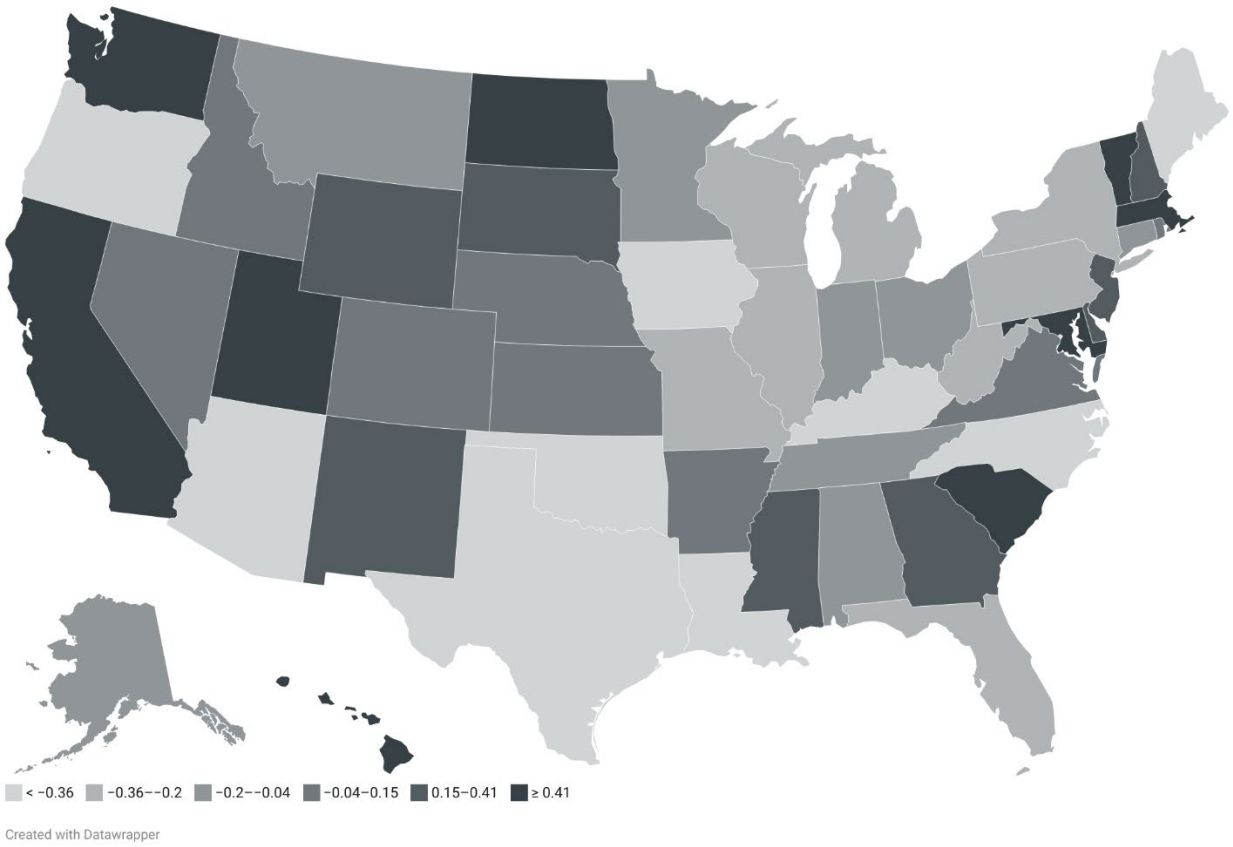
From the survey responses, we developed a U.S. state *civility index*. To do so, we employed the method developed by Kettler et al. (2021) to measure of the "average" lobbyist's rating of each respective state's level of civility, while removing potential sources of bias from the individuals' personal characteristics (such as their race, sex, political party, and lobbying experience). The index considers the scores respondents from each of the states gave their own state legislature in terms of their (1) legislature's quality of deliberation; (2) the general level of civility in their state legislature; (3) the general level of civility in their state; and (4) the general level of civility among state legislators in all states. The responses to the first three questions were combined via multilevel regression and poststratification (MRP) to create state-level civility estimates. This method considers individual-level demographic and political differences when producing the scores, generating "mean" ideal values for each state of the first three questions as deviations from the fourth survey question as a common point of comparison. The result is the civility index which has a mean of near zero, standard deviation of 0.38, and ranges from -.097 (Oklahoma) to a maximum of 0.79 (Maryland). Figure 1 displays a map of the score for each of the 50 states. With this variable, we offer the following hypothesis:

H_1: States with higher civility scores will produce more legislation.

In the survey many lobbyists opined on the connection between civility and legislative effectiveness in accomplishing the work of legislating in the public interest. Among the 1,200+ survey respondents 72 were former state legislators and 288 were persons who served as legislatives aides or committee staffers prior to becoming lobbyists. Many "lobbyists" were serving as contract lobbyists or lobby firm employees, and many others were in-house lobbyists for private interests, non-profit advocacy groups, or for public entities such local governments or state agencies.

One such well-informed and richly experienced respondent noted that civility can be seen in "[t]he inability to negotiate on issues. Legislators have already made up their mind on issues before all perspectives are heard." Another survey respondent opined that "[t]he inability or unwillingness of a legislator to be open to listening to alternative points of view minimizes the chances that common ground can be found." Yet another experienced observer of their state's legislative process argued that today, sadly enough, "partisanship is the [only] way to get it done...and stopping the other party from doing something/anything is now the standard for whether you/your party is getting something done/winning/succeeding. It's incredibly frustrating and, worse, disheartening." Another survey respondent agreed and noted "[t]here is no more compromising. It seems because of elections everything has to be "pure" for some advocacy groups, which doesn't allow for compromise which is what is needed to govern effectively." All of these comments come from lobbyists working in different states.

Figure 1: State Civility Index by State



Source: Values from the National Survey of State Legislative Lobbyists (2022) and Kettler et al. (2021).
Note: Higher scores reflect higher rates of perceived civility among legislators.

We include in our analytical models other variables that have been linked with rates of state innovation in past research. These specific variables of interest include: legislative professionalization[4] as developed by Bowen and Green (2014), state elite ideology, the presence of unified or divided state government or the degree of party competition, the size of the state's population), the proportion of the state's population that lives in urban

areas, whether the state's voters can propose their own legislation via ballot initiatives and the economic health and capacity of the state (Walker 1969; Grey 1973; Berry and Berry 1990; Rom et al., 1998; Boemke and Skinner 2012; Mallison 2020; Mallison 2021; Maske 2021; LaCombe and Boehmke 2020). Summary statistics for each variable can be found in Table 1, and a description of each variable's coding and sources can be found in Table A.1.

Table 1: Summary Statistics

	Obs.	Mean	Std. Dev.	Min	Max
Laws adopted, 2017	49	0.37	0.60	0	3
Laws adopted, 2012-2017	49	13.78	4.36	6	26
Civility index	49	0.00	0.38	-0.97	0.76
Polarization	45	3.42	1.08	1.56	6.87
Term limits	49	0.29	0.46	0	1
Government ideology	49	39.97	17.12	18.11	69.95
Population(ln)	49	1.40	1.03	-0.55	3.68
Per capita income ($10,000s)	49	5.33	1.01	3.44	7.35
Unified partisan control	49	0.65	0.48	0	1
Legislative professionalism	49	0.03	1.46	-1.83	6.24
Urban population (%)	49	0.74	0.15	0.39	0.95
Initiative	49	0.41	0.50	0	1

Note: See Table A.1 for the coding, directionality, and sources of the data.

Results

The results for our first models are presented in Table 2. We employ negative binomial models, due to the discrete and non-negative nature of our dependent variable, which is heavily skewed, with roughly 68% of the cases with the value of "0." The over-dispersed nature of these count data can render OLS and Poisson model results that are biased and inconsistent (Paternoster and Brame 1997; Hilbe 2011), potentially resulting in Type II errors (Payne et al. 2011). Accordingly, we report the incident rate ratios (IRR) which indicate the extent to which a one-unit change in the independent variable leads to a percentage change in the dependent variable, reflected in the extent to which the value of IRR is greater or less than 1.0 (Piza 2012).

Model 1 reveals a significant relationship between *civility index* scores and the number of laws adopted by states. Specifically, as one moves from the state with the lowest civility score (-0.97) to a state at the mean civility score value (0.0), one moves roughly 1 unit on the *civility index*. This one unit of change is thus reflected in a 3-fold increase in the number of laws, c*eteris paribus,* passed by state legislatures in 2017*.* Interestingly, none of the other variables in the model are statistically significant. States with less polarized legislative parties, larger states, richer, and more urban states were no more likely to pass more legislation than polarized, smaller, poorer, and more rural ones.

We wanted to explore the possibility that polarization may interact with civility – in particular, that higher levels of legislative civility could moderate the effect that polarization might have on legislative adoption. Model 2 in Table 2 tests this possibility by

including an interaction term for those two variables. The results indicate that the interaction term is not statistically significant.

Table 2: State Laws Adopted, 2017

	Model 1		**Model 2**	
	IRR	Robust S.E.	IRR	Robust S.E.
Civility index	4.151**	2.228	7.566	12.157
Polarization	0.774	0.257	0.783	0.260
Civility index*Polarization			0.841	0.333
Term limits	1.179	0.732	1.157	0.707
Government ideology	0.985	0.017	0.986	0.017
Population(ln)	0.887	0.424	0.890	0.422
Per capita income ($10,000)	0.762	0.149	0.751	0.155
Unified partisan control	0.959	0.582	0.939	0.573
Legislative professionalism	1.138	0.315	1.146	0.317
Urban population (%)	0.584	1.026	0.649	1.168
Initiative	1.983	1.382	1.997	1.383
Constant	7.335	15.752	7.003	14.966
N	45		45	
AIC	83.93		85.88	
BIC	103.81		107.56	

Note: The dependent variable in each negative binomial model is the number of laws adopted in 2017
*p<0.05; **p<0.01

Because the models presented in Table 2 examine only one year's worth of legislative adoption data, we wanted to examine the extent to which civility is related to legislative adoption rates during a longer period of time. Table 3 presents models that predict the number of pieces of legislation adopted by states between the years 2012 and 2017. Because the distribution for this dependent variable approximates a normal distribution, while still reflecting integers and nonnegative values, we employ Poisson models.

The IRR value in Model 3 for the civility index variable drops to 1.352. This shows that a one-unit change in this variable results in an increase in the number of laws produced by states by 35%. The longer time frame examined with this dependent variable reveals additional notable relationships: states with term limits produced fewer pieces of legislation, more populous states and states with ballot initiatives produced more pieces of legislation. Model 4 also tests the interactive nature of civility and polarization, rendering a significant relationship with an IRR of less than 1.00 (0.715), indicating that higher civility rates dampen the negative effects that polarization has on legislative productivity, though the main effect for the polarization variable remains statistically insignificant. As found in Model 3, the results reported in Model 4 indicate that both more populous states and those states that allow for initiated ballot measures produced more noteworthy legislation.

Table 3: State Laws Adopted, 2012-2017

	Model 3		Model 4	
	IRR	Robust S.E.	IRR	Robust S.E.
Civility index	1.352**	0.137	4.578***	1.439
Polarization	0.949	0.040	0.958	0.036
Civility index*Polarization			0.715***	0.058
Term limits	0.751*	0.091	0.745*	0.096
Government ideology	0.998	0.003	0.999	0.003
Population(ln)	1.209**	0.086	1.212**	0.075
Per capita income ($10,000)	1.026	0.056	1.001	0.045
Unified partisan control	0.853	0.095	0.815	0.090
Legislative professionalism	0.991	0.045	1.016	0.044
Urban population (%)	0.460	0.224	0.473	0.222
Initiative	1.363**	0.160	1.364**	0.152
Constant	22.290***	9.399	23.899***	9.421
N	45			45
AIC	265.52			260.65
BIC	285.39			282.33

Note: The dependent variable in each Poisson model is the number of state laws adopted between 2012 and 2017.
*p<0.05; **p<0.01

Discussion and Conclusion

To what extent are more civil legislatures able to produce more new legislation? Our findings suggest that there is indeed a positive relationship between legislative statutory productivity and civility, confirming H_1. State legislatures that lobbyists rate as more civil do indeed pass more pieces of noteworthy legislation. Model 1 estimates that the most civil legislature passed more than 5 times the amount of legislation than the least civil one in 2017, while Model 3 estimates the that the most civil legislature produced over 60% more legislation than the least civil ones for the years 2012-2017.

Perhaps even more importantly, the results reported here suggest that our measure of civility would seem to be the best predictor in our models of policy innovation/legislative productivity. Only three other state-level variables included in our analytical models – *Term limits, Population(ln),* and *Initiative* -- offer any additional predictive power.

It is worth noting that our findings may generate more questions than they answer. First, our measure of civility does not locate the locus of the incivility. Although one might assume uncivil behavior is more likely to occur between individuals on opposite sides of the ideological spectrum in different parties, the Kettler et al. (2021) measure we employ does not reveal this. In other words, however unlikely it may seem, it very well could be the case that incivility is not just occurring between Democrats and Republicans, but within legislative parties, as well. Many of the comments from lobbyists working in one-party dominant settings report that the incivility within dominant parties is a major factor inhibiting effective caucus deliberations (Benjamin et al., 2022). At the very least, if we can assume the bulk of uncivil legislative behavior is directed across the aisle, we cannot be certain that none of it occurs within party caucuses, as well.

Although the models presented in this paper provide evidence of a link between legislative productivity and legislative civility, we cannot discern the direction of the casual arrow for certain. That is, we cannot say lower levels of civility cause lower levels of legislative productivity. It is possible, if perhaps unlikely, that the causal direction runs the opposite of what we have inferred and that more productive legislative sessions actually cause more civil relations among legislators. Perhaps, buoyed by a productive legislative session, legislators are nicer to each other than they would otherwise be.

In conclusion, we would be happy to share our data, metadata, survey comments, and a coding manual for comments collected with other researchers working in the area of state legislative policy and politics. Our website **https://labs.wsu.edu/outside-looking-in/** features these key research materials, and we encourage researchers to contact co-authors Lovrich and Benjamin at Washington State University directly for assistance in making use of the data serving as the foundation for this paper.

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Appendix

Table A.1: Coding, Directionality, and Sources

Variable	Coding/ Directionality	Source(s)
Laws adopted, 2017	Number of laws	Boehmke et al. (2021)
Laws adopted, 2012-2017	Number of laws	Boehmke et al. (2021)
Civility index	Higher scores reflect great perceived civility	Generated from the National Survey of State Legislative Lobbyists (2022); Kettler et al. (2021)
Polarization	Higher value reflects great ideological polarization between the two legislative parties. Values reflect the ideological difference between the median member of each party in each state legislative chamber, summed across chambers.	Schor (2018)
Term limits	0=state has no term limits; 1=state has term limits	
Government ideology	Higher scores reflect higher policy liberalness.	Fording (2018)
Population(ln)		U.S. Census Bureau (2020b)
Per capita income ($10,000s)		U.S. Census Bureau (2020a)
Unified partisan control	0=state is not under unified partisan control; 1=singe party controls state house, senate, and governor's office.	NCSL (2018)
Legislative professionalism	Higher values reflect greater legislative professionalism	Bowen and Green (2014)
Urban population (%)	0=rural; 1=urban. See U.S. Census Bureau (2021a) for definitions" of "rural" and "urban."	U.S. Census Bureau (2021b)
Initiative	0= state has no initiative process; 1=state permits citizens to place mesures on the ballot	Ballotopedia (2018)

[1] The authors dedicate this paper to the memory of Burdett Loomis.

[2] It should be noted that by "innovation" we employ the standard definition employed by those who study state policy as new policy, as policy that is new the state that adopted it (Walker 1969,881; Berry and Berry 2018, 253).

[3] Names, email address, and physical addresses were obtained from secretary of state offices, ethics commissions, and the like for all 50 states. Two hundred registered lobbyists selected at random from each state were then invited to participate via email in a Qualtrics online survey, with two waves of printed surveys being sent to the lobbyists surveyed via the U.S. Postal Service. We obtained over 1,200 usable responses with the online survey and two follow-up mailings combined, with many containing extensive comments on individual questions and commentaries on legislative affairs in their own states. The participation rate of the survey was 25%.

[4] State legislative professionalization scores, as computed by Bowen and Green (2014) were computed by applying multidimensional scaling related to each state's legislature's legislative legislator salary (see Bowen and Green 2014) and is somewhat like Squire's (2007) measure of state legislative professionalism (see also LaCombe and Boehmke 2021, 293).