



## **Lawyers in National Policymaking**

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## **Abstract**

Previous research on lawyers engaged in politics analyzed a sample of those who represented conservative or libertarian organizations in the late 1990s. The data examined here deal with organizations and lawyers drawn from the full range of American politics—right, left, and center—and focus on a set of policy initiatives in 2004 and 2005. The authors find that women were overrepresented among lawyers representing liberal activist organizations and strikingly underrepresented among those serving social conservatives. Lawyers for the latter were also much less likely to have prestigious academic credentials than were those serving liberal activists. Moreover, organizations speaking for social and religious conservatives had few ties to other interest groups in the measures used here—joint participation in litigation or in legislative testimony, overlap in boards of directors or advisors, and use of the same lobbying firm. Overall, the network of organizations was sparsely connected. There are, however, two sectors within the network where connections were dense. The first is a cluster of social and religious conservatives; the second and larger sector is a set of businesses and trade associations. Unlike the social conservatives, however, the businesses are not only connected to each other but are well-integrated into the overall system, with many links that provide potential for communication to other sectors. Liberal groups are less densely connected, while having several alternative paths to other parts of the network.

## Lawyers in National Policymaking

Systematic research on lawyers who participate in public policymaking is sparse, but some analyses have nonetheless shed light on the political influence of varying types of lawyers.<sup>1</sup> Studies have focused on lawyers' activity within specific contexts, such as Washington lobbyists in four policy domains,<sup>2</sup> members of the U.S. Supreme Court bar,<sup>3</sup> and lawyers working for conservative and libertarian organizations.<sup>4</sup> The most recent of these projects examined lawyers who served organizations active on policy issues important to the various strands of the conservative coalition in the mid-1990s. It identified several well-defined constituencies and found divisions within the networks of the organizations and their lawyers. There were substantial differences in the characteristics of lawyers serving differing constituencies.

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<sup>1</sup> This topic represents the intersection of two broader literatures: scholarship on the social networks of lawyers (see, e.g., John P. Heinz & Edward O. Laumann, *Chicago Lawyers: The Social Structure of The Bar* (1982); John P. Heinz & Peter Manikas, "Networks Among Elites in a Local Criminal Justice System," 26 *Law & Soc'y Rev.* 831 (1992); Emmanuel Lazega & Marijtge van Duijn, "Position in Formal Structure, Personal Characteristics and Choices of Advisors in a Law Firm: A Logistic Regression Model for Dyadic Network Data," 19 *Soc. Networks* 375 (1997); Emmanuel Lazega & Philippa E. Pattison, "Multiplexity, Generalized Exchange and Cooperation in Organizations: A Case Study," 21 *Soc. Networks* 67 (1999); John P. Heinz, Anthony Paik, & Ann Southworth, "Lawyers for Conservative Causes: Clients, Ideology and Social Distance," 37 *Law & Soc'y Rev.* 5 (2005); and on national political networks (see, e.g., Gwen Moore, "The Structure of a National Elite Network," 44 *Am. Soc. Rev.* 673 (1979); John Higley & Gwen Moore, "Elite Integration in the United States and Australia," 75 *Am. Pol. Science Rev.* 581 (1981); Edward O. Laumann & David Knoke, *The Organizational State: A Perspective on National Energy and Health Domains* (1987); Robert Salisbury, John P. Heinz, Edward O. Laumann & Robert Nelson, "Who Works with Whom: Interest Group Alliances and Opposition," 81 *Am. Pol. Sci. Rev.* 1217 (1987); Roger V. Gould, "Power and Social Structure in Community Elites," 68 *Soc. Forces* 531 (1989); David Knoke, *Political Networks: The Structural Perspective* (1990); Mark S. Mizruchi, "Determinants of Political Opposition Among Large American Corporations," 68 *Soc. Forces* 1065 (1990); Robert M. Fernandez & Roger V. Gould, "A Dilemma of State Power: Brokerage and Influence in the National Health Policy Domain," 99 *Am. J. Soc.* 1455 (1994); Charles Kadushin, "Friendship Among the French Financial Elite," 60 *Am. Soc. Rev.* 202 (1995); Kenneth A. Frank & Jeffrey Yasumoto, "Linking Action to Social Structure Within a System: Social Capital Within and Between Subgroups," 104 *Am. J. Soc.* 642 (1998); Gwen Moore, Sarah Sobieraj, J. Allen Whitt, Olga Mayorova, & Daniel Beaulieu, "Elite Networks in Three U.S. Sectors: Nonprofit, Corporate, and Government," 83 *Soc. Sci. Q.* 726 (2002); Daniel P. Carpenter, Kevin M. Esterling & David M.J. Lazer, "Friends, Brokers, and Transivity: Who Informs Whom in Washington Politics," 66 *J. of Pol.* 224 (2004). For a review, see David Knoke, *Organizing for Collective Action: The Political Economies of Associations* (1990).

<sup>2</sup> See Robert Nelson, John P. Heinz, Edward O. Laumann, & Robert H. Salisbury, "Lawyers and the Structure of Influence in Washington," 22 *Law & Soc'y Rev.* 237 (1988); John P. Heinz, John P., Edward O. Laumann, Robert L. Nelson & Robert H. Salisbury, *The Hollow Core: Private Interests in National Policymaking* (1993).

<sup>3</sup> See Kevin T. McGuire, *The Supreme Court Bar: Legal Elites in the Washington Community* (1993).

<sup>4</sup> See Heinz, Paik & Southworth, *supra* note 1; Anthony Paik, Ann Southworth & John P. Heinz, "Lawyers of the Right: Networks and Organization," 32 *Law & Soc. Inquiry* 883 (2007).

Although the networks of the most active of these lawyers were divided into segments identified with particular constituencies, some lawyers bridged the segments, serving as mediators or brokers. Mediator organizations such as the Federalist Society and the Heritage Foundation sought to build ties within the conservative coalition. Deep cultural differences distinguished lawyers for social conservatives from those representing other constituencies, however, and made cooperation difficult.<sup>5</sup>

In his afterword to a recent edition of *The Power Elite*, Alan Wolf observed:

In his emphasis on politics and economics, Mills underestimated the important role that powerful symbolic and moral crusades have had in American life, including McCarthy's witch-hunt after communist influence. Had he paid more attention to McCarthyism, Mills would have been more likely to predict such events as the 1998-99 effort by Republicans to impeach President Clinton, the role played by divisive issues such as abortion, immigration, and affirmative action in American politics, and the continued importance of negative campaigning.<sup>6</sup>

The moral crusades of the Prohibition Era<sup>7</sup> waned with the Depression, World War II, and the Cold War, bringing economic and national security issues to the fore. Symbolic issues rose again in the late 20<sup>th</sup> century and the beginning of the 21<sup>st</sup>, however, with political battles over abortion, gay marriage, gun control, and obscenity in broadcasting and the arts. These issues became increasingly salient with the rise of the religious right in the 1980s and 1990s and the realignment of the South into the Republican column. To some extent, of course, the change in agendas is associated with the fortunes of the two major political parties, but not entirely so.<sup>8</sup>

The data considered here concern organizations and lawyers drawn from the full range of American politics - - right, left, and center -- and focus on a particular set of policy initiatives in 2004 and 2005. The research considers the following questions: What are the characteristics of

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<sup>5</sup> Ann Southworth, *Lawyers of the Right: Professionalizing the Conservative Coalition* (2008).

<sup>6</sup> Alan Wolf, "Afterword," C.Wright Mills, *The Power Elite* 377 (2000).

<sup>7</sup> See Joseph R. Gussfield, *Symbolic Crusade: Status Politics and the American Temperance Movement* (1963).

<sup>8</sup> See John W. Kingdon, *Agendas, Alternatives, and Public Policies* (2d ed. 1997).

the organizations and their advocates? Do the lawyers' characteristics vary by causes served or types of organizations represented? What does the advocacy network look like? What are the lines of conflict and cooperation?

## I. The Research Design

To define the relevant population of lawyers and organizations, we employed an issue events methodology, which is a strategy for delimiting the boundaries of the system under study.<sup>9</sup> The events examined here were classified as "legal affairs" issues by the *Congressional Quarterly Almanac* in 2004 and 2005, and dealt with abortion, gay rights, asbestos compensation, class action lawsuits, DNA testing/victims' rights, flag desecration, identity theft, medical malpractice liability, guns, bankruptcy, judicial nominations, federal court jurisdiction, eminent domain, and the Terri Schiavo case (see Appendix).

We identified interest groups that appeared in news stories about these issues in twenty newspapers and magazines (see Appendix), producing a list of more than 2,000 organizations, but we focus the analysis on the subset of 119 that appeared in at least six news accounts.<sup>10</sup> Those organizations, listed in Table 1, include businesses, trade associations, bar associations, membership organizations, religious groups, think tanks, and many of the best-known liberal, conservative, and libertarian policy organizations. Organizations were included in the sample even if they did not use lawyers in a policy advocacy role.

We then gathered publicly available data about the organizations and their advocates. We searched the LexisNexis database for records of federal litigation concerning the fourteen issues during 2004-2005. The 119 organizations litigated 136 cases relating to 11 of the issues. From

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<sup>9</sup> See Edward O. Laumann, Peter V. Marsden & David Prensky, "The Boundary Specification Problem in Network Analysis," in *Research Methods in Social Network Analysis* (Linton C. Freeman & Douglas R. White eds.1989).

<sup>10</sup> Some of the nonprofit organizations listed "related" organizations on their IRS Form 990s. We included data about those organizations in our analysis.

Westlaw's legislative database, we collected records of testimony on behalf of the organizations on the 14 issues during the same period. They submitted testimony in 44 Congressional hearings. We coded the positions taken by the organizations in the litigation and hearings and generated a list of advocates appearing on behalf of the organizations.

From the OpenSecrets.org database of the Center for Responsive Politics, we gathered information about the organizations' lobbying expenditures. Sixty-three of the 119 organizations had filed lobbying registration statements.<sup>11</sup> Reports by nonprofit organizations to the IRS and the annual reports of corporations provided information about the organizations' finances and boards of directors and advisory boards.<sup>12</sup> Data about foundation funding of nonprofit organizations were drawn from the Foundation Index database.<sup>13</sup> Sixty-six organizations received foundation grants in 2004-2005 (not surprisingly, no businesses or trade associations were among them).

We identified 1,111 lawyers who served the 119 organizations in litigation or legislative testimony on the fourteen issues, or as registered lobbyists, or as members of the organizations' boards of directors, and we then gathered information about those lawyers from the Martindale-Hubbell Law Directory and Westlaw. We were not able to identify any lawyers serving 26 of the organizations in those roles.

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<sup>11</sup> Organizations are exempt from the filing requirement if their lobbying expenses do not exceed \$22,500 during a semiannual period.

<sup>12</sup> In the few cases where 2005 Form 990s were unavailable, we used 2006 forms.

<sup>13</sup> See The Foundation Center, *Foundation Directory On-Line* (2009).

## II. Organizational Categories

For analytic purposes, we divided the organizations into eight categories: “business,” “liberal activist,” “liberal establishment,” “conservative establishment,” “religious conservative,” “patriotic,” “guns,” and a residual “other” category<sup>14</sup> (Table 1). The categories serve as a data reduction device -- i.e., as a way to avoid discussing the welter of organizations one-by-one, which would make it very difficult to see patterns -- and are, necessarily, somewhat ill-defined at their margins. The labels are shorthand summaries that fail to capture the complexity or range of the organizations.

The “business” category includes both corporations and nonprofit groups that serve business interests. The “liberal activist” category includes groups allied with the liberal establishment but associated with its more activist elements. The “conservative establishment” category includes a variety of mainstream conservative groups, many of them founded in the late 1960s and afterward with the support of conservative patrons to counter the influence of the “liberal establishment”.<sup>15</sup> It includes libertarian groups, as well as organizations that seek to appeal to the several constituencies of the conservative coalition.<sup>16</sup>

[Table 1 about here]

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<sup>14</sup> Organizations assigned to the “other” category did not fit easily into any of the first seven categories. *See* Table 1.

<sup>15</sup> Ann Southworth, “Conservative Lawyers and the Contest Over the Meaning of ‘Public Interest Law’,” 52 *U.C.L.A. L. Rev.* 1223 (2005); Southworth, *Lawyers of the Right*, *supra* note 5.

<sup>16</sup> C. Boyden Gray founded the Committee for Justice in 2002 at the request of Karl Rove, President George W. Bush’s top political strategist, to push for the confirmation of President Bush’s judicial nominees. Gray enlisted the support of business organizations, which had previously resisted engaging in confirmation battles that revolved primarily around social issues rather than the economic matters that concerned their members. *See* Tom Hamburger & Peter Wallsten, “Business Lobby to Get Behind Judicial Bids: An Industry Group’s Plan to Spend Millions Promoting Conservative Nominees Brings a New Dimension in the Divisive Confirmation Battles,” *L.A. Times*, Jan. 6, 2005, at A1. He also recruited leading lawyers for social conservative groups, including Jay Sekulow, chief counsel of the American Center for Law and Justice. *See* David E. Rosenbaum & Lynette Clemetson, “In Fight to Confirm New Justice, Two Field Generals Rally Their Troops Again,” *N.Y. Times*, July 3, 2005, at A19.

Table 2 presents the median founding years and annual revenues for the organizational categories, and shows a rough correspondence between age and resources. The two oldest categories, business and patriotic organizations, have the largest revenue, and the newest category, religious conservatives, has the smallest.

[Table 2 about here]

Using information from the Foundation Center, we identified contributors to each category. Table 3 presents the top five. Three foundations -- Ford, Pew, and the Hewlett Foundation -- were among the largest funders for both the liberal activist and liberal establishment categories. Among the other organizational categories, the only major contributor found in more than one is the Scaife Foundation, which appears in both the conservative establishment and the “other” categories.

[Table 3 about here]

The issue agendas of the organizations differ sharply (Table 4). For example, 31 percent of the organizations in the conservative establishment category and 32 percent of the religious conservative organizations were active on the fetal protection issue, but none of the business, guns, or patriotic organizations were found there. Similarly, 68 percent of the religious conservatives were active on gay marriage, and, again, none of the business, guns, or patriotic organizations were. By contrast, 43 percent of the business organizations were active in the asbestos issue, while none of the religious conservatives participated. All of the patriotic organizations were active on flag desecration; apart from them, however, we see only a few of the liberal activist, religious conservative, and conservative establishment organizations. At the other extreme in breadth of participation, judicial nominations drew the attention of 92 percent of the conservative establishment category, 80 percent of the liberal establishment organizations, 73



percent of the religious conservatives, 65 percent of liberal activist organizations, and 50 percent of those in the “other” category, but this was the only issue that drew the participation of a broad set of the liberal organizations. Except for parental consent to abortion, which activated 48 percent of the liberal activist organizations, and the class actions issue, on which 40 percent of the liberal establishment organizations participated, relatively small percentages of the liberal organizations appeared on other issues. Because conservative Republicans controlled all three branches of the federal government in 2004-2005, they were able to dominate the issue agenda and secure action on or active consideration of their proposals. In other historical periods, liberal organizations might well have broader agendas.

[Table 4 about here]

Using multidimensional scaling (MDS), we analyzed the extent to which the issues drew the participation of the same organizations (see Figure 1). In this analysis, similarity is measured by “structural equivalence” – i.e., issues that activate similar sets of organizations are close together in the figure, and those that motivate disparate sets are farther apart. Each issue is represented by a point; it is the locations of those points, not of the labels identifying them, that is relevant.

[Figure 1 about here]

We find at the upper right a rather tight cluster of issues that mobilize both liberal activists and social conservatives -- judicial nominations, gay marriage, fetal protection, parental consent, and Terry Schiavo. There is a considerable gap between these issues and a much more diverse array, including bankruptcy, ID theft, medical malpractice, class actions, and asbestos, many of which are of particular concern to businesses. This pattern suggests that the agendas of conservative organizations, and the opposition of liberal activists on those issues, are a primary

determinant of this structure. As noted above, this finding may well be historically contingent.

### III. Lawyer Characteristics

We tabulated the gender, type of law school attended, number of years since admission to the bar, and practice location of lawyers who served the several categories of organizations.

There are a number of striking patterns (see Table 5).<sup>17</sup> Nearly half of the lawyers for liberal activist groups are women, while their representation among advocates for liberal establishment organizations approximates the percentage among licensed lawyers nationwide (27 percent, according to figures compiled by the American Bar Foundation, 2004). Women are slightly less prevalent among business advocates (21 percent), and relatively rare among lawyers for conservative establishment organizations (11 percent) and religious conservatives (7 percent).

[Table 5 about here]

There are also large variations in the educational backgrounds of the lawyers. The top seven schools in the 2000 *U.S. News & World Report* rankings - - Yale, Harvard, Stanford, Columbia, Chicago, Michigan, and New York University<sup>18</sup> - - are called “elite” in Table 5. The “prestige” schools are those ranked from 8<sup>th</sup> to 20<sup>th</sup> by *U.S. News*, and the “regional” category includes those ranked 21 to 50. “Local” law schools are those ranked below 50. Lawyers for liberal activist groups had the most prestigious credentials, with 63 percent having attended schools in the top two categories. Half or a bit more of the lawyers in the business, liberal establishment, and conservative establishment categories came from schools in the elite and prestige categories, but only 24 percent of lawyers serving organizations in the religious

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<sup>17</sup> Lawyers who represented organizations in more than one category were counted in all of them. Therefore, to the extent that lawyers bridge categories, differentiation among the categories is reduced.

<sup>18</sup> We used the 2000 rankings to allow for comparison with other research that relies on the 2000 figures. Arguably, prestige at the time of matriculation is the more relevant variable.

conservative category had attended such schools and more than half were educated in “local” schools.

Business, liberal activist, and conservative establishment groups had the youngest lawyers, while lawyers for the liberal establishment organizations were by far the oldest. Only 12 percent of the latter had been lawyers for 20 years or less, but 42 percent of those working for the conservative establishment and 48 percent of lawyers working for liberal activist organizations were in this least experienced category.

Roughly a third of the lawyers for business, liberal activist, and liberal establishment groups, and 41 percent of lawyers for conservative establishment groups, worked in D.C. and the D.C. suburbs. All of these four organizational categories also had significant numbers of lawyers in “major cities” – defined as the ten largest U.S. cities. In contrast, only 16 percent of lawyers for religious conservative groups worked in D.C. and the D.C. suburbs, and only 8 percent of them worked in other major cities; seventy-six percent of these lawyers were located outside of the major metropolitan centers.

The characteristics of the lawyers for religious conservative groups, then, set them apart from advocates in the other categories. Lawyers for the religious organizations were much more likely than those in other categories to be male, to have attended local law schools, and to work in smaller towns.

Overall, nearly half of all the lawyers we identified did not work in D.C. or D.C. suburbs, or even in the ten largest cities. We had expected to find a larger number that fit the “Washington insider” stereotype. The conservative establishment category included the largest percentage of lawyers in D.C. and the D.C. suburbs and the smallest percentage working “elsewhere”, suggesting that it is the most “insider” category, or was during the Bush II years.

#### IV. Organizational Networks

We analyzed several types of data concerning relationships among the organizations. First, we examined foundation grants received by the nonprofits. We created a matrix of funders and recipients, with each organization recorded as either receiving or not receiving a contribution from each foundation that contributed to more than one organization.<sup>19</sup> The pattern of foundation grants to each pair of organizations determines their proximity in Figure 2. We have omitted labels from some points in order to make the presentation easier to comprehend - - the organizations we chose to omit are, for the most part, less well-known. In some cases, more than one organization is represented by a single point because those organizations had identical or highly similar sets of funders.

[Figure 2 about here]

The cluster at the left of the figure includes organizations associated with social conservatives and the religious right: American Values, The Family Research Council, Concerned Women for America, Focus on the Family, Alliance for Marriage, Alliance Defense Fund, American Family Association, and American Center for Law and Justice.

At the right is a cluster of liberal advocacy organizations. In the upper part, we see organizations associated primarily with the activist wing of the Democratic Party - - groups such as the Innocence Project, Human Rights Campaign, Sierra Club, National Gay and Lesbian Task Force, People for the American Way, Earthjustice, Americans United for the Separation of Church and State (AUSCS), NARAL Pro-Choice America, American Civil Liberties Union (ACLU), National Consumer Law Center (NCLC), Foundation for Taxpayer and Consumer Rights (now “Consumer Watchdog”), and U.S. Public Interest Research Group. The groups in

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<sup>19</sup> We then read this similarity matrix into a multidimensional scaling (MDS) algorithm, using the correlation measure.

the lower section of this large cluster tend to be more established liberal organizations, such as the Consumer Federation of America, AFL-CIO, RAND Corporation (RAND), American Bar Association (ABA), Brookings Institution, Pew Research Center, and NAACP. At the lower center of the figure, we find a cluster of “conservative establishment” organizations. Just to the right of this cluster are the U.S. Chamber of Commerce and the National Association of Manufacturers, close to the conservative establishment but somewhat apart from it. The foundation data do not include for-profit corporations.

We also used other measures – participation in litigation and legislative testimony, joint representation by lobbying firms, and shared board members – to assess relationships among the organizations, but the degree to which organizations share those potential sources of contact is insufficient to provide a reliable assessment of similarity on any one of these variables, considered separately. By combining data on these four variables, however, we have sufficient connections among the organizations to analyze their relationships.

Assuming that all of the organizations in the sample could, in principle, be connected, the number of possible ties among 119 organizations is 7,021. Of those, 151 are in fact present in the data. Thus, the density of connections is only two percent – a very sparsely-connected network. Forty-two of the 119 organizations have no connection to any of the others on any of the four possible types of ties; i.e., overlapping directors or advisory board members, appearance in litigation on the same side of a case, legislative testimony taking the same position on an issue, or use of the same lobbying firm. Moreover, of those four kinds of ties, the shared use of a lobbying firm is the most numerous, and it is a relatively weak type of affiliation. The 42 unconnected organizations include some prominent ones (e.g., the Democratic National Committee, Eagle Forum, U.S. Conference of Catholic Bishops, Pew Research Center, and

Earthjustice). The data, therefore, do not indicate a densely or tightly integrated set of Washington operatives in which the important actors are connected to a wide array of other interest groups. Rather, we found a loosely-coupled system with frequent structural holes. The organizations involved in this set of issues are not characterized by extensive overlapping directorates or by frequent joint activity on litigation, legislative testimony, or lobbying.

[Figure 3 about here]

Figure 3 shows the connections among the 77 organizations that have ties to at least one other organization in our sample.<sup>20</sup> Note that some of the organizations are connected to others only through chains with single links. The Sierra Club, for example, is tied to the structure through the U.S. Public Interest Research Group, which is linked only to the Consumer Federation of America, which is in turn tied only to the National Consumer Law Center.<sup>21</sup>

At the upper right is a tight cluster of organizations that take conservative positions on religious and social issues. The organizations are Operation Rescue, the National Association of Evangelicals, Concerned Women for America, Ethics and Religious Liberty Commission of the Southern Baptist Convention, Alliance Defense Fund, Focus on the Family, and the American Center for Law and Justice. They work primarily on “life” issues (fetal protection, parental consent to abortion, Terry Schiavo), gay marriage, and judicial nominations, and are tied to the remainder of the structure only through Focus on the Family, which is in turn connected to the Family Research Council and the Federalist Society. The Family Research Council and the Center for a Just Society, which have policy agendas similar to those of these seven

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<sup>20</sup> The analysis in Figure 3 uses a “spring-embedding” algorithm. The organizations, represented by points, are pulled together or apart by their varying ties to other organizations. In the algorithm, these competing forces correspond to tension exerted by springs, and the springs pull against a constant force, pushing the organizations apart. The resulting location of each point in the solution is a product of these several forces, operating simultaneously.

<sup>21</sup> The marginality of the Sierra Club in this analysis no doubt reflects the fact that environmental issues were present in our sample only in the asbestos compensation bill and, to a lesser extent, in the class action legislation.

organizations, have a path to the remainder of the network through the American Enterprise Institute. Thus, the religious organizations are relatively isolated, with few channels for communication with other groups.

Lower on the right side of the space we see another cluster of conservative organizations, arrayed around the American Conservative Union (ACU). The cluster ranges from the Heritage Foundation, higher in the space, to Americans for Tax Reform, at the lower margin, and includes American Values, the Family Foundation, the Club for Growth, the Free Congress Foundation, and the Fund for Defense of Democracy, in addition to the ACU. These eight organizations are linked to others only through the Federalist Society, the Brookings Institution, and the National Rifle Association (NRA). Thus, their available channels of communication are quite limited, but not as restricted as those of the religious conservatives.

At the left of the space, lower in the vertical dimension, we find a set of organizations that take liberal positions on abortion and other religious and moral issues. These groups include NARAL, Alan Guttmacher Institute, Planned Parenthood, People for the American Way, the National Abortion Federation, the National Organization for Women (NOW), the Feminist Majority Foundation, and the National Women's Law Center. Note that the location of these organizations is diametrically opposite to that of the socially conservative groups, as far apart as it is possible for the two sets to be within the space. This is a classic oppositional structure.

In the upper left quadrant are liberal organizations that focus primarily on consumer advocacy: U.S. Public Interest Research Group, Consumer Federation of America, National Consumer Law Center, American Bankruptcy Institute, National Association of Consumer Bankruptcy Attorneys, and Public Citizen. Closer to the center of the space but still on the left

side are the ABA, NAACP, Leadership Conference on Civil Rights, ACLU, AFL-CIO, and Alliance for Justice -- a set that might be characterized as the liberal establishment.

The area with the greatest density of connections is populated by businesses and trade associations. Those with especially large numbers of connections include the U.S. Chamber of Commerce, GE, Citigroup, the American Bankers Association, America's Health Insurance Plans, and the American Insurance Association. The density of connections among the business organizations is in striking contrast to the sparseness of ties in other areas of the space.

Surrounding the social and religious conservatives, there is a looser set of organizations that, in a political sense, are intermediate between those groups and business interests. These surrounding organizations, many of which are libertarian in orientation, include the Manhattan Institute, the American Enterprise Institute, FreedomWorks, and the Cato Institute. These organizations were aligned with religious and social conservatives in electoral politics and on issues such as eminent domain<sup>22</sup> and school choice, but they do not support the restrictions on individual liberty advocated by social conservatives, and this surely accounts for the separation of the two constituencies. The Family Research Council and the Federalist Society indirectly connect the libertarian groups to social and religious conservatives.

Overall, this appears to be a center/periphery structure. That is, organizations that have broader issue agendas (AARP, U.S. Chamber of Commerce, NAM) are more central, and those that have narrow agendas, often restricted to a single issue, are at the margins (e.g., NARAL, Sierra Club, Operation Rescue, the Judicial Confirmation Network). Issue agendas motivate these relationships and may occasionally draw relatively unlikely allies together. The American

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<sup>22</sup> The Supreme Court's decision allowing the municipality's exercise of eminent domain powers on behalf of a private developer in *Kelo v. City of New London*, 545 U. S. 469 (2005), created a firestorm among social conservatives, who feared the cities would use such powers to condemn property held by churches, which are exempt from taxes.



Insurance Association and the AFL-CIO agreed on the wisdom of creating an asbestos compensation fund, for example, and both the ABA and the National Association of Manufacturers supported John Roberts's nomination to the U.S. Supreme Court. As a general rule, however, liberals are located near other liberals, and conservatives are close to other conservatives. Several organizations in the conservative establishment, such as the Heritage Foundation and the American Conservative Union, are peripheral to the broader structure because their role in mobilizing the conservative coalition pulls those organizations away from the center, toward other conservatives. Similarly, on the left, the AFL-CIO and NAACP are drawn toward groups advocating liberal positions on social issues. The separation of the conservative establishment and the business conservatives from social and religious conservatives, however, is quite unlike the pattern on the liberal side of the space. While the liberal organizations at the left margin are loosely tied to one another, social and religious conservatives are densely clustered but have fewer links to other parts of the political network.

There are two areas of the network in which there are high levels of density within a particular cluster. The first area is the cluster of social and religious conservatives at the upper right of the space, and the second and larger one is the set of businesses and trade associations at the lower middle of the figure. Unlike the social conservatives, however, the banks, insurance companies, and other large businesses are not only connected to each other but are well-integrated into the overall system, with many links that provide potential for communication to other sectors.

### Conclusion

As we saw in Table 5, the characteristics of lawyers representing the several categories of organizations vary widely. Women are overrepresented among those serving liberal activist

organizations, but strikingly underrepresented among those working with social and religious conservative groups. Similarly, lawyers for liberal activist groups had the most prestigious academic credentials, while those serving conservative religious organizations were much less likely to have such credentials. The lawyers working with religious conservatives were about half as likely to have attended a prestigious law school as those serving the conservative establishment.

Moreover, analyses done at the organizational level strongly indicate that groups speaking for social and religious conservatives have few ties to other sorts of interest groups. Figures 2 and 3 suggest, respectively, that the sources of funding available to social conservatives are distinct and that there are only very limited channels of communication between them and other groups, including other conservatives. Our previous research found that lawyers for the various constituencies of the conservative coalition are divided by class, culture, and geography, and that the two primary elements of the Republican coalition – social conservatives and business interests – occupy separate social worlds. Some individuals and organizations seek to bridge the differences and to promote cooperation across these constituencies, but dissimilarities and discord persist. The research presented here helps to situate these prior findings in a broader political landscape. It suggests that socially conservative advocates and organizations stand apart, not only from other conservatives but from the interconnected communities of lawyers and organizations that speak for most major players in national policymaking.

During the period examined here, the Republican Party controlled all three branches of the federal government. Despite that control, which was reflected in the issue agenda, social and religious conservatives accomplished few of their major goals. Was their lack of success

attributable to the fact that their lawyers were, generally, less highly-credentialed and socially connected than those of other interest groups? Or was their frustration due to the constituency's own relative disadvantage – in wealth, social class, educational attainment, and political ties?

Lawyers' characteristics and assets usually reflect the constituencies they represent, which makes it problematic to distinguish between the influence of lawyers and the power of the interest group base for which they speak.

## Appendix

### **The Issue Events**

***Fetal Protection (2004):*** Congress passed a bill (HR 1997—PL 108-21), which President Bush signed, giving federal legal status to a fetus. The legislation made it a separate offense to harm a fetus during the commission of a federal crime against a pregnant woman.

***Gay Rights (2004):*** A proposed constitutional amendment to ban gay marriage failed in the House and Senate (S J Res 40, H J Res 106). Republicans hoped to prevent judges from invalidating the 1996 Defense of Marriage Act, which defined marriage as “a legal union between one man and one woman.”

***Asbestos Compensation (2004):*** Republican Senators failed to pass legislation (S 2290) to create a no-fault compensation fund for victims of asbestos exposure.

***Class Action Lawsuits (2004):*** Failed Republican legislation (S 2062) would have limited plaintiffs’ opportunities to file class action lawsuits in state courts.

***DNA Testing/Victims Rights (2004):*** Legislation was signed into law (HR 5107—PL 108-405) making it easier for inmates to gain access to post-conviction DNA tests while also allowing retrials for cases in which test results indicated an inmate might not be guilty.

***Flag Desecration (2004):*** A proposed constitutional amendment to criminalize physical desecration of the American flag failed to move beyond the Senate Judiciary Committee (S J Res 4).

***Identity Theft (2004):*** On July 15, President Bush signed into law a bill cleared by Congress (HR 1731—PL 108-275) establishing stronger criminal penalties for identity theft.

***Medical Malpractice (2004):*** Republicans attempted but failed to cap non-economic damage awards in medical malpractice suits (S 2061).

***Guns (2004):*** Due to a number of Democratic amendments, such as one renewing the 1994 ban on semi-automatic assault weapons, Republican Senators failed to pass legislation (S 1805) aimed at limiting the firearm industry’s liability for gun violence. The bill would have barred civil lawsuits against manufacturers, distributors, and importers of firearms and ammunition.

***Bankruptcy Overhaul (2004):*** Despite extensive bipartisan support for legislation aimed at making it more difficult for individuals to erase their debts by filing for bankruptcy protection, Congress was unable clear the bill (HR 975, S1920). Nonetheless, Congress did pass legislation allowing family farmers to restructure their debts without losing their land (S 2864—PL 108-369).

***Judicial Nominations (2004):*** Although Democratic Senators blocked 10 of Bush’s appellate court nominees through procedural votes, Bush nonetheless filled 203 lifetime seats on federal

district and appellate courts. Moreover, Republicans pushed for a Senate rules change—the “nuclear option”—requiring only a 51-vote majority to break filibusters of judicial nominees.

***Federal Court jurisdiction (2004):*** In an attempt to limit federal judges’ jurisdiction over certain types of cases while also redrawing appellate court maps, the House passed three bills: HR 3313 barred federal courts from hearing cases challenging a provision of the Defense of Marriage Act; HR 2028 denied federal courts jurisdiction over challenges to the wording of the Pledge of Allegiance; and, S 878 added provisions to divide the 9<sup>th</sup> Circuit into three separate appeals courts.

***Judicial Nominations (2005):*** After Justice Rehnquist’s death, Bush nominated John Roberts to succeed Justice Sandra Day O’Connor as Chief Justice, and the Senate confirmed. The Senate also confirmed the nomination of Samuel Alito to the U.S. Supreme Court and five of seven previously filibustered lower federal court nominees.

***Asbestos Compensation (2005):*** On May 26, the Senate Judiciary Committee approved a bill (S 852—S Rept 109—97) creating a \$140 billion trust fund to compensate people sickened by asbestos exposure.

***Medical Malpractice (2005):*** In an effort to cap non-economic damage awards in medical malpractice cases at \$250,000 and to limit punitive damages to two times the economic damages or \$250,000, Republicans passed a bill in the House (HR 5), but failed in the Senate.

***Class Action Lawsuits (2005):*** On Feb.18, President Bush signed a measure giving federal courts jurisdiction over class action lawsuits when the total amount in dispute exceeded \$5 million and the defendant and a large portion of the plaintiffs lived in different states (S 5—PL 109-2).

***Eminent Domain (2005):*** The House Judiciary Committee decisively approved a measure (HR 4128—H Rept 109—262) limiting the effects of a controversial Supreme Court ruling (“Kelo”) on eminent domain. The bill sought to prohibit states and localities receiving federal development funds from using eminent domain to seize private property for economic development.

***Guns (2005):*** Legislation limiting the legal liability of firearms makes and dealers was cleared and signed into law. Democrats attached several amendments, including a requirement that child safety locks be sold with all handguns.

***Flag Desecration (2005):*** The House passed a proposed constitutional amendment (HJ Res 10—H Rpt 109-131) to criminalize physical desecration of the American flag, but the Senate did not clear the bill.

***Abortion (2005):*** The House passed a bill (HR 748) to expand the reach of state laws requiring parental consent or notification when a minor seeks an abortion. The measure required doctors to notify parents in person or by mail of an out-of-state minor’s request for an abortion, and it gave guardians the right to sue noncompliant doctors.

***Terri Schiavo Case (2005):*** The House and Senate passed a bill to allow the parents of Terri Schiavo to go to federal court and have their daughter's feeding tube restored. However, federal courts rebuffed Shiavo's parents' attempt to intervene.

**List of Media for Issue Event Searches**

*Wall Street Journal*  
*New York Times*  
*Washington Post*  
*Los Angeles Times*  
*Chicago Tribune*  
*Dallas Morning News*  
*Atlanta Journal & Constitution*  
*Time*  
*Newsweek*  
*U.S. News & World Report*  
*National Journal*  
*Washington Monthly*  
*Roll Call*  
*Washington Times*  
*National Review*  
*The Nation*  
*Weekly Standard*  
*American Spectator*  
*The New Republic*  
*The American Prospect*

Table 1: Organizational Categories

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*Business*

American Bankers Association  
American Bankruptcy Institute  
American Insurance Association  
American Medical Association  
America's Health Insurance Plans  
Bank of America  
ChoicePoint, Inc.  
Citigroup  
Club for Growth  
Coalition for Asbestos Reform  
Dupont Co.  
Equitas Ltd.  
Exxon Mobil Corp  
Federal Mogul Co.  
Ford Motor Co.  
General Electric  
Georgia Hospital Association PAC  
Georgia-Pacific Corp  
Halliburton  
MAG Mutual Insurance Co.  
Medical Mutual Liability Insurance Society of Maryland  
Medical Society of the District of Columbia  
National Association of Consumer Bankruptcy Attorneys  
National Association of Manufacturers  
National Retail Federation  
Physician Insurers Association of America  
Texas Medical Society  
U.S. Chamber of Commerce  
USG Corp.  
W.R. Grace and Company

*Religious Conservative*

Alliance Defense Fund  
Alliance for Marriage  
American Center for Law and Justice  
American Family Association  
American Values  
Arlington Group  
Center for a Just Society  
Christian Coalition of America

Christian Defense Coalition  
Concerned Women for America  
Eagle Forum  
Ethics and Religious Liberty Commission of the Southern Baptist Convention  
Family Foundation  
Family Research Council, Inc.  
Focus on the Family  
Georgia Right to Life  
Massachusetts Family Institute  
National Association of Evangelicals  
National Right to Life Committee  
Operation Rescue  
Traditional Values Coalition  
U.S. Conference of Catholic Bishops

*Liberal Establishment*

AFL-CIO  
Allan Guttmacher Institute  
American Bar Association  
Third Way  
Brookings Institution  
Center for Responsive Politics  
Consumer Federation of America  
Democratic Leadership Council  
Democratic National Committee  
Kaiser Family Foundation  
Leadership Conference on Civil Rights  
NAACP  
National Consumer Law Center  
Pew Research Center  
RAND Corporation

*Liberal Activist*

Alliance for Justice  
American Civil Liberties Union  
Americans United for Separation of Church and State  
Brady Campaign to Prevent Gun Violence  
Earthjustice  
Environmental Working Group  
Feminist Majority Foundation  
Foundation for Taxpayer and Consumer Rights  
Georgia Equality  
Human Rights Campaign  
Innocence Project



Lambda Legal Defense and Education Fund  
Move On  
National Abortion Federation  
NARAL Pro Choice America  
National Gay and Lesbian Task Force  
National Organization for Women  
National Women's Law Center  
People for the American Way  
Planned Parenthood Federation of America  
Public Citizen  
Sierra Club  
U.S. Public Interest Research Group

*Conservative Establishment*

American Conservative Union  
American Enterprise Institute  
American Tort Reform Association  
Americans for Tax Reform  
Cato Institute  
Committee for Justice  
Federalist Society  
Freedom Works  
Heritage Foundation  
Institute for Justice  
Judicial Confirmation Network  
Manhattan Institute  
Progress for America

*Guns*

Gun Owners of America  
National Rifle Association  
National Shooting Sports Foundation

*Patriotic*

American Legion  
Citizens Flag Alliance  
Veterans of Foreign Wars

*Other*

American Association of Retired Persons  
American Association for Justice  
Feminists for Life  
Fidelis  
Foundation of the Defense of Democracies  
Free Congress Foundation

Georgia Watch  
Identity Theft Resource Center  
Log Cabin Republicans  
Trial Lawyers Association of Metropolitan Washington

Table 2. Median Founding Year and Median Revenues

Median Founding Year		Median Annual Revenue (\$)	
Business	1907	Business	62,673,375
Patriotic	1919	Patriotic	37,752,340
Liberal establishment	1955	Guns	31,413,781
Guns	1971	Liberal establishment	7,819,349
Liberal activist	1974	Libertarian mediator conservative	7,507,175
Libertarian mediator conservative	1982	Liberal activist	6,735,030
Religious conservative	1984	Religious conservative	4,348,165

**Table 3. Five Largest Foundation Funders of Each Organizational Category**

Business		
Starr Foundation, The, NY	\$	4,000,000
Johnson Foundation, Robert Wood, The, NJ	\$	3,626,641
AEGON Transamerica Foundation, IA	\$	2,000,000
Kauffman Foundation, Ewing Marion, MO	\$	900,000
Mott Foundation, Charles Stewart, MI	\$	450,000
Liberal activist		
Ford Foundation, The, NY	\$	9,191,000
Pew Charitable Trusts, The, PA	\$	8,570,000
Hewlett Foundation, William and Flora, The, CA	\$	8,075,000
Packard Foundation, David and Lucile, The, CA	\$	6,755,000
Open Society Institute, NY	\$	5,880,000
Liberal establishment		
Pew Charitable Trusts, The, PA	\$	38,242,000
Ford Foundation, The, NY	\$	8,116,200
Hewlett Foundation, William and Flora, The, CA	\$	5,618,000
Casey Foundation, Annie E., The, MD	\$	3,884,959
Reynolds Foundation, Donald W., NV	\$	2,327,477
Conservative establishment		
Noble Foundation, Samuel Roberts, Inc., The, OK	\$	5,000,000
Bradley Foundation, Lynde and Harry, Inc., The, WI	\$	4,900,000
Kovner Foundation, The, NJ	\$	2,849,301
Herrick Foundation, MI	\$	2,325,000
Scaife Foundation, Sarah, Inc., PA	\$	2,225,000
Religious conservatives		
Batten, Jr. Foundation, Aimee & Frank, VA	\$	2,000,000
God's Gift, CA	\$	1,565,000
Prince Foundation, Edgar and Elsa, MI	\$	1,108,000
DeVos Foundation, Richard and Helen, The, MI	\$	1,005,000
Community Foundation, Inc., The, MS	\$	700,000
Guns		
Sayler-Hawkins Foundation, MO	\$	215,000
San Francisco Foundation, The, CA	\$	25,000
Dow Foundation, Herbert H. and Barbara C., MI	\$	20,000
Anderson Family Foundation, A. Gary, CA	\$	10,000
Brook Family Foundation, The, ME	\$	10,000
Patriotic		
Wal-Mart Foundation, AR	\$	3,248,524
Eyman Trust, Jesse, OH	\$	6,000
Hurdus Foundation, Syde, Inc., NY	\$	1,000
Burns Foundation, Nancy and Herbert, ME	\$	1,000
Other		
Marcus Foundation, Inc., The, GA	\$	750,000
Abramson Family Foundation, The, FL	\$	485,000
Scaife Foundation, Sarah, Inc., PA	\$	400,000
Annenberg Foundation, The, PA	\$	275,000
Steinhardt Foundation, Judy and Michael, The, NY	\$	250,000

**Table 4. Distribution of Activity of Organizational Categories Across Issue Events: Percent Active**

Issue event	Liberal		Liberal	Conservative	Religious	Patriotic	Guns	Other
	Business	Activist	Establishment	Establishment	Conservative			
Fetal protection	0%	22%	20%	31%	32%	0%	0%	10%
Gay Marriage	0%	26%	33%	8%	68%	0%	0%	20%
Asbestos	43%	9%	13%	23%	0%	33%	0%	10%
Class Action	17%	9%	40%	38%	0%	0%	0%	20%
DNA / Victims	0%	9%	7%	0%	0%	0%	0%	0%
Flag Desecration	0%	13%	0%	8%	9%	100%	0%	0%
ID Theft	13%	4%	0%	0%	0%	0%	0%	10%
Medical Malpractice	33%	17%	27%	31%	18%	0%	0%	40%
Gun Liability	0%	4%	20%	23%	0%	0%	100%	0%
Bankruptcy	23%	22%	20%	8%	9%	0%	0%	0%
Nominations	23%	65%	80%	92%	73%	33%	67%	50%
Federal Courts	0%	26%	27%	8%	59%	0%	0%	20%
Eminent Domain	0%	0%	7%	8%	5%	0%	0%	0%
Parental Consent	0%	48%	20%	23%	64%	0%	0%	20%
Schiavo	3%	13%	20%	38%	59%	0%	0%	10%
Total number of orgs.	● 30	23	15	13	22	3	3	10

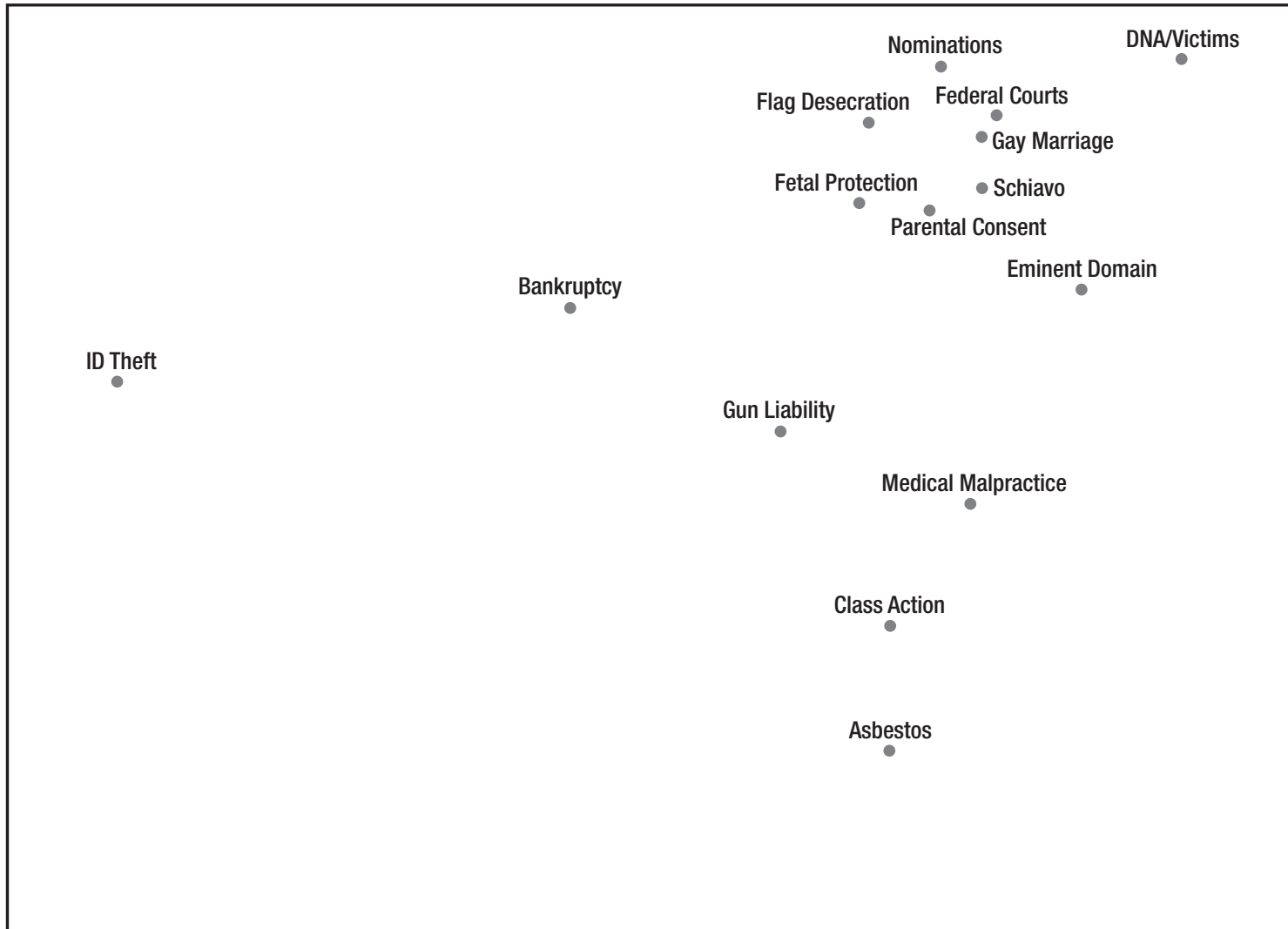
**Table 5. Characteristics of Lawyers in Organizational Categories**

Variable	Business	Liberal Activists	Liberal Establishment	Conservative Establishment	Religious Conservatives	Other	Total
Gender (%)							
Male	79	53 ***	76	89 *	93 **	84 **	76
Female	21	47	24	11	7	16	24
N	479	190	132	54	56	196	1102
Law school (%)							
Elite	24 ***	35 ***	36 **	22	10 **	6 ***	24
Prestige	25	28	23	25	14	12	22
Regional	23	14	15	18	18	20	20
Local	29	24	27	35	57	62	35
N	452	177	123	55	49	177	1028
Law experience (%)							
1-20 yrs	39 ***	48 ***	12 ***	42	29	21 ***	34
21-30 yrs	39	25	34	29	51	41	36
31+ yrs	22	27	54	29	20	38	30
N	396	132	106	48	45	173	898
Location (%)							
DC	31 ***	31	30	27 ***	12 ***	13 ***	25
DC suburbs	1	1	2	14	4	2	2
Major cities	29	28	18	25	8	14	25
Elsewhere	39	40	50	34	76	72	48
N	444	163	119	44	50	184	999

Significant chi-square tests are indicated for each category, † <.10; \* <.05; \*\* <.01; \*\*\* <.001.

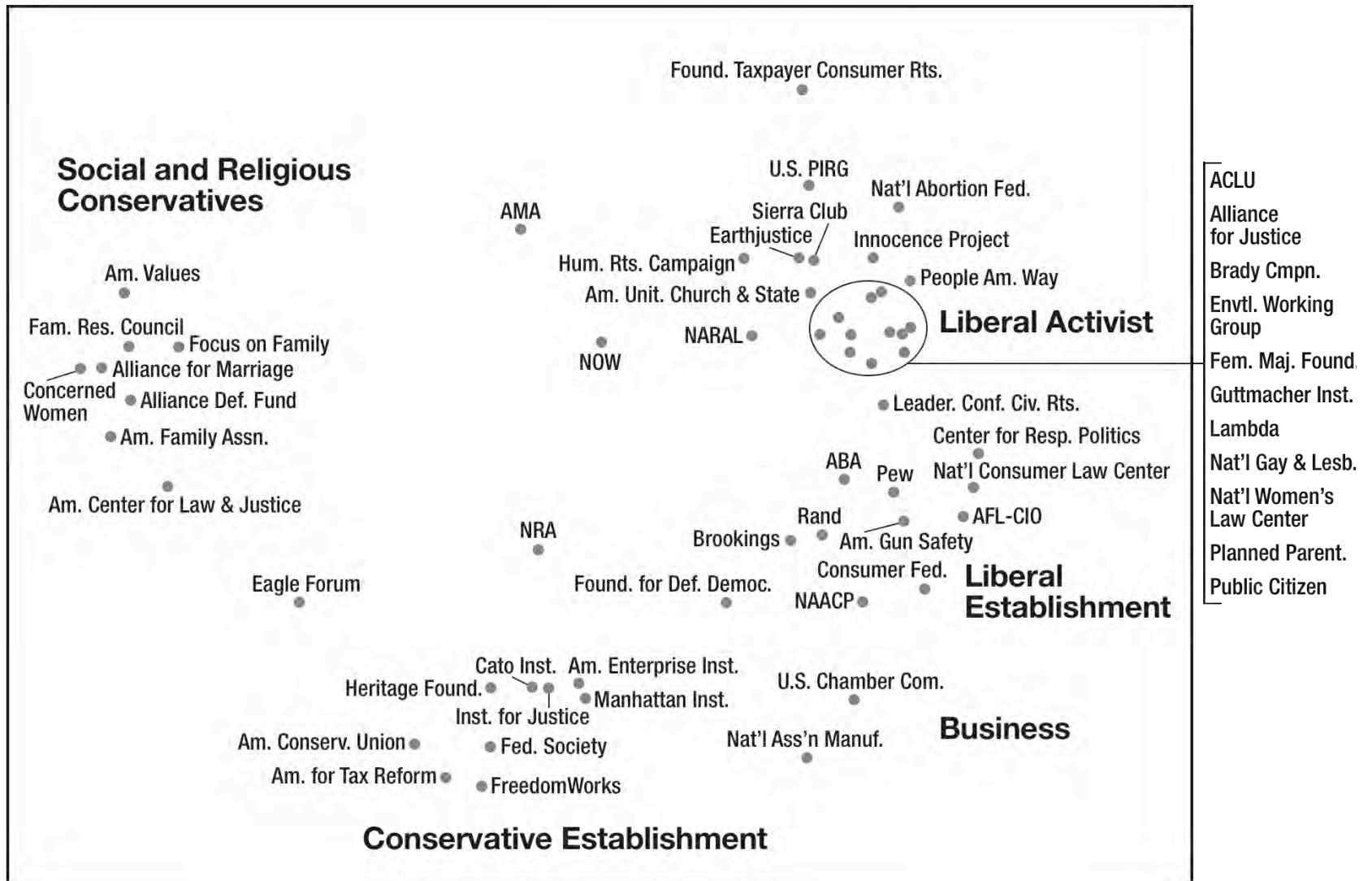
**FIGURE 1: Relationships Among Issues, Based upon Organizational Patterns of Activation**

Figure 1: Relationships among issues, based upon organizations' patterns of activation (two-dimensional MDS; stress = .08).



**FIGURE 2: Relationships Among Organizations, Based upon Foundation Funding**

Figure 2: Relationships among organizations, based upon foundation funding (two-dimensional MDS; stress = .11).





**FIGURE 3: Affinity of Active Organizations, Based upon Shared Board Members, Lobbyists, Litigation Participation, and Legislative Testimony**

Figure 3: Affinity of active organizations, based upon shared board members, lobbyists, litigation participation, and legislative testimony (spring embedded algorithm, N=77).

