

# The Effect of Judicial Decisions on Issue Salience and Legal Consciousness in Media Serving the LGBTQ+ Community

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**S**cholars have long questioned whether and how courts influence society. We contribute to this debate by investigating the ability of judicial decisions to shape issue attention and affect toward courts in media serving the LGBTQ+ community. To do so, we compiled an original database of LGBTQ+ magazine coverage of court cases over an extended period covering major decisions, including *Lawrence v. Texas* (2003), *Goodridge v. Massachusetts Department of Public Health* (2003), and *Lofton v. Secretary of Department of Children & Family Services* (2004). We argue these cases influence the volume and tone of LGBTQ+ media coverage. Combining computational social science techniques with qualitative analysis, we find increased attention to same-sex marriage after the decisions in *Lawrence*, *Goodridge*, and *Lofton*, and the coalescence of discussions of courts around same-sex marriage after *Lawrence*. We also show how LGBTQ+ media informed readers about the political and legal implications of struggles over marriage equality.

## INTRODUCTION

**H**ow judicial decisions influence society is a significant question in the study of politics (Keck and Strother 2016). Scholars examining this topic have taken a variety of approaches, including investigating the impact of decisions on school desegregation (Rosenberg 1991), legal empowerment (McCann 1994), public opinion (Franklin and Kosaki 1989), policy drift (Snead 2023), the agendas of political institutions (Rice 2020), interest group activism (Baird 2007), jurisprudential philosophies (TerBeek 2021), Twitter discourse (Clark et al. 2018), and many others. Despite the voluminous attention devoted to this topic, findings have generally been mixed, with some research suggesting the ability of courts to influence social change (e.g., Hall 2011; Keck 2009), and other work finding little to no effect (e.g., Gould 2005; Silverstein 2007).

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Received: October 13, 2022; revised: July 25, 2023; accepted: January 11, 2024. First published online: February 26, 2024.

Here, we advance research on judicial impact by examining how court decisions affect two important outcomes—the prominence of particular legal issues (issue salience) and understanding of law and legality (legal consciousness)—in media serving the LGBTQ+ community. We do this through a novel and comprehensive analysis of a large corpus of articles appearing in LGBTQ+ media between 1998 and 2009, a period ripe for the study of judicial impact because it featured major rulings both in favor of and in opposition to LGBTQ+ rights across multiple jurisdictions, including the United States Supreme Court, federal courts of appeals, and state courts.

This paper provides numerous insights about the impact of court decisions on society. First, instead of focusing exclusively on the effect of an individual decision by the U.S. Supreme Court, as has been the dominant approach in the literature (e.g., Franklin and Kosaki 1989; Rosenberg 1991; TerBeek 2021), we provide perspective on the relative importance of a Supreme Court decision compared to that of judgments by less visible courts. Second, we expand on previous work that focuses on the impact of decisions on attentive publics (e.g., Hoekstra 2000) to include a marginalized community—the LGBTQ+ community—that has been at the forefront of legal change over the past three decades (e.g., Tankard and Paluck 2017). In doing so, we highlight the potential influence of this community's media in shaping individuals' views on legal matters (e.g., Clawson, Kegler, and Waltenburg 2001).

Third, although our research focuses on a particular marginalized group, the LGBTQ+ community, our findings have broader implications. Members of the

LGBTQ+ community have disproportionately suffered harms from legal and political institutions. In response, they have mobilized and have achieved significant legal victories, although their rights remain under attack (Keck 2009). The lessons we learn from their experience reach far beyond this specific community. Throughout history, marginalized communities, including those based on gender and race, have faced similar challenges. The victories and struggles of these communities represent significant milestones in the pursuit of equality and justice. By delving into how media outlets serving these communities respond to judicial decisions, we gain valuable insights that apply more broadly throughout a populace (Hull 2016).

Fourth, we depart from previous work by combining computational social scientific methods with rich, qualitative analysis to investigate the impact of judicial decisions. This separates our work from both traditional approaches to understanding legal consciousness, which tend to utilize interview (e.g., Ewick and Silbey 2010) and ethnographic methodologies (e.g., Engel 1984), as well as from most research on issue salience, which employs primarily quantitative methods (e.g., Rice 2020; Zilis 2015). Our research thus provides a model of multi-method research on the effects of judicial decisions that can be applied to the study of the impact of government actions, both among marginalized groups and more broadly, in American society.

We find that the judicial decisions under investigation—*Lawrence v. Texas* (2003), *Goodridge v. Department of Public Health* (2003), and *Lofton v. Secretary of Department of Children* (2004)—influenced the salience of particular issues in LGBTQ+-focused media. We also demonstrate that *Lawrence* shifted the tone of LGBTQ+ media toward courts in a positive direction, revealing how the case potentially influenced one important avenue for influence on the legal consciousness of the LGBTQ+ community. Finally, through an in-depth qualitative analysis, we demonstrate the various ways that LGBTQ+ media covered struggles over marriage equality, which may contribute to how the community viewed the issue (e.g., Allen and Haider-Markel 2006; Berinsky and Kinder 2006).

## ISSUE SALIENCE, LEGAL CONSCIOUSNESS, AND JUDICIAL IMPACT IN THE LGBTQ+ COMMUNITY

Judicial decisions influence many aspects of society. We investigate their influence in two critical areas: media attention to specific legal issues (issue salience), and media ideas about law and legality (legal consciousness). One of the most important ways judicial decisions might influence society is by drawing attention to specific legal and political issues, or issue salience. Attention to a particular issue or policy is an important determinant of whether public officials act (Boydston 2013). Because attention is a scarce resource, a limited number of issues can be considered at any one time. Thus, the prioritization of one issue over others is critical, as this focus increases the probability of change on that issue while decreasing the probability of change

on less salient issues (Flemming, Wood, and Bohte 1999).

There is significant debate as to whether courts can influence the salience of issues among elected officials and the mass public. Some scholars argue that important court decisions, at least on some issues, can focus the attention of both elected officials and ordinary citizens on these issues (e.g., Rice 2020). However, others argue that the causal arrow points in the opposite direction, with courts responding to the preferences of elected officials and the mass public (e.g., Bryan 2020; Collins and Eshbaugh-Soha 2019). Thus, while a plausible case for court influence on issue salience can be made, many questions remain about the precise nature of these effects.

Major judicial decisions may also influence legal consciousness—that is, how ordinary individuals and groups understand and use law (Ewick and Silbey 2010). Research on legal consciousness demonstrates that individuals and groups develop subjective understandings of the workings of the law; that they arrive at conclusions about the relevance, efficacy, and justness of legal processes; and that these subjective understandings influence whether and how these actors make use of legal venues to address problems they face (e.g., Kirkland 2008; Marshall 2005). Courts may play an important role in the development of legal consciousness. Through their rulings, courts convey powerful messages about the values the law endorses, the interests the law privileges, and the ways in which (if at all) law will address salient issues in society (McCann 1994). Such decisions may inform individuals' and groups' beliefs about the relevance, efficacy, and justness of law.

To date, however, most research on legal consciousness has focused on exploring how individuals and groups constitute meaning and develop strategies for action (or acquiescence) in the presence of a *given legal regime*, rather than on analyzing whether and how the legal consciousness of individuals and groups evolves in response to a *major change to the regime* stemming from decisions handed down by courts (e.g., Chua and Engel 2019; Hull 2016). Thus, more work needs to be done to understand whether and how individuals and groups update their beliefs about law and the legal system in response to important court decisions.

A careful study of the LGBTQ+ community—and, specifically, *specialized media serving the LGBTQ+ community*—provides an ideal opportunity to investigate whether, when, and how court decisions have the potential to induce change in the issue salience and legal consciousness of individuals and groups. Because members of the LGBTQ+ community frequently face discrimination and exclusion—some officially sanctioned by law—they often consider using the legal system to fight for their rights (Pinello 2003). Law and legal advocacy thus occupy a particularly prominent place in the everyday lives of members of this community (Barclay, Bernstein, and Marshall 2009; Knauer 2012). Moreover, since the early 1990s, the LGBTQ+ community has experienced a dramatic expansion in legal rights, due in significant part to LGBTQ+ advocacy-fueled decisions by courts, executives, and legislatures.

Yet, despite these developments, there has been little research on how such decisions—and, in particular, how judicial decisions—feed back into media serving the community, potentially influencing the issues that are most salient or the way LGBTQ+ community members understand law and legality (Hull 2016).

Of course, there is a large literature on LGBTQ+ legal advocacy (e.g., Andersen 2009; Eskridge and Riano 2020; Frank 2017), as well as a substantial literature on legal consciousness in the LGBTQ+ community (e.g., Connolly 2002; Gash and Raikin 2018; Harding 2006; Hull 2003; 2006; 2016; Richman 2006). Scholars have also investigated how court decisions on gay rights have impacted society at large (e.g., Clark et al. 2018; Flores and Barclay 2015; Keck 2009; Kreitzer, Hamilton, and Tolbert 2014; Stoutenborough, Haider-Markel, and Allen 2006). And, there are several excellent works that examine *mainstream* media coverage of court decisions affecting the LGBTQ+ community (Gash 2015; Klarman 2013; Mucciaroni 2009).

But we have not identified work specifically examining judicial impact on issue salience or legal consciousness in the LGBTQ+ community, as measured in the content of *specialized* media serving the LGBTQ+ community. Studying the effects of judicial actions on media serving the LGBTQ+ community is crucial for several reasons. First, it promises to advance our understanding of the relationship between the LGBTQ+ community and authoritative legal decisions. Examining the portrayal and discussion of these decisions in LGBTQ+ media provides insights on how this marginalized group is influenced by, and responds to, legal rulings and offers a nuanced perspective on the challenges faced by the LGBTQ+ community with respect to legal and political institutions. Second, the responses of LGBTQ+ media to judicial decisions offers valuable lessons applicable to other marginalized communities. The parallels in experiences between different marginalized groups suggest that the insights gained from our study may extend well beyond the LGBTQ+ community. Thus, in-depth analysis of the influence of judicial decisions on media serving the LGBTQ+ community may also provide new insights into how high-profile legal disputes shape issue salience and the legal consciousness of other marginalized groups, and more generally. In all, our research aims not just to advance our understanding of the LGBTQ+ community's response to judicial decisions, but also aspires to be a cornerstone for exploring the broader dynamics of media, legal consciousness, and issue salience among marginalized communities.

## STUDYING JUDICIAL IMPACT THROUGH LGBTQ+ MEDIA

We believe that studying specialized LGBTQ+ media—that is, media produced by and for members of the LGBTQ+ community—offers a unique and powerful lens for examining issue salience and legal consciousness in the community and investigating whether and how judicial decisions are influential. Media play a

central role in shaping individuals' views of legal matters (e.g., Clawson, Kegler, and Waltenburg 2001). For example, research confirms media powerfully affects the salience of legal issues in society, particularly through its tendency to grant overwhelming attention to a few legal issues at the expense of many others (Boydston 2013; Clark, Lax, and Rice 2015; Davis 2011; Epstein and Segal 2000). Likewise, popular media can transmit powerful messages about what the law is, how it works, and whether and to what extent it represents a useful and effective vehicle of social change (e.g., Hawes and Kong 2013; Kohm 2006).

Our focus on examining specialized LGBTQ+ media (as opposed to the media at large) is based on the reality that the so-called “mainstream media” have historically downplayed the struggles of LGBTQ+ Americans until relatively recently (Chomsky and Barclay 2010). Further, the mainstream media serve very broad and diverse audiences and are thus not the best source for understanding issue salience and the legal consciousness of marginalized groups. In such media, economic imperatives, journalistic conventions, and explicit and implicit biases combine to obscure, dilute, and/or distort the legal views of marginalized groups (Engel 2013; Iyengar et al. 2019). Extant studies of coverage of LGBTQ+ issues in mainstream newspapers suggest that stories tend to provide relatively equal space to supporters and opponents of LGBTQ+ rights, a pattern that reflects the journalistic norm of “objectivity” but does not serve the end of closely understanding LGBTQ+ issue salience or legal consciousness (Allen and Haider-Markel 2006; Cabosky and Gibson 2019; Li and Liu 2010).

In contrast, LGBTQ+ media offer a unique window into how legal issues arise in, and are understood by members of that community. Existing research on media serving marginalized communities suggests such media are more likely to act as an advocate of the community, providing information of particular interest to the community, and using frames, arguments, and sources that bolster the community's interests and values (Clawson, Strine, and Waltenburg 2003). Media serving the LGBTQ+ community may also help community members stay informed about the legal and cultural struggles and activism involving their members (Sender 2001; Streitmatter 1993) and thereby form a basis for collective legal and political action (Billard and Gross 2020). For these reasons, we believe that a focus on specialized LGBTQ+ media offers an ideal opportunity for understanding issue salience and legal consciousness in this specific marginalized community.

## LAWRENCE, GOODRIDGE, AND LOFTON: THREE DECISIONS WITH THE POTENTIAL TO INFLUENCE LGBTQ+ ISSUE SALIENCE AND LEGAL CONSCIOUSNESS

To examine the potential influence of judicial decisions on issue attention and the legal consciousness of media serving the LGBTQ+ community, we focus on three important judicial decisions—two that significantly

expanded LGBTQ+ rights, and one that did not—that were handed down within a short period of time in the early 2000s. On June 26, 2003, the U.S. Supreme Court decided *Lawrence v. Texas*, overruling its decision in *Bowers v. Hardwick* (1986) and holding that a Texas statute prohibiting same-sex individuals from engaging in private sexual conduct violated the Due Process Clause of the U.S. Constitution. The Court's decision had the effect of overturning state laws that were tailored to prohibit same-sex sexual activity.

Less than 5 months later, on November 18, 2003, the Massachusetts Supreme Judicial Court announced in *Goodridge v. Massachusetts Department of Public Health* that gay and lesbian couples in Massachusetts had a right to civil marriage. The decision concluded that the state's denial of marriage licenses to seven same-sex couples violated the liberty and equality protections of the Massachusetts Constitution. The decision directly quoted the Supreme Court's earlier decision in *Lawrence* that "Our obligation [as judges] is to define the liberty of all, not to mandate our own moral code" (440 Mass 309, at 312).

Roughly 2 months after *Goodridge* was announced, the U.S. Court of Appeals for the Eleventh Circuit issued its decision in *Lofton v. Secretary of the Department of Children & Family Services*. Here, the court upheld Florida's state ban on "adoption by practicing homosexuals" (358 F.3d 794, at 806), holding that adoption was a statutory privilege rather than a fundamental constitutional right. The court ruled that the state's strong interest in child welfare superseded adult interests in liberty, procedural fairness, and equality of treatment, at least in the context of adoption access.

While each decision was important, each differed along two important dimensions. First, by virtue of the respective jurisdictions of the involved courts, *Lawrence* applied throughout the nation, *Goodridge* applied more narrowly to Massachusetts, and *Lofton* applied to the region of the Eleventh Circuit (Alabama, Florida, and Georgia). Second, the scale of the legal consequences differed markedly. Though a decision with nation-wide application and considerable symbolic significance, *Lawrence* had little immediate legal impact, because few states at the time of the decision retained statutes criminalizing same-sex private sexual conduct, and even fewer enforced statutes still on the books. In contrast, even though *Goodridge* applied only to residents of Massachusetts, it marked the first time a U.S. court of last resort had identified a constitutional right to marry for same-sex partners that would go into effect, and was viewed by both supporters and opponents as a groundbreaking ruling likely portending future pro-LGBTQ+ decisions at the state and federal levels. Finally, *Lofton* upheld existing limitations on LGBTQ+ rights, and seemingly tapped the brakes on the legal advances announced in *Lawrence* and *Goodridge*.

Thus, while each of the cases is a plausible candidate for judicial influence on issue attention and legal consciousness in the LGBTQ+ community, their important differences make them particularly useful for comparing the respective impact of different types of court

decisions on these outcomes. Each of these cases dealt with issues of central concern to the LGBTQ+ community, issues that received coverage well before the *Lawrence*, *Goodridge*, and *Lofton* decisions. Our goal is to understand whether and how these important decisions change the attention and tone of LGBTQ+ media in articles discussing law and courts.

## LAWRENCE, GOODRIDGE, LOFTON, AND ISSUE SALIENCE: HYPOTHESES

*Lawrence v. Texas* announced the freedom to engage in same-sex intimate relations without interference from the government. Because overturning so-called "anti-sodomy" laws had long been an important priority for the LGBTQ+ community, investigating the potential influence of the *Lawrence* decision provides a useful window into how judicial decisions may or may not affect issue salience in media serving that community. There are two pathways by which *Lawrence* might be influential. The first is a *policy-specific* pathway, in which the ruling serves as a "focusing event" (Baumgartner and Jones 2013; Birkland 1997) that drives increased attention to the issue of sodomy. The second possible pathway is a *policy spillover* (e.g., Brown 2013) pathway, in which the decision, through its explicit and implicit implications for adjacent areas of law, leads to increased attention to contiguous issues relating to sexuality, relationships, and family formation.

In the case of a policy-specific pathway, we might expect increased attention to sodomy as a policy issue in LGBTQ+ media following the decision, given the historical importance of these laws as a tool for discrimination. Alternatively, given the relative decline in the importance of anti-sodomy laws as a policy issue even before *Lawrence*, we might expect that the real impact of the ruling is via policy spillover, as the decision in *Lawrence* established protections under the Due Process and Equal Protection Clauses of the Fourteenth Amendment for members of the LGBTQ+ community that might be applicable in contiguous areas relating to sexuality, relationships, and families. If policy spillover effects are present, we would expect to see increased attention to *other* areas of law, such as marriage, adoption, or other family rights, where the decision was prospectively relevant. In either case, increased attention to a topic after the decision would indicate that the *Lawrence* decision shaped the agenda of LGBTQ+ media. If *Lawrence* was not influential, we would expect to see no change in attention to topics after the decision.

Marriage equality, the issue in the *Goodridge* case, arose as a politically salient issue in the LGBTQ+ community beginning in the 1970s, though early marriage equality suits brought by gay and lesbian couples were unsuccessful (Koppelman 2006; Pinello 2003). The fight for same-sex marriage grew substantially in visibility in the 1990s in part because of the Hawaii Supreme Court's determination in *Baehr v. Lewin* (1993) that denying marriage licenses to same-sex couples violated the state constitution's equal protection clause. Subsequently, there was massive backlash

throughout the country in the 1990s and 2000s as numerous states passed constitutional amendments or legislation prohibiting same-sex marriage, and the federal government passed the Defense of Marriage Act (Keck 2009). This kept marriage equality a salient issue in national and state politics through the present (Moscowitz 2013).

The Massachusetts Supreme Judicial Court's 2003 decision in *Goodridge* thus provides a robust test of the impact of the decision on issue salience for two reasons. First, *Goodridge* was decided by a state court, not the U.S. Supreme Court. The decision was thus narrow in scope, applying only to the state of Massachusetts. Second, same-sex marriage was already highly salient throughout the 1990s and early 2000s. It is therefore plausible that *Goodridge* caused no increase in attention to an already salient issue. Nonetheless, we suspect that *Goodridge* will have *policy-specific* effects, leading to an increase in discussions of same-sex marriage in LGBTQ+ media.

Finally, the salience of parental and custodial rights of members of the LGBTQ+ community also increased from the 1970s onward (Brodzinsky and Pertman 2012). Though early legal battles generally “involved individual lesbian and gay parents struggling to maintain custody of their children from prior heterosexual marriages” (Gash and Raiskin 2018, 88), from the late 1980s onward much of the litigation focused on the ability of members of the LGBTQ+ community to adopt or foster children.

Changes in adoptive rights offer a marked contrast to changes in the area of marriage equality. By 2006, same-sex couples had the opportunity for second-parent adoptions, with parental rights extended to a partner in more than half of the states of the nation (Gash and Raiskin 2018). Thus, while marriage equality was a decade away and many states retained outright bans on same-sex marriage, avenues for same-sex couples to share custody of adopted children existed. Indeed, Florida, the state at the center of the conflict in *Lofton*, was one of the last states to rescind their state ban on adoption by members of the LGBTQ+ community. Because *Lofton* upheld an existing limitation on LGBTQ+ rights, we expect no change in attention to custodial policy through the *policy-specific* pathway. Through the *policy spillover* pathway, however, we expect spillover effects in other areas of law, as the setback encourages alternative pathways to achieving custodial rights.

### LAWRENCE, GOODRIDGE, LOFTON, AND LEGAL CONSCIOUSNESS: HYPOTHESES

We also investigate the effect of *Lawrence*, *Goodridge*, and *Lofton* on the tone of the LGBTQ+ media's coverage of courts, which may have an important influence on LGBTQ+ legal consciousness. Research demonstrates that media can play a significant role in shaping how individuals understand, and feel about, law and legal institutions (e.g., Ewick and Silbey 2010). One way this occurs is through the *tone* used by the media in its coverage of legal concepts (Burns and Crawford 1999;

Haltom and McCann 2004). When media cover legal institutions, and their decisions, in a favorable light, this can increase positive attitudes toward legal actors among audiences. Conversely, when legal institutions and decisions are framed in a negative manner, this can activate negative sentiment toward legal actors (e.g., Baird and Gangl 2006) and mobilize affected communities (Clawson, Strine, and Waltenburg 2003, 795). Indeed, media framing of legal issues can be so strong that it has been attributed as the source of widespread misunderstandings of the American litigation “crisis” (Haltom and McCann 2004) and moral panic related to school shootings (Burns and Crawford 1999).

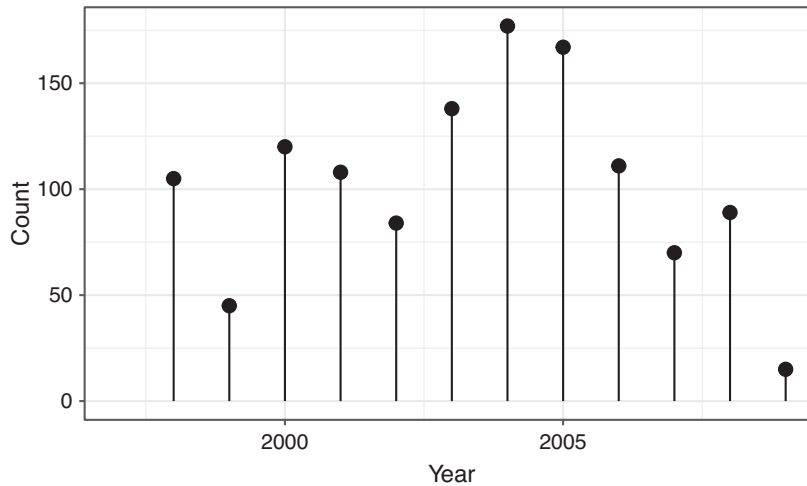
Following this work, we examine changes in the tone of articles involving judicial decisions. Importantly, we capture article tone over time, revealing temporal changes that may be attributable to judicial decisions. Our argument is that, when reporters and editors from the LGBTQ+ community cover judicial decisions in a positive light, this demonstrates positive affect toward courts, and may serve to activate positive feelings toward courts among readers. Conversely, stories that portray judicial decisions negatively reflect negative affect toward courts and may stimulate negative feelings among readers toward legal institutions (e.g., Allen and Haider-Markel 2006; Berinsky and Kinder 2006). Thus, we are capturing one aspect of the legal consciousness of elite actors—reporters and editors—in the LGBTQ+ community that has the potential to percolate to readers and thereby shape affect toward courts in the LGBTQ+ community more broadly.

We posit that both *Lawrence* and *Goodridge* will increase positive affect in articles in LGBTQ+ media mentioning courts, while *Lofton* will produce a negative shift. Both *Lawrence* and *Goodridge* were significant legal victories for the LGBTQ+ community, interrupting a string of legal and political defeats from the mid-1990s to the early 2000s (Frank 2017). As a result, we hypothesize discussions of courts will have a more positive tone after these decisions. In contrast, the decision in *Lofton* upheld existing limitations, and sought to circumscribe the reach of the Supreme Court's decision in *Lawrence*. We therefore hypothesize the circuit's decision will produce more negative tone in articles discussing courts.

### DATA AND IDENTIFICATION

To test our expectations, we assembled an original corpus of articles published in LGBTQ+ media using the ProQuest *LGBT Magazine Archive*, a searchable digital archive of major periodicals devoted to LGBTQ+ interests. The *Archive* maintains digital files of articles from 26 leading LGBTQ+ periodicals from the United States, the UK, and a few other nations dating from the 1950s through to recent years.<sup>1</sup> Very importantly, the *Archive* maintains the full text for the

<sup>1</sup> The Supplementary material contains more details on our data collection effort.

**FIGURE 1. Counts of Articles by Year**

entire run of *The Advocate*, the leading (and longest continually-running) magazine serving the LGBTQ+ community in the United States (Streitmatter 1993).

Limiting our investigation to U.S.-based periodicals, we searched for the keyword “court” to identify articles that include discussions of judicial decisions. Because the periodicals under analysis cover a wider range of topics (including lifestyle, culture, health, and religion), we used this keyword to narrow our dataset to articles related to judicial decisions. Our search strategy follows that employed in a large body of work examining coverage of judicial decisions that reduce a large corpus of text using the term “court” or more specific analogs such as “Supreme Court” (e.g., Clark, Lax, and Rice 2015; Collins and Eshbaugh-Soha 2019; Epstein and Segal 2000). Importantly, the use of the keyword “court” means that we capture a broad swath of articles relating to judicial rulings, not just those specific to the *Lawrence*, *Goodridge*, and *Lofton* decisions. This is appropriate because our objective is to assess whether and how these decisions affect LGBTQ+ media coverage toward the courts in general (not just toward *Lawrence*, *Goodridge*, and *Lofton*).

We acquired a roughly symmetrical window of articles appearing around the *Lawrence*, *Goodridge*, and *Lofton* decisions; the earliest appeared in the March 3, 1998 issue of *The Advocate*, and the latest appeared in the July 20, 2009 issue of *Erie Gay News*. In all, we identified 1,229 articles appearing in, among others, *Erie Gay News* (165 articles), *Just for Us* (17 articles), *The Advocate* (954 articles), and *Transgender Tapestry* (74 articles). The three sources from which the overwhelming majority of articles are drawn vary significantly in their substantive foci: *Erie Gay News* is a monthly publication focusing on current events with an emphasis on the gay community of Erie, Pennsylvania; *Transgender Tapestry* focuses on topics relating to the transgender community;

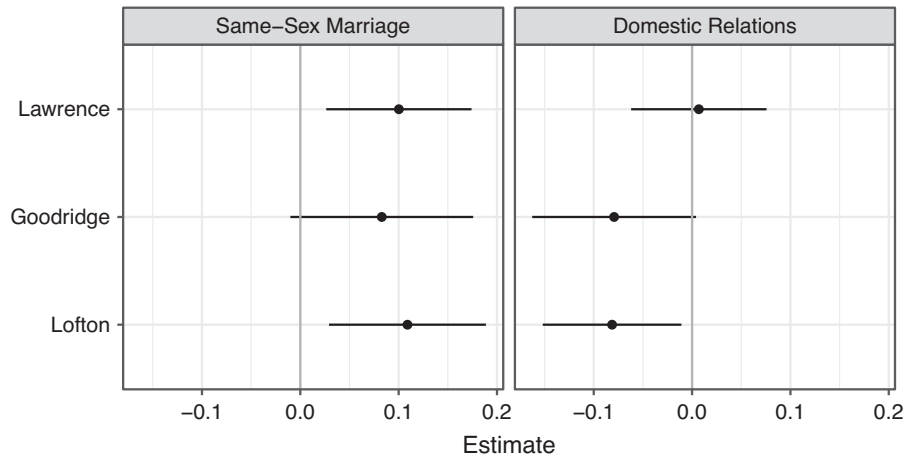
and *The Advocate* offers broad spectrum coverage of news and events relating to LGBTQ+ people worldwide.<sup>2</sup> In Figure 1, we plot the distribution of articles over time. It is clear from the plot that coverage varied significantly, with a low of 45 articles in 1999 to a high of 177 articles in 2004, during and after the decisions of interest.

## EMPIRICAL RESULTS

### Issue Salience

To investigate issue salience, we employ structural topic models (STM), a class of mixed-membership topic models designed to incorporate known information about the texts and an approach well designed for testing the influence of specific events, like judicial decisions, on topical attention (Roberts et al. 2013). The STM enables estimation of relationships between non-text variables associated with documents and the prevalence of topics (Lucas et al. 2015, 255). In recent years, STMs have been used to study an array of phenomena, including the ideological content of Arabic *fatwas* (Lucas et al. 2015), elite beliefs about climate change (Mildenberger and Tingley 2019), and the

<sup>2</sup> During the time frame under analysis, *The Advocate* was available nationwide, with a peak circulation of 140,000, making it the largest of the country’s 300 LGBTQ+ publications (Abelson 2000). Though the other periodicals in our sample had smaller circulations, each played an historically important role to the LGBTQ+ community. For instance, *Transgender Tapestry*, founded in 1979 as *The TV-TS Tapestry*, was a prominent magazine in the transgender community, published by the International Foundation for Gender Education, one of the first organizations in America to advocate for the rights of transsexual and transgender people (University of Victoria 2023).

**FIGURE 2. Expected Change in Topic Proportions**

Note: Full model results are available in Figure A3 and Table A1 of the Supplementary material.

subject matter of judicial opinions (Rice 2019). Here, STM permits us to examine our core question about the salience of legal issues in the LGBTQ+ community: (how) does topic prevalence change over time as a result of key court decisions?

We prepared the text for analysis by removing capitalization and punctuation while retaining only words appearing more than 20 times across the corpus and minimally in 5% of all articles. To select the appropriate number of topics, we rely on a variety of criteria, which are presented in the Supplementary material, and settle on a model with 12 topics. While we select the *number* of topics, the STM inductively identifies the *content* of topics based on word co-occurrence patterns in the document texts (Roberts et al. 2013).

In our STM, as predictors of topical prevalence (i.e., the amount that a topic is discussed within a document), we included three primary covariates: an indicator variable for articles occurring after the *Lawrence* decision, an indicator for articles appearing after the *Goodridge* decision, and an indicator for articles appearing after the *Lofton* decision. This setup allows us to assess whether particular topics are more (or less) prevalent in our collection of articles after announcement of the *Lawrence*, *Goodridge*, and *Lofton* decisions compared to before the announcement of each of the rulings. We also include in the STM a series of indicators for the source (where *The Advocate* is the excluded category) to account for differences across publications, as well as a temporal spline to address trends. We include the full model results in the Supplementary material, and focus here on two primary topics of interest based on our theoretical expectations.

The first relates to Same-Sex Marriage, with the top four terms for the topic—as determined by a score based on the frequency of the term within the topic and its exclusivity to that topic—being “marriage,” “marry,” “Massachusetts,” and “marriages.” The article most associated with this topic appeared in *The*

*Advocate* in May of 2004, and discussed the legal limbo that many same-sex couples found themselves in across the nation in the months after the *Goodridge* decision. The second topic relates more broadly to Domestic Relations, with the top four terms identified as “sodomy,” “Lawrence,” “custody,” and “adoption.” The article most associated with this topic appeared in *The Advocate* in March of 2003, and discussed the potential of the then-pending *Lawrence* case to either expand LGBTQ+ rights or to impose new legal limitations, including in areas like adoption by same-sex couples.

We are particularly interested in understanding how the frequency of discussion of the Same-Sex Marriage topic and Domestic Relations topic, respectively, changed after each of the three major decisions in our study. In Figure 2, we plot the effect of each decision on the attention paid to the Same-Sex Marriage topic (left panel) and the Domestic Relations topic (right panel). The points in the plot indicate coefficient estimates, and the bars represent 95% confidence intervals. Points farther to the right of the vertical grey line indicate the topic was discussed more after the indicated court decision, while points to the left indicate the topic was discussed less.

Beginning with the left panel and Same-Sex Marriage, the plot indicates articles appearing after the decision in *Lawrence* were, on average, about 10% more focused (*x*-axis) on Same-Sex Marriage, and the effect is statistically significant at the 95% level. This is consistent with the policy spillover pathway of influence we described above, in which *Lawrence* sparked increased attention to adjacent LGBTQ+ legal issues, like marriage, that could be affected by *Lawrence*'s reasoning. Consistent with the policy-specific pathway of influence, the decision in *Goodridge* led to a substantial (approximately 8%) increase in average coverage of Same-Sex Marriage in articles discussing courts ( $p = 0.06$ ). Finally, in another example of policy spillover, the decision in *Lofton* was also associated with a

statistically significant increase of approximately 10% in the average amount of attention devoted by articles to Same-Sex Marriage. Taken together, the STM indicates that LGBTQ+ media were talking substantially more about Same-Sex Marriage after the decisions in *Lawrence*, *Goodridge*, and *Lofton*. Such a pattern strongly suggests an important impact of these decisions on the salience of the issue of Same-Sex Marriage in the LGBTQ+ community: the media serving the community focused much more on the issue of marriage equality after important victories at the U.S. Supreme Court and in Massachusetts but also after a subsequent setback in a related area in a lower federal court of appeals.

These dynamics stand in stark contrast to what we find with respect to Domestic Relations. There, we see no change in coverage associated with the decision in *Lawrence*, indicating the decision in *Lawrence* was important not primarily through policy impact, but rather because of its spillover implications for adjacent areas of law. Therefore, the shift in attention toward Same-Sex Marriage provides initial evidence that *Lawrence* led media serving the LGBTQ+ community to think about leveraging the decision to achieve legal gains in other areas.

Bolstering this interpretation is the fact that both subsequent cases are associated with declines in attention to Domestic Relations. *Goodridge* is associated with a reduction of about 8% ( $p = 0.06$ ) in the discussion of the Domestic Relations topic, while *Lofton* is associated with a statistically significant reduction of about the same amount. The latter pattern is especially important, as it indicates that after an unsuccessful legal challenge leveraging *Lawrence* on one policy dimension (adoptive rights), greater attention was paid to another policy dimension (same-sex marriage) where the successful legal challenge in *Goodridge* had leveraged the decision in *Lawrence*. This represents an interesting, and significant, shift for the LGBTQ+ movement: while marriage equality held out the prospect of adoption and custodial rights for married LGBTQ+ couples, it did not necessarily ensure similar rights for single LGBTQ+ people or un-married LGBTQ+ couples.

### Article Tone and Legal Consciousness

While we have shown that *Lawrence*, *Goodridge*, and *Lofton* changed the relative salience of same-sex marriage and domestic relations in articles in LGBTQ+ media, our argument asserts these decisions may also influence the overall tone (an indicator of legal consciousness) of these articles. To investigate, we turn to sentiment analysis and analyze the sentiment of articles appearing before and after each of the decisions. Sentiment analysis has been widely deployed in the social sciences, and has been used both in analyses of judicial decisions (Rice and Zorn 2019) and media outlets (Collins and Eshbaugh-Soha 2019; Young and Soroka 2012).

In the case of *Lawrence*, where the Court reached a landmark decision that was positive from the perspective of the LGBTQ+ rights claimants, we anticipate an increase in the relative positivity of the language employed in news articles referencing courts following the decisions, suggesting an increase in LGBTQ+ media's warmth toward the courts. We also expect shifts in tone in LGBTQ+ media in reaction to *Goodridge* and *Lofton*. To be sure, it is not wholly implausible that decisions by these inferior courts could produce *no change* in tone. Both decisions were limited in scope: in *Goodridge*, to the state of Massachusetts; and in *Lofton*, to the states covered by the Eleventh Circuit. Additionally, both were, in principle, reversible—in the case of *Goodridge*, by the actions of state legislators and/or the Massachusetts public, and in the case of *Lofton*, by a decision of the U.S. Supreme Court. Given these considerations, the reaction of LGBTQ+ media to these decisions might be muted. However, we think that it is equally, if not more, likely that these decisions did influence the tone of LGBTQ+ media. First, we showed that these inferior court decisions produced changes in issue salience, so it is plausible they also produced changes in article tone. Furthermore, LGBTQ+ leaders and activists were very attuned to court decisions—not only for their substantive impact, but also for their symbolic role in either affirming or denying the rights and humanity of LGBTQ+ people. Additionally, LGBTQ+ activists believed that court decisions could spur (either positive or negative) action by elected officials (Andersen 2009; Eskridge and Riano 2020; Frank 2017). In short, LGBTQ+ activists believed there could be broader spillover consequences of decisions by inferior courts. Of course, LGBTQ+ media might overestimate the significance of decisions of inferior courts. But we still think it is more likely than not that, in the moment, the tone of LGBTQ+ media would be reactive to decisions by inferior courts.

For *Goodridge*, we expect a positive shift in tone, as the favorable state supreme court decision likely promoted greater positivity toward the legal system. In contrast, for *Lofton* we expect less positive language to be used after the decision, reflecting the fact that the court of appeals decision represented a significant legal setback.

To construct our measure of article tone, we employ three well-known sentiment dictionaries as well as an ensemble measure based on the average of the scores of those three dictionaries. The three dictionaries are the Lexicoder Sentiment Dictionary (Young and Soroka 2012), the General Inquirer (Stone, Dunphy, and Smith 1966), and the NRC Word-Emotion Association Lexicon (Mohammad and Turney 2013). Each dictionary contains extensive lists of positive and negative words, with each individual dictionary exceeding 1,000 words. From each dictionary, we calculate article polarity as the number of positive words minus the number of negative words, divided by the total number of positive



and negative words in the article. The resulting measure ranges from  $-1$  to  $1$ , with lower values indicating more negative language and higher values indicating more positive language. Doing so for each dictionary yields three measures of polarity, and we present the results for each measure as well as for an ensemble measure.

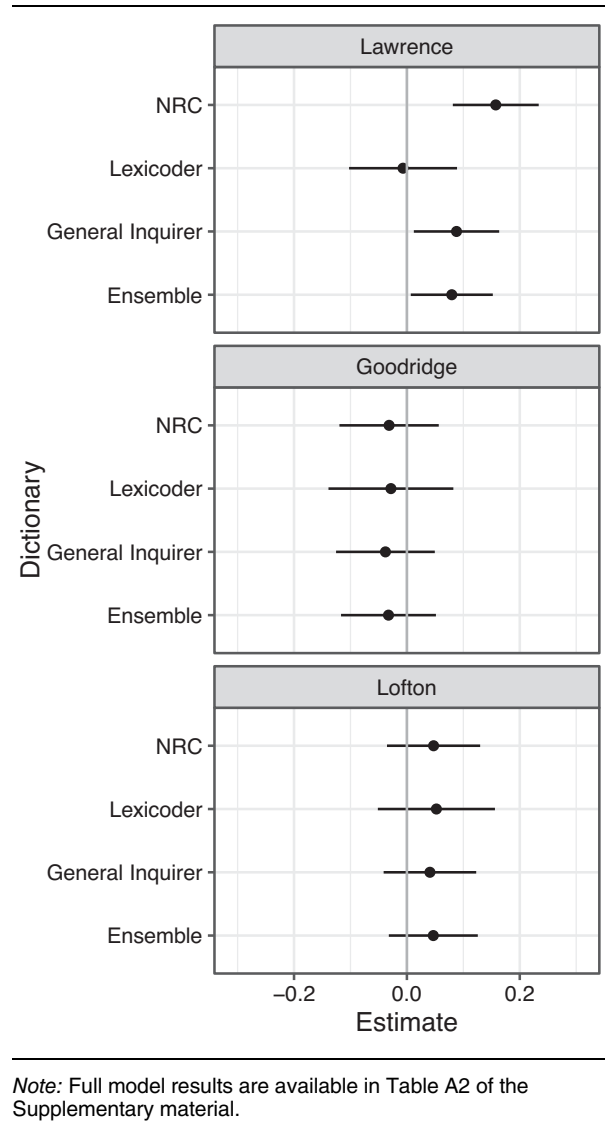
For each measure of article polarity, we estimate a linear regression model including separate indicators for each of the *Lawrence*, *Goodridge*, and *Lofton* decisions, indicating whether (1) or not (0) the article appeared after the respective decision. As controls, we include the same measures as were included in the STM (source indicators and a spline for time), as well as a variable capturing the total number of pages in the article. The latter is included as the English language tends to feature more positive words than negative words (Kloumann et al. 2012), so longer articles are likely to be slightly more positive in tone.

The full results are available in the Supplementary material.<sup>3</sup> We focus here on the results for the three decisions: *Lawrence*, *Goodridge*, and *Lofton*. In Figure 3, we plot the coefficient estimate and associated 95% confidence interval for each of the variables (delimited by panels) for each of the models of a different sentiment measure (indicated by the y-axis within each plot). Starting first with the top panel and the results for *Lawrence*, we find evidence of a positive and statistically significant increase of between 8% and 16% (depending on the measure) in the average positivity of LGBTQ+ media articles discussing courts following the decision. This pattern holds for three of the four measures we use to assess tone. The positive increase in polarity is consistent with our expectation of how attention to the courts should theoretically shift within LGBTQ+ media and suggests the critical importance of *Lawrence* in increasing warmth toward courts in the LGBTQ+ community. Given that these changes in positivity occur in the context of substantial overall increases in the volume of coverage of courts (Figure 1), the observed patterns reflect a critical shift, revealing a change in how LGBTQ+ media understood and talked about the law.

The results for *Lawrence* offer an interesting counterpoint to what we observe with respect to the other two decisions. After controlling for the increase associated with *Lawrence*, neither *Goodridge* nor *Lofton* was associated with a statistically significant shift in article tone. This observation stands, moreover, across each of the different approaches to measuring article tone. Neither the legal breakthrough of *Goodridge* nor the legal setback of *Lofton* led to a statistically significant shift in the positivity of language being used in LGBTQ+ media articles where courts were discussed.

<sup>3</sup> The Supplementary material reports the results of alternative modeling approaches, including before- and after-decision opinion polarity tests, randomization tests, and sequential regression models. The results are consistent with those reported here.

**FIGURE 3. Coefficient Estimates from Model's Opinion Polarity**



Taken together, the results paint a striking picture. The decision in *Lawrence* increased the positivity of LGBTQ+ media toward courts and was associated with significantly increased attention to another area, same-sex marriage, where the breakthrough might be relevant. In subsequent months, major court decisions at other levels—*Goodridge* in Massachusetts and *Lofton* in the Eleventh Circuit—marked major moments in the movement for LGBTQ+ equality and major changes in attention to same-sex marriage, the area where a breakthrough seemed more likely. However, neither the positive outcome of *Goodridge* nor the negative outcome of *Lofton* managed to shift in the same way the positivity of the LGBTQ+ community toward courts. In short, our findings strongly support the conclusion that *Lawrence* played a central role, but also that important judicial decisions at both the federal and state level advancing LGBTQ+ rights had important and complex effects on issue salience in LGBTQ+ media.

## HOW LGBTQ+ MEDIA HELPED PEOPLE UNDERSTAND LEGAL ISSUES: SAME-SEX MARRIAGE

We now employ qualitative methods to further examine how LGBTQ+ media report on legal issues affecting the community, and thus potentially influence how ordinary LGBTQ+ people understand these issues and their relationship to the legal system. We undertook a qualitative content analysis (e.g., Schreier 2012), assisted by NVivo software, of the 15 articles from *The Advocate* in our dataset most associated with the Same-Sex Marriage topic in our STM.<sup>4</sup> These articles are most likely to contain substantial substantive content relating to same-sex marriage. We chose this focus since it closely follows how individuals consume the news by scanning articles for relevant content, and reading those focused on topics of interest (e.g., Dor 2003): individuals interested in same-sex marriage are likely to read articles most closely associated with the topic.<sup>5</sup> To support research transparency in our qualitative content analysis, we include annotations for transparent inquiry (ATIs) (e.g., Kapiszewski and Karcher 2021) in the Supplementary material, along with full methodological discussion.<sup>6</sup>

### Findings

#### *Informing Readers about Relevant Legal Episodes and Trends*

Perhaps the single greatest obstacle to understanding legal issues is lack of information about relevant controversies and decisions (e.g., Hoekstra 2000). Given the vastness and complexity of the legal system, it is no small task, particularly for non-experts, to obtain relevant and timely information about pertinent legal conflicts and rulings.

Media can help ordinary people understand legal issues by highlighting important legal cases and decisions. The articles closely associated with the topic of Same-Sex Marriage fulfilled this important task by providing coverage of legal developments relating to marriage in the U.S. and abroad. For example, the articles extensively covered the ruling in *Goodridge* ordering the state legislature to take steps to legally recognize same-sex relationships; struggles among state officials about whether to respond to the decision by granting marriage equality, providing civil unions, or enacting a constitutional amendment banning same-sex marriages altogether; and the jubilation of Massachusetts gay and lesbian couples completing wedding vows following enactment of same-sex marriage legislation

(ATI 1). The articles closely associated with the Same-Sex Marriage topic also provided considerable coverage of a similar development in New Jersey, in which a 2006 state supreme court ruling that the denial of equal rights to same-sex couples violated the state's constitution, led the state legislature to enact civil unions legislation later that year. Also noted were significant legal setbacks, including bans on same-sex marriage in states such as Idaho, Colorado, South Carolina, Virginia, and Wisconsin, in the early-to-mid 2000s (ATI 2).

Additionally, the articles provided information about developments in marriage-related lawmaking and court decisions in other nations, providing context for understanding the (lack of) development of marriage equality throughout the U.S. Highlighted, for example, were Spain's efforts, led by the Socialist Party, to enact marriage equality legislation in the mid-2000s. Articles closely associated with the Same-Sex marriage topic also noted enactment of civil unions and/or same-sex marriage legislation in the Netherlands, the United Kingdom, New Zealand, Canada, and South Africa during the same period (ATI 3). These stories both emphasized the comparative failures of U.S. policy and pointed to examples the U.S. could emulate going forward. One article quoted a married lesbian woman of Dutch nationality stating that "there are only a few places where [like the Netherlands, same-sex marriage] is legal now...*But it appears that its success here is helping it grow elsewhere*" (Hudson 2005, emphasis added). In another article reviewing developments relating to marriage and civil unions abroad, the author approvingly quoted marriage advocate Evan Wolfson, who argued that "[Marriage equality in other nations] shows that the sky doesn't fall, that families are strengthened, that society is better off when discrimination ends...It's also a justifiable goad to the United States to step up and reclaim the role of leader when it comes to human rights" (quoted in Allen 2005).

#### *Highlighting Sympathetic "Victims" of Exclusionary Marriage Laws*

Legal issues can be complex and technical, requiring familiarity with legal concepts and standards, judicial processes, and the respective authorities of executives, legislatures, and courts. One common journalistic technique for making complex issues accessible to consumers is using human interest stories to illustrate systematic problems and trends. The articles closely associated with the Same-Sex Marriage topic did so by repeatedly reporting on "victims" of many states' exclusionary marriage laws, sympathetic same-sex couples whose dreams of marriage either led them to heartbreak in the United States or forced them to take extraordinary steps to secure their family relationships. To use the language of Felstiner, Abel, and Sarat (1981), such media stories may have helped individuals in the LGBTQ+ community perceive personal harms relating to denial of marriage as actionable legal "grievances," and thereby encouraged them to transform these into claims in the legal system.

<sup>4</sup> In the interest of brevity, we focus on same-sex marriage. Coverage of domestic relations followed similar patterns.

<sup>5</sup> During the time period under analysis (1998–2009), these periodicals were initially primarily available in hardcopy, with online access (including archives) developing over time.

<sup>6</sup> The references for the articles from the *LGBT Magazine Archive* that appear in this section can be found in the references for the Supplementary material with their associated ATIs.

One such article reported on the heartbreaking case of Katherine Sprecher and Nitzye Gonzalez, whose efforts to marry following Multnomah County, Oregon's 2004 decision to issue licenses to gay and lesbian couples were thwarted due to a state judge's order that the county cease issuing these licenses. Sprecher and Gonzalez are described as "sobbing, wiping away each other's tears" of sorrow due to the court's order (Kuhr 2004) (ATI 1). Another article reporting on the relative liberality of same-sex marriage laws in other nations highlights the emigration of U.S.-born Martha McDevitt-Pugh to the Netherlands (a nation that legalized same-sex marriage in 2000) so that she could marry her partner. In the article, McDevitt-Pugh emphasizes the huge economic, social, and personal burdens imposed by the non-recognition of marriage in many U.S. states at the time, stating that "A de facto state of exile becomes a way of life for Americans in this situation, since the United States will not recognize my marriage" (Hudson 2005) (ATI 3). In both articles, individual examples of hardship dramatized the broader injustice of unequal treatment based on sexual orientation, goading readers to stake claims in political and legal systems.

#### *Creating Understandable Stories featuring "Heroes" and "Villains"*

Another important obstacle to popular understanding of legal issues is a lack of awareness of contending parties and an appreciation of the legal and political strategies by which they seek to advance their claims in courts, legislatures, and the public sphere. News media can provide narrative frameworks that—by leveraging humans' evolved tendency to interpret reality through conventional "stories" (Berinsky and Kinder 2006)—may facilitate understanding of such conflicts. Such narrative frameworks typically cast various actors as "heroes" or "villains" in a "plot" featuring efforts by the actors to achieve their goals (e.g., Jones and McBeth 2010). The articles closely associated with the Same-Sex Marriage topic provided readers with an accessible narrative of the issue by introducing them to allies ("heroes") in the struggle for same-sex marriage, as well as to opponents ("villains") in this conflict, and informing them about the legal and political activities of both<sup>7</sup> (ATI 4).

"Heroes" advocating on behalf of same-sex marriage or civil unions highlighted in the articles included venerable national legal organizations such as Lambda Legal Defense and Education Fund, Gay and Lesbian Advocates and Defenders, and the American Civil

Liberties Union; state- and local- grassroots organizations such as Basic Rights Oregon, New Jersey's Garden State Equality, and Connecticut's Love Makes a Family; and sympathetic local officials such as San Francisco, California Mayor Gavin Newsom and New Paltz, New York Mayor Jason West. These allies are described as undertaking a wide variety of legal and political activities—including filing lawsuits, advancing legislation, lobbying elected officials, and engaging in protest and civil disobedience—to advance marriage or civil union rights in the states (ATI 5).

The articles also identified "villains"—major opponents of marriage, civil unions, and/or domestic partnerships for gay and lesbian people—and alerted readers to their varied legal and political efforts to challenge or undermine LGBTQ+ rights. For example, in its coverage of Massachusetts, the articles highlighted Republican and then-Governor Mitt Romney's efforts to curb the impact of the *Goodridge* decision, including his advocacy of a state constitutional amendment (ATI 1). Similarly, in its coverage of a mid-2000s controversy in Oregon stemming from Multnomah County's decision to issue marriage licenses to same-sex couples in the absence of legislative authorization, the articles underscored the state supreme court's nullification of these licenses and endorsement of the state's constitutional ban on gay marriage (e.g., Simmons 2005). Looking abroad, the articles also noted mid-2000s efforts by the Vatican to impose moral and political pressure on majority-Catholic nations to reject recognition of same-sex marriage (Hudson 2005).

#### *Explaining Important Legal Concepts*

Yet another obstacle to popular understanding of legal issues is the very complexity of the law itself. Legal concepts can be challenging for lay audiences to understand, and legal processes are often byzantine. However, news media can support popular understanding of the law by providing accessible presentations of complex legal issues. By demystifying law, such presentations may help empower individuals and groups to employ legal language and institutions to advance their own interests and objectives (e.g., Chua and Engel 2019; Moscovitz 2013).<sup>8</sup>

The articles in our dataset helped render legal concepts more accessible to LGBTQ+ audiences in various ways. At a practical level, articles associated with the Same-Sex Marriage topic explained the legal details of same-sex marriage and/or civil unions statutes in particular states, helping interested couples understand their legal rights and liabilities. For example, one article

<sup>7</sup> Of course, such media narratives are not neutral with respect to values, and the articles in our dataset are no exception. The articles uniformly express support for same-sex marriage and present it as a major priority for the LGBTQ+ community. Obviously, these representations are not neutral. Importantly, some LGBTQ+ activists viewed the emphasis on marriage as relatively narrow, exclusive, and patriarchal, and instead called for broader policies that provided legal and financial supports for diverse family forms, whether they be LGBTQ+ or straight (e.g., Barker 2012).

<sup>8</sup> However, this is not to say that news media presentations invariably demystify law or facilitate legal mobilization. In fact, there are reasons for concern that news media, particularly media serving general audiences, may often present legal issues in ways that reinforce legal hegemony and discourage contestation of inequitable social and political arrangements. Yet, because the media we are examining in this manuscript is generated by and for the LGBTQ+ community, we think that there is much less risk that it will serve to reinforce the marginalization of LGBTQ+ people.

explained the tradeoffs of New Jersey's newly-minted 2006 civil unions law at length, highlighting that "hospital visitation, adoption and inheritance are among a few of the many rights couples will receive" while underscoring that civil unions did not confer all of the advantages of legal marriage. "Among some of the benefits not endowed by 'civil unions' is the ability for couples to file joint tax returns," the article noted (Adams 2007; see also Bob 2007).

At a higher level of generalization, the articles provided readers with insights on various complex aspects of the law relating to LGBTQ+ relationships in the pre-*Obergefell* era (ATI 6). Articles drew readers' attention to legal uncertainties that could emerge as gay and lesbian couples with marriages or civil unions crossed state lines, noting that rights that they enjoyed as a matter of course in states recognizing same-sex legal relationships might be challenged or denied in states without these legal protections (e.g., Caldwell 2004; Ryan 2004). This, in turn, led to discussion of the meaning of the Constitution's Full Faith and Credit Clause and its possible application to the issue of marriage equality; as well as to discussion of the legal principle of comity and whether it would lead state judges to recognize marriages or unions from out-of-state (Ryan 2004).

Articles also highlighted complex legal questions relating to conflicts between local governments and state governments over the issuance of marriage licenses to same-sex couples by local registrars in states without explicit recognition of same-sex marriage (The Advocate 2004a; 2004b). "From coast to coast," one author noted, "same-sex couples married in locations including Oregon, San Francisco, New York State, New Jersey, and New Mexico [all of which had instances in which local registrars wed same-sex couples in uncertainty surrounding, or defiance of, state law] are caught in post-marital limbo and are now wondering how they're going to convince their employers, neighbors, and families they are legally married when even the courts are confused" (Kuhr 2004).

#### *Linking Coverage of Court Cases to Broader Legal and Political Struggles*

Even when media cover judicial decisions, coverage can be episodic—that is, narrowly focused on the details of a particular case or conflict. Episodic coverage can be problematic because it can inhibit popular understanding of the broader legal and political struggles of which a given judicial decision is a particular example (Iyengar 1991). Although much of the coverage of legal decisions in our dataset focused on particular cases, there was also a considerable amount of content that helped readers place specific episodes in context and appreciate their relationship to broader struggles over same-sex marriage, civil unions, and domestic partnerships.

In a pertinent example of how LGBTQ+ media coverage advanced beyond episodic coverage of particular events, coverage of the legal struggle that led to enactment of New Jersey's civil union law in 2006 also

included pointed legal advice to non-New Jersey residents that illuminated critical features of the LGBTQ+ movement's strategy to maximize the impact of its litigation efforts: "If you are planning on traveling to New Jersey for your civil union and wish to challenge policies at home, please contact your local marriage equality organizations to determine the best course of action. *Oftentimes, several legal groups combine cases into a larger concentrated effort, which can have several benefits for you and help to ensure that your intentions are most effective. Premature challenges or lawsuits can often be detrimental; be sure to research the situation in your home-state extensively*" (Adams 2007, emphasis added). Such observations reflect a critical facet of the LGBTQ+ legal movement's strategy during this period: key organizations like Lambda Legal, the Human Rights Campaign, and GLAD carefully selected cases for maximum positive impact, coordinated efforts to efficiently leverage available resources, and sought to suppress potential litigation they believed could set back the movement (Eskridge and Riano 2020; Frank 2017).

Another illustration of how the articles linked specific episodes to broader political struggles can be found in coverage of enactment of state marriage or civil union laws. Not infrequently, this coverage included explanations of how enactments related to broader political and legal strategies of LGBTQ+ advocacy organizations. In coverage of enactment of civil union laws in New Jersey and Connecticut in the mid-2000s, for example, articles closely associated with the same-sex marriage topic repeatedly emphasized that LGBTQ+ activists, though preferring marriage equality, accepted civil unions as a second-best outcome and foundation for further political activism and litigation (ATI 2). One article reported that "Gay rights activists in Connecticut initially pushed lawmakers there to legalize marriage for same-sex couples. But when support for the idea was less than warm, they compromised on a civil unions bill" (Simmons 2005). Similarly, coverage of pro-marriage activism in New Jersey prior to the state supreme court's pivotal 2006 ruling noted that LGBTQ+ activists accepted compromise domestic partnership legislation in 2004 in reaction to staunch conservative opposition to marriage equality. However, given that only four states legally recognized same-sex relationships at the time, activists described the legislation as a "big step forward" that could set the stage for further legislative and legal gains (Dahir 2004). In its coverage of both cases, LGBTQ+ media provided political context to help readers understand why LGBTQ+ activists accepted "compromise" measures.

## CONCLUSIONS

The extent to which judicial decisions influence society is a question of consuming interest to social scientists, legal scholars, activists, politicians, and citizens. We contribute to this debate by examining the influence of three judicial decisions on issue attention and legal

consciousness in media serving the LGBTQ+ community. Our findings indicate the central role of *Lawrence v. Texas* in shifting legal consciousness and issue salience. The Supreme Court's decision in *Lawrence* was associated with increased positivity toward the courts as well as increased discussions of Same-Sex Marriage, an area where the decision in *Lawrence* had clear implications, in LGBTQ+ media coverage. As other cases sought to leverage the decision in *Lawrence*, LGBTQ+ media focused on the area where the decision seemed to have the most promise for future breakthroughs. The Massachusetts Supreme Judicial Court's decision in *Goodridge* establishing a state right to marriage substantially increased attention to the issue of same-sex marriage in LGBTQ+ media, while decreasing that media's focus on domestic relations. More interestingly, the Eleventh Circuit Court of Appeals decision in *Lofton* upholding Florida's ban on adoption by same-sex couples was also associated with an increase in attention Same-Sex Marriage. As courts indicated receptivity toward applying *Lawrence* in some ways (same-sex marriage) and not others (custodial rights), LGBTQ+ media turned toward the areas where inroads seemed most possible, a sophisticated response to a rapidly changing legal landscape. Thus, these decisions had a significant impact on the discussions of law and courts in the media serving the communities most closely affected by them, corroborating the utility of approaches to judicial impact that focus on attentive publics (e.g., Hoekstra 2000; McCann 1994).

This research also shows these decisions helped to shape the legal consciousness of the LGBTQ+ community. Quantitatively, we did this by showing that the *Lawrence* decision increased the positive tone toward courts in LGBTQ+ media. As a result, the decision led to a greater positive affect of LGBTQ+ media on the legal system, potentially empowering LGBTQ+ individuals (Ewick and Silbey 2010). Qualitatively, we showed how media coverage of the *Goodridge* decision informed readers about specific legal events; introduced allies and enemies of the movement; humanized and simplified complex legal issues; linked the decision to broader struggles; and helped readers understand the legal arguments underlying the legal recognition of same-sex relationships. These findings are a novel contribution to the legal consciousness literature by demonstrating that one important aspect of the evolving legal consciousness of a given community is able to be ascertained from community-specific media.

Taken as a whole, this paper has enhanced our understanding of the impact of judicial decisions in a variety of ways. First, we introduced two new and generally applicable ways of measuring impact by focusing on how decisions influence issue salience and the legal consciousness of a community, as revealed in that community's media. We showed how LGBTQ+ media significantly contributed to an active, working knowledge of same-sex marriage, sodomy, and adoption laws within the community, potentially contributing to a population that is well educated in ongoing legal and legislative battles for equal rights. This

complements existing work that examines the effect of decisions involving LGBTQ+ rights in *mainstream* media (e.g., Gash 2015; Klarman 2013; Mucciaroni 2009). Second, unlike most existing work on the topic that focuses on a single case, we compared the decisions of three judicial institutions and did so by examining specialized media serving a marginalized community. Third, we illustrated the benefits of combining sophisticated computational social scientific approaches with rigorous qualitative data analysis to unearth the influence of judicial decisions.

We emphasize that, while our theorizing and empirical analysis focused on media serving the LGBTQ+ community, the implications of our study are much broader. Most Americans experience disadvantage along at least one dimension relating to race/ethnicity, gender, sexual orientation, gender identity, social class, religion, or national origin/citizenship, and Americans experiencing disadvantage or discrimination along one or more of these lines have been at the forefront of legal change in the 20<sup>th</sup> and 21<sup>st</sup> centuries. Therefore, both the methods we use and the dynamics we capture in our study are likely to be relevant to the study of many other communities seeking to use the law to advance social justice.

## SUPPLEMENTARY MATERIAL

To view supplementary material for this article, please visit <https://doi.org/10.1017/S0003055424000030>.

## DATA AVAILABILITY STATEMENT

Research documentation and data that support the findings of this study are openly available at the American Political Science Dataverse: <https://doi.org/10.7910/DVN/IPFOXC>. Documentation related to the qualitative analysis is openly available at the Qualitative Data Repository at <https://doi.org/10.5064/F6UVXYUV>.

## ACKNOWLEDGEMENTS

A previous version of this paper was presented at the 2021 Annual Meeting of the Law & Society Association and received the Best Conference Paper Award from the Law and Courts Section of the American Political Science Association. This research is supported by a grant from the Law and Science Program of the National Science Foundation (2043745). We are grateful to the NSF; to Lucy Adelman, Sarah Almstrom, Juliana Bird, Rachael Cafilisch, Alan Chak, Sabrina Chhorn, Jesse Chisholm, Michael Clifford, Anthony Clough, Justin Daiweisi, Julia diBenedetto, Mitchell Director, George Fox, Kaitlyn Gatza, Clara Goldberg, Caroline Greenlaw, Francesca Guerriera, Jessica Hardy, Anastasia Honny, Telly Jacobs, Beyonce Janvier, Luke Johnson, Eshaa Joshi, Iman Kagimu, Karen

Kimble, Emma Kotelly, Aditi Kudva, Samantha LaBrie, Ajijolaoluwa Laguda, Sydney Lamoureux, Jenna Macone, Nicole Malanga, Marco Maldonado, Nola Minogue, Ellie O'Donnell, Nicole O'Neil, Uju Onochie, Ayomide Osho, Helly Patel, Hillarie Pili Hernandez, Krista Poehlmann, Alexandra Protter, Abdul-Rehman Iftikhar, Molly Roth, Katherine Santin, Alec Schiffman, Jack Schneeman, Lovishniakri Sekaran, Marygrace Sicheri, Grace Simmons, Mackenzie Smith, Talazen Smith, Sarah Soares, Lauren Sointu, MaryAnn Songhurst, Zach Steward, Rohan Sthanu, Nicole Stoddard, Colby Sutton, Simon Vo, Christine Wanjiru, Taos Washington, Cindy Zhang and Anna Zou for their outstanding research assistance; and to Risa Kitagawa, Alyx Mark, Itay Ravid, Logan Strother, the editors, and the anonymous reviewers for their excellent comments.

## CONFLICT OF INTEREST

The authors declare no ethical issues or conflicts of interest in this research.

## ETHICAL STANDARDS

The authors affirm this research did not involve human subjects.

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