

Engaging Hearts and Minds: How and Why Legal Organizations Use Public Education

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While scholars recognize that cause lawyers use public education as a reform tactic, they rarely place this tactic at the center of their analysis, leaving a gap in our understanding of how cause lawyers use extrajudicial tactics to navigate the limits of litigation. In this article, I examine the role of public education in the work of cause lawyers, through a study of lawyers from eight legal organizations representing the rights of LGBTQ people. Through interviews, archival work, and analysis of publications, I find that lawyers and organizations use education for four functions: (1) to prime a pathway to successful litigation; (2) to control for backlash; (3) to leverage pressure during litigation or policy negotiation; and (4) to generate community and public awareness. This article shows that public education is not simply an ancillary tool to these groups—it is vital to their missions and their everyday work.

INTRODUCTION

Lambda Legal Defense and Education Fund (Lambda) and GLBTQ Advocates & Defenders (GLAD) are public interest legal organizations. They are staffed largely by lawyers, they are led by lawyers, and their primary tool for achieving their goals is litigation. Yet these organizations spend almost as much on educational campaigns as they do on litigation. From 2012 to 2015, between 25 percent and 44 percent of GLAD's program expenditures were spent on its Public Affairs & Education Department.¹ In that same five-year period, Lambda's Education & Public Affairs Department accounted for nearly 50 percent of their total program expenditures, with the rest going to litigation.²

The leaders of these groups also recognize educational outreach as essential to their mission. Speaking in 2014, GLAD Civil Rights Project Director Mary Bonauto noted that although her primary work involved litigation: "It's hard to focus exclusively on litigation because ideally you will first create a climate of receptivity for litigation. Both the public and the courts need a problem to be defined in both head and heart

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1. This is according to publicly available Annual Reports and 990 forms on the organizations' respective websites.

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terms, so they can understand the litigation is responding to and resolving real problems” (Bonauto and Esseks 2015, 118).

Thus, while scholars of law and courts rightfully think of legal organizations as primarily doing litigation, and at times have even dismissed the significance of nonlitigation work (Rosenberg 2005), so much of what these organizations attribute their success to is education and other nonlegal activities. Have legal scholars missed something by not looking specifically at the public education efforts of legal organizations? If so, *what* have we missed?

In this article, I examine the behavior of eight different legal organizations representing the lived experiences of lesbian, gay, bisexual, transgender, and queer (LGBTQ) people and ask: *why do LGBTQ legal organizations use public education and how do they use it?* Using interviews and organizational documents, I categorize educational tactics into three different approaches or types: outreach, public persuasion, and professional education. Each approach is based on separate goals: *public persuasion* (to shape public opinion); *outreach* (to learn from and inform the target constituency); and *professional education* (to educate “elites” and service providers about the law and cultural competency). These approaches involve a broad repertoire of tactics, including call centers, press releases, workshops, surveys, publications, and media relations (see Table 1 below). I argue that these lawyers see public education tactics as serving four functions: (1) to prime a pathway for successful litigation; (2) to control for backlash and countermobilization; (3) to facilitate litigation as a leveraging mechanism; and (4) to support change directly through awareness raising and competency training.

This article builds on previous literature showing that lawyers recognize a “trap” in using litigation alone and have plotted a way around this trap by supporting litigation with nonlitigious strategies (Cummings and NeJaime 2010, 1315–17; Marshall 2006, 172–74). These strategies recognize that winning in court requires shifting opportunity structures by gaining elite allies and public support (Andersen 2006).

The lawyers and legal organizations in this study recognize the limits of litigation and navigate those limits by partnering litigation with public education tools. In this article, I go beyond previous studies that have recognized that legal institutions use public education tactics and I explore how lawyers integrate these tactics with their litigation work and how lawyers perceive their effects. By breaking down public education work into its component parts, I am able to build on existing cause lawyering scholarship to demonstrate how cause lawyers themselves understand and respond to the limits of litigation.

NONLITIGATION TACTICS IN CAUSE LAWYERING SCHOLARSHIP

Focusing on the role of educational tactics by cause lawyers offers new insight into a topic of perennial concern for sociolegal scholars: the gap between law reform and social change (Gould and Barclay 2012; Rosenberg 2008; Guinier and Torres 2014). Some scholars have emphasized that courts lack the ability to ensure implementation and compliance because of cultural and bureaucratic hurdles (Canon and Johnson 1998). Others have positioned lawyers as captured by a “myth of rights” (Scheingold 1974)

who use litigation despite its limitations and potential negative side-effects (Bell 1976; Handler 1978; Klarman 2015). If courts are not effective venues for generating real change, then lawyers using courts on behalf of social movement causes are leading movements and their resources into a “flypaper” trap (Rosenberg 2008).

Other works have challenged this “constrained” view of courts, treating courts instead as part of a “constitutive” process of change (McCann 1994). Scholars found indirect effects of using litigation, including consciousness raising (Marshall 2003; McCann 1994; Silbey 2005), mobilizing support (Burstein 1991; McCann 1994; Silverstein 1996), shaping media coverage (Leachman 2014; Tauber 2015), legitimating a cause (Barclay and Silbey 2010), and producing new negotiation points for expanding rights (Keck 2009, Schultz 1998). Instead of a flypaper trap, Ellen Andersen (2006, 218) wrote, litigation offers a match that “when struck” may fizzle out or offer an opportunity to mobilize.

Researchers have found that many lawyers do not hold a naïve faith in litigation as a be-all-end-all strategy. In the struggle for pay equity and for animal rights, for example, movement lawyers were “very committed to encouraging, enhancing, and supplementing rather than discouraging movement deployment of other political tactics” (McCann & Silverstein 1998, 269). In McCann’s (1994, 62) seminal study of legal mobilization, he observed that cases were “carefully coordinated with publicity campaigns to dramatize the wage discrimination issue, to educate the public, and to activate potential advocates for the cause.” Indeed, some have argued that scholars should not distinguish legal reform and activist spheres in their studies because the two working in tandem may be key to change (Lobel 2007).

Scholarship on cause lawyering has also recognized public education as among the repertoire of tactics used by legal organizations. Stephen Ellmann (1998, 359) found these kinds of tactics used by “Third World Lawyers,” who deemphasize litigation in favor of communicating with agencies, alternative dispute resolution, “legal literacy” education, and training for clients and lawyers. Other scholars have observed cause lawyers using organizing experts, offering training and educational material to other lawyers, holding “town meetings” designed to educate the public, creating informational packets for target constituencies, and engaging with the media on upcoming lawsuits (Andersen 2006, 214–15; Meili 2006, 126–27). Kreis (2018, 944) found that LGBTQ lawyers and legislators in Maryland devised a “stealth” campaign toward marriage equality by educating lawmakers. Cummings and Eagly (2001, 473–74) observed a strategy of “law and organizing” among environmental justice groups and lawyers that “downplayed” litigation and instead emphasized organizing tactics to “empower community residents as political actors.”

While scholars have observed nonlitigation tactics by cause lawyers, cause lawyers themselves have been pushing to see more of this work from other movement lawyers. They often argue that legal tactics should be subordinate to other social and political mobilizing strategies. A classic iteration of this call for change is “rebellious lawyering,” a term coined by Gerald Lopez (1992). Lopez argued that lawyers should collaborate with nonlawyers, become immersed in communities, and think of the law as an educational tool (see also Matsuda 1989; Guinier and Torres 2014). Another version of Lopez’s model is “community lawyering.” While the definitions are varied (see Elsesser 2013), community lawyering describes lawyers often working for poor

communities who “translate information about the law into lay language, pressure opponents, defend the organization, open up spaces for community voice and action, and seek to establish new legal frameworks” (Gordon 2007). In fact, some legal education clinics have begun training lawyers to think differently about lawyering skills and practice through employing community education methods (Ashar 2008).

There are also calls for more outreach work within the LGBTQ movement specifically. Critiques have been levied that legal strategizing has been too isolated to lawyer-only spaces (Arkles, Gehi, and Redfield 2010; Vaid 1995). Instead, these movement lawyers argue that “the most significant, lasting, and sustainable way to make change is through community organizing that mobilizes those persons directly impacted” (Arkles, Gehi, and Redfield 2010, 582). Urvasi Vaid, a lawyer-activist within the movement, has called the split between lawyers and political/social advocates a “false dichotomy” because “politics, lawmaking, and litigation are intimately connected” (Vaid 1995, 132).

According to some individual cause lawyers, education and outreach *feels* like most of their work (McCann & Silverstein 1998, 270). These observations are supported by Cummings and NeJaime (2010), who discovered a “multidimensional advocacy” strategy at work in their study of LGBT movement lawyering in California. This strategy involved coordinating legislation, litigation, and public education tactics. Rather than playing a decisive role in strategy, litigation was “part of an overall arsenal that includes legislative advocacy and public education” (ibid., 1329).

We know from surveys of legal organizations over the last two decades that education and outreach have been increasingly used by organizations. Nan Aron (1989, 32) found that almost two-thirds of legal organizations surveyed in the 1980s “engaged in community education or public education work.” Comparing their own 2004 survey data to that of Handler et al. (1978), Nielsen and Albiston (2005, 1612) observed a marked increase in attention to nonlegal tactics. Likewise, Deborah Rhode (2008) found that a fifth of the legal organizations surveyed operated hotlines or free legal clinics, helping organizations “identify major problems and build public awareness of the organization” (Rhode 2008, 263).

Why might we see a commitment to education, as these surveys suggest? While not focused on legal organizations, the judicial politics literature related to interest group behavior provides some expectations. One possibility is that the desire of organizations to use costly activities to ensure organizational maintenance might drive organizations to use public education (Solberg and Waltenburg 2006). Public education might be important to the financial and membership side of organizational maintenance, a process Wilson (1974, 30) described as “securing essential contributions of effort and resources from members, managing an effective system of communications, and helping formulate purposes.” Education may drive donations to the organization among its members and donors, allowing organizations to continue and even expand their work. Additionally, we might expect to find smaller legal organizations doing more education work as an alternative to the costly nature of litigation (Scheppelle and Walker 1991).

Taking all this literature together, there is clear evidence that many cause lawyers and cause lawyering organizations participate in organizing and public education. However, there are issues in this body of scholarship that lead to a gap in our understanding of how different tactical approaches work together. While these studies

identify the presence of educational tactics within the larger scope of their projects, public education is often pushed to the periphery. Further, without a clearer definition of what constitutes public education, organizing, and other grassroots efforts (and where there might be overlap), it is easy to equate them as the same approach with the same goal(s). As a result, no clear theory of how public education specifically works alongside litigation has emerged.

CASE SELECTION AND DATA COLLECTION

Using a case study approach allows researchers to identify complex relationships through deep descriptions (McCann 1994, 151) and can be used to understand “a larger class of similar units (a population of cases) or to “elucidate features specific to a particular case” (Seawright and Gerring 2008, 295). There are two layers of case selection in this study: the movement and the organizations. Regarding the movement, the project centers on legal organizations advocating for the rights and improved lived experiences of LGBTQ people. Regarding organizations, studying groups in the LGBTQ movement is helpful because they are representative of legal organizations in other social movements.

The impact organizations in this study are staffed by lawyers who carefully select cases to advance policy change through courts, just as the American Civil Liberties Union (ACLU), NAACP Legal Defense & Education Fund (LDF), and Consumer Protection League (CPL) began doing a century ago. Indeed, some of the organizations in this study were modeled from these earlier groups in their mission and organizational hierarchy. The direct legal service providers in this study are also representative of other legal aid groups across the country in terms of size, mission, and approach. Thus, we could reasonably expect the behavior of legal organizations in the LGBTQ movement to track closely with the behavior of organizations in other movements.

With the second layer of case selection, I contacted lawyers associated with eight legal organizations that account for most of the small universe of legal organizations focusing almost exclusively on LGBTQ legal issues.³ Besides a focus on LGBTQ issues, the main criterion for selection was whether organizations employed multiple lawyers that actively brought cases to court. This was done to avoid selecting referral services that do not litigate themselves but instead refer clients to networks of cooperating attorneys. There is a tight cohort of lawyers in this specific legal industry and it is thus unlikely for there to be an organization that would escape observation based on my interviews with lawyers.

There are two categories of nonprofit legal organizations and both are present in this study. Impact (or law reform) organizations, which are the central focus of this

3. “Almost” because some of them also advocate for the protection and rights of people with HIV/AIDS. The eight organizations that lawyers in this study work or worked for are: Equality Advocates Pennsylvania (no longer a legal provider); GLBTQ Advocates and Defenders (impact organization); Lambda Legal Defense and Education Fund (impact organization); Mazzoni Legal Service (legal provider); National Center for Lesbian Rights (impact organization); Peter Cicchino Youth Project (legal provider, part of Urban Justice Center); Sylvia Rivera Law Project (legal provider); and Whitman-Walker Legal Services (legal provider).

article, select cases based on their perceived ability to change policy. Here, public education work is well-funded and encompasses the spectrum of tools listed above. The other category is direct legal service providers who provide legal aid to those who cannot afford representation. Unlike impact organizations, legal providers accept clients regardless of the potential for their cases to create policy change. They are comparatively smaller operations in terms of funding and staff.

There were two primary sources of data in this project. First, I collected and analyzed organizational documents. These included memos and financial reports, which were publicly available at three LGBTQ-related archives in the United States, and newsletters and annual reports. Between memos, financial reports, newsletters, and annual reports, I examined over four hundred documents, analyzing each for budgetary information to trace the commitment of resources to education strategies.⁴ Then I read through at least fifty of the reports and newsletters across different organizations, selecting one newsletter per year and each of the annual reports when available and searching each document for any mention of ongoing or new education projects. I also consulted these documents to corroborate projects discussed by interviewees.

Second, I conducted semi-structured interviews with current and former staff members, including lawyers and nonlawyers. Interviewees were selected for their positions and experience to “illuminate various factors of the research question” (Malici and Smith 2013, 66) and to “acquire information and context that only that person can provide about some event or process” (Hochschild 2009).

In collecting interviews, I followed a selective snowball process, a commonly used strategy in elite interviews (Tansey 2007). Once I identified organizations I sent emails to staff members and often began with the executive and legal directors. After these leaders gave me permission to use their names I sent solicitations to other staff members. I selected some staffers based on their time with the organization to tap into their institutional memory. I also selected people based on their role so as to interview people involved in different aspects of the legal organization’s work.

In total, thirty-seven in-depth, semi-structured interviews were conducted with current and former lawyers and staff members at eight legal organizations. Requests for new interviewees from different organizations ceased once: (1) a point of saturation was reached (i.e. interviewees started suggesting I contact the same people), and (2) once I obtained interviews with people in each of the three key roles within the legal organization: litigation, education, and policy. In some cases, due to availability, I was only able to interview one lawyer associated with an organization. Current staff members were identified using organizational websites and former staff members were located using previously published newsletters and annual reports, as well as suggestions from interviewees.

Emails to prospective interviewees requested forty-five minutes to an hour for interviews, though they often went longer. Most interviews were conducted over the phone, but some were conducted in person when travel was possible. Interviews were

4. I visited three archives on multiple occasions: the LGBT Community Center Archive in New York City; Yale University’s Manuscripts & Archives in New Haven, Connecticut; and the GLBT Historical Society Archive in San Francisco, California. Newsletters and annual reports were compiled from archives, from the internet, and once from visiting the headquarters of an organization (NCLR).

recorded with permission and transcripts were made most often through a paid service. Most questions remained the same across each interviewee with variations based on position and time at the organization. I then coded (or tagged) interview transcripts through Atlas.ti to organize them for analysis. Codes such as “resources” or “community need” were used to group excerpts based on topic.⁵

WHAT IS PUBLIC EDUCATION?

Interviewees often spoke about public education in a dualistic way: education of the public and education of the community. For example, Janson Wu, the Executive Director of GLAD, divided the work of public education into two parts. One he called “public persuasion,” which he defined as “the kind of hearts and minds work that we do in changing peoples’ attitudes and beliefs about LGBT people.” The second he called “pure public education,” which he defined as “educating our community about their rights and about things that are happening in the community” (Wu 2017). Thomas Ude Jr., the Legal and Public Policy director at Mazzoni Center, a health and wellness provider in Philadelphia, defined education in a similar dualistic fashion: “One, it educates people who interact with LGBTQ people about how to interact with them appropriately, and [second] also some of the education we do educates people who are LGBTQ about what their rights are and the rights that they have” (Ude 2016).

As Table 1 shows, I define and divide educational strategies into three areas: outreach, public persuasion, or professional education work. *Outreach* efforts are meant to raise awareness among community members, whether it is helping people recognize a legal claim or simply increasing the visibility of the organization. This is accomplished by reaching out to local and state community organizations to collaborate on workshops, rallies, newsletters, public events, etc. It also includes social media work that is aimed at drawing in community members. *Public persuasion* efforts are broader campaigns aimed at educating the public with the goal of shifting opinions and attitudes about LGBTQ people. Relevant tactics include digital strategies, press releases, and media relations. *Professional education* has the purpose to train and inform elites (e.g., lawyers, judges, public officials), professionals (e.g., employers), and service providers (e.g., community health organizations) about law and cultural competency. Tactics include call centers, workshops, and continuing legal education training (CLEs).

These are not fixed typologies. In some cases, groups may be working on a tactic—a postcard campaign for example—aimed at both outreach and public persuasion. In some cases, it is difficult to draw the line between what counts as litigation and what counts as education. Lee Carpenter, former legal director at Equality Advocates Pennsylvania (EAP), offered me the example of a lawyer using a press conference to create awareness of an ongoing case. Was this education or litigation? She suggested

5. A list of codes was created before the initial analysis. These codes were based on elements in the literature that I was seeking out (e.g. codes for “job related to media” or “job related to litigation”). More codes were added as I began rereading interviews. For example, there was originally one “process” code for comments about how decisions were made. I later broke these into two codes, one for how priorities were set (i.e. what factors were influential) and one for hierarchy (i.e. who made decisions and who reported to whom).

TABLE 1.
Approaches to Public Education

	Audience	Example of Tactics
Outreach	Target constituency/ community	<ul style="list-style-type: none"> • Collaboration with local organizations • Rallies, marches, protests, and other public events • Coordinating workshops • Know your rights material • Call Centers
Public Persuasion	The general public	<ul style="list-style-type: none"> • Social and digital media strategies • Press releases • Media relations
Professional Education	The professional community	<ul style="list-style-type: none"> • Call Centers • Continuing Legal Education trainings • Job-training seminars • Speaking engagements • Workshops

that these “are not really hard categories necessarily” (Carpenter 2016).⁶ For this reason, and the methodological difficulties of trying to count activities like workshops and forums, educational tactics are not quantified in this article. Instead, I relied on interviewee observations to explain how education work has or has not changed.

Regarding specific tools, McCann (1994, 80) wrote that public education includes: “group seminars or workshops, direct lobbying efforts, letter writing campaigns, rallies, marches, informational picketing, protests, strikes, and other publicity events.” Based on observations in this study I add to that list: call centers, press releases, publications (newsletters, pamphlets, books, etc.) community workshops, CLEs, surveys, and media relations (social media presence, taking questions from news media, and reaching out to news media).

THE EVOLVING ROLE OF PUBLIC EDUCATION

This section supports two arguments. First, in the early years (1980s through the mid-1990s), educating the public was a goal of lesbian and gay legal organizations but there were limited resources to dedicate to education projects. Second, an early loss in marriage equality in the *Baehr v. Lewin* (1993) decision generated a new understanding of the interplay between legal and political processes. This understanding precipitated an expanded role of public education by legal organizations. Interviewees explained that this expansion helped facilitate desired social change by supporting litigation at different stages and generating awareness of harms and rights.

6. Equality Advocates Pennsylvania was a state-based legal service provider that dropped their legal services in 2010. Those services went to the Mazzone Center for LGBTQ Health & Well-being, while Equality Pennsylvania is now a political advocacy organization.

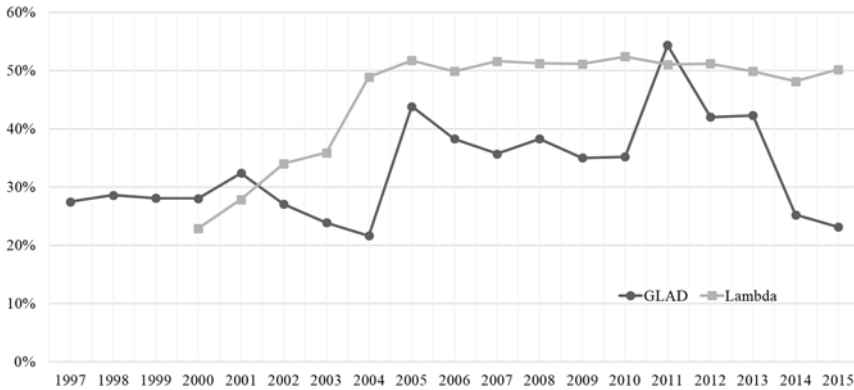


FIGURE 1.

Percent of Program Services Spent on Education 1997–2015

Note: Data was collected from IRS 990 forms for both organizations. See Footnote 7 for more details.

Evidence from organizational material indicates a clear shift in how some of these organizations approached public education. Figure 1 exemplifies this shift.⁷ While the National Center for Lesbian Rights (NCLR) does not isolate education expenses in their financial reporting, Lambda and GLAD list spending on separate education departments. Note that the sharp change in 2004–2005 for GLAD’s spending on education, as well a shift in 2003–2004 for Lambda. These shifts, as I explain below, can be tied to marriage equality litigation.

From as far back as their respective founding periods, all three impact organizations (Lambda, NCLR, and GLAD) included public education in their mission statements. A 1978 copy of GLAD’s original “statement of purpose and descriptions” reads:

The corporation was formed for the *primary purpose* of educating the homosexual community as well as the public at large concerning both the legal disabilities suffered by homosexuals and the remedies available for those disabilities. The corporation is empowered to its educational mission in a variety of ways: promulgation of written materials, speaking engagements, media presentations, and public interest litigation. (GLAD 1979) [emphasis mine]

Indeed, early on, organizations produced informational material, usually put together through the lawyer on staff and an administrative assistant. These were mostly “know your rights” pamphlets, as well as newsletters for members and donors. In addition, the lawyer(s) on staff would conduct speaking engagements.⁸

7. GLAD data is from the Yale University Library, Manuscripts and Archives (New Haven, CT). Lambda data is from the LGBT Community Center Archive (New York, NY) or available online. The dotted line for GLAD between 2010 and 2012 is to note that their 2011 990 form only reported three months. This was because GLAD switched financial reporting from a calendar year to a fiscal year between 2011 and 2012.

8. During the early years of these organizations there was only one or two lawyers on staff supported by a board and pro bono attorneys.

However, the bulk of the work was always litigation. There were no education departments or education-specific staff members at NCLR and GLAD in their first decades. Rather, the work was done by attorneys and sometimes board members, ancillary to their other roles. Pat Maher, the first Public Education Coordinator at Lambda in the early 1980s, noted in a memo that there was a “great and largely untapped fundraising potential” in educational projects such as publication, presenting at seminars for attorneys, and increased membership (Maher 1983). This demonstrates a distinct goal of education early on, separate from concerns about facilitating change.

In 1983, when GLAD received its first foundation funding for education, Kathy Travers was brought on as the first paid staffer whose focus was to be education. Consequently, this was the “beginning of some serious attention to education” according to an internal report (Buseck 1999). Such dedicated positions are a signal that organizations are prioritizing an issue or strategy because the organizations, especially in this era, are investing resources when resources are scarce.⁹ The position title also sends a signal to staff, community, and donors that the organization takes the position seriously.

While NCLR did not have a public education department (and still does not), it has long been an important part of their work.¹⁰ Speaking to the *Bay Area Reporter* in 1987, Executive Director and NCLR founder Roberta Achtenberg stated: “Litigation can be an extremely inefficient way to change people’s attitudes” (Powers 1987). Journalist Ed Powers noted that while the organization was ready to go to court when necessary, it also “tried to educate people so that situations that lead to litigation” could be avoided (Powers 1987). Powers wrote: “Over the past year, the Project has worked to educate social workers, judges, psychologists and court personnel about gay and lesbian parenting” (Powers 1987). Then, in 1990, NCLR created the Lesbians of Color Project which had the goal of including more lesbians of color into “legal institutions” not just as recipients of services but as drivers of the agenda (NCLR Staff 1990).¹¹

In the mid-1990s, this education work continued to grow, including work with call centers and community outreach. Education work at Lambda at that time included newspaper and television media “to change hearts and minds” as well as publications and conferences aimed at giving “lawyers the tools they need to do their work, and non-lawyers an understanding of how the law stands” (Lambda Legal 1989). According to an interview, Penny Perkins’s tenure from 1989 to 1994 as Lambda’s Public Education Director saw education grow “through the need for and through my interest in it and the organization’s growth and expansion during that time”

9. Dedicated staffers are those whose job is listed as part of an Education department or who have the words “Education” or “Outreach” in their position titles.

10. Director Kate Kendell explained: “Everyone here understands and embraces that a part of their job is not just put your head down and write a brief, but a part of your job is looking for every opportunity to elevate a conversation about what the subject of that brief is” (Kendell 2017).

11. A common theme in the archival material from GLAD, Lambda, and NCLR, was their interest in reaching communities of color, specifically in the early to mid-1990s. One of GLAD’s education staffers, Craig Bailey, was focused on expanding GLAD’s network in the lesbian and gay people of color community. Lambda education staffer Mariana Romo-Carmona, a Chilean writer and activist, said she would “like to help expand Lambda’s horizons to include the specific concerns of the lesbian and gay people of color communities in this country” (Allen 1990).

(Perkins 2017). After Perkins's departure and a budget increase, Lambda hired two new education staffers and by 1998 there were four.

During that same period around 1994, according to Julie Netherland (an early education staffer at GLAD), GLAD moved to recruit, train, and supervise volunteers for hotline and education efforts (Netherland 2017). In a 1996 memo to the GLAD Board describing her job, Netherland wrote:

The whole point of impact litigation is to take cases which effect the broader community. My job is to make sure that the broader community knows what Mary [Bonauto] & Ben's [Klein] work means to them. That they know what the legal precedents effecting their lives are and how to make use of them. We in the public education program, cannot give people legal advice. But what we can give people is information. And as cliched as it sounds, *information is tremendously powerful*. (Netherland 1996) [emphasis mine]

The first significant shift in education's role is best explained by former Lambda Executive Director Kevin Cathcart. He emphasized to me that while Lambda "had always done some community education," the "aha" moment was the fallout of the 1993 Hawaii marriage decision (Cathcart 2016). In *Baehr v. Lewin* (1993) the Hawaii state supreme court supported the argument that the state constitution prohibits banning marriage based on sexual orientation. However, this triggered a massive public campaign in opposition to the decision, culminating in voter-approved changes to the Hawaii constitution defining marriage as between a man and a woman and essentially rolling back the perceived victory.

At this point, Lambda was a small organization, "doing a lot of the work based on a very tight and stretched budget" and was not utilizing public education to the extent it does today (Cathcart 2016). Before the Hawaii case, Cathcart described to me the mindset of lawyers as going out and "winning things" and then "handing it off" to someone else to do the rest of the work. But when Hawaii citizens voted to overrule their high court by voting for a constitutional amendment banning same-sex marriage, it was "a real wake-up call" that litigation *alone* could not create a "victory" (Cathcart 2016).

Thus, victory was not just a win in court, but also changes on the ground that ensured the implementation of legal victories. Cathcart acknowledged a limit to litigation and how education formed the basis for resolving this problem: "We're not just here to rack up victories, we're here to make changes in peoples' lived lives and in society" (2016). He continued: "We realized that if there is nobody to hand it off to, we needed to structure ourselves better to do more of the public education. What does this victory mean? How will it affect you?" (Cathcart 2016).

After *Baehr*, opponents of LGBTQ rights and marriage equality exploited the gap between courtroom victories and political processes by challenging the decision in state and federal legislation. Several states passed laws, including state constitutional amendments, defining marriage as between a man and a woman. In 1996, the federal government passed the Defense of Marriage Act (DOMA), which defined marriage as between opposite sex couples for federal policy purposes (such as immigration) and pronounced that states did not have to respect out-of-state marriage licenses that did not meet this definition. As scholarship shows, these countermobilizing forces put the LGBTQ

movement on the defensive and in turn placed marriage equality higher on the movement's agenda (Dorf and Tarrow 2014).¹² However, it also taught Lambda an important lesson in how achieving their ultimate goals must be done through engaging both legal and political processes.

This shift in understanding education's potential was not just happening at Lambda. By 1999, GLAD Public Education Director Andrea Hildebran wrote to a committee that education was the "direct service arm of GLAD," "the 'impact' of impact litigation," "the eyes and ears of the legal departments," and "GLAD's Liaison to the Non-Legal World" (Hildebran 1999). The Hotline (GLAD's call center), "solidified] GLAD's relationship with the grassroots of our communities" (Hildebran 1999).

For Lambda, education efforts escalated again in the early 2000s. Longtime Legal Director Beatrice Dohrn explained to me that when she left in 2000, the education department "endeavored to get good publicity for what the legal department did. It wasn't its own thing yet" (Dohrn 2016). But by 2002, Lambda had a new Education & Public Affairs Department. It was staffed by eleven people, more than double the total staff ten years earlier. This included people dedicated to communications, web design and management, publication, and outreach. By committing significant resources, Lambda signaled that education was an important strategy in overcoming the limits to litigation. Legal Director Jon Davidson recalled: "[When] we created a new department, it was partially a reflection of 'you can win a case and lose a battle'" (Davidson 2016).

While GLAD and Lambda interviewees pointed to *Baehr* as a turning point, some of the NCLR staff had a different perspective. Executive Director Kendell explained that she does not "think there's any magic moment," but that instead "it was more gradual and over time" (Kendell 2016). Shannon Minter, the longtime Legal Director at NCLR, noted that "there has always been a good bit of that [education] and always been a recognition that that's what we need to be doing" (Minter 2016).

The reason for this second gradual shift may have been due to changes in technology. Kendell points to social media and the internet, where a tweet can go "viral" with thousands of people sharing a message or story. This work has not "required developing glitzy and expensive campaigns. It's been more capturing the media you're going to get and . . . helping to amplify that" (Kendell 2016). Today, Kendell explains "it's trying to deploy a number of different strategies" and getting the "biggest bang" for a small expenditure of resources "to do the most good for the most people" (Kendell 2016). She estimated that anywhere from 20 percent to 30 percent of their budget goes to education (slightly less than Lambda and GLAD) adding that, with greater resources they might have an education staff but they "just never had that luxury" (Kendell 2017).

Minter noted to me that around the year 2000, NCLR started to do education work "in a much, much deeper and more systematic way" (Minter 2016). This is when NCLR began working with Equality California and its leader, Geoff Kors (who would later join NCLR), on a range of issues.¹³ The work with Equality California and the

12. For more counter mobilization, see Klarman (2013, 48–73).

13. For more on this collaboration and the coordination of tactics, see Cummings and NeJaime (2010, 1235).

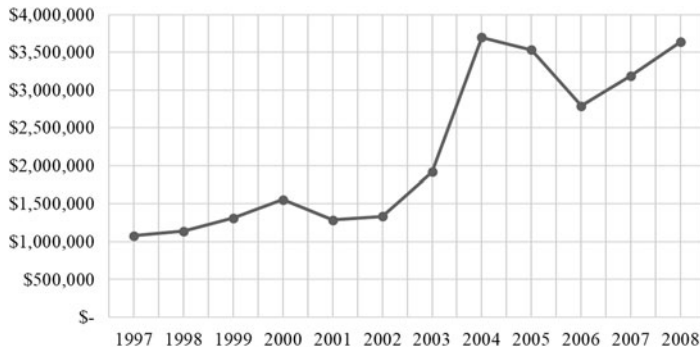


FIGURE 2.

GLAD Revenues from 1998–2008

Note: Data was collected from IRS 990 forms. See Footnote 15 for more details.

strategy encouraged by Kors opened Minter’s eyes to a “deeper level of coordinating . . . the legislation, the political education, the litigation” (Minter 2016). “It accomplished so much in such a short period of time,” Minter said, “for me, it was so transformative” because it showed what was possible when coordinating with nonlitigious efforts like education and policy (Minter 2016).¹⁴

The turning point for GLAD during this second shift in public education was the 2003 state supreme court victory in Massachusetts for marriage equality, *Goodridge v. Department of Health* (2003). Following the decision, GLAD saw a sharp increase in attention and donations to their organization. In Figure 2 above, you can see this jump in revenue (adjusted for inflation).¹⁵

Before Carissa Cunningham was hired as the Public Affairs and Education Director in 2004, there was no education department at GLAD. As Gary Buseck, Legal Director and former Executive Director of GLAD, explained to me: “Even though we did it, there was never really a significant staff to do it” (Buseck 2016). He continued: “It was only with Carissa’s [Cunningham] arrival and the post-*Goodridge* resources” that they could “professionalize public affairs and public education” (Buseck 2016). Lee Swislow, Executive Director in 2004 adds: “It [*Goodridge*] was huge . . . [;] it allowed us to increase our resources, both in number of attorneys that we had, as well as to increase our public education department, which then both supported our marriage efforts but also gave us additional capacity” (Swislow 2016). The new department was created in part to sustain the *Goodridge* victory, a lesson learned from *Baehr*. Republicans in the state legislature were pushing back to reverse the decision in *Goodridge*, including through a state constitutional amendment, and GLAD had filed another marriage case in Connecticut. GLAD needed to hold their ground.

Another important influence in generating greater amounts of public education work was the critiques coming from within the LGBTQ movement itself. Lawyer-only

14. In the early 2000s, equality organizations in California were pushing for expanded partnership rights by fighting against backlash and new hurdles such as Proposition 22 which defined marriage as between a man and a woman.

15. Based on 990 tax forms mostly collected through GuideStar. Data has been adjusted for inflation in 2015 dollars.

spaces such as the LGBT Roundtable were (and are still) criticized as negating the voices of the community and for focusing only on law-reform strategies (Arkles, Gehi, and Redfield 2010; Spade 2015; Vaid 1995, 134). Some felt the movement was dominated by lawyers focused on legal agendas rather than on community needs. Instead, activists sought integrated approaches that centered community engagement around grassroots efforts, law reform, and administrative work. Based on literature (Carpenter 2014; 2016) and interviews, these critiques have been heard by legal organizations.

A new stage in the role of public education related to this vision of community engagement occurred in 2017 when Lambda ended their Education and Public Affairs department. Although Lambda's decision would seem to cut against a main argument of this article—that lawyers view public education as integral to legal strategies for change—it can also be read as reinforcing this argument.

After the departure of long-time Executive Director Kevin Cathcart and the arrival of Chief Executive Officer Rachel Tiven, the decision was made to divide education staff and functions between the Communications and the Law & Policy Departments. The decision was likely an effort to streamline and consolidate processes ahead of tougher financial times post-*Obergefell*. Law & Policy Director Jennifer Pizer noted that because of this integration, face-to-face engagement efforts will be supplanted by broader media campaigns: “We can't do enough of it [grassroots work] for it to make sense when there are other things that we could do that could reach more people.” Pizer also explained to me that “if anything, it's a greater recognition of the importance of communication and education's role” by bringing the education folks closer to the policy work (Pizer 2017). Lambda's *Proyecto Igualdad* Director Francesco Dueñas also noted that previously “there was too much of a silo between the community education and the legal department” and that cases were not “as in concert as they could be” (Dueñas 2017). Now, the hope is that education work will become more integrated with litigation work.

As this section shows, while public education has long been part of organizational identity, it was through lessons learned in defeat and victory that changed the integral nature of public education to legal organizations in the LGBTQ movement. These lessons help explain below the different tactics and goals of education: priming a pathway for success; controlling for backlash; using education as leverage; and generating awareness.

THE PRIMING AND CONTROLLING FUNCTIONS OF EDUCATION

How do organizations view the role of education strategies alongside litigation? How do lawyers believe they work? “Public education, community education, [and] policy work” Kendell explained, “reinforce[] the litigation and really creates an endless loop of self-reinforcing culture change” (Kendell 2016). Kendell continued:

I think we all know that winning a case at the Supreme Court might be important and certainly helps usher in a change in culture, but if there's not a companion effort to move hearts and minds and to create a climate where our people embrace whatever the Supreme Court did or make it

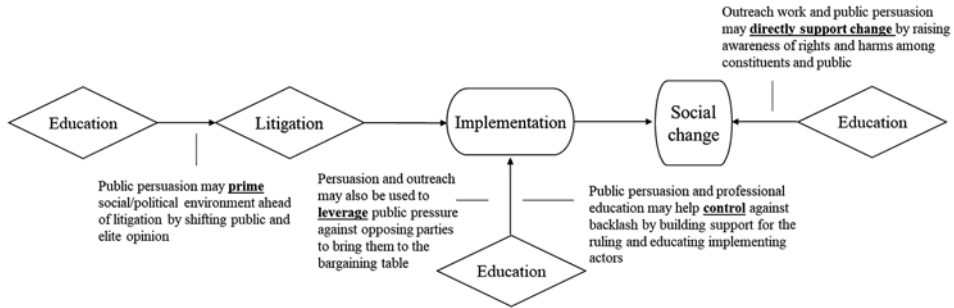


FIGURE 3.
Education Influence Pathways as Perceived by Interviewees

real . . . there [is] a tremendous possibility that you will backslide . . . the only way to respond to the backlash is to shore up whatever victory through a multipronged effort (Kendell 2016)

Carissa Cunningham (former GLAD Public Affairs and Education director) noted that “when they hired me, their intention was to create a department and to be more intentional and strategic about how they communicated about not just our laws but our issues as well. And to purposefully set out to create the environment into which *we could win* and in which our *wins would be sustained*” (Cunningham 2017) [emphasis mine].

As Kendell, Cunningham, and Figure 3 illustrate, lawyers believe public education sustains victories through two processes. I call these processes *priming* and *controlling*.

Through priming, public persuasion and outreach tactics are aimed at shifting public and elite opinion before a case. In other words, organizations believe they can prime (or prepare) the legal environment by trying to alter the conditions around it. This may alter the pressure under which stakeholders are making decisions, including judges. Additionally, as interviewees and the literature suggest, judges do not exist in a vacuum and thus may change their own minds based on new information, separate from public pressure.

For example, Evan Wolfson (Lambda attorney and founder of Freedom to Marry) explained to me that organizations needed to “create a climate,” through public education and organizing, in which courts would have the “courage to do the right thing” (Wolfson 2016). Davidson of Lambda also believed that judges were “members of the public too” and they are “more likely to get judges to do the right thing if they had a sense that the public wasn’t that far behind them” (Davidson 2016).

The goal of *controlling* for lawyers is to mitigate the strength of backlash, observed by practitioners and scholars (Klarman 1994; 2013), and to ensure the successful realization (implementation) of a court victory (Cathcart 2016; Kendell 2016). This goal also addresses what other scholars see a lack or delay of implementation after court decisions (Rosenberg 2008). Lawyers are acutely aware that legal change is not the same as change on the ground, that street-level bureaucrats and even elites, like former Alabama Chief Judge Roy Moore, can resist Supreme Court decisions.¹⁶ Controlling unfolds in a few ways.

16. Following the *Obergefell v. Hodges* (2015) decision, Alabama Chief Justice Moore refused to recognize the U.S. Supreme Court’s finding that states could not deny same-sex couples marriage licenses.

First is making sure that the community knows their rights and knows who to contact if those rights are violated, which helps legal organizations watch for resistance to implementation. Second, staff discuss outreach and public persuasion work as if it changes attitudes against resisting compliance. Third, while a loss is not desired or sought, public education is seen as a hedge against a loss. Even after a failure in court, changing public attitudes may be significant for long-term success. Fourth, as Kendell points out, there is a goal to “inoculate” the public by changing attitudes so that litigation is not necessary. Kendell explained to me that: “What we want to do is inoculate the larger population so that whatever gave rise to the lawsuit isn’t repeated because they [the larger population] recognize, ‘Oh, that’s not the way gay people, queer people should be treated’ even if there’s no law” (2017).

The perceived importance of priming and controlling is evidenced from the commitment to it. In the 2015–2016 fiscal year, Lambda’s “community educators” gave over two hundred workshops and presentations at “community centers, schools, businesses, events and conferences,” which were estimated to reach over six thousand people (Lambda Legal 2016). In 2013, NCLR dedicated between five to seven training sessions to just LGBQ elder law issues with community members, advocates, and attorneys (NCLR 2014). This just scratches the surface. Covering the multitude of issue areas, both impact and direct legal service providers conduct hundreds of workshops, presentations, panels, speaking engagements, trainings, etc. for community members every year.

USING EDUCATION AS A LEVERAGING TOOL

In addition to being important before and after litigation, evidence also suggests that education is viewed as useful in assisting ongoing cases. Michael McCann has written about how movements can use litigation as a “club” or leverage to pressure the state or private parties to bargain and make changes (McCann 1998, 207–11). Beverly Tillery, a former Deputy Director of Education & Public Affairs of Lambda Legal, provides an example of how education is used to amplify or leverage the threat of other tools like litigation and policy.¹⁷

Tillery began by noting specifically that employment cases are a good example of the limits of a court case because even a victory in court does not mean a winning action that will influence many employers (Tillery 2017). At the same time, Tillery, who is not a lawyer, noted that litigation can be disempowering to community members because conversations about strategy are often between just lawyers. In other words, nonlawyers and people outside the case often cannot get involved in legal strategies. However, in public education, the public is part of the strategy.

In 2004, Lambda Legal filed suit against Foot Locker for the mistreatment and firing of a young, gay, black man.¹⁸ Tillery recalled using education while litigation commenced. The first goal was to elevate pressure on the company to make sure that

17. Because of a recorder malfunction on my phone, I took detailed verbatim notes while Tillery spoke. That said, because I do not have the backing of the recording, I do not feel it is appropriate to use quotation marks indicating a direct quote.

18. *Dumbar v. Foot Locker, Inc.*, South Carolina District Court, Case No. 3:04-cv-02519

they were taking the case seriously. The second was to educate the community about the issues involved. Lambda ran a massive postcard campaign (Lambda Legal 2008) that Tillery explained to me got people talking about issues related to the case including the roles that allies play in supporting fellow workers.¹⁹ Moreover, Tillery credits the media and outreach campaign in getting Foot Locker to eventually settle the case (Tillery 2017).

In addition to supporting the leveraging power of litigation, education can augment policy and legislative work. Carissa Cunningham described to me GLAD's push to pass legislation in Massachusetts that would require MassHealth (the state's health insurance program) to cover treatment and surgery for lipodystrophy. This is a condition brought about by the interaction of HIV and the toxicity of medication to treat it.²⁰ Most of the work, according to Cunningham, had to be education "because it was taking an obscure condition . . . that most people were not familiar with, defining it as a problem, getting people to understand it, getting people to care about it, and people including legislators to care about it, and getting people to do something about it" (Cunningham 2017). Here, staff believed that the education work was doing consciousness-raising absent litigation. And, even though it was coupled with advising and lobbying, education is credited with doing the heavy lifting.

Cunningham explained to me how it worked: "We had an in-house storyteller. She was somebody with a journalism background who basically worked as a reporter and she wrote stories. She sat down people who were affected by our work and wrote about them" (Cunningham 2017). This storyteller was Manager for Public Education Laura Kiritsy. Kiritsy "did amazing work finding people with lipodystrophy . . . [.] built a rapport with them, interviewed them, told their stories, and we put together a storybook that was sent to all the legislators with photos of people with this condition" (Cunningham 2017).

Ultimately, one of the people in that storybook, John Wallace, gave GLAD permission to pitch his experience to the *Boston Globe* and the *Globe* "did a beautiful story on him and on lipodystrophy in which they took photographs of him and it was on the front cover of their health section" (Cunningham 2017). The effect of this was perceived as critical to legislative success. Cunningham stated: "This photo was circulated around the State House and people were shocked. [They] said we can't allow people to live like this when this condition is so easily treatable and for such a low cost" (Cunningham 2017).

It is important to reemphasize that GLAD, an impact *legal* organization, led by and staffed largely by lawyers, was employing an entirely nonlitigious strategy to pursue a goal. While that strategy included communication with elected officials and staff, it was largely based on public education tactics. These tactics included media relations,

19. Tillery's recollection is backed up by a Fall 2008 IMPACT newsletter from Lambda that states: "Assisted by a massive postcard campaign from Lambda Legal members, we obtained a settlement from Foot Locker where Dunbar received a cash payment and the company committed to training all of its employees around sexual orientation harassment and discrimination."

20. According to a *Boston Globe* story on a GLAD client, lipodystrophy is "an atypical distribution of fat brought on by an interaction between HIV and the toxicity of medications introduced in the 1990s to treat the virus. The disorder causes fat to gather around the neck, in what is called a "horse collar," and on the upper back, in a "buffalo hump" (Fox 2014).

publications, and outreach aimed at shaping public opinion with the hopes of influencing elected officials. This illustrates that legal organizations not only recognize the limits to litigation but are willing to employ exclusively nonlitigious tactics to overcome those limits.

USING EDUCATION TO GENERATE AWARENESS

Further demonstrating this point, legal organizations will use public education approaches, specifically outreach and professional education, to facilitate change absent (though not always) litigation, legislation, or major events. There are two motivations behind this work. First, organizations have the goal of informing their target constituency of legal developments. This means that community members will be better equipped to recognize a legal harm and report that harm to a lawyer. Second, organizations want to ensure that implementing actors, the people that are able to facilitate change (e.g., employers, providers, government administrators), are familiar with LGBTQ identities and issues. This means helping people unfamiliar with LGBTQ issues to become “competent” in the obstacles LGBTQ people face as well as what it means to be in the LGBTQ community. The hope is that people in these positions will become allies that are better informed when implementing policies and making decisions that impact LGBTQ people.

NCLR’s Cathy Sakimura explains that NCLR lawyers “spend a considerable amount of time doing webinars, and training at conferences, and CLEs” to make sure that attorneys understand relevant legal precedent and laws (Sakimura 2016). Trainings are also used to educate services providers, businesses, administrators, and community members. There are, broadly, three types of trainings. One is specifically for lawyers and judges. Another is aimed at employers, schools, and direct service providers. And the final type is often referred to as “know your rights” workshops aimed at community members.

The first, formal legal training and education, often takes the form of CLEs. Each state court system in the United States sets a certain number of hours of professional development training lawyers must complete, whether in legal theory or practice, over the course of a certain number of years. For example, Mazzoni lawyer R. Barrett Marshall helped create and lead a two-day CLE track at the Philadelphia Transgender Health Conference, the largest health conference of its kind in the world (Marshall 2016).

A second type of training is cultural competency which could be aimed at lawyers and judges as well as employers, schools, direct service providers, and other kinds of administrators. The purpose is to acquaint people, often for the first time, to LGBTQ identities and the types of discrimination, harassment, and legal problems LGBTQ people often face. The organizations in this study are often asked to assist legal aid organizations (providing services to low-income clients) or schools looking to create safe environments for LGBTQ students. In 2014, Lambda conducted twenty-two training sessions for service providers in the Texas Child Protective Services Department to “increase their competency in respecting the needs and rights of LGBTQ youth” (Lambda Legal 2014,43).

The third type of training is “know your rights” workshops. Workshops and trainings can range from local events to large scale national forums. For example, as of 2017, the Sylvia Rivera Law Project offered five different kinds of trainings including police interaction, healthcare, immigration, rights of prisoners, and identity documents. The police interaction workshops educate community members on how to “protect your rights when a police officer stops you,” while the “name change and ID training” helps service providers in New York City (i.e., medical, welfare, shelters) assist transgender clients with identity documents, which are important to accessing services (Sylvia Rivera Law Project 2017). In 2016, Lambda hosted a “national training academy” in Huntsville, Alabama titled “HIV is Not a Crime II” (Lambda Legal 2017). The panels and workshops were aimed at educating advocates with HIV and allies on how to repeal laws that criminalize people living with HIV.

Lambda also runs *Proyecto Igualdad*, a program that commits education resources to two different audiences. Director Francesco Dueñas explained to me that the first audience is LGBTQ Latina/os and Latina/os living with HIV. The goal with this group is to expand the understanding of “know-your-rights” information because of language accessibility issues for predominantly Spanish-speaking Latina/os. The work includes translating Lambda documents and creating unique material for Spanish-speakers.

The second audience, according to Dueñas, is the broader Latina/o community. The goal with this group is to increase support for LGBTQ rights. Dueñas described working with the Hispanic National Bar Association (HNBA) to do CLE programming. Not long after implementation, Dueñas experienced a flood of reactions including HNBA members coming out (Dueñas 2017). This precipitated the election of the first LGBTQ HNBA president and a LGBT committee which became a formal section of the HNBA. According to Dueñas, this was a critical achievement. These HNBA attorneys sit on local community organizations across the United States, resulting in more community leaders knowledgeable in LGBTQ issues. Generating new allies like this may be important in supporting future policy opportunities.

The awareness driven by education efforts also may generate financial and other kinds of resources. For instance, annual reports and newsletters are not only a way to communicate with members but they also encourage continued financial support. The data and observations from call centers, outreach efforts, and surveys are also used to bring resources (donations, grants) to the organization. Kevin Cathcart explains: “Part of this actually also serves the development purpose which is you got to tell people what you’re doing so they give you money, so you get to keep doing it and hopefully do more” (Cathcart 2016).

Indeed, the big three impact organizations (GLAD, LLDEF, and NCLR) saw spikes in revenues in the years following *Goodridge v. Dept. of Health* (2003). And the information from education (like call centers) can be vital to informing funders, including foundations, about needs (Carpenter 2016; Johnson 2017). Stefan Johnson of Lambda recalled that The Gill Foundation (a major LGBTQ cause funder) wanted to publish material arguing that the struggle for full equality is far from over post-*Obergefell*, so they contacted Lambda for data and examples to make that point (Johnson 2016).

CONCLUSION

This article expands our understanding about how and why organizations use public education by providing an in-depth look at the rise of this strategy in legal organizations. This is a story of how lawyer-led organizations have come to recognize and manage the limits of judicial pathways for social and legal change. Unlike previous works on cause lawyering that have recognized pieces of public education work in the periphery, however, this project places at the center of analysis public education as a set of tactics with discrete goals, and then looks outward to see how these tactics fits into larger legal and policy strategies of organizations. By creating clearer boundaries of what public education is and centering it in a study of legal organizations, the article exposes the intentions and beliefs behind this strategy. We learn that this is not just an ancillary tool. It is vital to the work of organizations.

In doing so, I demonstrate from the lawyers' perspective that public education can help overcome judicial limits in four ways: priming a pathway to successful litigation; controlling for backlash and countermobilization; leveraging public pressure to support litigation or policy work; and supporting change directly through awareness raising and training.

Another contribution is illustrating *how* organizations and their lawyers came to recognize these functions. First, the legal organizations in this study were using education tactics as far back as the 1980s. Given the scarce resources available at the time, organizations were limited in what they could dedicate to education. The first shift occurred in the backlash to *Baehr* (1993) when countermobilizing forces used political processes to overcome a judicial win. This demonstrated to lawyers a gap between judicial rulings and realized rights. To address this, lawyers expanded public education work to overcome opposition to judicial rulings and resistance to implementation.

But to do more of this education work, organizations needed more resources. Again, marriage equality provided a spark for a second shift. According to interviews and financial data, victories and collaborations around marriage equality in the mid-2000s brought visibility and excitement and with that, monetary resources. In addition, some lawyers during this era advocated for organizations to elevate the voice of community members in their decision-making processes (Arkles et al. 2010; Spade 2015; Vaid 1995). While interviewees did not cite this advocacy specifically, it is hard to imagine that they did not play some role in the development of outreach work. Finally, during the early to mid-2000s, the rise of the internet and new digital platforms created inexpensive ways to reach the public and community members. All of this enabled organizations to do more education work.

Motivating that work was that lawyers and staff in this study had goals beyond the courtroom. Interviewees repeated without prompting the "hearts and minds" goal of education. According to interviews, changing attitudes and opinions of LGBTQ people and the harms they are under is a necessary condition to achieve not only victory in court, but also to see those victories realized on the ground. This comports with our understanding that culture shifts are often necessary to make legal changes possible (Guinier and Torres 2014).

While interviews hinted that lawyers once had a stronger faith in courts (Cathcart 2016), no one I spoke with expressed the idea that litigation is a tool that could bring

about change on its own. Jennifer Levi, the Director of GLAD's Transgender Rights Project stated of education: "It's so important because it's not like the law is some objective thing that just moves because you brought a legal case that has the right framing of the argument. Law reflects society and cultural beliefs and ideas. I think that the education campaigns are really important to creating a climate that supports a shift in legal rules" (Levi 2016).

Lawyers spoke as if education could prime a pathway to success in court by shaping the "court of public opinion." In turn, these public campaigns could reach judges and shift their understanding of an issue or apply pressure to them. Staff also believe that education mitigates backlash from street-level bureaucrats or organized interests. Even in a loss, a victory can be claimed from changing public opinion. Thus, as evidenced in the history, education work has helped redefine how to achieve "victory."

The legal organizations in this study behave like social movement organizations utilizing a broad repertoire of protest (Tarrow 1998). Litigation remains the chief tactic of these organizations, receiving the most resources (staff, money, time). However, the outreach, public persuasion, and professional education approaches are integral to their litigation campaigns and to raising awareness, both of which help facilitate social change.

These organizations may still be far from the dream of advocates of community and rebellious lawyering. However, organizations recognize the significant overlap in the legal and political spheres and may still come to embrace more elements of community outreach through their public education efforts. Increasingly, their work comes to reflect the thoughts of Thomas Stoddard (1997, 991), a former Executive Director of Lambda Legal, who wrote: "The world yearns for change and for changemakers. But those of us who try to make change ought to think more systematically about what we do and why. For the world deserves effective change, not just new rules."

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