

Changes in implicit bias, discrimination and ~~economic growth~~: Evidence from the legalization of same-sex marriage

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Abstract

Mainstream economics has been, with a few exceptions, blind to the economic effects of discrimination of minority groups. Recently, [Hsieh et al. \(2019\)](#) showed that declining obstacles to human capital accumulation and labor market discrimination for blacks and women explain 44 percent of growth of U.S. GDP per person between 1960 and 2010. There has not been a formal study, to date, that investigates if a similar mechanism exists for sexual minorities. [The way in which same-sex marriage \(SSM\) was legalized in the U.S., a staggered roll-out design, allows for the possibility of causal research.](#) Using a homophobic (Google) search index (HSI) I find that whether SSM legalization occurred via the legislature, or the judiciary had dramatical different effects, ranging from 25 percent lower to 35 percent higher levels on the HSI, respectively. [These changes in homonegative sentiment likely had an impact on economic performance.](#) Building on [Black et al. \(2007\)](#)'s finding that homosexual men tend to crowd-out of industries where most workers are (heterosexual) men, as they might experience more discrimination, I construct a variable of the chained GDP of the five industries that have the highest share of men, by state. I find evidence suggesting that 10 years after SSM legalization via the judiciary, this GDP measure was 23.93 percent lower, had SSM not been legalized that way. I argue that an increased misallocation of homosexual male workers might have driven this worsened economic performance. Whilst normatively sexual minorities ought to have equal rights, there may be more and less effective ways to achieve this goal.

*This writing sample is based on my undergraduate honors thesis. I am currently revising my honors thesis in aims of turning it into a working paper and intend to reflect these changes in the writing sample.

1 Introduction

Mainstream economics has been, with a few exceptions, blind to the economic effects of discrimination of minority groups. Most of the literature focuses on testing what are the underlying motives for apparent discriminatory behavior: taste-based discrimination, statistical discrimination or discrimination driven by social norms. (Sansone, 2019) While knowing the underlying mechanisms of discrimination is useful for determining which are the appropriate policies to counter it, less is known about the direct economic effects of discrimination, whichever its motivations. Knowing the direct economic effects of discrimination aids in calculating the opportunity costs of preserving the *status quo*.

Recently, Hsieh et al. (2019) showed that declining obstacles to human capital accumulation and declining labor market discrimination for blacks and women explain 44 percent of growth of U.S. GDP per person between 1960 and 2010. They argue that a decrease in the misallocation of human capital across industries is the main mechanism behind this finding. In 1960, white men accounted for 94 percent of doctors and lawyers; by 2010, they made up for just over 60 percent and similar patterns occurred throughout the economy, particularly in high-skill occupations. Since 1960, women and black men both increased their human capital accumulation and increased their participation in high-skill industries, which in turn shifted the skill distribution of many industries to the right. There has not been a formal study, to date, that investigates if a similar mechanism exists for LGBTQ people. This is particularly relevant given that recent polls suggest LGBTQ populations estimates have been highly underestimated and hence their impact in the economy is likely to be higher than previously thought. (Jones, 2021) Synthetically, I investigate if same-sex marriage (SSM) legalization leads to changes in discrimination towards sexual minorities, and if so, whether this translates in changes in economic performance.

The way in which same-sex marriage was legalized in the U.S., a staggered roll-out design, allows for the possibility of causal research. Same-sex marriage legalization in the U.S. started in 2004, when the Massachusetts Supreme Judicial Court ruled in *Goodridge v. Department of Public Health* that it was unconstitutional under the Massachusetts Constitution to allow only opposite-sex couples to marry. It became legal nationwide in 2015 with *Obergefell v. Hodges*, a landmark decision of the Supreme Court of the United States (SCOTUS). Figure 1 shows the timing of same-sex marriage legalization at the state level. I exploit the variation in the timing to test whether there was a change in private attitudes, or bias, against sexual minorities. Instead of using a Two-Way Fixed Effects (TWFE), as it is invalid when treatment effects are not homogeneous across groups and time, I use a stacked regression which alleviates the concerns with TWFE.

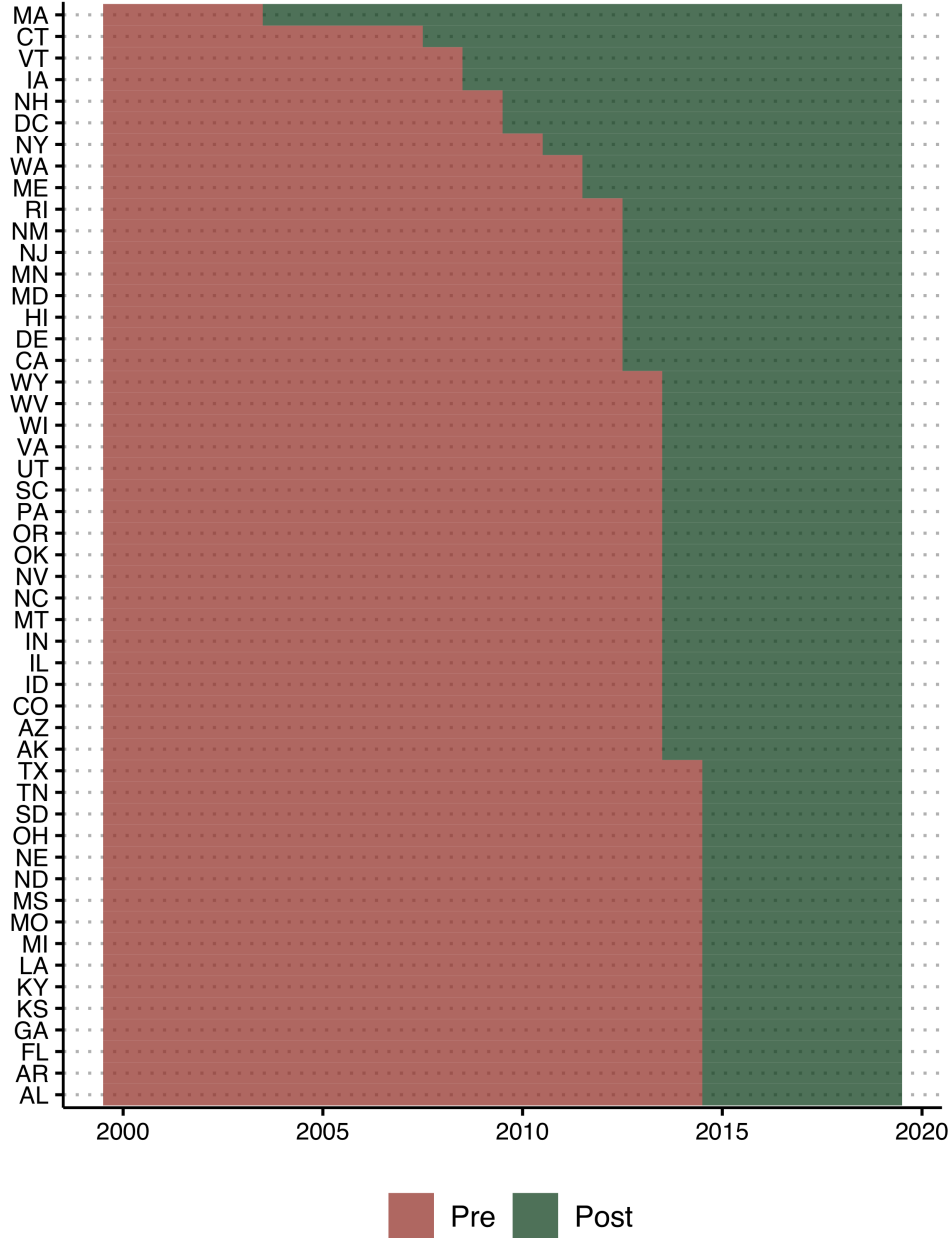


Figure 1: Timing of Same-sex marriage legalization in the U.S.

The path towards same-sex marriage legalization has not been linear. In 1993 Hawaii State Supreme Court (HSSC) was the first to consider legal challenges to bans on same-sex marriage. However, in 1998 before HSSC considered the final appeal of the case, voters modified the state Constitution to restrict marriage to different-sex couples. In the midst of the debate, many other states followed Hawaii and constituted a constitutional ban on same-sex marriage. [Hatzenbuehler et al. \(2010\)](#) examines the relation between living in states that instituted bans on same-sex marriage during the 2004-2005 elections and the prevalence of psychiatric morbidities in LGB populations. His findings suggest that living in states where same-sex marriage bans were instituted signify an increase in the prevalence of psychiatric morbidities of: 248.2 percent for general anxiety disorder; 41.2

percent for alcohol use disorder; 36.6 percent for any mood disorder; and 36.3 percent for psychiatric comorbidities.

Hatzenbuehler (2011) has shown that the social environment surrounding lesbian, gay and bisexual youth may contribute to their higher rates of suicide attempts, once controlling for individual risk factors. He estimates that suicide risk for LGB youth is 20 percent higher than their heterosexual counterparts in an unsupportive environment.¹ In a study with a more direct relationship with my research, Everett et al. (2016), the authors study the effect of civil union legalization (a close substitute to same-sex marriage for some authors) on perceived discrimination, depressive symptoms, and indicators of hazardous drinking for sexual minority women. They find that civil union legislation was associated with lower levels in all these variables. More recently, Perales and Todd (2018) expand the available evidence to Australia. The authors analyze the effects of the 2017 plebiscite regarding same-sex marriage legalization. They find that LGB people report comparatively worse life satisfaction, mental health and overall health in constituencies with higher shares of ‘No’ voters, controlling for a large set of individual- and aggregate-level confounds.

Discrimination, then, has real effects in the well-being of sexual minorities. Moreover, it has adverse effects for society as a whole. As shown by Hsieh et al. (2019), discrimination hampers economic growth. This research is an attempt to analyze the effects of discrimination on economic growth in the case of LGBTQ populations.

There are three main contributions of this paper. First, hypothesizing based on Constitutional Law theory I test for heterogeneous impacts in discrimination depending on whether SSM is legalized through the legislature or the judiciary. Second, I proxy discrimination using a veiled measure for discriminatory attitudes towards homosexual men, building on the fact that survey respondents are likely to lie whenever being asked to give their opinion about sensitive topics directly, i.e., using an unveiled measure. Third, I test for changes in economic performance of the industries where discrimination is more likely to be prevalent and hence so does misallocation.

Using a stacked Difference-in-Difference (DID) approach, which avoids the pitfalls of the canonical Two-Way-Fixed-Effects in a staggered treatment setting, I find that legalizing SSM through the judiciary leads to *increased* levels of homophobic attitudes measured through the volume of google searches of the homophobic epithet. Legalization through the legislature generates the opposite pattern and I find *decreased* homophobic attitudes in the following years. Based on these results, I test for a differentiated economic performance of the industries more likely to be misallocated regarding homosexual men. I find that states where SSM was legalized through the judiciary, and hence had an increase

¹The social environment is measured considering: (1) proportion of same-sex couples living in the counties; (2) proportion of Democrats living in the counties; (3) proportion of schools with gay-straight alliances; (4) proportion of schools with anti-bullying policies specifically protecting LGB students; and (5) proportion of schools with anti-discrimination policies that included sexual orientation.

in homophobic attitudes had a *decreased* economic performance in the potentially more discriminatory industries. On the contrary, states where SSM was legalized through the legislature had an *increased* economic performance in the same industries.

The rest of the paper is distributed as follows. Section 2 summarizes the literature of changes in attitudes towards LGBTQ populations, and the literature of changes in economic outcomes caused by same-sex marriage legalization or changes in attitudes towards sexual minorities. Section 3 motivates and explains the data sources used. Section 4 discusses the empirical strategy. Section 5 shows the results, discusses them and provides robustness checks. Finally, Section 6 provides some concluding remarks.

2 Literature Review

In this Section I first summarize the literature on changes in attitudes towards LGBTQ populations due to SSM legalization. The conclusion is that the evidence is mixed. A main concern with the previous studies is that most of them do not consider a potentially differentiated impact through its method of legalization: via the legislature or the judiciary. Constitutional Law theory, and specifically the *judicial backlash thesis*, suggests that whereas legalization via the legislature would lead to a positive shift in attitudes towards LGBTQ populations, legalization through the judiciary may lead to backlash. Next, I review the literature on the impact of same-sex marriage legalization and changes in attitudes towards sexual minorities on economic outcomes.

2.1 Changes in public opinion

Donovan and Tolbert (2013) is one of the first studies to investigate whether major events concerning minority groups change public opinion towards them. Using the American National Election Study (ANES) panel data, the authors test whether an individual's assessment of gays and lesbians changed if the person resided in a state where same-sex marriage was on the ballot in 2004, compared with their baseline evaluations in 2002. Same-sex marriage was banned in every state that had a referendum. They find that the marriage debate, and not the standing of the *status quo*, had a stigmatizing effect on attitudes towards gays and lesbians in states where marriage was on the ballot. These results are in line with Hatzenbuehler et al. (2010): the discussion of minority rights led to negative mental health outcomes for sexual minorities.

Kreitzer et al. (2014) study the effect of the 2009 Iowa Supreme Court ruling, *Varnum v. Brien*, which upheld that the state's limitation of marriage rights to opposite-sex couples violated the State Constitution's equal protection clause. Using survey data from the Iowa Social Science Research Center (ISSRC) collected in the spring of 2009 and a re-interview after the court's decision, they find that the signaling of new social norms

pressured some respondents to modify their expressed attitudes. Specifically, respondents whose demographic characteristics would predict support for marriage equality, but previously did not, were more likely to shift their opinions to be consistent with the new state law. The main problem with these findings is that it is impossible to know if the public opinion towards sexual minorities *truly* shifted positively or if it is a function of individuals having to conform to the signaled shift in social norms. Perhaps their implicit biases do not change, and discriminatory practices are upheld.

A large proportion of the public opinion literature centers on the existence of backlash after challenges to the pre-existing social norms. Bishin et al. (2016) define opinion backlash as “a large, negative, and enduring shift in opinion against a policy or group that occurs in response to some event that threatens the *status quo*”. This seems to be now the standard definition, and throughout this paper I would ascribe to it.

The authors examine if SCOTUS’ *Obergefell v. Hodges* prompted backlash against gays and lesbians mainly using an online survey experiment using Amazon Mechanical Turk (AMT) as a subject recruitment program with a sample of 2,402 respondents. They began the survey on June 7 and stopped the survey on June 17, days before SCOTUS rendered *Obergefell v. Hodges* on June 26, 2013. Their method consists of exposing subjects to one of five randomly assigned news excerpts that contain information about gays and lesbians and compare it to one baseline condition that contains no information regarding them; the measure of backlash is the difference between the mean opinion in the baseline condition from the mean opinion in the treatment. It is worth noting that while they find negative results, particularly, when analyzing backlash prompted by legalization through the judiciary, indicating backlash, they dismiss them as “in no case are the effects significant or large”. Moreover, their methods are not suitable to test their definition of backlash, which emphasizes an *enduring shift* in public opinion.

More generally, Flores and Barclay (2016) study the effects of state-level and nationwide policy changes regarding same-sex marriage during 2013: SCOTUS’ *Windsor v. United States*, where they declare the Defense of Marriage Act (DOMA) as unconstitutional, and state legalizations of same-sex marriage. Using data from the American National Election Study (ANES) from 2012 and a re-contact study in 2013, the authors find that residents of states that had same-sex marriage policy introduced had the greatest reduction of anti-gay attitudes. They are the first to analyze alternative mechanisms through which public opinion changes may occur: consensus, legitimacy, polarization and backlash. According to them, the underlying mechanism of their findings is that of *consensus*, i.e., policy and judicial acts may simply be the enactment of the majority opinion and bear no subsequent impact on mass attitudes, and/or, that of *legitimacy*, i.e., laws may represent the acceptability of an issue, so judicial and legislative actions may enshrine shifts in public opinion through people’s own respect for the rule of law.

While most of the literature has focused on the U.S., Abou-Chadi and Finnigan (2019)

study the European case. Combining data from eight waves of the European Social Survey (2002 – 2017) with data on legislation, the authors analyze the effects of same-sex marriage, registered partnerships, and marriage bans on attitudes toward gays and lesbians. They argue that different same-sex relationship policies vary in their impact. Whereas registered partnership laws construct a distinct target population that receives new benefits, marriage equality sends an unambiguously positive signal and reduces the perceived group difference through inclusion into existing rights. Their findings suggest that marriage has a positive effect, while bans and registered partnerships have a negative effect. Their main similarity to my research is that they consider heterogeneities on attitude changes depending on the signal the policy shift sends to the population.

The problem with prior studies cited before is that they focus on self-reported biases against LGBTQ populations. [Ofosu et al. \(2019\)](#) are the first to analyze changes in implicit biases, which are a better proxy for the probability of discrimination against minorities. Using data from the Implicit Association Test² (IAT) they tested whether state-by-state same-sex marriage legislation was associated with decreases in anti-gay implicit bias. Surprisingly, they find that moderating this effect was whether states passed legislation locally: although states passing legislation experienced a greater *decrease* in bias following legislation, states that never passed legislation demonstrated *increased* anti-gay bias following federal legalization. This is the first study to explicitly consider the possibility for a heterogeneous effect by the legalization method.

According to the [Bishin et al. \(2016\)](#) definition of opinion backlash, backlash after same-sex marriage legalization is possible regardless of its method of legalization. Even though [Flores and Barclay \(2016\)](#) do mention that backlash theorists consider court action more likely to prompt adverse reactions, as legislative or direct democratic institutions are inherently responsive to the majority will, they do not elaborate on it. As mentioned, apart from [Ofosu et al. \(2019\)](#), no other study has considered the possibility for differences in same-sex marriage legalization depending on its legalization method. I contribute to this literature by bridging this gap and analyzing the changes from 2004 to 2019 using a homophobic (Google) search index that measures implicit bias.

The theoretical framework I consider for the differences in the changes in public opinion depending on the legalization method is drawn from Constitutional Law theory. [Siegel \(2017\)](#) explains that according to the *judicial backlash thesis*, courts striking down popular legislation to vindicate minority rights are not only ineffective, but counterproductive: “judicial decisions ‘shutting down’ politics could frustrate democratic majorities in ways that would produce more virulent politics than might have resulted had judges refused to intervene”. In other words, as the judiciary is not legitimized to make political decisions (as they are not democratically elected), when they settle controverted debates through rulings, a backlash occurs.

²<https://implicit.harvard.edu/implicit/aboutus.html>

The theoretical discussion of whether courts rulings prompt backlash is not a marginal one relegated to Law faculties. In fact, in the landmark SCOTUS case *Obergefell v. Hodges*, Chief Justice Roberts insisted that while SSM had an undeniable normative appeal in terms of equality, he argued that legalizing it through a court order was not the appropriate track. He argued that SCOTUS is not a legislature, and in a democracy only legislatures should promote social change; the role of the courts is only to ensure the appropriate enforcement of society's agreements. Not doing so could be seen as an imposition: a small set of people deciding for the rest of society. Based on this discussion, I theorized that a backlash would occur only in states where the method of legalization was judicial; states where it was legalized through the legislature more likely reflect public opinion and thus would not be seen as an imposition.

Most of the discussion from legal theorists about the *judicial backlash thesis* is based on anecdotal evidence, or, for those who argue that it is unlikely, based on survey polls which as I will explain later, do not accurately reflect the true changes in opinion about controverted topics. A main contribution of this paper is to test the *judicial backlash thesis* formally using an appropriate measurement of changes in homonegative sentiment; I find results that empirically support it.

The heterogeneous effect that SSM legalization has on homophobic attitudes, likely correlated with discrimination, allows for the possibility to test whether changes in discrimination have an effect on economic outcomes. Most of the studies in this area are correlational. For instance, focusing on homosexual men, [Lamontagne et al. \(2018\)](#) constructs a measure of homophobia at the country level and with it, find negative social, economic and health associated consequences of homophobia in low- and middle-income countries. They find that a 10 percent increase in GDP per capita is associated with a 1 percentage point reduction in the mean of his homophobic climate index. My research aims to bridge the gap between the correlational evidence and finding causal evidence.

2.2 Economic outcomes

It was not until the 2000s that economists started to study LGBTQ issues formally. [Badgett \(2010\)](#) is a pioneer work that aims to argue, from an economic perspective, that same-sex marriage signified a Pareto improvement in society. The author argues that same-sex couples gain economic rights through same-sex marriage, as well as those related to taxation, state employee benefits, and dissolution, which provide an important and valuable economic benefit. Demand for same-sex marriage before its legalization is another proxy for the economic value of marriage to same-sex couples.

While [Badgett \(2010\)](#) provides a broad economic conceptualization of same-sex marriage, [Carpenter and Eppink \(2017\)](#) analyze its potential effects in same-sex couples income and labor decisions using National Health Interview Survey (NHIS) data from 2013

to 2015. They reproduce a well-documented finding that self-identified lesbians earn significantly more than comparable heterosexual women. They also show that self-identified gay men also earn significantly more than comparable heterosexual men, a difference on the order of 10 percent of annual earnings. Nonetheless, self-identified gay men have lower employment rates.³

Carpenter and Eppink (2017) take into account the decrease in bias against LGBTQ populations in the U.S. (measured through survey polls), and investigate whether it explains the earnings increase of gay men, a pattern that according to Clarke and Sevak (2013) has been going on since the 1990s and which they attribute to the alleged decrease in negative bias. They argue that although there has likely been a reduction in the extent of labor market discrimination against gay men, it is unlikely to explain the overall patterns observed in the NHIS, as they remain underemployed relative to their heterosexual counterparts. According to the authors, the gap in employment levels between homosexual and heterosexual men sheds skepticism on the apparent overall improvement in public opinion about LGBTQ issues. They mention, though unfortunately they do not cite their reference, that there were substantial increases in LGBT-related harassment reported to governments and police agencies in the wake of major policy rulings on same-sex marriage, and that there is still pervasive anti-LGBT sentiment throughout the United States.

In a more recent study, Sansone (2019) tests the effect of same-sex marriage legalization on same-sex couples' employment, which he argues is theoretically unclear. On the one hand, following a standard Becker model, these changes could have discouraged individuals in a same-sex couple from both being employed at the same time. On the other hand, it is possible that SSM legalization drove a shift in social norms and a reduction in discrimination against sexual minorities; a more tolerant working environment may have then increased both the labor supply and demand of individuals in same-sex couples. Sansone (2019) finds evidence supporting the increase in labor supply and demand of individuals in same-sex couples due to a reduction in discrimination against sexual minorities. Specifically, he finds that same-sex marriage legalization increased the probability that both partners in same-sex couples were working by 2.4 percentage points, which is equivalent to an almost 4 percent increase from his baseline employment levels.

He devotes several efforts to test for the plausibility that a decrease in discrimination against sexual minorities was the main driver in the observed short-run increases in employment. For instance, he adds an indicator for whether states introduced other policies affecting LGBT individuals in the time period considered (a constitutional ban on same-sex marriage, legalized domestic partnership and civil unions, anti-discrimination

³In particular, gay men are estimated to be 5.4 percentage points less likely than comparable heterosexual men to be in full-time work, while bisexual men are 11.9 percentage points less likely to be in full-time work.

laws, and allowed or prohibited adoptions by same-sex couples). He finds that favorable policies towards sexual minorities increase the probability that both partners in same-sex couples were working, while unfavorable policies diminish it.

Additionally, he considers the fact that, according to [Plug et al. \(2014\)](#), LGBTQ workers tend to sort into tolerant occupations, as comparing twins with different sexual orientations, gays, lesbians and bisexuals were less likely to work in occupations with prejudiced workers. As well as the fact that, according to [Black et al. \(2007\)](#), workers in male same-sex couples were in occupations with a higher proportion of women than workers in different-sex couples. He then tests if same-sex marriage legalization induced a shift of minority workers towards historically tolerant occupations (or to disclose their sexual orientation if already employed in these sectors). He finds that the probability of being employed in an occupation with a majority of female workers decreased by 1.4 percentage points after same-sex marriage legalization.

Linking these findings to those of [Hsieh et al. \(2019\)](#), it is possible to test whether sectors with a higher share of men, i.e., potentially less tolerant occupations, exhibit a better or worse economic performance after legalization of same-sex marriage. If for instance, same-sex marriage results in an increase of homonegative attitudes, then high-skilled sexual minorities might be driven out of industries or occupations where their marginal productivity is higher than that of the average worker.

3 Data

In this Section I first motivate and describe the homophobic search index (HSI) I construct to use as a proxy for implicit anti-gay sentiment. Next, I discuss the construction of a measure that potentially aggregates the GDP of the most likely misallocated industries regarding homosexual men, which I then use as a dependent variable to test for changes in economic performance after SSM legalization.

3.1 Homophobic attitudes

Most studies on the impact of same-sex marriage on public opinion rely on survey data. Nonetheless, as [Coffman et al. \(2017\)](#) show, it is likely that these measures underestimate the prevalence of homonegative attitudes. In a series of online experiments using a large and diverse but non-representative sample, they compare population estimates from the standard methodology of asking sensitive questions to measures from a “veiled” methodology. The veiled method increased self-reports of anti-gay sentiment. Particularly, in the workplace, respondents were 67 percent more likely to disapprove of an openly gay manager when asked with a veil, and 71 percent more likely to say it should be legal to discriminate in hiring on the basis of sexual orientation. Their results motivate the use

of alternative methods to measure homonegative sentiment.

Google search queries are a publicly available source of data that could be used as a veiled measurement of public attitudes. It is particularly great in the current case as a homonegative bias may be socially unacceptable and people are likely to self-censor with unveiled methods. It has proven as a valuable asset for social science research. For instance, [Stephens-Davidowitz \(2014\)](#) used Google searches to estimate the Barack Obama’s 2008 election costs of racial animus.

Similarly, I construct a homophobic search index (HSI) at the state level using the search rate for the words “faggot”, “faggots”, “fag”, “fags”, as well as their misspellings, “fagot” and “fagots” for every US state plus D.C. between 2004 and 2019.⁴ The search index is normalized to the state and year with the highest search hits, and the rest of the state-year observations are re-scaled from 0 to 100, this way, each state-year observation of the HSI represents the relative popularity across geographies and years. Otherwise, places with the most search volume would always be ranked highest and the HSI would not be comparable. The main complication arises as Google limits the number of geographical areas that can be compared at the same time to five. To elude this limitation, I consider the approach taken by [Paul Goldsmith-Pinkham \(2020\)](#). I obtain data for each state relative to the national level of searches and re-normalize each state by $\frac{\max Index_s}{\max Index_{US}}$.

It is worth stressing that while Google Search indisputably receives the most daily number of queries than any other search engine in the U.S., its representativeness has not been the same throughout its history. For instance, the U.S. search index for “weather”, a fairly common search query, displays an upward trend from 2004 to date. This likely reflects the increase in access to the internet. In order to control for this trend, in every regression where a search index is the dependent variable, I include the search index for “weather” as a control.

⁴The motivation behind considering their misspellings is that they are related to homonegative sentiment. Google shows related queries to every given word. Consistently, “fagot” and “fagots” are related to “god hates fags”.

3.2 Potentially misallocated industries

Table 1: NAICS industries with the top 5 shares of men in 2000. (U.S.)

NAICS Industry	Pre	Post
Construction	89.90	89.08
Mining, Quarrying, and Oil and Gas Extraction	87.31	84.84
Agriculture, Forestry, Fishing and Hunting	78.78	76.01
Utilities	77.04	77.13
Transportation and Warehousing	73.39	73.86

Post uses information from the 2016-2019 ACS, when SSM was legal in every state.

Pre uses information from the 2000 Census, when none of the states had legalized SSM.

In order to test for the economic effects of changes in discrimination I construct a variable of the sum of the top five industries with the highest share of men previous to same-sex marriage legalization in any state, at the year and state level: $GDP_{j,t}^{Top5j,2000}$, which is represented synthetically by Equation 1. In other words, it is the sum of the five industries k with the highest share of men in 2000 in state j , for every state j and year t . By considering the industries with the highest share of men during 2000 I avoid any endogenous impact that SSM could have on worker-gender composition. Interestingly though, these industries did not change from 2000, when SSM was not legal in any state, to 2019, when SSM was legal across the U.S.; these industries are shown in Table 1.

$$GDP_{j,t}^{Top5j,2000} = \sum_{k \in Top5j,2000} GDP_{k,j,t} \quad (1)$$

In order to calculate male-worker shares at the industry-state-year level as well as demographic controls for my analyses, I use the American Community Survey (ACS) between 2000 and 2019. To compute state level variables I use the full sample which consists of 51,401,670 observations. To compute the share of same- and different-sex couples, which I use as controls I only keep observations for individuals aged between 18 and 65 and their married or unmarried partners.

Specifically, the state-level controls used through this paper are: i) share of same-sex couples; ii) share of unmarried different-sex couples; iii) share of adults between 18 and 35 years old; iv) share of people with 4+ years of higher education; v) share of adults between 18 and 65 that are employed; vi) the average total pre-tax personal annual income or losses; vii) proportion of the population that is black; and viii) proportion of the population that Hispanic.

For the GDP data at the state level I download data from the U.S. Bureau of Economic

Analysis (BEA) for every year from 2000 to 2019. The GDP data is disaggregated by state, year and NAICS industry. I consider the chained GDP to focus on real changes.

4 Empirical strategy

Staggered rollout designs have been considered a more robust approach to a single DID as the typical concern is that contemporaneous trends could confound the treatment effect, violating the main DID identification strategy, the existence of parallel trends. However, recent econometric work shows that the standard DID approach followed in these settings, using a Two-Way Fixed Effects (TWFE), is valid only when treatment effects are homogeneous across groups and time, which, for most applications, is implausible. [Goodman-Bacon \(2018\)](#) explains that the problem with TWFE arises when already-treated units act as controls, as changes in their treatment effects over time get subtracted from the TWFE estimate.

Following [Cengiz et al. \(2019\)](#) and [Baker et al. \(2021\)](#) I create event-specific datasets (for every year one or many states legalize SSM), including the outcome variable and controls for the treated state and all other states up to when they become treated. Thus, I am only including the untreated observations for the states not in that cohort. This way, I have only “clean controls” for every group. I then stack these event-specific datasets in relative time to calculate the event-studies relative to the reference period, which is the treatment year.

After constructing the stacked dataset, I consider event-study models of the form given by [2](#). An advantage of event-study functional forms is that they help evaluate the credibility of the parallel trends assumption. As [Baker et al. \(2021\)](#) notes, the only difference in terms of functional form regarding a simple event-study regression is the need to saturate the group and time fixed effects with indicators for each event-specific dataset. I restrict the time window of the event study to $[-5, 1]$ and $[1, 10]$. One main difference between the stacked regression event-studies and a simple event-studies is that in the former, there is no need to include the full set of relative time indicators, as it is the case with the latter. ([Baker et al., 2021](#))

$$y_{j,t,G} = \gamma_{j,G} + \tau_{t,G} + \sum_{k \neq 0} \delta_k \mathbb{I}[t - G_j = k] + \varepsilon_{j,t,G} \quad (2)$$

In Model [2](#), $\gamma_{j,g}$ and $\tau_{t,g}$ are the individual and time saturated fixed effects. $\mathbb{I}[t - G_j = k]$ is an indicator for being k years from the treatment starting for cohort G . G_j simply states that state j was treated with cohort G .

$$\log(HSI)_{j,t,G} = \gamma_{j,G} + \tau_{t,G} + \overline{X}'_{j,t,G} + \sum_{k \neq 0} \delta_k \mathbb{I}[t - G_j = k] + \varepsilon_{j,t,G} \quad (3)$$

In particular, Model 3 is the specification I use to test for the effect of same-sex marriage on the homonegative implicit bias. I consider the natural logarithm as the dependent variable as to have a cleaner interpretation of the results. $\overline{X}'_{j,t,G}$ is the set of state-year specific controls described in Section 3, plus the constructed search index for “weather”.

$$\log(GDP_{j,t,G}^{Top5_{j,2000}}) = \gamma_{j,G} + \tau_{t,G} + \overline{X}_{j,t,G} + \sum_{k \neq 0} \delta_k \mathbb{I}[t - G_j = k] + \varepsilon_{j,t,G} \quad (4)$$

Model 4 is the specification I use to test, indirectly, if same-sex marriage had an effect on economic performance, considering the channels laid by Hsieh et al. (2019). Recall that $GDP_{j,t}^{Top5_{j,2000}}$ is the sum of the five NAICS industries with the highest share of men in 2000 by state j and year t . I consider its log to have an approximate percentage change interpretation of the results. $\overline{X}_{j,t,G}$ only includes the set of controls described in Section 3.

5 Results

The two main research questions of this investigation are: i) what is the effect of SSM legalization homonegative bias which likely is a proxy for discrimination towards sexual minorities?; and ii) if discrimination was affected by SSM legalization, what was the effect on the economy? Regarding the first question, I find suggestive evidence that the effect of same-sex marriage on sexual minority discrimination is not homogeneous across its legalization method. In short, states that legalized it through the judiciary seem to have become more homophobic relative to not having legalized SSM through a court ruling. On the other hand, the opposite appears to have happened in states that legalized it through the legislature. As per the second question, I find that the patterns flip, considering the GDP of the five industries that have the least share of women by state. At the same time, in the states where same-sex marriage was legalized through the judiciary, gay men become even more likely than their heterosexual counterparts to work in industries where the majority of workers are women. Both of these findings are suggestive evidence that a greater increase in homonegative attitudes led to a greater misallocation of resources and this in turn to lower performance in these selected industries.

5.1 Changes in public opinion

Figure 2 shows the event-studies by legalization method of same-sex marriage of the log of the constructed homophobic search index. The left panel considers as treated units only states where it was legalized through a court decision. Recalling the Bishin et al. (2016) definition of opinion backlash: “a large, negative, and enduring shift in opinion

against a policy or group that occurs in response to some event that threatens the status quo”, the plotted coefficients show evidence for it.

The first thing to note from Figure 2 is that the parallel trends assumption seems to hold. The lead point estimates do not follow a clear upward or downward trend, and each coefficient is not statistically different from zero. Assuming this is the case, 9 and 10 years later, this search index is 36.06 and 35 percent higher than the year SSM was legalized, respectively.⁵

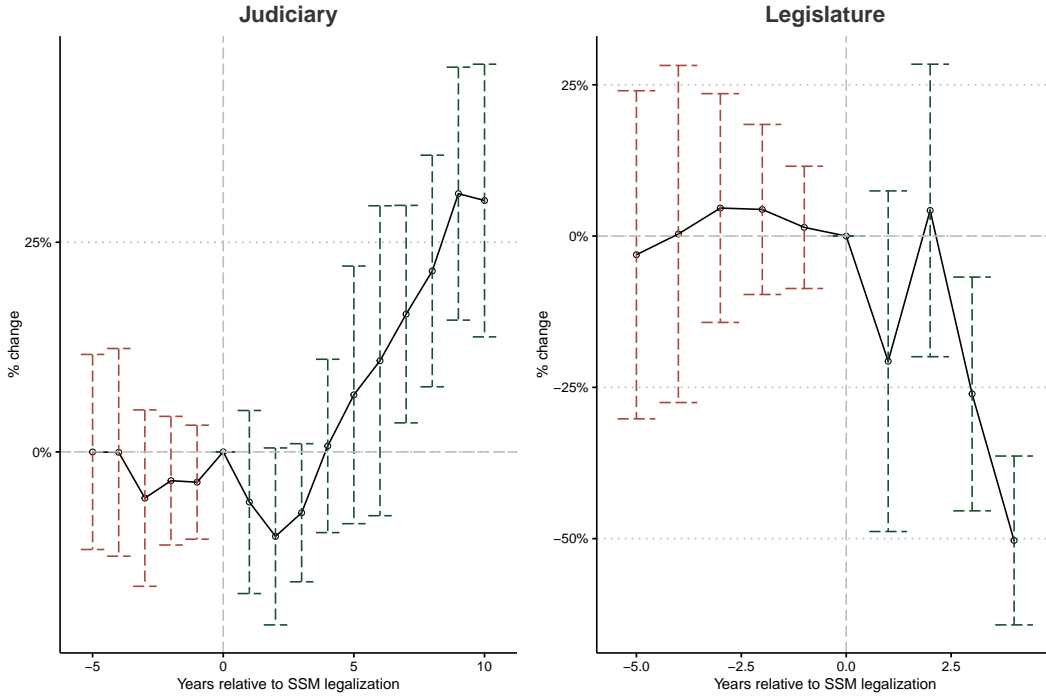


Figure 2: Event study by legalization method using stacked regressions. $\log(HSI)$ as dependent variable.

The opposite is true for the states that legalized SSM through the legislature, but the change seems to happen at a faster rate. Again, assuming that indeed the parallel trends assumption holds, which is plausible in this case too as all the pre-period coefficients are not statistically significant different from zero, the homophobic search index is 14.52 and 25 percent lower on average, 3 and 4 years after SSM legalization, than it would have been had SSM not been legalized through the legislature. The rest of the lag coefficients are collinear with the saturated fixed effects.

A major advantage of testing changes in homonegative attitudes using the HSI is that I consider this measure for every U.S. state from 2004 to 2019, and thus, the results

⁵Considering a log transformation of a variable as the dependent variable in an Ordinary Least Squares regression yields a coefficient with an interpretation of an approximate percentage change. The correct percentage change is obtained using the formula $\% \Delta y = 100(e^{\beta} - 1)$ where y is the non-transformed dependent variable and β the coefficient of interest. I obtain the percentage change this way for all the results presented non-graphically.

have more external validity than if I had considered only one state or just one cohort. In contrast, [Kreitzer et al. \(2014\)](#) focus only on Iowa’s 2009 SSM legalization. [Flores and Barclay \(2016\)](#) focus only on Maine and Washington’s SSM legalization via the legislature.⁶ As stated before, even prior studies like [Bishin et al. \(2016\)](#) that consider more states, are not suited to test if SSM legalization caused an *enduring* shift in social norms. The authors’ results rely on survey data from 41 days, and SSM was not even legalized in any state within the time frame they study.

[Ofosu et al. \(2019\)](#) do test for changes in homonegative attitudes for every state between 2005 and 2016. The authors find qualitatively similar results with data from the Implicit Association Test (IAT): legalization via the judiciary prompts backlash, whereas via the legislature antigay bias decreases. The results in [Figure 2](#) reinforce this finding. Even so, one main advantage of using the HSI instead of data from the IAT is that most of the respondents of this test are young women, so the results might not be representative. Google searches might suffer from the same concern of nonrepresentativeness, but it might be a lesser concern given the volume of search queries.

Independent of the relevance of these results on economic outcomes, which will be studied in [Subsection 5.2](#), I consider they shed light on the Constitutional Law debate regarding the unintended consequences of judicial activism. According to [Siegel \(2017\)](#), opponents of SSM in the U.S. argued that even if there was a case for recognizing it, in a constitutional democracy that question is up for determination by legislatures, not courts. On this note, in the landmark SCOTUS case *Obergefell v. Hodges*, Chief Justice Roberts insisted that SSM had an undeniable appeal, but argued against making it the law of the land through a ruling as the SCOTUS is not a legislature.

Professor Siegel has made one of the most convincing cases for the irrelevance of the backlash question. She argues that the backlash framework is misguided as it evaluates these judicial decisions within a short time horizon, but when analyzing a longer time horizon the “constitutional understanding” of these issues shifts and hence what is labeled as backlash in the short term, in the longer term is just part of the transformation of the “constitutional culture”. For instance, SSM is now outside the scope of the public debate but other considerations such as denial of private services to LGBTQ populations based on religious freedoms have taken its place. While this may be an interesting claim regarding the nuances of the social norm shifts, it does not relate to what most of the literature understands as backlash. Under [Bishin et al. \(2016\)](#)’s definition, which is testable, [Figure 2](#) results counterargue Siegel’s claims of a lack of backlash.

Making a weak case for the external validity of these results, let us consider the Colombian case. The Colombian Constitutional Court (CCC) might be, to my knowledge, one of the most active constitutional courts in the world advancing in the recognition of

⁶It is worth noting that their results showing a decrease in homonegative attitudes are in line with the results shown in this paper using the HSI.

rights of sexual minorities. [Andrade-Rivas and Romero \(2017\)](#) mention that as of 2013, the CCC had issued 70 rulings in favor of freedom of expression and personal development with regard to LGBTQ rights, as well as had both legalized same-sex unions and their right to adopt by 2015. [Bocanumenth \(2021\)](#) reports how even though on paper the country has one of the strongest legal frameworks in Latin America defending the rights of LGBTQ populations (mostly due to judicial decisions), in practice these protections are rarely enforced. This lack of effective protections might reflect [Baca et al. \(2019\)](#)'s findings that out of nine countries in Latin America and the Caribbean, Colombia registered the highest number of killings of LGBTQ people over 2014 – 2019.

Normatively, I cannot be more certain that sexual minorities ought to have equal rights. However, the road towards this *ought to be* state of the world might be smoother when guided by positive findings. If there is empirical evidence suggesting that SSM legalization via the judiciary might be counterproductive, instead of turning a blind eye on it, it begs the question of what are the underlying mechanisms explaining this result. Then, more research following this line of thought would not only be interesting, but useful in shedding light on how to advance towards a more equal society.

5.2 Economic outcomes

In order to analyze the (potential) effects of same-sex marriage legalization on economic performance, I replicate one of [Black et al. \(2007\)](#) findings: that male workers in same-sex couples concentrate in occupations with a higher share of women relative to men in different-sex couples. Using data from the 2000 Census, that reflects a point in time when SSM was illegal in every U.S. state, and data for the 2016-2019 ACS, that reflects a point in time when SSM was legal in every U.S. state, I estimate the Linear Probability Model expressed by [5](#) where $\mathbb{I}NAICS_i^{>50\%women}$ is an indicator variable that activates when the NAICS industry where individual i works is conformed majoritarilly by women. $\mathbb{I}Gay_i$ is an indicator variable that activates if individual i is in a same-sex couple relationship; and $\mathbb{I}Judiciary_i$ is an indicator that activates if the SSM legalization method in state where individual i lives was through the judiciary.

$$\mathbb{I}NAICS_i^{>50\%women} = \beta_0 + \beta_1 \mathbb{I}Gay_i + \beta_2 \mathbb{I}Gay_i \times \mathbb{I}Judiciary_i + \varepsilon_i \quad (5)$$

Table [2](#) shows the results for the LPM using robust standard errors. According to these results, men in a same-sex couple that lived in a state that legalized SSM through the legislature were 12 percentage points more likely than men in a different-sex couple to work in an industry where the majority of workers are women in 2000, and 11.6 percentage points more likely to work in these industries in 2016-2019 (using industry shares from this period), so their likelihood *decreased* by 0.4 percentage points. This contrasts that, in states where the method of SSM legalization was through the judiciary, their likelihood to

work in an industry where women are a majority, relative to men in different-sex couples, *increased* by 2.4 percentage points considering the same time-frame.

Table 2: Increased likelihood of gay men’s working in NAICS industries where the majority workers are women.

	Pre	Post
(Intercept)	0.321*** (0.001)	0.346*** (0.001)
Gay men indicator	0.120*** (0.004)	0.116*** (0.004)
Judiciary indicator	-0.029*** (0.001)	-0.010*** (0.001)
Gay men x Judiciary	0.010** (0.004)	0.018*** (0.005)
Num.Obs.	2340145	1515498

Post uses the same information, but considers the 2016-2019 ACS.

Pre uses information for men that are reported as in a relationship in the 2000 Census.

Robust standard errors in parentheses.

The fact that post SSM legalization men in same-sex couples concentrate more in industries where the majority of workers are women in the states that legalized through the judiciary is indicative of a higher degree of discrimination, as research shows that they tend to work in less stigmatizing industries.⁷ This hypothesis is tested more formally using the variable $GDP_{j,t}^{Top5j,2000}$ described in Section 3 through a DID analysis, using the Model 4. The event-study coefficients of this model are plotted by legalization method in Figure 3.

⁷I think that this result needs to be studied further, on a more granular level. This is the direction my research is taking.

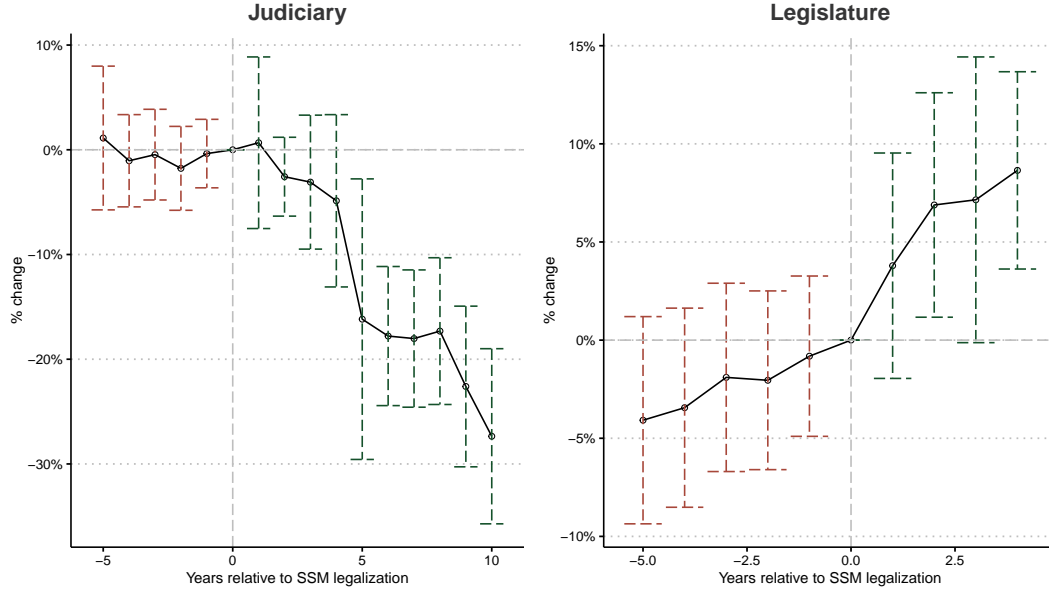


Figure 3: Event study by legalization method using stacked regressions. $\log(GDP_{j,t}^{Top5_{j,2000}})$ as dependent variable.

In regard to states that legalized SSM through a court decision, and assuming again that there are parallel trends, Figure 3 states that relative to the reference period, the NAICS industries with the lowest share of women by state, decreased chained GDP by 23.93 percent ten years after SSM legalization through the judiciary, had it not legalized it that way. While the states that legalized through the legislature exhibit the opposite pattern, the parallel trends assumption seems more implausible to hold as the point estimates exhibit an upward trend, even if they are not statistically significant.

Focusing on the judiciary case, the results of the Model 4 show suggestive evidence for the existence of a decrease in economic performance due to increased discrimination of sexual minorities after SSM legalization through a court decision. The logic behind this result, which I intend to test more formally, is that for states that legalized SSM through the judiciary and saw an increase in discrimination against homosexual men, there would be an increased misallocation of human capital as homosexual men crowd-out even more from already discriminatory industries. I hypothesize here that the men more likely to crowd-out are high-skilled, as they face smaller transaction costs, and at the same time would be the ones who affect the most the productivity of the industries that they leave. This is a testable hypothesis and is the direction that the work presented in this working sample is taking.

To set things in context, consider that from the 42 percent growth in U.S. GDP per person between 1960 and 2010 because of declining obstacles to accumulation of human capital and labor market discrimination that Hsieh et al. (2019) find for the case of women and black men, 36 percent were due to the former, while only 8 percent due to the latter. Assuming that the compositional effect of declining obstacles to accumulation

in human capital and labor market discrimination on economic performance from [Hsieh et al. \(2019\)](#), are similar to those regarding sexual minorities, it is unlikely that ten years from the legalization of SSM obstacles to accumulations in human capital of LGBTQ populations have declined considerably. Consequently, the channel that likely explains the results from Figure 3 is labor market discrimination. Moreover, the results from the LPM shown in Table 2 are in line with this hypothesis.

On that note, it is important to consider that the case for sexual minorities is likely to be different to [Hsieh et al. \(2019\)](#). The main difference, is that the authors do not identify a single event that drives their findings, so it is likely that their results are not as concentrated as the ones for sexual minorities appear to be. Additionally, they are considering the effect in the whole U.S. economy. Here I am concentrating in the industries where the effect is more likely to be readily apparent.

5.3 Robustness checks

At the beginning of this research I (wrongly) hypothesized that I would be able to use a version of the racial animus search index constructed by [Stephens-Davidowitz \(2014\)](#) as a placebo test. As it was in the research plan, I show the results in Figure 4, again, by SSM legalization method. Shockingly, the coefficients display a similar pattern than those using the homophobic search index.

Does this mean that the results from Figure 2 are not robust? Not quite, as this is not really a placebo test because there is no reason to think that racial attitudes are independent of social norm shifts regarding sexual minorities. Mainly, as it is highly probable, just based on anecdotal evidence, that if someone is homophobic they are also racist. Also, the definition of opinion backlash used throughout the paper refers as its cause the threatening of the *status quo*. In this sense, as both blacks and sexual minorities are not part of the *status quo*, both of these minority groups represent a threat to it. These results point to an interesting area of future research regarding intersectionality.

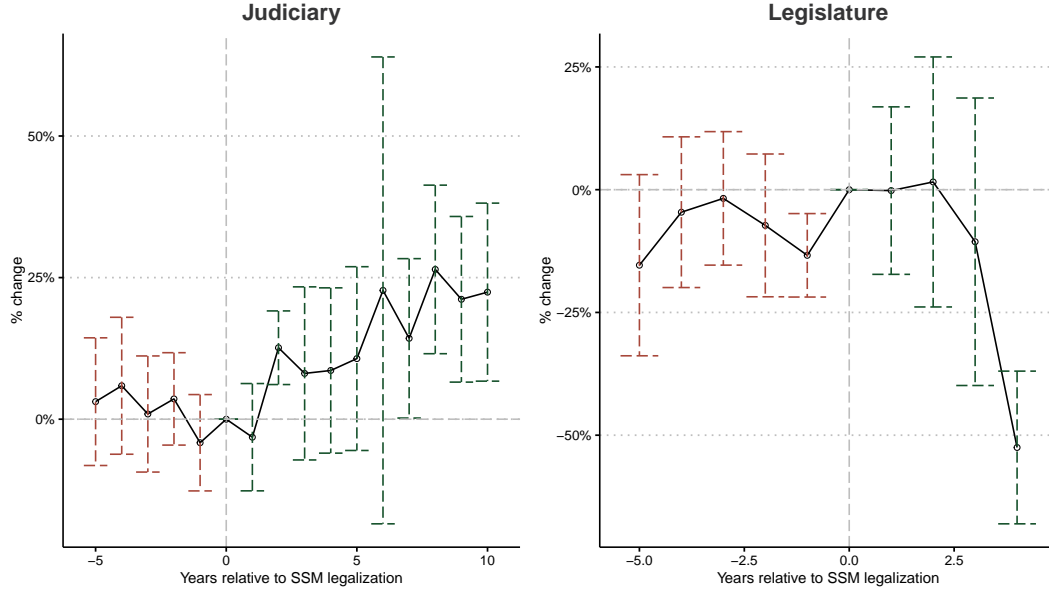


Figure 4: Event study by legalization method using stacked regressions. Log of racial animus index as dependent variable.

Instead of the placebo test using [Stephens-Davidowitz \(2014\)](#) racial animus search index, I consider [Cunningham \(2021\)](#)'s comment that specific patterns in the data can be derived by particular controls included in the main specification. In order to test if the results shown in Figures 2 and 3 are robust to different sets of controls, I run the same calculations removing, with replacement, one control at a time. I focus on the states that legalized SSM through the judiciary. The results are shown in Appendix B. It is reassuring that every plot shows the same pattern as those using the full set of controls.

6 Concluding remarks

Do all same-sex rights are created equal? My research, using a measure of implicit bias for anti-gay attitudes, suggests that this is not the case. The literature of public opinion changes due to SSM remains far from settled. I hypothesize that this is mainly due to the lack of considering heterogeneities. More recent research does place more weight on these potentially different effects via method of legalization. [Aksoy et al. \(2020\)](#), published the most recent study on the topic, contributing to bridging this gap as the authors' main focus is to test for differentiated effects of SSM across demographics. Having a better understanding of the different channels through which social norms shift, means more and better tools to keep moving forward. Normatively, one can agree that more equal rights for sexual minorities imply a Pareto improvement in society. The small print is that there are more and less effective ways to get there, whilst some may end up being counterproductive. Even more so, as this research provides suggestive evidence that some of these ways have real effects on the economy.

A note of caution. It is easy to make generalizations whether some policies are “good” or “bad” using reduced form estimates, as the ones used in this paper. However, it is important to emphasize that these are only partial equilibrium findings. For instance, [Seror and Ticku \(2021\)](#) find that the effect of SSM on enrollment in priestly studies fell after legalization of SSM for both methods of legalization. The decrease in enrollment is actually higher for states that legalized it through a court order. The authors attribute these findings to a decrease in the cost of coming out, hence, making marginal enrollees better off. With this in mind, the net effect of SSM on sexual minorities’ well-being in states that legalized it through the judiciary is not clear.

More and better research regarding minorities help us build a fairer and more equal society. This research is my attempt to contribute towards this goal.

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A Google Trends estimation for non-reported values

Google Trends is a great source for retrieving high quality data that, in my view, has been underused for social science research. It provides insights that survey data are not likely to deliver. Most surely, if the research topic carries some taboo weight. Still, its main downside is Google’s unreported absolute threshold that, when crossed, yields zeros in its index.

Using [Stephens-Davidowitz \(2014\)](#) algorithm idea of considering an auxiliary search term that most likely yields an index above the threshold such as “weather” or “food”, the threshold problem can be overcome almost entirely.

The idea is that if term “ M ” does not cross the threshold for many observations, one can search for “ $M + A$ ”, where “ A ” is the auxiliary term to get above this threshold. Then, if the raw volume search were provided, the solution would be to simply subtract “ A ” from “ $M + A$ ”.⁸ As this is not the case, complications arise from sampling, rounding and normalizing. The first two are solved by constantly retrieving samples.

In order to get a normalized search index that is comparable across time and geos I obtain data for each geographical area plus data at the national level and renormalize each area by $\max Index_s / \max Index_{U.S.}$, as suggested by [Paul Goldsmith-Pinkham \(2020\)](#).

Once the index is scaled, I compute Model 6, where B is the set that contains positive values for all three queries but below the maximum, 100. γ_g is a geo fixed effect. In the results from regression 6, I get that α_0 is positive and α_1 is negative, which is consistent with the idea of subtraction mentioned above. I then use these coefficients to predict the observations that have zeros reported.

It is worth noting, that the share of the predicted observations decreases as the sample size increases. As of the closing of this document, the share of predicted geo-month observations and number of samples used is 6.9 percent and 39, respectively. The analysis conducted throughout this paper was at the geo-year level.

$$M_{b \in B} = \gamma_g + \alpha_0(M + A)_{b \in B} + \alpha_1 A_{b \in B} + \varepsilon \quad (6)$$

B Additional figures and tables

⁸For details, see [Stephens-Davidowitz \(2014\)](#).

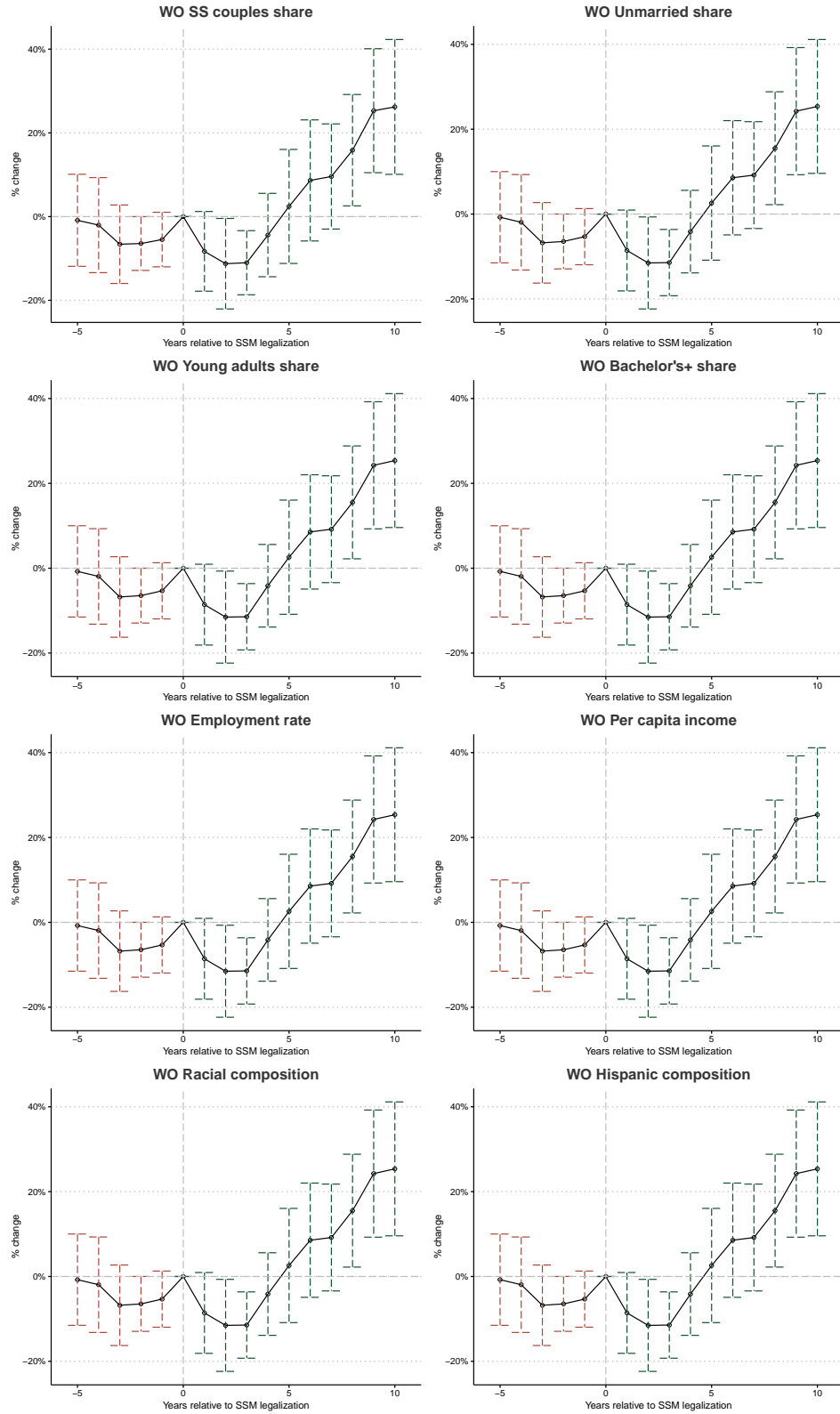


Figure 5: $\log(HSI)$ event studies relative to SSM through the judiciary. Removing covariates with replacement.

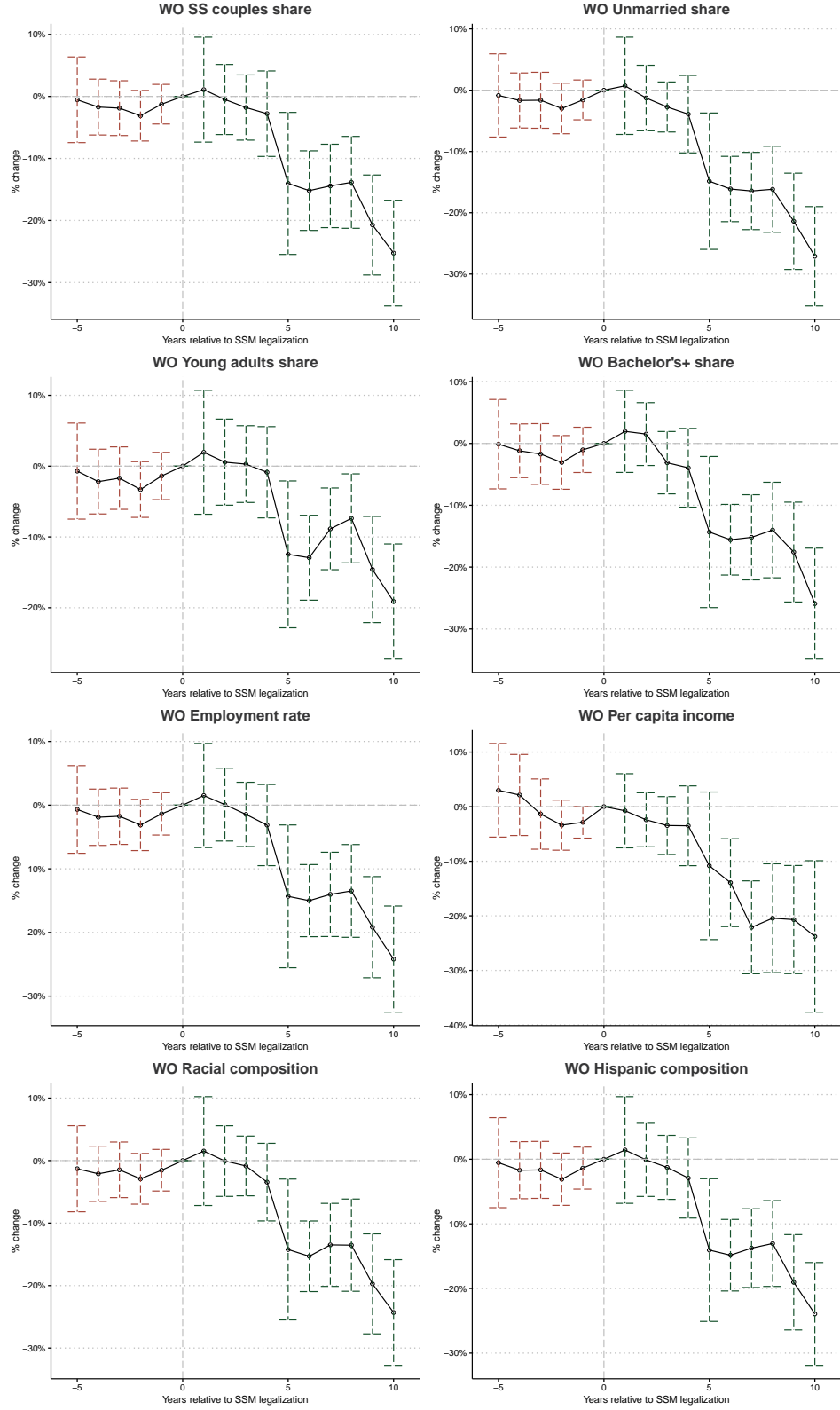


Figure 6: $\log(GDP_{j,t}^{Top5j,2000})$ event studies relative to SSM through the judiciary. Removing covariates with replacement.