**Appendix A1: Transitivity Example**

The adage, “a friend of a friend is my friend” (*i*  *j*; *j*  *k*; *i*  *k*), captures this phenomenon known as transitivity. The Tennessee Supreme Court was faced with a legal question it had never decided: whether state government officials are absolutely immune from defamation claims that arise while performing their official duties.[[1]](#footnote-1) The text below is an excerpt of Tennessee’s written opinion. While analyzing absolute privilege, Tennessee discussed a Texas case that adopted absolute privilege as applied to the Texas Attorney General. In reaching its decision, the Texas Supreme Court cited a California Supreme Court case, as highlighted in the text.[[2]](#footnote-2) This is an example of transitivity. Tennessee cited Texas, *i*  *j*; the Texas Supreme Court cited a California Supreme Court decision *j*  *k*; and Tennessee also cited the California case, *i*  *k*. Transitivity occurs when Tennessee cited the California case because of Texas. Put another way, if it was not for Texas citing California, Tennessee might not have cited California because it might not have known about the California case.

More recently, in Salazar v. Morales, the Texas Court of Appeals adopted the absolute privilege reflected by the Restatement (Second) of Torts as applied to the Texas Attorney General. 900 S.W.2d 929 (Tex.App.1995). Salazar involved a defamation claim asserted against the Texas Attorney General regarding comments that he had made to the press about a former employee's termination. In affirming the Texas Attorney General's motion to dismiss, the Texas Court of Appeals determined that the Texas Attorney General “ha[d] an absolute privilege to publish defamatory statements in communications made in the performance of his official duties.” Id. at 932. The Salazar court also observed that: “All of the state courts that have addressed the issue have agreed that an absolute privilege ... applies to state attorneys general.” [Id.,](https://1-next-westlaw-com.gate.lib.buffalo.edu/Link/Document/FullText?findType=Y&serNum=1995134551&originatingDoc=I41561f0f6d9311e381b8b0e9e015e69e&refType=RP&originationContext=document&transitionType=DocumentItem&ppcid=07fb2a2d7cc94a08bf6d49b36fc9dcc3&contextData=(sc.Search)) citing Kilgore v. Younger, 30 Cal.3d 770, 180 Cal.Rptr. 657, 640 P.2d 793, 797–98 (1982); Little v. Spaeth, 394 N.W.2d 700, 706 (N.D.1986); Matson v. Margiotti, 371 Pa. 188, 88 A.2d 892, 896 (1952); Levinsky v. Diamond, 151 Vt. 178, 559 A.2d 1073, 1078 (1989); Gold Seal Chinchillas, Inc. v. State, 69 Wash.2d 828, 420 P.2d 698, 701 (1966); Morton v. Hartigan, 145 Ill.App.3d 417, 99 Ill.Dec. 424, 495 N.E.2d 1159, 1164–65 (1986).

**Figure A.1 Transitivity**



**Appendix A2: Cycling Example**

Cycling is when a group of three courts cite each other, beginning and ending with the same court. Together, they form a directed triangle. Unlike the previous transitivity example, with cycling, the cases do not need to be related. Instead, all we’re looking for is an instance in which court *A* cites *B*, court *B*→ cites court *C*, and court *C*→ cites court *A*.

A First Amendment example may help illustrate the concept. In 1993, the Colorado Supreme Court had to decide whether one of the state’s harassment statutes was unconstitutionally vague and overbroad.[[3]](#footnote-3) In determining that the statute was overbroad, Colorado looked to other states to see how they interpreted their own harassment statutes. Colorado cited a 1981 Missouri Supreme Court, which held their statute was not overbroad because the statute’s language was limited to a specific person in the privacy of their own home.[[4]](#footnote-4) These citations form a link between Colorado and Missouri.

Next, in 1993, the Missouri Supreme Court wrestled with whether a college’s representative’s statements were defamatory.[[5]](#footnote-5) In arguing that subjectivity belief is not usually a defense to defamation, the court cited a Wyoming Supreme Court decision from the previous year, which held in part that the more outlandish a statement is, the more likely it is protected speech and cannot form the basis of a defamation claim.[[6]](#footnote-6) These citations form a link between Missouri and Wyoming.

Last but not least, to form a triple cycle, Wyoming must cite Colorado, which it did the following year when Wyoming cited the Colorado Supreme Court. Gerald Miller challenged his littering ticket, arguing the city violated his right to free speech when he distributed his free newspaper.[[7]](#footnote-7) In establishing that for fundamental rights the city bears the burden to justify its policy, the Court cited a 1988 Colorado case, which articulates who bears the burden.[[8]](#footnote-8) This citation links Wyoming and Colorado, closing the triangle.

**Figure A.2 Cycling**



**Appendix B: Supplemental Data Information**

**Data**

To construct the dataset, I compiled a list of every published signed and per curiam cases made available on LexisNexis Academic’s website through its topic search function. LexisNexis uses “Headnotes;” Headnotes derive the language directly from the case to display a case’s key legal points. Family law and the Judicial Conduct are key topics that are searchable in LexisNexis’ database. Although there are likely several key legal issues, Headnotes identify the primary issues.

**Table B.1: Variables**

|  |  |
| --- | --- |
| Variable | Measure |
| Citation | Dependent variable = 1 when court A (citing court) cites court B (cited court), 0 otherwise |
| Lagged Citation | Citation from previous year carried forward to next time step. |
| Learning | Out-degree of two or more citations, the number of citations a court sends. |
| Emulation | In-degree of two or more citations, the number of citations a court receives. |
| Transitivity | Presence of transitivity, the “friend of my friend is my friend.” Likelihood of citation from Court A to C, given citations from A and B. A → B → C and A → C. This is a proxy for learning. |
| Cycles | Presence of cyclic triangles. Likelihood of citation from Court C to A, given citations from A and B, and B to C, which closes the triangle of citations. A → B → C and C → A. This is a proxy for emulation. |
| Isolates | Number of courts that do not cite and are not cited by others. |
| Court Ideology | Absolute difference between the median justice of the two courts. |
| Citizen Ideology | Absolute difference between citizens’ ideology in the two states. |
| Population | Absolute difference between the populations of the two states. |
| Gross State Product | Absolute difference between the gross state product of the two states. |
| Judicial Selection System | Indicator variable = 1 when courts share same judicial selection system. |
| Federal Circuit | Indicator variable = 1 when courts share same federal circuit court. |
| West Court Reporter  | Indicator variable = 1 when courts share same West Regional Court Reporter. |
| Geographic Contiguity | Indicator variable = 1 when states in which court sits share geographic border. |
| No. of Published Cases | Number of cases the cited court published. |

**Table B.2: Descriptive Statistics for Independent Variables, 1960-2010**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Variable | Mean/Median | Standard Deviation | Minimum | Maximum |
| Citing Year | 1985 | 14.72 | 1960 | 2010 |
| Court Ideology | -0.14 | 0.97 | -9.99 | 6.17 |
| Citizen Ideology | 47.78 | 16.66 | 0.96 | 95.97 |
| Population (in millions) | 4.82 | 5.30 | 0.23 | 37.34 |
| Gross State Product (in thousands) | 105.82 | 185.38 | 0.845 | 1911.74 |
| Squire Index | 0.58 | 0.15 | 0.25 | 1.00 |
| Judicial Selection Method | 3 | 3.41 | 1 | 5 |
| Federal Circuit | 7 | 3.05 | 1 | 11 |
| Court Reporter | 5 | 4.4 | 1 | 7 |
| No. Cases Published | 2.40 | 13.06 | 0 | 174 |

**Figure B.1: Total In-Degree Citations by Area of Law**

As illustrated in Figure B.[1](#_bookmark10), plotting the citations each court receives over time reveals each area of law’s unique citation patterns. Overall, there are fewer family law than judicial conduct citations. Also notable from the figure are the peaks and valleys of the citations. In 1994, for example, there were only 3 family law citations while there were 52 judicial conduct citations to other supreme courts. 2004 was an active year for both areas. There were 44 judicial conduct and 40 family law citations to other courts.

**Appendix C: Full Model Results**

**Table C.1. TERGM Results**

|  |  |  |
| --- | --- | --- |
|  | Family Law | Judicial Conduct |
| Edges | -5.16\* | -5.36\* |
|  | (-6.47; -4.18) | (-6.01; -4.78) |
| Lagged Citation  | 2.53\* | 0.91\* |
|  | (1.75; 3.14) | (0.55; 1.21) |
| Year | 0.05\* | 0.05\* |
|  | (0.02; 0.07) | (0.03; 0.06) |
| Learning: Out-Degree | -0.28 | -0.26 |
|  | (-1.33; 0.80) | (-0.78; 0.25) |
| Emulation: In-Degree | -0.67\* | -0.17 |
|  | (-1.00; -0.39) | (-0.47; 0.10) |
| Learning: Transitivity | -1.25\* | 0.40\* |
|  | (-2.11; -0.56) | (0.05; 0.63) |
| Emulation: Cycling | -12.03\* | -5.65\* |
| (-12.90; -10.92) | (-13.97; -0.18) |
| Isolates | 1.80\* | 1.36\* |
|  | (1.61; 2.05) | (1.16; 1.55) |
| Court Ideology Difference | -0.08 | -0.01 |
|  | (-0.29; 0.14) | (-0.15; 0.14) |
| Citizen Ideology Difference | 0.00 | 0.00 |
|  | (-0.01; 0.01) | (0.00; 0.01) |
| Population Difference | 0.06 | 0.06\* |
|  | (-0.02; 0.15) | (0.01; 0.11) |
| Gross State Product Difference | 0.00 | -0.00\* |
|  | (0.00; 0.00) | (0.00; 0.00) |
| Court Professionalism Difference | 0.26 | -0.27 |
| (-1.17; 1.73) | (-1.02; 0.48) |
| Same Judicial Selection Method | 0.05 | -0.27\* |
|  | (-0.25; 0.31) | (-0.51; -0.05) |
| Shared Federal Circuit | -0.05 | -0.16 |
|  | (-0.44; 0.30) | (-0.50; 0.12) |
| Shared West Reporter | 0.02 | 0.19 |
|  | (-0.38; 0.37) | (0.01; 0.36) |
| Contiguous Neighbor | -0.27 | 0.17 |
|  | (-0.83; 0.13) | (-0.06; 0.38) |
| No. of Cases Published | 0.00 | -0.01\* |
|  | (-0.01; 0.00) | (-0.02; 0.00) |
| Estimates provided are the bootstrapped mean. A \* indicates that variable is statistically significant at or beyond the 0.05 level. Confidence intervals for the TERGM model are based on 1,000 bootstrap iterations. |

**Figure C.1. Family Law Goodness of Fit Plots**



**Figure C.2. Judicial Conduct Goodness of Fit Plots**



To determine the quality of the model, I tested the models’ goodness of fit. The models perform reasonably well. Figure C.1 and C.2 display the goodness of fit of the TERGM models. Goodness of fit plots are the standard method of evaluating ERGMs (Handcock et al. 2018). Based on the estimated model, the TERGM's goodness of fit compares 100 simulated networks with the observed network. It utilizes the same fifty-one time steps in the data (1960–2010) to create the simulations and compares those simulations with the observed network. The solid line represents the observed network and the dashed line and the box plots represent the simulated network. Overall, the model fits the data reasonably well, as you can see from the box plots because the solid line goes through, or is close to, the median for the distributions. The network statistics offer a reasonable specification of the data.

1. *Jones v. State*, 426 S.W.3d 50 (Tenn. 2013). [↑](#footnote-ref-1)
2. “All of the state courts that have addressed the issue have agreed that an absolute privilege . . . applies to state attorneys general.” *Kilgore v. Younger*, 640 P.2d 793, 797-98 (Cal. 1982). [↑](#footnote-ref-2)
3. *Colorado v. Smith*, 862 P.2d 939 (Colo. 1993). [↑](#footnote-ref-3)
4. *State v. Koetting*, 616 S.W.2d 822, 827 (Mo. 1981). [↑](#footnote-ref-4)
5. *Nazeri v. Missouri Valley College*, 860 S.W.2d 303 (Mo. 1993). [↑](#footnote-ref-5)
6. *Dworkin v. L.F.P., Inc.*, 839 P.2d 903 (Wyo. 1992). [↑](#footnote-ref-6)
7. *Miller v. City of Laramie*, 880 P.2d 594 (Wyo. 1994). [↑](#footnote-ref-7)
8. *Parrish v. Lamm,* 758 P.2d 1356 (Colo.1988). [↑](#footnote-ref-8)