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“Anti-Riot” or “Anti-Protest” Legislation? Black Lives Matter, News Framing, and the Protest Paradigm

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Abstract: The murder of George Floyd by a Minneapolis police officer on 25 May 2020, sparked widespread protests led by the Black Lives Matter movement throughout the summer of 2020. Subsequent news coverage of these protests prominently featured acts of civil disobedience even though almost all protests were peaceful. In turn, protest “violence” was picked up by conservative political elites as evidence to promote legislation to control protests and keep communities safe. Since summer 2020, eight states have passed such legislation with additional bills pending in 21 states, raising concerns that the legislation suppresses political expression. This paper brings together literature on free expression, the protest paradigm, and news framing to provide the basis for a quantitative and qualitative analysis of 379 news stories and editorials covering Florida’s HB1 protest legislation. Results reveal that the most frequent news frame was fighting crime, with relatively less attention to free expression, political strategy, and race frames. In addition, very little attention was paid to the legislation’s potential chilling effects suppressing constitutionally protected speech and assembly. These results indicate news media were deficient in providing the public with a sufficient assessment of the implications of protest legislation.

Keywords: protest paradigm; framing; freedom of assembly; freedom of speech; Black Lives Matter; protest



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1. Introduction

On 9 September 2021, a United States District judge temporarily blocked the enforcement of a Florida “anti-riot” law, signed just five months earlier by Governor Ron DeSantis, while the law was being challenged in Federal court. In blocking this legislation, U.S. District Judge Mark Walker found that it was vague, overbroad, and an unconstitutional violation of citizens’ rights to free speech and assembly, as well as their due process protections (Associated Press 2021). The law, which earned Republican support in the Florida Legislature in the wake of protests after the murder of George Floyd in the summer of 2020, purported to address violent riots and increased both the severity of criminal charges and the punishments for those charges. Yet, critics argued the riot language was a thin veil to cover an effort to suppress protest that is perfectly legal under the First Amendment.

While the Florida legislation received considerable national attention, it was not an isolated case. In fact, according to the International Center for Non-Profit Law, 45 U.S. states have considered such legislation, leading to the passage of 39 anti-protest bills in 20 different states, with 13 additional bills pending (International Center for Non-Profit Law 2022, November 4) since 2017. Clearly, there has been a wave of legislative activity to exert control over protest movements in the name of protecting public safety. Many of these laws address activities such as property damage and assault, which were already criminalized under existing laws. However, some of this new legislation extends criminal penalties to protesters present when violations occur, regardless of whether they were personally responsible for criminal violations. It may be that these laws would not be applied to such protesters in practice. But, the possibility of the prosecution of bystander protesters poses a potential chilling effect on protest participation.

This wave of protest legislation brings together important social values that are to some degree in competition: concerns for maintaining law and order with concerns about protecting civil liberties. On one hand, these laws may seek to suppress violence and property damage, but, on the other hand, they may suppress the freedoms of speech and public assembly. Moreover, some critics have accused the proponents of the laws of engaging in political grandstanding in a strategic attempt to rally their supporters. Other concerns have been raised that these laws selectively target particular protest groups, particularly those demonstrating for racial justice. Indeed, there are several significant issues enmeshed in the public debate over such legislation. Given that the vast majority of citizens only come in contact with these debates through news coverage and mediated commentary, important questions can be posed regarding how news media convey this multi-dimensional legislation to the public.

The research seeks answers to questions about the extent to which news coverage addressed different underlying dimensions of this protest legislation. We focus on the content of the Florida legislation—known formally as HB1. We are guided by the central question of how various news outlets framed four central themes involved in the debate over the HB1 legislation: crime, free expression and assembly, political strategy, and racial implications. We also examine whether and how newspapers portrayed the issue of the potential of chilling effect and how uncertainty and fear of prosecution hinder freedoms of expression and assembly.

2. Literature Review

2.1. *Free Expression and Assembly during Social Upheaval*

Protections for expression and assembly are enshrined in the First Amendment but went largely untested in the United States Supreme Court until the early 20th Century, when immigration, World War I, and the potential spread of socialism tested social order. Many of the Court's most notable First Amendment decisions have come at times of social upheaval and involved government attempts to suppress speech critical of its power and actions, beginning with the passage of the Espionage Act and Sedition Act in 1917 and 1918, respectively. This pair of laws resulted in about 2000 prosecutions and 900 convictions, leading to the nation's first monumental First Amendment decisions.

In 1919, the Supreme Court decided *Schenck v. U.S.*, *Debs v. United States* (1919), and *Abrams v. U.S.*, all arising from the Espionage Act and involving criticism of the U.S. involvement in World War I and other military operations. *Schenck* is notable for Justice Oliver Wendall Holmes' establishment of what is known as the "clear-and-present danger test," asking "whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has the right to prevent" (*Schenck v. United States* 1919). Holmes invokes the metaphor of falsely shouting fire in a crowded theater to illustrate that danger posed by speech.

By the *Abrams* decision, however, Holmes was no longer in the majority as the Court upheld the conviction of five people for circulating leaflets calling for strikes in American ammunition plants. With the majority finding that the leaflets posed the clear-and-present danger outlined in *Schenck* and upheld in *Debs*, Holmes—joined by Justice Louis Brandeis—was in the dissent, arguing instead that speech should not be suppressed except in cases of immediate danger. Holmes wrote that "the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out." (*Abrams v. United States* 1919).

Through this argument, Holmes articulates what would come to be known as the marketplace of ideas theory of the First Amendment—that speech, no matter how noxious, is best addressed through challenge and debate, rather than government censorship.

While the Sedition Act was repealed in 1921, some states continued to pass legislation designed to subvert social protest. Charlotte Whitney was convicted under California law for helping organize a group that sought to effect economic and political change through

the unlawful use of violence. While her conviction was upheld unanimously in [Whitney v. California \(1927\)](#), in part on technical grounds, Brandeis and Holmes argued in a concurring opinion that speech does not meet the clear-and-present danger standard unless the harm it poses is severe, probable, and imminent.

The final case in the clear-and-present danger trajectory—and the standing precedent today—also involved a state-level criminal law. In [Brandenburg v. Ohio \(1969\)](#), the Supreme Court overruled Whitney and established a specific test to determine whether the government can constitutionally sanction speech that advocates the use of force or violations of the law. Such advocacy can only be punished when it is “directed to inciting or producing imminent lawless action and is likely to incite or produce such action” ([Brandenburg v. Ohio 1969](#)). The Brandenburg test sets a high bar for government and is broadly protective of expressions of protest against government sanction.

A series of other cases outside this direct line have addressed the limits of protest expression. In [United States v. O'Brien \(1968\)](#), the Court upheld the conviction of a Vietnam War protester for burning his draft card in public, holding that laws forbidding this activity furthered an important government interest and amounted to only an “incidental restriction” on First Amendment freedoms. In [Tinker v. Des Moines Independent Community School District \(1969\)](#), the Court held that the district violated the expression rights of children who planned to wear black armbands to school to protest the war. In [Cohen v. California \(1971\)](#), the Court vacated the breach-of-peace conviction of a war protester who wore a jacket reading “F—the draft” into a courthouse. Finally, in [Texas v. Johnson \(1989\)](#), the court ruled that burning the American flag in protest of government is constitutionally protected expression.

Contrary to its robust record of free speech and press decisions, the Court has rarely ruled on questions of the right to peaceable assembly. The most notable decision saw speech and assembly as intertwined. The Court struck down an Oregon criminal syndicalism law in [DeJonge v. Oregon \(1937\)](#), holding that, “peaceable assembly for lawful discussion cannot be made a crime. The holding of meetings for peaceable political action cannot be proscribed” ([DeJonge v. Oregon 1937](#)).

The upheaval of the Civil Rights Era also gave rise to a number of important right-to-assembly cases, ultimately expanding the meaning of the term to include a right to free association, which is not explicitly mentioned in the Constitution. In [Bates v. Little Rock \(1960\)](#), a unanimous Court invalidated a local ordinance requiring certain groups, including the local chapter of the NAACP, to reveal the names of their members and contributors, holding that it would significantly interfere with their freedom of association. In [Cox v. Louisiana \(1965\)](#), the Court struck down a state law that defined breach of the peace as any activity designed “to interrupt” or “to disquiet,” finding the statute unconstitutionally vague and overly broad.

Police activities are at the center of two assembly cases. In [Edwards v. South Carolina \(1963\)](#), the Court struck down breach-of-peace convictions against students protesting racial injustice. The 8-1 majority found that the students were marching peaceably until police ordered them to disperse under pain of arrest and only then did anyone even raise a voice. With no immediate threat of violence or incitement to lawlessness, the Court held, the police order to disperse was an unconstitutional abridgement of the students’ rights to assembly and speech. Similarly, in [Gregory v. City of Chicago \(1969\)](#), the Court vacated disorderly conduct convictions of civil rights protestors, holding that police orders to disperse from a lawful protest violated the First Amendment.

Some critics point to the Court’s recent silence on the rights to assemble and petition for redress of grievances as evidence that it is allowing these protections to, at best, stagnate and, at worst, atrophy. Constitutional law attorney Kia [Rahnama \(2020\)](#) argues that U.S. courts have failed to apply the doctrine of chilling effects as fully to assembly freedoms as to speech freedoms. The doctrine holds that citizen fear of government punishment can cause them to self-censor even in the absence of official sanction. For instance, a requirement that state employees pledge an oath of allegiance to the U.S. government was struck down

not because anyone was punished, but instead because it would create a climate of fear of punishment and thus chill free speech. Rahnama argues that courts should extend the chilling-effect doctrine to analysis of assembly cases because fear of aggressive police tactics deters participation in protests and exercise of constitutional rights to assemble and petition the government for redress of grievances.

2.2. Social Protest and the Media

Protests that fit news values such as a predilection for conflict and drama, as well as protests that provide engaging images for video and photographs, tend to serve as a lightning rod for news coverage. This is particularly the case when protest events include violent confrontations and property damage. Not only does the prospect of such dramatic actions increase the likelihood that a protest will grab the attention of news media, but such actions also become a salient feature of the coverage, often superseding media attention to the social issues inherent in the protest (Leopold and Bell 2017; Mourão et al. 2018; Oliver et al. 2022). For instance, protests that include actions such as property damage or clashes between protesters and the police are more likely to attract media coverage. Then, when media do cover such protests, news stories tend to focus on actions that can be considered as violence or criminal rather than the underlying issues that brought the protesters out in the first place (McLeod and Hertog 1999).

The resulting attention to the violence and property damage that occur at a protest (regardless of who initiated the violence or how prevalent such behaviors were among the participants) often results in news coverage that is critical of the protesters (DeLuca and Peeples 2002; Proust and Saldana 2022). The news values that get applied to social protest (i.e., media are drawn to conflict, drama, and violence), put social protest movements in a double-bind dilemma (McLeod and Hertog 1999). If they refrain from engaging in dramatic behavior, they are often ignored, but when they do engage in such behaviors, those actions are turned against them in the form of content that delegitimizes them by treating them as a “public nuisance” (Di Cicco 2010).

The irony here is that activities that might be considered violent, such as property damage and physical confrontations with police, are often born of frustration from a system that is perceived as not listening to the concerns of some of its citizens. To be sure, such actions that are driven by such frustration tend to be successful in drawing the attention of news media. However, they often result in coverage that is highly critical of the protesters, their actions, and ultimately of their issue agenda (McLeod and Hertog 1992).

The tendency of protest news coverage to feature actions such as property damage and physical confrontations with police has been identified as a characteristic of the “protest paradigm,” a set of characteristics that typify mainstream news coverage of social protest (Chan and Lee 1984; McLeod and Hertog 1999). Other protest paradigm news characteristics further reinforce a critical stance toward protesters, including emphasis on episodic over thematic coverage (Iyengar 1991), in which protest events overshadow the protesters’ issues. The tendency of journalists to rely on official sources tends to produce a top-down rather than bottom-up view of the protest. When it comes to confrontations between protesters and police, journalists often frame the protesters as initiating the action and the police as reacting to restore order. Finally, many protest news stories will report on the social costs of the protest in terms of the cost of providing police to monitor the protests, the social costs of diverting police from other law enforcement activities, and the costs of the protest in terms of their negative impact on the local economy (McLeod and Hertog 1999).

Many of the characteristics of the protest paradigm coalesce to delegitimize protest groups by focusing attention on these delinquent actions to the detriment of the issues that the protesters are raising. Moreover, the delegitimizing news coverage is more intense for protest movements that follow radical goals and employ extreme tactics, as this tends to lead news media to stricter adherence to the protest paradigm (Lee 2014; McLeod and Hertog 1999). Adherence to the protest paradigm is also greater for protests organized

around issues of race (Harlow et al. 2020; Brown and Harlow 2019). The upshot of the protest paradigm here is that violent confrontations and property damage that occurs in the context of a protest will not only attract media attention, but such events tend to dominate the focus of the resultant news coverage.

In the coverage of social protest, the news media's attention to violence and property damage exhibits a number of characteristics. First, the media often fail to recognize that the violence and property damage connected to the protest tends to involve a small fraction of the protesters relative to the number of protesters who refrain from engaging in such activities. Similarly, the media often fail to recognize that some of the violence may be instigated by counter-protesters, while looting may be conducted by opportunists not directly part of the protests (McLeod and Hertog 1999). For example, according to one study of the 2020 Black Lives Matter protests, the researchers observed that, "while some cases of violence or looting have been provoked by demonstrators, other events have escalated as a result of aggressive government action, intervention from right-wing groups or individual assailants, and car-ramming attacks" (Kishi et al. 2021). In addition, media often fail to recognize the root of underlying frustrations resulting from a systemic lack of responsiveness, not only to the voices and concerns of the protest, but from a sustained lack of attention to fundamental social problems like economic inequality, systemic racism, and police brutality.

Ultimately, the emphasis on protest violence overshadows attention to the important role that protest plays in a democracy by identifying problems that need to be addressed and contributing to the marketplace of ideas. While the advent of the Internet and social media has provided social protest movements with the ability to frame their own messages to publicize the social critique, the limited reach of such means of communication leaves social protest movements often preaching to the converted and largely at the mercy of mainstream news media portrayals in reaching the public at large. For most members of the public, mainstream media news coverage becomes the basis for the development of perceptions of what the protest is all about. When those images focus on property damage and violence, members of the public may react with fear and disdain for the protesters, setting the stage for public support for legislation to suppress the free expression and assembly rights of such protest groups. A longitudinal study examining over 15,000 U.S. protests from 1960 to 1990 showed that protests by Black movements tended to be more likely to involve the presence and actions of the police in response to the protest (Davenport et al. 2011), thus it may not be all that surprising to observe that protest legislation has been largely a response to Black protests.

2.3. News Coverage and the 2020 Black Lives Matter Protests

Legislation to suppress freedom of speech and assembly found new momentum due a series of protests that arose during the summer of 2020. On 25 May 2020, Minneapolis police officers were summoned to investigate an alleged forgery at a local convenience store. The officers found suspect George Floyd in a parked car near the store. After Floyd was removed from the car and handcuffed, he fell to the ground next to a patrol car. As two other officers pinned Floyd to the ground, face down, police officer Derek Chauvin knelt on Floyd's neck, where Chauvin's knee remained for 9 min and 29 s until an ambulance arrived at the scene. At this time, the emergency medical technicians examining Floyd could not detect a pulse, and he was soon pronounced dead (New York Times 2020, July 29). By the next day, protests against police brutality began in Minneapolis, later spreading across the country and around the world. These protests continued throughout the summer of 2020, and, in some cities, they continued into 2021 and beyond (Silverstein 2021, June 4; Taylor 2020, May 30).

In the case of Black Lives Matter, Harlow and Brown (2022) identify a "hierarchy of social struggle," in which the concerns of BLM protesters were diminished in news coverage when compared against other issue-driven protests. BLM protests have deep roots that extend not only to numerous protests that resulted from repeated incidents of police

brutality in recent decades, but all the way back to abuses endured under the institution of slavery. A driving force behind these protests, the Black Lives Matter movement (BLM), was thrust into the media spotlight. Formed in 2013 in response to a series of police shootings of Black Americans, BLM had been gaining power as a movement to combat racism, discrimination, and racial inequality (Francis and Wright-Rigueur 2021). As the protests of 2020 gained steam, BLM became a lightning rod for anti-protest backlash (Quinton 2021b, February 4).

For most people, their experience of the BLM protests was seen largely through the eyes of mainstream media coverage. Although most of the BLM protests were peaceful in the sense that there was no property damage or clashes with the police, the anger that was born out of recent events and centuries of oppression was evident in some of the protests. As the protest paradigm literature suggests, it was these protests and the property damage that occurred that grabbed the attention of mainstream media (Mourão et al. 2018), though the amount of attention to violent conflict differed by news organization (Craig and Reid 2022).

Not only does media coverage of social protest give considerable attention to incidents of civil disobedience, the framing of those activities in terms that emphasize criminality may be accentuated by the heavy reliance on official police reports and official spokespersons when reporters compose news stories. Law enforcement agencies have considerable power to shape news narratives in ways that define actions (including actions that occur at a protest) in criminal terms (Chermak 1995; Chermak and Weiss 2005; Grygiel and Lysak 2021). In the case of Black Lives Matter protests, news stories often framed protests as a threat to public safety and property (Reid and Craig 2021; Umamaheswar 2020). Ultimately, news framing of the BLM protests as violent and fraught with criminal activity provided evidence that conservative politicians highlighted when proposing protest legislation to suppress freedom of expression and assembly in the name of protecting the public and property (Farrington 2021, April 19).

2.4. News Coverage and the Florida Protest Legislation

As an institution widely seen as critical to a functional democracy, news media could be expected to respect the centrality of social protest to democratic self-governance. Yet, the protest paradigm suggests news media instead favor institutions of power and produce coverage reinforcing those institutions' narratives (e.g., Altschull 1994; Donohue et al. 1995; Herman and Chomsky 1988; McChesney 1992; Miliband 1969; Parenti 1978). Newspapers organize the structures and processes used to identify and report news around institutions of power (i.e., government bodies, courts, law enforcement agencies, corporations, schools, churches, etc.). Events and issues connected to those institutions are more likely to receive news media attention, and the individuals who represent those institutions are more likely to be used as sources of information (Fishman 1980; Gans 1979; Sigal 1973; Soley 1992). With significant state government legislation like Florida's protest law, it is not surprising that state newspapers will provide news coverage. News media help keep the public informed, not only so they are aware of what is happening in government, but also so they can take opportunities to speak to proposed legislation by contacting their political representatives directly, through news media, or through social media. Ideally, then, news coverage helps keep politicians accountable to citizens.

Journalistic news values are implicit characteristics of what constitutes important news (e.g., conflict, drama and prominent individuals) that further shape the events and issues that draw the attention of news media, many of which further draw media attention to powerful institutions. Social protests often include activities that fit the news values that drive news media. Following these news values, news media give more attention to some protests than others. The size of a protest and its proximity to large metropolitan areas tend to increase media coverage, as do protests that engage institutions of power like government and corporations and that are proximate to the news organizations (Oliver and Maney 2000; Oliver and Myers 1999).

Florida's protest legislation fits neatly within key news values, such as conflict and prominence. But, it also provided added incentives to draw media attention. First, the legislation followed a tumultuous year of protests in response to the murder of George Floyd by a Minneapolis police officer, the crest of a wave of protests against police brutality, structural racism, and social inequality that had been growing in intensity over the past decade. The resulting torrent of national and international coverage regarding these protests and their related issues put social protest near the top of the agenda of most news organizations. Moreover, the law raised First Amendment concerns, which would naturally attract the attention of the press, including the national press.

2.5. Substantiating the Need for Legislation

In covering the BLM protests of the 2020, news media coverage that gravitated to acts of vandalism and property damage provided the basis for claims that such protests present a danger to American communities. The proponents of the legislation cite the 2020 BLM protests as evidence that laws specific to protests are needed.

Pointing to news coverage of the violence at BLM protests, conservative politicians actively characterized the BLM protests as being violent, including Senator Ted Cruz saying, "(T)he violence and terrorism we are seeing across the country is unacceptable. It is wrong. It is incumbent on [politicians and police] to protect the American people and stop this rioting now" (Scaia 2020, June 3).

Such attempts to frame the BLM protests as synonymous with violence, looting, and destruction were common among outspoken conservative politicians. Senate Minority Leader Mitch McConnell said, "Last night, we saw more of the lawlessness, riots, and violence that has plagued American cities too often this year" (Watkins 2020, September 24). Freshman Republican Rep. Marjorie Taylor Greene argued that Democrats should be impeached for inciting violence that "included assaulting police, destroying businesses or burning down cities" (Watson 2021, January 14). Republican Rep. Matt Gaetz tweeted, "Now that we clearly see Antifa as terrorists, can we hunt them down like we do those in the Middle East?" (Madani 2020, June 1).

Thus, the media's focus on looting and property damage associated with the BLM protests provided "evidence" that was amplified by conservative politicians, in turn driving public perceptions that the protests were more violent than they really were (Chenoweth and Pressman 2020, October 16). Such messages spread fear that rallied support for various state initiatives to pass legislation to suppress social protest, including new laws passed in Alabama, Arkansas, Florida, Iowa, Kansas, Montana, Oklahoma, and Tennessee, with other bills pending in 21 states (Quinton 2021a, June 21).

2.6. Opposition to the Legislation

Legislation like HB1 has attracted oppositional arguments on a number of grounds. First, opponents assert that the legislation is not needed, as states already have laws that include penalties for criminal activity, such as property damage and physical violence. Second, legislation critics note that the 2020 BLM protests that were the lightning rod for the proposed legislation were largely peaceful. In fact, "94% of all pro-BLM demonstrations have been peaceful, with 6% involving reports of violence, clashes with police, vandalism, looting, or other destructive activity" (Kishi et al. 2021).

Legislation opponents argued that the sponsors of the legislation were engaging in a political stunt as part of a strategy to galvanize their political base. According to Micah Kubic, Executive Director of the ACLU of Florida, "This (bill) is not an attempt to make our communities safer. This proposed legislation by DeSantis is nothing more than a campaign political stunt" (Democratic Party of Lee County 2021, January 23).

Moreover, critics argued that the legislation was racially motivated to target social protesters that organize around issues that are of particular concern to Black communities like racial profiling, police violence, and racial oppression. For example, one commentator said, "The bills were highly politicized, and not surprising considering other moments in

history, where hyperbolic, criminalizing language was used to describe a need to quell the Black voices or punish the Black community, while little to nothing was done on a large scale to address the issue of police brutality and other oppressive actions in the Black community” (Milton 2021, December 7).

Another prominent criticism concerns the impact of the bill in suppressing the freedoms of speech and assembly. According to the ACLU of Florida, “It is clear that Gov. DeSantis and certain legislative members are aiming to shut down political speech they disagree with in a direct attack on the First Amendment and at the cost of Black and Brown people. This bill is a disgrace to our state” (ACLU of Florida 2021, April 15). Such arguments based on First Amendment grounds focus on the impact of legislation not only in extending punishment to protesters who commit crimes in the course of protests, but also in suppression of civil liberties through the potential chilling effect on participation by non-violent protesters who might fear getting caught up in police actions at the protest.

2.7. Research Questions

The central concern of this paper is the nexus of three previously disparate research strands—free expression and assembly, the protest paradigm, and coverage of Black Lives Matter protests—in the context of state legislation aimed at sanctioning certain protest activities. It asks to what extent news coverage served partisan legislative interests by emphasizing the need to protect the public and property versus covering the legislation’s power to suppress protected speech and assembly. To interrogate this, the researchers conducted an analysis of the news frames used to cover the protest legislation, and provide a lens through which the public comes to understand the nature of that legislation.

By analyzing the frames of news coverage of the legislation, we sought to investigate the following research questions:

RQ1: What news frames were used in presenting stories about HB1?

RQ2: Based on news story headlines and leads, what were the most important frames used by the media?

RQ3: How are chilling effects framed in stories on protest legislation?

3. Methods

This research engaged in a two-step analysis of news media coverage of the Florida HB1 legislation: a quantitative content analysis, followed by a qualitative analysis to isolate examples of different news frames. The Florida legislation was selected as the case study because: its provisions had wide-ranging implications for protests; it involved criminal (as opposed to civil) penalties which could be expected to result in greater chilling effects; BLM protests in Florida were neither more peaceful nor more violent than national averages; and Florida’s density of high-population metropolitan areas makes it a news-media-rich state.

The quantitative content analysis examined the headlines and leads of news stories and opinion journalism covering HB1. The original data query specified Florida sources and was conducted via Nexis Uni with a secondary search on Factiva to confirm no sources were overlooked. The date range was 1 January 2021, (the month the legislation was introduced) to 19 May 2021, (one month following its signing into law). The Boolean search string was (legislation OR bill OR law OR HB1) AND (protest OR protests OR riot OR riots OR anti-protest OR anti-riot). The search identified 519 unique articles, which was reduced to 379 articles after 140 articles were removed because of: (a) lack of availability due to broken links or paywalls; (b) articles written in a language other than English; and (c) articles not related to the Florida legislation. Of the articles that were analyzed, 96% were straight news stories, while 4% were editorials. Both types were included because both were part of the overall coverage that could shape framing and public understanding of chilling effects.

The quantitative content analysis coded frames of the headline and lead of each article as indicators of what frames were considered important as the story was written. Four distinct frames were identified:

Crime: A focus on protest events that involve criminal activity and violence that might necessitate protest legislation

Free Expression: A focus on implications of the legislation for freedom of speech and assembly

Political Strategy: A focus on the protest legislation as an element of political strategies by involved parties

Race: A focus on the implications of the legislation for race relations and selective enforcement

Two coders conducted the content analysis (overlapping on 10% of the articles to assess intercoder agreement) to identify four frames in the headlines and leads (operationalized as the first three paragraphs of a story): Crime, Free Expression, Political Strategy, and Race (all coded as either a major frame, minor frame, or not present). The Krippendorff's Alphas for headlines were 0.88 for Crime, 0.80 for Free Expression, 0.74 for Political Strategy, and 1.00 for Race. For story leads, Krippendorff Alphas were 0.81 for Crime, 0.77 for Free Expression, 0.92 for Political Strategy, and 0.95 for Race. Krippendorff's Alpha for story type was 0.85.

Given that the presence or absence of frames was a nominal variable, we used chi-square tests to examine the significance of differences in proportions in the use of frames.

We followed this quantitative analysis with a summative qualitative content analysis (Hsieh and Shannon 2005) using Nvivo software to explore whether the concept of chilling effects featured prominently in coverage and, when the concept appeared, how it was framed.

4. Results

The quantitative content analysis revealed significant differences in the application of frames for story headlines as originally coded separating major and minor frames ($X^2(6, N = 379) = 101.38, p < 0.05$), as well as when major and minor frames were collapsed into one category ($X^2(3, N = 379) = 281.84, p < 0.05$). The most common frame was Crime, appearing in 50.66% of the stories, followed by Political Strategy (13.96%), Free Expression (9.50%), and Race (8.44%).

There were also significant differences in the prevalence of frames for story leads (original coding: $X^2(6, N = 379) = 101.38, p < 0.05$; and with major/minor frames collapsed (see Table 1): $X^2(3, N = 379) = 232.63, p < 0.05$). Again, Crime was the most common frame (76.52%), followed by Race (40.37%), Political Strategy (35.88%), and Free Expression (24.54%).

Table 1. Frames usage in coverage of Florida's HB1 Protest Legislation.

Story Unit	Frames				$\chi^2(3)$
	Crime	Free Expression	Political Strategy	Race	
Headline	50.66%	9.50%	13.96%	8.44%	281.84 *
Story Leads	76.52%	24.54%	35.88%	40.37%	232.63 *

N = 379, * $p < 0.05$.

These results show that the Crime frame was the most commonly emphasized frame in the news coverage of the Florida legislation. The differences in the other three frames were not as stark ($X^2(3, N = 379) = 6.90, p < 0.05$ for headlines and $X^2(3, N = 379) = 322.32, p < 0.05$ for leads).

The qualitative summative content analysis revealed a paucity of coverage of chilling effects, the concept that laws abridging expression and assembly are constitutionally fraught even if no one is ultimately sanctioned under those laws. Citizen self-censorship out of fear of the law is as problematic as government censorship. In the same way Rahnama (2020) argues that U.S. courts have failed to fully apply the doctrine of chilling effects, news coverage failed to help citizens understand this impact of the Florida law. Few stories mentioned the doctrine at all, and those stories that mentioned a chill did so thinly.

The first framing that was evident in the coverage was broad statements about mass arrests arising from the law, leaving the impression that, if these do not happen, the law does not pose a threat to expression and assembly protections under the First Amendment. This completely ignores the threat of chilling effects. One editorial asserted:

“Given the history of police behavior in this country, we know what to expect. People of color, people of the left—they’ll be rounded up and charged far more often than those espousing causes dear to white conservatives.” ([Palm Beach Post Editorial Board 2021](#), March 31)

A second strand of framing, evident in almost all the stories analyzed that mentioned “chill” or “chilling effect,” was that the idea or term was used with little or no explanation. This appeared in news stories, for example:

“Throughout the lawmaking process, hundreds of advocates and Democrats in the Florida Legislature have said the bill will have a ‘chilling effect’ on peaceful protests and disproportionately impact minorities, while Republicans have said the bill is about ‘law and order.’” ([Ceballos and Klas 2021](#), Miami Herald, April 15)

The same lack of context or explication also was evident in editorials:

“This proposed legislation is entirely unnecessary. There are already criminal laws—both state and federal—that address rioting, insurrection, treason, assault, and battery. In fact, it would chill the exercise of the right to peaceably assemble, made abundantly clear when no provision takes into account the granting of permits authorizing peaceful gatherings.” ([Brigham and Quince 2021](#), The Weekly Challenger, February 19)

The quantitative analysis revealed that the frames of Race and Free Expression paled in comparison to the Crime frame in coverage. The summative content analysis showed that, when chilling effects were covered, the concept was often tied to race because the Florida law was developed in response to Black Lives Matter protests. Both concepts were then tied to politics as a frame, with Democrats opposing the bill advanced by Republicans.

“Black Democrats especially have lashed out at the measure, which they say is rooted in racism and is evocative of Jim Crow-era laws targeting Black people. Critics say the law gives too much leeway to law-enforcement officers to decide whether to arrest peaceful protesters who have participated in rallies that might have erupted in violence unrelated to their actions.” ([News Service of Florida 2021](#), April 19)

“A coalition of state Democrats was fuming as DeSantis made HB1 official. Members called it a dark day in state history. They worried enhanced penalties for violent protest were too broad, police would sweep up peaceful demonstrators and a chilling effect would suppress minority voices.” ([Saunders 2021](#), WFTS, April 19)

5. Discussion and Conclusions

This study presents an analysis of news framing of Florida’s HB1 legislation as an example of legislation proposed by numerous states across the country in the aftermath of the 2020 BLM protests. Such legislation, proposed with the stated intent of protecting the public from violence and property damage, pits these concerns for public safety against competing concerns regarding the legislation’s implications for civil liberties in terms of free expression and public assembly.

The results of our content analysis showed that the most common frame in media coverage was the Crime frame (regarding the legislation’s expressed purpose of protecting public safety), which echoed the institutional agenda of Florida Governor Ron DeSantis, as well as the framing by other prominent national Republicans. This frame appeared in more than 50% of headlines and over three-quarters of story leads. The presence of the

Crime frame is also consistent with much of the news coverage of the 2020 BLM protests, which emphasized property damage and the clashes that occurred between protesters and the police. The prominent adoption of the Crime frame by news organizations reflects the institutional power of government and police to drive the news agenda. In the process, news coverage may contribute to an exaggerated and narrow view of violence associated with BLM protests, particularly when viewed in the context of actual research on the nature of violence associated with BLM protests (Kishi and Jones 2020).

The Political Strategy frame (which focused on the political utility of this legislation for individuals and groups relevant to the legislation) was the most common frame in headlines (14%) and third most common in story leads (36%). The Race frame (pertaining to racial implications of the legislation such as its potential to target Black Americans) appeared in only 8% of headlines, but in a relatively large percentage of leads (40%), which seems to reflect the legislation's connection to the BLM protests. As opposed to the Crime frame that largely provided support for the protest legislation, the Political Strategy and Race frames raised concerns about the motivation behind and potential problems with the application of the legislation, though as concerns these frames could be seen as secondary relative to the more central concern about its implications for free expression.

Overall, the Free Expression frame (addressing the legislation's implications for civil liberties of political expression and public assembly) was the least common of these four frames. It appeared in only 9.5% of the headlines and in only 24.5% of the leads. The fact that Free Expression was the least common frame is somewhat surprising given that it was one of the two central public values being pitted against each other by the legislation (the other being public safety). Moreover, it is surprising given the fact that news organizations are beneficiaries of the First Amendment and are supported by the value of free expression. But, this finding may show the power of institutions and public officials (in this case, the Florida legislature and Ron DeSantis) to shape the agenda and content of the media. Ultimately, the prominence of the Crime frame relative to the Free Expression frame may also illustrate the power of months of protest paradigm news coverage, which provided more ample attention to actions that provide evidence to substantiate the need for the legislation than it did to provide evidence of the value of free expression and assembly.

Beyond failing to relay the value of free expression and assembly, the news coverage broadly failed to explain the doctrine of chilling effects and how the government can suppress speech and participation without any visible use of force. Certainly, the nation saw examples of the use of force during the summer of 2020 in response to protests, whether it was pepper balls used to clear Lafayette Square in Washington D.C. or tear gas in Portland. The government can put down demonstrators with an iron fist. But the Florida legislation need not result in arrests to be suppressive. If citizens self-censor and avoid protesting because they fear sanction under the law, the government is still abridging the fundamental constitutional right to speech and assembly. The government is ruling with an invisible iron fist. Kovach and Rosenstiel (2021) famously called journalism "the literature of civic life." To live up to that responsibility, news outlets must take seriously the need to inform citizens about their fundamental rights and the varied ways in which government can infringe on their liberty. HB1 now offers the federal courts, and quite possibly the U.S. Supreme Court, the opportunity to reassert the protections of the First Amendment right to freedom of assembly after decades of silence on the matter and stem aggressive police tactics and legislative overreach that suppresses speech and chills protest.

Two limitations are important to consider with this work. First, our approach focused on one state when more than 45 states have considered such legislation and 39 bills have passed in some form. Yet, Florida is an important state given its size, the nature of its legislation, and the political prominence of its current governor, widely seen as a contender for the next Republican presidential nomination. Second, our content analysis focused only on headlines and leads (i.e., the first three paragraphs of each text). It's conceivable that many of the articles could have contained the other argument frames (such as Free Expression) lower down in the article. Nevertheless, the prominence of the Crime frame

high up in the article (i.e., headline and lead) indicate that journalists considered this frame to be relatively important. Further, the qualitative content analysis confirmed the paucity of attention to expression, assembly, and chilling effects.

In summary, this analysis of the news media coverage demonstrates that Crime was the most powerful news frame through which audiences viewed Florida's HB1 legislation. This framing was consistent with the perspective of the power structure that was pushing the HB1 bill, which capitalized on ongoing news coverage of the BLM protests of 2020 as told through the lens of the protest paradigm. That is, this view was built on a media narrative that focused on episodic incidents of property damage and physical confrontations rather than thematic coverage of the issues of racial oppression that the protesters were raising. This protest coverage that greatly accentuated crimes of the protest provided the impetus to support the need for the legislation even though other evidence shows that the vast majority of such protests were devoid of activities that could be prosecuted as crimes under existing laws. The emphasis of the Crime frame in news coverage relegated the other potential frames such as Political Strategy, Race, and Free Expression to the background of news coverage. Of particular concern here is the relative obscurity of the Free Expression frame in HB1 legislation coverage given its potential chilling effect on First Amendment liberties of free speech and assembly. This framing imbalance of featuring the Crime over the Free Expression angle of the story is notable given the news media's interest as a prime beneficiary of First Amendment rights.

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