LGBTQ Policy Journal

at the John F. Kennedy School of Government at Harvard University

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The David Bohnett Foundation, which has been the *Journal*'s long-standing supporter and champion of LGBTQ causes cross the United States. Its help has contributed to the mission of the *Journal* to promote, disseminate, and foster public policy in the field.

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Letter from the Editor

Dear Readers,

It is our immense privilege to share the tenth edition of the *LGBTQ Policy Journal* with you.

As we enter 2020, now is an excellent time to reflect on the incredible triumphs and devastating losses experienced by members of our community. In this past decade, in countries throughout the world, we have witnessed the legalization of same-sex marriage, the striking down of laws criminalizing homosexuality, and unprecedented gains in LGBTQ representation in all facets of daily life. In spaces ranging from media and culture to political office and civil society, LGBTQ representation continues to grow.

Still, while some members of our community are winning long-fought battles and (ideally) bringing us closer to liberation for all, the most vulnerable among us continue to suffer immensely. The United States still faces an epidemic of violence against trans people, which disproportionately impacts trans Black women and trans women of color. At the time of writing, not yet into the month of April, Monika Diamond, a Black trans woman, was reported as the fourth violent death of a trans individual in the United States in 2020. State legislatures have raced to pass horrific laws denying LGBTQ individuals access to services ranging from proper identification to necessary healthcare.

Outside of the US, same-sex marriage, intimacy, and identification remain criminalized in more than 70 countries, and LGBTQ migrants and refugees remain particularly persecuted by the rising fascist and xenophobic tides sweeping nations around the world. In the face of this, our communities have continued to resist and win monumental gains. In the past decade, 21 countries began to recognize same-sex marriage at the national level, and 28 countries added some measure of protections against discrimination based on LGBTQ identity. These victories do not simply reflect increasingly tolerant power structures—rather, they are a testament to the remarkable organizing and resilience our community has continued to engage in and demonstrate.

As you may know, the *LGBTQ Policy Journal*'s mission is "to inspire thoughtful debate, challenge commonly held beliefs, and move the conversation forward on LGBT rights and equality." We seek to advance our mission this year by curating a multidisciplinary journal, in print and online, with diverse pieces that honor the complexity of our communities' leadership.

Our pieces range in topic and form, highlighting aspects of LGBTQ identity from the deeply personal to the directly political. We feature pioneers like Robyn Ochs, a long-time grassroots activist who has played a role in some of the leading publications and organizations centering bisexual identity. We also highlight the experiences of individuals like Diego Garcia Blum, who shares an intimate window into his experiences navigating divides between religion and LGBTQ identity. At the same time, we showcase individuals like Samuel Maddox, transforming the conversation on intersections of queer and housing justice.

From our home base in Cambridge, Massachusetts, we thank you for your time, and we look forward to reading your thoughts!

Sincerely,
Your Editors

What's in a Wristband:

A Novel Hospital Policy for Transgender Youth

Jordan Taylor Said

Jordan Said (he/him/his) is a third-year medical student at Harvard Medical School. He is originally from Hobbs, New Mexico, and completed a bachelor's degree in molecular and cell biology at the University of California, Berkeley. Jordan is clinically interested in complex medical dermatology, particularly rheumatology-dermatology, cutaneous toxicities, and inpatient consultation. He anticipates applying to combined dermatology and internal medicine programs for residency training. Jordan is one of the co-presidents of the LGBT and Allies at Harvard Medical School student and faculty organization. He is largely interested in medical education and curriculum design to educate future providers on LGBTQ+ health issues and skills, and he has developed and published curricula for medical students in this realm on managing clinical microaggressions. He is a student working on the Harvard Medical School Sexual and Gender Minority Health Equity Initiative, a three-year project to reform the HMS curriculum towards LGBTQ+ objectives.

"Looking down and seeing that 'F' . . . No. No, that's not right."

These were the words thought by Ben, a teenage transgender boy living in Aurora, Colorado. While an "F" is enough to upset any school-aged child, Ben isn't talking about his report card—he's summarizing the significant, pathological gender dysphoria he experiences while receiving medical services at his local children's hospital, having been labeled as female ("F") while staying in the hospital.

Ben, like hundreds of thousands of adolescents in the United States, is a transgender youth who interfaces with the American health care institution. Epidemiological studies repeatedly demonstrate that transgender youth are apprehensive to seek medical care due to fear of discrimination or providers' misunderstanding of their identities.[1,2] For those that do interact with the health care system, transgender patients report experiencing significant rates of microaggressions and frank discrimination in the inpatient setting, particularly for those patients who consider themselves "recognizably" transgender.[3] This can have adverse effects on transgender youth, including the gender dysphoria—the psychological and often somatized stress a patient feels due to the discordance of their assigned sex at birth and gender identity—that Ben described while admitted to Children's Hospital Colorado (CHC), an academic medical center in Aurora.[4] Especially as schools and community organizations make efforts to show acceptance of diverse gender identities, hospitals too must consider how they can best support transgender and gender-nonconforming youth.

Affirmation and inclusivity of transgender youth can be dynamically improved by hospital policy reform. In the last decade, policy reform has focused largely on non-discrimination rules for hospital employees and the appointments of many new chiefs

of diversity and inclusion. These regulations and positions are capable of enacting hospital culture change but are primarily concerned with staff-facing rather than patient-centered initiatives. In addition, while these policy strategies respond to the issue of how to best serve diverse staff and patient populations and change cultural attitudes, they fail to directly curtail aspects of the inpatient experience that can incite gender dysphoria in transgender patients.

Some hospitals are already making significant strides to be inclusive of transgender and gender non-conforming patients. CHC recently implemented a novel hospital policy to combat gender dysphoria for their transgender pediatric patients. As per common practice, admitted patients who stay at CHC wear an identification wristband that carries identifying information and a barcode to be scanned when labs and tests are ordered. The wristband includes information necessary to verify the patient's identity, prevent submitting orders for the wrong patient, and allow clinicians to quickly collect demographic and medical information on the patient, such as name, age, gender, date of birth, and allergies. In September 2018, the hospital's Gender Diversity Task Force removed gender markers from all patient wristbands in an effort to better validate the identities of admitted transgender and non-binary pediatric patients. The hospital has also removed gender markers from patient labels on paperwork and prescriptions.

Proponents of the policy have praised the novel approach to improving the clinical environment for transgender patients. The policy accomplishes two goals: prevention of gender dysphoria in transgender and gender-nonconforming patients receiving medical services and a declaration of the values of the health care institution. Gender dysphoria is directly associated with triggers that evoke this dissonance to the patient, and printed gender markers can effectively precipitate a dysphoric state in these patients.[5] CHC's policy reform extinguishes this trigger, effectively reducing the risk for transgender and gender-nonconforming patients to experience a dysphoric event while receiving medical services.

A secondary goal of the policy is to emblemize core values of the institution. Children's Hospital Colorado announced its support of transgender and gender-nonconforming youth through this reform, communicating to their patients and the general public that CHC health care providers recognize the nuances of gender identity and expression. CHC, in this way, declares its providers as allies to patients of diverse gender identities and sexual orientations.

The policy was met with criticisms from right-wing and religious groups.[6,7] Some critics noted that the policy erases patient sex and gender from the medical record entirely, removing core demographic data with clinical correlates and value. Dr. Natalie Nokoff, a pediatric endocrinologist at CHC, has clarified that the hospital's electronic medical record continues to store patients' biologically assigned sex. This data is

obviously important for patients admitted for complaints related to pelvic pain or precocious puberty, for which the child's anatomy and sex are clinically significant.

A second complaint evaluated the effect of the policy on pharmaceutical dosing in admitted pediatric patients.[9] Critics offered concern that without clear sex or gender markers on patient wristbands, patients could not receive an appropriate dose of medication informed by their biological sex, particularly in the emergency setting when the acuity of a medical issue may compromise checking the patient's medical record. This criticism is founded upon the belief that medication is dosed differently with respect to biological sex for pediatric patients; however, in the field of pediatrics, it is standard practice and hospital policy to dose medications based on the weight of the child in kilograms (drugs are assigned doses in milligrams per kilogram; for example, diphenhydramine (Benadryl) is typically ordered at 1.25 mg/kg), and thus the exact amount of drug varies with the weight of the child—not the sex.

Due to anatomical and physiological differences between assigned male and female bodies, there are recognized and well-demonstrated differences in drug absorption, distribution, metabolism, and excretion between biological sexes.[10] For example, the liver contains many enzymes that modify and break down drug molecules; these enzymes are known as cytochromes. Each different cytochrome enzyme is responsible for metabolizing different drugs, and studies have demonstrated that the activity of different cytochromes vary with assigned biological sex.[11] However, these physiological differences have only minor clinical implications. While they are grounded in proven scientific theory, the effects of these differences are small enough not to warrant recommendations from medical organizations. As a result, there are no widely accepted guidelines or hospital policies that stratify this dose with respect to the assigned sex of the patient.[12]

Children's Hospital Colorado demonstrates a considerate and creative approach to improving the clinical environment for admitted patients, demonstrating their commitment to the health of children and adolescents with diverse genders and sexual orientations. This policy reform has been monumental for CRC patients. For example, affirming his transgender identity is a massive part of Ben's world: "It's huge, bigger than anything on this planet." Progressive and innovative hospital policy reform, as demonstrated by CHC, is an important step forward to make hospitals and the world more welcoming and validating for transgender and gender-nonconforming youth.

Endnotes

1 Kristie L. Seelman et al., "Transgender Noninclusive Healthcare and Delaying Care Because of Fear: Connections to General Health and Mental Health Among Transgender Adults," *Transgender Health* 2, no. 1 (2017): 17–28.

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3 Amanda Rodriguez, Anette Agardh, and Benedict Oppong Asamoah, "Self-Reported Discrimination in Health-Care Settings Based on Recognizability as Transgender: A Cross-Sectional Study Among Transgender U.S. Citizens," *Archives of Sexual Behavior* 47, no. 4 (2017): 973–985.

4 Stephen M. Rosenthal, "Transgender Youth: Current Concepts," *Annals of Pediatric Endocrinology & Metabolism* 21, no. 4 (2016): 185.

5 William Byne et al., "Gender Dysphoria in Adults: An Overview and Primer for Psychiatrists," *Transgender Health* 3, no. 1 (2018): 57–A3.

6 Lisa Gutierrez, "Gender ID Removed at Colorado Children's Hospital to Make Kids Feel Comfortable," *The Kansas City Star*, 25 September 25, 2018.

7 Patti Maguire Armstrong, "Gender Deniers at Colorado Hospital," 28 February 2018, http://www.pattimaguirearmstrong.com/2018/09/gender-deniers-at-colorado-hospital.html.

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9 Armstrong, "Gender Deniers."

10 Offie P. Soldin and Donald R. Mattison, "Sex Differences in Pharmacokinetics and Pharmacodynamics," *Clinical Pharmacokinetics* 48, no. 3 (2009): 143–157.

11 David J. Waxman and Minita G. Holloway, "Sex Differences in the Expression of Hepatic Drug Metabolizing Enzymes," *Molecular Pharmacology* 76, no. 2 (2009): 215–228.

12 Teresa Chu, "Gender Differences in Pharmacokinetics," *U.S. Pharmacist*, 17 September 2014, https://www.uspharmacist.com/article/gender-differences-in-pharmacokinetics.

Ending a Culture of Discrimination

Diego Garcia Blum

Born in Bogotá, and raised in Miami, Diego Garcia Blum is a nuclear engineer currently pursuing a master in public policy degree at the Harvard Kennedy School of Government. He previously worked in new technology development at Orano—the world's largest nuclear technology company. He is a member of the National Board of Governors of the Human Rights Campaign and works as an immigration reform activist and community organizer. He holds bachelor's degrees in nuclear engineering and political science from the University of Florida.

"Our country is not divided between the religious and non-religious; it is divided between people who discriminate and people who don't."

After Harvard Law School announced the creation of a new Religious Freedom Clinic on campus, LGBTQ students have been activated like a swarm of bees circling a kicked beehive. Our fear is that Harvard is condoning the type of arguments that try to justify LGBTQ discrimination under the guise of religious freedom. This is an argument that anchors its roots in a culture of discrimination towards LGBTQ people that has existed for most of human history—not in the free practice of religion. Our country is not divided between the religious and non-religious; it is divided between people who discriminate and people who don't.

I first learned this distinction when my deeply religious family eliminated their congenital discrimination and grew to accept me fully without once wavering in their faith. During this process, I remember a conversation in the car with my mother who suddenly turned to me and said, "Why is our church so keen on demonizing gay people while dismissing all of the biblically forbidden things, like tattoos and clothing restrictions, as outdated concepts?" I was witnessing my mother diagnose the cancer of discrimination that had attached itself to her faith. I watched my family struggle as they surgically removed the homophobia they were indoctrinated into from their religious beliefs. Eventually, my mother, like so many Americans, understood that accepting LGBTQ people did not mean losing your faith.

We saw this same distinction in full display when the wave of "Religious Freedom" bills flooded the capitals of more than two dozen states the summer same-sex marriage was anticipated to arrive. The intent of these bills was simple: allow private citizens to turn away LGBTQ people from their businesses when they felt that serving them would violate their religious beliefs. When Vice President Mike Pence signed one of these bills into law in Indiana during his time as governor, no one feared

that businesses would begin turning away divorced women (despite this also being forbidden in the Bible); they knew the target was LGBTQ people. LGBTQ people are treated differently, not because we are particularly singled out in the Bible but because we live immersed in a culture of discrimination that for too long has claimed refuge under the mask of religious expression. These laws are fighting to uphold a seething culture of discrimination that belongs in the dustbin of history.

LGBTQ people are just now being understood by society as we emerge out of thousands of years of hiding in the closet. Throughout history, homosexuality has been criminalized around the world—resulting in generation after generation suffering invisibly in the closet. It has only been in the past 50 years that LGBTQ people have found the freedom to come out to the world en masse. We think of divorce as something common today, but it wasn't until Victorian reforms of the 1800s that it became legal in the United States and eventually integrated into society. It has taken us a long time, but LGBTQ people are undergoing this same process today.

Nevertheless, having been a religious person myself, I understand those who believe that they must adhere to the strict interpretation of their religions as they have learned them; anything less feels like a sinful betrayal. To those people I would like to ask: if there is a branch of your faith that accepts LGBTQ people with love, is it truly moral to practice a version of your faith that chooses to discriminate? LGBTQ discrimination is the boiling pot that LGBTQ children find ourselves in the moment we realize that we were born different. In my life, discrimination was slowly coming to terms with the fact that I was gay and instantly feeling terrified, the settling of a permanent nausea that wrenched me into remembering that my family might one day disown me. Discrimination was feeling the need to lie about who I was in fear of humiliation from my peers and then feeling the guilt of such deception eating away at me slowly for years. Discrimination was the self-hatred that formed like a cancer when, as a teenager, I was told that being gay was a choice, and still I was powerless to change it. Is this really the kind of pain your God would want to perpetuate?

For far too long, excuses in the name of religion have been the fire that has kept the pot of discrimination boiling. We must not allow the laws that fuel this fire to become part of the legal framework of our country. It is time for us as a country to begin disassociating discrimination from religion so that such a false choice can finally release its grip on so many well-meaning and loving Americans.

Critical Disavowals

a breast cremation photo-essay

Cara Tierney

Cara Tierney is an artist, curator, researcher, consultant, activist, and part-time professor who lives and works in the Kichi Sibi area (so-called Ottawa, Canada). Proudly trans/non-binary, Tierney holds a master's degree in Canadian art history from Carleton University and a master of fine arts degree from the University of Ottawa, and they are a PhD candidate at the Institute for Comparative Analysis in Literature, Arts and Culture at Carleton University. Their creative practice questions the way meaning is structured in, around, and through the body while their academic work investigates the interrelationships of pedagogy, art, and gender nonconformity. They teach history and theory of art as well as studio practice (photography and relational sculpture) at the University of Ottawa and are a contract instructor in the Pauline Jewett Women and Gender Studies department at Carleton University. Tierney is the 2019-2020 Artist in Residence in the University of Ottawa Faculty of Medicine.

In the fall of 2013, I had my breast matter cremated. Two months earlier, I had undergone a prophylactic double mastectomy as a result of being found to carry the BRCA1 gene mutation, which signals a predisposition for developing cancer. Without hesitation, I elected to have my breasts removed as it had the dual purpose of mitigating possible cancer while delivering me into a gender-aligned body. As a gender-diverse person, my earlier research into chest surgery proved both cost-prohibitive and difficult to access based on the gatekeeping mechanisms transgender patients face when seeking care. The gene mutation allowed me to avoid this protracted and invasive process, as choosing to have my breasts removed as a cancer-related issue made the process free under the Canadian health care system.

Transgender biomedical rhetoric can be summarized in the axiom "born in the wrong body." This phrase limits the way gender-diverse people actualize nuanced and affirmative understandings of their identities, foundationally inscribing the word *transgender* with notions of bodily self-hatred. Gender-diverse folks seeking care are at the mercy of a medical system that requires the rehearsal of a pre-determined, pathologized condition. Far from the performance of a scripted identity, and cast into the space of mourning and tribute, *Critical Disavowals* is a loving send-off that overturns the way biomedical discourse structures the experience of the body.

Image List:

Hospital Release Form
Left Breast Tub in Plastic Wrap
Right Breast Tub
Self-Portrait with Breasts
Left Breast Matter
Cremation Contract
Urn

2013/09/11

The Ottawa Hospital | L'Hôpital d'Ottawa

CAMPBELL-TIERNEY, C
(OH) 33663378
SP-13-032270

AUTHORIZATION OF SURGICAL SPECIMEN, PERINATAL LOSS <20 WEEKS

AUTORISATION POUR LE MODE DE DISPOSITION OU LA LIBÉRATION D'UN PRÉLÈVEMENT CHIRURGICAL OU D'UNE MORT PÉRINATALE <20 SEMAINES

Campbell-Tierney, Cara Clare (F)
213 Maple St
Ottawa ON
K2L 6M4
DOB - Nov 15, 1978   Phone - 613-799-58
MRN - 3366337-8   Health # - 547 589 969 M

I authorize The Ottawa Hospital and its nursing and medical staff, in accordance with customary medical practice, to dispose of/release the following:

J'autorise L'Hôpital d'Ottawa et son personnel infirmier et médical à libérer les prélèvements suivants selon le protocole médical établi :

Specimens-Prélèvements: Right + Left Breast

Name of patient-Nom du patient: CARA CAMPBELL-TIERNEY

DISPOSAL-MODE DE DISPOSITION

- ☐ To Hospital-À l'Hôpital
- ☒ To Funeral Home-Au salon funéraire
- ☐ To family, if substitute, indicate name:
  À la famille. Si personne substitut, indiquer le nom :

Y-O ☐ N ☐ Parents wish an invitation to Annual Memorial Service. Les parents désirent une invitation au service commémoratif annuel.

PERINATAL LOSS <20 WEEKS-MORT PÉRINATALE <20 SEMAINES

Definition-Définition : < 20 weeks-semaines or-ou < 500 g
Working gestational age-Âge gestationnel établi : ______
Weight-Poids : ______ g
Family wish-Désir de la famille : ______

	Y-O	N
Autopsy-Autopsie	☐	☐
External examination only / Examen externe seulement	☐	☐

Name of patient or person legally responsible-Nom du patient ou de la personne légalement responsable: CARA CAMPBELL-TIERNEY
Signature: [signature]
Relationship-Lien de parenté: 11. SEPT. 2013

Name of witness-Nom du témoin: Dennis Garvin
Signature: [signature]
Date (yyaa/mm/dj): 11. Sept. 2013

A second witness is required if consent is obtained by telephone.-Un deuxième témoin est requis si le consentement est obtenu par téléphone.
Name of witness-Nom du témoin   Signature   Date (yyaa/mm/dj)

RESERVED FOR PATHOLOGY DEPARTMENT-RÉSERVÉ AU DÉPARTEMENT DE PATHOLOGIE

	Y-O	N
Autopsy completed-Autopsie terminée	☐	☐
Preserve in formalin-Conservation dans la formaline	☐	☐
Surgical specimen ready for release-Prélèvement chirurgical prêt à être libéré	☐	☐
Surgical specimen disposed of by the Hospital-Prélèvement chirurgical détruit par l'Hôpital	☐	☐

Date (yyaa/mm/dj) :   By-Par :

RESERVED FOR HEALTH RECORDS-RÉSERVÉ AUX ARCHIVES MÉDICALES

Surgical specimen released to-Prélèvement chirurgical libéré à : Patient

Date (yyaa/mm/dj) : 2013/11/13   By-Par: [signature]

Signatures
1 Claimant-Receveur DAVID ZAREMBA
2 Health Records-Archives médicales
3 Security-Sécurité

CDN 20 EF (11/2006)   1-Morgue   2-Health Records-Archives médicales   3-Parent/Funeral Home-Salon funéraire   4-Nursing-Soins infirmiers

☒ Civic Campus-Campus Civic, 1053, avenue Carling Avenue, Ottawa ON K1Y 4E9
☐ General Campus-Campus Général, 501, chemin Smyth Road, Ottawa ON K1H 8L6
☐ Children's Hospital of Eastern Ontario, Centre hospitalier pour enfants de l'est de l'Ontario, 401, chemin Smyth Road, Ottawa ON K1H 8L1

2013/08/22
CAMPBELL-TIERNEY, C
SP-13-032270
10% BUFFERED FORMALIN

Sound

CAMPBELL-TIERNEY, C
SP-13-032270

CIMETIÈRE ET SERVICES FUNÉRAIRES

BEECHWOOD

CEMETERY AND FUNERAL SERVICES

Propriété de la Fondation du cimetière Beechwood et exploité par la Société du cimetière Beechwood.
Owned by the Beechwood Cemetery Foundation and operated by the Beechwood Cemetery Company
280, avenue Beechwood Avenue • P.O. Box/Case Postale 7025, Ottawa, Ontario K1L 8E2
Tel/Téléphone (613) 741-9530 • info@beechwoodcemetery.com

AT – 13 - 0249

1. Agreement: This **Funeral Service Contract** is made the 31 day of OCT , 2013 between the Purchaser and Beechwood, Cemetery and Funeral Services ("**Beechwood**") (the "**Parties**", each a "**Party**") for the provision of funeral Services, Supplies and Internal Disbursements as detailed on Schedule "A" hereto for the Recipient by Beechwood. This Contract is subject to the *Funeral, Burial and Cremation Services Act, 2002* (the "**Act**").

Name: ("Purchaser") Cara tierney
Address: 22 chemin Lapointe
Address: L'Ange Gardien QC G8L 0H4
Telephone: (613-799-5819
E-mail: ——
Relationship to Recipient: herself -

Name: ("Recipient") Human tissue
Address: ——
Address: ——
Date of birth: ——
Date of death: ——
Place of death: ——

The Purchaser designates N-A to be authorized to cancel this Contract and receive any refund hereunder (the "**Purchaser's Designate**") and the Purchaser waives their rights to cancel this Contract or receive any refund hereunder. For further certainty, where the Purchaser has appointed a Purchaser's Designate, where the term "Purchaser" is used in this Contract to describe cancellation or refund rights, this term shall be read to mean "Purchaser's Designate."

PROVISION OF SERVICES, SUPPLIES AND DISBURSEMENTS

2. Delivery time and location of Services, Supplies and Internal Disbursements: Beechwood will deliver the Services, Supplies and Internal Disbursements purchased pursuant to this Contract at times and locations as agreed between Beechwood and the Recipient's legal representative – as outlined below. The Purchaser acknowledges and agrees that the majority, if not all, of the Services, Supplies and Internal Disbursements will be provided within thirty (30) days of the execution of this Contract and specifically consents to such delivery. If supplies and services are to be delivered within 30 days of this contract being made, any refund to be issued should contract be cancelled will be reduced by the value of supplies and services already delivered.

Event	Date	Time	Location	Confirmation
				To be confirmed
cremation				

Le cimetière national du Canada • The National Cemetery of Canada

An Interview with Robyn Ochs

Elizabeth Zwart

Elizabeth Zwart is currently pursuing a joint degree at the Harvard Kennedy School and the Harvard Business School as a Rubenstein Fellow. A former management consultant, Elizabeth is an editor of the Women's Policy Journal, *a member of Crimson Improv, and a tour guide with the "Undesign The Redline" exhibit. She is interested in criminal justice, racial and gender equity, and approaches to healing trauma. Elizabeth holds a BSBA in business administration and philosophy from the University of North Carolina, and lives in Somerville, Massachusetts, with two roommates and an orange cat.*

Robyn Ochs is an educator, speaker, grassroots activist, writer, and editor of Bi Women Quarterly. *She has served on the board of MassEquality, and on the Massachusetts Commission on LGBTQ Youth. She was named by* Teen Vogue *as one of "9 Bisexual Women Who are Making History," and she was chosen to represent Massachusetts on the* Advocate's *"50 States, 50 Heroes" list. Elizabeth Zwart, a master's in public policy candidate at Harvard Kennedy School, interviewed Robyn on her perspectives on the evolution of bi activism.*

Robyn Ochs at North Shore Pride (Photo credit: Marilyn Humphries)

ZWART: What was growing up like for you?

OCHS: I grew up in New York City "BG"—before Google—and that informs my experience. I was a teenager in the 1970s. I grew up in a left-of-center, alternative home, but even there I don't remember a single conversation about LGBTQ+ stuff, ever. Politically, we were active; I grew up going to anti-war, civil rights, and anti-nuclear marches. We'd wake up at 4 AM to meet outside the public library to board a chartered bus and drive to a protest in DC. I stuffed envelopes at McCarthy and McGovern headquarters when each was running

for president and handed out campaign literature outside the subway station. When I was 10, I had a poem titled "The Tragedy of War" published in *Broadside,* a folk music magazine. The hippies were 10 years older than me, but as a kid I hung out with them. My mother often had random teenagers living in our basement, and I thought they were really cool.

What was the first moment you started to question your sexuality?

I started college, where I promptly fell head over heels in love with this woman in my hall, and I had to figure out what this meant and what to call it. I quickly concluded I was bisexual after playing what I call the "20/20 hindsight game," where I looked back and reviewed my past, looking for information and clues. I concluded that my previous attractions to various guys had been real and not performative, so I knew I wasn't a lesbian. I was most definitely attracted to this woman, and I realized I had earlier crushes on girls that I had not understood at the time as crushes! Clearly, I was bisexual.

What was it like for you internally to have feelings for her?

Having a crush is exciting. It was also terrifying because I didn't have the skills, self-confidence, or support to integrate my bisexuality into my public identity. I knew who I was, but I didn't know how to *be* a bisexual person in the 1970s. And growing up BG, I couldn't pull out my smartphone to seek support or answers to my questions. I was stuck in the space between knowing and being.

It sounds like at that point you weren't plugged into the lesbian community either—why?

Through my friendship with the woman on whom I had a crush, and with the three gay men who were my besties at school, I was structurally immersed in "the community," but I was not out. Ernesto, Terrance, and Kenny were my ticket to "gay town." I could enter "gay and lesbian" spaces with them without having to declare my own identity. Looking back, I think I was drawn to them in part for this reason, but I didn't do so consciously. What I heard while listening in these spaces made me feel it would be unsafe to come out. I heard lesbians and gay men say obnoxious and horrible things about bisexual people—"Everyone's really gay or straight," "Bisexuals are untrustworthy," "I would *never* date a bisexual." Back then, "the lesbian and gay community" meant only lesbian and gay, not trans and not bisexual.

Was there harassment or unwelcomeness from straight students?

I never really heard anything specific. I just knew it would not be safe to come out. I cared much more at the time about whether I belonged to the lesbian community, and I didn't, I really didn't. I survived college somehow—and I engaged in some of the coping behaviors associated with minority stress: cigarette smoking, excessive drinking, disordered eating. It wasn't until I

finally began coming out to others that I realized how much I had been suffocating in my own silence.

After college, you started coming out. During that time, how did the lesbian community view bi women?

Back then, there was much more of a divide between lesbian and not lesbian because it wasn't safe to be out. Bi women were viewed as tourists coming to soak up some lesbian energy before ultimately going back to their heterosexual, safe, validated lives. There was the notion that bisexuals were simply lesbians in denial who hadn't finished "coming out" yet. There was the idea that bisexual women were not trustworthy, bad relationship material—all these tropes were healthy and thriving. Bi women were part of the community, but we were not recognized. In 1983, I went to my first women's music concert to see Cathy Winter and Betsy Rose in Hartford, Connecticut. Women's music was at the time considered synonymous with lesbian music, and it was assumed that Cathy and Betsy were both lesbians. Years later, I learned that both Cathy and Betsy identify as bi. I think they knew that if they came out as bi, they would lose audience members. Anyway, several months after going to that concert, I moved to Boston.

How was the move to Boston?

My very first week in Boston, I opened up *Equal Times*, the local feminist newspaper, and I saw a calendar listing for "Women's Rap," a weekly discussion group at the Women's Center in Cambridge. The listed topic for that week happened to be bisexuality. I was so excited. At the time, I was aware of only three bisexual people in the entire planet (including myself), so this was huge. I had been plastering and painting my new apartment, and I remember scrubbing plaster out of my fingernails and eyebrows and hair trying to get clean so I could go to the meeting. I walked into the living room at the Women's Center and there were twenty women in the room!

Were all the women in the group bisexual?

Nineteen of us. The twentieth was a lesbian named Madge who had come to cruise—true story. We met for two hours, and it was life-changing for me. I don't think I was certain until that moment that there were nineteen bisexual people in the *world*. I thought we were so rare. At the end of that meeting, this woman Marcia Diehl stood up and asked, "Is anyone in this room interested in starting an ongoing support group?" Six women in the room, and two more who we added later, became the BiVocals, and we met monthly for ten years. We were eight women who disagreed about lots of things, but it was the one space where our identities were not challenged and where we didn't have to defend ourselves all the time. In this space, our bisexuality was unconditionally respected.

What was your experience starting the Boston Bisexual Women's Network like?

During our first year of existence, the BiVocals encouraged two more support groups to form. Together, we decided to

organize, and so we held an open meeting. We expected about thirty women because we were about twenty from the three support groups, and we expected more would show up. Turned out there were more than twice that number. There were women covering every inch of the floor and squeezed onto the chairs and sofas. Some were outside in the hallway, and others outside in the flowerbeds peering in through the windows.

How was the bisexual women's scene connecting with the broader LGBTQ movement?

We were not feeling welcomed. As for how we connected with the broader movement: four of the BiVocals were in our mid-20s and four in our mid-30s. The "older" women and two of us younger ones had come out of the lesbian or feminist movements.

There had been a wave of bi

Robyn Ochs (left) and members of the Boston Bisexual Women's Network march at Boston Pride in 1983.

The Boston Bisexual Women's Network was born in September of 1983. We started holding monthly meetings. We met at Somewhere Else, a women's bar, and in the basement of New Words Bookstore. And we started *Bi Women*, which is now *Bi Women Quarterly*.*

organizing in the United States in the 1970s that was focused on sexual liberation. The second wave of bi organizing in the '80s arose, to a large degree, out of the lesbian movement. Some of the women who took up bi advocacy had previously identified as—or had been presumed to be—lesbians.

To put this into larger historical context, what I think happened is that there was a point where the "lesbian movement" reached a critical mass such that it could start to acknowledge

* Issues from 1983 to 2010 have been digitized and are available at Harvard University's Schlesinger Library. This resource is available to researchers and to the general public through Harvard's catalog and directly on the web. More recent issues are online at *BiWomenBoston.org*.

and engage with its own complexities. Some who had always been there began to speak up and assert their citizenship in this movement: women of color, women with disabilities, bisexual women, Jewish women, working class women, trans women. There was this whole movement of sub-groups saying, "We are here, and we insist on being seen in our wholeness. Recognize us." If you look back, you will find a wave of anthologies that reflect this trend.

In your view, why was there resistance to bi folks in the lesbian and gay community?

I think that the resistance coming from lesbians was different from that coming from gay men. From gay men toward bi men, it was a dismissal, like, "Uh huh. Sure you are, honey. We all know you're *really* gay." From lesbians, we were perceived as a threat. There was fear that any woman who identified as bi had not fully committed to the community and the movement and that—when the going got tough—she would go off to the suburbs and find a husband. It was the fear of being abandoned, based on the notion that the privileges of heterosexuality are so great and the benefits of identifying as lesbian so small that anyone who *could* would ultimately choose heterosexuality.

There was also a perception that lesbian communities' very identities were threatened by these outsiders trying to join our movement and change our culture and asking us to see things differently or use different language. People thought, "How dare they, and who the hell are they, anyway? They showed up out of nowhere and they're trying to invade the spaces that we worked so hard to build, and now they're diluting our movement."

This is, of course, not factual because some of the women who built those spaces were bi. I was one of those people. In the 1980s, I produced a good number of "women's music concerts" in the Boston area; I was building this culture.

What was the relationship like between bi women and bi men?

There were some wonderful bi men who were connected to us—friends, friends of friends, partners, and activists doing similar work. Some of these men wanted us to open up and become a mixed-gender group. But there were some men who were showing up in bi women's spaces or mixed-gender bi spaces in search of sex or a bi girlfriend, and we were uncomfortable with that. We felt predated upon. Also, the atmosphere and the power dynamics are different in mixed-gender spaces. We wanted space to discuss issues that affect women differently than they affect men—like sexism, like socialization. Biversity, a mixed-gender group was started, and to this day we exist here in Boston, side by side. By having both separate and mixed spaces, people can choose what feels most comfortable to them. Both/and.

Were there other groups beyond bi women that you all were supporting, such as trans women?

Back then, we had little awareness about the experience or existence of

transgender people. In the mid-80s, a trans woman came to one of our monthly meetings. This led to a policy discussion in our executive committee. I'm very proud to say we came to a very clear decision that trans women were welcome, but the fact that we even felt we had to have that conversation makes me very sad, looking backward. There are many things that are obvious to me now that I did not know at the time. We had to go through our own process of self-education.

Did that woman feel included?

She ended up staying quite involved for several years, and when I asked her this very question a few years ago, she said she had felt welcome. In retrospect, I feel horrible that anyone should have had her welcome open to debate, even for a short while, having been marginalized myself. But we didn't know; we were ignorant. As communities build, they make a lot of mistakes. As the LGBTQ+ movement has become big enough and strong enough and diverse enough to begin to evolve in more complex and intentional ways, there have been a lot of uncomfortable conversations, and a lot of learning and change has stemmed from these.

How has the conversation around inclusion progressed over the years?

As non-binary identities have come to the fore, we've had to discuss how to adapt language to be inclusive. For example, when I used to describe who *Bi Women Quarterly* is for, I would say it was a publication for bi women. But now I say it's for women and also non-binary people comfortable under that umbrella who identify as bi or with any other non-binary sexuality. It's a lot of words, but they're inclusive words. We very intentionally and explicitly don't police who belongs.

How have you thought about the boundaries of the space? If someone doesn't feel comfortable in the space, when is that a moment you think about changing the space to be less exclusive, and when do you suggest they find a different space?

I don't have a simple answer to that. Back then, when we were first doing this work, there were few spaces. A given space might have been the *only* space, and so exclusion was more consequential. Now there are many more spaces, and technology has made it easier to create them—for example, MeetUps. It's a hard question. We do what we do, and we do it in the way that's the most affirming and open that we can figure out how to be. We're not a space for men. Beyond that, we're a space for anyone who opts in. There are some trans women who are at the beginning of their own gender journey, and I want them to feel welcome too. If they feel that they belong, then they are welcome.

How do you think about people who join your organization when they are identifying as women if they were to transition to identify as men?

I would let them decide. When you feel that it's not your space anymore,

then move on. Most of the newly identified men for whom this is a question or conversation have a long history in the community. They've helped build this community, and they've lived in it a long time. Moving on can be a hard choice.

How do you think about the role of allies? How do you think about the difference between people who grew up with queer parents, queer siblings, and queer friends?

For queer spawn—kids who grew up with LGBTQ+ parents—queer culture is their native culture. They're not visitors. In many respects, they're queerer than those of us who grew up with straight parents and immigrated to the community as adults. Queer spawn, no matter how they identify, are part of us.

I've come to differentiate between support space and community. Support space is a specialized, specific space for people to come together to find validation and support and to talk about the experience of that particular aspect of who they are. If there's a gay men's support group, I wouldn't crash it. Or a queer Latinx group—I'm not Latinx. I think support spaces are important spaces. They do an important job, but these support spaces should not be confused with our larger community. When I think of community, I think of a much broader lens, a community more based on shared or overlapping understandings and values than on identity.

How do you view the evolution of the Boston Bisexual Women's Network?

We're both a support space and a community. We're a hybrid. Inclusiveness is a prime value of our group. When people are marginalized and experiencing the pain of oppression, it's easy to fracture and engage in horizontal hostility, casting out our less normative members or criticizing our members who are "too" normative. We are stronger together.

An example of horizontal hostility is the bisexual vs. pansexual debate—there is contentious debate over which one word all people with non-binary sexualities should use, and fear that each of these identities in some way harms the other. I believe that all these kinds of conversations and tensions come from a place of pain. They come from oppression. When people are experiencing oppression, they often take out their pain on each other. What if we took all the energy that we spend debating which word everyone should use and instead use that energy to hold non-binary space for all of us?

Some of the feminist writing, especially in lesbian separatism, has a somewhat unified political ideology to it. In the way you talk about the Boston Bisexual Women's Network, it seems there's more of a sense of community and community as politics and community as a radical act.

When I think of a radical space, I think of a space that can hold disagreement and different choices and different perspectives. I think of coalition space, which is by definition an uncomfortable space. Being okay with ambiguity,

being committed to diversity and difference, choosing to surround yourself with people who don't share a single party line. For me, there's also the aspect of minority stress and its impact on our health, and I really think that identity policing and political policing are toxic. When we get into these debates and try and shut each other down and enforce some universal dictate, it's toxic. Hard as it is, I want to be comfortable being uncomfortable. I used to think that safety lay in sameness, of finding a group of people like me. I don't think that anymore. When you apply an intersectional lens to everything, you realize there's no sameness, anyway. And difference is not a bad thing, it just is. We are stronger together.

Do you have any closing thoughts?

I would like for us to recognize the positive impact of respecting each other's strategies and decisions about what kind of activism to do, and how best to do it. There is so much work to be done, and LGBTQ+ and other people are under tremendous stress—especially in the current political climate. So let's not tear each other down. There is so much work that needs to be done. As far as I'm concerned, if you are engaged in some sort of social justice work, you are on my team. If you're doing nothing, then I want to call you in. Come on. We need you!

Suicide and Nepantla

Writing in in-between space to crave policy change

Ethan Trinh

Ethan Trinh (pronouns: they/them) is a Vietnamese queer immigrant who is passionate about teaching marginalized queer and trans youths of color and learning about queer teachers of colors' identities. They are an activist, educator, Chicana-feminist writer, and researcher. Their major influences include Gloria Anzaldúa and Thich Nhat Hanh. They are a graduate student pursuing a PhD in middle and secondary education at Georgia State University. Ethan's works focus on the intersectionality of gender, race, and language education that embraces queerness as a healing teaching and research practice. Ethan has published in a wide range of journals, including International Journal of Qualitative Studies in Education, The Assembly, *and* Camino Real Journal, *as well as other book chapters. Ethan is co-editing a book titled* Critical Storytelling: Multilingual Immigrants in the United States, *alongside Luis Javier Pentón Herrera. Originally from Mekong Delta, Vietnam, Ethan enjoys creative writing and having a cup of Vietnamese iced coffee with milk in their free time.*

ABSTRACT

This autohistoria, or "a personal essay that theorizes," is a special piece to me.[1] It is spiritual, poetic, political, and dialogic. This essay thus delves deeper into the mourning, the fear, the tears, the pain, the loneliness, the strength of a Vietnamese queer immigrant in a state of Nepantla in order to relate with other queers of color in the dark (i.e., in suicidal process). "Living in Nepantla, the overlapping space between different perceptions and belief systems, you are aware of the changeability of racial, gender, sexual, and other categories rendering the conventional labelling obsolete."[2] In this space, I attempt to use the concept of Nepantla to describe and understand stages of pre- and post-suicide attempt that I experienced. Then, I will conclude with a call for policy change to ask for attention to those who live in the life-death margins and in between and among worlds as mine.

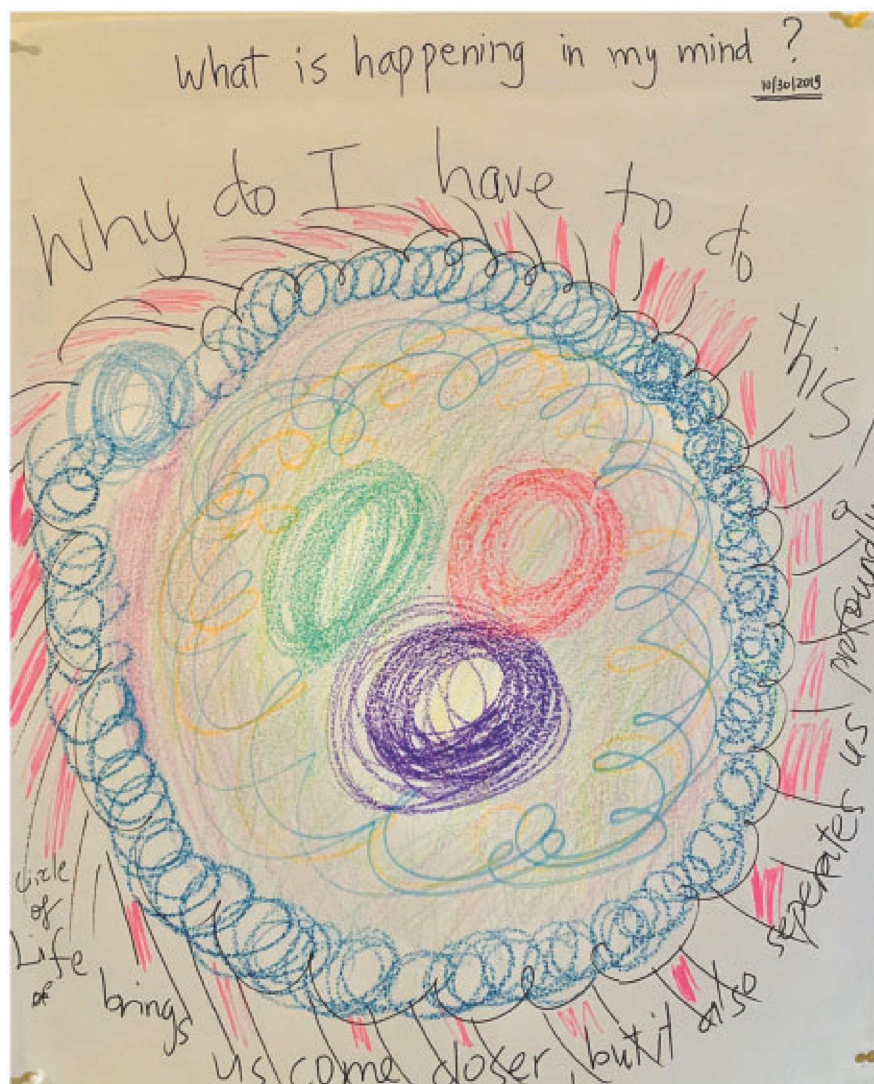
Keywords: Gloria Anzaldúa, Nepantla, Vietnamese queer, suicide, creative writing

I am standing in my house. Drawing. I close my eyes and draw whatever comes to my mind. I am not an artist, but I draw shit out of my head on this blank page. I draw from extreme sweat. I draw from anxiety, depression, and liminality of this house, this room, this restrictive and systematic structure that is policing, caging, oppressing my body, my tongue, my soul. I draw to get rid of responsibilities, rules, doctrines, and power. I draw so I can fly with a spirit out of this physical space. I draw toward freedom and liberation for my soul.

The colors intertwine and weave together. The circle is fully formed. The chaos is formed in a structural way. What does each small circle mean? I do not even know because in each circle lies a hidden meaning that I am trying to figure out. However,

a big circle outside represents life/death boundaries. The pink rays represent rays of fire that are burning me up. My skin is not physically burned yet, but my mind is. The heat is up, which will burn anything that stands in the way. I am not afraid of anything. I am committed. A circle of life brings us closer together, but it also separates us profoundly and permanently.

Fig. 1: I call it "circle of life." I started to put color on the blank page and drew whatever came to my mind. E-v-e-r-y-t-h-i-n-g.



Triggers

It is a quiet evening. I am walking around Woodruff Park in downtown Atlanta; I cannot hear any voices. It is strange and unusual. This park is always crowded and busy with groups of tourists, students, and people. Tonight, this space is as quiet as a mouse. However, I do not see "mouse"; I see "rats" instead. I see big rats moving around downtown. They are probably looking for leftovers in trash cans near the park; or perhaps they are looking for a shelter to survive the night. Rats are brave warriors; they show up in public as if they want to say, "Look, I am here, I am harmless, look at me." Sadly, I am not as brave as rats. I am not brave enough to confront myself tonight. I am not brave enough to confront the pressure of turning in manuscripts for journals by deadlines. I am exhausted after a long night staying with my mom; she is still in pain and in extreme shock as she was in an accident last night. She did not know what to do except to call me while I was still working a late shift downtown. I am devastated as I could not secure a teaching job due to my fight against the system; I fought fiercely for immigrant students against a capitalist school system. I neither want to think about how to pay my student loan with increasing interest nor to think about an argument with my brother as he rejected our brotherhood since he learned I am queer. As an immigrant, I am not allowed to be queer; I am not allowed to be broke; I am not allowed to take care of my sexual needs or to accept my gender identities. This is not a priority for our family now. I am walking to nowhere; my footsteps are heavy and lost. They walked me around the circle of the park, then came back to where I first started. I get lost in my own walk.

I am meditating while I am walking.[3] I am listening to the quietness of the park, which is comforting me, my soul, my worries, my queerness, my oppression. As a Vietnamese queer immigrant, graduate student, and Teaching English to Speakers of Other Languages (TESOL) teacher of color, I experience the quadruple of oppression in a racialized hierarchy in the United States due to my accent, my Asian fat look, my immigrant status, and my sexual minority.[4] I attempted to turn my bilingual tongue, my in-between-ness identities, my minoritized gender identities, into strong shields to protect and uplift me and other marginalized populations from being sexually, mentally, racially, linguistically, and physically abused and discriminated from heteronormativity and homonormativity.[5,6,7,8,9,10] I tried to overcome fears of judgement and isolation from the public. I act to be a happy, energetic, positive person that one wants to hang around and share with. I train myself to hide my real emotions. I have assimilated to Western cultures where I leave emotions at home and bring a different identity to work, to schools, to public. I *thought* I had successfully created an identity that performs well in a heteronormative society.[11] But tonight I refuse to perform my roles.

I a m e x h a u s t e d.

I drag my body out of the park. It is enough for a night's walk. I drag my body to an elevator to take me to the 25th floor so that I can finish the last day of class. A

classmate is presenting her work about a suicidal topic. I am attentively listening to her. "Suicide is interesting," I thought. I was triggered by a topic, by a word, *suicide*. Since then, it is the only word that reiterates in my mind. My exhausted body cannot resist the attraction of this word. My stomach hurts. My mind is running chaotically. The quietness of the park has been replaced by a crowded, noisy space. I do not know what that is. "Is it a spiritual call?" I am wondering. It sounds like a lot of people are talking to me, pushing me toward an edge. I am walking out of the class while my classmate is still presenting. I drag my body close to the glass, looking out of the window from the 25th floor. The sky is beautiful, even though the clouds have turned dark. "What if" is a rhetorical question that comes out of my mind, back and forth, loudly and noisily.

My stomach hurts. Again. *Real* bad.

I kneel for a moment, then I stand up.

I come back to class. It is my turn to present.

I scanned each face in the room and said:

> I want to tell you one thing before I start my presentation. I just want to go home safely tonight. I was triggered by the word *suicide*. I hate to be seen like this in front of everyone, but I wanted to tell you that I am fucking scared right now, I am scared that I won't go home safely. I want to go home safe. Someone in my head told me that I needed to follow them. I stood at the window when we had a break, the question "what if" came to my mind. Voices told me so, but I resisted. My stomach hurts real bad. My fingers, my hands are still shaking if you notice. I hate to be seen like this. I don't want to die. I guess what triggered me to have this suicidal thought was the pressure of recent accidents that happened to me and a self-hatred of being linguistically, sexually and racially abused in this fucking Western society. I am so sorry, everyone. I do not want to use this space as a counselling session. My counselling sessions with a white dude suck. But I feel safe in this space. I feel I needed to speak up, to expose myself, to tell you that I am now brave enough to continue this life.

Class is silent.

A friend brought me a crystal stone to keep me calm.

I am holding on to it as a faith as if it

will protect me from emotional abuse and labors.

I am standing there. Crying.

Crying heals my soul and waters its dryness for recovery.

A friend then exposes they are a survivor of sexual child abuse.

A friend then exposes they are lost at the intersectionality of

Queer, Black, Woman of Color.

A friend then exposes they are now brave enough to speak up for themselves

Because-someone-out-there-is-brave-enough-to-speak-up-about-themselves.

Because-i-am-brave-enough-to-speak-up-about-myself-in-front-of-them.

Session ends.

We hugged. We cried together.

Friends left pieces of paper on my desk, stating "Call me if you need to."

Spirituality

I stand here.
watching him
alone,
calling suicide hotline,
"Hold on, I will transfer you to someone else."
No questions.
No responses.
Beeeeeeepppppppppppppppppppppppppppppppp.
The length sounds like a sound in a hospital
as someone just passed away.
I stand here.
watching him
alone
jerking off
for escaping loneliness.
for an easy sleep.
I stand here,
watching myself
a l o n e
in the dark.

Back to Nepantla space

You are confused, aren't you? I am drawing, standing, writing in an in-between space called "Nepantla." According to Gloria Anzaldúa, a Chicana feminist, thinker, writer, and philosopher, Nepantla "indicates space/times of chaos, anxiety, pain, and loss of control … underscoring and expanding the ontological (spiritual, psychic) dimension."[12] I fell into the chaos of time and space. I lost control of my physical and mental body. I was almost gone for being pushed to an edge of life and death when I thought no one cared; when I thought I was invisible; when I thought my life was full of pressure; when I thought I did not have any light of hope to hold on to, due to multiple oppressions that are put on me, as a lonely queer Vietnamese

immigrant living, studying, and teaching in the United States, a Western, binary, and heteropatriarchal society. "Living in Nepantla, the overlapping space between different perceptions and belief systems, you are aware of the changeability of racial, gender, sexual, and other categories rendering the conventional labelling obsolete."[13] Living in Nepantla helps me "see through," develop "perspectives from the crack" in my own queer self in order to understand multiple stages of thoughts—mentally, physically and spiritually—to connect with other lonely queer people, and other queer people of color.[14,15]

As Anzaldúa states, "In this liminal transitional space, suspended between shifts, you're two people, split between before and after."[16] I was, then, split between "multiple realities:"[17] transforming from a lost soul who draws a circle of life, a lost soul who walks alone in a park, a lost soul who stares at the window from the 25th floor, to a brave soul who talks about suicidal thoughts in public, a spiritual soul who witnesses my own identity struggling in the dark, and a critical soul who is writing this piece to connect with others. Not only do I own a physical soul, but I also possess a spiritual soul to see between the cracks of life. I used to write to connect and talk with Gloria Anzaldúa's spirit when she was about to be free from this liminal space.[18] Now, I continue to write to connect with you, those who want to know another aspect of a person who has suicidal thoughts, those who are curious how the suicide attempt feels like.

Further, I crashed into different situations in which I faced loneliness and pressure to perform in this heteronormative and homophobic society. I was killed gradually by biases and stereotypes rooted in classism, sexism, and racism toward a Vietnamese queer immigrant struggling to navigate the system. Fortunately, my exposure to vulnerabilities allows me to connect with other vulnerable souls whose *real* emotions, feelings, and authenticity are hidden and unspoken; it's like the three small circles in my picture: unknown, unnamed, undepictable. We are all buried alive in our own secrets, our pressures, our none-of-your-business thoughts. We gradually die—silently and unnoticeably. We refuse other people to come into our Nepantla space. We are afraid people will see our splits, our in-between-ness, our lost soul. However, my story, my exposure, my openness, and my tears are an invitation to connect with other individual vulnerabilities to witness my pain, my growth, my courageousness, and my minoritized identities. "Staying despierta becomes a survival tool," states Anzaldúa.[19] Therefore, a key to revive a lost soul is communication and a willingness to share vulnerabilities with one another so that we are able to touch on the interconnectedness of change within our own self and others'.

Those experiencing Nepantla state are "Nepantleras."[20] "Las Nepantleras are spiritual activists engaged in the struggle for social, economic, and political justice, while working on spiritual transformation of selfhoods."[21] I call myself a queer Nepantlera where I witness myself going through pre- and post-suicidal thought processes. If the pre-suicidal stage witnessed my anger, where I used drawing to visually see the running thoughts in my mind, the bridge that connected the action

towards it was quietness in my soul where I was struggling with facing different pressures that all came into place at the same time. The climax of the suicidal stage consists of moments when I stood up and confronted the line between life and death. "Craving changes, you yearn to open yourself and honor the space/time between transitions."[22] The post-suicide witnessed another self of mine who was laying in the dark, jerking off to ease sleep after an unsuccessful attempt of reaching out for help from a suicide hotline. "In Nepantla you sense more keenly the overlap between the material and spiritual worlds; you're in both places simultaneously—you glimpse el espiritu—see the body as inspirited."[23] I split myself in between the realities to see realities. Then I write in this in-between space, craving changes. As Anzaldúa reminds me, "To write is to confront one's demons, look them in the face and live to write about them. Fear acts like a magnet; it draws the demons out of the closet and into the ink in our pens.[24] Therefore, this piece is written to confront the demons in me that pushed me to think about committing suicide while I was in the bottom of my life. I write to challenge the demons of the society that push people like me—queer, fat, Asian, immigrant, people of color, students/teachers of color—in order to push back because I am strong enough to go through this shit and continue this life with others.

Craving Policy Change

This autohistoria, or "a personal essay that theorizes," is a special piece to me.[25] This essay is spiritual, poetic, political, and dialogic. This essay delves deeper into the mourning, the fear, the tears, the pain, the loneliness, the strength of a Vietnamese queer immigrant in order to relate and provide rays of hope with/for the other queer Nepantleras in the dark (i.e. in suicidal process). I am not writing to propose a revolutionary policy for queer, Asian, immigrant, people of color; I am not a power holder in this society. However, as an empowered queer writer of color, I am exposing myself naked by weaving my lived experiences to "crave changes" for social transformation on this taboo topic.[26] I write this mental struggle out to answer the call "to look to sensitively explore the accounts of GB2SM [gay, bisexual, and two-spirit men] who experience current suicidality to generate unique insights and reveal therapeutic avenues."[27] I therefore hope you find this piece useful to continue your life.

In terms of policy change, the state policy should do a better job when providing suicide hotlines for people like me. Am I too demanding to ask for that change to protect me and those who are in suicidal situations? I laid down there, calling in hopelessness. The person on the phone responding to me was not helpful at all; as if I were not important; as if I were not cared for; as if I were invisible. The waiting music, the beep sound ringing an alarming bell for you, policy makers. The service should not be created to serve political and economic purposes; rather, it should be initiated to save a human being who is desperate to continue to live. I hope my

writing will ring a bell for you, policy makers who claim to advocate for us queer Nepantleras. I hope you will have some time to read this piece, to listen to us, to walk with us, to stand with us, to be present with us, to be able to split in between for us. Otherwise, when you really want to reach out to us, we will already be gone, far away, out of reach.

After all, I am glad I have courage to live; I am glad I could see the light in the darkest moments; I am glad I could see the splits in betweenness; I am glad I write; I am glad I live.

And, I hope *you* have courage to live as well.
Because this is how we continue to spread love and hope for others,
so that we can tell another story,
a story of what the suicide attempt feels like.

Endnotes

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Combating So-Called "Conversion Therapy" in New York

Training Mental Health Professionals

Desmond Chu

Desmond Chu is a Master of Laws (LL.M.) candidate at Harvard Law School and a research assistant for Victor Madrigal-Borloz, a United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, in Harvard's Human Rights Program. Desmond is originally from Hong Kong, where, after being qualified as a lawyer (non-practising solicitor), he worked on multiple research projects, including one with the Equal Opportunities Commission and the University of Hong Kong on race discrimination issues, exploring the introduction of an accreditation and regulation system for interpreters and translators in ethnic minority languages in the public sector. He was a part-time lecturer at the University of Hong Kong and assisted with teaching the course "Human Rights in Practice," engaging students in community legal education.

LGBT people continue to receive conversion therapy (CT) in the United States. CT refers to so-called treatments purporting to change a person's sexual orientation and/or gender identity. This trend persists despite multiple laws and policies in the state of New York attempting to end the practice. Since some counselors, psychoanalysts, psychiatrists, psychologists, and social workers (hereafter referred to as "mental health professionals") offer CT to LGBT people, part of the problem lies in inadequate gatekeeping by the Office of the Professions (OP) of New York's State Education Department when giving out these professional licenses. The OP should require training on the effects and risks of CT, as well as on therapy or counseling that affirms sexual orientation and/or gender identity, before mental health professionals can be licensed in New York.

Currently, bans on CT exist in New York, but they almost exclusively regulate its practice on minors – leaving out the CT provided to huge numbers of adults. It is estimated that, as of June 2019, 698,000 LGBT adults ages 18 to 59 in the United States had received CT.[1] It is likely that this will continue without relevant measures tackling it. The state of New York has banned providing any of the following:

1. CT purporting to change sexual orientation (but not gender identity) to minors;[2]
2. insurance and Medicaid coverage of CT for minors;[3] and
3. CT to minors in mental health facilities.[4]

For adult recipients, some other states have recognized that providing CT for money constitutes fraudulent business practice, but this has not been done in New York.[5] In New York City, there was a legal ban on charging consumers for CT, but the City Council is now repealing the law.[6]

Mental health professionals have been key providers of CT in the US.[7] Practices by professionals include talk

therapy, aversion treatments (such as inducing nausea), and hypnosis.[8] Short of actual CT, many mental health professionals either do not know much about mental health issues facing LGBT clients, or potentially hold latent biases against them.[9]

The provision of CT has continued despite the fact that multiple professional organizations doubted its efficacy, observing that it can even cause harm. Studies by the American Psychological Association and American Psychiatric Association have found little previous research with proper methodologies supporting claims of changing sexual orientation and/or gender identity.[10] Harmful effects on recipients include depression, suicidality, anxiety, social isolation, and decreased capacity for intimacy.[11] Some suggest that, instead of CT, mental health professionals should offer affirmative therapy and/or counseling, which affirms the sexual orientation and/or gender identity of the recipient, addressing the impact of negative attitudes in society such as discrimination and stereotyping.[12] For transgender people, counseling on hormonal and surgical treatments for transitioning may also be advisable where appropriate.[13]

The OP has a unique role in tackling CT and promoting the mental health of LGBT people in New York. Being the only regulator in New York over the licensure of mental health professionals (assisted by different state boards for mental health practitioners, medicine, and psychology), the OP acts as a gatekeeper in ensuring the quality of those receiving licenses. It already sets forth requirements for intended licensees in terms of education, experience, and examinations. There are also continuing education requirements for practicing mental health professionals. Given this power, the OP should:

1. require that those intending to be licensed as mental health professionals go through training on the effects of CT and on affirmative therapy/counseling before they can be licensed; and
2. require that those already licensed as mental health professionals go through continuous professional education on the effects of CT and on affirmative therapy in order to maintain their licenses.

The content on the effects of CT would include the current professional consensus that there is no evidence showing that CT can achieve its stated goals of changing a person's sexual orientation and/or gender identity. It would also include information on its harmful effects on recipients, as observed above. This could be incorporated in ethical training for professionals. Training on affirmative therapy/counseling would encompass discussions on how to address mental health issues related to clients' LGBT status when appropriate (staying mindful of the similarities and differences under the LGBT umbrella); the various means, effects, and risks of affirmative therapy/counseling; and general ethical issues associated with mental health services for LGBT clients. The content on CT and affirmative therapy/counseling would target both adult clients and minors.

The requirement for training on CT and affirmative therapy/counseling would originate from the OP in the form of required curriculum elements (such as the content indicated above). In line with current practice, the exact formats of training would be up to the institutions already offering required training for intended licensees, and the actual training will be carried out by these institutions. These institutions would mostly be universities as, under the current regulations, professionals are expected to have university degrees (mostly at a master's level or higher) in the relevant discipline. The training would have to be approved by the OP when reviewing the accreditation of academic programs for licensing purposes. The OP is well equipped in this role given its working relationships with many of these institutions, along with assistance from the State Boards, whose members are from the regulated professions. Knowledge from this training should also be assessed in the examinations offered and required by the OP for licensure.

Training mandated by the OP would pose advantages over other possible means of curtailing CT. Voluntary training by academic and/or professional institutions would produce a patchwork of programs with varying standards. In this way, potential licensees may choose to satisfy their educational requirements at institutions that do not offer training related to CT and affirmative therapy/counseling, and still get a license. OP-mandated training would ensure that everyone who seeks licensing has received training and that the training standards are uniform. This also fills the gap left by the current bans on CT. They concern CT performed on youth only. OP-mandated training would cover both adults and youth.

The current bans also rely heavily on reports or complaints by clients. While criminal sanctions have certain deterrent effects, this reliance could mean that instances of harm may only be addressed after they have occurred. Training could help prevent these from happening in the first place.

Compared with potential legal or executive bans on CT performed on adults, OP-mandated training may also reduce the chance of challenge and eventual repeal. The ban in New York City was challenged because of alleged violations of the freedom of speech between counselors and adult clients. Some fear that such challenges might reach the highest courts, which could issue rulings striking down current bans throughout the states. OP-mandated training would be a middle ground. On the one hand, it is not an outright prohibition against CT performed on adults, addressing free speech and autonomy concerns and avoiding the risk of lawsuits or backlash. On the other hand, it advances the interests of LGBT clients in reducing the harms caused by CT, and promoting affirmative therapy/counseling where appropriate.

The training suggested here includes a component on affirmative therapy/counseling. Currently, other measures focus on prohibiting the practice but do not deal with issues such as possible latent bias against LGBT clients or, more generally, the lack of awareness

among mental health professionals on issues facing LGBT clients.

Costs to the OP of including training requirements will be limited. The OP will have to decide on the required content of training and examinations, as well as liaise with academic institutions. The actual training, however, will be conducted by the academic institutions, which may collaborate with organizations that already perform or have done research on these kinds of trainings.

As a following step, the OP will therefore liaise with these institutions and address concerns about resources and costs, possibly by matching them up with experienced organizations or experts. The OP may also want to discuss with the institutions the exact requirements on curriculum. In this way, while the overarching requirement for training is a top-down process, more voices from the academic and professional community can be incorporated during implementation.

This piece was produced in connection with the author's research supporting the mandate of Victor Madrigal-Borloz, a United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, for a thematic report to be presented at the 44th Human Rights Council, on the practices of so-called "conversion therapy" around the world.

Endnotes

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The Strange Absence of LGBTQ Actors in the Historical and Political Writings of Derek J. Penslar

Christopher L. Schilling[1]

Dr. Christopher L. Schilling is a lawyer and political scientist. He received his bachelor of laws degree in law and his PhD in politics from the University of Hamburg and his master of arts degree in international studies from Goldsmiths, University of London. After working for law firms in Buenos Aires and Mexico City, he has taught diplomats at the Foreign Service School of the Mexican Ministry of Foreign Affairs, been senior lecturer in politics at the University of the West of England, and taught at National Autonomous University of Mexico and at the University of Potsdam. He has been the visiting scholar at Columbia University, Seoul National University, National Chengchi University, and the University of Tsukuba. Dr. Schilling is the author of Emotional State Theory *(Lexington Books, Rowman & Littlefield, 2015) and has published in* Israel Affairs, *the* Japan Studies Review, Modern Judaism, *and the* Journal of Modern Jewish Studies, *among others.*

Derek J. Penslar is the William Lee Frost Professor of Jewish History at Harvard University. His research has focused mainly on Zionism and the State of Israel and has been praised, though he has recently been subject to harsh criticism as well.[1] Here, I will specifically discuss the topic of homosexuality in his writings and his very questionable stance on LGBTQ Zionist and Jewish history, which the literature has not yet addressed.

For instance, his book *The Origins of Israel, 1882–1948: A Documentary History*[2] does not contain, despite its 380 pages, even the words *homosexual, gay, lesbian,* or *transgender,* nor does it say anything about any LGBTQ actor in the covered 67-year time frame. The reader gets the unfortunate impression that LGBTQ actors have not played any role in the establishment of the State of Israel, even though the founder of Zionism, Theodor Herzl, was gay.

This omission is found throughout Penslar's writings on Herzl, such as his essay on "Zionism as Theodor Herzl's Life Project" in *On the Word of a Jew: Religion, Reliability, and the Dynamics of Trust.*[3] The essay certainly does not shy away from talking about sexuality ("Zionism became a means by which he could expose his genitals").[4] But without explanation, Penslar rejects any notion of Herzl's homosexuality ("he gave up on erotic love, marital or otherwise, and contented himself with fantasies of virginal and unattainable girls").[5] Penslar further calls Heinrich Kana, who Herzl knew from university, a "platonic friend,"[6] despite an established scholarly consensus that Kana and Herzl were deeply in love.[7] In Penslar's newest book *Theodor Herzl: The Charismatic*

1 Regarding the "escalating" (*Chronicle of Higher Education*) conflict around the controversial Israel Studies issue on "Word Crimes: Reclaiming The Language of the Israeli-Palestinian Conflict," in which Penslar, as a member of its board of editors, was involved, see https://medium.com/the-israel-studies-conversation/word-crimes-editors-slam-critics-as-anti-semitic-activists-a5d06bde7eea. Penslar's work has also been criticized in the *Jewish Political Studies Review* 31, no. 1-2 (2020) as "superficial" and him making an error "of current political relevance" while demonstrating "gaps in understanding of the fundamentals of early Zionist thought."

Leader,[8] Herzl's homosexuality gets denied as well. Here, Kana is repeatedly described as Herzl's "friend," "close friend," or "friend from university."[9] These descriptions deny the homosexual relationship between the men, which is evidenced by primary writings from both. After Herzl sent Kana his wedding invitation, for instance, Kana's response was heartbroken, telling Herzl he would be emotionally unable to attend:

> "I do not go out, so hard it is for me...Without you I would have drifted through life, and my great longing for love, whose power few people appreciate, would always have remained unsatisfied. I thank you today, which I have never done till now, out of this silly shamefulness from which I can never free myself, for all the *Zärtlichkeit* [tenderness, caresses] you have given me, and shall gladly see how the far greater part of the love of which your heart is capable now takes another direction."[10]

Jacob Press noted in *Novel Gazing: Queer Readings in Fiction* that: "Three months into his marriage, [Herzl] began writing a play about the fundamental incapability of men and women – a memorable line of dialogue: 'What a happy man I'd be, if only I had the courage to run away from her.'"[11] But he did not, and Heinrich Kana eventually killed himself on 6 February 1891—denying the possibility of a future relationship.[12]

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Many other scholars have included Herzl's homosexuality in their writings. Peter Loewenberg, former director of the Training School of the Southern California Psychoanalytic Institute and of the New Center for Psychoanalysis in Los Angeles, depicts Herzl's homosexuality in his work *Decoding the Past: The Psychohistorical Approach*, in which he analysed records of Herzl's dreams.[13] Ernst Pawel discusses Herzl's homosexuality in *The Labyrinth of Exile: A Life of Theodor Herzl*, where he describes "jealousy and sexual tension" between Kana and Herzl. And psychologist Avner Falk writes of a "homosexual relationship" in *Herzl, King of the Jews: A Psychoanalytical Biography of Theodor Herzl*.[14] It is hard to understand why Penslar decided to downplay Herzl's homosexuality. After all, the author states that "understanding Herzl requires engaging not only his writings but also a vast body of scholarly literature on Herzl's life, thought, and Zionist activities."[15,16]

The inclusion of Herzl's homosexuality by other writers suggests that Penslar's omission is specific to his scholarship, rather than the literature at large, and makes one wonder why Penslar repeatedly dismisses this aspect of Herzl's identity.

The omission of homosexuality extends beyond Penslar's work on Herzl to his other works as well. Penslar's book *Israel in History: The Jewish State in Comparative Perspective* does not mention anyone gay, lesbian, or transgender.[17] The word *homosexual* appears once but only as the author discredits an article by Yossi Yonah and Yehouda Shenhav, which discusses

the incorporation of homosexuals and other minorities into Israeli society, as "attacking" Israeli society in "true post-modern form."[18,19]

There is a single LGBTQ actor mentioned in Penslar's book *Zionism and Technocracy: The Engineering of Jewish Settlement in Palestine, 1870-1918* named Dyk: "The members of the managing board of Erez Israel [in this context a cooperative] were aware that Dyk was a potential source of trouble… his former employer did not have a good word to say about him. Rumors circulated that Dyk was homosexual… Dyk lacked tact, flexibility, and ease in dealing with workers…Warburg called Dyk 'the worst leader of the cooperative whom one could imagine.'"[20,21] Penslar's book *Jews and the Military: A History*, which is in part a republication of articles in *The Journal of Modern Jewish Studies* and *German History* and looks at Jews' involvement in the military between the 1600s until the establishment of the State of Israel in 1948, surprisingly does not mention any homosexual aspects of the history of male military bonding.[22] By reading Penslar, one gets the unfortunate impression that LGBTQ people would not play any role in Jewish history.

The chapters that Penslar has edited are rather concerning too, when it comes to the depiction of LGBTQ figures in history. In Michael Berkowitz's chapter from *Orientalism and the Jews*, which Penslar edited with Ivan Davidson Kalmar, Berkowitz tells of Jacob Israel De Haan.[23] De Haan was a gay poet, journalist, and lawyer from the Netherlands and often gets described in the literature as "a precursor of Amnesty International."[24] A line from one of De Haan's poems is inscribed on one of the three sides of Homomonument in Amsterdam, the first monument in the world to commemorate homosexual victims of the Nazis. Berkowitz's essay, however, describes "his explicitly expressed homosexuality" and that De Haan had a "reputation as the most outrageous 'Arab lover'" and was involved in "sex travel."[25,26,27] The chapter is overall not very well written and easy to be misread in a homophobic tone. But why did Penslar, as its editor, not object to sentences such as: "Recently, however, scholars have turned their attention to homosexuality among Jews – even the apparently religiously observant – in Europe and the Near East. In retrospect, although it seems improbable that such an unconventional, if not perverse, individual should have attained heroic stature among Haredim [members of Orthodox Jewish sects], the De Haan case was far from unique with respect to homosexuality"?[28]

In Search of Jewish Community: Jewish Identities in Germany and Austria, 1918-1933, which Penslar edited with Michael Brenner, is a book that denies even one of the most obvious parts of Jewish LGBTQ history.[29] Though it deals with Jewish identities in Germany and Austria between 1918 and 1933, it does not once mention Magnus Hirschfeld. LGBTQ Jewish history is essentially erased, even though Berlin was home to an estimated 85,000 lesbians in the 1920s, had a

thriving LGBTQ-media scene, around 100 LGBTQ bars and clubs like the Eldorado (which had a Jewish owner), and government agencies that issued transgender cards due to Hirschfeld's activism. In 2019, even The Museum of Jewish Heritage in NYC hosted a conversation on Robert Beachy's book "Gay Berlin: Birthplace of a Modern Identity."[30] But the achievements of LGBTQ historical actors do not find any mention in Brenner and Penslar's book. The only thing the reader can find is a generalized statement of homosexuality having been viewed as *sexuelle Schweinereien* (sexual piggishness), so they argue. There were "beatings only for masturbation and *sexuelle Schweinereien* (that is, engaging in some sort of homosexual activities)" because "[m]asturbation and homosexual activities were a cause of major concern in both Jewish and non-Jewish bourgeois society and were severely punished in reform schools."[31,32]

Through each of these texts and the power they carry as academic histories of Zionism and Jewish culture, Penslar largely omits LGBTQ members from these histories. His entire scholarship fails to educate on the matter and depicts an inaccurate picture of history and politics. One has reason to be concerned about this. Omitting LGBTQ figures from (Jewish, Zionist, and Israeli) history has the consequence of not telling history adequately. LGBTQ history is not just to add more people to the historical record but to help us navigate the present. LGBTQ actors deserve to be heard, remembered, and honored. Nobody should be told that they have no history apart from "sexual piggishness" and "sex travel," even if they were the founder of Zionism, were soldiers, shaped Jewish modern European identity, and were a major part of Berlin's Golden Twenties. An accurate description of Jewish history, moreover, seems even more urgent at a time when antisemitism is on the rise in all parts of society in the United States and Europe.[33] Scholarship can, and should, do more than drawing a straight line though history and politics.

Endnotes

1 I'm grateful to Ben Demers's thoughtful comments on this article and a highly supportive editing process.

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5 Penslar, "Zionism," 286.

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7 This paragraph is in part derived from Christopher L. Schilling, "Book Review: On the Word of a Jew: Religion, Reliability, and the Dynamics of Trust, by Nina Caputo and Mitchell B. Hart (editors)," *Jewish Political Studies Review*, 31, nos. 1-2 (2020).

8 Derek Penslar. *Theodor Herzl: The Charismatic Leader*, in the Jewish Lives series (New Haven: Yale University Press, 2020).

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31 Brenner and Penslar, *Jewish Community*, 214.

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Girl-on-Girl Action

How the Anti-Pornography Movement Ignores the Unique Violence Queer Women Experience as a Result of "Lesbian Porn"

Annamarie Forestiere*

Annamarie Forestiere is a second-year law student at Harvard Law School and a self-proclaimed social justice warrior. She is particularly passionate about advocating on behalf of minority groups like the LGBTQ+ community. Her interests have led her to pursue a career in legal academia, where she hopes to research the lack of political power possessed by minority groups, especially queer women, and discover ways to increase their political influence and their participation in government/public policy spaces. To reach this goal, she has taken classes in LGBTQ+ litigation strategy, administrative law, congressional lawmaking procedures, and international human rights law. She is also a member of Harvard Law School Lambda and has been selected to represent Harvard Law School in this year's Williams Institute Moot Court Competition, the only moot court competition in the country dedicated exclusively to LGBTQ+ policy and legal issues.

ABSTRACT

A variety of studies, statistical analyses, and testimonies have linked pornography with violence against women. These have shown everything from increased rates of sexual aggression in men after viewing violent pornography in controlled laboratory experiments to the prevalence of pornography as an inspiration and motivation for domestic violence and sexual abuse of women. The anti-pornography movement, championed by anti-pornography feminists, posits that pornography should be prohibited because of its connection to violence. Many such anti-pornography scholars treat all pornography as equally harmful and all women as equally at risk of harm. This approach, however, fails to consider that queer women are more likely to be victims of pornography-linked violence due to the prevalence of "lesbian porn"—a type of heterosexual pornography that fetishizes queer women for the sexual satisfaction of heterosexual male viewers. In doing so, the anti-pornography movement leaves queer women vulnerable to the harmful effects of "lesbian porn." This article functions as a plea for anti-pornography scholars to approach their work in an intersectional manner that would account for the unique vulnerability of queer women due to "lesbian porn." To do so, this article first analyzes the various sources of evidentiary support that link pornography with violence against women. It then discusses how "lesbian porn" is different and leads to violence against queer women. Finally, this article asks mainstream anti-pornography scholars to be more intersectional for queer women and for all women.

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INTRODUCTION

The merits of pornography in American society are highly contested among academics and laypeople alike. Many individuals defend pornography for several reasons, which are often based on the First Amendment's guarantee of free speech.[1] Other people, especially anti-pornography feminists, believe that pornography harms women by perpetuating sexist stereotypes and glorifying sexual violence against them.[2]

The anti-pornography movement was started by prominent feminist activists like Catharine MacKinnon and Andrea Dworkin, who hoped to prohibit the creation and consumption of pornography.[3] Anti-pornography scholars are primarily concerned with ending all pornography because of the physical and societal harms it has on all women, so a great deal of the anti-pornography movement's scholarship argues against pornography as a whole.[4,5] This approach, while admirable in its broad scope, often fails to acknowledge that different types of pornography have disproportionate impacts on different groups of women.[i] Specifically, the work of anti-pornography scholars does not focus nearly enough on the harms of "lesbian porn"—a type of pornography that caters primarily to heterosexual male viewers at the expense of queer women.[6] This article is a discussion of how "lesbian porn" creates and perpetuates stereotypes about queer women that lead to violence against them in both public and private spaces. Further, this article seeks to encourage the mainstream anti-pornography movement to consider the increasing vulnerability of queer women because of "lesbian porn" and advocate on behalf of queer women specifically.

This article will begin with a few key definitions. Following these introductory materials, Section I of this article will lay out the current state of anti-pornography research and scholarship that links pornography with violence against women. Section II discusses "lesbian porn" in particular and analyzes how this type of pornography leads to unique acts of violence being committed against queer women. Section III then functions as a plea to anti-pornography scholars, asking them to be more intersectional in their studies and put more effort into advocating against "lesbian porn" specifically because of how it harms queer women.

This article is not intended to be an argument against pornography. There are many theories as to whether pornography should be prohibited, but rather than directly engaging in this ongoing debate, this article instead seeks to examine and build on evidence linking pornography with violence against women.[ii] This article is intended

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i These vulnerable groups are typically women who are racial and ethnic minorities, women with disabilities, and pregnant women, who often are featured in niche pornography. Anti-pornography feminists like Dworkin have paid some attention to the unique harms of niche pornography on these groups of women, particularly women of different racial and ethnic backgrounds, but the work of anti-pornography feminists mostly discusses women as if they were a homogenous group. *See* Dworkin, *supra* note 3. For additional information, see *infra* Section III.

ii One such argument is the free speech argument, which concludes that regardless of whether pornography is harmful, pornography is protected by the First Amendment as an exercise of the pornographers' constitutionally protected right to free speech. *See* David O'Malley, "Pornography and Violence to Women: Telling

to be an exploration of the current state of anti-pornography scholarship, an analysis of how these anti-pornography arguments apply differently and often more strongly to "lesbian porn," and a plea for the inclusion of "lesbian porn" in mainstream anti-pornography discussions.

DEFINITIONS

It is important to define two terms that are used frequently throughout this article, the first of which is "lesbian porn." The quotation marks are intended to distinguish "lesbian porn" from queer pornography, which is made by and for queer people.[7] "Lesbian porn" instead caters to the sexual desires of heterosexual male viewers.[8] Thus, "lesbian porn" is generally not an accurate representation of sexual relationships between queer women.[9] Instead, "lesbian porn" fetishizes the sexualities of queer women, a practice that appeals to heterosexual male viewers but greatly harms queer women.[10] This will be discussed in greater detail later in the article.

The second term that deserves a definition is the word *queer*, which is used throughout the article to discuss queer women, queer people, and the queer community. Although historically the word *queer* was derogatory, the LGBTQ+ community has recently reclaimed it and now uses it as an umbrella word that refers to any person who identifies as a member of the LGBTQ+ community.[11] The phrase *queer women* is intended to be an inclusive way of referring to women who are part of the LGBTQ+ community; it includes any person who identifies as a woman and who is sexually and/or romantically interested in women, both exclusively and non-exclusively.

SECTION I: THE LINK BETWEEN PORNOGRAPHY AND VIOLENCE AGAINST WOMEN

Linking Pornography and Violence

Modern pornography eroticizes sexual violence against women for the sexual benefit of male viewers.[12] It often features women being violated in unimaginable ways, including being raped and tortured.[13] Some anti-pornography scholars believe that violent pornography appeals to men because it embraces "the notion that men have the inherent right of sexual access to women."[14] Others theorize that the appeal of violent pornography is based on the fact that society's definitions of masculinity

the Difference," *UCL Journal of Law and Jurisprudence* 175, 183 (2002), *supra* note 2; Elizabeth Spahn, "On Sex and Violence," *New England Law Review* 629, 638(1984), *supra* note 2. Another argument in favor of pornography is that anti-pornography feminists and others who oppose pornography are just morally repulsed by pornography and that the moral preferences of a few groups of people should not lead society to sacrifice what has proven to be a highly profitable industry (Tom Gerety, "Pornography and Violence," *University of Pittsburgh Law Review* 40, 627, 642(1979)). There are also some individuals who argue that pornography plays a key role in reducing violence against women by acting as a safe outlet for the violent sexual urges of men. In this way, it is argued, eliminating pornography will lead to an increase in violence against women by men who no longer have that outlet for their violent sexual urges (Irene Nemes, "The Relationship Between Pornography and Sex Crimes," *The Journal of Psychiatry and Law* 20, 459(1992): 462-63). Finally, there are some who believe that prohibiting pornography would violate the rights of women to engage in sexual activity of their choosing and that, by banning pornography, society would be engaging in protectionist activity that has historically harmed women (Spahn, *supra* note 2 at 643–646). This article intentionally does not discuss the validity of any of these arguments.

and manliness are "rooted in a dominant conception of masculinity: sex as control, conquest, domination, and the acquisition of pleasure by the taking of women."[15] Regardless of the reason, it is clear that by presenting sex and violence in such a way, pornography contributes to a culture of misogyny where sexual violence against women is normalized and eroticized.[16]

The link between pornography and violence against women has been the subject of many studies in the last 40 years.[17] The bigger picture painted by these studies is highly debated among scholars, largely because causation is extremely difficult to conclusively measure.[18,19] This is especially true when it comes to determining if pornography causes violence because there are so many different types of pornography with varying levels of violence.[20] For example, some studies indicate that pornographic videos that are not violent do not cause male viewers to react as violently as violent videos do.[21] Not only that, but researchers are forced to look almost solely at controlled laboratory tests that only account for short-term causation and do not account for how causation can develop over long periods of time.[22] Even so, several of these studies clearly reveal a link between pornography and violence against women.[23] In one such study, men who viewed pornography were more likely to be aggressive toward women using a simulated electric shock than men who did not view violent pornography.[24] In another study, the number of men who indicated that they would rape a woman if they knew they would not get caught rose after the men were exposed to aggressive pornography.[25]

Evidence from scientific studies is not the only form of evidence supporting a link between pornography and violence against women. A variety of statistical analyses indicate that pornography plays a key role in domestic violence, with male partners using pornography to pressure women to imitate the sexual acts depicted in pornography.[iii] Beyond statistical evidence, there are countless accounts of pornography being used in cases of sexual assault. One woman who was sexually assaulted as a child reports that her father used pornography as part of his assaults, and dozens of other women have reported similar experiences.[26,27] Ted Bundy, the prolific serial killer, indicated that pornography influenced the way he killed women.[28] Similarly, a man who kidnapped a 14-year-old girl based his sexual assault of her on his favorite violent pornography, using the victim's breasts to put out cigarettes and inserting a knife in her vagina.[29] Elizabeth Spahn refers to this as "monkey-see, monkey-do," meaning that men who view violent pornography are inspired to duplicate what they see.[30] Pornography also motivates men to commit violent sexual assaults of women and film the assault, thus

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iii In one study of more than 100 women staying in an Ontario battered women's shelter, 25 percent of them indicated that they had been forced by their male partners to perform sexual acts that their partners had seen in pornography (Christopher N. Kendall, "Gay Male Pornography and Sexual Violence: A Sex Equality Perspective on Gay Male Rape and Partner Abuse," *McGill Law Journal* 49 (2004): 878,887 n. 25). In another study of more 900 women in California, 10 percent reported the same (Michelle Evans, "Pornography and Australia's Sex Discrimination Legislation: A Call for a More Effective Approach to the Regulation of Sexual Inequality," *University of Notre Dame Australia Law Review* 8, 81: 94–95, *supra* note 4 at 84, n. 5.)

creating their own pornography to be watched and shared.[31]

Based on these studies, statistics, and testimonies, many scholars have concluded that there are certain types of pornography, particularly violent pornography, that cause increases in violence by men against women.[32] This view has been accepted by some national governments[iv] and was adopted by the 1986 United States Attorney General's Commission on Pornography.[33] It has also been the primary basis for the anti-pornography movement.[34]

Harms Beyond Violence

The anti-pornography movement is also concerned with how pornography harms women in ways beyond the immediate acts of violence it causes. Anti-pornography advocates argue that the way pornography depicts women contributes to a variety of harmful social stigmas.[35] These stigmas change how all women are viewed and treated by society in general and by men specifically.[36] Advocates argue that the stigmas stem from common themes in pornography, including depicting women as subordinate to men, as sexual objects that exist for the pleasure of men, and as enjoying sexual violence and rape.[37,38,39]

Sex as depicted by pornography largely features men dominating women through verbal commands or through physically controlling the bodies and actions of women.[40] This is blatant sexism because it depicts women as serving the sexual desires of men rather than as sexually autonomous beings.[41] Since pornography conditions male viewers to believe what they see and subsequently imitate what they see in pornography, this prevalent sexism is not likely to remain confined to pornography.[42] Rather, anti-pornography scholars argue that pornography changes the way male viewers of pornography perceive women and "reinforce[es] men's views about sexual stereotypes."[43] In other words, pornography teaches men that they are superior to women, which in turn leads to inequality between men and women in society and maintains the patriarchal political position of men as superior at the expense of all women.[44,45]

Pornography does more than teach men that they are superior to women; it teaches them that women are sexual objects that exist only for use by men.[46] This view is championed by anti-pornography feminists MacKinnon and Dworkin, who believe that pornography reduces women to sexual objects who are meant to be degraded and tortured by men.[47] Other anti-pornography scholars agree. Robert Jensen describes pornography as "training in objectification" for men, teaching them to view women not as human beings but as "three holes and two hands."[48,49] By reducing women to sexual objects that exist solely for men, pornography that caters to male viewers "turns women into objects for men to consume."[50] Not only does this objectification and

iv In 1992, the Supreme Court of Canada decided the case *R. v. Butler*, which banned pornographic materials due to a concern for the harms pornography has on women. For further information on how Canada treats pornography, *see* Susan R. Taylor, "Gay and Lesbian Pornography and the Obscenity Laws in Canada," *Dalhousie Journal of Legal Studies* 8, 94(1999).

dehumanization lead to an increase in sexual violence against women, it also harms women overall by preventing them from being viewed as anything but sexual objects by men, who have the dominant position in patriarchal societies.[51,52] Pornography thus has a broader impact on all women because it furthers their unequal treatment: "because men have power over women in political, economic and social hierarchies, how men see women is how women are."[53]

In pornography, women are not just depicted as subordinate sexual objects—they are also depicted as enjoying all sexual violence that is committed against them.[54] Dworkin writes that women in pornography are physically and sexually abused repeatedly "until [they] discover that [they] like it and at that point [they] ask for more."[55] Such violence against women in pornography perpetuates rape myths, which are notions that women enjoy being raped, that they are the ones who pursue and encourage rape, and that rape is the most inevitable form of sexual interaction between men and women.[56,57,58] In other words, "when rape is normalized as sex in pornography, women are more likely to be raped."[59] Pornography "makes rape inviting" and thus serves to perpetuate rape culture—a culture in which women live in fear of being sexually assaulted and define their lives according to this fear—and, because pornography teaches men that rape is natural, men deny the existence of such a culture.[60,61]

These are several of the most common arguments put forth by the anti-pornography movement that go beyond concerns of immediate acts of violence and instead focus on broader societal harms against all women. Pornography's depiction of women as inferior to men reinforces sexism throughout society. Pornography's portrayal of women as "three holes and two hands" rather than human beings prevents women from fully participating in a society that is dominated by men who are conditioned to believe that women are nothing more than sexual objects.[62] Finally, pornography's representation that women enjoy being raped perpetuates the very rape myths that serve as the backbone of rape culture in America.

SECTION II: THE UNIQUE HARMS OF "LESBIAN PORN"

What Is "Lesbian Porn"?

"Lesbian porn" is an incredibly popular type of pornography; the word *lesbian* has been the most commonly searched term on Pornhub, the world's largest free pornography website, for the last five years.[63] "Lesbian porn" is defined as heterosexual pornography that features two or more women engaging in sexual intimacy with one another for the benefit of male viewers.[64]

It is important to distinguish "lesbian porn" from queer pornography. Queer pornography is pornography created by members of the queer community for members of the queer community.[65] Queer porn is often regarded very highly in the queer community as a safe space for queer people to participate in and view accurate representations

of the types of sexual interactions that occur between queer persons.[66] Queer porn is often produced by members of the queer community, and it promotes ideas of respect and celebration of all body types and forms of sexual intimacy between people.[67]

In contrast, "lesbian porn" is based in misogyny and violence, just like most heterosexual pornography.[68] While queer pornography is meant to be a safe space for queer people to explore their sexualities, "lesbian porn" is designed to fulfill the fantasies of heterosexual men.[69] It features women who may or may not actually be queer committing sexual acts that are often inaccurate representations of how queer women engage in sexual intimacy.[70] Instead, these acts replicate components of heterosexual sex in order to bring the heterosexual male viewer into the sex, often through the use of dildos, which are not as commonly used in the queer women community as "lesbian porn" would have viewers believe.[71] This sends a message to the male viewers that, contrary to what many queer women feel, queer women actually want to have sex with men.[72] Thus, "lesbian porn" "fetishizes [queer] women and reduces them to things that are only wanted for consumption by [men]."[73] "Lesbian porn" takes sexual intimacy between queer women, which should be respected as being for queer women alone, and turns it into "a cheap sex show for men."[74]

"Lesbian Porn" and Violence Against Queer Women

"Lesbian porn" does more than fetishize queer women; it also promotes violence against them in the form of domestic abuse, hate crimes, and corrective rape.[75,76,77] "Lesbian porn," like most pornography that is geared toward a heterosexual male audience, often features scenes of extreme violence against women.[78] This violence is sometimes perpetrated by one "lesbian" woman against another but often is perpetrated by a male actor against a female actor who is purporting to be a queer woman.[79]

Why is violence by men against queer women such a popular fantasy of heterosexual male pornography viewers? Queer theorists like Susan Hawthorne believe that violence against queer women is popular in "lesbian porn" because the sexuality of queer women is utterly detached from the male existence and makes men irrelevant to women in a way that patriarchal conceptions of masculinity vehemently reject.[80] By committing violent sexual acts against "lesbians" in "lesbian porn," heterosexual male viewers are bringing the sexuality of queer women back under their control and into traditional dominant-male, submissive-female heterosexual interactions.[81] "Lesbian porn" also allows heterosexual men to punish "lesbians" for daring to have a sexuality that excludes men; this fantasy is thrilling for male viewers but violative of queer women.[82] In these ways, "lesbian porn" denies the very existence of female sexualities that do not revolve around men and violently forces women into heterosexuality so as to reinstate traditional gender roles where men are dominant.[83]

The harmful impacts that "lesbian porn" has on queer women are staggering. In a study conducted by the Centers for Disease Control, researchers found that rates of domestic violence are significantly higher for queer women than for heterosexual women.[84] More than 85 percent of bisexual women and more than 67 percent of lesbian women victims report that the violence occurred at the hands of men.[85] These findings align with the studies previously mentioned in this article, which found that many women who are victims of domestic abuse were victimized by their male partners who expected the women to reenact pornography.[86] Since heterosexual men are using pornography in domestic abuse of their partners, and "lesbian porn" is the most commonly viewed category of pornography, one can presume that men who are in domestic relationships with queer women demand that these women perform sexual acts that are showcased in "lesbian porn."[87,88]

"Lesbian porn" may also play a role in hate crimes motivated by bias against queer women.[89] From 2014 to 2017, the Federal Bureau of Investigation recorded that between 1,200 and 1,300 queer people were victims of hate crimes each year.[90] Of these victims, anywhere from 12 to 14 percent were victims of "anti-lesbian bias."[91] It's almost certain that the number of hate crimes queer women actually experience is much higher, given that the rate of underreporting of hate crimes is high for the queer community.[92] Also, given the small size of the queer community as compared to other minority populations, this rate of hate crimes means that queer women have a higher likelihood of being victims of hate crimes than many other minorities.[93] Hate crimes against queer women are usually committed against the woman herself, often in the form of rape and other violent sexual abuse similar to how queer women are portrayed in "lesbian porn."[94,95] Sometimes, these hate crimes against queer women occur because of a refusal to engage in sexual conduct for the benefit of male onlookers. In a recent event, two queer women were physically assaulted after they refused to kiss on a public bus for the sexual pleasure of a group of young men.[96] The young men demanded that the women kiss so that they could watch; they also described sexual positions to the women while repeatedly calling them lesbians.[97] Although there has been no research on the connection between pornography and hate crimes against queer women, the presence of a strong sexual component to the hate crimes, combined with the desire for male perpetrators to watch queer women engage in physical intimacy for the perpetrator's sexual enjoyment, suggests that research in this area would be worthwhile.

Research has been conducted on how "lesbian porn" leads to corrective rape of queer women.[98] Like other forms of heterosexual pornography, which represent women as enjoying rape and sexual violence that is being committed against them, the rape of "lesbian" women in "lesbian porn" leads to the rape and sexual abuse of queer women in other spaces in society.[99,100]

However, unlike rapes and sexual violence against heterosexual women, rapes of queer women that are based on "lesbian porn" are often corrective in nature.[101] Corrective rape is the rape of a queer woman by a heterosexual male who is seeking to "fix" her by raping her until she becomes straight or seeking to punish her because she has "violate[d] gender and sexual norms."[102] In this way, the rapist often believes that he is "helping" the queer woman "by showing her what a real man can do for her, how what she needs is a 'good fuck, from real men,'" in a way that echoes how queer women are often represented in "lesbian porn."[103,104] The rapist may also believe that queer women secretly enjoy sex with men or have an unknown longing for violent sex with a man, which the rapist can show them by raping them.[105] This ideology is prevalent in "lesbian porn," which often showcases heterosexual men portraying the rape and sexual violation of "lesbian" women, which the "lesbian" women often enjoy.[106] "Lesbian porn" teaches heterosexual men to view queer women as conquests, as needing to be fixed, or as secretly desiring sex with men, which leads to corrective rape.[107,108]

"Lesbian porn" is not like queer porn, which is created to advance the interests of queer women in the queer community. "Lesbian porn" is created to advance the interests of heterosexual men, interests that include committing acts of sexual violence against queer women. Thus, "lesbian porn" furthers patriarchal notions of women as sexual objects existing solely for sexual domination by men, which causes immense harm to queer women. The harms that queer women face as a result of "lesbian porn" are similar to the harms faced by heterosexual women as a result of pornography, but in many ways queer women have it far worse. Because of the messages "lesbian porn" sends to heterosexual male viewers, queer women suffer from increased rates of domestic violence, live with a fear of hate crimes, and are raped by men seeking to correct and punish them for their sexuality.

SECTION III: INTERSECTIONALITY, ANTI-PORNOGRAPHY, AND "LESBIAN PORN"

Substantial research has been done on the harms of "lesbian porn" by queer theorists and queer feminists.[109] Yet in the mainstream anti-pornography movement, pioneered by MacKinnon and Dworkin, the harms of pornography are often treated as homogenous.[110,111] Anti-pornography scholarship tends to consider women as a uniform body of individuals who are all at equal levels of risk because of pornography.[112] Rarely do discussions about the harms of pornography acknowledge that certain groups of women are more likely to experience violence as a result of pornography.[113] When they do acknowledge that violence caused by pornography varies between groups of women, these acknowledgments are often brief.[114] More in-depth analysis of the disparate impact of pornography on different groups of women often focuses on the relationship between pornography and violence against women who

are racial minorities.[115] Mainstream anti-pornography scholarship usually does not acknowledge that queer women are more affected by "lesbian porn" than heterosexual women are by all pornography.[116]

The lack of acknowledgement of queer women in the anti-pornography movement harms queer women. This lack of attention to queer women's issues signals that the violence queer women face because of "lesbian porn" is equal to the violence all women suffer because of pornography. Research shows that this is fundamentally untrue, as "lesbian porn" harms queer women in ways that heterosexual women will never be harmed by pornography.[117] By leaving discussions about the harms of "lesbian porn" solely to queer scholars in queer spaces, the anti-pornography movement sends a signal to queer women that their concerns are not as pressing as the concerns of heterosexual women. Treating all women as equivalent in anti-pornography spaces shows that heterosexual women are thought of as the default, which perpetuates the idea that queer women are "other" and that their problems are not deserving of a place in feminist spaces.[118] Instead, lack of acknowledgment reinforces the idea that the problems of queer people are best resolved in queer spaces, and the problems of women are best resolved in feminist spaces. The two are believed to be mutually exclusive, as if a person can be a member of one group or the other but not both.

An intersectional approach would help anti-pornography scholars recognize the fallacy of this mutual-exclusivity view of queer women. Intersectionality recognizes that within each person there are multiple identities that overlap and connect with one another, which in turn leads to experiences unique to people who share those identities.[119] Applying intersectionality to queer women means understanding that being a queer woman involves at least these two separate identities—both queer and woman—and that these identities cannot be treated as separate. Queer women have experiences that only other queer women can understand.

Queer women are in danger because "lesbian porn" fetishizes these dual aspects of their identity.[120] Given their increased vulnerability, the anti-pornography movement should pay special attention to queer women, especially since the anti-pornography movement is grounded in feminism and seeks to better the lives of all women. However, the majority of anti-pornography scholarship talks about harms against women as if all these harms are equal.[121] The failure of anti-pornography scholars to view the impacts of pornography on women through an intersectional lens, and to advocate on behalf of queer women specifically, removes queer women from a space that could protect them from the harms of "lesbian porn." This lack of intersectionality in anti-pornography spaces harms queer women not just because they are at an increased risk of violence but because leaving them out of anti-pornography discussions signals that their sexual orientation somehow makes them less woman and therefore less welcome. Instead, they should be

welcomed in anti-pornography spaces for all of who they are: queer women.

CONCLUSION

Many of the anti-pornography movement's concerns are based on vast amounts of research indicating that pornography is linked with increased rates of violence against women. Anti-pornography scholars believe that this violence is not just physical but also societal, and thus they advocate that pornography harms all women. However, in purporting to advocate for the welfare of all women, a large portion of anti-pornography scholarship presents women as a homogenous group rather than as a segment of the population containing many smaller segments with unique identities that interact with pornography in different ways.

In particular, the anti-pornography movement does not often advocate for queer women, who suffer higher rates of violence and more extreme violence as a result of "lesbian porn," a type of pornography that fetishizes queer women for the sexual benefit of heterosexual male viewers. The harms "lesbian porn" has on queer women are primarily studied by queer scholars, not mainstream anti-pornography scholars. The research conducted by these scholars indicates that queer women suffer due to the way that "lesbian porn" portrays "lesbian" women for heterosexual male audiences. Yet these harms are barely acknowledged by many anti-pornography advocates, who at most briefly acknowledge that pornography affects women differently based on factors like race, religion, sexual orientation, and disability status. Instead, the harms of "lesbian porn" are studied by queer scholars, away from the mainstream anti-pornography movement.

Anti-pornography scholars have failed to bring queer women under the umbrella of a movement that claims to advocate for the rights and safety of all women. Instead, they leave the problems of queer women to be addressed in queer spaces. An intersectional approach to anti-pornography would be better not just for queer women but for all women because all women are more than just their gender. Such an approach would allow scholars to acknowledge how everyone has a variety of different identities that are intertwined with one another, which interact differently by nearly all societal forces including pornography. This intersectional approach to anti-pornography would make the anti-pornography movement better at advocating for all women of all intersecting identities, especially queer women.

Endnotes

1 *See, e.g.*, David O'Malley, "Pornography and Violence to Women: Telling the Difference," *UCL Journal of Law and Jurisprudence* 175, no. 183 (2002); Elizabeth Spahn, "On Sex and Violence," New England Law Review 20 (1984): 629, 638.

2 *See, e.g.*, Andrea Dworkin, "Pornography is a Civil Rights Issue for Women," *University of Michigan Journal of Law Reform* 21, nos.1-2 (1987): 55; Catharine A. MacKinnon, "Reflections on Sex Equality Under Law," *Yale Law Journal* 100(1991).

3 *See* Dworkin, "Pornography," *supra* note 3; MacKinnon, "Reflections," *supra* note 3. See also Michelle Evans, "Pornography and Australia's Sex Discrimination Legislation: A Call for a More Effective Approach to the Regulation of Sexual Inequality," *University of Notre Dame Australia Law Review* 8, no. 81: 94–95.

4 *See* Dworkin, "Pornography," *supra* note 3; MacKinnon, "Reflections," *supra* note 3; Evans, "Pornography," *supra* note 4. *See also* Kathleen S. Bean, "A Radical Feminist View of Pornography," *Journal of Contemporary Legal Issues* 1, no. 19 (1987); Dana A. Fraytak, "The Influence of Pornography on Rape and Violence against Women: A Social Science Approach," *Buffalo Women's Law Journal* 9, no. 263 (2000).

5 *See* Dworkin, "Pornography," *supra* note 3; MacKinnon, "Reflections," *supra* note 3; Evans, "Pornography," *supra* note 4; Bean, "Radical Feminist View," supra note 5; Fraytak, "Influence of Pornography," *supra* note 5. For additional information, see *infra* Section III.

6 *See* Barbara DeGenevieve, "Ssspread.com: The Hot Bods of Queer Porn," in *C'Lick Me: A Netporn Studies Reader* 233, ed. Katrien Jacobs et. al. (Amsterdam: Institute of Network Cultures, 2007); Julie Levin Russo, "'The Real Thing': Reframing Queer Pornography for Virtual Spaces," in *C'Lick Me: A Netporn Studies Reader* 239, ed. Katrien Jacobs et. al. (Amsterdam: Institute of Network Cultures, 2007). For additional information, *see infra* Section II.

7 DeGenevieve, "Ssspread.com," *supra* note 8 at 234; Russo, "'The Real Thing,'" *supra* note 8 at 240.

8 *See* Sarah Doan-Minh, "Corrective Rape: An Extreme Manifestation of Discrimination and the State's Complicity in Sexual Violence," *Hastings Women's Law Journal* 30, no. 1 (2019); Sheila Jeffreys, *The Lesbian Heresy* (North Melbourne: Spinifex Press, 1993), 24–46; Carlin Meyer, "Sex, Sin, and Women's Liberation: Against Porn-Suppression," *Texas Law Review* 72, no. 1097 (1994): note 151.

9 Jeffreys, *The Lesbian Heresy*, *supra* note 11 at 29–30.

10 Doan-Minh, "Corrective Rape," *supra* note 11 at 171.

11 Chan Tov McNamarah, "Sexuality on Trial: Expanding Pena-Rodriguez to Combat Juror Queerphobia," *Dukeminier Awards Journal of Sexual Orientation and Gender Identity Law Review* 17, no. 1 (2019): 393, 395 n. 11

12 Susan Hawthorne, "Ancient Hatred and Its Contemporary Manifestation: The Torture of Lesbians," *Journal of Hate Studies* 4, no. 33 (2005): 42–43.

13 Dworkin, "Pornography," *supra* note 3 at 55–57.

14 Hawthorne, "Ancient Hatred," *supra* note 15 at 40.

15 Robert Jensen, *Getting Off: Pornography and the End of Masculinity* (Boston: South End Press, 2007), 98.

16 Jensen, *Getting Off*, 48.

17 Irene Nemes, "The Relationship Between Pornography and Sex Crimes," *The Journal of Psychiatry and Law* 20, no. 459 (1992): *supra* note 9.

18 O'Malley, "Pornography," *supra* note 2 at 178.

19 Fraytak, "Influence of Pornography," *supra* note 5 at 275; Nemes, "The Relationship," *supra* note 9 at 461–462.

20 Nemes, "The Relationship," *supra* note 9 at 465–472.

21 Nemes, "The Relationship," *supra* note 9 at 465–472.

22 Nemes, "The Relationship," 462.

23 Nemes, "The Relationship," 475–477.

24 Nemes, "The Relationship," 465, 467.

25 MacKinnon, "Reflections," *supra* note 3 at 1302.

26 Evans, "Pornography," *supra* note 29 at 86 n. 9.

27 Evans, "Pornography," 85 n. 8, 102 n. 98.

28 Fraytak, "Influence of Pornography," *supra* note 5 at 282.

29 Fraytak, "Influence of Pornography," 271–272.

30 Spahn, "On Sex and Violence," *supra* note 2 at 635.

31 Dworkin, "Pornography," *supra* note 3 at 57. Dworkin also discusses other troubling statistics about pornography and sexual violence toward women, including increased rates of throat rape based on pornography, increased use of pornography in forcing women into prostitution, and increased rates of pornography in the battery of women.

32 *See, e.g.*, Dworkin, "Pornography," *supra* note 3 at 56; Evans, "Pornography," *supra* note 4 at 84–85; Fraytak, "Influence of Pornography," *supra* note 5 at 265; MacKinnon, "Reflections," *supra* note 3 at 1303; Nemes, "The Relationship," *supra* note 9 at 475; Spahn, "On Sex and Violence," *supra* note 2 at 637.

33 Nemes, "The Relationship," *supra* note 9 at 463–465. This decision came after a review of the 1970 Presidential Commission on Pornography, which concluded that there was no link between pornography and violence. The 1986 report found a causal relationship between certain types of pornography and violence against women. For more on the report, including critiques of the methodology used in the studies it relied on, *see also* Fraytak, "Influence of Pornography," *supra* note 5 at 264.

34 *See, e.g.*, Dworkin, "Pornography," *supra* note 3; Rae Langton, "Pornography: A Liberal's Unfinished Business," *Canadian Journal of Law and Jurisprudence* 12, no. 109 (1999); MacKinnon, "Reflections," supra note 3.

35 *See* Dworkin, "Pornography," *supra* note 3 at 60; Langton, "Pornography," *supra* note 39 at 109, 114, 119; MacKinnon, "Reflections," *supra* note 3 at 1304.

36 Jensen, Getting Off, *supra* note 18 at 48–50.

37 Langton, "Pornography," *supra* note 39 at 109.

38 Jensen, Getting Off, *supra* note 18 at 64.

39 Dworkin, "Pornography," *supra* note 3 at 55.

40 Jensen, Getting Off, *supra* note 18 at 61-64.

41 Joan Kennedy Taylor, "Does Sexual Speech Harm Women? The Split Within Feminism," *Stanford Law and Policy Review* 5 (1994): 49–61.

42 Spahn, "On Sex and Violence," supra note 2 at 635.

43 Nemes, "The Relationship," *supra* note 9 at 470.

44 Langton, "Pornography," *supra* note 39 at 112–120.

45 Sheila Jeffreys, "Consent and the Politics of Sexuality," *Current Issues in Criminal Justice* 5 (1993): 173–174.

46 Jensen, *Getting Off, supra* note 18 at 64.

47 Bean, "Radical Feminist View."

48 Jensen, *Getting Off, supra* note 18 at 113.

49 Jensen, *Getting Off*, 64.

50 Jeffreys, "Consent," *supra* note 11 at 54.

51 Nemes, "The Relationship," *supra* note 9 at 476.

52 Jeffreys, "Consent," *supra* note 50 at 174.

53 Bean, "Radical Feminist View," *supra* note 52 at 21.

54 Dworkin, "Pornography, *supra* note 3 at 55.

55 Dworkin, "Pornography, *supra* note 3 at 55.

56 Nemes, "The Relationship," *supra* note 9 at 468–469.

57 MacKinnon, "Reflections," *supra* note 3 at 1304.

58 MacKinnon, "Reflections," at 1305.

59 Christopher N. Kendall, "Gay Male Pornography and Sexual Violence: A Sex Equality Perspective on Gay Male Rape and Partner Abuse," *McGill Law Journal* 49 (2004), *supra* note 29 at 886.

60 Jensen, *Getting Off, supra* note 18 at 48.

61 Jensen, *Getting Off*, 48–50.

62 Jensen, *Getting Off*, 64.

63 *See* "Pornhub's 2015 Year in Review," Pornhub Insights, 6 January 2016, https://www.pornhub.com/insights/pornhub-2015-year-in-review; "Pornhub's 2016 Year in Review," Pornhub Insights, 4 January 2017, https://www.pornhub.com/insights/2016-year-in-review; "2017 Year in Review," Pornhub Insights, 9 January 2018, https://www.pornhub.com/insights/2017-year-in-review; "2018 Year in Review," Pornhub Insights, 11 December 2018, https://www.pornhub.com/insights/2018-year-in-review; "The 2019 Year in Review," Pornhub Insights, 11 December 2019, https://www.pornhub.com/insights/2019-year-in-review.

64 Doan-Minh, "Corrective Rape," *supra* note 11 at 171.

65 DeGenevieve, "Sexspread.com," *supra* note 8 at 234.

66 Russo, ""The Real Thing,"" *supra* note 8 at 240.

67 DeGenevieve, "Sexspread.com," *supra* note 8 at 233–235.

68 DeGenevieve, "Sexspread.com," *supra* note 8 at 236.

69 Doan-Minh, "Corrective Rape," *supra* note 11 at 171.

70 Doan-Minh, "Corrective Rape," *supra* note 11 at 171; Russo, *supra* note 11 at 239.

71 Jeffreys, "Consent," *supra* note 11 at 29.

72 Hawthorne, "Ancient Hatred," *supra* note 15 at 39. For further information on the prevalence of this mindset outside of academic circles, simply Google phrases like "men seduce lesbian." In addition to retrieving links to hundreds of thousands of "lesbian porn" clips, your search results will likely return articles like "How to Seduce a Lesbian as a Straight Man" (Return of Kings, 20 January 2020), which describe detailed steps for "going where no man has gone before" and seducing queer women who "claim to be man-hating." Just be careful what you click on; many of the results are just as questionable as they sound.

73 Doan-Minh, "Corrective Rape," *supra* note 11 at 171.

74 Jeffreys, "Consent," *supra* note 11 at 38.

75 Taylor N.T. Brown and Jody L. Herman, *Intimate Partner Violence and Sexual Abuse Among LGBT People: A Review of Existing Research* (Los Angeles: Williams Institute, 2015), 7–11.

76 Michelle A. Marzullo and Alyn J. Libman, *Hate Crimes and Violence Against Lesbian, Gay, Bisexual and Transgender People*, Human Rights Campaign Foundation (2019).

77 Doan-Minh, "Corrective Rape," *supra* note 11.

78 Hawthorne, "Ancient Hatred," *supra* note 15 at 35, 42–43. For further support for this claim, do as Hawthorne suggests and type "lesbian plus torture" into a search engine; your search will return a myriad of violent pornographic videos.

79 Doan-Minh, "Corrective Rape," *supra* note 11 at 171. For more information about violent lesbian pornography, type "lesbian rape" or "lesbian torture" into any search engine; the first search results you will get are likely to be violent "lesbian porn."

80 Hawthorne, "Ancient Hatred," *supra* note 15 at 47–49.

81 Hawthorne, "Ancient Hatred," 42.

82 Hawthorne, "Ancient Hatred," 48.

83 Hawthorne, "Ancient Hatred," 47.

84 Brown and Herman, *Intimate Partner Violence, supra* note 80. Note that this report only contains information for women who identify as lesbian and bisexual and does not include all queer women.

85 Brown and Herman, *Intimate Partner Violence*, 11.

86 *See* Evans, "Pornography," *supra* note 4 at 84 n. 5.; Kendall, "Gay Male Pornography," *supra* note 29 at 887 n. 25.

87 *See* Evans, "Pornography," *supra* note 4 at 84 n. 5.; Kendall, "Gay Male Pornography," *supra* note 29 at 887 n. 25.

88 *See* endnote 58 for data regarding how frequently "lesbian" was searched on the world's largest free pornography website over the last five years.

89 "Hate Crimes," The Federal Bureau of Investigation, accessed 20 January 2020, https://www.fbi.gov/investigate/civil-rights/hate-crimes.

90 "2014 Hate Crime Statistics: Victims," The Federal Bureau of Investigation, accessed 20 January 2020, https://ucr.fbi.gov/about-us/cjis/ucr/hate-crime/2014/topic-pages/victims_final; "2015 Hate Crime Statistics: Victims," The Federal Bureau of Investigation, accessed 20 January 2020, https://ucr.fbi.gov/hate-crime/2015/

topic-pages/victims_final; "2016 Hate Crime Statistics: Victims," The Federal Bureau of Investigation, accessed 20 January 2020, https://ucr.fbi.gov/hate-crime/2016/topic-pages/victims; "2017 Hate Crime Statistics: Victims," The Federal Bureau of Investigation, accessed 20 January 2020, https://ucr.fbi.gov/hate-crime/2017/topic-pages/victims.

91 "2014 Hate Crime Statistics," "2015 Hate Crime Statistics," "2016 Hate Crime Statistics," "2017 Hate Crime Statistics."

92 Martin S. Zwerling, "Legislating against Hate in New York: Bias Crimes and the Lesbian and Gay Community," *Touro Law Review* 11 (1995): 529, 536–537. Common reasons for underreporting in the queer community include a desire not to be "outed" to the public, fear of retaliation by the perpetrator or the victim's family, and a belief that the police will be prejudiced against them because of their sexual orientation.

93 Mark Potok, *Anti-Gay Hate Crimes: Doing the Math*, Southern Poverty Law Center, 27 February 2011.

94 Marzullo and Libman, *Hate Crimes*, *supra* note 81 at 8–9.

95 Marzullo and Libman, *Hate Crimes*, 8–10.

96 Poppy Noor and Mattha Busby, "Teenagers held over homophobic attack on two women on London bus," *The Guardian*, 7 June 2019), https://www.theguardian.com/uk-news/2019/jun/07/two-women-left-bloodied-in-homophobic-attack-on-london-bus.

97 Noor and Busby, "Teenagers."

98 Doan-Minh, "Corrective Rape," *supra* note 11 at 171.

99 Dworkin, "Pornography," *supra* note 3 at 55.

100 Doan-Minh, "Corrective Rape," *supra* note 11 at 171; Jeffreys, "Consent," *supra* note 11 at 106, 131.

101 Doan-Minh, "Corrective Rape," *supra* note 11 at 171.

102 Doan-Minh, "Corrective Rape," *supra* note 11 at 171.

103 Doan-Minh, "Corrective Rape," *supra* note 11 at 171.

104 Jeffreys, "Consent," *supra* note 11 at 131. For additional examples of pornography that eroticizes the rape of queer women, head to PornHub or any other pornography website and search "lesbian rape" or something similar. The results will speak for themselves.

105 Hawthorne, "Ancient Hatred," *supra* note 15 at 39.

106 Jeffreys, "Consent," *supra* note 11 at 131. For more information about how "lesbian porn" often consists of straight men raping "lesbian" women, see footnotes 83–84 and 109.

107 Doan-Minh, "Corrective Rape," *supra* note 3 at 171; Hawthorne, "Ancient Hatred," *supra* note 15 at 30, 42-43. See also "How to Seduce a Lesbian as a Straight Man," *supra* footnote 77, and similar websites that are designed to teach heterosexual men how to "seduce lesbians."

108 Doan-Minh, "Corrective Rape," *supra* note 11 at 179.

109 *See, e.g.*, Doan-Minh, "Corrective Rape," *supra* note 11; Hawthorne, "Ancient Hatred," *supra* note 15; Jeffreys, "Consent," *supra* note 11.

110 Bean, "Radical Feminist View," *supra* note 5 at 19.

111 *See, e.g.*, Dworkin, "Pornography," *supra* note 3; Evans, "Pornography," *supra* note 4; Fraytak, "Influence of Pornography," *supra* note 5; Jensen, *Getting Off*, *supra* note 18.

112 *See, e.g.*, Langton, "Pornography," *supra* note 39; MacKinnon, "Reflections," *supra* note 3; Spahn, "On Sex and Violence," *supra* note 2; Taylor, "Sexual Speech," *supra* note 46.

113 *See, e.g.*, Dworkin, "Pornography," *supra* note 3; Jensen, *Getting Off*, *supra* note 18; MacKinnon, "Reflections," *supra* note 3.

114 *See*, e.g., Dworkin, "Pornography," *supra* note 3 at 55; Catharine MacKinnon, "Pornography as Defamation and Discrimination," *Boston University Law Review* 71, no. 33 (1991): 793, 802.

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116 MacKinnon, "Reflections," *supra* note 119.

117 *See* Doan-Minh, "Corrective Rape," *supra* note 11.

118 Hawthorne, "Ancient Hatred," *supra* note 15 at 47.

119 For an in-depth discussion on intersectionality, see Kimberle Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color," *Stanford Law Review* 43, no. 6 (191): 1241.

120 Doan-Minh, "Corrective Rape," *supra* note 11 at 171.

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The Whole Youth Model

How Collecting Data About Sexual Orientation, Gender Identity, and Gender Expression (SOGIE) Helps Probation and Youth Courts Build More Authentic Relationships Focused on Improved Well-Being

Aisha Canfield, Angela Irvine, Shannan Wilber & Malachi Larrabee-Garza

Aisha Canfield, MPP, has conducted research for the past eight years. Her research largely focuses on the disproportionate detention of LGBT/GNCT youth, identifying systemic points of disparity such as contact with child welfare. In addition to her research, Aisha trains juvenile probation departments across the country to implement data collection systems and evaluates community-based providers serving system-involved youth nationally. She has also served as technical assistance provider to jurisdictions on behalf of the Prison Rape Elimination Act, providing specialized training about the needs of LGBTQ individuals in detention facilities. She is the co-author of several publications on LGBQ/GNCT youth in the child welfare and youth justice systems. She has a special interest in building affirming programs for youth of color on the gender spectrum.

Angela Irvine, PhD, has more than 25 years of experience in education and social policy. After finishing a PhD in sociology at Northwestern University, Dr. Irvine spent eight years running Ceres Policy Research (from 2002 to 2010), four years as a research director at the National Council on Crime and Delinquency, and two years as a vice president at Impact Justice. She has served as the principal investigator of a national study of youth deincarceration; a national study of lesbian, gay, bisexual, questioning, gender nonconforming, and transgender (LGBQ/GNCT) youth of color in the justice system; and a survey of every detention hall, ranch, and camp in California to understand pathways into the youth justice system for LGBQ/GNCT youth of color. In 2017, she reopened Ceres Policy Research, where she is currently working to build alternatives to incarceration, exclusionary school discipline, the criminalization of immigration, and other state interventions.

Shannan Wilber, Esq., is the youth policy director at the National Center for Lesbian Rights. She joined the NCLR in 2013, bringing more than 25 years of experience advocating for vulnerable children and youth. Shannan represented individual children at Legal Advocates for Children and Youth, engaged in policy advocacy and impact litigation at the Youth Law Center, and served as the executive director of Legal Services for Children. She is the author of several publications describing professional standards governing services to LGBT youth in out-of-home care.

Malachi Garza is the founder and principal at Innovative Justice Solutions. In this role, Malachi engages civil society, private investors, and governments to engage in collaborative projects for the collective good. Malachi's previous work includes directing the Community Justice Network for Youth, a US-based national network of more than 250 organizations working to eliminate racial and ethnic disparities within justice systems and build localized community alternatives. Malachi has been working 24/7 to build a liberation focused movement for the past 21 years and deeply believes that we will win.

ABSTRACT

As reform efforts continue to encourage the juvenile justice system to shift its focus from punishment and surveillance to health and well-being, systems must engage in practices that acknowledge and affirm young people in their care as "whole youth" with multiple layers of identity, including sexual orientation and gender identity and expression (SOGIE). These identities are often excluded from discussions aimed at improving support for youth in and out of care. This guide presents justice systems with a blueprint for collecting SOGIE data, as well as a tool to treat all youth respectfully and support their overall well-being.

INTRODUCTION

Over the last 20 years, advocates and policymakers have successfully decreased the number of youth in the juvenile justice system by at least half through a series of concerted efforts at the federal, state, and local levels. Since 1997, the national rate has dropped 61 percent.[1] These efforts have yielded changes to the juvenile justice system, such as increasing the rights of detained youth and reducing detention; in some parts of the country, juvenile detention facilities are operating at approximately half capacity.[2]

Connecticut, for example, experienced the largest decrease in youth detention, with an 83 percent drop.

The decrease has been so dramatic in California that the California Department of Juvenile Justice is being moved from the Department of Corrections and Rehabilitation to a new department under the Health and Human Services Agency.[3] Agencies are closing secure facilities and moving agency functions to health departments. Los Angeles County is considering the possibility of moving its entire youth probation department under a health department.[4] And San Francisco is closing their youth detention center.[5]

Despite these huge gains, reform efforts have not benefited youth equitably. Despite overall declines in the number of detained youth, youth of color, and lesbian, gay, bisexual, questioning, gender nonconforming, and transgender (LGBQ/GNCT) youth are significantly overrepresented in the juvenile justice system. Further, those detained face increased risks of assault, abuse, and harassment.[6,7] LGBT and gender nonconforming youth in particular were named a "priority population" in the federal Prison Rape Elimination Act (PREA) Standards to mitigate this group's documented heightened risk of abuse in facilities of confinement.

To better understand trends and changes over time in their specific jurisdiction and ultimately improve outcomes for LGBQ/GNCT youth, the PREA Standards have required facilities to start collecting sexual orientation and gender identity and expression (SOGIE) data so that they can have information about all aspects of youths' identities.

Even more importantly, as the field moves residential and supervision functions from law enforcement agencies to health and human services agencies, any professional working

with youth should be thinking about building authentic relationships that aim to improve well-being.

This guide presents both a guide for collecting SOGIE data as well as a perspective on how this practice should fit within reforms to treat all youth respectfully, with the ultimate aim of improving well-being.

WHOLE YOUTH MODEL

This guide recommends that justice stakeholders—chiefs of probation, division directors, and institution staff and community probation officers—adopt practices that help them understand and support the young people in their care and custody. Its recommendations reflect reforms that transition from a focus on surveillance and punishment to a focus on health and well-being. Critical to this transition is a more accurate and nuanced understanding of the lives, experiences, and identities of the young people who are among the least likely to benefit from efforts to decrease the use of incarceration: LGBQ/GNCT youth of color.

The whole youth model begins with authentic conversations between staff and youth. Data collection is achieved through a series of questions aimed at gaining a deeper understanding of young people, the circumstances of their lives that contribute to disparate suffering and punishment, and how justice professionals might best ensure their well-being and meet their needs. The model is grounded in the following guiding principles:

1. Variations in sexual orientation, gender identity, and gender expression are part of the normal spectrum of human diversity.
2. The increased risks faced by LGBTQ and gender nonconforming youth—particularly those of color—are not inherent to their identities but stem from the stresses of prejudice, discrimination, rejection, and mistreatment.
3. Like all children, LGBTQ and gender nonconforming children thrive and succeed when their families, schools, and communities support and nurture their evolving identities.
4. Efforts to change a young person's sexual orientation or gender identity are ineffective, unnecessary, and harmful.
5. LGBTQ and gender nonconforming young people are not a homogenous population; they embody multiple identities that confer unique and intersecting stressors and strengths.
6. Regardless of personal beliefs, employees and contractors of public systems of care are legally and ethically required to treat LGBTQ and gender nonconforming young people equitably and respectfully.
7. Treating youth as whole people will improve the relationship that one has and the services one provides.
8. Asking questions about their multiple identities, such as SOGIE and race/ethnicity, will

help you understand and treat youth as whole people.

9. Permitting youth to decide when and to whom to disclose their SOGIE protects their safety and promotes their healthy development.

Although the model is conceptually simple, implementation requires intentional sequenced changes in practice. Justice stakeholders must first adopt a new mindset about their jobs. They must absorb the existing research documenting disparities based on race and SOGIE, as well as rapidly evolving terms and concepts related to these aspects of human identity. Perhaps most challenging, they must overcome their discomfort and reticence to ask young people about their intersectional identities. The recommendations in this guide provide an implementation roadmap.

THREE PILLARS OF CHANGE

Collection of individual SOGIE and race data is the practice around which the whole youth model is centered. Prior to implementing data collection, it is imperative that agencies prepare personnel to implement this practice professionally, consistently, and effectively. Properly sequenced, the model requires agencies to adopt written nondiscrimination and data-sharing policies, deliver training to all relevant personnel, and finally, implement protocols to collect and analyze SOGIE data. Policies, training, and data collection are the three pillars upon which the model rests.

WRITTEN POLICY AS A PILLAR OF CHANGE

Adoption of written policies prior to collecting and recording SOGIE data is essential to clarifying the purposes for the data collection, promoting consistent and professional practices, obtaining accurate data, ensuring the safety and privacy of youth, and clarifying the agency's expectations of its employees and contractors.

Recommendations for Policies

We recommend that broader nondiscrimination policies include the following sections:

Background and Purpose

The policy should provide the context and reasons for requiring intake staff to collect SOGIE data from each youth.

Scope of Policy

The policy should clarify that its provisions apply to all employees and contractors and protect all youth served by the agency. The agency should formally adopt and approve the policy prior to the collection of individual SOGIE data.

Nondiscrimination

The policy should explicitly prohibit discrimination against any youth based on the youth's actual or perceived SOGIE and require that all personnel provide each youth with fair and equal treatment and access to services, irrespective of the youth's actual or perceived SOGIE. This policy, formally adopted and approved by the relevant

agency, provides essential protection to youth and personnel by clarifying the agency's commitment to equality and inclusion.

Equal and Respectful Treatment

In addition to straightforward language prohibiting discrimination, the policy should identify specific behaviors that create a safe and inclusive environment.

Policy Dissemination

The policy should require staff to provide a written and verbal explanation to youth of their rights and obligations under the policy, as well as the procedures for reporting violations, in a manner that the youth can understand.

Grievance Procedure

The policy should describe a process by which youth can submit grievances alleging violations of the policy. The process should be accessible to all youth, including those with limited literacy, limited English proficiency, or intellectual, learning, or developmental disabilities. The process should be confidential and provide for the fair and prompt consideration and resolution of grievances. It must also expressly prohibit retaliation.

Confidentiality

The policy should give youth as much control as possible over any disclosure of their SOGIE to third parties. Ideally, the policy should prohibit personnel from disclosing the youth's SOGIE to anyone outside the agency, including the youth's parents, without obtaining the youth's consent, unless the disclosure is required by law or court order. Any required disclosure related to a youth's SOGIE should be limited to the information necessary to achieve a specific beneficial purpose and must be documented.

Training

The policy should require that all personnel receive training on the policy prior to collecting SOGIE data.

Intake and Assessment

The policy should require intake staff to ask each youth about their SOGIE and not make assumptions based on appearance or stereotypes. Staff should not compel youth to disclose the information nor threaten a youth with discipline for declining to disclose this information. The policy should provide that when a youth discloses that they are LGBQ/GNCT, the person conducting the interview will talk with the youth in an open and non-judgmental fashion and ask if the youth has any concerns or needs related to their SOGIE.

Definitions

The policy should include definitions of any terms related to SOGIE that are used in the policy.

TRAINING AS A PILLAR OF CHANGE

Providing training prior to incorporating the SOGIE data questions into existing case management systems is essential to the quality of the data and the safety and well-being of the young

people responding to the questions. Training should include guiding principles to establish the importance of affirming all of youths' identities, basic LGBQ/GNCT terms, new data-collection protocols, and a section for practicing interviewing youth in an affirming way.

SOGIE DATA COLLECTION AS A PILLAR OF CHANGE

Collecting SOGIE data is essential for making data-driven decisions about improving systems for LGBQ/GNCT youth.

Recommendations for SOGIE Data Collection

There are a number of considerations and decisions to make before a jurisdiction should collect SOGIE data.

Preparation

As described above, sites should have anti-discrimination and data-sharing policies to protect youth in the system. Sites should also properly train line staff so that they know what questions to ask and how to ask them. Finally, sites should identify community-based partners that are affirming of LGBT youth for referrals.[8]

Case Management Systems

Sites should set up a system for collecting data. Ideally, case management systems will be revised to capture information about at least the following six categories: sex assigned at birth, gender identity, gender expression, sexual orientation, attraction, and a question that indicates whether line staff are worried that a young person will be bullied based on their appearance.

Creating Safe Spaces

Once an agency has implemented policies and trainings, they should also create a safe place to ask SOGIE questions. As with all intake questions and assessments, youth should be interviewed in the most private settings possible. When staff introduce the questions, they should explain that all youth are asked the same questions. Finally, the SOGIE questions should be woven into all the other demographic questions that a site asks. Creating a separate section or weaving SOGIE questions into medical or sexual history questions can send the message that sexual orientation and gender identity are not a normal part of adolescent development.

Supporting Youth

As staff ask SOGIE questions, they should use respectful and supportive language. They should avoid making any assumptions about sexual orientation or gender identity or gender expression based on how a young person presents themselves. They should be aware of cultural or generational differences that may exist between themselves and the young person. And by remaining curious and asking follow-up questions about what new terms mean, staff can signal a comfort and an openness to any answers that youth choose to provide.

Asking SOGIE Questions

Once sites have a safe space, a

revised case management system, and a method for collecting SOGIE data, line staff can start asking the questions. Most jurisdictions have learned that asking youth questions in rote format is ineffective. Instead, staff that have been trained in motivational interviewing know that assessment and intake procedures can be conversational and, therefore, more comfortable for young people. We therefore recommend that staff take the time to ask SOGIE questions in an open and curious way. Probation officers and court staff are encouraged to expand on this script even further by asking follow-up questions if a young person uses a term they are unfamiliar with. At all times, adults are most affirming when they are genuinely interested in the multiple layers of youths' lives.

Using Data to Inform Practice and Improve Outcomes for LGBQ/GNCT Youth

As discussed above, asking youth SOGIE questions helps develop a stronger relationship with them. In addition, the aggregate data helps jurisdictions understand where they could improve practices and policies in order to ultimately improve outcomes for LGBQ/GNCT youth.

Findings from the First Sites

Ceres and our partners pulled together three counties in Ohio, three counties in New York, and the state of Connecticut for our first cohort of Whole Youth Project sites. After passing policies, training staff, revising case management systems, and collecting data, most of these sites were ready to download what they have for data analysis. We compiled information from Lucas County, Ohio; Montgomery County, Ohio; Schenectady County, New York; and the state of Connecticut into one large dataset.

This data was analyzed using a combination of descriptive and advanced statistics tests. We ran descriptive statistics tests in order to understand the population of youth we had collected data from. These youth varied across race and SOGIE:

- There were a total of 2,249 youth in the dataset.
- Of these youth, 608 came from Lucas County, 889 from Montgomery County, 110 from Schenectady County, and 640 from Connecticut.
- The majority of youth—62 percent—were of color, and the largest proportion of youth of color were Black. Of respondents, 52.4 percent were Black, 38 percent were White, 5.5 percent were multiracial, 3.6 percent were Latinx, 0.3 percent were Asian, and 0.2 percent were Indigenous.
- The proportion of LGBQ/GNCT youth in the sites approached national estimates. While 20 percent of youth nationally report being LGBQ/GNCT on anonymous surveys, 15.7 percent of youth reported being LGBQ/GNCT on face-to-face intake questions.
- While 40 percent of girls report being LGBQ/GNCT

on anonymous surveys, 34.6 percent of girls in our sample reported being LGBQ/GNCT.

We ran analyses of variance and binary logistic regression tests to determine if LGBQ/GNCT youth were experiencing disparities in outcomes. We had four major findings. LGBQ/GNCT youth were:

- 40 percent more likely to receive a high-risk score;
- 40 percent more likely to be detained prior to adjudication; and
- 50 percent more likely to be charged with a violent felony.

In addition, LGBQ/GNCT Black girls were 4.8 times (380 percent) more likely to have a sustained weapon charge.

Recommendations for Putting Data into Practice

Analysis of SOGIE data reveals areas for system reform. For the first group of Whole Youth Project sites, we recommend the following:

High Risk Scores

In order to address the problem of more LGBQ/GNCT youth receiving high-risk scores, we recommend that sites ask the vendors that provide their risk for revalidation to ensure equity across SOGIE.

High Rates of Detention

In order to address the problem of having more LGBQ/GNCT youth in detention, sites should similarly review their detention risk instruments and risk overrides to ensure equity.

Higher Rates of Sustained Violent Charges

In order to address higher rates of sustained violent charges, sites should first review case files to see if violent charges are justified. Research in California suggests that only 13 percent of robberies and assaults result in serious bodily injury. This necessitates that the field critically consider when a violent charge is warranted. Secondly, for those youth who have caused serious harm, sites should pursue restorative community programs that can address underlying conflict and violence while simultaneously affirming youth culture, race, and SOGIE.

Higher Rates of Weapons Charges

As with violent charges, sites should develop a continuum of care that can serve LGBQ/GNCT youth of color in an affirming way. Systems should then refer youth with weapons charges to identified programs that can address the underlying reasons for carrying weapons while affirming youth culture, race, and SOGIE.

As other sites compile and analyze their data, they will inevitably yield different results. As counties pursue reforms to improve outcomes for LGBQ/GNCT youth, they may want to initiate the following reforms:

- Examine opportunities to improve internal practices inside facilities. One specific example might be a decision grid for out-of-home practices. If your data suggests that LGBQ/GNCT youth are being placed in group

homes at higher rates than other youth, consider creating a multi-disciplinary team that reviews placements. Then, have this group develop a structured decision-making grid that will make decisions more equitable.

- Develop intersectional and affirming terms of probation and release plans to promote successful and permanent exits from the system. One example of this would be to review whether your system automatically refers youth to mental health programming. Affirming mental health services are difficult to find for LGBQ/GNCT youth. They should not be punished for failing to attend services that are not supportive or where they are not comfortable.
- Share data with other youth-serving agencies and community-based organizations to identify affirming interventions and opportunities. Sharing aggregated findings from analyses that review differences across SOGIE and race should be shared with all system partners so that each community can develop a coordinated and consistent response to LGBQ/GNCT youth.
- Begin developing a continuum of care for LGBQ/GNCT youth. Since most probation and youth court systems serve the majority of youth in the community, each site should intentionally work with system partners and community-based organizations to train line staff around the entire county and develop referral systems that affirm all layers of youth identity. It should be noted that some LGBQ/GNCT youth prefer to not attend specialized programs for LGBQ/GNCT communities. For this reason, careful and thoughtful referral assessments are required so that youth can help identify the services they feel most comfortable attending.

Endnotes

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Queering the Housing Question

Leveraging the Los Angeles LGBT Center to Build a Better Housing Policy

Samuel Maddox

Samuel Maddox is an architect, public artist, and design educator from the Deep South. After working for several years in architecture and historic rehabilitation in Atlanta and becoming licensed in Georgia, Samuel returned to school to examine the capacity of design to create, promote, and sustain socio-spatial justice. He holds a master's degree in design studies, focusing on urbanism, landscape, and ecology, from Harvard University's Graduate School of Design. He received his bachelor of architecture and bachelor of interior architecture degrees at Auburn University, where he studied at the Rural Studio, a satellite program of the School of Architecture located deep within Alabama's historically impoverished Black Belt region. While there, he designed and built his thesis project: 20K House v15, an affordable, fully accessible single-family home and part of the Rural Studio's ongoing research initiative to fill the gap in affordable rural housing. Samuel is currently a faculty member in the Architecture Department at Wentworth Institute of Technology as well as the Boston Architectural College, where he teaches in the Master of Architecture and Master of Design Studies in Design for Human Health programs. Samuel has built projects in Alabama and Florida and exhibited his work at Harvard, in Italy, and through the Museum of Design Atlanta (MODA). He has lectured on his independent research at University of California, Berkeley, and TU Wien in Vienna, Austria. He is also currently authoring a chapter on the urbanizing effects of aging Americans' migrations into Mexico in the forthcoming book CARE: Cities, Action, Research and Education: New Perspectives in Urban Studies and Planning Theory *(Routledge Press, 2021). Samuel's work focuses on the social-environmental consequences of urbanizing processes with particular interest in rural-urban disparities.*

ABSTRACT

This essay leverages the Anita May Rosenstein Campus—the Los Angeles LGBT Center's forthcoming cohousing-style complex for both youth and senior members of the LGBTQ+ community—as an example of affordable, intergenerational housing that challenges the nation's existing federal provisions for senior housing. The need for a broader, more inclusive, even queerer approach to addressing the nation's affordable housing gap is underscored by an examination of the current projections in aging and a renegotiation of what we consider to be practices of care and caregiving by looking at informal, community-based practices.

I: BUILDING (EVEN) QUEERER SPACES

This past April, the Anita May Rosenstein Campus opened its doors to the public for the very first time. The 180,000-square-foot campus, spread across four acres in the middle of Hollywood, is the ambitious materialization of the Los Angeles LGBT Center's diverse suite of services.[1] From the exterior, the building is a dynamically yet delicately stacked series of translucent boxes that serves as an architectonic anchor in the urban context and a beacon for LGBTQ+ folx seeking support.[1] On the inside, service

1 A spelling variant of the word *folks* intended to signal inclusion in the LGBTQ+ community via the use of the gender-neutral and gender non-binary inclusive -x, similar to words like Latinx, Chicanx, Filipinx, Womnx, and Mx.

spaces for counseling, job training, and a youth academy weave between small courtyards and brush up against community-oriented spaces like the common kitchen and "Pride Hall," a 50-foot-high flexible space for events and large gatherings.[2] Altogether, the campus represents both a sense of pride and much-needed security. It is at once a billboard and a place of refuge.

However, the pièce de résistance of the $141 million expansion is yet to come. Later this year, Phase II—a 124-unit, affordable, intergenerational LGBTQ+ housing complex—will open its doors to LGBT Angelenxs both young and old.[3] These housing blocks, though physically distinct from one another, will interface across the campus, sharing services, plazas, and other amenities with one another and with the 100-bed homeless youth drop-in center that has already been completed as part of Phase I. The intersection of queer community and intergenerational cohousing will make this complex the first of its kind in the nation.[4] No other institution in the country has been able to turn such a vision for building a socio-spatial community, based on empathy and sustained by responsibility shared between queer youth and seniors, into a reality.

Within the world of housing, this type of socially driven, intergenerational housing arrangement is known as "cohousing." Cohousing was pioneered in Denmark as early as the 1960s as an investigation into the "practical possibilities of realizing 'the missing link' between utopia and the outdated single-family house," according to architect Jan Gudmand-Høyer. Distinct from contemporaneous communes, the Danish cohousing model puts great emphasis on the differentiation of shared and common spaces while still allowing room for "interplay between common and private spaces." This meant that individuals and families owned relatively conventional private domestic spaces—though usually more modest in size—while also owning a share of amenity spaces consisting of outdoor areas and a "common house" with areas and resources for cooking and sharing meals, gathering socially, and collective self-governance. In the 1980s, Danish cohousing experienced a massive building boom—nearly doubling over the decade—when changes in national legislation created the opportunity for collective tenure on newly built housing projects. This, along with the introduction of quota-based, interest-free federal loans covering up to 80 percent of construction costs, created opportunities for cash-strapped housing cooperatives and the Danish construction industry until 2004, when the law was changed and the subsidies revoked.[5] Though initially successful, the Danish cohousing model has struggled to transcend economic boundaries, remaining mostly an occupant-owned system.

What the Rosenstein Campus at the LA LGBT Center offers within the legacy of cohousing experiments is a chance to move to a more stakeholder-based system that is not incongruous with public housing aims of promoting equity. What this project does, in effect, is queer our current understanding of

public housing and modalities of care. The term *queer* is one that I want to reclaim within this piece for the dual purposes of empowerment—the term having taken a 180 as it was reclaimed, like so many other slurs, by the community subject to its derision—as well as its semantic utility as a theoretical lens. Queer theorist Michael Halperin describes the utility of the term *queer* in its "ability [...] to define (homo)sexual identity oppositionally and relationally but not necessarily substantively, not as a thing, but as a resistance to the norm."[6] The positional fluidity of queer theoretics is its greatest asset, affording a multitude of highly critical perspectives without need or want of staking any one claim too particularly. It is discursive and dialectical, interested in the asking of questions as much as, if not more than, the pursuit of their answers. Thus, what I mean by queering our understanding of housing and care is taking the time to challenge assumptions based on normative, majority-led practices in these fields as well as assumptions around how we should delineate housing and health, family and community, public and private, young and old.

II: FINDING VALUE IN DIFFERENCE

Just as there is tension in the architectural formalization of visibility and refuge in the design of the Rosenstein Campus, so too is there a kind of tension at the heart of the project within this cohousing-style arrangement of LGBTQ+ seniors and youth: namely, ageism. A variety of factors likely contribute to ageist attitudes in and amongst some segments of the LGBTQ+ community. There is the emphasis on sexual attraction, all too often culturally conflated with ideas and images of youth.[7] There is the legacy of underground social spaces—both literally and metaphorically speaking—which are often physically ill-suited for seniors and otherly-abled LGBTQ+ people. And, perhaps most significantly, there is the lack of intergenerational familial structures because queer people are not necessarily begotten of queer or same-sex parents but are, more often than not, born into otherwise heteronormative households. This often leads to the construction of what has been called "families of choice" (i.e., close ties and relational bonds that are not predetermined and thus are not inherently fixed but are instead selected, often preferential, commitments of time, care, and support). These chosen families act as a support network for many LGBTQ+ people in lieu of or in addition to their families of origin (i.e., birth or adoptive parents and their familial networks).[8] Given the intentionality of these communities, families of choice are easily formed along the bases of shared experiences and interests, including socially bracketed age groups and logistically defined stages of life. While these communities may be a vibrant source of joy and support during earlier years, they can leave LGBTQ+ people with fewer "intergenerational levels of support" than their cisgender, heterosexual counterparts later in life, making the process of receiving care a more formal, expensive, and isolating experience.[9]

It is this tense social space—that of relatively rare intergenerational queerness—that the Los Angeles LGBT Center aims to challenge with the Rosenstein Campus. While some might see difference and discord at the coming together of the often party-hearty, technology-glued queer youth with older, possibly slower, and perhaps even relatively more conservative LGBTQ+ people, Lorri L. Jean, the Center's CEO, sees opportunity for mutual education, informal care, and novel support networks at the intersection of young and old constituents of this particular affinity group. The literature available supports her; studies have shown that multigenerational communities bridge knowledge and "need gaps" for the generational "bookends" as older residents teach and mentor while younger residents provide varied social connectivity and a sense of purpose.[10] In addition to the usual gap between generations, there is also within the LGBTQ+ community the pronounced variety of formative inflection points, including living in fear of sodomy laws, coping with loss during the AIDS crisis, and eventually watching the tides turn in favor of civil unions and same-sex marriage. Without building LGBTQ+ community that transcends generations, these and other substantive experiences are easily relegated to the sphere of textbook knowledge for younger members of the community.

The Anita May Rosenstein Campus can then be thought of as a test. It is a test of whether cohousing-style, intergenerational, affordable housing has a viable future more broadly in the United States. If it can work to build a productive tension that moves its residents toward a more empathetic culture, then perhaps, in time, it could not only challenge the predominance of the single-family home but also queer our understanding of care, particularly end-of-life care, and the current cultural norm of turning a blind eye to the aged.

III: VISIONING HOUSING AS A FORM OF CARE

As uncomfortable as it may be, America has an undeniable age problem. Its population is aging, and it is aging fast. In the next 10 years (by 2030), all baby boomers will become senior citizens, having aged 65 years or more. Thirty years after that (2060), the United States senior population is expected to have more than doubled from 46 to 98 million, meaning that this particular share of the national population will jump from 15 percent to nearly 25 percent.[11] Further, this generation is also expected to live longer than its parents by 10 to 25 years, putting significant pressure on social services such as Social Security, healthcare, and housing.[12] Undoubtedly, policy mechanisms will be required to contend with the encroaching "Silver Tsunami"—a collapse in health care service provision, combined with a housing crash from the predicted "great senior sell-off" when baby boomers sell their single-family homes en masse.[13] Given the tangled web of socio-spatial, vested economic, and health/care-related circumstances that constitutes America's age bubble,

the best approach to addressing it is a holistic one that addresses the spatial, economic, and social aspects simultaneously. One such possible response is senior housing.

Currently, affordable senior housing is provided under Section 202, *Supportive Housing for the Elderly,* under the Housing Act of 1959. Section 202 offers two paths to federal funding for the development and support of very-low-income senior housing: capital advances and Project Rental Assistance Contracts (PRAC). Capital advances are interest-free advances that can be used for acquisition, construction, or rehabilitation of structures to be used for elder housing. These advances need not be paid back as long as the unit remains available to persons aged 62 years or more with an income no greater than 50 percent of the area median income for 40 years following the initial advance. PRACs, however, are contracts entered into between the Department of Housing and Urban Development (HUD) and landlords, wherein eligible senior renters pay 30 percent of their monthly income toward the rent and the remainder is subsidized by HUD.[14]

Each route offers a small degree of flexibility. Capital advance projects can be mixed with other income streams, including Section 811, *Supportive Housing for Persons with Disabilities,* and the Low-Income Housing Tax Credits, while PRACs can be used to hire elderly support services and service coordinators. However, Section 202 funding is prohibited from financing the development of shared spaces like kitchens and game rooms—the kinds of spaces that enable the cross-generational relationship building that makes the Anita May Rosenstein Campus such a uniquely rich space for its LGBTQ+ stakeholders.[15] It is time that the unit-by-qualifying-unit financing approach to Section 202 be reconsidered in order to move future developments away from senior-only housing. Resident diversity has already been established by HUD as having value through programs like its HOPE VI, which, in 1996, began encouraging mixed-income development in response to decades of low-income-only developments that led to pockets of poverty and declarations of "urban blight."[16]

In essence, Section 202 should be revised to remove the barriers to cohousing-style arrangements, including the restrictions on "amenity" financing and at least some age-based requirements in order to pave the way for more varied and variegated conceptions of elder housing—queerer conceptions, one might say—that reflect familial-like structures of informal care and mutual support. HUD could consider setting requirements for an average age across a complex as opposed to a minimum, allowing for some younger heads of household, possibly with children, to join the community, provided they also qualify as very low income. The primary goal of these revisions would be to encourage intergenerational unit mixes and the construction of common spaces, particularly kitchens, dining areas, and other social mixing spaces, as primary sites of engagement. Furthermore, with the addition of such spaces, it is possible

that senior units could become slightly more modest in both size and unit-based amenities (e.g., laundry units, guest rooms, home offices), resulting in upfront cost savings. It is also possible that certain PRAC-funded support services (e.g., meal provisions) could see reductions in light of these changes, leading to modest savings at the federal level. That said, such savings would probably be put to better use through a complex-wide community coordinator with some training in geriatrics that could help foster community building through the coordination of weekly or biweekly common meals and community-led events, much like those offered within traditional cohousing arrangements, while also meeting the more formal care-based needs of the elderly constituents of the community.

Since the Budget Control Act of 2011 set restrictions on new buildings, HUD has been mostly renewing existing contracts. Between 2011 and 2017, no new project was financed.[17] However, with the Bipartisan Budget Act of 2019, the spending caps that once held back development have been lifted, and HUD has $90 million to spend on new capital advances and contracts for fiscal year 2020.[18] Though it seems that the country lacks the political bandwidth to debate such changes to the future of affordable senior housing, with this small financial windfall on the table and with the clock ticking for America's seniors, it is time to reconsider what aging in America should look like. Instead of spatializing the aging process through age-based segregation contained in increasingly clinical environments, aging could be defined as a more collective and democratic life, one rife with self-determination and underpinned by daily opportunities for mutual learning and support.

Furthermore, it is possible that the addition of intergenerational cohousing to America's state-sponsored affordable housing strategies could end up queering more than perceptions of age, community, and care. By the nature of its propensity toward resource sharing, densification, and collective land tenure, the historic cohousing model continues queering our assumptions around housing, capital, and land use by offering challenges and alternatives. As a queering spatial condition, cohousing posits questions unburdened at their outset by the need for answers and instead driven by the open-ended pursuit of a more pluralistic and inclusive future framework. It is this propensity toward nonlinear, discursive growth that makes queer spatiality such a powerful agent of change, particularly in more technocratic spheres. Although the Rosenstein Campus is poised to lead this experiment in housing from a mostly privately funded basis, if the campus can prove its worth by fostering novel dimensions of dignity, community, and care—as unmeasurable as these may be—then perhaps there is hope for not only a better housing policy in the United States but also for a queerer approach to arriving at that point.

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