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A Note of Gratitude

Thank you to Open Gate, without whose support we would not have been able to produce as inclusive and meaningful a journal. Your generosity and commitment to justice were crucial in making this journal what is it.

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Letter from the Editor

In the midst of a global pandemic that is claiming lives and livelihoods, journals can feel trivial. When police murder residents with little to no accountability, when wildfires and floods ravage communities, when democracy itself is under attack; journals can feel insignificant. And if they don't inspire action, they are.

The travesties listed above do not strike us all equally. Marginalized communities disproportionately bear the weight and the wounds of the world. That is true of the LGBTQ community, and within the LGBTQ community. As of publication, HRC has mourned at least twelve trans and nonbinary people who have been murdered in 2021 in the US, half of whom were Black trans women, and 2020 had the highest recorded murder rate of trans and nonbinary people since HRC began tracking in 2013.

In light of the disproportionate burden our most marginalized members have shouldered, struggled against, and often surmounted, it felt especially urgent to seek out their ideas this year. In doing so, we heard from authors fighting for LGBTQ equality across Africa, the first transgender public official in Indonesia, and an organization highlighting the needs of the transgender and non-binary Asian and Pacific Islander community in San Francisco, among many others. At the same time, we recognize the voices represented in these pages are not representative of our community in its entirety.

Our journal contributors this year come from a variety of backgrounds and bring their frustrations, visions, and calls to action into these pieces. In an attempt to support transparency and accountability for ourselves, and for Harvard, we are sharing the demographics of our authors publicly, and committing to continuing to seek out more equitable and diverse representation. While these statistics fail to capture the intersection of identities and all the relevant experiences that color people's lives, we find them a helpful place to start.

In this print edition, we have published 20 authors, 18 of whom shared their identities with us, as well as 1 organization. The following statistics are for our individual authors; the organization is comprised of transgender and non-binary Asians and Pacific Islanders, many of whom are youth. Our individual authors:

- have a variety of gender identities (nonbinary, transmasculine, genderqueer, 2S, man, woman, transgender man, etc.). About a third of our authors have a gender different from their sex assigned at birth, a third are cis women, and a third are cis men.
- have a variety of racial identities, but many—around half—are white. A fifth are Hispanic or Latino, a fifth are Black, a sixth are Native American or American Indian, and others are Asian/Asian American or Pacific Islander, Arab, and/or biracial.
- are predominantly LGBTQ with almost half of our authors identifying with the word *queer*. Other sexualities included gay, lesbian, bisexual, heterosexual, homosexual, and pansexual.
- tend to be American, with about two-thirds identifying as such. Nine other nationalities were represented, including Indonesian, Nigerian, Kazakh, Chilean, Ugandan, Mexican, Swedish, South African, and British.
- are almost all formally educated, with the vast majority having a bachelor's degree and about half having another professional degree.

All of our authors have written their pieces because they want to drive a change in the world, to help create a world that is more safe, inclusive, welcoming, and joyful for people like them, like us, and like all of you. We hope their pieces nourish and inspire you as you fight for justice, wherever you are on that journey.

Absolute Sovereignty Exceptions as well as Legal Obligations of States to Protect the Rights of LGBTQI and Gender Diverse Persons (GDP)^{1,2}

By Portia Comenetia Allen, James Katlego Chibamba, Shawn Mugisha, and Augusta Aondoaver Yaakugh³

Portia Comenetia Allen has been fundraising in Africa for two decades, primarily in East Africa with local communities and non-governmental organisations. Collaboratively, they have raised ~\$10 million for education, health, and human rights projects. Allen is an activist and a lifelong volunteer, having volunteered with the Carter Center, Hubert H. Humphrey Fellowship Program, National Black Herstory Task Force, and the Emory University Global Health Organisation. She holds a master of arts degree in modern international studies and a bachelor of arts degree in history and geography.

Katlego Chibamba is a Johannesburg-based human rights defender, born in Kimberley, South Africa. He holds a bachelor of laws degree from the University of South Africa. He is currently a grants officer at the Other Foundation, an African trust that works as a grantmaker and fundraiser, while advancing equality and freedom in southern Africa, with a particular focus on sexual orientation and gender identity. During his student activism years, Katlego, then a student radio producer amongst other responsibilities, founded two LGBTQI+ rights organizations, namely Gays and Lesbians of Rustenburg and Gays and Lesbians of the University of South Africa. He went on to become the founding board Chairperson of Serenity Rehabilitation and Development Home, an organization that provides support services to those suffering from alcohol and drug related challenges. Katlego is a fellow of the Human Sciences Research Council and University of Central Los Angeles leadership in the stigma reduction program, YALI alumnus, and a qualified LILO Master Trainer through Positive Vibes Trust.

Shawn Mugisha is a transgender man from Uganda and a freelance human rights activist with hands-on experience in security planning, research, advocacy, and community mobilisation. He has worked for nearly a decade as a front-line activist, peer educator, community paralegal and facilitator for lesbian, gay, bisexual, transgender, intersex, queer (LGBTIQ) and sex worker communities in Uganda. He trains members of law enforcement, local leaders, and health workers in human rights and inclusion for LGBTIQ persons. In recent years, Shawn has combined his activism with his love of nature and experience as a farmer. He uses permaculture design to organise community farming projects for LGBTIQ survivors of human rights abuses. These projects engage LGBTIQ people and communities in order to create safe spaces and change mindsets, therefore establishing and economic inclusion for LGBTIQ persons. These projects also allow LGBTIQ people to navigate their personal road toward healing and a higher quality of life.

Augusta Aondoaver Yaakugh is a Nigerian based in Abuja. She is a barrister and solicitor of the Supreme Court of Nigeria having been called to the Nigerian Bar. She is a member of the Nigerian Bar association. She obtained her first degree in law from Benue State University, Makurdi, and attended the Abuja campus of the Nigerian law school. She also holds a master's degree in corporate law and governance from Nasarawa State University, Keffi. She is the executive director of Lex Initiative for Rights Advocacy and Development (LIRAD), whose mission is to promote and protect the interest of vulnerable groups and the environment. She has expertise in the human rights and governance sector, with special emphasis on corporate accountability and human and environmental institutions engagement. She has also been engaged in several works geared toward gender issues, digital freedom, and ending discrimination and violence against sexual minorities. She likes reading and sightseeing.

SECTION 1: INTRODUCTION⁴

Within this paper, we analyze three African country contexts—Nigeria, South Africa, and Uganda—in terms of absolute sovereignty exceptions as well as legal

obligations of States to protect the rights of LGBTQI and GDP.

In Africa, membership to the African Union (AU) could be regarded as one way in which states have agreed to cede some of their sovereign powers to achieve common

objectives. In terms of the AU Constitutive Act, various organs with diverse competencies have been established whose effective execution is dependent on states transferring some of their sovereign powers to those bodies. These institutions include the Assembly of the Union (Articles 6-9) and the Executive Council (Articles 10-13), among others. The aim of these bodies is to achieve the AU common objectives set out in the Constitutive Act including, among others, the promotion of peace, security, and stability on the Continent and the protection of human rights (Article 3).⁵

Legal obligations are requirements with which law's subjects are bound to conform. An obligatory act (binding in law) or omission is something the law renders non-optional. Since people can violate their legal obligations, *non-optional* does not imply that they are physically compelled to perform, nor that the law leaves them without an alternative course of action. On the contrary, people often calculate whether or not to perform their legal duties. Moreover, all legal systems recognize, create, vary, and enforce obligations because obligations are central to the social role of law, and explaining them is necessary to achieve a comprehension of law's authority and, therefore, its nature. There are obligations *in* the law and obligations *to* the law.⁶ Therefore, absolute sovereignty exceptions exist. For instance, states that are found guilty of gross human rights violations or crimes against humanity are subject to international community consequences, albeit often with fragmented accountability given to the complex protocols as well as terminology. We are cognizant of the international community's failure to stop the 1994 Genocide against the Tutsi in Rwanda due to the lack of agreed definitions/terms like *genocide*. Since then,

the international community has largely failed to address human rights issues within Africa as it pertains to the rights of LGBTIQ and GDP.

Queer scholarship does not simply target the international human rights regime; it delves into the fundamental premise of international law—the state's pastorship. The metaphoric imagination of state governance as mancraft is in itself patriarchal and paternalistic, assuming other states as rivals, in order to self-inscribe the plausible delusion of sovereignty and internationalism of this kind. In this respect, Cynthia Weber has introduced epistemological and methodological approaches to the field of international relations. In particular, in an age of globalization, international law has expanded its interests in preventing conflicts between states (in promoting as well as standardizing human flourishing and well-being in response to a call for global governance), which has subtly changed the relationship between states as well as between a state and its people.⁷

Against this backdrop, enforceable treaties are particularly key as they have provided and will continue to provide bases for legal pronouncements as well as interpretations that further elucidate the meaning and implications of regional agreements. This is amply demonstrated by the different national and regional court rulings as well as activity reports, declarations, and position statements of the different AU Commission committees. The available legal interpretations and statements of these instruments have affirmed sex, gender, and sexual orientation as forbidden grounds for discrimination in the region. Without exception, the said instruments collectively enshrine the rights, privileges, and freedoms of Africa's LGBT persons from

murder, violent attack, torture, arbitrary detention, forced marriage, denial of rights to sexual and reproductive health services, assembly and expression, and exclusion from education, healthcare, housing, and labor market participation. They also emphasize and uphold the human rights for LGBT persons and the need to ensure society is inclusive, safe, resilient, and sustainable for LGBT persons as part of the natural diversity that characterizes Africa.⁸

SECTION 2A: UGANDA

In the paper “Regional Legal and Policy Instruments for Addressing LGBT Exclusion in Africa” by Chimaraoke Izugbara et al., the authors analyze existing regional-level legal and policy instruments for the opportunities they offer to tackle the exclusion of LGBT persons in Africa, to which we expand on.⁹

In Uganda’s case, the state has ratified international and regional human rights instruments as well as declarations that explicitly mention legal obligations surrounding universal human rights standards and principles. In contrast, Uganda has at least five national laws that explicitly discriminate against or indirectly promote discrimination against LGBTQI and GDP. For example, the Penal Code (Amendment) Act 2007, Caption 120, has a number of provisions that criminalize same-sex conduct, including Section 145 on carnal knowledge against the order of nature; Section 146 on attempt to commit unnatural offences; and Section 148 on indecent practices. The Registration of Persons Act 2015 can also carry legal implications for transgender persons. However, we do note that the Ugandan Constitution prohibits discrimination on the grounds of sex and HIV or

communicable disease status, whereas Article 31 prohibits marriage between same-sex persons.¹⁰ Finally, the Ugandan Constitution does not address sexual orientation or gender identity or expression.

As articulated also by Izugbara et al. [*re: Table One – Key AU Legal and Policy Instruments with Potential for Addressing LGBT Exclusion in Member States: 1981–2018*], seven relevant and key treaties and policy instruments were developed and ratified by the AU or the Organization of African Unity. These policy documents include enforceable treaties (that is, binding legal agreements that African states have collective obligation to implement and be held accountable to) and policy instruments (influential regional governing tools aimed to achieve social, political, economic, health, and other targets or objectives). The aspiration to promote inclusion and advance the lives, livelihoods, and equality of all citizens, their gender and sexuality notwithstanding, is a common feature of these regional treaties and policy instruments. While LGBT persons are not specifically mentioned in any of these instruments, they (the instruments) nevertheless still emphasize the everyday concerns of LGBT persons and set forth ambitious visions for inclusivity and practical positive action on the marginalization and concerns of LGBT people and communities in Africa.¹¹

Moreover, since international human rights treaties impose three obligations on states (the duty to respect, the duty to protect and the duty to fulfill), LGBTQI and GDP in Uganda cannot be legally excluded in the context of national legislation. Notably, in a country context where LGBTQI and GDP experience disproportionate stigma and discrimination based on known or presumed sexual orientation, Uganda’s ratification

is pertinent and can be held to account.¹² Arguably, Uganda's national sovereignty contention has a caveat that is based on its legally bound practice to humanity, among others. The State's assumption that LGBTQI and GDP are grossly indecent (in the law) should not stop the State in its practice to humanity.

At this juncture, we note that, in 2020, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) World welcomed the support of Pope Francis of the Roman Catholic Church for LGBTI Families and Civil Unions, recognizing the positive impact Pope Francis's words could have on many LGBTI Communities across the world. Luz Elena Aranda and Tuisina Ymania Brown (Co-Secretaries General of ILGA World) advocated for more faith leaders to have a similar stand and push for meaningful respect and compassionate acceptance. This is especially relevant since most Ugandan citizens identify as Catholic, and the disproportionate stigma and discrimination toward LGBTQI and GDP in Uganda can be linked to religious communities such as the Roman Catholic Church.¹³

SECTION 2B: NIGERIA

Nigeria has ratified many regional and international treaties that mandate the protection of residents from abduction, violence, torture and other ill treatment, slavery, forced prostitution, and discrimination based on sex. These instruments obligate Nigeria to adopt effective measures for the prevention, investigation, prosecution, and punishment of serious human rights abuses.

Under legal agreements, Nigeria is required to ensure its citizens the right to education and the highest attainable

standard of health, as well as to provide redress and reparations to survivors of human rights abuses.¹⁴ In a contradicting manner, in 2014, Nigeria signed into law the Same-Sex Marriage (Prohibition) Act or SSMPA.¹⁵ Despite the increased attention to human rights issues, public debate unequivocally favored the SSMPA and its discriminatory effects on persons perceived to be LGBTQI in Nigeria. As though the effects of the SSMPA are not dire enough, more discriminatory laws have been enacted at state levels as seen with Benue State's Same-Sex Marriage Prohibition Law. It is noteworthy that these discriminatory laws are products of colonialism, with a clear example being the Criminal Code Act of 1916 passed down from Victorian-era law.¹⁶ Additionally, despite change at the institutional level (as seen with the Nigerian Human Rights Commission's recognition of human rights violations based on sexual orientation, gender identity and expression), cases of arbitrary arrests and unlawful detentions perpetrated by the Nigerian Police Force and other law enforcement agencies have persisted.¹⁷

We contend that Nigeria's national sovereignty may be challenged where it can be legally documented that the Nigerian government continues to fail to protect its citizens who identify as LGBTQI and GDP (e.g., increased killing, maiming, torturing, raping, threatening, surveillance within a government-backed premise that innocuous difference will not be tolerated). To this regard, the Initiative for Equal Rights (TIERs) has documented a series of violations by state and non-state actors.¹⁸

We argue also that such a contention is not far removed, where even a few LGBTQI and GDP in Nigeria are killed, maimed, tortured, and/or raped (e.g., a case in Benin

City where there were reports of violations when police arrested and detained people based on their perceived or real sexual orientation; the case of Lesbian Equality Empowerment Initiative v. Corporate Affairs Commission where a lesbian association was denied registration on the grounds that the Association's name was misleading and contrary to public policy; the case of Egbeda 57 where violation was based on perceived or real sexual orientation).^{19,20,21}

SECTION 3: SOUTH AFRICA

Legal gender recognition, or LGR, affects a person's consciousness, identification, and protection before the law and ability to navigate through areas of daily life. LGR can involve changing a person's name and gender information on official identification documents and in registries to accurately reflect their gender identity.²²

A global context is that identity documents are increasingly required for many activities in daily life, including routine tasks like collecting a parcel from the post office or purchasing travel tickets. A transgender person's ability to live in dignity, equality, and security is severely compromised when they do not have an identity document to match their gender identity. Transgender people may undergo severe trauma from consistently having their identity incorrectly listed.

Noting the progressiveness of South Africa's Constitution with specific consideration on LGBTQI and GDP, we do not discuss its national sovereignty exceptions. Some legal implications pertaining to the Alteration of Sex Description and Sex Status Act 49 are addressed.

In 2003, South Africa signed into law Act 49, which enables transgender and

intersex people to alter their legal gender in the National Birth Register and in their South African identity documents.²³ The set requirements of Act 49 allow certain categories of persons to make an application to the Director General of the National Department of Home Affairs for the alteration of their legal sex descriptor, provided they submit medical and psychosocial reports.²⁴ From one perspective, the Act is linked with South Africa's progressive work around the rights of LGBTQI and GDP. However, the Act is not in line with the Yogyakarta Principles and international best practice for changing gender markers in identity documents. Universally, some progress (e.g., 2012 Argentina Gender Identity Law, 2015 Malta Act No. XI) has been made to protect the rights of transgender and GDP through the enactment of laws and policies as well as international standards for practices and procedures.

Reform in South Africa, therefore, could entail removing the Act's exclusionary medical requirements and replacing it with a gender self-determination model that supports a person in changing their legal gender marker. A person could self-declare their gender identity in a simple and quick administrative procedure, with the option of leaving the "gender box" unspecified or blank.²⁵ Moreover, the International Trans Depathologization Movement demands the removal of diagnoses that classify gender transition as a mental disorder, access to state-funded trans healthcare, a move toward an informed consent approach to trans healthcare, LGR without medical requirements, and the depathologization of gender diversity in childhood.²⁶

The proposed reform could result in more transgender and GDP obtaining LGR, which could impact provisions for persons

whose gender identity is nonbinary or fluid or those who do not wish to have a specific gender assigned for their own safety. Moreover, the proposed model could assist in creating more constitutional awareness around the diversity of gender identities and gender expressions, potentially laying an additional foundation for more inclusive policies and practices in South Africa—especially at state facilities, like correctional centers.²⁷

We emphasize the complexities of barriers that some transgender and intersex people face in order to obtain LGR in South Africa. These barriers include having limited access to transition-related services that are required for people to undergo medical hormonal or surgical treatment. Fear of stigmatization and discrimination have also been noted as a challenge; this has led to some transgender people exposing themselves to significant harm in seeking non-conventional treatments in desperate measures.²⁸

SECTION 4: STRATEGY

Five beginning strategies—by which LGBTQI and GDP in Nigeria, South Africa, and Uganda can further organize and hold to account their states—are below. We propose approaches around access and utilization of financial, political, and legal resources for wider coordination within interconnected, intersectional movements nationally, regionally, and continentally.

Noted strategic litigation goes beyond a single individual or organization and is usually long term. In fact, strategic litigation emphasizes legal and social change objectives; increasingly, it serves as vindication of LGBT rights in Africa, where courts must hear legal cases and decide

them based on known constitutional principles. Unfortunately, despite the increased number of legal victories, court decisions in Africa go largely unenforced due to sizeable backlash in country.^{29,30}

To the above regard, we consider the national, regional, and continental politics that are linked to holding to account Nigeria, Uganda, and South Africa. One political sphere cannot be without the other even in the most sovereign of situations. Of course, there are local political contexts. Further, finances, politics, and the law can contribute to wider coordination of LGBTQI and GDP movements in Nigeria, South Africa, and Uganda.

One possible strategy therein to achieve economic strength is through affluence and influence within the African Continental Free Trade Area—though, arguably, externally rather than internally at this time. We mention the external component to navigate attempts of Nigerian and Ugandan governments especially opposed to LGBTQI and GDP. This implies the need for allies.

Another suggestion is a type of mobilizing that is not dependent on hierarchical leadership models. We comprehend the contexts of hierarchical leadership in Africa; we put forward that diversified leadership approaches are now central. Along with such diversity can be a reduction in lengthy and complicated plans of actions towards simple and feasible plans that are agreed upon and implemented. A possible effect can be new and inclusive systems and structures determined by many people rather than a few.

A third strategy includes lobbying allies to intervene where it can be legally proven that states are violating human rights. As LGBT rights movements prosper globally, international lawyers have gradually come

to recognize that sexuality is significant in determining a state's progressiveness and legitimacy.³¹

Therein, a fourth strategy is continuing to obtain credible data to further authenticate the human rights injustices in Nigeria, South Africa, and Uganda against LGBTQI and GDP. This data can support efforts to lobby allies that, in turn, can increase mobilization to hold to account states. Critical here can be navigating and circumventing attempts to limit freedom of expression, association, and peaceful assembly (e.g., internet shutdown, intimidation, and illegal imprisonment).

A suggested fifth strategy is to coordinate with equally significant movements aiming to achieve human rights (particularly around economic justice) in Nigeria, South Africa, and Uganda. Presently, the economic contexts affecting Nigeria, South Africa, and Uganda are considerable; there are occasions to effectively coordinate around the fact that, in all mentioned countries, more people do not have salaried or well-paying jobs. Therefore, economic justice can lead to job creation, which is a positive outcome for the majority of people in a country.

By no means are the proposed five strategies simple to address. They are recommendations that can suggest further conversations around the rights of LGBTQI and GDP.

Endnotes

1 The Co-Authors acknowledge the existing sensitivity as well as diversity around language relating to self-identity and self-expression, among others. For example, Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI); Lesbian, Gay, Bisexual, and Transgender, and Intersex (LGBTI); Lesbian, Gay, Bisexual, and Transgender (LGBT); Gender Diverse Persons (GDP); Sexual Orientation and Gender Identity and Expression (SOGIE); and Sexual Orientation and Gender Identity (SOGI). We note the language used in the Yogyakarta Principles to identify sexual orientation and sexual identity.

2 We acknowledge the LGBTQI and GDP in Africa, among others, who have paved the way for us to compile our paper. We thank each of you in this regard.

3 One Author identifies as transgender, another Author identifies as homosexual, and the remaining Authors identify as heterosexual. Our solidarity is human rights justice. Throughout this paper, to indicate such solidarity, the pronouns we, our, and us, plus the noun Authors are utilized. Four Authors via four countries, namely Nigeria, South Africa, Uganda, and the United States of America; all are LGBTQI Human Rights Defenders and two are lawyers.

4 For a full list of references, kindly contact the Co-Authors via LinkedIn.

5 George Mukundi Wachira, "Sovereignty and the 'United States of Africa': Insights from the EU," *Institute for Security Studies*, 1 June 2007, accessed on 28 February 2021, <https://www.africaportal.org/publications/sovereignty-and-theunited-states-of-africa-insights-from-the-eu>.

6 "Legal Obligation and Authority," *Stanford Encyclopedia of Philosophy*, 29 December 2003, accessed on 14 November 2020, <https://plato.stanford.edu/entries/legal-obligation>.

7 Po-Han Lee, "Undoing Sovereignty/Identity, Queering the 'International': The Politics of Law" *E-International Relations*, 22 October 2018, accessed on 14 November 2020, <https://www.e-ir.info/2018/10/22/undoing-sovereignty-identity-queering-the-international-the-politics-of-law>.

8 Chimaraoke Izugbara et al, "Regional Legal and Policy Instruments for addressing LGBT Exclusion in Africa," *Sexual and Reproductive Health Matters* 28, 1 (2020): 1–14, accessed 10 November 2020, <https://pubmed.ncbi.nlm.nih.gov/31928329>.

9 Izugbara et al, "LGBT Exclusion in Africa."

10 HIV is Human Immunodeficiency Virus. HIV is a virus that attacks the body's immune system. If HIV is not treated, then it can lead to AIDS or Acquired Immunodeficiency Syndrome. Please refer to: "About HIV," Centers for Disease Control and Prevention (CDC), n.d., accessed 15 November 2020, <https://cdc.gov/hiv/basics/whatishiv.html>.

11 Izugbara et al, "LGBT Exclusion in Africa."

12 Victor Madrigal-Borloz's 2020 report on violence and discrimination based on SOGI during the coronavirus pandemic has an abundance of globally pertinent and concerning information within a context of 1,000+ individuals who contributed from 100+ countries. A caveat is that the said report presents minimal information about the varied contexts within the 55 AU Member States; there is arguable mention of Egypt, Ghana, Liberia, Nigeria, South Africa, Uganda, and Zimbabwe. We comprehend some contentions that minimal information is due to limited access to credible data. We note (immediately below) an unfortunate example of stigma and discrimination in Uganda during the COVID-19 Pandemic.

In Uganda, just after the government ordered a COVID-19-related lockdown, a shelter for LGBT people was raided by neighbors and security forces, and 23 people at the shelter were arrested. A search was conducted in the shelter to find evidence of homosexuality. Two of those arrested were beaten, and all were subjected to verbal taunts on account of their perceived sexual

orientation. Nineteen of those detained were formally charged with engaging in “a negligent act likely to spread infection of disease” and “disobedience of lawful orders.” Please refer to: Victor Madrigal-Borloz, “Report on the impact of COVID-19 on the human rights of LGBT persons,” UN Human Rights Office of the High Commissioner, 28 July 2020, accessed 10 November 2020, <https://www.ohchr.org/EN/Issues/SexualOrientationGender/Pages/COVID19Report.aspx>.

13 “National Population and Housing Census 2014: Main Report,” Uganda Bureau of Statistics, 1 March 2016, accessed 2 March 2021, <https://unstats.un.org/unsd/demographic/sources/census/wphc/Uganda/UGA-2016-05-23.pdf>.

14 In fact, the Nigerian Constitution, under Section 40, notes that every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union, or any other association for the protection of his interests. Section 17 further affirms that every citizen shall have equality of rights, obligations, and opportunities before the law. We note that the masculine pronoun (e.g., he, his) is utilized. Please refer to: “Constitution of the Federal Republic of Nigeria,” Federal Republic of Nigeria, n.d. 1999, accessed on 2 March 2021, <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>.

15 Please see: Wendy Isaack, “‘Tell Me Where I Can Be Safe’: The Impact of Nigeria’s Same Sex Marriage (Prohibition) Act,” Human Rights Watch, 20 October 2016, <https://hrw.org/report/2016/10/20/tell-me-where-i-can-be-safe/impact-nigerias-same-sex-marriage-prohibition-act>.

16 Please see: “Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990,” https://sherloc.unodc.org/cld/uploads/res/document/nga/1916/criminal_code_act_html/Nigeria_Criminal_Code_Act_1916.pdf.

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18 “Human, Not Number: Lived Experiences of Sexual Minorities in Nigeria,” The Initiative for Equal Rights, n.d., accessed on 27 February 2021, <https://theinitiativeforequalrights.org/wp-content/uploads/2018/12/Tiers-Photo-Inset.pdf>.

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20 “Lesbian Group Sues CAC Over Non-Registration,” Independent, 3 February 2020, accessed on 27 February 2021, <https://www.independent.ng/lesbian-group-sues-cac-over-non-registration>.

21 Onita Sunday, “Police Storm Hotel, Arrest 57 for Alleged Homosexual Initiation,” The Guardian, 28 August 2018, accessed on 27 February 2021, <https://guardian.ng/news/police-storm-hotel-arrest-57-for-alleged-homosexual-initiation>.

22 Anneke Meerkotter, “Legal Gender Recognition in Lesotho: An analysis of law and policy in the context of international best practice,” Southern Africa Litigation

Centre, 10 November 2020, accessed on 15 November 2020, <https://www.southernafricalitigationcentre.org/2020/11/05/report-legal-gender-recognition-in-lesotho>.

23 Joshua Sehoole et al., “Recognition of Economic, Social and Cultural Rights: A Continued Struggle for Transgender, Gender Diverse and Intersex Persons in South Africa,” report submitted to the Working Group on South Africa Committee on Economic, Social and Cultural Rights, 9–13 October 2017, accessed on 28 February 2021, https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/ZAF/INT_CESCR_CSS_ZAF_28796_E.pdf.

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30 Some successful/landmark court cases in Uganda and South Africa as it relates to strategic litigation and advocacy for the rights of LGBTQI and Gender Diverse Persons are mentioned here; note, we do not mention Nigeria.

In South Africa, please refer to the National Coalition for Gay and Lesbian Equality and the South African Human Rights Commission v. Minister of Justice, Minister of Safety and Security, and the Attorney-General of the Witwatersrand; Fourie and Another v. Minister of Home Affairs and Others; South African Human Rights Commission v. Qwelane; and National Coalition for Gay and Lesbian Equality and Others v. Minister of Home Affairs and Others.

Pertaining to Uganda, we recommend review of Jacqueline, Kisule, and Patience v. Rolling Stone; and Makasa and Oyo v. Attorney General.

31 Lee, “Undoing Sovereignty/Identity”

Up to Us

A Community-Led Needs Assessment of Transgender and Gender Non-Conforming Asians and Pacific Islanders in the Bay Area

By APIENC

APIENC builds trans, non-binary, and queer Asian and Pacific Islander (API) power to amplify our voices and increase the visibility of our communities. Through organizing in the Bay Area, APIENC inspires and trains grassroots leaders, transforms our values from scarcity to abundance, and partners with organizations to sustain a vibrant movement ecosystem. Since 2004, APIENC has organized to become a political home for our people to build community, unearth political histories, and reclaim trans and queer API power. Every year, APIENC supports hundreds of trans and queer API people to strengthen their organizing, invest in healing, address the root causes of injustice, and become life-long contributors to movements for change. Thanks in particular to Yuan Wang, Sammie Ablaza Wills, T Adishesan, Lia Dun, Rowan Hunt, and Sen Lu for their collective authorship.

INTRODUCTION

We are APIENC, an organization building power for and by trans, nonbinary, gender expansive, and gender abundant Asians and Pacific Islanders in the Bay Area, and this project is a love letter to our community. We know how hard it can be to be our full selves in this world. **We know how hard it can be to feel safe.** We are subject to violence in our homes and neighborhoods, silenced and invisibilized in society, and told time and time again that we simply don't exist.

As heartbreaking as our findings are, we believe our approach can help others engage in powerful, community-centered research, and we know our findings will **help us shape the future we deserve.** We have the power and responsibility to create real solutions to our needs for safety, connection, and care that serve all people. **Now, it's up to us.**

Our peoples have always existed. We have always belonged.

With love and belief in our power,
APIENC

I. BACKGROUND

Transgender and gender nonconforming (TGNC) Asians and Pacific Islanders (APIs) deserve safety, support, and self-determination to thrive and contribute our unique power to all communities. However, for generations, the Model Minority Myth has spread the belief that Asians and Pacific Islanders are economically stable, upwardly mobile, and easily able to access resources. Years of colonialism have erased trans API people from history. At APIENC, an organization building power with trans, non-binary, and queer APIs in the Bay Area, we know from personal experience that these stories are false. We exist, and many of our people struggle daily. Yet, we often didn't have data to counter this narrative and respond. Little research exists to unearth, support, and uplift our needs, and we know firsthand that the violence and transphobia TGNC APIs face is rarely recorded, much less addressed.

Our TGNC API Needs Assessment, summarized in this article and available in full

online, begins to fill this gap, visibilizing the ways that systems of oppression impact TGNC APIs in the Bay Area.¹ We aim to bring our experiences to light and counter deep divisiveness with other queer, trans, Black and Indigenous people of color (BIPOC) communities for the sake of a stronger movement. Given our lived experiences, we believe transgender and gender nonconforming APIs are the best equipped to connect, research, and uplift others like us.

The majority of this research took place prior to the COVID-19 pandemic. We conducted outreach between June 2019 and December 2019. In the crisis of health systems and social connection that has begun since then, it has only been harder for many of us to have our needs met.

The remainder of this article is organized as follows: section II summarizes our methods, section III the demographics of our survey respondents, section IV our findings, and section V key recommendations based on our findings. Section VI concludes.

II. METHODS

Through our entire process, we asked ourselves: **How can this process empower both our survey takers AND participant researchers?**

In response, we turned to **community-based participatory action research (CBPAR)**. Inspired by groups like Chinese Progressive Association and Mujeres Unidas y Activas, we chose CBPAR as a political tool that challenges the roles of the researchers and participants.

CBPAR is an approach to research that involves the community members who are directly impacted throughout the process. It is a framework used to subvert the

at-times predatory, voyeuristic methods of traditional research and address the practical concerns of people in a community.² Broken down, this is how CBPAR shaped our project:

- **Community-Based:** grounded in the needs, concerns, and strategies of TGNC APIs
- **Participatory:** led by and engaged TGNC API people and our knowledge in the process
- **Action Research:** supported the development of APIENC and TGNC API people's organizing skills and leadership to create transformation and social change

Using CBPAR as a model, we worked to **practice our values in our research.**

Developing Research Skills

A crucial part of this project was developing the skills of the people who worked on it. The process was led by TGNC API members and APIENC staff. This involved writing the survey, outreaching to partners, leading trainings on in-person outreach and research methodology, analyzing data, writing the report, developing strategy, and even recruiting some survey takers to join our research team.

Writing the Survey

Before we wrote the survey, we reflected on the ways TGNC communities are often asked about their experiences in voyeuristic, presumptuous ways. It was important to us to not replicate that dynamic. We wrote open-ended questions about gender identity, sexual orientation, and ethnicity, rather than providing a dropdown list or checkboxes. We gave content warnings before each section and asked for participants' consent to proceed. If respondents were not comfortable answering, they were

able to skip to the next section. We included video introductions from the survey writers to visibilize that these questions were being asked by a group of other TGNC APIs, eager to learn more about our community. Lastly, we did not want to focus the survey just on harmful or difficult experiences, so we included questions at the end that involved visioning for the future.

Outreach & Participant Compensation

As an organization centered on trans and nonbinary APIs, we held our first outreach among APIENC members and networks. From there, we partnered with community groups to ensure we could reach as many TGNC APIs in the Bay Area as possible. Nineteen partners serving TGNC API people signed on to review the survey, share it with their members, and support us in our research. Partners included the San Francisco Community Health Center, Trans Lifeline, Parivar Bay Area, Lyon-Martin Health Services, and other valuable partners listed in our full report. To address geographic diversity, our team deepened connections with organizations in the North and South Bay, such as LGBTQ Connection in Napa and Sonoma Counties and the LGBTQ Youth Space in San Jose. Finally, we held in-person outreach, including at Ricebreakers, an intergenerational TGNC API gathering, and the 2019 San Francisco Trans March. We know a survey that asks about vulnerable experiences can feel hard; at in-person opportunities, we paired survey takers with buddies to help navigate the internet and provide emotional support.

We know our community's time should be held with care, and we wanted to honor participants' time by providing compensation. Through support from funders

and grassroots fundraising, we provided \$25 Visa gift cards to all survey takers who requested them. We provided \$25 gift cards to TGNC APIs who participated in community roundtables to review our initial findings, as well as \$50 gift cards to TGNC API artists who contributed art.

Roundtables

Once our initial outreach ended, we wanted to ensure our findings reflected the priorities of our community. In July 2020, we organized two roundtables: one for TGNC APIs in the Bay Area and a second for partners. At these roundtables, participants gave feedback on our initial findings and asked questions to improve our analysis.

Data Analysis

Although our community is constantly creating knowledge, none of us are traditionally trained researchers. We spent time together learning about data analysis and making collective decisions about how to organize, sort, and code the data. Our first challenge was how to categorize the data.

While some identities (such as region-of-residence) had clear definitions, others—such as gender and ethnicity—were more complex. For example, questions about gender identities and ethnicities were open response, allowing respondents to self-determine. This meant we received more than 100 different variations of gender identities. These gender identities included: “agender, nonbinary,” “male,” “nonbinary woman,” “transfemme,” “fa’afafine,” people who refused to label their genders, and more. This is *significant*. When we are not asked to flatten ourselves, our complexities and cultures can emerge. However, this also meant **our team needed to spend ample time grouping participants' identities in order to draw meaningful conclusions and trends.**

With gender, our priority was to preserve the ways people self-identified. Thus, we decided on four groupings: **feminine, masculine, gender nonconforming, and other gender identities**. Rather than limit each participant to a single group, we categorized them into whichever groups reflected the language they used. Someone who wrote “nonbinary” would be categorized *once* into the “gender nonconforming” category. Someone who wrote “nonbinary transwoman” would be coded into *both* the “gender nonconforming” and “feminine” categories.

Similarly, our respondents named 26 different ethnicities. To explore findings where groupings of ethnicities would be meaningful, we settled on four categories: **East Asian** (including Japanese, Korean, Chinese, Taiwanese people, and others); **South Asian** (including people who identified as Bengali, Tamil, Indian, and others); **Pacific Islander** (including native Hawaiians, Chamorro people, Okinawans, and people who identified solely as Pacific Islanders), and **Southeast Asian** (which included Laotian, Malaysian, Vietnamese, Filipino, and others). A breakdown of each grouping can be found in the “Demographics” section of this report. Of course, these categories and definitions are limiting and impermanent, shaped by changing politics and histories. However, we hope they can provide meaningful, disaggregated insight when we do reference them.

Challenges & Limitations

Despite our efforts, **there are limitations to our research process** that are important to keep in mind. In terms of the experiences and voices represented in this research, there are far fewer responses from TGNC Pacific Islanders (11 in total, 6 percent) and

South Asians (24 in total, 13 percent) than Southeast Asians (55 in total, 30 percent) and East Asians (95 in total, 52 percent). Among South Asian respondents, the majority who responded to the question about caste described themselves as having caste privilege. Moreover, there were few non-citizens who responded to this survey, with only four respondents identifying as refugees, holding DACA status, or undocumented. Finally, though we partnered to share the assessment with a number of organizations based in the North Bay, we received no responses from TGNC APIs currently living in the North Bay.

There were also **limitations to the thoroughness of certain questions asked**. For example, while we asked people to self-identify their genders by writing them in, we did not ask for our respondents to describe their gender presentations, which may be significant information when considering respondents’ experiences with policing and profiling, safety in the workplace, and more. While we asked participants to share their annual income, we did not ask questions about supplemental support. While we shared some paper copies of the survey, the majority of surveys were administered online, which may lead our survey population to skew younger.

Moreover, because **very little research exists on TGNC API community needs in general**, much less specific to the Bay Area, we were often unable to compare our data to larger trends. To the extent comparisons are possible, this report draws from the 2019 Horizons Foundation SF Bay Area LGBTQ+ Needs Assessment, as well as the 2016 National Center for Trans Equality US Transgender Survey.

III. RESPONDENT DEMOGRAPHICS

We received responses from people with a variety of racial, ethnic, caste, and gender identities. *API* and *TGNC* are both umbrella terms that include a vast range of experiences and histories. Responses we received, while diverse, do not cover the full range of identities represented by these terms. We share the demographics of our respondents to contextualize our findings. While we received over 200 responses, we decided to include in our research the findings from the sample of 181 respondents who responded to almost all of the introductory questions.

Gender & Sexuality

The majority of our respondents (69 percent, or 125 respondents) identify as gender nonconforming or nonbinary. Nineteen percent (35 respondents) used feminine gender identifiers. Twenty-three percent (41 respondents) used masculine gender identifiers. Some participants used identifiers in multiple categories (i.e., masculine and nonbinary) and were counted in both. The majority of respondents (68 percent, 119 people) use *they/them* pronouns, while an equal number (18 percent, 32 people each) use *he/him* or *she/her* pronouns. More than 29 percent use a combination of multiple pronouns.

Respondents most often describe their sexual orientations as queer (45 percent, 82 respondents), followed by pansexual (19 percent). Other sexual orientations include bisexual (14 percent), gay (12 percent), straight (8 percent), lesbian (6 percent), and asexual (4 percent).

Ethnicity & Immigration

Our respondents identify with 26 different

ethnicities. When we grouped our respondents, the majority are East Asian (53 percent, 95 respondents); 30 percent (55 respondents) are Southeast Asian; 13 percent (24 respondents) are South Asian; and 6 percent (11 respondents) are Pacific Islanders. Twenty-five percent of participants identify as having a mixed ethnic or racial background. Of the 18 who shared a caste experience, almost all respondents are savarna, or caste privileged.

Our respondents are mostly US citizens, with 84 percent being US citizens by birth and another 9 percent being naturalized US citizens. About 5 percent identify as permanent residents or visa-holders, with 1 respondent identifying as an undocumented resident, 2 respondents identifying as DACA recipients, and 1 respondent identifying as a refugee. Two of our respondents have experienced immigration detention, including Immigration and Customs Enforcement (ICE) detention.

Disability

Thirty-one percent (56) of our respondents are disabled. When invited to share more about their disabilities, respondents named autism, ADHD, scoliosis, neurodivergence, complex post-traumatic stress disorder, and other identities and experiences.

Age

Two-thirds of respondents are between ages 20 and 29 (119 people), with 23 percent (41 people) between 30 and 39. Smaller groups are younger than 20 (3 percent, 5 people), between 40 and 49 (4 percent, 8 people), between ages 50 and 59 (2 percent, 4 people), and older than 60 (2 percent, 4 people).

Income

Two-thirds of respondents have an annual income under \$50,000, while one-third have an income of under \$10,000. Sixteen

percent have an income between \$50,000 and \$70,000, 7 percent have an income between \$70,000 and \$100,000, and 9 percent have an income above \$100,000. As previously mentioned, we did not ask participants about other sources of financial support, so it's possible these statistics do not fully reflect the financial circumstances of respondents.

Location

The highest percentage of respondents have lived in the San Francisco Bay Area for more than 20 years (41 percent, 75), with the next highest group (31 percent, 56) living in the Bay less than 5 years. Eleven percent have lived in the Bay Area between 6 and 10 years, and 17 percent have lived in the Bay Area for 11 to 20.

We outreached to individuals and groups across the Bay Area, including 19 co-sponsors, to ensure we could reach people in areas (such as the South and North Bay) where resources for TGNC APIs may be less common. While we received a balanced set of responses from San Francisco (20 percent, 37 respondents), counties south of San Francisco (32 percent, 57 respondents), and the East Bay (46 percent, 84 respondents), we did not receive any responses from the North Bay. South Bay respondents included residents of San Mateo and Santa Clara counties and East Bay participants included residents of Contra Costa and Alameda counties; we considered North Bay respondents to reside in Marin, Sonoma, Napa, or Solano counties.

IV. FINDINGS

Seven key findings emerged from our survey.

1. Housing and Homelessness:

We need safe and sustainable

housing. TGNC APIs in the Bay Area are highly vulnerable to housing discrimination and insecurity. One in five respondents (19 percent) experienced housing discrimination. More than one in five respondents have experienced homelessness, including almost half of respondents (40 percent) who live in San Francisco and almost half of feminine respondents (41 percent). From frequent gender-based harassment by landlords, roommates, and given families to the difficulty of finding housing while transitioning gender identification, these responses underline the need to find safe and affordable homes for TGNC APIs in the Bay Area.

2. Employment and Work: We need affirming workplaces and abundant access to the resources that come with it. Our participants face regular harassment in government agencies, public spaces, and their own workplaces. Nineteen percent of respondents were unemployed at the time of the survey, and 15 percent of respondents have exchanged sex for pay and other items of value. One in six respondents said coworkers do not support their gender identity. Almost one quarter of respondents (23 percent) were fired from a job, treated unfairly, or not hired because of their gender identities. This inability to find safe and sustainable places of work impacts our ability to find affordable housing, feel safety and security, access healthcare, afford basic necessities, and more.

3. Safety & Policing: We need

strategies to address violence that rely on community, not police. More than two-thirds of participants (68 percent) experienced verbal harassment, and one in every six (17 percent) were physically attacked. Unsurprisingly, more than 80 percent of participants alter their appearance regularly to avoid harassment. Nearly two-thirds of respondents (58 percent) experienced sexual assault, and more than 40 percent of respondents experienced domestic abuse. However, while we experience high levels of violence, police do not support our safety and often make us more unsafe. A vast majority (79 percent) felt uncomfortable asking the police for help. More than half of respondents (52 percent) were only at times or never treated with respect by police. Only a single respondent felt “very comfortable” with the police.

Clearly, police do not address our fundamental needs for safety.

4. **Healthcare:** We need affordable healing resources that address our gender and cultural needs. Almost half of respondents (43 percent) were uncomfortable going to the doctor. Almost one third (28 percent) needed to see a doctor but could not afford to. Moreover, while 71 percent of respondents seriously considered suicide and almost a third (29 percent) attempted suicide, 74 percent of respondents face barriers accessing mental health care, and half (49 percent) reported mental healthcare is generally culturally inaccessible. This is unacceptable; TGNC API people deserve

culturally competent, affordable, and holistic care.

5. **Disaggregated Data:** We experience different needs along lines of ethnicity, gender, ability, and more. When we disaggregate the data, we see specific groups within the TGNC API umbrella experience harm and violence disproportionately. For example, feminine respondents are more likely to experience verbal harassment than people of other genders. South Asians and Pacific Islanders are far less likely to be treated with respect by police than East and Southeast Asians. Disabled respondents, as well as those who have been unhoused, were more likely to experience unwanted sexual contact, verbal harassment, and domestic violence. Participants who have traded sex experience higher rates of housing discrimination, homelessness, suicidal ideation, and police interactions.

6. **Focusing Our Power:** Though we believe TGNC APIs have great power to confront and transform our challenges, not all our participants feel the same way. Half (48 percent) believe TGNC APIs cannot influence government decisions. However, when asked to rank the issues APIENC should focus our collective power on, our participants responded. Across all demographics, issues of housing justice, health access, and immigration justice stood out as the highest priorities for our participants.

7. **Community Spaces:** We need well-resourced spaces where we are seen and accepted in all of our

identities. Despite the breadth of violence we face, TGNC APIs are building the spaces we need to thrive. More than half of participants (52 percent) said community spaces allow them to feel most supported as both TGNC and API people. However, many still cannot access affirming spaces, with 14 percent of participants reporting no space allowed them to feel seen in both their TGNC and API identities. Building organizations that center genuine relationships and care allows us to confront violence and transform our lives.

V. RECOMMENDATIONS: A ROADMAP TO TRANS JUSTICE FOR ALL OF US

The road to safety, justice, and recognition for all TGNC people will take far more than APIENC. As we continue to invest in healing, mental health support, housing justice, storytelling, and community-led safety, we also call on our allies and accomplices to enact justice. We developed key recommendations in six primary venues impacting TGNC APIs.

1. **Close Circles** (Families, Parents, Friends): For many TGNC APIs, navigating different cultural expectations, language barriers, and our complex histories of migration can make finding comfort and safety as trans people in our homes even harder. We need the concrete and ongoing support of people around us. We ask families (both chosen and given), parents, and friends of TGNC APIs to educate yourselves on

TGNC issues and start conversations with each other on how to respect and support the TGNC API people in your lives. Speak up for us when we are not in the room, make it clear to us that you love and appreciate us, and be willing to learn.

2. **Public Spaces** (Schools/Colleges, Workplaces, Local Businesses): TGNC APIs face challenges in public spaces—from heavy harassment when using the bathroom to verbal assault and abuse to workplace discrimination—that make us unsafe and deepen mental and physical distress. *All of these spaces can help.* Start by making your bathrooms gender inclusive while being explicit about why and educating patrons and staff. Create spaces where TGNC API people can receive care and mentorship, such as a support group. Make it easy for all people to choose the names and pronouns they want to use by asking for and respecting pronouns as an expected part of your culture. Hire TGNC API people and make workplaces safe for them by training staff on respecting gender identity and providing active mentorship and support.

3. **Community Spaces** (API Groups, LGBTQIA+ Spaces, Religious Institutions): TGNC APIs are members of all these spaces, yet our needs are often ignored. Many shared experiences of being rejected from API, LGBTQIA, and TGNC spaces they wanted to call home. We need API groups to recognize trans people are likely already part

of your spaces and may not feel safe sharing their identities. We need you to support trans leaders of all ages, normalize advocating for trans issues, and include gender trainings for staff and members. We need LGBTQIA+ groups to create space in multiple languages and for specific communities, such as nonbinary people, Pacific Islanders, South Asians, and more. We need trans spaces to understand the experiences of API people, including our histories of trauma and oppression, beyond the Model Minority myth. We need religious institutions to listen to the needs of TGNC people, actively affirm trans and queer people as part of your communities, and support the people who are already organizing at the intersections of religion, gender, and sexuality.

4. **Health Providers** (Doctors, Nurses, Mental Health Workers, Insurance Providers): An overwhelming share of respondents are unable to afford the care they need, are matched with non-affirming providers, or are barred from learning about available resources. We need doctors, nurses, and mental health providers to receive training specifically about caring for TGNC and API patients, ideally by paying trans API people to provide this education. We also need providers to make health information and care available in many languages, so TGNC APIs and our communities feel empowered to communicate our needs. We need more insurance programs to include gender-affirming

care for trans people, so that the lifesaving medical attention we need is easily accessible. We need to fight for the creation of alternatives to calling the police in crisis situations and support campaigns, such as Medicare for All, that seek to make healthcare easy to access for all people.

5. **Funders** (Progressive Funders & Donors): Community spaces are lifesaving, and building relationships is a survival skill for TGNC APIs. At the same time, we are often forced to compete for limited resources and shape our work to be more understandable to funders who are not members of our communities. Instead, we need progressive funders to resource relationship building as a fundamental tool of organizing. We need those in philanthropy to fund abundantly, learn about the intersectional experiences of TGNC APIs, center healing, and prioritize the long-term perspective of our own people.

6. **Media** (Newspapers, Radio Stations, Media Sites): Diverse stories of TGNC APIs are invisibilized in the media. When we are highlighted, the focus is our trauma and pain, and the wrong pronouns and names are used to define us. Publishing sources can empower TGNC API people's self-determination by asking us to tell our own stories and supporting us to do so. Embrace our complexities and do not pick single people to represent us. Ask for people's names and pronouns and use them. Report a

variety of our stories, including joy, healing, and transformation. For API media in particular, amplify our stories among immigrant and monolingual API people to help initiate education that makes us safer in our homes, neighborhoods, and cultures.

VI. CONCLUSION

For too long, TGNC API people have been told that our identities are too complicated and that our experiences are too specific to matter. **More than 200 TGNC API voices in this report tell us otherwise.** They confirm that TGNC APIs in the Bay Area live at the intersections of housing instability, mental and emotional distress, workplace insecurity, and violence in our homes and society. They remind us that institutions like police, schools, and workplaces fail us, harm us, and neglect our needs. And they emphasize that the resources meant to serve us, such as care providers and community groups, often fall short of embracing all of who we are and leave us to choose between our genders, sexualities, and ethnicities.

The experiences in this report should not matter only to us because, ultimately, **the systems that target us hurt everybody.** The findings in this report result from centuries of xenophobia, colonization, war, and attempts to erase transgender people from Pacific Islander and Asian histories. Decades of the Model Minority myth have justified violence against Black and Indigenous people and made the challenges APIs face imperceptible to the world around us. Constant disinvestment from schools and healthcare—critical parts of our social fabric—makes it easier for TGNC APIs and

others at the margins of our communities to fall into patterns of systemic neglect and violence.

Yet, all of this harm is a chance to transform our lives. When we can see clearly the ways systems fail us, we can respond. We can invest in our relationships to counter isolation, grow leadership skills to determine our own futures, and create real solutions for our needs. At APIENC, we will continue to root in healing, culturally competent care, housing justice, and community safety. We will continue organizing to develop an abundance of trans API leaders.

We cannot do this alone. We will need everyone—families, friends, workplaces, organizations, healthcare providers, schools, faith communities, and more—to do this work alongside us. Learn from TGNC API people, examine your own relationships to gender, resource our self-determination, and support us to not only meet our basic needs but to thrive.

Another world is possible. A world of belonging and interdependence, where we are all seen, respected, and cared for, is possible. **Now, it's up to us.**

Endnotes

¹ Up to Us, APIENC, apienc.org/uptous

² J. C. Burns, D. Y. Cooke, and C. Schweidler, *A Short Guide to Community Based Participatory Action Research: A Community Research Lab Guide*, Advancement Project-Healthy City Community Research Lab (2011).

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Breaking the “First Rule of Masculinity”

A Conversation with Thomas Page McBee

By Morgan Benson

Thomas Page McBee is an author, film and TV writer, reporter, and “questioner of masculinity” (New York Times). His Lambda award-winning debut memoir, Man Alive, was named a best book of the year by NPR Books, BuzzFeed, Kirkus, and Publisher’s Weekly. His “refreshing [and] radical” (The Guardian) follow-up, Amateur, explores the vexed relationship between masculinity and violence with a beginner’s mind. In the course of reporting the book, Thomas became the first transgender boxer to ever fight in Madison Square Garden. Thomas’s recent television credits include Tales of the City (2019, Netflix) and The L Word: Generation Q (Showtime). A former senior editor at Quartz, Thomas’s essays and reportage have appeared in the New York Times, Playboy, The Atlantic, and others; and he has written columns for the Rumpus, Pacific Standard, Condé Nast’s Them, and Teen Vogue. Thomas has taught at the City University of New York’s graduate school of journalism and serves as an advisor for West Virginia University’s graduate school of journalism. He speaks internationally on the intersection of gender and culture and is currently developing several projects focused on alternative US histories and counter-narratives, as well as adapting Amateur for the screen.

Morgan K. Benson is a master’s in public policy student at the Harvard Kennedy School, where he is focusing on LGBTQ policy issues. He previously lived in Washington, DC, and worked in monitoring, evaluation, and learning for international development programs. While in DC, he volunteered with HIPS, a primarily sex worker-focused organization; TransWIN, a wellness provider information resource developed by the DC Area Transmasculine Society; and the unofficial LGBTQ Alumni Association of Notre Dame. He graduated from the University of Notre Dame in 2014, where he studied anthropology and economics and was involved in the student organizing campaign that led to the first official LGBT student organization at the university.

MORGAN BENSON

Thomas, it’s so nice to be speaking with you today. I first came across your books and reporting when I was looking for trans perspectives on masculinity and manhood while going through my own transition, for lack of a better word, a few years ago. You’ve now published two books: *Man Alive*, which you’ve described as a kind of coming-of-age memoir, mostly about your life prior to your transition; and *Amateur*, which explores specifically the relationship between masculinity and violence through your reporting and your own experience training for and becoming the first trans man to ever [box] in Madison Square Garden.

Your work has really resonated with me and allowed me to explore some of my own questions and issues more clearly. So, I’m

excited to chat further and thank you again for taking the time.

THOMAS PAGE MCBEE

Thanks, I’m excited as well. Masculinity has been an interest of mine for years, and it’s always great to meet people who are also interested in having conversations about it. The conversation has really shifted since I started reporting on the “masculinity crisis” in 2011.

MORGAN

We talk about masculinity, but it can be such a tough concept to understand. I’m wondering, in all your research and exploration for yourself and your books, have you landed anywhere? How do you understand masculinity now?

THOMAS

I feel of two minds. On an intellectual and academic level, I'm all for expanding masculinity until it's so diluted in its definition that anyone can say, "I identify with masculine qualities," or "I am a man." And why should we have to define what that means, really? I talked to a lot of sociologists and other folks who think about this all the time, and so I understand that in some ways it's a fool's errand to even try to define what masculinity means. Because in doing that, you almost always have to create a binary with femininity, and then that reproduces patriarchy, and so on.

I also understand that, as I'm sure you can relate to, I'm a man and I'm trans. And I obviously believe that means something, or else, why would I have ever transitioned, you know? There is something spiritually real about my masculinity, or I wouldn't have gone through this process. I wanted to believe that it was all just intellectual or social, and that didn't work for me personally.

MORGAN

"Something spiritually real" about your masculinity—I like that phrase. It makes me think about how meaningful and complex our understanding of masculinity is. How would you describe what it looks like broadly in our society?

THOMAS

To some degree, what we're socialized to think of it as is a set of traits and behaviors that are affiliated with cis men as we currently see them in the world. There's the toxic version of that, dominance-based behaviors and strategies that are all about maintaining the social structure that we all live in, and then there's the more subtle

aesthetics of masculinity. To some degree, most people associate masculinity with things that testosterone produces, like facial hair and physicality.

Like most people, I used to think that testosterone causes aggression. I think that's part of why, when I started taking testosterone, with the ways I was feeling in the world, I was sort of having this moment of crossfire again. I thought maybe it is just the hormones, and maybe men really are just violent. But then I talked to a neurobiologist at Stanford, Robert Sapolsky, who told me that testosterone doesn't cause aggression. That's one of the main myths about testosterone.

MORGAN

I think it's fair to say that association between testosterone and aggression is still alive and well. If it's a myth, where did that come from, and what does testosterone actually do?

THOMAS

It has been shown to cause status-seeking, at least in primates. They've also done economic games with people in which the way to win is by cooperating, and in those games, the men with the highest testosterone levels are reliably the most cooperative. But then if you give a man a shot of a placebo, and you tell him it's testosterone, then he acts like a jerk in those same games.¹ And that, to me, indicates that the beliefs we have about what masculinity is are deep, and they're not easily eradicated. What we think of as what masculinity means is valuable to know, given how powerful it can be.

MORGAN

Oh wow, I hadn't heard about that study, but

it really is enlightening. There are so many narratives we hold about what masculinity is and about what it means to be a man.

THOMAS

And you're never supposed to question what it means to be a man. You're just supposed to police it or uphold it. And if you fail at it, then you're supposed to say, "Okay, I guess I'm just not that kind of guy." But you're not supposed to ever even ask what does it even mean, you know, to be a man?

MORGAN

Right, you've called it the "first rule of masculinity," to not talk about it or question it. I struggle with how traditional masculinity excludes anything feminine, even really important human things. How do you own and express your masculinity without rejecting aspects of yourself that might be perceived as feminine?

THOMAS

Yeah, I think that was the point of the book I wrote and that whole journey. That is the issue, which is that, literally to define masculinity, we do so in opposition to femininity.

That's the sort of toxic way masculinity is also defined. I am a man by not being a woman; the more away I am from being a woman, then the more manly I am, and that's what makes men real. You can police each other for failing to be men, by which we mean, acting more like women than men or acting more "like gay men." And I'm saying all this based on research.

This is that whole idea of the "man box," which is that kids as young as 12 in classrooms across North America can answer the question, "What goes in the man box?" They say things like "Men don't cry; men don't show emotion." This is all deeply

ingrained stuff, and it's really problematic. For me, I saw it in those first few years after my transition. Every way I was behaving that had any relationship to my life before my transition, I felt the process of socialization. In grief, for example, it was okay if I was angry but not if I was sad. And it was all subtle usually.

MORGAN

Absolutely. I transitioned when I was 25, and that shift in socialization was really difficult to experience and even just understand. I'm still trying to figure out what feels authentic.

THOMAS

It is confusing, but within all of that mess, I think that there's an opportunity for people who don't have or don't want to have certain traits that are associated masculinity to sort of pick and choose. Within this cultural context that we all understand and within the aesthetic context we all understand, you can say "I resonate with this piece about what being a man means or what masculinity is, but not this piece."

In some ways I was more masculine before my transition, because as a butch person, I really wanted to show the world my masculinity more aesthetically. And maybe even like, interpersonally. I had different dynamics with people in my life where it was sort of celebrated or romanticized more. And now in this body, it clearly creates a different experience for other people when I do the same things. So, I've had to reimagine what being a man means in terms of my impact in the world.

MORGAN

That's so interesting, and touches upon some of the tension between masculinity as

a personal trait and its interplay with gender. Before we get into that a little more, I'm wondering if you'd be willing to talk more about your own experience generally. How do you express your gender?

THOMAS

My gender and my physical embodiment are kind of the same, and I didn't always feel that way. I thought for a long time that just being a human being and expressing myself through that humanity was who I was. And I wanted to live, again, in that world where that could just be true, but gender and race are the primary ways that we mediate our experiences of each other. I don't like that about how we are in the world, but I know that's a fact.

Over time, I realized what I need to do is figure out how to, rather than sort of trying to shoehorn my masculinity into my humanity, maybe I need to really try to shine my humanity through my masculinity. Because, especially aesthetically, I'm so invested in my male body, and I mean that in a good way. I am happy. I did experience dysphoria, and now I don't. I want to be an embodied person in my body that is male, at least in terms of how people perceive me and in terms of my own self-identity.

So, I think my masculinity comes through my embodiment. Instead of rejecting masculinity outright—which again, prior to my reporting on this—I felt like that was sort of the way that people in my life knew how to handle these expectations of masculinity. They would either say, “That’s just how guys are,” or “I’m not that kind of guy.” And it felt like one is dropping out and sort of acting like none of this is happening around you and that you’re not in this structure yourself. And the other is making things innate that I know, again, as a trans person, just

aren't innate because if that's just how guys are, what kind of guy am I, you know? And where did I come from?

MORGAN

Thank you for sharing that. It's powerful to hear how you reconcile owning your own embodiment and way of being with not trying to drop out of what's around you or explaining it away.

THOMAS

Yeah, I think about my gender now in a more holistic sense. I'm a man in the world, and there's a responsibility and an accountability to that that's really important, and I try to really be mindful of that. Doing things in this body that go counter to what's expected of it is an important part of my gender expression too. Compassion, trying to be available for things that are socialized out of boys (and certainly I experienced being sort of socialized out of me, even in adulthood) like vulnerability, intimacy, connecting—all of those aspects of being a person. I try to do that in my daily life, consciously, but also publicly in my expression of myself.

MORGAN

That's interesting. I want to dig a little deeper and ask more about that relationship between our sense of our maleness and masculinity because I've always known queer spaces with other butch women like I identified at one time. So, I don't think my understandings of masculinity and maleness have been the same for me. Do you have anything to add on that distinction here?

THOMAS

Well, I think the biggest thing I've learned

from my own work is how deep the biases I had run—sexist biases, obviously racist biases, and my own internalized transphobia. Having a body that's not in the dominant group doesn't make you not internalize the knowledge that the dominant group is also living within. So I think that it's important that people who might feel, like, "My understanding of this is different because I'm in a different body" [to] not just walk away from the conversation. I think it's worth investigating. Even if you're not a cis man or a trans man, it's literally impossible for you not to have internalized the same messaging about masculinity that everyone else has.

I do think, though, the truth is, if you're not a man, you're not rewarded in the same way. In fact, you're often punished for embodying that same masculinity, which I'm sure you know for a fact, and I certainly know. So, I think it's a lot more complex when we're talking about masculinity on bodies that aren't perceived as male, at least in sort of a physical way. But I think that, for those individual people, it's still worth really investigating their own relationships to gender and perpetuating stereotypes and so on.

MORGAN

I appreciate you noting that navigating this and just the world generally is different for different people in different bodies and how we need to take that into account.

THOMAS

I also feel sensitive because I understand that when you're in a body, and people aren't taking you at face value of who you are, it can be important to really try to show who you are. And if the language you have

to show it is the same language everyone else does and it's problematic, it's a lot harder to just walk away from that and say, "Well, I don't want to perpetuate harm." I think it's too complicated to ask, for example, butch women to just examine their own internalized issues around masculinity and just perform their healthy masculinity, end of story. I think you have to see everything within the bigger system of what people are dealing with and up against.

I think it's the same thing with Black men and masculinity when we know we police Black men, literally, in this country for performances of masculinity deemed threatening that we not only encourage but require of all men to prove "realness," aka worth as human beings. So how do you live through that double bind? Does that mean that you're less responsible for your behavior if you are in a marginalized group? Of course not. But you have to see what's happening, understand where people are coming from and what they're up against, and think about who's being harmed and who's doing the harm when you're asking people to examine their own dynamics with gender.

Even though the expectations, in some ways, are equally applied across at least male bodies, they're not equally policed across male bodies. I think the understandings of being masculine are clear to people no matter if they were born male or not or if they live as male or not.

MORGAN

I think that can be hard to do when someone has done harm or is doing harm. Understanding the forces that they're dealing with and what accountability might then look like, and for whom—it's difficult.

THOMAS

Yeah. I think it's hard to hold a butch person performing their masculinity to the same level of accountability as you would a white cis man, even if the behaviors are similar, because there are different motivations, rewards, and levels of oppression in response to that. It's complicated, and people need to understand that it's not a simple and black-and-white issue around whether or not you have privilege, or whether or not you're in a "man box," or whether or not your masculinity is toxic.

MORGAN

That makes sense. We need to be careful to not over-generalize about people's experiences. Being a trans person and experiencing the world responding to you on both sides of binary really illuminates that for me.

THOMAS

For me too. When I was dating, before I met my wife, I had a queer friend who was trying to set me up on dates and trying to give me some feedback about dating women, even though I'd done that my whole life. She said, "I think you're just too vulnerable." And I don't even know what that actually meant because it's not like I was any different. And in fact, I'd gotten the opposite feedback before my transition: that I seemed mean or scary because I had a female body, and I was behaving in a way that was masculine. After my transition, I was getting the opposite feedback for the exact same behaviors, so it felt like any way I was behaving that was outside a norm of a binary was problematic to some people for some reason.

MORGAN

That's really stressful and also eye-opening.

Can you say more about what you learned from speaking with experts about this interplay of gender identity, masculinity, and femininity?

THOMAS

So, a lot of my questions started to be about how the things that make us human, as the psychologist Niobe Way says, are things that are associated with being feminine, like connection, intimacy, the ability to listen, vulnerability.² And I learned that we do systemically socialize those out of boys, and then we tell boys that's what being a man is. And then we move through the world as men, those of us who are men, and we think we're failing at masculinity if we're behaving in ways that are associated with being a woman.

That's obviously sexist and wrong and harmful to not just the people around us, but to ourselves. That's why men have higher rates of suicide, for example, and higher reported rates of loneliness and deaths of despair. That's all clearly coming from a lack of connection.

MORGAN

Stepping into that socialization later in life was really jarring for me. Can you speak more to how you navigate it now?

THOMAS

So, my solution has been, and continues to be, asking, "Why? What are we talking about? Why do people think that masculinity or being a man is about rejecting being feminine in any way?" And then, once you understand the bigger structural issues at play, I think as a man, you can be empowered through that knowledge to say, "Fuck that, I am a man." And also, of course, I'm

not immune to internalizing more toxic notions about masculinity, but I'm not going to continue to behave from a place as if I agree with those notions, nor am I going to say nothing and therefore continue to uphold the structures built on that silence.

I like these qualities that I have that are feminine. And in fact, everything I read, everyone I talk to, everything about my own experience tells me that these qualities help me and other people, so why would I want to lose them? Why wouldn't I want to hold on to them? And my goal is to be a pro-social human being who contributes to the world and certainly doesn't harm the world in being who I am. So why not try to sustain the things about myself that come from this knowledge I got, this lucky fact of my own socialization prior to my transition where I learned all this stuff and I didn't unlearn it? And now I'm an adult with frontal lobes who can be like, "Why would I fucking want to not be vulnerable? Or not have intimacy in my life?" That's terrible.

MORGAN

That's really inspiring for me as a trans person, and I think empowering for all men who want to navigate masculinity and hold on to their whole selves. To close, I'd love to ask, what do you think is the best way to engage more men in this discussion?

THOMAS

To me, it's about strategically figuring out a way to talk to cis men who have not thought about this, with an approach that gives them a way to still feel a connection to their masculinity. Because the way masculinity works, if anybody tries to take that away from you or undermine it, that's seen as a threat. That creates fragile masculinity, and that can even lead to more of a violent

or negative reaction from the man involved, or at least a shutting down.

Maybe there's a way to engage men about masculinity with care taken to not undermine their own experience of their gender, but highlight instead the ways that this can cause harm to you and also the people in your immediate life, and don't you want to make things better? And you're not any less of a man for taking care of that.

MORGAN

Absolutely. Thomas, thank you so much for speaking with me and the work that you've done in exploring this. I hope we'll get to continue this discussion, and I look forward to hearing more from you.

THOMAS

Of course, and thank you for the conversation.

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Religious Equity

A Path to Greater LGBTQ Inclusion

By Rev. Adam Lawrence Dyer

Rev. Adam Lawrence Dyer is the lead minister at First Parish in Cambridge Unitarian Universalist, Cambridge, Massachusetts, and a Harvard University chaplain. He is the author of Love Beyond God, a collection of meditations focused on Black identity and liberal religion, and maintains a regular blog, Spirituwellness.org, which explores race, bodies, faith, and politics. His writing appears in Body Battlegrounds: Transgressions, Tensions, and Transformations (Chris Bobel, Samantha Kwan, eds.) and To Wake, To Rise: Meditations on Justice and Resilience (William G. Sinkford, ed.). Previously, Rev. Dyer worked with PolicyLink, the PICO Networks, and the UU Justice Ministry of California highlighting LGBTQ, gender, racial, economic, and religious equity. He is a graduate of Princeton University and the Pacific School of Religion, where he received his master of divinity degree, the Certificate in Sexuality and Religion, and the Paul Wesley Yinger Preaching Award.

Religious liberty and LGBTQ civil rights are falsely portrayed as being at opposite ends of the cultural and policy spectrum. We have seen this in cases brought before the Supreme Court involving employment rights, commerce, marriage, and adoption. Associate Justices Clarence Thomas and Samuel Alito have recently even gone so far as to frame LGBTQ rights as somehow “atextual” and “novel” while also making the claim that privileging LGBTQ rights will present “ruinous consequences for religious liberty.”¹ But the basic assumption about religious liberty here ignores the fact that people who identify as LGBTQ do not sit outside of religious life in the United States. In fact, more than other populations, the LGBTQ community, inclusive of myriad faith expressions, represents the fullest manifestation of true religious freedom. Because many LGBTQ people experience multiple layers of marginalization, LGBTQ faith identities provide a powerful test case for the importance of religious liberty as both a cultural and a policy priority. A more fully inclusive interpretation of religious freedom is required to reconcile the perceived divide between LGBTQ civil rights and religious liberty—a policy perspective

that recognizes that within LGBTQ identities there exists a wide range of equally valid and sincerely held religious views, moral philosophies, and practices of faith. What is needed is an equity lens.

The landscape of religion in the United States is shifting. Data from the Pew Research Center indicates that the trend away from organized, traditional religion toward religious non-affiliation continues to grow, with a full 26 percent of the population identifying as unaffiliated as of 2019.² According to data from Pew Research, LGBTQ populations are not immune to this trend, with a full 41 percent of Lesbian, Gay and Bisexual adults identifying as atheist or agnostic compared with just 22 percent of straight adults.³

But simply because some LGBTQ people don’t identify with an organized religious home does not mean that they are a-religious in general or that LGBTQ people eschew any kind of ethical or moral identity or social accountability. In fact, people who claim non-religious identities are more vulnerable to exclusion because of how the argument for religious liberty is dominated by traditional (often Christian) religious frameworks. Non-religious voices of all

kinds, including LGBTQ, are painted as less morally legitimate and more ethically disengaged than their devout counterparts. But there are growing efforts to counteract this narrative. Organizations such as the LGBT Humanist Alliance, relaunched in 2016, are oriented towards building awareness of, and community for, LGBT-identified humanists.⁴ During the 2020 election cycle, the Biden campaign included intentional outreach to non-religious communities, including LGBTQ communities, with the creation of the Humanists for Biden platform led by author and humanist scholar Greg Epstein.⁵ This represents the first effort of a major political party to engage the non-religious community in an explicit way, signaling the growing importance of the non-religious as part of the dialogue in politics.⁶

But the same study that highlights LGB agnostic adults found that *spirituality* is no less important to LGB people than their straight counterparts.⁷ In fact:

LGB Americans are *more* likely than straight adults to say they regularly feel a deep sense of wonder about the universe. Roughly half of gay and lesbian adults (51%) and bisexuals (53%) say this, compared with 45% of straight Americans.⁸

Clearly, it is important to look at LGBTQ faith expression through a more nuanced lens. LGBTQ individuals and communities are exploring a variety of ways to hold and live questions of meaning and ethical living.

The importance of this exploration is also supported by the growing number of progressive LGBTQ religious, spiritual, and ethical leaders visible as advocates in the public square.⁹ Names such as Guthrie Graves-Fitzsimmons, Abby Stein, The Rev. Naomi Washington-Leapheart, Mahdia Lynn, and The Rev. Frederick Davie appear

regularly in both faith and political commentary; they are drivers at the center of national conversations on progressive faith and meaning making.

In addition to progressive faith leaders, LGBTQ Christian evangelicals from historically conservative backgrounds are becoming increasingly visible in their communities. *Sojourners*, an evangelical Christian magazine and social justice organization founded by author and activist Jim Wallis, has evolved from its religiously conservative positions on LGBTQ life. In a post-Obergefell world, the magazine and the social justice agenda of *Sojourners* includes more commentary about LGBTQ issues and features the voices of pro-LGBTQ advocates. Another example is The Wild Goose Festival, an annual religious music festival with evangelical roots that promotes “a transformational community grounded in faith-inspired social justice.”¹⁰ This event has grown to offer enlightened pro-LGBTQ commentary while creating intentional space that welcomes LGBTQ-identified people of all religious backgrounds.

Younger evangelicals are also coming forward to express their impatience with religiously conservative church organizations to update their policies and priorities. A new organization, Beloved Arise, offers an explicitly intentional approach. The Beloved Arise mission, “[t]o celebrate and empower queer youth of faith,” reflects the vision and insight of its founder Jun Love Young.¹¹ Young’s work represents a response to a real need. According to the Trevor Project National Survey on LGBTQ Youth Mental Health “more than 1 in 3 LGBTQ youth identify with a religion, and 1 in 4 describe it as ‘important’ or ‘very important’ to them.”¹² Beloved Arise is one example of how young people within a historically conservative

church structure have taken it upon themselves to claim both their religious identity and their LGBTQ identity.

The emergence of an organization like Beloved Arise and the increasing LGBTQ visibility in evangelical as well as progressive faith settings signal important social momentum. This is the movement of LGBTQ people claiming their place in faith community. Still, politics and policy continue to pit LGBTQ identities against religion. In order to dispel the myth of LGBTQ identity as being somehow oppositional to religion, faith, and spirituality, and in order to break down the biases that currently exist in the public policy struggles for “religious freedom” for a select conservative few but not all, a new policy framework must be envisioned. What is needed is a religious equity framework that explicitly serves to hold and defend all people in the United States’ diverse spiritual interests. An equity framework can acknowledge that LGBTQ identity is neither contradictory to religious identity (including conservative evangelical belief) nor inherently non-religious. LGBTQ identities are inclusive of all of the spiritual diversities in our society.

RELIGIOUS EQUITY: A POLICY ADAPTATION

In 2011, PolicyLink outlined a plan in *America’s Tomorrow: Equity is the Superior Growth Model - Summary*. This research establishes economic equity as a “superior growth model” for a stronger, more inclusive economy.¹³ A similar approach to “religious equity” may be one innovative way to establish paths of reconciliation and expansion for the conversation about faith and policy, particularly when it relates to LGBTQ inclusion.

The *America’s Tomorrow* summary

begins with three broad goals: “Reducing Inequality is Good for Growth”; “Diversity is an Economic Asset”; and “Building a Skilled Workforce is Critical to Securing Our Economic Future.”¹⁴ A religious equity model could mirror these goals by establishing common interest and equity-based opportunity in the context of faith as it intersects with policy:

- *Reduce inequality* – Create systems where conservative mainline traditions cannot be privileged over less traditional expressions or non-faith and vice versa. Here, the goal is to create a policy container where the complexity of maintaining “freedom of religion” as well as “freedom from religion” is a priority.
- *Diversity as an asset* – Recognize that breadth of religious expression is a true reflection of the core values of American government and the spirit of the Constitution.
- *Skill as an asset* – Honor the need for specific expertise in supporting diverse needs. One size does not fit all.

The *America’s Tomorrow* growth model for economic equity then points toward three key areas for implementing the equity strategy: infrastructure, new business and jobs, and preparation for “tomorrow.”¹⁵ Adapting these to the priorities of religious liberty:

- *Infrastructure* – Establish a modern interpretation and set of precedents related to the Establishment Clause of the Constitution. Acknowledge the need for more detailed and applicable definitions for a diverse population.
- *Purpose (business)* – Explore applications for the exercise of both “freedom of” and “freedom from”

religion through the equity lens.

- *Prepare for tomorrow* – Recognize that expressions of faith will continue to grow and evolve with a diverse and globally interconnected connected human population. Build the anticipation of this growth potential into policy and practice.

This *religious equity* model as applied here begins by looking at one of the most (religiously) marginalized groups (LGBTQ populations) and ultimately creates solutions that positively impact all faith expressions, progressive and conservative alike. Just as *America's Tomorrow* states that “[equity] is the path to prosperity-for all,” religious equity could be a path to religious inclusion and affirmation for all.¹⁶

A POSSIBLE CASE STUDY IN RELIGIOUS EQUITY

LGBTQ civil rights continue to be challenged by conservative religious liberty advocates. In November 2020, the Supreme Court heard arguments in *Fulton v City of Philadelphia, Pennsylvania*. This case broadly questions, “[w]hether free exercise plaintiffs can only succeed by proving a particular type of discrimination claim.”¹⁷ More specifically, the case considers “whether the government violates the First Amendment by conditioning a religious agency’s ability to participate in the foster care system on taking actions and making statements that directly contradict the agency’s religious beliefs.” In friend-of-the-court briefs, such as the one filed by *The Church of Jesus Christ of Latter-day Saints, et. al*, conservative religious liberty advocates have portrayed *Fulton* as another attack on religion.¹⁸ Progressive advocates regard this as a case

that would set a precedent for more government funded agencies to deny services based on a “religious test.”¹⁹

A religious equity lens on a case such as *Fulton* would consider the religious objections of the foster care agencies in question but place equal importance on the religious expression and motivation of same-sex couples seeking to provide foster care. Rather than creating a zero-sum solution that privileges one over the other through a religious test, the equity lens could reasonably factor out the question of religious priority by equating the positions. Through this lens, the case moves from the comparative framing of “religion vs. non-religion” and becomes a question of an agency’s capacity to comply with equal accommodation as an agent of the government.

CONCLUSION

LGBTQ civil rights have been affirmed by numerous cases, laws, and policies.²⁰ LGBTQ civil rights do not detract from the opportunities or legitimacy of any other groups’ rights. The tendency of progressive policymakers to lean away from the religious argument is only deepening the divide between secular and sectarian. A religious equity model would instead lean into LGBTQ faith identity as a full and legitimate equal in the conversation about religious liberty. By acknowledging that all parties concerned have a valid religious or faith identity, even if that identity is non-religious, there is no longer a question of one religion being able to take precedence over another. Religious equity is one tool we have to end the policies that cancel out, deny, restrict, erase, and damage LGBTQ identity based on the grounds of a flawed interpretation of

religious liberty. Putting this tool into practice may help us to begin de-weaponizing faith in politics.

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Queer Choreographies of Twitter Memes as Objects of Digital Embodiment

Increasing Access to Means of Digital Cultural Creation

By W.G. Ellis

W.G. Ellis is currently a graduate student in the Department of Women's Studies at San Diego State University. They pursue interdisciplinary research, touching on myriad fields including queer theory, transnational studies, Arab American studies, cultural studies, performance studies, science and technology studies, critical food studies, and digital humanities. At the time of this publication, their work has been accepted for presentation at Northwestern University's Queertopia conference (2019), the American Studies Association conference (2021), as well as the Arab American Studies Association conference (2021). They look forward to continuing their academic career for many years to come.

INTRODUCTION

The spread of social media offers insight into how understandings and formations of bodies are created intra-communally in global and pluralistic ways. This gives us an opportunity to see how social bodies are rendered through syntheses of digital narrative that are not only mimetic to a more seemingly natural social body, but indelibly a part of holistically comprised social bodies.

Gay memes seek to establish a norm through which the gayness of a subject can be made intelligible to others in the know. They rely on simple yet seemingly arbitrary qualifiers—drinking iced coffee, walking fast, and enjoying certain pieces of media or actors at formational ages—to determine what a gay body on Twitter should look like. That is, they seek to establish a bodily aesthetic normativity for gay Twitter users, giving form to digital bodies.

Bodily aesthetic normativity references the ways in which bodies are made intelligible as belonging to certain constructed groups by making external and socioculturally coded perceptions of a subject's bodily aesthetics seem natural, fixed, and self-evident.

The logics of this understanding of bodily aesthetics open subjects up to myriad forms of regulation and punishment, imposing constraints on how individuals fit in to different sociocultural categories. In order to understand how this happens within this subset of Twitter users, it is imperative to understand some basics of how Twitter functions, what memes are, what digital bodies are, what we mean by choreographies, and just what it means to appear gay.

Following this analysis, I will highlight three areas that require specific attention by policy creators that allow for the establishment of more equitable grounds through which disempowered voices would have an increased ability to form notions of what it is to be queer.

THE IMPORTANCE OF LOCKED ACCOUNTS

Twitter allows users to operate with private or locked accounts. To view the tweets of a person with a private account, you must request to follow them, and they must in turn approve that request. This has dual implications. It allows Twitter users to opt out, to a certain degree, from other

users folding their cultural productions and words into a set of violent discourses. Implicit in this infrastructure is an understanding that there exists on the platform a sizable group of actors who would wish to do harm unto those people seeking refuge in locked accounts.

Twitter has stated repeatedly they will not ban Nazis (or other white supremacists) in the United States from the platform *until* those actors issue tweets that are in violation of Twitter's rules of conduct *and* those tweets have been reported by other users. This system largely relies on a reporting algorithm that has repeatedly led to the continued existence of white supremacists on the platform and has additionally led to the suspension of accounts of users responding to—and defending themselves against—these white supremacists.

In this sense, Twitter algorithms operate as administrative systems, which Dean Spade notes are “sites of production and implementation of racism, xenophobia, sexism, transphobia, homophobia, and ableism under the guise of neutrality.”¹ This means that those who have been coded by sociopolitical systems as being the subjects most vulnerable to violence are the users who most need to rely on the security of the locked account. Assuredly, these are not the only people who lock their accounts, but by commonly voiced and emic statements of trans and of color communities on Twitter—as well as in accordance with scholarship on digital participatory cultures—they are the people who are most often *coerced* into doing so.² Liberal policies that do not grapple with differentials in capital accumulation and proximity to power are unable to equitably address issues of harassment and silencing. According to Christian Fuchs, Twitter as a platform is defined in part by its reality of

“asymmetric visibility” wherein “democratic potentials are limited by the reality of stratified attention and the visibility characteristic for a capitalist culture.”³

Only through simultaneously addressing the context that informs the information available to Twitter algorithms, as well as the biases in the algorithms themselves, can movements be made for more equitable access to participation in a socio-cultural democratic method of group identity production.

MEMES, CHOREOGRAPHIES, AND DIGITAL BODIES

While the word *meme* is in common circulation in casual conversation, there is disagreement as to the actual definition of a meme as well as to the significances memes carry with them. The term has been around since the 1970s; however, with the advent of the Internet, the ability to create, share, and re-form memes boomed and gained new significance.⁴ In *Memes in Digital Culture*, Limor Shifman notes that “internet memes can be treated as (post)modern folklore, in which shared norms and values are constructed through cultural artifacts.” According to Shifman, a key component of an Internet meme is its intertextuality—that is, the ability to combine meme with meme to create something new but still intelligible as a shared cultural object.

Shifman's understanding of internet memes is particularly useful, and I will be looking at how Twitter users' interactions with memes help establish norms and narratives of how gayness and/or queerness are digitally embodied and made recognizable on the platform as choreographies.

A choreography is a sequence of steps and movements that a body performs to be

read by outside observers. In the context of memes on Twitter, I am breaking from how the term *choreography* is generally used in dance and movement studies. In that discipline, there is often a particular emphasis on the corporeal, physical body. I instead choose to focus on the movement of a digital body, a body that is constructed and understood in a technocultural context.

In her 2013 work, “‘Single Ladies’ is Gay,” Harmony Bench emphasizes an important aspect of choreographies in the realm of participatory social media, as operating as a variant of Sara Ahmed’s notion of Objects of Emotion.⁵⁶ Through an examination of the cultural meme of Beyonce’s dance choreography from the “Single Ladies” music video and its numerous iterations (from YouTube performances to the *Saturday Night Live* sketch engaging with the choreography), Bench notes that “as the number of imitations and reproductions of a given choreography increase thanks to social media’s participatory culture, each performance provides new framing and delimitations... [and] expand a choreography’s possibilities at every restaging.”

Bench focuses on these viral choreographies as “objects of embodiment” as opposed to objects of emotion due to the way in which the corporeo-physical is involved in the creation of the videos, and how that dance choreography of “Single Ladies,” in particular, engaged with what is recognized as “queer kinesthetics.”

I expand this notion by focusing on the movement of digital bodies, thus imagining memes as “Objects of Digital Embodiment.” This expands the notion of queer kinesthetics to be more inclusive of those who, for various reasons, have been left out of the empowered notion of corporeal queer movement, and decenters a largely Western

notion of the body/mind divide. Memes are crucial components to gay and queer digital embodiment in that they are objects that provide positionality for digital bodies. Simply being a queer person is not enough to be read as such on Twitter. You must interact with shared bits of culture so that others may be able to read you as not-straight.⁷

Through retweeting, replying, quote tweeting, or providing remixes of memes, the digital bodies of Twitter users are given shape in their movement. Just as Ahmed’s Objects of Emotion and Bench’s Objects of Embodiment, memes as Objects of Digital Embodiment are sticky. Through interacting with memes, digital bodies leave their imprint upon the meme itself. The meme collects meaning with every interaction and is increasingly delimited in its interpretation. The meme also leaves an imprint upon the body interacting with it. The stickiness of a meme as an Object of Digital Embodiment is determined by its relative cultural impact and, in turn, the degree of its legibility as a coding device.

It is through the repeated and continued enactments of these choreographies that the digital body is given shape. By looking at how a digital body’s interaction with memes has shifted the existing meaning of the meme and, thus, the other bodies that have and will interact with that meme, we are given insight into the body that shifted the space. Also, through the increasing number of imprints from interactions with memes as Objects of Digital Embodiment, a more specific shape of the body is hewn from the imprints. For instance, someone retweeting a video from Twitter user @mfbenji (who, at the time of this writing, is identified as a cisgender gay white man) codes themselves through association with that single interaction. If that user then

retweets a meme made by @C_GraceT (who, at the time of this writing, is identified as a Queer Black woman), this adds to their perceived subject coding by association. Through a combination of all tweets, retweets, and quote tweets, a Twitter user's digital body picks up bits of contextual coding imparted by the meme—sticking to the user's digital body.

WHOSE CHOREOGRAPHIES STICK?

To parse the question of who has the ability to create the stickiest meme choreographies, we need to look at the systems that govern the creation and proliferation of memes. Ganeale Langlois dives into the paradox of the democratic claims of participatory media, stating:

The democratic claim of the participatory media environment is partly true: anybody can express themselves and encounter minimal censorship. However, the locus of power and focus of the governance process is not on content per se, but on the conditions within which meaning can emerge.⁸

Langlois points to participatory media platforms, such as Twitter, as assemblages, wherein the dynamic interplay of software, hardware, linguistic practices, and cultural practices “enable the production, distribution, and experience of meaning via cultural signs. Meaning here should be understood broadly as [. . .] making the world comprehensible and livable by defining its limits and possibilities.”⁹ This in turn codifies the dynamics of who gets to create meanings and thus stabilize the cultural roles of users and users' perceptions of themselves and their relative cultural value.¹⁰

Safiya Umoja Noble's *Algorithms of Oppression* provides a framework for understanding how Twitter algorithms act as a form of governance in the creation of these stabilized cultural roles of users. Noble notes that algorithms are created by software designers who are entrenched in the political, social, and cultural modes of oppression that exist in wider society and thus work those forces into the creation of specific search algorithms. This impacts the “politics of recognition” of online discourse and therefore impacts the creation of meaning on these platforms.¹¹

As Noble writes, “algorithmic oppression is not just a glitch in the system but, rather, is fundamental to the operating system of the web.”¹² Though there has yet to be a peer-reviewed, published analysis of what memes have the most increased algorithmic visibility on Twitter, it is perfectly reasonable to assert—based on anecdotal observations of Twitter users—that the stickiest memes tend to be ones favored by these algorithms of oppression.¹³ Since these formations happen on a commodified platform, memes promoted by the algorithms are more likely to utilize individualistic, neoliberal conceptions of identity politics.¹⁴ However, users are still impacted by outside cultural forces specific to their lived experiences, and the participatory nature of this social media means that algorithms aren't the end-all-be-all of how meaning is created and articulated. Through a combination of algorithmic influences; co-existing social, political, and economic systems of oppression; individual and group identity play; and shifting discursive practices, the uses of memes by Twitter users produce multivalent and contradictory notions of queerness which help to shape what a queer digital body can or should look like.

I identify two polarities of gay and queer Twitter meme choreographies, with the acknowledged caveat that the boundaries between these sets are murky at best. These categories are often intermixed with each other in both/and manners, crafting multitudes of digital gay and queer bodies, multivalent in their intelligibility under the dominant precepts of bodily aesthetic normativity.

The polarities may be summed up as, on the one hand, a neoliberal gay polarity, and on the other a polarity defined by a queer oppositional consciousness.¹⁵ In essence, these choreographies are attempts to produce recognizable meaning “in the social space” within the context of what we can consider an imagined community on Twitter through different conceptions and utterances.¹⁶

A neoliberal performance of the gay body is rooted in individual and juridical conceptions of gayness, formulated to be “folded into” dominant capitalist, nationalist, and racist techniques of subject formation.¹⁷ Queer performances, on the other hand, seek to embrace a liberatory ethos, wherein systems of oppression inherent to the neoliberal framework are rejected. This queer ethos understands the importance of pluralistic, anti-capitalist, anti-racist, and anti-ableist discourse and praxis in creating a new reality that is not founded on the corrosive qualities of heteronormativity. This requires engaging with queer politics not as a set of politics rooted in a single identity (non-heterosexual) to organize and mobilize around, but more in line with queer politics as outlined in Cathy Cohen’s “Punks, Bulldaggers, and Welfare Queens.” This method of understanding queer politics is rooted in an analysis of “the marginalized relation to power [. . .] that frames the possibility for

transformative coalition work” that requires contending with, among other factors, “the relative power and privilege that one receives from being a man and/or being white and/or being middle class and/or being heterosexual.”¹⁸ By focusing this analysis on the obfuscated cultural contributions of individuals coercively pushed behind locked accounts and the imbricated relative lack of stickiness of the memes of other disempowered users, we are given insight into what measures must be taken for a queer politics that does not only serve to aid wealthy, cis, white, gay men.

Through a comparative analysis of the stickiness of these choreographies as they interact with memes as Objects of Digital Embodiment, we may identify the maintenance and violations of affective segregation on Twitter (and, in turn, social structuring as a whole).¹⁹ Through tracking the salience of affective divides in gay/queer meme choreographies, it is possible to gain insight into the relative utility of certain policy implementations in the wake of their institution.

RECOMMENDATIONS FOR POLICY CREATORS

Given the analysis presented throughout this article, it is clear that policy changes are necessary to support a more free production and enhanced stickiness of counter-identificatory and queer meme choreographies. These policies must have a tripartite emphasis.

Firstly, these policies must push for Universal Basic Services (UBS), including but not limited to access to high-speed Internet. In *The Case for Universal Basic Services*, Anna Coote and Andrew Percy lay out a concise definition of UBS, which I am engaging in this article:

1. *Services*: collectively generated activities that serve the public interest.
2. *Basic*: services that are essential and sufficient (rather than minimal) to enable people to meet their needs.
3. *Universal*: everyone is entitled to services that are sufficient to meet their needs, regardless of ability to pay.²⁰

Specifically addressing concerns about high-speed Internet access under a robust UBS program requires understanding the current levels of access to high-speed Internet in the United States. According to the 2018 Broadband Deployment Report from the Federal Communications Commission (FCC), over 24 million Americans lack access to broadband Internet, and 14 million people entirely lack Internet access, with rural populations and populations of Tribal Lands experiencing much lower rates of access overall.^{21,22} These numbers relate to the FCC's criteria for the minimum upload rate of 3 Mbps to qualify as high-speed Internet, which is much lower than what other organizations argue for. For instance, the Open Technology Institute (OTI) recommends a symmetrical upload/output rate of 20 Mbps.²³ While the FCC as a whole is comfortable with their performance, one might look to commissioner Jessica Rosenworcel's dissenting statement, which includes the previously cited lack of broadband access. Rosenworcel goes on to say, "[t]his report concludes that in the United States the deployment of broadband to all Americans is reasonable and timely. This is ridiculous—and irresponsible [. . .]. There are 12 million school-aged children who are falling into the Homework Gap because they do not have the broadband at home

they need for nightly schoolwork."²⁴ When we consider mobile data access, things are even worse. As commissioner Mignon L. Clyburn notes in his dissent, approximately 44 million Americans lack access to both fixed 25 Mbps/3 Mbps and 10 Mbps/3 Mbps mobile LTE.²⁵

By implementing equitable UBS programs, individuals and communities will have greater access to the means of cultural production. Through militating the economic forces that preclude universal access to Twitter, there is a greater potential for online spaces to be formed to enable the expansion of counterpublic spheres, "where members of subordinated social groups invent and circulate counter discourses to formulate oppositional interpretations of their identities, interests, and needs."²⁶ Twitter, as a platform run by a corporation (albeit a publicly traded one), does not have the potential to be *the* site where counterpublic formations take root. However, as can be identified by the use of Twitter in the now-prototypical examples of the Egyptian Revolution and the #OccupyWallStreet movements, there is sufficient historical evidence of Twitter fomenting intersubjective connections that allow for more robust actuation of revolutionary mobilizations "in real space." We may also look to research concerning Twitter as a site where trans women have been able to effectively advocate and build community to show the already-lived potential for how the platform is being utilized by queer communities who have access to it.²⁷ By advocating for UBS, we might advance a social and economic restructuring, allowing for increased viability for the cultural productions of those disempowered by capitalism and the systems of dominance imbricated with it. If queer digital choreographies are seen as markers

of inclusion in LGBT group formations, and these choreographies take on new meaning with every iteration, then how can a holistically composed queer social body be effectively formed when millions of people do not have access to the basic means of this cultural production?

Secondly, policy proposals must address the social, political, and economic pressures that coerce individuals from various disempowered and disenfranchised populations to seek refuge in locked accounts. This need has been highlighted emphatically this year. Twitter announced on Friday, January 8, 2021, that former president Donald Trump had been permanently banned from the platform.²⁸ At the time of this writing, the Twitter Safety Team has announced that over 70,000 accounts have been suspended from Twitter for promoting the fascistic QAnon conspiracy theory—a major catalyst in the insurrection day riots on January 6, 2021. Certain terms related to QAnon have also been blocked from being searchable on the platform.^{29,30} While this is indeed a positive step, it is clearly far too little, far too late. It took an acute violent white supremacist uprising that threatened the lives of the monied and empowered in Washington, DC, for Twitter to make this move. Apparently, over five years of blatantly racist, sexist, and xenophobic attacks and calls-to-violence were insufficient to ban Trump due to Terms of Services violations. This set of events highlights a need for massive shifts in the running and maintenance of the platform in regard to disallowing further violences proactively as opposed to reactively.

Through militating the influence of coercive powers—such as white supremacy, transmisogyny, etc.—we are presented with the conditions that would allow for a more equitable construction of a queer

social body. This would include passing similar regulatory frameworks such as Germany's 2017 Network Enforcement Act, which makes platforms such as Twitter susceptible to massive fines should offending (illegal) user-generated material not be removed within 24 hours.^{31,32} This works in tandem with German laws that explicitly prohibit certain forms of hate speech, thus making such things as the promotion of white nationalism illegal. This gestures towards certain concrete measures, such as a reworking of section 230 of the Communications Decency Act.³³ This act, as currently designed, protects companies such as Twitter from liability for posts generated by private users on the service. The act also notes that it is not intended to supersede any state laws, another measure that allows for a greater potential of administrative violences.

While juridical means of establishing ethical and moral claims will necessarily be undercut by contextual forces of dominance and oppression, this does not mean that policy improvements engaging legal apparatuses must be abandoned as incrementalism. Rather, this is an acknowledgment that it is impossible to rely solely on legal apparatuses to produce liberation. These efforts must be made in conjunction with other forms of activism against discursive violences that operate outside the realm of the legal-political.

Finally, policy proposals must address the algorithms themselves, as constructed and utilized by Twitter. As shown in the recent example of Google's alleged firing of Timnit Gebru, whose team compiled a (subsequently) shelved report critical of the company's AI apparatus, the solution to algorithmic biases is not solvable by entry-level diversity measures.³⁴ Robust policies targeting the research

practices of publicly traded companies must be enacted in order to address the coding of dominant oppressive logics into algorithms used by the public. These policies would include increased worker protections, expanded ownership rights of researchers over the materials they produce while working under the purview of companies, and enforced inclusion regulations for publicly traded companies. While these measures by their very nature would still leave workers open to various forms of administrative violence, these efforts made in tandem with the previous two sets of policy proposals offer an increased potential for more equitable democratic access to the means of producing knowledges in the (counter)public sphere.

CONCLUSION

This article has been an attempt to integrate various analyses rooted in the humanities into social scientific approaches to techno-cultural discourse and policy design. I have highlighted the need for clear paths toward queer futurities that may be fostered and, in part, tracked through the stickiness of queer memes as Objects of Digital Embodiment. It is imperative to focus on the technocultural apparatuses that privilege neoliberally empowered subjects' intelligibility rather than individual memes. This includes shifting algorithms to create a more equitable visibility of various choreographies on Twitter, drafting laws that address wider sociocultural forms of oppression and silence, and creating a better system for reporting and removing actors of hegemonic violence (e.g., Nazis). The current lack of regulation reifies the conditions that require certain users to remain trapped in the relative anonymity of locked profiles if they wish to openly discuss their lived

realities.

This is not just an issue of what happens on Twitter. No type of liberatory future may be achieved solely through a monetized channel of communication, especially one which so severely limits thick communications on the user end. This is an issue of recognizing and enacting Internet access as a human right with equal impunity. Changes in policy and in cultural norms are imperative for shifting cultural understandings on Twitter itself, while changes in the interface and recognitions of performances of identities on Twitter may help impact policy change and cultural norms outside the confines of this particular website. This is not a techno-determinist analysis, and these are not bifurcated movements towards—and understandings of—liberatory justice. They are co-constitutive and provide a potentially robust lens through which to track equity in economic and socio-cultural systems rooted in a bottom-up method of the cultural (re)production.

Endnotes

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- 4 Limor Shifman, *Memes in Digital Culture* (Cambridge, MA: MIT Press, 2013).
- 5 Harmony Bench, "'Single Ladies' is Gay," in *Dance on Its Own Terms*, eds. M. Bales and K. Eliot (Oxford University Press, 2013): 127–151.
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- 7 While it may seem obvious that to simply say you're queer is enough to be seen as queer on Twitter, this is not the case. There is an extensive history of Twitter users (successfully) pretending to have minoritized subject positions in an attempt to have increased cultural capital in various online communities. Scroll through Twitter on any day, and you can find examples of users accusing other users of faking racial/ethnic/queer/classed community membership. Legibility as legitimately being in a commu-

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- 12 Noble, *Algorithms of Oppression*, 10.
- 13 It is somewhat startling to note that the otherwise insightful and useful 2013 publication of *Social Media: A Critical Introduction* by Christian Fuchs does not make a single mention of memes, even as the text contends with such notions as stratified visibility on Twitter.
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Out of the Closet but In the Shadows:

Stigma's Regulation of Queer Intimacy as a Human Rights Issue

By Evan L. Eschliman, MS

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"I do not conceive how someone who loves nothing can be happy:"

—Jean-Jacques Rousseau, *Emile*, Book IV

"Tonight we are just going to have a lesbian night in."

"What makes it a *lesbian* night in?"

"Oh, the fact that it is a night *in*."

—A.A, personal communication

(emphasis added)

"Don't let them in

I am too tired

To hold myself carefully

And wink when they circle

The fact that I'm trapped

In this body"

—Perfume Genius, *Don't Let Them In*

AIMS AND SUMMARY

Part of the human experience is showing affection to those whom one loves or cares about. These displays of affection, termed *intimacy* in this piece, are also restricted and regulated by social processes and policies differentially for different groups of people.¹ This piece sets out to examine how intimacy for one group of people—queer people—is restricted and regulated in the United States by one prevalent and pervasive social process—stigma—and what can be done to ensure this population has equal

opportunity to express intimacy and thus achieve full personhood.²

To achieve this, this piece: i) briefly introduces the reader to the stigma concept, its impact on queer people, and how little is known about how stigma relates to queer intimacy; ii) uses qualitative methods to explore the mechanisms by which stigma regulates queer intimacy; and iii) discusses the potential ways a human rights approach may assist efforts to combat this inequity.

Briefly, three mechanisms through which stigma regulates queer intimacy emerge from the qualitative data: surveillance (e.g.,

judgmental observation), containment (e.g., restricting queer intimacy to certain spaces), and violence (e.g., use of slurs, physical assault). Together, these mechanisms negatively impact queer people's health and prevent a full realization of their dignity; separately, they offer three points at which policies can be designed to target, work against, and prevent stigma against queer intimacy. Some existing policies can be seen as combatting these mechanisms, but still more are needed to help ensure queer people have equitable access to this core facet of human experience.

STIGMA, QUEERNESS, AND INTIMACY

Erving Goffman's landmark work *Stigma* was published in 1963, and the proliferation of related research in the decades since has revealed stigma's pervasive and pernicious role in society.³ The definition of *stigma* has considerable variability in the social science literature, but most scholars agree that it somehow pertains to its original Greek meaning of a "discrediting mark"—that, in some way, stigma is a means of marginalization and othering.

Additionally, although stigma's primary use long ago was for undesirable physical traits, this has shifted and broadened. These days, following Erving Goffman's expansion of stigmatization to the bases of identity and behavior, social psychology's delineation of ways stigma negatively impacts individuals' health and well-being, and Jo Phelan and Bruce Link's sociological conceptualization of stigma being anything that society uses to restrict an individual into a perceived-inferior social position, almost any trait could be a basis for stigmatization so long as there is a power

differential between the stigmatizer and the stigmatized.^{4,5,6,7,8} Along with working toward increasing clarity of what and who can be a target of stigma, scholars have also been mapping the ways stigma operates on different levels. Stigma has been documented to operate on macro, meso, and micro levels—ranging from the structural (e.g., laws and policies) to the interpersonal (e.g., enacted stigma, or discrimination) to the internalized (e.g., felt stigma, internalized stigma, self-stigma).^{9,10}

Like all other stigmas, stigma on the basis of sexuality and gender identity has long been shown to be highly prevalent and damaging and exists at all levels. At the structural level, queer people have been subject to various laws and policies that seek to regulate their ability to marry; their access to health care, housing, and employment; and their achievement of a variety of other core human capabilities and needs.^{11,12,13} Public attitudes, too, are still far from completely accepting and affirming queer people.¹⁴ This hostile policy environment combined with stigmatizing public attitudes can manifest in harmful interpersonal interactions (e.g., bullying, heinously high rates of anti-trans violence and homicide) that further produce and reproduce stigma toward queer people.^{15,16}

Stigma across all of these levels has been shown to be internalized by queer people, leading to worse health and well-being despite positive trends in public attitudes toward queer people.^{17,18} It is important to note, though it is not the focus of this paper, that stigma toward HIV/AIDS and stigma toward sexual and gender minorities are and have been inextricably linked in complex, lasting ways.¹⁹ Although how stigma negatively impacts queer people's health and well-being is increasingly well

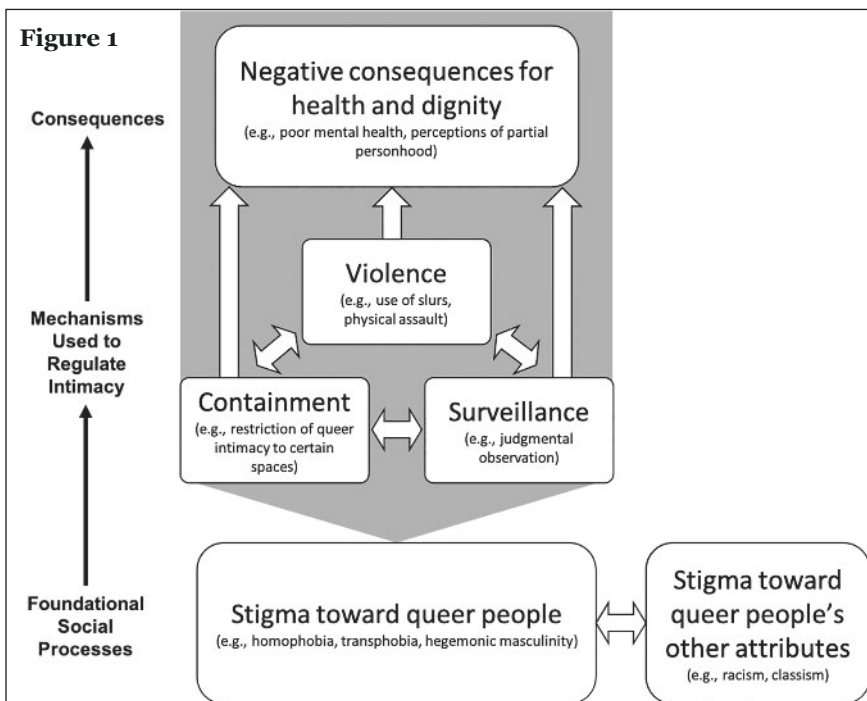
documented, its impacts on specific behaviors are largely neglected.

One behavior that is experienced differently between queer and non-queer individuals is the public expression of intimacy.²⁰ There are ways in which non-queer people can and do express intimacy with people of the same gender, but these sorts of intimacy are regulated by other specific, culture-specific sets of social rules and rituals.²¹ Queer people, however, exist and perform these behaviors in such a way that is not within these set social rules around gender and sexuality.²² In other words, because public expression of queer intimacy between queer people is a display of queerness—a way of being that is often socially deemed deviant or discrediting—and not within what is deemed to be socially acceptable, the public expression of queer intimacy between queer people can put queer people at high risk for experiencing stigma.²³

Even though it may seem obvious that expressing intimacy can elicit stigmatization, how exactly this occurs and how it is felt and experienced by queer individuals is not well known. Many stigma researchers will acknowledge that stigma is a “black box,” and its exact mechanisms can vary and elude understanding. In an attempt to shed light on this one small part of stigma’s various processes, queer individuals’ experiences with stigma—particularly when expressing intimacy—is further explored in the following qualitative data analysis.

CHARACTERIZING STIGMA’S REGULATION OF QUEER INTIMACY THROUGH QUALITATIVE METHODS

To begin to explore and characterize the potential mechanisms through which stigma regulates queer intimacy, this



section draws on qualitative data from six semi-structured interviews with queer-identifying individuals and an ethnography of a New York Public Library-sponsored event in April 2019 entitled “Intergenerational Queer Friendship: A Community Conversation.” Data collection, management, and analysis details are described in Appendix I. Limitations to this methodology are discussed in Appendix II.

Three salient mechanisms by which stigma regulates the expression of queer intimacy emerged from a thematic analysis of the data. Two mechanisms—surveillance and containment—were made explicitly clear as ways that participants saw stigma operating on and around them. The third mechanism—violence—is well represented in the literature and emerged infrequently in the data, but it was not explicitly labeled by participants as a stigma mechanism. These three mechanisms operated independently and interactionally to generate feelings of being watched, perceptions and experiences of being relegated to specific spaces, and fear of encountering violence—all of which together served to restrict and regulate participants’ expression of intimacy. A schematic of these mechanisms is depicted in Figure 1.

Mechanism One: Surveillance

A concern mentioned by all queer individuals interviewed was surveillance.²⁴ Participants reported distress about being specifically watched (i.e., surveilled) not only when existing generally but especially when with a partner. While going about their day-to-day alone or with other queer individuals, participants reported concern about being labeled as queer and subordinated through surveillance, about being “watched for being different.” One participant directly attributed this feeling of being

othered as tied to people’s gaze:

That’s why I generally dress in more muted colors. I don’t like to draw people’s attention to me, and . . . for two men to hold hands walking down the street—[in many places] that will draw a lot of attention [. . .]. [People would] be like, “Oh! What are they doing?”

Not only were these participants anxious about being watched, they changed their behaviors accordingly. They reported avoiding going outside in the daytime so they are not as visible or wearing muted colors to avoid attention—or, as one participant put it, “I make sure that I appear normal, to sort of be [. . .] an anomaly is one thing I don’t like.”

Sometimes queer people’s concerns around surveillance are compounded by non-queer-specific fears of surveillance related to being seen as a vulnerable member of any number of stigmatized populations. One older adult at the community event who identifies as a “butch lesbian” described how—in her youth—she began altering her gender presentation by binding both as a way appear more “masculine” to the public when with a female-presenting partner to more freely express intimacy (i.e., so that they would appear as a heterosexual couple) and as a way to resist experiencing female-targeted assault while experiencing homelessness as a teenager in the West Village neighborhood of New York City.²⁵ Moreover, surveillance can be a concern throughout one’s life. This same participant has continued to bind to this day and explicitly attributed that behavior more to an ongoing concern of being seen as queer rather than her own desire around her own gender presentation:

Whether I was with [a partner] or

not, I bind. This is what I do, this is how I've looked forever, and [even though I bind] I'm still always feeling watched for being different, always looking over my shoulders.

The hesitancy to express queer intimacy—which may be a rare occurrence—seems to be situated in a larger overarching concern of surveillance of daily existence. Queer people are already concerned about public perception due to a history of discrimination, violence, and harassment queer people have endured, and participants articulated how doing something that would make their queerness more obvious (i.e., expressing queer intimacy) seems to only elevate the chance that their identity would be perceived by stigmatizers and thus raise the possibility of negative subsequent consequences (e.g., containment, violence—below).

Mechanism Two: Containment

The second of the two mechanisms that emerged from the qualitative data is containment.²⁶ All six interviewees suggested that there are indeed places and spaces where they are perfectly comfortable with expressing queer intimacy or their queer identities more generally—largely ones that have been made by or for queer people. Participants explained how these spaces in which queer intimacy is comfortably expressed exist in direct contrast to public spaces, where the ability to freely express queer intimacy may be uncertain because of default expectations of cisheteronormativity and associated stigmas. This paper names this phenomenon of queer intimacy being permitted to freely occur only in specific places as *containment*.

The most frequently mentioned of these places where queer intimacy is contained are gay clubs or bars. One participant

described the expression of intimacy being so much of a non-concern in gay clubs that he finds himself being intimate with other queer individuals without necessarily intending to be:

If you go to a club, you're gonna dance [. . .]. They're always very crowded so you're going to be—depending on the type of club—always touching other people, and it is for sure intimate sometimes and it for sure feels good.

Participants described little to no hesitation in expressing queer intimacy in queer nightlife, and this seems to be attributed to the characteristics of the clubs or bars themselves, including the lack of daylight and space and the presence of loud music and inhibition-reducing substances.²⁷ Another participant further described what may drive the expression of intimacy in a gay club and make it different than public space:

[A person in a club would] probably be more encouraged by alcohol and tight spaces and loud music and . . . the night [laughs]. I'd say those things combined make a gay club a place where a lot of intimacy happens—in the open.

But specifically queer spaces are not the only places that queer intimacy can occur freely, and other places are sought out. As one participant noted:

I grew up in small town in Ohio, and I knew all the [people who were queer] and we didn't have a space to feel ourselves except in each other's homes. So people's houses—that's where we'd go and sometimes cuddle, not even if we are dating, just so we can have some physical touch.

Here, in a sentiment echoed by other

participants who had spent time in places where queer-designated spaces were not available, (re)claimed queer-friendly private spaces seem to offer a place to gather for queer individuals in which they can “feel [like] themselves” and express platonic or non-platonic intimacy. Notably absent from these places is the concern of surveillance; gay clubs and bars and people’s homes (and certain parks and cities such as San Francisco mentioned in other interviews) all lack the heteronormative gaze. Being in a contained place where you are not surveilled seems to allow queer intimacy to be freely expressed by those who want to express it.²⁸

Mechanism Three: Violence

An additional mechanism much more represented in the literature than in the qualitative data is violence. It is necessary to include a discussion of the violence—both verbal and physical—that is often directed at the queer community; the previously discussed mechanisms of surveillance and containment may make the stigmatization of queer individuals seem unduly passive. In fact, there are concerns of experiencing violence underlying both of the other mechanisms; if one is seen expressing queer intimacy by the wrong person or in the wrong place, they are at high risk of violence.²⁹ This risk of violence is not only incurred when expressing queer intimacy with a partner, but also for otherwise “doing gender” or sexuality in a way that is seen as incorrect.³⁰

The concerns about violent confrontation were largely absent from the qualitative data—save for one mention about being scared about being “beat up” for being visibly queer during the community conversation, which was met with many assenting nods. This omission could be due to a changing focus of queer resistance (i.e.,

a shift from anti-establishment to assimilationist), the age of the interviewed participants (the one mention was from a person who appeared to be in their mid- to late-sixties, who may have experienced more violence in past decades), and/or an unwillingness to disclose fears and experiences of violence during an interview.³¹

POSITIONING STIGMA’S REGULATION OF QUEER INTIMACY AS A HUMAN RIGHTS ISSUE

As seen in the current literature and the qualitative data collected here, there is indeed a disparity in the ability to express public intimacy between queer and non-queer individuals. These data have revealed how stigma, in large part due to surveillance and concerns about violence, contains queer intimacy to certain places and limits its expression. This is an affront on queer individuals’ rights. This restriction on the expression of intimacy exacerbates already-existing disparities between queer and non-queer populations’ ability to maintain health and infringes on queer people’s dignity—two concepts defended by the Universal Declaration of Human Rights (UDHR). Article 25 of the UDHR defends the right to health broadly, stating that “[e]veryone has the right to a standard of living adequate for the health and well-being of himself (sic) and of his (sic) family.”³² Furthermore, the document in its entirety rests on the assumption of an “inherent dignity” that is and should be “equal” that exists for all people.³³

Maintenance of Health

The stigmatization of queer populations and its restriction of the expression of queer intimacy prohibits the full realization

of the right to health. Public health and social science research has drawn associations between stigmatization and lowered health indicators across dozens of conditions, leading stigma to have been proclaimed a fundamental cause of health inequities in the *American Journal of Public Health*.³⁴ Narrowing in on stigma's effects on queer individuals, studies have shown that there is stigmatization of queer individuals on multiple levels, largely in the interpersonal (relevant to the surveillance and violence mechanisms) and structural (relevant to the containment mechanism) domains that all lead to poorer health.³⁵

Operating on the interpersonal level, surveillance keeps queer individuals from expressing intimacy in sight of others that may hold stigmatizing views in the same places where non-queer individuals would be able to express intimacy. The sorts of behavioral regulation reported by the participants may begin early in life and may go further than just dressing or doing things differently. A 2008 study found that young queer individuals (aged 16–25 years) in the northwest of England and South Wales not only took steps to appear less visibly queer but also often engaged in self-harming or suicidal behavior as a means to cope with minority stress.³⁶ This example makes it clear that not having full freedom of expression—including expression that might label someone as queer, such as expressing queer intimacy—can affect queer individuals throughout their lives and have serious and sometimes fatal health consequences. Stigma and the surveillance it employs generate and exacerbate health disparities for queer people.

Operating on the structural level, containment has also been shown to have its own negative impact on queer individuals'

health. At the political-geographic scale, states with less LGBTQ-favorable policies have queer populations with worse health indicators than states with more LGBTQ-favorable policies.³⁷ This constrains queer people from having the full ability to achieve health unless they are in certain places. More granularly, on the hyper-local level, as suggested by the qualitative data, queer intimacy is confined to queer or queer-friendly spaces such as queer clubs, bars, or private residences. Clubs and bars could also facilitate substance use (e.g., drinking alcohol, the use of illicit substances) that in turn raises the risk of unwanted sexual activity. This adds a sexual health concern to the mental health one; stigma may relegate queer intimacy to spaces that diminish queer people's capacity for maintaining sexual health. Through the mechanism of containment, too, the realization of the right to health is limited by the stigmatization of queer intimacy.

Maintenance of Dignity

These health indicators are relatively easy to measure, but health is not the only rights-based concept that stigma's regulation of queer intimacy negatively affects. Although perhaps more abstract than quantifiable health indicators, stigma's regulation of queer intimacy also damages queer individuals' dignity. Martha Nussbaum gives perhaps the most impassioned argument of how any type of shame, including stigmatization as arguably one type of shame, is a direct affront on human dignity.

In her book *Hiding from Humanity: Disgust, Shame, and the Law*, Nussbaum expands on Julia Annas's conceptualization of shame that targets the whole person, stating that shame is especially likely to result in or from "a broken spirit."³⁸ The shamed, a category that includes the stigmatized (e.g.,

queer populations), end up having a persistent inability to form or recover a sense of wholeness—of dignity—as a result of society’s stigmatization of them.³⁹ When queer people are unable to be their full selves and achieve the full range of human capabilities—including intimacy—in the same un-surveilled, uncontained way without fear of violence as their non-queer peers, their dignity suffers.

But queer people are not the only population that should be concerned about this affront on dignity; Nussbaum also gestures toward the way stigmatization does not solely infringe on the rights of the stigmatized alone. Nussbaum and Goffman both posit a sort of feedback loop between denormalization and normalization—that the stigmatization of groups labeled as deviant enables a relative normalcy or non-deviance. In *Stigma*, “stigmatized individual” and “the person [the normal person] is normal against” are used interchangeably, equated.⁴⁰

Gender theorist Raewyn Connell explains stigma’s feedback loop, at least in the sphere of gender, as a mechanism by which the hegemonic maintains its domination—the normal is, in fact, toxic.⁴¹ Stigmatization of queer individuals and its regulation of the expression of queer intimacy, then, allows the normalization and persistence of an unhealthy hegemonic ideal of relationships that few—even non-queer people—can live up to and may therefore present a larger burden to society than what may be more immediately apparent. Stigmatization of queer individuals—including the restrictions it places on queer intimacy—is a human rights issue not restricted to queer populations, and it deserves swift and innovative policy action.

POLICY RECOMMENDATIONS

First, ratification, endorsement, and promotion of human rights could in and of itself be considered anti-stigma work. Human rights as a framework can be viewed as overly reliant on platitudes and something that results in little tangible benefit beyond surface-level change—or worse, extends an exploitative, hegemonic, Western, neoliberal system of power.^{42,43} Any way you look at them, however, human rights and stigma are both largely invisible and operate in complex ways on all levels from the most abstract to the most personal.⁴⁴ Thus, the recognition of the inherent humanity of stigmatized people (e.g., queer people) and their right to dignity is maybe the closest thing to the opposite of stigma available.

This piece does not seek to make grand or intricate claims about how human rights and stigma are interrelated except to say that acknowledging the human rights and personhood of queer people certainly does not increase stigma toward queer people and in fact likely decreases it. In intangible ways, attempts to recognize queer people’s human rights (e.g., the Biden administration’s “Memorandum on Advancing the Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Persons Around the World”) almost surely lessen the power differential between queer and non-queer people on which stigma relies, thus decreasing stigma by making it more difficult to carry out.⁴⁵ To think about possibly more tangible ways that stigma’s negative impacts on queer intimacy, queer people, and society can be mitigated, this piece’s three mechanisms via which stigma regulates queer intimacy offer at least three points that rights-focused policy can target.

Surveillance is likely the most difficult

mechanism of the three to address. Implicit in being stigmatized is being seen to be different, so one way to counter judgmental observation of queer people and queer intimacy would be to increase the frequency and complexity of depictions of queer people and queer intimacy in various forms of imagery (e.g., media, advertisements). This is ongoing; for example, there is an increasing number of queer characters—who then also sometimes express queer intimacy—on television shows.⁴⁶ These depictions are one small way to make the observation of queer people less judgmental and make surveillance a less harmful and effective mechanism. In addition to the interpersonal level, thinking about ways that policymakers and structures see queer people is essential in adjusting society's surveillance. Ways that increase and normalize the ways systems see queer people—such as including more inclusive questions around sexual orientation and gender on the US Census and other governmental and institutional forms—are needed to ensure that queer people are also seen at this level. Importantly, current efforts to increase visibility of and normalize the existence of all queer people are not equal across queer subgroups (e.g., visibility of trans, nonbinary, and gender non-conforming people is lagging)—nor across race/ethnicity, ability, and many other axes of difference.⁴⁷ These inequities must be recognized and corrected going forward to ensure that visibility is as effective as possible in reducing stigma toward all people.

Similar to surveillance, containment can be countered on both more interpersonal and more structural levels. Interpersonally, there are easy ways to signal that a place that may not be immediately assumed to be safe and inclusive of queer people and queer intimacy is, in fact, safe and inclusive.

Rainbow “Safe Zone” stickers adorn many teachers’ offices, and Pride flags are in the doors of many businesses and even churches, establishing them as places that will be proactively inclusive of queer identity and expression.⁴⁸ Even better for queer people and their ability to express intimacy than this “patchwork” approach to affirmation, however, are institutions and government making uniform, clear, unequivocal policies that queerness will not be a basis for exclusion.⁴⁹

Returning to the idea of LGBTQ-favorable state policies, working to ensure that all states have LGBTQ-favorable policies would be one way to counter queerness limiting individuals’ health and dignity wherever they choose to live. Unfortunately, just having uniform inclusive policies and procedures is not enough to ensure they are uniformly enforced in all settings. First, places in the United States are sorted into public and private, and protections extended to queer people in public places may not extend to private ones. Second, even if queer intimacy is not contained to certain places, surveillance is now ever-present and constant, and judgmental observations may still push queer people out of spaces where they are officially included.⁵⁰ Acknowledging how these mechanisms interact also reveals how acting on one mechanism alone will be insufficient.

Approaches to countering violence would have to occur mostly on the structural level. First, at perhaps the most abstract level, leaders’ condemnation of violence against queer people (e.g., Obama’s condemnation of the Pulse nightclub shooting) is important in that it communicates on at least some high level that violence against queer people is not accepted.⁵¹ Hate crime laws are another arena in which protections for

queer people could be extended. Although the federal government includes sexual orientation and gender identity in their hate crime laws, only 23 states, two territories, and Washington, DC, explicitly enumerate both sexual orientation and gender identity in their hate crime laws. Eleven states have hate crime laws that enumerate only sexual orientation, and 13 states' laws cover neither; three states and three territories have no hate crime laws, and one—Tennessee—interprets its hate crime laws to include sexual orientation and gender identity even though it is not explicitly included.⁵²

Efforts are underway, too, to repeal various laws and ordinances that are disproportionately used to arrest and detain trans people, especially Black trans people and those of color (e.g., the recently repealed “Walking While Trans Ban” in New York State).⁵³ Attempts to end bullying of queer youth—which is both highly prevalent and highly damaging—such as establishing Gay-Straight Alliances and similar programs have been finding some successes in reducing reported experiences of bullying and increasing perceived social support.^{54,55} These are only a few examples of the many ways violence will need to be countered to reduce stigma. Violence can occur wherever queer people are surveilled and even where they are contained to exist out of sight (e.g., nightclubs). Knowing that the pervasiveness of violence serves to advance stigma toward queer people in so many ways and in so many spaces underscores the need for a litany of policy responses to reduce violence in all settings.

CONCLUSION

Stigma toward queer people is prevalent, pervasive, and extremely harmful, and it limits equal and free expression of

intimacy—a core part of the human experience. Through a preliminary qualitative exploration, stigma was shown to regulate intimacy through the three highly interrelated mechanisms of surveillance, containment, and violence. Understanding these three mechanisms and their interrelations can inform policymakers' decision making regarding how policies do or do not address these mechanisms, how they may or may not be effective at reducing stigma, and thus how they may or may not improve the health and well-being of queer people in this way.

Seeing that both stigma and human rights operate on similar macro levels, advancing human rights can also be a guiding approach for how to best counter stigma across all three mechanisms. Looking at these stigma mechanisms through a human rights lens prompts key strategies of affirming the human rights of queer people; increasing the visibility of queer people; working to ensure equal, consistent policies around queer inclusivity in and across all places; and working against violence against queer people on all of the many fronts it occurs. Finally, these strategies closely mirror what has been done and urged by queer activists for decades, and this analysis and framework is meant to bolster their long-standing work and hard-won gains from yet another angle.⁵⁶ Human rights-informed policymaking grounded in lived experiences and realities of stigma will help make it easier for queer people to lead the dignified, freely intimate lives they deserve.

Appendix I: Data Analysis

Data Sources

Data was collected over a two-month period in 2019 by a researcher (author of paper) trained in qualitative methods and

who identifies as queer. The interviewer's queerness was deemed important for eliciting candid narratives from queer participants and was thought to mitigate concerns regarding social desirability when talking about what, for many, is a sensitive topic. The data consisted of six qualitative interviews from six queer individuals ranging in length from 20 to 45 minutes and an ethnography of a two-hour New York Public Library-sponsored event entitled "Intergenerational Queer Friendship: A Community Conversation." The individuals interviewed were known either first- or second-degree by the author. Qualifications for participation were i) to self-identify as queer (anywhere on the LGBTQ+ spectrum), ii) to be over 18 years of age, and iii) have had a romantic relationship with another queer individual at some point in their life. If the respondent met these three criteria, an in-person interview was scheduled at a place negotiated by the respondent and author. The participants interviewed range in age from 22 to 29, and the participants in the community event (n=18) are estimated to range in age from 22 to 75.

Data Management

All interviews were audio-recorded and transcribed verbatim by the author. All interviews and transcriptions were entirely in English. In order to account for the differentially abled bodies of the interviewees, the transcriptions were solely of the words spoken—gestures and movements or lacks thereof were not recorded or included in the analysis. All interviews were de-identified following transcription, labeled only by the number of the interview in the order of its being conducted, and files were kept on a password-protected personal laptop in order to protect confidentiality of participants.

Field notes from the community event were jotted on the author's cell phone and consisted of general themes discussed and on occasion, specific quotes. No identifying information was recorded in these field notes.

Analytical Technique

Seeing as little is known in the literature about the experiences of the expression of queer intimacy, interviews were conducted to elicit narratives that could then be coded in order to identify common themes of these experiences. To this end, the analysis performed is confirmative in that it was hypothesized *a priori* that experiences of stigma play a decisive role in determining comfort with expressing queer intimacy, but exploratory in that the exact contributing factors that generate or enforce these experiences of stigma are unknown.

Interviews were coded through an adapted applied thematic analysis. It was immediately apparent that the narratives elicited from the participants were not linear, but they were grouped largely into descriptions of times and places where they felt either i) comfortable expressing intimacy or ii) uncomfortable expressing intimacy. Moreover, there seemed to be two categories of participants: those who viewed themselves as people who are physically affectionate in public and those who are not. In order to account for these two groups of participants and two main categories of places, participants were first inductively separated into intimate (n=3) and non-intimate (n=3) pools based on expressed base-level personal comfort with expressing intimacy. Then, sections of each interview were first axially coded for either the comfort or discomfort domain. Then, within these sections of interview, contributing factors to either domain were deductively identified

and coded for (e.g., “social acceptance” in the section labeled with the comfort domain, and “verbal harassment” in the discomfort).

Appendix II: Limitations

This study has its limitations. Perhaps the most limiting is that the age range of the interviewees is only from 22 to 29. Since public attitudes toward the acceptability of public queer intimacy have experienced significant shifts over time, it is likely that older generations would have substantially different views and responses regarding the questions asked that were not well represented in our data or analyses. Although this was attempted to be corrected through the ethnography of the community event, this limitation could be further addressed through a follow-up study that seeks to compare the views and opinions across two or more generations of queer individuals.

Another important limitation is the sensitivity of the research topic itself. The sensitive nature of discussing displays of intimacy with a stranger (i.e., the interviewer) could create inaccuracies or gaps in the data given. Steps were taken to mitigate this potential limitation (by ensuring the interviewer was queer) but other steps, such as conducting multiple interviews over time on various subjects to build rapport, could further improve the data collection.

Essential, too, is to recognize that this paper has largely only addressed the issue in the US context. Rights organizations have already been at work in extending the scope of the rights of queer individuals in so many domains, but in many other countries, queer relationships and queer intimacy are both much more restricted and in some cases punishable by death.⁵⁷ It could be expected, then, that the negative effects experienced by queer individuals in the

United States where it is technically legal to express queer intimacy in public would be wildly exacerbated in contexts where it is outright illegal.

Endnotes

1 In this piece, *intimacy* is referring specifically to the performance of any intimate action (e.g., kissing, handholding, even a prolonged gaze) that would suggest a non-platonic relationship between two individuals that occurs outside the private sphere (e.g., on the street, in public institutions, in restaurants or bars). In limiting intimacy like this to “public affectionate behavior,” this piece departs from other definitions of *intimacy* or the *intimate* in law and policy, which are often much wider and include concepts such as reproductive rights and marriage rights. These are also regulated by stigma for queer populations and worth continued investigation but are not the focus of this brief piece.

2 In this paper, the term *queer* is used as an umbrella term encompassing all individuals on the LGBTQIA+ spectra. It is not meant to be exclusionary or to refer to any particular subset of this population, but rather as a shorthand for a population consisting of anyone whose sexual behavior, sexual orientation, gender expression, or gender identity is not strictly heterosexual or cisgender. This generality is also used in part because observers of queer intimacy often simply see deviance from established heterosexual and cisgender norms and do not always differentiate in their reactions based on the particular identities or expressions of the individuals who are being intimate.

3 Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* (New York: Simon & Schuster, c1986).

4 Goffman, *Stigma*.

5 Edward Ellsworth Jones, ed., *Social Stigma: The Psychology of Marked Relationships* (New York: W.H. Freeman, 1984).

6 Bruce G. Link and Jo C. Phelan, “Conceptualizing Stigma,” *Annual Review of Sociology* 27 (2001): 363–85; Bruce G. Link and Jo Phelan, “Stigma Power,” *Social Science & Medicine: Structural Stigma and Population Health* 103 (2014): 24–32, <https://doi.org/10.1016/j.socscimed.2013.07.035>.

7 John E. Pachankis et al., “The Burden of Stigma on Health and Well-Being: A Taxonomy of Concealment, Course, Disruptiveness, Aesthetics, Origin, and Peril Across 93 Stigmas,” *Personality and Social Psychology Bulletin* 44, 4 (2018): 451–474, <https://doi.org/10.1177/0146167217741313>.

8 It is the requirement of a power differential that is posited to distinguish stigma from shame. Although stigma and shame are related concepts, it is important to distinguish the two, especially when discussing the public expression of intimacy. A visibly heterosexual couple may feel shame when expressing intimacy in public, but their action is not (typically) deviant—no power differential is invoked. An interracial couple, say, or a visibly queer

couple could experience stigmatization when expressing intimacy in public since they are acting in a way that subordinates them to the hegemonic heteronormative ideal of relationships as consisting of two people of different sexes, different genders, and in many cases, the same race or ethnicity.

9 When asking questions about how stigma is most directly experienced by the individual, the frequently used categories of enacted stigma and self-stigma are perhaps the most useful. *Enacted stigma* is the explicitly expressed form that involves both the stigmatized and stigmatizer (e.g., verbal or physical harassment, discrimination), and self-stigma (also, internalized stigma and felt stigma) is the perceived, internalized form of stigmatization perceived exclusively by the stigmatized.

10 For a new integrated framework, see Anne L. Stangl et al., "The Health Stigma and Discrimination Framework: A Global, Crosscutting Framework to Inform Research, Intervention Development, and Policy on Health-Related Stigmas," *BMC Medicine* 17, 1 (2019): 31, <https://doi.org/10.1186/s12916-019-1271-3>

11 Gregory M. Herek, "Anti-Equality Marriage Amendments and Sexual Stigma," *Journal of Social Issues* 67, 2 (2011): 413–426, <https://doi.org/10.1111/j.1540-4560.2011.01705.x>.

12 Sean Arayasirikul, Erin C Wilson, and Henry F Raymond, "Examining the Effects of Transphobic Discrimination and Race on HIV Risk among Transwomen in San Francisco," *AIDS and Behavior* 21, 9 (2017): 2628–2633, <https://doi.org/10.1007/s10461-017-1728-3>; John Frank et al., "Unmet Health Care Needs Among Young Transgender Women at Risk for HIV Transmission and Acquisition in Two Urban U.S. Cities: The LifeSkills Study," *Transgender Health* 4, 1 (2019): 1–8, <https://doi.org/10.1089/trgh.2018.0026>

13 Gregory M. Herek and Society for the Psychological Study of Lesbian and Gay Issues, eds., *Stigma and Sexual Orientation: Understanding Prejudice against Lesbians, Gay Men, and Bisexuals*, Psychological Perspectives on Lesbian and Gay Issues, v. 4 (Thousand Oaks: Sage Publications, 1998).

14 Daniel C. Lewis et al., "Degrees of Acceptance: Variation in Public Attitudes toward Segments of the LGBT Community," *Political Research Quarterly* 70, 4 (2017): 861–875; Mark L. Hatzenbuehler, Andrew R. Flores, and Gary J. Gates, "Social Attitudes Regarding Same-Sex Marriage and LGBT Health Disparities: Results from a National Probability Sample," *Journal of Social Issues* 73, 3 (2017): 508–528, <https://doi.org/10.1111/josi.12229>

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Out of the Tubs, and Into the Streets!

Tracing the History of Bathhouse Regulations in San Francisco, CA

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ABSTRACT

In 1984, San Francisco in effect banned bathhouses in a fear-based response to the raging AIDS epidemic. Despite San Francisco being a progressive leader in the fight against HIV, these venues remained closed for over 36 years, even as our scientific understanding of virus prevention evolved. The persistence of these regulations, despite advances in contemporary scientific understandings of HIV transmission, exemplify how long fear-based regulations can last and serves as a reminder that it usually requires a concerted effort from community activists to see changes made when science and policy do not align.

In 1984, San Francisco effectively shut down gay bathhouses in a desperate attempt to curb HIV transmission, assuming that these venues create what is presently referred to as “super spreader events.” Despite changes in the global understanding of HIV and scientific advances in medication, these cultural centers remained effectively banned for over 36 years.¹ These closures illustrate a fear-based reaction that resulted from a limited knowledge of HIV. Given PrEP and a deeper understanding of the mechanics of

transmission, society can now take proactive steps to arrest the spread of the virus. In 2020, this new understanding of HIV transmission—aided by pointed advocacy and community engagement—finally opened the door for bathhouses to return when Supervisor Raphael Mandelman introduced a measure to lift the ban that the city’s Board of Supervisors ultimately approved. This paper will tell the story of advocacy that led to a better alignment of city regulations with contemporary scientific and community practices, and argue that, when properly operated, bathhouses assist, rather than impede, efforts to control the transmission of HIV, as well as other STIs.²

Following this introduction, I will detail the history of bathhouses within San Francisco and the broader gay community, then examine the arguments that were initially made in favor of the closures. I will then examine the steps taken in the past several years to finally counter these arguments and reverse the ban in city regulation. As I hope to illuminate, these decisions were emotional and driven by fear; however, given current knowledge of the science around transmission, city officials were able to revisit this issue—setting a precedent that any policies that regulate

LGBTQI+ sexuality based on fear of HIV should be revisited through the lens of current practices.

THE SIGNIFICANCE OF BATHHOUSES IN GAY MEN'S CULTURE

While bathhouses have existed throughout history, they only solidified as gay institutions within the last century. Early American bathhouses evolved out of traditional 1920s and '30s Turkish and Russian baths, which offered communal hot tubs and showers to all men.³ Gay bathhouses, in contrast, distinguished themselves from these venues by permitting sex among members and by offering food, entertainment, and private rooms. Despite most jurisdictions criminalizing sex among men, these early bathhouses catered to a mixed male clientele, serving those seeking social networking as well as providing a space for anonymous sexual encounters. Bathhouses also offered patrons rooms with locking doors, a key feature distinguishing these venues from sex clubs. Membership was driven by a common desire to engage with other members, while other similar venues operated as brothels, where membership was a means to sex with employees.

The first American gay bathhouses comparable to what we see today opened in the 1950s and '60s and exclusively centered the social and erotic needs of gay men.⁴ Some offered full restaurants and nightclub entertainment in addition to fitness equipment and saunas. It was not uncommon for bathhouses to host theme nights or book singers (Bette Middler, for instance, found early success performing in these venues).⁵ The baths provided refuge from the outside

world and an alternative to expensive hotel rooms and public cruising, which although a fun sport, carries high risk for violence, blackmail, and police involvement. As Berubé argues, bathhouses preceded the gay rights movement by providing men a social setting to assemble that incorporated established health and safety policies—what some today would label a “safe space” to be gay.⁶

While these pioneering venues provided some safety to build community, early patrons were still subject to harassment by police, with bathhouse owners, staff, and patrons all risking violence, arrest, and public outing. Same-gender sex did not become federally legal until 2003, when the Supreme Court held in *Lawrence v. Texas* that private consensual conduct between people of the same gender is legal. It was a state issue before this, and each state could define which sexual acts were prohibited. In California, before 1976, all sex acts between men were considered “illegal as ‘crimes against nature,’” regardless of whether the act was public or private.⁷ Any person—a landlord, a neighbor, an employer, or even a stranger—could involve the police, making it so that “all sex acts between men were . . . illegal, [and] gay men were forced to become sexual outlaws.”⁸

Once the Consenting Adult Sex Bill decriminalized sodomy in California in 1976, the baths increasingly functioned as cultural centers “that could both shape and respond to the rapid social, sexual, and political changes that were taking place” by providing gay men an opportunity to specifically interact with other gay men.⁹ Although men could no longer be prosecuted, they still faced harassment by police given that the privacy afforded by the baths

was disputed. It was not until 1978 that the San Francisco District Attorney finally emphasized, “There’s no question this (bathhouse) was a private place,” in response to a raid at the Liberty Baths involving three arrests. However, bathhouses would soon face a new form of regulation.

THE BATTLE OVER THE “GAY BATHHOUSE” EXPERIENCE

Despite police mistreatment, bathhouses endured and grew as cultural centers for San Francisco’s gay community until 1984. However, on March 27, at a meeting of the Harvey Milk Democratic Club, Larry Littlejohn, founder of the homophile organization Society for Individual Rights, introduced a municipal ballot initiative that aimed to close down the baths as a response to the raging AIDS epidemic.¹⁰ Larry was a sex venue owner himself, yet he endorsed the initiative, which held particular weight in the community.

The following morning, a local gay newspaper published an article titled “Pride

Founder Will Circulate Stop Sex Petition for Ballot,” spreading panic and forcing city officials and community members to formulate a public response to the proposed closures.¹¹ This editorial sparked community outrage, including a *Letters to the Editor* section spanning over three pages. Many in the community resisted the initiative and particularly singled out Littlejohn as “Little Brain,” “Judas Little John,” and “the hemorrhoid on the asshole of the gay community”—with the final comment coming from the owner of another prominent San Francisco bathhouse.¹²

Before this initiative qualified for the November ballot, Dr. Mervyn Silverman, head of San Francisco’s Department of Public Health (SFDPH), held a press conference asserting that the Department would not close the baths, despite political pressure from Mayor Dianne Feinstein.¹³ The conference attracted many protestors, including men in towels shouting, “Out of the tubs, and into the streets” and “Today the tubs, tomorrow your bedroom.” These protestors highlighted a legitimate fear of



gay criminalization and government intrusion into their private conduct, especially given the years of police mistreatment many had endured.¹⁴ Meanwhile, despite this public promise from Silverman, Mayor Feinstein surreptitiously ordered San Francisco police officers to begin surveilling bathhouses to report on the sexual activity of gay men.¹⁵ By September 1984, the public became aware of Mayor Feinstein's spies, which sparked outrage and shattered any lingering trust of government and police.

Feinstein's actions can be placed in a broader context of fear of the spread of HIV in the mid-1980s. In June of 1984, San Francisco reported 550 AIDS cases and 213 deaths. The CDC had little to offer, and President Reagan did not publicly mention AIDS until September 1985. This lack of leadership at the federal level resulted in state and local organizations being left on their own to formulate strategy. Unfortunately, and as Feinstein's spy tactic makes clear, in many cases this simply meant articulating fear at the local level by targeting spaces associated with gay sexuality.

The spy controversy inspired significant advocacy, including an independent review of bathhouse safety procedures by local newspaper *Coming Up!* and a statement from the San Francisco Human Rights Commission condemning the closures. HRC exclaimed that "health professionals cite types of behavior and not location in the transmission of AIDS," and the *Coming UP!* investigations normalized health guidelines prescribed by the San Francisco AIDS Foundation (namely minimum lighting requirements, prominent prevention literature, and PA system announcements promoting safer sex).¹⁶ The baths were a hub for outreach and education, especially for

underserved communities, including closeted men who were otherwise disconnected from gay culture. However, Feinstein, at the direction of the City Attorney, continued to sanction further surveillance, this time hiring a private firm to report back on observed conduct.

While Silverman initially opposed Feinstein's spies, he was shocked when city investigators reported the types of sexual activity that were taking place at the baths. One reporter noted that "Silverman had no doubt of what course of action he would take, since just about every type of unsafe sex imaginable, and many variations that were unimaginable, were being practiced with carefree abandon."¹⁷ Shortly thereafter, Silverman ordered the closure of the baths and several other establishments where gay men partook in sex and reviewed them by name, stating, "these fourteen establishments are not fostering gay liberation. They are fostering disease and death."¹⁸

Unsurprisingly, Silverman's orders were initially ignored, prompting the city attorney to file a complaint with the California Superior Court, requesting a temporary restraining order against the 14 venues that was supported by 85 pages of the second surveillance report (Feinstein's surveillance report was never made public). Judge William Mullins granted this request and decided to enjoin the bathhouses; on October 15, 1984, he issued an order closing nine venues for 15 days, exempting the adult bookstores and theatres on free speech grounds. In responses, many leading organizations released statements asserting that there was "no correlation between the risk of acquiring the disease and bathhouses" and insisting that closing them "sends out the wrong message that government has

finally done something effective and conclusive [when] . . . it has not.” However, these complaints were ignored.

On November 28, a subsequent preliminary ruling functionally closed all venues operating as bathhouses. While the judge’s final decision never outright banned bathhouse venues, it instead prohibited the key feature of private rooms with locking doors and additionally added monitoring requirements for safe sex. The injunction specified that it was to remain in effect until the SFDPH Director “declare[s] the AIDS epidemic to be terminated.”¹⁹

It is important to highlight that these venues were functionally closed as a result of judicial ruling. A heterosexual judge with no gay advisory committee determined what was an acceptable venue for men who have sex with men. The decision did not reflect the expertise of health care providers, specialists, or doctors, nor did it create public policy or legislation. At first, this ruling only enjoined specific venues; however, in December 1984, the injunction was modified to grant the Director of Public Health power to define the term *unsafe sex*. In 1989, the City dismissed the lawsuit against the majority of defendants, vacating the court order prohibiting private rooms.²⁰ However, in 1997, the SFDPH codified the same locked door and monitoring requirements, published in a set of minimum standards applicable to all baths, which remained in force until 2020.²¹

CURRENT LEGISLATION AND MODERN SAFER SEX PRACTICES

Since this ruling, there have been several efforts to re-open the bathhouses; however,

the movement to “reopen the baths” has to some degree been based on a misunderstanding or oversimplification of the actual legal issue, since bathhouses were never prohibited, only private rooms. Even when activists have correctly made this distinction, San Francisco’s political and health leadership has largely refused to entertain a dialogue with community activists because HIV infection rates in the city remained high.²² In particular in 1996, Mayor Brown and the SFDPH opposed legislation sponsored by Supervisor Ammiano to “re-open” and regulate the baths due to the high infection rates.²³

However, city inaction continued even as infection rates fell, despite San Francisco “[leading] the way in setting standards for prevention, care, and treatment recognized around the world.”²⁴ Multiple studies around PrEP, a daily HIV preventative pill, took place in San Francisco, and in 2014, the “Getting to Zero” program—a city-wide consortium focused on getting to zero HIV infections, zero HIV-related deaths, and zero HIV stigma and discrimination—effected PrEP expansion, access to free testing, and outreach that promulgated understanding of the message: “Undetectable = Untransmittable” (U=U).²⁵ (U=U means that an HIV-positive person with an undetectable viral load cannot transmit the virus.) The program’s goals of reducing San Francisco’s infection rate to zero has seen significant success, with only 166 new HIV diagnoses being reported in the city in 2019.²⁶

With decreasing numbers have come more vocal community enthusiasm to remove the restrictions, bolstered by activists such as Blade Bannon, Race Bannon, and myself. This enthusiasm ultimately

emboldened District 8 Supervisor Raphael Mandelman to submit an initiative to the Board of Supervisors on February 11, 2019, to remove the locked door and monitoring requirements.²⁷

When Supervisor Mandelman assumed office in 2018, it quickly became clear to him that the existing restrictions no longer made sense. His focus on modern HIV prevention, married with the rising success of the 'Getting to Zero' initiative, opened the door for conversations between community activists, city supervisors, and the city health department. As Mandelman has noted, "[T]hese regulations have long outlived any usefulness they may have had."²⁸ Given that other bathhouses located in nearby cities, such as Steamworks Berkeley and the San Jose WaterGarden, have remained open all along, they present comparison points and have provided no evidence to suggest there is a greater risk for HIV infection at public sex venues than other locations. With a better understanding of HIV, fear-driven logic became scientifically ineffective despite its lasting trauma on the city. As activist Michael Petrelis notes, "gay men . . . naively believed *where* we engaged in sex was a risk associated with AIDS," then specified that "there is no scientific evidence proving bathhouses, or sex clubs, are more responsible than hotel rooms or bedrooms for gays contracting AIDS."²⁹ Initially, locked doors were prohibited to monitor safer sex, namely observable use of condoms, but the advent of PrEP and U=U have made it impossible for "safer" sex to be monitored or observed, for these preventative measures frequently occur off site.

In 2019, Supervisor Mandelman, with the support of District 6 Aide Honey Mahogany, City College Board Member Tom

Temprano, and representatives from the SF Public Health Department, organized private meetings with key stakeholders of San Francisco's adult sex venue to determine the best course of action. At these meetings, the DPH and stakeholders discussed key issues not only in relation to sex at baths, but also sex at various venues, including bars, clubs, and private events. They acknowledged that the baths have provided a safer and private place for all gay men to congregate without fear of violence or heteronormative social consequences and that, in particular, baths provide access to queer spaces to young men between the ages of 18 and 20 who are prohibited from entering bars and clubs. As Mandelman explains, "[B]y creating spaces where people can have sex, you create spaces for education and testing [. . .] meeting in a community place where there is education around PrEP and safer sex is a form of harm reduction."³⁰

Initially these talks were meant to formalize a new regulatory framework for bathhouses; however, fearing that an overly complicated regulatory structure would add additional barriers to the baths, this idea was scrapped. Instead, in February 2019, Supervisor Mandelman introduced an ordinance that would direct the SFDPH to revisit the minimum standards and prohibit them from requiring monitoring, regulating door size, and prohibiting locks.³¹ He argued that:

[O]ur current regulations for adult sex venues were put in place as an emergency measure at the height of the AIDs crisis when San Francisco was desperate to slow the spread of HIV/AIDS [. . .] including a ban on private rooms and required monitoring of patrons' sexual activity

have no public health rationale and need to be changed.³²

After hearing public comment from the community, the board of supervisors voted unanimously in favor, leaving the final decision to Mayor London Breed, who signed the ordinance on July 31, 2020. The ordinance has drawn some pushback with some believing it irresponsible to legalize a bathhouse during the current COVID-19 pandemic. However, Mandelman has responded to these assertions that “we’re not shutting down schools and restaurants, and opening bathhouses [. . .] we’re legalizing them to be able to open when it is safe.”³³

Although San Francisco is a progressive leader in the fight against HIV, the persistence of these regulations even beyond advances in contemporary scientific understandings of HIV transmission exemplify how long fear-based regulations can last. More straightforwardly, this serves as a reminder that as our understanding of the virus shift, policies do not automatically update; rather, it usually requires a concerted effort from community advocates to see these changes made. While bathhouses will remain closed until COVID vaccines become widely available, the issue allows us to examine how we can be using queer spaces differently.

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Taking off the ‘Masc’

How Gay-Identifying Men Perceive and Navigate Hyper-Masculinity and “Mascing” Culture Online

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Zander Granath is a 23-year-old graduate of Occidental College currently living and working in snowy Bozeman, Montana. As an undergrad, Zander studied the intersection of sociology and politics with a focus on gender studies and masculinities. This article on “mascing” is an adaptation of his senior thesis, which received the Douglas McAdam ’73 Award for best sociology thesis. Since graduating from Occidental, Zander has spent his time lobbying for more equitable healthcare legislation as the health policy intern for the Utah Aids Foundation and by working on Senator Steve Bullock’s campaign in Montana. In his free time, Zander enjoys trail-running, backcountry skiing, and playing pond hockey.

ABSTRACT

Drawing on 21 qualitative interviews with gay identifying men (ages 18–23), this paper explores how gay men navigate hyper-masculinity and “mascing” culture online.¹ Mascing is a pattern of behavior amongst gay men online where men will exaggerate one’s masculine traits and suppressing one’s feminine traits. I extend Erving Goffman’s dramaturgical framework to analyze how these gay men manage their online (front stage) and offline (back stage) presentations and, furthermore, how these gay men view their own authenticity online. These interviews reveal the overwhelming recognition of mascing culture online, the persistence of discrimination in the LGBTQ community, and the strategies that gay men use to navigate mascing culture online.

INTRODUCTION

The proliferation of gay online spaces and the opportunity they present to experiment and explore one’s own sexual identity have made online platforms increasingly

significant in the social, romantic, and emotional lives of gay men.² For many gay men, online spaces serve as sanctuaries to meet other gay men, experiment with their personal identity construction, and cultivate gay communities. Some scholars have researched how the internet, specifically social media platforms, have helped to normalize queer identities.³ The anonymous and disembodied nature of online engagement has created new opportunities for individuals who are questioning their sexual identities to explore and experiment with their own identities.^{4,5} Online platforms that provide social networking opportunities for gay men have transformed from simple forums and websites into sophisticated and highly popular apps like Grindr, Scruff, and Jack’d.⁶ These modern apps have been called “hybrid media” because they blend the offline and online experience of users and complicate the distinction between the offline and the online self; they provide gay men with the possibility of turning digital sexual exploration into physical sexual encounters.⁷

Applications that provide men

opportunities to foster relationships that extend into the offline world have exploded in popularity with recent studies showing that over 75 percent of MSM (men seeking sex with men) reported some or frequent use with dating apps and that gay men use these apps more frequently than their heterosexual counterparts.^{8,9} Unfortunately, not all users are able to enjoy these online spaces equally. Much of the homophobia, racism, and classism that affects gay men in the physical world is crystallized and exaggerated online.¹⁰

Recently, a budding body of literature has examined how these online spaces are ripe with discrimination against men who do not conform to narrow conceptions of hegemonic masculinity.^{11,12,13,14} This gendered discrimination is perpetrated largely by muscular, cisgender men who advertise themselves as hypermasculine and only seek other hegemonically masculine partners. These gay men help construct a gendered hierarchy that privileges hypermasculine, “straight-acting,” young, and white men.^{15,16} This culture of mascing marginalizes many gay men and creates exclusive and discriminatory spaces online.¹⁷ Mascing culture is enabled and enhanced by the anonymous interface, which emboldens users to use discriminatory language and shields bigots from social criticism.

Mascing behavior has been documented across many of the largest dating apps, including Scruff, GROWLr, GuySpy, and Hornet, and even on dating websites like Match.com.¹⁸ Men uphold this hierarchy by either advertising their valued characteristics or by seeking out “masced” men. This performance of masculinity can primarily be seen in the photos of users’ photos and their bios. These are spaces in which men have the opportunity to either show off

what valued traits they have or to leverage some other aspect of their personality to make up for their lack of valued traits.^{19,20,21}

While there has been a limited number of studies that focus on gendered discrimination within gay spaces online, these studies have predominantly employed content analysis as the method of inquiry.^{22,23,24,25,26} Though content analysis is effective at identifying visual and rhetorical strategies employed in mascing culture, it does not enable researchers to understand the perceptions and attitudes of the users who operate within these spaces. Interviews provide an opportunity to engage the gay men who are forced to navigate mascing culture firsthand and learn about their experiences and opinions. This paper seeks to take advantage of this opportunity and asks the research question: How do gay men understand and navigate the pressure to construct and perform a hyper masculine self online?

LITERATURE REVIEW

The Persistence of In-Group Discrimination Within the LGBTQ Community Online

Because of the structural marginalization of the LGBTQ community and the systemic discrimination that queer people face, one might think that queer online spaces would be an oasis of acceptance and authentic self-expression.²⁷ However, a number of studies have investigated how in-group discrimination and the construction of hierarchies persist in historically marginalized groups even as they continue to attain legal protection and earn public acceptance.²⁸ Systems of oppression such as racism, classism, and sexism limit the opportunities and recognition of some minorities whilst

giving status to others. This phenomenon of in-group discrimination is not unique to the LGBTQ community. In-group discrimination was persistent in the civil rights movement, during which the issues of Black women were neglected and violence against Black women was not made a nationally salient political issue.^{29,30,31} Furthermore, the feminist movement of the 20th century resulted in lopsided gains for wealthier women and white women, whilst once again ignoring the interests of poor women and **women of color**.^{32,33}

Despite gaining the right to marry and being increasingly accepted by the majority of the US public, the gay community is struggling to accept one another.³⁴ The body of existing research on in-group discrimination within the gay male community reveals the prevalence of racism, sexism, classism, and ableism amongst gay men, not only in physical spaces but also in processes such as the election and promotion of gay political figureheads and online.^{35,36,37}

Hyper-masculinity, Homophobia, and the Prevalence of Mascing Behavior

The anonymous and depersonalized environment of online platforms puts users under heavy pressure to conform to existing norms and hierarchies. The users of these apps are able to remain anonymous online and do not fear reproach for discriminatory language or behavior online. Because users' actions are measurable, gay dating apps are an incredibly fruitful place to study patterns of in-group discrimination. While there is not an abundance of research on patterns of discrimination on gay dating apps, research that does exist relies primarily on quantitative studies of users' behaviors based on content analyses of their photos, "bios," and messaging patterns.^{38,39} These studies have

found certain norms and patterns that permeate the dating app world: the high value placed on traditional hegemonic masculinity, the stigmatization of femininity, and the desire for traditionally "straight-acting" gay men.^{40,41}

Similar to Erving Goffman's suggestion that people put on a particular kind of performance to avoid reproach, Rodriguez et al. have identified a pattern of behavior amongst gay men online wherein men exaggerate their masculine traits and suppress their feminine traits, a behavior that has been called *mascing*.⁴² This pattern of behavior is largely driven by a fear of being reproached as a "sissy" or "fem" man and is fueled by persistent homophobia and misogyny which lingers in the gay community.⁴³ This mascing behavior stratifies gay spaces in a way that places "straight-acting," young, athletic, and lean men at the top and less-masculine users lower within the gendered hierarchy.⁴⁴

Shortcomings Within Previous Literature

The vast majority of studies on mascing behavior use content analysis as the primary method and seek mostly to describe the visual and rhetorical strategies employed online by analyzing profiles.^{45,46} While this methodology is effective at describing how queer users advertise themselves on their profiles and the kinds of pictures they utilize in their presentations, it does not provide information about the attitudes or experiences of users. In my study, I conduct semi-structured interviews in order to obtain more detailed descriptions about how men experience mascing and how they make decisions as to how they present themselves online and how they manage their "front stage" (online) performance. I also hope to understand how their

racial and geographic backgrounds inform how they present themselves online. This study contributes to existing research that extends Goffman's theories to the online realm, as well as existing studies on the prevalence and significance of homophobia and in-group discrimination within the queer community.

FINDINGS

Significance of the Online Self

In all 21 interviews, the participants agreed that social media platforms, dating apps, and online spaces are particularly important to gay men and to the queer community at large. Specifically, participants were in agreement that queer online spaces have become crucial for enabling sexual experimentation and identity formation. Many participants discussed at length how online platforms and social networking sites facilitated their own gay identity formation and are essential to meeting other gay men, seeking potential sexual partners, and generating a greater sense of community within the LGBTQ population as a whole. One participant named Michael expressed how he viewed the importance of social media amongst gay men as universal, saying:

Social media has been the foremost, important tool in both my identity and narrative as a queer person but also for my generation. I think every queer kid who has access to the internet has used the internet as a way of connecting dots. By connecting with other people, by connecting with other stories, both me and a lot of the other queer people I know have been able to both express themselves online, but also kind of figure it out.

Many other participants echoed Michael's sentiment that social media and online platforms have been important in the process of identity formation.

Participants also expressed that meeting other queer people in the physical world was extremely challenging, raising the stakes for their online interactions. Dating apps like Tinder and Grindr and other social media platforms such as Instagram are seen by many as the only way to find other gay men. While physical spaces dedicated to the gay community such as gay bars and gay clubs have long provided some opportunities for mingling, online platforms have grown far more popular due to their anonymity and accessibility, especially for younger gay men under the legal US drinking age.⁴⁷ One participant, Alex, expressed how to him, the "real world" was not a viable space to find dates or hookups. He explained:

If I saw a guy who I wasn't sure if he was straight or not, I would never feel comfortable going up to him and saying, hey, are you into men? What's the situation there? And so, when you're online, that's the really the only safe way we can find guys.

Many other men echoed Alex's sentiment, expressing that because sexual orientation was openly established in online spaces like Tinder and Grindr, they did not have to worry about questioning whether or not another man was straight.

Participants overwhelmingly expressed that online spaces had a special and heightened role within the gay community, and that dating apps and social media fill a crucial need that their straight counterparts do not have to the same extent. The importance of dating apps and other online spaces amongst the queer community raises questions about whether or not these

spaces are equitable and, furthermore, what kinds of social dynamics and hierarchies exist online.

Hypermasculinity and Hegemonic Masculinity Online

The men who I interviewed overwhelmingly expressed that hyper-masculine and “straight-acting” men are glorified within gay spaces online and, furthermore, that deliberately making oneself appear more masculine online is a common practice. When read the definition of masching behavior and asked if they believed the term described what they saw in gay online spaces, all of the participants agreed that masching behavior was real and very prevalent on the platforms they used. One respondent Albert explained:

Oh, one hundred percent, that’s totally a thing [. . .]. So many gay guys on Tinder try to make themselves seem like super straight ‘bros’ when you know, in reality, they’re super gay. Most of the guys who post photos at their college sports games or with their cars don’t actually give a shit about sports or cars.

Some participants called this “masc4masc culture” and discussed how what is seen as “masculine” is very tightly interwoven with what is seen as “straight.”⁴⁸ Participants agreed that men who used terms to indicate that they were experimenting with men but not “fully gay,” such as “straight but experimenting” or “dl” would earn them more attention on gay dating apps and hookup apps.⁴⁹ One participant, Andre, explained why he thought these men got more attention online:

If you look at profiles with the same stats—let’s just say they’re a tall white masculine man—if one profile says “questioning” or “haven’t

really done this,” that profile gets more attention because there’s a whole fantasy around maybe turning someone gay.

By distancing oneself from the gay community, Andre argues, men on apps like Grindr and Tinder get more attention because they play into a fantasy about “turning” straight guys, a fantasy that has been heavily perpetuated and propagated by pornography.

Some participants disclosed how they themselves bought into masching culture and explained how they would alter their bios, manipulate the way they texted, and change their tone while interacting online. Some of these men performed hegemonic masculinity and embodied a more “straight-acting” self when texting on apps like Tinder. George, a cisgender gay man, spoke at length about how much effort he put into his bio and his self-consciousness of his presentation of masculinity:

I definitely put way too much thought into making my bio when I was taking Tinder more seriously. I’m not super outdoorsy, but I would put, like, ‘hiking, camping, climbing’ type stuff in my bio to make me seem more like a chill, natural guy and not more of a super gay, uptight LA guy who cares a ton about how they look.

George used his bio to try and convey a particular kind of masculinity and, further, to try and distance himself with a more urban, feminine self-presentation. George explicitly wanted to distance himself from a “super gay” presentation of self and, in order to do so, employed discursive masching strategies to try to make himself appear more outdoorsy and less urban in his bio. Some participants responded similarly, reporting that their bios were a particularly

sensitive place where mascing could be performed and where they could control how their masculinity was perceived by others.

Other participants emphasized how they changed their texting and vocabulary when messaging with other guys on Tinder. One participant, Jesse, expressed how he tends to change the way he speaks when first messaging other matches on Tinder and how he tends to use more “bro-ish” language that he typically would not use but feels a pressure to out of fear of seeming “too gay”:

When I’m online and first talking to someone, I’m always like “hey man,” or “hi dude” and sometimes I don’t know why because I literally never say that ever [. . .]. I hate that, I hate . . . saying “man” or “dude” or whatever. But I think when I first was on Tinder, I was afraid of people thinking I was too gay or that I had a gay voice. So now I say “dude” to everyone.

For Jesse, discursive mascing was a way to ensure that he was not discriminated against for having a “gay voice” or appearing “too gay.” Jesse also expresses that this discursive mascing behavior is something about which he feels conflicted and not totally comfortable. Jesse later went on to describe how he eventually limited the use of mascing strategies because they felt uncomfortable, and he did not want to feel inauthentic when talking to other men on Tinder.

While some respondents reported altering their profiles to highlight their masculinity or avoid appearing “too gay,” many of the participants were comfortable with their masculinity online and felt that for the most part they authentically represented themselves online. One respondent, Taylor, said, “I try to stay pretty authentic on there. I mean, that’s as true as you can be,

but I try my best, you know? It’s just so hard to do.” While some men were more actively focused on trying to convey an authentic presentation, others, like Alex, put less thought into how they present themselves online, saying, “I feel like it’s definitely hard to be authentic and to authentically present yourself on any sort of social media platform. And I don’t really make a priority to do that either [. . .]. I don’t know. I just kind of post things.” These men reveal that while there is a climate of hyper-masculinity and mascing culture, not all men are particularly focused on manipulating their masculinity online. Many participants echoed George’s personal journey, saying that the more they grew comfortable with their sexual identity, the less they were concerned with their presentation of masculinity online.

While mascing culture is still extremely prevalent and hyper-masculinity continues to be valorized, many participants expressed that the queer online spaces are slowly becoming more accepting. Some participants themselves talked about how they used to “buy into” mascing culture but have since have decided to reject mascing behaviors altogether. Jesse, who previously was very conscious of how he represented his masculinity online, discussed how he no longer altered his profiles and presence in online spaces:

Thinking back, the difference now is that when I was first making bios, I thought that I could, you know, kind of “fake my way” with the bio and pictures or whatever. But honestly, they’re still going to look at me and see me for what I look like [. . .]. And if it’s not what they want, that I don’t want that either [. . .]. I don’t want to be with someone who doesn’t want to be with me.

Jesse's experience speaks to both the prevalence of masching as well as how it can make users uncomfortable or unhappy to feel like they have to present a different self online. For Jesse, "faking his way" did not seem worth it, and for that reason, he quit masching his profile altogether.

The Rise of the "Twink" and the Flexibility of White Masculinity

While many gay men of color continue to face racialized fetishization and discrimination online, white gay men have enjoyed increased freedoms in the expression of their masculinity. One example cited by numerous participants is the rise of the "twink" in popular culture.⁵⁰ The attention given to twink on apps like Grindr and Tinder was seen by many participants to emphasize the enhanced freedom given to white men and reveal how gay white men have a wider range of gender expressions that are seen as acceptable compared to men of color. The acceptance and adoration of skinnier, less-muscular gay men was seen by many participants as the product of pop culture and films like *Call Me By Your Name* and *Love, Simon*, both of which portray and sexualize young, gay white men who are not hyper-masculine.

Alex also expressed that straight women contributed to the attention towards these men, saying, "I see a lot of like twink idolization, through a lot of my straight female friends, largely in part because of movies like *Call Me By Your Name*." The rise of roles for "twink-ish" men in Hollywood reveals how gay white men have been given more freedom in what kind of gendered presentations they can put forward while still being able to receive positive attention from other men, both online and in popular culture.

One white participant, David, echoed this

discrepancy and in saying how he felt that gay white men had far greater freedom in expressing themselves online:

I think, especially in the gay community, for African American men, I think being flamboyant isn't okay. It's frowned upon, and I think for me as a white gay boy, if I want to go out and dress up in drag or do some stuff like that or just be super feminine, no one's going to question it. But I think as it as a person of color, you are judged for that.

David explains how even as a white gay man he feels less pressure to "masc" himself online, saying that he would feel comfortable going out in drag while men of color might be stigmatized or fetishized for similar behavior. The ability of white men to remain desirable and powerful despite expressing themselves as less masculine fits within understandings of synthesized masculinities and how marginalized men, such as gay men, are able to use their race and class to perform masculinity.⁵¹ Russell elaborated on how he similarly thought white men did not have to think as much about how they present themselves online:

White people can kind of just like get away with it because it's such like the norm that they don't even have to think about that. I have to be a little bit more aware of like, "Oh, I don't want to just be this random like object or fetishized version of myself."

While men of color have to walk a fine line when presenting themselves online in order to gain attention without being fetishized, white men have a range of masculine expressions that are seen as attractive and receive attention on apps like Tinder and Grindr.

DISCUSSION

The gay men I interviewed overwhelmingly recognized masching behavior in the online spaces they frequented. Almost all of the participants in this study had their own unique attitudes and strategies to navigate the intense pressure to perform a hyper-masculine self online. Some men conformed to masching behavior and inflated their own masculine presentation, if only for a time. Others seemed unaffected and did not find it hard to present an “authentic” self in online spaces. Some participants like Cody proudly and openly presented themselves as their most feminine self online, in spite of intense pressures. Regardless of whether or not participants inflated their masculinity online, all men acknowledged being conscious of what kind of a presentation they did put forth. This behavior supports the argument that Goffman’s theory of social masks can be extended online.⁵² Whether or not participants felt that they were authentic in their presentation, they were aware of the mask that they wore. Even participants who did not actively engage in masching behavior were aware of their authenticity and actively portrayed a mask that they felt best represented their offline self. Unfortunately, the range of masks participants could wear was limited by their racial identity, body type, and other factors.

The findings of this study contribute to the existing body of literature on in-group discrimination. While there has been a number of content analysis studies identifying masching behavior and the pressure to perform a hyper-masculinity online, there have been very few studies that engage gay men and ask them about their attitudes and experiences in these discriminatory

online spaces. Many of my participants echoed the belief that in-group discrimination within the gay community, specifically discrimination towards more feminine gay men, comes from a place of internalized homophobia. Some participants like Andre argued that discriminating against other gay men is an effort to distance oneself from his minority status and marginalized position within society. Both of these explanations align with existing understandings of why in-group discrimination can manifest within marginalized groups and reveals that even as the LGBTQ community attains more rights and recognition, bigotry and exclusion will persist amongst queer and trans communities.

In his book *The Presentation of Self in Everyday Life*, Erving Goffman lays out a framework for understanding social interactions that uses theater and the stage as a way to understand how people act and react in day-to-day life. Goffman argues that people’s everyday interactions can be understood as performers acting on a stage and that we are constantly using costumes (the way we dress) and props (symbolic objects we carry) to create specific impressions in the minds of others—a process he calls “impression management.” Goffman’s dramaturgical analysis and his idea of the stage can be used to productively analyze and understand queer online spaces, especially dating apps. Many participants agreed that dating profiles and social media performances were “performances” and that their own presence online could be understood as their “brand,” all of which reinforced the connections between social media, commodification, and theater. While Goffman himself did not see telephone calls or online spaces as being able to be analyzed through

his dramaturgical analysis, the results of this research project supports the idea that people use social media and online platforms as a location to stage their own “front stage” performance. The participant Russell acknowledged that part of why he stopped engaging in mascing behavior is because he felt that he could not necessarily keep up his “bro-y” performance once he engaged with someone in the “real world,” so he decided to pursue more authentic presentations of self.

CONCLUSION

While this study is only a snapshot of one small segment of the queer population in 2019, it does paint a clear picture of what it is like to perform a hyper-masculine self online and suppress one’s feminine traits out of fear of discrimination. Overwhelmingly, participants agreed that the dynamics and politics of masculinity online were moving incredibly fast and in a positive direction. Many interviewees cited the number of recent Facebook posts they have seen from their old high school friends who are younger than them featuring same-sex couples going to prom, younger gay boys wearing makeup, and other openly queer expressions that they thought were impossible only a handful of years ago. While queer online spaces have a long way to go before they become accessible, equitable spaces for all, one can hope that increased visibility in the media and more protective legislation will contribute to a more inclusive and united LGBTQ community.

As physical space and digital space continue to blend, and offline and online identities merge, policymakers and progressive leaders should stay wary of the importance

of digital spaces to gay men and the queer community at large. Efforts need to be made to ensure that digital spaces are as safe and equitable as possible. Furthermore, violence, racism, and crimes committed within digital spaces need to be investigated and prosecuted with the same fervor and seriousness as those crimes that are committed in physical spaces. Additionally, lawmakers and public health researchers should continue to view digital channels as highly effective and legitimate ways to spread awareness about mental health resources, HIV prevention, and the prevalence of suicide within the LGBT community.

This study had a number of limitations that provide opportunities for further study. Notably, the sample population was young, with most participants having lived exclusively in urban and suburban settings. Additionally, the snowballing method which was used to identify participants could explain cohesion in the answers of the participants. The sample population was also overwhelmingly educated, white, and cisgender, which can be in part explained by the demographics of colleges in the Los Angeles area. Further studies would benefit by examining how mascing is navigated by older men or by men in more rural areas. These further studies would likely generate very different perspectives that would be very useful in providing context and contrast to the findings of this study.

Endnotes

- 1 *Masching* is a pattern of behavior defined by Rodriguez et al. as a pattern of behavior amongst gay men online where men will exaggerate one's masculine traits and suppress one's feminine traits. Masching reinforces the masculinity of gay males while maintaining masculine norms by exclusively seeking out other masculine partners. This phenomenon reinforces a masculine elite within the digital gay community. Other research on similar subjects has described this phenomenon as "masc4masc" culture, a term stemming from common bios used by gay men on hookup apps. I will use this term throughout the paper without the use of quotes as it is an established term within the field of digital masculinities.
- 2 While most of the research and findings of this paper applies equally to bisexual, pansexual, and queer men who use dating and hookup apps, the label *gay* will be used to describe the spaces, apps, and culture of these 21 men because all of them self-identified as *gay* men.
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- 10 Reynolds, "'I Am Super Straight and I Prefer You Be Too,'" 213.
- 11 *Hegemonic masculinity* is a term, first coined by the gender scholar Raewyn Connell in 1982, that describes the legitimization of men's dominant position in society and justification of subordinating the average man and women, as well as other marginalized ways of presenting as a man. Hegemonically masculine men are those who exemplify, perform, and perpetuate the mythology of dominant masculinity and who are implicated in the subordination of women and of men who represent marginalized masculinities.
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- 14 Shangwei Wu and Janelle Ward, "The Mediation of Gay Men's Lives: A Review on Gay Dating App Studies," *Sociology Compass; Hoboken* 12, 2 (2018).
- 15 Damien W. Riggs, "Anti-Asian sentiment amongst a sample of white Australian men on gaydar," *Sex Roles* 68, 11–12 (2013): 768–778.
- 16 Michael S. Kimmel, "Fear, shame, and silence in the construction of gender identity," *Theorizing masculinities* (1994): 119–141.
- 17 Rodriguez, Huemmer, and Blumell, "Mobile Masculinities," 260.
- 18 Rodriguez, Huemmer, and Blumell, "Mobile Masculinities," 249.
- 19 Jay Clarkson, "'Everyday Joe' versus 'pissy, bitchy, queens': Gay masculinity on StraightActing.com," *The Journal of Men's Studies* 14, 2 (2007): 191–207.
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- 21 Kimmel, 121.
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- 23 Reynolds, "'I Am Super Straight and I Prefer You Be Too,'" 213.
- 24 Alan Han, "I think you're the smartest race I've ever met: Racialized economies of queer male desire," *Critical Race & Whiteness Studies* 10, 2 (2014).
- 25 Riggs, "Anti-Asian sentiment," 769.
- 26 Rodriguez, Huemmer, and Blumell, "Mobile Masculinities," 262.
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- 35 Gilbert Caluya, "The (gay) scene of racism: Face, shame and gay Asian males," *Australian Critical Race and Whiteness Studies Association e-Journal* 2, 2 (2006): 1–14.
- 36 Han, "Racialised economies of queer male desire."
- 37 Gosine, "Passing white in queer cyberspace," 139.
- 38 Caluya, "Fame, shame and gay Asian males," 3.

- 39 Han, "Racialised economies of queer male desire," 10.
- 40 Robert William Connell, "A very straight gay: Masculinity, homosexual experience, and the dynamics of gender," *American Sociological Review* (1992): 735–751.
- 41 Rodriguez, Huemmer, and Blumell, "Mobile Masculinities," 242.
- 42 Rodriguez, Huemmer, and Blumell, "Mobile Masculinities," 244.
- 43 Reynolds, "I Am Super Straight and I Prefer You Be Too," 214.
- 44 Shinsuke Eguchi, "Negotiating hegemonic masculinity: The rhetorical strategy of "straight-acting" among gay men," *Journal of Intercultural Communication Research* 38, 3 (2009): 193–209.
- 45 Caluya, "Fame, shame and gay Asian males," 4.
- 46 Han, "Racialised economies of queer male desire," 11.
- 47 Amin Ghaziani, *There goes the gayborhood?* (Princeton, New Jersey: Princeton University Press, 2014).
- 48 "Masc4masc culture" comes from an often-used Grindr bio name where men will declare themselves as "masc" and only seek other "masc" guys. Many users with these profiles also declare the list of who they are unwilling to speak with; as one participant named Alex explained, "their profile picture is a photo of them at the gym with their face cropped out and in their bio is the list 'no femmes, no sissies, no blacks, no Latinos.'" Many of these profiles write off this kind of exclusion as "just a preference."
- 49 *dl* is an abbreviation for *down low*, a euphemism for discreet, closeted, or experimenting within the queer community.
- 50 The term *twink* commonly refers to younger homosexual male with attractive, boyish qualities—typically depicted in media and pornography to be under the age of 25 and often thought of as young, smooth-skinned, white, and fashionable.
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The United States Is Not Safe for LGBT Refugees

A Call to Abandon the Canada-United States Safe Third Country Agreement

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The Safe Third Country Agreement (STCA) between the United States and Canada has recently appeared in public debate once again.¹ The Agreement was negotiated between the two countries as part of a series of post-September 11, 2001, measures and went into effect in 2004. The logic of this treaty is that each country judges the other as “safe” for asylum seekers, as both Canada and the United States have agreed to uphold certain obligations under the 1951 Refugee Convention and the 1967 Protocol Relating to the Status of Refugees. Under the STCA, an asylum seeker is required to lodge their refugee claim in the first country they arrive in.² Yet in July 2020, a Canadian federal court ruled that the United States is no longer a safe country for Canada to send asylum seekers back to, due to the risk of imprisonment these migrants face at American borders. In fact, the ruling deemed the STCA unconstitutional and violating migrants’ rights under both the Canadian Charter of Rights and Freedoms and Canada’s obligations under various sources of international law.³

Canadian Justice Ann Marie McDonald concluded that “detainees demonstrate both physical and psychological suffering because of detention, and a real risk that they will not be able to assert asylum claims” when in

the United States.⁴ I wish to use this current discourse as a springboard to consider additional calls to abandon the STCA, specifically because the United States is not a safe third country for LGBT migrants.

Former US president Donald Trump stripped the refugee resettlement program even as it existed imperfectly before him. As human rights lawyer and director of the International Refugee Assistance Project Becca Heller noted in October, “I think if Trump is re-elected, it’s the end of the US refugee program.”⁵ Trump issued an executive order that allowed state and local governments to reject their obligation to accept refugees for resettlement processes; he advised Congress to bar certain refugees; he ended the quota system for refugees from various high-risk countries around the world; and he announced that refugee resettlement in the United States was at an all-time low in 2020 with only 18,000 asylum claims approved in the United States.⁶

But with the publication of *Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review*, colloquially referred to as the “death of asylum rule,” Trump in June 2020 targeted specific groups of migrants with a rule that was scheduled to go into effect on January 10, 2021. As a federal judge halted the rule only on January 8,

2021, it remains to be seen whether the Biden administration will appeal the halt.⁷ The rule encourages local immigration courts and US Border Patrol agents to ignore the obligation to grant asylum hearings to migrants, highlighting people fleeing persecution on the basis of sexual orientation or gender identity.⁸ Also, under this rule, an asylum claim cannot be placed if a person has engaged in LGBT activism or protest in their home country without calling for a regime change. The claimant must also identify themselves as a victim of persecution based on sexual orientation or gender identity the first time they come before a judge or else they waive this right, despite the way that this requirement threatens migrants' personal safety as they return to highly policed detention camps after their trial in many cases.⁹

In addition to the asylum claim process, we must acknowledge that the Republican Party and other conservative, right-wing groups in the United States have slowed and even reversed the application of legal protections for LGBT citizens. The Republican Senate has enabled the transformation of courts across the country, approving the appointment of more judges under Trump than almost all of his predecessors, including a third lifetime appointment of a conservative judge to the Supreme Court bench.¹⁰ Reporting has revealed many of these judges have displayed blatant and harmful anti-LGBT opinion. Moreover, under the Trump administration, anti-discrimination policy in workplaces as well as transgender rights in educational institutions, homeless shelters, and social services have all come under attack. Supreme Court Justices Clarence Thomas and Samuel Alito have also written that the 2015 decision that enshrined marriage equality "enables courts and governments to brand religious adherents

who believe marriage equality is between one man and one woman as bigots."¹¹ Thus, beyond its refugee policies regarding LGBT claimants, the United States also fails to protect LGBT people once they have resettled in their new host country.

In contrast, Canada is a safer alternative for LGBT migrants hoping to secure asylum. Up to 70 percent of Sexual Orientation and Gender Identity Expression (SOGIE) refugee claims were accepted between 2013 and 2015 in Canada.¹² Once granted asylum, LGBT refugees are also protected under Canadian law where American law fails them. Canadian law has enshrined more rights, for longer, across all of Canada and does not face the same political attacks as do protective laws in the United States.¹³ Canadian courts also see far fewer challenges to legal protections for LGBT workers, anti-discrimination laws, legalization of same sex marriage, social programs, and widely accessible healthcare that can be utilized by transgender people in Canada looking for methods of medical transition, if they so wish. In general, studies find that more Canadians across the entire country are accepting of LGBT people than in the United States, where pockets of highly accepting places do exist, but wide domains of discriminatory practices, policies, and opinions prevail elsewhere in the country.¹⁴

Canada's system is by no means perfect or even satisfactory under international refugee law. Canada is closer to fulfilling its obligations to asylum claimants than the United States, but let us be clear: the bar is low. Ottawa has created mechanisms that repel migrants when they arrive at Canadian borders, and the Trudeau administration now seeks to maintain this in its appeal of a lower court's decision. In the meantime, Canada cannot idly wait for American politics and law to change. Biden will not fundamentally

revise the American immigration system; within his first 100 days in office, he reopened a 66-acre detention center to house migrant children.¹⁵ Furthermore, the establishment and entrenchment of encompassing protective laws for LGBT people in the United States will take years, if not decades, and Canada cannot turn a blind eye to the nature of the United States' laws.

It is time for Canada to acknowledge the ways it has been complicit in America's deeply harmful actions towards LGBT migrants. Abandoning the STCA with its next-door neighbor will be a break from Canada's past reliance on its "fireproof house" approach to international policy.¹⁶ But it is a necessary step the Trudeau administration must take to adhere to both domestic and international law Canadian courts have themselves highlighted in order to protect some of the most vulnerable migrants in the world: LGBT asylum seekers.

Endnotes

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Exploring the Need for and Benefits of LGBTQA Faculty and Staff Groups in Higher Education

By Ariel Schorr Lesnick

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ABSTRACT

This is a study on LGBTQA faculty and staff groups in higher education. It aims to provide an in-depth analysis and recommendations for creating and maintaining these groups. This project includes both a literature review of existing research and six personal interviews with LGBTQA-identified university employees. The findings reveal several purposes of LGBTQA faculty and staff groups (also called employee resource groups or affinity groups) that should be implemented by these institutions. LGBTQA staff serve as subject matter experts who can inform facilitating trainings, workshops, and professional development and advocate to ensure the existence and enforcement of nondiscrimination policies. These groups should serve as a hub for intra-community networking, LGBTQA leadership opportunities, and mentorship to students and other staff, and support in the face of anti-LGBTQA biases and discrimination.

INTRODUCTION

Although many colleges and universities have LGBTQA faculty and staff affinity groups or employee resource groups, these

groups lack a consistent definition or strategic structure to best serve their members.

In this paper, the history of these groups will be detailed, and recommendations will be given based on a review of the current literature and six semi-structured anonymous interviews with LGBTQA university employees. Recommendations are given for creating LGBTQA faculty and staff affinity groups or employee resource groups that can provide a home base for LGBTQA staff, inform trainings and workshops, work to prevent homophobic and transphobic prejudice, and ensure the enactment and enforcement of nondiscrimination/inclusivity policies of the institution. The groups should also serve as a social and networking outlet for the community, one that offers leadership and mentorship opportunities for LGBTQA students and other staff.

DISCUSSION OF IDENTITIES AND TERMINOLOGY

There are many terms used in research literature and in everyday practice to describe the diverse range of gender and sexual identities expressed and internalized by people in their personal and professional lives. Because of this, when citing scholars, the terms used in their work will be adopted,

and when describing or quoting individual participants, they will be referred to by the terms with which they self-identify.¹

LITERATURE REVIEW

The Human Rights Campaign (HRC) Foundation found that in 2018, 46 percent of LGBTQ workers say they are closeted at work, and the top reason LGBTQ workers don't report negative comments they hear about LGBTQ people to a supervisor or Human Resources is that they "don't want to hurt their relationships with coworkers."² LGBTQ employees might attempt to "pass" as straight, presenting themselves as having a different social identity than that they privately hold.³ Others may instead deploy their marginalized identities in intentional ways, "coming out of the closet" to both claim membership in the social category and work to educate people about their LGBTQ experiences.⁴ Creed and Scully found that even coming out in a "mundane" way, such as inserting one's identity discreetly in a conversation, can have political significance.⁵ This often leads to discussions of homophobic and transphobic prejudice and workplace discrimination in an effort to advocate for specific policy changes and foster a more welcoming workplace.

In response to those environments, LGBTQ employee groups have formed to provide social support and networking opportunities to workers. This structure provides a platform from which LGBTQ people can work toward organizational development and change from within their workplaces.⁶ These groups can take a variety of forms: formally organized, informally organized, recognized by the employing organization, and even existing outside the

organization (e.g., in unions).⁷ This is just one example of what are commonly termed employee resource groups (ERGs), which are groups formed around a shared identity to organize programs, encourage discussion, seek organizational changes, advise their employers, and increase organizational effectiveness in the workplace.⁸ According to Raeburn, the first LGBT ERG formed in 1978, but it took many years of activism before most companies started adopting nondiscriminatory policies.⁹ By the 1990s, over two-thirds of Fortune 1000 companies adopted domestic partner benefits after facing pressure from ERGs and other forms of mobilized LGBT groups, though many companies still do not have inclusive policies on the books.¹⁰ LGBT ERGs have historically joined forces with other ERGs with shared values, including domestic partner benefits for all unmarried couples (regardless of gender) and enhanced benefits for working parents. Githens's research found that the effects of ERGs lead to more inclusive, less individualistic, and more community-oriented companies and society on the whole. Many colleges and universities borrow the concept of ERGs from the corporate world for their faculty and staff employees.

ERGs have also learned from student organizing. By the mid-20th century, social issues and civil rights played out in colleges and universities, with student activists having a significant impact on the advancement of college and university policies, practices, and programs in support of minoritized college students.¹¹ Predating the 1969 Stonewall Riots by two years, the Student Homophile League was founded at Columbia University as the first-known LGBT student group in the United States.¹² In 1978, just five years after the American

Psychiatric Association reversed its stance on homosexuality as a psychological disorder, *New York Times Magazine* reported that there were more than 200 campus gay and lesbian groups.¹³ It is perhaps unsurprising that universities are among the earliest sites of activism as colleges are perceived as centers of knowledge acquisition and knowledge transfer and sites known for free speech and free expression.¹⁴ There is also a pervasive narrative of colleges providing a safe space in which students leaving home for the first time could feel able to explore and/or come to terms with their sexual orientation and expressions of gender. Historically, institutional changes related to improving the campus for LGBTQA communities have been the result of active student initiatives, responses to campus incidents, or through the effort of campus leaders, despite resistance from other institutional actors.¹⁵ More than 2,000 campuses have LGBT student groups, and more than 150 campuses have professionally staffed LGBT Resource Centers.¹⁶

In addition to LGBT student support, higher education institutions are expanding their protections for LGBT faculty and staff. The HRC, using self-reported data, identifies 567 of 4,391 US colleges and universities that offer protection against discrimination based on sexual orientation and 309 institutions that provide health care benefits to same-sex domestic partners.¹⁷ The Transgender Law and Policy Institute identifies 387 institutions that protect against discrimination based on gender identity or expression.¹⁸ As an important note, this data predates the US Supreme Court case *Obergefell v. Hodges*, which protects marriage equality for all 50 states. Higher education institutions also offer nondiscrimination in admissions and

university-sponsored housing and protection from harassment, as well as “soft benefits,” such as library and exercise facility use, ID cards, health insurance covered, and reduced tuition for domestic partners.¹⁹ Many colleges have adopted LGBT-inclusive tenure clock stoppage and family leave policies, LGBT-specific programming, name and gender change processes for student and staff records, and gender-neutral housing and bathrooms.²⁰

It is important to recognize the unique paradox of higher education. While academia is the location of much development of Queer Theory, Renn argues that universities themselves are not particularly queer.²¹ Even schools like Yale University, the intellectual home of queer theorizing, turned down playwright and activist Larry Kramer’s generous gift to establish a gay studies program, supposedly to avoid “balkanizing” the campus with another theory-based area studies track.²² Instead of merely celebrating universities as spaces that exhibit their LGBTQA acceptance through their academic contributions, LGBTQA faculty and staff groups are still crucial for advocacy in higher education.

LGBTQA FACULTY AND STAFF INTERVIEWS

The second source of data, after the review of current literature, is six anonymous interviews with LGBTQA faculty and staff members at four higher education institutions in the Boston, Massachusetts, area. Because the need for a wide range of LGBTQA representation, as well as a range of representation of institutions and roles within those institutions, purposive sampling was used.²³ The participants in the interviews self-identified as: a gay archivist; a gay instructor of

psychology; a bi, queer, and femme administrative director for international affairs; a bisexual and queer program assistant in the Office of the Provost; a queer, bisexual, lesbian executive assistant in the Office of the Provost; and a queer, transgender, lesbian, bisexual user experience librarian. The purpose of these interviews was two-fold: to amplify the voices of the underrepresented as the “wisdom of the people” and to provide a contemporary take on some of the same research and interview questions encountered in published qualitative research, including Croteau, Seidman et al., Creed and Scully, Messinger, Vaccaro, Orlov and Allen, Speice, and Mattheis et al.^{24,25,26,27,28,29,30,31,32}

All interviews were conducted remotely using a teleconferencing tool, Zoom. After receiving the consent of each participant, the audio and video of the interviews were recorded. The interview transcripts were coded into six codes: openness at work, workplace issues, the role of Human Resources (HR), LGBTQA group membership, LGBTQA group purpose, and campus culture.³³ These codes were then distilled into main themes and connected to the recommendations for best practice alongside the extant literature.³⁴

RECOMMENDATIONS

Based on an analysis of existing research and six personal interviews, LGBTQA faculty and staff groups in higher education can fulfill the following roles and functions: LGBTQA identity recognition; LGBTQA community building; LGBTQA initiatives, trainings, workshops, and professional development; social networking to build a workplace sense of belonging; enacting non-discrimination policies; LGBTQA

leadership; mentorship for students and staff; and countering homophobia and transphobia. As evidenced by both the professional literature and interview data, these actions lead to positive changes in a campus workplace environment.

LGBTQA IDENTITY RECOGNITION

All individuals are engaged in ongoing identity construction, but it is particularly resonant for LGBTQA students, faculty, and staff who may be altering their personal understanding of their sexuality and gender. Alvesson et al. explore the impact of organizations embracing the personal identities of their staff as a way to encourage them to see themselves as members of “we” in their organization.³⁵ This idea was echoed by a recommendation by an interviewee, who suggested that organizational onboarding should include the accessible presentation of available affinity groups, including LGBTQA employee groups, as she thought “people will stay longer and develop better relationships at an institution where they feel welcome as people too as individuals.” Recognizing, affirming, and embracing employees’ individual and intersectional identities leads to increased buy-in from them as empowered members of the group. In addition, for all academic institutions, the reputation of a school as inclusive is appealing for both staff and student recruitment.

LGBTQA COMMUNITY BUILDING

LGBTQA employee resource groups (ERGs) provide employees with a network to reach out to other members of their LGBTQA

community, while they are working at an institution but also when they are seeking employment. LGBTQA workers can advance social change by being out at work, in a concept referred to as “micromobilization” by Creed and Scully.³⁶ One interviewee engages in micromobilization every time she places her work water bottle with a bi pride sticker prominently on the conference table “as kind of a power move but also because visibility matters.” Not only does this employee proudly carry an institutionally branded water bottle, but she has adorned it with a prominent display of her sexual orientation, demonstrating the positive effects of feeling included within one’s place of work. The simple form of claiming one’s identity in everyday conversations and scenarios is a political moment, and repeated advocacy encounters may be pivotal moments in a larger process whereby beliefs and attitudes towards an identity are altered.³⁷ In an interview with a university instructor, she said that her sexual orientation is “well known” within her department by both faculty and students because she is intentional about bringing it into her teaching from the beginning and will incorporate that in subsequent discussions.

Another moment of micromobilization can be found by challenging institutional norms of professionalism, most notably through expectations of gender-based dress codes as a mode of queer leadership to create demonstrable change.³⁸ One gay woman interviewed said that she relies on people assuming her sexual orientation as she wears “button down and blazers” most days. This university staff member not only feels comfortable expressing herself through transgressive clothing going against prescribed feminine gender roles

and presentation, but she also utilizes it as a tool to consistently “come out” on her behalf.

In an interview, one university employee said that a prospective colleague checked in with her before accepting a job offer, joking that the colleague asked if the institution was “down with the gays,” and she confirmed that it was, using an LGBTQA slogan, “I’m here and I’m queer,” so she would recommend the school as an inclusive employer. It is unlikely that the university fully grasps the value of LGBTQA employees recommending their institutions as accepting to other members within their community. Hastings and Mansell argue that when LGBT Staff Networks work well, they function as a two-way channel for collegial and transparent communication that delivers mutual benefits to senior management and rank-and-file staff alike.³⁹

LGBTQA INITIATIVES, TRAININGS, WORKSHOPS, AND PROFESSIONAL DEVELOPMENT

Higher education institutions are no longer in a position to pay “lip service” to diversity, particularly when negative student or staff experiences can turn out to be massively costly in terms of reputational damage, or the ability to attract, recruit, and retain the very best and most talented undergraduates, postgraduates, career academics, or administrators.⁴⁰ In establishing a valuable and mutually beneficial relationship with their LGBTQA groups, universities can work to expand institutional diversity initiatives, keeping in mind the intersectional identities that the entire campus community might share. If members of these groups

provide essential trainings and workshops, however, it is essential that those staff be compensated, either monetarily or through recognition for their service and contributions in annual work performance reviews. An example of this is given by the Association of University Administrators (AUA), whose professional behavior framework provides staff with a route to identifying how staff networks are allowing them to continue their professional development.⁴¹

One interviewee was acutely aware of the ways in which LGBTQA groups can be taken advantage of while not getting proper recognition, saying that the groups should be a space for advocates and activists, but it should not be their sole purpose “because at some point, that labor needs to be compensated,” especially while institutions brag about their ERGs to demonstrate how “woke” and “progressive” they are. In order for these groups to benefit both the university and its employees, it cannot be entirely the responsibility of volunteer positions. LGBTQA groups should have some sort of funding, whether through shared budgets to be distributed the way the group’s members see fit or directly through salaried leaders of the group. Campus stakeholders must improve their understanding of the factors shaping activism to work towards removing institutional barriers to activism and enhance personal and institutional supports for staff activists, in hopes of minimizing the negative consequences of LGBT campus advocacy.⁴²

SOCIAL NETWORKING TO BUILD A WORKPLACE SENSE OF BELONGING

Wright et al. affirm a key purpose of LGBTQ

staff networks is in validating LGBTQ employees’ ability to refer to their sexual orientation while at work without ambiguity, dissembling, or equivocation, which is fundamental to their relationships with their peers and their ability to perform at their very best.⁴³ It is, in short, essential to their morale and well-being. When discussing her opinion of the ideal purposes of an LGBTQ staff network, one interviewee described the importance of queer socializing:

There is power in being in a community where certain cultural references are just understood [. . .] the cultural exchanges or reference points are going to be similar, in a way, to how it feels so good to be in a gay bar.

For this gay employee, she received the same comfort from her LGBTQ staff network as she does in other shared queer spaces. Another interviewee referred to a previous position at the Gay and Lesbian Alliance Against Defamation (GLAAD), where she could “dress how she wanted.” She reflected that this was “so nice and relaxing,” in contrast to her current position in a non-LGBTQA-specific higher education role, where she feels she must adopt a more conservative dress code. The LGBTQA faculty and staff affinity group is the one space where she can “feel [her] stress levels going down just to [. . .] talk like a normal person.” This employee’s workplace sense of belonging is affirmed through time spent with other LGBTQA colleagues and the use of a shared vernacular.

NON-DISCRIMINATION POLICIES

Institutions of higher education are more

likely than other companies and organizations to have non-discrimination clauses that include sexual orientation and gender expression as protected categories. In an interview with a trans academic librarian, the interviewee said her intent was to become a public librarian, but most public libraries do not specify trans people in their non-discrimination statements. She said, in no uncertain terms, that “the sole reason that [she] became an academic librarian was because most colleges do have trans people in their non-discrimination statements.” These non-discrimination clauses are critically meaningful for current and prospective members of the university community. The enactment and enforcement of these policies was also cited by Mattheis et al. as a core inclusive policy that helped build a welcoming workplace.⁴⁴ For the interviewee who came to higher education due to their non-discrimination statements, her institution did not yet have an LGBTQA faculty and staff group established. She said that she hopes to help create a group with a social support component alongside an advocacy component that would “hold specifically HR’s feet to the fire on LGBT equity and inclusion.”

LGBTQA LEADERSHIP

LGBTQA faculty and staff groups provide an important and visible site of leadership for queer university staff. For Pryor, Queer leadership is defined as the intentional process to advance equity for sexual and gender minoritized communities through grassroots leadership strategies—specifically championing social change through institutional policy and practice.⁴⁵ If an LGBTQA faculty and staff group does not

include members of upper administration and C-suite positions, this should raise an immediate red flag regarding the severe lack of LGBTQA representation in an institution’s highest positions. Although a school cannot mandate membership or participation in a group defined by personal social identities, the fact that there exist no, or few, out staff members should be seen as the fault of the institution and something used by the group as evidence to advocate for more explicit recruitment of LGBTQA job candidates for top leadership roles.

MENTORSHIP FOR STUDENTS AND STAFF

Colleges and universities also have a unique advantage in enabling positive workplace experiences for LGBTQA employees, due to the built-in educational relationship between staff and students. Mentorship opportunities can be facilitated and maintained through an LGBTQA faculty and staff affinity group. For mentoring students, Vaccaro recommends the use of existing student affairs professionals, including career services and academic advising, to work in collaboration with faculty to create campus programs that institutionalize this type of intra-Queer community support.⁴⁶ For faculty, this could be considered a type of “service,” which is a requirement for many faculty positions. In a review of the literature, Orlov and Allen found that visible role models and support for non-heterosexual students can serve as academically motivating.⁴⁷ Rankin et al. also found that validating practices inside and outside of the classroom, such as introducing inclusive language and creating community standards, also contribute to student

involvement and, ultimately, student persistence.⁴⁸ These groups can also provide an invaluable presence for other LGBT staff, which has been proven to support the progression, retention, and success of university staff.⁴⁹ One research participant in a study by Mattheis et al. highlighted a “public out list” used at their university for mentoring other employees.⁵⁰ If universities recognize participation and leadership within these mentorship programs as adherent to their service requirements, it tangibly deepens their commitment to their LGBTQA employees and students alike.

COUNTERING HOMOPHOBIA AND TRANSPHOBIA

Along with the inherently positive qualities that make higher education institutions inclusive for LGBTQA employees, there are also specific challenges. In Vaccaro’s research, many LGBT faculty voiced concerns that students might give them lower course evaluations based on their beliefs and prejudices towards LGBT people, which could, in turn, influence tenure and promotion decisions.⁵¹ This fear was realized for one gay course instructor interviewed, who mentioned a course evaluation remark that, despite her insistence on appreciation of diversity, she also “seems to hate men” and talks “about women’s issues disproportionately.” There is no way to discern if that student would have made the same comment to any female instructor, or if their comments were also influenced by knowledge of that instructor’s sexual orientation. Orlov and Allen expand on some of the other professional and personal risks of coming out as an LGBTQ faculty member, including: reduced student enrollments,

heightened responsibility, scrutiny, critique associated with being a token out LGBTQ faculty member, and emotional tolls such as discomfort, shame, and vulnerability.⁵² Dolan points out that disclosure of one’s non-heterosexual identity has been equated with advocating for unconventional sexual behavior, so these instructors risk not only stereotyping and discrimination but also further risk being labeled as an inappropriate and unprofessional educator.⁵³ Despite those significant risks, Magee reminds us that teaching from “within the closet” may cause a gay faculty member to expend extra energy trying to pass, or present themselves as heterosexual, which can lead to damaged self-confidence and, ultimately, impaired teaching effectiveness.⁵⁴ University employees, such as student affairs professionals, have to balance their support of student activism and manage student concerns to avoid disrupting the campus environment.⁵⁵ Linder writes that educators are placed in a position of supporting the needs of the institution, creating a tension between supporting social justice initiatives and student development or maintaining institutional complacency.⁵⁶ It is therefore imperative that LGBTQA faculty and staff affinity groups exist as a space to explicitly support against homophobic and transphobic prejudice.

CONCLUSION

Despite the increasing number of LGBTQA faculty and staff affinity groups in higher education, there was a lack of consistency in terms of their organizational missions and goals. This paper addresses that gap, providing recommendations based on a review of published literature and six semi-structured

anonymous interviews with LGBTQA university employees. LGBTQA faculty and staff affinity groups should serve as a home base for LGBTQA employees, inform trainings and workshops, and ensure the enactment and enforcement of nondiscrimination/inclusivity policies of the institution. In addition, these groups should be a community social and networking hub that offer leadership and mentorship opportunities for LGBTQA students and other staff and provide support against homophobic and transphobic bias and discrimination. Future research should aim to address meeting the needs of LGBTQA staff outside of academia.

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Mutual Aid as a Queer Intervention in Public Library Service

By Flan Park

Flan Park is a rank-and-file worker in youth services and community outreach at the Free Library of Philadelphia. Their work centers on free, accessible educational support for K-12 students and their families and community initiatives in support of neighborhoods organizing for the common good. Flan has presented on LGBTQ programming in children's library services at ALA Annual in 2018 and PLA Annual in 2020. Their work on organizing rank-and-file library labor in response to COVID-19 was featured in the Summer 2020 session of the Library Freedom Institute presented by IMLS.

For the Free Library of Philadelphia (FLP) workers and the neighbors who rely upon our services, the period of unequalled challenges beginning with the first COVID-19 stay-at-home order in March 2020 has only magnified routine difficulties. Austerity budgets, systemic neglect, and administrative myopia defined the 2010s in community-facing government services. Since the 2008 financial crisis, public workers have worked with activist networks to prevent the closure of a wide swath of branch libraries and called for full funding of everyday programs. But the last fiscal year ended with city workers rallying to keep municipal agencies closed. What had changed, and what had remained the same?

The one-size-fits-enough solutions of neoliberal government clashed repeatedly against the lived experiences of the people working in the public good. Where Philadelphia's bureaucrats saw this economic downturn as an unnavigable political morass, Free Library workers refused the no-win terms of the game. Looking outward to the efforts of queer community activists, we instead advanced new efforts toward direct material mutual aid. In the process, we provided the means to begin redefining public library and information services.

Queer activism was not just a model but

a motivating factor for my personal commitment to the work of mutual aid. I am a queer nonbinary person who has worked alongside countless queers, trans folks, and women in vital caring positions since I was a teenager. In my prior program at the Free Library, our flagship Literacy Enrichment Afterschool Program (LEAP), well over 90 percent of my coworkers were women and nonbinary people. When the Free Library laid off temporary and seasonal staff in June 2020, between 20 and 30 percent of LEAP workers who lost their jobs were out-at-work trans folks.

Though I had the extraordinary luck to have a grant-funded summer position at FLP, I watched as dozens of talented and dedicated educators who were deemed essential at the pandemic's onset were sacrificed to austerity logic and abandoned to navigate an overwhelmed unemployment system. In using my social position at the library to build a mutual aid network from the grassroots up, I was not only hoping to transform the definitions of information commons and community-learning support but to literally take care of my own.

Even under ordinary circumstances, Philadelphia is reckoned among America's poorest large cities, according to a variety of benchmarks. The COVID-19 pandemic only

exacerbated those historical inequities. In April, Pennsylvania's unemployment rate peaked at 16.1 percent, averaging 13 percent over the summer.¹ Philly's municipal workforce was not untouched by this disaster, as the city drastically revised its fiscal projections to Recession-era levels. Facing a 13 percent cut under this new budget, the administration of the Free Library laid off over 200 low-wage workers in temporary and seasonal job classes.^{2,3} Disproportionately, these workers were Black and brown, and women and nonbinary. While the Mayor and City Council touted their commitment to equity, these employment decisions told a different story.

While the COVID-19 pandemic ravaged Philadelphia, the remaining workers at the Free Library worked through summer 2020 at a dramatic distance from our own administration. As Philadelphia's streets thrummed with rallies and marches for racial justice, upper-level management at the Free Library remained determined to curtail anti-racist organizing in our workplace and instead prioritized reopening libraries to full indoor service as rapidly as possible, seemingly indifferent to the danger this posed to employees and patrons. Rank-and-file workers viewed this priority and its potential to drive community spread as unacceptable risks for both ourselves and the neighborhoods we served. We were adamant we could advance our civic mission while maintaining respect and care for ourselves and our communities.

Our time before returning to onsite work proved vital to envisioning the task of public library workers under pandemic conditions. After organizing efforts led to the emergency closure of all branch libraries, library workers were invited to voluntarily

redeploy to municipal food distribution sites from April through August. The library workers who worked these shifts during the city's scaled-up food program continued to seek out material aid projects to collaborate with. Our interest in mutual aid flowed from observing and participating in queer-led projects like West Philly Bunny-Hop, Dipes'n'Wipes, and Philly's numerous community fridges as the pandemic progressed.^{4,5,6}

Drawing on these and other models for neighborhood-based calls to action, small donor fundraising, and open-air accessibility, library workers were able to interpret the mission of the Free Library ("to advance literacy, guide learning, and inspire curiosity") through organizing tactics modeled by Philly's queer grassroots networks. For example, collaborating with the organizers of Dipes'n'Wipes enabled us to meet financially stressed families' immediate caretaking needs, like infant care and menstruation supplies.

As library workers connected with other neighborhood organizations, we collectively leveraged our individual abilities to administer aid in the form of physical, outdoor spaces for information search and connection. We brought our partners together to create safe, accessible outdoor space for folks to connect to services. While our administration focused on "getting back to normal," we aimed to keep meeting community members' immediate physical needs, while supporting and supplementing at-home learning in the absence of the library as an indoor learning space. The experience we had in the rapidly responsive spheres of queer activism provided us a template to intervene in public library services with fresh imagination.

Through those interactions, we did what library workers do every day: work with individuals to build community capacity to meet intellectual and social needs. We met caregivers for in-patient facilities looking for hand crafts and skill-based activities for their ward-bound adult clients. We interacted with countless caregiving adults struggling after being thrust into full-time educational support for their remote-schooling children. We talked with unemployed people ripped from their everyday routines and livelihoods who lacked the Internet connections they needed to access benefits, apply for work, and even keep themselves entertained. We also distributed hand-sewn face masks, take-home art kits, homework help supplies, and thousands of free books.

Our motivation to materially aid those most affected by economic distress bore tangible results. Thousands of dollars of goods and services were delivered to hundreds of working-class Philadelphians at essentially no overhead cost to our organization. Collaborative relationships were formed and strengthened in our communities, bringing new confidence and hope in our neighbors. Without waiting for administrative sanction, rank-and-file municipal workers transformed a season of deprivation into a period of innovation.

Worker-initiated, community-responsive initiatives are the future of public library services in the face of state austerity. The Free Library of Philadelphia Mutual Aid project demonstrated active concern for workers' and neighbors' safety, both in terms of COVID-19 transmissibility and meeting material and intangible needs during a generational economic and public health crisis.

When this present crisis is past, entrenched institutions and governments possessing vast cultural and financial capital must vest programming initiative and resources in the hands of workers. It is not enough to be deemed essential until the point of disposability. Our cities do not work without us. We demand a future where community-facing workers lead.

Endnotes

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- 4 West Philly Bunny Hop is a network of food workers and neighbors distributing fresh produce and pantry essentials to over 350 families per week in West Philly, South Philly, and Kensington.
- 5 Dipes'n'Wipes is a volunteer-run redistribution effort that pops up at community events throughout West & Southwest Philly to give away infant care supplies and menstrual health products.
- 6 Community fridges were established throughout Philadelphia, often by explicitly anarchist neighborhood organizers, seeking to meet neighborhood nutrition needs and reduce fresh food waste during the pandemic economic crash.

Carving Spaces for Engagement in Indonesia

An Interview with Hendrika Mayora Victoria Kelan

By Eki Ramadhan

Eki Ramadhan is an MPA in International Development candidate and a John F. Kennedy Fellow at the John F. Kennedy School of Government, Harvard University. His research experience across four continents on topics including gender, social protection, governance, and environment has shaped his commitment to promoting inclusion and improving the lives of marginalized and vulnerable groups in the Global South. Prior to Harvard, Eki worked at J-PAL Southeast Asia on poverty reduction programs in Indonesia. He also served in task forces in charge of several initiatives related to gender diversity. Eki holds a bachelor's degree in government and economics from Wesleyan University, where he won the Lebergott-Lovell Prize for his research on the determinants of household location choices of gay Americans.

The COVID-19 pandemic has exacerbated the vulnerability of transgender individuals in Indonesia as measures to slow the spread of the virus have jeopardized industries that provide regular income for many in the community, such as salons, street performance, and sex work. At the same time, the transgender community has continued to suffer from an “epidemic of violence,” evidenced by the unrelenting bouts of violence and harassment, including the immolation of Mira, a trans woman who was accused of theft by a mob of men in Jakarta in April 2020.¹

Despite these dismal developments, in March 2020, a village in the province of East Nusa Tenggara, one of Indonesia’s poorest, elected the first openly transgender public official in the country, Hendrika Mayora Victoria Kelan, popularly known as Bunda Mayora (Indonesian for “Mother Mayora”). Bunda Mayora was born in Maumere, a small town on the island of Flores in the southeastern part of Indonesia. She was raised in the easternmost province of Papua before moving to Yogyakarta in Java. In 2018, she returned to her birthplace and founded a trans rights group, Fajar Sikka. In this interview, Bunda Mayora reflects on her

journey into activism and politics, recounts how Indonesia’s transgender community is making a difference amid the COVID-19 pandemic, and shares her views on recent developments regarding transgender rights in Indonesia.

EKI RAMADHAN

In addition to being a public official, you have been actively involved in activism in Indonesia. What motivated you to become an activist?

BUNDA MAYORA

It is a culmination of my long struggle to accept my own identity as a trans woman. Growing up in an extremely patriarchal and heteronormative environment, I was convinced that it would be sinful and wrong to embrace this identity. I ultimately realized that it is a will of and a gift from God for me to be who I truly am. I finally came in—arrived at a place of acceptance of my gender identity and stopped deceiving myself—and came out when I was 32 years old.

As a Catholic trans woman, I experienced multiple forms of discrimination when I was living in Yogyakarta. As I came to Java

from Papua, I was already subject to constant racist abuse: people told me I smelled horrible and hurled racial epithets at me.² In predominantly Muslim Java, my freedom to exercise my Catholic faith was also constrained. And on top of all these, as a trans woman, I experienced even more malicious attitudes from those who refused to accept my existence. I could not find work because nobody seemed to want to hire a transgender individual. Like many other transgender individuals, I lived on the streets. I had to busk and even work as a streetwalker to get by. I saw how my transgender friends who lived at an Islamic boarding school suffered after a hardline Islamist organization forced the school to close. Transgender individuals constantly became victims of the violence of law enforcement officials who would arrest and harass us.³ You can still see some of the bruises from these bouts of violence on my arm.

Nonetheless, in my suffering and deprivation, I found strength. I found strength in my warianess.⁴ Before my transition, I had been a religious brother in the Catholic Church, and the injustices I experienced and saw after coming out led me to a path for rediscovering my faith. All of these shaped my passion for humanity. I learned to step up and protect my transgender friends.

My work in Yogyakarta also extended beyond transgender activism. I wanted to show that there is nothing wrong with being a transgender person. I wanted to show that transgender individuals are capable of doing good. I volunteered at a nursing home. I worked with other activists who worked on other causes. I worked with progressive religious groups. These other activists gave me further inspiration and strength to move forward in my struggle against injustices.

EKI

After living in Papua and then Yogyakarta, you decided to return to Maumere—your birthplace—and continue your activism work. How was your experience coming back to this town as a trans woman?

BUNDA

In November 2018, I decided to return to Maumere. I could not go back to Papua, where my family was, because I knew they would not accept me. I had to hide my transgender identity at first because, after all, the predominantly Catholic Maumere is a deeply conservative society. Indeed, I faced some rejections at first. People would threaten me and express their anger at me for embracing my true self.

However, I understood they were angry because they did not understand. I never gave up. I refused to be caught in anger. Over time, I leveraged my interpersonal skills to slowly come out and educate others about my sexual orientation and gender identity.

In Maumere, people used to associate transgender women with a lack of intelligence. They thought we could only work at a hair salon. They thought we could only care about men. My experience in Yogyakarta taught me to strive and show others that I could still serve my community and contribute positively. I wanted to show others that transgender individuals are as talented as cisgender people. I did not want my Maumere to be another site of injustices like what I saw in Yogyakarta.

I tapped into my church experience to teach children and mothers in the community how to sing in a choir. I volunteered as a community health worker. I provided peer counseling to parents. I joined a women-led

community empowerment group. I reached out to other transgender women who struggled with their identity, those who were constantly told by others that they were full of sins. They eventually became involved in community service too.

I was surprised by how open the clergy at the Catholic Church in Maumere [was] with having transgender individuals involved in church activities. We trained their chorus. I worked as an emcee for their events. They even opened their classrooms to those of us who want to learn. I got to meet with the district head and his wife, who are so progressive and accepting.

I ultimately saw how these acts of love tore down negative stereotypes against transgender individuals. They created spaces for interactions with community members who would otherwise never know about the diversity of sexual orientation and gender identity. These spaces eventually fostered the acceptance of transgender individuals.

EKI

In March 2020, you made history as the first transgender public official in Indonesia after getting elected to lead the consultative body in Habi Village, Sikka District, East Nusa Tenggara Province. Could you tell us about how you became involved in electoral politics?

BUNDA

When I became elected to the village consultative body, I had been here only for one and a half years. However, people trusted me. I did not initially campaign to get elected, but people reached out to me and encouraged me to run. I first had to learn about the village governance system.

Village consultative bodies are very powerful as they have budget control and legislative authorities. Each village receives close to one billion rupiahs from the central government. I saw this as an opportunity to promote regulations that would benefit everyone. Considering that transgender voices are almost always ignored, I thought this would be an opportunity to work from within the system and get my transgender voice heard.

People knew I was capable, and I was always present in community activities. People in other parts of the village knew me from times when I led prayers in their neighborhoods and when I participated in the Parish's catechism program. I gained much support especially from the mothers across the village. Out of six candidates, including other community leaders, I garnered the most votes.

EKI

What can people from other parts of Indonesia learn from your experience advancing equality and inclusion in Maumere?

BUNDA

Wherever you are, the most important first step is to come in and accept yourself for who you truly are. We are not wrong. Our being is a gift from God. Our life is a grace from God. Without accepting your identity, it would be impossible to explore your capabilities and capacities. Next, we can actualize our capabilities and capacities. This process may take time.

When I first returned to Maumere, people here lacked an understanding of the diversity of sexual orientation and gender identity. I took the time to understand the

people around me first. It is important to understand the context. I saw how important familial connections are here. Here, people are not afraid to defend the rights of their family members who identify as transgender. “No matter how sinful they are, they are still our family,” people told me. This is when I realized that people who are initially apprehensive about my identity would grow more accepting as I built stronger connections with them.

When people get aggressive, I learned to turn the other cheek. It is also important to keep an open mind when engaging with others. By doing so, I discovered some strange bedfellows in this struggle. For example, local media have been active in publishing stories about the work of the transgender community here in Maumere. And of course, progressive leaders from different faith traditions—Catholicism, Protestantism, and Islam—have been supportive here. In 2019, we once organized a seminar on sexual orientation and gender identity in collaboration with a national LGBTQ rights organization. These religious leaders attended the seminar. When religious leaders respect us, that sets an example for the rest of society.

There is also a stereotype in Indonesia that the transgender community is exclusive. To challenge this, it is important for us to work with other organizations, such as youth organizations. Therefore, it is important not only to carve out spaces for engagement but also to ensure that those spaces are inclusive of others beyond the community. This is also the value of the organization I am leading, Fajar Sikka. We want to make sure that Maumere can be a safe and peaceful home for all, including all minority and marginalized groups, including senior citizens and widows.

By focusing our work in Maumere, we want to set an example for other parts of Indonesia that they can also champion diversity, respect minority rights, and provide opportunities for transgender individuals to thrive. This is in line with our country’s motto: *Bhinneka Tunggal Ika*—out of many, one. We do not only have cultural and linguistic diversity, but we also have gender diversity.

EKI

Can you tell us more about what Fajar Sikka has been working on during this ongoing COVID-19 pandemic?

BUNDA

We always believe that the presence of Fajar Sikka in Maumere must benefit everyone, especially those from marginalized groups. We now enjoy the privilege of being accepted and respected by a large portion of society, so we now must use this privilege to help others.

In Maumere, this pandemic, combined with a recent drought, an armyworm outbreak, and a malaria outbreak, has exposed the vulnerability of many marginalized individuals, such as widows, to deprivations. These people tend to lack identification documents needed to be able to access social protection and social security programs from the government. We have been working to make sure that they can access the emergency cash transfer program. We have also been supporting micro and small enterprises to access aid programs.

We have also seen how the informal economy, on which many transgender individuals depend, has been hit the hardest by all these shocks. To help people who have lost their job and income, we have carried out

fundraising campaigns. We have also been receiving in-kind donations, mostly rice. I have also been donating a portion of my salary. These donations have been distributed to many beneficiaries, including transgender individuals, widows, households with children who suffer from stunting, senior citizens, and Muslim minorities. We also offer counseling services to these people.

Of course, there are always those who try to spread false information about our work. We have heard those who suggest that our organization is tied to the Indonesian Communist Party, but that has not stopped us from channeling aid to those who need it the most. Our primary goal remains the same: to foster solidarity between marginalized groups.⁵

EKI

How important do you think having more transgender individuals in public service is?

BUNDA

We see that in some regions in the country, there have been new local regulations that explicitly discriminate against transgender individuals. We need to work from within the system to get our voices heard and stop this continued proliferation of discriminatory regulations. Working in public service would allow us to engage with others. There are people out there who respect and accept us—those who are ready to be our allies. For example, I see in Maumere how cisgender and heterosexual individuals have been supporting my initiatives.

EKI

What advice do you have for those from outside the transgender community who would like to be involved in promoting transgender rights in Indonesia?

BUNDA

It is important to educate the general public about diversity and inclusion. We would need the help of these progressive individuals to be able to do this. Progressive cisgender individuals, especially those in positions of power, have an important role in setting an example for other cisgender individuals. For example, I saw when the Bishop accepted me for who I am, other people followed.

From my experience, some people want to help, but they are worried that they might do something wrong. I saw journalists who were interested in writing about transgender issues, but they did not know what the correct terminology to use. Some of them reached out to us and asked for our advice. We told them, for example, instead of using the term LGBT, which tends to have negative connotations in the Indonesian context, they might want to consider *keberagaman gender dan seksualitas* in their Indonesian writings.⁶

It is important for cisgender and heterosexual individuals to learn about issues around sexual orientation, gender identity, gender expression, and sex characteristics, or SOGIESC. There are modules about these issues which people can easily access, including those designed for children.

EKI

In recent months, we have been confronted by disheartening news regarding violence and harassment against trans women in Indonesia. For example, a YouTuber recently provided donation boxes that turned out to contain trash to trans women in Bandung. Earlier this year, a mob of men in Jakarta burned Mira, a transgender woman accused of theft, to death. What do these incidents

tell us about the state of transgender rights in this country?

BUNDA

When thinking about these cases, there seem to be many reasons to be pessimistic. The way these cases have been handled only further suggests state ignorance of our right to exist. Moreover, while many Indonesian cultures traditionally recognize gender diversity beyond binarism, such as the five genders in the Bugis society, radical movements have threatened our respect for diversity. How can we contribute to society if the state does not protect us from violence? How can we love Indonesia if Indonesia does not seem to accept us? The queer community has so much potential, and failing to recognize our dignity would result in foregone opportunities for our nation.

However, we need to acknowledge the progress we have made in other parts of the country, such as in Lembata and Larantuka, where both the local governments and community members have been particularly receptive of advocacy related to transgender rights.⁷ In Maumere, our interfaith coalition has been promoting diversity and inclusion.

We also need to continue our struggle. Our law must uphold equality for all. Members of the LGBTQ community must continue to be involved in activism to fight against discrimination. We must educate ourselves. Our trans children must attend school. Our friends who live on the streets should be provided with a safe shelter. We must be open to working from within the system. We must continue working in our context, but we must also continue collaborating and coordinating with others. We are not alone in this struggle.

This interview has been translated from Indonesian to English and edited for length and clarity.

Endnotes

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2 Indigenous Papuans are dark-skinned Melanesian, ethnically distinct from the majority of Indonesians. Papua is also home to an active secessionist movement.

3 In Yogyakarta, Provincial Regulation No. 1/2014 effectively criminalizes homelessness and panhandling. This regulation is often used to arrest transgender individuals who often live on the streets.

4 This term could be translated as "transgenderness." Warianness derives from waria, a traditional third gender role in modern Indonesia. The term is a portmanteau of wanita (woman) and pria (man).

5 While communism is illegal in Indonesia and the Indonesian Communist Party was disbanded in 1966, the fear of communist revival has continued to grip Indonesia, especially since the 2014 presidential election.

6 Indonesian for "gender and sexuality diversity."

7 Another notable example is Makassar, the largest city in eastern Indonesia, where the city government routinely runs programs aimed to improve the welfare of trans women, including a vocational training and counseling program as well as special clinics for transgender individuals to help them access health care.

Sex/Gender Identity Policies in Kazakhstan

Reviews and Recommendations

By J. Michael Ryan, PhD, and Yenlik Dairova, Nazarbayev University

J. Michael Ryan, PhD, is an assistant professor of sociology at Nazarbayev University, Kazakhstan. He has previously held academic positions in Portugal, Egypt, Ecuador, and the United States. Before returning to academia, Dr. Ryan worked as a research methodologist at the National Center for Health Statistics in Washington, DC. He is the editor of multiple volumes, including COVID-19: Global pandemic, societal responses, ideological solutions (Routledge 2021), COVID-19: Social consequences and cultural adaptations (Routledge 2021), Trans Lives in a Globalizing World: Rights, Identities, and Politics (Routledge 2020), Gender in the Middle East and North Africa: Contemporary Issues and Challenges (with Helen Rizzo; Lynne-Rienner 2020), and Core Concepts in Sociology (Wiley 2019). He is also the series editor of "The COVID-19 Pandemic Series" for Routledge publishers.*

Yenlik Dairova is an undergraduate sociology major at Nazarbayev University in Kazakhstan. She has been working with her co-author, Dr. Michael Ryan, for the past year researching issues related to human sexualities, LGBTQIA+ inclusive policies, and gender equality. She wants to expand her future research to the topics of education and education policy analysis. Yenlik has taught English language to the employees of Kazakh National Academy of Choreography as a part of the government program "Trinity of Languages" on the behalf of "Youth Society for Education" student club at Nazarbayev University, as well as preparing students for IELTS and SAT exams in her free time.

ABSTRACT

Kazakhstan is the largest landlocked country in the world, nestled in the heart of Central Asia between Russia, China, and "the other –stans." It has the largest economy in the region and arguably the strongest regional influence and international ties. It is also a country that has, at times, been the leader in establishing relatively progressive human rights policies for gender and sexual minorities. Unfortunately, the last decade has seen a sharp reversal in this progression as more draconian measures have increasingly replaced previous human rights-oriented policies. This paper will examine the history of sex/gender identity policies in Kazakhstan, taking special note of the transitional period after the breakup of the Soviet Union. It will then provide an analysis of current policies and conclude with policy recommendations to help further Kazakhstan's role as a leader in

adopting more minority-friendly laws and policies in the Central Asian region.

GENDER IDENTITY POLICIES IN KAZAKHSTAN: REVIEWS AND RECOMMENDATIONS

Kazakhstan is the largest landlocked country in the world, nestled in the heart of Central Asia between Russia, China, and "the other –stans." It is a country that has, at times, been the leader in establishing relatively progressive human rights policies for gender and sexual minorities. Unfortunately, the last decade has seen a sharp reversal in this progression as more draconian measures have increasingly replaced human rights-oriented policies. This paper will examine the history of sex/gender identity policies in Kazakhstan, providing an analysis of current policies and concluding with policy recommendations to help further Kazakhstan's role as a leader

in adopting minority-friendly laws and policies in the Central Asian region.

GENDER IDENTITY RECOGNITION DURING THE SOVIET ERA

The history of gender identity policies in Kazakhstan finds its roots in the sex and gender identity laws of the USSR. Laws regarding sex and gender identity during the Soviet period were often intertwined with discussions of homosexuality, for which Soviet psychiatrists often “prescribed” sex/gender reassignment surgery.^{1,2} It is not clear whether psychiatrists could (or would) differentiate between the concepts of sexuality, sex, and gender, often confusing the three. This is apparent by the way sex/gender reassignment surgery was thought of as a “cure” for homosexuality.

Prior to 1983, trans people were commonly diagnosed with schizophrenia, a diagnosis that prevented them from accessing medical transition and legal sex/gender recognition.³ Beginning in 1983, however, that diagnosis changed to one of “transsexualism” and was listed as a type of personality disorder and sexual perversion in the *International Statistical Classification of Diseases, Injuries and Causes of Death* issued by the USSR Ministry of Health. In 1991, the Ministry of Health issued a document entitled “Methodological Recommendations for Sex Change,” which was issued months before the USSR’s dissolution yet continued to serve as a basis for legal sex/gender recognition in post-Soviet countries. The Recommendations identified transsexualism as “the most severe form of sexual dysphoria.”⁴ There were various forms of transsexualism listed, where a “nuclear” form required a specific treatment strategy. Psychiatrists prescribed legal change of

documents and/or sex/gender affirmation surgery, but only in cases where a person’s body tissues were not responsive to hormonal therapy.⁵ The Recommendations also make note that psychiatrists and surgeons were often hesitant to prescribe the official sex/gender affirmation process on the basis of possible health complications the surgery might cause, referring to it as castration, a term that carried a clear association with genital mutilation.⁶ Therefore, psychiatrists recommended people experiencing gender dysphoria to limit the sex/gender affirmation process to just changing legal documents.

The first stage of treatment for transsexualism was gender reconciliation, the attempts to make a person reconcile with their medically assigned sex at birth. If the sex/gender affirmation process was prescribed after examination and confirmation of the diagnosis of transsexualism, the patient had to undergo a one-year trial period as a person of the “opposite sex.”⁷ The trial period began with a legal change of documents and the person choosing a new name, and, in some cases, a new surname. A medical note of a diagnosis of transsexualism was sent to the police at the place of residence, in order to obtain a new passport, and to educational institutions, to obtain a duplicate diploma or certificate of graduation from an educational institution. The process of the one-year trial period was meant to determine whether a person needed a sex/ gender affirmation surgery or if just changing legal documents would be sufficient for complete sex/gender affirmation.

Surgical intervention was not necessarily required to have an individual’s sex changed in official documents, presumably because many forms of official identification, most

notably Soviet passports, did not include sex/gender markers. Thus, a sex/gender change was mainly reflected in a change of name rather than from a classification from/to male or female.⁸ That said, the desire to be recognized as a sex/gender other than that medically assigned at birth continued to be treated as a psychiatric disorder rather than a human right. Also, as trans people were considered mentally ill people who needed to be cured in order to have a legal sex/gender recognition procedure carried out, sex/gender identity recognition remained firmly under the helm of medical experts in the Soviet Union.

With the collapse of the Soviet Union, the various former Soviet Republics have gone through significant and varied economic, social, and political changes. In many post-Soviet countries, the question of sex/gender identity began to shift from a more medical to a more political discourse. What united most post-Soviet states was the fact that new country-level passports now included a sex marker and that they all had a similarly vague legal sex/gender recognition procedure, which required “a document in established form about the change of sex issued by a medical organization.”⁹ The necessity of medical intervention, and detail about what such an intervention might practically entail, was not clearly specified in most countries after the dissolution of the Soviet Union and had to be decided on a case-by-case basis by different registries and courts.¹⁰

SEX/GENDER IDENTITY RECOGNITION IN KAZAKHSTAN

Kazakhstan declared its independence from the Soviet Union in December of 1991, being the last former Soviet Republic to do so.

Since 2003, citizens of Kazakhstan have been able to request a change to their legal sex/gender identity, though the laws and procedures for doing so have varied significantly since then. The initial law in 2003 allowed individuals to change their legal sex/gender without the necessity of surgical intervention, though it did include a number of other stipulations, including a mandatory 30-day psychiatric evaluation in a state institution where one’s mental, neurological, and somatic conditions were assessed. At the end of the confinement period, individuals had to receive a diagnosis of transsexualism as informed by a psychiatrist, a sex therapist, and an endocrinologist. They also had to appear before an appointed government commission established by the Republican Scientific and Practical Center for Psychiatry, Psychotherapy, and Narcology. This commission was empowered to then issue a statement on the health of the individual and a recommendation regarding the ability to change the individual’s legal documents or undergo surgical interventions.

In 2009, sex/gender identity laws in Kazakhstan were updated under the Code of the Republic of Kazakhstan, in “On people’s health and the health care system.” The new update allowed for sex/gender reassignment surgeries for “persons with sexual identity disorders,” although they were prohibited for anyone with somatic or neurological diseases and for individuals under the age of 21. The law maintained that, to be eligible for a legal change of sex/gender identity, an individual still had to undergo the 30-day examination, appear before a special commission, and receive a diagnosis of transsexualism. It also added the option of hormonal therapy as a means of achieving legal recognition for one’s preferred sex/gender identity. Another

important change is that legal sex/gender changes would now first be recognized through a change in the birth certificate rather than with an identity card.¹¹

In 2010, the Ministry of Health proposed to allow for the process of legal sex/gender affirmation without requiring surgical intervention to obtain a legal change of documents, but the proposal was refused by the Ministry of Justice. In December 2011, the Ministry of Justice dealt a further blow to the rights of individuals to be recognized by their preferred sex/gender on legal documents by mandating “transsexual surgery” as a prerequisite to be able to change one’s legal sex/gender identity on official documents. The new law also mandated hormonal therapy and forced sterilization before any requests for legal identity change could be approved. These requirements were officially codified into law in paragraph 13 of Article 257—“grounds for state registration of name, patronymic, surname change”—of the Code on Marriage, Matrimony and Family of the Republic of Kazakhstan.¹² As surgical interventions became compulsory, many trans people in Kazakhstan refused undergoing surgery. The right to be able to change one’s legal identity to match their preferred/lived identity now depended not only on official approval from a state-appointed commission but also on documentation of a sex/gender-affirmation (termed a “sex-reassignment”) surgery.

On March 31, 2015, the Minister of Health and Social Development issued an order again affirming the mandatory 30-day examination in a state institution, as well as the required mandatory sex reassignment surgery and hormonal therapy. The Minister specified the measures for medical examination and called for a “commission

for medical examination of persons with gender identity disorders” that would be empowered to make conclusions on the possibility of medical measures for hormonal therapy to be followed by “corrective” surgical intervention.

In 2019, a new proposal was put forth that focused on reducing the age at which a person can carry out sex/gender reassignment from 21 years old to 18 years old.¹³ The proposal explicitly excluded “persons with mental disorders,” although what mental disorders might disqualify someone from undergoing a change in their legal sex/gender recognition were not specified. This move was widely hailed as a progressive step in the right direction towards more humane treatment of trans persons. However, on July 7, 2020, amendment No. 539 was made to the Code of the Republic of Kazakhstan, “On people’s health and the health care system,” in Article 156, “Change of gender,” to limit the age at which individuals can receive medical and social assistance (medical examinations, possibility of legal sex/gender change) to at least 21 years of age. This amendment was initiated by the deputy of the Mazhilis from the Nur Otan party, Zauresh Amanzholova, who argued that people at age 18 are too young and psychologically unstable to make such a decision.¹⁴ This latest amendment, and in particular the justification for it, is a step back in the course of trans depathologization in Kazakhstan.

On November 25, 2020, the Minister of Healthcare, Aleksey Tsoy, approved a new legal sex/gender recognition procedure, which instantly made headlines claiming, “Sex change will be allowed in Kazakhstan starting 2021.”¹⁵ The new legal code, however, seems to provide no real change to the existing law, other than that a neuropathologist

is no longer listed as a mandatory specialist for medical examinations and there is now a time limit of six months on decisions issued by commissions assessing applicants' request for access to change of documentation. A more detailed examination of the law, and its potential impact, will need to be assessed, but it seems simply an affirmation of the government's commitment to existing policies.

At present, anyone wishing to change their legal sex/gender recognition in Kazakhstan must still submit to a stay in a psychiatric institution for up to 30 days. There they are examined by a Commission for the Medical Certification of Persons with Sexual Identification Disorders, which is composed of at least three psychiatrists and other medical professionals. They are also subjected to an array of physical and psychological examinations that can include genetic and hormonal testing and x-rays to look for supposed mental disorders. The best outcome for a patient is that they will be recommended for hormone therapy and surgical genital interventions that include total sterilization. It is only after this excruciating process that one can finally apply for an official change of sex/gender in their legal documents.

In addition to the above physical and psychological costs, there are also stringent economic ones. The process can cost up to 1.5 million tenge (roughly \$3,600) for male-to-female recognition and up to 3 million tenge (roughly \$7,200) for female-to-male recognition. (Leadholm 2020) Those costs are even more astounding when one considers that the minimum wage in Kazakhstan is just under \$100 per month (42,500 tenge) and even the average wage (210,000 tenge) doesn't cusp \$500 per month.

It should be noted that even after enduring the long, physically invasive, emotionally taxing process of obtaining legal documentation that matches one's current sex/gender identity, trans people in Kazakhstan still continue to face significant social and economic hurdles and inequalities.¹⁶ People who have changed their legal sex/gender are legally barred from working in law enforcement, serving in the military, and adopting children. The delays in updating all of the necessary documents can cause significant hardships in finding work, securing housing, traveling abroad, and opening bank accounts. They are also likely to face significant persecution from religious communities, especially since Kazakhstan's state Islamic board issued a fatwa against sex/gender affirmation surgery in 2016, calling it a "great sin" that must be "punished."¹⁷ The lack of antidiscrimination laws to protect members of the LGBTIQ community amplifies these hardships.

POLICY RECOMMENDATIONS

The ability to be legally recognized as one's preferred/lived sex/gender is important for a number of social, economic, political, psychological, and personal reasons. As J. Michael Ryan has noted, "[C]hanging one's official sex/gender marker can have profound effects on one's ability to access any number of legal rights, including other legal identification markers, rights to marry the partner of one's choice, the ability to adopt and/or retain guardianship of biological or adopted offspring, access to healthcare, and a long list of other social goods and services."¹⁸ Knight has further argued that legal sex/gender recognition "allows individuals and communities to realize a number

of other rights and dramatically increases their social mobility.”¹⁹

It is clear that Kazakhstan has been a leader in the Central Asian region in terms of extending the fundamental human right of identity determination to trans individuals, albeit often falling short of globally recognized best practices. This historical leadership, however, has receded over the last decade with a series of harsh changes to the more liberal policies. As Kazakhstan continues its efforts to integrate as a major political player on the global stage, we submit the following policy recommendations as means of improving the human rights and civil liberties in one of Central Asia’s leading countries:

- *Depathologize gender diversity and remove the requirement for psychiatric evaluations.* The movement to depathologize gender diversity has increasingly gained prominence in the broader field of human rights.²⁰ This can be seen through various crusades to remove trans-related pathologies, including gender identity disorder, from the Diagnostic and Statistical Manual (DSM) and the International Classification of Diseases (ICD) that have seen some success, most notably the removal of trans-related diagnoses from the list of mental health issues in the most recent version of the ICD.²¹ Kazakhstan should follow this trend in recognizing that trans individuals do not inherently have mental health issues that require either treatment or evaluation.
- *Lower the age of providing assistance from 21 to 18 and provide assistance for those under 18.* As discussed above,

Amendment 539 to the Code of the Republic of Kazakhstan limits the age of receiving medical and social assistance for trans individuals to those at least 21 years of age. This amendment must be fully reversed as it prohibits any individual under the age of 21 from having their preferred/lived sex/gender legally recognized if it is not the one medically assigned to them at birth. Further, provisions should be made to assist those under age 18 with receiving medical and social assistance for sex/gender-related issues and services.

- *Remove sterilization requirement.* The requirement of sterilization for individuals seeking to bring their legal sex/gender identity in line with their self-identity must be immediately abolished. This is a clear violation of human rights and bodily integrity. This requirement has been condemned by multiple international organizations, including the United Nations. Principle 3 of the Yogyakarta Principles, widely regarded as the standard setting document for the human rights of gender and sexual minorities, clearly states that “no one shall be forced to undergo medical procedures, including sex-reassignment surgery, sterilisation or hormonal therapy, as a requirement for legal recognition of their gender identity.”²²
- *Allow identity to be self-determined.* Ryan has argued that “the gold standard in gender identity laws has become those which rely purely

on self-determination and remove the necessity of medical intervention or approval by a medical professional or judge."²³ This argument has been echoed by the UN High Commissioner for Human Rights, who has recommended that States "facilitate legal recognition of the preferred gender of transgender persons and establish arrangements to permit relevant identity documents to be reissued reflecting preferred gender and name, without infringements of other human rights."²⁴

- *Provide sex/gender confirmation surgery, hormones, and other medical services under the publicly funded healthcare plan.* Allowing sex/gender recognition is an important step, but it will remain inaccessible to large segments of the population unless economic barriers to such recognition are also removed. To this end, it is recommended that government public health services fully fund trans-related medical care regardless of psychiatric diagnosis, official certifications, or other bureaucratic barriers to access.

- *Remove barriers to full and equal participation in civil organizations.* At present, Kazakhstan bars trans individuals from serving in the military or law enforcement. This presents an unjustified barrier to trans individuals and reinforces discriminatory hiring practices. All individuals of sound mind and body and with adequate professional training should be allowed to serve in any and all civil service.

- *Pass anti-discrimination legislation*

to protect LGBTIQ citizens. Even after obtaining legal recognition, gender and sexual minorities face significant discrimination in terms of housing, employment, education, medical treatment, and other areas of social life. The government should adopt and enforce a comprehensive anti-discrimination policy to protect these populations and ensure their ability to live safely.

We understand that the above recommendations represent ambitious changes to the existing understandings and legal treatment of gender diverse people in Kazakhstan. We also recognize the significant barriers to enacting such recommendations in the social, political, and religious context of the country. That said, Kazakhstan has already proven its willingness to adopt unpopular legislation in the name of social justice and broader human rights. On a global stage where the rights of trans individuals are receiving increasing attention and positive action, we call upon Kazakhstan to once again resume its leadership as a beacon of progressive rights for gender minorities.^{25,26}

Endnotes

- 1 We use the term *sex/gender* to prefix *assignment* or *re-assignment* in reference to surgery throughout in order to recognize that not all those who seek such medical interventions are necessarily seeking to change/correct their sex and/or gender. For example, some seek such medical intervention to change/correct only their legal sex in order to be able to access certain legal and social benefits while their gender identity remains the same both before and after such intervention(s). Others, however, seek such intervention to change/correct their gender recognition for personal, social, and/or psychological reasons.
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- 6 Belkin and Karpov, "Transsexualism."
- 7 We wish to recognize here the problematic nature of the term *opposite sex*, which implies both a dichotomy of two and only two sexes and also that those two sexes are opposites. We challenge such thinking but use the term *opposite sex* here to comply with the bureaucratic nomenclature of the prescription.
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- 15 Aliya Rakhimova, "Tsoy approved the rules for gender reassignment in Kazakhstan," *New Times Kazakhstan*, 12 February 2020, <https://newtimes.kz/obshchestvo>.
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- 26 For those grappling with gender identity issues in Kazakhstan, we recommend the group AlmaTQ (<https://www.alma-tq.org/>), which provides information on trans health care, rights, and support groups.

Empty Promises of Rainbow Hearts

The Changes and Stagnations of Anti-Violence Providers in Serving LGBTQIA+ Survivors

By Wolf Smith and River Chew¹

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ABSTRACT

For most of its history, the anti-violence movement failed to include the experiences and voices of LGBTQIA+ survivors, consequently creating theories, resources, and funding streams that systematically denied the existence of LGBTQIA+ survivors. To partially correct for this exclusion, in 2013, the federal government reauthorized the Violence Against Women Act (VAWA), which establishes protections for survivors of domestic violence and funding for services to reduce domestic violence, to also forbid discrimination against LGBTQIA+ survivors in service provision. Society as a whole has also become more accepting of LGBTQIA+ people. However, to what degree have legal and social changes affected the lives of LGBTQIA+ survivors? This paper aims to answer this question by examining the experiences of LGBTQIA+ survivors shortly after the passing of the 2013 Reauthorization of VAWA and again five years later. Based on that data, the environment for LGBTQIA+ survivors has become somewhat more accepting, but still

leaves significant room for improvement. Advocates will need to encourage more active inclusivity efforts at the federal level, while agencies should re-think providing services that are both inclusive and meet the needs of LGBTQIA+ survivors.

INTRODUCTION

Over the past 20 years, lesbian, gay, bisexual, transgender, queer, intersex, asexual, and other gender and sexual minority (LGBTQIA+) people have made significant strides in attaining legal and social recognition, including increased social acceptance, the right to intimate privacy and marriage, and an increasing number of inclusive state- and municipal-level anti-discrimination laws. One such milestone occurred in 2013 with the passage of the 2013 Violence Against Women Reauthorization Act (VAWRA), the first federal law explicitly forbidding discrimination against LGBTQIA+ individuals in both employment and services.

In 1994, Congress passed the original Violence Against Women Act (VAWA), a

landmark law that, among other things, criminalized domestic violence at the federal level, clarified states' obligations to end violence against women, and allocated funding, administered by the Office on Violence Against Women (OVW) under the Department of Justice, specifically towards this purpose.² Police officers, prosecutors, and other members of the criminal justice system who deal directly with intimate partner violence receive the largest share of these funds from OVW.³ While many authors have critiqued the law over the years for overemphasizing criminal interventions (including some of its original proponents), VAWA and its progeny stand as the leading federal laws on preventing and responding to domestic violence.⁴

In 2013, Congress updated VAWA by passing VAWRA, which added protections for Native American/Indigenous and “nonimmigrant” survivors, addressed backlogs of rape test kits and human trafficking cases, forbade all grantees from discriminating based on sex, gender identity, or sexual orientation, and continued funding for OVW and its grantees—though it reduced the total funding available by 13 percent.⁵ Many LGBTQIA+ anti-violence advocates considered VAWRA a milestone win because the anti-discrimination provision specifically bars grantees from excluding survivors from services (e.g., counseling, shelter, etc.) due to the survivor's gender identity or sexual orientation.⁶ This was particularly significant given that the passage of VAWRA was the first time gender identity and sexual orientation were included as protected classes in any federal law. This laid the groundwork for the OVW to then add these same protections to grants distributed under the Family Violence Services & Prevention Act (FVSPA), a related law

passed in 2015 that funds a wide variety of anti-violence agencies.⁷

However, while the passage of VAWRA marked a significant step in protecting LGBTQIA+ survivors, and while Congress also designated LGBTQIA+ survivors as a purpose area to receive funding under STOP grants (S. 47 § 101(19)), VAWRA reduced available funds by 13 percent and failed to create any specific funds to develop LGBTQIA+-specific resources.⁸ Absent specific funding, grantees had little incentive to use their already thin resources to expand inclusive services. On the national level, LGBTQIA+ anti-violence agencies and coalitions have therefore questioned the effectiveness of VAWRA in actually achieving more equitable service provision for LGBTQIA+ survivors.⁹ Many agencies anecdotally note that OVW does not enforce the anti-discrimination policy adequately. As a result, they silently choose to ignore the mandate; so long as agencies do not get reported, they will not lose funds. Thus, many argue that VAWRA only gives LGBTQIA+ survivors access on its face but not in practice.

This study aims to assess the plight of LGBTQIA+ survivors over a five-year span, specifically inquiring if the inclusion of anti-discrimination provisions in VAWA and FVSPA has translated into better or more inclusive services for LGBTQIA+ survivors of violence. To do so, we first review relevant literature to illuminate the context of existing mainstream anti-violence agencies and their relationships to LGBTQIA+ communities.¹⁰ We then present the study itself, including the methods used, results, and a discussion of important insights from the data. Finally, the Next Steps section synthesizes the data with the previous analysis of VAWA to create recommendations that can

be implemented at the federal and local levels to better meet the needs of LGBTQIA+ survivors.

LITERATURE REVIEW

Many authors have detailed, praised, and critiqued the evolution of the anti-violence movement since its origins. The modern anti-violence movement started in the early 1970s as a branch of second wave feminism called the "Battered Women's Movement."¹¹ By the mid- to late 1970s, the first domestic violence shelter had opened in the United States, and in the '80s the movement started to gain national traction.¹² This era of feminism had an unequivocal bend towards the experiences of white, cisgender, middle-class, heterosexual women.¹³ This foundation led towards a focus on cisgender, opposite-sex intimate partner violence (COSIPV) and the use of the criminal and legal justice system as the main means to end domestic violence.¹⁴

During this time frame, LGBTQIA+ community activism primarily prioritized the HIV/AIDS epidemic, a renewed enforcement of anti-sodomy laws, and acts of hate-driven violence by police and society at large.¹⁵ Additionally, many LGBTQIA+ individuals were actively excluded from the anti-violence movement, with many feminists issuing an outright ban on men as well as specifically attacking lesbians and trans women.¹⁶ The first agencies that welcomed LGBTQIA+ survivors opened in the '80s and were often excluded from anti-violence coalitions, which resulted in the separate formation of the National Coalition of Anti-Violence Programs to specifically address violence in LGBTQIA+ relationships (queer intimate partner violence, or QIPV).¹⁷ Although heralded as an important step,

the separation of services between mainstream and LGBTQIA+ providers has meant that mainstream services have often been less inclined to expand services to include LGBTQIA+ survivors.

LGBTQIA+ survivors have only recently been introduced as a substantial topic within the mainstream movement.¹⁸ This shift aligns with the broader movement for societal and legal acceptance of LGBTQIA+ people throughout the past two decades, from the ban on sodomy laws to marriage equality.¹⁹ However, the addition of LGBTQIA+ survivors has been *ad hoc* both in theory and practice, creating a piecemeal understanding of QIPV without truly assessing what LGBTQIA+ communities need.²⁰ As a result, the question remains: Does the mainstream model of service provision for COSIPV work for LGBTQIA+ survivors? If so, are mainstream providers addressing the many barriers that prevent LGBTQIA+ survivors from accessing services? According to many researchers in the LGBTQIA+ community, the answer to both questions is a resounding "no."²¹ Therefore, this study aims to explore in depth the experiences of LGBTQIA+ survivors in utilizing (or not utilizing) services, as well as a formal needs assessment of how the LGBTQIA+ community desires support if and when they experience IPV.

METHODS

I. Procedure

This research follows a hybrid cross-sectional and longitudinal design using nearly identical surveys handed out at St. Louis PrideFest in 2013 and 2018. Surveys were distributed by the lead researcher and research assistants, while community partners hosted locked drop boxes for participants to deposit completed surveys.

II. Measures

The 2013 and 2018 surveys used for this study utilized many of the questions from an annual survey conducted by Los Angeles Gay and Lesbian Center (LAGLC) at Los Angeles Pride Festival in 2012.²² Both surveys asked about demographics, seriousness of abuse within the LGBTQIA+ community, personal experiences with abuse/violence and survivor resources, ideal support and resources for a hypothetical survivor, and comfort with future usage of anti-violence agencies. The last question changed between versions; the 2013 version asked how to reduce rates of violence within LGBTQIA+ communities, while the 2018 version asked how anti-violence agencies could demonstrate inclusivity. In order to capture demographics, the survey asked for age, gender identity, sexual orientation, and ethnicity/cultural orientation with a blank space for self-identification, as well as HIV status, immigration status, and disability using checkboxes. Although using blanks for self-identification resulted in more time spent coding the results, it follows feminist and queer theory values of the power of self-identification.²³ As per the LAGLC survey and other surveys on past sexual and domestic violence, the questions regarding past experiences utilized both cognitive measures (i.e., "Have you ever experienced abuse?") and behavioral measures (including a checklist of a wide variety of abusive tactics, such as physical, sexual, and emotional). The survey did not assess whether the respondent was abusive and so some behavioral measures could capture fight-back behavior, which is more common in same-gender relationships.²⁴

The researchers compared the responses within each year (intragroup) using

chi-square goodness of fit tests by comparing distributions to a null hypothesis of a normal distribution or order. Differences between years (intergroup) were calculated using a two-sample z-test. Statistical significance was assessed at a confidence level of 95 percent or greater (e.g., $p < 0.05$).

RESULTS

I. Participants.

In 2013, 535 participants completed surveys. Only the surveys of those participants identifying with an LGBTQIA+ identity, indicating same-sex sexual interactions, or indicating having a previous trans partner were analyzed, totaling 259 surveys. In 2018, 1,862 participants completed surveys. Exclusion criteria remained the same, resulting in 1,226 qualified surveys. Figure 1 contains a full breakdown of the demographics for each year.

II. Responses

Overall, 50 percent of participants in 2013 and 53 percent of participants in 2018 had experienced violence.²⁵ Approximately 80 percent of these participants identified their experiences as "abuse," both in 2013 and 2018.²⁶ In 2013, 34 percent of gay respondents, 47 percent of lesbian respondents, 52 percent of bi respondents, 55 percent of trans respondents, and 65 percent of queer respondents experienced violence ($p = 0.04$). In 2018, 47 percent of gay respondents, 51 percent of lesbian respondents, 56 percent of bi respondents, 60 percent of queer respondents, and 61 percent of trans respondents experienced violence ($p < 0.01$). These results varied from a uniform distribution using a chi-square test, indicating a statistically significant relationship between identity and experience of violence. Looking across 2013

and 2018, the changes in rates for gay respondents are statistically significant ($p = 0.02$), but not for any of the other identities.

When asked if abuse is a serious problem in the LGBTQIA+ community, the mean response out of five was 4.16 in 2013 and 4.2 in 2018, indicating that participants fell between somewhat agreeing and strongly agreeing.

When participants were asked about their own hypothetical responses to violence, 90 percent of respondents indicated they felt comfortable using an anti-violence resource in 2013, compared to 92 percent of respondents in 2018. Additionally, respondents were asked to pick the top three resources they would find most beneficial if they experienced violence, as outlined in Figure 2 below. The only resources that saw statistically significant changes in percentage of responses between 2013 and 2018 were LGBTQIA+-specific IPV shelters ($\Delta = +8$ percent, $p = 0.02$), couples counseling ($\Delta = -11$ percent, $p < 0.01$), and religious leaders ($\Delta = -5$ percent, $p = 0.01$). Notably, the change in percentage for mainstream domestic violence shelters/agencies is not significant.

When asked specifically about where the respondent would go for safe housing after experiencing hypothetical violence, when choosing from a set list, respondents' rankings of responses were the same each year with the following percentages from 2018: with friends (35 percent), with family (29 percent), LGBTQ+-specific domestic violence shelter (19 percent), motel/hotel (10 percent), mainstream domestic violence shelter (4 percent), and homeless shelter (3 percent).

In 2013, 12 percent of people who had experienced violence had used a survivor support agency, while in 2018, only 7 percent had used such an agency. Of those

individuals who used an agency, 63 percent found it helpful in 2013 and 60 percent found it helpful in 2018. In 2013, 100 percent of individuals who reported receiving LGBTQIA+-specific services reported that they were helpful, compared to 45 percent of individuals who reported that non-LGBTQIA+-specific services received were helpful ($p = 0.04$). In 2018, 100 percent of individuals who reported receiving LGBTQIA+-specific services also reported that these services were helpful, compared to 66 percent of individuals who reported that non-LGBTQIA+-specific services received were helpful ($p = 0.03$). The change over time for helpfulness of non-LGBTQIA+-specific services is not significant ($p = 0.2$). Fifty-three percent of men and 50 percent of nonbinary people who used a survivor support agency received LGBTQIA+-specific services, while only 6 percent of women who used a survivor support agency received LGBTQIA+-specific services ($p < 0.01$).²⁷

Police involvement in respondents' experiences of violence are summarized in Figure 3 below. The demographic breakdown of the survivors who reported police involvement almost exactly matched the demographic breakdown of all respondents. The only exception was based on immigrant status; none of the non-US citizens reported police involvement. Additionally, six of the seven respondents in which only the non-abusive person was arrested identified as women (half Caucasian and half African American), and the last identified as a man.

Finally, participants ranked a variety of common practices that agencies use to demonstrate LGBTQIA+ inclusivity, based on which would best demonstrate an agency's inclusion of LGBTQIA+ survivors. The results are summarized in Figure 4 below.

DISCUSSION

This research focuses as much on what is significant as what is not. Because of this study's model, the overall purpose is to examine trends at a given time as well as over time. Where differences are not statistically significant between years, especially those with extraordinarily high p values, the reader may infer that little changed over the five-year span. This section analyzes the results to elucidate on the topics of prevalence and seriousness of violence within LGBTQIA+ communities, accessibility of anti-violence resources, the relationship

law enforcement plays in QIPV, LGBTQIA+ peoples' responses to situations of hypothetical QIPV, and improving services for LGBTQIA+ survivors.

I. Prevalence and Seriousness

The rates of violence in this study align with other studies on the prevalence of violence within LGBTQIA+ communities, with an average of 50 percent of LGBTQIA+ respondents experiencing violence and higher rates among trans and bisexual individuals. The rate of prevalence found across this and most other research indicates that LGBTQIA+ individuals experience violence

Figure 3: The number of respondents reporting police involvement and responses to their abuse.

	2013		2018		
	n	%	n	%	Δ
Police involved	22	17%	89	14%	-3%
Police called by the survivor	14	64%	66	74%	+10%
Police did nothing	16	73%	44	49%	-24%†
Only abusive person arrested	5	23%	13	15%	-8%
Both arrested	2	9%	3	3%	-6%
Only non-abusive person arrested	0	0%	7	8%	+8%

†Statistically significant ($p < 0.05$).

Figure 4: Practices to create safety and show an agency is LGBTQIA+ inclusive, ranked. This order is not random ($p < 0.01$). This question was only asked in 2018.

Practice (ranked)	n	%
Rainbow sticker/flag at entrance	577	47%
Tabling/Outreach in LGBTQ+ spaces	562	46%
Non-discrimination policy on website/advertising	514	42%
LGBTQ+ people on website/advertising	488	40%
Have a booth at Pride celebrations	446	36%
Certification by an LGBTQ+ agency	435	36%
Non-discrimination policy on forms	378	31%
Ask all clients for their pronouns	358	29%

at disproportionate rates compared to their cisgender, heterosexual counterparts.²⁸ Overall, the prevalence rate did not change significantly over time, other than a significant increase in reports by gay men ($p = 0.02$). This change may have arisen from an increasing willingness by gay men to be honest about violence in their relationships. Although not captured by the data, many respondents were anecdotally also less dismissive of the survey and the researchers in 2018 than in 2013.²⁹ Additionally, the difference in prevalence rates between bi- and queer-identified people (52 percent and 65 percent in 2013, and 56 percent and 60 percent in 2018, respectively), which are often grouped together on surveys, demonstrates the importance of self-identification measures when assessing LGBTQIA+ communities.³⁰ Although many participants did not likely know the specific rates of violence, they generally agreed that abuse is a serious issue within LGBTQIA+ communities (as rated on a scale of five, 4.16 in 2013 and 4.2 in 2018).

II. Accessibility of resources

On the surface, anti-violence agencies have relatively high approval ratings, between 90 and 92 percent amongst respondents, including respondents who were survivors. However, the percentage of survivors who actually used services was much lower, only 11–14 percent. Additionally, services were not more significantly utilized by survivors in 2018 than 2013 ($p > 0.05$).

The results do not help explain this discrepancy. One obvious explanation would be the survey's inclusion of behavioral measures of abuse to identify respondents as survivors (i.e., those respondents who do not consider their experiences "abuse" would likely not use survivor support services). However, the data does not support

this conclusion since the proportion of survivors identified purely by behavioral measures (20 percent of survivors) was not statistically different from the proportion of individuals who used a resource but only indicated behavioral measures of abuse (11 percent of respondents who used a resource).

III. Law enforcement

As mentioned, police officers, prosecutors, and other members of the criminal justice system are among the most funded grantees under VAWA.³¹ However, their relationship with the LGBTQIA+ community, especially LGBTQIA+ people of color, has been tumultuous. In the present study, 14–17 percent of survivors had the police involved at one time during an abusive situation, and just over a quarter of those survivors did not call the police themselves. The only significant change over time was that police were less likely to do nothing in 2018 (49 percent) compared to 2013 (73 percent, $p < 0.01$). Overall, this indicates police took a more hands-on approach to these situations over time. Unfortunately, it may not have been for the better, as evidenced by the number of cases in which only the non-abusive person was arrested. Still, the total rate of arrests did not increase, which may indicate the police were more likely to take non-carceral approaches to handling LGBTQIA+ relationship violence in 2018 than 2013.

V. Theoretical responses to violence

When asked about what types of actions or resources might be most helpful to LGBTQIA+ abuse survivors, participants were asked to choose their top three, but many chose more than instructed. The list of solutions was then ranked based on how many participants chose each option. As shown in Figure 2, over half of participants

agreed that the most helpful option would be to talk to friends, with LGBTQ+-specific intimate partner abuse/domestic violence programs coming in second. From 2013 to 2018, LGBTQ+-specific IPV shelters also significantly grew in support, from 37 percent to 45 percent ($p < 0.01$). In 2018, these three options (talking with friends, using LGBTQ+-specific programs, and using LGBTQ+-specific IPV shelters) were the highest ranked.

In both years, the three lowest-ranked choices were religious leaders (8–13 percent), mainstream domestic violence shelters/agencies (10–14 percent), and homeless shelters (4–6 percent). Both couples counseling and religious leaders significantly fell in rankings from 2013 to 2018, by 11 and 5 percentage points, respectively ($p < 0.01$ for both). The lower ranking of religious leaders likely stems from the progressive movement away from religion, especially by young LGBTQIA+ people.³² Although mainstream domestic violence agencies were ranked higher in 2018 ($\Delta = +4$ percent), the percentage increase was not statistically significant ($p = 0.07$). Surprisingly, the overall rankings did not differ between those who had and had not experienced violence.

Unsurprisingly, fewer respondents would use homeless shelters than domestic violence shelters (6 percent and 14 percent, respectively). However, for many men and masculine-presenting individuals, homeless shelters are the only shelters available. Often these shelters are not safe, with many LGBTQIA+ individuals experiencing assault during their time at a homeless shelter.³³

While resource providers may feel tempted to simply expand current resources for the sake of inclusivity, or even to create an LGBTQIA+-specific domestic violence shelter, participants had different ideas

about what they want. Overall, participants would prefer to turn to friends before strangers. Participants ranked talking to friends as their first, most helpful option after experiencing violence (59–64 percent of respondents included this in their top three) and responded that staying with friends would be their first choice if they had to leave home. This clearly calls for resources to foster and utilize friendship networks as a method of supporting survivors. Of course, LGBTQ+-specific shelters ranked significantly higher than mainstream shelters (a difference of 27 percent in 2013, $p < 0.01$, and 31 percent in 2018, $p < 0.01$), but overall, the current sheltering model has less appeal to LGBTQIA+ survivors than community-based approaches like staying with friends or family.

VI. Improving resource provision

Every LGBTQIA+ survivor who received culturally specific services found these services helpful, compared to 45–66 percent of LGBTQIA+ survivors who did not receive culturally specific services. All too often, agencies take a one-size-fits-all approach to service provision, heralding themselves for treating everyone the same instead of providing such tailored services. This approach does not work when serving racial minorities, nor does it work when serving gender and sexual minorities. Perhaps most telling is the demographic makeup of who received specific services. While 53 percent of men and 50 percent of nonbinary people who used a resource received LGBTQIA+-specific services, only 6 percent of women who used a resource received such services. Because anti-violence agencies have a long history of serving women, they have built expertise in the paradigm of cisgender, opposite-sex intimate partner violence (COSIPV). As a result, many agencies often make blanket

assumptions about the experiences of the clients they serve, based on the COSIPV model. Clients who identify as men or non-binary, of course, cannot fit within the traditional COSIPV framework, and so a practitioner must use different tools to work with survivors with these identities.³⁴ Ironically, this results in the few men and nonbinary people who are willing to and can access services receiving more culturally specific and more helpful services than their women counterparts, whom mainstream anti-violence agencies claim to have more experience serving.

In the final question of the 2018 survey, participants ranked how they thought anti-violence agencies could best demonstrate LGBTQIA+ inclusivity. Overall, participants noted that agencies that are the most outspoken about their inclusivity, such as by posting rainbow flags, conducting outreach in LGBTQIA+ spaces, and publicly posting their anti-discrimination clause, are most likely to be inclusive. For agencies that genuinely want to demonstrate inclusivity, implementing the practices in Figure 4 can have an important impact. Because the ranking is statistically significant, agencies may consider prioritizing implementation in the order listed. However, trans and nonbinary people considered asking all clients their pronouns as significantly more important than their cisgender counterparts (55 percent and 29 percent, respectively, $p < 0.01$). So, although less of the overall sample identified as trans or nonbinary, and although this practice was ranked lower than others in the overall ranking, this practice had a more significant impact on that community. Often the practices on which agencies focus (non-discrimination provisions on forms, for example) are the ones clients care least about. Instead, agencies

should strive to reflect the very characteristics of the population they wish to serve: out, loud, and proud. Of course, advertising inclusivity without taking intentional efforts to create an inclusive organizational culture will only lead to failure and harm to clients.³⁵

NEXT STEPS

Despite the importance of VAWRA in the affirmation of LGBTQIA+ rights, the data suggests that the LGBTQIA+ community's relationship with anti-violence services has not significantly improved since its passage. However, the data also provides significant insights into solutions to reduce and heal violence within LGBTQIA+ communities.

A. Enforcement and Training

As discussed in the introduction, the current enforcement mechanisms of the anti-discrimination provision in VAWRA fail to adequately protect LGBTQIA+ survivors in accessing services.³⁶ Although this survey did not inquire whether or not an individual had been denied services, the general underutilization and significant number of unhelpful resources indicate a lack of access. The next iteration of VAWA must go further than VAWRA in ensuring equal access by requiring the attorney general to submit an annual report to Congress regarding grantees' compliance with the anti-discrimination provision. This approach takes an active stance in reducing discrimination against LGBTQIA+ survivors in accessing services.

In the same vein, the current provision of VAWRA only requires that agencies not discriminate, which unfortunately does not directly create inclusive resources. As shown by the data, LGBTQIA+ survivors already distrust mainstream anti-violence

agencies. Forcing these agencies to accept LGBTQIA+ survivors does not guarantee helpfulness or even tolerance for this community. Participants made explicit that they trust LGBTQIA+-specific agencies more than mainstream agencies, indicating a perhaps obvious need for increased funding for LGBTQIA+-specific agencies. However, only adding funds to LGBTQIA+ service providers would leave many LGBTQIA+ survivors uncomfortable utilizing accessible services. So, in addition to renewing funding for training and technical assistance regarding working with LGBTQIA+ survivors, Congress should add an additional requirement for grantees to receive a minimum amount of training from an OVW-approved organization (which would be free to the organization).³⁷ At the very least, this guarantees grantees have a minimum level of knowledge regarding LGBTQIA+ survivors. As evidenced by the interactions with both mainstream agencies and law enforcement, both of these services need additional work to adequately serve LGBTQIA+ survivors.

Another active intervention, focused more on the administrative side of federal policy, would be for OVW to require all applicants to submit in their applications a plan on how they aim to serve special populations, even if not specifically seeking funds for this purpose. Such a plan may include a variety of inclusion efforts, including plans for outreach to special populations, population-specific programming, and ensuring inclusive intake processes. Adding this requirement would create competition and encourage inclusivity among grantees, while creating a trackable metric to ensure performance, especially if done in tandem with the compliance plan suggested previously.

B. Peer-to-peer interventions

Because participants indicated that their first line of support would be their friends, resources need to focus on utilizing these support networks. Not only did participants rank talking to friends as the most helpful option for survivors of violence, but they also indicated that those who left home would prefer to stay with a friend.

The Mpowerment model, an evidence-based public health intervention developed by the CDC, focuses heavily on tapping into friendship networks to create change.³⁸ This nationwide, empirically supported program uses a mixture of community building, skills education, and heavy volunteer support to create a community of young gay and bisexual men and trans women committed to safer sex.³⁹ Many of the interventions used in Mpowerment can be transferred to the anti-violence context, including peer-to-peer recruitment, skills building, and psychoeducation groups focused on relationships and culturally specific sexual education (including consent and spotting abuse), and a platform for individuals to speak about and receive support for their experiences. Mpowerment focuses on empowering community members to make the changes they would like to see, which allows for wider engagement. This method has the added benefit of further supporting the LGBTQIA+ community through the reinforcement of friendship support networks.

The movement must listen to survivors and empower communities to identify, address, and prevent violence internally. For the LGBTQIA+ community specifically, who often rely on friends and chosen family, a community-oriented intervention would increase support for survivors while also taking a more preventative approach.

Figure 1: Summary of the demographics of respondents in 2013 and 2018.

Demographic	2013	2018
Gender*		
Women	50%	56%
Men	41%	30%
Non-binary	5%	8%
Transgender	3%	7%
Ethnicity		
Caucasian/White	72%	70%
African-American/Black	14%	22%
Mixed	7%	6%
Latino/a/x	3%	4%
Asian/Asian-American	<1%	3%
Native American/First Nation	<1%	2%
Middle Eastern, South Asian, or Pacific Islander	<1%	<1%
Other/"American"/"Human"	<1%	<1%
Age		
Under 20	22%	36%
20-29	51%	42%
30-39	14%	13%
40-49	8%	5%
Over 50	5%	4%
Sexuality		
Gay	32%	24%
Lesbian	27%	23%
Bisexual	24%	33%
Queer	6%	8%
Pansexual	3%	8%
Asexual	<1%	2%
Straight, curious, "other" or no response	7%	1%
HIV Status		
Yes	3%	2%
No	97%	98%
(Dis)ability		
Physical	3%	2%
Mental	3%	18%
Both	2%	3%
Neither	92%	77%

Figure 1 continued

Demographic	2013	2018
Immigrant Status		
Citizen/No Response	99%	98%
Visa	0	1%
Non-Recent Immigrant	<1%	1%
Refugee/Asylee, Undocumented	0	<1%

* All gender categories were coded based on whether that identity was explicitly stated, which means that some respondents fell into multiple gender categories (e.g., a “Trans man” was coded as both “Transgender” and “Man”). Therefore, “women” and “men” are used to reflect the identity of respondents. I have not named these groups, nor created special categories for, “cisgender women” and “cisgender men” because very few respondents explicitly noted being cisgender, and assuming that anyone who did not identify explicitly as transgender is cisgender minimizes self-determination.

Figure 2: Responses to “What do you think would be most helpful for LGBTQ+ persons who are being abused by their partners?” ranked by percentage of respondents selecting that option and the change over time.

2013			2018			
Solution (ranked)	n	%*	Solution (ranked)	n	%*	Δ
Talk to Friends	153	59%	Talk to Friends	783	64%	+5%
LGBTQ+ Specific IPV Program	125	48%	LGBTQ+ Specific IPV Program	616	50%	+2%
Support Groups	107	41%	LGBTQ+ Specific IPV Shelter	549	45%	+8%†
Individual Counseling	106	41%	Support Groups	524	43%	+2%
LGBTQ+ Specific IPV Shelter	95	37%	Individual Counseling	468	38%	-3%
Legal Services	84	32%	Legal Services	453	37%	+5%
Talk to Family Members	75	29%	Talk to Family Members	386	32%	+3%
Couples Counseling	74	29%	General LGBTQ+ Community Program	369	30%	+4%
General LGBTQ+ Community Program	68	26%	Couples Counseling	218	18%	-11%†
Law Enforcement	41	16%	Law Enforcement	182	15%	-1%
Religious Leaders	33	13%	Mainstream DV Agency**	175	14%	+4%
Mainstream DV Agency**	26	10%	Religious Leaders	98	8%	-5%†
Homeless Shelter	11	4%	Homeless Shelter	77	6%	+2%

*Participants were asked to pick three, so percentage totals are greater than 100%. On average, respondents chose 3.85 options in 2013 and 4.0 options in 2018.

**This option was switched to “Agency” in 2018 because the term “Shelter” might not capture willingness to use non-shelter DV agencies.

†Statistically significant.

Endnotes

- 1 The authors would like to give a special thanks to Anika Boyd, Katayoun M. Arbati, and Kelsey E. Burnse
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- 3 *STOP Program 2016 Report*, United States Department of Justice Office on Violence Against Women [PDF], <https://www.justice.gov/ovw/page/file/1086486/download>.
- 4 Mimi Kim, "The Coupling and Decoupling of Safety and Crime Control: An Anti-Violence Movement Timeline," in *The Politicization of Safety: Critical Perspectives on Domestic Violence Responses*, ed. Jane Stoever (New York: New York University Press, 2019), 15; Mimi Kim, "Dancing the Carceral Creep: The Anti-Domestic Violence Movement and the Paradoxical Pursuit of Criminalization, 1973–1986," *ISSI Graduate Fellows Working Paper Series 2013-2014* (2015), 70, <https://escholarship.org/uc/item/804227k6>; Leigh Goodmark, *Decriminalizing Domestic Violence A Balanced Policy Approach to Intimate Partner Violence* (Berkeley: University of California Press, 2018), <https://www.ucpress.edu/book/9780520295575/decriminalizing-domestic-violence>.
- 5 Lisa N. Sacco, *The Violence Against Women Act: Overview, Legislation, and Federal Funding*, Congressional Research Service Report [PDF], <https://fas.org/spp/crs/misc/R42499.pdf>.
- 6 *Frequently Asked Questions: Nondiscrimination Grant Condition in the Violence Against Women Reauthorization Act of 2013*, United States Department of Justice, Office for Civil Rights, report, 9 April 2014 [PDF], <https://www.justice.gov/sites/default/files/ovw/legacy/2014/06/20/faqs-ngc-va-wa.pdf>.
- 7 FVSPA adopted the same anti-discrimination provision as VAWRA in 2016. Rafael López and Debbie Powell, "Ensuring Equal Access for All," US Department of Health and Human Services, Administration for Children and Families, 2 November 2016, <https://www.acf.hhs.gov/archive/blog/2016/11/ensuring-equal-access-for-all>.
- 8 *The Violence Against Women Reauthorization Act Of 2013: Summary of Changes*, National Network to End Domestic Violence, 2013 [PDF], http://www.ncdsv.org/images/NNEDV_VAWA-2013-Summary-of-changes.pdf.
- 9 *Anti-violence* indicates the theory and movement aimed at preventing and/or helping individuals recover from relationship violence, often referred to as domestic violence, intimate partner violence, etc. For purposes of this paper, any of these terms may be used interchangeably (especially when referring to different eras which used different language). Violence will refer specifically to this category of violence (as opposed to typical assaults), and survivors will refer to individuals who have experienced violence of this kind.
- 10 "Mainstream" anti-violence agencies are those agencies that do anti-violence work, with a target demographic of cisgender, heterosexual women. *Cisgender* refers to an individual whose gender identity aligns with what the gender expected by his/her sex assigned at birth.
- 11 Kim, "Coupling and Decoupling of Safety," 18.
- 12 Kim, "Coupling and Decoupling of Safety," 18–19.
- 13 Lori Girshick, *Woman-to-Woman Sexual Violence: Does She Call it Rape?* (Boston: Northeastern University Press, 2002). See also Clair Ranzetti-Jr., *Violent Betrayal: Partner Abuse in Lesbian Relationships* 105–06 (Sage Publications:1992); Adele M. Morrison, "Queering Domestic Violence To Straighten Out Criminal Law: What Might Happen When Queer Theory and Practice Meet Criminal Law's 'Conventional' Responses to Domestic Violence," *13 Southern California Review of Law and Women's Studies* 81, 118 (2003), <https://digitalcommons.wayne.edu/lawfrp/421/>; Denise Hines and Emily Douglas, "The Reported Availability of U.S. Domestic Violence Services to Victims Who Vary by Age, Sexual Orientation, and Gender," *Partner Abuse* 2, 1 (2011), https://www.researchgate.net/publication/233689007_The_Reported_Availability_of_US_Domestic_Violence_Services_to_Victims_Who_Vary_by_Age_Sexual_Orientation_and_Gender.
- 14 Kim, "Dancing the Carceral Creep," 70.
- 15 Compare Gretchen Arnold and Jami Ake, "Reframing the Narrative of the Battered Women's Movement," *Violence Against Women* 19(5), 557–578, <https://journals.sagepub.com/doi/abs/10.1177/1077801213490508?journalCode=vawa>, and Bonnie Morris, "History of Lesbian, Gay, Bisexual and Transgender Social Movements," American Psychological Association, last accessed 12 January 2021, <https://www.apa.org/pi/lgbt/resources/history>.
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- 17 Emily Waters, *Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Hate Violence in 2016*, National Coalition of Anti-Violence Programs, 19–24 [PDF], https://avp.org/wp-content/uploads/2017/06/NCAVP_2016HateViolence_REPORT.pdf.
- 18 One of the first major articles entering LGBTQ+ identities into the Battered Women's Movement was Girshick, *Woman-to-Woman Sexual*. While this shook up the movement in many ways, the movement started to welcome cisgender, non-heterosexual women but continued (and continues) to exclude men, trans women, and nonbinary individuals in many ways. While some other LGBTQIA+ authors had drafted articles prior to this time, Lori Girshick was a well-known activist in the mainstream movement. For a more extensive bibliography of articles on the subject, mostly from the late '70s into the early 2000s, see Lori Girshick, "LGBT Interpersonal Violence Bibliography," <http://loribgirshick.weebly.com/lgbt-interpersonal-violence-bibliography.html>.
- 19 See Morris, "History of [LGBT] Social Movements."
- 20 "At the time of this writing, there is no literature review and user-friendly integration of relevant theory, and such a product would be concretely useful." Jenna M. Calton, Lauren Bennett Cattaneo, and Kris T. Gebhard, "Barriers to Help Seeking for Lesbian, Gay, Bisexual, Transgender, and Queer Survivors of Intimate Partner Violence," *Trauma, Violence & Abuse* 17, 5 (2016): 585, <https://journals.sagepub.com/doi/10.1177/1524838015585318>. See also Morgan Bassichis, Alexander Lee, and Dean Spade, "Building an Abolitionist Trans and Queer Movement with Everything We've Got," in *The Transgender Studies Reader 2*, eds. Susan Stryker and Aren Aizura (New York: Routledge, 2013), 658.

- 21 Calton, Cattaneo, and Gebhard, "Barriers to Help Seeking"; Bassichis, Lee, and Spade, "Building an Abolitionist"; Girschick, *Women-To-Women Violence*; Morrison, "Queering Domestic Violence"; Hines and Douglas, "Availability of U.S. Domestic Violence Services."
- 22 Los Angeles Gay and Lesbian Center, *LAGLC STOP Partner Abuse/Domestic Violence Community Awareness Survey* (2012). This survey is not public, but the program is here: <https://lalgbtcenter.org/health-services/mental-health/intimate-partner-domestic-violence>.
- 23 Eve Sedgwick, "Axiomatic," in *The Cultural Studies Reader*, ed. Simon During (New York: Routledge, 1993), 337.
- 24 Leigh Goodmark, "When Is a Battered Woman Not a Battered Woman? When She Fights Back," *Yale Journal of Law & Feminism* 20 (2008): 104.
- 25 Differences will be considered not statistically significant ($p > 0.05$) unless otherwise indicated.
- 26 The remaining survivors were captured using the behavioral measures.
- 27 None of the trans women used a resource.
- 28 Mikel Walters, Jieru Chen, and Matthew Breiding, *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Findings on Victimization by Sexual Orientation*, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (2013) [PDF], https://www.cdc.gov/violenceprevention/pdf/nisvs_sof-findings.pdf. Naomi Goldberg and Ilan Meyers, "Sexual Orientation Disparities in History of Intimate Partner Violence," *Journal of Interpersonal Violence*, 2012: 1–10, <https://journals.sagepub.com/doi/abs/10.1177/0886260512459384>; Eric Houston and David McKirnan, "Intimate Partner Abuse Among Gay and Bisexual Men: Risk Correlates and Health Outcomes," *Journal of Urban Health*, 2007: 681–690, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2231846/>.
- 29 In 2013, the researchers experienced a wide variety of dismissive sentiments from festival goers, ranging from "that doesn't happen in our community" to outright jokes about domestic and sexual violence.
- 30 As opposed to checkbox measures.
- 31 *STOP Program 2016 Report*, United States Department of Justice, Office on Violence Against Women (2016).
- 32 Pew Research Center, "The Age Gap in Religion Around the World," Report (2018), <https://www.pewforum.org/2018/06/13/the-age-gap-in-religion-around-the-world/>.
- 33 Sandy E. James, et al., *The Report of the 2015 U.S. Transgender Survey* (National Center for Transgender Equality, 2016) [PDF], <https://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF>.
- 34 This assumes the agency knows the survivor is nonbinary, which is not a safe assumption. One question for further research is the different experiences of nonbinary survivors from a plethora of backgrounds, expressions, and identities.
- 35 Alexandra Lamoureux and Amiel Joseph, "Toward Transformative Practice: Facilitating Access and Barrier-free Services with LGBTQ2SA Populations," *Social Work in Mental Health* 12, 3 (2014): 212–230, <https://www.tandfonline.com/doi/abs/10.1080/15332985.2013.875092>.
- 36 Many of these interventions are tied to recommendations from reports pre-dating VAWRA, such as Mitru Ciarlante and Kim Fountain, "Why It Matters: Rethinking Victim Assistance for Lesbian, Gay, Bisexual, Transgender, and Queer Victims of Hate Violence & Intimate Partner Violence," a joint policy report by the National Center for Victims of Crime and the National Coalition of Anti-Violence Programs (2010), <https://nvcv.dspacedirect.org/handle/20.500.11990/255>.
- 37 The proposed 2019 reauthorization expressly allowed grantees to pay for training around LGBTQ+ experiences. Dianne Feinstein, "Feinstein on One-Year Anniversary of VAWA Reauthorization Introduction," Committee on the Judiciary, <https://www.judiciary.senate.gov/press/dem/releases/feinstein-on-one-year-anniversary-of-avaa-reauthorization-introduction>.
- 38 "Overview," Mpowerment Project, Center for AIDS Prevention Studies at the University of California San Francisco, n.d., accessed 14 December 2020, <http://mpowerment.org/overview/>.
- 39 The CDC technically refers to this group as men who have sex with men, but we have chosen to use these identity labels to support the identities of the participants.

Erasing Excellence

The State Department's Abandonment of LGBTQ Diplomats

By Constanza Castro Zúñiga and Marty Amaya

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It's been over 70 years since the US State Department expelled over 1000 LGBTQ diplomats during the Lavender Scare (a period of time during McCarthyism in which LGBTQ individuals were removed from government jobs for fear of being subversives and linked to communism).¹ During the Lavender Scare, the State Department identified employees that it believed belonged to the homosexual community and proceeded to fire those employees or pressure them to resign. While the State Department has formally apologized, it has yet to review the policies and practices that led to the expulsion of these diplomats. As legislation introduced by US Reps. David Cicilline (D-RI) and Joaquin Castro (D-TX) remains stalled, the State Department's unwillingness to address the issue without congressional intervention highlights many of the concerns that LGBTQ officers in today's diplomat corps face.²

Chief among those concerns is the erasure of LGBTQ individuals' presence and contributions at the State Department. Outlined in the 2020 report, "Additional Steps Are Needed to Identify Potential Barriers to Diversity," the Government Accountability Office (GAO) was unable to conduct any analysis on LGBTQ populations at the State Department because sexual orientation is not included in federal personnel records.³ This presents a significant problem: the State Department does not have an official count of the LGBTQ officers in the corp. This both prevents the State Department from engaging in a rigorous analysis of LGBTQ recruitment and allows the Department to indefinitely defer investments in LGBTQ inclusion and retention.

The State Department often argues that it does not ask for people to self-identify their sexual orientation because it is not a federal requirement for individuals to do

so.⁴ However, this is a weak argument that allows the State Department to absolve itself of active responsibility to foster an inclusive environment for LGBTQ officers. Additionally, it suggests that the State Department is only seeking to meet the minimum requirements for fostering an inclusive environment. If the State Department was truly committed to LGBTQ-friendly workspaces, it would have already initiated a policy change to welcome LGBTQ officers. However, the State Department has shown that it will follow, rather than lead, when it comes to championing inclusion. The lack of a federal requirement is an excuse to prevent any formal investigations into the State Department's policies and, therefore, leads to inaction. Real change to federal practice comes from agencies choosing to adopt a practice and then showcasing its benefits to other agencies until it is adopted as a standard practice. For example, the Environmental Protective Agency established the Successful Leaders Program, which trains all new supervisors and teaches them management skills. Following high success, the Office of Personnel Management featured it in its toolkit for adoption at other government agencies.⁵ However, the State Department is again waiting for a mandate rather than being a leader—just as it refused to investigate the policies that led to the Lavender Scare. Additionally, the State Department's inaction causes harm not only to the individual officers but to the collective diplomatic corp.

For example, consider medical care. Officers at the State Department move every two to three years, which means frequently switching medical teams. For LGBTQ officers, the exclusion of their orientation from

their personnel files has tangible impacts on their medical care. Officers essentially have to come out every time they begin a new post and switch medical providers as the file provided to their doctors does not contain this information—a burden with huge psychological implications. Asking LGBTQ officers to make this disclosure over and over can be traumatizing, especially given the uncertainty over how the medical team will react. This is also a problem when bidding on posts. LGBTQ officers must weigh their desire for LGBTQ-friendly contexts against the possibility for promotion. In extreme cases, officers are forced to travel to their posts without their LGBTQ partners or are forced to hide their partners once on location. Without an understanding of how frequently officers are placed in this position, the State Department will be unable to assist these individuals and their families and adjust promotion requirements accordingly.

Of course, having the option to self-disclose and maintaining records of LGBTQ employees does not ensure that all LGBTQ employees will self-disclose, nor will it address the countless structural impediments to the full inclusion of LGBTQ officers—and these structural impediments also prevent LGBTQ officers from not only remaining in their positions but receiving opportunities for promotions. The State Department needs to recruit more LGBTQ officers and allow them to rise to the rank of Ambassador and Deputy Chief of Mission and other senior-level positions, as well as create an environment in which LGBTQ officers can legitimately express their concerns without the fear of judgment or exclusion. While collecting data on LGBTQ officers will not guarantee a change of Department

policy or see more LGBTQ officers in positions of power, it is an essential first step toward taking meaningful action.

Another criticism is that officers can simply affiliate themselves with organizations like Gays and Lesbians in Foreign Affairs Agencies (GLIFAA), which represents LGBTQ employees across the State Department, the US Agency for International Development, and other foreign service positions across other government agencies to meet their needs.⁶ However, while GLIFAA advocates for LGBTQ officers, it is not a policy-making body and can only provide recommendations to the government agencies. GLIFAA cannot enact policy at the State Department. Additionally, GLIFAA only carries data for officers who willingly seek and actively participate in GLIFAA as an organization. There are likely many other LGBTQ officers that are not a part of the organization but would choose to self-identify in their personnel file.

Finally, there are LGBTQ officers who are actively advocating for LGBTQ-friendly policies within the Department. This argument is not to diminish the labor of individual officers who are trying to make a difference but instead to draw the attention to the larger institutional problem that the State Department has. The fact that there are officers who actively create spaces for LGBTQ officers (as evidenced through the GLIFAA organization) is something that should be celebrated, but this should not detract from the broader argument that the overall environment of the State Department will not change until there is an institutional policy that encouraged self-disclosure from LGBTQ employees.

Self-identification, however, can augment challenges for the LGBTQ community if the

entire Department does not actively work to create an inclusive and welcoming environment. Having LGBTQ employees self-identify will not eliminate discrimination. In fact, by self-identifying, LGBTQ employees can place themselves in increased danger if the State Department personnel are not equipped with an understanding of how to support its LGBTQ employees. To mitigate this, the State Department will need to create more streamlined avenues for employees to swiftly report any discrimination that arises out of their identity as an LGBTQ employee with the understanding that it is likely that more discussion about LGBTQ identities will occur as a result of the self-reporting.

The US Foreign Service employs some 13,000 employees.⁷ The State Department has a responsibility to protect those employees and to create an environment in which they can thrive. It is not currently meeting this responsibility, and it has no manner in which to even consider addressing the structural inequality LGBTQ officers face if it does not collect data on how many LGBTQ officers it is hiring or has. As a note of caution, we would also like to make it clear that data collection on its own is not sufficient to fully include and support all LGBTQ employees. However, having access to data will allow the Department to begin to make targeted efforts to bolster its LGBTQ employees' recruitment and retention rates. For those reasons, we strongly urge the State Department to begin to allow a self-identification option for LGBTQ officers within their personnel files.

Endnotes

- 1 Robbie Gramer, "Congress Wants State Department to Reckon With the 'Lavender Scare,'" *Foreign Policy*, 2 May 2019, <https://foreignpolicy.com/2019/05/02/congress-wants-state-department-to-reckon-with-lavender-scare/>.
- 2 Michael Lavers, "Bill Would Direct State Department to Review 'Lavender Scare' Firings," *Washington Blade*, 24 November 2020, <https://www.washingtonblade.com/2020/11/24/bill-would-direct-state-department-to-review-lavender-scare-firings/>.
- 3 "State Department: Additional Steps Are Needed to Identify Potential Barriers to Diversity," Government Accountability Office, 25 February 2020, <https://www.gao.gov/products/GAO-20-237>.
- 4 "State Department," 2020.
- 5 "Policy, Data, Oversight: Human Capital Management," United States Office of Personnel Management, n.d., <https://www.opm.gov/policy-data-oversight/human-capital-management/successful-workforce-practices/>.
- 6 Steven Giegerich, "Pride Every Day: GLIFAA Has Largely Accomplished Its Original Mission: To Combat Discrimination in the Employee Clearance Process. But Much Other Work Remains to Be Done," *Foreign Service Journal* 90, 5 (2013): 32–35, http://www.afsa.org/sites/default/files/flipping_book/0513/files/assets/common/downloads/The%20Foreign%20Service%20Journal,%20May%202013.pdf?uni=b6785562a83d8ado8503b49d4dfc8059.
- 7 "State Department," 2020.