

FOREWORD: HOMOPHOBIA AS TERRORISM*

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Somewhere today a child stayed home from school fearing violence. Somewhere today a mother sits in a hospital, waiting to see a child on hold for suicide watch. Somewhere today a child is self-medicating by sniffing paint thinner to avoid thinking about a scary secret. Welcome to another day for children in homophobic America.

There is one thing about this day that is different: we are here talking about homophobic terrorism directed at children. The wonderful staff of *The Georgetown Journal of Gender and the Law* have worked hard to bring a new journal to our Law Center and to organize this Symposium. Through the act of convening, they are saying: we want to know what it is like for children and their families to live in the land of homophobia. We want to know what it is like for them to face hatred and violence in places that are set aside for learning and community. We want to imagine the possibility of a different world.

The participants in this Symposium are at the forefront of this struggle. They are making visible a form of child abuse that we are told does not exist, and they are working to infuse respect and care for all citizens into the social and political practices of educational institutions.

During the week of this Symposium, in a seemingly unrelated event, the Supreme Court decided a deportation case in which it denied the First Amendment rights of resident aliens. In that case, *Reno v. American-Arab Discrimination Committee*,¹ the government used the justification of fighting terrorism as an excuse for setting aside the Bill of Rights. "Fighting terrorism," like "fighting communism" during the McCarthy era, represents a belief that there is some Big Scary Thing out there and we have to smash it. The Bill of Rights, if followed to its letter, is a bit of an inconvenience in this more important mission of getting rid of the Big Scary Thing.

This is the same kind of thinking that the government used fifty years ago to lock up my father's family in a World War II internment camp.² It is a form of thinking that views a perceived threat as more important than civil rights. It is a form of thinking that reminds me of and that echoes homophobia: there is something different and we must fear it, we must eliminate it. It is a form of thinking that presages militaristic patriarchy: we need a real man to out-gun the threat. Fighting terrorism thus becomes an excuse for increasing the military

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1. *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471 (1999).

2. See Mari J. Matsuda, *McCarthyism, The Internment and the Contradictions of Power*, 40 B.C. L. REV. 9 (1998); 19 B.C. THIRD WORLD L.J. 9 (1998).

budget, for continuing domestic spying, for expanding deportations without the protection of the Bill of Rights, for engaging in covert operations.

While we are so preoccupied with fighting terrorism, a real and daily terrorism is directed at lesbian, gay, bisexual, and transgendered (LGBT) citizens everywhere in this country. Perhaps not surprisingly, none of our national security advisors are shaking their heads and demanding action on this front.

An interesting picture emerges when juxtaposing violations of human rights carried out in the name of protecting us with the failure of our government to protect women from violence in their homes; to protect children from gun violence; to protect the thousands of citizens who are domestic victims of hate crimes each year.³ There are times when the state chooses to act and times when the state chooses not to act. Whose body is kept safe? Whose body is considered expendable? These are distinctions that are mediated by distributions of wealth and power, by ideologies of insider and outsider. They are mediated through a system of thinking that is learned in school. I learned it as a child, and if you think back to your schoolyard days, to the first time you saw a little boy called a sissy, you might remember where you learned it too.⁴ At this Symposium we will witness the courage of young people who are willing to tell us what they have learned about homophobia in their own schools.⁵

There is a social cost imposed on gender transgression.⁶ The cost is exacted through physical torment and social gestures. We teach this in schools, where such disregard for human pain becomes the cultural basis for tolerating injustice.⁷ The process of acculturation to hierarchy and exclusion is connected to homophobia as experienced in childhood. Homophobia is a cultural proving ground for all forms of behavior that treat fellow citizens as less than human. This process has broad implications for social justice in ways that we do not fully understand, and

3. See CRIMINAL JUSTICE INFORMATION SERVICES DIVISION, U.S. DEP'T OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION, HATE CRIME STATISTICS 1997 (documenting 8,049 reported hate crimes based on race, religion, ethnicity, and sexual orientation in 1996).

4. See Elvia Rosales Arriola, *Wildly Different: Anti-Gay Peer Harassment in Public Schools*, 1 GEO. J. GENDER & LAW 5 (1999); Francisco Valdes, *Queers, Sissies, Dykes, and Tomboys: Deconstructing the Conflation of "Sex," "Gender," and "Sexual Orientation" in Euro-American Law and Society*, 83 CAL. L. REV. 3 (1995).

5. Recognizing the critical importance of youth voices in this struggle, the Symposium hosted a Youth Speak Out, where youth shared their experiences with homophobia in schools. The transcripts of the Speak Out are included in this issue. See Claire Bohman *et al.*, *Youth Speak Out*, 1 GEO. J. GENDER & LAW 191 (1999). Additionally, keynote speaker Alana Flores recounted her high school's failure to protect her from years of anti-gay harassment, including sadistic pornography and death threats. See Alana R. Flores, *Keynote Address*, 1 GEO. J. GENDER & LAW 187 (1999).

6. See SUZANNE PHARR, HOMOFOBIA: A WEAPON OF SEXISM (1988); Elvia R. Arriola, *The Penalties for Puppy Love: Institutionalized Violence Against Lesbian, Gay, Bisexual and Transgendered Youth*, 1 J. GENDER RACE & JUST. 429 (1998). See also Hasan Shafiqullah, *Shape-Shifters, Masqueraders, & Subversives: An Argument for the Liberation of Transgendered Individuals*, 8 HASTINGS WOMEN'S L.J. 195 (1997) (discussing the persecution of "gender deviants" through institutionalization, criminalization and violence).

7. Cf. ALICE MILLER, FOR YOUR OWN GOOD: HIDDEN CRUELTY IN CHILD-REARING AND THE ROOTS OF VIOLENCE (1980) (arguing that children, through early socialization, learn to disregard the pain of others by learning to disregard their own pain).

this Symposium is part of the process of working that out. By gathering today for this Symposium, we attempt to map and understand that process. How and where does it happen? How can we work to end it?

The Symposium participants suggest a variety of answers to these questions. Art Coleman argues that federal non-discrimination laws, namely Title IX, provide policymakers and educators with sufficient guidance to create safe and orderly learning environments.⁸ In response, a number of participants criticize the law's limitations in dealing with many instances of anti-gay peer harassment. Deborah Brake explains that Title IX's "because of sex" analysis excludes persons who defy conventional gender roles, and thus proposes a "gender-policing model" of Title IX to recognize this harm.⁹ An expanded interpretation of Title IX is also advocated by Lillian Potter, a straight feminist activist who was tormented by anti-gay epithets when she challenged her high school's discriminatory athletic funding policy, only to find that the same law that prohibits gender-based funding does not prohibit this type of gender-based harassment.¹⁰ Criticizing the cultural acceptance of male-on-male harassment, John Guenther argues that the Supreme Court's interpretation of Title IX has "created a world in which relief from harassment—especially same-sex harassment—is unavailable because the behavior is so commonplace."¹¹ Recognizing that "lawsuits do not solve everything," Elvia Arriola urges legal advocates to adopt a "relentlessly multi-dimensional perspective" that incorporates race, class, and culture into any analysis of anti-gay peer harassment.¹²

Focusing on change within the schools themselves, Cynthia Chmielewski asserts that school employees should take meaningful steps to stop anti-gay harassment, both to protect their students and to avoid liability under federal law.¹³ Echoing this approach, Kate Frankfurt's contribution outlines steps that schools should take—implementing non-discrimination policies for teachers and students, incorporating gay-inclusive curricula, and providing in-service training that addresses the needs of LGBT students—to improve educational quality and safety.¹⁴ Rea Carey and Suman Chakraborty further argue that effective school policies cannot exist in a social vacuum and emphasize the importance of empowering youth voices to bridge the gap between misconception and reality in

8. See Arthur L. Coleman, *When Hallways Become Hostile Environments: Understanding the Federal Law that Prohibits Sexual Harassment of Students by Students*, 1 GEO. J. GENDER & LAW 109 (1999).

9. See Deborah Brake, *The Cruellest of the Gender Police: Student-to-Student Sexual Harassment and Anti-Gay Peer Harassment Under Title IX*, 1 GEO. J. GENDER & LAW 37 (1999).

10. See Lillian Howard Potter, "Man-Woman": *Anti-Gay Peer Harassment of Straight High School Activists*, 1 GEO. J. GENDER & LAW 173 (1999).

11. See John Guenther, *Oncale Goes to School: Male-Male Harassment and Gender-Policing*, 1 GEO. J. GENDER & LAW 159 (1999) (discussing the Supreme Court's "context-based" analysis in *Oncale v. Sundowner Offshore Services, Inc.* and *Davis v. Monroe County Board of Education*).

12. See Arriola, *supra* note 4, at 28-29.

13. See Cynthia M. Chmielewski, *The Role of Employees in Stopping Anti-Gay Peer Harassment in the Public Schools*, 1 GEO. J. GENDER & LAW 141 (1999).

14. See Kate Frankfurt, *An Advocate's Perspective on Schools' Responses to Anti-Gay Harassment*, 1 GEO. J. GENDER & LAW 153 (1999).

the lives of queer youth.¹⁵ Through this dialogue, we can begin to understand fully the implications of homophobic terrorism on the lives of children, and on the broader social justice movement.

Welcome to the Second Annual Gender, Sexuality, and the Law Symposium of *The Georgetown Journal of Gender and the Law*, where we do the intellectual work that can save lives.

15. See Rea Carey & Suman Chakraborty, *Class President or 'Just Another Suicide Statistic': The Effects of Homophobic Harassment on Youth*, 1 GEO. J. GENDER & LAW 125 (1999).