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NEW DIRECTIONS IN STATE CRIME: A QUEER CRIMINOLOGY PERSPECTIVE

BY

HALEY BATES

THESIS APPROVED:



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NEW DIRECTIONS IN STATE CRIME: A QUEER CRIMINOLOGY PERSPECTIVE

BY

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Submitted to the Faculty of the Graduate School of
Eastern Kentucky University
in partial fulfillment of the requirements for the degree of

MASTER OF SCIENCE

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DEDICATION

This work is dedicated to my late grandmother, Elizabeth Flynn. I love you big bunches.

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Thank you to Dr. Victoria Collins for her patience and guidance in helping me to complete this project. Thank you also to Dr. Bill McClanahan and Dr. Kristie Blevins for all their support. Lastly, thank you to all my friends and family that have always believed in me.

ABSTRACT

While recent decades have seen an expansion of state crime literature, the scholarship has been slow to integrate new criminological perspectives. The field is aware of state-perpetrated harms committed against queer and gender non-conforming individuals, yet there are limited works that explicitly frame the state as a criminal actor. This paper argues for the integration of queer criminology into the field of state crime to elevate harms against the LGBTQ+ community into academic awareness. Case studies demonstrating direct state violence in Russia's Chechen Republic and indirect state violence against trans women in the United States are included to highlight the state's role in perpetrating harm. Sexuality and gender identity will be introduced as tools to provide a holistic understanding of the harms that impact the LGBTQ+ community. In addition, the concepts of biopower and necropolitics are used as an analytical framework to demonstrate the ways in which states and their actors decide which populations of people are worthy of life.

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I. Introduction

“They have long arms, and they can find me and the others anywhere. Just give them time.” (Lokshina, 2017). This statement, taken by Human Rights Watch (HRW), comes from a victim of a brutal anti-gay campaign in Russia’s Chechen Republic to remove those that are seen as undesirable from society. The case of Chechnya is not unique; people all over the world have faced discrimination and violence by institutions that view queerness as a site of social control. The 2020 *State-Sponsored Homophobia* report indicated that there were 69 countries that still criminalize homosexuality (Mendos, 2019). The punishment for these acts can range from public shame and fines to life imprisonment or the death penalty. There are other states that criminalize non-gender conforming individuals through laws that target their daily lives. These laws often describe the ways individuals must present themselves, such as banning the behavior of cross-dressing (Buist & Lenning, 2015). Both LGBTQ+ individuals and activists face extreme hostility, stigma, and violence from both the state and fellow citizens. The LGBTQ+ community, because of their deviation from the heteronormative gender binary, are particularly vulnerable to systematic violence.

Critical criminologists are aware of the blatant persecution of this population by the state. The emergence of queer criminology as a subdiscipline has given substantial visibility to a once invisible population of people. Despite the exponential increase in these areas of scholarship over recent years, the state crime literature has been slow to integrate this perspective. Within state crime, there has been limited criminological exploration of the relationship between the state and LGBTQ+ people

that explicitly frames the state as the primary criminal actor (Collins, 2021). There are also currently no works that examine the intersections of other identities with sexuality in a way that leads to exacerbated harm. It is the intention of this work to link the literatures of queer criminology, state crime, and necropolitics to advance a literature on state-perpetrated harms against queer and gender non-conforming individuals. This research will emphasize that the violent victimization of citizens by the state is experienced differently by cisgender, heterosexual populations, and those of the LGBTQ+ community.

Whether violence by the state is directly inflicted upon queer and trans people or indirectly through various societal structures, the state is complicit. The state is no longer simply acknowledged as contributing to harm, the state is the primary facilitator of the harm committed. This research will demonstrate the utility of using both sexual and gender identity as analytic concepts to understand harms perpetrated by states and their actors. The focus on this understudied population will increase awareness and understanding of the pervasiveness of harm by the state. The structure of this paper first includes a comprehensive literature review of the fields of state crime and queer criminology. Then, case studies demonstrating direct state violence in Russia's Chechen Republic and indirect state violence against trans women like Ashley Diamond in the United States (US) are included to highlight the state's role as the primary actor in the systematic harm against LGBTQ+ individuals. The method of qualitative case study analysis will be employed to describe the specific harms in each case as well as provide a demonstration of the state's primary role in perpetrating

them. Finally, a comprehensive analysis of each case will be applied using Foucault's (1980a) work in biopower and Mbembe's (2003) work in necropolitics.

II. Literature Review

State crime: A brief overview of the field

Since the 1980's, there has been extensive research conducted in the field of state crime. Chambliss (1989) gave an address at the American Society of Criminology that was a call to action to address crimes of the state. What followed was an increase in scholarly research but one plagued by definitional debates over what constituted criminal behavior by a state. While Chambliss argued that criminal behavior by states was one that violated their own domestic law, several critical criminologists argued that law can easily be circumvented by the powerful. For example, Michalowski (1985) advocated to increase the scope of criminal behavior by including what he calls "socially injurious actions" (p.58). Specifically, those criminal acts that go beyond what is defined as illegal to include any social harm inflicted on a population. For the purposes of this paper, I rely on the following definition of state crime developed by Kauzlarich, Mullins, & Matthews (2003):

State crime (1) generates harm to individuals, groups, and property. (2) Is a product of action or inaction on behalf of the state or state agencies. (3) The action or inaction relates directly to an assigned or implied trust/duty. (4) Is committed, or omitted, by a governmental agency, organization, or representative. (5) Is done in the self-interest of the state itself or the elite groups controlling the state (pp. 44—246).

Since then, many scholars have examined a wide range of harmful behaviors by the state such as state-corporate crime (Kramer, 1992; Kramer & Michalowski, 1990, 2006; Kramer, Michalowski, & Kauzlarich, 2002; Lynch, Burns, & Stretesky, 2010; Mullins & Rothe, 2008; Rothe & Ross, 2009), crimes of omission (Collins, 2014; Faust & Kauzlarich, 2008), and crimes of globalization (Friedrichs & Friedrichs, 2002; Rothe,

2009; Rothe & Friedrichs, 2014). International law has also expanded the scope of law for various criminogenic behaviors. These behaviors include genocide, crimes against humanity (torture, state-sponsored assassinations, state sponsored terrorism, enslavement, enforced disappearances), war crimes, and crimes of aggression (Rothe, 2009). As the literature within state crime continues to grow, scholars have begun to examine the ways in which the state is the main perpetrator of violence against individuals based on certain identities, such as gender (Ballinger, 2009; Barberet & Carrington, 2018; Collins, 2016). A few criminologists have recently made the call to incorporate other critical criminology disciplines, such as queer perspectives, to better understand and examine state crime (Collins, 2021).

This paper uses the structure provided in the work of Collins (2016) that demonstrated harms perpetrated by states against women can be divided into two categories: direct and indirect (Collins, 2016; Collins, 2021). This can not only be applied to state-perpetrated gender violence but also violence inflicted based upon a queer or gender non-conforming identity. Collins (2016) argues that states directly cause harm through the creation of laws, policies, and propaganda campaigns. These laws and policies give the repressive apparatus of the state (military, police, court system, prisons) the ability to exact physical violence and coercion. This manifests in behaviors such as the arrest, torture, imprisonment, enforced disappearances, and assassinations of LGBTQ+ persons. Harms can also be indirect as the rhetoric and values of the state are transmitted to other social institutions, the ideological apparatus of the state, that impact the lives of the LGBTQ+ community. This often

appears in the lack of or denial of healthcare, education, or employment for queer or gender non-conforming individuals. All these behaviors also serve to create a climate in which violence by fellow citizens is accepted and rewarded (Buist & Lenning, 2015).

Queer criminology: An introduction

Beginning in the early 2000's, queer criminology began to rapidly emerge as a new subfield within the larger discipline (Panfil, 2018). Queer criminology relies heavily on queer theory at its foundation. Both queer criminology and queer theory have faced criticism in the past for not being inclusive enough. The term queer, similar to the acronym LGBTQ+, cannot capture everyone that deviates from society's norms on gender, sex, and sexuality (Panfil, 2018). Buist & Lenning (2015) note that queer theory emerged in response to the understanding that the queer label was a part of a larger social structure that categorized individuals. The argument that sexuality is a social construct, organized in a hierarchy based on specific labels was proposed by Foucault (1980) and built upon by Sedgwick (1990). Rutter & Schwartz (2012) highlight queer identity as being a mechanism of social control when they noted that "sexuality is never totally free from its social context" (p. 27). The categories that non-conforming individuals are often placed in provide an opportunity for the state to punish those that do not conform to the hetero-binary norm. Much of the literature within queer criminology also touches on a main component of state crime: power. The concept of power is important to consider as there is a distinct power imbalance between cis, heteronormative individuals and LGBTQ+ individuals (Foucault, 1980; Kirsch, 2000). There are clear disparities in the law that also impact social institutions such as

marriage, education, and healthcare. Buist & Lenning (2015) note that legislation often offers rights, opportunities, and protections for heterosexual, cisgender individuals that are not afforded for queer, gender non-conforming individuals.

Queer criminology's foci then, are the results of these societal power imbalances. The experiences of LGBTQ+ peoples with crime, victimization, and the various components of the justice system are examined. Other queer criminologists focus on reducing the invisibility of queer and gender non-conforming individuals. This includes media coverage, improved record-keeping, access to resources for victims, and the experiences of individuals interactions with institutions of justice (Panfil, 2018). Scholars in queer criminology have addressed a wide range of topics within the discipline such as the heteronormative history of criminology (Woods, 2014), hate crimes (Meyer, 2014; Stozer, 2014), the experience of transgender women navigating the criminal justice system (Lenning, Brightman, & Buist, 2020; Perry & Dyck, 2014; Sexton and Jenness, 2016), the history of policing queer people (Dwyer & Tomsen, 2016), gender affirmation and genital cutting (Mitchell & Rogers, 2021), a call for trans-inclusive criminology (Valcore, Fradella, Guadalupe-Diaz, Ball, Dwyer, DeJong, Walker, Wodda, & Worthen, 2021), and the lack of LGBTQ+ issues in criminology (Cannon & Dirks-Linhorst, 2007). Despite this expanding body of literature, LGBTQ+ issues continue to be at the periphery of critical criminology.

Harm through the Queer perspective

Queer criminology has also failed to fully address the ways in which queer and gender non-conforming individuals experience harm. Little to no scholarship has been

conducted that explicitly frames the state as a criminal actor and demonstrates the expansive harm committed by the state. The following study will add to the existing knowledge base of the queer criminology and state crime disciplines by demonstrating the state's role in perpetrating harm against LGBTQ+ persons. Outside of systems of justice, LGBTQ+ persons are also denied protection in social institutions like housing, healthcare, and education. Countries like the United States have given individuals the right to refuse services on the grounds of religious freedom (Kodjak, 2018).

Queer and gender non-conforming individuals may be denied necessary care simply because they do not conform to cis, heteronormative expectations. LGBTQ+ youth are often targeted and experience harassment from peers, family, and other adults. LGBTQ+ youth also, because of hostile conditions they experience, are more likely to be targeted for school discipline and thus, be more likely to interact with justice systems (Burge, Licona, & Hyemingway, 2014). They are also more likely to experience homelessness and poverty as a result of familial abandonment.

Overinvolvement with the justice system also occurs often for transgender women and gender non-conforming individuals. This concept, known as "walking while trans", occurs when individuals are often arrested on suspicion of prostitution or other quality of life crimes for being in certain areas (Kellaway, 2015). These cases of state violence are of immediate concern as the ill-treatment of LGBTQ+ persons have gone unnoticed and unpunished. The next section of this paper provides the theoretical frame providing the lens through which the cases of state violence against queer people will be analyzed.

III. Theoretical Framework

Biopower

In his works, *The History of Sexuality: An introduction* (1990a) and *Society Must Be Defended* (2003), Michael Foucault lays the foundation of necropolitics. He asserts in his work that there are two overlapping branches of biopower: regulatory and disciplinary power. Disciplinary power is concentrated in societal institutions such as education, healthcare, and housing. Regulatory biopower is concentrated within the control of the state and its actors. While they are separated in Foucault's work, the state cannot be removed from societal institutions because they are the state. As previously mentioned, institutions such as education or healthcare are often ideological apparatuses of the state that are used to perpetuate hegemonic ideas to their population. These two branches work together to provide the state with the power over life and death. Biopower then, he asserts, is "the power to foster life or to disallow it to the point of death" (Foucault, 1990a, p.138). Biopower not only manifests through law but through norms as well. Violence is not always physically enacted by the state but can be internalized and spread throughout society (Foucault, 2003). Biopower is also concerned about the control over life and bodies.

In addition, a particular study in biopower has surrounded the government's interest in sex. The state has long been concerned with non-reproductive sexual acts and the rejection of sexuality norms in populations they consider unfit or undesirable (Taylor, 2014). Foucault (1990a) argues that in these cases sex is a privileged site for members of the population that meet the state's expectations. It has become a site of

social control as the state represses and controls the sex of certain populations as a form of an ideological or moral campaign (Taylor, 2014). In his work, Foucault (1990a) uses the examples of the Nazi regime and the death penalty in the United States to highlight the ways in which state can control life and individual bodies. Nazi propaganda depicted Jewish, Roma/Sinti, black, LGBTQ+, and disabled individuals as a threat to German society and a drain on resources. In a similar vein, Black men are disproportionately sentenced to death row in the United States. He argues that beliefs of prejudice such as racism is a core element of biopower. Racism is an “indispensable precondition that grants the state the power to kill” (Foucault, 2003, pp. 256). He references the work of Arendt’s (1966) work that states the politics of race are essentially the politics of death. As Taylor (2014) writes, Foucault suggests that the elimination of certain groups within the population becomes a justifiable method by which the state protects its people and interests.

Necropolitics

Achille Mbembe’s (2003) work on necropolitics builds on Foucault’s idea of biopower, exploring further the destruction of human bodies and populations by the state. He describes necropolitics as the politicizing of spaces that are in between life and death. He outlines three main characteristics of necropolitics: necroeconomy, confinement, and death in a large scale. Necroeconomy refers to the ways in which a state’s political economy exploits its population and disregards their well-being. Second, populations are confined into spaces in which they can be controlled, monitored, and killed. Lastly, the state produces death in a large scale. These mass

deaths vary in both modes of killing and moral justification. It is important to note, as he does, that the state does not have a monopoly on war, terror, and violence. The state willingly collaborates with paramilitaries, militias, and corporations. These aspects contribute to the creation of what Mbembe calls death-worlds, “new and unique forms of social existence in which vast populations are subjugated to conditions of life conferring upon them the status of living-dead” (Mbembe, 2003, pp. 39).

Moreover, Mbembe acknowledges indirect ways in which the state simultaneously controls and harms certain populations. These are small, daily doses of death that keep certain populations on the edge between life and death. These “small massacres are unbounded social, economic, and symbolic violence that destroy their bodies and the value of their social existence” (Mbembe, 2003, pp. 39). In necropolitics, certain populations live in states in which racism, sexism, homophobia, and transphobia are built into societal institutions. A lack of institutional support in areas such as housing, education, and housing ensure that certain groups of people experience death in the way that their daily needs are never met. The state makes little effort to alleviate these conditions as these certain populations are not worthy of life to them. The deterioration of social goods and prosocial forces, coupled with the direct surveillance and policing of confined spaces, are intended to lead to the elimination of subgroups. More recently, scholars have begun to apply the concept of necropolitics to the queer experience (Aizura, 2014; Bassichis & Spade, 2014; Edelman, 2014; Gossett, 2014; Lamble, 2014; Posocco, 2014; Ritchie, 2014; Shakhsari, 2014).

These works not only focus on major events such as the AIDS epidemic and the eradication of queer individuals in the Holocaust but also the everyday experiences of the community around the globe.

Through this lens, it is likely that state criminality towards LGBTQ+ individuals can be best explained by Mbembe's (2003) concept of necropolitics and death-worlds. In some cases, the state is overt, such as in Chechnya. LGBTQ+ individuals are confined in a space and intended to be eliminated. Differing concepts of gender and sexuality differences are unassimilable in the eyes of many states. The hostility towards these differences in identity can also be absorbed into the repressive and ideological apparatuses of the state in a way that accelerates their premature deaths (Gilmore, 2007). In the case of Ashley Diamond, gender non-conforming individuals face consistent hostility from social institutions and systems of justice that are designed to ensure suffering. The next section of this paper explores the ways in which the state can directly and indirectly perpetrate harm against the LGBTQ+ community.

IV. Methodology

This paper studies the ways in which the state perpetrates harm against queer and gender non-conforming individuals in Chechnya and the treatment of transgender inmates in the United States in the case of Ashley Diamond. This will be demonstrated by using a qualitative case study analysis. The qualitative case approach can be defined as in-depth investigation of an individual, group, or event (Soderstrom & Blevins, 2015). Cresswell & Cresswell (2018) defines it as a “qualitative approach in which the investigator explores a real-life, contemporary bounded system (a case) or multiple bounded systems (cases) over time, through detailed, in-depth data collection involving multiple sources of information” (p.96). This allows not only a full understanding of a particular case or issue to be developed (Punch, 1998), but for it to be investigated within its real-life social, historical, political, and economic context (Yin, 2003). The case study is appropriate here as it allows for an in-depth and holistic examination of the case of focus to garner a thorough understanding of the issue.

As a method qualitative case study analysis is often used in state crime studies because of the complexities involved in analyzing the happenings, parties, and harms that have been committed. These behaviors can be complex involving multiple state and corporate actors. In addition, there are many motivations operating at distinct levels of analysis because of the involvement of individuals, institutions, the state, and international actors. Therefore, I am keeping with the tradition of state crime scholarship to examine how the state commits direct harm and indirect harm against LGBTQ+ individuals in both Russia and the United States.

Data

In order to select cases to be included in this study, I searched websites known for reporting issues of human rights. I specifically searched the websites of Human Rights Watch, Amnesty International, and The Marshall Project. For the websites of Amnesty International and Human Rights Watch, I conducted an exhaustive search of cases under each available country and region. Each case was examined for its relevance to harms committed against those identifying as queer or gender non-conforming. In addition, the case selected had to meet the criteria established by Collins (2016) that stated direct forms of state-perpetrated actions cause harm through the creation of laws, policies, and propaganda campaigns. These laws and policies give the repressive apparatus of the state (military, police, court system, prisons) the ability to exact physical violence and coercion. This manifests in behaviors such as the arrest, torture, imprisonment, enforced disappearances, and assassinations of individuals. The case study of queer individuals facing persecution in Chechnya met the established criteria.

I then searched the website of The Marshall Project for harms experienced by trans individuals in the United States correctional system. To be selected, a case had to demonstrate indirect harms against queer and gender non-conforming individuals. The case also had to meet the description of indirect state-perpetrated harm set forth by Collins (2016) that demonstrated that the rhetoric and values of the state are transmitted to other social institutions, the ideological apparatus of the state, that impact the lives of individuals. This often appears in the lack of or denial of healthcare,

education, or employment for, in this case, queer and gender non-conforming individuals. The case of Ashley Diamond clearly demonstrated the ways in which trans women are denied care inside and outside of institutions. Once the cases were selected, the data were collected from all works under these topics that are related to the subject matter of this study — that of the case of Ashley Diamond and the case of Chechnya. The data was collected from relevant media reports, articles, books, documentaries, or other publications found on Google Scholar or through Google search from the years 2014-2022. Any relevant materials relating to the topics were used to formulate a holistic and in-depth understanding of the Ashley Diamond case and the Chechnya case.

V. Research

Crackdown in Chechnya

In Russia's Chechen Republic, queer individuals have faced brutal anti-LGBTQ purges by their own government. Beginning in 2013, Russia passed a federal anti-LGBTQ propaganda law that banned "disseminating information that portrays same-sex relationships as normal, acceptable, and being of equal value to heterosexual relationships" (Lokshina, 2017). Russian authorities have charged several individuals they suspected of violating federal law. In February of 2017, authorities detained a man under the influence of a controlled substance. After authorities searched his messages and social media platforms, they discovered intimate conversations and pictures that had been shared with other men (Steinmetz, 2019). Authorities then identified each contact from the man's phone and created a list. This list was subsequently shared with their superiors and with Magomed Daudov, speaker of the Chechen parliament. Daudov then proceeded to raise the list's existence to his close friend and Chechnya's leader, Ramzan Kadyrov. After securing approval from Kadyrov, Daudov gave officials orders to begin locating and detaining the names of men on the list (Lokshina, 2017).

As a result, local authorities began to kidnap individuals on the list from their homes and places of work. These men were transported to and unlawfully held in unofficial detention facilities (Steinmetz, 2019). The men there faced interrogation techniques designed to elicit the names of more LGBTQ+ individuals. Then men that survived these interrogations shared the brutal torture they experienced while

detained. Most victims suffered beatings at the hands of security officials (Lokshina, 2017). They were assaulted with pipes, sticks, and the boots of officers. Officers would reportedly force the victims to fight and beat one another. The victims also reported that officers doused their bodies with water and attached wires to their fingers to deliver electric shocks. Many described this as an excruciating experience of being shocked until they passed out (Lokshina, 2017). Beyond physical torture, the men were emotionally and verbally abused by officers. State authorities intended to humiliate the detained men by constantly mocking their sexual orientation. Due to the torture eliciting many names of queer individuals in the region, a “list of lesbians” soon emerged that the police used to hunt down other queer women in the region (Vikhrov, 2019). While many men noted that officers would not touch them directly because of their sexual orientation, queer women described sexual violence as part of their torture (Lokshina, 2017). Several individuals died because of the torture and abuse they endured in these detention centers. For those that survived this torture, officials released them back into the care of their immediate families. While queer individuals anticipated that their torture had ended, authorities began to fuel a climate of familial hostility. Lokshina (2017) reports how one victim shared his experience after returning to his family:

They took us to this place and our male family members were there, fathers, brothers, uncles... So, they are there looking at you and they shout abuse at you, call you names, the most offensive names, and they order you to step forward, admit it to your relatives, admit that you're gay. And you know they're likely to kill you if you don't or they'll just keep torturing you... Then, they chastise your family members, tell them they brought shame on the family by rearing a pervert, that it's a huge stain on family honor, a stain that needs to be cleansed... They wouldn't say it directly, but we all knew what it meant.

In March of 2017, a new wave of kidnappings and detentions began to spread across Chechnya. Many queer individuals fled the region to avoid being detained by authorities while others fled after their families had threatened to kill them for being gay (Lokshina, 2017). For those that fled, many reported that officials made visits to their families. They questioned their families and threatened them with harm if they did not offer information about their location. In the second wave of detentions, queer women in Chechnya became especially vulnerable due to their societal position. Many women in Chechnya have every aspect of their lives controlled by their male family members (Vikhrov, 2019). Women are restricted in where they go, who they speak to, and how they dress. Those that do not adhere fully to the traditional moral code face extreme physical violence. Those that have phones are also strictly monitored by their families. As a result, women have little opportunity to seek help or escape the region. Men in Chechnya, even if they are gay, have the advantage of mobility. Men have the opportunity to leave the region while women are almost exclusively confined to the home.

After allegations were made against Chechen officials by human rights organizations, officials began to deny their involvement (Lokshina, 2017). In April of 2017, a spokesperson for Kadyrov made the claim that gay people did not exist in the Chechen Republic. Many public figures reported making violently homophobic statements that condoned the honor killings of LGBTQ+ individuals. State member Magomed Selimkhanov made a statement that said, "Personally, I think that they belong two meters under the ground" (Lokshina, 2017). Local newspapers such as the

Novaya Gazeta were targeted by the Chechen government (Steinmetz, 2019). On April 3rd of 2017, many of the public and political leaders gathered at a mosque to protest the allegations. Kadyrov and his supporters labeled any group reporting the allegations as enemies of the state and their religion for supposed attacks on their traditional values. Many journalists reported death threats and received suspicious packages meant to intimidate them. On April 19th of 2017, President Vladimir Putin met with Kadyrov after international outcry. Putin later suggested that because none of the victims had officially lodged a complaint, there was no need to investigate (Lokshina, 2017). By May 5th, Putin reluctantly agreed to investigate the allegations. However, by May 13th, Chechnya's Interior Ministry claimed they had investigated the allegations but had not found any evidence of persecution based on sexual orientation. Despite international outcry, Chechen officials have refused to take responsibility or even acknowledge the existence of queer individuals in the region. With victims vulnerable to state violence and reluctant to come forward, investigations into the anti-gay purges have stalled.

The Case of Ashley Diamond

In 2019, the American Medical Association (AMA) made a statement that the spike in deaths of trans women in the United States was an epidemic (AMA, 2019). The case of Ashley Diamond highlights how trans women, particularly trans women of color, are often neglected by the state and its institutions. Growing up in Georgia, Diamond was not always met with acceptance, even from her family. Her first encounter with the justice system occurred in 2011, after her partner encouraged her

to pawn a saw that was stolen (Dewan, 2020). Diamond was charged with burglary and sentenced to serve 10 years. In 2012, she was placed in a maximum-security prison for men, even though she identified as a woman. Diamond reported experiencing multiple sexual assaults from her fellow inmates (Aspegren, 2021). She reported these assaults to prison officials and expressed concerns over her safety. The Georgia Department of Corrections (GDC) ignored her plea for help, claiming that they were unable to protect her from inmate violence. Diamond was also denied critical gender-affirming care to aid in her transition. Even though she had been receiving hormone therapy for almost 17 years, the GDC did not allow the use of hormones while incarcerated (Dewan, 2020). As a result, Diamond described a painful physical transformation without hormones as well as severe depression. Diamond was also placed in solitary confinement for “pretending to be a woman” (Aspegren, 2021). She attempted to take her life multiple times while incarcerated.

In 2015, Diamond sued the GDC for housing placement based on gender identity as well as providing gender-affirming medical care (Dewan, 2020). She was quickly released on parole following public criticism of the GDC’s policies in her lawsuit. In February of 2016, a landmark settlement was reached between Diamond, the GDC, and the Department of Justice (DOJ). On paper, the GDC adjusted their policy to allow hormone therapy for trans inmates, adopted a new sexual assault policy to match federal guidelines, and promised to educate correctional officers about the needs of trans inmates (Aspegren, 2021). Despite these changes, trans inmates in Georgia prisons continued to be put at risk. Despite being free from prison, Diamond

continued to face harassment from law enforcement and other transphobic citizens. In 2018, Ashley was given a ticket for a broken taillight and received a bribery charge (Dewan, 2020). Diamond reportedly pleaded with the officer, stating that she would do anything to avoid going back to prison. This statement was interpreted by the officer as a sexual offer to avoid arrest. She spent four months in county jail until her bribery charges were dismissed.

In May of 2019, Diamond left Georgia to attend a treatment facility in Florida that provided mental health and gender-affirming care that she desperately needed (Dewan, 2020). However, restricted travel was one of the conditions of Diamond's parole. As leaving the state was a technical violation, she was ordered to appear before the court for a parole revocation hearing. In August of 2019, she was arrested for failing to appear to her court hearing. Diamond described excessive use of force by the police during her arrest. She asserted that they beat her, stomped on her, and damaged her teeth. Diamond was placed in a men's correctional facility again by the GDC despite their earlier promises to accommodate the needs of the trans inmates in their care (Aspegren, 2021). She has continued to face harassment, assault, and had been repeatedly denied the hormone therapy guaranteed to her in her lawsuit. In November of 2020, Diamond filed a second lawsuit against the GDC for adequate access to healthcare and for the right to be housed in women's facilities. Chinyere Ezie, Diamond's lawyer, also reported that Diamond's release date has been delayed over numerous disciplinary reports and that her records have been tampered with in retaliation over the lawsuit (Dewan, 2020). Diamond is currently still in a men's

correctional facility while her second lawsuit is heard in court. The next section of this paper analyzes the events in the Chechen Republic and the United States by employing Foucault's (1978) theory of biopower that was built on by Mbembe's (2003) work concerning necropolitics.

VI. Analysis

In order to understand the atrocious state behavior in Chechnya more fully, it is necessary to integrate the theoretical concepts of biopower and necropolitics. In Foucault's (2003) work, he notes that the state's use of certain ideologies is often used as a political tool to divide its population. In doing so, it helps to justify the extermination of populations that have been labeled as inferior for deviating from societal norms. This mirrors one of Mbembe's (2003) concepts of necropolitics in that the state uses different moral justifications for the eradication of populations. Russia has long taken an anti-LGBTQ stance that appeals to their conservative support base. In 2013, the state passed and still enforces a "gay propaganda" bill as a way to demonstrate their support of traditional values (Lokshina, 2017). This law bans any access to information about LGBTQ individuals and content to minors through tv, radio, the internet, and the press. This law prevents Russian youth from accessing valuable information and necessary resources. These laws perpetuate the idea that LGBTQ+ are a threat to the traditional way of living and must be removed from all institutions in society.

Moreover, Kadyrov has made statements that gay people do not exist in the Chechen Republic, while other top officials suggested that gay individuals should die. This homophobic ideology is being used as a political tool to divide the population into those that support Russia's conservative values and those that are against the state. This rhetoric serves to justify the erasure and subsequent treatment of LGBTQ+ individuals. This is most evident in the familial and community reactions to the

messages officials have reinforced that these individuals have brought shame and dishonor to their families. Families have threatened, beaten, and conducted honor killings because of this internalized ideology. The purges, detentions, and honor killings have become celebrated and morally justified in the name of preserving the traditional family. The shared use of violence with non-state actors is another element of necropolitics (Mbembe, 2003). The state often relinquishes its monopoly of violence with private actors. In this case, the state has shared and encouraged the use of violence by families to further the death, shame, and suffering of queer and gender non-conforming citizens.

Chechnya's Death-Worlds

The Chechen Republic has produced a death-world for queer and trans citizens living in the region through its main three components: necroeconomy, confinement, and producing death. The necroeconomy not only puts their citizens at risk, but also entails the destruction of social services and rights. Recent legislation drafted and considered by the Russian parliament has considered allowing employment discrimination (Partridge-Hicks, 2020). Allowing discrimination based on sexuality or gender identity puts individuals at risk of being unable to maintain meaningful employment and lead to an increased risk of living in poverty. Outside of legislation, the Russian state has ensured a precarious financial and social position of those in the community. Publicly shaming and outing queer individuals ensures their ostracization from their families and the community. Cut off from their financial and social support systems, many queer individuals have fled the region with little. For queer women,

they have even less social or financial autonomy compared to their male counterparts. Many queer women described their families controlling where they go, what they wear, and their financial assets (Vikhrov, 2019). The Chechen government, led by Kadyrov, enforces strict traditional gender roles. To remove both financial safeguards and social protections is a structural violence in which a population lives in constant fear for lack of security. The state has a duty of care in which they must ensure that their citizens are protected.

In addition, the Chechen government has enforced the confinement and surveillance of their LGBTQ+ population. Mbembe (2003) asserts that transforming a population into a migratory state or space is the most efficient way to control and kill them. The detainment of LGBTQ+ individuals in unofficial detention facilities provided an opportunity for the state to torture, harass, and kill detainees. Queer women in Chechnya, because of their status as women, are already primarily confined to the home. Here we can see a primary example of the intersection between gender and sexuality. Women are primarily confined in home spaces to ensure their control and surveillance. Consequently, queer women are placed in a precarious position as their confinement provides ample opportunity for the state and male members of their family to harass and kill them. Those that survived and returned to their families had to flee the region after their outings. Fearing persecution from the state and their own family members, many Chechen citizens became refugees of neighboring countries. Refugees are particularly susceptible to violence and death as they are persecuted by their home state and not guaranteed the acceptance of another.

Lastly, the Chechen Republic has produced death and death-worlds in a large scale. The state has detained, tortured, beaten, and killed their LGBTQ+ citizens. However, physical torture and death are only one part of their violence. In this case, suffering rather than death has become a political tool. Recent legislation has aimed at denying LGBTQ+ individuals the right to marry, adopt, transition, or simply exist in public spheres. Most of those sent to detainment centers and were tortured were returned to their families alive. Instead, they are exposed to conditions where they are “kept alive but in a state of injury” (Mbembe, 2003, p. 21). While many escaped death at the hands of the government, their daily existence provides them with doses of death. For the state to out many queer and trans individuals is its own type of violence that violates autonomy and threatens their support systems. The public humiliation that many of them endured from their family and community members effectively destroyed their social existences. The social, political, and symbolic violence inflicted upon the LGBTQ+ community bring about a state of in-between, in which individuals are alive but constantly threatened with death.

Walking while Trans

In the United States, the formation of death-worlds is evident in the treatment and persecution of trans individuals like Ashley Diamond. Capitalism within the United States is a primary example of a necroeconomy, in that it is explicitly designed to exploit populations and expose them to hazardous conditions. Gender-affirming care that facilitates the transition for many trans individuals often comes with a high cost. Many trans women struggle to find and maintain meaningful employment due to

discrimination. As there has been little room for trans individuals in the economy, they have been forced to create their own. For many trans women, especially of color, sex work becomes an important mode of economic survival (Burns, 2020). Most sex workers face disproportionately high levels of physical and sexual violence in their occupation. The relationship between the state and sex workers is crucial to their safety. In countries like the United States where sex work is criminalized, women are forced to work in dangerous conditions and areas (Sanders, 2016). This is intricately linked to the concept of confinement of certain populations.

Due to discriminatory and segregationist housing policies, many trans individuals are confined to poorer neighborhoods. These precarious spaces are often without basic social goods and services. As the state is aware of spaces containing high concentrations of undesirable populations, these spaces are often heavily militarized. The police often enter these spaces to control, surveille, harass, and potentially kill these individuals. This is described as “a permanent condition of living in pain” (Mbembe, 2003, p. 39). Sanders (2016) notes that trans sex workers are often forced to work in poorly lit areas by themselves out of fear of arrest. Moving away from the public eye increases a woman’s risk of experiencing violence from customers. However, working in these areas also means an increased risk of contact with law enforcement or being profiled for their identity. Many states have passed and enforced infamous “Walking while Trans” loitering laws in a way that specifically targets trans individuals for the way they look (Kellaway, 2015).

Daily Doses of Death

In addition, prisons are another space of confinement for many trans women like Ashley Diamond as well as contribute to the doses of death they experience. One primary area of concern in corrections is housing and classification. Some Departments of Corrections (DOC) consider biological sex and reassignment surgeries when assigning individuals to certain facilities (Buist & Lenning, 2015). If a trans woman has not received reassignment surgery, also known as bottom surgery, they are placed in a facility that aligns to their biological sex. At the time of Diamond's imprisonment, the Trump Administration had rolled back protections for trans prisoners (Lenning, Brightman, & Buist, 2021). The federal guidelines were rewritten, stating that only "biological sex" should be referred to when considering placements.

As a result, trans women have been consistently assigned to men's correctional institutions. This move serves to make trans women more vulnerable to transphobic violence and assault. Trans women may also experience heightened levels of fear, anxiety, and alienation because of these policies. Some jails/prisons have opted to place trans women in special units seemingly designed for their protection. However, these units leave prisoners in isolation (Buist & Lenning, 2015). Research has shown that correctional isolation can lead to increased levels of anxiety, depression, paranoia, and suicidal tendencies (Colopy, 2012). Queer and trans women are known to disproportionately suffer from trauma and mental illness, so isolation techniques are only likely to exacerbate these pre-existing conditions (Buist & Lenning, 2015).

In addition, medical care in jails and prisons is crucial to the well-being of the prisoner. The literature has also noted that jails, with limited budgets, are often ill-

equipped to meet the needs of their inmates (Owen, Wells, & Pollock, 2017). As previously mentioned, the majority of trans women in prisons and jails have experienced financial insecurity. As basic supplies and medical care cost money, many cannot afford to pay. Trans women are often denied treatment that is necessary for their transition, mental health, and well-being. Colopy (2012) has argued that trans women cannot be denied mental health treatment and hormone therapy. A failure to administer medically prescribed hormones can result in damage to physical and mental health. The absence of policy designed to help the trans community and their failure to act on laws that are inherently harmful demonstrates the state's complicity.

As previously mentioned, Mbembe (2003) argues that necropolitics extends beyond direct state terror into the very fabric of society that impacts their very social existence. He writes that there are "small doses of death in the daily existences that come from unbounded social, economic, and symbolic violence that destroy their bodies and the value of their social existence" (Mbembe, 2003 p. 39). The small doses of death that Mbembe is referring to are aspects of social life that make it difficult for people, in this case queer and trans individuals, to survive. There is an absence of basic social necessities that many queer and trans women face such as proper housing, healthcare, education, and employment (Buist & Lenning, 2015).

VII. Conclusion

In conclusion, this work has addressed the lack of attention paid to issues of sexuality/gender identity as well as the utility of using sexuality/gender identity as an analytic instrument to better understand state crime. It also demonstrated that there is a need to diversify the field of state crime by acknowledging fresh perspectives in critical criminology. Further integration of perspectives like queer criminology and queer necropolitics will continue to advance the field and our understanding of marginalized populations. To continue, this work relies heavily on the theoretical foundations laid by Foucault (1990a) and Mbembe (2003) concerning the ways in which the state assigns differential values to its citizens based on who they are. This paper explores cases that frame the state as a primary perpetrator of harms against queer and gender non-conforming individuals. This community has faced persecution by states that view their queerness as sites of social control. The case study example of queer individuals in Russia's Chechen Republic clearly highlights the ways in which a state can directly intend to lead to the elimination of certain groups. It is also crucial to explore the ways that the state indirectly facilitates harm. The case of Ashley Diamond demonstrates that there is inherent violence built into social institutions. These institutions perpetuate harmful policies that disproportionately impact individuals based on gender and sexuality. There is an absence of basic social necessities that many queer and trans individuals face such as proper housing, healthcare, education, and employment (Buist and Lenning, 2015).

To continue, these are daily doses of death that keep certain populations of people living in precarious conditions. It is the institutionalized sexism, racism, classism, and homophobia built into the state's ideological apparatus that keep obstacles in place. Queer and trans individuals face these types of violence in their everyday lives, which as the literature shows, often becomes a pathway into the criminal justice system. Once in the justice system, the state is then able to enact violence to remove these undesirable populations from society and to prolong their suffering. In this regard, the state is aware of the systemic inequalities that disproportionately impact queer and trans individuals. However, the state makes little to no effort to alleviate these conditions because the state does not deem these groups as worthy of life. Whether the state directly causes harm or permits it through its various social institutions, the state is complicit. States must be held accountable for their treatment of queer and gender non-conforming individuals, despite their fabricated moral justifications. However, it must be stated that this work is unable to fully demonstrate the variety of harms these individuals face at the hands of states around the world. More integrated research is needed to fully capture the experiences of queer and gender non-conforming individuals. The state crime literature must continue to explore the ways in which states perpetrate harm based on sexuality and gender identity and provide solutions for this epidemic of violence.

VIII. References

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