

gemaya

(E M) P O W E R

Issue 9, 2014

SYDNEY UNIVERSITY LAW SOCIETY
JOURNAL OF GENDER AND SEXUALITY

ORIGIN OF THE JOURNAL'S NAME

by Marianna Leishman

Yemaya is the African-Yoruban, Afro-Brasilian and Afro-Caribbean Goddess of the Ocean, whose waters broke and created a flood that created the oceans. While she can be destructive and violent, Yemaya is primarily known for her compassion, protection and water magic. In Cuba, she is referred to as Yemaya Olokun, who can only be seen in dreams, and her name is a contraction of Yey Omo Eja: "Mother Whose Children are the Fish". Canonised as the Virgin Mary, and appearing as river goddess Emanjah in Trinidad, Yemaya rules the sea, the moon, dreams, secrets, wisdom, fresh water and the collective unconscious. In Brazil, crowds gather on the beach of Bahia to celebrate Candalaria: a Candomble ceremony on 31 December. Candles are lit on the beach while votive boats made from flowers and letters are thrown into the sea for Yemaya to wash away their sorrows.

YEMAYA**Issue 9**

(Em)power

Sydney University Law Society

Journal of Gender & Sexuality

2014

EDITORIAL BOARD

Patricia Arcilla

Rebecca Brown

Shirley Huang

Angus Nicholas

Ellen O'Brien

Elizabeth Pearson

Tara Waniganayaka

Marina Yang

DESIGN

Angus Nicholas

COPY EDITING

Ellen O'Brien

ARTWORK

Ania Gareeva

Christina Guo (Title Page, Article 7)

Marina Yang

PRINTING

Vertifix

DISCLAIMER

This journal is published by students of the University of Sydney. *Yemaya* is published under the auspices of the Sydney University Law Society. The views expressed in the articles are those of the authors, not the editors.

RECOGNITION

The editors of *Yemaya* acknowledge the traditional owners and custodians of this land, the Gadigal people of the Eora nation.

ISSN 1838-9635

CONTENTS

- 07 Can BDSM & Feminism Co-exist?
Isabella Partridge
- 13 A Je Burrneshë: Are You As Strong As a Man?
Toks Ogundare
- 19 Significant Others: Marriage's Questionable Ability to Empower
Ellen O'Brien
- 24 Koi
Ania Gareeva
- 27 The Invisible Minority: The Power of Visibility in Light of Uganda's Anti
Homosexuality Laws
Angus Nicholas
- 33 I Plead Lovesick: A Study of Criminality in TV Sitcom Romances
Manna Mostaghim
- 37 Sisters
Marina Yang
- 40 The Insecure Overachiever: A Study in Shame
Harley Milano
- 44 Lara
Ania Gareeva
- 48 Proposed and Current Laws Banning Sex-Selective Abortion in the United
States: Applying an Intersectional Analysis
Natalie Czapski
- 53 Extraterrestrial Playground
Ania Gareeva
- 57 For Better or For Worse: Opportunities for Empowerment from Marriage
Equality Evangelicals
Tom Kiat
- 61 Maddening Cloud
Ania Gareeva

EDITORIAL: (EM)POWER

Women and LGBT people are typically two categories of groups oppressed by a society structured to give power to a white, heterosexual, cis-male norm. Yet that is not to say that these groups do not have power; indeed, many theorists argue that one cannot be empowered by others, but instead must choose to effectively use the power they already possess. Harley Milano reflects on over-achievers in LGBT circles and their experiences of shame, and how internalising their success, along with recreating ideas of masculinity, can help individuals achieve a sense of empowerment. Toks Ogundare contemplates the ability of women to find social power by adopting masculine clothing norms.

The idea of choice, however, is contentious within feminist and queer academic circles. In this edition of *Yemaya*, writers examine the idea of empowerment as having the autonomy to make individual choices. But, as Isabella Partridge notes in our opening piece, our choices are influenced by outside context – in the case of BDSM sexual practices, that context is the patriarchal society in which we all exist. Natalie Czapski discusses how, for Asian American women, the choice to have an abortion is influenced by both restrictive American laws banning sex selective abortions and cultural pressures. The law proves to also restrain the choice of LGBT people in Uganda to remain visible; thus, as Angus Nicholas proves, constraining their cause's ability to gain mainstream support and political momentum.

The media's role in constructing power relationships is discussed by Manna Mostaghim in her deconstruction of the portrayal of stalkers in popular sitcoms. The much-publicised 'Marriage Equality' movement is attacked from two different angles within *Yemaya*; Ellen O'Brien considers whether marriage can actually achieve equality between groups and restore power imbalances, while Tom Kiat discusses the merits of Christian groups and LGBT activists combining forces to achieve marriage equality, which he argues will be of practical and legal significance.

Ultimately, the (Em)power edition of *Yemaya* explores the relationship between power and empowerment – the two are interlinked and engaged, and one cannot be considered without the other.

Yemaya Editorial Board

CAN BDSM &
FEMINISM
CO-EXIST?



ISABELLA PARTRIDGE

Sexuality is a site of profound contestation in feminist thinking. A significant area of conflict is whether BDSM (bondage and discipline, domination and submission, and sadomasochism), specifically in the context of heterosexual relationships, is incompatible with the theory and ideology of feminism. Broadly, BDSM represents a wide variety of sexual and non-sexual practices centred on the shifting dynamics of power between individuals.¹ This article will firstly introduce two major feminist perspectives on BDSM. It will then examine the significance of consent - specifically, whether female consent to male violence and domination is possible in the context of a society characterised by patriarchal power relations. Next, it will explore the extent to which an individual's sexual preferences should be subject to social context and ideology, a question that reflects the ongoing tension between the personal and the political. Bodies, and what we do to them, do play a role in the symbolisation and reproduction of gender norms. However, no sexual practice is inherently empowering or disempowering, as there are complex and shifting dynamics of choice, power and consent in all relationships. Deriding the desires of women who do engage in forms of consensual BDSM is arguably an extension of the broader pathologisation of female sexuality, which has disempowered women for centuries.

The Sex Wars: Then and Now

From the 1970s, feminist perspectives

on sexuality were characterised by a division between 'radical feminists' and 'libertarian' or 'sex-positive' feminists.² This tension culminated in a series of hostile debates, protests and conferences known as the Sex Wars.

The radical feminist school conceptualised certain sexual practices as forms of patriarchal oppression and thus inherently harmful to women, including pornography, sex work and BDSM. This perspective posits that sadomasochistic practices are 'inseparable from

“[N]o sexual practice is inherently empowering or disempowering.”

patriarchal hierarchies based on relations of dominance and subordination³ and essentially constitute a form of woman-hating violence.⁴

Feminists must therefore reject any sexual practice that eroticises submission and dominance, as 'feminism rejects unequal sexual and love relationships.'⁵ In contrast, the sex-positive feminist movement argued that women should be able to enjoy a wide variety of sexual practices 'without fear of discriminatory judgment by society or other feminists.'⁶ They believed that opportunities for female sexual pleasure exist in many and varied contexts, and that consenting adults should be free to express themselves sexually.⁷

Consent and context

Today, feminist perspectives on BDSM continue to be controversial. The two most extreme positions, pro- and anti-BDSM, reflect the legacy of the Sex Wars, with the latter viewing BDSM as antithetical to feminism and the former viewing it as an expression of sexual freedom.

Pro-BDSM feminists argue that the radical feminist perspective, in its pursuit to ‘expose the universal and eternal grip of patriarchy on every aspect of human existence’, neglects the context in which BDSM activities occur.⁸ Specifically, whilst BDSM may involve the infliction of pain or humiliation, or negotiated power exchanges, it requires the consent of all parties involved, and unlike an abusive relationship, can be stopped at any time. Indeed, some pro-BDSM feminists have suggested that those involved in the BDSM community are perhaps more attuned to the nuances of consent than the general population.⁹ As the risks of harm, both physical and emotional, tend to be higher in BDSM sexual activity than in ‘vanilla’ sex, the community has long recognised the importance of articulating consent at the outset and throughout sexual activity. ‘Safe, Sane and Consensual’ has been the catchcry of the BDSM scene since the 1980s, and the concept of ‘Risk Aware Consensual Kink’ has also gained traction in recent years.¹⁰ The use of safe words to slow or halt a sexual scene is virtually universal, and ‘dominants’ who act outside the pre-negotiated parameters of a

submissive will often gain a reputation as abusive and will be ostracised from the community.¹¹ Moreover, whilst the dominant is the individual who inflicts the pain or directs the scene, it is the submissive who sets the limit on what happens, including the levels of pain, humiliation or domination that are to occur.¹² Thus, some pro-BDSM feminists have argued that the submissive is the individual who truly holds the power.

However, the most significant criticism expressed by anti-BDSM feminists is that consent cannot overcome the broader context of unequal heterosexual power dynamics, which have oppressed women for thousands of years.¹³ As BDSM is seen to reflect an internalisation of misogyny and patriarchy, it is impossible for any woman to provide true consent to violence or domination by men.¹⁴ The mere fact that a woman has consented to certain patterns of male dominance does not necessarily establish an act of free will, as both men and women learn from an early age to internalise patriarchal values and think of them as natural.¹⁵ Many proponents of this view argue that the context of inequity and unequal power that already exists between men and women significantly shapes personal desires and sexual preferences,¹⁶ and leads women to believe they enjoy male domination.¹⁷ For example, Willis argues:

[S]ex in this culture has been so deeply politicised that it is impossible to make clear-cut distinctions between ‘authentic’ sexual impulses and those

conditioned by the patriarchy.¹⁸

By focusing on the rhetoric of female choice and empowerment, rather than challenging why a woman might be attracted to male domination, supporters of BDSM are seen to endorse ‘the eroticisation of violence under the aegis of the consensual.’¹⁹

Personal v political

A further point of tension between the two perspectives is the extent to which an individual’s sexual preferences should be considered alongside their politics. For example, some pro-BDSM feminists argue that what they choose to do sexually is a private, personal matter that is irrelevant to their identification with feminist ideology. Not every feeling, desire or act is taken to have a political connotation. Moreover, they argue that feminism has no place in telling women what they should and should not enjoy. The anti-BDSM feminists’ dictate that BDSM is inherently ‘bad’ for women, and the belief that some women have been ‘tricked’ into enjoying male domination, implies that there is something wrong with women who enjoy BDSM. It also suggests that women are dupes who lack agency and the capacity to make informed decisions about their desires and actions. Arguably, this is another way of pathologising female sexuality, which ironically is a key aspect of the pa-

triarchal system that mainstream feminists have sought to challenge. A feminism that is prescriptive about ‘right’ and ‘wrong’ ways to have sex is considered to be hypocritical, and ultimately disempowering.

However, the pro-BDSM claim that individual choices can remain distinct from political and social context sits uncomfortably with the broader feminist principle that the personal *is* political. The notion of the separation of public and private spheres has been used to justify everything from domestic violence to the underrepresentation of women in positions of power. Thus it is understandable that some theorists are wary of the assertion that an individual’s choices can be completely delineated from politics and social context. Recent feminist analyses of the relationship between the body and culture may be illuminating. Within this framework, the body is considered to be a ‘powerful symbolic form’ that can both reinforce and challenge the hierarchies of the culture within which it exists,²⁰ and a ‘practical, direct locus of social control’.²¹ Individual bodily choices (including, potentially, sexual choices) therefore have the power to perpetuate dominant historical and cultural ideals of identity and gender expression.²² However, they also have the power to challenge them. For example, it could be argued that by identifying and pursuing the gratification of their sexual

desires, women who seek out BDSM are empowering themselves. This is a challenge to the contemporary socially constructed feminine ideal that requires women to develop an 'other-oriented emotional economy', at the expense of their own needs.²³

Can feminism and BDSM co-exist? An alternative paradigm of power

These two competing feminist perspectives approach the debate about

“Individual relationships are complex and involve constant negotiations of power.”

feminism and BDSM with particular views about power: who has it, and how it can be exchanged. The anti-BDSM feminists appear to argue that the context of patriarchy makes it structurally impossible for women to be empowered by engaging in BDSM activities. In contrast, the sex-positive feminist framework seems to adopt a neoliberal conception of power, which views individuals as free actors with the capacity to consent to different activities, including temporarily giving up their power in a sexual context. Both positions are problematic. To argue that women who enjoy BDSM have been duped by social conditioning is condescend-

ing and disempowering. However, given the significant relationship between the body (especially the female body) and culture, the desire for male violence and domination should be considered in context.

It would be more constructive to recognise that whilst social context is important, individual relationships are complex and involve constant negotiations of power, regardless of gender. Instead of focusing on the controversial (though ultimately consensual) sexual practices of some women, perhaps feminists should redirect their focus to the rates of sexual violence and victim blaming that occur in the wider world. The prolific use of phrases such as 'legitimate rape' and 'grey rape' suggest that consent is neither straightforward, nor well understood. Rather than categorising any kind of sexual activity as inherently 'good' or 'bad' for women, all individuals (both male and female) could benefit from exploring the nature and ethics of consent, and what it means to them in the context of their own relationships.

Conclusion

The meaning and implications of BDSM, like every sexual interaction, is dependent on the relationship that exists between the individuals who are involved. Though compelling points are made regarding the body

as a locus of social control, ultimately what is more disempowering than anything is prescriptive mandates about the kinds of desires that are acceptable or taboo. It would be naïve to argue that sexual desire exists in a cultural vacuum. However, making sweeping categorical arguments about the incompatibility of one set of values with another simply shuts down opportunities to articulate notions of consent and choice. It would be more productive for everyone to move beyond black and white rhetoric about what female empowerment looks like, and critically examine the ongoing complexity and negotiation involved in all relationships.

“A JE
BURRNESHË ?”

“ARE YOU AS
STRONG AS A
MAN?”



TOKS OGUNDARE

In the mountainous regions of northern Albania, women are wearing the pants. Taking an oath of perpetual virginity and donning male attire, the women, familiarly known as *burrneshë* (literally ‘man-woman’), hold the place of honorary men in society.¹ In an area at the core of the Balkan patriarchy, cross-gender transformation allows Albanian women to socially change their sex and adopt a male role within their households and communities. They are able to take a position as head of the household, perform male work such as farming, inherit the family property and business and engage in social activities exclusive to men, including drinking and smoking.² However, though the *burrneshë* are part of a cultural tradition, the practice resonates in modern clothing semiotics outside of regional Albania.

To the outside world, even to urban Albanians, the tradition is largely unknown. The earliest known records of the practice are contained in the *Kanun* of Lekë Dukagjini, a fifteenth century codification of customary law followed by Albanian populations throughout the northern mountains.³ According to the *Kanun*, a woman engaged to be married is forbidden, under penalty of death, from abandoning her betrothed. She may avoid the wedding by promising to remain unmarried, until her initial betrothed allows her the freedom to do so. If this is denied, she must wait until his death before becoming free of the attachment. As such, swearing an oath of chastity and becoming a ‘sworn

virgin’ was perceived as the only respectable alternative.⁴ Aside from the patriarchal constraints of marriage, the violent history of Albania under the Ottoman occupation and up to the 1920s also contributed to the presence of ‘sworn virgins’ in northern Albania. Ongoing blood feuds during the century leading up to the Second World War resulted in the loss of up to 30% of the male population, placing a high value on male descendants.⁵ The patrilineal structures of the Balkan society meant that male offspring ‘constituted the nucleus of the household’, with the *Kanun* dictating that only sons aged fifteen and above may inherit property, thus, where there were no male heirs to continue the family line, inheritance would prove a strong motive for a woman to become a ‘sworn virgin’.⁶

With the increasing democratisation of Albania, the number of ‘sworn virgins’ is rapidly dwindling, with estimates of around 30 remaining in the remote northern regions.⁷ In 2009, photographer Jill Peters began her six year project to shed light on this ‘archaic’ tradition through her portrait series, *Sworn Virgins of Albania*.⁸ Capturing images of a few last living *burrneshë* in remote villages of the Albanian alps, the series offers a rare glimpse into the quotidian lives of seven ‘sworn virgins’ in their performative roles as men. What is most striking about the portraits is the manner in which the *burrneshë* assert their masculinity. Posed, legs astride, backing a picturesque horizon of farmland and ranges, we are presented with Lule, who lived as a

boy from an early age. Now aged 60, she became the head of the family at nineteen following the death of her parents and the realisation that her brother, Pjetar would not be capable of managing the household.⁹ Lule's trademark sunglasses and cigarette, accoutrements exclusive to male society, accompany her in every photo, as if constant reminders both to herself and to the outside world of her indubitable masculinity. The other six 'virgins' are photographed expressing similarly exaggerated masculinity. Lule is clothed in baggy jeans and a dark hooded sweatshirt, a rifle aimed over the countryside with the Albanian flag waving majestically in the background; Haki is dressed in a dark men's jacket and slacks, proudly gazing into the distance, a wooden pitchfork in hand. Whether a personal choice or that of the artist, the dramatic masculinity displayed by the 'virgins' demonstrates the perpetual gender performance in which the women must engage in order to affirm their position as men in society.

The commentary sparked by Peters' venture ranges from support for the bravery of the 'sworn virgins' to condemnation of a society whose patriarchal oppression could force such sacrifice. One attitude common to the majority of analysis, however, is that of pure incredulity, with one reporter likening *burrneshë* to 'unicorns'.¹⁰ Contemporary reactions to the practice are strikingly similar

to the exoticism expressed by nineteenth century travel writers such as Ernst Schultz, whose journey to 'an ethnosexual frontier'

"[T]he dramatic masculinity displayed by the 'virgins' demonstrates the perpetual gender performance in which [they] must engage."

between 'civilisation and savagery' delivered one of Western society's earliest ethnographic accounts of the 'men-women' of Albania.¹¹ Yet the wonder and indignation that typically accompanies the discourse on Albanian 'sworn virgins' often precludes the issue from a macro level, intersectional analysis of gender and power.

The Albanian *burrneshë* are not alone. In her book, *Women Who Become Men*, Antonia Young draws parallels between the *burrneshë* and cross-dressers and transsexuals in other communities around the world. Amongst these are the *sahdin*, a small number of Hindu women in Himachal Pradesh, northern India, who, like the 'sworn virgins', dress like men and practice lifelong celibacy.¹² A more familiar circumstance is the oft forgotten role of female soldiers

and sailors during the nineteenth century. Julie Wheelwright details the individual stories of women who adopted the role of men in order to escape the oppression and ennui of severe Victorian society, to break free of an undesirable marriage, or to pursue 'the right to women's erotic love through their assumption of male clothing'.¹³ In many cases, however, women who chose to abandon their prescribed gender roles did so to advance into advantageous positions, particularly within the military, from which women were typically excluded.¹⁴

While these women may have been 'reduced to the occasional footnote' by puritanical Victorian Britain's 'rewriting of history',¹⁵ female penetration into male dominated fields through gender performativity is by no means a phenomenon of the past. The Albanian 'virgins' are only one example of the hypocrisy that sees a woman in trousers elevated to a status above that of a woman in a skirt.¹⁶ This 'hypocrisy' can also be applied to contemporary Western society, where, in order to claim the social and economic privileges given almost exclusively to men, women must navigate the same visual gender bias faced by *burrneshë*. Certainly, there is a vast difference between the inflexible patriarchal order of remote northern Albania, and gender inequality in Western liberal societies. However, women in such societies

remain plagued by the constraints of visual representations of gender and their effect on perceptions of power.

In writing of the possession of wealth and its relationship to clothing, Henry David Thoreau commented that '[i]t is an interesting question how far men would retain their relative rank if they were divested of their clothes'.¹⁷ Of course, Thoreau uses 'men' in a generic sense; however, a gendered reading of the remark offers a pertinent implication. A semiotic analysis of clothing and power reveals that clothing continues to occupy a significant position in the social construction of power relations, particularly in the creation of dominant gender ideology.¹⁸ In a case study of the 'power suit', Yuet See Monica Owyong examines how the ubiquitous ensemble, engineered to accentuate a masculine based power, has come to represent 'a symbol of domination and, more specifically, men's domination over women'.¹⁹ The suit, Owyong argues, both streamlines the silhouette and enhances the size of the wearer to endow them with an air of professionalism, and a degree of dominance and power.²⁰ It is interesting to note the hypothesis advanced by some psychologists who consider the tie to be a 'strong symbol of the phallus', a vector drawing attention to the male genitals as a symbol of power.²¹ On the other hand, traditionally feminine attire is

associated with 'feminine beauty, frailty and vulnerability'.²² The association of the suit with masculinity and power has become so strong that when women began to wearing the business suit to the office in the late 1970s and early 80s, (a whole century later than men), it was viewed as an effort to assimilate women into the male-centric workplace.²³

a formidable force in international politics. Yet the European Union's longest serving head of government has not been exempt from the aesthetically geared media bashing that has become a rite of passage for women entering the field of politics. Indeed, the very same *Forbes* magazine that bestowed Merkel with the honour of being the world's most powerful woman offers commentary on the chancellors style,

"[T]he contemporary clothing semiotics of women in positions of leadership is of crucial importance in asserting power and competency."

Nowhere is this interaction more pronounced than in the increasingly visualised domain of politics. The primary dress code in international politics is represented by the suit; 'the uniform of official power...it suggests diplomacy, compromise, civility, and physical self-control'.²⁴ Women in political leadership, much more so than their male counterparts, are judged not only by their professional achievements, but on the basis of their physical attributes, their physiognomy, and their wardrobe.²⁵ Positioned as the 'other' on the political stage by hegemonic visual representations of male power, women in positions of leadership are faced with the need to adopt a certain level of symbolic masculinity in order to establish a political position. Listed number one in *Forbes*' 'World's Most Powerful Women' 2014, German chancellor Angela Merkel is

titled 'Angela Merkel's Frumpy Power Suits'.²⁶ After a prolonged period of the German media criticising her wardrobe and haircut, Merkel adopted the iconic look we see today. Sporting a generic, modest haircut, a standard pantsuit blazer and minimal jewellery and make-up, Merkel rejects any distinguishable feminine elements.²⁷ Merkel's visual identity conveys her attempts at a 'gendered mock neutralisation' to offset the disturbing symbolic effect of being a singular female the male dominated field of power and politics.²⁸

Having recently surfaced into global social consciousness, the dying tradition of the *burrneshë* draws both praise and condemnation for the 'sacrifice' of femininity. Yet much as it is for 'sworn virgins', the contemporary clothing semiotics of women in positions of leadership is of crucial importance in asserting power and competency in

male dominated fields, particularly in the context of highly mediated politics. The oath of the 'sworn virgins' is not so far removed from the tacit "oath" taken by female leaders to neutralise their femininity in order to gain influence in spheres of power. However, while Albanian *burrneshë* essentially become men by assuming a completely male exterior, female leaders walk an intersectional tightrope, balancing male symbols of power with a need to represent a gender shift in politics. The visual entrapment of females in politics demonstrates the width of the gap between gender and equal opportunity.

SIGNIFICANT
OTHERS:
THE QUESTIONABLE
ABILITY
OF MARRIAGE
TO EMPOWER



ELLEN O'BRIEN

Introduction

Over the last decade, calls for ‘marriage equality’ have garnered mainstream attention and support from politicians and celebrities alike. But is there such a thing as ‘marriage equality’? Would achieving it empower oppressed groups? Or does the campaign, which promotes the institution of marriage, merely reinforce a hierarchical and oppressive structure that privileges certain relationships over others?

Although marriage – meaning, in Australia, the union of one man and one woman to the exclusion of all others¹ – is arguably an important form for a relationship to take, its position in society is elevated above all other forms of relationships. Married couples are designated special rights that are not offered to other forms of relationships. As such, actual equality cannot be achieved even if legal ‘marriage equality’ exists between different groups, because the confines of marriage will not extend to all adult relationships.

While there are laws in place in NSW to extend legal rights to other de facto and ‘close personal’ relationships (‘CPRs’),² the regime simply re-focuses the hierarchy of relationships by promoting certain relationships under a presumptive definition, leaving many others incapable of recognition. Other Australian states and foreign countries have adopted a more purpose-focused registration system, which enables recognition of a more diverse range of relationships. Relationships should be

defined by their functions, rather than their status, so as to meet the objectives of different statutes. The pros and cons of an ‘opt-in’ registration system, as well as a functional interpretive methodology, will be discussed to demonstrate that there are other forms of legal policy that would be more empowering than the current marital institutions.

The oppressive and exclusive nature of marriage

Not only does marriage privilege certain forms of relationships over others from a legal perspective, the institution of marriage itself is oppressive, rooted in centuries of racism, sexism and heteronormativity. Both of these elements contribute to the conclusion that marriage contributes to, rather than helps reduce, inequality, both within relationships and between different forms of relationships.

A. The oppressive nature of marriage
From its religious beginnings, marriage has been used as a way to subjugate certain groups in society. Originally used as a way to transfer ownership of a woman from father to husband, marriage continues to hamper the progression of women socially and economically. Although formal gender equality in marriage has been established in law, marital roles continue to be gendered in a patriarchal manner.³ While some couples may challenge and subvert these roles in their own relationships, the institution as a whole is still deeply sexist and coercive, contributing to the underrep-

resentation of women in positions of power in the community.⁴

As has come to the fore in ‘marriage equality’ debates, the current prescribed form of marriage is extremely heteronormative, prioritising not only heterosexuality but ‘coupledom’ above other forms of relationships, such as polyamorous relationships with more than two conjugal partners.⁵ The institution of marriage also has no concept of people existing outside of the gender binary, leaving non-binary and transgender people out in the cold.

“Marriage has been described as a ‘technology of power’ which regulates access to resources.”

B. The exclusive nature of marriage
Marriage has traditionally been held as the highest form of relationship, essential to society and promoting the welfare of children. As a result, people who enter into marriage are rewarded by the government with certain rights that are not afforded to others. But the lauding of marriage as the ultimate relationship structure is both unrealistic and discriminatory. It creates a hierarchy of married and non-married people, ignoring the fact that familial and dependent relationships exist in many forms in modern society.

There are many areas in which the legal disparity between married and

non-married people becomes clear. For instance, when considering the division of property upon the breakdown of a relationship, couples who are not married or in a de-facto relationship are not governed by the *Family Law Act 1975* and must use common law remedies, which may not ‘take into account the intimate nature of the relationship’.⁶ People in non-recognised relationships are exposed to financial loss, even if they have been in a stable and long-term relationship. In considering employment entitlements, the inequality of our current system is exposed. For example, many employees are afforded carers and parenting leave involving family members. But a person in a non-recognised relationship is disadvantaged as they may not be able to use this leave for a member of their family unit if it is not traditionally recognised by the state.⁷

By creating a dichotomy between married and non-married people, the elevated status of marriage has erased any semblance of autonomous ‘choice’. People are coerced into marriage so that they can have certain rights and access to resources such as health care and immigration.⁸ Marriage has been described as a ‘technology of power’⁹ which regulates access to resources, extending inequality between married and non-married people beyond mere legal inequality by channelling resources away from non-married people.¹⁰ Dean Spade and Craig Willse argue that in viewing marriage as a biopolitical mechanism that impacts ‘life chances’, it becomes clear that even if the definition of mar-

riage is expanded to include more relationships (for instance, same-sex couples), it would only further entrench the economic inequality between married same-sex couples and those who can't, or won't, get married.¹¹ 'Marriage equality' will serve already privileged queer couples, but will leave behind transgender people, people who do not fit within the gender binary, and Indigenous

the fact that marriage is barely a more stable institution than other forms of relationships, despite the 'commitment norms' of loyalty and sexual fidelity surrounding the ceremony of marriage.¹⁴ When an 'opt-in' registration scheme is in place, registration involves formal legal commitment, emphasising the solemnity and significance of the relationship and contributing to the

“The very institution of marriage, given its role in history and present formulation, is not conducive to achieving equality or empowering citizens.”

people who live and operate within a kinship system. Those people will then have restricted access to certain resources offered as an incentive to marry, which will further entrench the many economic and social difficulties faced by members of marginalised communities.

The logic behind rewarding those who can 'choose' to get married, or enter into marriage-like relationships to obtain rights under the *Property (Relationships) Act*, is that marriage as a union between a man and a woman is traditionally seen as the most effective environment within which to raise children,¹² although this ignores the reality that children are born into families that do not resemble the heteronormative nuclear family.¹³ It also disregards

increased stability of different forms of relationships.¹⁵

In reality, society is made up of a variety of relationships which do not fit within the conservatively narrow definition of 'marriage'. *Beyond Marriage* created a comprehensive list of diverse relationships excluded by marriage, including children caring for parents, senior relatives who are primary caregivers to other relatives, and household where there is more than one conjugal partner.¹⁶ All of these relationships add value to society and therefore deserve to be recognised on an equal plane with heterosexual conjugal relationships. The current marriage-based system does not afford that equality.

The very institution of marriage,

given its role in history and present formulation, is not conducive to achieving equality or empowering citizens. When this oppressive structure is then elevated, not only through recognition but also through allowing access to rights and resources only to married couples, the inequality between married and non-married people is exacerbated. By inviting more relationships that resemble marriage into the fold, either through statutes governing de facto relationships or proposed same-sex marriage laws, the normative and oppressive marital structure is strengthened and legitimised.

If not marriage, then what?

It is clear that the current system is not sufficient if actual empowerment is desired. In Australia and some other countries internationally, alternative systems of recognition have been proposed and employed to varying degrees of success. As mentioned earlier, in NSW rights and obligations have been extended to people in de facto or ‘close personal’ relationships. But given the presumptive nature of the legislation defining these terms, this is still not sufficient to achieve actual equality between all adult relationships. Instead, an opt-in registration scheme, coupled with a purpose-focused methodology for Courts in assessing laws using relational terms, would enable broad legal organisation of personal relationships, as well as ensuring rights are afforded to people in relationships that align with the objectives of each statute. Elements

of this model have been employed in Tasmania and Canada, showing that effective reform is practically achievable.

A. Form of reform and eligibility

If visibility and recognition are seen as empowering, then registration schemes are an effective means of empowering people in different relationships. Recognition is important in the fight to end stigma of people living outside traditional heteronormative conjugal relationships.¹⁷ However, there are two issues with registration schemes. Firstly, for true equality to be achieved, all relationships must be registered in the same way.¹⁸ This would mean abolishing legal marriage

“[R]egistration schemes are an effective means of empowering people in different relationships.”

as it currently exists, allowing couples to enter into religious marriage but requiring them to register like any other relationship to be legally recognised. Abolishment of legal marriage and the creation of a ‘blank slate’ registration scheme would be a positive move insofar as it would create a system of organising relationships without the oppressive history associated with marriage. However, given the social standing of marriage, it is difficult to see this dramatic reform passing in the near future.



koi

Watercolour, Acrylics
By Ania Gareeva

A scheme similar to the one in place in Tasmania would be more likely to be implemented. The Tasmanian legislation allows people in ‘significant’ or ‘caring’ relationships to register their relationship,¹⁹ but excludes married couples from registering.²⁰ Although the scheme encompasses and recognises a broader range of non-conjugal relationships, such as traditional Indigenous and ethnic family relationships,²¹ it still maintains the hierarchy of married and non-married people. The registration scheme also does not extend beyond couples to multiple-partner relationships, so that certain committed familial relationships are still excluded by the scheme.²²

If a registration scheme confirms the relationship hierarchy, then it will not assist in achieving functional equality unless it is coupled with a purposive methodology used to assess laws that deal with relationships in order to achieve its objectives. A methodology based on the function, rather than form, of the relationship would consider whether relationships are relevant to a certain law’s objectives and, if so, would either allow people to choose which of their relationships can be governed by the law, or would revise the law to capture the relevant range of relationships.²³ The combination of these two types of reforms would erase power imbalances between the numerous forms of relationships that our society

consists of.

There are concerns that a broad relationship recognition scheme would add undue burdens on people living in adult relationships that do not involve the expectations and contributions of more traditional conjugal relationships,²⁴ thereby discouraging people from entering into caring relationships.²⁵ However, caring relationships would only be affected by laws which are designed to cover them, and any legal recognition of the relationships beyond that would be optional. It is only through the two-tiered approach to equality of relationships that actual choice of entering into relationships can exist.

Conclusion

Until a system exists that respects all adult caring relationships on an equal level, true equality, both functional and legal, will not be achieved. Even if the current marriage laws are extended to same-sex couples, as seems inevitable in Australia at this stage, only those who can enter into marriage will be accommodated by the reform. People in other, non-traditional forms of relationships, or people who lie outside the rigid gender binary, would not be empowered under the laws. People who enter into the traditional form of marriage will also experience the crushing sexist and racist pressures associated with the

institution. Perhaps more importantly still, access to equal rights and resources will not be afforded to different relationships unless a new methodology is employed by the Courts when interpreting statutes that deal in relational terms. Such a methodology would allow the relationships covered by statutes to do with property and employment benefits, for example, to align with the proper objectives of the law. Until these reforms are implemented, the claim of being on a path towards 'marriage equality' is misleading. The road ahead is filled with vacuous promises of justice for all while only continuing to favour a privileged few.

THE INVISIBLE
MINORITY:

THE POWER OF
VISIBILITY IN
LIGHT OF
UGANDA'S ANTI-
HOMOSEXUALITY
LAWS



ANGUS NICHOLAS

I just wish I had a switch to turn on that would make everyone who's gay say they are gay. Then everyone who is homophobic can realise their brothers, their sisters, and their aunts are gay.¹

These are the words of Dr. Frank Mugisha, one of Uganda's highest-profile gay-rights activists, speaking at the first Ugandan gay pride parade in 2012.² Dr. Mugisha's comments identify the primary challenge facing those striving for pro-LGBT reform in Uganda – visibility. The gay pride parade in 2012 was a rare but important instance of a high-profile public display of support for the queer community in Uganda, a country where only 5% of the population is willing to openly admit their approval of homosexuality.³

Following the passage of the *Anti Homosexuality Act 2014* (AHA) on the 24th of February 2014 by the Ugandan President Yoweri Museveni, the struggle for the empowerment of queer-identifying individuals in Uganda faces a seemingly insurmountable obstacle. The AHA makes any individual guilty of committing the 'offence of homosexuality'⁴ liable for life imprisonment.⁵ Despite attracting condemnation from several key donor states,⁶ and an ongoing legal challenge over the constitutional validity of the AHA,⁷ it remains in force. Even more problematic is that the AHA is virtually unparalleled amongst various anti homosexuality laws in force internationally. It not only criminalises homosexuality, but also imposes hefty custo-

dial sentences for anyone found aiding and abetting or promoting homosexuality.⁸ Activism itself is therefore illegal and public displays of support or civil disobedience carry with them huge risks – should a gay rights parade be

“The AHA [is] an attempt to usurp the power of queer identity through forcing queer individuals into invisibility.”

held today in Uganda, those taking part would find themselves in contravention of Ugandan law.⁹

This article seeks to outline the key problems in achieving progressive reform for queer individuals in contemporary Uganda. Analysis of these problems will lead to the conclusion that the AHA needs to be seen as an attempt to usurp the power of queer identity through forcing queer individuals into invisibility. Viewed as such, it will be argued that visibility is power in Uganda. Following this the prospects of progressive reform will be considered, supplementing the conclusion that the efforts of activist groups, the champions of queer visibility, must continue in order for existing power structures to be challenged and for the reclamation of queer identity in Uganda.

Life for queer-identifying Ugandans

The AHA, as it operates now, represents an attempt by the Ugandan government to quash prospects of positive reform for gay rights in the country. The AHA effectively restricts the development of political and social structures capable of securing progressive reform by criminalising anything which may aid, or assist queer individuals.¹⁰ As these laws also extend to established organisations such as international NGOs operating within Uganda, most will now be forced to relocate, necessarily limiting their effectiveness and weakening existing avenues of visible support.¹¹

by the AHA are also unable to seek shelter or support, leading to increases in rates of suicide and, at the minimum, increased marginalisation.¹⁵ This marginalisation in turn increases the need for local support groups like Sexual Minorities Uganda (SMUG), the biggest gay rights activist group in Uganda, which has been threatened with closure since the passage of the AHA.¹⁶

The severity of the AHA is compounded by the fact that queer Ugandans also face a hostile media which is only too willing to coercively use their identity to vilify them. The day follow-

“The passage of the AHA has brought Uganda into an age where the need for activism...is greater than ever.”

Unsurprisingly, the passage of the AHA has brought Uganda into an age where the need for activism and pro-gay support is greater than ever. Despite only being passed in February of this year, by May there were at least 162 recorded cases of persecution of queer individuals.¹² Under the broad terms of the AHA, renting property to a gay person or knowingly allowing a gay person to live on your land (even if they are a family member) now carry custodial sentences, so most instances of persecution relate to the eviction of queer individuals.¹³ Further, because running organisations which promote the health or human rights of queer individuals is now illegal,¹⁴ those individuals forced into homelessness

ing the enactment of the AHA, a tabloid newspaper published a list of the ‘200 Top Homosexuals’ in Uganda.¹⁷ For some, being publicly outed has fatal consequences – David Kato, one of Uganda’s most renowned gay rights activists, was brutally murdered in his home in 2011.¹⁸ His image was plastered on the front page of a tabloid calling for gay people to be hanged in 2010.¹⁹ The AHA effectively legitimises such violence and hostility towards queer individuals in Uganda by criminalising that for which they are vilified - their sexuality.²⁰

The prospects of escape from Uganda for queer individuals are similarly tinged with danger. Those who find themselves in refugee camps within

Africa are routinely subject to horrific treatment from other refugees, often resulting in their deaths.²¹ Fleeing to countries outside of Africa is often economically unviable for the majority of Ugandans, and even if refugees manage to settle in other African countries they will likely be subject to similarly restrictive anti homosexuality legislation and social marginalisation.²²

As a result of draconic laws, a hostile media, and the difficulty of escape, of-

“Invisibility comes at the expense of power.”

ten the only option for queer individuals therefore is to live in the shadow of secrecy about their identity. Invisibility, however, comes at the expense of power. Invisibility stymies the formation of queer communities and safe spaces, and therefore perpetuates the marginalisation and degradation of queer individuals.²³ In this way the struggle for gay rights in Uganda can be viewed as a struggle over the control of queer identity. The AHA, at its heart, not only coercively denies queer individuals the power of individual expression by forcing an already oppressed minority into invisibility, but it also allows anti-gay political rhetoric and homophobic media outlets to fill the space. Publicly disavowing homosexuality has been such a common formula for political success in Uganda precisely because it resonates with the public.²⁴ Anti-gay rhetoric in Uganda

relies almost exclusively on a distinction between homosexuals and heterosexuals, ‘other-ing’ homosexuals, and the AHA exacerbates this sentiment by criminalising the ‘other-ness’ of homosexuals.²⁵ This distinction is only made effective by the continued oppression and invisibility of the homosexual minority. With increased visibility comes familiarity, and gradual public realisation that the distinction between ‘us’ and ‘them’ is illusory. As the quote from Dr. Mugisha illustrates, ‘[t]hen everyone who is homophobic can realise their brothers, their sisters, and their aunts are gay.’²⁶ In such a context the mere act of being open, of being visible, is a necessary pre-condition to the reclamation of queer identity in Uganda.

Prospects of reform

Achieving repeal through the political system unfortunately appears incredibly unlikely. The desire to emulate the political success of politicians David Bahati and Rebecca Kadaga following their respective introductions of Anti Homosexuality Bills²⁷ has ensured that antigay rhetoric intrudes into most elements of Ugandan politics, even public policy discussions.²⁸ Further, in a country where public disapproval of homosexuality is at 95%,²⁹ being seen as publicly supporting pro-LGBT legislation is political anathema for even the most sympathetic of politicians.

Another often cited means of forcing political action is through international pressure from donor states and

international organisations like the UN.³⁰ While initial international outcry over the imposition of the death penalty for homosexuality saw the punishment under the AHA be reduced to life imprisonment,³¹ continued pressure itself is incredibly risky for the prospects of further reform in Uganda. Even if successful, increased international pressure risks backlash against queer-identifying individuals as they become the focal point of blame for increased pressure in the domestic sphere.³² Further, if legal change occurs directly as a result of economic pressure on Uganda, then such change is potentially meaningless as it is unlikely to have any effect on social attitudes.³³ Finally, international pressure, particularly in the form of economic sanctions imposed on impoverished African countries by wealthy Western countries raises certain ethical dilemmas about the extent to which potentially life-saving aid should be used to force liberalisation of seemingly archaic laws.

If political channels – both domestic and international – are unlikely to yield results, then legal avenues may be the most viable option for those pushing for change. A legal challenge to the constitutional validity of the AHA has been lodged and awaits an outcome,³⁴ and some writers have argued that the AHA not only runs contrary to the Ugandan constitution but also contravenes

international law.³⁵ Legal avenues are, however, expensive and time-consuming, and successful outcomes have proved ineffective in the past – for instance, the media paid little

“Dr. Mugisha has stressed the need to continue to seek political and legal avenues of reform.”

heed to court orders in 2010 directing media outlets to stop publicly outing queer-identifying individuals.³⁶

Another problem facing activist groups like SMUG is that, while they wait for news of the outcome of legal challenges, there is little they can do to change social attitudes to homosexuality. Changing social attitudes is important because Ugandan politicians will potentially be forced to abandon the anti-gay rhetoric which has developed as a response to these attitudes, a first step towards achieving political reform. Under the AHA, however, activists are denied the opportunity to challenge popular views on homosexuality - as it stands, it is illegal to be gay and visible in Uganda.

A way forward?

Despite these challenges gay rights activists in Uganda have shown re-

markable resilience to the passage of the AHA, and many have refused to abandon their efforts. Dr. Mugisha has stressed the need to continue to seek political and legal avenues of reform, to increase communication with politicians and build viable relationships with those in a position to introduce change while also supporting those persecuted by the new laws.³⁷ Richard Lusimbo, who works for SMUG, was one of the 200 Ugandans outed by the Red Pepper tabloid in their 2014 article. Speaking to the press, he stressed the responsibility owed to remain in Uganda and fight for the freedom of the gay community:

[W]hat would happen if we're all out of the country? It would be a victory to people who actually discriminate [against] us. Because all they want to do is silence us.³⁸

Mr Lusimbo's words strike at the heart of the challenge for activism in Uganda; silence may seem like the only option but to be silenced is to become entrenched in oppression. While legal avenues – both within the Ugandan legal system and internationally – are currently being explored, and appear to be the most viable means of substantive reform, the struggle for gay rights is heavily tied to the power of visibility. The continued efforts of activists like Dr Mugisha and Mr Lusimbo are essential for prospects of future re-

form, however slim – without them, queer identity in Uganda risks being subverted into a tool entrenching powerlessness.

End Note: Since this article was written the AHA has been overruled by a Ugandan Court.³⁹ While this is a momentous step for Uganda, the Act was invalidated on procedural grounds – given the widespread political and public support it enjoyed, it is likely to be re-introduced in the near future.

I PLEAD
LOVESICK:
A STUDY OF
CRIMINALITY
IN TV SITCOM
ROMANCES



MANNA MOSTAGHIM

Sitcoms exaggerate human interaction to create comedic appeal.¹ The scenarios presented often resemble reality whilst inhabiting a hyper reality that transcends the parameters of everyday life. When representing romance, a main sympathetic character ('the nice guy/ gal') falling in 'love' is often depicted as engaging in particularly hopeless and lovelorn behaviour.² To fulfill the expectations of the nice guy/gal's romance and cultivate humour, sitcom writers have contributed to a trope that replicates the circumstances of real life romance with the addition of a character ignoring social norms and parameters of the law. This trope often confuses declarations of love with acts of stalking and harassment.³ The actions of the nice guy/ gal when lovesick can become criminal and their object of desire has legal recourse to subdue 'the love'. Paradoxically, sitcoms create power dynamics that empower the objects of desire to say no but also allow the right for them to be ignored. This is the 'lovesick dilemma'.

Despite individuals increasingly identifying and reporting harassment, 'sexual harassment is still alive and well'⁴ because on a popular level its implications have not been properly understood. This is because popular culture continues to suggest that harassment is more a compliment about a person's attractiveness than unacceptable behaviour. According to Celia Wells, this is a legacy of the late twentieth century's apparent confusion about the ambiguity of 'the boundaries of acceptable sexual behaviour'.⁵ This confusion and

ambiguity has impacted understandings of a variety of relationships in workplaces, educational institutions as well between previously intimate partners with different gender and sexuality dynamics. This paper will examine these different dynamics through examples from two popular and critically

"Popular culture continues to suggest that harassment is more a compliment...than an unacceptable behaviour."

acclaimed sitcoms, specifically Dean Pelton and Jeff Winger from *Community* and Andy Dwyer and Ann Perkins from *Parks and Recreation*.

Stalking, Popular Culture and the Law

Stalking is not confined to one personality type or form of behaviour. Rather, stalking can be broadly understood through the following five categories; 'Intimacy Seekers', 'The Resentful', 'The Rejected', 'The Predatory' and 'The Incompetents'.⁶ Apart from the 'Intimacy Seekers', the other forms of stalkers are generally responsive to legal sanctions and will alter their behaviour in the face of prosecution.⁷ Unlike in previous contexts, the law does not seek to acknowledge male weakness or personal understandings in the prosecution of these offences.⁸ Instead, the actions of stalkers are being minimized by popular understandings that seek to divorce the impact of their actions on the vic-

tim.⁹

The lovelorn behaviour of the nice guy/ gal is often depicted as pathetic and is contrasted with the sensible or rational nature of the object of desire. Sitcom creators can trivialize the nature of the harm of the nice guy/ gal's stalking and seek to make it understandable for the victim to not report the crime^{1.0} This is despite the fact that a report by the *Australian Institute of Criminology* found that the severity of violence or harassment is always reduced after legal protection is sought.¹¹ Nevertheless, sitcom creators continue to present the lovesick dilemma by depicting a criminally dysfunctional dynamic where the lovelorn engages in criminal activity in order to woo the object of desire/ victim.

Bronitt and McShery posit that the films and novels such as *Enduring Love*

“[S]itcom creators continue to present the lovesick dilemma by depicting a criminally dysfunctional dynamic.”

(1997), *Cape Fear* (1991) and *Fatal Attraction* (1987) from the late 1980s to mid 1990s helped to mobilise popular understandings on the patterns and behaviors of stalkers.¹² This understanding helped to generate public support and initiatives across Australia and NSW to enact legislation that dealt specifically with stalking^{1.3} But as stated by

Mullen, Pathe and Purcell it has been difficult to separate stalking from ‘inadvertent and legitimate behaviors’ due to the fact that stalking is generally made up of ‘innocuous activities, such as telephone calls, letters, sending “gifts”, or approaches in public’.¹⁴ Workable definitions of stalking might then be said to unfairly capture the actions of the nice guy/ gal and unreasonably prosecute them, as their actions are not creating significant personal harm to the object of their desire. However, in the lovesick dilemma the object of desire often reiterates how the lovelorn party has unduly affected their life, and in order to subdue the behaviour will take recourse through formal or informal means. The nice guy/ gal is then not a victim of an overzealous definition that captures innocuous behaviour but is instead clearly victimizing the object of desire.¹⁵

The law offers further clarification on how to define otherwise ‘inoffensive’ activities and recognize that as a whole it constitutes stalking. s 8 of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) (‘the Act’) specifically mentions that stalking must be appreciated in reference to the context and the pattern of violence and/or harassment perpetrated by the alleged stalker. For this reason each case study used will have a pre-existing and sustained pattern of stalking and harassment, coupled with an action in which the apparent victim has explicitly identified stalking or harassment.

A. Jeff Winger and Dean Craig Pelton

Context: Craig Pelton is Dean of Greendale Community College, where Jeff Winger is a student. Dean Pelton has consistently made obvious romantic overtures to Jeff Winger.

The Dean was initially a re-occurring character but due to his popularity with viewers he became a series regular¹⁶.

The Dean is sufficiently aware of the legal ramifications of an authority figure in an educational institute misusing their position to procure intimacy. In the episode *Interpretative Dance* the Dean requires Jeff Winger and his girlfriend, Professor Slater, to sign numerous documents to assess the lack of coercion in their relationship and protect the college from potential liability. An Intimacy Seeker stalker, such as the Dean, is not responsive to potential legal sanctions; rather, he/she seeks to rid themselves of personal loneliness through the cultivation of a close relationship with another party through tokens of affection¹⁷. Dean Pelton often cites the isolation and the stresses of his job, citing the personal closeness of the Greendale Seven (Jeff Winger's friendship circle) as particularly enviable. Pelton also treats Winger with exceptional attention and gifts in order to cultivate a personal closeness. The actions of Dean Pelton are often explained by his general status as a 'weirdo' or by affectionate reference to the fact that he is a 'pervert'. Apart

from general rejections of the personal intimacy the Dean offers, Jeff Winger can only express mild irritation as his stalker is represented as relatively benign.

However, in the episode '*Studies in Modern Movement*' the Dean's actions escalate from seeking intimacy to that of a Predatory stalker. Dean Pelton coincidentally crosses paths with Jeff Winger and due to circumstances is able to blackmail him into spending a day with him. It eventually emerges that Dean Pelton hacks Jeff Winger's email account to read his student's correspondence with his therapist in order to ascertain his whereabouts and general feelings. Jeff Winger identifies this as illegal, prior to physically assaulting the Dean. The Dean's actions are also incredibly calculated as he cultivated the circumstances of their coincidental meeting, by sending Jeff a link to a sale at the Gap (a clothing store particularly favoured by Jeff). According to Mullen, Pathe and Purcell the Predatory Stalker will pursue and maintain surveillance on the object of their desire in order to procure intimacy.¹⁸ For the Dean, these illegal activities were all done to procure time and emotional intimacy with Jeff. However, beyond violently rejecting the Dean, Jeff pursued no further legal action on the invasion of his emails or the general context of stalking.



sisters

Oils on glass
By Marina Yang

In this lovesick dilemma, the Dean's continual advances upon Jeff Winger might also be placing the Dean in a precarious position. With the exception of the Northern Territory and NSW,¹⁹ the homosexual advance defence is the basis of a claim of provocation or self-defence for heterosexual males that violently respond to homosexual

danwicz.

Andy Dwyer was initially a re-occurring character but due to his popularity with viewers he became a series regular.

Andy Dwyer interferes with Ann Perkins and Mark Brendanwicz's relationship. Andy lives in close proximity

“Women in, or previously in, an intimate relationship with a partner are four times more likely to be victim of a violent attack by that person.”

advances in Australia²⁰ Neither series creator Dan Harmon nor general viewers of the show would appreciate a serious violent assault on Dean Pelton at the hands of Jeff Winger. However, in the episode Jeff Winger does violently assault the Dean in reaction to his stalking, an act or reaction that could be seen as partially or wholly justifiable in some Australian jurisdictions.²¹ In *Community's* representation of the lovesick dilemma the only recourse afforded to the victim is to then violently attack his stalker. The object of desire and the nice guy are then both victims of crimes and a wholly dysfunctional dynamic that can be altered through formal, legal processes.

B. Andy Dwyer and Ann Perkins

Context and Storyline: Andy Dwyer and Ann Perkins used to date but Anne Perkins ends the relationship due to an inherent lack of compatibility. Ann Perkins proceeds to date Mark Bren-

to Ann's home, and continually turns up at times designated for emotional intimacy between the couple. This undermines Ann's new romantic connection. Within Mullen, Pathe and Purcell's categories of stalking, this qualifies Andy Dwyer as both The Resentful and The Rejected.²² In terms of the Resentful, Ann's choice of Mark has left Andy dejected as he often seeks revenge against her new relationship through attempts at sabotage.²³ This included attempting to conduce Ann into believing Mark has a sexually transmitted disease and is not well endowed. In terms of qualifying as The Rejected, Andy has often attempted to reconcile with Ann.²⁴ In *Tom's Divorce*, he goes so far as to attempt to win Ann back through a game of billiards against Mark. For Andy, the bet constitutes an informal legal process that will legally qualify Ann as property to be exchanged to the terms of a contract. It is through this informal legal process that both parties resolve the nature of Andy's stalking and

end Ann's victimization.

However, since Ann was a previous partner, Andy's stalking is statistically more likely to escalate to violence.²⁵ Women in, or previously in, an intimate relationship with a partner are four times more likely to be victim of a violent attack by that person.²⁶ Officially the law no longer comprehends 'manly diversions' to justify violence against women²⁷ but in terms of the partial defence of provocation, Ann, in reference to her new relationship, could potentially say or do something to partially excuse Andy from a violent assault committed against her person.²⁸ Moreover, although the informal legal process worked in the circumstance represented within *Parks and Recreation's* depiction of the lovesick dilemma, Ingrid Poulson, a victim of serious domestic violence, has spoken out against such processes.²⁹ Engaging in informal or unofficial legal processes resulted in Poulson's ex-husband not being prevented from murdering her father and two daughters.³⁰ Poulson has characterised informal processes as a form of protection that privileges traditional understandings of masculinity and violence.³¹ Additionally, for stalkers that are Resentful and Rejected, formal legal processes are well responded to, and can alter a stalker's behaviour.³²

Conclusion

Australian conceptions of stalking were previously influenced by a confluence of factors including depictions in popular culture. For this reason, sit-

coms should bear a responsibility to accurately depict the experience of stalking. It is perhaps inherently unfunny to see an otherwise sympathetic character prosecuted for stalking, harassment or any other serious, violent crime. But the potentially serious threats presented by the lovesick dilemma replicating real-life scenarios are sufficiently concerning. Moreover, by perpetuating the lovesick dilemma they normalize the nature and dynamics of that behaviour. Therefore, sitcom characters are obligated to more honestly represent the experience of stalking or dispense with this dysfunctional dynamic in their storylines.

THE INSECURE
OVER-
ACHIEVER:
A STUDY IN
SHAME



HARLEY MILANO

A degree of shame and its cognates, such as embarrassment and humiliation, pervades human interactions and in certain respects facilitates the basic functions of our society.¹ However, research has consistently shown that queer identifying individuals are prone to greater levels of shame tending towards the extreme.² A significant component of that shame may be due to the immutable fact of a non-normative sexuality. This extreme shame, also referred to as chronic shame, often prompts addictive behaviours as a defence mechanism.³ For some, professional and academic success carries less inherent value than the value it represents in compensating for internalised shame,⁴ denying the authentic feeling of empowerment derived from success.⁵

In light of this dilemma, this paper will highlight the importance of constant vigilance about the level to which shame dominates the lives of queer identifying individuals. Further, the paper will examine the ways in which gay men specifically may construct an alternate, permeable vision of masculinity in order for them to achieve authentic success.

Degrees of Shame

The multifaceted nature of shame makes it a difficult concept to confine and define. Even the mere act of discussing, and therefore acknowledging shame, can be a taboo act, compounding the degree of shame experienced by an individual. This taboo encour-

ages the denial of shame,⁶ denial which critics such as Scheff have argued is reinforced by the limitations

“At its core, shame involves the interplay between expectations and performance.”

of the English language itself.⁷ Scheff argues there may be more definitions of shame than the narrow, non-technical one that implies a strong feeling of disgrace. The word *schade* in German corresponds to this concept, imbuing the word ‘shame’ with the power to offend. On the other hand, there is a second word in German, *scham*, which refers to everyday shame, the kind which moderates behavior and thus facilitates social interaction.⁸ It is this everyday type of shame which this paper will primarily concern itself with.

Shame as a dominant social force

Society is often identified as a group united by a thread of common consciousness.⁹ At its core, shame involves the interplay between expectations and performance.¹⁰ Shame, using Scheff’s broad definition, is arguably the dominant ‘social’, or shared emotion forming the ‘glue’ that binds society together.¹¹ This is because it serves multiple purposes. First, those who do not participate in the dialogue of expectations and performance, and whose behaviour is not regulated by shame, break their social bonds and become cast out.¹² Therefore, shame

is an essential part of our consciousness, and regulates our moral acts. Second, shame regulates our intimate relationships.¹³ Finally, the expression of all other emotions is subservient to shame. The intensity with which we display intense emotions such as love or anger changes with the potential for embarrassment.¹⁴ Thus, it should be relatively uncontroversial to propose that the lives of all who participate in society are to a degree regulated by a sense of shame.

Chronic Shame

To propose that shame regulates and facilitates social interactions is not necessarily negative. In fact, when social expectations are reasonable and attainable, the regulatory aspect of shame is fairly healthy.¹⁵ Conforming to expectations is a constant pressure for everyone; queer identifying individuals, however, may also be forced to deal with expectations of sexuality and gender conformity, real or perceived.¹⁶ The constant inability of queer identifying individuals to fulfill these expectations may lead to heightened shame – at this point shame may become a chronic issue.

Queer identifying individuals may have been inculcated with these expectations during childhood. Those formative experiences which define interaction with shame occur as children amongst the society of coevals.¹⁷ Children tend to have expectations which are not nuanced, but involve

tropes which have clearly defined boundaries.¹⁸ Regarding cis-males specifically, Corbett contends that boys tend to dichotomize winners and losers in such a way that physical size and hegemonic masculinity are associated with winning and normativity, and smallness and effeminacy imply losing and deviance.¹⁹

Problematically, due to this facet of childhood society, children who feel the whispers of proto-sexual feelings of ‘otherness’ may experience a degree of constant shame.²⁰ Most individuals are exceptionally sensitive to being slighted,²¹ and therefore shame is generally, and to varying degrees, injurious. When this concerns *scham*, rather than disgrace, *schade*,²² this injury is manageable through correcting the non-conforming behavior. However, when proto-queer and queer children and adolescents cannot ‘correct’ their behavior to fulfill a normative sexual or gender ideal, they undergo distress because the shame arises out of an immutable character trait. This leads to a chronic sense of shame that is difficult to address directly. These children and adolescents may therefore seek validation through other behaviours as a defence.²³ Downs and Cook argue that these behaviours are prone to taking on an addictive quality because they address a chronic problem.²⁴ In turn, these compensatory behaviours can themselves become a source of shame, and further discussion of them, as Kaufmann argued, may be taboo.²⁵ So begins a destructive cycle.

It will later be argued that the central problem with this cycle is that even when its presence has been recognised, its harms may be ignored due to the

The first problem is the inherent risk that comes from potential failure within a career path. Downs argues that failing to get a job or promotion

“[T]he gay men who were oppressed by shame may instead find empowerment by internalising success and associating it with a positive conception of their own selves.”

distraction that is posed by the momentary validation of professional success.

Validation by proxy through over-achievement

One such compensatory behavior, which one may likely witness in an environment like a law school, is over-achieving in various pursuits.²⁶ This behavioural pattern has been observed since as early 1922.²⁷ Some have therefore argued that academic success for the queer adolescent merely staves off the desire for validation, rather than representing an end goal in and of itself.²⁸ Herein lies the necessity to be vigilant about shame and to actively seek strategies to cope with shame, and seek authentic success.²⁹

The Problem

It might be reasonable to embrace chronic shame because it leads to success. However, afflicted individuals must be cognizant and critical of this cycle of validation by proxy because it leads to inauthenticity and neurosis.

for the gay man who is obsessively shame-avoidant entails not only the inherent psychic harm, but also a destruction of their precarious sense of self worth and masculinity.³⁰ Second, even for those who achieve success, they are always left wanting more, because achievements do not represent ends in themselves, but are temporary, proxy solutions to a chronic problem.³¹

For gay men attempting to break the cycle, it will later be shown that it is necessary to adopt the perception that society requires of them an alternate version of masculinity, or masculinities, which they can reasonably attain. In this way, the gay men who were oppressed by shame may instead find empowerment by internalising success and associating it with a positive conception of their own selves. Such empowerment in turn leads to authentic success.

Shame and Career Development

Most university students are to an extent shackled to degrees that they chose at the age of 17 or 18, a time



lara

Watercolour, Markers, Acrylics
By Ania Gareeva

of great personal upheaval.³² This is a particular dilemma for queer-identifying students because vocational identity is therefore developed concurrently with, *inter alia*, sexual identity.³³ This opens the possibility of perceived insecurities regarding the latter adversely impacting the former. To those queer individuals for whom a chronic sense of shame was a defining formative experience, vocational identity development presents a particular opportunity to draw attention away from the shame, or vestiges of shame, that surround their sexual identity. For those in need of the aforementioned validation, a high prestige degree like law seems an obvious choice to meet this end, even when it may not lead to authentic fulfillment. Surely, therefore, such a decision represents a concern-

“Coming to terms with being gay...involves coming to terms with the knowledge that masculinities are permeable.”

ing degree of enslavement to often artificial social norms; in contrast, if vocational identity can be allowed to develop in an authentic way, free from the pressure to avoid chronic shame, career success can come to be something truly empowering.

In relation to career decisions, a traditional perspective of masculinity

would imply a masculine career path that is above all associated with a high degree of agency and ambition.³⁴ Because the process of coming out does not always erase feelings of anticipated stigma, internalized homophobia or the view of masculinity as hegemonic and singular, gay men may feel compelled to seek careers in which they can be validated for their masculinity.³⁵

The law is one such career. To take a psychoanalytic perspective, careers like the law are overtly phallic, with dreams of conquest, mastery, ‘breaking in’ to the law and penetrating the highest echelons of the corporate hierarchy.³⁶ As recently as 15 years ago the prevailing thought was that gay men faced significant barriers to these careers.³⁷ Now, with prominent figures like Lieutenant Colonel Cate McGregor penetrating those barriers to traditionally masculine careers, it seems that these barriers no longer exist, or are significantly lessened. In direct contrast to the past, it seems likely that gay men should gravitate towards achieving success in those masculine careers,³⁸ to prove that in the absence of heterosexuality they can still be masculine.³⁹

Permeable Masculinity

In this analysis of career aspirations it has been shown that gay men may use career success as a proxy to (a) achieve validation and (b) appear masculine. It has earlier been concluded that the problem with (a) is that the sense of

validation is a false one. The problem with (b) is that gay men can never feel masculine under a conventional notion of masculinity that favours clear boundaries and the polarization between hegemonic phenomena and deviant phenomena, because such a paradigm is an inherently heteronormative one.⁴⁰ It is proposed that gay men should reject this premise entirely and seek a new concept of masculinity based around multiple and permeable masculinities.⁴¹

Alternatives

An alternative construction of masculinity has thus far been unattainable because it is unknown, unpredictable, and therefore anathematic to the man who is precise and requires clear boundaries and predictions.⁴² Coming to terms with being gay extends beyond coming out. It involves coming to terms with the knowledge that masculinities are permeable. Rather than a model of masculinity that is exclusively phallic, where conquest is the only goal, and men are cold, stoic fortresses, focus should move towards masculinities that are actively receptive as they are penetrative.⁴³ Permeability implies reciprocity, where the active desire to surrender is met by a desire to penetrate in order to know deeply.⁴⁴ By recognizing the fluidity and multiplicity of masculinities, and moving away from clear yet

arbitrary borders, one can be finally free of the shame that drives us ever forward, define for oneself what it means to be homosexual and masculine, and internalize one's achievements in the context of a well-adjusted individual.⁴⁵

Permeable masculinities

Whilst there may be other solutions, such as rejecting masculinity altogether, it is suggested here that at least a degree of conformity to masculinity should be sought in order to

“[I]n recognizing multiple possible masculinities, gay men can recognize themselves to exemplify an alternate but valid form of masculinity.”

avoid the self-removal from society that might result from the choice to withdraw from the dialogue between social expectations and performance. Permeable masculinities are an appropriate alternative for gay men because of their inherent interiority, which has multiple psychological and social implications. The individual story of confusion, self doubt and inner conflict that many gay men undergo has already

been discussed. This arguably leads to the development of psychic interiority, introspection, subjectivity and self-consciousness. In adopting the lens of Fogel's traditional gender polarities, one must categorise the emphasis of these traits, as a feminine quality.⁴⁶ Conventionally masculine men, in contrast, should not have interiors, interior thoughts or an interior physicality.⁴⁷

At the same time, gay men may evidence external traits which are distinctly masculine, expressed through their careers, previously discussed, or through aspiring to a masculine body image.⁴⁸ Permeable masculinities are a fitting ideal for gay men to aspire towards because they have an ambiguous, fluid subscription both to traits that are conventionally masculine and those that are feminine. Where gay men may have felt ashamed to seem feminine in the presence of one who they felt to be masculine,⁴⁹ in recognizing multiple possible masculinities, gay men can recognize themselves to exemplify an alternate but valid form of masculinity.

Conclusion

Shame is a universally experienced social emotion, which can have beneficial, moderating effects. Queer identifying individuals, however, are far more likely to experience shame as a chronic force that cannot be solved directly. In response, they may seek to validate other areas of the self, specifically, one's vocational identity. Gay

men in particular who are affected by this phenomenon need to be liberated from the imposition of traditional gender polarities in order to alleviate chronic shame. Through deconstructing normative masculinity and becoming comfortable with the subtleties, ambiguities and dissonances of aspiring towards a permeable masculinity, these gay men will be able to internalize and thus be empowered by their success.

PROPOSED AND
CURRENT LAWS
BANNING SEX-
SELECTIVE
ABORTION IN THE
UNITED STATES:

APPLYING AN
INTER-SECTIONAL
ANALYSIS



NATALIE CZAPSKI

U.S. Laws Banning Sex-selective Abortion: In Context

The practice of aborting fetuses on account of being female has become a widespread phenomenon in much of East and South Asia.¹ In cultural contexts where son preference is deeply entrenched, the spread of reproductive technology has only facilitated sex-selective practices, skewing birth ratios greatly in favour of males.² More recently, limited evidence has emerged indicating sex-selective practices are taking place within the United States. Two studies examining data from the 2000 U.S. census demonstrated that while male to female birth-ratios were normal for the first born of Indian, Chinese, and Korean American families, they skewed considerably in favour of males for later children, if the first born child was female.³ A more recent study interviewed Indian American immigrants who sought abortions after pre-natal testing determined that the foetus was female.⁴ Son preference, to the extent that it exists in Asian American communities, is believed to stem from similar roots as in ethnic countries of origin: from deeply entrenched cultural and social norms and obligations, and in many instances economic imperatives, such as a man's greater ability to contribute to family incomes.⁵

Those studies have been seized upon in a push for legislation banning sex-selective abortion in the U.S.⁶ In late 2011, the Prenatal Non-Discrimination Act ('PRENDA') was

submitted for consideration at the Federal level. The bill sought to make it an offence to perform an abortion if it was believed that a woman was seeking it on account of the gender of the foetus.⁷ The measure ultimately failed when put to a vote,⁸ but similar legislation has been re-introduced in the U.S. Senate for consideration later this year.⁹ On the 7th of May, North Carolina became the fifth U.S. State to implement a law banning sex-selective abortion.¹⁰ Throughout recent years, similar measures have been proposed in several states, and the issue continues to be hotly debated.¹¹

Theoretical Approach: An Intersectional Analysis

This trend has generated considerable debate over its probable effects, and unsurprisingly, about the 'true' motivations of proponents of the bans. Many were quick to dismiss such proposals as a ploy by conservatives and pro-life lobbyists to further circumscribe a women's right to choose.¹² The mainstream U.S. feminist movement is strongly grounded in notions of individual liberty,¹³ and from this perspective, sex-selective abortion bans clearly represents a curtailment of reproductive choices, and reinforce the gendered nature of reproductive rights. However, to construct a simplistic model of the patriarchy in this way is to promote a 'white, Western feminism',¹⁴ without considering how gender might interact with such identifiers as ethnicity, culture, class, and even sexuality to produce particular expe-

riences of oppression.¹⁵ Intersectional feminism recognises that women have very different experiences depending on their positioning in various axes of domination, and that reproductive rights are implicated in the interactions between, and compounding effects of these multiple identities.¹⁶

My analysis of the impacts of sex-selective abortion bans in the U.S. considers how these laws have particular effects at the intersections of gender, ethnicity, culture, immigrant status and economic positioning in generating disempowerment. I first focus on the experiences of Asian-American women at such intersections, given that the discourse justifying these laws and the limited empirical evidence evoked specifically ascribes sex-selective practices to women of such backgrounds. I consider the difficulties of conceptualising choice and agency for women who operate at extreme intersections of oppression, who do indeed turn to sex-selective abortion, as well as the contention that legislative restriction might paradoxically increase agency. Finally, I consider the experiences of South Korea, China and India, to demonstrate the need for a multi-faceted approach, rather than a punitive one, to challenge entrenched notions of son-preference. As this analysis will demonstrate, sex-selective abortion bans in the United States are a problematic means for challenging the intersecting power structures which oppress and devalue women.

Denial of Agency, Discrimination, and

the ‘Cultural Other’

One key criticism of sex-selective abortion bans is that they problematise the relationship between practitioner and patient, forcing a woman to undergo heightened scrutiny as to the motives for her decision. Interrogation is incentivised when breaking the law could result in the revocation

“[S]ex-selective abortion bans...are a problematic means for challenging the intersecting power structures which oppress and devalue women.”

of a practitioner’s medical license, the ability to be sued, or even a prison sentence.¹⁷ Some states even require practitioners to sign an affidavit prior to performing an abortion to confirm they had no reason to know that the practice was gender-motivated, placing an affirmative duty on practitioners.¹⁸ However, these laws most specifically and insidiously target women who are of (or appear to be of) particular ethnic backgrounds, in this instance, Asian American women.

The narratives employed by proponents of the legislation, and studies they cite, attribute the practice to women of Asian heritage. Proponents evoke fears that sex-selective abortion

is on the rise alongside increased immigration.¹⁹ The ‘Findings and Constitutional Authority’ preamble to the 2012 PRENDA legislation notes a concern that the U.S. may become a ‘safe haven’ for accessing such procedures, a sentiment echoed by proponents of bans.²⁰ It explicitly highlights restrictions imposed in India and China to deal with sex-selective practices.²¹ Many people, most prominently Asia-Pacific American women’s groups have condemned such laws for encouraging ‘racial profiling in the doctor’s office’.²² By virtue of the criminal sanctions attached, they argue, doctors will specifically profile and question women of ‘Asian’ appearance, or even deny them care for fear of potential consequences if they are accused of performing sex-selective abortions.²³ Furthermore, the framing of the issue plays into

“[PRENDA] only further heightens barriers to accessing reproductive health services for women already disadvantaged.”

and enhances existing sources of discrimination faced by Asian American women on account of their ethnicity, culture and some cases, immigrant status.²⁴ These laws not only encourage a particular institu-

tionalised form of discrimination, but in a broad stroke deny agency to these women, by questioning their ability to make choices over their own bodies.²⁵

Post-colonial feminists speak of a practice of ‘cultural essentialism’, where sweeping generalisations are made about entire peoples to support a particular social commentary.²⁶ This is well demonstrated in the present case. Asian-American women are reproduced as the homogenised cultural ‘Other’,²⁷ a practice overtly demonstrated in the ‘Findings’ preamble to PRENDA (emphasis added):²⁸

Some Americans are exercising sex-selection abortion practices within the United States consistent with discriminatory practices *common to their country of origin, or the country to which they trace their ancestry...*

These justifications only reinforce stereotyped and racist representations of non-Western cultures.²⁹ Furthermore, essentialising all Asian-American women as victims of culture obscures the multiple forms of oppression these women experience simultaneously:³⁰ precisely the concern of the intersectional feminist.

Compounding Existing Sources of Disadvantage

The effect of sex-selective abortion bans must be considered in light of multiple sources of disadvantage shaping the experiences of Asian-American women, and especially, Asian-American immigrant women. Such laws have been heavily criticised as only further heightening barriers to accessing reproductive health services for women already disadvantaged on the basis of language difficulty, wealth, immigration status, and poor service provision.³¹ The disproportionate poverty of immigrants already puts them at risk of seeking alternative and unsafe abortion methods.³² More broadly speaking, many women lack adequate health insurance: Korean women, for example, have the highest uninsurance rates of any ethnic or racial group in the U.S.³³ This is further exacerbated by the Hyde Amendment, which prevents Federal money from being used to cover abortions, other than in cases of incest, rape, or a threat to the life of the woman.³⁴ The scrutiny placed on Asian-American women by sex-selective abortion laws only exacerbates these already operating sources of oppression.

The emphasis on individual choice in mainstream feminist discourse in the United States (read: Western and White) has frustrated many ‘women of colour’. Activists argue for an intersectional approach, considering how questions of ethnicity, economic disadvantage, violence, and other forms of marginalisation play out for women ‘marginalized not only within the

mainstream reproductive rights movement, but also in society at large’.³⁵ Broader questions of justice and access have been consistently expressed in the discourse against sex-selective abortion bans in the U.S. As the Executive Director of the National Asian Pacific American Women’s Forum (NAPAWF) aptly summarised:³⁶

If members of Congress want to support women and communities of colour, we look forward to your swift support of such pending legislative items that address pay equity, access to healthcare, freedom from violence, fair and humane immigration policies, and the ability to control our bodies and our futures. Abortion bans do nothing of the sort.

Conceptualising Agency Amongst Sources of Oppression

Thus far, I have examined how sex-selective abortion bans, in effect, deny agency to entire groups of women, judging them as unfit to make decisions about their own bodies. But I have not yet considered what agency might actually mean for women at their most oppressed. For women who operate under extreme patriarchal, culturally enforced oppression, is really possible to speak of agency in the first place? When considering the impact of sex-selective abortion bans on power relations, it is especially important to interrogate that concept. After all, some feminists, scholars and activists have found themselves advocating greater access to reproduc-



extraterrestrial playground

Watercolour, Ink
By Ania Gareeva

tive healthcare and abortion services, whilst simultaneously advocating a restriction on pre-natal sex testing technologies and sex-selective abortion, for example in India,³⁷ and in South Korea,³⁸ where son preference is especially pernicious.

The concept of choice is especially problematic for women operating where male-preference is strongly and

secting sources of oppression, only perpetuates problematic constructions of women. Uma Narayan, a post-colonial feminist, claims that most feminist analyses of 'women's issues' invoke two dominant characterisations. One is the 'Prisoner of the Patriarchy', who is so oppressed by threats and violence that she has no scope to make her own choices. The other, the 'Dupe of the Patriarchy', believes she is making a

“The ‘choice’ to access reproductive technologies in oppressive contexts is not a free choice.”

culturally re-enforced. In such contexts, the decision to access sex-selective technology, and subsequently to abort a female foetus, is an especially coercive one.³⁹ Pressure to have male children can stem from spouses and family members, and further is often intensely internalised by women making those reproductive decisions.⁴⁰ There is an in-built criticism, be it implicit or explicit, of the 'liberal, individualistic paradigm' within mainstream U.S. feminism, which defends greater reproductive choice.⁴¹ The 'choice' to access reproductive technologies in such oppressive contexts, is not a free choice. Perhaps, as some claim, 'denying women the opportunity to choose male children may actually provide the oppressed with an opportunity to take steps to change their status'.⁴²

Yet this claim to greater agency, without a deeper consideration of inter-

'free' choice to preference a male, but is operating under a false consciousness, in effect simply perpetuating the devaluation of women.⁴³ The problems in conceptualising agency are borne out in the US context, if one examines the recent study of the experiences of 65 Indian immigrants pursuing foetal sex-selection, most of whom chose and/or had previously chosen to abort a female foetus.⁴⁴ The women interviewed spoke of a myriad of pressures affecting their decision-making, from intense and culturally enforced coercion from husbands and relatives, vulnerability and dislocation as immigrants, economic pressure, and threats or actualisation of domestic violence. Yet even in the contexts described, many women saw their pursuit of sex-selection as a mechanism to assert their independence, and perhaps, their self-preservation.⁴⁵ That the choice to undergo a sex-selective abortion operates under an imperfect decision

making framework is not to say that it is no choice at all. Nor does it follow that where extreme and overarching forms of gendered oppression operate, that removing the option of sex-selective abortion is necessarily a means of empowerment and change.

The above-mentioned study has been invoked by proponents of sex-selective abortion bans in the U.S. to demonstrate the necessity of such measures. Yet the interviewees precisely illustrated the intersecting sources of oppression which operated on them, including culture and ethnicity, economic circumstance, and immigration status. Furthermore, it is because sources of oppression compound to such a great degree that punitive measures are unlikely to achieve any degree of success. Criminalising the problem only drives it underground. It may expose women to the dangers of illegal abortion providers,⁴⁶ or in extreme cases, put them at risk of violence as spouses attempt to abort a female foetus.⁴⁷ Once a female child is born, those existing structures of oppression only continue to devalue her. That is not to say that sex-selective abortion should be in any way condoned, rather to deal with this practice requires us to deal with the overarching structures and norms that continue to oppress women. We can only do so if we interrogate the intersecting power hierarchies in which these women are implicated.

The Efficacy of Punitive Measures: Lessons from China, India and South

Korea

These claims are borne out empirically if we contrast the recent experiences of South Korea with those of India and China. The cultural roots of son preference are historical, long-standing and relatively similar in South Korea, China, and northern India (which has the poorest female to male birth ratios in the country).⁴⁸ Their deep and continued persistence has been borne

“[A] multi-faceted approach is needed to ... reduce the rate of sex-selective abortion.”

out in recent decades by drastically unbalanced sex ratios at birth, fuelled the proliferation of sex-selective technology.⁴⁹ Both China and India outlawed pre-natal testing to determine sex in the early 1990s; China also has a ban on sex-selective abortion.⁵⁰ Yet these restrictions appear to have done little to rectify imbalanced gender ratios: if anything, the gap has only grown more alarmingly.⁵¹ South Korea, likewise, introduced laws regulating sex-selective abortion in 1994.⁵² In contrast to China and India, indeed, in a new trend for Asia,⁵³ South Korea's once highly imbalanced gender ratio has declined markedly from its peak in 1997, and continues to move closer to the normal biological range. In explaining this turn-around, researchers have pointed, not to the efficacy of sex-selection restrictions, but to a multitude of other factors. These include

industrialisation, urbanisation and growing prosperity, increased employment of women, the promotion of public policies promoting gender equality, and awareness campaigns, all of which have acted to drive change in underlying social and cultural norms.⁵⁴

The preamble to PRENDA marks as an explicit concern that U.S. affords ‘less protection’ in its legislation than China and India.⁵⁵ Yet those laws clearly do not generate protection, empowerment or change to a significant degree. The South Korean experience demonstrates that a multi-faceted approach is needed to tackle son-preference and reduce the rate of sex-selective abortion. It is again an acknowledgement that in the face of intersecting sources of oppression, punitive measures are unlikely to be effective, say nothing of their problematic effects on a woman’s agency, however imperfect that agency may be.

Concluding Remarks

The imposition of sex-selective abortion bans in the U.S. denies Asian-American women agency, questions their decision-making process on the basis of racial stereotyping, and promotes their homogenisation as a ‘Cultural Other’. Restrictions only heighten pre-existing difficulties in accessing reproductive healthcare. To the extent that some women are denied

full agency by extreme oppression, sex-selective abortion bans are a misguided way of rectifying this. By interrogating the multiple power hierarchies that intersect with gender, be they ethnicity and culture, class, or immigrant status, we can better understand the impact of sex-selective abortion bans. Only then can we prescribe more effective mechanisms for change, and enable women to make more fully informed and empowered reproductive choices.

FOR BETTER OR FOR
WORSE:

OPPORTUNITIES FOR
EMPOWERMENT
FROM MARRIAGE
EQUALITY
EVANGELICALS



TOM KIAT

Movements and counter-movements seek to undermine each another. Yet the result can be mutually formative rather than recklessly destructive. The anti-gay evangelical countermovement has critically reshaped lesbian and gay activism around an equality-based agenda, especially marriage equality. Today there is also significant movement within the evangelical sect pushing for equal treatment of gays and lesbians by church and state. There is a clear opportunity for LGBT activists to form alliances with these groups to empower both the marriage equality movement and gay and lesbian Christians struggling to reconcile their sexual and religious identities. This presents an opportunity to assess what has been overpowered in the rise of the equality agenda and consider whether working alongside evangelicals would betray the radical roots of LGBT activism.

A marriage of convenience: lesbian and gay activism unites behind a common enemy

Marriage equality has not always been a priority for lesbian and gay activists. In his history of the marriage equality movement Chauncey notes that at the height of the sexual revolution in the U.S. and elsewhere, radical queer and feminist groups were developing powerful critiques of marriage itself: the very idea of imposing this institution on the gay and lesbian community was anathema.¹

How, then, did lesbian and gay

activism transform from a radical movement rejecting marriage altogether into an equality-based movement with same-sex marriage its primary goal? Chauncey attributes this transition to the pivotal role of death and birth; that is, the AIDS catastrophe and the lesbian baby boom.² In the 1980s, the AIDS pandemic devastated the gay community. Hundreds of men told the tragic story of caring for their dying partners to the end, only to be denied the basic rights of a married couple by hospitals, governments, even families. Similar inequities were realised in the same period as lesbian mothers and their partners struggled to establish their legal rights in the face of hostile laws and courts. This dual crisis highlighted the vulnerability of legally under-recognised lesbian and gay relationships and thrust marriage equality forth as a silver bullet.

While Chauncey offers a useful analysis, he fails to fully justify why this mainstream equality-based goal emerged so dominantly within lesbian and gay activism, instead of alternative, more radical solutions. Legally protected relationships emerged as an obvious goal, but why did previously radical lesbian and gay activists readjust themselves to marriage equality?

Coinciding with the emergence of lesbian and gay activism was the modern rebirth of the religious right/Evangelical³ political movement in the US. While today the enormous

influence of Evangelical beliefs and morality on US politics (especially the politics of sexuality) is a given, this modern political Puritanism only emerged in the late seventies as a small-scale counter-movement to anti-discrimination victories by gay and lesbian activists. Within a decade the anti-gay religious right developed into a national, centralised, well-resourced socio-political force. By the late eighties, the religious right had found its voice in the Moral Majority through its political integration with the Republican Party, with anti-gay politics a core part of the agenda.

This political behemoth had a decisive impact on the shape of lesbian and gay activism.⁴ The economic, social and political resources of the religious right were overpowering. It was a matter of evolution or death. In order to build the organisational resources to survive the religious onslaught, it became necessary to jettison the more radical aspect of the movement. With conservatives loudly proclaiming that the gays threatened to tear apart the social fabric and worse, activists were forced to shift into an equality-based agenda focused on fundamental sameness rather than radical difference.

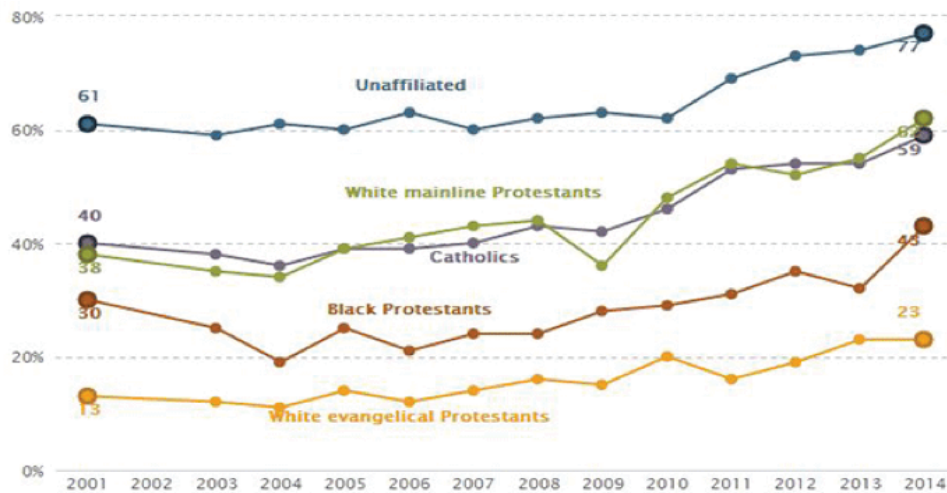
The enemy within

Thirty years on, the marriage equality movement seems to have won the public debate. Although the failure of Julia Gillard, a self-proclaimed atheist and feminist Prime Minister,

to secure the passage of marriage equality laws suggests that even in Australia the religious right still wields disproportionate political sway. At this juncture, the emergence of a dissenting voice within the Evangelical church presents an opportunity to empower the marriage equality movement to victory, as well as to empower LGBT Christians to reconcile their sexual and religious identities.

“The emergence of a dissenting voice within the Evangelical church presents an opportunity to empower...LGBT Christians to reconcile their sexual and religious identities.”

Mainline denominations and liberal scholars have long argued for pro-gay interpretations of Christian faith. Such views tend to cause little unrest within the evangelical sect (comprising almost 30% of Americans)⁵, who see liberal Christian scholarship as an ungodly outside influence. Matthew Vines is the perfect insider; a WASP, male, conservative evangelical with a ‘high view of Scripture’.⁶ Wrestling with the conflict between his (gay) sexuality and faith, he dropped out of Harvard to pursue theological investigation. His conclusion:



Support for gay marriage amongst Christianity (Source: The Pew Forum).¹⁹

The Bible never directly addresses, and it certainly does not condemn, loving, committed same-sex relationships. There is no biblical teaching about sexual orientation, nor is there any call to lifelong celibacy for gay people.⁷

By the time his book outlining the case for a gay-equality⁸ reading of the Bible was published this year,⁹ a YouTube video of him preaching the same message at a small Texan church had over 700,000 views.¹⁰ Vines also launched ‘The Reformation Project’, an organisation aiming to spread his message within the church.¹¹

The reception to Vines’ work¹² highlights its potential to destabilise the overwhelming anti-gay position of the Evangelical church. The swift response of gatekeepers of evangelical doctrine, including a 100 page e-book rebuttal published almost simultaneously¹³ reflects the anxiety felt by evangelical leaders. Mohler, president of the

Southern Baptist Theological Seminary, introduces his polemic response with a sense of crisis, warning Vines’ book threatens to ‘overthrow two millennia of Christian moral wisdom and biblical understanding’.¹⁴ Positive reviews agreed Vines’ work was groundbreaking, though for different reasons.¹⁵

This unique position of gay-equality religious conservatives raises important questions of strategy for LGBT activists. As anyone who has tried to argue with an Evangelical knows, the challenge is ensuring the debate is not closed once the Bible is opened. Vines has noted that often the primary concern of ordinary evangelicals is not same-sex relationships *per se*, but rather ‘what they [think] gay acceptance point[s] toward: a devaluation of the role of Scripture in Christian faith’.¹⁶



maddening cloud

Ink
By Ania Gareeva

Support for same-sex marriage in Evangelical America has almost doubled over ten years.¹⁷ To seize upon internal dissent, LGBT activists could

“Actively seeking to benefit from a favourable interpretation of the Bible...supports a movement that is challenging an ancient anti-gay tradition.”

provide financial and organisational support to emerging counter-movements like Vines’ ‘Reformation Project’. Australian campaigners could focus on helping politicians fearful of a Christian backlash to strategise around articulating a Bible-believing politician’s defence of same-sex marriage – much like former Prime Minister Rudd on *Q&A*¹⁸ (and *The West Wing*’s President Bartlett before him)

Counting the cost

Some consider too much of the LGBTIQ agenda has already been sacrificed on the altar of equality. LGBT activists opposing marriage equality see the movement as fundamentally ‘assimilationist’, antithetical to queer liberation, and denigrating of alternative (and

superior) relationship structures.²⁰

A UK survey of lesbian and gay Christians found that most rejected marriage as a dysfunctional institution with oppressive heteronormative connotations.²¹

From this perspective, the opportunity to beat Christians at their own game by showing the Bible only condemns extra-marital gay sex is self-defeating.

However, not all radical queer theorists reject marriage equality. Peel and Harding urge anti-marriage feminists and queers to separate the legal definition of marriage from its theoretical associations.²² Boellstorff argues the essentialist thinking normally applied to marriage is at odds with queer tradition and suggests it is a misplaced desire for ‘purity’ from the contamination of marriage that restricts anti-marriage queers advocating for transformation of the institution from within.²³ He identifies a willingness to accept co-presence without incorporation, shades of grey and contamination as important aspects of queer theory.

This argument could be extended to the issue of forming strategic and discursive alliances with gay-equality evangelicals. This dissenting group threatens to rupture the sexual code of the religious right from within. Arguably, only a misplaced fear of contamination would prevent LGBT activists from offering support.

Actively seeking to benefit from a favourable interpretation of the Bible does not entail accepting the Bible as authoritative. Rather, it supports a movement that is challenging an ancient anti-gay tradition, while introducing literalists to a more dynamic way of bringing their sacred text to the modern world. This is crucial. While Vines himself rejects all extra-marital sex, central to his work is a hermeneutical manoeuvre that demands Biblical strictures on sexuality be read *in context*. An acceptance of this hermeneutical approach has the potential to encourage interpretations of the Bible that are increasingly LGBTIQ friendly.

Conclusion

Since the 1970s, evangelical anti-gay campaigning has driven gay and lesbian activism to embrace more assimilationist, equality-based goals. With marriage equality now the holy grail of equality-based lesbian and gay politics, the emergence of a gay-equality evangelical discourse may present an opportunity to overcome the obstacle still presented by religious interests. This discourse may also serve as a practical way to empower persons struggling to reconcile religious and sexual identities. While activists may react with revulsion to the idea of allowing religious interests to

further shape LGBT activism, the opportunity to work with conservative evangelicals should be seriously considered. Change is rarely sudden and fidelity to queer theory suggests we should be open to contamination with the holy.

Reference List

CAN FEMINISM AND BDSM CO-EXIST?

Isabella Partridge

1. Elizabeth Ruth Busbee, *Power Exchange: Interaction and Identity in a BDSM Community* (PhD Thesis, Yale University, 2008) i.
2. Ann Ferguson, 'Sex War: The Debate between Radical and Libertarian Feminists' (1984) 10(1) *Signs* 106.
3. Lynn Chancer, 'From Pornography to Sadomasochism: Reconciling Feminist Differences' (2000) 571 *Annals of the American Academy of Political and Social Science* 77, 79.
4. Andrea Dworkin, *Pornography: Men Possessing Women* (The Women's Press, 1981); Susan Griffin, *Pornography and Silence: Culture's Revolt Against Nature* (Dell Publishing, 1981).
5. Diana Russell, 'Sadomasochism: A Contra-Feminist Activity' in Ruth Linden et al (eds), *Against Sadomasochism: A Radical Feminist Analysis* (Frog In the Well, 1982) 177.
6. Chancer, above n 3, 79.
7. See, eg, Patrick Califia, 'Feminism and Sadomasochism' (1981) 3(4) *Heresies* 12 30; Gayle Rubin, 'The Leather Menace: Comments on Politics and S/M' in SAMOIS (ed), *Coming to Power: Writings and Graphics on Lesbian S/M* (Alyson Publications, 1982).
8. Patrick Hopkins, 'Rethinking Sadomasochism: Feminism, Interpretation, and Simulation' (1994) 9(1) *Hypatia* 116, 122.
9. Cliff Pervocracy, 'How Can You Be A Feminist and Do BDSM?' on Cliff Pervocracy, *The Pervocracy* (12 April 2013) <<http://pervocracy.blogspot.com.au/2013/04/how-can-you-be-feminist-and-do-bdsm.html>>.
10. *Ibid.*
11. *Ibid.*
12. *Ibid.*
13. Judith Butler, 'Lesbian S&M: The Politics of Dis-Illusion' in Ruth Linden et al (eds), *Against Sadomasochism: A Radical Feminist Analysis* (Frog in the Well, 1982) 172.
14. Audre Lorde and Susan Leigh Star, 'Interview with Audre Lorde' in Ruth Linden et al (eds), *Against Sadomasochism: A Radical Feminist Analysis* (Frog in the Well, 1982).
15. Hopkins, above n 8, 119.
16. Meaghan Murphy, 'It's Not About You: Beyond "Kink-Shaming"' on Meaghan Murphy, *Feminist Current* (10 July 2012) <<http://feministcurrent.com/5618/its-not-about-you-beyond-kink-shaming/>>.
17. Maneesha Deckha, 'Pain as a Culture: A Postcolonial Feminist Approach to S/M and Women's Agency' (2010) 14(2) *Sexualities* 129.
18. E Willis, *Beginning to See the Light: Sex, Hope, and Rock-and-Roll* (Wesleyan University Press, 1992) 222.
19. C K Egbert, 'Why Consent is Not Enough' on Meaghan Murphy, *Feminist Current* (25 June 2014) <<http://feministcurrent.com/9211/why-consent-is-not-enough/>>.
20. Susan Bordo, *Unbearable Weight: Feminism, Western Culture and the Body* (University of California Press, 1993) 165.
21. *Ibid.*
22. *Ibid* 166.
23. *Ibid* 171.

"A JE BURRNESHË ?" "ARE YOU AS STRONG AS A MAN?"

Toks Ogundare

1. Antonia Young, *Women Who Become Men: Albanian Sworn Virgins* (Berg, Oxford, 1997) 62.
2. *Ibid.*
3. Fatos Tarifa, 'Of Time, Honour, and Memory: Oral Law in Albania' (2008) 23 *Oral Tradition* 1.
4. René Grémaux, 'Franciscan Friars and the Sworn Virgins of the North Albanian Tribes' (1992) 20 *Religion, State, and Society* 3-4, 368.
5. Young, above n 1, 2.
6. Joel M Halpern, Karl Kaser, Richard A Wagner, 'Patriarchy in the Balkans: Temporal and Cross-Cultural Approaches' (1996) 1 *The History of the Family* 4, 434.
7. Young, above n 1, 3.
8. Jill Peters, *A Solemn Declaration, Sworn Virgins of Albania* (2014) <<http://www.jillpetersphotography.com/swornvirgins.html>>
9. Young above n 1, 72.

10. Michael Paterneti, 'The Mountains Where Women Live as Men' GQ (online) March 2014 < <http://www.gq.com/news-politics/newsmakers/201403/burnesha-albanian-women-living-as-men>>
11. Ernst Schultz, 'Albanisches Mannweibertum' (1907) IV Die Woche – Moderne Illustrierte Zeitschrift 40.
12. P Phillimore, 'Unmarried Women of the Dhaula Dhar: Celibacy and Social Control in Northwest-India' (1991) 47 Journal of Anthropological Research, 33-50.
13. Julie Wheelwright, *Amazons and Military Maids: Women who Dressed as Men in Pursuit of Life, Liberty and Happiness*, (Pandora, London, 1990) 19.
14. Ibid.
15. Ibid 11.
16. Helen Brown, 'Albania's 'sworn virgins' tried to escape sexism by living 'as men'. The quest to tell their story before it's gone', The Telegraph (online) May 15, 2014 < <http://news.nationalpost.com/2014/05/15/albanias-sworn-virgins-tried-to-escape-sexism-by-living-as-men-the-quest-to-tell-their-story-before-its-gone/>>
17. Henry David Thoreau, *Thoreau's Walden* (Longmans, Green and Co., New York, 1910) 19.
18. Yuet See Monica Owyong, 'Clothing Semiotics and the Social Construction of Power Relations' (2009) 19 Social Semiotics 2, 192.
19. Ibid 204.
20. Ibid 203.
21. Sigmund Freud, 'Fetishism' in J Strachey (ed), *The Standard Edition of the Complete Works of Sigmund Freud*. (Hogarth Press, London 1964) 147-58.
22. Owyong, above n 15, 206.
23. Lee Wright, "The Suit: A Common Bond or Defeated Purpose?" in P Kirkham (ed) *The Gendered Object* (Manchester University Press, 1996) 153-61.
24. Anne Hollander, *Sex and Suits* (Knopf, New York, 1995) 113.
25. Eva Flicker, 'Fashionable (dis-)order in politics: Gender, power and the dilemma of the suit' (2013) 9 International Journal of Media & Cultural Politics 2, 1.
26. Forbes Magazine 'Power Dressing: How Women Politicians Use Fashion,' Forbes (online) 2011 < <http://www.forbes.com/pictures/edhe45ehm/angela-merkels-frumpy-power-suits/>>
27. Flicker above n 22, 12.
28. Ibid.

SIGNIFICANT OTHERS: THE ABILITY OF MARRIAGE TO EMPOWER

Ellen O'Brien

1. Marriage Act 1961 (Cth) s 5.
2. Property (Relationships) Act 1984 (NSW) ss 4-5.
3. Elizabeth Scott, 'A World Without Marriage' (2007) 41(3) Family Law Quarterly 537, 555.
4. Susan Boyd, 'Marriage is more than just a piece of paper: Feminist critiques of same sex marriage' (2013) 8(2) National Taiwan University Law Review 263, 276-277.
5. Ibid 273.
6. Report of the Joint Standing Committee on Community Development, 26.
7. Ibid 34.
8. Dean Spade and Craig Willse, *Marriage Will Never Set Us Free* (6 September 2013) Organizing Upgrade <<http://www.organizingupgrade.com/index.php/modules-menu/beyond-capitalism/item/1002-marriage-will-never-set-us-free>>.
9. Craig Willse and Dean Spade, 'Freedom in a regulatory state? Lawrence, marriage and biopolitics' (2005) 11 Widener Law Review 309, 311-12.
10. Ibid 321.
11. Ibid 328.
12. Boyd, above n 4, 273.
13. Paula Gerber, *Marriage is best for raising children...that's why we need marriage equality* (29 August 2012) <<http://theconversation.com/marriage-is-best-for-raising-children-thats-why-we-need-marriage-equality-9137>>.
14. Scott, above n 3, 563.
15. Ibid 564.
16. *Beyond Marriage, Beyond same-sex marriage: a new strategic vision for all our families and relationships* (26 July 2006) <http://www.beyondmarriage.org/full_statement.html>.
17. Laura Rosenbury, 'Friends with Benefits?' (2007) 106 Michigan Law Review 189, 229.
18. Law Commission of Canada, *Beyond Conjugal: Recognising and Supporting close personal adult relationships* (21 December 2001) xviii <http://www.samesexmarriage.ca/docs/beyond_conjugal.pdf>.
19. Relationships Act 2003 (TAS) s 11(1).
20. Ibid s 11.
21. Matthew Loader, 'A Recipe for Recognition of Same Sex Relationships' (2004)

- 20 Australian Feminist Law Journal 115, 124.
22. Nancy D Polikoff, "Ending Marriage as we know it" (2003) 32 Hofstra Law Review 201, 221.
 23. Law Commission of Canada, above n 18, xii-xiii.
 24. Nicholas Bala and Rebecca Jaremko Bromwich, 'Context and Inclusivity in Canada's Evolving Definition of the Family (2002) 16 International Journal of Law, Policy and the Family 145, 170-173.
 25. Law Commission of Canada, above n 18.
 26. Ibid xvii.
 27. Ibid.
 28. Rosenbury, above n 17, 229.
 29. Polikoff, above n 22, 231.

THE INVISIBLE MINORITY: THE POWER OF VISIBILITY IN LIGHT OF UGANDA'S ANTI-HOMOSEXUALITY LAWS

Angus Nicholas

1. See: Alexis Okeowo, 'Gay and Proud in Uganda: The First Pride Parade', The New Yorker (Online), 6 August 2012 < http://www.newyorker.com/online/blogs/newsdesk/2012/08/gay-and-proud-in-uganda.html#slide_ss_0=1>
2. Ibid
3. PEW Global Attitudes Project, 'World publics welcome global trade but not immigration' 47 (2007) <<http://pew-global.org/files/pdf/258.pdf>>
4. Anti-Homosexuality Act 2014 s 2(1)
5. Anti-Homosexuality Act 2014 s 2(2)
6. See, eg, Administration of Barack Obama, 2014 Statement on the Ugandan Parliament's Passage of Legislation Criminalizing Homosexuality, 16 February 2014.
7. Kashmiri Gander, 'Uganda Anti-homosexual bill challenged by activists in Court', The Independent (Online), 11 March 2014, <<http://www.independent.co.uk/news/world/africa/uganda-anti-homosexual-bill-challenged-by-activists-in-court-9185063.html>>.
8. Anti-Homosexuality Act 2014, ss 7, 12.
9. Kretz, Adam, 'From "Kill the Gays" to "Kill the Gay Rights Movement": The Future of Homosexuality Legislation in Africa', 11[2] Northwestern University Journal of International Human Rights, 2013, 208.
10. Ibid, 211.
11. Human Rights Watch, Uganda: 'Anti-Homosexuality' Bill Threatens Liberties and Human Rights Defenders, 15 October 2009 <<http://www.hrw.org/en/news/2009/10/15/uganda-anti-homosexuality-bill-threatens-liberties-and-human-rights-defenders>>.
12. Frank Mugisha, 'Torment to tyranny: Persecution in Uganda now that the Anti-Homosexuality Act is law' 12 May 2014 <http://www.huffingtonpost.com/frank-mugisha/torment-to-tyranny-persec_b_5311876.html>.
13. Ibid.
14. Rodney Muhumuza, 'Uganda's Makerere University Walter Reed project raided in wake of anti-gay law', Huffington Post (Online), 4 April 2014 < http://www.huffingtonpost.com/2014/04/04/uganda-aids-group-gay-law_n_5092692.html>.
15. Frank Mugisha, 'Torment to tyranny: Persecution in Uganda now that the Anti-Homosexuality Act is law' 12 May 2014 <http://www.huffingtonpost.com/frank-mugisha/torment-to-tyranny-persec_b_5311876.html>.
16. Ibid.
17. Associated Press in Kampala, 'Ugandan tabloid prints list of "top 200 homosexuals"', The Guardian (Online), 25 February 2014, <<http://www.theguardian.com/world/2014/feb/25/ugandan-tabloid-prints-list-top-200-homosexuals>>.
18. Jeffrey Gettleman, 'Ugandan who spoke up for gays is beaten to death', The New York Times (Online), 27 January 2011, <<http://www.nytimes.com/2011/01/28/world/africa/28uganda.html>>.

19. Xan Rice, 'Ugandan paper calls for gay people to be hanged', *The Guardian* (Online), 21 October 2010, <<http://www.theguardian.com/world/2010/oct/21/ugandan-paper-gay-people-hanged>>.
20. Lebron, Tiffany, "'Death to Gays!' Uganda's 'one step forward, one step back' approach to human rights", 17 *Buffalo Human Rights Law Review* 2011, 176.
21. See David Smith, 'Gay African refugees face abduction, violence and rape in Uganda and Kenya', *Guardian* (online), 18 May 2012 <<http://www.guardian.co.uk/world/2012/may/18/gay-african-refugees-violence-kenya-uganda>>.
22. Disapproval of homosexuality is at greater than 90% in most African nations. See: PEW Global Attitudes Project, 'World publics welcome global trade but not immigration' 47 (2007) <<http://pewglobal.org/files/pdf/258.pdf>>.
23. Kretz, above n 9, 218.
24. Englander, Daniel, 'Protecting the Human Rights of LGBT people in Uganda in the wake of Uganda's "Anti Homosexuality Bill, 2009"', 25 *Emory International Law Review* 2011, 1276.
25. Kretz, above n 9, 213.
26. Alexis Okeowo, 'Gay and Proud in Uganda: The First Pride Parade', *The New Yorker* (Online), 6 August 2012 <http://www.newyorker.com/online/blogs/newsdesk/2012/08/gay-and-proud-in-uganda.html#slide_ss_0=1>.
27. Kretz, above n 9, 233.
28. See: David Smith, 'Gay African refugees face abduction, violence and rape in Uganda and Kenya', *Guardian* (Online) 18 May 2012, <<http://www.guardian.co.uk/world/2012/may/18/gay-african-refugees-violence-kenya-uganda>>.
29. PEW Global Attitudes Project, 'World publics welcome global trade but not immigration' 47 (2007) <<http://pewglobal.org/files/pdf/258.pdf>>.
30. See, eg, 'Ban Ki-Moon urges respect for Gay Rights', *BBC News* (Online), 29 January 2012 <<http://www.bbc.co.uk/news/world-africa-16780079>>.
31. Elias Biryabarema, 'Uganda passes law meaning life in prison for some homosexual acts', *Reuters* (Online), 20 December 2013 <<http://uk.reuters.com/article/2013/12/20/uk-uganda-law-homosexuals-idUKBRE9BJ0PP20131220>>.
32. Kretz, above n 9, 214.
33. Lebron, above n 20, 175.
34. Kashmira Gander, 'Uganda Anti-homosexual bill challenged by activists in Court', *The Independent* (Online), 11 March 2014, <<http://www.independent.co.uk/news/world/africa/uganda-anti-homosexual-bill-challenged-by-activists-in-court-9185063.html>>.
35. See, eg, Lebron, above n 20.
36. Despite an order from a Ugandan court to refrain from publicly outing queer-identifying individuals two months prior to the death of David Kato, the media has as recently as 25 February 2014 continued to publicly out individuals: See Xan Rice, 'Ugandan paper ordered to stop printing list of gay people', *Guardian* (Online), 1 November 2010 <<http://www.guardian.co.uk/world/2010/nov/01/uganda-paper-gay-list>>.
37. Frank Mugisha, 'Torment to tyranny: Persecution in Uganda now that the Anti-Homosexuality Act is law' 12 May 2014 <http://www.huffingtonpost.com/frank-mugisha/torment-to-tyranny-persec_b_5311876.html>.
38. Mark Gollom, 'WorldPride 2014: A gay rights activist on being outed in Uganda', *CBCnews* (online), 20 June 2014 <<http://www.cbc.ca/news/canada/worldpride-2014-a-gay-rights-activist-on-being-outed-in-uganda-1.2681185>>.
39. Alan Oakley, 'Uganda court rules anti-gay laws unconstitutional', *African Voice* (Online) 6 August 2014, <[v http://](http://)>

www.africanvoiceonline.co.uk/uganda-court-rules-anti-gay-laws-unconstitutional/>

I PLEAD LOVESICK: A STUDY OF CRIMINALITY IN TV SITCOM ROMANCES
Manna Mostaghim

1. Mary M. Dalton and Laura V. Linder, *The Sitcom Reader: America Viewed and Skewed*, (New York: State University of New York 2005), 3.
2. Genevieve Valentine, "The Full Boyle: Guys who don't hear "no" just aren't funny anymore", AV Club, 21 March 2014, <http://www.avclub.com/article/full-boyle-guys-who-dont-hear-no-just-arent-funny--202474>.
3. Ibid.
4. Australian Human Rights Commission, "Listening Tour Fact Sheet", Australian Human Rights Commission, 2007, <https://www.humanrights.gov.au/listening-tour-fact-sheet-sexual-harassment-australia>.
5. Celia Wells, "Stalking: The Criminal Law Response" (1997) *Criminal Law Review* 463.
6. Paul Mullen, Michelle Pathe and Rosemary Purcell, "The Impact of Stalkers on their Victims" (1997) 170 *British Journal of Psychiatry* 12.
7. Ibid.
8. Anna-Maria Marshall *Confronting Sexual Harassment: The Law and Politics of Everyday Life* (USA: Ashgate 2005), 34.
9. Valentine, above n 2, 29.
10. Ibid.
11. Australian Institute of Criminology, Report No. 148 March 2000.
12. Simon Bronitt and Bernadette McSherry, *Principles of Criminal Law*, (Australia: Thomas Reuters 2010), 602.
13. Ibid.
14. Paul Mullen, Michelle Pathe and Rosemary Purcell, *Stalkers and Their Victims*, (Cambridge: Cambridge University

- Press, 2000), 277-278.
15. Emma Ogilvie, "Stalking: Legislative, Policing and Prosecution Patterns in Australia", *Australian Institute of Criminology*, No. 34 (2000), xii.
 16. Erik Adams, Jim Rash, AV Club, March 15 2012 <http://www.avclub.com/article/jim-rash-70872>.
 17. Mullen, above n6.
 18. Mullen, above n6.
 19. Alan Berman and Sher Campbell, "Qld's 'homosexual advance' defence puts gay men's lives at risk", *Crikey*, March 18th 2014, <http://www.crikey.com.au/2014/03/18/qlds-homosexual-advance-defence-puts-gay-mens-lives-at-risk/>.
 20. Graeme Coss, Editorial, "Revisiting Lethal Violence by Men" (1998) 22 *Criminal Law Journal* 5, 8.
 21. Berman and Campbell, above n19.
 22. Mullen, above n6.
 23. Ibid.
 24. Ibid.
 25. Ogilvie, above n15, 41.
 26. Ibid.
 27. Chhay (1994) 72 A Crim R 1, 13.
 28. *Moffa v The Queen* (1977) 138 CLR 601 at 620-621.
 29. Andrew Denton, "Ingrid Poulson", ABC, October 2nd 2006, <http://www.abc.net.au/tv/enoughrope/transcripts/s1751835.htm>.
 30. Ibid.
 31. Ibid.
 32. Mullen, Pathe and Purcell, above n6.

THE INSECURE OVERACHIEVER: A STUDY IN SHAME

Harley Milano

1. Thomas Scheff, 'Shame in Self and Society' (2003) 26(2) *Symbolic Interaction* 239, 239.
2. Alan Downs, *The Velvet Rage* (Life Long books, 2nd ed, 2006) 114.
3. David Cook, 'Measuring Shame: The

- Internalized Shame Scale' (1988) 4(2) Alcoholism Treatment Quarterly 197, 198.
4. Alan Downs, above n 2, 26.
 5. Ibid 139.
 6. Gershen Kaufman and Lev Raphael, 'Shame as Taboo in American Culture', in R. Browne (ed) *Forbidden Fruits: Taboos and Tabooism in Culture* (Bowling Green, 1984) 57, 57.
 7. Thomas Scheff, above n 1, 240.
 8. Ibid 239.
 9. Emile Durkheim, *Division of Labour in Society* (George Simpson trans, The Free Press, New York, 1993) ix. [trans of: *De la division du travail social* (first published 1893)].
 10. Ibid 250.
 11. Thomas Scheff, 'Shame and the Social Bond: A Sociological Theory' (2000) *Sociological Theory*, 18(1) 84, 97.
 12. Ibid 248.
 13. Ibid 254.
 14. Ibid.
 15. Ibid 248.
 16. Alan Downs, above n 2, 32.
 17. Ibid.
 18. Ken Corbett, 'Faggot = Loser' (2001) *Studies in Gender and Sexuality* 2(1) 3, 6.
 19. Ibid.
 20. Francisco Gonzalez, 'Another Eden: Proto-Gay Desire and Social Precocity' (2013) *Studies in Gender and Sexuality* 14(2) 112, 114.
 21. Thomas Scheff, above n 1, 256.
 22. Ibid, 241.
 23. Alan Downs, above n 2, 96.
 24. David Cook, above n 3, 198; Alan Downs, above n 2, 96.
 25. Gershen Kaufman and Lev Raphael, above n 6.
 26. Douglas N. Case, Grahaeme A. Hesp and Charles G. Eberly, 'An Exploratory Study of the Experiences of Gay, Lesbian and Bisexual Fraternity and Sorority Members Revisited' (2005) 1(1) *Oracle: Research Journal of the Association of Fraternity Advisors* 15, 26.; Adam D. Chandler, 'The Best Little Boy in the World — That's Me', *The New York Times*, (online) 6 May 2013 < <http://www.nytimes.com/2013/05/07/opinion/the-best-little-boy-in-the-world-thats-me.html>>.
 27. J A Simpson and E S C Weiner, *The Oxford English Dictionary* (Oxford University Press, 1989) 1014.
 28. Alan Downs, above n 2, 25.
 29. Ibid, 138.
 30. Ibid, 102.
 31. Ibid 181.
 32. Heather Lyons, Bradley Brenner and Jennifer Lipman, 'Patterns of Career and Identity Inteferece for Lesbian, Gay and Bisexual Young Adults' (2010) 57(4) *Journal of Homosexuality* 503, 504.
 33. Ibid.
 34. G Fogel, 'Interiority and genital space in men. What else can be lost in castration?' [1998] 67 *Psychoanalytic Quarterly* 662, 662; Andrea Abele 'The Dynamics of Masculine-Agentive and Feminine-Communal Traits: Findings From a Prospective Study' (2003) 85(4) *Journal of Personality and Social Psychology* 768, 769.
 35. Sara Kimmel and James Mahalik, 'Body Image Concerns of Gay Men: The Roles of Minority Stress and Conformity to Masculine Norms' (2005) 73(6) *Journal of Consulting and Clinical Psychology* 1185, 1185.
 36. Britt-Marie Schiller, 'Permeable Masculinities: Gender Reverie in Richard Serra's Torqued Sculptures' (2010) 11(1) *Studies in Gender and Sexuality* 35, 36.
 37. Heather Lyons, Bradley Brenner and Jennifer Lipman, above n 34, 506.
 38. Alan Downs, above n 2, 75.
 39. Ibid, 50.
 40. Britt-Marie Schiller, above n 39, 38.
 41. Ibid.

42. G Fogel, above n 35.
43. Britt-Marie Schiller, above n 39, 41.
44. Ibid.
45. Ibid 35; Alan Downs, above n 2.
46. G Fogel, above n 35.
47. Britt-Marie Schiller, above n 39, 41.
48. Sara B. Kimmel and James R. Mahalik, 'Body image concerns of gay men: the roles of minority stress and conformity to masculine norms.' (1998) 73:6 Journal of consulting and clinical psychology 1185, 1185.
49. Charles H Cooley, Human Nature and the Social Order (New York: Scribner's, 1922) 184.

PROPOSED AND CURRENT LAWS BANNING SEX-SELECTIVE ABORTION IN THE UNITED STATES: APPLYING AN INTERSECTINAL ANALYSIS

Natalie Czapski

1. S Barot, 'A Problem and Solution Mismatch: Son Preference and Sex-Selective Abortion Bans' (2012) 15[2] Guttmacher Policy Review 18.
2. Ibid.
3. Ibid 21.
4. S Puri et. al., "There is such a thing as too many daughters, but not too many sons": a qualitative analysis of son preference and fetal sex selection among Indian immigrants in the United States', (2011) 72[7] Social Science and Medicine 1169-1176.
5. National Asian Pacific American Women's Forum ('NAPAWF') 2010, Race and Sex Selection Fact Sheet, July, viewed 18 May 2013, <<http://napawf.org/wp-content/uploads/2011/06/Race-and-sex-selection-fact-sheet.pdf>>, 1.
6. Barot, above n 1, 21.
7. U.S. House, 112th Congress, 2nd Session, H.R. 3541, A Bill to prohibit discrimination against the unborn on the basis of sex or race, and for other purposes, Washington, Government Printing Of-

8. J Steinhauer, 2012, 'House Rejects Bill to Ban Sex-Selective Abortions', The New York Times, May 31, viewed 12 May 2013, <http://www.nytimes.com/2012/06/01/us/politics/house-rejects-bill-to-ban-sex-selective-abortions.html?_r=0>.
9. Library of Congress 2013, Bill Summary and Status 113th Congress S. 138, viewed 21st May 2013, <<http://thomas.loc.gov/cgi-bin/bdquery/z?d113:s.00138>>.
10. G Robertson, 2013, 'NC House votes to bar sex-selective abortions', The Charlotte Observer, 7 May, viewed 13 May 2013, <<http://www.charlotteobserver.com/2013/05/07/4028288/nc-house-votes-to-bar-sex-selective.html>>.
11. NAPAWF 2010, above n 5, 1; Barot, above n 1, 20.
12. S Mencimer, 2011, 'Behind the GOP's Sudden Civil Rights Crusade', Mother Jones, 27 December, viewed 17 May 2013, <<http://www.motherjones.com/politics/2011/12/race-gender-selection-abortion-bills-trent-franks>>; I Gandy, 2013, 'What's the matter with Bans on Race and Sex Selective Abortion? Everything', RH Reality Check, 12 February, viewed 14 May 2013, <<http://rhrealitycheck.org/article/2013/02/12/prenda-black-genocide>>.
13. R Luthra, 'Toward a Reconceptualisation of "Choice": Challenges by Women at the Margins' (1993) Spring 1993 Feminist Issues 51
14. A Bredström, 'Intersectionality: A Challenge for Feminist HIV/AIDS Research?' (2006) 13 European Journal of Women's Studies 232.
15. S Shields, 'Gender: An Intersectionality Perspective' (2008) 59 Sex Roles 302.
16. M Parent, C DeBlaere, B Moradi, 'Approaches to Research on Intersectionality: Perspectives on Gender, LGBT, and Racial/Ethnic Identities' (2013) 68 Sex

- Roles 640.
17. A Moskovian, 'Bans on Sex-Selective Abortions: How Far is Too Far?' (2013) 40[2] *Hastings Constitutional Law Quarterly* 441.
 18. The Associated Press 2011, 'Arizona: Abortion Banned for Race Selection', *The New York Times*, 30 March, viewed 18 May 2013, <http://www.nytimes.com/2011/03/31/us/31brfs-ABORTIONBANN_BRF.html?_r=0>.
 19. L Leslie, 2013, 'New Abortion Bill goes to House Floor', *WRAL.com*, May 1, viewed 19 May 2013, <<http://www.wral.com/new-abortion-bill-goes-to-house-floor/12399587/>>.
 20. The Associated Press 2013, 'House passes abortion bills', *The Herald-Tribune*, 18 April, viewed 11 May 2013, <<http://politics.heraldtribune.com/2013/04/18/house-passes-abortion-bills/>>.
 21. U.S. House, above n 7.
 22. NAPAWF 2012, *South Asian Women Oppose the Pre-natal Non-Discrimination Act*, H.R. 3541, 29 May, viewed 17 May 2013, <http://napawf.org/wp-content/uploads/2012/05/SouthAsianWm-nOpposePRENDA_Final.pdf>.
 23. NAPAWF 2011, above n 5.
 24. J González-Rojas, M Yeung, 2012, 'Race and Sex-Based Abortion Bill Hijacks Civil Rights', *New America Media*, viewed 19 May 2013, <<http://newamericamedia.org/2012/02/race-and-sex-based-abortion-ban-hijacks-civil-rights.php>>.
 25. U.S. House, Committee on the Judiciary, 112th Congress, 1st Session, Susan B. Anthony and Frederick Douglass Prenatal Non-Discrimination Act of 2011 Hearing, 6 December 2011, Washington, Government Printing Office, 2011 (112-74).
 26. M Deckha, '(Not) Reproducing the Cultural, Racial and Embodied Other: A Feminist Response to Canada's Partial Ban on Sex Selection' (2007) 16 *UCLA Women's Law Journal* 10.
 27. Ibid, 12.
 28. U.S. House 2012, above n 7.
 29. R Kapur, 'The Tragedy of Victimization Rhetoric: Resurrecting the "Native" Subject in International/Post-Colonial Feminist Legal Politics' (2002) 15 *Harvard Human Rights Journal* 7.
 30. Ibid.
 31. González-Rojas, above n 24.
 32. A Allina et. al., 2012 'Pre-Existing Conditions: How Restrictions on Abortion Coverage and Marginalisation of Care Paved the Way for Discriminatory Treatment of Abortion in Health Reform and Beyond', *Centre for Women Policy Studies*, viewed 20 May 2013, <http://centerwomenpolicy.org/programs/health/statepolicy/documents/REPRO_PreExistingConditions_Allina-Arons-Barajas-RomanFINAL.pdf>.
 33. U.S. House, above n 25, 64.
 34. Allina et. al., above n 32.
 35. K Price, 'What is Reproductive Justice?: How Women of Color Activists are Redefining the Pro-Choice Paradigm' (2010) 10[2] *Meridians: Feminist, Race, Transnationalism* 43-44.
 36. U.S. House, 2011, above n 25, 68.
 37. Luthra, above n 13, 51.
 38. N Kim, 'Breaking Free from Patriarchy: A Comparative Study of Sex Selection Abortions in Korea and the United States' (1999) 17 *UCLA Pacific Basin Law Journal* 325.
 39. Luthra, above n 13, 48.
 40. Barot, above n 1, 18.
 41. Luthra, above n 13, 51.
 42. Kim, above n 38, 325.
 43. Deckha, above n 26, 26.
 44. Puri et. al, above n 4.
 45. Ibid, 1175.
 46. U.S. House 2011, above n 25, 67.
 47. Puri et. al., above n 26, 1173.
 48. W Chung, M Gupta, 'Why is Son Preference Declining in South Korea? The

- Role of Development and Public Policy, and the Implications for China and India' (2007) October 2007 The World Bank Development Research Group 14.
49. Barot, above n 1, 19.
 50. S Mohapatra, 'Global Legal Responses to Prenatal Gender Identification and Sex Selection' (2012) Nevada Law Journal (Forthcoming), viewed 17 May 2013, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2191683>, 19-21.
 51. Barot, above n 1, 19.
 52. Kim, above n 38, 314.
 53. Chung & Gupta, above n 48, 1.
 54. Ibid.
 55. U.S. House 2012, above n 7.

FOR BETTER OR FOR WORSE: OPPORTUNITIES FOR EMPOWERMENT FROM MARRIAGE EQUALITY EVANGELICALS.

Tom Kiat

1. George Chauncey, *Why marriage: The history shaping today's debate over gay equality* (Basic Books, 2009).
2. Ibid, chapter 4.
3. While these terms will be used more or less interchangeably in this essay, it should be noted that the religious right includes more than the Evangelical sect of the Christian religion. In the Australian and US contexts, Evangelical political positions are often representative of those of the religious right.
4. Tina Fetner, *How the Religious Right Shaped Lesbian and Gay Activism* (University of Minnesota Press, 2008).
5. Operation World, 'United States of America', accessed 11 July 2014 at <<http://www.operationworld.org/usa>>.
6. <http://www.amazon.com/God-Gay-Christian-Biblical-Relationships/dp/1601425163>
7. Matthew Vines, 'The Gay Debate: The Bible and Homosexuality', sermon preached at College Hill United Methodist Church, March 2012 (transcript available at <http://www.matthewvines.com/transcript/>)
8. The term gay-equality is used instead of 'pro-gay' to emphasise that Vines' view is only 'pro-gay' in so far as sex is contained within life-long monogamous relationships.
9. Matthew Vines, *God and the Gay Christian: The Biblical Case in Support of Same-sex Relationships* (Random House, 2014).
10. Above, n 7.
11. See <http://www.reformationproject.org>.
12. See reviews on the Christian Post and Christianity Today websites: Christopher Yuan, 'Why 'God and the Gay Christian' Is Wrong About the Bible and Same-Sex Relationships', Christianity Today (online), 9 July 2014 <<http://www.christianitytoday.com/ct/2014/june-web-only/why-matthew-vines-is-wrong-about-bible-same-sex-relationships.html?paging=off>>; Stoyan Zaimov, 'Evangelicals Review Matthew Vines' 'God and the Gay Christian' Book', Christian Post (online), 22 April 2014 <<http://www.christianpost.com/news/evangelicals-review-matthew-vines-god-and-the-gay-christian-book-118386/>>.
13. R. Albert Mohler Jr. (ed.), *God and the Gay Christian? A Response to Matthew Vines* (Southern Baptist Theological Seminary, 2014).
14. Ibid, 11.
15. James F McGrath, 'Review of God and the Gay Christian', Patheos online, 10 May 2014 <<http://www.patheos.com/blogs/exploringourmatrix/2014/05/review-of-god-and-the-gay-christian.html>>. See also Kat Katsanis Semel, 'Book Review: God and the Gay Christian: The Biblical Case in Support of Same-Sex Relationships', Huffington Post (online), 24 April 2014 <<http://www.huffingtonpost.com/kat-kat>

- sanissemel/book-review-god-and-the-g_b_5206039.html>.
16. Jonathan Merritt, 'God and gays: A conversation with Albert Mohler and Matthew Vines', Religious News Service (online), 22 April 2014 <<http://jonathanmerritt.religionnews.com/2014/04/22/god-gays-conversation-albert-mohler-matthew-vines/>>.
 17. The Pew Forum, 'Changing Attitudes on Gay Marriage', 10 March 2014 <<http://www.pewforum.org/2014/03/10/graphics-slideshow-changing-attitudes-on-gay-marriage/>>.
 18. Kevin Rudd, speaking on the ABC's panel discussion program, Q&A, 2 September 2013 <<http://www.abc.net.au/tv/qanda/txt/s3823745.htm>>
 19. Above, n 17.
 20. Gust A. Yep et al, 'A Critical Appraisal of Assimilationist and Radical Ideologies Underlying Same-Sex Marriage in LGBT Communities in the United States' (2003) 45(1) *Journal of Homosexuality* 45. See also the Gay Shame Collective <www.gayshamesf.org/endmarriage.html>; Mattilda Bernstein Sycamore (ed), *That's Revolting!: Queer Strategies for Resisting Assimilation* (Soft Skull Press, 2008).
 21. Andrew KT Yip, 'Same-sex marriage: Contrasting perspectives among lesbian, gay and bisexual Christians' (2004) 14(1) *Feminism & Psychology* 173.
 22. Elizabeth Peel and Rosie Harding, 'Divorcing romance, rights and radicalism: Beyond pro and anti in the lesbian and gay marriage debate' (2004) 14(4) *Feminism & Psychology* 588, 595.
 23. Tom Boellstorff, 'When marriage falls: Queer coincidences in straight time' (2007) 13(2) *GLQ: A Journal of Lesbian and Gay Studies* 227.

