

THE INTERSECTIONS OF SEXUAL ORIENTATION,  
RACE, RELIGION, ETHNICITY & HERITAGE  
LANGUAGES:

THE STATE OF RESEARCH  
(A Literature Review & Research  
Background)

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## INTRODUCTION

In this paper I review some of the themes and issues consistently raised in policy research and other literature related to the identities and complex discrimination/oppression of Gay, Lesbian, Bisexual, Transgender and Two-spirited people<sup>1</sup> (hereinafter “GLBTST”). The paper focuses on the intersections of sexual orientation and race, religion, ethnicity and heritage language.

This is essentially a backgrounder for further work and research into identity diversity within Canada. In particular, I have been asked by the Multicultural Program of Canadian Heritage to:

- identify gaps in the research specifically about the intersection of sexual orientation and race, religion, ethnicity and heritage language
- identify (and prioritise) potential areas of enquiry related to advancing respect for the diversity of Canada’s population

## OUTLINE

### Part I: Reductionist vs. Intersectional Approaches to the Identities of Gay, Lesbian, Bisexual, Transgender & Two-spirited People

I briefly critique the common (“hegemonic”) understanding that GLBTST share a common identity. The shortcomings of this approach (the presumption of a fixed identity related to sexual orientation), as opposed to appreciating the fluidity and variability of the identities of GLBTST people is then illustrated by reviewing some examples of its application.

### Part II: Common Themes & Issues Arising from Literature Review & Primary Research (Measuring the Social Dynamics/Processes Contributing to the Development of Intersectional Identities)

In this section of the paper I provide a context for the second part of the paper (which identifies some gaps in available research and prioritises potential areas of enquiry). The context that I provide is essentially an identification of particular issues and themes consistently raised in policy research and literature dealing the intersection of sexual orientation, race, religion, ethnicity and heritage language related identities. This section should provide the reader with insight into how I went about prioritising areas requiring further enquiry.

### Part III: Mapping Research Gaps and Spaces

In the third and final section of the paper I identify gaps and spaces in the research currently available and prioritise areas/issues requiring for further enquiry. Where possible, I have indicated how these areas of enquiry are relevant to diversity beyond the intersection of sexual orientation and race, religion, ethnicity and heritage language specifically.

## PART I: REDUCTIONIST VS. INTERSECTIONAL APPROACHES TO THE IDENTITIES OF GAY, LESBIAN, BISEXUAL, TRANSGENDER & TWO-SPIRITED PEOPLE

### What is “Identity”?

What do we mean when we use the term “identity”? I suggest that term “identity” is most commonly used in its broadest sense: to simply describe “the distinctive character belonging to any given individual, or shared by all members of a particular social category or group.”<sup>2</sup> When utilising the concept of “identity” in policy analysis and development, however, it is important to unpack this complex concept. Although an extensive deconstruction of the concept of “identity” is well beyond the scope of this

#### **Types of Identity:**

*Group Identity* is based on a characteristic or characteristics shared by a group of people or community.

*Individual Identity* may take the form of a Self-identity, Personal Identity or Social Identity.

paper, I will briefly discuss some of more important aspects of this concept.

In addition to specifying the type of identity being discussed, it is equally important to note the complexity of the *development* and *formation* of both individual and also group identities.

**Identities are not just ascribed or achieved as part of the individual’s socialisation and development process, they are also socially constructed and negotiated by social actors. These identifications of self and/or other may be accepted or they may be contested; in many cases they overlap or intersect with other significant – and sometimes competing – identities.<sup>3</sup>**

The importance of considering the role of identity development/formation cannot be overstated, particularly in the context of multicultural policy analysis. This is so because, in my opinion, in order for any policy intervention to effectively promote respect for diversity, four constituent steps need to be achieved.

#### **Four Steps Necessary to Developing Policy Intervention to Promote Respect for Diversity:**

- ❖ *Identifying* the characteristics that are currently used (by society, groups and individuals) to form the basis of identity categories e.g. skin colour or the sex of the partner with whom you have a conjugal relationship
- ❖ *Mapping* the potential intersections of and conflicts in identities (both Group & Individual) e.g. ethnicity and sexual orientation
- ❖ *Measuring* the active social dynamics and processes which contribute to the formation and development of identities (both Group and Individual) e.g. distribution of wealth, access to services, social inclusion/exclusion, the role of history etc.
- ❖ *Formulating Strategies* to promote better understanding of foundations of various identities which should in turn result in greater respect for the diversity of Group & Individual identities

The thematic focus of Parts I and II of this paper is *Mapping Intersections and Conflicts & Measuring Social Dynamics and Processes* that influence both individual and group identities related to sexual orientation and race, religion, ethnicity and heritage language. In Part III of the paper I turn my attention more directly to identifying gaps and spaces in the research that need to be filled, thereby providing a background for effectively *Formulate Strategies* for effectively intervening in society to promote understanding of and respect for diversity related to these areas of identity.

### **The Crude Simplicity of Fixed Status-based Identity Categories**

A person's identity varies depending upon the interaction of a wide range of factors. These include, but are certainly not limited to a person's race, religion, ethnicity, gender, heritage language, class, sexual orientation, national origin etc. The relative privilege or disadvantage of individuals and groups of people are also influenced by systemic biases and social prejudices related to these factors. It is not surprising, therefore, that categories of "*identity markers*" based on these factors – such as, "lesbian", "black/African Canadian", "immigrant" – have become the basis for much of the social, political, legal and academic work related to understanding and responding to systemic oppression and direct discrimination. Many if not most social change movements today are geared around one particular identity marker. These political strategies are commonly referred to as "identity politics". However, the process of categorising people and political goals by particular identity markers represents a significant over-simplification of people's identities, their unique experiences and the complex nature of systemic oppression and privilege.

For related reasons, the use of identity markers in law (often called "*grounds of discrimination*" in that context) is similarly problematic and limited. As Nitya Duclos said about the legal fallacy upon which the grounds-based approach to understanding discrimination is based: "It is only when one becomes immersed in the world of law that race and gender are extracted from the whole person and become mutually exclusive categories of discrimination. It is only when engaged in legal thinking that race discrimination and sex discrimination become separate observable things."<sup>4</sup> Defining the 'identity' and 'oppression' of GLBTST people solely in relation to 'heterosexuals' has two effects. First, the category of 'heterosexuality' is itself assumed and centred, thereby limiting the potential to problematise that concept and to treat it as socially constructed and therefore contingent upon numerous factors.<sup>5</sup> Secondly, only a one-step divergence from the norm of 'heterosexuality' can be considered, and the ability to address multidimensional oppression is consequently lost. Duclos describes this type of perspective in this way:

**If one is at the centre, one can see divergence in alternative directions: by race (not-white), or by sex (not-male), or by religion (not-Christian), and so on. In this way the various grounds of discrimination contain hidden assumptions about who is likely to invoke them.<sup>6</sup>**

In *M. v. H.* the SCC found that the exclusively opposite-sex definition of "spouse" within the *Family Law Act* was a violation of the *Charter's* protection from discrimination based on sexual orientation. In response to arguments that the extension of spousal status to same-sex conjugal units would not be benefit and was not desired by many GLBTST people, the majority of the SCC said this:

**I acknowledge that some individuals in same-sex relationships, including H. herself, have expressed reservations about being treated as "spouses"...However, these differences of opinion within the same constitutionally relevant group do not constitute a reason to defer to the choices of the legislature. Indeed, as noted by EGALE, given that the members of equality-seeking groups are bound to differ to some extent in their politics, beliefs and opinions, it is unlikely that any s. 15 claims would survive s. 1 scrutiny if unanimity with respect to the desired remedy were required before discrimination could be redressed.<sup>7</sup>**

This response ignores the reality that groups of people who have *an* aspect of identity in common, do not share one common identity or interest. In *M. v. H.* the SCC held firm in its reliance upon blunt categories of people 'within the *same* constitutionally relevant group' (my emphasis). The Court did not even attempt to deal with the reality that the attribution of the rights and responsibilities of spousal status to same-sex couples carries with it the potential to entrench 'other' oppressive charges inherent to that status. Instead, it dismissed the interests of many lesbians, GLBT people of colour and poor people as mere differences in "politics, beliefs and opinions."

The SCC framed its consideration of the issues raised by *M. v. H.* as the elimination of a distinction that prevented a rigidly defined category of people—namely those in same-sex relationships—from being included in the category of "spouse". It was not understood as being about the benefits of inclusion within the category, the oppression that inclusion may or may not reinforce, or even, about the nature of those who would then be included within that category. But when the same-sex/opposite-sex distinction becomes the sole point of comparison, analysis of the benefits (and disadvantages) of inclusion within a system is inappropriately truncated. An exploration of the complex nature of an institution, such as 'spousal status', becomes a theoretical impossibility. Gavigan has made this point by reference to the problematic concept of 'heterosexual privilege':

**Heterosexual privilege posits a [false] bifurcated gender-neutral dyad of homosexuality/heterosexuality...The analysis must be extended to explain core familial phenomena in our country such as: wife assault and child abuse; the presumed dependency of a woman in need of either social assistance or a job upon a man; the enforced dependency, or poverty, of many sponsored immigrant women; and the terrible isolation of the battered woman whose first language is not one of the official languages...The concept of heterosexual privilege does not even begin to do this.<sup>8</sup>**

The fact that this case was framed with exclusive reference to the distinction between same-sex and opposite-sex couples is, however, not surprising. As Carl Stychin has observed:

**For the white, able-bodied gay man, essentialist arguments possess tremendous power if they become widely accepted. If his sexual orientation is considered "irrelevant" and an "accident of birth" then the gay man can take on the trappings of male gender privilege.<sup>9</sup>**

Moreover, it is also not surprising that the Court dismissed out of hand the voices of those who insisted that it consider a much broader, *much* more complex set of questions. As Kathleen Jones put it:

[...] having an official voice is...a function of what kind of voice the system is willing to hear. Those who speak in 'different' voices — that is, different from what has been normalised as the voice of authority — cannot become the official spokespeople...because their grammar and logic are discredited as particularistic, vernacular, or idiomatic. Official voices speak in the language of universalised discourse and engage with the rational speech of rational political actors. Other voices ramble.<sup>10</sup>

Nevertheless, the implications of the simple elimination of the distinction between opposite-sex and same-sex couples are complex and even conflicting. For example, Claire F.L. Young, an expert in Canadian income tax has noted that the extension will result in same-sex couples who are relatively poor being burdened with higher taxes than they would have been were they treated as individuals.<sup>11</sup> Therefore, although an exclusively opposite-sex definition of spouse in laws oppresses all GLBT people insofar as it denies the validity of same-sex conjugal relationships, the simple redefinition of "spouse" may do little, or may even magnify the oppression experienced by many GLBTST people. In her recent book, *Are We "Persons" Yet: Law and Sexuality in Canada*, Kathleen Lahey lays out one of the most comprehensive and thought provoking analyses of the potential socio-economic implications of inclusion of same-sex couples as 'spousal' units. And although she ultimately supports the pursuit of formal equality, she is also clear it is not only the benefits of inclusion that will be unevenly distributed, but also the costs of exclusion:

**The distribution of the benefits of inclusion along class, race, sexual orientation, ability, and gender lines would certainly reinforce the appropriation and dependency paradigms associated with heterosexual relationships. But the allocation of the costs of exclusion also disproportionately burdens those who are already disadvantaged by class, race, sexuality, gender, and ability as well.<sup>12</sup>**

Nitya Iyer came to a similar conclusion in her analysis of the system of government sponsored maternity benefits. Essentially, she argues that these benefits are largely inaccessible to poorer women, and most useful to relatively privileged women. She describes the implications of differential accessibility to allegedly "universal" benefits in this was:

**From a feminist perspective, the reality of exclusion obscured by a state benefit that is presented as universal is troubling for two reasons. First, the provision of the benefit exacerbates the economic oppression of poorer women...The second way in which the benefit fails as a feminist reform is that it exacerbates the oppression experienced by Aboriginal women, women of colour, women with disabilities, women who are single parents, and lesbians (with respect to the parental leave component of the benefit) as *mothers*.<sup>13</sup>**

Given the systemic poverty often experienced by women, people of colour, religious minorities and immigrants, to name just a few, the mandatory inclusion of same-sex conjugal couples as spousal units within the income tax system and social assistance legislation among other systems could, in significant ways, reinforce several aspects of systemic oppression.<sup>14</sup> As one Canadian expert in human rights noted: 'those whom marriage is most likely to benefit are those who are already fairly high up in the hierarchy of privilege that pervades society at large.'<sup>15</sup>

## Complicating Fixed Status-based Categories

Categories, grounds of discrimination or identity are, nonetheless, both necessary and potentially productive if utilised properly in efforts to understand people's experiences and promote social cohesion. Categories are necessary because without identifying groups of similarities/differences, in general and between people, we would simply be unable to comprehend our own place in society, far less the place of others. As Martha Minnow has said: 'we do not know how to describe individuals as unique except by reference to traits that actually draw them into membership in groups of people sharing those traits.'<sup>16</sup>

**The challenge is to prevent these *potential* similarities/differences from being postulated as rigid and fixed categories. As Duclos has noted the problem is not the use of 'categories' *per se* but the manner in which they are used. She argued that categories should not be used as blinkers but rather 'as a "jumping off" point, a springboard providing the opportunity to construct an intricate picture of the stereotypes and relationships involved.'**<sup>17</sup>

In terms of developing multicultural policy, it is therefore essential to consider identity not only as an individual or group characteristic or status, but also as active social processes that transform individual identities into group identities, and paradoxically, vice-versa.

## Mapping the Intersections of Individual and Group Identities

One of the ways of responding to the limitations of understanding personal and group identities in terms of rigid categories is to examine the intersectional aspects of people's identities and the phenomenon of complex or multiple oppression. The concept of intersectional identity describes those aspects of people's identity and/or experiences that relate to more than one identity marker. Put simply, it focuses on the 'intersection' of multiple aspects of people's identities.

Intersectional identity is not a modern concept first articulated by post-modernist academics. As early as 1851 Sojourner Truth, a freed black woman living in the United States observed that neither the racism, nor the sexism that she experienced could be neatly separated into distinct issues. Sojourner had been shushed by white women who did not want to 'obscure' the matter of a universal franchise (women's right to vote, own property etc.) with the issue of the abolition of slavery. Tired of listening to the claims of white men—that 'women' could not have a public life because of their 'delicate nature'—she declared in exasperation:

**Look at my arm! I have ploughed and planted and gathered into barns, and no man could head me—and ain't I a woman? I could work as much and eat as much as a man—when I could get it—and bear the lash as well! And ain't I a woman? I have born thirteen children, and seen most of 'em sold into slavery, and when I cried out with my mother's grief, none but Jesus heard me—and ain't I a woman?'**<sup>18</sup>

The concept of intersectional identity assists in correcting the oversimplification evident in categorical thinking and rigid identity politics in several ways.

First, the focus is on how various active social processes inter-lap to develop intersectional identities. Unlike individual or group identities premised upon a single,

predetermined status (such as race or sex), intersectional identities are unlikely to be predetermined. They are not predetermined or assumed because they are so many possible intersectional identities. The focus therefore shifts from uncontested categories of status-based identities towards a more complex examination of the social forces that affect people's lives, and transform their identities.

Secondly, this process of complicating identity boundaries highlights the ways that rigid categories adopted as part of the pursuit of progressive change, often themselves incorporate generalisations that re-inscribe oppressive normative concepts.<sup>19</sup> Consider, for example, the issue of the relative levels of homophobia within different ethno-cultural communities in Canada. From an exclusively anti-homophobia perspective, any evidence of relatively less tolerance of gay, lesbian, bisexual, Transgender and Two-spirited people of colour ("GLBTST") within non-western/white ethno-cultural communities can only be understood as indicating that these communities are less advanced or more intolerant of homosexuality.<sup>20</sup> However, from the intersectional perspective of many GLBT people of colour and Two-spirited people, such a simplistic analysis ignores the invariably colonial roots of homophobia within their communities and the racist burdens that their communities collectively continue to face.<sup>21</sup>

Although all GLBTST people may share one or more communities of interest related to heterosexism and homophobia, in order to challenge these we must also (perhaps first) recognise our differences. For in the recognition of these differences lies a wealth of perspectives that may be used to challenge the integrity of the boundary of 'sexual orientation' and 'heterosexism' themselves. As Hutchinson has written:

**Multidimensionality exposes the various layers of social power that inform heterosexism and homophobia. Multidimensional analysis also reveals the multiple dimensions of social identity categories and offers a comprehensive framework for conceptualising sexual subordination that neither "destroys" nor "fragments" our lives.<sup>22</sup>**

In the field of discussion about GLBT equality, the issues of race & racism, religion, ethnicity and heritage language are at best peripheral and at worst non-issues. As Mary Eaton has argued, "sexual orientation" itself is a concept that has come to be coded as 'white.'<sup>23</sup> One participant in a survey recently conducted by a Canadian GLBT human rights advocacy group named EGALE noted that "mainstream organisations rarely make the effort to recruit people of colour or 2-spirited peoples on their steering committees or even within their membership, nor do they visibly support anti-racism efforts." [hereinafter "EGALE Report"]<sup>24</sup>

However, within the last few years, a substantial body of work applying an intersectional or multi-perspective approach specifically to GLBT equality issues has emerged. Canadian scholars such as Susan B. Boyd<sup>25</sup>, Shelley Gavigan<sup>26</sup> and Claire F.L. Young<sup>27</sup> have effectively articulated a feminist, class based and self-consciously race sensitive critique to more singularly focussed analyses of GLBT equality. In the United States legal scholars such as Darren L. Hutchinson and activists such as Urvashi Vaid<sup>28</sup> and Barbara Smith<sup>29</sup> have written and worked for years towards the goal of articulating and representing a progressive, and highly class and race sensitive approach to G.L.B.T. equality.

## **PART II: COMMON THEMES & ISSUES ARISING FROM LITERATURE REVIEW & PRIMARY RESEARCH (MEASURING THE SOCIAL DYNAMICS/PROCESSES CONTRIBUTING TO THE DEVELOPMENT OF INTERSECTIONAL IDENTITIES)**

### **Coming Out**

Whether GLBT people of colour “come out” or not, racism invariably precedes heterosexism as a source of oppression. As Isabelle Gunning put it: “most of us grew up understanding that we were black, and that bad things could happen to us because of that, long before we discovered that we were lesbian or gay.”<sup>30</sup> This reality often makes the process of “coming out” itself more difficult:

**I found it hard to embrace my gayness because so much of my energy was spent trying, in turn, to deny, erase, accept and defend my ethnic identity, which, after all, was the visible one, whereas gayness could be hidden. The double stress of having to deal with external and internalised racism, as well as external and internalised heterosexism, was a major factor in my development as a self-accepting, openly gay man.<sup>31</sup>**

Among so-called “developed” western nations, it is often assumed that non-Western/non-white communities and cultures are more homophobic than the dominant Western/white communities. This assumption is often based upon unexamined and simplistic racist and ethnophobic assumptions about the lack of sophistication or the cultural and religious backwardness of non-Western/white cultures. However, as the comment above suggests, whether or not homophobia is more prevalent in particular communities and cultures is not in and of itself a productive question to pose. As Gunning has observed:

**Too often white folk in the lesbian and gay community want to latch on to statements or intimations that the black community is more homophobic maybe because it releases them from some of the hard and painful work of dealing with their racism, personally as well as organisationally. Perhaps, it allows them to avoid becoming multicultural and multiperspectival.<sup>32</sup>**

In addition to being unproductive, the simplicity of this question ignores several important contextual factors. For example, in the report, *We Are Part of a Tradition: A Guide on Two-spirited People for First Nations Communities*, Deschamps wrote that:

**Today, modern Euro-Western society views us as dykes, fags, perverts and queers. In the Aboriginal community, many of our people have adopted these negative attitudes and many Two-spirited people have been ostracised from their own communities. However, we as Two-spirited people are determined to reclaim our rightful place within the circle of all Aboriginal people...**

**We have come to believe that Two-spirited First Nations people are disgusting and perverse. We learned that before colonisation to be “Two-spirited” was a gift which had promise and potential. Two-spirited people were respected and honoured, and were visionaries and healers in our communities. We have rediscovered that we continue to have a spiritual place in our world.**

**Through the decolonisation process, we as Two-spirited people are striving to reclaim our traditional positions within our Nations and are taking our rightful place.<sup>33</sup>**

A gay Muslim man living in Toronto made a similar comment about the attitudes towards the religious community of which he is a member:

**Muslim nations as well as Muslim communities living in the West are generally more homophobic at this moment globally in comparison to Judeo-Christian Western nations. But to a large extent this global proliferation of homophobia in Muslim communities/nations is part of an anti-imperialist movement to resist what is seen as Western, liberal ideas about sexuality and sexual identity. Historically there have been periods in Islamic history where the West was considered much less tolerant of sexual difference and much more prone to labelling such activities as heretical.**

The policing of sexuality also often reflects a more general defensive posture among communities under siege. As one South Asian man said about his family: '[t]hey already think that a minority has a more difficult time in life, and now they worry that I will be without friends as I age, and that I will not be accepted at my place of employment.'<sup>34</sup> This defensive posture among communities under attack has also been described in this way: "...for many black leaders and activists, visible/public homosexuality is understood to threaten [their] cultural capital...homosexuality is figured as a threat to the survival of black communities."<sup>35</sup>

More specifically, people of colour are all too familiar with the phenomena of racist sexual stereotypes being foisted upon them—over-sexed deviants who can and are consequently be vilified, feared, exoticized or raped with impunity—by white people and cultures.<sup>36</sup> The desire, among people of colour communities to silence 'their' GLBTST people may therefore be informed by fear: a desire to keep sexuality private and therefore beyond the dangerous gaze of dominant cultures and to debunk the racist mythology which says "other" cultures are sexually depraved. As will be discussed more below, this fear has merit, even "among" GLBT people.

### **Racism within GLBT Communities**

As Hutchinson has observed: "The coming out process...does not automatically 'liberate' people of colour, who, by revealing their sexual orientation and attempting to integrate themselves within white gay and lesbian communities, may encounter racial hierarchy."<sup>37</sup> 'Coming out' as a GLBT or Two-spirited person, however potentially liberating a process that may be, cannot erase the realities of racism and ethnocentrism. These oppressive forces are not limited to heterosexual people. For example, in the EGALE Report, two participants had this to say:

**At a lesbian bar, a woman leered at me and called me "Shiva" years ago.**

**The idea that is fundamentally racist is that gay people are all white. This is powerfully harmful to queer people of colour. The fact that there is racism within the mainstream GLBT organisations is undeniable.**

In the area of sexual attraction and intimate interpersonal relationships, GLBT people of colour & Two-spirited people often must contend with the unfortunate paradox of being either invisible, or hyper-visible as racially exotic objectification's. As Steven Saylor has put it, "the premium placed on young white boys...is really high. The cachet they carry is apparently what everyone is looking for."<sup>38</sup> On the other end of the spectrum, Julien and Mercer observe that: "in the gay subculture ...[b]lack men...[are] confined to a narrow repertoire of types - the super-sexual stud and the sexual savage on

the one hand, and the delicate and exotic 'Oriental' on the other."<sup>39</sup> Consider the following comment by participants in the EGALE report that looked at these issues, among others:

**Some people blatantly exhibit that they have no interest in getting to know us because we are people of colour.**

**The white gay community is welcoming of gay men [of colour] for their queerness (and exoticism), but doesn't deal well with issues of race/ethnicity. In fact, I've never run into racism that works in quite the same way...gay men of colour in the white gay community seem to be either exotic or completely undesirable because they're not blonde with blue or green eyes. Other factors come into play of course to determine desirability (both in terms of sex and in terms of community membership) but race is definitely a factor.**

**Black men are often objectified and exoticized by white men as being muscular, dominant and possessing extremely large phalluses while young East Asian men are conceived as being docile and submissive. Those who don't correspond to these images often feel inadequate. These behaviours and stereotypes reinforce colonial attitudes. Interestingly, many gays and lesbians of colour seem to internalise these attitudes by refusing to date people of their same ethnic or racial group. In the Black community, many Black gay men do not believe that other Black men are worthy of being dated.<sup>40</sup>**

Another issue raised by participants of the EGALE Report is that religion is an important dimension of many immigrant and people of colour communities and their value systems.<sup>41</sup> Unfortunately, this places them in the uncomfortable of trying to adjust to a "mainstream" GLBT culture that is for the most part apathetic or even antagonistic towards organised religion. This is not to say that there is not a reasonable basis for that antagonism. Several organised religious institutions are responsible for centuries of vilifying and persecuting GLBT people around the world. But as Keith Boykin noted in *One More River to Cross*, the virulently homophobic rhetoric of the religious-right is not reflected in the sermons of the Black Ministers with whom he chooses to worship.<sup>42</sup> Indeed, many GLBTST people, people of colour and white people alike, are creating and discovering religious communities that are neither homophobic nor heterosexist and in so doing, rediscovering their own spirituality.

### **Complex Discrimination & Hate-Related Violence**

The complex discrimination/oppression GLBTST people cannot simply be understood as what is often referred to as "double" or "triple" oppression. Consider the situation of a gay black man who is discharged from his employment for 'hyperbolic display[s] of homosexuality' while other gay white men who engaged in similar conduct, were less severely penalised.<sup>43</sup> Is this situation the result of racism or heterosexism, neither or both? In the jurisdiction in which this case was litigated, sexual orientation was an unprotected category. Despite the clear evidence of differential treatment based on racism/homophobia the court dismissed the claim based exclusively on a claim of 'race' discrimination. As Eaton has wryly observed: '[The Complainant's] race disappears as a concern of any legal consequence because he was much too gay to be black or, to put matters somewhat differently, because the rouge was thick enough to conceal the *noir*.' Therefore, the ability to resist oppression may be contingent upon both

the fact of multidimensional oppression<sup>44</sup> and whether its *complexity*, not just its degree is acknowledged and considered. In the Canadian context, Duclos argues that in human rights litigation that emphasises discrete categories or grounds of discrimination, the identity and experiences of people who experience multiple forms of oppression are at best almost entirely erased, and at worst inadequately served.<sup>45</sup>

One of the most serious problems facing oppressed people is hate-motivated violence. One such attack was upon a 29 year-old gay Puerto Rican man named Julio Rivera in Queens, New York in 1990.<sup>46</sup> This man was attacked and killed by three members of a neo-Nazi/white supremacist gang, one of which later confessed that Rivera was killed because 'he was gay.' Both the media and the police seemed intent on ignoring the obvious homophobic aspect of the crime, the latter refusing to list it as an 'anti-gay crime.' Activists in turn challenged the police refusal, arguing that this murder was precisely that: an 'anti-gay' crime. They argued furthermore that the police reaction was itself tantamount to 'homophobia.'

One of many disheartening observations that can be made about these events—the crime, the investigation, media portrayal, and the reaction of activists—is that since the debate, as framed by activists, seemed to contemplate only 'homophobia' the issue of race was left unexamined and the evidence of racism unchallenged. Both the police and the media were permitted to utilise racist stereotypes about gay men and Latino people generally to obfuscate the issue of homophobia. Rivera became the stereotypical poor Latino man: a drug addict and/or dealer (read 'death: typical and unimportant') and certainly too much of a hot 'Macho Latino' to be gay (read 'too butch to be a femme'). Whether the police were blinkered by their own stereotypical assumptions or more consciously racist/homophobic in motivation, as Darren Hutchinson has trenchantly observed: 'The activists' essentialist framing of the crime as a "gay" bashing, rather than a *racist-homophobic* attack, may actually have invited the police to use Rivera's race to erase his gayness' (emphasis added).<sup>47</sup>

More recently a young Haitian man named Abner Louima was brutally attacked and anally raped using a wooden stick by several New York City police officers. As John R. Keene noted:

**[t]he earliest media reports intimated that Louima may have been at a gay club, and that his injuries, so severe that they nearly killed him, were the result of violent anal sex...In other words, [the police officers were] attempting to use blatant homophobia to evade responsibility for a heinous act of racial violence....<sup>48</sup>**

## **Conflicts Between Group Identities**

People who experience multiple forms of oppression often face a conflict of identities. This conflict is probably most pronounced for people who have strong cultural, ethnic and religious affiliations to non-western/white communities. These people are often pressured to form uneasy and partial alliances with communities constructed in opposition, thereby splitting their very existence into incomplete pieces. As Richard Telfer has explained it:

**Conerly maintains that many 'African-American lesbigays' experience conflict between their two identities because 'they perceive racism among white lesbigays and homophobia among heterosexual blacks.' As a consequence,**

many black gay, lesbian, and bisexual individuals do not feel fully accepted in either community. Moreover, the conflict between their identities is often intensified by a lack of overlap - or sometimes by an overt antagonism - between 'mostly white lesbian/gay cultures' and 'mostly heterosexual black cultures.' Conerly explains that this separation leaves black gay, lesbian, and bisexual individuals in a dilemma: they may choose to move between the two cultures (and thus between their identities) or to choose a primary affiliation with either culture (thus emphasizing one identity at the expense of the other).<sup>49</sup>

Many GLBTST people who are not white/western describe their experience in relation to the larger western/white GLBT community in terms of feelings of "alienation". As one woman put it, "...there is very little inclusion or reflection of who we are sometimes in general LGBT spaces...I would say that it is more like alienation. As another explains, "being a person of colour makes me an outsider in mainstream queer communities. I haven't been able to find a queer community that is understanding of my experience as a person of colour...I can feel as much alienated at a gay club as at a straight club."<sup>50</sup> These feelings of alienation arise from many complex and interrelated causes that range from an inability by the larger dominant western/white community to appreciate racism and simple cultural differences to the overwhelming emphasis on western/white ideals of beauty in the media. Put simply, "people go through hell trying to find reflections of themselves in the gay community."<sup>51</sup>

These factors conspire to burden many non-western/white GLBT people with low self-esteem. A participant in a research project, reported in a publication entitled, *Voices of Two-spirited Men: A Survey of Aboriginal Two-spirited Men Across Canada*, said this:

**HIV is very common in First Nations people, we are a people with very low self-esteem. Alcohol and drugs are the real problem. We use substances to get away and hide, we get drunk and high, we may have unsafe sex, or we may have safe sex. Sometimes we just do not care. Alcohol and drugs give us courage sometimes. It is not even the sex it is the affection we really want.**

### **Access to Services**

On perhaps an even more basic level, there remains a void in the provision of support services for many non-white/western GLBT people. For example, many Canadian HIV/AIDS education and testing agencies geared towards providing services to GLBTST people only provide services in English and French. And unfortunately, organisations specifically geared to providing services to minority communities, such as the Alliance for South Asian AIDS Prevention (ASAP) and Black Coalition for AIDS Prevention (Black CAP), are not given sufficient funding to permit them to do outreach and community education at the same level as more "mainstream" organizations such as ACT.

The following comments of participants in the EGALE Report articulate the conflicts and pain experienced by many GLBTST people who experience complex oppression while cherishing the multi-layered aspects of their identities:

**There is no safe place.**

The most painful oppression I have experienced has come from feminists and human rights orgs., partly because it can be extreme and partly because it is a place where you (naively) expect not to encounter these types of attitudes.

I was called a "Paki" in public school, called a faggot/queer in high school, gay bashed due to wearing a pink triangle on my jacket. I am questioned, searched and escorted in airports, including Canadian airports, due to my Arab name and brown skin. I am denied access to spousal specials/benefits offered by corporations....

People of colour in Canada often have to make a choice between participating in their ethnic/racial community or the gay white community. This is a painful choice.

There is very little funding to support services and organisations geared to providing support and serving the particular needs of GLBT people of colour & Two-spirited people. The funding there is, is too little. As a result, these services and organisations must try to survive based on volunteer support, which is difficult over the long term. This vacuum needs to be filled by people who can work full-time.

There is no access to funding to facilitate self-governance of people of colour. Creating organisations for themselves is therefore difficult...After years of speaking about diversity, what little diversity there is has been inserted into a heavily consumerist culture. The result is that there is only the façade of inclusivity.<sup>52</sup>

## Conclusion to Part II

No one can be completely described, categorised or captured by reference to one or even many 'fixed identities.' Hyphenation (gay-male-South Asian-Indo-Caribbean-Dutch-mixed-race-progressive-professional) simply can never capture the complexity of people's identity.

The process of hyphenation is not sufficiently complex to articulate a reasonable concept of identity because people's identities are dynamic, not static. For example, I both identify and am identified as a 'person of colour' when I am amongst GLBT white men. Yet, I both identify and am identified as 'gay' when I am among straight people of colour.

People's identities are particular, not universal. I am a person of colour, yet I am also upper middle class and have a higher degree in education. Does this mean that in a world where people of colour suffer disproportionately from economic deprivation and disadvantage that I am less a person of colour?

People's identities are often relational, not inherent. I am not a person of colour because of my race. Race itself is not a biological fact but a social construct. I am a person of colour because I am not 'white' in a society premised upon the constructed superiority of 'whiteness.'

In part, people's identities are so complex because the societal conditions and institutions to which they are related are themselves complex, multi-layered and often even contradictory in their effects. Yet it is precisely this complexity which is obfuscated when GLBT organisations try to limit equality rights discourse and the provision of services to "purely" GLBT issues. When "sexual orientation" is characterised as the

pure, natural and primary core of the GLBT movement, it becomes less relevant to those people who do not have the luxury to adopt a one dimensional perspective, in other words, people who experience oppression on multiple and interconnected levels. The debate is structured in such a way that those people who have multiple perspectives have to continually push to have new categories, new hyphens added on to the agenda. This can indeed be a frustrating burden. As Urvashi Vaid has commented:

**I find myself torn about the question of race-specific versus multiracial organising. My confusion comes from experience with the deep resistance to antiracist work and to multiracial organising that continues to exist within white gay and lesbian organisations. It is tiresome to have to explain that our repeated assertions about being a multiracial community require our movement to respond to racism and to take a strong stance on what some consider “nongay” issues. It feels much more satisfying and productive to choose to work with like-minded people - people you don’t have to convince that working on racism is important.<sup>53</sup>**

**The bitterness on all sides is deep and growing. People are in well-dug bunkers, and few people—of any color—attempt to break out of their entrenched positions. The atmosphere of trust and respect that is a prerequisite for work across racial lines is sorely lacking in the gay and lesbian community’s struggles with its own diversity. Instead of dialogue, we engage in public attack. Instead of multiracial organisations, we keep inventing more single-race groups.<sup>54</sup>**

## PART III: MAPPING RESEARCH GAPS/ SPACES & PRIORITISING AREAS OF ENQUIRY

### **Methodology**

In thinking about what areas of research require further research and attempting to prioritise potential areas of enquiry, I have found two concepts especially useful: “*social cohesion*” and “*marginalisation*”.

I use the term social cohesion in the same way that I understand it to be used by Jane Jenson in her report entitled “Mapping Social Cohesion: The State of Canadian Research”. In general, social cohesion can be described in this way:

**Social cohesion involves building shared values and communities of interpretation, reducing disparities in wealth and income, and generally enabling people to have a sense that they are engaged in a common enterprise, facing shared challenges, and that they are members of the same community.<sup>55</sup>**

As has been illustrated in Part I and II, there cannot reasonably be said to be social cohesion among all GLBTST people. The absence of social cohesion within this entire “group” is not inherently negative. Absolute social cohesion, after all, would essentially be the complete absence of diversity. However, as I have argued, some of the reasons for the absence of social cohesion among GLBTST people reflects the isolation, exclusion and rejection of people whose *self-identity* exists along the intersections of sexual orientation, race, religion, ethnicity and heritage language.

By self-identity I mean those aspects of a person that they have come to view as defining who they are, their place in society and in relation to others. Self-identity in this sense involves an understanding not only of who one is as an individual, but also as a part of one or more social groups. Self-identity is in turn influenced by social conditions and dynamics. Thus, I self-identify as a person of colour and a member of a community of people of colour because I am racialised – racialisation being a social dynamic – in a manner that light-skinned people are not.

In attempting to identify potential areas for further enquiry into the nature and extent of social cohesion among GLBTST, Jane Jenson’s breakdown of dimensions of social cohesion are apposite.

**belonging - isolation**

**inclusion - exclusion**

**participation - non-involvement**

**recognition - rejection**

**legitimacy - illegitimacy**

These five dimensions essentially provide the measures or standards to be used in future enquiries into the levels of respect for the diversity of the GLBTST communities.

The second concept that I have attempted to employ in this Part of the paper is marginalisation. I have once again relied upon the understanding of marginalisation as articulated by Jane Jenson: one or a combination of lack of work, lack of resources and/or lack of social ties.<sup>56</sup>

### **Research Gaps/Spaces**

Simply put, there is a dearth of social scientific, political, psychological and economic research into the identities of people whose identity exists along the intersections of sexual orientation, race, religion, ethnicity and/or heritage language. By this I mean not simply “how” these people self-identify, but also:

- ❖ how social dynamics and processes influence their self-identification, including their affiliation to one or more communities, and
- ❖ the ways that they are marginalised by these various communities and Canadian society in general

Social dynamics and processes affect people at the intersections of identities in a qualitatively different way than people at the centres of single identity categories. Consequently, the marginalisation that these people experience will be qualitatively, not just quantitatively different, than that experienced by people at the centre of an identity category.

Therefore, research related to one social dynamic (such as racism) cannot provide a clear picture of the experiences of people who experience racism and homophobia, for example.

### **Areas Requiring Further Enquiry**

In determining these priorities I have been greatly influenced by the outcome of a conference funded in part by a grant from Canadian Heritage. The conference was held in Toronto in February of 2002 and was organised by the “Intersectional-identity Committee” of EGALE<sup>57</sup>, of which I am a member. The conference was titled *Building the Links: The Intersections of Race and Sexual Orientation*. Attending the meeting were 30 GLBT people of colour and members of several aboriginal (First Nation, Metis and Inuit) communities. These people were sponsored to come to Toronto from several different Canadian regions.

#### Social-Scientific Research Required

1. (a) Which types and to what degree are GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people able to access health and education services?  
  
(b) How can the accessibility of health and education services to GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people be improved?
2. (a) What types and to what degree do GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people participate in political and social organisations organised around particular sexual orientations and/or gender identities?

- (b) How can the participation of GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people participate in political and social organisations organised around particular sexual orientations and/or gender identities facilitated?
3. (a) What types and to what degree do GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people in political and social organisations organised around particular racial, religious, ethnic or linguistic identities?
- (b) How can the participation of GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people in political and social organisations organised around particular racial, religious, ethnic or linguistic identities be facilitated?
4. (a) What types and to what degree do GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people participate in communities (or social groups) organised around particular sexual orientations and/or gender identities?
- (b) How can the participation of GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people in communities (or social groups) organised around particular sexual orientations and/or gender identities be facilitated?
5. (a) What types and to what degree do GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people participate in communities (or social groups) organised around particular racial, religious, ethnic or linguistic identities?
- (b) How can the participation of GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people in communities (or social groups) organised around particular racial, religious, ethnic or linguistic identities be facilitated?
6. (a) How do GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people experience homophobia? What are the sources (both current and historical) of homophobia within particular racial, religious, ethnic or linguistic social groups?
- (b) How can the isolation, exclusion and rejection of GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people by communities (or social groups) organised around particular racial, religious, ethnic or linguistic identities be alleviated?
- (c) How can the isolation, exclusion and rejection of GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people by communities (or social groups) organised around particular sexual orientations and/or gender identities be alleviated?

### Political-Scientific Research Required

1. (a) How aware are GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people of their basic human rights?  
(b) What strategies can be developed to educate and inform GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people of their basic human rights?
2. (a) How well are GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people able to access political power (local, provincial and federal and judicial)?  
(b) How can access to political power (local, provincial and federal and judicial) by GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people be facilitated?
3. How can the political voices of GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people be supported?

### Psychological

1. (a) How and to what level do GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people experience homophobia? What effect does homophobia have on GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people?  
(b) What types of health services are needed to support GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people who experience homophobia?
2. (a) How and to what level do GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people who experience racism, ethnic and religious intolerance? What are the psychological impacts of racism, ethnic and linguistic intolerance on GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people?  
(b) What types of health services are needed to support GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people who experience racism, ethnic and religious intolerance?
3. (a) How and to what level are GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people able to resolve any internal identity conflicts associated with the intersectional nature of their identity?  
(b) What types of health services are needed to support healthy development of identity among GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people?

Economic

1. (a) Are GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people relatively poor as compared to society in general and also as compared to GLBT people who do experience racism, ethnic, linguistic and religious intolerance?

**Note**

The importance of exploring the relative disadvantage of GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people as compared to other GLBT people is critical because prior studies have usually taken the form of market surveys sponsored by GLBT targeted media. These studies have tended to inflate the economic resources of GLBT people to facilitate higher advertising revenue.<sup>58</sup>

If yes,

(b) What are the sources of/ social and economic dynamics/ processes supporting this relative economic disadvantage?

(c) How can the relative economic disadvantage of GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal people be addressed?

## Concluding Remarks & Cautions about Future Research

The importance of gathering research that can be used to better promote social cohesion and respect for the diversity of GLBTST people is underscored by the following phenomenon, as it has been described in the US context:

**Community by Community, the religious Right works skillfully (*sic*) to divide us along fissures that already exist. It is as though they have a political seismograph to locate the racism and sexism in the lesbian and gay community, the sexism and homophobia in communities of colour. While the Right is *united* by their racism, sexism, and homophobia in their goals to dominate all of us, we are *divided* by our racism, sexism, and homophobia.<sup>59</sup>**

Although the social and political dynamics of homophobia operate differently in Canada than in the US, the underlying theme raised in this quote remains applicable to the Canadian context.

Finally, it is important to note that research projects should adopt methodologies that promote empowerment within target community(ies).

As one of the participants to the *Building the Links Conference* noted, there is a wealth of knowledge among the people who have actually had to negotiate their identity at the intersection of various social dynamics, both positive and negative. At the same time, this participant also noted that, for example, many aboriginal people have been separated from an awareness of their cultural identity – such as what it means to identify as Two-spirited. As such, it is critical that as much as possible, members of targeted communities should be enlisted to design and conduct research projects. As Barbara Smith noted:

**Ironically, the group of people who are (*sic*) least often consulted about their perspectives on this great divide are those who are most deeply affected by it: Black lesbian and gay activists. Contradictions that we have been grappling with for years, namely homophobia in the Black community, racism in the lesbian and gay community, and the need for both communities to work together as allied to defeat our real enemies, are suddenly on other people's minds. Because Black lesbians and gays are not thought of as leaders of either movement, however, this debate has been largely framed by those who have frighteningly little and inaccurate information.<sup>60</sup>**

I would qualify this sentiment by noting that GLBT people of colour, religious, ethnic and linguistic minorities and aboriginal often *are not* leaders within their respective communities. The recruitment of these people as policy researchers and developers could help in changing this phenomenon.

### Research methodologies should:

- Be participatory
- Develop leadership within target communities
- Develop skills within target communities
- Support organisational development within targeted communities
- Promote self-knowledge within target communities

## ENDNOTES

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<sup>1</sup> **“Two-spirited”**: The Two-spirited person is a native tradition that anthropologists have been able to date to some of the earliest discoveries of Native artifacts. Much evidence indicates that Native people, prior to colonization and contact with European cultures, believed in the existence of three genders: the male, the female and the male-female gender, or what we now call the Two-spirited person. The term Two-spirited, though relatively new, was derived from interpretations of Native languages used to describe people who displayed both characteristics of male and female.

Traditionally, the Two-spirited person was one who had received a gift from the Creator, that gift being the privilege to house both male and female spirits in their bodies. The concept of Two-spirited related to today's designation of gays, lesbians, bisexual and transgender persons of Native origins. Being given the gift of Two-spirits meant that this individual had the ability to see the world from two perspectives at the same time. This greater vision was a gift to be shared with all, and as such, Two-spirited beings were revered as leaders, mediators, teachers, artists, seers, and spiritual guides. They were treated with the greatest respect, and held important spiritual and ceremonial responsibilities.

The arrival of the Europeans was marked by the imposition of foreign views and values on Native spirituality, family life and traditions. The missionary churches' views on sexuality, for example, created many new taboos. Many traditions, including that of the Two-spirited were eradicated or at least driven underground from many (but not all) tribes of North America. Once honored, some of today's Two-spirited people have been shamed, beaten, killed, isolated and driven from their homes. Dr. Terry Tafoya, a sexologist, storyteller and diversity educator from the Taos Pueblo Nation has warned, "our communities cannot survive if we cut off parts of ourselves". Along with others he has called for the restoration of the inclusion of Two-spirited people back into the circle of original belonging. It is not an accident that Two-spirited people are once again emerging in their communities at the same time and in the same way that the drum, the pipe, the sweat, the medicines and other sacred aspects of community and cultural life are returning.

As a result of the impact of colonization, most Two-spirited people, their families, and the knowledge keepers in their communities today, hold little or no knowledge of the many rich and diverse traditions which recognized, valued and benefited from the special gift these individuals had been given. In consequence, Two-spirited people are not able to take their rightful place in their communities. This is a loss to all Native people.

(by the Two-spirited Working Circle of “Project Interaction”, McGill University School of Social Work, [www.arts.mcgill.ca/programs/socialwork/interact/interact.html](http://www.arts.mcgill.ca/programs/socialwork/interact/interact.html))

<sup>2</sup> Joanne (Anneke) Rummens, *Canadian Identities: An Interdisciplinary Overview of Canadian Research on Identity*, September 2000 [hereinafter “*Canadian Identities*”] at 1.

<sup>3</sup> *Canadian Identities* at 13.

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<sup>4</sup> “Disappearing Women: Racial Minority Women in Human Rights Cases” (1993) 6 *Canadian Journal of Women and the Law* 25 [hereinafter “Disappearing Women”] at 33.

<sup>5</sup> Wayne Morgan, “Queer Law: Identity, Culture, Diversity, Law” (1995) 5 *Australasian Gay & Lesbian Law Journal* 1 at 12.

<sup>6</sup> “Disappearing Women” at 42.

<sup>7</sup> *M. v. H.*, [1999] 2 S.C.R. 3 per Cory and Iacobucci JJ. at page 80.

<sup>8</sup> Shelley Gavigan, “Paradise Lost, Paradox Revisited: The Implications of Familial Ideology for Feminist, Lesbian and Gay Engagement to Law” (1993) 31 *Osgoode Hall L.J.* 589 - 624 [hereinafter “Paradise Lost”] at 614.

<sup>9</sup> Carl F. Stychin, “Essential Rights and Contested Identities: Sexual Orientation and Equality Rights Jurisprudence in Canada” (1995) 8:1 *Canadian Journal of Law and Jurisprudence* 49 - 66 at 59.

<sup>10</sup> Quoted in Lise Gottell, “Litigating Feminist ‘Truth’: An Anti-Foundational Critique” (1995) 4 *Social and Legal Studies* 99 - 131 at 99.

<sup>11</sup> For a general discussion of the tax implications of the extension of “spousal” status to same-sex couples see generally Claire F.L. Young, “Taxing Times for lesbians and Gay Men: Equality at What Cost?” (1995) 17 *Dalhousie Law Journal* 534 - 559 [hereinafter “Taxing Times”].

<sup>12</sup> Kathleen A. Lahey, *Are We “Persons” Yet: Law and Sexuality in Canada* (Toronto: University of Toronto Press, 1999) at 266.

<sup>13</sup> Nitya Iyer, “Some Mothers Are Better Than Others: A Re-examination of Maternity Benefits” in Susan B. Boyd, ed. *Challenging the Public/Private Divide: Feminism, Law and Public Policy* (Toronto, University of Toronto Press, 1997), 168 - 194 at 176.

<sup>14</sup> For a more extensive discussion of the inconsistent implications of the extension of “spousal status” see: Wayne van der Meide, “Guarding the Borders of Canada’s ‘Gay’ Community: A Case Study of the Benefits of the Proposed Redefinition of “Spouse” within the Immigration Act to Include Same-sex Couples” (2001) 19 *Windsor Yearbook of Access to Justice* 32.

<sup>15</sup> Nitya Duclos, “Some Complicating Thoughts on Same-Sex Marriage” (1991) 1 *Law & Sexuality* 31 at 58.

<sup>16</sup> Martha Minow, *Making All the Difference: Inclusion, Exclusion and American Law* (Ithaca, NY: Cornell University Press, 1990) at 95.

<sup>17</sup> “Disappearing Women” at 50.

<sup>18</sup> Quoted in Kimberley Crenshaw, “Demarginalizing the Inter-section of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics” (1989) 89 *University of Chicago Legal Forum* 139 [hereinafter “Crenshaw”] at 153.

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<sup>19</sup> For example, one of the problematic aspects of the category “people of colour” was discussed by Wayne van der Meide, “The Intersection of Sexual Orientation & Race: Considering the Experiences of Lesbian, Gay, Bisexual and Transgender (“GLBT”) People of Colour and Two-spirited People” (Toronto/Ottawa: EGALE, 2001) [**hereinafter** “EGALE Report”]:

“We recognise that this category starts with the myth of white supremacy, it is a category that simplistically groups people together as ‘not-white’. This category is problematic for many reasons not least of which is that it cannot appreciate the reality of racism between racial and ethnic groups referred to as people of colour. However, we also believe that despite its racist origins it can be effectively used as a basis for work in coalition with each other as a *living concept*, not a *fixed category*. The concept of ‘People of Colour and First Nations’ People’ is that we have *all* been the victims of the myth of white supremacy. Its use in this report *is not intended* to support the racist assumption that all people of colour have the same history and culture, or that we all currently experience racism to the same degree and in the same ways” at 2 – 3.

<sup>20</sup> See for example, Bruce MacDougall, “Outing: The Law Reacts to Speech about Homosexuality” 21 *Queen’s Law Journal* 79 – 124.

<sup>21</sup> See EGALE Report.

<sup>22</sup> Hutchinson, Darren L. “Out Yet Unseen: A Racial Critique of Gay and Lesbian Legal Theory and Political Discourse” Vol. 29, Number 2 *Connecticut Law Review* 561 – 645 [**hereinafter** “Out Yet Unseen”] at 640.

<sup>23</sup> Mary Eaton, “Homosexual Unmodified: Speculations on Law’s Discourse, Race, and the Construction of Sexual Identity” in Didi Herman and Carl Stychin, eds., *Legal Inversions: Lesbians, Gay Men, and the Politics of Law* (Philadelphia: Temple University Press, 1995) [**hereinafter** “Homosexual Unmodified”] at 69.

<sup>24</sup> EGALE Report.

<sup>25</sup> – “(Re)Placing the State: Family, Law and Oppression” (1994) 9(1) *Canadian Journal of Law and Society* 39 – 73

“Best Friends or Spouses? Privatization and the Recognition of Lesbian Relationships in *M. v. H.*” (1996) 13 *Canadian Journal of Family Law* 321 – 341

“Family, Law and Sexuality: Feminist Engagements,” (1999) Vol. 8, No. 3 *Social & Legal Studies* 369 – 390

& Elizabeth A. Sheehy, “Introduction” in *Canadian Feminist Perspectives in Law: An Annotated Bibliography of Interdisciplinary Writings* (Toronto: Resources for Feminist Research, OISE, 1989).

<sup>26</sup> – “Paradise Lost, Paradox Revisited: The Implications of Familial Ideology for Feminist, Lesbian and Gay Engagement to Law” (1993) 31 *Osgoode Hall L.J.* 589 – 624

“Law, Gender, and Ideology” in A. Bayefsky (ed.) *Legal Theory Meets Legal Practice* (Edmonton: Academic Printing and Publishing, 1988), 283 – 295

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“Legal Forms, Family Forms, Gendered Norms: What is a Spouse?” (1999) 14-1  
*Canadian Journal of Law and Society* 127 – 157.

<sup>27</sup> – “Taxing Times for Lesbians and Gay Men: Equality at What Cost?” (1995)  
*Dalhousie Law Journal* 534 – 559

– “Public Taxes, Privatizing Effects, and Gender Inequality” in Susan B. Boyd, ed.  
*Challenging the Public/Private Divide: Feminism, Law and Public Policy* (Toronto: University  
of Toronto Press, 1997) 307 – 329.

<sup>28</sup> *Virtual Equality: The Mainstreaming of Gay and Lesbian Liberation* (New York:  
Doubleday, 1995) [hereinafter “Virtual Equality”].

<sup>29</sup> Ed. *Home Girls: A Black Feminist Anthology* (Watertown, MA: Persephone Press, 1983).

<sup>30</sup> Isabelle R. Gunning, “Stories from Home: Tales from the Intersection of Race, Gender  
and Sexual Orientation” (1995) 5 *S. Cal. Rev. L. & Women’s Studies* 143 [hereinafter  
“Stories from Home”] at 147.

<sup>31</sup> EGALE Report.

<sup>32</sup> “Stories from Home” at 146.

<sup>33</sup> Gilbert Deschamps, *We Are Part of a Tradition: A Guide on Two-spirited People for First  
Nations Communities* (Toronto: 2-Spirited People of the 1<sup>st</sup> Nations, Toronto).

<sup>34</sup> EGALE Report.

<sup>35</sup> Richard S. Telfer, “Black Gay, Lesbian, and Bisexual Identities and the Activist Role  
of a Postmodern Sensibility in Dialogism” (London: 1999)  
[www.sspp.net/archive/papers/3\(2\)telfer.htm](http://www.sspp.net/archive/papers/3(2)telfer.htm).

<sup>36</sup> See for example:

Stories from Home at 147: ‘We, as African-American women, historically have been  
unrapeable because we are oversexed and always “want it.” We are each the “negress  
slut.” Much of our efforts has gone into trying to convince white people that we are a  
people with qualities other than stupidity, strength and sexuality.’

Crenshaw at 157: “The Black man suffers from the image of the potential rapist.”

Phillip Brian Harper, “Eloquence and Epitaph: Black Nationalism and the Homophobic  
Impulse in Responses to the Death of Max Robinson” in Henry Abelove, *et al.*, eds., *The  
Lesbian and Gay Studies Reader* (London: New York: Routledge, 1993) at 163: ‘In the classic  
text on the subject, Calvin C. Hernton has argued that the black man has historically  
been perceived as the bearer of a bestial sexuality, as the savage “walking phallus” that  
poses a constant threat to an idealized white womanhood and thus to the whole US  
social order.’

<sup>37</sup> “Out Yet Unseen” at 603.

<sup>38</sup> Quoted in D. Sadownick, *Sex Between Men* (San Francisco: Harper, 1996) at 215.

<sup>39</sup> Quoted in “Out Yet Unseen” at 624.

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<sup>40</sup> EGALE Report.

<sup>41</sup> EGALE Report.

<sup>42</sup> Keith Boykin, *One More River to Cross: Black and Gay in America* (New York: Doubleday, 1998).

<sup>43</sup> Discussed in "Homosexual Unmodified" at 54 - 56.

<sup>44</sup> "Out Yet Unseen" at 583: 'Moreover, because race and class also create privilege, these statuses may offer some insulation from forces of oppression.'

<sup>45</sup> "Disappearing Women."

<sup>46</sup> This tragic incident is described in detail in "Out Yet Unseen" at 567 - 573.

<sup>47</sup> "Out Yet Unseen" at 571.

<sup>48</sup> John R. Keene, "Convergence of Hatreds" in *The Blackstripe* [www.blackstripe.com/views/jkeene/luima.html](http://www.blackstripe.com/views/jkeene/luima.html).

<sup>49</sup> Richard S. Telfer, "Black Gay, Lesbian, and Bisexual Identities and the Activist Role of a Postmodern Sensibility in Dialogism" (London: 1999) [www.spp.net/archive/papers/3\(2\)telfer.htm](http://www.spp.net/archive/papers/3(2)telfer.htm).

<sup>50</sup> EGALE Report.

<sup>51</sup> EGALE Report.

<sup>52</sup> EGALE Report.

<sup>53</sup> "Virtual Equality" at 291.

<sup>54</sup> "Virtual Equality" at 278.

<sup>55</sup> Jane Jenson, "Mapping Social Cohesion: The State of Canadian Research", Canadian Policy Research Network Study No. F | 03, 1998.

<sup>56</sup> Jane Jenson, "Thinking about Marginalization: What, Who and Why?", Canadian Policy Research Network - Web Version, November 2000.

<sup>57</sup> EGALE (Equality for Gays and Lesbians Everywhere) is a non-profit organisation located in Ottawa.

<sup>58</sup> M.V. Lee Badgett, *Income Inflation: The Myth of Affluence Among Gay, Lesbian, and Bisexual Americans* (New York, Policy Institute of the National Gay and Lesbian Task Force & Institute for Gay and Lesbian Strategic Studies, 1998)

<sup>59</sup> Quoted in Barbara Smith, *The Truth That Never Hurts: Writings on Race, Gender, and Freedom* (New Brunswick, New Jersey, and London: Rutgers University Press, 1999) [hereinafter *The Truth That Never Hurts*] at 128.

<sup>60</sup> *The Truth That Never Hurts* at 126.

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