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Introduction

Rohan Sajjani

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Introduction

Rohan Sajnani, Guest Editor

“Gay is synonymous with the lesser
It's the same hate that's caused wars from religion
Gender to skin color, the complexion of your pigment
The same fight that led people to walkouts and sit-ins
It's human rights for everybody, there is no difference!”
—Macklemore, “Same Love,” 2012

¶1

I want to thank the Northwestern Journal of International Human Rights for inviting me to guest-edit this issue. A frontlines issue on the global fight for the rights of sexual minorities could not be timelier. In the past year, the now infamous Ugandan Anti-Homosexuality Bill, promised as a “Christmas gift” to the Ugandan people by Speaker of the House Rebecca Kadaga, still has not passed; however, it could come into force any day now. In contrast, the United States’ Defence of Marriage Act, which allowed states to refuse to acknowledge the same-sex marriages of other states, was found unconstitutional in *United States v. Windsor*.¹ This summer, Russia passed a nebulous antigay “propaganda” law that could restrict vital rights-building activities such as sexual health education and Pride events.² In response, several governments, including my home country of Canada, have made commitments to accommodate influxes of sexual minority refugee claimants in their immigration policies.³ Furthermore, calls for boycotting the Sochi Olympics and Russian products proliferate the media.⁴ The free expression of sexual rights and identities is a contemporary ideological battlefield.

¶2

It is also a literal battlefield for the scores of sexual and gender variant individuals who continue to lose their lives to ignorance and fear-driven violence. I remember reading about Matthew Shepard’s death in 1998, at the time myself an openly gay high-school student. His death was a catalyst on many levels. I started a Gay-Straight Alliance in 2000, one of the first in Canada. These student organizations are now protected by law in my home province.⁵ Shepard’s death was a catalyst for macro-level change as well, culminating in the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act

¹ No. 12-307, 2013 WL 3196928 (June 26, 2013).

² *Full English text of Russia’s anti-gay law*, DAILY KOS (Apr. 11, 2012), <http://www.dailykos.com/story/2012/04/11/1082469/-Full-English-text-of-Russia-s-anti-gay-law>.

³ Daniel Bitonti & Campbell Clark, *Canada to favour refugee gay Russians*, THE GLOBE AND MAIL (Aug. 12, 2013), <http://www.theglobeandmail.com/news/national/canada-to-favour-refugee-claims-by-gay-russians/article13724670/#dashboard/follows/>.

⁴ See Laura Smith-Spark & Phil Black, *Protests, boycott calls as anger grows over Russia anti-gay propaganda laws*, CNN (Aug. 4, 2013), <http://edition.cnn.com/2013/08/01/world/europe/russia-gay-rights-controversy/>.

⁵ Accepting Schools Act, S.O. 2012, C.5 (Can.).

signed into law in the United States in 2009.⁶ But in recent months, as I read about Dwayne Jones, a.k.a. Gully Queen, a transgender youth brutally butchered in public in Jamaica, or watched the YouTube video of Sergeyenko Denis Mihailov, a Russian youth lured, taunted, and assaulted with a urine-filled bottle in broad daylight in Moscow, I realize how far there is to go. I realize the painful hypocrisy of antigay laws proclaiming to protect children. While I question the role of international activists in a debate so deeply entrenched in cultural values, I demand the right of individuals to reject cultural values that result in discriminatory violence. Furthermore, until the international justice community recognizes that state oppression of sexual minorities is an international crime of the gravest sort, the international human rights community has the obligation to protect vulnerable groups.

¶3 I realize also that laws and policies alone will never wash away hatred and intolerance. Last night, I watched the MTV Video Music Awards, expecting anything but inspiration and hope amid the sensory delectation. As Macklemore, Ryan Lewis and Mary Lambert took the stage to perform their anthem “Same Love,” I was thoughtful. When Jennifer Hudson entered mid-song, dropping the gospel power of her voice into the lullaby hook, I was overcome with emotion. It was a strange and unexpected feeling, one I can only describe as joy, relief and validation as a member of a minority hearing their truth expressed so beautifully at a focal point of mass media and culture—expressed not only by my gay brothers and sisters, but by artists who see our struggle, fight alongside us for the queer people they love in their own lives, and recognize sexual minority rights’ place in human rights history. The time is now.

¶4 Perfectly contextualizing this moment, this issue looks at the past and future of laws that repress sexual minorities. Furthermore, the articles herein recognize that the repression of sexual minorities is cancerous—it erodes other rights and freedoms.

¶5 Professor Christine Evans’s article examines harmful laws of the past and the process of their remedy. As I write this foreword, we await a ruling from Chief Justice Benjamin of the High Court of Belize on the constitutionality of Section 53 of the Criminal Code, which has numerous life-threatening effects for Belize’s LGBTI citizens. The law has been, and continues to be, couched in religious hysteria about public morality and the dangers posed to children by homosexual men. I had the privilege of assisting Professor Evans in the preliminary research for this paper, focusing on the “alien legacy” of such laws.⁷ They are literally relics of colonialism, part of an obsolete canon of law also prohibiting witchcraft, leprosy and Judaism.⁸ Evans’s paper calls not only for the repeal of section 53, but also gender neutrality in sexual violence laws. Through her analysis, it becomes clear that addressing the rights of sexual minorities requires the disentanglement of historical gender privilege, and vice versa. The rights of sexual minorities are vital to everyone, as they connect to wider institutional misogyny and gender hierarchies. It is no coincidence that Russia passed its antigay speech law in the same year it convicted Pussy Riot, a group of radical feminist musician protestors. Gay rights bear a strong link to women’s rights.

⁶ Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009, 18 U.S.C. § 249 (2009).

⁷ HUMAN RIGHTS WATCH, THIS ALIEN LEGACY: THE ORIGINS OF “SODOMY” LAWS IN BRITISH COLONIALISM (2008), http://www.hrw.org/sites/default/files/reports/lgbt1208_web.pdf

⁸ *Id.* at 14.

¶6 Looking to the future, Adam Kretz examines a harmful new mutation of antigay law in Africa. These laws target not only same-sex acts, but also the rights of advocates, activists, and citizens to speak freely about basic facts of human sexual behavior. Kretz's article expresses concern about the risk of these laws spreading in Africa, but it seems, in light of the new Russian law mentioned above, the risk is not confined to Africa. These laws are spreading internationally and with disastrous effects. During editing, Mr. Kretz and I spoke about the broad reach of these laws. They dehumanize. They block people from coming out. They threaten not only sexual minorities, but also the rights of everyone to free speech and expression. They connect with other laws that seek to curtail international human rights workers from accessing vulnerable populations. They prevent the gender conforming from learning that queerness courses majestically, if clandestinely, through human nature and culture, including their communities, neighbours, and families. Finally, they silence. Songs like "Same Love" won't be heard in Russia or Uganda—or else will be severely censored—and therefore a major component of the realization of rights, that which is the most powerful and universally accessible, will be stymied. The connection between gay rights and the rights of all humans is galvanizing on the frontier of free speech, expression and dialogue. These laws threaten everyone's rights.

¶7 Gay rights are human rights, and human rights are gay rights. This is more than rhetoric. It is more than a declaration of LGBTI people's humanity in the face of those who deride us as sub-human. It is more than a political statement, edified in history by Hillary Clinton in her 2011 address to the United Nations. This issue of the Northwestern Journal of International Human Rights makes clear that the repression of sexual minorities is symptomatic of state corruption, poverty and a history of moral hysteria. It understands queer rights not as a subset or result of other human rights, but as inextricably and affectively connected with them.

¶8 Sexuality is shrouded in fear, suspicion and coercion. Unless clear spheres of human sexual action and speech are protected, informed by reliable and freely available data on sexuality and health, states will be able to continue to use sexuality's intimate power to demonize sexual minorities for political benefit. In this climate of censorship, the limits of state interference are imprecisely defined. It is time to recognize that the repression of sexual minorities affects sexual majorities, and that the repression of dialogue about non-traditional sexuality is an assault on human sexuality in general.

Rohan Sajnani
 2013 LLM in International Human Rights Graduate
 Northwestern University School of Law