

More Colors Than the Rainbow: Gay Men of Color Speak About Their Identities and Legal Choices

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I. INTRODUCTION	562
II. GAY RIGHTS, SPECIAL RIGHTS	566
III. ANDREW CUNANAN	571
IV. PERRY WATKINS.....	577
V. GAY MEN OF COLOR AT BOALT.....	583
VI. THE INTERVIEWS	590

INTERVIEWER: When you were starting out as a writer, you were a Black, impoverished homosexual. You must have said to yourself, “Gee, how disadvantaged can I get?”

JAMES BALDWIN: Oh no! I thought I hit the jackpot.¹

When I am asked, and I am, which “comes first” for me, color or sexuality, I respond, as a good law professor should, “it depends”. . . . Thus, when I am in a person-of-color situation, I find myself operating, and being perceived as, primarily a gay man. And when I am in a sexual minority situation, I find myself operating, and being received as, primarily a person of color.

—Francisco Valdes²

* University of California at Berkeley School of Law (Boalt Hall), J.D. expected May 1999. Brown University, B.A. 1996. I would like to thank especially the students who took time out of their busy schedules to speak with me on such a personal topic as their identities. I am grateful to Professor Linda Krieger, Jennifer P. Ting, Camille Fink, Dirk Selland, the National Center for Lesbian Rights, and the Chicago Lawyers’ Committee for Civil Rights. A debt of gratitude goes to the *Berkeley Women’s Law Journal* for helping me to advance my analysis of intersectionality. Finally, I would like to give recognition to past and present members of The Next Thing, the first organization in the Ivy League for LGBT students of color.

1. JAMES BALDWIN: THE PRICE OF THE TICKET (California Newsreel 1990).

2. Francisco Valdes, *Sex and Race in Queer Legal Culture: Ruminations on Identities & Inter-connectivities*, 5 S. CAL. REV. L. & WOMEN’S STUD. 25, 40-4 (1995) [hereinafter Valdes, *Sex and Race*].

In my own experience, the existence of a gay Asian community broke down the cultural schizophrenia in which I related on the one hand to a heterosexual family that affirmed my ethnic culture and, on the other, to a gay community that was predominantly white. Knowing that there was support also helped me come out to my family and further bridge the gap.

—Richard Fung³

I. INTRODUCTION

In the scant materials written about gay men of color, one receives a univocal and sad message. The gay man of color must identify with one group more than the other, despite the fact that he cannot fit comfortably with either. The gay man of color is usually not out, and when he is, it is only because of his HIV+ status. Other people can speak for him, as his opinions are irrelevant—if he has opinions at all. Above all, the gay man of color can lead only a tragic life. As demonstrated in the three quotes above, gay men of color challenge these misperceptions through our words, opinions, and experiences. We demonstrate that the process of negotiating one's racial, sexual, and gendered identities is a dynamic journey. We show that finding one's home in various communities and in varying situations is rewarding. Gay men of color have as much to tell the world as we have to learn from it. Thus, our lives can be joyous.

Theories regarding the lives of individuals from more than one marginalized community, known as “intersectionality,” were first argued by pioneering women-of-color scholars. For example, in her canonical law review article, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, Professor Kimberlé Crenshaw demonstrated the devastating manner in which women of color are misserved in anti-violence movements when activists fail to acknowledge the intersections of race and sex.⁴ She explained how anti-racist movements primarily serve men of color,⁵ and how feminist movements primarily benefit white women.⁶ In addition, she stressed that Americans will not understand the full extent of racism and sexism until they investigate the lives of women of color.⁷ I would argue that gay men and lesbians of color

3. Richard Fung, *Looking for My Penis: The Eroticized Asian in Gay Video Porn*, in *HOW DO I LOOK?: QUEER FILM AND VIDEO* 145, 149 (Bad Object Choices eds., 1991).

4. 43 STAN. L. REV. 1241 (1991).

5. See *id.* at 1252-53 (noting that the Los Angeles Police Department does not keep statistics on the ethnicity's of wife-batterers in order to avoid embarrassing men of color).

6. See *id.* at 1260-61 (noting that anti-domestic violence projects are promoted as an issue by not portraying domestic violence as a minority concern).

7. Professor Crenshaw observed that:

experience this same dilemma when activists and policy-makers fail to see how race and sexual orientation intersect.

Nevertheless, comparisons of, and the intersection between, race and sexual orientation differ from that of race and sex in significant ways. As Professor Margaret Russell noted, comparisons between race and sexual orientation spark an intense rage in a way that no other comparison to race does.⁸ Conservatives have created the false dichotomy in which race is a *state of being* deserving of protection and sexual orientation is an *act* undeserving of protection. Thus, the retired military leader Colin Powell has the power to halt gay rights just by making the manipulative argument that “homosexuality is not a benign characteristic, such as skin color or whether you’re Hispanic or Oriental⁹. . . . Comparison of the two is a convenient but invalid argument.”¹⁰ From a legal perspective, the groundwork for racial discrimination claims exceeds that for sexual orientation. Whereas the first federal civil rights act was passed in 1866, no federal law bans discrimination based on sexual orientation and no more than a dozen states have such laws.¹¹ In *Lam v. University of Hawai’i*, the

The problem is not simply that both discourses fail women of color by not acknowledging the “additional” issue of race or of patriarchy but that the discourses are often inadequate even to the discrete tasks of articulating the full dimensions of racism and sexism. Because women of color experience racism in ways not always the same as those experienced by men of color and sexism in ways not always parallel to experiences of white women, antiracism and feminism are limited, even on their own terms.

Id. at 1252. For more ideas about intersectionality as experienced by women of color, see Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990); Berta Esperanza Hernandez-Truyol, *Las Olvidadas—Gendered in Justice/Gendered Injustice: Latinas, Fronteras, and the Law*, 1 J. GENDER, RACE, & JUST. 353 (1998); Virginia Wei, *Asian Women and Employment Discrimination: Using Intersectionality Theory to Address Title VII Claims Based on Combined Factors of Race, Gender, and National Origin*, 37 B.C. L. REV. 771 (1996).

8. See Margaret Russell, *Lesbian, Gay, and Bisexual Rights and “The Civil Rights Agenda,”* 1 AFR.-AM. L. & POL’Y REP. 33, 37 (1994). Russell noted that:

Unlike comparisons between race and gender, disability, or age, the attempted use of analogies between race and sexual orientation has engendered fierce controversy bordering on enmity. . . . Certainly, even compared with the long-standing and well-publicized criticism of feminists for allegedly “bootstrapping” their gains to the struggles of African-Americans and other racial minorities, the animosity accorded those who assert that homophobia is “comparable” to racism is remarkable in its prevalence and intensity in contemporary discourse.

Id. at 37.

9. *Id.* (quoting Powell’s testimony before Congress in 1993).

10. COLIN POWELL, MY AMERICAN JOURNEY 547 (1995).

11. See WILLIAM B. RUBENSTEIN, SEXUAL ORIENTATION AND THE LAW 469-70 (2d ed. 1997). Sexual orientation anti-discrimination bills have been introduced in Congress for more than twenty years and none have passed so far. See *id.* at 466. As of 1995, only nine states and the District of Columbia had such laws. See *id.* at 469-70.

court recognized that women of color may face discrimination that white women and men of color do not.¹² However, in cases such as *Williamson v. A. G. Edwards & Sons, Inc.*¹³ and *United States v. Bledsoe*,¹⁴ courts continue to bisect the identities of gay men of color.¹⁵

Professor Peter Kwon thanks female scholars of color for the ground they broke on intersectionality but adds that more explorations of other intersections, such as the one between race and sexual orientation, need to take place.¹⁶ Professor Francisco Valdes thanks the scholars who were brave enough to lay the groundwork for what he calls the first stage of sexual orientation scholarship, a phase in which it was understandable and acceptable to speak of sexual orientation alone. He argues that now we must enter a second stage in which scholars think about race and sexual orientation.¹⁷ In this piece, I attempt to take up Professors Kwan's and Valdes' challenges by explaining how coverage of gay men of color has disserved this

12. 40 F.3d 1551 (9th Cir. 1994).

13. 876 F.2d 69 (8th Cir. 1989) (dismissing an employment discrimination case brought by a Black gay man by deciding that the termination was based upon sexual orientation which is unprotected rather than race which is protected).

14. 728 F.2d 1094 (8th Cir. 1984) (punishing a murderer under a hate crime statute only on race grounds in the gay-bashing of a Black man).

15. See Mary Eaton, *Homosexual Unmodified: Speculations on Law's Discourse, Race, and the Construction of Sexual Identity*, in LEGAL INVERSIONS: LESBIANS, GAY MEN, AND THE POLITICS OF LAW 46, 54-56 (Didi Herman & Carl Stychin eds., 1995); Francisco Valdes, *Queer Margins, Queer Ethics: A Call to Account for Race and Ethnicity in the Law, Theory, and Politics of "Sexual Orientation,"* 48 HASTINGS L.J. 1293, 1333-34 (1997) [hereinafter Valdes, *Queer Margins*].

16. See Peter Kwan, *Jeffrey Dahmer and the Cosynthesis of categories*, 48 Hastings L.J. 1257, 1276 (1997). Kwan observed that:

While Crenshaw urged that the concept of intersectionality "be expanded by factoring in issues such as class, sexual orientation, age, and color," for a long time intersectionality remained on the whole focused on the issues of black women and other women of color. . . . [S]cholars who wrote about intersectionality responded to marginalization by creating new marginal categories that, by their nature, themselves encourage the idea of categorical hegemony. . . . [I]ntersectionality stands in danger of pushing to its margins issues of class, religion, and able-bodiedness, as well as issues of sexual orientation.

Id. (citations omitted).

17. See Valdes, *Queer Margins*, *supra* note 15. Professor Valdes writes:

The essentializing first-stage failure to modify "sexual orientation" analyses with intersecting factors like race or ethnicity therefore left unexamined and unchallenged significant sources of oppression that affect the social and legal position of non-white members of minority communities. The first-stage anti-discrimination agenda, though broad and ambitious, was limited by its unmodified approaches to "sexual orientation" issues.

Id. at 1311.

group so far, and by presenting my conversations with individual gay law students of color about race and sexuality.

In Part I, I deconstruct the overtly homophobic and subtly racist effects of the propaganda documentary *Gay Rights, Special Rights*. Next, in Part II, I show how racist tropes and homophobic stereotypes were exploited in the coverage of “gay serial killer” Andrew Cunanan. In Part III, I discuss the unfortunate way in which Perry Watkins, a Black gay man, was silenced and ignored when the debate over gays in the military reached its high point at the start of 1993. In Part IV, I describe my methodology and the environment at University of California at Berkeley School of Law (Boalt Hall) in which other gay men of color and I must operate. Finally, in Part V, I summarize interviews that I conducted with other gay men of color at Boalt Hall. In these interviews I asked them to speak about their identities and the motivations behind the legal choices they have made. My goal is to suggest the benefits and importance of hearing from this group for progressive thinkers of all racial, sexual, or gendered backgrounds.

It may seem odd that I make this argument at a time when discussions of intersectionality are so fashionable and acceptable. Legal thinkers have already explained why gay legal theorists must incorporate issues of race and class into their work.¹⁸ Straight critical race theorists are beginning to explain why everyone must stand against homophobia and hear from gay people.¹⁹ They are discussing how one can identify as heterosexual without being heterosexist.²⁰ Some straight legal theorists of color have opined that gay men and lesbians deserve to be beneficiaries of affirmative action²¹ even while some gay legal thinkers are assessing whether they agree.²² Gay legal scholars are explaining the commonalities between antihomophobic

18. See Darren Lenard Hutchinson, *Out Yet Unseen: A Racial Critique of Gay and Lesbian Legal Theory and Political Discourse*, 29 CONN. L. REV. 561 (1997); Darren Rosenblum, *Queer Intersectionality and the Failure of Recent Lesbian and Gay “Victories,”* 4 LAW & SEX. 83, 86 (1994).

19. See MARI MATSUDA, *Standing Beside My Sister, Facing the Enemy: Legal Theory out of Coalition*, in *WHERE IS YOUR BODY? AND OTHER ESSAYS ON RACE, GENDER, AND THE LAW* 61, 65 (1996) (explaining her “ask the other question” strategy toward coalition); Mari Matsuda, *Pragmatism Modified and the False Consciousness Problem*, 63 S. CAL. L. REV. 1763, 1765 (1990).

20. See, e.g., PATRICIA WILLIAMS, *Quayle Has a Cow*, in *THE ROOSTER’S EGG* 150, 164-65 (1995).

21. See CHARLES R. LAWRENCE III & MARI J. MATSUDA, *WE WON’T GO BACK: MAKING THE CASE FOR AFFIRMATIVE ACTION* 251 (1997).

22. See Jeffrey Byrne, *Affirmative Action for Lesbians and Gay Men: A Proposal for True Equality of Opportunity and Workforce Diversity*, 11 YALE L. & POL’Y REV. 47 (1993); Jeffrey Byrne & Bruce Deming, *On the Prudence of Discussing Affirmative Action for Lesbians and Gay Men: Community, Strategy, and Equality*, 5 STAN. L. & POL’Y REV. 177 (1993).

and antiracist struggles.²³ They are undermining myths that gay rights activists are poor imitations of their civil rights peers by suggesting how people of color can use recent gay and lesbian victories as a model.²⁴ Nevertheless, I argue that the aforementioned visionary thinking is not possible without hearing from gay voices of color. Through dialoguing across differences and listening to silenced voices, as gay men of color often are, we are able to strengthen coalitions and avoid recreating patterns of subordination.

II. GAY RIGHTS, SPECIAL RIGHTS

In 1993, Jeremiah Films, a right—wing video company that has produced several reactionary works,²⁵ produced and distributed a deceptive, yet clever, propaganda documentary titled *Gay Rights, Special Rights: Inside the Homosexual Agenda*.²⁶ The piece begins with a supposedly African-American male voice saying how the 1993 March on Washington for Lesbian, Gay, and Bisexual Equal Rights was a mockery of the 1963 Civil Rights March on Washington. The video consistently contrasts black-and-white images of dour-faced African-Americans from the 1960s with technicolor images of gays (mostly white and male) dancing, protesting, and camping it up at the 1993 March. It then divides the screen in half and compares the economic standing of African-Americans and “homosexuals” in an attempt to describe the latter as materially privileged and thus free from discrimination. Next, it presents people of color and white male politicians observing that gay rights will harm people of color and American society. It ends with a multiracial push to oppose gays and lesbians: “I have tremendous fears about the future of our society if Americans, black and white, don’t stand up to them [‘homosexuals’] today.”²⁷ “Our civilization and culture are being overhauled by homosexuals. You need to be the person saying ‘Enough is enough!’”²⁸

23. See Marc A. Fajer, *Authority, Credibility, and Pre-Understanding: A Defense of Outsider Narratives in Legal Scholarship*, 82 GEO. L.J. 1845 (1994) (defending *THE ALCHEMY OF RACE AND RIGHTS* by Patricia Williams); Lawrence Kent Mendenhall, *Misters Korematsu and Steffan: The Japanese Internment and the Military’s Ban on Gays in the Armed Forces*, 70 N.Y.U. L. REV. 196 (1995).

24. See Darren Rosenblum, *Overcoming “Stigmas”: Lesbian and Gay Districts and Black Electoral Empowerment*, 39 HOW. L.J. 149 (1995).

25. See, e.g., *THE GAY AGENDA* (Jeremiah Films 1991) <<http://www.jeremiahfilms.com>> (visited Mar. 23, 1999).

26. *GAY RIGHTS, SPECIAL RIGHTS: INSIDE THE HOMOSEXUAL AGENDA* (Jeremiah Films 1993) [hereinafter *SPECIAL RIGHTS*].

27. See *id.*

28. See *id.*

Unsurprisingly, but still unfortunately, this propaganda piece achieved its makers' goals. Elected officials and citizens of all races were persuaded to fight or overturn sexual orientation-based antidiscrimination laws in certain localities.²⁹ Writers have noted that this video featured many straight whites who never supported civil rights talking about wanting to "protect legitimate minorities."³⁰ Unfortunately, while people have described this documentary as an attempt to encourage homophobia among communities of color, *Gay Rights, Special Rights* should be seen more accurately as an attempt to encourage homophobia among straight whites by manipulating people of color. Such deception has a particular effect upon lesbians and gay men of color.

Though the video claims to be made by "citizens concerned for the protection of civil rights,"³¹ *Gay Rights, Special Rights* only scantily presents comparisons between the movements for racial and sexual equality. After the first third of the piece, the coverage quickly returns to the same white male images demonized in a previously released homophobic film, *The Gay Agenda*.³² The piece pushes people of color and whites to fight against gay rights, yet it in no way explains how or encourages viewers to do more to increase the economic and psychological power of communities of color as a means to do so. Thus, this video barely hides the fact that it is designed for an audience of straight whites who do not really want to see a change in the racial status quo, and who are willing to deal with the topic of race only in a superficial manner.

The film does present people of color expressing their opposition to gay rights, but again, this message is designed for a straight white audience. The people of color in the video are no-name individuals, not only in comparison to the white male politicians whose voices are the true center of the piece, but also in comparison to the well-known figures in the struggle for racial equality.³³ These tokenized

29. See URVASHI VAID, *VIRTUAL EQUALITY: THE MAINSTREAMING OF GAY & LESBIAN LIBERATION* 328 (1995); Liz Galst, *Voting with the Enemy: Why Some Blacks Oppose Gay Rights*, *VILLAGE VOICE*, Dec. 14, 1993, at 23.

30. See Mab Segrest, *Visibility and Backlash*, in *THE QUESTION OF EQUALITY: LESBIAN AND GAY POLITICS IN AMERICAN SINCE STONEWALL* 83, 117 (David Deitcher ed., 1995); VAID, *supra* note 29, at 328; Farai Chideya, *How the Right Stirs Black Homophobia*, *NEWSWEEK*, Oct. 18, 1993, at 41; Galst, *supra* note 29, at 23.

31. *SPECIAL RIGHTS*, *supra* note 26.

32. *THE GAY AGENDA* (Jeremiah Films, 1991).

33. In this section, I am purposely speaking of "people of color" and not just Blacks. In assessments of the video, writers have consistently suggested that this video pits "Blacks versus gays." On the contrary, the makers strategically show men and women of color, Blacks, Latinos, and Asians who oppose gay and lesbian rights. Equally cleverly, the video makers manipulate the

individuals state ideas that are clearly intended for the consumption of people outside their racial groups. For example, one homophobe, Lou Lopez, claims, "Homosexuality is a lifestyle and the Hispanic community is an ethnic group. The Hispanic community does not want to be compared to homosexuals."³⁴ It should be noted that the speaker never says "we Latinos" or "we people of color," nor does he say what "our community" should do. He never explains what proof he has that an entire racial group opposes gay rights. His message is tailored for people who assume that any individual of color must be the authentic spokesperson for all people of color. The speaker's trite and illogical message could only be received by an audience unwilling to be critical or visionary on either racial or sexual issues.

If this documentary were truly meant to target communities of color as an audience, it would not challenge many of the ideas supported by people of color. Other commentators have noted that the language used in the video for not granting "special rights for homosexuals" is the same rhetoric typically used by conservatives to oppose "quotas for minorities."³⁵ The supposedly black narrator states that "[u]nder the guise of 'multiculturalism' gay men and lesbians have sneaked [sic] their perversions into elementary school curricula."³⁶ This phrase is odd given that "under multiculturalism" parents of color across the nation have pushed for more non-white images and stories to be included in their children's educational materials. Throughout the piece, President Bill Clinton is presented as a dupe for the gay and lesbian community. However, given that most people of color vote Democrat,³⁷ it does not make sense that the party would be bashed the way it is if the true intent was to convert

coalitions being established among sexual minorities and turn them on their heads. For example, Edwin Meese states, "All those groups, the sadomasochists, the pedophiles, the transsexuals were all marching in the gay rights parade." SPECIAL RIGHTS, *supra* note 26. For each sexual minority group, the video's creators use outrageous footage to stereotype them. For instance, the piece shows an alternating line of topless men and women and labels them, monolithically and essentially, "bisexuals." In their interview, these March participants convey an important message, that sexuality is not necessarily a dichotomy and that we must push for tolerance. Nevertheless, the film uses these people to equate bisexuality with nudity (they are topless), group sex (they are in a row hugging), and bacchanalia (some of them are drinking alcohol). The film presents a very vivid example of the ability of far right propagandists to manipulate images of oppressed groups. They can appropriate our interest in diversity and turn it against us.

34. SPECIAL RIGHTS, *supra* note 26.

35. See Segrest, *supra* note 30, at 119; Suzanne B. Goldberg, *Facing the Challenge: A Lawyer's Response to Anti-Gay Initiatives*, 55 OHIO ST. L.J. 665, 670 (1994).

36. SPECIAL RIGHTS, *supra* note 26.

37. ANGELO N. ANCHETA, RACE, RIGHTS, AND THE ASIAN AMERICAN EXPERIENCE 143 (1998) (stating that while some Asian ethnic groups vote Republican, most register as Democrats and at lower rates than Blacks and Latinos).

the viewers on the gay rights issue alone. As Suzanne Goldberg succinctly observed “In this light, it is not difficult to imagine that the videotape to follow *Gay Rights, Special Rights* might be *Women’s Rights, Special Rights* or *Black Rights, Special Rights*.”³⁸

In addition, a goal and result of the piece is to portray people of color as essentially and uniformly homophobic. The documentary quotes Trent Lott, infamous for his opposition to civil rights, as stating that “minorities have come in [*to his office?!*] and said we resent this comparison.”³⁹ Thus, the homophobia of these supposed minorities, rather than Lott’s own homophobia, is presented as the reason to oppose gay rights. While the film notes that white allies to gay men and lesbians came to the 1993 March, it neither mentions nor shows allies of color such as Ben Chavis, Luis Gutierrez, or Eartha Kitt who were present. The film constantly presents images of white gay men and lesbians speaking at the March or protesting homophobia. It never shows the gay men, lesbians, and bisexuals of color such as RuPaul, Urvashi Vaid, or Lani Kaahumanu who gave speeches at the March. The film never mentions that communities of color are working on creating ways to be inclusive of their gay and lesbian members, because of both activism and artistic works from gay men and lesbians of color.⁴⁰ Instead, people of color, particularly Blacks, are presented as stingy misers hoarding “their” civil rights. In much the same way that people of color were used to deny civil rights to gays in the military, people of color are offered as the lame excuse to get straight whites to oppose gay rights.

Similar to media hype surrounding claims of “Blacks versus Jews” or “Blacks versus Koreans,” this film’s portrayal of “people of color versus gay men and lesbians” allows those in power, straight whites, to go uncriticized. In the video, Peter Marshall, a white man, claims that the founding fathers never intended gay men and lesbians to have “special rights.” He never mentions that many of the founding fathers opposed freeing slaves, owned slaves, and raped slave women. Furthermore, the piece never quotes the typical reasoning given by homophobes of color regarding homosexuality. For example, the narrator states that the idea that ten percent of the

38. Goldberg, *supra* note 35, at 671.

39. SPECIAL RIGHTS, *supra* note 26.

40. See J Craig Fong, *Building Alliances: The Case of the Japanese American Citizens League Endorsement of Same-Sex Marriage*, in OVERCOMING HETEROSEXISM AND HOMOPHOBIA: STRATEGIES THAT WORK 371, 378-79 (James T. Sears & Walter L. Williams eds., 1997); ALICE WALKER, THE SAME RIVER TWICE: HONORING THE DIFFICULT (1996) (discussing multiple reactions to the book and film THE COLOR PURPLE).

American population is gay is a fiction created by the Kinsey study which included prisoners and mental patients. He never reveals that Kinsey excluded people of color from his study, and that his conclusions refer to whites only.⁴¹ The film never features any person of color labeling homosexuality a “white thing” or “white man’s disease,” common fallacies which most openly gay or lesbian people of color have had to challenge.⁴² On a personal note, when I was marching around Washington with other gay and lesbian undergraduates, the individuals I observed holding signs protesting the march that contained the messages “Repent or Else!” and “Fags Have Two Rights: AIDS and Hell” were almost all white men.⁴³ Despite its subtlety, straight whites are let off scott-free in this documentary. They do not get blamed for homophobia or homosexuality here. This film is tailored to emphasize that people of color and gay men and lesbians can fight each other. Straight whites should save their strength and enjoy the show.

Above all, *Gay Rights, Special Rights* disempowers the gay man and lesbian of color, as it targets certain straight whites for its audience. To begin, gay and lesbian people of color are rarely shown and never interviewed in the piece. Our straight counterparts of color are portrayed as static and rigid bigots. Our gay and lesbian white counterparts are portrayed as frivolous and pathological pleasure-seekers. Thus, the film works to prevent us from forming the critical coalitions we need to establish for strength and sanity. The piece encourages all races to fight us and all white gay men and lesbians to be defensive around us. Most importantly, the video is an extreme example of the dangers of comparing race and sexual orientation. It never speaks of the damage done when we fail to think about the intersection and the knowledge lost when we fail to communicate with those of us who have important things to say on the matter, as gay men and lesbians of color often do.

41. See JANICE IRVINE, DISORDERS OF DESIRE: SEX AND GENDER IN MODERN AMERICAN SEXOLOGY 43 (1990), reprinted in Siobhan Somerville, *Scientific Racism and the Invention of the Homosexual Body*, in QUEER STUDIES: A LESBIAN, GAY, BISEXUAL, AND TRANSGENDER ANTHOLOGY 240, 256 n.4 (Brett Beemyn & Mickey Eliason eds., 1996) [hereinafter QUEER STUDIES].

42. Excellent documentaries have been made in which gay men and lesbians of color address these banal assumptions. See TONGUES UNTIED (Frameline Productions, 1989); KHUSH (BBC Channel Four, 1990); BLACK IS—BLACK AIN’T (California Newsreel, 1995).

43. For a further illustration, see CECE COX ET AL., ONE MILLION STRONG: THE 1993 MARCH ON WASHINGTON FOR LESBIAN, GAY, AND BI EQUAL RIGHTS 108-09 (1993).

III. ANDREW CUNANAN

In the summer of 1997, the nation had its eyes glued to the media coverage of the murder of openly gay fashion designer Gianni Versace and the pursuit and suicide of his killer, Andrew Cunanan. In a year filled with bizarre deaths involving men known to have attractions to other men,⁴⁴ Andrew Cunanan, a gay man of European and Asian descent, received special attention. The media bifurcated Cunanan's identity; it played up the sexual orientation of this "gay killer," while barely addressing any issues surrounding his racial identity. Nevertheless, the media's spotlight upon Andrew Cunanan displayed a range of racist and homophobic messages as it manipulated the tropes of the "tragic mulatto" and the "homosexual psychopath" via Cunanan.

In the FBI wanted ads placed around gay ghettos⁴⁵ and in public national magazines, a panel of pictures were chosen to present Cunanan, rather than the usual one snapshot. The photos showed Cunanan with varying hairlengths and weights, with or without his eyeglasses.⁴⁶ Underneath these shots, the text consistently described Cunanan as a "chameleon," a cunning master of disguise.⁴⁷ What the writings deem an atypical case of a man of many faces is a typical example of the public's inability to deal with a biracial male. As a person of two separate racial heritages, Cunanan both resembled and failed to resemble common notions of what a white man or an Asian man would "look like." Given the historic bar against Asian

44. In March 1997, 39 members of the Heaven's Gate cult were found dead in a mansion in Southern California. This event marked the largest mass suicide ever occurring in the United States. The group's leader, Herff Applewhite, also known as Do (as in the musical scale), had a history of struggling with his attractions to men. See Evan Thomas, et al., *The Next Level*, NEWSWEEK, Apr. 7, 1997, at 28. In late 1997, police arrested Orville Lynn Majors, an openly bisexual man who was suspected of killing over one hundred patients while serving as a nurse at Vermillion County Hospital. See Brad Stone, *A Deadly Kind of Care*, NEWSWEEK, Jan. 12, 1998, at 33.

45. A "gay ghetto" is the neighborhood in an urban area where there is a high concentration of gay clubs, cafes, bookstores, and men.

46. See Susan Headden & Linda Kulman, *A Search for Clues to a Killer's Spree*, U.S. NEWS & WORLD REPORT, Jul. 28, 1997, at 34; Richard Lacayo, *Tagged for Murder*, TIME, Jul. 28, 1997, at 28, 32; Pam Lambert et al., *Point Blank: A Ruthless Serial Killer is Accused of Gunning Down Designer Gianni Versace*, PEOPLE, Jul. 28, 1997, at 78, 86; Linda Robinson & Jason Vest, *The Missing Meaning of Andrew Cunanan*, U.S. NEWS & REPORT, Aug. 4, 1997, at 23; Evan Thomas et al., *Facing Death*, NEWSWEEK, Jul. 28, 1997, at 20, 23-24 [hereinafter Thomas, *Facing Death*].

47. The July 28, 1997 NEWSWEEK cover stated next to its photo of Cunanan, "Behind the Mask: The Dark World of Andrew Cunanan" (emphasis added). See Howard Chua-Eoan, *Dead Men Tell No Tales*, TIME, Aug. 4, 1997, at 30 ("his once infinitely varied faces"); Thomas, *Facing Death*, supra note 47, at 26 ("a phantom"); Evan Thomas, et al., *End of the Road*, NEWSWEEK, Aug. 4, 1997, at 22, 24 ("evil chameleon") [hereinafter, Thomas, *End of the Road*].

immigration to the United States,⁴⁸ and this country's stigmatization of interracial unions,⁴⁹ it is not surprising that most Americans did not know how to recognize this Eurasian man. Instead of pointing out our limitations as a society, the press would rather label Cunanan as some type of trickster.

The media, even while sidestepping the topic of race, used Cunanan to take images of the tragic mulatto to a new extreme. *Mulatto*, derived from the Spanish word for mule (the infertile offspring of a horse and a donkey), is usually a derogatory term used to marginalize biracial individuals.⁵⁰ The tragic mulatto is a myth, developed through literature and film to discourage miscegenation, in which biracial individuals are excluded from both white and non-white communities and eventually go insane, become addicts, or commit suicide.⁵¹ The press took this idea of confusion and societal collapse to other topics through Cunanan. For instance, though the press noted that Cunanan was out at an early age,⁵² there is no history of him cross-dressing. Despite this, the press reported and the FBI hypothesized that Cunanan escaped detection by impersonating a woman.⁵³ This was later confirmed as untrue.⁵⁴ These investigators and reporters made the false assumption that anyone who transgresses heterosexist norms must obviously transgress gender norms as well, especially if he is a "chameleon." Similarly, the media suggested that Cunanan's murder spree was a response to contracting AIDS.⁵⁵ This too was later proven untrue.⁵⁶ This speculation derives from and perpetuates the false assumption that male homosexuality and AIDS go hand in hand. This assumption has a particular implication for gay

48. In 1882, Congress passed the Chinese Exclusion Act which was not repealed until 1943. See ANCHETA, *supra* note 37, at 25-26. As of 1990, Asians and Pacific Islanders only made up a little over seven million of the two hundred fifty million plus people living in this country. See *id.* at 131.

49. It was only in the mid-1960s that the Supreme Court legalized interracial (heterosexual) marriages throughout the nation. See *Loving v. Virginia*, 388 U.S. 1 (1967) (striking down Virginia's anti-discrimination law).

50. See JUDY SCALES-TRENT, *On Being like a Mule*, in NOTES OF A WHITE BLACK WOMAN: RACE, COLOR, COMMUNITY 99 (1995).

51.

52. See Lacayo, *supra* note 47, at 33; Lambert, *supra* note 47, at 80-1; Thomas, *Facing Death* *supra* note 47, at 25.

53. See Thomas, *Facing Death*, *supra* note 47, at 30; Thomas, *End of the Road*, *supra* note 48, at 26.

54. This speculation was later critiqued in *The Advocate*. See Harry Crowley, "Homicidal Homosexual," THE ADVOCATE, Sep. 2, 1997, at 24, 32-33.

55. See Lacayo, *supra* note 47, at 32; Lambert, *supra* note 47, at 81; Thomas, *Facing Death*, *supra* note 47, at 25; Thomas, *End of the Road*, *supra* note 48, at 27.

56. See Crowley, *supra* note 55, at 32.

men of color since little attention was paid to this group until scientists began studying the spread of the disease in American communities of color.⁵⁷ Again, just as tragic mulattos were expected to bring death to themselves and society, AIDS was used as an excuse for homicide and suicide in the Cunanan coverage. In calling him a spree killer, “a cross between a mass murderer . . . and a serial killer,”⁵⁸ the media portrayed Cunanan as a man who defied categorization.

The media then used this trope against Cunanan’s family. Classic arguments against interracial unions maintained that the marriages would never survive and that the children would grow up not knowing what they are.⁵⁹ Perpetuating this misconception, several articles stressed that Cunanan’s parents divorced and that Cunanan grew up poor.⁶⁰ Cunanan’s father Modesto is not described as Filipino, but rather as “born in the Philippines” or “living in the Philippines.”⁶¹ This tactic avoided calling Cunanan’s father a man of color and denied that race was an issue, and yet it also highlighted both facts. As seen in the previously mentioned statement of Colin Powell,⁶² gay rights opponents distinguish race and sexual orientation by calling the former a legitimate *state of being* and the latter an immoral *act*. The description of Modesto Cunanan lowered his Filipino identity as a way of discrediting him. This language helped to portray him as the stereotypical man of color who cannot support his family and ends up leaving them. The press additionally described Cunanan’s father as “on the lam.”⁶³ Not only is this meant to lower his racial status, it is also meant to present him as the stereotypical criminal man of color. The press quoted Cunanan’s mother as characterizing her son as “a high-class male prostitute.”⁶⁴ Though subtle, the image evoked is that of a white woman not only thrown off

57. See VAID, *supra* note 29, at 290-91; Larry D. Icard et al., *An Applied Research Agenda for Homosexually Active Men of Color* in MEN OF COLOR: A CONTEXT FOR SERVICE TO HOMOSEXUALLY ACTIVE MEN, 139, 143 (John F. Longres ed., 1996) [hereinafter MEN OF COLOR].

58. See Headden & Kulman, *supra* note 47, at 34.

59. Cf. EARL OFARI HUTCHINSON, *Interracial Sex and Marriage: The Last Taboo*, in BEYOND O.J.: RACE, SEX, AND CLASS LESSONS FOR AMERICA 13 (1996) (refuting these assumptions).

60. See Lacayo, *supra* note 47, at 33; Thomas, *Facing Death*, *supra* note 47, at 25.

61. See Lacayo, *supra* note 47, at 33.

62. See *supra* text accompanying notes 9-10.

63. This phrase is then used to describe Andrew Cunanan as well. See Thomas, *Facing Death*, *supra* note 47, at 26; Thomas, *End of the Road*, *supra* note 48, at 24.

64. See Lacayo, *supra* note 47, at 34; Thomas, *Facing Death*, *supra* note 47, at 25.

her pedestal⁶⁵ and abandoned by a man of color, but now having to admit that she spread her “gay genes” to her biracial son.⁶⁶ The press utterly failed to use the Cunanan controversy as a catalyst to discuss the problems facing, and the survival tactics utilized by multiracial families.

Beyond portraying Cunanan’s family as the stereotypically doomed multiracial unit, the media did little to examine how race or racism may have affected Cunanan. This is best exemplified by the fact that not a single person of the many Cunanan acquaintances that the press interviewed was a gay man of color. All the cities that Cunanan was known to have frequented not only have sizable gay ghettos but also have large communities of color. It is incredibly odd that with all the gay Chicanos in San Diego, all the gay Asian Americans in San Francisco, and all the gay Cuban Americans in Miami, not a single man of color was spotlighted as a friend of Cunanan’s. In examining Cunanan’s “dark side,” the press noted such phenomena as Cunanan’s interest in kinkier forms of sex,⁶⁷ and the possibility that he may have been raped as a youth;⁶⁸ they never considered whether Cunanan hated being a person of color or hated other people of color. In interviews, Cunanan’s gay white acquaintances recalled that Cunanan posed under different last names and presented himself as an heir to foreign wealth.⁶⁹ Whether it was Filipino, Jewish, or Italian/Mexican, Cunanan always posed as an ethnic individual. The press never commented on the fact that Cunanan could never truly hide his non-white features from gay white

65. It must be remembered that in the past if a white American woman married a non-citizen of color, she could lose her American citizenship because only white immigrants could naturalize. IAN F. HANEY LÓPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* 47 (1996).

66. During the early 1990s, certain scientists began publishing studies suggesting that male homosexuality may be genetically inherited, particularly from the mother’s side of the family. These studies have been criticized as essentialist and sexist. See DEAN HAMER & PETER COPELAND, *THE SCIENCE OF DESIRE: THE SEARCH FOR THE GAY GENE AND THE BIOLOGY OF BEHAVIOR* (1994); SIMON LEVAY, *QUEER SCIENCE: THE USE AND ABUSE OF RESEARCH INTO HOMOSEXUALITY* (1996); VERNON A. ROSARIO ED., *SCIENCE AND HOMOSEXUALITIES* (1997); Gilbert Zicklin, *Media, Science, and Sexual Ideology: The Promotion of Sexual Stability, in A QUEER WORLD: THE CENTER FOR LESBIAN AND GAY STUDIES READER* 381 (Martin Duberman ed., 1997).

67. See Chua-Eoan, *supra* note 48, at 31; Lacayo, *supra* note 47, at 35; Robinson, *supra* note 47, at 23; Thomas, *Facing Death*, *supra* note 47, at 25.

68. See Thomas, *End of the Road*, *supra* note 48, at 24.

69. See Kurt DeMars, *The Andrew I Knew*, *OUT*, Sep. 1997, at 119 (“Andrew had been using my name as an alias”); Lacayo, *supra* note 47, at 29-30 (“Andrew DeSilva, a man with a factory in Mexico, or wealthy parents in the Philippines”); Thomas, *Facing Death*, *supra* note 47, at 20 (“He bragged he was the scion of a Filipino plantation owner”); Thomas, *End of the Road*, *supra* note 48, at 23 (“bragged that his bloodlines ran back to the high command of the late dictator Ferdinand Marcos of the Philippines”).

men. The media never attempted to understand why a gay man of color might misrepresent himself in order to feel equal to or special among gay white men. It never considered why Cunanan may have used a false class standing to mitigate his racial minority status or that he may have been using his exotic appearance to his advantage.⁷⁰

The media exploited the Versace murder and the Cunanan pursuit to introduce middle Americans to the racier sides of gay male culture. Various articles featured the aforementioned gay white acquaintances, family members of Cunanan's victims, or just white gay men in general on the topic.⁷¹ Still, they never discuss race. In interviews, these men would mention how Cunanan "wasn't their type" or "wanted to be like them."⁷² The press only viewed these comments as class-based. They never questioned whether these gay white men include only other white men as "their types," or could see gay men of color only as imitations of themselves, the real thing. Throughout the controversy, the press continued to present gay men as unmodified and essentialist. No mainstream press used this series of events to talk about the pressures faced by gay men of color or mentioned racism in gay male communities.

In almost every article, the writers used the controversy to reveal tensions between the FBI and gay communities. They noted that some groups felt that this government agency did not aggressively pursue Cunanan because he was a gay man who killed, for the most part, other gay men.⁷³ This occurred in a context in which race could have been mentioned, but was not. The FBI's wanted posters, which featured multiple photos of Cunanan in order to illustrate his "chameleon"-ness, listed his race as white.⁷⁴ Perhaps the FBI had so much difficulty finding Cunanan because it was looking for a white man—not a biracial one. Maybe the FBI had so little success because

70. See Alice Y. Hom & Ming-Yuen Ma, *Premature Gestures: A Speculative Dialogue on Asian Pacific Islander Lesbian and Gay Writing*, in *CRITICAL ESSAYS: GAY AND LESBIAN WRITERS OF COLOR* 21, 38 (Emmanuel S. Nelson ed., 1993) (recognizing and criticizing the phenomenon of an Asian man enjoying being the only member of his race in certain gay male settings).

71. See Richard Alleman, *Glamour After Dark: From 'A-gays' to Young Hustlers, a Look at the Homosexual Scene*, *NEWSWEEK*, Jul. 28, 1997, at 28-29; DeMars, *supra* note 70, at 119; Tim Schwager, *A Night with Andrew*, *NEWSWEEK*, Aug. 4, 1997, at 26; Joanne Fowler & Candace Parrott, *One Good Man*, *PEOPLE*, Aug. 11, 1997, at 55.

72. See Schwager, *supra* note 72, at 26 ("I wasn't sexually attracted to him."); Fowler & Parrott, *supra* note 72, at 56 ("Andrew tried to pattern his life after Jeff's.")

73. See David France, *The Unusual Suspect*, *OUT*, Sep. 1997, at 116, 119; Lacayo, *supra* note 47, at 35; Thomas, *Facing Death*, *supra* note 47, at 27; Thomas, *End of the Road*, *supra* note 48, at 25.

74. See Peter Castro, *Most Wanted: Andrew Cunanan brings renewed attention to the FBI's Ten Most Wanted Fugitives list*, *PEOPLE*, Aug. 4, 1997, at 46.

it failed to view Cunanan in his wholeness as a gay man of color. Instead, it chose to bisect his identity, using his sexual orientation as a force which somehow erased his other characteristics. In addition, at the time that Cunanan was placed on the FBI's Top Ten Most Wanted List, only one man on the list was a monoracial white person.⁷⁵ This could have been a time to discuss the FBI's lack of connections in both sexual and racial communities. This could have been a time to ask why the FBI rated men of color and gay men as the nation's most wanted public enemies. Nevertheless, the media failed to pursue these avenues.

Though the articles made vague comparisons between Cunanan and "gay serial killer" Jeffrey Dahmer,⁷⁶ none explored how race and class distinguished the treatment of the two murderers. Cunanan killed his first victim and was found dead by FBI agents within a span of three months.⁷⁷ Dahmer killed his first victim when he was in his late teens and was not arrested until he was in his thirties.⁷⁸ The FBI never put Dahmer on its Ten Most Wanted List as it did with Cunanan, despite the fact that Dahmer murdered three times as many men as Cunanan.⁷⁹ The significant difference between the two murderers is that the vast majority of Dahmer's victims were poor gay men of color,⁸⁰ while Cunanan's victims were usually rich and white.⁸¹ The moral: it takes forever to arrest a middle-class, white murderer of poor men of color, but society will use all efforts to capture a working-class, non-white murderer of rich, white men.

Despite the spotlight placed upon this particular gay Asian man, the press failed to use this incident as an avenue to begin speaking to and hearing from gay Asian men in general. No reporters quoted leaders in organizations such as Gay Asian Pacific Alliance, Gay Asian Pacific Islander Men of New York, or Barangay (The Gay Filipino Association of Los Angeles).⁸² No reporter in the mainstream

75. See *id.* at 46-47.

76. See Chua-Eoan, *supra* note 48, at 32; Headden, *supra* note 47, at 34.

77. Cunanan killed Jeffrey Trail on April 29, 1997. See Thomas, *Facing Death*, *supra* note 47, at 25. He was found dead on July 23, 1997. See Thomas, *End of the Road*, *supra* note 48, at 30.

78. See Tom Mathews et al., *Secrets of a Serial Killer*, NEWSWEEK, Feb. 3, 1992, at 44, 45; Tom Mathews, *'He Wanted to Listen to My Heart'*, NEWSWEEK, Feb. 10, 1992, at 31.

79. See Mathews, *supra* note 79, at 45; Thomas, *Facing Death*, *supra* note 47, at 25.

80. See Mathews, *supra* note 79, at 46.

81. See Thomas, *Facing Death*, *supra* note 47, at 25.

82. To contact Barangay, visit the following website, <<http://welcome.to/barangay>> (visited Mar. 23, 1999). See also Eric C. Wat & Steven Shum, *Queer API Men in Los Angeles: A Roundtable on History and Political Organizing*, in Q&A: QUEER IN ASIAN AMERICA 166 (David L. Eng & Alice Y. Hom eds., 1998).

press ever interviewed gay Asian-American activists, or cultural critics such as Myron Dean Quon⁸³ or Lawrence Chua.⁸⁴ Writers in the gay press rarely mentioned race in discussing Cunanan.⁸⁵ Only *A Magazine*, a monthly Asian-American publication devoted space to speaking to a gay Asian-American man on the matter. In his article, Tobias Sanchez, a gay Filipino-American man living in Miami, discussed why he did not end up like Andrew Cunanan:

I never believed the Versace message, and [Cunanan] did. I knew that the “jet set” of rich white men who travel around the world never saw much value in me, and I never paid much attention to what they valued. . . . Most importantly, I surrounded myself with gay people of color: real-life black, Latino, and Asian men who feel good about themselves and see me without thinking, “He’s nice but he’s not as good-looking as that model in the Versace suit.” We never cared about Gianni Versace and his overpriced clothes because we, unlike Andrew Cunanan, didn’t need to seek approval from people who would never accept us.⁸⁶

The erasures and exaggerations of the Cunanan coverage placed gay men of color in a compromised position. It demonstrated that our gay identity erases other aspects of our lives. Somehow, white gay men are more entitled to speak for us than any person of color, especially a gay man of color. Our voices are ignored. Our families are maligned. All the while, our existence is used to reinforce racist and homophobic myths.

IV. PERRY WATKINS

In 1967, Perry Watkins, a nineteen year-old African-American male, was drafted into the military.⁸⁷ During his entry medical

83. See *Generation Q: The Best and Brightest Under 30*, Myron Dean Quon, THE ADVOCATE, Aug. 19, 1997, at 69; Myron Dean Quon, *The Freedom to Marry: What Asian Americans Have in Common with Same-Sex Marriages*, ASIANWEEK, Nov. 20-26, 1997, (visited February 22, 1999) <<http://www.asianweek.com>>.

84. See Lawrence Chua, *Speaking Parts: Silence, Masculinity, and the Postcolonial Faggot*, in TAKING LIBERTIES: GAY MEN’S ESSAYS ON POLITICS, CULTURE, & SEX 85 (Michael Bronski ed., 1996).

85. In discussing Cunanan coverage in the mainstream press, Harry Crowley of *The Advocate* observed that “[w]hile letter writers [to the editors] and a few pundits have said, ‘You’d never call him a Filipino serial killer,’ no one ever gets to the point: Linking Cunanan’s sexual identity to his violent actions is a specious act.” Crowley, *supra* note 55, at 34. Crowley noted the ridiculous assumptions newspapers and civilians made during the FBI’s pursuit of Cunanan. “According to the story [in one publication], a man with ‘Oriental’ eyes asked if he could get paid for sex. Must have been Cunanan!” *Id.* at 35-36. In its articles on Versace and Cunanan, OUT magazine never addressed the topic of race. See Frank DeCaro, *Gianni Remembered*, OUT, Sept. 1997, at 131; France, *supra* note 74, at 116.

86. Tobias Sanchez, *Cunanan Dreaming*, A MAGAZINE, Dec. 97/Jan. 98, at 30, 32.

87. See *Watkins v. United States Army*, 875 F.2d 699, 701 (9th Cir. 1989).

examination, Watkins checked the box on his examination forms indicating that he had “homosexual tendencies.”⁸⁸ The Army labeled him fit for military service despite this admission.⁸⁹ Watkins went on to complete fourteen years with the Army, serving as an openly gay man and receiving high praise from his superiors.⁹⁰ During a portion of his career, he even performed as a female impersonator under the drag name Simone for military audiences.⁹¹ On multiple occasions throughout his service, Army officials would prevent him from being promoted or reenlisting due to his “confession.”⁹² Each time, however, Watkins was able to convince military decision makers that his sexual orientation should not negatively affect his standing in the institution.⁹³ In the early 1980s, military officials were instructed to enforce the regulation banning homosexuals without exception.⁹⁴ Consequently, Watkins was dismissed from the Army.⁹⁵

In 1981, Watkins filed suit in federal court in order to have his discharge revoked.⁹⁶ Over the course of seven years, five different courts made decisions on the Watkins case.⁹⁷ These courts’ holdings ran the gamut of possibilities, ranging from allowing the military to enforce its rules as it sees fit⁹⁸ to concluding that sexual orientation should not be a qualifier for military service.⁹⁹ The final court to hear this case allowed Watkins to continue his service, and vacated all holdings from previous courts.¹⁰⁰ Watkins’ case made history as both the first time that a federal court dubbed gay men and lesbians a suspect class,¹⁰¹ and the only case in which the Supreme Court implicitly permitted an openly gay man to continue his military service.¹⁰²

88. *See id.*

89. *See id.*

90. *See id.* at 701-03.

91. RANDY SHILTS, CONDUCT UNBECOMING: GAYS & LESBIANS IN THE U.S. MILITARY.

92. *See Watkins*, 875 F.2d at 701-03.

93. *See id.*

94. *See id.* at 702.

95. *See id.* at 703.

96. *See id.* at 703 n.3.

97. *See Watkins*, 875 F.2d at 699; *Watkins v. U.S. Army*, 837 F.2d 1428 (9th Cir. 1988); *Watkins v. U.S. Army*, 721 F.2d 687 (9th Cir. 1983); *Watkins v. U.S. Army*, 551 F. Supp. 212 (W.D. Wash. 1982); *Watkins v. U.S. Army*, 541 F. Supp. 249 (W. D. Wash. 1982).

98. *See Watkins*, 721 F.2d at 691.

99. *See Watkins*, 837 F.2d at 1451.

100. *See Watkins*, 875 F.2d at 711.

101. *See WILLIAM B. RUBENSTEIN, LESBIANS, GAY MEN, AND THE LAW* 342 (1993).

102. *See KEITH BOYKIN, ONE MORE RIVER TO CROSS: BLACK & GAY IN AMERICA* 218 (1996). The Supreme Court denied certiorari in *Watkins*, 498 U.S. 957 (1990). *See, thus*, Watkins was legally entitled to continue his service as a result of the Ninth Circuit’s ruling.

Despite his accomplishments, Perry Watkins was rarely given the attention and credit he deserved. A partial reason for this lies in the fact that we still do not know how to deal with the experiences of and political realities facing a person who is both gay and of color. Although many legal thinkers have analyzed Watkins' story, they have not thoroughly demonstrated the ways in which both homophobia and racism were constant presences in Watkins' life. In one article, writers complained that Watkins, an African American, was unjustly ignored in contrast to white gay men who challenged the military ban, yet they failed to examine the significance of his omission.¹⁰³ In other articles, Watkins' racial identity was treated as incidental or secondary to his sexual orientation.¹⁰⁴ William Eskridge and Ruth Colker have written excellent articles in which they explained that Watkins was both a victim of homophobia and racism.¹⁰⁵ Unfortunately, they explained this as if the two oppressions were separate.¹⁰⁶ In Perry Watkins' life, as in that of many gay men of color, homophobia and racism are not just coexistent, but inform and sustain each other.

The fact that Watkins came out to officials immediately as he was inducted into the Army played a dispositive role in the reasoning of several courts.¹⁰⁷ While others argued that the examining doctor assumed Watkins was a draft-dodger and that this may have been an instance of racism,¹⁰⁸ the instance may have been an example of both racism and homophobia. On several occasions, Watkins stated that

103. The Editors of the *Harvard Civil Liberties-Civil Rights Review* noted that “[s]ince Joe Steffan, a gay white man straight out of *Top Gun*, can pack a benefit cocktail party and Perry Watkins, a gay Black man with a nose ring, apparently can’t, there just may be a fiduciary duty to relegate those drag queens of color to an amusing historical anecdote.” See Editors, *Introduction: Stonewall at 25*, 29 Harv. C.R.-C.L. L. Rev. 277, 279 (1994).

104. Sharon Elizabeth Rush commented that “[t]he Watkins case illustrates how important it is to examine the intersectionalities of subordinating forces.” Sharon Elizabeth Rush, *Equal Protection Analogies—Identity and “Passing”: Race and Sexual Orientation*, HARV. BLACKLETTER L.J. 65, 84 n.101 (1997). Unfortunately, in the primary text Rush never mentions that Watkins was Black and the statement is relegated to a footnote. See *id.* See also Francisco Valdes, *Sexual Minorities in the Military: Charting the Constitutional Frontiers of Status and Conduct*, 27 CREIGHTON L. REV. 381 (1994).

105. See William N. Eskridge, Jr., *Gaylegal Narratives*, 46 Stan. L. Rev. 607 (1994); Ruth Colker, *Sexual Orientation: Militarism, Moralism, and Capitalism*, 48 Hastings L.J. 1201 (1997).

106. “Watkins’ story suggests that anti-homosexual attitudes *might* relate to racist attitudes.” Eskridge, *supra* note 106, at 619. Professor Colker argued that at times race affected Watkins and at other times sexual orientation did. “At first, Watkins’ race seems to have caused the Army to overlook his sexual orientation. . . . His sexual orientation became a more dominant concern of the Army as its need for military personnel declined. An openly gay African American soldier was no longer acceptable irrespective of his service record.” Colker, *supra* note 106, at 1201-02.

107. See, e.g., *Watkins*, 541 F. Supp. at 252.

108. See Eskridge, *supra* note 106, at 618; Rush, *supra* note 105, at 84 & n.101.

every white gay man he knew was discharged from the military yet he and another gay Black man were retained.¹⁰⁹ First, for the medical examiner to presume Watkins was attempting to dodge the draft buys into false ideas that Blacks are less patriotic and more inclined to lying and breaking the law. Second, the examiner's skepticism may have been motivated by homophobia. He probably assumed that all gay men are white and that no Black man could be gay. Thus, he may have considered Watkins a liar for both racist and homophobic reasons.

In considering why Watkins failed to receive more attention during the height of the 1993 gays-in-the-military debates, some writers have reduced the reasons to a single factor. Boykin quoted Campaign for Military Services leaders as saying it was due to Watkins' nose ring.¹¹⁰ Shilts wrote that Watkins' erasure was due to his femininity.¹¹¹ However, these single factor theories overlook the fact that Watkins was a complex individual and was open and outspoken on multiple topics. He was not only queeny and wore a nose ring, he did drag, and admitted to enjoying S/M.¹¹² Unlike the soldiers who came out in the 1990s and remained silent on their experience with gay sex,¹¹³ Watkins continually admitted that he had sex with men,¹¹⁴ including soldiers.¹¹⁵ Watkins once proclaimed:

I'm not ashamed of the fact that I'm gay. You know, what the hell. If I were a personnel officer hiring someone for a company, I would be leery of a person who refused to answer that kind of question. . . . People have asked me, "How have you managed to tolerate all that discrimination you had to deal with in the military?" My immediate answer to them was "Hell, I grew up black. Give me a break. I mean to be discriminated against because I was gay was a joke." I mean, "Oh, you don't like me because I'm gay? Excuse me. I'm sorry, but *you've* got the problem."¹¹⁶

109. See MARY ANN HUMPHREY, *Perry Watkins, in MY COUNTRY, MY RIGHT TO SERVE: EXPERIENCES OF GAY MEN AND WOMEN IN THE MILITARY, WORLD WAR II TO THE PRESENT* 248, 252 (1988); SHILTS, *supra* note 92, at 64.

110. See BOYKIN, *supra* note 103, at 219.

111. See SHILTS, *supra* note 92, at 644.

112. See HUMPHREY, *supra* note 110, at 252.

113. See JOSEPH STEFFAN, *HONOR BOUND: A GAY AMERICAN FIGHTS FOR THE RIGHT TO SERVE HIS COUNTRY* (1992); John Gallagher, *Dream On*, *THE ADVOCATE*, Jul. 27, 1993, at 32, 33 (interviewing soldier José Zuniga who originally denied ever having sex with a man). See generally JOSÉ ZUNIGA, *SOLDIER OF THE YEAR* (1994).

114. See HUMPHREY, *supra* note 110, at 250.

115. See *Watkins*, 541 F. Supp. at 252, *Watkins*, 551 F. Supp. at 215.

116. See HUMPHREY, *supra* note 110, at 255.

As a racial and sexual minority, Watkins had less prestige to lose in being honest. Speaking truths against racism and homophobia led him to speaking his truths on all matters.

The courts discussed “double jeopardy,” concluding that the military could not discharge Watkins after retaining him several times despite its knowledge of his sexual orientation.¹¹⁷ However, they hardly addressed the double jeopardy Watkins faced as a victim of both homophobia and racism. These courts noted that the Army presented two dubious witnesses in its hearing on Watkins’ discharge.¹¹⁸ One witness said a Black officer grabbed his knee, yet he could not identify Watkins in a lineup.¹¹⁹ Another witness testified that Watkins made a sexual advance at him, but later stated that he disliked homosexuals and resented Watkins, who served on a panel that once disciplined him.¹²⁰ Though the courts concluded only that this evidence was poor, these examples show how racism and homophobia were intertwined in the military’s treatment of Watkins. The first witness assumed that if a Black officer made a pass, it must have been Watkins. After all, there can only be one Black gay man in the military. The second witness stated directly that he was a homophobe. It is probable that he did not appreciate the fact that a Black man was in a position to discipline him. Thus, Watkins was doubly targeted.

Three of the courts mentioned that Watkins performed as a female impersonator while in the service.¹²¹ Though the courts do not discuss it further, evidence of crossdressing could have led to separation for homosexuality.¹²² Watkins’ performances disprove much of the reasoning for barring gays from the military. Historical accounts of gay men and lesbians in the military have indicated that it was not unusual for gay soldiers to compensate for their lack of physical skills by serving as troop mascots or entertaining the troops in drag acts.¹²³ They shatter the argument that gay male soldiers destroy unit morale. They prove that soldiers can handle diversity and

117. See, e.g., *Watkins*, 541 F. Supp. at 254.

118. See *Watkins*, 541 F. Supp. at 257; *Watkins*, 837 F.2d at 1431 & n.2.

119. See *Watkins*, 541 F. Supp. at 252; *Watkins*, 551 F. Supp. at 215; *Watkins*, 721 F.2d at 689.

120. See *Watkins*, 541 F. Supp. at 257; *Watkins*, 837 F. Supp. at 1431 & n.2.

121. See *Watkins*, 541 F. Supp. at 252; *Watkins*, 551 F. Supp. at 215; *Watkins* 721 F.2d at 689.

122. See SHILTS, *supra* note 92, at 161.

123. See ALLAN BÉRUBÉ, *COMING OUT UNDER FIRE: THE HISTORY OF GAY MEN AND WOMEN IN WORLD WAR TWO 68-69* (1990); *BEFORE STONEWALL: THE MAKING OF THE GAY AND LESBIAN COMMUNITY* (Before Stonewall Inc., 1984).

difference. However, these military drag performers had to take care not to appear overtly homosexual or they risked punishment.¹²⁴ In a military newspaper article on Watkins' drag act, the journalist wrote, "Geraldine, meet Simone" suggesting that Perry Watkins was the Army's version of the straight Black comic Flip Wilson.¹²⁵ Perhaps audiences accepted Watkins' act because a straight Black performer was already doing something similar on TV. Perhaps the homosexual undercurrents of Watkins' show were erased because the audience only read it as a Black man being funny.¹²⁶

Perry Watkins' story disproves many of the racially tinged arguments offered for maintaining the gay military ban during the early 1990s. In his testimony before Congress, Colin Powell made race and sexual orientation look like apples and oranges.¹²⁷ In addition, Charles Moskos, a white scholar observed that "[a]t the very least, the lifting of the ban will create a controversy over the issue of privacy, which in turn could make recruitment (*particularly among minorities*) even more difficult than it is today."¹²⁸ Even gay activists of color argued that lifting the anti-gay ban would be counterproductive as it would encourage imperialism.¹²⁹ Watkins illustrated that gays and people of color are not mutually exclusive groups. His story suggests why antisubordination activists should be involved in lifting the ban, especially because it disproportionately harms people from oppressed groups.¹³⁰

In the end, racism and homophobia took its toll on Watkins. Despite making history, he was virtually ignored during the height of a controversy which he helped to pioneer. While he was taking the military to court, few employers were willing to hire him.¹³¹ Near the end of his life, Watkins claimed that both the white gay community and the Black gay community abandoned him, making him feel

124. See BÉRUBÉ, *supra* note 124, at 72.

125. See SHILTS, *supra* note 92, at 162.

126. For a modern example, consider Martin Lawrence's character "Sha-nay-nay" on the television series *Martin*.

127. See *supra* text accompanying notes 9-10.

128. Charles Moskos, *From Citizens' Army to Social Laboratory*, THE WILSON QUARTERLY, Winter 1993, at 83, 94 (emphasis added).

129. Robert Vázquez-Pacheco, a gay Latino organizer, opined, "I'm Puerto Rican and consequently Latin American. The U.S. military has been riding rampant through Latin America for centuries. Why would I want part of my community to be in the military?" David Deitcher, *Law and Desire*, in THE QUESTION OF EQUALITY 135, 176 (1995).

130. Women of color have been targeted by the ban at incredibly disproportionate levels. See BOYKIN, *supra* note 103, at 220; Deitcher, *supra* note 130, at 184.

131. See SHILTS, *supra* note 92, at 457.

“angry, pissed, [and] hurt.”¹³² Perry Watkins died of complications from AIDS in 1996, his death covered only in passing by the media.¹³³

The propaganda film *Gay Rights, Special Rights*, the media coverage of Andrew Cunanan and the courts’ treatment of Perry Watkins all serve to illustrate the devastating effects of simplistic comparisons of “race versus sexual orientation.” Whether practiced by manipulative, far right extremists or well-intentioned progressives, this categorical separation powerfully invalidates the lives of gay men of color. When others fail to acknowledge that race and sexual orientation intersect, they force gay men of color to choose only one battle against oppression and pretend that we are not catching hell on several grounds. Furthermore, this separation does not acknowledge that racism and homophobia inform and sustain each other. The division ensures that we will never get to the point where we are seen as complex individuals because of and despite our racial identities.

Many Americans refuse to challenge racism or homophobia alone. They are even further committed to ignoring how the oppressions work together in harming gay men of color. Thus, gay men of color remain *unfamous* like Perry Watkins or *infamous* like Andrew Cunanan. These two individuals are dead; racism and homophobia have taken their tolls. Gay men of color and progressive allies must work together to examine this intersection and ensure that more tragedies do not occur. Dialogue and hearing from often silenced voices is an important first step in that process.

V. GAY MEN OF COLOR AT BOALT

So why gay men of color at law school? I have two reasons. First, I want to contribute to the scarce but growing supply of writings on gay men of color. My model is *Men of Color: A Context for Service to Homosexually Active Men*.¹³⁴ This incredible anthology serves as a resource guide for public health officials and social workers when they encounter gay men of color as clients. As a law student and an aspiring public interest lawyer, I want to create a reference on this group in the area of critical race and gay legal theory.

132. See BOYKIN, *supra* note 103, at 219.

133. See *Transitions*, THE ADVOCATE, Apr. 30, 1996, at 18.

134. *Supra* note 26. In terms of format, I owe a debt of gratitude to another Berkeley graduate student, JeeYeun Lee. See JeeYeun Lee, *Why Suzie Wong Is Not a Lesbian: Asian and Asian American Lesbian and Bisexual Women and Femme/Butch/Gender Identities*, in QUEER STUDIES, *supra* note 42, at 115.

Second, while the number of works on gay male, lesbian, and bisexual students and on gay male, lesbian, and bisexual workers in various occupations continues to increase,¹³⁵ little has been written on gay law students. This is odd, given our importance to the future of the gay and lesbian rights movement. Gay male and lesbian law students spearheaded several of the first gay rights cases.¹³⁶ Gay male and lesbian law students challenged their law school when the institution refused to recognize them.¹³⁷ Gay male and lesbian law students will work at gay and lesbian legal organizations. The skills they gain in law school will enable these gay men and lesbians to run and be invited to run non-legal gay organizations.

The existing works on gay (and usually male) law students present interesting glimpses of race. In Scott Ihrig's study of gay male, lesbian, and bisexual law students, he made a point to highlight the opinions of gay men and lesbians of color,¹³⁸ as well as to acknowledge that his status as a white gay man affected how he experienced his sexual orientation in law school.¹³⁹ In Kevin Reuther's autobiographical piece, he recalled that hearing the heart-wrenching stories of a gay Chinese man at a gay and lesbian human rights conference inspired him to continue law school.¹⁴⁰ In *Queer L*, Brad Sears recalled how a law professor gave no consideration to homophobia when he compared a Mexican-American thief to Jeffrey Dahmer, in order to argue that the robber was a victim of racist and classist oppression, while Dahmer was merely sick.¹⁴¹ When he recounted working in a predominantly African-American coalition to support HIV+ Haitian refugees, he failed to mention whether Black gay men or lesbians were participants.¹⁴² In its minority guide, Law

135. See BOB POWERS & ALAN ELLIS, *A MANAGER'S GUIDE TO SEXUAL ORIENTATION IN THE WORKPLACE* (1995); RICHARD A. RASI & LOURDES RODRÍGUEZ-NOGUÉS, *OUT IN THE WORKPLACE: THE PLEASURES AND PERILS OF COMING OUT ON THE JOB* (1995).

136. See *DeSantis v. Pacific Tel. & Tel. Co.*, 608 F.2d 327 (1979); *Gay Law Students Ass'n v. Pacific Tel. & Tel. Co.*, 24 Cal. 3d 458 (1979).

137. See *Gay Rights Coalition v. Georgetown Univ.*, 536 A.2d 1 (D.C. 1987); Fernand N. Dutilleul, *God and Gays at Georgetown: Observations on Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 15 J.C. & U.L. 1 (1988).

138. Ihrig stated that 13% of his respondents were "ethnic minorities." See Scott N. Ihrig, *Sexual Orientation in Law School: Experiences of Gay, Lesbian, and Bisexual Law Students*, 14 LAW & INEQ. 555, 567 (1996). About half of these ethnic minorities were non-European. See *id.* at n.55. When quoting other students, Ihrig included the race and sex of every commentator.

139. See *id.* at 559 & n.24. In addition, he acknowledged that white, middle-class, male students like himself have the easiest time in coming out. See *id.* at 583 & n.140.

140. See Kevin S. Reuther, *Dorothy's Friend Goes to Law School*, 1 NAT'L J. SEX. ORIENT. L. 254, 259 (1995).

141. See Brad Sears, *Queer L*, 1 NAT'L J. SEX. ORIENT. L. 235, 241 (1995).

142. See *id.* at 248.

Services valiantly included a profile of a gay man of color among its many examples of successful black, Latino, Native American, and Asian men and women who attended law school. The profile recalled that Keith C. St. John came out in law school and went on to become the first Black gay elected official in the nation.¹⁴³ In a few books, gay men and lesbian activists of color have described their time in law school with brief references to how their race or sexual orientation affected that experience.¹⁴⁴

The University of California at Berkeley, a campus historically known for its progressivism, is in a state of tragic flux. Its law school, Boalt Hall, has had a policy banning sexual orientation discrimination and a gay and lesbian student organization since at least the mid-1980s.¹⁴⁵ It is typical of the law schools known for supporting lesbian and gay law students: it is a prestigious school located in a metropolitan area along one of the coasts.¹⁴⁶ Its dean, Herma Hill Kay, has consistently been an ally of gay men and lesbians.¹⁴⁷ Nevertheless, this institutional support does not always trickle down to the daily lives of students in marginalized groups on campus. This is especially so as Proposition 209 continues to ravage the number of underrepresented minorities and women at the University.¹⁴⁸

My first weekend of law school, the Law Students of African Descent (LSAD) hosted a retreat at Lake Tahoe. I was excited to have

143. LAW SCHOOL ADMISSION COUNCIL, THINKING ABOUT LAW SCHOOL: A MINORITY GUIDE 64 (1995).

144. See BOYKIN, *supra* note 103, at 13-17 (describing the first men with whom he fell in love, and coming out at a forum on gay men and lesbians of color); JAMES E. KENNEDY, ABOUT-FACE: A GAY OFFICER'S ACCOUNT OF HOW HE STOPPED PROSECUTING GAYS IN THE ARMY AND STARTED FIGHTING FOR THEIR RIGHTS 28-33 (1995) (stating that while his grandfathers' civil rights work influenced him to go to law school, he hated the entire experience); VAID, *supra* note 29, at 129-31 (recounting the study group on gay and lesbian issues which she and a few out students formed).

145. See Gene P. Schultz, *The Inclusion of Sexual Orientation in Nondiscrimination Policies: A Survey of American Law Schools*, 2 LAW & SEX. 131, 152 (1992).

146. See Francisco Valdes, *Tracking and Assessing the (Non)Inclusion of Courses on Sexuality and/or Sexual Orientation in the American Law School Curriculum: Reports from the Field After a Decade of Effort*, 1 NAT'L J. SEX. ORIENT. L. 150, 151, 153, 167-68 (1995) [hereinafter Valdes, *Tracking*].

147. See Schultz, *supra* note 146, at 139-40. The Dean has been vocal about her opposition to the Solomon Amendment which forces any university receiving government funds to allow the military to recruit on campus. See Terry Carter, *Pentagon Forces Law Schools to Choose Between Federal Funding and Backing Gay Rights*, 83 A.B.A. J. Dec. 1997, at 30. She also made a point to invite a lesbian and a woman of color to speak at the law school's first women's reunion. See University of California School of Law, Boalt Hall Women (Feb. 1998) (brochure on file with author).

148. Proposition 209 amended the California Constitution in November 1997. It bans all affirmative action for women and racial minorities in the public education system. See CAL. CONST. art. 1, § 31.

this chance to meet other Black students and get tips from the older students about how to survive Boalt. Then, before we even left for the retreat, another 1L said, “I don’t know about the Bay Area. I mean, we had people that we knew were homosexual in D.C., but they didn’t go around *flaunting* it. Men hold each other’s hands walking down the streets here!” When somebody asked a male 2L why he was driving only one student, the most muscular and light-skinned Black man in my class, the 2L responded by mincing his words and throwing his limp wrists around as an overreaction to any implied suggestion that he intended to hit on the 1L. During the retreat, we were watching *The Best of the Price Is Right* in which a Black man was so excited about winning that he kissed Bob Barker on the mouth. In response, a 1L snorted, “Eueh! He went out like a sucker!”

I wrote a letter to the LSAD executive board explaining my disappointment at the events. A few members apologized later. While I can appreciate that, the retreat symbolized a recurrent, unpleasant vibe at the law school. Some Black students assumed we were all straight. They assumed that racial identity is the only identity worth claiming. At this event to empower an oppressed group, it remained acceptable to oppress others, namely gay men. Even further, the board members passed my letter around freely despite my attempt at confidentiality. Another LSAD member outed me without my permission at a general body meeting.

Similar shortsightedness occurs in the Lesbian, Gay, Bisexual, Transgender Caucus (the Caucus). Two women of color planned the coming-out week activities at the law school my first year. When they were detailing their plans at a Caucus meeting, they mentioned that the stores they visited had run out of pink triangle stickers, so they were going to order black triangle stickers for members to wear. Several members, mostly white men, were aghast. Some did not know what a black triangle represented. Others argued no one would know what they meant. One gay white man settled the matter by requesting, “Can we break out of the Nazi paradigm anyway and just wear rainbow stickers?” Thus, the men in the Caucus showed their ignorance of lesbian symbols. They were most comfortable with a male-focused symbol like the pink triangle, accepting of a gender-neutral symbol like the rainbow, but resistant to a female-focused symbol like the black triangle. Again, white men showed their comfort in representing others and their outrage at having others represent them. In later conversations, some gay men registered their resentment at members second-guessing these women of color who

went out of their way to coordinate the Week's events and noted the racial undertones of being comfortable with the color pink but not the color black.

The gay men and lesbians of color at Boalt started an organization which quickly imploded. Originally, we planned to have a brunch at a different person's apartment each month. We would eat, see how others were doing, and vent about the ways that the law school remains a hostile environment for us as gay men and lesbians of color. We even made shirts for our group that we wore during the National Coming Out Week activities. Things unraveled from there. We once held a brunch accidentally at the same time that a white Caucus member was hosting a party. People of color who had previously promised to attend the party felt torn. No one could agree on what our relationship to the Caucus should be. One woman felt that the group should be open to white lesbians or anyone else who felt left out of the Caucus. Two men who dated each other the year before would whisper to me how they disliked each other's new boyfriends. Even in a group of similar people, it was easy to have conflict and be offended by various individual opinions on gay rights or civil rights.¹⁴⁹

Despite not fitting perfectly into any organization and in addition to facing the pressures of law classes, we survive. We try to use the good aspects of all these identity-based groups in order to maintain our sense of self. By working in coalitions or organizations that have nothing to do with our identities, we are offered a space to take a breather and think outside of ourselves. These experiences, both the positive and negative, have the potential to make us stronger even as we claim they make us weary.

I was curious about the experience of other gay men of color at Boalt. I began a project in which I asked them questions about their identities and then asked how those identities affected their law school and legal choices. I sent each man of color whom I knew to be gay a request to interview him. I enclosed the preface to *Men of Color* as well as an article about homosexuality in that person's particular ethnic community in order to prepare for the interview.¹⁵⁰ From late

149. Urvashi Vaid has noted that national gay and lesbian organizations for African-Americans, Latinos, and Asian-Americans face similar obstacles and tend to be vastly underfunded and invisible. See VAID, *supra* note 29, at 291.

150. Alejandro Garcia, *Foreword*, in MEN OF COLOR, *supra* note 26, at xiii; Tomás Almaguer, *Chicano Men: A Cartography of Homosexual Identity and Behavior*, in THE LESBIAN AND GAY STUDIES READER 255 (Henry Abelove et al. eds., 1993) [hereinafter Almaguer, *Chicano Men*]; Vern L. Bullough and Fang Fu Ruan, *Same-Sex in Contemporary China*, in THE PINK BOOK: A GLOBAL VIEW OF LESBIAN AND GAY LIBERATION AND OPPRESSION 46 (Aart Hendriks et

February to early April 1998, I interviewed all the men who accepted my request.¹⁵¹ The interviews consisted of a dozen questions.¹⁵² Each interview lasted between forty and ninety minutes. One participant responded in writing. In order to assure confidentiality, I assigned arbitrary initials to each participant.¹⁵³ I take full responsibility for the selection and editing of any quote.

My study group should not be seen as representative of all gay men of color in law school, and especially not all gay men of color generally. Unfortunately, this Article continues the trend that law student narratives come from individuals at prestigious law schools.¹⁵⁴ I informed interviewees that this study would be bi- or trans-inclusive if any of them identified as bisexual or transgender men. Though one man said he once had a strong relationship with a woman, all the participants and I identify as gay men. Thus, my research group is not representative, as evidence suggests that men of color have higher rates of bisexuality than do white men in this country.¹⁵⁵ From a

al. eds. 1993); Wayne Dynes, *Homosexuality in Sub-Saharan Africa: An Unnecessary Controversy*, in 2 STUDIES IN HOMOSEXUALITY: ETHNOGRAPHIC STUDIES OF HOMOSEXUALITY 166 (Wayne Dynes ed., 1992); NEIL MILLER, *Japan: The Emperor's New Clothes*, in OUT IN THE WORLD: GAY AND LESBIAN LIFE FROM BUENOS AIRES TO BANGKOK 144 (1992); Felix I. Rodriguez, *Understanding Filipino Male Homosexuality: Implications for Social Services*, in MEN OF COLOR, *supra* note 26, at 93; IHARA SAIKAKU, THE GREAT MIRROR OF MALE LOVE 49 (Paul Gordon Schalow trans., 1990); Sue Sohng & Larry D. Icard, *A Korean Gay Man in the United States: Toward a Cultural Context for Social Services Practice*, in MEN OF COLOR, *supra* note 26, at 115; Tomás Almaguer et al., *Sleeping with the Enemy: Talking About Men, Race, & Relationships*, OUT/LOOK, Winter 1992, at 30 [hereinafter Almaguer, *Sleeping with the Enemy*]; Henry Louis Gates, Jr., *Blacklash?*, THE NEW YORKER, May 17, 1993, at 42.

151. One individual, an Iranian American, said he did not identify as a man of color. I have a fairly expansive definition of "person of color." Nevertheless, I accept and understand his decision not to identify as such. One of my purposes is to challenge the idea that racial identities are more permanent and significant than sexual ones. My desire to interview this student and his desire not to be interviewed serve as an example of racial labels as a contested terrain. For scholarship on male homosexuality in Middle Eastern and North African societies, see ARNO SCHMITT & JEHOEDA SOFER EDS., SEXUALITY AND EROTICISM AMONG MALES IN MOSLEM SOCIETIES (1992); STEPHEN O. MURRAY & WILL ROSCOE EDS., ISLAMIC HOMOSEXUALITIES: CULTURE, HISTORY, AND LITERATURE (1997); Marc Daniel, *Arab Civilization and Male Love*, in GAY ROOTS: TWENTY YEARS OF GAY SUNSHINE: AN ANTHOLOGY OF GAY HISTORY, SEX, POLITICS & CULTURE 33 (Winston Leyland trans. & ed., 1991) [hereinafter GAY ROOTS].

152. See *infra* Appendix A.

153. See *infra* Appendix AB.

154. Both Reuther and Sears attended Harvard Law School. See Reuther, *supra* note 141; Sears, *supra* note 142. Bobbi Bernstein described her firm interview process as an openly lesbian candidate. She attended Stanford Law School. See Bobbi Bernstein, *When Good Intentions Aren't Enough: Observations of an Openly Gay Law Firm Applicant*, 6 LAW & SEX. 127 (1996).

155. See Icard, *supra* note 58, at 139, 149; Rosemary Ryan et al., *Sexual Identity, Social Support and Social Networks Among African-, Latino-, and European-American Men in an HIV Prevention Program*, in MEN OF COLOR, *supra* note 26, at 1, 11; Terry Tafoya and Douglas A. Wirth, *Native American Two-Spirit Men*, in MEN OF COLOR, *supra* note 26, at 51 [hereinafter Tafoya, *Native American*]. For an anthology that includes essays from several bisexual men of

research standpoint, my sample is not large enough to be reliable. From a realistic standpoint, I feel lucky to have even eight other men at my law school who are gay and of color.

I have two additional crucial disclaimers. First, I mean no disrespect in excluding lesbians of color from my study. The lesbians of color at Boalt are an incredible group of women whose voices have played a strong influence in my thinking and without whose support I could not have survived these three years. An investigation of their identifications and motivations would be even more informative as it would look at the intersections of a minority racial, sexual, and gendered status. Feminist legal scholars have urged the importance of examining lesbian and bisexual identity as a critical point of intersectionality.¹⁵⁶ A number of lesbian and bisexual female law professors of color have written about how their identities affected their law school and legal experiences.¹⁵⁷ I hope that the issues I present will justify why I limited my investigation to one biological sex.

I honestly admit that including lesbians of color in the study would have made it more difficult to complete. First, there are fewer lesbians of color at Boalt than gay men of color. All the men I invited to participate are either at least nominal members of the Caucus or were currently enrolled in the Sexuality, Gender, and the Law course being offered at the time of my study. Lesbians of all races have at times distanced themselves from the Caucus, and no lesbians were enrolled in the course. In addition, a few of the lesbians of color experienced family hardships the semester during which the interviews took place and were less involved with the campus. Other

color, see LORAIN HUTCHINS & LANI KAAHUMANU EDs., *BI ANY OTHER NAME: BISEXUAL PEOPLE SPEAK OUT* (1991).

156. See RUTHANN ROBSON, *LESBIAN (OUT)LAW: SURVIVAL UNDER THE RULE OF LAW* (1992); RUTHANN ROBSON, *SAPPHO GOES TO LAW SCHOOL: FRAGMENTS IN LESBIAN LEGAL THEORY* (1998); Ruth Colker, *An Embodied Bisexual Perspective*, 7 *YALE J.L. & HUMAN.* 163 (1995); Ruth Colker, *A Bisexual Jurisprudence*, 3 *LAW & SEX.* 127 (1993); Mary Eaton, *At the Intersection of Gender and Sexual Orientation: Toward Lesbian Jurisprudence*, 3 *S. CAL. REV. L. & WOMEN'S STUD.* 183 (1994); Christine A. Littleton, *Double and Nothing: Lesbian as Category*, 7 *UCLA WOMEN'S L.J.* 1 (1996); Naomi Mezey, *Dismantling the Wall: Bisexuality and the Possibilities of Sexual Identity Classification Based on Acts*, 10 *BERKELEY WOMEN'S L.J.* 98 (1995).

157. Angela Gilmore, *It Is Better to Speak*, 10 *BERKELEY WOMEN'S L.J.* 74 (1995); Angela Gilmore, *They're Just Funny That Way: Lesbians, Gay Men and African-American Communities as Viewed Through the Privacy Prism*, 38 *HOW. L.J.* 231 (1994); Isabelle R. Gunning, *Stories from Home: Tales from the Intersection of Race, Gender, and Sexual Orientation*, 5 *S. CAL. REV. L. & WOMEN'S STUD.* 143 (1995); Odeana R. Neal, *The Limits of Legal Discourse: Learning from the Civil Rights Movement in the Quest for Gay and Lesbian Civil Rights*, 40 *N.Y.L. SCH. L. REV.* 679 (1996).

lesbians have been quite active in fighting the declining racial minority admissions, in addition to taking full course loads. The details listed demonstrate the many more difficulties lesbians of color have faced when compared to their male counterparts.

My second disclaimer is that although I focus on race and sexual orientation, this focus does not signify that my participants do not have other identities or that they value these identities over others. Several of my participants mentioned that being the children of immigrants affected their identity. Two explained how growing up in the South shaped their identities. Several men said that activism among working-class communities or their own limited financial situation influenced their inability to pursue racial or gay rights matters in law school or in their legal careers.

VI. THE INTERVIEWS

Coming out. I began the interviews by asking the participants to tell me a significant coming-out story. This question was intended to get these men comfortable with speaking about themselves in the midst of discussing a private and politically charged topic such as one's sexual identification. Personal narratives have served as a key component, though a controversial one, in critical legal studies by writers from marginalized groups.¹⁵⁸ Coming-out stories have been important for gay legal scholars as well as for gay men and lesbians writing outside of the academic environment.

Because I asked such an open-ended question, I got quite different responses. The more common comments resembled S.F.'s:

The first day of orientation, I decided I need to come out just to get this out of the way so that I wouldn't be forced to make these decisions again. I had stopped wearing gay pride T-shirts and all that stuff, but that day I wore this white and pink Queer Nation T-shirt that I had in my drawers for years. Just because I felt like it was a lot easier than having to talk to people, deciding when to tell people, etc. There was a mixed-race, bisexual woman, whom everyone at school thought was straight, who came up to me on the BART when we were going back to SF. She introduced herself and said "Hey, you know what? I saw you at orientation. I liked your

158. See Margaret H.R. Chon, *On the Need for Asian American Narratives in Law: Ethnic Specimens, Native Informants, Storytelling, and Silences*, 3 UCLA ASIAN PAC. AM. L.J. 4 (1995); Jewel Amoah, *Narrative: The Road to Black Feminist Theory*, 12 BERKELEY WOMEN'S L.J. 84 (1997); William N. Eskridge, Jr., *Outsider-Insiders: The Academy of the Closet*, 71 CHI.-KENT L. REV. 977 (1996); Eskridge, *supra* note 106; Fajer, *supra* note 23. Cf. Daniel A. Farber & Suzanna Sherry, *Telling Stories Out of Law School: An Essay on Legal Narratives*, 45 STAN. L. REV. 807 (1993).

shirt!” We became good friends despite our differences in age and legal interests. I may have never met her had I not wore that shirt.

Most of the men with whom I spoke generally described coming out as a positive experience. Like S.F., most participants told stories about coming out to women of color. Many discussed coming out to family members, again people of color. Most of them came out to a person who was gay, lesbian, bisexual or whom they perceived to be gay, lesbian or bisexual. Yet unlike S.F., most of the participants did not come out in order to let everybody, or the straight and white majorities, know. They came out in order to receive a benefit, whether it was bonding with a friend, being honest with family, or trying to tap into gay and lesbian circles.

Racial/ethnic memories. I next asked participants to tell me about an instance when they noticed their ethnicity. I attempted to leave room in my question for interviewees to tell me a story which did not necessarily involve a racist incident. I stressed that they could recount some event that was positive, negative, or neutral which occurred in a predominantly white environment, or one with many people from a shared racial background.

I imagine that most readers would suspect a response like O.R.’s:

That’s so common at least. And you just notice it. You notice the hyperscrutiny when you go into interviews, you notice it when you see the noses dropping when you walk down the street, people are looking at the ground, looking in the air, crossing the street. It makes me ill. But it’s hard to come up with a story. Racism has the cumulative effect of making you not want to deal.

Justice Scalia, in his dissent in *Romer v. Evans*, asserted that “[t]he Colorado Amendment does not, to speak entirely precisely, prohibit giving favored status to people who are *homosexuals*; they can be favored for many reasons—for example, because they are senior citizens or *members of racial minorities*.”¹⁵⁹ Problematic at a number of levels, Scalia’s argument reflects a common perception: that people of color truly experience oppression by the majority, whereas gay men and lesbians merely experience “normal” people’s discomfort with their sexuality and openness about it. One factor affecting O.R.’s reality as a gay man of color is that racism remains a constant and expected experience. Unfortunately, homophobic and heterosexist people often make statements similar to Justice Scalia’s to argue that “seeing” race somehow means that people of color merit certain

159. See *Romer v. Evans*, 517 U.S. 620, 644 (1996) (second emphasis added).

protections, whereas gay men and lesbians “choose” to come out, when they can remain invisible and should do so anyway.

In actuality, the narratives about race were just as complex as those on sexual orientation. E.I. recalled:

I was taking an ethnic studies class on race. I ended up talking in class one time, which I rarely do. I was saying something about Mexicans and this girl totally just called me and said “I am Latina!” And I was like “Well, I’m Mexican, I’m sorry.” She got all upset because I didn’t say “Latina/Latino,” but I was talking about Mexicans, so I don’t know what she was talking about. Obviously she thought I was Anglo and she had some weird issues there.

I think a lot of people feel an intrinsic connection to their ethnicity or race, but for me it’s an acculturation, the way I grew up. Where we grew up was very Anglo and when we had family get-togethers it was always the twenty-minute drive to Pomona. And that’s how I felt Mexican, going to Pomona and getting together with my Mexican relatives. I think also part of the issue was that I lived in an area of Southern California which is so Mexican anyway. So we didn’t have to yell and scream about race. We were who we were.

Often when people speak of race alone, they acknowledge that the issue is complicated. Nevertheless, when people compare race to sexual orientation, race becomes a static building block. As E.I.’s comment illustrates, race is not a given. In his view, racial identity is framed by culture and family ties, a process or act rather than a state of being. The woman that confronted him assumed she was correcting a white American’s inaccuracy. In actuality, she was having an intracommunal disagreement about labels and boundaries. Gay men and lesbians often have these same debates. Just as sexual orientation is linked to other factors such as gender, desire, and sexual acts, race is linked to various factors including appearance, language, and socialization. It is crucial, when focusing on the individual gay man of color, that we not assume that one identity is more primary, consistent, or noticeable. That journey and process is for him to determine.

Identifying as a person of color. Though a sizeable amount of writing has been done about gay Asian, Latino, and Black men separately, there has been little examination of these men as a group. Some gay and lesbian anthologies have one section devoted to people of color, consisting of separate chapters on Asians, Latinos, Blacks, and sometimes Native Americans.¹⁶⁰ Again, the groups are not

160. See BETTY BERZON ED., *POSITIVELY GAY: NEW APPROACHES TO GAY AND LESBIAN LIFE* 233 (1992); SARI H. DWORKIN & FERNANDO J. GUTIÉRREZ EDS., *COUNSELING GAY MEN AND*

discussed collectively. Given that for years lesbians of color have produced anthologies where they speak as *women of color* and look at their connections to each other, this omission is odd.¹⁶¹ In this study, I wanted to see if and how these gay men of color identify as people of color.

There has been only one article published in which gay men from different racial backgrounds have discussed their identities together: *Sleeping with the Enemy* in the now defunct *OUT/LOOK* magazine.¹⁶² The piece has even been referenced in a law review article.¹⁶³ While this article is an excellent starting point, the four panelists involved focused only on their relationships with white men. They never discuss their relationships with and to each other *as men of color*, and they speak solely about the struggles of gay men of their particular racial background. They never explain how the status of being non-white presents barriers for many individuals in gay male circles. I asked my classmates who are gay men of color if they identified as a “person of color” and what that term meant to them. I got multiple responses which I will divide into three different categories.

R.J. expressed a strong stance against the term:

Being raised Chinese means that ethnicity is pretty central to the formation of my identity. The Chinese pretty much think that they are the center of the world, so it's just natural that we are taught that we're just better than all the other ethnicities. When I first came to America, my tormentors were Blacks and Hispanics, and the cops and teachers were white. My world was pretty clearly divided into good and evil according to racial lines. I never identified with the term “person of color.” It's an entirely political construct, as opposed to a social construct, to create the illusion of solidarity and unity. I don't think Asians are identified as persons of color unless the core “people of color” find it convenient to do so. I don't feel like I would be embraced as such even if I did identify that way.

R.J. makes a strong point that coalition-building and political group identities are useless when the various group members distrust and

LESBIANS: JOURNEY TO THE END OF THE RAINBOW 113 (1992); LINDA D. GARNETS & DOUGLAS C. KIMMEL EDS., PSYCHOLOGICAL PERSPECTIVES ON LESBIAN & GAY MALE EXPERIENCES 331 (1993); STEPHEN O. MURRAY ED., AMERICAN GAY 216 (1996); JAMES T. SEARS & WALTER L. WILLIAMS EDS., OVERCOMING HETEROSEXISM AND HOMOPHOBIA: STRATEGIES THAT WORK 89 (1997).

161. See VALERIE MASON-JOHN ED., TALKING BLACK: LESBIANS OF AFRICAN AND ASIAN DESCENT SPEAK OUT (1995); CHERRIE MORAGA & GLORIA ANZALDÚA EDS., THIS BRIDGE CALLED MY BACK: WRITINGS BY RADICAL WOMEN OF COLOR (1983); MAKEDA SILVERA ED., PIECE OF MY HEART: A LESBIAN OF COLOUR ANTHOLOGY (1991).

162. See Almaguer, *Sleeping with the Enemy*, *supra* note 151.

163. See Francisco Valdes, *Coming Out and Stepping Up: Queer Legal Theory and Connectivity*, 1 NAT'L J. SEX. ORIENT. L. 1, 9 & 24 n.46 (1995).

fail to support each other. Because he received better treatment from whites, R.J. felt no need to align himself with Blacks and Latinos. Then again, he admitted that his own group's ethnocentricity provided an initial barrier to that cross-identification. Perhaps connections between gay men of color should be a goal rather than an assumption. Other participants said that while they identified as people of color, they did so because of their connection to their own racial group and not out of a sense of allegiance with other non-white racial groups. This identification takes on an apolitical context: "person-of-color" means "non-white" and nothing more.

O.R. identifies as a person of color, but within limits. He commented:

I do identify as a person of color but I think, to an extent, African-Americans still have it worst of all.¹⁶⁴ That's not to say that some other person, say an Asian or a Latino, experiencing racism should feel their own oppression any less or should defer to my definition or give me more space. But in the gay male hierarchy with whites at the top, Blacks at the bottom, and Asians and Latinos somewhere in between, people use whatever privilege they have. So it makes it tricky to always be on point with one another. On a personal and political level, I am particularly concerned about African-Americans. In cross-color coalitions, I'm concerned about African-Americans. It's always both, it's not an either/or. For me it's very issue-specific. They're are some issues that are more about us as people of color and there are some that are more about who we are in our particularity. And then, in all honesty, I don't even think that gay men are all that coalitional in general.

Basically, O.R. needs the term to be flexible. He does not want to identify as a person of color if that will put him in a position where he cannot identify as African-American. His message parallels an important point for coalition-building: coalitions should provide space for members to push their own issues and see themselves as different when necessary. Furthermore, O.R. interestingly places his comments within a gendered context. Men, including gay men of color, are often socialized to view other men as their competitors. Thus, men are often unwilling to come to the consensus required of coalitions that women have often been more willing to make. Equally important, a few participants said they usually do not think of themselves as "gay men of color" but rather "people of color." Their

164. Professors Leslie Espinoza and Angela Harris call this idea "Black exceptionalism." They have explained why the idea is compelling, but also problematic. See Leslie Espinoza & Angela Harris, *Embracing the Tar-Baby: Latcrit Theory and the Stickiness of Race*, 10 *LA RAZA* L.J. 499 (1998).

belief is that the unity which “person of color” implies is necessarily inclusive of the two genders.

O.E. readily identifies as a person of color:

Yeah, I do identify as a gay person of color. Obviously African-Americans face different forms of discrimination in American society, same with Latinos, same with us Asian-Americans. We all face different kinds of discrimination, but we all face that discrimination. We all have common experiences. We all have the same history. I think we all face the same issue.

Like O.R., O.E. recognizes the differences between non-white racial groups, but he sees the term as necessary given the debilitating effects of white supremacy. When I asked the Asian and Latino men in this study a question, they would often respond and then say, “I would think that Blacks experience this too,” or ask, “isn’t it the same for African-Americans?” Comments like these acknowledge similar oppression, even if individuals might not give it the same name.¹⁶⁵

Speaking on gender at Boalt. One of the major criticisms leveled against the cultural works produced about gay men of color is that they do not address gender privilege; they present gay men of color as solely the victims of homophobia and racism.¹⁶⁶ In my study, I wanted to evaluate gay men of color as both potentially oppressed and oppressive. When I asked the participants to speak about gender at Boalt, some were perplexed and needed prodding in order to make a statement. These men’s grapplings with the topic provide a fascinating look at the privilege, humanity, and vulnerability of their position. I asked a very open-ended question with answers divided into two components: relationships with women, and their individual status as men.

165. For an excellent discussion of why gay men of color from different racial backgrounds need to support each other, see Rakesh Ratti, *A Question of Color*, in *A LOTUS OF ANOTHER COLOR: AN UNFOLDING OF THE SOUTH ASIAN GAY AND LESBIAN EXPERIENCE* 98 (Rakesh Ratti ed., 1993).

166. For example, in his critique of the black, gay, male writings in *Brother to Brother*, Arthur Flannigan-Saint-Aubin writes:

[T]hese writings operate on a double silence or erasure: on the one hand, they make no attempt to address the female reader; on the other hand, the writers do not address the important issue of how black gay men are oppressors of certain women. In other words, these black gay male writings make clear the extent to which they are “black”—they resist white subjectivity—and they make clear the extent to which they are “gay”—they resist heterosexual hegemony. They are quite often conspicuously silent on the extent to which they are “male” and therein complicitous with the machinations of patriarchal culture.

Arthur Flannigan-Saint-Aubin, “*Black Gay Male*” *Discourse: Reading the Race and Sexuality Between the Lines*, 3 J. HIST. SEX. 468, 473 (1993). See also ESSEX HEMPHILL ED., *BROTHER TO BROTHER: NEW WRITINGS BY BLACK GAY MEN* (1991).

Several participants criticized the sexism they observed at Boalt. They described how male students viciously challenge female faculty and how male professors often berate female students more harshly than male students. O.R. remarked:

I've looked at women, particularly lesbians and women of color, and wondered, "How do you get through your day sometimes?" and they look at me and ask, "How did you get through yours?" I appreciate that acknowledgment.

Perhaps facing oppressions, especially more than one oppression, allows one to sympathize with others despite not sharing the same identities. Most participants stated that the vast majority of their friends were gay men and straight women. Most stated that it was important to them to hang around gay men because they shared similar experiences. When asked why they had so many straight female friends, they answered that straight women were friendly, had much in common with gay men, and tended to not be homophobic.

I inquired as to why these men did not mention having close lesbian friends. Unlike many gay and lesbian student groups, the Boalt Hall Caucus is almost equally composed of men and women. Because several participants said that racism is so intense that they found it important to bond with other people of color, I assumed that homophobia was intense enough to promote bonds between gay men and lesbians. Most of these men said no particular reason caused their paucity of lesbian friends. However, one interviewee admitted:

A lot of the women [in the Caucus] have different interests. I identify them more with straight men and I have nothing in common with straight men. They're into the whole masculinization of identities. They like things that I don't like. I don't find them funny and I value humor. I guess they value humor differently than I do. They seem serious; they seem overserious. I don't dislike them, but you know what I mean? I'm in trouble, aren't I?

This view was an extreme rather than typical response. Most of these men stated that their experience with Eurocentrism in the Caucus encouraged them to empathize with the women regarding the male chauvinism in the Caucus. I included this comment because I want to offer proof that gay men of color have as much work to do in overcoming our oppressive actions and inabilities to relate across boundaries as other people do. Even though I argue that more attention should be paid to the thoughts and concerns of gay men of

color, I do not want to suggest that this group has cornered the market on understanding oppression.¹⁶⁷

The construction of a “gay and lesbian community” is just as political and tentative as a “community of color.” Research indicates that the connections between gay men and lesbians depend on time, location, and political circumstances.¹⁶⁸ With the release of popular films such as *Chasing Amy*¹⁶⁹ and *The Object of My Affection*,¹⁷⁰ Americans seem more interested in examining the dynamics between people of differing sexes and sexual orientations. Just as the category *sex* lumps gay men with straight men and *sexual orientation* lumps gay men with lesbians, we should develop a term that lumps gay men with straight women. I facetiously call us “men-lovers.”

The second half of the question relates to the first: in focusing on gender, these gay men of color often looked at their own position rather than that of women. Several participants noted that the competitive nature of the law school went hand-in-hand with the institution’s androcentrism. As a result, these students often seemed so worried about their own position among men that they failed to take the steps to work or empathize with women. F.J. remarked:

Can women be discriminated against on the basis of their sex characteristics? Definitely, they can be treated unequally. Do I think that I have an advantage being male? Yes, there probably is an advantage to being male as far as money and that kind of thing. But I still know my place and my place is going to be lower in the American social prism. I think it’s going to be unequal for women, but my status as a male is not going to overcome or give me the privileges that a straight, white male would have. Being Latin would undermine that and certainly being gay would too. They’re all going to put me in a lower echelon.

167. For a brilliant discussion on why gay men of color must make strides to support lesbians, see Rakesh Ratti, *Feminism and Men*, in *LOTUS OF ANOTHER COLOR*, *supra* note 167, at 47.

168. In *Before Stonewall*, gay men and lesbians who came out during the years before the famous 1969 Stonewall Riots commented that “[f]hey were the gay girls and we were the gay guys” describing how gay men and lesbians shared space and enjoyed each other in that era. *BEFORE STONEWALL*, *supra* note 124. Nevertheless, in describing gay liberation right after the Riots, gay scholar John D’Emilio dubs the era “the gendered 70s” emphasizing divisions between the two groups. See John D’Emilio, *After Stonewall*, in *MAKING TROUBLE: ESSAYS ON GAY HISTORY, POLITICS, AND THE UNIVERSITY* 234, 246-56 (1992). Some commentators say lesbians have risen to prominence in gay and lesbian organizations as gay men died of AIDS since 1981. See NEIL MILLER, *OUT OF THE PAST: GAY AND LESBIAN HISTORY FROM 1869 TO THE PRESENT* 452-53 (1995). Cf. VAID, *supra* note 29, at 278 (dismissing the idea that lesbians joined in AIDS activism either to gain power in gay organizations or out of some instinctual nurturing nature).

169. Miramax Films 1997.

170. Fox Studios 1998.

One man told of an interesting corollary to the above comment. He said that due to the deep divisions between men and women in some of the groups for students of color, the straight people of both sexes in the organizations feel that sexual orientation divisions are too extreme or marginal to deal with.

Many of the students said they purposely avoid straight men. O.E. recounted how his personal history with white straight men influences his primarily befriending gay men and straight women now. He stated:

My friends in high school were really straight or really white and with them I had to conform to what they wanted me to be, like talk about girls and sports. My friends were athletes, and this was West Virginia where being masculine was a really good thing. So I think I tried to conform to that, even to their masculinity and to their whiteness. And I think this is my chance not to do that. Maybe when I was in high school, back then I was ashamed of whatever I am, in terms of being gay or Filipino. And now if I hang out with straight men, I feel those feelings coming back. I'm not ashamed, but when I'm around them, I just feel it's the same way and I want to avoid that.

Perhaps the fear of heteropatriarchy explains both halves of the question on gender. As gay men of color resist the dominance of straight white males in law school and beyond, maybe their ability to unite with those beside them and below them in the power hierarchy is altered, sometimes for the worse.

Partners and love lives. For many gay men, the next question which curious straights ask us after, "Are you gay?" is, "So do you have a boyfriend?" The many pre-law students who read *Looking at Law School* were warned in the chapter on gay and lesbian students to guard our relationships.¹⁷¹ Therefore, this study would not be complete without a question about these students' love lives. Sexual orientation is a characteristic based upon object choice and therefore some people feel that it is meaningless to discuss sexual identities without including a mention of their romantic relationships.

The men of color I interviewed said they would identify as gay whether they had a partner or not. Those who were single said that the pressures and time constraints of law school have made it difficult to date and find a man. Those men in relationships said being in law school and being in love concurrently puts a strain on both activities.

171. See Rhonda R. Rivera & Robert L. Eblin, *Advice for Lesbians and Gay Men, in LOOKING AT LAW SCHOOL: A STUDENT GUIDE FROM THE SOCIETY OF LAW SCHOOL TEACHERS* 118, 124 (Stephen Gillers ed., 1990).

Nevertheless, those in relationships said they were satisfied. Some said it was a relief to have someone to run to after a difficult day of school. Interestingly, most of the men in relationships were involved with men in graduate school or in prestigious occupations. Some men complained about these partners not having enough free time as opposed to the reverse. Perhaps class or educational similarities play a strong role in forming long-term relationships, even for gay men of color.¹⁷²

On labels. My last question regarding identity dealt with labels that the participants use or do not use regarding their race and sexual orientation. Unlike the 1970s, when Black was beautiful and gay was good, many progressives at the turn of the millennium have rejected labels, feeling limited by such characterizations. In fact, academic discussions of hybridity, intersectionality, border-crossing, and social constructivism have fed this recent resentment. The multiracial men in the study expressed anger over surveys which force them to pick one category to describe their racial identity.¹⁷³ Over all, the gay men

172. About half of the participants were with men of color and the other half were with white men. Much literature on gay men of color divides the men into those who identify more with their racial community and those that identify more with their predominantly white, gay male community. See ALMAGUER, *Chicano Men*, *supra* note 151, at 263-65; Gregory Conerly, *The Politics of Black Lesbian, Gay, and Bisexual Identity*, in QUEER STUDIES, *supra* note 42, at 133; Larry D. Icard, *Assessing the Psychosocial Well-Being of African-American Gays: A Multidimensional Perspective*, in MEN OF COLOR, *supra* note 26, at 26. First, this false dichotomy fails to recognize the rise of Asian, Latino, Black, and Native gay and lesbian communities and the incipient coalitions forming among gay men and lesbians of color across racial lines. Second, people too often consider the race of a gay man of color's partner in order to determine into which of the two camps to lump that particular gay man of color. Several members of my study problematized this dichotomy. G.U., who identified as a half-Japanese and half-Hispanic Jew, is partnered with another Jewish man. This couple problematizes the conception that interracial and intraracial relationships are discrete categories. O.E. said he has no racial preferences when it comes to dating, yet both of his long-term lovers were fellow Southeast Asian gay men. O.R. has been critical both of gay men of color that will do anything to seek gay white men's attention and of Blacks who oppose interracial dating. For writings by gay men of color which problematize this false dichotomy, see Conerly, in QUEER STUDIES, *supra* note 42, at 133; Quentin Lee, *Illegitimate Intimacy*, in WITNESS ALOUD: LESBIAN, GAY, AND BISEXUAL ASIAN/PACIFIC AMERICAN WRITINGS 22 (Chi Tsang ed., 1993); Darieck Scott, *Jungle Fever?: Black Gay Identity Politics, White Dick, and the Utopian Bedroom*, 1 GLQ: J. LESBIAN & GAY STUDIES 299 (1994).

173. For discussions on the problems of being forced to identify as one race, see RUTH COLKER, *Invisible Hybrids Under the U.S. Census*, in HYBRID: BISEXUALS, MULTIRACIALS, AND OTHER MISFITS UNDER AMERICAN LAW 233 (1996); Leonard M. Baynes, *Who Is Black Enough for You?: An Analysis of Northwestern University Law School's Struggle over Minority Faculty Hiring*, 2 MICH. J. RACE & L. 205 (1997); Bijan Gilanshah, *Multiracial Minorities: Erasing the Color Line*, 12 LAW & INEQ. 183 (1993); Trina Grillo, *Anti-Essentialism and Intersectionality: Tools to Dismantle the Master's House*, 10 BERKELEY WOMEN'S L.J. 16 (1995). Cf. Tanya Kateri Hernandez, "Multiracial" Discourse: Racial Classifications in an Era of Color-blind Jurisprudence, 57 MD. L. REV. 97 (1998).

of color interviewed said they feel fine labeling their identities. S.F. best summarizes:

For me, I find a strength in articulating my identities. I don't find that it limits who I am. I find that even if I identify myself as a queer Vietnamese man, I don't find that limits who I am, who I hang out with, what I like to do, my political beliefs, my spiritual beliefs, my attitudes about what I'm interested in law school. I think that what it does do is that it articulates to other people that I am proud of who I am and that's one thing that they can know about me.

Nomenclature for gay men of color is important for several reasons. As AIDS increased among men of color, scientists were forced to recognize that many men of color who have sex with men do not identify as "gay." Accordingly, activists and social workers had to change their approach and terminology.¹⁷⁴ With the rise of organizations for gay men of color and the growing number of cultural works on this group, the choice of sexual labels has become increasingly significant. As more research is produced on the fluid gender and sexual roles in pre-colonial, non-European societies, many gay men of color have reclaimed certain terms to position themselves as inheritors of a non-heterosexist or gender-rigid past.¹⁷⁵ Some organizations and anthologies have revived older terminology from non-Euro-American cultures for homosexual, such as *de ambiente*,¹⁷⁶ *in the life*,¹⁷⁷ and *two-spirit*.¹⁷⁸

174. Examples include "men who love other men," "men who have sexual relations with other men," and "homosexually active men." Garcia, *supra* note 151, at xiii, xiv. Cf. RAFAEL M. DÍAZ, *LATINO GAY MEN AND HIV: CULTURE, SEXUALITY, AND RISK BEHAVIOR* 5-8 (1998) (arguing that gay Latino men differ from Latino "men who sleep with men" and stating that assumptions that most Latinos must fall into the latter group are problematic and homophobic).

175. A few gay African-American groups have adopted the term *adodi*, the term for the transgender, homosexual medicine men in traditional Yoruba society. See Adodi Website, *Adodi: Providing A Spiritual, Affirming, and Nurturing Space for Same-Gender-Loving Men of African Descent* (visited on May 21, 1998) <<http://members.aol.com/amassict/adodi.htm>>. Gay Native Americans named their organization after two famous berdaches, WeWah and BeCheAcempa. See Terry Tafoya, *Native Gay and Lesbian Issues: The Two-Spirited*, in BERZON, *POSITIVELY GAY*, *supra* note 162, at 253, 260 [hereinafter Tafoya, *Native Gay*].

176. See DÍAZ, *supra* note 176, at 162; Eric-Steven Gutierrez, *Latino Issues: Gay and Lesbian Latinos Claiming La Raza*, in BERZON, *POSITIVELY GAY*, *supra* note 162, at 240, 244-46; Carlos E. Zamora-Hernández & Davis G. Patterson, *Homosexually Active Latino Men: Issues for Social Work Practice*, in MEN OF COLOR, *supra* note 26, at 69, 77.

177. See JOSEPH BEAM ED., *IN THE LIFE: A BLACK GAY ANTHOLOGY* (1986); Eric Garber, *T'aint Nobody's Bizness: Homosexuality in 1920s Harlem*, in GAY ROOTS, *supra* note 152, at 141, 143.

178. See Tafoya, *Native American*, *supra* note 156, at 51; Tafoya, *Native Gay*, *supra* note 177, at 253; LESTER B. BROWN ED., *TWO SPIRIT PEOPLE: AMERICAN INDIAN LESBIAN WOMEN AND GAY MEN* (1997); SUE-ELLEN JACOBS ET AL. EDS., *TWO-SPIRIT PEOPLE: NATIVE AMERICAN GENDER IDENTITY, SEXUALITY, AND SPIRITUALITY* (1997).

The men I interviewed seemed to have no problems with identifying as “gay.” Many of the men came from bilingual homes where I assumed they would have heard different names for what Americans call gay men. None of them recall hearing any words on the topic. In fact, some do not know how to say “homosexual,” whether as a political, clinical, or pejorative term, in their first languages.¹⁷⁹

However, that is not to say that some of the men did not have objections to some of the nomenclature of sexual orientation. For example, G.U. wrote me a note asking if I had more information on Japanese-American “homosexuality.” I thought he put the words in quotes because he felt the word was too clinical or had been manipulated by the far right. When I asked G.U. about it, he replied:

The notion of homosexuality and the coming-out process, it really is a Western construct. There is this feeling in the mainstream “gay” culture that every other culture that doesn’t have the same degree of openness to quote-unquote homosexuality is somehow behind. You know like this article that you gave me,¹⁸⁰ talking about how Japan is quote-unquote ten years behind the United States? It offends me. Caucasian, “out,” quote-unquote homosexuals going to Japan to lead discussion groups on coming out. And to me there’s this whole colonialist flavor to that, white lesbians going to Japan and making it their mission to force openness toward Japanese lesbians in Japanese society and white men doing the same things. Different cultures dealing with sexuality and gender identifications differently. They have their own constructs, they have their own coping mechanisms. It’s only for the sake of convenience that we label it ahead or behind. So I just don’t think it’s universally applicable.

G.U. explained that he does not have reservations about the word homosexuality in general. He instead dislikes that some gay writers fail to see sexuality as culturally specific. He resents the manner in which Western gay male and lesbian rights activists consider themselves more advanced in thinking and attitudes regarding sexual orientation issues in comparison to other cultures, particularly non-European ones.

179. I have been vocal in the Caucus about not using the term “queer.” Therefore, people may have refrained from using it in my presence. Then again, maybe the academic and formal nature of the interview made people more reluctant to use the term than they would have been in a casual conversation. One man said he liked the word; another one said he hated it. In quotes, I have tried to use whatever terminology the interviewee chose to use. I do not think there is any clear verdict on how gay men of color as a group view the word “queer.”

180. See Miller, *supra* note 151, at 151.

Whereas G.U. has problematized a sexual identity term as too Eurocentric, O.R. registered his disappointment with a new, supposedly non-Eurocentric term:

I know this one brother who's always running around talking about we're "same-gender loving." He won't use the term "gay" because it's "white." He goes around attacking other Black men for dating or hanging out with white men. He is the biggest hypocrite. He had sex with my very white housemate over an extended period of time. He's trying to be sincere and making all these excuses for it. I just don't buy it. I don't have a problem saying "gay Black man" or "gay African-American" or anything there of. It's just not that big a deal for me. That SGL thing, you know, I just don't buy it and I cannot buy it coming from him.

While O.R. has a rather flexible view on labels, he resents those which are meant to be a façade. He is interested in recognizing intersections of race and sexual orientation, but not if it hides a hollow agenda. He stands against terms that are meant to be anti-white rather than pro-color.

Choosing Boalt. Questions regarding how these two identities affected the participants' decisions on law school. I started with why people chose Boalt. Most gay men of color gave the same reasons for choosing Boalt which their classmates would: the reputation of the school, the low cost of a state school, previous location in California, and a desire to be in the Bay Area. G.U. jokingly admitted:

Okay, you know, this is like a really unpopular thing to say, but I'm one of those people who will freely admit that like everyone else, I went to the best school I could. It wasn't "Oh God! Should I go to NYU or should I go to Boalt?"¹⁸¹ It wasn't like "Well, Boalt has more people of color, so I'd rather. . ." No! I'm sorry. Best school, that's it. This is the best I could do.

Nevertheless, race and sexual orientation did come into play in decisions, even if only subtly. Though many people from California or the Bay Area have may chosen Boalt due to location, gay men and

181. This comment is a bit of an inside joke. When asked where they were considering going when they applied to law school, many Boalt students respond, "It was between here and NYU." As prestigious law schools with a reputation for a liberal or progressive campus environments, Boalt and NYU share many of the same people in their applicant pools. This is particularly true for people of color, gay men, and lesbians. As urban areas with many people of color, gay men and lesbians, and having a reputation based upon their progressive environment, San Francisco and New York City are often seen as opposite sides of the same coin. This applies to the legal arena as well. The first two bar associations to survey their members regarding homophobia and gay issues were the ones in San Francisco and New York City. See *The Los Angeles County Bar Association Report on Sexual Orientation Bias*, 4 S. CAL. REV. L. & WOMEN'S STUD. 305, 308 (1995) [hereinafter *The LA Report*].

lesbians may prize the location as a gay-populated area in a state with a liberal reputation. S.F. recalled his strategy:

When I applied to schools, being gay affected the schools I applied to. I just got the list of the top 15 schools and I cut all the places where I wouldn't want to be a gay man at. Based on my pre-conceived notions of schools like Georgetown or Cornell or Chicago, I didn't apply. I just have a pre-conceived notion of these places as conservative. In terms of the schools that I seriously considered, the sexual orientation part wasn't an issue because most of the schools I was deciding between I felt like I would be okay being gay at. But I did decide to go to Berkeley because of the fact that when I came to visit there were a lot of Asians and other people of color. That's what sold me versus any of the other schools which are also very open schools like NYU, Stanford, or whatever. Just knowing that that diversity was there did it for me.

Like S.F., everyone gave diversity as a primary reason for attending. When I asked if they meant racial, sexual, or both, they all responded "Both and much more." This testimony stands as at least some proof that Boalt's diversity was a magnet for the school. As Proposition 209 has begun to decimate the racial minority numbers at the school, everyone gave the caveat that they were speaking of the Boalt of the past.¹⁸²

Race and sexual orientation in classes, course options, and readings. Countless Boalt students have complained about how law professors deal with marginalized groups. Boalt students have complained that the reasonable person in legal thinking is rich, white, and male. The admissions officers and faculty speak of how they want to see more diversity in the classrooms, yet when students from marginalized backgrounds speak, the professors usually dismiss their comments. Overall, on race matters, these gay men of color felt that the professors did a decent job. One person said he relaxes in class because he knows some other outspoken Berkeley student will raise a racial or sexual issue if the professors fail to see it. Others said they did not want to be seen as some expert on race so they often felt comfortable when it was not addressed.

On the contrary, several of us complained about the coverage of sexual orientation issues. For example, I experienced an odd situation

182. It is also interesting that no one told me they came out in their law school applications. In fact, one man said his father specifically told him not to do so, fearing that homophobic admissions officers might reject it. I came out because I wanted to convince the school of my public interest plans. Besides, I could not hide it because I majored in gay and lesbian studies in undergrad. I wonder if only white gay men and lesbians came out in their applications. How does coming out during the application process therefore affect people of color? I am uncertain.

when *Bowers v. Hardwick*¹⁸³ was discussed in my family law class. On the first day of class, the professor claimed that we would not cover a case without thinking about the social context in which it was decided. When I asked him if he thought the *Bowers* decision was motivated by AIDS-phobia and the Reaganite era, he retorted, "This is a law class and we have to deal with legal reasoning. Comments like yours should be taken to a poli. sci. graduate course."¹⁸⁴ The next day in class, he approached me at my seat in the lecture hall to tell me that I would be on call to discuss *Loving v. Virginia*.¹⁸⁵ I believe he assumed that if I was so adamant about a case on sexuality, then I would really speak up about a case on race. His assumption probably rests on not seeing me as gay, or on seeing me as Black first because "it's visible." Participants mentioned that when the topic of sexual orientation was brought up, it was usually done for one day only or given surface treatment. Professors would allow students to write papers on gay, lesbian, or HIV-related topics, but they would not bring up the subjects for the whole class. The men to whom I spoke noted that faculty of color, usually known as the most progressive professors at the school, were usually the professors most willing to bring up gay and lesbian topics.

I was curious if the participants took critical legal studies courses or read critical race or gay legal theory to further study issues which affect gay men and lesbians of color. Particularly, I wondered if they sought pieces from law professors who are gay men of color.¹⁸⁶ Almost half of the students taking Sexuality, Gender, and the Law this semester are gay men of color. In the Race and American Law course offered this semester, a good handful of the students are gay men and lesbians of various racial backgrounds. The participants in these courses said they enjoyed the experience. Of those men who did not

183. 478 U.S. 186 (1986).

184. Other gay law students have described the problematic way in which *Bowers v. Hardwick* is discussed in law classes. See Ihrig, *supra* note 139, at 555-59 (receiving a reprimand from a professor who said, "[Y]ou need to divorce your personal politics from your constitutional law"); Sears, *supra* note 142, at 244 (recounting that he received glances from classmates on the day the case was discussed, as if they expected the token gay student to provide commentary).

185. 388 U.S. 1 (1967).

186. See Kendall Thomas, "Ain't Nothin' Like the Real Thing": *Black Masculinity, Gay Sexuality, and the Jargon of Authenticity*, in *THE HOUSE THAT RACE BUILT: ORIGINAL ESSAYS BY TONI MORRISON, ANGELA Y. DAVIS, CORNEL WEST, AND OTHERS ON BLACK AMERICANS AND POLITICS IN AMERICA TODAY* 116 (Wahneema Lubiano ed., 1998); E. Nathaniel Gates, *Estranged Fruit: The Reconstruction Amendments, Moral Slavery, and the Rearticulation of Lesbian and Gay Identity*, 18 *CARDOZO L. REV.* 845 (1996); Peter Kwan, *Unconvincing*, 81 *IOWA L. REV.* 1557 (1996) [hereinafter Kwan, *Unconvincing*]; Kwan, *Jeffrey Dahmer*, *supra* note 16; Kendall Thomas, *The Eclipse of Reason: A Rhetorical Reading of Bowers v. Hardwick*, 79 *VA. L. REV.* 1805 (1993); Valdes, *Sex and Race*, *supra* note 2; Valdes, *Queer Margins*, *supra* note 15.

pursue such courses, one man said he did not want to take a class with a bunch of people of color who already know the material. The second man said the opposite: he does not have the patience to hear straights and whites get up to speed on these issues. The two men who had read much critical legal theory were critical of it. One man said he was annoyed that critical legal work was five years behind non-legal cultural criticism. The other man said he wished critical legal scholars would do more to bring different groups together rather than saying that only the specific group can understand its own positionality.

Participation in organizations. Most of the participants were marginally involved with the student-of-color groups at Boalt. The Latino students criticized the unspoken authenticity contests members of La Raza Law Students Association (La Raza) conducted in which members rank each other based upon who is going into public interest, who speaks Spanish fluently, whose parents are both Latino, and who “looks Latino” (not looking too white, black, or Asian). Gay Black men had the opposite complaint about LSAD. Many members of that group want black students to be cookie-cutter images of each other. Resentment exists regarding the way certain members feel threatened anytime a member identifies as gay or lesbian, does not identify as African American (identifying rather as African or Caribbean), or dates interracially. The participants who were involved in the Asian Pacific American Law Student Association (APALSA) were annoyed with the divisions between Asian-American students on the left and the right. The left wants to work with other racial minority groups, be political, and fight Proposition 209. The right wants to have socials and study sessions and wants to do nothing in support of affirmative action. Most of the gay Asian-American men interviewed sided with the left of that organization.¹⁸⁷

187. Boalt Hall's APALSA has been the subject of several law review articles. Jim Chen criticized APALSA members at his Boalt Hall interview who judged him based upon whether he would advise the *Asian Law Journal* and mentor Asian-American students. These are the goals that APALSA members on the left would support and members on the right would condemn. See Jim Chen, *Unloving*, 80 IOWA L. REV. 145 (1994). Neil Gotanda, a founding member of Boalt's APALSA, and a host of other scholars have critiqued Chen's anger at these students in a volume of the *Iowa Law Review*. See Neil Gotanda, *Chen the Chosen: Reflections on Unloving*, 81 IOWA L. REV. 1585 (1996); Kwan, *Unconvincing*, *supra* note 188; Margaret Chon, *Chon on Chen on Cheng*, 81 IOWA L. REV. 1535 (1996); Alfred Yen, *Unhelpful*, 81 IOWA L. REV. 1573 (1996). Carolyn Jin-Myung Oh interviewed some Asian-American Boalt students to discuss the way in which Asian culture(s) and gender identities affected the legal choices made by Asian American students. See Carolyn Jin-Myung Oh, *Questioning the Cultural and Gender-Based Assumptions of the Adversary System: Voices of Asian-American Law Students*, 7 BERKLEY WOMEN'S L.J. 125 (1992).

Though most participants are at least nominally involved in the Caucus, everyone was critical of that organization. Many felt men of color and lesbians were not welcome. Others wanted to avoid the cruisy and gossipy vibe among the Caucus men. Still others felt that the group should be doing community work outside of the campus as opposed to having socials. Despite its problems, many gay men of color are committed to participating in this student group. S.F. explains this dilemma:

I've never been one to do things as a martyr. I've never been one to do things because "I'm the only one and blah, blah, blah." I generally do things in order to get something out of it for myself or feeling like I need to do it or want to do it. That hasn't always been the case with the Caucus. There are times when I feel like it's a responsibility to go even though I have a horrible time. The Caucus is seen by the school as a whole and by other students as being representative of the LGBT community. I don't want that image to be a white, bourgie one.¹⁸⁸

Many of the men were involved in efforts to fight AIDS/HIV. The Caucus has an annual bowl-a-thon, organized this year by one of the participants of this study, to raise money to fund students who plan to do summer legal work on AIDS matters. The bowl-a-thon is one of the key times when Caucus members of both sexes and all races work in harmony. One man mentioned that he has many loved ones who have succumbed to the virus. However, none of the other participants said the issue hit too close to home. Most participants said that such volunteering helped them to get off-campus and help those truly in need. As the disease disproportionately affects gay men, people of color, and immigrants, several men said that AIDS activism provides them with a chance to give back to multiple communities that have empowered them. One man also noticed that volunteer work was on a one-on-one basis far from the tiring group dynamics at Boalt.

Summer jobs. Summer jobs allow law students to dabble in various legal fields and get a preview of life and work after they pass the bar. Applying for jobs and working in an office also alerts gay

188. In two pieces from gay male law students at Harvard, the authors have described Harvard's LGBT group as conservative and not very out. See Reuther, *supra* note 141, at 258 (referring to his gay classmates as "GUPPIES"); Sears, *supra* note 142, at 238-40 (observing that half of the gay students look down upon more political or openly gay peers). While many Boalt Caucus members feel the group is not political enough, no one would ever describe it as conservative in the manner that these two authors describe Harvard. One of the men in this study convinced the group to include "transgender" in its name. The group as a whole approved a letter emphasizing that the Caucus supported all school activities fighting against the effects of Proposition 209.

men of color to the possible racism and homophobia they will face in the legal arena.¹⁸⁹ I was curious what stories the participants would tell.

Some interviewees worked in private firms, some have done public interest work, and some chose not to do legal work in the summer. The environment was viewed as more difficult in private firms. One participant described how a white gay interviewer complained throughout his interview that so many pretty white boys were not given call-back interviews. One participant said the interns at his summer firm split along gender lines and that he often sided with the women. Those involved with public interest summer work described a less hostile environment. They often had other gay male or lesbian co-workers or hiring attorneys that appreciated their being out on their résumés. Still, one participant mentioned that he was afraid to be out to his low-income clients even though he was out to co-workers.

Choosing a field of law. About half of us plan to go into public interest law. This is surprising given both the oft-heard anecdote among students of color of all sexualities at Boalt that family obligations and educational debt push us to take firm jobs and the perception that gay men are affluent. Perhaps the double minority status of gay men of color explains this outcome. Lewis Kornhauser and Richard Revesz surveyed law students at two schools similarly situated to Boalt Hall and found that African-Americans and Latinos, especially women, are overrepresented among the law school graduates who enter the non-profit sector.¹⁹⁰ Given that the two researchers propose that race, and not gender, correlates with choice of legal field and that Asian-American responses resembled white responses more than other racial groups,¹⁹¹ I did not expect to see the interest in public interest to be as high as it was among the men I interviewed. Some preliminary research suggests that some gay men and lesbians may opt to take government or non-profit jobs, rather than jobs in firms, because they perceive those fields to be more gay-friendly.¹⁹² This research also noted that over a quarter of the legal entities surveyed do not support gay bar associations to the extent that

189. Homophobia is quite real in these jobs. According to a survey done by the Los Angeles County Bar Association, sexual orientation discrimination occurs at every level of the legal process, including recruitment and hiring. See *The LA Report*, *supra* note 183, at 310-11.

190. See Lewis A. Kornhauser & Richard L. Revesz, *Legal Education and Entry into the Legal Profession: The Role of Race, Gender, and Educational Debt*, 70 N.Y.U. L. Rev. 829, 894 (1995).

191. See *id.* at 833.

192. See *The LA Report*, *supra* note 183, at 839.

they do minority or women's bar associations.¹⁹³ Like women of color, perhaps gay men of color will give up more in order to work in environments where all their identities are respected. More than half of the men I interviewed mentioned doing clinical work for disadvantaged communities or participating in progressive causes outside of the law school. Thus, maybe due to their intersectional position, gay men of color are more likely to use their legal skills to help the needy when compared to the typical law student.

Nevertheless, those who plan to go into private practice say their sexual orientation will have an effect on their work. A participant said he only chose to interview at firms which had at least one out attorney. Another man said he would like to do estate planning for gay and lesbian couples. One man said he wanted to work in corporate law, where he did not have to deal with sexual orientation issues.

Conclusion. As much as I want this Article to convince people in the legal arena to hear from gay men of color, I know Boalt Hall is quickly becoming a place where that will not happen. In its first year as law, Proposition 209 has decimated the once vibrant student-of-color population at Boalt. Only one Black person, a man, began law school at Boalt this year.¹⁹⁴ Students have argued to the administration that the total absence of Black women in this class is a profound reason why the school must do more to maintain diversity.¹⁹⁵ This lone Black student was influenced to attend Boalt because his wife has a job in the Bay Area. Despite the fact that everyone knows the lone Black student is heterosexual, no one has yet remarked that there are no Black gay men or lesbians in this recent class. The Caucus only has one gay man of color from the first year class. He declined my invitation to be interviewed for this paper and I can understand why.

A considerable number of white gay men and lesbians participated in the sit-in against this resegregation of Boalt last semester. This year, I have seen straight men and women of color make more strides in befriending and supporting gay men, lesbians, and bisexuals of color on campus. Some coalition-building and

193. See *id.* at 331.

194. See William Brand, *Black Law Student Cites Hope*, OAKLAND TRIB., Aug. 19, 1997, at A1; Pamela Burdman, *Boalt Hall Alumnae Blast UC Policy*, SAN FRAN. CHRON., Aug. 19, 1997, at A1.

195. Letter from *The Berkeley Women's Law Journal* to the Boalt Hall Faculty (Nov. 5, 1997) (on file with author).

dialogue across boundaries continues. Still, I am saddened by the fact that few, if any, gay men of color will be a part of that process.

A.N. opened my eyes when he concluded his interview with the following comment:

One thing you asked me is what gay men of color bring to law school. I think an additional question needs to be what does the law school take away, conceal, cover up, and end up sucking out of us gay men of color. So in that way I've been so discouraged going to school here. Yeah, you would think I'm beyond this. But there's still days that I leave here feeling three inches tall.

Fewer gay men of color will be here to explain to others facets of the intersectionality of race and sexual orientation. Fewer gay men of color will be here when straight people of color and white gay men and lesbians fail to broaden their political goals. I am even saddened that fewer gay men of color will be around to learn from various women and be taken to task for chauvinism, misogyny, and lesbophobia. Most importantly, fewer gay men of color will be here to support each other and prepare themselves for the sometimes oppressive legal world.

APPENDIX A
Interview Questions

Identity questions

1. Tell me one of your coming-out stories. It can be the first person you came out to, one of the first people you came out to, or the first person you came out to at Boalt.
2. Tell me a story about a time when you *noticed* your ethnicity. It can be positive, negative, or indifferent. (Examples: the first time you ever had a racial/ethnic epithet used against you, a cultural event or celebration of which you were particularly proud, an interesting instance in which some person or institution made an issue of your ethnicity, a situation in which you stood out from all others based on your ethnicity or race, etc.).
3. There have been several anthologies written by or about lesbians of color (*This Bridge Called My Back, A Piece of My Heart*, etc.). However, I can only think of one book about gay men of color (the introduction of which I copied for you). Some books include individual chapters on GBMs, GAMs, and GLMs (for example, *Positively Gay* or *American Gay*). Nevertheless, I can only think of one article in existence which discusses gay men of color *as men of color*. What does the term “person of color” mean to you? Do you identify as a person of color? Would you consider yourself involved or interested in person-of-color politics?
4. One criticism of *Tongues Untied*, the documentary by the late Marlon Riggs on gay black men, was that it never focused on the MAN in gay black man. It spoke of GBMs as only the victims of oppression and never the recipients of privilege via gender. Speak about how your gender or biological sex has influenced your experience at Boalt and affected your reality as a gay MAN of color here. (Potential topics you can discuss: Do you feel straight men feel uncomfortable/intimidated around you? Do you have a large number of female friends, and if so are they lesbian, bi, or straight? Do you feel more comfortable in male-dominated or equally-gendered environments at Boalt? Do you think you are treated worse, better, or equally to lesbians, and particularly lesbians of color, at school? Are you “queeny,” and if so does it affect how people see your maleness or masculinity? Are you an ally or indifferent to women, particularly

lesbians or women of color, at Boalt? Which gender do you feel is more gay-friendly around here? Etc.).

5. For many gay men, their romantic situations frame how they view their sexual identities and affect to how “out” they will be in any given environment. How has your love life affected your law school experience and how has your law school experience affected your love life? If you have a partner, is he (or she) supportive or resistant to your being in law school?

6. I have been using the term “gay man of color”. What term(s) do you use to define your sexual orientation and racial identities? What terms don’t you use? For both of these questions, why?

Law school questions

1. How did your race and/or sexual orientation influence (or not influence) the law schools to which you applied? How did they influence (or not influence) your decision to matriculate to Boalt?

2. Tell me any stories you recall where race or sexual orientation were mentioned in a law class. How did you feel about it?

3. In what organizations, on or off campus, have you been involved? How did your race and/or sexual orientation affect your participation?

4. Describe your summer jobs. How did race and/or sexual orientation issues affect getting the job or being in the office during the job?

5. What field of law are you pursuing? How do your racial and/or sexual identities affect your decision to pursue this field?

6. Have you read any critical race theory or queer legal theory while at law school? What are your opinions about them?

7. How would you like to be described in my footnote? This can be as specific or general as you would like. I would like to include ethnicity, sexual identity, and year in school, but tell me if that is not confidential enough for you.

APPENDIX B

INTERVIEW PARTICIPANTS

A.N. is a Korean-American, "1.5 generation" 3L.

E.I. is a Mexican-American 3L.

F.J. is a 3L of Irish, Mexican, and Native American descent.

G.U. is a 3L who describes himself as "half-Japanese-American and half-Hispanic Jew."

O.R. is an African-American 3L. He has been hired by a gay legal organization.

O.E. is a Filipino-American 3L.

R.J. is a Chinese-American 2L.

S.F. is a Vietnamese-American 3L. He has decided to work on Asian-American health issues relating to gay and bisexual men rather than pursue a legal career.