

**PROTECTING THE HUMAN RIGHTS OF LGBT (LESBIAN,
GAY, BISEXUAL AND TRANSGENDER) AMERICAN
SECONDARY SCHOOL STUDENTS: A LEGAL AND POLITICAL
STRUGGLE OF DENIAL, ENGAGEMENT, AND
ABANDONMENT**

The image features a large, semi-transparent watermark of the Mahidol University logo in the background. The logo is circular with a yellow border and contains a central emblem with Thai script. The text 'MARJORIE LEA LARNEY' is centered over the logo.

MARJORIE LEA LARNEY

**A THESIS SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR
THE DEGREE OF MASTER OF ARTS
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Thesis
Entitled
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for the degree of Master of Arts (Human Rights)


on
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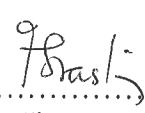
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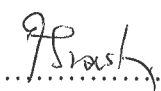
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MARJORIE LEA LARNEY

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ABSTRACT

This thesis focuses on bullying in U.S. secondary schools to assess its impact on students who are identified as lesbian, gay, bisexual, or transgender (LGBT), actual or perceived, and students with an LGBT parent(s). A documentary textual study, the thesis investigated statistical data, academic research, laws, two precedent-setting court cases, news reports, personal statements, and conversations of LGBT teenagers from Internet chats. Analysis of these documents determined the seriousness of school bullying directed toward LGBT students as a violation of their human rights. The past decade saw two issues engage the American electorate: integration of gays and lesbians in the U.S. military and same-sex marriage. Political lobbies, NGOs and religious ministries in taking sides for or against these two issues organized into LGBT advocates and their allies versus the religious right. The study found that protection for LGBT students from school bullying is an equally contested issue though rarely highlighted in national politics. The thesis analyzed the effects on LGBT students by the ubiquitous slur, "That's so gay," name-calling, and sexual and physical harassment. These violations also contributed to the denial of the right to education and development guaranteed by the UN Convention for the Rights of the Child (CRC). Looking toward ratification of CRC by the U.S. is a strategy with little chance of immediate success. The study found that the political strategies of GLSEN (Gay, Lesbian, Straight Educators Network) are creating positive effects. GLSEN's Gay-Straight Alliance Clubs bring needed support, break down isolation, create allies, and empower students. The online GSA chats showed similar results. The thesis analyzed the world-renowned Olweus school antiviolence program and compared it to category-specific programs that designate sexual orientation and gender expression as protected classes and concluded that a category-specific program offers more protection. State anti-bullying and school safety laws were also analyzed and generally found lacking in consistent and comprehensive approaches. A federal law modeled on Title IX was recommended for future passage and implementation with reporting requirements and specified staff responsibilities. School shootings, the history of evangelicals in U.S. politics, and the proposed abandonment of the public schools for homeschooling by prominent religious right leaders were also critiqued in the thesis.

KEY WORDS: UNITED STATES/BULLYING/HUMAN RIGHTS/
LESBIAN/GAY/BISEXUAL/TRANSGENDER/RELIGIOUS
RIGHT/OLWEUS/GAY-STRAIGHT ALLIANCES/SCHOOL
SHOOTINGS/HOMESCHOOLING

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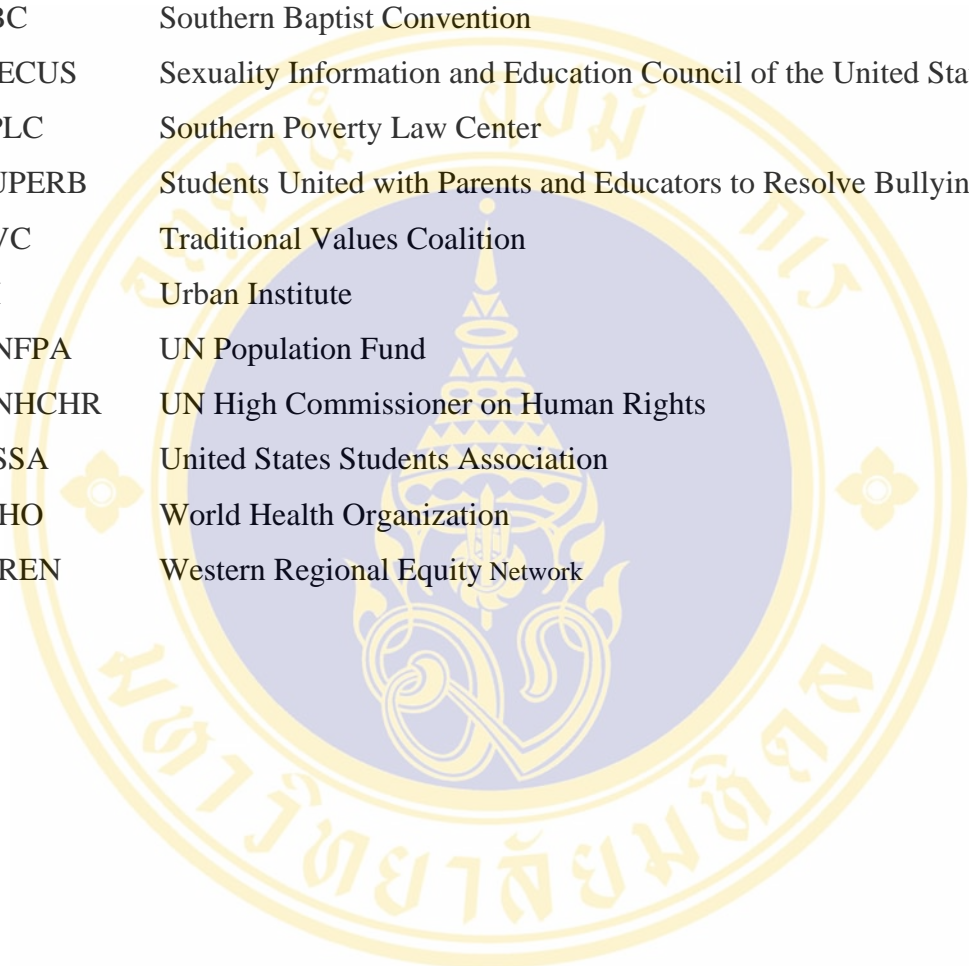
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ABBREVIATIONS

AACP	American Academy of Child and Adolescent Psychiatry
AAP	American Academy of Pediatrics
AAUW	American Association of University Women
ACLU	American Civil Liberties Union
ADL	Anti-Defamation League
ADF	Alliance Defense Fund
APA	American Psychological Association
CEAI	Christian Educators Association International
CIPB	Canadian Initiative to Prevent Bullying
COLAGE	Children of Lesbians and Gays Everywhere
CPCSM	Catholic Pastoral Committee on Sexual Minorities
CRC	UN Convention on the Rights of the Child
CSSM	Center for the Study of Sexual Minorities in the Military
CWA	Concerned Women for America
DOS	Day of Silence
EAA	Equal Access Act
ERA	Equal Rights Amendment
FOF	Focus on the Family
GID	Gender Identity Therapy
GLAAD	Gay & Lesbian Alliance Against Defamation
GLAD	Gay and Lesbian Advocates and Defenders
GLB	Gay, Lesbian, and Bisexual
GLCAC	Gay and Lesbian Community Action Council
GLSEN	Gay Lesbian Straight Educators Network
GPA	Grade Point Average
GSA	Gay-Straight Alliance
HR	House of Representatives
HRC	Human Rights Campaign

ABBREVIATIONS (Cont.)

HREA	Human Rights Education Association
HRW	Human Rights Watch
IANSAN	The International Action Network on Small Arms
ICCPR	UN International Covenant on Civil and Political Rights
IGLHRC	International Gay, Lesbian Human Rights Commission
ILGA	International Lesbian and Gay Association
INGO	International non-governmental organization
K-12	Kindergarten to Twelfth Grade
KKK	Klu Klux Klan
LGBT	Lesbian, Gay, Bisexual, Transgender
LGNY	Lesbian & Gay New York
MA	Massachusetts
NAACP	National Association for the Advancement of Colored People
NACE	National Association of Christian Educators
NARTH	National Association for Research and Therapy of Homosexuality
NCAVP	National Coalition of Anti-Violence Programs
NCEA	National Catholic Education Association
NCLR	National Center for Lesbian Rights
NEA	National Education Association
NGLTF	National Gay and Lesbian Task Force
NGO	Non-governmental organization
NJ	New Jersey
NMHA	National Mental Health Association
NOW	National Organization for Women
NPR	National Public Radio
NRA	National Rifle Association of America
NSCS	National School Climate Survey
NY	New York
OECD	Organization for Economic Cooperation and Development

ABBREVIATIONS (Cont.)

PFLAG	Parents and Friends of Lesbians and Gays
PFOX	Parents and Friends of Ex-Gays
SBC	Southern Baptist Convention
SIECUS	Sexuality Information and Education Council of the United States
SPLC	Southern Poverty Law Center
SUPERB	Students United with Parents and Educators to Resolve Bullying
TVC	Traditional Values Coalition
UI	Urban Institute
UNFPA	UN Population Fund
UNHCHR	UN High Commissioner on Human Rights
USSA	United States Students Association
WHO	World Health Organization
WREN	Western Regional Equity Network

CHAPTER 1

LGBT HUMAN RIGHTS ISSUES IN THE U.S.

1.1 Context of the Situation

In recent U.S. presidential elections sexual orientation and gay rights came to the political forefront: the integration of gays and lesbians into the U.S. military in Democrat Bill Clinton's 1992 campaign and same-sex marriage in Republican G.W. Bush's 2004 campaign (Pew Research Center 2006). Both issues reflect advancements in extending human rights protections against discrimination toward sexual minorities. Several Western democracies have integrated their military and granted same-sex marriage rights already. In a 1999 ruling the European Court of Human Rights decided that Britain had to remove its ban against openly gays and lesbians serving in their military (Center for the Study of Sexual Minorities in the Military (CSSM) 2006). In 2004, the European Parliament called for the opening up of marriage to same-sex partners (International Lesbian and Gay Association (ILGA) org). Claudia Roth, Member of Parliament and Human Rights Commissioner of the German Federal Republic, at the 2004 UN Human Rights Commission meeting in Geneva said:

Recognizing LGBT rights is a democratic signal—as is the fight against discrimination, exclusion and violence and for inclusion and equality. It is an issue for everybody, not just LGBT people! Do I, as a heterosexual, want to live in a society where LGBT people are not treated equally? It is a question of democracy and equal rights. Not first, second or third class citizenship—equal rights means equal rights...Human rights are indivisible, and must be guaranteed, irrespective of cultures and religions (ILGA.org).

Belgium (2003), Netherlands (2001), and Spain (2005) have marriage laws that offer the same full responsibilities and rights to same-sex couples as to heterosexual couples. But unlike in many European countries, traditional religious beliefs and practices intermixed with politics are staples in the lives of a majority of Americans. In 2004, Don Bisson, an American lawyer and active member of ILGA, a

Brussels-based advocacy group, said “Many Europeans think it’s none of their business who should or should not get married... Religion is also not part of the politics here [Europe], the way it is in the United States. Europeans don’t want the church to dictate their lives” (Bisson 2004).

These two differing perspectives, European and American, can be clarified by considering the idea of modernization. Modern societies ideally utilize a fully productive workforce where everyone contributes based on ability. Equality is necessary, so no one is arbitrarily held back from full participation. Societies that utilize discriminatory hierarchies such as the sexual division of labor, racism and other exclusionary social prejudices as homophobia foreclose equal participation based on ability. In addition, social status in pre-modern societies was ascribed from birth rather than achieved. Discrimination, therefore, on the basis of characteristics as gender, race, and sexual orientation short-circuits a modern economy that needs a mobile, educated, adaptable populace that can work together to their fullest ability without prejudice. By institutionalizing inequalities, a society cannot fully utilize the economic and creative contributions of all its members. Thus, hierarchical values and discriminatory social practices based on custom and tradition have and are being replaced in modern societies by the universally equalizing values of human rights.

Historically, American discriminatory practices and prejudices sanctioned by customs and sometimes laws as well, were rooted in racism, sexism, heterosexism, and bias against members of religious groups such as Jews and Catholics in the past and in the present an emerging prejudice against Moslems. In addition, in the U.S., though a highly modernized society, a significant portion of the population holds traditional values based on religious beliefs. This especially has translated into action in the political arena by a U.S. constituency identified as conservative Christians or the “religious right.” The main sector in the religious right is further identified as white evangelicals who number 23 percent¹ of the American populace. For several

¹ Evangelicals are Protestants who commonly identify as “born -again” Born-again means to accept Jesus Christ as personal savior. Both liberal Democrat former President Jimmy Carter and conservative Republican President George W. Bush identify as born-again Christians. In addition, evangelicals share their faith with others by trying to convert or “evangelize” them. Evangelicals go back several hundred years in American history. “<http://www.barna.org/FlexPage.aspx?Page=BarnaUpdate&BarnaUpdateID=170>. Accessed online 10/3/07.

decades, one primary focus of the religious right has been to prevent laws that advance the equal rights of homosexuals. In the view of the religious right, homosexuality is an unnatural and sinful choice that society should not protect in non-discrimination laws that imply moral acceptance. Thus, second-class status, based on the religious right's particular interpretations of the Bible, is appropriate for homosexuals as it once was applied and still functions, to a degree, within American society for people of color and women. On the other hand, Jesus, in the Bible's New Testament, prohibited divorce yet said nothing about homosexuality. Divorce, however, unlike homosexuality, is not a topic of public moral condemnation from conservative Christians. The divorce rate among born-again Christians is exactly the same, 35%, as that for the U.S. population as a whole (www.barnagroup.org). This seeming contradiction suggests the selective quality and adaptability of the religious right's morality campaigns. Can it be inferred that if a practice, divorce, for example, that was formerly considered immoral extends to a critical mass of the population including one's constituency, political feasibility rather than immorality becomes the deciding factor of whether or not to organize a campaign against such a practice?

In the case of homosexual rights that affects a small minority the religious right successfully mobilized a campaign in the 1990s to subvert military integration by the Clinton administration's 1993 "Don't ask, Don't tell" law that requires gays and lesbians who are in the military not to disclose their orientation. Application of this law can cause military personnel who are openly homosexual or discovered so, to be legally discharged without recourse. Over the course of the years this law has been applied, a federal government audit reported that approximately 10,000 military service people were discharged under it. A less than honorable discharge from the military can cause serious negative ramifications for future employment as a civilian (Madhani 2007).

On the second issue, same-sex marriage, in the 2004 election, both the Democratic Party candidate U.S. Senator John Kerry of Massachusetts and the Republican Party candidate President George W. Bush of Texas opposed it. In addition, Bush's campaign strategy promoting the Defense of Marriage Constitutional Amendment ignited "moral issues" voters to help gain his re-election (Bookman 2005).

While the issues of same-sex marriage and military integration would directly affect a not insignificant percentage of the U.S. LGBT (Lesbian, Gay, Bisexual and Transgender) population²; their implementation as federal laws would be highly important steps toward legal equality by removing these two visible vestiges—not being able to legally marry and not being able to serve openly in the military—of second-class citizenship.

Another less-known issue that can predominate in the daily lives of millions is bullying, harassment, and discrimination directed toward LGBT American secondary school students (middle schools, junior high schools, and high schools for students in grades 7th to 12th). According to research and advocacy groups (GLSEN (Gay, Lesbian, Straight Educators Network) 2005; Siecus (Sexuality Information and Education Council of the United States) 2001; NMHA (National Mental Health Association) 2002; HRW (Human Rights Watch) 2001) approximately 2 million youngsters identifying or perceived as gay, lesbian, bisexual or transgender are the prime targets. An additional ten million children with a gay, lesbian, or bisexual parent(s) (Hart 2005) can also be singled out for victimization. Unlike adults who can confront or withdraw from abusive situations, children are usually trapped in school and can be vulnerable to abuse that predisposes them to deep traumas with possible lifelong effects. How can LGBT youngsters cope and contend against this abuse, a violation of their human rights, and who can help them?

For more than a decade, American LGBT organizations GLSEN, National Center for Lesbian Rights (NCLR), Lambda Legal Education (Lambda Legal), National Gay and Lesbian Task Force (NGLTF), Human Rights Campaign (HRC) and their liberal allies such as the American Civil Liberties Union (ACLU), American Association of University Women (AAUW), National Education Association (NEA), American Psychological Association (APA) and others have exposed and contested

² The U.S. 2000 Census counted 601,209 same-sex unmarried partner households in the United States. This is considered a 62% undercount by the non-partisan Urban Institute. Their estimate is 3,136,921 gay or lesbian people living in the United States in committed relationships in the same residence. Studies on the total number of gay and lesbian people in the U.S. show a range from 2 percent to 10 percent of the total population over eighteen years of age (209,128,094). The estimate of the Urban Institute based on Harris and voter exit polls is 10,456,405 or 5 percent (Smith and Gates 2001). <http://www.urban.org/toolkit/issues/gayresearchfocus.cfm>. Accessed online: 10/3/07.

the issue of school bullying of LGBT students with conservatives from the religious right such as the Alliance Defense Fund (ADF), Focus on the Family (FOF), Concerned Women for America (CWA), Traditional Values Coalition (TVC) and others. The issue has been argued in the courts and legislative bodies and has generated laws and programs. LGBT advocates have argued for inclusive laws with categories of sexual orientation, gender identity, and gender expression as protected classes. They contend that LGBT students need this kind of protection. The religious right has argued for non-recognition by arguing that existing statutes offer protection to all students affected by discrimination without the need to specify LGBT students as protected classes. They hold that sexual orientation is chosen and can be changed through reparative therapy or Gender Identity Therapy (GID). They also declare that introducing specific LGBT categories of protection is part of a “homosexual agenda” that intends to make visible and acceptable not only the so-called “gay lifestyle” but also teaching materials and library resources that promote the diversity of human sexuality as “normal.” LGBT advocates retort that the religious right has an agenda to impose fundamentalist Christian beliefs on the U.S. public schools in contradiction to the U.S. constitutional principle of the separation of church and state.

Another contended issue surrounds school clubs called Gay-Straight Alliances (GSAs). These clubs help to alleviate isolation, protect LGBT students, and educate the student body and school staff. The first GSA was started in Massachusetts in 1989. GSAs are often affiliated with GLSEN. There are now about 3,000 GLSEN-registered (many more unregistered) GSAs in public and private secondary schools nationwide. Prohibitions and legal challenges to GSAs and their school activities from the religious right have polarized school communities in many diverse locales. Sex education (Levine 2005) and tolerance training in schools that mention the existence of LGBT persons are also opposed by the religious right.

In school communities, LGBT faculty, counselors, school nurses, administrative and general staff can be affirming role models for students. But if adults at schools are not “out” (open about their minority sexual orientation), they can be silent, “closeted” witnesses to violations directed toward LGBT students. Employment laws that protect LGBT teachers and staff from arbitrary procedures such as layoffs, transfers, denials of promotions, etc. can be the deciding factors for

risking being “out” or staying “closeted.” Sexual orientation as a protected category in fair employment laws has yet to be achieved in many states and localities. Gender identity and gender expression protections are even less available.

When the Internet emerged as a widely available tool, the strategies and tactics of both LGBT advocates and religious right groups shifted. On the one hand, the Christian Coalition of the religious right touted their use of the Internet to mobilize voters on behalf of Bush and other conservative politicians and judges. On the other hand, the empowerment of isolated LGBT students has been achieved through Internet contacts and information and has contributed to the burgeoning of GSAs in schools.

Teens are drawn to the Internet, so much so that a teen site has the highest membership (60 million) of any other site worldwide (Glazer 2006). There are 1,759 GLB (Gay, Lesbian, and Bisexual) groups on the site. A minority is concerned with public activism for equality with the overwhelming majority interested in the personal, emphasizing common identities, interests and social contacts. “Formerly gay” (not anti or ex) youth are a recent group to emerge, and they are using the Internet to assert a more complex and sexually fluid identity than one simply dependent on gay or lesbian identity (Savin-Williams 2005).

Children are deciding to have sexual experience and owning sexual identities at an earlier age than previous generations (Levine 2005). Whether the mass media—movies, TV, print, computer games, and the Internet—have had a major causal role in children’s earlier pubertal development and interest toward sex at a younger age is a subject of debate. Nevertheless, psychologists and educators have applied a long-standing theoretical understanding of adolescent development from pioneering psychologist Erik Erikson and his followers that counselors and medical personal routinely apply to the general teenage population and their clients (Erikson Institute 2006). Warren J. Blumenfeld reported an added complexity for LGBT youth:

Like their heterosexual counterparts, gay and lesbian adolescents share the same physical, cognitive, psychological, and social tasks of development, many of which are unaffected by issues of sexual orientation. However, since one of the major psychological tasks of adolescence is that of identity formulation and consolidation, the gay, lesbian or bisexual adolescent faces myriad challenges that the heterosexual adolescent does not (Blumenfeld 1994).

For LGBT individuals and communities and American society, as a whole, what is also new is that movies, TV, and print media portray LGBT individuals and life more holistically with the positive, the negative, and the in-between replacing the overly simplistic views, negativity, and invisibility of the recent past (GLSEN 2002).

While taking all of the above aspects into consideration, this thesis focuses on reviewing recent legal and political perspectives and strategies relative to the human rights of LGBT students within U.S. federal and state laws. The thesis will note a theory of violence including bullying as it applies to U.S. society and assess the present engagement of liberals and conservatives in the issues affecting the lives of LGBT students. It will also consider the growth of the home schooling movement and the promotion of it by the religious right with their admonition to their constituency to abandon the public schools.

1.2 Research Questions and Objectives

This thesis investigated the following:

1. How are American LGBT secondary school students discriminated against and victimized by homophobia, harassment, and gender conformity, and what are the effects on victims and oppressors?
2. What are the legal mechanisms (local, state, federal and international) that might protect LGBT students from the discrimination and violence of homophobia, harassment and gender conformity?
3. How are LGBT students empowered to initiate, organize, and sustain support clubs such as GSAs and other LGBT activities within the school environment?
4. What are the laws, socio-political values, and religious beliefs cited by political conservatives and the religious right to challenge LGBT human rights within schools such as anti-bullying laws, education programs, and support clubs, and what are the alternative views from liberals including religious groups?
5. What are the strategies liberals employ to advance human rights protection to LGBT secondary students, and what are the opposing strategies of conservatives and the religious right?

The objectives of the study included the following:

1. To differentiate how American LGBT secondary school students are discriminated against and victimized by homophobia, harassment, and gender conformity and to specify the immediate and secondary effects on victims and oppressors.
2. To describe the legal mechanisms (local, state, federal and international) that might protect LGBT students from the discrimination and violence of homophobia, harassment, and gender conformity.
3. To evaluate how students are empowered to initiate, organize, and sustain support clubs such as GSAs and other LGBT activities within the school environment.
4. To differentiate the laws, socio-political values, and religious beliefs cited by political conservatives and the religious right in challenging anti-bullying laws, LGBT education programs, and support clubs (GSAs), etc., and to describe alternative views from liberals including religious groups.
5. To evaluate the strategies liberals employ to advance human rights protection to LGBT secondary students and the opposing strategies of conservatives and the religious right.

1.3 Methodology

Information on the general topic is widely available in print and electronic publications. The thesis used textual analysis and direct first-person information from web chatrooms and journals, etc. The research was qualitative. The following methods were used:

1. Review and analysis of legal documents, reports, studies and polls from the courts, academia and civil society in the liberal and conservative political and religious spectrums. Documents from government agencies were studied as well as autobiographical writings and statements from individual students, administrators, teachers, counselors, parents, and prominent cultural, political, and social commentators on American society. Examples from TV, cinema, newspapers and other popular media were also included.
2. Monitoring first-person web chatrooms, for example:
 - **Gay-Straight Alliance (GSA) Live Journal:** <http://www.livejournal.com/community/gsa/>

About: This community is for gay and gay-friendly individuals to come together and support one another.

- **GSA Online Group:** http://www/*****³.com

About: GSA groups in secondary schools.

- **Feministing:** <http://www.feministing.com>

Mission: Young women are rarely given the opportunity to speak on their own behalf on issues that affect their lives and futures. Feministing provides a platform for us to comment, analyze and influence.

- **Out and Proud** <http://www.outproud.org/>

About: The National Coalition for Gay, Lesbian, Bisexual and Transgender Youth

- **Oasis Magazine (Web)** <http://www.oasismag.com/>

About: Written for and by Gay Youth

3. Review and analysis of international, national, state, county, municipal laws, ordinances, policies, and litigation that affect the human rights of LGBT school youth
4. Review and analysis of positions, policy statements, resolutions, and recommendations about LGBT school youth by supportive U.S. professional organizations and religious groups.
5. Review and analysis of LGBT focused or supportive legal and advocacy groups regarding LGBT school youth.
6. Review and analysis of opposition from conservative political, legal, and religious right websites regarding LGBT school youth and secondary schools in general.

1.4 Chapter Divisions and Style

The text is divided into seven chapters, with the first chapter as an introduction and the last, a conclusion. Each of the five remaining chapters represents a segment of the thesis objectives. Analysis is integrated into the discussion as the topics develop from the research presented. The thesis is written for an international audience. Therefore, definitions and explanations that might be familiar to an American audience are included as extra detail to fill in the context. Extensive footnotes are employed for the same reason. The materials researched and discussed are primarily from U.S. sources with a few international sources included to illustrate the worldwide extent of the problem of school bullying.

³ ***** stands for unspecified to preserve anonymity of participants.

CHAPTER 2

DEFINITIONS, RESEARCH DATA & PERSONAL STORIES

“The most vociferous expressions of sexual prejudice are directed at the subgroup of homosexuals most directly relevant to a heterosexual person’s own identity, namely, gay people of one’s same sex. That is the group with which the individual does not want to be confused (particularly the case for teenagers).”

Gregory M. Herek 2000

In this chapter, terms and concepts used throughout the thesis are defined and clarified. The first section contains concise definitions of sexual orientation, sexual identity, gender identity, gender expression, adolescence, and U.S. secondary school. For the concepts of bullying, harassment, and sexual harassment, the definitions are more comprehensive, drawing on academic, legal and political advocacy literature. The third section features population data and surveys on the types of human rights violations that students experience. This is followed by specific examples of violations as reported by victimized youth in research articles, court cases, and an online chat. The concluding section reviews the detrimental effects of these violations on the victims’ physical and mental health and their human rights.

2.1 Sexual Orientation and Gender Identity Definitions

Sexual orientation refers to the sex of a person to whom one is emotionally and physically attracted. GLSEN offers the following:

Sexual orientation is determined by our sexual and emotional attractions. Orientation is influenced by a variety of factors, including genetics and hormones, as well as unknown environmental factors. Though the origins of sexuality are not completely understood, it is generally believed to be established before the age of five (GLSEN 2003).

Sexual orientation is one component of a person’s identity, which is made up of many other components, such as culture, ethnicity, gender, or personality traits. (GLSEN 1999).

Males and females attracted to the opposite sex have a heterosexual orientation. Males and females attracted to the same sex have a homosexual orientation. Males and

females attracted to the opposite and the same sex have a bisexual orientation (Frankowski 2004). Gender identity is an understanding of oneself as masculine, feminine or transgender. Males who behave in ways defined by their society as masculine have a gender identity that conforms to their biological sex; females who behave in ways defined by their society as feminine have a gender identity that conforms to their biological sex. Males and females who behave in feminine or masculine ways that are non-conforming to their biological sex have a transgender identity; some transgender individuals feel intrinsically that they are conversely opposite to the biological sex of birth and decide to change their sex through medical means. Transgender individuals can have a heterosexual, homosexual, or bisexual orientation (Blumenfeld 1993; Siragusa 2001). Gender expression is the way one expresses masculinity or femininity or a composite of the two binaries in manner, speech, dress, etc. Homosexual females are generally referred to as lesbian while males are referred to as gay. Heterosexual males and females are generally referred to as straight. Bisexuals are generally referred to as bi. Transgender individuals are generally referred to as trans. The acronym LGBT stands for lesbian, gay, bisexual and trans. Sexual identity refers to one's sexual orientation as perceived and expressed in language terms. Education professor Warren J. Blumenfeld offers the following explanation for sexual identity:

This is what we call ourselves. Such labels include “lesbian,” “gay,” “bisexual,” “bi,” “queer,” “questioning,” “undecided” or “undetermined,” “heterosexual,” “straight,” “asexual,” and others. Sexual identity evolves through a multi-stage developmental process, which varies in intensity and duration depending on the individual (Blumenfeld 1994).

Gay or queer can be used as umbrella terms to refer to all LGBT identities.

2.1.1 Adolescence and American Secondary School Definitions

Adolescence is a developmental stage defined by professionals in the fields of medicine and psychology. It is considered the stage midway between childhood and adulthood. Physiologically, it affects maturation in all aspects of the body—skeletal, muscular, hormonal, and organic. Psychologically, it affects maturation in all aspects of the personality—intellectually, socially, egoistically, and sexually. How important

is adolescence? At the 53rd (2006) Annual Meeting of the American Academy of Child and Adolescent Psychiatry (AACAP) its importance was stated by the following:

Recent discoveries in both neuroscience and developmental research focus our attention on adolescence as a critical period for the establishment of long-term patterns of adaptation in many ways analogous to the first four years of life. Adolescence represents a key period of brain development both in terms of structural and functional changes which are associated with changes in emotional reactivity as well as social cognition (Williams and Bleiberg 2006).

The United Nations Population Fund (UNFPA) designates children as adolescents from approximately ten to nineteen years of age and estimated in 2003 that there were 1.2 billion adolescents worldwide with about 85% living in developing countries and the rest in the industrialized world (www.unfpa.org). This age group coincides with the usual age range in U.S. secondary schools, excepting that high school (12th grade) is generally completed by the age of eighteen. In the U.S., Elementary or Grade School starts in 1st grade at age six. Middle School can start at age ten or eleven from the 5th or 6th grade, respectively, through the 8th or 9th grade. Junior High School starts at the 7th and ends at the 9th grade. High School starts at the 9th or 10th grade and ends after the 12th. The local public school district determines the type of public secondary schools and the range of grades covered. Generally, children are required by state law to attend school from the age of six through sixteen. In education documents, the term K-12 refers to Kindergarten through 12th grade. Kindergarten attendance is optional for five-year old children; according to the 2000 U.S. census a majority (61%) of U.S. schools offered a Kindergarten class (www.nces.ed.gov).

Adolescence, unlike childhood or adulthood, is a stage whereby “adolescents are extremely reliant on peers for social support, identity, and self-esteem” (Janssen et al 2004). The next set of definitions—bullying, harassment, and sexual harassment—can be considered as dysfunctional peer responses to that needy reliance within the school environment.

2.2 Bullying Definition

Bullying is a common term widely used and understood by children and adults. In research, however, the term is specifically defined and applied depending on the perspective of the investigators. Law professors Kosse and Wright cite a definition of bullying from the Washington State Office of the Attorney General: “Bullying is when one child or group of children repeatedly picks on another child—often one who is seen as weaker and more vulnerable.” The Washington State Office of the Attorney General further contrasts bullying from fighting or teasing in that bullying involves controlling the victim (Kosse and Wright 2005).

Many academic researchers from the disciplines of psychology, education and health, within the U.S. and internationally, employ similar definitions. Psychologist Peter K. Smith of the University of London states that “bullying is now generally recognized in the research community as being a subset of aggressive behaviour, which is characterized by repetition and an imbalance of power” (Smith 2002). In the main, definitions of bullying are derived from the work of Swedish psychologist Dan Olweus who first conducted an in-depth study and analysis of elementary and middle-school bullying in Norway in the 1970s (Smith 2002; Due et al. 2005; Taki 2006). Olweus’s 1993 text on bullying was translated into 15 languages. He states, “A student is being bullied when he or she is exposed, repeatedly and over time, to negative actions on the part of one or more students” (Olweus 2000). Adding to the actions is the power intent as shown by the definition of the U.S. Western Regional Equity Network (WREN): “Bullying is direct or indirect physical or verbal behaviors which are attempts by an individual or group to assert power over another individual or group. ‘Bullying’ signifies ongoing abuse, whereas ‘teasing’ is a one-time event” (www.wren.org). Psychologist Susan Limber, an authoritative trainer for the Olweus Bully Prevention Program, initiated in Scandinavia in the 1980s, and presently available in the U.S. from Clemson University, South Carolina, describes bullying behavior “as repeated, negative acts committed by one or more children against another. These negative acts may be physical or verbal in nature—for example, hitting or kicking, teasing or taunting—or they may involve indirect actions such as manipulating friendships or purposely excluding other children from activities. Implicit in this definition is an imbalance in real or perceived power between the bully

and victim” (Limber and Nation 1998). Another significant aspect of youth bullying is that it usually needs witnesses or bystanders to affirm the behavior and add to the power of the bully (www.safeschoolscoalition.org). Contrary to common belief, bullies are popular among peers. According to a study by psychologist Juvonen and colleagues at UCLA, sixth grade bullies in Los Angeles schools had higher self-esteem than average and tended to be better adjusted socially (Svoboda 2004). Other commonly held myths about bullying and its effects that research proves otherwise (van Wormer 2003; Shore 2005) are as follows:

Bullying is:

- A rite of passage that is a natural part of growing up.
- No more than kids being kids.
- A builder of character.
- Kids bounce back quickly after being bullied.
- Victims of bullying usually bring it on themselves.
- Bullying will disappear if you ignore it.
- “Sticks and stones may break your bones, but names can never harm you.”

For the behaviors that constitute bullying, The Canadian Initiative to Prevent Bullying (CIPB) offers a condensed breakdown:

- *Physical* includes “hitting, kicking, shoving, spitting, beating up, stealing, or damaging property.”
- *Verbal* includes “name-calling, mocking, hurtful teasing, humiliating or threatening someone, racist comments, or sexual harassment.”
- *Social* includes “excluding others from the group, gossiping or spreading rumors, setting others up to look foolish, and damaging friendships.”
- *Cyberbullying* includes “the use of email, cellphones, text messages, and Internet sites to threaten, harass, embarrass, socially exclude, or damage reputations and friendships.”

The term *relational bullying* is also used in research to refer to social bullying. In the U.S. and the West, this is the type of bullying commonly perpetrated by females as physical bullying is by males (Nansel et al. 1998; Casey-Cannon 2001; Jassen et al 2004; Due et al. 2005). In Japan, social bullying is called “ijime” and refers to bullying

by both male and female students with physical bullying not as prominent as in the West. (Taki 2006). The forms that bullying takes can vary among countries and cultures depending on gender behavior norms and cultural values (Jassen et al 2004). Sadly, it is universally common (Nansel 1998) among school youth as reported in a twenty-eight Western country survey (Due et al. 2005) and from studies in the East including Japan (Taki 2006) and Thailand (Stoneham 2006). The UN Committee on the Rights of the Child noted that bullying is a violation of human rights—the right to education and development:

Discussions of violence against children in schools would also be expected to cover the problem of bullying, or violence and harassment suffered by students at the hands of other students. The failure to prevent such forms of violence and to protect students from them could deny children their right to education as set out in articles 28 and 29 of the Convention, as well as in its general principles and in particular the right to development enshrined in article 6 Racial discrimination and xenophobia, socio-economic factors, sexual orientation, and physical size or strength can be factors that expose children to a higher risk of victimization. (CRC 111 2001).

[Note sexual orientation is one of the factors.]

Kosse recognizes sexual harassment as a form of bullying, but not solely under the category of verbal bullying as does the CPIB in the previous list. Moreover, sexual harassment has a specific legally defined meaning when applied to U.S. institutions concerning employment and education. In this section, sexual harassment is defined after the definition and usage of harassment.

Bullying is such a commonly understood event that laws and court cases refer to bullying as what any “reasonable person” would consider to have occurred. For example, the New Jersey State Law for school districts states that bullying, harassment, and intimidation are what “a reasonable person should know, under the circumstances, will have the effect of harming a student or damaging the student’s property, or placing a student in reasonable fear of harm to his person or damage to his property (State of New Jersey, 210th Legislature, 2002). In other words, bullying is easy to recognize and identify. Thus, courts have found that public school officials, including teachers, are responsible for responding effectively to known incidents of bullying that harm the students under their care. This will be illustrated in the detailed review of two U.S. federal court cases in Chapter 4. Finally, as regards naming the

dangers of school bullying, almost twenty years ago in 1987, a team of international scholars meeting on the topic at Harvard University in a consensus statement declared:

Under the euphemism of “bullying,” we see a much broader, more serious affair. We see instances of assault and battery, gang activity, threat of bodily harm, weapons possession, extortion, civil rights violations, attempted murder, and murder. Everybody knows these are crimes. The fact that they were committed by minors upon minors does not make them less than crimes. The fact that they were committed on school grounds by students does not make them less than crimes” (www.ed.gov).

2.2.1 Harassment Definition

In the view of Kevin Jennings, founder and national director of GLSEN, “harassment” differs in one feature only from bullying; harassment occurs when one is targeted for verbal or physical threats because of one’s membership in a particular group, such as that based on a religion or sexual orientation (Washington Post 2005). However, an Olweus Bully Prevention Program combines the two words into “bullying/harassment,” signifying interchangeability of meaning (Davis et al 2006). This thesis uses “harassment” interchangeable with and as a synonym for “bullying,” and “intimidation” as a synonym for each of the two. The word “intimidation” appears less often in the research but is seen in state laws and school policies. For example, The New Jersey state law cited above states:

“Harassment, intimidation or bullying” means any gesture or written, verbal or physical act that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory handicap, or by any other distinguishing characteristic...

Importantly, the criteria for the state law, as quoted above, includes characteristics as the motivating reason behind bullying behavior. This language enumerating characteristics is similar to that of American anti-discrimination and hate crime laws. Anti-bullying laws and violence prevention programs that enumerate characteristics are supported by LGBT advocacy NGOs and their allies. Those that leave out characteristics are supported by the advocacy organizations of the religious right. Academics are on both sides of the issue.

2.2.2 Sexual Harassment Definition

Sexual harassment has a general meaning but also a specific legal one in American employment and educational situations. For the general meaning, AAUW in their surveys on sexual harassment in the 8th grade through the 11th grade defines it “as any unwanted and unwelcome sexual behavior that interferes with the student’s ability to perform in an educational setting.” AAUW also found that most students have an intuitive understanding of what defines sexual harassment, describing it as physical and non-physical behaviors including touch, words, looks and gestures. AAUW has been researching sexual harassment in secondary schools since 1993; their recent findings contained the following distressing assessment, “Because of the widespread nature of sexual harassment in school life, some students report that it’s not a big deal and many accept it as part of every day life” (AAUW 2001).

Sexual harassment, as it is legally applied in U.S. public schools, finds definition from an amendment—Title IX—to the U.S. Civil Rights Act of 1964. Title IX, an education amendment was passed into law in 1972. It prohibits sex discrimination and sexual harassment and is enforceable in all public schools receiving federal funds. The amendment states that “Sexual harassment is deliberate, repeated, and/or unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Kosse and Wright report that sexual harassment experienced by students include sexual comments, jokes, gestures or looks, being touched, grabbed, or pinched in a sexual way, having sexual rumors spread about one, having clothing pulled off or down, or being forced to engage in sexual behavior other than non-sexual kissing (Kosse and Wright 2005). Sexual harassment is “legally actionable when submission to such conduct is made either explicitly or implicitly a term or condition of, ... under Title IX, educational benefits; or submission to or rejection of such conduct by an individual is used as the basis for... educational decisions under Title IX (www.ed.gov).” Each school must have a person designated as a Title IX coordinator to oversee compliance, investigate complaints, refer unresolved complaints, and report annually to the U.S. Department of Education, Office of Civil Rights. Title IX applies to males and females as victims or perpetrators. Most victims are female and most perpetrators are male (Stein 2005; Limber and Wright 2005). Sexual harassment can be cross-sex or same-sex. Furthermore, LGBT

students can also file complaints under Title IX when the sexual harassment is related to gender non-conformity to masculine and feminine behavior and appearance (www.NCLRights.org).

The next section focuses on research, investigations, surveys and polls that attempt to, first, establish the numbers of American LGBT secondary school students whose human rights need to be protected from possible violations whether in the form of bullying or sexual and physical harassment and, second, to present statistical evidence and personal accounts of such violations.

2.3 LGBT Secondary School Student Population Estimates

According to the latest U.S. Census (2000) there were 31.6 million 12-19 year-olds in the U.S. The Urban Institute (UI), a non-partisan, independent center that gathers and analyzes data estimated that LGBT individuals make up 7 percent of the U.S. population. According to Siecus, most studies found that approximately 5 percent of high school students “identified themselves as gay or reported having had same-gender sexual experiences” (www.siecus.org). GLSEN also estimates that 5 percent of the U.S. secondary school population are sexual minorities or LGBT. Multiply 31.6 million by .05 equals 1.58 million and by .07 is 2.12 million. The INGO Human Rights Watch (HRW) estimated a total of 2 million LGBT students in their “Hatred in the Hallways” report on human rights violations against LGBT students in U.S. secondary schools (HRW 2001).

Children with a same sex parent/guardian also need to be included in the calculations as they are subjected to harassment on that basis. According to the U.S. Census (2000) same-sex couples live in 99.3 percent of all counties in America. Same-sex couples are having children at about the same rate as opposite-sex couples in many states according to an UI data analysis based on the census. In addition, UI estimates that lesbian and gay individuals and same-sex couples are raising 6 to 14 million children in the U.S. Thus, the number of secondary school students potentially subject to violations of their human rights on the basis of a sexual minority status or association is in the millions with distribution nationwide. In addition, a most salient fact is that the largest number of student victims of abuse as LGBT are perceived to be LGBT, but in actuality are straight. Therefore, to protect students from human rights

violations, rather than focusing mainly on the vulnerability of LGBT identified students, the focus needs also to include the prevalence of bullying and sexual harassment associated with bias based on homophobia, biphobia, transphobia and/or gender non-conformity in school environments which affects a much wider, if not the whole spectrum of the youth population (HRW 2001; Savin-Williams 2005).

2.3.1 Problems with Population Estimates

Sexual orientation causation is theorized to be complex and unknown. The American Psychiatric Association states on their website, “to date there are no replicated scientific studies supporting any specific biological etiology for homosexuality. Similarly, no specific psychosocial or family dynamic cause for homosexuality has been identified (www.healthyminds.org). Most psychologists view sexual orientation as determined and set at an early age (www.apa.org). Self-awareness of a minority sexual identity for LGBT individuals occurs later—mostly in adolescence but also beyond. Sexuality can be viewed as a continuum, as proposed by researcher Kinsey and his team¹ with an identity that varies at different times in an individual’s life. This is particularly the situation presently for the “new teenager” who is reluctant to label the self as having only one sexual identity as researched by Cornell University developmental psychologist Ritch Savin-Williams (Savin-Williams 2005). Experimentation with same-sex and opposite sex sexual experiences is viewed as part of adolescence by the recent report of the American Pediatricians Academy with the caution to their membership to not force owning a sexual identity prematurely on their adolescent patients (Janssen et al 2004). Nevertheless, the given assumption for the majority of children growing up in America is that heterosexuality and gender-conforming behavior are the norms within society (Russell 2002). Psychologists explain that what is required for heterosexual youth is to navigate the challenging developmental changes of adolescence and emerge out of it as a responsible individual ready to establish a family with an opposite sex spouse in the next stage of life. In

¹ The Kinsey report “was a human sexual behavior study conducted by Alfred Kinsey over a number of years and published in 1948 under the title *Sexual Behavior in the Human Male*. For his study Kinsey surveyed a variety of people about their sexual habits. In 1953 he published another book, *Sexual Behavior in the Human Female*, based on a similar study” (<http://www.jackinworld.com/library/articles/kinsey.html>) Accessed online 05/01/07.

most locales, this is the acknowledged ideal; traditionalists allow no exceptions; liberals allow there are exceptions to every rule. Whether the exceptions are celebrated, tolerated, or denigrated for the diversity they represent is the heart of the matter that sexual minorities face throughout American life (Johnson and Johnson 1989). These societal encounters can be especially difficult when romantic and erotic feelings first come intensely to the forefront in adolescence.

When researchers study the minority population of LGBT adolescents they meet several problems in data gathering. One is that LGBT youth can be unaware that their sexual orientation is a minority one; they can assume they are part of the heterosexual majority (Johnson 2000). Another is that if they are aware, on some level—conscious or otherwise—that they are a sexual minority, they might question, fear, or reject the orientation (van Wormer 2003). Or, if they see that sexual minorities are viewed or treated badly in their home, school, and community, they may decide to keep their sexual orientation a secret to protect their own physical safety and emotional stability.

The numbers of LGBT youth willing to be surveyed, therefore, has limitations different from the majority heterosexual population, as a whole, and also from other minority groups with ethnic, racial, or class identities. These latter groups might also be victims of discrimination, but their families, in sharing the same minority identity usually offer support and understanding (Johnson 2000). In the main, sexual minority youth families are not composed of sexual minorities but of heterosexuals. These heterosexual families can relate to their own LGBT children by being supportive, disinterested, or oppressive, either through knowledge, ignorance, neglect, or intent (www.aacap.org). Within their family of birth, ethnic and racial minority youth don't have to choose to be open or closed about their ethnicity, race, and class; it's a given. But sexual minority youth do have to make the choice—to be out or closeted—about their minority sexual orientation. Besides limiting the numbers of LGBT youth willing to be surveyed, this difference shapes LGBT youth's sense of security and openness within their own home, at school and in the community. For example, in a 1997 fourteen-city survey health researchers reported that almost 75% of gay and lesbian youth first came out to friends. After coming out to a friend, 46% lost the friendship (www.siecus.org). In addition, because LGBT youth's first choice for self-protection

is to be closed or closeted, they are consistently underreported and underrepresented in general surveys of youth.

One situation American youth share is that, by law, they are required to attend school until they are sixteen and are dependent on their families for economic sustenance. Child labor laws prohibit children working under the age of fourteen and for older secondary school students there are regulations as to hours per day and week (www.stopchildlabor.org). This sustenance can be cut off for LGBT youth if their family rejects them because of their minority sexuality. Researcher Johnson states that the numbers of LGBT youth who are homeless is about 125,000; half were thrown out of their homes by their families when their minority sexuality became known (Chung 1999). Some parents require their LGBT children to undergo reparative therapy² or reprogramming to change their orientation to heterosexual. However, in 2001, The U.S. Surgeon General's Office stated "there is no valid scientific evidence that sexual orientation can be changed" (Haldeman 1999; APA 2000). Because LGBT homeless youth and those in shelters are more available for surveying they are an overrepresented population in studies with the result that suicide rates and crime among LGBT youth as a whole is misrepresented (Savin-Williams 2005).

In addition, another limiting condition for researchers are state and local laws and school policies that only allow students to be surveyed in school with the permission of their parents (Casey-Cannon 2001). LGBT students, therefore, would be required to be open about their minority sexuality to their families to participate and for the reasons explained previously this would dissuade a portion of them from participating. Regardless of limitations, NGO and academic researchers, nevertheless, have published investigative surveys on the violations of human rights that LGBT students experience in school. The next sections present examples of that research.

² The American Psychiatric Association's official web site notes that: "There is no published scientific evidence supporting the efficacy of 'reparative therapy' as a treatment to change one's sexual orientation...." (<http://healthyminds.org/glbissues.cfm>) Accessed online 11/15/06.

2.4 Recent NGO Surveys of Violations of LGBT Students

The following selection of examples are from studies, surveys and polls, most singling out LGBT youth, but also, in some instances, including all categories of students. The information is arranged chronologically starting with the earliest.

1. A 1993 survey, *Hostile Hallways: The AAUW Survey on Sexual Harassment in America's Schools*, by the American Association of University Women Education Foundation found that 86 percent of students (87 percent of girls and 85 percent of boys) stated that they would be very upset if they were identified by their peers as gay or lesbian. “No other type of harassment—including actual physical abuse—provoked a reaction this strong among boys,” the study noted (www.aauw.org).
2. In 1998, a study of Massachusetts (MA) high school students published in the journal *Pediatrics* reported that nearly one-third of gay teens had been threatened in the past month with a weapon at school, compared to 7% of heterosexual students surveyed; more than 25% of self-identified gay teens said they had recently missed school out of fear for their safety compared to 5% for heterosexual youth (www.aclu.org).
3. In 1999, a five-year study in Washington State found that one hundred and eleven incidents of school-based LGBT bullying, harassment, and violence occurred. These recorded incidents alone included eight gang rapes, twenty-two other physical assaults, seventeen other sexual assaults, and thirty-eight cases of ongoing verbal harassment (Washington Safe Schools Coalition. 1999).
4. In 2000, GLSEN surveyed 500 gay students nationwide. Almost half said they didn't feel safe in their schools. Of the surveyed, 90 percent reported verbal harassment; 46.5 percent reported sexual harassment; 27.6 percent reported physical harassment, and 13.7 percent said they were subjected to physical assault (Ireland 2000).
5. In a 2000 study of students in western MA by social worker Susan Fineran, young lesbians and bisexual females experienced more sexual harassment than heterosexual females. For example, 72 percent of lesbian and bisexual females reported they were called sexually offensive names by peers, compared with 63 percent of heterosexual females. In addition, 63 percent of lesbian and bisexual females were more likely to be “touched, brushed up against, or cornered in a

sexual way” compared to 52 percent of heterosexual females. Lesbian and bisexual females were grabbed or had their clothing pulled in a sexual way 50 percent compared to 44 percent for heterosexual females. Also, 23 percent of young lesbian and bisexual females reported that their peers had “attempted to hurt me in a sexual way (attempted rape or rape),” while 6 percent of the heterosexual females surveyed had experienced this type of sexual harassment (HRW 2001).

6. In 2001, a random Zogby poll of 1,003 high schools seniors, designed by a survey research class of professor Dennis Gilbert of Hamilton College in Clinton, New York found “That’s so gay” was reported by 88 percent of the surveyed students as used to describe something disliked. Nearly half reported having seen students called the pejorative “faggot,” “homo” or “dyke” directly to their face (Gilbert 2001).
7. In 2002, the National Mental Health Association (NMHA) found that LGBT students are at a “disproportionate risk” for bullying and harassment by hearing anti-gay slurs about 26 times a day. Thirty percent of gay youth reported that the year before they were threatened or injured at school. And 78 percent of all 12-17-year-olds said that they saw peers tease or bully others who identified or were perceived to be gay
8. In 2004, Widmeyer Communications found that 68 percent of high school students said that they personally frequently used the expression “That’s so gay” in a pejorative manner; 52 percent of teens frequently heard students make homophobic remarks and 69 percent of teens frequently heard students say ‘That’s so gay’ or ‘You’re so gay’—expressions where ‘gay’ is meant to mean something bad or devalued.
9. In 2005, GLSEN’s Harris interactive poll “Teasing to Torment: School Climate in America, a Survey of Students and Teachers” surveyed over 3,400 students aged 13-18 and over 1,000 secondary school teachers. The results reported that nearly nine out of ten (89.2 percent) reported hearing “That’s so gay” or “You’re so gay” frequently or often at school. Derogatory remarks such as “faggot” or “dyke” were heard by 75.4 percent of students frequently or often at school. More than a third (37.8 percent) of students experienced physical harassment at school

on the basis of sexual orientation and more than a quarter (26.1 percent) on the basis of their gender expression. Almost a fifth (17.6 percent) of students had been physically assaulted because of their sexual orientation and more than a tenth (11.8 percent) because of their gender expression (www.GLSEN.org).

Surveys by GLSEN do not claim to represent a rigorous academic methodology but the polling companies utilized by them and others in the above list have earned respect over decades; their work is reported widely by U.S. and international media. The variation in the percentages for each form of harassment does not appreciably differ from poll to poll or year to year (Weill-Greenberg 2006). One lack, however, is that in most reports the data is not disaggregated by sex or race; this would have been useful in delineating the discrimination based on sex and race for a detailed picture in locating areas that need specialized tolerance education. GLSEN reported that a total of 236 youth of color from 35 states and the District of Columbia participated in their 2003 survey.

GLSEN is a political advocacy NGO working for change, so the data design and what it finds can be presented objectively yet related to its mission.³ Kevin Jennings, director of GLSEN, stated that from the 2005 poll the two top causes of bullying and harassment were appearance⁴ or real or perceived sexual orientation, and religion was the least likely reason for kids being singled out for harassment. He also added that there was little positive change in the survey results since 2003: “I talk to other adult LGBT people [who say] ‘Things must be all better for kids now.’ It’s not all better.” He explained that fewer students could identify school staff they felt comfortable speaking with about LGBT issues in 2005, and the study also found that there was no increase in resources for LGBT students since 2003 (Washington Post 2005). This is in sharp contrast to what’s happening on other fronts whereby surveys of American public opinion show a progressive increase over the past few decades for

³ “The Gay, Lesbian & Straight Education Network strives to assure that each member of every school community is valued and respected regardless of sexual orientation or gender identity/expression.” <http://www.glsen.org/cgi-bin/iowa/all/about/index.html>

⁴ The GLSEN findings do not detail what bullying and harassment based on appearance specifies.

Other researchers found it can refer to being fat (Casey-Cannon2001) with fat girls the most harassed. In a study of 5749 (2718 boys and 3031 girls) Canadian youth from the age of 11 through 16 years, 23.1 % of the obese girls were victims of bullying compared to 15.3 % for obese boys. The figures for bullying victims of normal weight boys was 11.5 % and 10.1 % for girls. For overweight boys, the bullying victims percent was 14.0% and for girls 14.4. Frequency of victimization was also highest for obese girls per type: verbal, physical, social (Janssen et al 2004).

LGBT civil rights (Buchanan 2006). With the exception of GLSEN, are LGBT school youth the forgotten population in the gay rights movement?

The surveys show that harassment against LGBT students ranges from criminal gang rapes and physical assaults to name calling and homophobic verbal expressions. In the sections that follow, LGBT students, themselves, express their views regarding the harassment they personally have encountered.

2.5 Views of LGBT Youth to the Phrase “That’s So Gay”

“That’s so gay” or “You’re so gay” are considered verbal slurs that can be directed generally or specifically to LGBT youth. This subsection presents an Internet exchange among six different LGBT youth that occurred from February to March 2003 in response to the thread of “That’s so gay.” The conversation is on the Oasis Magazine website.⁵

1. When people say something like “That’s so gay,” just ask them what they mean by “gay.” Be serious, though, about getting an answer, start a conversation let them understand why it is wrong. This way you will not be telling them not to say it, you will just be explaining to them why it is wrong, and they will probably decide not to say it anymore on their own. Or they’ll get annoyed and not say it around you anymore to avoid a lecture.
2. I can understand straight people wanting to reclaim their word. If they used “gay” to mean “light-hearted,” “bright,” “cheerful” I would not have a problem. But some of my friends use it in a derogatory fashion. When it applies to something that is, admittedly, rather gay, like “Sailor Moon,” for example, I don’t have a problem with it. But it is [sic] when they use it on something not having anything to do whatsoever with sexual preference, like “Wait, this was recorded by the Cincinnati Symphony Orchestra?” “Yeah I know, it’s “kinda” [kind of] gay,” that is when it bothers me.
3. When people say “That’s so gay,” I usually respond with, “Wow me too!” I love to see their reactions.
4. Most people who say something is “gay” are not homophobic, but just ignorant. Ask them why they say that? They have no idea.
5. I was in the hall one day and heard these guys say, “That’s so gay.” Then I heard someone who I don’t really know, but I know she’s

⁵ Oasis Magazine, publishing online since 1995, is a “writing community for queer and questioning youth comprised of online diaries, essays, poetry and artwork” <http://www.oasismag.com>

straight say, “Hey! I don’t like that choice of words,” and then when she walked away one of the guys asked his friend if she was gay. It really made me happy that this straight person had the guts to be “outed” [identified] as gay because of something she believed in. Now my other story. So I was on the Metro (Washington D.C. [subway]) with my odd hippie friends, and there were these very thuggish [tough] type people who asked us “Are you like on the peace committee or something?” and told us we were “so gay.” Our response (in a very condescending voice): “You guys are so heterosexual, and yes, we are on the peace committee, thank you.” They were so confused that they couldn’t think of anything to say.

6. I sort of “half came out” to my brother earlier than I intended, because every time he or my stepsiblings said that, I’d say, “Use a different set of words, please” in my best “I’m-going-to-be-a-professor” voice. So when I actually told him, “You know I’m a lesbian, right?” he was able to say, “Duh⁶, no one else yells at me for saying that things are gay.” Which really says something about widespread homophobia. My father is very supportive of me, but he never takes my brother to task for saying that. It’s so pervasive that I hear it all the time. And I die a little inside, too, when someone says that. I’ve gone up to students here I don’t know, and told them to find better language to use. (Didn’t make me popular, but it sure as hell made me feel better.) I haven’t found a way to stop this without more or less outing yourself. What’s going to happen, if you correct someone’s language, they’ll assume you’re gay until proven otherwise. Now if it’s true, you’ve outed yourself. But it only matters if you really care what others are assuming.

The above conversation illustrates how the phrase “That’s so gay” can be reacted to in varying ways: be bothered and ignore it (number 2); try to discuss/educate/challenge (numbers 1, 4, 5, 6); confront with a bit of shock humor (number 3); confront by flipping the denigration (number 5.). The difficulty occurs with direct reactions because as the fifth and sixth participants note it outs oneself. However, if an anti-harassment school policy were functional, then the responsibility for calling students who say, “That’s so gay,” would be on the staff—teachers and administrators—and not solely on students who when they hear it are put in the position of having to decide to be out or not.

Another consideration with regard to homophobic expressions is that teenagers use slang as passing fads. A few years ago, the most used phrase was “That’s so

⁶ “Duh: Used to express disdain for something deemed stupid or obvious, especially a self-evident remark.” (American Heritage Dictionary). <http://www.answers.com/topic/duh>

lame”⁷ and before that, “That’s old” and “That’s a bitch.” These phrases are also discriminatory—the first against the disabled, the second against the aged, and the third against women. As gay visibility increases through the media, the reaction by the heterosexual majority could have contributed to this verbal backlash (www.linguistlist.org). The Oasis magazine online discussion relates how telling others not to use the expression “That’s so gay” is difficult for a gay person because it encourages the assumption that one is gay. A gay self-identified person doesn’t come out once and for all but continually has to assess each new situation to decide whether to be open about their identity. This is similar to women who might challenge the phrase “That’s a bitch” which opens them up to an exposure of identity, in this instance, that of a feminist, which is also subject to denigration in conservative and even liberal sectors of U.S. society (www.feministing.com). The next section, LGBT Students Personal Experiences of Name-Calling contains examples of what LGBT students have endured when they are self-identified or perceived to be LGBT by their peers and others.

2.6 Name-Calling As Experienced by LGBT Students

After use of the expression “That’s so gay,” name-calling could be considered the next higher level in the order of harassment, though frequency of use for “That’s so gay” needs to be taken into consideration in any ranking scheme. Just as being called stupid by inference when someone says, “That’s so gay,” being called “faggot,” “fag” or “dyke” is intolerant and abusive no matter to whom it is directed. Some argue that faggot doesn’t mean anything, simply the preferred teenage word for teasing and put-downs. In Human Rights Watch’s 2001 comprehensive report “Hatred in the Hallways” based on 140 direct interviews of LGBT secondary school students in the states of California, Georgia, Kansas, Massachusetts, New York, Texas, and Utah and from interviewees online the issue of how name-calling is used is addressed by the students. Personal statements from these interviewees with their home states in italics as reported in “Hatred in the Hallways” and from other sources follows:

⁷“I first heard ‘gay’ as a general pejorative from a Caltech student in mid or late ‘88...It was on par with ‘lame’ as a general term of abuse...” Linguist Internet List, <http://www.linguistlist.org/issues/13/13-498.html>

1. Name-Calling—“Faggot” or “fag” for gay males

“I hear the word, “faggot” all the time. It’s hard not to walk around angry all the time.” *Massachusetts* (Blumenfeld 1994).

“It starts really young. There are people in second grade throwing around the word ‘gay,’ ‘faggot’ in 4th and 5th grade” *California* (Chesky 2004).

“The principal told me he wouldn’t have me acting like a ‘faggot’ at school. After a semester there, I realized that it was not a place where I could get an education. *Nevada* (HRW 2001).

“My teammates would always talk about how they could tell if someone was a ‘faggot’ just from the way they walked. They never suspected me, but I heard it [the name-calling] every day” *Texas* (ibid.).

“I didn’t get called ‘faggot’ that much because I was playing soccer” *Texas* (ibid.).

“A lot of them said I was gay because I didn’t play football, no sports. You just kind of dealt with it. . . . They’d be like, ‘Are you a faggot?’ *Louisiana* (ibid.).

“They used to call me all kinds of names—‘faggot’ and stuff like that. The worst thing about my first school was that they were screaming things to me in the hallways. Sometimes they would say these names in class” *California* (ibid.).

“People called everyone ‘faggot’. That’s like the word of the century. It turned into a routine” *Massachusetts* (ibid.).

“That’s how you pick on someone, straight or gay. You call them a ‘fag.’ I hear it a lot of times during the course of the day, a lot, at the very least ten to twenty times a day” *California* (ibid.).

“These guys, they’ll stand in front of the lockers. They’ll be, like, ‘Look at that ‘faggot.’ You hear it every day” [unspecified state] (ibid.).

“They’d come up to me and say, ‘I’ll pray for you tonight.’ Or just call me ‘faggot’” *North Carolina* (ibid.).

“...of hearing the word ‘faggot.’ It’s kind of like if I heard Black people called names, I would get offended. It’s a word that I’ve never been taught as meaning something friendly. It’s not a gesture that I take lightly” *Texas* (ibid.).

“It’s not like someone calling someone else an idiot. Not everyone gets called a ‘faggot.’ It’s only for people who are different” *California* (ibid.).

“I had this world history teacher, he’d be like, ‘oh, faggot this,’ ‘faggot that.’ One time he told me I was going to hell” *Georgia* (ibid.).

2. Name calling—“Dyke” for lesbians

The pejorative “dyke” unlike “faggot,” seems not to be used as “fag” in a general sense as an insult to males regardless of orientation, but mainly as a specific insult to females who are perceived or self-identified to be lesbian or bisexual. Personal statements of young women from “Hatred in the Hallways” or court-case testimonies and other sources follow:

“They started calling me a lesbian in fourth grade. By high school the guys called me ‘dyke’ all the time and grabbed my butt [sexual harassment]. The girls just had a whisper campaign” *Texas* (HRW 2001).

“People would yell ‘dyke’ down the hallway. Someone slipped a card in my locker that said ‘KKK’ (Klu Klux Klan)⁸ on it, and on the back it said, ‘You dyke bitch, die dyke bitch.’ I wouldn’t go to school for the whole week, I was so scared” *Texas* (HRW 2001).

“A student in the lunch line harassed a bisexual girl, calling her a ‘dyke.’ Yet not one adult who was nearby said anything to reprimand the girl’s harasser.” (Cook 2005).

2.7 Sexism & Sexual Harassment As Experienced by LGBT Students

The cultural pervasiveness of the sexual objectification of girls and women, use of the terms “bitch,” “dyke,” “fat dyke” and other denigrating terms broadcast on media, especially rap music, can contribute to the discriminatory atmosphere in secondary schools (Nevins 2004) for both straight and gay youth.

As reported by the surveys previously cited, verbal harassment and sexist language is frequent, and verbal harassment can escalate to sexual harassment or physical harassment over time for LGBT targeted students (HRW 2001). In a tragic incident a Georgia student died after being punched while getting off a school bus by a student who regularly harassed him. According to student witnesses, the attacker taunted kids

⁸ KKK is an American white-racist hate group. It started in 1886 and reached a peak of political power in 1925 when 5 million of its members marched in Washington, D.C. It has been responsible for innumerable hangings, bombings and other violent acts against the civil rights of African Americans, immigrants, homosexuals, and religious minorities. Presently, it has approximately 5-6000 members nationwide divided in various factions. Southern Poverty Law Center (SPLC). <http://www.splcenter.org/intel/map/hate.jsp?T=26&m=4>

he didn't like by calling them "gay." This incident and subsequent media reports led to a state anti-bullying law (Salzer 2001). Another incident illustrates how harassers used verbal assault in school, and when the opportunity arose escalated to physical harassment:

Late one night, a student drove to a convenience store to buy milk for the family's breakfast. As he got out of his car, he saw two classmates in the store's parking lot. They came up to his car, and said the usual "Hey, faggot" and started asking him... how would he like to be beat up. Then they cornered him against the car and started beating on him. He escaped into the store. When he asked the clerk to phone the police, the clerk refused. The interviewed student said, "I had a black eye, bloody nose, split lip, and some other bruises on my body. My parents called the police. They didn't even want to take a report. Their comment was 'They're just a couple of good all-American boys out for some fun....' Both the guys who assaulted me often called me 'faggot' and things like that in [my high school]" (HRW 2001).

Many researchers advise that verbal harassment that is not challenged or controlled escalates into physical harassment and assaults. In the next section, LGBT sexual harassment violations are illustrated by personal statements.

2.8 Sexual & Physical Harassment As Experienced by LGBT Students

Sexual harassment always includes a sexual aspect, but it can also include physical harassment and verbal harassment concurrently. In the following from "Hatred in the Hallways," touching and gestures count as well.

"People would grab my breast area." *Texas* (HRW 2001).

"They'd come up and grab my waist, put their arm around me" *Texas* (ibid.).

"They'll flash you, try to chase you down. That's what's going to happen" *Texas* (ibid.).

"Guys will grab themselves [their genitals], or they'll make kissing noises" *Texas* (ibid.).

"They mimic homoerotic acts. They'll mimic anal sex, mimic oral sex" *California* (ibid.).

2.9 Physical Harassment As Experienced by LGBT Students

Physical harassment differs from sexual harassment in that there is nothing sexual involved. Still, both can occur in the same incident or ongoing situation.

Physical harassment that involves violence against the bodily person of an individual is considered an assault and can be a criminal act or a hate crime. While it seems that incidents of violence against LGBT persons are more common at this period in American history (National Coalition of Anti-Violence Programs (NCAVP 2005), research conducted two decades ago stated “Violence against the homosexually oriented is endemic, particularly for the homosexual adolescent. These acts of violence range from the slap in the school hallway to rape” (van Wormer 2003 citing Hetrick and Martin 1987). The following incidents are a few examples of the type of current violent physical harassment experienced by individual LGBT students from different states:

A gay male student reported that he and a female student were walking down an aisle [in school] when a 16-year-old boy stepped out from a line and punched him in the mouth and nose causing him to fall. As a result of the attack, one of his teeth was knocked loose and his bottom lip cut. (From Grove, Oklahoma Police Report).

In Bridgeport, Connecticut, a junior student who was a member of the school’s GSA was assaulted in a stairwell by two students. “While he was being beaten up, people were saying, ‘Kill all the faggots,’ recalled an English teacher and advisor to the GSA who rushed to the student’s aid after hearing the commotion which eventually involved about a group of twenty (Silvers 2006).

Testimony in a lawsuit by a male student in Antioch, California stated he was subjected to harassment, threats, insults, taunts, and abuse based on perceived sexual orientation and because his mother was transgender. Physical assault caused a concussion, hearing impairment, severe permanent headache plus psychological trauma. He won a settlement of undisclosed amount in 2000 (www.nclrights.org).

Testimony in a lawsuit by a gay male student stated he was subjected to harassment, intimidation, physical abuse, and raped 3 times by another student wielding a knife in Oakland, California. He won a settlement of undisclosed amount in 2000 (www.nclrights.org).

Testimony in a lawsuit by a male student stated he was subjected to harassment and discrimination from 8th through 11th grade based on real or perceived sexual orientation and an assault that forced him to leave school in Pleasant Hill, Missouri. He won a settlement of \$72,000 in 2000 (www.nclrights.org).

Testimony in a lawsuit by a lesbian student stated she was subjected to name-calling, physical assaults, unwanted sexual contact, stabbed in the hand with a pen, had her shirt ripped off, threatened with an attempted rape by a male student before another male student intervened. She won a settlement of \$220,000 in 2000 (www.nclrights.org).

Testimony in a lawsuit by a gay male student in Nevada stated he was subjected to constant harassment, discrimination, and intimidation, which included name-calling and physical assaults, as well as a life-threatening one. He won a settlement of \$451,000 in 2002 (www.nclrights.org).

Testimony in a lawsuit by a male student in Minnesota stated he was subjected to name-calling based on perceived sexual orientation from Kindergarten through the 10th grade; physical threats and assaults began in the 6th grade; mock rapes and unwanted sexual contact began in the 9th grade. He won a settlement of undisclosed amount in 2000 (www.nclrights.org).

A lesbian student in White City, Georgia stated, “I’ve been assaulted at school twice and called names more times than I can remember, and I know gay students who have had to drop out of our school because the harassment was so bad” (www.nclrights.org).

This concludes the sections on the personal experiences of violations. Though there were many other incidents found during research (Selweski 2006; Boodman 2001; www.LambdaLegal.org); the ones presented are intended to give an overview and examples of the degree and specifics of the violations experienced by students in many states, some predominately urban and others predominately rural, as well as those identified as politically liberal or conservative, in different regions of the U.S. That violations occur in all these locations suggests that there are other complex factors at play notwithstanding differences in social and political environments. The next section reviews research on the effects of the violations on the physical and mental health and educational development of the LGBT student victims.

2.10 Detrimental Health & Educational Effects of Violations

As can be inferred from the violations reported in the previous sections, students who are subjected to harassment and assault because they are LGBT identified—actual or perceived—or children with an LGBT parent(s)⁹ endure many different kinds of trauma. Being physically harmed by rape or being beaten and attacked causes long-term physical and mental health effects. Broken noses, loosened teeth, split lips, busted ribs, concussions, and other effects of physical assaults require not only medical treatment but can also can require hospital care. Some damages to a

⁹ Children of Lesbians and Gays Everywhere (COLAGE) states: “In the United States alone, more than 10 million people have one or more lesbian, gay, bisexual and/or transgender parent(s).” www.colage.org. Accessed online: 2/3/07.

body can heal fully but many do not without irremediable changes—a broken nose is always crooked, a busted rib is not as strong if it had never been broken, a concussion may never heal completely, and so forth. Emotional and mental damages can be even more long lasting and require ongoing and even lifelong psychotherapy.

Judges and courts have recognized the damage that even a seemingly minor gesture can cause to LGBT students. In a decision by the ninth circuit court in San Francisco federal judges ruled 2-1 that a school could prohibit a student from wearing a T-shirt that said, “Homosexuality Is Shameful.” Writing for the majority opinion, Justice Reinhardt stated, “The demeaning of young gay and lesbian students in a school environment is detrimental not only to their psychological health and well-being, but also to their educational development” (Reuters 2006).

In a similar vein, a July 2006 report, “The Effects of Marriage, Civil Union and Domestic Partnership Laws on the Health and Well-Being of Children” published in the American Academy of Pediatrics (AAP) journal *Pediatrics* reiterates the research finding that “as children, many gay and lesbian persons experience considerable isolating, peer rejection, ridicule, harassment, and/or depression at some time” and that 47% of gay and lesbian teens have seriously considered suicide, and 36% have actually attempted suicide. They may experience rejection by their families, homelessness, maltreatment at school, and violence.” Furthermore, the report states “Nationwide political and religious debate over same gender marriage has intensified an already unstable climate for gay men and lesbians in our society. The lack of societal tolerance, acceptance, and support that gay and lesbian individuals, couples, and their children experience can and does affect their psychosocial and physical health and safety.” The report found that children of same-sex parents do better in areas of the U.S. where their parents’ relationship is recognized and concludes that children would benefit from the legalization of same-sex marriage. The AAP is a membership organization of more than 57,000 physicians specializing in children’s medicine.

In a small case study, a team of researchers at the Department of Adolescent Medicine, Indiana University, interviewed 13 self-identified young adult gay males ages 16-22 who among other criteria for selection as study participants endorsed the statement, “Being gay currently causes me minimal distress.” The study was designed

to test whether adolescent development differed appreciably between gay and non-gay youth. The conclusion was that it did not. However, one finding reported that nearly all participants reported middle school and high school as where they were likely to be harassed or where they saw others harassed on the basis of sexual identity. Other than that particular finding only 2 out of the 13 reported overall developmental experience considerably different from non-gay peers. Peer interaction, however, was the area most different from that of non-gay peers (Eccles et al 2004). Other researchers have found that as teenagers enter into young adulthood, school bullying decreases overall among the general school population (www.at.wa.gov).

In a methodological and statistical “robust” study by researchers of the Department of Epidemiology, UCLA School of Public Health, and the Department of Psychology, UCLA, it was found that gay/bisexual males reported higher rates than heterosexual males of childhood emotional and any physical maltreatment (including major physical maltreatment) by their mother/maternal guardian and major physical maltreatment by their father/paternal guardian. In contrast, lesbian/bisexual females, as compared to heterosexual females, reported higher rates of major physical maltreatment by both their mother/maternal guardian and their father/paternal guardian (Corliss, Cocran, and Mays 2002). The researchers concurred with other researchers (D’Augelli, Hershberger, & Pilkington 1998; Pilkington & D’Augelli, 1995) that “direct disclosure by a child or adolescent of a sexual minority orientation to parents may generate risk for parental maltreatment” (ibid.). This research disaggregated by sex, thereby allowing for a more specific understanding of family dynamics for application in social work and counseling. The research team also found it plausible that childhood atypical gender behavior is associated with maltreatment. It is one of many studies based on interviewing adult LGBT individuals by asking them to remember back to their childhood—a retrospective study. Again, this type of study points to the difficulty in finding subjects who are children and youth living at home to research, because participation is contingent on parental permission. As a consequence of this limitation, many researchers of LGBT youth find subjects living in-group homes or in care of the state. This skews the research and has been cited as one of the reasons why the high rate of suicide attempts for LGBT youth is mainly representative of a population outside the home that has been highly traumatized (Savin-Williams

2005). Nevertheless, if gender atypical behavior or gender non-conformity can be associated with maltreatment in the parental home, then the connection this has to LGBT homelessness and its comparison to maltreatment at school could also be investigated.

In researching harassment lawsuits at schools it is noted that parents mainly pursue the issue on behalf of their children. But what of the harassed children who are equally or more so harassed at home? Who can defend and protect them when they are violated at school as well as in the home? In several instances of the lawsuits reviewed, the plaintiffs were youths perceived to be LGBT. Are they more acceptable subjects for legal defense by their parents and for victory in the courts? These questions are posed so that future researchers might consider them in designing their studies. The previous paucity of studies on LGBT youth is only now beginning to be augmented by research interest and funding (Savin-Williams 2002; Lehoczky 2005). In addition, as youth discover and own a minority sexual orientation at an earlier age than previous generations, a barrier to immediate and non-retrospective studies of a LGBT school age population is being removed (Savin-Williams 2002; Dahl 2004).

2.11 Surveys on the Educational Environment of LGBT Students

Besides being victims of harassment—verbal, physical, and sexual—LGBT students are also denied their rights to full educational development out of fear and other stress-induced states because of threats of violence. Surveys and polls testify to the severity of the situation for LGBT students compared to the general student population. The following selected examples describe the differences:

A study of 9th to 12th grade public high school students in the *1995 Massachusetts Youth Risk Behavior Surveillance* found:

- LGB students were more than four times as likely to report being threatened with a weapon on school property.
- LGB students were almost five times as likely to report failing to attend school because of their fear about safety.

This study was required of every state but the religious right put political pressure on state governments so the Clinton/Gore Administration's Centers for Disease Control

removed all questions regarding sexual orientation from this study called the National Youth Risk Behavior Survey. The only state to include them was Massachusetts (Ireland 2000).

In the journal, *Professional School Counseling* Casey-Cannon states, “Repeated bullying has been associated with negative school outcomes like absenteeism and poor academic performance” in citing a 1996 article by Roberts & Coursol (Casey-Cannon 2001). [She also noted in her qualitative study that two girls changed schools because of the bullying. This bullying refers to general bullying, including LGBT students but unspecified.] Many other researchers have come to similar conclusions as those mentioned above.

In the GLSEN 2005 National School Climate Survey, it was found that:

- LGBT students were five times more likely to report failing to attend school because of safety concerns.
- LGBT students who experienced more frequent physical harassment were more likely to report they did not plan to go to college.
- LGBT students were twice as likely to report they were not planning to pursue any post-secondary education.
- The average GPA (Grade Point Average) for LGBT students who were frequently physically harassed was half a grade lower than that of LGBT students experiencing less harassment (2.6 versus 3.1).

In summary, all of the statistical data, personal reports and testimonies reported in this chapter represent a diminishment of the right to education of LGBT students and affects the compliance of the U.S. with the ICCPR (UN International Covenant on Civil and Political Rights), a human rights convention ratified by the U.S. In the U.S. government’s required formal report to the Human Rights Committee, the wholesale violation of LGBT secondary students rights nationwide was not mentioned. The next chapter reviews the present state of anti-bullying laws and violence prevention programs in the U.S.

CHAPTER 3

ANTI-BULLYING & VIOLENCE PREVENTION PROGRAMS

“Someday, maybe, there will exist a well-informed, well-considered, and yet fervent public conviction that the most deadly of all possible sins is the mutilation of a child's spirit.”

Erik Erikson

3.1 Structural Violence and Bullying

In Chapter 1, the concepts of modernization were discussed briefly to suggest a theoretical approach for understanding how liberal and conservative perspectives regarding LGBT rights are in dynamic tension within U.S. society. In this chapter, the theory of structural violence serves a similar role in pointing out and explaining aspects of violence in societies overall and its connection to school bullying in the U.S. Details on specific anti-bullying and violence prevention programs round out the discussion.

In 1969, Norwegian sociologist Johan Galtung theorized a definition of violence that incorporated its hidden aspects. Galtung proposed that violence was not only direct but also structural and cultural, and he suggested a triangular model to show the connections between them. Galtung stated, “As I see it there are three types of violence and hence three types of peace: direct, structural and cultural. Direct violence insults human needs with the deliberate intention to hurt and harm; structural violence does so more indirectly. Cultural violence is symbolic and refers to those aspects of our cultures that are used to legitimize direct or structural violence” (Batic 1997). Direct violence includes war, genocide, and other overt acts by governments, individual and group actors. Structural violence is deep in the structure of a society in its institutions of economics, religion, education and juridical systems that divides the benefits of the society unequally. In their *Anthropology of Structural Violence*, the authors cite the effects of structural violence, “Disparate access to resources, political power, education, health care, and legal standing are just a few examples. The idea of *structural violence* is linked very closely to *social injustice* and the social machinery

of oppression” (Farmer 2006). In structural violence, the poor, women, ethnic and religious minorities and other marginalized groups are oppressed and not treated fairly in having their needs met. Other marginalized groups include sexual minorities, namely lesbians, gays, bisexuals, and transgenders, and those claiming a queer identity (Speck 2006).

In 2005, Galtung, called the “Father of Peace Studies” cited school bullying as one of the oppressions of structural violence, “Bullying is genuine violence, to the spirit, the mind and the body...Sow less structural violence—and reap less direct violence” (Galtung 2005).

Researchers and peace activists, internationally and in the U.S. have further applied Galtung’s theory to many different areas such as gender violence (Kebede), HIV AIDS (Farmer et al 2006, Stephenson 2005) and others. Susan Opotow, “a psychologist of injustice researcher” applied the concepts of *moral inclusion* and *moral exclusion* to school bullying as an extension of Galtung’s theory of structural violence (Opotow et al 2006):

Moral exclusion captures the dynamics underlying destructive conflicts and difficult social problems, whereas its counterpart, moral inclusion, captures the dynamics of peace building in its emphasis on fairness, resource sharing, and concern for the well-being of all (ibid.).

With respect to school bullying, Opotow’s article cites the Olweus bullying prevention program as a positive approach toward replacing violence with peace building based on moral inclusion (ibid.). In the next sections of this chapter, the Olweus program and others are reviewed starting with the earliest U.S. safe schools program for lesbian and gay students initiated in 1993 by the state department of education in MA.

3.2 History & Politics of MA Safe Schools for LGBT Students

The history of the Massachusetts Safe Schools Program for Lesbian and Gay Students (MA Safe Schools) begins with an election campaign for Governor of Massachusetts in 1990. The Democratic candidate was against Domestic Partners¹

¹ “Domestic Partnership identifies the personal relationship between individuals who are living together and sharing a common domestic life together but are not joined in any type of legal partnership, marriage or civil union... to contractually agree to certain issues between them in relation to joint property ownership, support obligations and similar issues to that found in marriage” (StateLawyers.com MA).http://massachusetts.statelawyers.com/Practice/Practice_Detail.cfm/PracticeTypeID:32 .Accessed online: 10/3/07.

legislation and in TV interviews expressed strong homophobic views. Massachusetts always votes overwhelming Democratic since the Kennedy era of the 1960s. The Republican candidate was a moderate—William Weld. When the Gay Log Cabin Republican Club invited him to meet with them, he agreed to support gay rights if elected. The Log Cabin Republicans, then, not only endorsed Weld but also funded an across the state get-out-the vote campaign on his behalf. In a very close election, the gay vote made the difference; gays who usually vote Democratic switched to vote for Republican Weld. When Weld was elected governor, he kept his pledge to the gay community. His first year in office, in 1990, he signed an executive order providing domestic partner benefits for gay and lesbian state workers. In addition, he signed hate crimes legislation and expanded anti-discrimination legislation. In 1992, Weld created the Governor's Commission on Gay and Lesbian Youth, which was charged to reduce suicide rates among and violence against gay and lesbian youth in the state. Subsequently, the Safe Schools Program was legislated with a budget in the hundred millions. Weld's appointees to the MA Supreme Court became the judges in 2004 who found for the constitutionality of gay marriage; Massachusetts being the first and only U.S. state to allow it. In 2005 when Weld was running for the Republican nomination for Governor of New York, he said that he thought marriage was legally appropriate for Massachusetts but for New York and other states, domestic partnerships were enough. This was seen as an attempt to win conservative Republican support. It didn't work and Weld dropped out of the race (www.365gay.com). So while Weld kept his pledge to the gay community that helped him win the Massachusetts governorship, he was willing to do a flip-flop on gay marriage in a different state where the votes for his nomination lay in conservative hands.

Nevertheless, while Weld was MA governor, the safe schools program was a model of achievement in protecting and supporting LGBT students. However, when Weld resigned to run against John Kerry for the U.S. Senate in 2002, the acting Governor, Republican Jane Swift vetoed funding for the program. The MA program had been providing more than \$272,000 annually in grant money to 145 school districts with GSA clubs as part of a 10 million line item in the state budget (www.glesn.org 2202). This action was followed in December 2006 by outgoing MA Governor Mitt Romney's cutting of \$150,000 from the MA department of Education

that eliminated all safe schools funding. Republican Romney who says that he opposes gay marriage on principle also cut funding for other LGBT programs in the areas of youth, seniors and people with AIDS among others. Kathleen Henry, chair of the Massachusetts Commission on Gay and Lesbian Youth, said that the cuts to the MA Safe Schools would end funding to GSAs when we have “excellent data, scholarly work showing that kids’ safety in schools is measurably better in GSA environments than non-GSA ones” (Colbert 2006).

Thus, even proven successful programs can be wiped out by the stroke of an executive pen. The reliance on state laws alone for protecting LGBT students is not entirely free from risk of reversal. That the program ran for more than ten years with many proven beneficial results, however, would be difficult to reverse among the consciousness of educators and the school communities as a whole. MA has more GSAs in its schools than any other state in the U.S. Rather than giving up, the Massachusetts Gay & Lesbian Political Caucus has organized meetings with legislative committees and the incoming governor to restore the funding and to expand it (ibid.). The tenuousness of even a state law from the most liberal state in protecting LGBT students from violence suggests that a political solution has to come from another place or a combination of places (See Chapter 6).

3.3 Activities of the MA Safe Schools Program

Massachusetts has the best-ranked public schools in the U.S. (Goldberg 2006) as well as its Safe Schools Program for Gay and Lesbian Students. From its inception in 1993, the program’s legislative purpose was to implement sections of the MA Student Anti-Discrimination Law, the State Board of Education’s Recommendations on the Support and Safety of Gay and Lesbian Students, and the Access to Equal Educational Opportunity Regulations.. To achieve this purpose the program made available support to schools in the form of free training to parents, faculty, staff, and students; technical assistance to schools; the facilitating of up to 12 Regional Conferences annually; administration of three grants programs; and the providing of a variety of materials and resources (www.doe.mass.edu).

The training is free but it is not mandatory; it is given on request by the school or community. Training includes “violence- and suicide-prevention for gay and lesbian

students,” based on data from the Youth Risk Behavior Survey, personal experiences of students from MA schools, and strategies for the school community to deal with harassment of gay and lesbian students (ibid.). If requested, technical assistance and strategic planning to address issues around the support and safety of gay and lesbian students is also given. This included action planning for GSAs, holding meetings with school decision-makers to gain support for future activities, and developing curricula that is inclusive of gay and lesbian people and topics (ibid.). Annual daylong conferences during the Fall and Winter were held in regions throughout the state with the conference costs met by the program. The conferences were developed around different educational themes. They offered an opportunity for GSA members and advisors to network and share knowledge, experiences, and strategies.

Importantly, financial grants were given to individual schools. There were three types of grants that are state-administered but with the funds under local control. One of the grant programs gives up to \$3,000 per high school to districts for assisting them to develop violence prevention programs to improve school safety for gays and lesbians. “Priority is placed on grants that assist in developing and implementing programs that start or enhance Gay/Straight Alliances” (ibid.). More than 180 high schools received this grant yearly. (ibid.). The second type is called the GSA Mentor Grants. These give up to \$5000 for schools “with demonstrated success in implementation of the law and recommendations to assist other schools in their own district or in neighboring districts with similar efforts” (ibid.). Each year about four high schools received this type of grant. The last type is called the Middle School Climate Improvement Grants. These are for up to \$5,000 to middle schools “to support the development and piloting of materials and programs to decrease harassment and discrimination based on all categories covered by the Student Anti-Discrimination Law and the Access to Equal Education Opportunity regulations” (ibid.). Approximately four middle schools receive this grant each year.

Resources, the last part of the Safe Schools program, includes media available to schools free. Developed and produced by the education department, these include the governor’s commission report and a brochure, “Outright: Your Right to Be” that describes students’ rights in MA and lists informational and support resources. This brochure is available in Spanish, Portuguese, Chinese, Vietnamese, Khmer, Russian,

and Haitian/Creole. MA is a state with an ethnically diverse school population of immigrants and migrant farm workers whose children have the right to attend public school free through the 12th grade. Additional resources include a guide for starting and maintaining a GSA as well as a 28-minute video about the history of the program, experiences of students, and strategies. “Safe space stickers” are available for teachers and schools to put up on specific areas, including classrooms, where lesbian and gay students can safely and comfortably seek information, resources, or support (ibid.).

Kim Westheimer, from her vantage of director of the Massachusetts Department of Education’s Safe Schools Program for Gay and Lesbian Students until mid 2001, explained the reasons why the MA program was effective. First, it is a law and second, it was funded. The fact that it was created by legislative action showed that it had the backing of the state’s highest elected officials. Thus, state educators, accepted that it was a positive program for dealing with LGBT issues. In other words, it was not a federally mandated program from outside the state. This view echoes back to the history and philosophy of U.S. education—that it was left to the states because it was not specifically named in the federal constitution. The second, that the program comes with its own funding she described as a practical positive, because the new, untested program did not compete with other programs for scarce education dollars.

Significantly, Westheimer cites the MA program as successful because they avoided a “heavy-handed approach” but used “recommendations” (Sadowski 2001, Perotti and Westheimer 2001). She sees the program as serving educators and students primarily as a resource “providing funding, training, and advice...We haven’t had a mandate to go into schools and say, ‘This is what you must do. Instead, we emphasize that these programs are about what schools already do. Students are there to learn, but they can’t learn unless they have a safe environment. It really is that simple” (Sadowski 2001).

Nevertheless, Westheimer points out that the program already had the MA state law against discrimination on the basis of sexual orientation and the federal equal access law allowing GSAs for dealing with violations of LGBT students rights. Westheimer’s experiences, positive as they were, presume self-reflective dedication and bias-free good will on the part of school administrators and local school board officials.

In their book about the MA program, *When the Drama Club Is Not Enough* (2001) Westheimer and Perotti (also a director of the Safe Schools Program) explain in detail how the program won acceptance and offer suggestions for introducing a similar one in other states and communities. They explain that when safety is combined with the topic of sexual orientation and harassment and presented as a diminishment of educational opportunities, educators are receptive. In addition, they state that it helps to present the program as violence prevention and suicide prevention. Another suggestion is to bring in the values of a teachers code, such as that used by the New England state of Connecticut: “The professional teacher in full recognition of his or her obligation to the student shall...nurture in students lifelong respect for themselves and other human beings regardless of race, ethnic origin, gender, social class, disability, religion or sexual orientation” (Westheimer and Perotti 2001). In the U.S., teachers receive a very low salary in comparison to other professionals with the same amount of education. They also do not receive the high respect evidenced in other cultures, particularly in Asian ones. The teachers code might be effective in focusing on the high ideals of their calling, as does the Hippocratic oath for medical doctors.

Furthermore, the authors recommend a category-type law and policy that specifically includes the words “sexual orientation” so that schools will recognize that gays and lesbians students are discriminated against. Otherwise, without these words, there is no acknowledgement even that gay and lesbian students exist nor that they need protection. These words ensure visibility. The authors cite instances in meetings with educators where this is immediately grasped. For example, “An African-American woman, a former superintendent of the Boston Public Schools said, ‘many White people would like to render Black people invisible.’ This she stated, was dangerous, as is the enforced invisibility of gay and lesbian youth” (ibid.). Community meetings can help to build supportive coalitions that can lobby on behalf of tax-funded programs to encourage acceptance by educators, parents, students, and the general public.

3.3.1 Research Reports on Effectiveness of MA Program

The MA program was evaluated over the course of two years (1998-2000) by Laura Szalacha, Harvard researcher. She did a quantitative study, basing her statistics

on surveys with 1,646 students and 683 staff persons from schools across the state. Her study found that training teachers about LGBT issues improves the school climate for LGBT students. In schools where teachers received such training, 54% of students felt that sexual minority students had faculty support; only 26% of students in the comparison schools with no teacher training held such a perception (Sadowski 2001).

What is the most effective kind of training? Arthur Lipkin, director of LGBT services at Rindge and Latin School (Cambridge, MA) has been teaching in-service and pre-service teachers about these issues since the mid-1980s. Lipkin explains that what is most important is for teachers to hear the personal stories of the students, present or former, telling it themselves: “Everybody responds to the notion that kids are hurting or that kids have been hurting in their school and that they perhaps weren’t aware of it” (ibid.). In lieu of having students in person then films or readings are next best when they reveal how difficult experiences of “harassment, loneliness, desperation, or suicidality” have occurred to students at their schools or similar ones. Then, teachers are often moved to act. Lipkin concludes his training with asking each participant teacher to commit to one action at their school to make it a better place for LGBT youth (ibid.).

In the next sections, recognition of the problem of school bullying in other states is reviewed with discussion of violence prevention programs and state laws.

3.4 School Bullying Recognized Nationally as a Serious Problem

In the U.S., with the exception of MA, there was little academic or general interest in bullying as a serious school problem until it was connected to the tragic Columbine High School Shootings in Colorado in 1999 (Stein 2005). The importance to the American psyche of what happened at Columbine High was reiterated by former President Bill Clinton at a 2005 memorial dedication to the victims; he said, “Millions of Americans were changed by Columbine. It was one of the darkest days for Hillary and me in the White House” (Weller 2006). Social commentators have evaluated Columbine as the most horrific violent act in the U.S. public’s mind until it was replaced in 2001 by the 9-11 World Trade Center attacks (ibid.).

Upon investigation of the Columbine incident it was found that the two high school senior boys—upper middle-class suburban whites, high academic achievers,

(Jefferson County Sheriff's Office 2006)—responsible for shooting dead 12 classmates and one teacher, injuring 24 other schoolmates, and ending their own lives by suicide had endured years of bullying and name-calling by their classmates. One female student related that the two teenage perpetrators Eric Harris and Dylan Klebold had to walk the school hallways always with their heads down because of the abusive torrent of “Fags!” yelled at them by the members of the school's ruling cliques (Harris 1998). Significantly, the incident at Columbine was the fourth time during the previous two years that a student-on-student attack in U.S. schools involved homophobic taunting (Lee 2005). The student on student violence that occurred at Columbine High became a wakeup call to the nation's lawmakers, justice officials, educators, parents, and general public to take school bullying seriously. Bullying could no longer be dismissed with the timeworn adage that “Boys will be boys” (Modzeleski 2006).

3.5 School Shooting Incidents and Gun Control

To look seriously at the most egregious aspects of the school bullying problem, the federal government, under the Clinton administration, launched a comprehensive investigation of U.S. school shootings. The U.S. Secret Service and the U.S. Department of Education conducted a joint study into 37 incidents and 41 attackers of school shootings from 1974 through June 2000². The reported incidents occurred in 26 states, with more than one incident occurring in Arkansas, California, Kentucky, Missouri and Tennessee. Ages of attackers ranged from 11 to 21, with most between 13 and 18 at the time of the incident. Males committed all the attacks with 30 acting alone, four with planning assistance from others, and three with two or more acting together. (After the completion of the government study, a female shot a classmate in a parochial school in Williamsport, Pennsylvania.) (Chibbaro, 1999). According to the

² The government investigators offered the following definition: “For the purposes of this study, an incident of targeted school violence was defined as any incident where (i) a current student or recent former student attacked someone at his or her school with lethal means (e.g., a gun or knife); and, (ii) where the student attacker purposefully chose his or her school as the location of the attack. Consistent with this definition, incidents where the school was chosen simply as a site of opportunity, such as incidents that were solely related to gang or drug trade activity or to a violent interaction between individuals that just happened to occur at the school, were not included” (Vossequeil et al. 2002).

report, in two-thirds of school shootings bullying played a major role (www.psychology matters.org). Two of the findings state:

Many attackers had considered or attempted suicide. Almost three quarters of the attackers felt persecuted, bullied, threatened, attacked or injured by others prior to the attack... In one case, most of the attacker's schoolmates described the attacker as 'the kid everyone teased.' In witness statements from that incident, schoolmates alleged that nearly every child in the school had at some point thrown the attacker against a locker, tripped him in the hall, held his head under water in the pool or thrown things at him."

If the reader will consider the last part of the above statement, the reality of how intense school bullying can be for an individual child can be realized. Without justifying the shooter's reaction, it is, nonetheless, understandable that this abused child must have felt pushed to his psychic breaking point by constant peer rejection and attacks on his person.

On a societal level, the question arises whether this boy's retaliatory actions, as well as that of the other school shooters, is related to the fact that in the U.S. guns are readily available to children in the home and easily acquired illegally as, for instance, occurred in the Columbine incident. Harvard University public health researchers Hemenway and Richardson reported in 1997 that U.S. civilians have more firearms per capita than any other country in the world. The "Harvard Health Now Newsletter" reviewed professor Hemenway's most recent book, *Private Guns, Public Health* and reported the following about his continuing research:

One in four American adults, mostly men, owns a gun, writes Hemenway American children are at higher risk to die of gun violence than children in other high-income nations. One study comparing violent deaths of five- to fourteen-year olds living in the U.S. and in 25 other high-income countries in the 1990s indicated that America had a gun homicide rate 17 times higher than the rate of the other countries combined (Lasandra 2004).

This availability of guns coupled with the above disturbing facts of American children's gun homicide rate reflects on U.S. society, its values and culture. Yet there have been long-standing campaigns of education and organizing in opposition to the American gun culture as connected to criminal acts of violence. For example, every year for decades, annual gun control laws have been proposed, debated, and a few passed in state and federal legislatures (www.jurist.law.pitt.edu). However, the main

opposition to gun control laws is the U.S. gun owners' cultural icon, the National Rifle Association of America (NRA). The NRA, with three million members, besides being a powerful political lobby, is also a generous financial contributor to politicians' election campaigns. Both these resources, membership and candidate donor funds, are used effectively to oppose gun-control laws. The NRA also has an international reach; it recently mobilized a campaign (www.nra-ila.org) against the UN program to control small arms and the global firearm protocol (www.IANSA.org)³.

Film director Michael Moore's American Academy Award winning social documentary film "Bowling for Columbine"⁴ focused on the NRA and its opposition to gun-control laws. The film was widely popular among the general public—a box office hit—still no federal gun-control legislation resulted. Over the years, gun-control advocates have organized support from dozens of prominent professional associations, corporate businesses and professional athletes, film, TV and music stars, yet the NRA continues to effectively ground down its opposing position by citing the three-centuries old constitutional U.S. 2nd amendment—the right to bear arms. Polls of the American people show overwhelming support for gun control, but this does not motivate enough legislative representatives to vote in favor of it (Holland 1999).

With regard to the issue of violence against LGBT students, the connection to gun control is that the political constituency that opposes gun control is the same one that opposes laws and school programs that specify protections against bullying of LGBT students. Opposition to gun control is part of the religious right's political agenda (Bokaer 2004).

Another finding of the federal government's school shootings report stated that the persecution, bullying etc. experienced by the attackers/school shooters would have met "legal standards for harassment and/or assault." if the incidents had occurred in

³ IANSA—"The International Action Network on Small Arms is the global network of civil society organisations working to stop the proliferation and misuse of small arms and light weapons (SALW). IANSA brings together the voices and activities of non-governmental organisations (NGOs) and concerned individuals across the world to prevent their deadly effects. Founded in 1998, IANSA has grown rapidly to more than 500 participant groups in nearly 100 countries." Funders include "the Governments of UK, Belgium, Sweden and Norway, as well as the Ford Foundation, Rockefeller Foundation, Compton Foundation, Ploughshares Fund, John D. and Catherine T. MacArthur Foundation, Open Society Institute, Samuel Ruben Foundation and Christian Aid."

⁴ "Bowling for Columbine"... is about the violent soul of America. Why do 11,000 people die in America each year at the hands of gun violence?" <http://www.michaelmoore.com/books-films/index.php>

the workplace (Vossequeil et al. 2002). This statement is sobering and revelatory of the vulnerable status and lack of legal protections for the human rights of children in U.S. schools. The next section poses and answers the question “Are there any steps being taken within the U.S to understand and deal with school bullying through laws and other violence prevention programs in addition to MA’s Safe Schools?”

3.6 Scandinavian Olweus’ Anti-Bullying Program Becomes the Model

After Columbine put bullying on the U.S. radar screen, funds became available for school bullying research. Because most of the initial research was conducted starting in the 1970s by Swedish psychologist Dan Olweus (Stein, 2005) Olweus’ work was the first place looked to for direction. Olweus initiated his main study after three adolescent Norwegian boys in separate incidents at schools around the country committed suicide due to severe bullying. Norway’s Ministry of Education commissioned Olweus to conduct a large-scale bully research intervention project. Olweus and his team of researchers developed a comprehensive program that was implemented and studied in Norway for more than 20 years after its initiation in 1983. Bullying decreased substantially nationwide in Norway with the program in place (Olweus 1993). Subsequently, the Olweus program has been implemented in more than a dozen countries around the world, including the U.S. and Canada (Limber 2006).

Olweus’ analysis exposed the underlying framework of how school bullying operates by taking into account the mindsets of the bully, the victim and their peers. The Olweus program relies on:

- “warmth, positive interest, and involvement from adults;
- firm limits on unacceptable behavior;
- consistent application of nonpunitive, nonphysical sanctions for unacceptable behavior or violation of rules; and
- adults who act as authorities and positive role models” (Olweus 1994).

Katherine van Wormer, social work professor, adds that the Olweus program works because of “the active participation of bystanders, who take responsibility and intervene to defuse the power that the bully has over a victim” (van Wormer 2003).

The 1993 Olweus text has been translated into 15 languages. It is the single most successful academic work on the subject of school bullying and invariably appears as a citation and in the bibliographies of journal articles on school bullying. The program is a primary resource for UNICEF and other UN agencies. It has the approval as a model program of the U.S. Departments of Justice, Education, and Health and Human Services.

3.6.1 Olweus Program Critiqued on Application for LGBT Students

The Olweus program, however has been critiqued by researchers. Packman et al, point out that while increasing adult supervision has been shown to reduce bullying incidents (Olweus, 1994), students cannot be supervised all of the time or in every place where bullying happens (Packman, et.al., 2005). LGBT students who are bullied confirm that places without supervision are where attacks occur; these places include school bus stops and buses, halls, bathrooms, shower and locker rooms, stairwells, and other unobtrusive sites (www.amdalegal.org).

Another shortcoming intrinsic to the Olweus approach is that his program does not refer to the identity of the victims of bullies or describe the socio-cultural background of the bullies and the larger community surrounding a school. His analysis, grounded in Norway, a primarily homogenous society, tends to see the problem through a psychological lens rather than a societal one (Stein 2005). In effect, Olweus accepts the common mythology that bullies are everywhere but disagrees with the idea that nothing can be done to stop them. Intervention is his message. When intervention is successful, then reeducation can occur. When reeducation occurs, then bullying stops. Reeducation, however, is not only of the bullies and the victims but most importantly of the bystanders who witness it and do nothing. These bystanders are mainly peers, but also can be teachers and school staff. To bring about change, then, the whole scenario must be changed. By doing nothing, bullies gain support for their actions. By intervening, victims can gain support. When bullies lose their victims, there is a loss of motivation for bullying. Bullying, then, is primarily a psychological attention-getting mechanism on the part of the bully and a way to show power. When the bystanders defend the victim, the victim becomes more powerful than the bully and the scenario is changed. Eventually, in the Olweus scheme, when

this occurs enough, the culture of a school changes with this power shift (Mullin 2002; and Stenhjem 2003).

Olweus explains that incidents of power shifting need to be buttressed by school policies and programs. In Olweus' view, the individual bully is not the main problem but the culture of acceptance and tolerance toward bullying is. Once a school declares that bullying will not be tolerated, it requires implementation of a program of training for teachers, parents, and students. Rather than accepting that bullying is a natural stage of childhood, the programmatic principles affirm that caring for each other is a more natural value that can be emphasized. The rewards of an anti-bullying program are the safety of all students and the removal of fear from the school environment (www.psychology matters.org).

It can be questioned as to the degree of application the Olweus program has for American children in higher grades. It has primarily been used in U.S. elementary schools (www.clemson.edu). If homophobic naming-calling and slurs—forms of bullying—are endemic to not only a school culture but also to the whole of society, does not this imply a specific target group whose scapegoated members as “other” fall outside the realm of the natural value of caring for each other? Is there such a natural value and does it exist in a non-homogenous power-stratified society as the U.S.? Given its programmatic principles, aims and methods, can an Olweus-based program, that subsumes all victims under one generic umbrella, effectively prevent violence against LGBT students or is a different approach needed? The next sections review and discuss answers to these questions.

3.6.2 Generic Bullying Prevention Programs

One instance of anticipated success for the Olweus program in an American context was expressed at a public forum organized by the GLBT Youth in Iowa Schools Task Force. Jane Evans, the Assistant Superintendent of a school district (Burlington) said in response to a question by a lesbian student who suffered daily name-calling that it was anticipated that their newly adopted Olweus Bullying Prevention Program would handle that. Evans said that she “aims to create a school climate in which bullying and harassment are not tolerated by students or staff.” Additionally, she also stated:

The Burlington Community School District will not take a position on whether a gay lifestyle is moral or immoral. We will leave that up to the students, their parents and their spiritual leaders.... We will take this position: Our job is to educate students. We can't do that unless our schools are safe. We must provide a learning environment that is physically safe as well as emotionally safe for all students" (Burlington Hawk Eye 2005).

Other school superintendents and state departments of education in various parts of the U.S also echo this hands-off position regarding specific needs of protection for LGBT students. Their argument is that a generic-bullying program, such as the Olweus one, protects all and meets requirements of state and district anti-bullying laws. They either lack understanding, ignore, or disagree with the arguments for specific categories of protected classes for the most vulnerable and victimized, namely, LGBT students. Also, in the above Evans quote, the label "gay lifestyle,"⁵ as common language is not neutral and does not represent open-mindedness but the opposite. It is one of the favored terms the religious right uses for arguing against protecting the rights of sexual minorities (Zwicky 2003). Regardless of the expectations of educator Evans, can a school environment be made emotionally safe for LGBT students if judgements about their "immorality" persist among a community? To balance negative judgments and attitudes wouldn't it be necessary that there be a category-specific anti-bullying law or school violence prevention program to ensure that LGBT students are not left out or invisible under a generic protective umbrella?

3.6.3 LGBT Inclusive Bullying Prevention Programs

The answer to the previous question is a definite "Yes" from LGBT legal advocacy groups and their allies. They argue that given the legal history of discrimination in the U.S., school officials will avoid, consciously or unconsciously, protecting LGBT students unless they are specified as a protected class. In "A Guide

⁵ Parents and Friends of Lesbians and Gays (PFLAG) of Winston-Salem, North Carolina offers the following for the term gay lifestyle: "There is no such thing, just as there is no straight lifestyle. Everyone lives differently. This word is chosen to trivialize gay people and to imply that all gay people subscribe to the same values, characteristics and dreams. The fact is gay people are not all the same any more than heterosexuals are the same" (<http://www.pflagwinstonsalem.org/Teachers.htm>). Accessed online 3/3/07.

to Effective Statewide Laws/Policies” GLSEN and Lambda Legal⁶ argue for laws and programs with specific categories by reference to the Romer U.S. Supreme Court case that stated “Enumeration is the essential device used to make the duty not to discriminate concrete and to provide guidance for those who must comply.” If protected classes are not enumerated, discrimination can continue for LGBT students because administrators only have experience conceiving of discrimination based on the usual categories of race, religion, and ethnicity and not on sexual orientation, gender identity or expression. This is so because there are very few laws that protect LGBT rights (Taylor 2003). Therefore, the guide warns that without coverage, educators can see the targeted student rather than the discrimination at fault. The guide admonishes, “State laws and policies that specify categories of protection leave no doubt as to what is covered” (www.glsen.org).

However, even with coverage, the problem does not necessarily resolve. For example, in September 2005, Lambda Legal filed a lawsuit (case open) against the New Jersey Holmdel Township Board of Education on behalf of a lesbian student who was verbally and physically attacked for two and a half years in Holmdel High School:

She had to leave the school to protect her safety. For nearly three years, other students had verbally harassed her, threw bottles and other objects at her, pushed her down a flight of stairs, and stole and destroyed her books and backpacks—on one occasion urinating inside her backpack (www.lambdalegal.org).

While the abuse was brought to the school administration’s attention time and again by the student and her mother, no effective measures were taken by the school to end it. The lawsuit is based on the New Jersey Law Against Discrimination that prohibits sexual orientation discrimination in all places of public accommodation, including schools” (www.lambdalegal.org).

In addition, it’s noted that GLSEN declared New Jersey the number 1 state in the nation as regards protection for LGBT students. How could the Homdel High School, then, be so out-of-compliance with its state’s non-discrimination law and programs three years after their initiation? The reality is that laws can be far removed

⁶ “Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation, education and public policy work”

from the daily operation of a school, and if there is no requirement for school reporting and funding for staff training plus compliance officers to follow up—visit, receive and investigate complaints—administrators can rule their domains without regard for legal and policy requirements and without fear of penalties. In other words, transparency and accountability doesn't happen unless there is ongoing vigilance and resources from the overseeing body, whether school districts or state boards of education. This can be the situation whether the program is generic or specific. Individual citizens, as parents or students, singly or in organized political groups, who whistleblow can exert power to cause governments to hold school administrators responsible. However, it needs to be pointed out that lawsuits are expensive even when they are pro bono as is Lambda Legal's practice; NGO funds, as a rule, are sparse. Also, similar to the case of rape victims, the far greater expense is the possible psychic damage to the injured persons who bring the suit and endure the publicity and ordeal of a trial. It takes a great amount of courage and enduring strength (See Chapter 4, Nabozny and Flores—Precedent Setting Cases.).

Another argument supporting specific categories of protection is put forth by NCLR staff attorney Courtney Joslin (www.nclrights.org). She states that under current case law, school officials are responsible for protecting all students, and courts have held that when administrators take no action because they are uneducated about the law or believe that students “bring the harassment on themselves simply by being openly LGBT” administrators are liable. The precedent setting case, *Nabozny v. Podlesny*, (7th Cir. 1996), awarded almost a million dollars to the claimant. Furthermore, Joslin states that the obligation exists “regardless of whether the school district has its own policy that is inclusive of sexual orientation and/or gender identity and expression.” Then why have it? Joslin explains that if the school district does have such a policy it is more likely they will fulfill their legal obligations because the policy brings awareness that they must respond to harassment and discrimination of LGBT students. This leads to the potential results of reducing both the unnecessary harm of discrimination to students and potential liability for officials. In the case of *Homdel*, it seems New Jersey's laws and programs as good as they are, were not deterrents enough, but if the lawsuit is decided in her favor and substantial damages are awarded,

that might bring some equality to that school and perhaps others out-of-compliance through publicity in the district, state and nationwide.

3.6.4 Are Generic Anti-Bullying Programs Sufficient?

Arguing for generic anti-bullying laws and programs in the journal, *School Psychology Review*, Susan B. Limber and Mark A. Small of Clemson University, South Carolina⁷ acknowledge that bullying among school children has garnered a great deal of attention among the general public, legislators, and academics since the tragic school shootings at Columbine and other schools. Prior to these tragedies, “many adults have viewed the experience of being bullied as a rite of passage for children and youth” (Limber and Small 2003). A great number of bullying laws has only gone into effect since 2001, two years after Columbine. Most laws lack definitions and according to Limber and Small a “widely recognized definition of bullying within the research community” would benefit the school administrators who carry out the law.

Limber and Small quote the New Jersey statute which includes specified categories, in that bullying, harassment, or intimidation be motivated by actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, or a mental, physical or sensory disability; or...by any other distinguishing characteristic (NJ law 2002). However, they argue that these categories set limitations on what districts could choose to consider bullying. Bullying in the Olweus approach “need not be motivated by an obvious characteristic on the part of the victim” (Olweus 1993). New Jersey law points out that “some acts [of bullying] are simply one child exercising power and control over another.” Still, in Limber and Small’s view, specific categories, as in the New Jersey law, are limitations and bullying laws should be free of limitations. This is where GLSEN and NCLR differ with the South Carolina development psychologists. However, there is agreement on the need to evaluate anti-bullying laws and programs on how well they reduce and prevent bullying among school children—the ultimate test. GLSEN has conducted a school climate survey for ten years leading to their conclusion that specific categories make schools safer for LGBT students. Limber and Small offer a list of common

⁷ Clemson University, South Carolina, has distribution rights for the Olweus Program materials within North America.

statutory elements they consider would “ultimately relate to a reduction in bullying behavior.” Their elements are represented in the list that follows. Discussion from the perspective of this thesis follows some elements in their lists:

- Require or encourage development of policies by school boards or staff at each individual school

With regard to this element, the research for this thesis on state laws shows that several state boards of education have developed model policies for adoption and/or adaptation by district school boards and schools. An informed model developed from educators at a higher professional level who have opportunities to consult with peers from other states could be more beneficial than leaving it entirely to local school officials. A plan developed in consultation with state educators incorporating local officials knowledge of their own specific socio-environment could be most effective.

- Develop and implement bullying prevention programs with the suggestion that commercial programs must be ones listed by state departments of education as a research-based model. [The Olweus program meets both criteria. There are other unevaluated anti-bullying programs that are for sale as developed through the entrepreneurial efforts of individuals (For example, see <http://www.respectu.com/>)].

Limber and Small acknowledge that “research-based programs for bullying prevention currently are lacking for high school students.” Until this lack is addressed, activist organizations as GLSEN’s surveys and professional groups as the National Mental Health Association⁸ represent the most informed choice presently available, given that in secondary schools the main victims are LGBT students.

- Employee training, especially funded programs
- Mandatory or encouraged reporting by staff with immunity clauses

Limber and Small hold that “there is no good reason to presume that reporting alone does anything to reduce the frequency and nature of bullying that takes place within a school.” Research supports this but again Limber and Small’s emphasis is on the Olweus direction of changing the school environment. Changing the school

⁸ “In 2002, the National Mental Health Association found that gay students are at “disproportionate risk” for bullying and harassment, reporting hearing anti-gay slurs about 26 times a day. Another 30 percent said they had been threatened or injured at school the year before, according to the association, and 78 percent of 12- to 17-year-olds reported having seen students tease or bully others who are gay or believed to be gay.” (Carpenter 2005).

environment means going from one where bullying goes unchallenged to one where it is “universally recognized as inappropriate and dealt with consistently.” When the external environment—family, religion and community—support and accept prejudice towards LGBT persons, it would be difficult to change the school environment in isolation when it came to bullying LGBT students. Other factors such as educating about LGBT history in the model of successful Black History courses and events, etc. could be administratively and financially supported to raise consciousness. Otherwise, the school might be one small oasis of tolerance and caring surrounded by a wide desert of bias that is constantly reinforced by the family and community culture. On the other hand, teenagers can reject prejudicial “family values” and learn and practice tolerance and acceptance if the school offers them the opportunity (Savins-Williams 2005).

- Disciplinary action and remedial action for perpetrators

Limber and Small support the idea of children informing on incidents of bullying but not severe penalties for bullies as exclusion, zero tolerance, or transfer to alternative schools. These would have chilling effects on the willingness of children and staff to come forward and report bullying which is basic in the Olweus program. High school students who are perceived or questioning an LGBT identity might have difficulty reporting harassment out of confusion or fear. (See Alana Flores case in Chapter 4).

- Develop strategy for protection of victims from additional harassment.

For LGBT students this would be essential because research from court cases and interviews all confirm that the bullying is continuous and starts with verbal and escalates to physical if not checked.

- Create forums on bullying

Limber and Small calls this laudable and this is what GLSEN recommends as well as long as there is informed and experienced facilitation.

In conclusion, this article, while a thorough analysis of state laws, is focused on the bullying situation in elementary schools which research shows differs greatly from that in secondary schools (Modzelski 2006; Schafer 2005; Casey-Cannon 2001). The criticism of categories as limiting has possible validity for elementary schools but not for secondary schools as GLSEN, LAMBDA Legal and NCLR have reported. There needs to be robust academic studies of secondary schools and the effect of the

anti-bullying laws. Because the laws are so new, case studies are not yet forthcoming but are expected in the near future if funding is made available. Political will is always the final and most necessary ingredient involving the disbursement of public funds. In the next section state laws and their components are reviewed in detail.

3.7 State Laws, Policies & Programs

In the previous sections, research and discussion of anti-bullying and violence prevention programs contrasted arguments for the Olweus or generic-type program with ones that list categories specifying LGBT students' protection. In this section, state laws, policies and programs are reviewed and discussed.

First, it should be noted that in the U.S. there is no federal legislation prohibiting bullying or harassment per se. However, ten-year year Republican Congressperson John Shimkus, a former teacher from Illinois, introduced bills in 2004 and 2005 amending the Federal Safe and Drug-Free Schools & Communities Act; the bills called for holding schools receiving federal funds under the above act to be accountable for initiating policies to prevent harassment and bullying and to provide training and complaint procedures. These were category-specific acts that include prohibitions against bullying based on students' actual or perceived identity as to race, color, national origin, gender, disability, sexual orientation, religion and other characteristics (www.gpac.org). The 2004 and 2005 bills were referred to the House Subcommittee on Education Reform of the U.S. House of Representatives and never came out of committee to be presented on the floor of the Congress. The 2005 bill had 46 co-sponsors, more than doubling that of the previous year (Shimkus 2005). There are no campaigns by LGBT advocacy groups for this bill. However, with the election in 2007 to a Democratic controlled Congress this could change. The platform of the Democratic Party has traditionally been more supportive of LGBT rights than the Republican (Younge 2006).

In addition, an independent online site created by a mother whose middle school son committed suicide due to school bullying contains an Internet petition to President Bush asking for a federal anti-bullying law. But in two years this petition has only garnered 1503 petition signers as of December 15, 2006 (www.bullypolice.org). It is lost at the bottom of the site and receives little promotion.

The situation on the state level, however, is gaining ground, as new laws are enacted year to year, though it is still far from being a reality in every one of the 50 states. Nine states and the District of Columbia have laws that specifically refer to bullying and harassment based on sexual orientation. Three of these include gender identity. Nine other states have generic anti-bullying laws; they neither define bullying or specify categories. There are 32 states out of 50 with no laws at all. Different U.S. states use several approaches and varying language in their laws, policies, and codes that offer protection specifying LGBT students and to that of the general school population. The following list illustrates the differing terms and usage:

- Law that prohibits harassment and/or discrimination based on sexual orientation and gender identity in schools enacted in California, Washington, D.C., Maine, Minnesota, and New Jersey.
- Law that prohibits harassment and/or discrimination based on sexual orientation in schools enacted in Connecticut, Massachusetts, Vermont, Washington, and Wisconsin.
- Regulation or policy that prohibits harassment and/or discrimination based on sexual orientation in schools mandated in Maryland and Rhode Island.
- Ethical code for teachers prohibiting discrimination based on sexual orientation used in Alaska, Florida, and Utah.
- Law that prohibits bullying in schools but lists no categories of protection enacted in Arizona, Arkansas, Colorado, Georgia, Illinois, Louisiana, Nevada, New Hampshire, Texas, Virginia, and West Virginia.
- Regulation or policy that prohibits harassment and/or discrimination in schools and a state ethical code for teachers that prohibits discrimination based on sexual orientation used in Pennsylvania (www.hrc.com).

There are also federal laws, executive orders and state laws for the whole population that prohibit discrimination in employment, availability of housing, rates of pay, right to promotion, educational opportunity, civil rights, and use of facilities based on the categories of race, nationality, creed, color, age, sex, or sexual orientation. Importantly, the rights to protest discrimination or enforce one's rights to equal treatment are provided in various federal and state laws, which allow for private lawsuits with the right to damages. There are also federal and state commissions to

investigate and enforce equal rights (ibid.). In common language, discrimination refers to bias, bigotry, and prejudice and is easily understood by a person to whom it is directed.

Lambda Legal's senior staff attorney David Buckel cautions change activists in choosing what type of law to address in campaigns or lawsuits. One choice is state civil rights laws that prohibit discrimination including sexual orientation in educational institutions as a specified category. Buckel cites Minnesota's general human rights statute that includes a prohibition on sexual orientation discrimination in schools, both public and private. Federal laws, namely Title IX and the Equal Access Act (EAA) only affect public schools. The reach of the EAA is directed solely to secondary schools, colleges, and universities; elementary schools are not covered. New Jersey civil rights law defines "public accommodations" to include schools. Issues of perceived sexual orientation are addressed in several statutes. Minnesota uses the words "having or being perceived as having," while New Jersey uses "being perceived, presumed or identified by others" with reference to sexual orientation.

The other choice Buckel suggests is a state's education law specific to elementary and secondary schools. These laws can be changed simply by adding the categories of sexual orientation and gender identity and expression. Again, Buckel cautions that general civil rights laws can empower Human Rights Commissions for complaint handling and the awarding of damages while education statutes do not. Enforcement is important for change to become a reality in the schools rather than a comprehensive law sometimes worth only the paper it is written on. The decision of which approach to take needs to be based on analysis of the political reality in the particular state (Buckel unkwn).

3.7.1 Anti-Bullying Laws

As discussed previously, the Columbine shooting incident in April 1999 caused a flurry of activity in states across the U.S. in creating anti-bullying legislation. Some are new laws and others are amendments to school safety laws already in place. Accordingly, state anti-bullying laws differ in how they:

- Define bullying
- Facilitate reporting

- Enumerate the consequences
- Include affirmative prevention measures

As well as initiating the petition to President Bush previously mentioned, the NGO www.bullypolice.org organized by Brenda High⁹ (Bully Police Founder and co-director) enlists the aid of volunteers in keeping up-to-date on legislative activity, and publishes online all the bullying laws of each U.S. state. At this point, it can be noted that the issue of school bullying calls for the personal energy and involvement of parents whose children are victims. Even LGBT children who are unable, for whatever reasons to have their own parents help with the issue, nonetheless, benefit from the dedication and understanding of parents who empathize with all victimized children and campaign to have protective laws enacted (www.bullypolice.org; www.pflag.org).

The legal focused NGO NCLR has broken down anti-bullying laws or school safety laws into essential parts they consider necessary for an effective and ideal law that protects the human rights of LGBT students and staff in a school environment: Their “Guidelines for Drafting State Safe School Legislation” (www.nclrights.org) recommends the following:

1. Include sexual orientation and gender identity or expression.
2. Actual or perceived should modify all protected categories.
3. Explicitly prohibit harassment on the basis of association (which would cover harassment of students with LGBT parents).
4. Prohibit discrimination, which includes harassment.
5. Prohibit retaliation against any person who reports discriminatory or harassing behaviors.
6. Cover students, teachers, employees, and staff.
7. Cover K-12 and, if possible, post-secondary and public and private schools.

⁹ “Jared High was 12 years old when older students bullied him in his middle school. The bullying came to a head when a well-known bully assaulted Jared inside his middle school gym. Because of the bullying and the assault, Jared began to show signs of depression, which included lack of sleep and emotional outbursts. On the morning of September 29, 1998, just six days after his 13th birthday, Jared called his father at work to say good-bye. While on the phone with him, Jared shot himself, dying instantly. As a healing project, Brenda began to write Jared’s story, which is now published as www.jaredstory.com. Since 1999, JaredStory.com has attracted over a million visitors looking for information on bullying, depression, suicide and needing healing from the loss of a loved one” (www.bullypolice.org).

8. Authorize the State Board of Education to promulgate rules and regulations for implementation.

9. Include a severability clause and state that the statute is to be liberally construed.

For each recommended part, NCLR quotes an example from an existing or proposed law. For item 9, the following is quoted: “Severability and construction. The provisions of this title shall be severable, and if any court of competent jurisdiction declares any phrase, clause, sentence or provisions of this title to be invalid, or its applicability to any government agency, person or circumstance is declared invalid, the remainder of this article and its relevant applicability shall not be affected. The provisions of this article shall be liberally construed to give effect to the purposes thereof” (N.Y. DASA § 18).

In researching the anti-bullying legislation of U.S. states, it is noted that different states offer different emphases. Given the U.S. diversity of regional cultures and eco-social environments as well as political and religious makeup, one size doesn't fit all. In some ways this is a weakness and in others a strength. It's a strength in that the richer, urban and generally liberal states can invest more in developing training and awareness education that is available to be shared with professionals in poorer, rural, generally conservative, states. It's a weakness in that intolerant attitudes can be perpetuated under the guise of dealing with some aspects of the problem while ignoring others, such as the acknowledgement of the existence of LGBT students and their situation as primary victims of bullying. To offset this, LGBT advocacy groups outline the ideal legislation bearing in mind the caution by Lambda Legal attorney Buckel that “politics is the art of the possible”—of compromise.

In a number of states there is similarity in the definitions of bullying that copy or reflect the Olweus program. For the bullypolice.org activists that not all laws contain a definition is a weakness. This lack could be easily corrected and would add clarity to the intent of the legislation. A few states cite Title IX for definitions on harassment and sex harassment. Where the NCLR guidelines point to the most important features of a law, with the recent increase in legislation many other areas have emerged. The following is a sampling of the chief areas where the new state legislation show commonality and uniqueness in language and focus (if unique to a single state that state is noted in parenthesis).

1. Ancillary Programs as Part of the Law

- Prevention of Bullying
- Teenage Suicide Prevention Program
- Character Education Training to discourage bullying and violent acts against fellow students (Georgia)
- Crisis Response Program
- School Safety Specialist Training Certificate Program to identify, prevent, and intervene (Connecticut).
- School Safety Cadre of 100 professionals to coordinate programs statewide (California)
- Bullying Awareness Week for Sept. 10-16, 2006 (Idaho)
- Hazing Prevention Policy (Arizona)

2. Communications

- Publicize law and program by posting in classrooms and common areas and publishing in student, parent, and staff handbooks
- Code of student conduct applies during off-school hours (Georgia)
- School safety planning committee of a parent, principal, classified employee and law enforcement for consulting
- Public meeting for program approval
- Notifications of bullying incidents to parents of bullies and victims.
- Conflict Resolution and Peer Mediation (Mississippi)

3. Enforcement and Penalties

- Three bullying offenses—assigned to alternative school
- District not in compliance ineligible for state funding
- Disciplinary procedures for students found guilty
- Expulsion for violent crime
- Zero tolerance meaning expulsion for fighting—must attend conflict resolution classes with parents and paid for by them (Louisiana)
- If in compliance, parents and students can't sue (California)
- Redress through court actions if not satisfied (New Jersey)

4. Reporting

- School employees required to report suspected incidents
- Hate crimes must be included and reported
- Anonymous reports by students to teacher

5. Support

- Grants to assist with program training and implementation
- Create an emotionally nurturing environment (California)
- Staff sensitive to needs of all races, gender, sexual orientations, ethnic and cultural backgrounds and pupils with disabilities (California)
- Adult coach for each child (California)
- Categories of familial status, physical attributes, physical or mental disability, ancestry, socio-economic status as additional categories (Maine)

3.7.2 Effectiveness of Laws in Protecting LGBT Students

GLSEN's 2005 National School Climate Survey (NSCS) reports significant lower rates of verbal harassment (31.6% versus 40.8%) in states with laws that specify categories of sexual orientation and gender identity than other states with generic laws. As mentioned previously, verbal harassment, if not curtailed, frequently escalates to physical harassment and assault. Unfortunately for this study, because of the newness of laws, state data from the responsible enforcement bodies showing the effectiveness of their laws in reducing bullying is not yet available.

Overall, however, if state laws decrease harassment, then visibility increases it according to Beth Reis, principal researcher for a study of school-related anti-gay harassment in Washington state: "The more visibility and openness with which the issue is addressed in the culture at large and the more support for young people, ironically the more attacks" (Boxall and Noriyuki 1999). Would this be the case if the study (Reis and Saewyc 1999) was repeated in 2007? Could visibility bring the opposite effect one of acceptance, if a critical mass of people with changed attitudes is on the way to being achieved? Or would it still depend on individual communities and their religio-political composition? The next chapter details two cases of bullying against LGBT students that set precedents in applying federal laws to school districts and administrators and offer answers to the above questions.

CHAPTER 4

JAMIE NABOZNY & ALANA FLORES PRECEDENT-SETTING CASES

4.1 Abused Wisconsin Gay Student Wins Landmark Case

In 1996, Lambda Legal argued and won the first federal appellate case on anti-gay violence in schools, namely that of Jamie Nabozny (Seventh Circuit U.S. Court of Appeals. *Nabozny v. Podlesny*, 92 F.3d 446 (7th Cir. 1996)). The case documents include incidents of abuse, complaints reported, administrative response to complaints, legal history, and judgement. Before these legal aspects are reviewed, however, a few brief facts about Ashland, Wisconsin may help to put what ensued in socio-environmental context.

4.1.2 Ashland Wisconsin—“Lake Superior’s Hometown”

The Chamber of Commerce of Ashland promotes its town with a slogan that suggests a warm and welcoming place, “Lake Superior’s Hometown.” Geographically, Ashland is located on the southern shore of Chequamegon Bay of Lake Superior in Northwest Wisconsin. According to the official city website, Ashland was once a thriving industrial port for lumber and coal; now its waters are used mainly for recreational water sports in the summer and ice fishing in the winter.

Ashland’s population is estimated at 8,795 (www.city-data.com). City data also shows the census breakdown of the population by race and ancestry as follows:

“Races in Ashland:

White Non-Hispanic (89.6%)

American Indian (8.0%)

Two or more races (2.2%)

Hispanic (1.4%)

Ancestries: German (29.5%), Norwegian (12.2%), Polish (12.0%), Swedish (11.8%), Irish (10.9%), English (7.0%)” (www.city-data.com).

The school district encompasses approximately 422 square miles. The entire enrollment of the Lake Superior Primary and Intermediate Schools (K-5), Ashland Middle School (6-8), and Ashland High School (9-12) is only slightly more than 2,000 students. The middle school has 404 students and the high 809.

The main employers are family-owned Bretting Manufacturing, “a world leader in the design and manufacturing of paper converting equipment” (www.bretting.com) and a Larson-Juhl plant, manufacturing wooden picture and mirror frames (www.larson-juhl.com) plus two local hospitals and two small colleges. For the year 2000, city data shows median household income as \$30,853; and median house value, \$64,000. The climate in Ashland is mild and dry during the Spring and Summer with low temperatures, snow and rain frequent during the late Fall and Winter.

4.1.3 Jamie’s Background, Abuse Incidents & Complaint Handling

The main body of facts about the plaintiff in the case, Jamie Nabozny, comes from the appeals court judge’s report. Jamie was born and raised in Ashland, Wisconsin. He is the oldest of the three sons of Carol and Bob Nabozny. As a small child, his mother described him as quiet and shy. In elementary school, Jamie earned good grades and enjoyed school.

Seventh Grade 1988-89: By the time Jamie was eleven years old he had realized that he was gay. He shared this knowledge with his parents who were accepting. Jamie’s father hoped it might be a phase, but his mother said she knew already and was just waiting for him to tell them. Jamie’s middle school classmates started to tease him when a news item on sexual abuse by a youth minister in Jamie’s church appeared in the local media. Although Jamie wasn’t named, his classmates figured out he was the victim of the abuse. From then on, his classmates regularly were calling him “faggot,” hitting, kicking and spitting on him. Jamie was bigger than his attackers, but he never returned violence with violence. His father found this difficult to understand and Jamie felt frustration that he didn’t fight back. At an interview after the case was settled, he explained, “It wasn’t who I was—I couldn’t have fought back, it just wasn’t in me.” He tried other strategies to protect his vulnerability—walking to school to avoid taunts on the school bus, carrying his books everywhere instead of having to go to the out-of-

view lockers for each class, and eating his lunch in the hallway instead of the cafeteria, so he wouldn't be a target for food being thrown at him.

Jamie reported the harassment to the school counselor and told her he was gay. The counselor ordered the offending students to stop and assigned them detention, but the abusive behavior only ceased briefly. This counselor left the school and Jamie met with the new counselor relating again that he was gay and being abused by his peers. At the suggestion of this counselor, Jamie met with the principal, and the principal promised to protect him, but no action was subsequently taken.

Eventually, the abuse took a very severe turn. In a science class while the teacher was out of the room Jamie was thrown to the floor and assaulted in a mock rape by several boys as 20 of his classmates looked on and laughed. Jamie ran to the principal's office, and when he told what had happened her response was "Boys will be boys," and if he was "going to be so openly gay," he should "expect" behavior like this from his schoolmates. Jamie was left traumatized and the attackers undisciplined.

Eighth Grade 1989-90: The abuse went on unabated. Several boys attacked Jamie in a school bathroom, hitting him and pushing his books out of his hands. Jamie's parents reported this incident to the principal and met with her several times about other incidents but the perpetrators, though identified, were never penalized as they denied involvement. The principal reiterated to Jamie's parents that being openly gay was the problem. But to his schoolmates, Jamie had neither acknowledged nor denied he was gay.

A local district attorney advised Jamie to take time off from school. He did so for a week and a half but on his return the harassment resumed and intensified. After this Jamie attempted suicide for the first time and was hospitalized. After coming home from the hospital, he finished eighth grade in the one Catholic school in Ashland and wasn't harassed there.

Ninth Grade 1990-91: Because the Catholic school ended at the eighth grade, Jamie had to enter Ashland High for ninth grade where he met the same group of boys responsible for the awful abuse he suffered in middle school. One day, as Jamie was using a urinal in the bathroom, he was kned from behind by a student forcing him to fall into the urinal. Then, another student urinated on him. The principal sent him home to change his clothes. No action was taken against the attackers. Instead, Jamie

was assigned to special education classes that two of the main attackers attended also. The abuse continued and despite his parents' calls and several meetings with the principal there was no effective action taken to stop it and no penalizing of the perpetrators. In the middle of his ninth grade year, Jamie made a second suicide attempt and was hospitalized. Afterwards, he lived with relatives for a time, and then ran away to Minneapolis, Minnesota. He returned to Ashland after his parents promised him he wouldn't have to attend Ashland High. But they lacked funds for private education, and so the Dept. of Social Services forced Jamie—according to the compulsory school attendance law—back into Ashland High.

Tenth Grade 1991-92: Jamie's parents moved further away from the school, and he needed to ride the school bus. On the bus he was called "fag" and "queer" and things were thrown at him including heavy steel nuts and bolts. At this time, when he was fifteen, Jamie decided to come out to his classmates:

"I got tired of this [abuse] happening, and people always saying 'Why don't you just tell them you're not gay? They'll leave you alone.... But at that point, it wasn't about that. I was gay and it didn't matter. This shouldn't have been happening to me. So, confirming it, I thought, may actually lead to them leaving me alone. Because it wouldn't be that they were guessing I'm gay and harassing me because of it' (1996)."

But the worst was yet to come. One morning, as was his routine, Jamie arrived early at school, and he went to the library. Since it was not open yet, he sat down in the hallway. A group of eight boys saw him and started beating on him. One kicked him viciously in the stomach for five to ten minutes while other students looked on laughing. A few weeks later, Jamie collapsed from the beating. He had to undergo abdominal surgery and after the surgery was rehospitalized with internal bleeding and the vomiting of blood. The school guidance counselor lobbied for the administrators to take Jamie's complaints seriously, but they didn't respond to her requests.

Eleventh grade 1992: When he was sixteen, in the middle of his junior year, Jamie left Ashland High. The same guidance counselor, as above, in a meeting with Jamie and his parents said that the school administrators were not willing to help him, and so they all agreed he should find another place to continue his education. With his parents' regrets, yet support, he moved to Minneapolis, where he lived with a foster family—the deacon of a gay church and his lover and a lesbian couple. In Minneapolis

he sought professional psychological help and was diagnosed with post-traumatic stress syndrome.

In an interview, Jamie explained, “I was just happy to get out alive” (Ricky 1997). He also shared in this interview, that he believed “wholeheartedly” there was another student at the school who was gay but was not able to handle it, “He was really popular. He was in sports.” He would call Jamie on the telephone from time to time but couldn’t get anything out beyond “Hi” and “What’re you doing?” A few months after Jamie left, that student killed himself; he left a suicide note but his parents kept it private.

Jamie had once started a gay youth group at school but nobody came to it. “Everybody was too afraid to talk to me, because people would think they were gay.” His only acquaintances at the high school were two other students who also were ostracized because of being different, “We were only together because we were the social outcasts of the school. It was a Jehovah’s Witness girl and a schizophrenic girl, who wasn’t there half the time. We wouldn’t hang out after school; we’d sit together at lunch or whatever, but that was it” (Walsh 1996).

4.1.4 History of Nabozny Lawsuit

When Jamie was seventeen in 1993, he went to the Gay and Lesbian Community Action Council (GLCAC), an NGO in Minneapolis to seek help to continue his high school education. The Minneapolis school district had already told him they couldn’t guarantee the safety of an openly gay student, so he wasn’t accepted for enrollment. They advised he enroll in college. When Jamie related his experiences of abuse at Ashland schools to the crime victims advocate at the GLCAC, she told him that what had happened to him was illegal, and the school should be made responsible. Jamie recounted, “I didn’t realize what was being done to me was illegal or wrong. I just thought it’s a small town, they’re very prejudiced, homophobic” (ibid.). It took Jamie several years to work up the courage, but when he heard from friends in Ashland that harassment of others continued and that students—including Native Americans—were being treated differently, he decided to risk a lawsuit (Rikey 1997). The crime victims advocate found him a lawyer. All Jamie asked for in the initial suit was his high school diploma, attendance at the high school graduation ceremony and

\$50,000 dollars in damages. The diploma was important to Jamie because he would have been the first in his family to graduate from high school. Lambda Legal offered to help with the lawsuit, but the lawyer rejected their involvement. She also wouldn't allow Jamie to give interviews, which limited the interest in the case. The judge gave a summary judgment in 1995 and dismissed the suit. Jamie didn't want to continue, "I have to live this stuff over and over again. The depositions are very difficult, because their lawyer is ruthless. He's very cruel... So, I thought, 'Now, I can let this go' " But I realized, 'No, I can't.' I got letters about the decision, people saying you have to appeal; you can't let this happen. It had really become so much more about everyone else and less about me" (Walsh 1996).

The summary judgment was reported in the Ashland paper and when an Ashland High student read it, she announced at lunch that she was a lesbian, and she thought the judgment was "ridiculous." Other Ashland High students created a giant poster, "We Support You" signed their names and wrote positive notes to Jamie on it (ibid.).

Jamie took the option of dismissing the first lawyer and went ahead with the appeal through Lambda Legal and a prominent Chicago law firm. The appeal was successful and the case went to a jury trial in 1996.

The Appeal Judgement:

In the dismissal of the suit, the federal district court had ruled that a school could not be held liable for the action of students, and there was no validity to the claim of equal protection. Regarding this summary judgment, the appeal judge wrote that Jamie (plaintiff-appellant) alleged the defendants—the middle school principal, the principal and vice-principal of the high school and the school district,

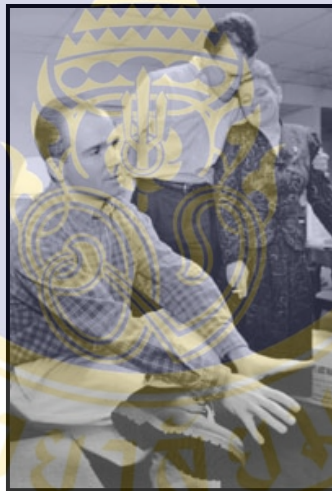
"1) violated his 14th Amendment right to equal protection by discriminating against him based on his gender; 2) violated his 14th Amendment right to equal protection by discriminating against him based on his sexual orientation; 3) violated his 14th Amendment right to due process by exacerbating the risk that he would be harmed by fellow students; and, 4) violated his 14th Amendment right to due process by encouraging an environment in which he would be harmed. The defendants filed a motion for summary judgment, which the district court granted. Nabozny appeals the district court's decision. Because we agree with the district court only in part, we affirm in part, reverse in part, and remand"(Eschbach 1996).

The appeal judges' statement noted that Wisconsin had a state statute against discrimination based on gender or sexual orientation; and since 1988 the Ashland school district had a policy in compliance, and they had a record of punishing perpetrators of battery and sexual harassment. However, they had only punished when non-gays and females, including pregnant females, were the victims of assault and sexual harassment by male teachers and students, so Jamie's claim of gender discrimination was let stand. It was also allowed that the defendants showed intent by deliberately ignoring and even laughing at his pleas for help. The defendants were also required to give equal treatment to male and female harassment complaints. Furthermore, a reasonable administrator would have known that their actions were unlawful: "We are unable to garner any rational basis for permitting one student to assault another based on the victim's sexual orientation, and the defendants do not offer us one... reasonable persons in the defendants' positions in 1988 would have concluded that discrimination against Nabozny based on his sexual orientation was unconstitutional (ibid.)." Thus the appeal reversed the federal district court's decision. The defense claim for qualified immunity was not supported. So, the case went to trial.

The Jury Trial Judgment and Settlement:

After two days of testimony and legal arguments a jury of seven in Eau Claire, Wisconsin (population 65,000) found for Jamie and made the three school principals liable; the school district as a whole was not found guilty. The day after the jury verdict, before waiting for the damages to be decided, the two sides agreed to almost a million dollars (\$962,000) in damages. The jury found that the principals "intentionally" discriminated against Jamie on the basis of gender or sexual orientation (www.aclu-il.org). The defendants found liable were "Mary Podlesny, individually, and in her capacity as Principal at Ashland Middle School; Willaim Davis, individually, and in his capacity as Principal of Ashland High School; Thomas Blauert, individually, and in his capacity as Assistant Principal of Ashland High School" (Nabozny vs. Podlesny, Davis, and Blauert 7th Circuit 1996). Jamie's request for a high school diploma, however, was denied by the Ashland school systems settlement negotiators

Patricia Logue¹, the lead attorney in the case for Lambda Legal, praised the jurors and called them “ordinary Midwesterners” who “opened their eyes wide and the eyes of educators everywhere” to the constitutional right of a gay student to be free from discrimination in schools (Logue1997). Carol Nabozny said, “This sends a message of hope to all those parents watching how school abuse crushed the spirits of their sons and daughters.” Lambda Legal Director Beatrice Dohrn said, “This is not an isolated incident. Anti-gay student violence has been reported throughout the country, from Utah and Texas to Massachusetts and Rhode Island. Schools have to understand that they need to not only protect their lesbian and gay youth from abuse, but provide support and teach tolerance among all their students to prevent atrocities like Jamie experienced” (Taylor 1996).



Jamie Nabozny with Lawyer David Buckel Hugging Carol Nabozny After Victory

Aftermath of Trial Verdict:

The huge amount of the award—almost a million dollars²— and the precedent set in finding for an abused gay student on the basis of sexual orientation sent waves of publicity across the U.S. Jamie and the successful lawyers were interviewed on several national TV news and interview programs, and the most prominent U.S. newspaper,

¹ Logue served as a staff attorney for 14 years with Lambda Legal. In March 2007 she was selected by current judges from a pool of 242 candidates to be an associate judge of the Circuit Court of Cook County (Chicago, Illinois). <http://www.lambdalegal.org/lambda-legal-attorney-named.html>. Accessed online 3/11/07.

² The settlement broke down into \$900,000 for damages and \$62,000 for medical expenses. One third went to legal costs and lawyers fees.

The New York Times, published several news articles on the background of Jamie's school experiences and the significance of the legal victory. Other papers including local Wisconsin dailies and weeklies and those of other cities and towns nationwide featured the story. The outcome of the trial became a wakeup call to the nation, a resounding clarion of hope to LGBT students and the greater LGBT community and their allies, as well as a clear warning bell to school districts and administrators to take the protection of gay students seriously or suffer stinging monetary penalties.

Scores of letters, emails, and phone calls poured into the Lambda office from LGBT individuals telling of similar past and present school experiences of abuse. A number of lawsuits citing the 14th amendment with Jamie's case as precedent were argued and won in succeeding years. Importantly, articles on the case were featured in journals for school principals and school counselors outlining steps for their professional audiences to follow to protect LGBT students and at the same time to protect themselves from liability. The case is cited in numerous legal and educator guides as well as in university courses, and it has longevity in a socio-political context. Simply searching for "Jamie Nabozny" on www.google.com brought up 533 pages in English on December 20, 2006.

After the settlement, Jamie traveled the country speaking to LGBT groups and others to encourage them to stand up for their human rights. The once, shy, quiet child transformed into a courageous and accomplished public speaker. In 2000, he told Lambda Legal that he was still speaking on a monthly basis, more locally than nationally which he thought a good thing—bringing the issue home to the people. Jamie, as a survivor, has enlisted the help of psychotherapists in his healing from post-traumatic stress syndrome caused by the years of abuse.

As to the defendants found liable in the case, the middle-school principal Mary Podlesny who said "Boys will be boys" and that the mock rape was Jamie's fault taught an education course on middle schools and was on the Advisory Council of Northland College, Ashland, in 2004 (www.northland.edu). Seemingly, her professional credibility was not effected by the outcome of a federal case designating her major role in allowing and abetting discrimination. Two years after the trial, William Davis was still principal of Ashland High (www.wsn.org). Thomas Blauert, the vice-principal of Ashland High is associated with curriculum administration with

the Superior, Wisconsin School Board. In other professions, such court-defined bias and gross negligence would be probable grounds for dismissal and exit from the field. Who would promote educators with such a stain on their record? Only those who concur with them that discrimination against gay students is not a serious offense? The blame for allowing the abuse fell solely on the school administrators (Kelly 2003), “Of importance to school districts and staff members (as well as legal counsel): the district itself was not liable because it had a policy that expressly prohibited discrimination based on gender or sexual orientation” (Sawyer 2004). A nagging question remains, however. What motivated a group of teenage boys to select and continually harass Jamie while his peers stood by laughing? The answer to this question is discussed in the section that follows.

4.1.5 What of the Perpetrators of Peer Abuse of LGBT Students?

In considering the perpetrators responsibility, it bears restating the view quoted earlier from the government report on U.S. school shootings, namely, that the persecution of a bullied school shooter would have met “legal standards for harassment and/or assault.” In considering this, it appears that during the whole of Jamie’s experiences of abuse from other males at the middle and high school, only once is it found in court documents and first-hand accounts that the perpetrators were penalized—the 7th grade guidance counselor gave them detention. This reflects a gross imbalance of justice between what criminal actions are tolerated in school in contrast to being prosecuted if they occurred outside school. The administrators’ biased and callous behavior was brought out in the initial lawsuit and the appeal. Jamie was assaulted sexually and physically requiring hospitalization, but his schoolmate attackers got away scot-free. No charges were filed against them either through the school’s disciplinary policies or with the local police. The school administrators played their role well as *parentis locis* for Jamie’s attackers—protecting the perpetrators from punishment, but, for the gay student Jamie, they were wholly uncaring and criminally neglectful, motivated by obvious prejudice. Their response that gay students had to be closeted—invisible—or face the abusive consequences by themselves, however, is not unique to small-town Ashland but common in many of the various cultural milieus in America (Taylor 1996).

Surprisingly, at the trial, the mother of one of the attackers and the attacker himself testified for Jamie's side. In an interview a year later, Jamie said, "It was really awkward. He said things in an almost unfeeling kind of way, matter-of-factly [about the mock rape, the urination]. He said his religious beliefs made him feel it was OK to do that. Now [six years later] he realizes his religious beliefs didn't say it was OK, but he still thinks being gay is wrong" (Rickey 1997). In 2001, in a speech and interview with the Catholic Pastoral Committee on Sexual Minorities (CPCSM) in Minneapolis-St. Paul, Minnesota, Jamie explained what he thought were the four major points resulting from his experiences at school and the settlement. The following is from a report of that event describing the main points in Jamie's speech:

1. "He [Jamie about himself] is not anyone special, but just one person who was willing to stand up and say that the harassment he experienced was wrong and that he was not going to allow it to continue to go on in that school district—which is all, he says, that is often needed in situations of injustice;
2. Homophobia, as was true in his case, is not as much based on fear of LGBT persons' sexuality as it is on their failure to conform to society's gender role expectations— i.e., gay teens engaging in traditional female activities and lesbian teens playing traditional male roles;
3. Often gay-bashers are actually struggling with fears about their own sexual orientation and assault openly gay teens to make sure their straight peers do not have any doubts about their sexual identity (e.g., four of the 10 perpetrators identified at Jamie's trial are now gay men); and
4. Harassment of LGBT students does not just negatively affect those being harassed but also their families as well as the straight students, teachers, and administrators who witness the harassment and do nothing to intervene—in short, it affects the community as a whole" (www.mtn/cpcsm.org 2001).

On the same occasion, Jamie happily shared that the situation in the Ashland school district had improved, that sexual minority teens felt safe there and that same-sex couples went to the school proms. He said that he still frequently receives words of gratitude from LGBT teens and their supporters living in Ashland (ibid.).

4.1.6 Positive Support for Jamie Nabozny Before and During the Lawsuit

In Jamie's narrative, it can be noted that there were a few critical people that sustained and tried to help him. First and foremost, his parents listened to him and took his complaints seriously, calling to report the harassment incidents and demanding meetings with the administrators, parents of perpetrators, and the harassers themselves, albeit to little avail. They tried to protect their son's survival and his right to education. For the latter, given their limited choices in small town Ashland and their spare financial means, they had no chance of success.

At least, the middle school guidance counselor recognized that the seventh grade bullies shouldn't be allowed to harass with impunity. Detention, though a mild penalty, was a step toward accountability. Also, the high school guidance counselor responsibly brought Jamie's unjust situation to the attention of the administrators, though they did nothing in response. After evaluating the escalation of violence and the disinterest of the principals, her advice to leave Ashland seemed a reasonable option for Jamie's safety and educational opportunity.

After Jamie's move to the nearest large city (The Greater Minneapolis-St. Paul population was approximately 3 million in 2000) (www.wikipedia.com), the Minneapolis LGBT spiritual and political community offered organized help. The former assisted with a foster home with a gay deacon and his partner and a lesbian couple. And then without the G & L Community Action Council, having been established independently by the early gay and lesbian political movement in the area, Jamie would not have met the African-American crime victims advocate who raised his consciousness about the violation of his rights and his entitlement to legal action. Lambda Legal's³ experience and tenacity played a major role in winning the precedent-setting case. If they had not taken over, the case would have ended with dismissal, as Jamie's first lawyer did not want to pursue an appeal. Jamie said that he

³ "It was nothing short of a revolutionary idea 30 years ago — to create a national legal organization dedicated to achieving full equality for gay and lesbian people. There were no groups whose principal mission was fighting for gay rights in the nation's courts. And the courts initially tried to stop the first one. Lambda Legal's application to be a nonprofit organization was denied unanimously by a panel of New York judges because, in their view, our mission was 'neither benevolent nor charitable.' But just as we have countless times since, we fought on until we won. In 1973, after nearly two years of legal battles, New York's highest court finally allowed Lambda Legal to exist" www.lambdalegal.org/cgi-bin/iowa/documents/record2.html?record=1207. Accessed online 19/12/06.

thought she feared being labeled a gay advocate lawyer, and she didn't want that at all (Rikey 1997).

Thus, the ingredients in Jamie's school experiences incorporate positive emotional and political support as well as the negatives of vicious peer harassment and administrative prejudice and neglect. Finally, if Jamie, himself, didn't have the courage to risk the lawsuit and the ensuing trauma associated with it, nothing would have happened. He, not only, empowered himself by his action for justice but his legal victory also, continues to have a positive effect in protecting innumerable American LGBT secondary students' human rights.

In the next section, a second, very important case of student on student abuse and administrator neglect is reviewed. This case was filed and argued by the National Center for Lesbian Rights (NCLR)⁴, with the assistance of the American Civil Liberties Union (ACLU), the oldest civil rights legal advocacy organization in the U.S.⁵ and the private law office of Kecker and Van Nest. Following up on the Nabozny precedent, this case also cited violations of rights under the 14th amendment.

4.2 Case of Alana Flores v. Morgan Hill, CA, School District

Instead of years of abuse directed at one student the Alana Flores case included simultaneous abuse and LGBT discrimination against six students at two middle schools and one high school in the Morgan Hill School District. Before proceeding to

⁴ Founded in 1977, "The National Center for Lesbian Rights is a national legal organization with headquarters in San Francisco and regional offices in Florida and Washington, DC. Through impact litigation, public policy advocacy, public education, collaboration with other social justice organizations and activists, and direct legal services, we advance the legal and human rights of lesbian, gay, bisexual, and transgender (LGBT) people and their families across the United States..."

NCLR is a non-profit, public interest law firm that litigates precedent-setting cases at the trial and appellate court levels, advocates for equitable public policies affecting the LGBT community, provides free legal assistance to LGBT clients and their legal advocates, and conducts community education on LGBT legal issues" <http://www.nclrights.org/about.htm>. Accessed online 19/12/06.

⁵ "The ACLU was founded by Roger Baldwin, Crystal Eastman, Albert DeSilver and others in 1920. We are nonprofit and nonpartisan and have grown from a roomful of civil liberties activists to an organization of more than 500,000 members and supporters. We handle nearly 6,000 court cases annually from our offices in almost every state... We work also to extend rights to segments of our population that have traditionally been denied their rights, including Native Americans and other people of color; lesbians, gay men, bisexuals and transgendered people; women; mental-health patients; prisoners; people with disabilities; and the poor" <http://www.aclu.org/about/index.html>. Accessed online 19/12/06.

discuss the background of the case, a few facts might prove helpful in understanding the socio-economic environment of the town of Morgan Hill, California.

4.2.1 Morgan Hill, California—“Countryside of Silicon Valley”

Geographically, Morgan Hill is located in the southern Santa Clara Valley, approximately 12 miles (19.3 km) south of San Jose, 70 miles (112.6 km) south of San Francisco and 15 miles (24.1 km) inland from the Pacific Ocean. The Chamber of Commerce of Morgan Hill boasts of “thoughtful planning” that makes it a place with “a superior quality of life:” “Morgan Hill’s combination of climate, resources, points of interests, activities and ethnic diversity provide a solid economic environment as well as a vital and exciting community in which to live, work and play” (www.morganhill.org). Morgan Hill was incorporated in 1906. In the 1920s it contained commercial orchards of prunes, apricots, peaches, pears, apples, walnuts, and almonds. In the 1950s the city transformed largely from an agricultural center to a suburban residential community. Growth increased greatly in the 1970s as Silicon Valley developed, and its workers discovered Morgan Hill’s reasonable housing as compared to the nearby large city of San Jose, heart of the U.S. computer industry. Some farms remained though and only 16 miles down the highway south of Morgan Hill is Gilroy, known as the “Garlic Capitol of the World.” So the pulse of technology to the north and the pull of farming to the south situated Morgan Hill in a traditional versus modern milieu in values and culture.

Morgan Hill’s population in the year 2000 was 33,556 almost 8 times that of Ashland, Wisconsin. City data also shows the census breakdown of the diverse population by race and ancestry as follows:

“Races in Morgan Hill:

- White Non-Hispanic (61.3%)
- Hispanic (27.5%)
- Other race (13.4%)
- Two or more races (5.1%)
- American Indian (2.1%)
- Black (1.7%)
- Chinese (1.4%)

- Filipino (1.1%)
- Japanese (1.1%)
- Asian Indian (1.0%)
- Vietnamese (0.7%)

(Total can be greater than 100% because Hispanics could be counted in other races)

Morgan Hill's racial breakdown reflects great diversity compared to Ashland's where almost 90% were White non-Hispanic and the most numerous minority was American Indian at 8%. Almost 40% of Morgan Hill was Non-white. The two or more races figure is more than double that of Ashland. There are no Asians in Ashland but in Morgan Hill the figure is 5.3 %.

The figures for ancestries in Morgan Hill are as follows;

Ancestries: German (15.4%), Irish (10.3%), English (9.8%), Italian (9.2%), United States (4.2%), French (3.1%) (www.city-data.com).

The Morgan Hill school district encompasses nearly 300 square miles. It is comprised of 14 schools: nine elementary, two middle, two high schools, a continuation high school, and a community adult school as well as a Home Schooling Program. The student population includes over 8,800 students and 1,000 employees. The middle schools (7-9 grades) involved in the lawsuit were Britton and Martin Murphy. Live Oak High School (10-12 grades) with about 2,000 students was of major focus.

For the year 2000, City-Data shows median household income as \$81,958 and median house value as \$435,200. The income of Morgan Hill is almost 2.7 times that of Ashland, and the house value for Morgan Hill is almost 7 times that of Ashland.

Because the Pacific Ocean is not far away, Morgan Hill has a mild, Mediterranean climate. Temperatures range from an average midsummer maximum of 32.3°C (90.2°F) to an average midwinter low of 0.9°C (33.6°F) (www.wikipedia.org).

4.2.2 Background of Plaintiffs

As in the Jamie Nabozny case, the facts in the narrative that follows are derived from court documents and online published news articles and interviews. Of the six plaintiffs in the case, Alana Flores, alone, was out and not anonymous; five are

females and one is male. After the settlement, two other plaintiffs came out: Jeanette Dousharm and Freddie Fuentes. The plaintiffs attended secondary school in the Morgan Hill School District from 1991 to 1998. It can be noted that Alana and Freddie bear Hispanic surnames contributing a layer of minority race to their minority status as lesbian and gay, respectively.

4.2.3 Alana Flores— Lead Plaintiff

As a school child, Alana was considered pretty, outgoing, and talented in dance and theatre. Because her family moved a lot, she went to many different schools. Yet, she always made friends and was the “belle of the ball.” All that changed when her family moved to Morgan Hill in 1994. Her first day as a new student in seventh grade at Britton Middle School set the tone for the next four years of torment. Especially for her first day in a new school, Alana had gotten her long hair cut short and sleeked back with gel in a high-fashion city style. She sat in the back row of the classroom and the teacher noticing her, addressed her—the new student—as a boy, causing all her new classmates to snicker and laugh when Alana answered “I’m a lady—a girl.” From then on, her classmates called her “dyke” and laughed whenever she walked by. She hoped that the next year at the senior high would be better, because her older sister was a popular senior there. It went well in the beginning; she circulated among all the cliques: jocks, preppies, Goths, and cheerleaders. But one day when students in a math class were calling others “faggots,” she spoke up publicly asking them to stop. Then, a boy yelled “Dyke” at her. The teacher from the class later asked her why she had a problem with the word “faggot” and insinuated that she must be gay.

Thereafter, obscene slurs were constantly coming from small crowds of students; it was impossible to pick out the individual voices. This verbal harassment soon escalated to anonymous threatening notes. All in different handwritings, the notes were taped onto, written on, scratched into, put inside, and chalked in front of her school locker. The messages started with “You don’t belong here” escalating to “Dyke bitch, Die, dyke bitch,” “Die, die, die, die” and “We’ll kill you” and other death threats. Then, one day, her classmate found in their shared locker a violently pornographic picture of a woman gagged and bound with her legs spread and her throat slashed with “Die Dyke” scrawled on the bottom. They took it to the vice-

principal who—out of context with the conversation—inappropriately asked Alana if she was gay. As fifteen-year-old Alana was still questioning her sexuality at the time, she became confused and began to cry. “No,” she answered. The vice-principal responded with, “Well, if you’re not gay, why are you crying?” and she said further, “Don’t bring me this trash anymore. This is disgusting.” No administrative action was taken to investigate. Even Alana’s simple request for a different locker was denied, and it took months for her locker to be repainted covering the slurs and profanities on it. During the three years Alana spent at Live Oak High she received violent pornographic material approximately 25 times.

From then on, Alana was in a perpetual state of anxiety worrying about what would come next at Live Oak High. In 1996, she attempted suicide and was hospitalized, “I was having a hard time with my sexuality and what was going on within me. I felt very exhausted; emotionally I felt very lost.” After recovering, she returned to her studies and came out as a lesbian in her senior year graduating in 1997. But she held onto the deep pain from the abuse. She started at a local junior college, and though she had once been an honor student, she dropped out after a few months. She worried that the harassment would start all over again there. Yet, another part of her felt righteous anger. Nine months after she graduated from high school Alana filed the lawsuit.

4.2.4 Jeanette Doursham —Anonymous Plaintiff

Jeanette Doursham was identified by the initials JD in the lawsuit. She was subjected to assault, name-calling, sexual harassment, and exclusionary treatment by peers and staff: Students yelling pejoratives threw food at Jeanette during lunch. She complained to a campus monitor with no result. A group of students placed penis-shaped balloons on the table in front of her, saying, “If you knew what this was, maybe you wouldn’t be a lesbian.” This took place in front of a campus monitor, who also did nothing. Then, this campus monitor started a rumor among students that Jeanette and another female student were having sex in the bathroom. When Jeanette was harassed in the halls, administrators told her to go to class early to avoid the students who were tormenting her. Jeanette complained to a teacher that her physical education classmates called her “dyke” and “queer” and said things like, “Oh, I don’t

want her to touch me. I don't want her to look at me. I don't want to be her [weight training] partner." The teacher took no action against the harassers but told Jeannette to change clothes for gym in an area away from the rest of her class because the other girls said her presence made them uncomfortable. While investigating reports of a male student who had been sexually harassing female students, an assistant principal asked Jeanette whether that student had ever harassed her. When Jeanette said that he had, the assistant principal asked inappropriate questions about her sexual orientation and suggested that Jeanette must have welcomed harassment by a boy because she must be "tired of girls." Because no action was taken on the harassment, Jeanette decided she had no choice except to drop out of school.

4.2.5 Freddie Fuentes—Anonymous Plaintiff

In 1992 Freddie Fuentes (FF in the lawsuit) was a slight seventh grader who loved to dance ballet. One morning, while waiting for the school bus to Martin Murphy Middle School, he was attacked by a group of schoolmates. The following is his report of the incident:

There were about 10 to 15 people, boys and girls, [who surrounded me] ... and were chanting "Fag! Fag! Fag!" really loud. I tried to find a way out, but they kept pushing me. The boys [six] started beating me up. The bus drove up, and everybody left the circle, and I was lying there on the ground. I had bruised ribs, and I couldn't breathe. I could see the bus driver—I was looking at her from the ground and asking her for help, but she closed the door and drove off, and I crawled home (Smith 2004).

Freddie was hospitalized with severely bruised ribs. When he returned to school, the school administrators called Freddie to the office and said he was being expelled. "Instead of expelling 10 people, they expelled me. So that's how they handled it," (ibid.).

In the second school's history class Freddie was harassed, called "faggot" every day in front of the teacher. When Freddie told them to stop; the teacher took him into the hall, shoved him against the wall, and scolded him for disrupting the class. Every day—going from class to class—he was verbally harassed: "I couldn't walk down the hallway... it was at least five times between each class." He was also harassed in a drafting class in front of the teacher who said nothing. A male in that

class said, “I want to beat you up after class, but I need a baseball bat to hit you because I don't want to get AIDS.” At Live Oak High, he was referred to as “Freddie the Fairy.” While onstage at a school dance performance his mom wept as the student body audience chanted “Faggot, Faggot.” Whenever Freddie’s mother complained to the administration, she said, “I’d always get, ‘Kids will be kids,’ or ‘Boys will be boys’” (gsanetwork.org 2004). In talking about all the school abuse he suffered Freddie said, “It made me feel like something was wrong with me, that I didn’t belong on Earth. But I knew inside that I was a good person. It was hard because there was a lot of hate toward me” (Asimov 2001).

4.2.6 A Couple: A Lesbian and a Bisexual

In their depositions, Crystal L and HA, declared that in 1997 students began making anti-gay remarks and sexual gestures at them when they began dating as seniors at Live Oak High School. As they were walking together in the school parking lot, a group of male students yelled at them, “All dykes should die and you should not exist” and threw a hard plastic cup that hit Crystal in the head. The couple reported the incident to the assistant principal, but she told them to report it to a campus police officer. They did, and he said, “You have to expect this.” There was no investigation or follow-up to the incident by the administrator as required by school policy.

Crystal explained what it was like for her at Live Oak; “the name calling and insults were so commonplace they became part of the day’s routine. ‘You get up and take a shower and get harassed for the rest of the day,’” (Boxall and Noriyuki 1999).

HA related that she had been a cheerleader and dated boys. But when she started dating Crystal, everything changed, “I’d seen [others targeted], but I still didn’t think it could happen to me. All of a sudden I was the one they were saying these things to” (ibid.). She talked about the harassment with teachers, and they saw it in the halls, but they had no response and did nothing.

4.2.7 History of Flores et al. Lawsuit

In contrast to the Nabozny case, the district court found for the plaintiffs and ordered the case to go to trial. However; the defense appealed the ruling. After the second appeal failed, the defense decided to settle; one reason given that a court trial

would cost 3 million dollars to defend. As part of the settlement, the defendants and the school district did not admit liability. The defendants were: Morgan Hill Unified School District; Carolyn McKennan, Superintendent; Bob Davis, Principal; Delia Schizzano, Assistant Superintendent; Maxine Bartschi, Assistant Principal; Rick Gaston; Larry Carr, School Board President; Susan Martimo Choi; Del Foster; Rick Herder; Don Schaefer, School Board Members; and Megan Avevedo and Cheryl Washington. The surnames represent a number of different ancestral backgrounds.

It took more than five years from the time the case was filed to settlement—1998 to 2004. The settlement called for 1.1 million dollars plus remedial actions on the part of the school district. Alana received \$150,000; Jeannette and Freddie, \$100,000 each; two of the unnamed plaintiffs \$80,000 each and the other one, \$50,000. Approximately \$600,000 went to legal and attorney fees. Jeannette and Freddie planned to use their money for tuition and other costs of college. Jeannette who thought of becoming a teacher, said, “No money can make up for what happened to us. But if we can make sure that this doesn’t go on, then that’s something” (Neff 2004). Alana was introspective about how much the harassment changed her personality from happy and friendly into confrontational and defensive. She reflected, “It feels like I’ve been strapped to a giant rubber band, trying to run and then something pulls me back.... [The settlement] is a turning point. I feel it in my heart that it’s a dawning for me” (gsanetwork.org 2004).



K. Kendall, NCLR Director, Alana Flores at settlement.

Freddie Fuentes and Alana Flores, Jan. 6., 2004

In a 3-0 ruling, the appeal judges found, similar to the Nabozny case, there was cause to go to trial for a violation of the plaintiffs’ 14th amendment constitutional right

to equal protection on the basis of their actual or perceived sexual orientation. The judges decided that there was “sufficient evidence for a jury to infer that defendants acted with deliberate indifference. We also hold that the law was clearly established and that the evidence would support a finding that the administrators’ actions were unreasonable” (Schroeder 2004). This was found for each of the defendant administrators based on that, when the plaintiffs complained of abusive incidents to them, they did not investigate or take disciplinary action against the perpetrators.

The appeals court also focused on the school district’s failure in providing adequate training of teachers and campus monitors about the district’s policy prohibiting harassment on the basis of sexual orientation. Neither did they communicate these non-discrimination policies to students. What was different in this case, was that, unlike Wisconsin, California State—at that time—had no protective category of sexual orientation against discrimination. Race, sex and religion were the only categories. However, individual school districts, Morgan Hill being one of them, did have policies specifying sexual orientation as a category. As in the Nabozny case, where it was shown that the school administrators disciplined harassment based on sex but not on sexual orientation, so in the Flores case, harassment was disciplined if based on the category of race but not on sexual orientation.

Importantly, this very district court and judges previously led the way in a 1990 finding for discrimination on the basis of sexual orientation in a landmark case:

“...state employees who treat individuals differently on the basis of their sexual orientation violate the constitutional guarantee of equal protection. *See High Tech Gays*, 895 F.2d at 573-74 (finding that homosexuals are not a suspect or quasi-suspect class, but are a definable group entitled to rational basis scrutiny for equal protection purposes). It is not necessary to find a case applying the principle to a particular category of state officials, such as school administrators. The defendants were officers of the state who had fair warning that they could not accord homosexual and bisexual students less protection on account of such students’ sexual orientation” (Schroeder 2003).

The court also referred to the fact that the district court in Nabozny found that even though there was a state law in Wisconsin that prohibited discrimination based on sexual orientation, they did not need to base their judgment on that. Instead they based it on the equal protection of the federal constitution’s 14th amendment. Similarly, the

Flores case does not require a state law⁶ to base its finding of unconstitutionality. In addition, there was no reason to justify the unequal treatment, “as in *Nabozny*, [w]e are unable to garner any rational basis for permitting one student to assault another based on the victim’s sexual orientation, and the defendants do not offer us one” (ibid.). The court concluded with its agreement with the initial court’s denial of summary judgment and stated:

The record contains sufficient evidence for a jury to conclude that the defendants intentionally discriminated against the plaintiffs in violation of the Equal Protection Clause. At the time of the harassment, the plaintiffs’ right to be free from intentional discrimination on the basis of sexual orientation was clearly established (ibid.).

Another salient part of the argument against the school board’s contention of lack of knowledge of harassment based on sexual orientation was the research conducted by NCLR attorney Leslie Levy. She found that the high school had a well-publicized history of discrimination. In March 1991, the high school newspaper, *The Oak Leaf*, reported peer harassment against lesbian and gay students, and the story was also reported in the *Morgan Hill Times* newspaper. Then, in the Fall 1992-school term, the Martin Murphy middle school distributed Associated Student Body cards which listed hotlines on the back. One hotline listed was for gay and lesbian teens. A “firestorm” of controversy occurred and two school district board meetings were devoted entirely to discussion of the topic. One board member read a statement at the second meeting identifying “harassment of students based on their sexual identity (or perceived sexual identity) as an important issue facing the district.” Her statement was printed in the *Morgan Hill Times*. These meetings were so belligerent that the superintendent asked for police attendance to protect openly gay teacher Ron Schmidt and the gay and lesbian students at the meeting. The next day, the superintendent telephoned the administrator of Live Oak High to express his concern for the physical safety of a student who came out at the meeting. Copies of student articles in *The Oak Leaf* in support of rights for sexual minority students were distributed to the school board. These articles were headlined, “Isolated Student Is Finding Acceptance and Raising

⁶ During the five years of the appeal process “a state law was passed, with the Morgan Hill students’ input, prohibiting anti-gay harassment of students” www.gsanetwork.org. Assessed online 20/12/06. <http://www.gsanetwork.org/news/january2004.html>

Her Voice” (describing experience as a lesbian at Live Oak High) and “Homosexuals Need Recognition And Understanding, Not Bigotry” (urging action “before one of our own Live Oak students is added to the growing statistics of successful suicides”)” The following Spring term [1993] two Live Oak lesbian students tried to organize a gay and lesbian student group in an effort to fight harassment. Immediately, there was a hate-filled response. *The Oak Leaf* reported students were “enraged...shoving the people who passed [out fliers announcing the formation of the club,] and calling those involved derogatory names such as ‘fag’ and ‘dyke.’” Sidewalk graffiti appeared: DIKES, [sic] KEEP IT IN THE CLOSET, FAGGOTS.” Locker graffiti threatened: “KILL ALL GAYS, KEEP IT IN THE CLOSET.” Two months later, the paper reported that fliers posted around the campus announced the formation of a gay-bashing support group. Anyone interested was invited to call 1-800-red-neck. Not only was this club controversial among students but also among Live Oak employees. *The Oak Leaf* continued to report gay and lesbian harassment during 1993 (Clair 2000).

In the end, after the failure of the second appeal, the attorneys for the school district decided to negotiate a settlement (reached January 6, 2004) rather than go to trial. In denial and contradiction to the above research in the plaintiffs’ presentation before the appellate court, Carolyn McKenna, MHUSD superintendent issued a statement that contended “The district has been against all forms of harassment before, during and after this litigation.” She noted that the agreement did not include any admission of wrongdoing (Pogash 2004). Reiterating this viewpoint, Shelle Thomas, a trustee of the school district, stated that in agreeing to the terms of the settlement the district was not accepting any liability, “This is not an admission of guilt” (www.worldnetdaily.com). Nevertheless, remedial actions were agreed to in the settlement; in common language remedies are only needed to fix something ailing.

4.3 Remedial Actions Required by Flores Settlement

Aside from the large amount of the settlement, the precedent-setting remedial actions negotiated for protecting LGBT student rights were highly significant. From an activist point of view, the remedies create a model for what a school district should be required to do to go about correcting a biased school environment perpetrated by administrators, staff, and students. The remedies covered everyone whether students or

employees or volunteers who work at the school, including lunchroom monitors, campus police, janitors and school bus drivers. The remedies matched the facts of the complaints as to what, where, and who needed to be corrected and were to be implemented and monitored over a period of years.

The local and national media, TV and newspapers, publicized the details of the case and the required remedies. *The New York Times* reported that the district had to provide “mandatory training for teachers, administrators and other staff members to eliminate harassment and discrimination against gay and lesbian students ...and antiharassment programs for seventh and ninth graders” (Pogash 2004). The district training consists of three and a half hours annually. Each school must designate a Compliance Coordinator to investigate every complaint by a student or staff. All employees [more than a 1,000] must report antigay name-calling and all other types of LGBT harassment incidents. The training is specific to harassment on the basis of sexual orientation and gender identity and will be organized and conducted by a mutually experienced trainer [GLSEN was selected by both parties] for the four school years until 2008. Goals of the training are to “increase safety, promote a safe learning environment, and prevent harassment and discrimination on the basis of actual or perceived sexual orientation and gender identity” (Brick 2004).

As important, if not more so, mandatory training for students was required. For two years 2004-5 and 2005-6, students in grades seven to nine were to have 50 minutes of training that focuses solely on the subject of preventing harassment and discrimination based on actual or perceived sexual orientation or identity. Student training was to be conducted in a peer-to-peer format and could be integrated with teaching of school safety or other forms of harassment or discrimination. For 2006-8 the training was to be integrated into the high school curriculum.

In addition, the agreement required complaint resolution procedures separate from sexual harassment procedures. The procedures were to be publicized in handbooks and guides for teachers, students, parents and others; the role of the Compliance Coordinator was to be explicitly defined. Reporting of all incidents, namely, verbal and written complaints, was to be maintained. If any part of the agreed program was not performed, the plaintiffs had the right to go back to court to order compliance and the school district would be responsible for all legal costs.

4.3.1 Responses to Training Program Requirements

Ann Brick, one of the ACLU attorneys on the case, in reference to the training program requirements, said, “This settlement shows them [school officials] how to do it. It becomes a model for other districts”(www.gsanetwork.org 2004). Moreover, Kate Kendall, director of NCLR said, “the bravery of these students speaking out about the abuse they faced on a daily basis at school will reach far beyond Morgan Hill. Because these six kids came forward, schools now know they can’t just ignore abuse of gay students when it’s happening in their hallways. This training program isn’t just the right thing to do—it’s what schools have to do if they want to keep their students safe”(www.worldnetdaily.com 2004). Alana Flores, reflected on what the training component in the settlement meant to her, “I am so happy that the district has finally recognized the seriousness of this problem and is ready to do something to stop it. The kind of abuse I had to deal with every day when I went to school was horrible. No student should have to face that. Making schools safe for all students through this kind of training is something every school should do” (ibid.). As for the training of teachers, it was seen as an important positive step in supporting the right of equal educational opportunity by GLSEN’s National Director, Kevin Jennings. He noted that according to the 2003 School Climate survey LGBT students who can identify one supportive teacher or staffperson are “more than twice as likely to plan to attend college and have grade-point averages more than 10% higher than those who cannot identify any supportive faculty or staff at their schools” (Sims 2004).

Not all the reactions to the settlement were positive, however. Negative responses came from spokespersons representing religious right and conservative organizations. NARTH (National Association for Research and Therapy of Homosexuality) described the training as an imposition from the ACLU charging that it violates parental rights. Furthermore, Joseph Nicolosi, NARTH⁷ president, stated that the training is part of the homosexual agenda promoting “a lifestyle that is fraught with psychological and physical health dangers. Children should not be held captive to a training program that will openly promote homosexual behavior as normal and equally as legitimate as heterosexual behavior” (York 2004). What is missing from

⁷ “NARTH is a coalition of psychologists who believe it’s possible to ‘cure’ homosexuality, a position rejected by the American Psychological Association and the American Medical Association” (Mock 2006).

NARTH's reaction is information on the violations that the LGBT students experienced and the reasons for filing the suit. Neither was it pointed out that the settlement was an agreement between the school district as defendants and the student plaintiffs and not imposed by the ACLU nor that the district lost two appeals in federal district court before negotiating. The NARTH reaction exemplifies a distortion and omission of facts in reporting on the case and its settlement. The training program is a sensitivity program, which is different from a program that promotes behavior or evaluates the legitimacy of any sexuality. A sensitivity program promotes understanding.

4.3.2 Effectiveness of Training Program Requirements

Whether viewed positively or negatively, the operation of the training program and complaint procedure leaves some open questions. First, are a mere 3.5 hours of student training enough for effective sensitivity training? Given that the cultural milieu of family, community, and church in small-town America holds a traditional core of "family values" opposed to LGBT equality, wouldn't more time be needed? Second, there is no external monitoring included in the requirements. Doesn't this leave monitoring entirely within the purview of the local administrators and school board officials to ensure the requirements are met? The only check appears to be a note at the end of the settlement agreement that the ACLU attorney in the Flores cases be contacted if the requirements are not met. The assumption is that with the training and education, protection against harassment and discrimination will be achieved by sensitive awareness on the part of students, administrators, teachers, and staff. In addition, if student complaints are not satisfactorily taken care of at the school level, then the new procedure in place explains how to go to the next higher level. This appears to be a limitation putting the onus on the complainant unlike the procedure with Title IX complaints of sexual harassment where the assigned school official takes care of carrying the complaint forward by reporting it to the federal Office of Civil Rights. Who does the Compliance Coordinator report to? Furthermore, one measure of success would be to see the number of complaints decrease. But complaints by LGBT students are underreported through fear of disclosure. As noted previously in Chapter 2, LGBT students, unlike other minorities, cannot automatically count on parental support. For

example, Jamie and Alana did have that support—critical throughout their struggle to be heard and to receive justice. Without it, an abused student might be afraid to register a complaint for fear of being “outed” and, thereby, chancing peer and parental rejection. Bullies, whether peers, teachers, or administrators can be aware of this power they hold to “out” a student and can use it, consciously or not, to keep LGBT and questioning students from registering and pursuing a complaint. The vice-principal at Live Oak High School asking Alana if she was gay is one example. Racial and ancestral identities are matters of pride that parents usually instill in their children at school age or before. This is especially necessary in a non-homogenous stratified society with a history of racial and ethnic discrimination as is the U.S. Is pride in their minority sexual orientation the usual sentiment instilled in LGBT children by heterosexual parents in an American society that is homophobic and heterosexist? Thus, LGBT students grow up and find themselves in a psychologically difficult situation. In milieus where they are invisible and powerless; they can lack the self-esteem and confidence to challenge the denigrating and abusive behavior directed their way. And, if they lack adult support from parents or others, they are forced to fight their own battles alone or to bear the victimization in silence. All incidents of abuse, therefore, would not necessarily be reported, and this would affect the measure of program success or lack of, if number of complaints were the main criterion.

Nevertheless, a strong feature of the Flores settlement is the publication of the district’s anti-discrimination policy in school handbooks and the training of teachers. But again 3.5 hours may not be enough time to inscribe within the teachers’ understanding how important and fair the policy is, and their responsibilities for implementing it in their classrooms and other school situations. At this stage, in seeking protection for the human rights of LGBT students within the Morgan Hill Unified School District, obedience to the law and tolerance could be described as goals embedded within the settlement agreement. Total internalized acceptance of LGBT equal rights would be left for the future to develop in concert with American society’s forward direction in this area.⁸ The testimonies of Alana, Jeannette, Freddie,

⁸ In a Field Poll generational study over a decade Mark DiCamilli, said, “Findings suggest that same-sex couples will one day be allowed to wed in California, if not the rest of the country, as older generations die off.” http://www.christianpost.com/article/20070310/26244_Study_Finds_Age_Divide_on_Gay_Marriage.htm. Accessed online: 10/3/07.

Crystal and AH tell of an entrenched lack of acceptance by peers and adult at their schools in the near past—the 1990s. Is 2007 different?

Other questions remain from the facts of the Nabozny and Flores cases. Would the administrators at Ashland High in Wisconsin or the Morgan Hill, California secondary schools have conceived that they needed the training offered or applied for funding from an MA type program if it was available to them? When their answer to serious instances of peer on peer violence was “Boys will be boys,” perhaps only a federally mandated court decision could have ensured action for a safe environment for sexual minority students in their care or, on the other hand, they could have responded positively if their own peer educators supported the program.

Again referring to the Nabozny and Flores cases and the HRW report, “Hatred in the Hallways,” questions can be posed: Why does a personal story in a training session move a teacher but not an administrator face-to-face with a student when it is a complaint reflecting on their competence and touching on their own feelings of bias against LGBT persons? Were the Morgan Hill administrators receptive when they refused to acknowledge liability and throughout the five years of the suit responded with lack of recall of the incidents? Was this merely a defense legal tactic? Or, is the level of denial that operates when it comes to bias against LGBT youth impenetrable in some schools, and how are these schools turned around or, at least, made to comply with the law? Finally, how do LGBT students survive in these kinds of schools?

One answer to the last question is to have a GSA. Harvard researcher Laura Szalacha found that three times as many students in MA schools with GSAs said that LGBT students could be safely open about their sexual orientation at school than those without GSAs. Moreover, at schools with GSAs, the students were less likely to hear daily name-calling such as “faggot,” and “dyke,” and the slur “that’s so gay” (Szalacha 2004). In the chapter that follows GSAs are reviewed in detail.

CHAPTER 5

GAY-STRAIGHT ALLIANCES

*I am a child, a boy
 A boy who loves to play.
 I am a boy, a child
 A kid who is not afraid.
 I am a child, a boy
 A kid who is not afraid to say I'm gay.
 Do not laugh, I am the same kid as yesterday.*

Sayre Chavez (read aloud his poem in front of his fifth-grade class in 2003)

5.1 Gay-Straight Alliance (GSA) Organizing

In 1988, a high school student, at the Concord Academy, an elite private school in Concord, MA, experienced harassment by her schoolmates because her mother was a lesbian. She talked about the harassment with her history teacher, a gay man, who was the only teacher “out” in her school. Together, they decided to organize a support club for other students harassed around issues of sexuality. Because the student was straight, she suggested the name Gay-Straight Alliance (GSA). From that “felt need” GSAs trace their beginnings (GLSEN 2006). Kevin Jennings, the present director and founder, in 1995, of the Gay Lesbian Straight Educators Network that sponsors GSAs in secondary schools and colleges, was the out teacher and cofounder of the first club. Now, there are more than 3,000 GSAs nationwide (15% of all U.S. high schools), and as a model it has been adopted in other countries, including Canada, the UK, Australia, and Mexico.

The fact of having straights (heterosexuals) in the first club and all the thousands afterward proved a source of strength gaining allies necessary for a small minority group to advance its quest for equality. As that quest ensued, numerous lawsuits were filed for and against GSAs by LGBT advocates or by the religious right in opposition. In this chapter the first-person voices of LGBT youth are focused on extensively in the breaking of silence about their own lives and struggles.

The GSA model shows variations but mainly consists of a group of students who want to meet regularly on a school campus as an extra-curricular club. A teacher or staff member signs up to be an advisor of the club and agrees to be present at meetings. In conservative locales where teachers oppose LGBT visibility and rights or where teachers are not protected by state laws prohibiting employment discrimination on the basis of sexual orientation, students can find it difficult to enlist a club sponsor. In some schools students are required to have parental permission to join any clubs (Parker 2006). This would have a chilling effect in discouraging students from joining a GSA if they are not out to their parents. Clubs that meet at schools are usually required to have permission of the principal. If the club meets all requirements and yet the principal denies permission, then the students can challenge the decision by taking the school to court claiming a violation of the federal EAA (Equal Access Act). This has occurred many times in different states but in each instance with rare exceptions¹ the court has upheld the students' right to form a club under the EAA.

The EAA requires that all public middle, junior and senior high schools receiving federal funds must offer the same opportunities to a GSA club on an equal basis with every other non-curriculum club in a school (elementary schools are not covered.). This generally includes recognition, school space and public announcement privileges through the usual means: school loudspeaker system, publication in school newsletters, yearbooks, etc., the posting of notices and posters, and other publicity. As simple as this sounds, organizing a GSA can be an intensely difficult struggle for individual students, for sponsors, and for the whole community of LGBT students, their allies and those in opposition. These difficulties surface depending on where the school is located and its surrounding social climate. It also depends on an individual school's culture as well as the professional quality, awareness, and fair mindedness of its administrative and teaching staff.

GSA club attendees are not required to come out during meetings or say what their sexual orientation is or why they are attending the meeting. Anonymity is a given

¹ In 2003 "Lambda Legal represented the Lubbock High School Gay-Straight Alliance which was denied official recognition as an on-campus student group by the Lubbock Independent School District. Judge Samuel Cummings found in favor of the school district basing his decision on the district's abstinence-only policy and the district's argument that the gay-straight alliance was about sex." <http://cache.lambdalegal.org/cgi-bin/iowa/cases/record?record=189>. Accessed online 3/9/07.

unless the student wants to share personal information. Some schools have decided to have a policy that requires parents to be notified of their child's participation in a school club. This can have ramifications for LGBT students, self-identified or questioning, in discouraging them from joining a GSA for fear of disclosure to parents. For example, in a court case finding for an "outed" student, the *Los Angeles Times* reported, "A federal judge in California allowed a lawsuit to go ahead... [that] alleges that Garden Grove Unified School District officials unfairly disciplined a 17-year-old student this year for hugging and kissing her girlfriend on campus; revealed her sexual orientation to her mother; and forced the teen to temporarily change school." Christine Sun, the ACLU lawyer representing the student who was openly lesbian at the school, said, "Even though the information might have been known to some people, it wasn't known to the family.... She had a right to tell her family on her own terms, especially when it's such a sensitive matter in a lot of families." The suit involved the right to privacy (gsanetworknews 2005). On the other hand, a number of student resumes listing Gay Straight Alliance as a school activity turned up on a Google web search on March 10, 2007. Participation in a GSA, then, can be something to be publicly proud of and considered a plus for employment. And college application. Another Google web search reveals that many schools nationwide have their own websites. GSAs are listed among the clubs and these clubs can have their own webpage on school sites, also. GSA club webpages show a variety of information: mission statements, meeting data, news, photos of club members and group activities, and other material. All this shows openness and pride. In several localities, however, allowing a GSA was and is controversial involving a long and intense struggle. The next section features one such struggle.

5.2 Utah Students File Lawsuits for Their Right to Form a GSA

A protracted struggle to form a GSA occurred in Salt Lake City, Utah from 1996 until 2001. The essential facts start with Orin Hatch, a long-term Republican Senator from Utah, who introduced the EAA in Congress, which passed it into law in 1984. The EAA was conceived by Hatch, a Mormon, to allow school clubs with a focus on religion, such as Bible Clubs and the Fellowships of Christian Athletes without being constrained by the time-honored U.S. principle of the separation of

church and state. GSAs started cropping up around the U.S., after the initial one in Concord, MA, with their right to exist based on the same EAA as the religious- based clubs. Then, in 1996 a group of students at East High School in the Utah capitol and worldwide headquarters of the Mormon Church's² decided to organize a GSA. They met with opposition from the principal of their school, the local school board and the state department of education. The students filed a lawsuit that was decided in their favor. However, the opposition chose the option of banning all extracurricular clubs at the school. For, according to the EAA, school districts have two options: treat the GSA club equally like any other club or ban all clubs. Yet, the ban was not applied equally; certain other clubs were given privileges to operate unimpeded. So, the students brought a second lawsuit in 2001, and this was also decided in their favor. This suit cost the state an estimated \$250,000 for the attorney fees of the NCLR, Lambda Legal, and the ACLU who represented the winning side. It also cost them undisclosed but significant legal costs for their losing defense. When another Utah school in Provo was later denied the right to organize a GSA, the state board of education informed the school administration that their insurance carrier would not pay litigation costs. The school capitulated and allowed the club. In 2005, there were 14 GSAs in Utah schools. According to the 2000 U.S. census, Utah's population was 2,233,169 persons.

5.3 Teen Internet Discussion: Being Gay & Christian

The struggle for GSAs in Utah, a state historically and presently connected with a form of the Christian religion, illustrates the role that religious opposition to gay rights can play in schools and communities. This role is not unique to Utah and has resonance in other American locales as well. The U.S., alone, among the highly

² Commonly known as the Mormons, the official name is Church of Jesus Christ of Latter-Day Saints (LDS). Founded in 1830 by Joseph Smith in Fayette, New York, the church numbers approximately 11 million members—5 million in the U.S—and is growing. The assets total more than 30 billion dollars as every member is expected to tithe 10% of income. Missionaries worldwide number about 60,000 (75% male, 19% female and 6% married). The Book of Mormon was published by Joseph Smith in 1830; it is believed to be the word of God. Among Mormon pioneers, 20-25% of men were polygamous. LDS announced an official end to polygamy in 1890. In 1978 the Mormons accepted Black men into the priesthood after a leader (prophet) received a revelation from God. At the same time there was pressure from the government to take away the church's tax exempt status. Black athletes were also organizing a boycott against playing teams from Mormon Brigham Young University. Members who are openly homosexuals are subject to excommunication (www.lds.org); (www.beliefnet.com); (www.truthout.org). Accessed online 20/12/2005.

industrialized western democracies is a predominately religious society with approximately 80% of its population identifying as Christian.³ Aside from the question of how the religious right opposition to LGBT rights is organized politically, which is discussed in Chapter 6, LGBT youth are also concerned with religion in their own lives. An example of this concern is illustrated by a group of sexual minority teenagers as they shared thoughts about being Christian and gay on a GSA chatroom discussion on the Internet, in the Spring of 2006. The thread starter is a 15-year-old male who sends a total of four messages—1 starting, 2 responses, and 1 ending. The seven participants replying once to the thread include:

1. 18-year-old male
2. 14-year-old male
3. 15-year-old female
4. 18-year-old female
5. 18-year-old female
6. 18-year-old male
7. 16-year-old female

Thread starter (15-year-old male):

I'm a Christian and I'm gay, so I feel as if I'm a target for everyone. Don't feel I can be a good Christian and be gay; something's got to give. I mean I can't help the way I feel, but I don't want to give up my religion.

18-year old male from Oregon:

You don't have to give up your religion. I am not a deeply religious person, but being gay is a sin according to the Bible...right? Well, people sin all the time for different reasons, and they still go to church and don't give up their religion because of it. You don't have to either. Your sin just isn't as "accepted" as others.

³ In 2001 the religious breakdown was 81% of the population identify with a religion—52% Protestant, 24.5% Roman Catholic, 1.3% Jewish, 0.5% Muslim, Buddhist, Hindu, Sikh. (American Religion Identification Survey 2001). Seculars, humanists, agnostics, and atheists who don't follow any religion numbered 14.6%. http://www.gc.cuny.edu/faculty/research_briefs/aris/key_findings.htm. Accessed online: 9/3/07.

14-year old male:

Hey, me too. But it's all good. I mean who are they to say you can't worship who or what you want to and not have your own sexual orientation! Do what you feel you wish to do!

Thread starter (15-year-old male):

Thank you for all your comments and views. I found them very useful, and they have put my pain at ease.

15-year old female from Arkansas:

You be gay and be a Christian. It's not my business—sorry, but in my opinion, being gay and being a Christian is equivalent to being Black and being in the KKK⁴.

18-year-old female from Maryland:

I know what you mean. Having just realized I am bisexual about a month ago, it was super hard, because it was like my Christianity and my sexuality were in clash. The only thing I can tell you is that God is a big God, and that you can stay true to Him, even being who and what you are. Just ask Him, and he will let you know what to do.

18-year-old female from Virginia:

I find myself correcting a lot of people who generalize Christians as haters. I feel hurt by that...and about the time they say bad things against Christians, I tell them I'm Christian and bisexual. I know there are a lot of Christians [who are gay] haters, but they let the haters overshadow the ones who are open to gay people. I just hate that. I know God loves me for what I am and that's about it.

Thread starter (15-year-old male):

As soon as the pain eased, and I log off my computer my friend rang me and said did I want to go to the youth group, which is Christian by the way. I felt fine; I walked

⁴ KKK stands for Ku Klux Klan: "Either of two racist terrorist organizations in the U.S. The first was organized by veterans of the Confederate army, first as a social club and then as a secret means of resisting Reconstruction and restoring white domination over newly enfranchised Blacks. Dressed in white robes and sheets, Klansmen whipped and killed freedmen and their white supporters in nighttime raids. It had largely accomplished its goals by the 1870s before gradually fading away. The second KKK arose in 1915, partly out of nostalgia for the Old South and partly out of fear of the rise of communism in Russia and the changing ethnic character of U.S. society. It counted Catholics, Jews, foreigners, and labour unions among its enemies. Its membership peaked in the 1920s at more than four million, but during the Great Depression the organization gradually declined. It became active again during the civil rights movement of the 1960s, attacking Blacks and white civil rights workers with bombings, whippings, and shootings. By the end of the 20th century, growing racial tolerance had reduced its numbers to a few thousand" (www.answers.com). Accessed online 05/01/07.

down the street [to] meet with my friend and off we went. The problem was when the Christians started talking about homosexuality being wrong I felt really uncomfortable and wanted to burst out crying, and I wanted to walk out.

18 year-old male from California:

“... Your sin just isn’t as “accepted” as others.”

That’s a good point. People terrorizing you for being gay is a sin. So is pre-marital sex, but tons of religious people still do it. People just use religion to justify their ignorance. They keep on spitting out that one line from the Bible saying it’s an abomination. We have scientific evidence showing homosexuality isn’t a choice. All they have is that one line from the bible. Don’t let it get you down, man. Homosexuality isn’t wrong.

There is one line that says something to the affect of:

“If a man lies with a man like he would a woman, it’s an abomination.”

I still find this amusing, because we have scientific evidence showing homosexuality isn’t a choice. Ok, look it up it up, but make sure it’s not a religiously biased web site. So does that mean that Christianity is all a crock, or that since the Bible was written by man and not God, it’s infected with human imperfections such as prejudice?

16 year-old female from Florida:

All I know is that my family is Catholic and strict Catholics, and my grandparents would absolutely hate me because they live strictly by the Bible and believe every word that they read. And the Bible condemns homosexuality. But my parents aren’t really religious, and I personally believe that if God didn’t want us to be gay, He wouldn’t have created us this way.

Thread starter (15 year-old-male):

Sometimes I just feel so depressed. I feel even more so because this lad I thought could have been my boyfriend has not talked to me in weeks. So like I say, what’s the point in living if you can’t feel alive. Christians can shove it where the sun don’t shine ‘cause I really don’t give a shit anymore. If I have to choose, I would rather be gay then a good Christian.

In this GSA virtual chat, the either/or question is raised: Can one be Christian and gay? And if yes, then how do you reconcile the pain or stress of “cognitive

dissonance?”⁵ Five of the six respondents in the chatroom answer in the affirmative, while one says, “No,” with a very strong analogy comparing the Christian religion to the KKK; No Black would join the Klan because the Klan’s goal is the elimination of all Blacks. Are there Christians who call for the destruction of all gays? Yes, the most publicized is the Westboro Baptist Church in Topeka with Fred Phelps⁶ as preacher: “All nations must immediately outlaw sodomy (homosexuality) and impose the death penalty!” (www.godhatesfags.com).

The five chatters who say it’s possible to be gay and Christian give various reasons for their affirmatives:

All Christians sin. Sinning doesn’t stop them from going to church. Being gay is just a sin not accepted as other sins are. Religion is good. Worship how you want regardless of your sexual orientation. God accepts you the way you are. He’ll tell you what to do. Some Christians are open to gays. The sin is by Christians who terrorize gays. The Bible was written by prejudiced men. Being gay is not a choice; it’s genetic. God wanted gays, so he created gays.

At first, the thread starter is grateful for the useful responses that he said eased his pain. His last intense message tells of his failing to connect with a possible boyfriend. He ends with anger and in frustration declares his decision to choose being alive with feelings—to being gay instead of a good Christian. The either/or dilemma is resolved. It seems like a momentary resolution, at best, but he got a troubling question and feelings off his chest by sharing them safely and anonymously—if only briefly—with strangers of his own age who also are involved with LGBT identity and life issues.

⁵ Cognitive dissonance is “a term that social psychologists and sociologists use to refer to role, norm, and expectation conflicts because of holding different and competing, and sometimes somewhat conflicting, statuses and roles” such as Christian and gay (Owen 2006).

⁶ “Westboro Baptist Church is an independent congregation of roughly 80 members, mostly blood or marriage relatives of 76-year-old pastor Fred Phelps, who founded Westboro in 1955.... To spread its anti-gay message, the church has held thousands of protests nationwide, citing Old Testament verses to justify its views.” (Bjerga 2006).

Thus, through the GSA online group peer participants respond to topics that capture their interest and use the online conversation to clarify their own thoughts and feelings on the subject. From research on GSAs, it's been found that students participate in similar ways in an actual group. They can be anonymous about themselves and their sexual identity. They can engage in the topic introduced or not. They can share stories or only listen. What is different about the online experience is that it is not bound by location, nor by time segmentation—the live group has a space for an hour or so. But in the virtual world participants go on and off line, and time is more flexible. Isolated individuals can find someone who will listen to them; most of the online participants—in the observed chats over the course of about a month—did not have a GSA to join. There are other lacks that can be abated as well. In one exchange that involved dozens of responders over days, a woman came on and introduced herself as the mother of a gay son—who came out at fifteen and now is in his 20s. She added that if anybody needed a mother's love, she was there to give it. The responses from everywhere were immediate and joyous, full of gratitude and heartrending. She became the warm, fun-loving, accepting “Mom” that so many missed having. Participants have the option of posting a photo or other representative image of themselves. Mom's photo showed a middle-aged attractive woman with an open, welcoming smile.

5.4 Positive Benefits & Reasons for Belonging to a GSA

Belonging to a virtual GSA offered some benefits. What are the benefits in belonging to an actual GSA? In 2001, researcher Camille Lee of the University of Utah did a qualitative study on the impact on students of belonging to a GSA at East High in Salt Lake City. Lee states that her results “support previous research that alliances positively impact academic performance, school/social/and family relationships, comfort level with sexual orientation, development of strategies to handle assumptions of heterosexuality, sense of physical safety, increased perceived ability to contribute to society, and an enhanced sense of belonging to school community” (Lee, 2002).

Basically, a GSA will mean something different to a straight student, to a student with an LGBT parent(s) and to a perceived or actual LGBT student, or to a questioning one. Lee explains what it can mean to a straight ally:

Gay/straight groups are important not only in offering support to LGBT students, but also in providing education for straight students. Sanders & Burke (cited in Epstein, 1994) stated, “Discrimination and prejudice not only harm the receiver, they stunt the growth of the giver as well. All too often, people put someone else down to feel good about themselves. This is made easier if they are ignorant about that person or their way of life.”

In other words, straight students free themselves from stereotypical thinking and open themselves up to other perspectives. In addition to LGBT and straight students in GSAs, questioning and queer-identified students also join. GSAs can offer a safe space for them to talk, without labeling, about where they are in deciphering their sexual orientation and gender identity. Students, themselves, not only point to the benefits they received from GSAs but they can also offer individual perspectives of before and after at their schools and in their lives. Lee studied seven students who were pioneers of the first GSA in Utah. The personal statements of students who have struggled successfully to establish a GSA are not often quoted verbatim in research documents. The power of the experience in the students’ own words is reflected in Lee’s singularly informative study. The students’ voices bear repeating. The following is a portion of the testimony of Kelli who appeared before the Council for Exceptional Children which was considering including sexual orientation in their bylaws as a commitment to a diversity statement:

I founded the group at East High School when it was in its beginning stages. I faced a lot of harassment being one of the only “out” students at East High School... I was terrified to go to school... I failed most of my classes my freshman through junior year. My senior year I attended regularly and held down the best GPA I’ve had since I’d been in school.

Nate explained that his perspective as a student developed as the GSA empowered him:

When I got involved with the Alliance...I felt more empowered...and saw that I can make a difference in my own life too. I felt like I was being swept away by the school system. But the GSA gave me that one little twig on the side of the river that if you grab on to and resist the current of just being swept along. My grades didn’t go down anymore, they have gone up.

Keysha spoke about self-esteem and having mutually caring friends who made her more secure and open:

These students that are a part of the club now are some of my best friends, and I hang out with them all the time. Before (the Alliance) I was really cautious about what people were thinking of me and now that I have all these new friends it's like I don't care. They like me for who I am.

Emily talked of being aware of and secure in defending who she was:

I have become really secure in defending who I am.... There is a point when you become aware of who you are, the point that it (being gay) is OK and then you start defending yourself because you're comfortable with it.

Jacob was able to be honest and not have to waste energy pretending to be someone he wasn't:

I spent most of my time trying to pass as a heterosexual because everyone already assumed that I was gay.... Now I don't have to do that.... It hurts so much inside trying to be someone you're not. I'm really happy that I don't have to lie anymore about who I am.

Kelli, too, didn't have to try to pass as heterosexual and take on all the gender-conforming behavior required of young American women:

I used to spend most of my time trying to fit in, passing as heterosexual. I'd do the "right" stuff; makeup, longhair, talk to boys.... It's different now with the Alliance around. I don't need to do that anymore.

Erin recognized how heterosexism dominated making her orientation invisible and excluded, and how the group changed that:

Heterosexism is everywhere. I see it every day in everything I do. How people talk to me, what they assume. We are nowhere in textbooks, and there is nothing in the school to suggest that we exist. I started noticing this when I came out.

I personally feel a lot less scared, because of the group.... Because we are seen and because we are visible.

These excerpts of student voices in Lee's study capture how transforming the founding of a GSA can be for the pioneers. It was particularly so for these teenagers because of the long and difficult struggle they dealt with before they could have a club at their school. In the beginning, their GSA was not formerly recognized but had to be formed

as a community club; they had to pay fees to the school for using the school space. The students took responsibility for meeting that cost by fund raising among the community. Every hurdle that was put in their way they got over, and they persisted through lawsuits because they understood they were fighting for their human rights.

GSAs can bring a host of positive experiences whether newly organized or a continuing project as the directors of the MA Safe School Program for Gays and Lesbians (see Chapter 4) explained in their *When the Drama Club Is Not Enough* (Perrotti and Westerheimer 2001). The authors define the three general purposes of GSAs as education, support, and social:

1. Education about students' own rights and education of the community about LGB people and about homophobia.
2. Support for LGB people and allies who have experienced homophobia or other forms of discrimination.
3. Social getting together that makes being part of the club fun.

MA passed a landmark law banning discrimination against students on the basis of sexual orientation that became effective in March 1994. In the fall of the same year, the state board of education in response to a recommendation of Republican Governor Weldon's Commission on Gay and Lesbian Youth made it a requirement that all classroom teachers and other staff learn about gay and lesbian concerns in their training. This was also made a requirement for college and university programs that certify teachers. Perotti and Westerheimer trace the history of the law and the success of the comprehensive program. Kevin Jennings directed the inservice training under the auspices of GLSEN.

5.4.1 Postive Benefits of GSA from Member Perspectives

In other locations countrywide, the benefits of GSAs can also be demonstratively positive and varied as the following from Internet sources illustrate:

- Come out safely
- Discuss difficult issues.
- Learn to organize political events.
- Decrease in anti-gay slurs with more awareness from other students.
- Work together with straight students to find ways to end discrimination.

- Talk about safe sex information
- Increase awareness of LGBT community resources
- Develop organizational, cooperative, and communications skills
- Allows straight allies to be pro-LGBT if closeted LGBT students can't

GSAAs also exist in private religious schools and can be similarly beneficial. An online visit to GLSEN's list of GSAAs (www.GLSEN.org) shows there are GSAAs organized in Jewish, Quaker (Christian Society of Friends), Episcopal and Roman Catholic schools. Roman Catholic schools are the largest number of religious schools nationwide, and the GLSEN website lists GSAAs in Catholic high schools in a number of states. Robert Mattingly, Jesuit priest, admissions director of Seattle's Gonzaga College's high school, shared his perspective on how Catholic schools should uphold gay students in two articles in the magazine of the National Catholic Education Association (NCEA); he has also conducted seminars on the issue for the association. Rev. Mattingly states:

Self-destructive behaviors are not intrinsic to being homosexual but they flow from the external negative reaction to it, which then becomes internalized.... Schools should give witness to the Christian values of charity, social justice, and inclusion in their treatment of gay students. Teachers should present homosexuality in a positive light, possibly by noting the accomplishments of gay writers and scientists. Support groups should be established. Administrators should hire faculty who are open to this inclusiveness, and no one should assume that all students are heterosexual (Mattingly 2004).

5.5 Teen Internet Discussion: Visibility & Disturbing the Status Quo

The research of educational psychologists Lasser and Tharinger (2003) suggests that school club such as GSAAs offer visibility and open up sexual minority students to the opportunity of being agents of cultural change:

GLB youth are not mere victims of their environment, but rather active agents of their environment.... Given the impact of visibility, it is not surprising that so much pressure is placed on sexual minorities to "keep it to themselves" and remain invisible. Visibility, when managed with minimal restrictions, disturbs the status quo, breaks the mould, and forces the culture to rethink love, intimacy, and family.

Visibility or "coming out" is very important to an LGBT person at all times in their life. Individuals are continually deciding to come out or not as they meet new people

and new social environments. But the recognition of what one's sexuality is and the owning of that sexuality by coming out, privately or publicly, is a particularly critical rite of passage that only LGBT youth experience.⁷ In American society, the assumed identity is heterosexual. Anything other has to be made visible by deed or word. This can be very difficult. GSA student leader Breighana Sahagian explains that she was 13 when she admitted to herself she was lesbian, "I was very homophobic before I accepted that I was a lesbian, probably because I wasn't ready to say that I was, myself. I actually made fun of people who were gay. It was horrible" (Lebovits 2006). GSAs function as a safe place where students can exchange thoughts and experiences about visibility and coming out.

From the virtual GSA chatroom on the Internet, the following teenage voices discussed the thread "How'd it go when you came out?"

The 16 different participants in the chat include:

1. Thread starter (anonymous without descriptives)
2. 16-year-old female from Illinois
3. 17 year-old-female from California
4. Female from California
5. 17 year-old female from North Carolina (2 messages)
6. 17 year-old female from Florida
7. 17 year-old-male from Michigan
8. 14 year-old female from Pennsylvania (2 messages)
9. 16 year-old male from Florida (3 messages)
10. 17 year-old male from Tennessee (4 messages)
11. 17 year-old male from California
12. 23 year-old-male from New York
13. 17 year-old male from Missouri
14. 18 year-old male
15. Female from New Jersey
16. 14 year-old female

⁷ Minority identities, such as ethnicity and religion, can be denied by individuals but as cited in Chapter 2, these identities are not so essential to self-concept as sexual orientation.

Thread started by anonymous poster:

I was just wondering how it went for everyone when they came out to everyone, to a few people, to a specific individual, or what your reasons are for not coming out at all.

16-year-old female from Illinois:

Yeah, my Mom still won't accept it... and I'm really sad and upset ... about it. I mean she's my Mom; she's supposed to be supportive of me! But she thinks I'm "going through a phase," and if I do say so myself, four years is a long time to just be "going through a phase."

My Dad doesn't know (omg [oh my God] that would be a disaster! ... I am not telling him 'til after college! And another thing my Mom does—she threatens to tell my Dad about it if I don't "snap out of it." Ugh, talk about stress!

But my friends are cool about it, I guess I'm lucky that none of them are too "weirded" out by it. The only thing I'm kind of worried about for next year is swim season. I came out after it ended this year, and only a few people knew during the season, but hopefully it will be OK. It's actually kind of shocking. I go to an all-girls Catholic high school. It's pretty small, about 100 girls per class, and no one is really homophobic there (or at least no one has said anything—at least not that I know of).

17 year-old-female from California:

I'm actually really lucky. My Mom's bi[sexual] so, it didn't surprise her. I haven't told my Dad, though. He's really old-fashioned. Well, I guess that's how all Mexican Dads are. They expect their little girls to never shave their legs, pluck their eyebrows, or date anyone until they're 21 years old. Thank God, I don't live with him. I would still be wearing Sunday dresses every day.

Female from California:

I came out to my two best friends in eighth-grade. It was the orientation assembly. We randomly began talking about how fast the future was coming, and how we would stay together forever. I just had to tell them. So I did; I said I needed to tell them something and just came out. I was lucky enough to have two wonderful friends. After I came out to them, I came out to everyone. And things didn't go well.

I was constantly asked if I had sex with girls. People would bring random giggling girls to me and ask me if I'd have sex with them. A lot of people would look at me like, "Ew [word used to describe something gross (Urban Dictionary)]." It was rumored I turned everyone bisexual or gay. All my friends turned out bisexual. All the

people I met told me they were, privately. And I felt damn good. I started a GSA, and it was the most shibbyest [greatest, nicest (Urban Dictionary)] club on the campus. A lot of people came. (Partly for the food, but we did have fun.)

I got hateful letters. People wrote stuff in the bathroom about me. The locker rooms were terrible. People would duck into corners to try and hide themselves from me. They thought I'd eye them or something...

But coming out was really scary. It is for everyone. But you can never let yourself regret it. Never regret who you are.

17 year-old female from North Carolina:

Terribly. My mother disowned me. My father makes fun of me. Grr. I should have never said anything. Some days I think it's the best thing. Other days I hate myself and having to admit what I am. My parents are seriously not helping to let me accept who I am.

17-year-old female from Florida:

Heck, I think my parents will stone me to death if I ever told them. A disgrace to the family and etc. Never really 'directly' came out with few close friends, but I think they already know that I'm bi. It's just an unsaid situation.

17 year-old-male from Michigan:

I came out to my friends, and some of them gave me a hug and a kiss on the cheek. Others were shocked and didn't want to believe it but got over it. One of them cried 'cause it turned out that she liked me a lot. For that I felt bad.

My psychologist said that a statue should be erected in the town that I came out in 'cause I was the first person in my high school to come out. And I've talked to people who have graduated from there, and it turns out it is true, well about ten years back anyway.

People bugged me and teased me about it, and I just ignored it, and they left me alone. My mother wanted me to refuse it and try and be straight. I know she still wants that; she just doesn't want to say it 'cause she wants to be supportive. So overall it went pretty well.

14-year-old female from Pennsylvania:

I told my friends first and they were totally cool. Then again, I told them I was bi. And one day they cornered me at lunch and were all "you're freakin' lying, you're gay, and

you should admit it.” So I did. And then I came out to my parents. They filed papers to disown me on my 18th birthday, and I don’t live with them all the time—just weekends. Oh joy.

16 year-old male from Florida:

Sorry, I disagree [in] that you should, at least not [come out] until your second year of high school, but that’s just me. Coming out for me was pretty bad, I came out to my ex-best friend, and he called me a “fag,” then punched me in the face.... And the next day it was all over school, but, whatever, I learned who my real friends were. You can do whatever you want. If you do come out, it will build character.

17 year-old male from Tennessee:

Ah, that’s horrible. I’m sorry but I’m not out yet. I’m starting to finally get the confidence to tell one of my friends that I’m bi, but it’s still hard, you know?

14 year-old female from Pennsylvania:

It’s better to come out to friends first, because when they’re okay with it you have people to fall back on if your parents aren’t. Good luck to you.

17 year-old male from Tennessee:

Thanks, and I think my Mom might already know ‘cause you know Moms—they know just about everything!

My brother and I don’t get along at all; I just stay out of his way—twin brother. Yes I have a twin, and it sucks ‘cause he’s always bugging me, and he’s got an attitude. But he’s always calling me gay, and really I don’t know how to respond to that ‘cause I’m bi. But I don’t want him to know ‘cause then my life will be just as bad with him.

17 year-old male from California:

My friends knew first; almost nobody was ever “shocked” because most friends that I made found out soon enough, or I just told them.

As for family, it just kind of came out one day, but nobody gave a crap. It’s pretty damn cool growing up with family and relatives who are all liberal and a little side of hippie. The only person who “cared” a little bit was my Mom. She asked me about four trillion questions, and even cried a little out of “fear for my life,” but never got mad or anything.

17 year-old male from Tennessee:

Well, my parents are pretty religious, so I don't know how they will react. I think the friend that I'm gonna tell already knows 'cause one day out of nowhere, while we were fixing breakfast, he said that one of his friends told my friend that he was gay. So I don't know if that's a sign that he knows, or if he may have some gayness to him and wants me to tell him or what?

16 year-old male from Florida:

I never really saw any point to tell your family about it. I mean it wouldn't change much if they didn't care, and, if they did care, they'd probably send you to reform school or something, and then, you know, you'd be forced back in the closet, basically. But your friends—it's a tough choice. Just make sure you're ready for the consequences; you could lose a lot of friends over it

23 year-old-male from New York:

Well I came out at 15 mainly 'cause I had a bf [boyfriend] in high school. I told my fav[orite] aunt first, who just recently passed away, and her acceptance made me more brave to tell the rest of my family. Mom cried; Dad took it hard but eventually came around. He made me laugh by telling me how can I be gay if I like sports. But now we are the best of friends. He had a hard time dealing with my first bf, but with the second bf from college he was more receptive. I did lose some close friends but, hey, that's life, but I am a much happier person for it. Coming out is not easy. You will be ready when you are ready, no matter how long it may take.

17 year-old male from Missouri:

Mine wasn't that bad. I told my Mom, and she was pretty accepting of it, except she made me promise not to tell "everyone" until college. She also told me not to join the new GSA at my school, which was founded by one of my lesbian friends. (Which is absolutely not happening, but I doubt she will do anything if I do tell a lot of people or go to the meetings). I'm not sure if my Dad knows; technically he is a Democrat, but I don't know exactly how much. I think both my brother and sister know, or at least have speculations. Once, I even asked my brother what he would think if I actually were, and he said he wouldn't have a problem with it. As for my friends, I have lost none over it. I feel that my relationship with my oldest friend seems to have a bit of a rift in it now, because he is pretty religious and doesn't quite accept it (which is weird

because I go to church more than he does, and in the long run, have done considerably less bad stuff than he has). Overall, though, I think my friendships have become stronger with the people I know. Sure, a ton of them are girls, and they like hanging out with me, because they can talk to me about stuff they couldn't with my straight guy friends. But still, I like it. Only one of my teachers knows, and he is pretty cool with it for being an extremely religious guy. But, then again, he does theater stuff, so he probably knows quite a few gay people. Yeah, now that I think about it, it really isn't that bad for living in the Midwest.

18 year-old male:

I came out to my friends one by one last year, and I didn't get a bad reaction. I first came out to a gay friend of mine when he asked me to help his water polo team out. (He knew I played and his team was short of one player during Pride Games, so [he] asked me). I took him to one side after the tournament and told him. Apparently, he already knew. The rest of my friends have commented that I seem happier and more relaxed during conversation since coming out, and it's true I'm not worried about being "exposed" now. I told my parents last summer, and I was never really sure how they took it. Neither mentioned it ever. Then, out of nowhere, my mum said that she thought Sheffield University might be a better place on the social front, because it's bigger, so my sexuality wouldn't be an issue. So, heigh ho.

Female from New Jersey:

I came out [on the Internet] by using Myspace.com. For orientation, I finally put lesbian. That didn't go well; sooner or later everyone knew. But I told my friends before I did that. Now we don't have the same relationship. I'm sad 'cause I never got a chance to tell my parents. They found out from people, and they're very religious. Now I just see them as people I need to tolerate until I'm eighteen. The only reason I came out was because I thought it was easy. Guess I was wrong. Now all I do is get harassed all day in school and have extreme depression and "suicidalness." Now I'm trying to rebuild my life and not give a shit what people think, and all I can do is hope.

14 year-old female:

I came out to my closest friend last year. Then I told my other good friend and put bisexual as my orientation on Myspace.com. Things didn't change with them, but it didn't really go well with others. People I thought were my friends stopped talking to

me.... Two good things came out of this: I'm not hiding a main part of myself from society anymore, and I grew closer with the few friends who stayed by me. My Mom still doesn't know yet. I'll tell her one day, I know. I'm positive that she'll accept and still love me, but there's still a constant fear and doubt that she won't. Then there's my Stepdad. I don't give a f**k what he thinks.

Many different topics were raised by the participants in the discussion in sharing their experiences of coming out and being visible to their friends, parents, schoolmates and a teacher. Being a member of a GSA at school was only mentioned twice, but that doesn't mean the others in the discussion were not involved with a GSA club if one was active at their school. At the very least, they identified with GSA by joining and taking part in the GSA group listed by name on the Internet.

All of the participants were out except for one, and she was out somewhat just by taking part in the discussion. She was out to herself and thought her friends knew. The first step, always, is being out to oneself; this can take different amounts of time as everyone has an individual psyche and lives in a specific socio-cultural milieu of community, family, and school. In addition, in the U.S. where the majority of the populace is associated in some manner with a church whether the church is welcoming or condemning of minority sexuality is highly determinant for the individual's decision to come out.

The next step in the coming out process, discussed in the chatroom conversation, is being out either privately or publicly. One participant came out publicly first by listing her orientation as lesbian on the Internet. Another also listed her orientation as bisexual on the Internet, but she had come out privately to a few friends first. One participant came out lesbian to her mother at the age of twelve. Most of the other participants chose to come out first to one or several friends. Only two who mentioned their friends' reactions said that it was overall OK. The others all lost friends.

The most difficult people to come out to were parents. Moms on the whole tried to be or were perceived as more accepting than Dads; Dads were often not told. This is consistent with research. Whether parents, friends, or a teacher were religious was perceived as a stumbling block toward revealing one's minority sexuality. In two

instances, parents' reactions were cruel and extreme by disowning their daughters. One young woman decided that she would wait until after college to tell her father. This is highly practical because most college students have to depend on their parents for financial support for a college education. The parents who chose to disown their daughters at eighteen effectively cut them off from continuing their education in college. Parents are usually the signers or cosigners for student education loans from the federal and state governments, as well.

Other comments that are of interest include the one by the student in the all-girls Catholic high school that she was surprised not to encounter homophobia. One reason for this might be because same-sex environments could allow females to be more open in that they don't have to meet gender-conforming roles in deference to the higher status of males in the patriarchal American culture (HRW 2001). Another reason could be because in a safe same-sex environment many other young women can acknowledge, if only to themselves, that they experience similar feelings toward each other, romantically and possibly erotically. However, there remains for her the possible future problem of the same-sex locker room—nudity in changing clothes and showering. Another young woman who was harassed extensively at her school mentioned that the locker room was “terrible.”

Another female student related that her Mom understood because her Mom was bisexual. But she would not come out to her Dad because he had old-fashioned ideas of how young women must be disinterested in their appearance and dress as if in church. She attributed this to his Mexican cultural background. A California male student who had accepting parents and relatives attributed it to their culture of being liberals and “a little side of hippie.” The male student from Missouri related acceptance from his Mom and brother and sister and anticipated that his Dad might be Ok, but he was unsure because his Dad was only “technically” a Democrat [political party as a sign of liberalism culturally]. Gender conformity expectation was touched on as well. A male participant referred to his role as an athlete as being contraindicated in gay males—an opinion expressed by his father. And the male who likes to talk “stuff” with girls also suggests gender-non conformity.

A major concern again was religion; research supports this (Beatty 1999). The students who cited religious parents and friends feared a negative reaction and chose,

on the whole, to be invisible and not out to their parents. When they did come out, there was, if not open hostility, a “rift” as referred to by the Missouri student. The male student from Florida expressed his fears at telling parents in that if they don’t accept, they will send you to reform school. [There are camps and places where parents commit LGBT youth for reparative therapy—this could be what he means. The law doesn’t allow youth to be sent to state reform schools for LGBT identity by itself.] However, if he means reparative therapy, this is a serious consideration for not coming out.

One mother expressed her concern about the scary reality of coming out in America when she said that she feared for her son’s life. She is not alone as Diane Carman, Denver Post columnist put it, “The opportunity to be threatened, humiliated and to live in fear of being beaten to death is the only ‘special right’ our culture bestows on homosexuals” (Carman 1998).

The 1998 hate murder of Matthew Shepard⁸ was widely publicized and as it had a terrible chilling effect, it also woke up people to how a culture of homophobia exists in America, and how this needs to be changed first to tolerance and then acceptance and finally admiration, too. In the Internet chatroom conversation, one male participant tells that he was punched in the face when he came out to a male friend. And, two females tell that they were subjected to constant harassment.

All in all, the voices in this GSA Internet discussion were direct and honest about difficulties they encountered yet hopeful and encouraging to each other as they shared their coming out experiences. Conversations like these two GSA chats are representative of a LGBT tradition of owning and sharing the previously suppressed and hidden personal truths of our lives; books and other media produced during the

⁸ On October 7, 2002 in Laramie, Wyoming, “21-year-old gay college student Matthew Shepard was brutally beaten, tied to a fence and left for dead. He was found 18 hours later and rushed to the hospital, where he lingered on the edge of death for nearly five days before succumbing to his injuries.” (ABC News). Why? “Part of the answer, at least, lies in a culture that ridicules gay men, and dehumanizes them, so that their lives are seen to have less value. It starts with verbal taunts in the school playground, and leads to the persecution of people because of their sexual orientation. There is a climate of hatred in society which encourages murderers to act. This was a hate crime, and Matthew was brutally attacked, and left there to bleed his life away, simply because of who he was.” (<http://www.geocities.com/WestHollywood/Stonewall/2878/>)

past 35 years of the “Gay Liberation Movement” in the U.S. speak openly of the ordinary and extraordinary reality of LGBT lives.

These virtual GSA chats can serve another purpose as well. They can break down the isolation of LGBT students who have no where to turn for help, for someone to listen to them, and to give practical suggestions based on their own experiences. Jamie Nabozny had the support of his parents, but the trauma and hopelessness of his situation was so great that he ran away and attempted suicide several times. After his lawsuit, here’s what he said in regard to the Internet in an interview with the online Oasis Magazine for Queer teens:

If I would have been able to have access to it, I wouldn’t have felt so alone or alienated. And I think that a lot of people are finding that. When I first was on the Internet, I was talking to 13-, 14-, and 15-year-old kids and I was thinking this is just very bizarre. I would never had had the opportunity, and they would not have had the opportunity without the Internet. I was very surprised to see that (Walsh 1996).

5.5.1 Research Method of Internet Chats

With respect to research methodology, what is new and different about these conversations besides the dynamic, immediate quality is that they have no intermediaries between the flow and exchange of thoughts; there are no researchers controlling the interviews or interjecting their presence. The conversations are verbatim and freewheeling from various locations. Also, there are no effects caused by the setting or face to face impressions as in focus groups, for example. [This might be a trade off as there is a loss of nuance in facial expressions and gestures.] The role of the researcher is unobtrusive and protective of anonymity of the participants by not identifying the screen names of the participants nor the date the conversations occurred nor the website location where they occurred. There are no editors culling the material for publication. For the participants, themselves, in addition to the group chat, they have the option of contacting any one of the participants and following up with them one to one. Since this is a new approach for a qualitative study, more examples and research would be needed to come to any firm conclusions about the procedure and method. For purposes of this study, which is primarily documentary, the verbatim chats add the value of indisputable realism in presenting the thinking of the youth

engaged by the important issues of the conversations, “Can You Be Christian and Gay and How Was Your Coming Out?”

In the next sections, the focus is first on the antipathy of the religious right to GSAs. Then, this is followed by a detailed description of the organizing and educational activities developed for GSAs by GLSEN.

5.6 Why & How the Religious Right Attacks GSAs

From about 100 GSAs nationwide in 1997, the number had grown in 2005 to more than 3,000 registered with GLSEN and an unknown number of unregistered. The 3,000 figure translates to almost 1 in 10 high schools with a GSA, according to GLSEN. GSAs are problematic for religious conservative parents and some school administrators, teachers, and community members who consider that even the word “gay” and its reference to homosexuality, has no place in a school setting. They assert that educating about homosexuals (their preferred nomenclature as it was previously associated with a mental condition⁹) not only allows the possibility of an acceptance of homosexuals and their so-called “lifestyle” but also the possibility of students being enticed into becoming homosexuals themselves. In their viewpoint, children and youth should only learn that homosexuals are sick sinners who have chosen a lifestyle that is unacceptable to God according to literal interpretations of the Bible. The one door open to homosexuals is conversion to being heterosexual (Afshar 2004).

To apply their beliefs within schools, the religious right uses a strategy and tactics that denies that LGBT students are bullied and their human rights violated. In some instances, if the violations cannot be denied, the religious right views them as beneficial to LGBT students because it helps them to choose a different path out of the “contagion” of homosexuality. In the sections that follow, examples of political actions against GSAs by various groups on the religious right are described.

⁹ “In 1973, the weight of empirical data, coupled with changing social norms and the development of a politically active gay community in the United States, led the Board of Directors of the American Psychiatric Association to remove *homosexuality* from the *Diagnostic and Statistical Manual of Mental Disorders* (DSM). Some psychiatrists who fiercely opposed their action subsequently circulated a petition calling for a vote on the issue by the Association's membership. That vote was held in 1974, and the Board's decision was ratified.”http://psychology.ucdavis.edu/rainbow/html/facts_mental_health.html. Accessed online: 21/2/07.

After hurricane Katrina in 2005, the evangelical group Repent America (www.repentamerica.com) declared that the hurricane was God's way of punishing New Orleans for decadence. Repent America regularly demonstrates at LGBT events. Less than a week later, at a Lebanon, PA school district board meeting, a woman demanded the closing down of the GSA at Cedar Crest High School [it won the board's approval in 2004] or the facing of God's retribution in the same manner as New Orleans "We shouldn't tell them [students] it's acceptable behavior. It's not acceptable behavior," The woman's husband passed out a story from the American Family Association (AFA) about a young girl who claimed she stopped being a lesbian after becoming a Christian. The story claimed that she became a lesbian in the first place because of a GSA in her local school. The woman's husband said, "These clubs promote this behavior." The board took no action on the couple's demands (Ortega 2005). While this is one couple's failed attempt, it illustrates how a directive from a national organization to take local action against a GSA can mobilize individuals.

In another instance of antipathy, The Virginia chapter of James Dobson's¹⁰ Focus on the Family (FOF) put out a September 2005 alert on its website, "Homosexual Group Undermines Parents" that attacked GLSEN's Ally Week activity. Ally Week, in the Family Foundation's director's view "is full of indoctrinating and re-educating our children through misinformation and by changing the definitions of social norms and sexuality. At its roots, the message of GLSEN is to reject what is taught at home." The Virginia chapter director states the dangers of GSAs: "In Virginia, over 60 public schools now have Gay Straight Alliance clubs where students are being exploited into accepting homosexuality regardless of what they are taught at home. The General Assembly [of the State of Virginia] had the opportunity to ban such clubs this year, but refused." Part of the challenge laid down to the parents to whom the alert is directed is the question: "Is this what you want your children learning in our taxpayer funded schools" (www.familyfoundation.org)?

¹⁰ The head of Focus on the Family James Dobson "works out of an eighty-one-acre campus in Colorado Springs that has its own zip code. He employs 1,300 people, sends out 4 million pieces of mail each month, and is heard on radio broadcasts in ninety-nine countries. His estimated listening audience is more than 200 million worldwide; in the United States alone, he appears on 100 television stations each day." (Hedges 2005)

Thus, we see Dobson's reach nationally and the political buzz phrase of "taxpayer funded schools," commonly used as a rallying call for conservatives to protest that their tax money is applied by state and federal governments to purposes they oppose. As for the Dobson parent organization, the attack on GSAs goes back several years and continues through the present. One of its early claims is that "in addition to being misnamed (hardly any straights participate in GSAs), these clubs act as springboards for gay activism within schools" (Carpenter 2002). GLSEN has not gathered information—members don't have to state their names or sexual identity—on how many "straights" participate but anecdotal information says that it is significant if not a majority in many schools (Perroti and Westheimer 2001). "Gay activism" infers that the aim of GSAs is recruitment rather than support. The activism charge is directed at events created and introduced by GLSEN as Ally Week, No Name-Calling Week, and the Day of Silence. The details of these activities are discussed in a section later in this chapter.

Another charge against GLSEN from FOF is that "It's not tolerance that GLSEN is after. Rather, in FOF's view it's acceptance and normalization of homosexuality as the moral and biological equivalent to heterosexuality" (Atwood 2005). This statement aptly reveals the rock-bottom prejudice of the religious right toward sexual minorities. In the idiomatic vernacular, one could paraphrase it as, "Don't think for a minute you're as good as us because you're not." Similar discriminatory thinking is and was used against persons of minority religions and races. Federal and state law, however, protects these groups but only in a limited number of states, cities and localities is discrimination on the basis of sexual orientation prohibited.

While presenting ideological reasons why they are against GSAs in schools the religious right is silent on the fact that students' attempts to organize a GSA are based on trying to alleviating the constant harassment they suffer as perceived or actual LGBT sexual minorities. The following statement demonstrates a student's rationale for a GSA in her school:

"I've been assaulted at school twice and called names more times than I can remember, and I know gay students who have had to drop out of our school because the harassment was so bad. We need a gay-straight alliance because it would make our school safer for everyone," said Charlene Hammersen, a 17-

year-old lesbian who is one of the founding members of the gay-straight alliance.” [ongoing lawsuit in White County, Georgia] (www.aclu.org 2006)

The mother of two daughters who joined the GSA club in White County, also, lamented the situation as a parent without rights:

“It’s frightening to me that my daughters have to go every day to a school that is so indifferent to their rights and their safety,” ... No parent should have to wonder whether their school would even bother to do anything if other students harass or assault their children.”

FOF and CWA do not acknowledge, offer visibility, or support to any mother and parent with these concerns. In another example of antipathy, a guidance counselor who supported a GSA as a place of safety for harassed students was attacked on a Christian radio show. The incident occurred in Hawaii in 2000 as reported by Lambda Legal and Education:

For guidance counselor Thomas Aitken, implementing a program to support lesbian, gay, bisexual, and transgender youth at the Pahoehoe High and Intermediate School in Hawaii was a matter of necessity. And the hostility he faced when he set about trying to create the program only confirmed that animosity towards LGBT students at the school was a problem... Conservative Christian church leaders angrily denounced the program, and Aitken was personally ridiculed on Christian and talk radio stations.... At the school, students hurled anti-gay epithets at Aitken in the school hallways, slamming his office door while he worked, or yelling insults at him and the students he was counseling. At times, they even threw rocks (Quon 2006).

In contrast to ignoring the harassment of LGBT students, an argument against GSAs given by Julaine Appling, executive director of The Family Research Institute of Wisconsin, based in Madison, is that GSAs hide behind the safety issue while their purpose is to “advocate a personal lifestyle choice.” She contends that the needs of LGBT students are given priority over students teased for being overweight or having a physical difference. Her argument is countered by two GSA members at Madison’s Hamilton Middle School: “If you’re fat, you can go on a diet. If you have acne, you can wash your face. But if you’re gay, that’s who you are, said Amelia Schmidt, fourteen. “If someone was mad at me for being overweight, I don’t think they’d try to beat me up,” said Isabel Medina, fourteen.

The religious right employs the phrase “homosexual agenda” to rally supporters. When the writer Guy Babineau interviewed a Canadian GSA¹¹ member at a school in Vancouver, the student gave a clear answer to that charge: “I asked him how he responds when people on the religious right talk about GSAs, or anything else with the word *gay* in it, and say that there is a “homosexual agenda.” He said, “We *are* promoting an agenda, and our agenda is critical thinking and to challenge what you have been taught” (Babineau 2004).

Lastly, a reason the religious right gives for their opposition to GSAs is that they are concerned about the salvation of children who are led into the “gay lifestyle” for they are putting themselves at risk of damnation (Swenney 2006). Individual supporters of the religious right might express concern for the spiritual welfare of LGBT students based on their own belief system, but some of their most prominent leaders have a history of viscous verbal attacks against sexual minorities denying personhood and the very right to life as the following examples testify (SPLC 2005):

- Rev. Jerry Falwell (founder of the Moral Majority) “Brute beasts ... part of a vile and satanic system [that] will be utterly annihilated, and there will be a celebration in heaven.”— On homosexuals, as quoted in his *The Bible Tells Me So*, 1996
- Rev. Jimmy Swaggart (founder, Jimmy Swaggart Ministries)
“I’ve never seen a man in my life I wanted to marry. And I’m gonna be blunt and plain: if one ever looks at me like that, I’m gonna kill him and tell God he died.”—
In a September 2004 evangelism television broadcast
- Roy Moore (Removed Alabama Supreme Court Chief Justice, Ten Commandments monument crusader and popular on the ultra-conservative lecture circuit)
“The State carries the power of the sword, that is, the power to prohibit [homosexual] conduct with physical penalties, such as confinement and even execution. It must use that power to prevent the subversion of children toward this lifestyle.”— 2002 concurrence in a custody case involving a lesbian mother where he ruled against her

What can be said about the above quotes from religious right leaders? They represent the extremes of opposition to gay rights that is based on irrational hate and beyond the

¹¹ Babineau reports there were 150 GSAs in Canada in 2004.

negative prejudices of homophobia and heterosexism. How representative they are of the thinking of the rank and file in the religious right constituency has yet to be determined by research studies.

In the next section, returning to the discussion of actual school conditions a study of anti-gay harassment specifically in California schools is illustrative of how policies and GSAs function in reducing violence.

5.7 CA Safe Schools Coalition Study of Anti-Gay Harassment

The California Safe Schools Coalition,¹² looked at the nature of the problem of anti-gay harassment and how to prevent it in their 2005 Safe Place to Learn study of California schools. NCLR, a member of the coalition points out that more than one eighth of American children grow up in California. The study includes 26 times more respondents than any other survey on the issue. It found that four years after California's anti-harassment law¹³ took effect, harassment and bullying based on sexual orientation is still pervasive in its schools. More than 200,000 middle and high school students (7.5%) have their human rights violated based on actual or perceived sexual orientation. The study data shows that these students are three times more likely to miss school because they feel unsafe, more than twice as likely to be depressed, to consider suicide or to make a plan for suicide. They also have weaker connections to peers, community, teachers and other adults—"critical safety nets for any young person." Two in three LGBT students reported harassment and 47% reported repeated harassment. Almost half of their peers agreed that their schools are not safe for LGBT students and 91% reported hearing slurs from students and 40% reported hearing teachers make negative comments or slurs. Additionally, 27% reported being harassed because they were not "masculine enough" or "feminine

¹² "The California Safe Schools Coalition is a statewide network of experts and advocates working to implement the California Student Safety and Violence Prevention Act, which became law on January 1, 2000. Members of the California Safe Schools Coalition include the American Civil Liberties Union of Southern California; Anti-Defamation League; California Teachers Association; Equality California; Gay-Straight Alliance Network; Gay, Lesbian, and Straight Education Network; Human Rights Watch; L.A. Gay & Lesbian Center; National Center for Lesbian Rights; Parents, Friends and Families of Lesbians and Gays; San Diego LGBT Community Center; Transgender Law Center; and Women's Educational Media." (www.nclright.org)

¹³ California is one of nine jurisdictions with laws against discrimination or harassment and bullying in schools based on sexual orientation or gender identity.

enough.” More than half of all students said their schools aren’t safe for boys who aren’t as masculine as other boys.

Importantly, the study found differences in schools where school policy specifically prohibits harassment based on sexual orientation and the students know about the policy. In these schools, LGBT students are 19% less likely to be harassed and 25% more likely to feel safe. If teachers intervene when they hear name-calling based on sexual orientation, 35% are less likely to be harassed and 9% more likely to feel safe. In schools where there is a GSA 16% are less likely to be harassed and 23% more likely to feel safe.

These are significant differences that illustrate the effectiveness of specific policies prohibiting discrimination based on sexual orientation and of GSAs’ presence. Nevertheless, the fact that after four years the law has not been implemented sufficiently to prevent the harassment of several hundred thousand students shows that a great deal of effective political work to change the situation needs to be ongoing and expanded.

5.8 GLSEN’s Political Action Tools to Counter Harassment

GLSEN doesn’t confront or react to every attack of the religious right against GSAs. Instead they have a proactive strategy for change. As a first step, they have created school activities to educate and empower LGBT students and their allies to be leaders in their schools in the effort to eliminate harassment and increase safety. One successful tactic includes the cooperation of the mainstream Simon & Schuster Children’s Publishing (one of the leading children’s book publishers in the world), and a group of over 40 national education youth and welfare organizations in a program called No Name-Calling Week. The program is designed for grades 5-8; (students in other classes can easily adapt the project and its materials.). No Name-Calling Week was inspired by the bestseller *The Misfits*, a book written by popular children’s book author James Howe and published by Simon & Schuster. Over 15 million copies were sold. In an interview, Howe explained his motivation for writing the book:

My daughter was in the seventh grade at the time I started working on the book. I was aware of all the problems she was having as someone who was different, of the terrible social pressures and rigid “rules” defining what is “in” and cool, as opposed to what’s “out,” nerdy, weird, “gay,” whatever.

Interviewer: What do you think about the use of the word “gay” as meaning “weird”?

I hate it. It’s such unconscious bigotry. I also hate that, to kids, “fag” and “faggot” are still considered the worst names you can call someone.

Interviewer: Tell us about the main characters. They’re all twelve, yes?

Yes. Addie is tall and brainy, too brainy for her own good sometimes; Bobby is fat (his own way of describing himself) and the kid who never raises his hand in class for fear of being noticed and laughed at; Skeezie is something of a role-player, taking on the appearance of a 1950s “bad boy,” even though he’s really good at heart; and Joe is not only effeminate but openly gay.

Even though it is Bobby’s story that is in the forefront, it was Joe who motivated me to write this book, Joe and my daughter’s experiences in middle school.

In a way. I was drawing on my own life to some extent. I’m gay, and to a degree was like Joe as a boy, but unlike Joe, I couldn’t deal with who I was in a healthy, self-accepting way. I was filled with the same homophobia that permeated the culture I grew up in. Thank goodness, the climate is changing, and though it is still a terrible struggle for many gay young people, many are also able to see themselves reflected in positive ways, not only in the real people who are out and visible but in fictional characters from popular culture—movies, TV shows, and books.

From the book publishers, the age-old proverb: “Sticks and stones will break my bones but names will never harm me” was given a 21st century transformation to “Sticks and stones will break my bones and names will break my spirit.”

The 2006 No Name-Calling program was funded, in large part, by a grant from the computer industry giant, Cisco Systems (www.nonamecallingweek.org). In 2005, 5,500 educators from 36 states signed up for the second annual event to address verbal harassment of students, including gay and lesbian students, in middle and high schools. A survey of the 2004 student participants found a statistically significant drop, 18 percent, in taunting and name-calling (Carpenter 2005).

Another programmatic tool that has been developed by GLSEN is Ally Week—“A national youth-led effort empowering students to be allies against anti-LGBT (lesbian, gay, bisexual and transgender) bullying, harassment and name-calling in K-12 schools.” (GLSEN 2006). Started in 2005, Ally Week includes a pledge card for straight allies to sign. In the inaugural project, three hundred GSA clubs signed up

to participate. The program is not only for straight students but also for teachers, administrators and staff to join and sign the pledge. Resources such as buttons, magnets, and stickers are available as publicity as are informational packets.

GLSEN's website quotes a student from Colorado, "Our [student] club is going to all of the other clubs and organizations explaining to them what Ally Week is and why it is so important. I know we will have many, many pledge cards signed!"

The idea of a pledge to show agreement on a issue is common to American society; it has a religious and patriotic ring—pledge of allegiance to the flag, no smoking and no drinking while driving pledge, etc. It's too soon to tell how successful the ally program is, but GLSEN intends to keep the issue in the forefront and make it a values one.

5.8.1 GLSEN's Day of Silence

The most successful action of GLSEN is the "Day of Silence" started in 1996 by students at the University of Virginia with over 150 students participating. In 1997, organizers took their effort national and nearly 100 colleges and universities participated. In 2001, GLSEN became the official organizational sponsor with new funding, staff and volunteers. In 2006, more than half a million students participated in 4,000 schools (K-12 and colleges.) GLSEN describes the Day of Silence:

The Day of Silence, a project of GLSEN in collaboration with the United States Student Association (USSA), is a student-led day of action where those who support making anti-LGBT bias unacceptable in schools by participating in activities to recognize and protest the discrimination and harassment – in effect the silencing – experienced by LGBT students and their allies.

GLSEN suggests that students get support from their principals and educators. It's up to students whether to be silent for part of the day, such as during lunch, or at school and community events. Some schools hold "Breaking the Silence" rallies at the end of the school day where participants share their experiences with each other and members of their local communities (www.GLSEN.org). Individual student organizers decide how to run the day of silence. GLSEN suggests that each student who participates have a card to give to anyone who wants to talk with him or her. On the card is printed a statement similar to this:

Please understand my reasons for not speaking today. I support lesbian, gay, bisexual, and transgender rights. People who are silent today believe that laws and attitudes should be inclusive of people of all sexual orientations and gender identities. The day of silence is to draw attention to those who have been silenced by hatred, oppression, and prejudice. Think about the voices you are not hearing. What can you do to end the silence?

GLSEN-suggested activities to break the silence are geared toward celebratory fun and education and can involve the whole school including teachers, administrators, and other staff. After school community activities including parents are also suggested. Additionally, suggestions for wrap-ups, scheduled feedback and follow-ups complete the programmatic package.

5.8.2 Religious Right's Day of Truth

FOF decided that the Day of Silence needed to be countered. They came up with a “copycat” day organized under the Alliance Defense Fund (ADF) their legal arm. called the Day of Truth; it was first launched in 2005. The Day of Truth is held the next day after the Day of Silence (DOS). The DOS date changes annually but is in the Spring as determined by taking into consideration Spring break dates, and national testing days, etc. The ADF website states their rationale: “This year marked the second year of the Day of Truth, which was established to counter the promotion of the homosexual agenda and express an opposing viewpoint from a Christian perspective.” Participating students are encouraged to wear T-shirts and pass out cards (not during class time):

“I am speaking the Truth to break the silence. Silence isn't freedom. It's a constraint. Truth tolerates open discussion, because the Truth emerges when healthy discourse is allowed. By proclaiming the Truth in love, hurts will be halted, hearts will be healed, and lives will be saved.”

In addition to proclaiming the truth that GSAs are promoting a “sinful lifestyle” the religious right has also attacked homosexuality on the basis of being causal and at risk for AIDS, ignoring that lesbians are statistically the population least at risk for AIDS. This could be what “lives will be saved” implies.

5.9 Consensus for Public Schools re Sexual Orientation

After the GLSEN's Day of Silence was followed by ADF's Day of Truth, more polarization occurred in schools. This alarmed educators from both viewpoints, that of

LGBT advocates and the religious right. “Americans are deeply divided over homosexuality in our society,” said Charles Haynes, senior scholar of the First Amendment Center. Haynes and Wayne Jacobsen of BridgeBuilders, an organization that helps schools and communities find common ground on religious issues, decided to do something about the divide. They worked together to develop guidelines titled “1st Consensus Guidelines for Public Schools Regarding Issues of Sexual Orientation” based on the ground rules of the First Amendment to “guard the rights of all students in a safe learning environment.” Representatives from the Christian Educators Association International (CEAI) and GLSEN served on the drafting committee; upon completion of the guidelines they endorsed and recommended it. This was a first for representatives from the two opposing sides to work closely and reach consensus. After release, other prominent groups from their respective sides accepted and promoted the guidelines to their constituencies and memberships.

The guidelines emphasize that a school environment must be maintained that respects the rights of freedom of speech and freedom of religion. It must be ensured that speech rights do not degenerate into name-calling, bullying or attempts to silence other views: “Under the First Amendment, a school is both safe and free when students, parents, educators and all members of the school community commit to addressing their religious and political differences with civility and respect. A safe school is free of bullying and harassment. And a free school is safe for student speech even about issues that divide us.” The effect of the guidelines requires future study as they were only released and adapted in 2006.

Another new school event, “Allies, Too” that could lend itself to a “live and let live” tolerance or create more antagonism was proposed by Exodus Youth¹⁴ for the Fall 2006 school term. Allies, Too will be held during GLSEN’s Ally Week (October 15-21). It will involve pledge cards stating that allies are making a promise to support safer schools. The participating students are urged to take a stand for “God’s design for sexuality” [heterosexuality in the view of the religious right] while speaking out in solidarity for safer schools for students regardless of their beliefs or backgrounds.

¹⁴ “Exodus Youth provides resources to help young people questioning their sexual identity and struggling with same-sex attraction find life and healing in Christ. Exodus International is considered the largest Christian referral and information network dealing with homosexual issues in the world.” (Kwan 2006).

What is the difference between GLSEN's pledge card and Exodus Youth's, and what is the difference in intent? First, Exodus Youth charges that GLSEN's pledge "requires students to promise to 'actively support safer school efforts' promoted by GLSEN, which often involve policies and information that conflict with Christian beliefs concerning sexuality. This can leave many Christian students feeling as though they must choose between holding to their beliefs and looking like a bully." In their information for Allies, Too, they also tell students to "Know your rights in this area! Your school cannot allow a club or organization to promote a viewpoint and simultaneously deny you the same right. If you encounter biased resistance, there are groups such as the ADF which specialize in defending your rights." (www.exodusinternational.net). Within their message are four assumptions. The first assumption is that there is only one Christian belief on sexuality¹⁵. The second assumption is that there is no difference between being a conservative Christian and a bully in the eyes of those who sign GLSEN's pledge. The third assumption is that all GSA clubs "promote a viewpoint" rather than function as student-initiated support groups. Some GSAs are support only while others are educational/political or both as protected by the First Amendment (www.aclu.org). The fourth assumption is that clubs/groups have the right to publicly promote throughout a school a religious viewpoint and enlistment in it via a pledge that could violate the establishment clause of the First Amendment prohibiting the favoring of one religion over others.

During the 1984 congressional debate on the adoption of the EAA Senator Danforth offered an amendment to the EAA¹⁶, to ensure that school administrations had the authority to prevent religious proselytizing. Danforth, an ordained Episcopal priest, explained that he based his concerns on the nature of religion as a missionary effort (Buckel 2000). At that time, the religious right was not politically powerful, so Danforth's concerns were about the psychological promotional techniques of religious

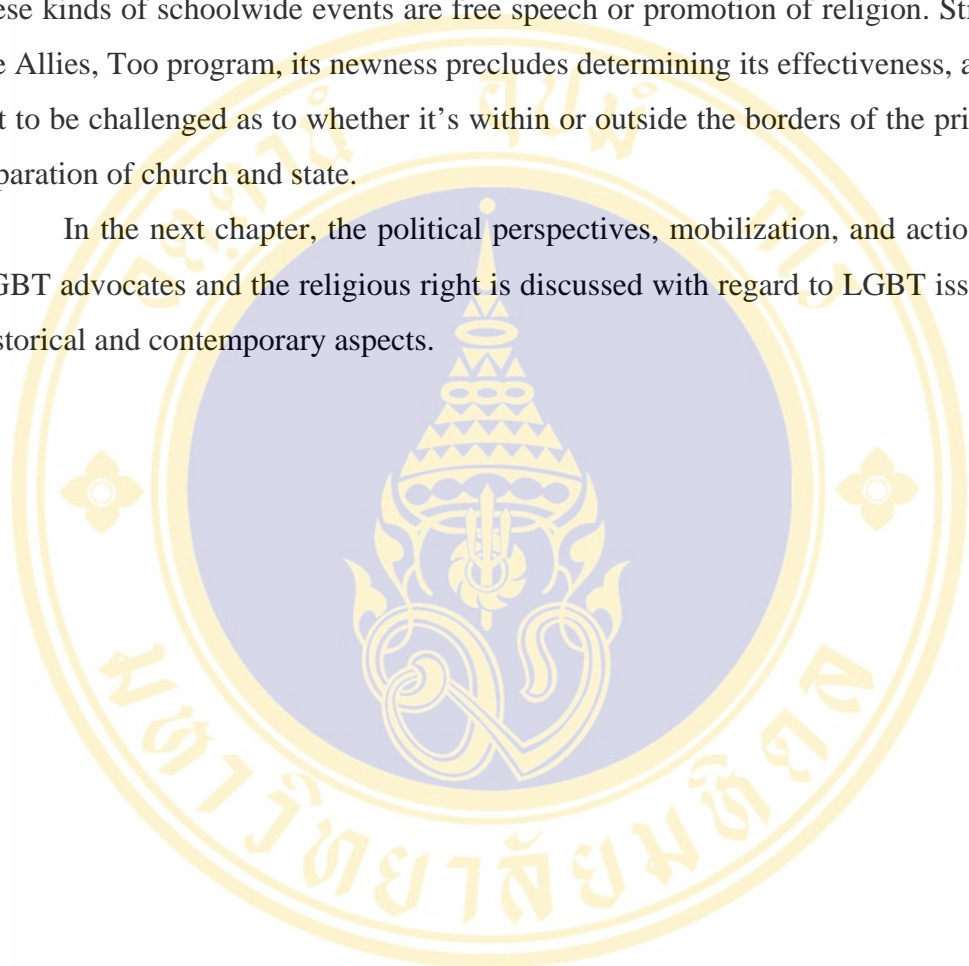
¹⁵ Issues of contention among Christian denominations are ordination of LGBT persons and same-sex marriage. Yet most mainline churches have statements like the Methodists who "support equal rights regardless of sexual orientation" (Bazelon 2004). <http://slate.msn.com/id/2098389/>. Accessed 11/3/07.

¹⁶ "Nothing in this Act shall be construed to limit the authority of the school, its agents or employees, to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary" (130 Cong. Rec. 19211-52 (1984)).

cults such as Hare Krishna and the Unification Church of the Rev. Sun Myung Moon (Moonies) (ibid.).

Today, however, the organizing of copycat events based on religious beliefs in opposition to GLSEN's non-religious activities can give pause to question whether these kinds of schoolwide events are free speech or promotion of religion. Still, as for the Allies, Too program, its newness precludes determining its effectiveness, and it has yet to be challenged as to whether it's within or outside the borders of the principle of separation of church and state.

In the next chapter, the political perspectives, mobilization, and actions of the LGBT advocates and the religious right is discussed with regard to LGBT issues from historical and contemporary aspects.



CHAPTER 6

POLITICS OF LGBT ADVOCATES & THE RELIGIOUS RIGHT

“While I am interested in seeing hate crimes laws passed, my primary interest is not in punishing future killers such as the men who take the lives of people like Matthew Shepard, ... My goal is to prevent those killers from being created in the first place.”

Kevin Jennings, Founder and Director, GLSEN

“God has called us to be His representatives in our nation and in our world. Select candidates who represent your views and work for their election.”

James Dobson, Founder and Chairman of the Board, Focus on the Family

6.1 Ideological Differences & Historical Backgrounds

In its annual reporting on the state of human rights in individual countries, the U.S. does not report on its own socio-political situation, internally or externally. Joanne Bauer of the Carnegie Council on Ethics and International Affairs offers an explanation in her *Constructing Human Rights in the Age of Globalization* (2003):

Americans are accustomed to thinking of human rights as a foreign policy issue, not as a matter of domestic concern: One treaty upon which there has been recent action in the U.S. Congress is the Convention on the Elimination of All Forms of Discrimination Against Women, or CEDAW. The debate on ratification of this treaty has touched a nerve among conservatives.... They have attacked the treaty, which the United States was instrumental in drafting and which President Carter signed in 1980, as “the work of international forces promoting abortion rights, sexual freedom, and promiscuity, while undermining motherhood” and “one more attempt to impose global norms on the U.S.” To date, the United States is the only industrialized nation that has not ratified the convention.

Twenty-six years after the initiation of CEDAW, the issues of abortion rights and sexual freedom are still opposed by U.S. conservatives who are presently setting America’s political agenda through the two terms of the Bush White House. Conservative Christians of the religious right mobilized to political action were considered responsible for the reelection of the born-again Christian George W. Bush in 2004. Jack Nagel, Steven F. Goldstone Endowed Term Professor of Political Science, University of Pennsylvania and an expert on elections, voting theory and

political participation, explained that the two hot-button issues of abortion and gay marriage are tied to things that matter most to many people—family and religion. “Those are most closely tied to people’s identity. If they seem to be threatened, [people] seem to react very strongly.” In his April 2004 newsletter, powerful televangelist James Dobson declared, “Barring a miracle, the family as it has been known for more than five millennia will crumble, presaging the fall of Western civilization itself,” if gay marriage becomes a reality. He further charged that for more than 40 years, gay Americans have pursued a master plan “that has had as its centerpiece the utter destruction of the family.” Journalist Jay Bookman of the Atlanta Journal-Constitution concurs with Professor Nagel’s view: “That kind of rhetoric [Dobson’s] had its desired effect, driving conservative voters to the polls in large numbers, helping to re-elect President Bush and increasing Republican representation in Congress and state legislatures” (Bookman 2005).

Rev. Grant Wacker of the National Humanities Center of Duke University Divinity School has a somewhat different view as he relates the history of the politics of the two major U.S. political parties, the Republican and the Democratic:

The world-view of the Christian Right... rests upon four cornerstones. [These as] moral absolutes exist as surely as mathematical or geological absolutes... These moral absolutes include many of the oldest and deepest assumptions of Western culture, including the fixity of sexual identities and gender roles, the preferability of capitalism, the importance of hard work, and the sanctity of unborn life...

[In the] late nineteenth century... the political configurations of that era [had the] Republican Party as an agent of morality, and the Democratic Party as an agent of justice. The Republican Party perennially sought to implement in the legal and cultural institutions of the age a vision of a hardworking, churchgoing citizenry—men and women who lived by universal standards of personal uprightness. The Democratic Party, on the other hand, sought to implement a vision of equitable sharing of the nation’s resources and an acceptance of social and cultural diversity as a positive good.

These ideas still basically define the differences between the two major political perspectives prevalent in the U.S. For more detail, add to these opinions, the viewpoint of former U.S. President (1977-1981) Jimmy Carter and Nobel Peace Prize Laureate (2002) who has challenged the ideas of the Bush administration and its religious right fundamentalist base in his best-selling *Our Endangered Values: America’s Moral Crisis*:

The most important factor is that fundamentalists have become increasingly influential in both religion and government, and have managed to change the nuances and subtleties of historic debate into black-and-white rigidities and the personal derogation of those who dare to disagree” (Carter 2005).

Carter deplors that fundamentalism is represented by movements that are “almost invariably led by authoritarian males who consider themselves to be superior to others and, within religious groups, have an overwhelming commitment to subjugate women and to dominate their fellow believers.” Carter rejected the takeover of his denomination, the Southern Baptist Convention, the second largest in the U.S. (14 million), by the religious right and disassociated himself with the national governing board while he remains a member of a more liberal Southern Baptist association and church. Though Carter cautions America about the religious right today, yet their focus on the gay and lesbian rights movement started decades before. Political Scientist Jean Hardisty wrote in 1993 of the history of networking of conservative and fundamentalist groups into a New Right and how they initiated anti-homosexual campaigns in the early 80s:

Since its earliest days in the late 1970s, the New Right has been a political and religious movement that has self-consciously networked among its members ... and promoted legislation within the context of a sympathetic Republican administration [Reagan].

The anti-homosexual campaign nests within a sector of the New Right known as the pro-family movement....The issues of concern to the pro-family movement are aptly described in a 1984 promotional letter.... They are “important moral issues such as: the economic survival of the family, parents’ rights in education, the homosexual movement, personal charity, child pornography, and abortion....

And, according to political commentator Bradley Hagerty, “Parents’ rights in education” and “the homosexual movement” continue today as lynchpins of conservative challenges to protected class rights of LGBT students in public schools. In a recent PBS (Public Broadcasting System) public affairs program, the news commentator offered the opinion: “Some of the fiercest hand-to-hand combat in today’s culture wars takes place in the public schools”(Hagerty 2005).

Questions remain about the religious right in the U.S. The leaders have been described but what of their supporters? Who are they in social terms and beliefs? And how did their religio-political movement achieve such ascendancy within the

Republican Party? The next subsection details a recent comprehensive survey about the socio-political identities of participants in the religious right. That is followed by a brief summary of the religious right's political history within U.S. society.

6.1.1 National Survey of U.S. Born-Again White Christians

According to a 2004 survey “Evangelicals in America” conducted for the PBS program, “Religious and Ethics NewsWeekly,” while Protestant Christians include substantial numbers of African-Americans (15%), and Hispanics (5%) the overwhelming preponderance of those who identify with the political conservatism of the Republican Party are White. African-Americans and Hispanics vote Democratic though they agree on religious right “family values” issues in being anti-abortion, and anti same-sex marriage. The survey determined that while participants identified under general terms such as evangelical and fundamentalist, and denominations as Southern Baptist, Assembly of God, Methodist or Presbyterian, for example, the overall common identifiers were being born-again, accepting Jesus Christ as one's personal savior, and holding the Bible as the literal word of God. Nevertheless, the survey group settled on the term “white evangelicals” as their inclusive choice.

White evangelicals number 23 percent of the U.S. population.¹ The survey compared their results for White evangelicals to results for the U.S. population as a whole. One commonly held myth is that they are primarily settled in the South, but only 31% live there compared to 28% for the general population. Other sections of the country show similar distribution. However, it was found that White evangelicals differ from the general population in other social factors and beliefs as shown by the following table:

Table 6.1 Comparison of White Evangelicals with General Population

Social Factors & Views	White Evangelicals	General Population
Small town resident	31%	22%
Rural area resident	22%	18%
Large city resident	9%	19%

¹ In a New York Times/CBS News national poll conducted February 2007, 31% identified as evangelical or born-again Christians. For religious preferences the results were 51% Protestant, 23% Catholic, 2% Jewish, 6% other, 16% none. Political self-identity results were Liberal 20%, Moderate 42%, and Conservative 33%.

Table 6.1 Comparison of White Evangelicals with General Population (cont.)

Social Factors & Views	White Evangelicals	General Population
College degree	22%	27%
Older than 65 years	23%	16%
Retired	27%	18%
Born-again Christian	88%	48%
Bible as literal word of God	66%	38%
Favorable toward Jerry Falwell	46%	26% unfavorable
Favorable toward Pat Robertson	55%	32% unfavorable
Favorable toward James Dobson	76%	71% never heard of him
Listen to religious media daily	21%	11%
Try to convert others	73%	35%
Likely voters 2004 election	74% Bush	23% Kerry
Vote regularly	65%	61%
Boycotted product /company	37%	18%
Participated in election campaign	32%	16%
Opposed to gay marriage	74%	61%

Relevant to the thesis, the main differences between White evangelicals and the general population are that many more White evangelicals are older and retired; they rarely live in cities but rather in small towns and rural areas; they hold the Bible literally; they listen to religious media more and consider James Dobson favorably while the general population hardly knows who he is. In addition, they try to convert others, vote more regularly, and participate more in boycotts and political campaigns. Significantly, they are overwhelming opposed to gay marriage. For a population of only 23%² with some views quite divergent from most Americans in general, they have had success in getting their candidates elected and their issues to the forefront of the political arena. The next section looks at the history behind the development of their political views and mobilization.

² White Evangelicals also include approximately 3% who identify as politically progressives who support gay rights but not necessarily gay marriage. A leader of the progressives is Rev. Jim Wallis, the publisher of *Sojourners Magazine* (Waldman 2006) and author of the 2005 best seller *God's Politics*.

6.1.2 White Evangelicals and the Republican Party

Though the above survey challenged the commonly held myth that White evangelicals mainly live in the South, the Republican Party's conservative political base is strongest among White southerners. Historically, however, prior to the 1928 presidential election, White southerners supported Democratic Party candidates. This was the case because Democratic legislators had ensured that political power would remain in the hands of Whites rather than Blacks by foreshortening Blacks political equality promised by the Republican Party of Abraham Lincoln (le Beau unknwn). Southern Democrats in the federal and state legislatures subverted laws giving the freed slaves the right to vote buttressed by the North's victory in the Civil War (1862-1865) by dismantling the programs of the Reconstruction era (1865-177) introduced to equalize the economic and political situation for Blacks.

From then on until 1928, the South voted solidly Democratic. The exception of 1928 occurred when Democrat Al Smith—the first Catholic to run for President—lost the election with the whole of the South going Republican. Historians access this loss as mainly due to the religious bigotry of anti-Catholicism with the KKK openly in the forefront of Southern opposition to Smith (Carty 2001). At the next presidential election and those following, the South swung back to the Democratic fold. In 1960, Democrat John Kennedy—the second Catholic to run for president—carried the South in a very close race against Republican Richard Nixon. However, prominent Southern evangelical, Rev. Billy Graham along with popular radio preacher and writer Norman Vincent Peale and the National Association of Evangelicals (NAE) publicly opposed Kennedy and favored Nixon on religious grounds (ibid.). Then in 1964, Republican Goldwater opposed the Civil Rights Act of 1964. He lost the election but won every Southern state with his “Operation Dixie” campaign exemplifying racial polarization with Blacks voting Democratic and Whites, Republican. In 1968, Nixon developed a successful “Southern Strategy” to continue Republican success in the South. Again it was based on a racial issue, opposition to enforcement of school desegregation.

In the 1980 election, the religious right emerged as the major force in conservative politics and was credited with electing Republican Ronald Reagan to the presidency. Reagan launched his presidency in a small Southern town, Philadelphia, Mississippi, infamous for the site of the 1964 murder of three civil rights workers

during “Freedom Summer,” a campaign to register Black first-time voters in the South. In his speech, Reagan said that he favored “states rights,” a coded message meaning he was against racial integration of schools and voting rights for Blacks (Luconi 2004). The message was understood by Blacks; Reagan received only 9% of their vote (Tift 1983). Reagan was also anti-abortion, anti-Era, and for prayers in school in contrast to President Carter (Granberg and Burlison 1983). Reagan attended a large conference of the Religious Roundtable organized by the Moral Majority and the Christian Voice in Dallas prior to the election. Reagan was introduced by a Southern Baptist televangelist as “God’s man” and Reagan famously said, “I know you can’t endorse me, but I endorse you.” From then on, conservative Christians and Republican candidates maintained a long political relationship (Marus and Warner 2004). The “Moral Majority” organized by Southern Baptist televangelist Jerry Falwell of Virginia (Frankl unkwn) gained for Reagan about two million newly registered voters that cemented Reagan’s 1980 win (Marus and Warner 2004). After this political success, the religious right defined an agenda that included the following three goals:

1. To get conservative Protestants to participate in politics
2. To bring them into the Republican coalition, and
3. To elect social conservatives to public office (le Beau unkwn).

6.1.3 Origins of Religious Right Political Activism

While an anti-Catholic position brought conservative evangelicals into the voting booths in 1928 and 1960, another fairness issue, namely school integration, propelled them in the late 70s to coalesce and organize politically for Republicans. Columbia University’s Randall Balmer writes in his *Thy Kingdom Come* that it was not the moral issue of being against abortion and the Roe v. Wade Supreme Court decision legalizing abortion in 1973 that brought conservative Christian leaders to network and plan a political strategy. Rather, evangelical Balmer writes that foremost conservative organizer Paul Weyrich revealed at a 1990 meeting that the real issue was a fear of private Christian colleges and schools losing their tax-exempt status because of non-compliance with the legal requirement of school integration for the enrollment of Black students within their educational institutions (Balmer 2006). In the U.S.

Supreme Court case, Bob Jones University (BJU) and Goldsboro Christian Schools (GCS) vs. Internal Revenue Service (IRS) the introduction explains:

Until 1970, the Internal Revenue Service (IRS) granted tax-exempt status under 501(c)(3) to private schools, independent of racial admissions policies, and granted charitable deductions for contributions to such ... But in 1970, the IRS concluded that it could no longer justify allowing tax-exempt status ... to private schools that practiced racial discrimination, and in 1971 issued Revenue Ruling 71-447 providing that a private school not having a racially nondiscriminatory policy as to students is not “charitable” within the common-law concepts (www.findlaw.com).

The court held for the government stating:

The IRS’s 1970 interpretation was correct. It would be wholly incompatible with the concepts underlying tax exemption to grant tax-exempt status to racially discriminatory private educational entities. Whatever may be the rationale for such private schools’ policies, racial discrimination in education is contrary to public policy. Racially discriminatory educational institutions cannot be viewed as conferring a public benefit within the above “charitable” concept ... (ibid.).

Lawyers for BJU of South Carolina and GCS in North Carolina had argued that their clients’ religious beliefs based on a reading of the Bible had determined their racial practices. Bob Jones University prohibited interracial dating and marriages and Goldsboro Christian schools barred Black students. Religious beliefs, contended their lawyers, were protected by the Constitution under the First Amendment.

In November, 1981 Republican Trent Lott, Member of Congress from Mississippi, filed a friend of the court brief on behalf of the plaintiffs. Lott argued that his Mississippi constituents would be harmed by the loss of tax exempt status for GCS. This referred to contributions that his constituents claimed as a deduction on their tax returns as charitable donations to religious institution (Briton 1996). Loss of tax-exempt status, thus, causes an institution to pay taxes (about a million dollars in BJU’s instance) and to lose contributions from people who donate only if they receive a personal tax deduction. This would have serious financial repercussions among religious right institutions; it gives credence to Balmer’s report.

Then on Jan. 8, 1982, President Reagan took command of the case. *Time Magazine* reporter Susan Tift explained, “Reagan, bowing to pressure from Southern conservatives, revoked the IRS rule, claiming that Congress alone has control over such matters. On the same day, the Justice Department, which had initially argued

against the segregationists, also abruptly switched sides” (Tift 1983). Reagan reversed his decision after Democrats and moderate Republicans in the Congress, civil rights leaders, and 175 of the Department of Justice civil rights lawyers protested. Since 1970 the Congress had tried and failed to change the IRS ruling 13 times. Supreme Court Chief Justice Warren Burger writing for the 8-1 decision stated that the IRS ban was “wholly consistent with what Congress, the Executive and the courts had repeatedly declared” (ibid.).

This issue of tax exempt status under challenge is also a current one. Non-profits and religious institutions are subject to scrutiny when they engage in politics. Presently, it is acceptable to discuss issues and policy but not to endorse specific candidates or laws, ballot propositions or referendums. Tiziana Dearing of Harvard’s John F. Kennedy School of Government reports that in 2006 religious congregations in California and Kansas “came under fire” for supporting candidates and propositions. She also points out that the Mormons are discussing how they might support, within the law, the candidacy in 2008 of Mitt Romney, the first Mormon to run for presidency (Dearing 2006).

A powerful example occurred in 1999 when the IRS, after ten years of deliberation, rejected the Christian Coalition’s application for tax-exempt status. The Christian Coalition of America (CCA) over the course of a decade engaged churches nationwide to distribute their voter guides and other political material. CCA was considered as powerful a political force for Republicans as labor unions and the women’s movement was for Democrats (Edsall and Rosin 1999). CCA, from the height of its power in 1996, with a membership estimated at two million dropped to 300,000-400,000 in 2004, and at the same time its donations dropped from \$26.5 million in 1996 to \$1.4 million (www.pfaw.org). Obviously, without a tax-exemption status individual donors were reluctant to give. And, churches fearing a loss of their own tax-exempt status were equally reluctant to be associated with the CCA and its legally questionable voter guides. With their funding drying up, the voter guides were not as available for free distribution either. A great diminishment in CCA’s political power resulted.

A couple of questions can be posed: If a federal law prohibiting discrimination on the basis of sexual orientation were passed, would religious educational institutions

that deny admittance and expel out LGBT students lose their tax-exempt status? If religious beliefs concerning Blacks cannot be protected by the First Amendment, can religious beliefs concerning homosexuals also not be protected? For instance: Rev. Jerry Falwell of the Moral Majority is the founder in 1971 and present Chancellor of Liberty University, Lynchburg, Virginia (VA). Liberty University has an enrollment of approximately 20,000 students, half resident, and half distance learning. Their policy states, “The university does not accept any extramarital sex, including homosexuality” (Wotring 2007). But if same-sex couples cannot get married, how is this policy equal treatment?

These questions and the idea of challenging the tax exemption status of religious institutions, however, are not yet on the radar of the LGBT rights movement, because the courts have historically taken a hands-off position with private schools in allowing their policies, even if on the surface discriminatory to LGBT students, to fall under their First Amendment rights. “Courts have been very deferential to religious schools,” said Jon Davidson, legal director of Lambda Legal Defense and Education Fund (Kabbany 2006). What the LGBT movement has responded to, since the late 70s, are the issues that have resonated strongly with a large constituency as was illustrated by the previously discussed survey of White Evangelicals.

The next section reviews what LGBT activists are presently emphasizing in the political arena in their quest for equality and to contest the strategies of the religious right.

6.2 LGBT Activists Response to the Religious Right’s Targeting

Since the Stonewall protest in 1969 LGBT activists have been mobilizing their own constituency in their quest for equity. Though unsuccessful in defeating Anita Bryant’s 1977 repeal campaign against Dade County Florida’s ordinance prohibiting discrimination based on sexual orientation, they organized a national boycott of Florida Orange Juice³ which involved media stars as well as grassroots gays in political activism. The following year, they defeated the Briggs Amendment in California that would have forced the firing of out teachers and those supportive of gay rights (Hardesty 1993). The first nationwide political activist organization,

³ Anita Bryant was the TV spokesperson for Florida orange juice.

NGLTF, founded in 1970, remains active today. With regard to schools in the U.S. today, NGLTF reports that eight states and the District of Columbia have laws prohibiting discrimination or harassment of students on the basis of sexual orientation. These states include California, Connecticut, Minnesota, New Jersey, Vermont. Additionally, Washington, and Wisconsin. California, Minnesota, New Jersey and the District of Columbia also prohibit discrimination on the basis of gender identity (NGLTF 2005). Five states will not allow the discussion of homosexuality in schools or mandate that any reference to homosexuality be exclusively negative. These states are Alabama, Arizona, Mississippi, South Carolina and Texas. Utah prohibits the “advocacy” of homosexuality (NGLTF 2005). Michelle Goldberg, in her best seller about the religious right, *Kingdom Coming* (2006), points out that the social situation in liberal states is quite different than that of in the right:

After all, the heartland has no claim to moral authority. The states whose voters are most obsessed with “moral values” have the highest divorce and teen pregnancy rates. The country’s highest murder rates are in the South and the lowest are in New England. The five states with the best-ranked public schools in the country—Massachusetts, Connecticut, Vermont, New Jersey and Wisconsin—are all progressive redoubts. The five states with the worst—New Mexico, Nevada, Arizona, Mississippi and Louisiana—all went for Bush (Goldberg 2006).

6.3 Political Strategies of LGBT Advocates & Religious Right

For a snapshot of the difference in strategies to build constituencies utilized by the religious right in contrast to LGBT groups, the following table is a condensed summary. Sections that follow the table discuss and give examples of the strategies and tactics employed.

Table 6.2 Political Strategies—Contrasting LGBT Advocates and Religious Right

<i>LGBT Advocates</i>	<i>Religious Right</i>
1. Resolutions, etc. from mainstream professional organizations & religious denominations with LGBT ministers	Resolutions, declarations from primarily Christian denominations—no LGBT ministerial ordination
2. Lobby Fortune 500 companies for LGBT job equality, sponsors of Pride Days, positive TV shows, etc.	National boycotts of corporate sponsors of LGBT events and TV programs as Disney, Ford, Procter and Gamble, etc.
3. National and chapter constituency with funding from individual donations and foundations. ⁴	National and chapter constituency with individual funding as tax-deductible donations. ⁵
4. Media events and productions: books, films, websites, email lists, abundant promotional/identity items as jewelry, bumper stickers, buttons, calendars, etc.	Media broadcasts and productions: publishing houses books, films, websites, email lists, promotional items as country/religious music cds, jewelry, bumper stickers, calendars, posters, etc.
5. Political lobbying at city, state and national levels	Political lobbying at all levels, especially local churches and school boards
6. Litigation at all jurisdictional levels	Litigation at all jurisdictional levels
7. Reviews of mass media: films, TV including cable re LGBT themes—organized awards & pro/con email /phone/picketing campaigns & protests	Reviews of mass media films, TV including cable re LGBT presence—organized email/phone/picketing protests. Mass mailings. Get out the vote campaigns

The differences illustrated by the above table can be described as reflections of the American cultural divide—mainstream and conservative Christian. Generally, LGBT groups aim toward winning affirmation for their rights among the mainstream power holders—large corporations, prominent universities and professionals—those who control national wealth, ideas, and the national media. The religious right directs their messages to church attendees and through Christian alternative media channels. LGBT groups aim to ensure and protect their rights; the religious right aims to ensure their values are preserved and regarding LGBT rights to halt their progression and rollback to the pre-Stonewall era when the gay liberation movement didn't exist. As for LGBT political progress with corporate America, Planet Out Network—an online

⁴ GLSEN's FY 2006 annual report shows income (USD \$) of 2,506,000 from donations; 1,048,000 from events; 990,000 from foundations; and 82,000 from corporations. Expenses were 3,651,000 to program; 936,00 to fundraising; and 542,000 to administration.

⁵ Focus on the Family's FY 2005 annual reports shows income of (USD \$)114,530,000 from contributions; 4,520,00 from sales; 575,000 from events; 127,000 from membership dues. FOF's top expenses were 21,554,000 to broadcasts; 31,834,00 to resources; 17,674 to publications; 13,539,00 to public policy awareness; 30,656,00 to other ministries; 11,602,000 to administration; and 9,456,000 to fund-raising.

LGBT news portal—reports that according to a Human Rights Campaign (HRC)⁶ 2005 study 40 percent of Fortune 500 companies provided domestic partner benefits, a tenfold increase in the past decade; 83 percent of the Fortune 500 include sexual orientation in their nondiscrimination policies, and 10 percent have nondiscrimination policies that include gender identity and expression, double the number from two years previous (Buhl 2005).⁷ Examples of major corporations sponsoring the HRC include American Airlines, Citigroup, and IBM.

On the other hand, to rally their supporters to political action, including boycotting corporations that support LGBT rights, the religious right uses daily radio and TV religious-based talk shows and gospel services programming. At the 2005 annual convention, in Anaheim, California, of the National Religious Broadcasters association, the approximate 1,600 Christian radio and TV broadcasters claimed to reach up to 141 million listeners and viewers (Hedges 2005).

The LGBT groups have no comparable media association and for airing their views can only lobby for coverage on the independent corporate and public media; LGBT NGO websites, email lists, and national LGBT news resources are the primary media they can rely on for national campaigns. The religious right calls on their constituency for both national and local community campaigns, while the LGBT organizations rarely focus on community campaigns other than legal defenses when discrimination has already occurred. An example of a local political action by the religious right occurred in San Diego, California in 1989. Ninety politically unknown candidates were recruited by a Christian-identified organization to run for local school boards and other offices. Sixty of the ninety won. These new school board members

⁶ Human Rights Campaign (HRC), founded in 1980, and now the largest US LGBT political organization relies on its membership of more than 650,000 “to ensure equality for the gay, lesbian, bisexual and transgender community.” Basic membership costs \$35 per year. Contributions or gifts to the Human Rights Campaign are not tax deductible as charitable contributions or as business expenses. (http://www.hrc.org/Content/NavigationMenu/HRC/Get_Involved/Membership_Center/Membership_Information.html) Accessed online: 3/2/07. HRC was credited with a pivotal role in the election of 2006 in returning the U.S. Congress to the Democratic fold. Boston Globe 2007. http://www.boston.com/news/nation/washington/articles/2007/01/13/gay_rights_group_hailed_for_election_role/

⁷ Among these corporations are “Proctor and Gamble, Ford Motor Company, IBM, Intel, Kodak, Microsoft, SBC Communications Inc., Shell Oil, Aetna Inc., Boeing, Chevron, Chubb Insurance Group, Deluxe Corporation, Hewlett-Packard, ING/Aetna Financial Services, Kaiser Permanente, NCR, Motorola, Prudential Financial, Raytheon, Sun Microsystems, eFunds, and Xerox” (www.adf.org).

advocated school prayer and creationism⁸ and had expressed conservative positions on homosexuality and abortion; “their financial backers were the largely unknown, but extremely wealthy, evangelicals” (Piore 2005).

Among LGBT advocates, GLSEN alone organizes national campaigns for local school involvement and actions in their Day of Silence, Ally Week and No Name-Calling Week (see Chapter 5). The wide reach of the religious right is particularly evident in school issues on the community level. The following section focuses on one campaign of the religious right to investigate and stop LGBT visibility in schools.

6.4 Strategy to Banish LGBT Visibility in Public Schools

In June 2005, at the annual Southern Baptist Convention (SBC)⁹ the leadership passed a resolution stating that “homosexual activists and their allies are devoting substantial resources and using political power to promote the acceptance among schoolchildren of homosexuality as a morally legitimate lifestyle” and urged parents and church leaders to “exercise their rights to investigate diligently the curricula textbooks and programs in our community schools and to demand discontinuation of offensive material and programs” (www.sbc.org).

In concerted response to the SBC resolution, Mission America created a “School Risk Audit to help parents and groups decide whether school districts are placing students at risk by leading children to view homosexual behavior as normal.” In April, 2006, the most powerful religious right organizations—the American Family Association, Concerned Women for America, Family Research Council, American Family Association, Citizens for Community Values, Family Research Council, Eagle Forum, Americans for Truth, Exodus Mandate, and several state organizations endorsed the audit. The School Risk Audit project exemplifies the tactic of mobilization of individuals at a local level to investigate, report, and challenge programs and curricula in public schools within a school district. The comprehensive

⁸ Creationism is “a doctrine or theory holding that matter, the various forms of life, and the world were created by God out of nothing and usually in the way described in Genesis [first book of the Bible]. Miriam-Webster Online Dictionary. [http://www.m-w.com/cgi-bin/dictionary?book= Dictionary&va=creationism](http://www.m-w.com/cgi-bin/dictionary?book=Dictionary&va=creationism). Accessed online: 20/3/07.

⁹ The Southern Baptist Convention is the largest single Protestant denomination in the U.S. (World Almanac 2006).

investigation is directed at researching policies, laws, project funds, curricula, extracurricular and school activities that can be associated in any way with recognizing the presence of and giving equitable support to LGBT students, teachers and staff. The following lists the challenged areas:

1. “Anti-harassment, anti-bullying or safe schools policy that includes the category sexual orientation.
2. Non-discrimination policy based on sexual orientation (may also cover gender identity) for students and/or teachers, staff.
3. Requirements for teacher/ staff training on diversity, tolerance, sensitivity
4. Objectionable material in library and parent-resistant selection input
5. School district has formal relationship (training/consulting contracts) with gay activist groups (i.e.,GLSEN, PFLAG).
6. Local or state laws: Anti-harassment or anti-bullying laws for schools now exist in many states. Of those that include sexual orientation (and some also include gender identity) are Washington, Maine, California, Maryland, New Jersey, Vermont.
7. Federal Funds: Grants for safe sex, safe schools, tolerance, or anti-bias programs from Centers for Disease Control, for Adolescent Health or HIV education; U.S. Department of Education, under the Safe and Drug Free Schools program to prevent hate crimes; U.S. Department of Justice, Juvenile Justice office for Safe Schools programs such as Civil Rights Actions Teams.
8. Private Grants: possible funding for HIV/AIDS education, violence, anti-bias or anti-bullying prevention, character education.
9. Curriculum: Programs on tolerance, diversity, hate or bias in social studies/language/literature; Lessons on different types of families; stories/novels on suggested reading lists in literature classes; HIV/AIDS and safe sex education; Political Science/ History/Civics classes on current issues;
10. Extracurricular Activities: gay/straight alliance or GSA. It may also be called a GLBT club, a human rights club, a rainbow club, an anti-bias club, a pride club, or an anti-violence club.
11. Special school speakers /assemblies/films/health fairs
12. Diversity day, day of silence, gay pride celebration day (or week), coming out day
13. Pink triangle or rainbow “safety” program”

After investigations, school districts are graded on the findings. Some areas are more significant than others in determining grades. For example, having a GSA automatically contributes toward a poor grade: “Any district with a homosexual club, any program or curriculum that would tend to influence children to regard homosexual behavior as in any sense normal or acceptable, should be identified as a clear and present danger to children and society and should receive a failing grade” (www.missionamerica.com).

6.5.1 Audit Strategy Emulates 1950s Cold War America

Taken all together the audit is a very detailed guide for religious right local activists to not only evaluate every aspect of a school’s and school district’s program but also to react through organized actions. This audit represents the difference in the perspectives of the two contrasting advocacy groups. LGBT groups see their mission as protecting students from harassment and serious harm, mental and physical. The religious right groups see their mission as protecting children from acceptance of homosexuality, which, in their view, causes moral harm. LGBT groups use civil and human rights universal principles as the moral foundations of their mission while the religious right uses the literal word of the Bible as their unequivocal and infallible guides.

The investigative approach of the 2005 school audit project in its language and purposes is reminiscent of the 1950s Cold War tactics of a movement led by U.S. Senator Joe McCarthy of Wisconsin. History has termed McCarthy’s actions as the era of the “Red Scare,” “Loyalty Oaths,” and “Witch Hunts” under the aegis of the U.S. Congress’ House Un-American Activities Committee chaired by McCarthy. During that time, all Americans were urged by right-wing conservatives to investigate and report on their fellow citizens suspected of “communist leanings” in the community, workplace, church and home. Any mention of socialism and communism was removed from school textbooks and curricula. People who were identified as unpatriotic were fired [without due process] from teaching jobs, government employment, and private industry (Karl 2003).

David Johnson, author of *The Lavender Scare: The Cold War Persecution of Gays and Lesbians in the Federal Government* (2004) explains the conservative mentality of 1950s America:

The Lavender Scare helped fan the flames of the Red Scare. In popular discourse, communists and homosexuals were often conflated. Both groups were perceived as hidden subcultures with their own meeting places, literature, cultural codes, and bonds of loyalty. ... And both groups were considered immoral and godless. Many people believed that the two groups were working together to undermine the government.... many tabloid journals of the 1950s held that communists promoted “sex perversion” among American youth as a way to weaken the country and clear the path for a communist takeover. In this line of reasoning, homosexuals (especially effeminate gay men) acted as a fifth column, by preventing family formation and fostering moral decay.

In 1953 President Dwight Eisenhower signed Executive order 10450: Security Requirements for Government Employment. The order listed “sexual perversion” as a condition for firing a federal employee and for denying employment to potential applicants. Executive orders also apply to non-governmental employers who are federal contractors. Thus, the law had the effect of excluding gays and lesbians from 20% of the nation’s jobs and caused the firing of about 1,500 and the resignation of 6,000 federal employees. For civilian jobs, from 1947 to 1950, homosexuals were fired at an average of about five per month. In 1950, firings totaled 720 and in 1955 the total was 837 (Chandler 2006). This law was in effect for forty-five years until 1998 when President Bill Clinton signed Executive Order 13087 prohibiting discrimination based on sexual orientation in federal employment and contracts.

Today’s religious right organizations continue to promote this 1950s view of gays as undermining American society. And with the dissolution of the USSR and its European satellites, and the civil rights struggle for African-Americans somewhat achieved, gays are the only remaining group from the 1950s for the conservative right to attack (Afshar 2005). In 1990, James Dobson in his *Citizen* magazine proclaimed that after the fall of Soviet communism, a culture war was still needed to be fought in the U.S. and declared the 90s, “the Civil War Decade.” This war needed to be fought on three issues, namely, abortion, public education and homosexuality (Moser 2005). The abortion issue is beyond the scope of this thesis though this does affect some lesbian and bisexual female teens who have heterosexual relations to prove they are straight and get pregnant.

The next section focuses on the community organizing methods of a local PFLAG to protect the rights of LGBT youth as differentiated from Mission America's school audit investigative project.

6.5 PFLAG of Minneapolis & Grassroots Activism

In contrast to the school audit developed nationally for religious right organizations to apply locally, PFLAG of Minneapolis, Minnesota developed an activist grassroots strategy locally that has national application—from the grassroots bottom up rather than top down. The methods developed as follows. After outreach to three suburban Minneapolis/St. Paul (Twin Cities) school districts PFLAG with LGBT allies analyzed each district's strengths and weaknesses; monitored anti-LGBT forces; testified at school board meetings and a public hearing; applied to serve on an advisory council; met with school staff and an administrator, and spoke to student groups. Their efforts helped to add sexual orientation to the equal employment opportunity policy in one district, and strengthened students' efforts to deal with anti-LGBT slurs. They assembled a checklist with suggestions based on what they learned "to help create schools that support and affirm all." The suggestions include the following:

1. "Recognize that the 1993 Minnesota Human Rights Act protects students and staff in all public and private non-religious schools from discrimination based on their actual or perceived sexual orientation or gender identity.
2. Confirm that resources give equal coverage to LGBT people in anti-harassment and non-discriminations policies.
3. Check that the guidance office gives support and student clubs address diversity and school values include respect for difference.
4. Attend school board meetings to give public comments and write to newsletters, and email addresses of board members.
5. Locate a "champion" in the district office who supports LGBT students.
6. Discover if students have started a Gay-Straight Alliance and if the staff receives training on LGBT issues.
7. See if there are identifiable staff who can act as knowledgeable resource people for LGBT students.

8. Discover whether LGBT staff, students and family members are comfortable with being out.
9. Coordinate with anti-bullying efforts at schools.
10. Pitch in. Help connect students and staff with assets and volunteer to speak at meetings.
11. Meet with administrators and board members.
12. Cultivate healthy skepticism if schools downplay anti-LGBT harassment. A less than friendly school environment is not OK. One student said, “I guess things are okay here. I don’t get beat up in the halls.”
13. Contact others to create a network and email list for notices about board meetings, etc.
14. Identify LGBT welcoming and affirming churches for locating supporters. [PFLAG is not anti-religious.¹⁰]
15. Assume goodwill: School districts move slowly. Unless you receive direct evidence, don’t automatically assume that homophobia or transphobia is causing the delay. Recent budget cuts to education are stretching school staff very thin. Keep a positive attitude and follow up” (PFLAG ST.Paul/Minneapolis 2005).

The difference between the religious right’s school audit and the PFLAG approach is telling. The audit grades schools; the PFLAG team works with them. The former is policing; the latter is conciliatory. One wants to keep LGBT students and issues invisible; the other wants them welcomed and safe. The concept of inclusiveness motivates the PFLAG approach while exclusiveness that of Mission America. Simply put, PFLAG views an LGBT presence in schools as a positive value of respect for difference while Mission America views it negatively as a moral weakness and contagion to be avoided.

6.6 Changing Attitudes Through Representation of LGBT Lives

As can be seen from the challenges to and the success of GSA activities and the copycat reactions of the religious right, the struggle to guide the attitudes of U.S. secondary school students is ongoing through numerous organizations individually and

¹⁰ PFLAG is listed as a cooperative agency by the National Council of Churches USA, an ecumenical partnership of Christian denominations founded in 1950 and totaling 45 million in more than 100,000 local congregations in the U.S. http://www.nccusa.org/about/about_ncc.htm. Accessed 11/3/07.

in coalitions. National organizations develop strategies and tactics for local implementation. The effectiveness depends on the consciousness of the students. Those from a conservative religious family and community are taught that homosexuality is a sin and immoral. In contrast, American popular media has been representing LGBT people as just human, with all the qualities that implies—good and bad—ordinary and extraordinary. Stories from the lives of sexual minorities have become mainstream and these representations include the lives of youth in middle and high schools. During the past few decades the mass media—print, radio, theatre, TV and film, and electronic—has made LGBT lives highly visible. There is wide diversity to the stories, from cowboys in the desolate foothills of Wyoming to the celebrity icons of New York, Hollywood, and Professional Sports. LGBT writers and producers have been producing creative work since Stonewall and aeons before [consider Sappho—lesbian lyrical poet born 630 B.C.]. Their creations were first published in independent LGBT small presses and community film and theatre festivals. These productions were supported by the LGBT community longing for the stories of their lives, and the LGBT community was their main audience. Now the audience has expanded to the whole of America and internationally. LGBT exposure increases year to year. Gay & Lesbian Alliance Against Defamation (GLAAD) reports annually on the progress being made and evaluates positive and negative depictions. The positive trend is upward and the negative losing ground. But what is important is that honest and truthful depictions are now in the main while defamation and negativity is fading out of the picture. There is more to this exposure than simply portraying the truth of lived lives. GLAAD expresses the hope that media helps in not only changing negative stereotypes that feed homophobia but also in allowing people who have no actual experience of out LGBT lives to be drawn into their stories—factual or fictional—in ways that can generate understanding and empathy and thereby contribute to a change in consciousness and attitudes.

6.7 Religious Political Identities re Anti-Homosexual Attitudes

Returning to the discussion of religious identity and politics, researchers have shown the connection of these two subjects with anti-homosexual attitudes. Psychologist Gregory M. Herek compared heterosexuals with favorable attitudes

toward homosexuals and those with unfavorable attitudes. He found that the latter are more likely to be older men, less well-educated and residing in geographic areas where negative attitudes represent the norm (for example, rural areas or the Midwestern or Southern U.S.). He also found that those with negative attitudes are more likely:

- “To attend religious services frequently;
- To endorse orthodox religious beliefs, such as the literal truth of the Bible;
- To be a Republican than a Democrat or Independent;
- To describe themselves as politically conservative, rather than liberal or moderate
- To display higher levels of psychological authoritarianism
- To be less sexually permissive
- To be more supportive of traditional gender roles
- To believe that a homosexual orientation is freely chosen
- To not have close personal friends or family members who are openly lesbian or gay” (Coonan 2007).

The above beliefs and qualities of an anti-homosexual mindset can help in understanding why the religious right can coalesce and motivate their constituency to challenge LGBT human rights in schools and across American society. Is media exposure helping to change the last point or is it hindering? The polls say that the majority of Americans are becoming more and more knowledgeable, accepting, and welcoming of out and visible LGBT persons. For example, the Pew Research Center published a longitudinal survey, “Trends in Political Values and Core Attitudes: 1987-2007”¹¹ in March 2007 finding a significant amount of changes over two decades for the U.S. population. First, reviewing the areas of religion and social issues, the number of those identifying as secular and non-affiliated with a religious tradition was 8% in 1987 and now is 12%. Nineteen percent of those born after 1976 commonly called “Generation Y” do not identify with a religious tradition. The Pew survey asked respondents whether they agreed with the following three statements as indicators of the degree of religiosity:

¹¹ “Results for this survey are based on telephone interviews conducted under the direction of Princeton Survey Research Associates International among a nationwide sample of 2,007 adults, 18 years of age or older, from December 12, 2006 through January 9, 2007. For results based on the total sample, one can say with 95% confidence that the error attributable to sampling is plus or minus 2.5 percentage points. For results based on Form 1 (N=982) and Form 2 (N=1,025) the sampling error is plus or minus 3.5 percentage points” (PEW 2007).

1. They have no doubt that God exists.
2. Prayer is an important part of their lives.
3. We will be called before God at Judgment Day to answer for our sins.

Pew reports a slight change in agreement with all three indicators. For the population overall, its remained the same, but it rose in the 90s and declined in the present. The importance of prayer started at 41% in 1987 and rose to a high of 55% in 1999 and then dropped down to 45% in 2007. The other two indicators show comparable changes.

There is also a significant difference in agreement with the religious indicators related to political party affiliation. Republicans show more commitment now than at any time in the past twenty years; 79% agree with the three statements as compared to 71% in 1987. Democrats and independents show less agreement over the years with figures of 62% and 65%, respectively. Five percent of Republicans say they are atheist, agnostic, or decline to state religious preference, which has remained stable. Democrats who identify as secular, however, have increased from 7% to 11% and Independents from 9% to 17%.

Another measure of religiosity is attendance at activities such as Bible Study or prayer group meetings. This is the same today as in 1999, namely 37% for the general population. However, for Southerners, it is 48% with no more than 34% in other regions.

The largest changes in social attitudes are in the area of sexuality. One indicator was the statement that school boards should have the right to fire teachers who are known to be homosexual. In 1987, a 51% majority agreed with this statement. In 2007, only 28% agreed and 66% disagreed. Specifically for White evangelicals, 73% agreed in 1987 but in 2007 only 42% agree.

Another indicator statement was that AIDS might be God's punishment for immoral sexual behavior. In 1987, 43% agreed with 47% disagreeing. In 2007, only 23% agreed with 72% disagreeing. Again, specifically for White evangelicals 60% agreed in 1987 with just 38% agreeing in 2007.

Support for and against gay marriage show changes that are generational and political. Overall, in 2007, gay marriage support is at 37% while 55% are opposed. However, there have been minor swings. In 2003, support reached a high of 38% but

dipped to 29% in 2004. However, young people ages 18-29 support it to the tune of 56%. Liberal Democrats and seculars also support it, 72% and 60%, respectively. Republicans oppose gay marriage 75% to 20% who support. Strongly opposed Republicans number 51% (www.PEW.com 2007).

Other recent polls looked at gays and lesbians in the military. For example, a Zogby International poll found that 73% of U.S. military service members are comfortable with gays and lesbians serving openly (www.gaycom.com). For the general public a March 2006 poll found 60% and a 2007 Gallup survey found 79% favor allowing gays and lesbians to serve openly.

The changes shown in the above polls reflect growing acceptance of sexual minorities, and it can be anticipated that in the future these changes in attitudes will be reflected in all levels of political activity including local school boards, albeit in some locales sooner than others. While young adolescents were not part of the surveys, still that Generation Y was most accepting suggests that positive attitudes are developing among youth.

Finally, according to the above cited PEW survey in 2004 the country was evenly divided politically, 43% Republican and 43% Democrat, but in 2007, 50% identify as Democrats with 35% as Republican. Since Democrats are more on board for the rights of sexual minorities, if they gain political power in future elections at all levels—national, state, and local—it can be anticipated that the rights of LGBT people will advance more swiftly or at least not regress. It also can be noted that LGBT voters overwhelmingly vote Democratic and that self-identified LGBT citizens now number 4% of the voting public. Though small, this is a body of voters that cannot be ignored especially in close elections as was exemplified by MA Republican Governor Weld's successful campaign as discussed in Chapter 3.

The next section discusses International Laws within the U.S. political area and their possible usefulness in protecting the rights of LGBT secondary students.

6.8 U.S. Politics & UN Convention on the Rights of the Child

The U.S. signed the UN Convention on the Rights of the Child (CRC) in 1995 after six years of debate, but it has yet to ratify it. According to developmental psychologists Susan Limber and Målfrid Grude Flekkøy arguments against ratifying

CRC have come from both ends of the U.S. political spectrum. The conservative religious right has questioned whether children's rights undermine parental rights (Ingraham 1994). From the liberal perspective, the convention is seen as not strong enough and won't do enough to change the lives of children and their families.

Nevertheless, if ratified, would CRC help protect the human rights of American LGBT secondary school students? There is no specific mention of sexual minority status in the convention. However, there are sections, which could apply to LGBT children who are subjected to harm at school. For example, Article 19 says that States Parties must protect children from physical, sexual, and psychological abuse and neglect. Certainly, the personal accounts in Chapter 2 and the testimonies in the Nabozny and Flores cases illustrate how this article was contradicted by the abuse these students suffered at school from their peers and neglect from school administrators. Articles 28 and 29 express the goals of education as the development of the child's intellect, physical abilities, and personality. Again, the survey data and the personal accounts in Chapter 2 illustrate the subversion of these goals of education as suffered by LGBT school students when victimized by prejudice and abuse.

Limber and Flekkøy argue that even without ratification, CRC could change the school climate in the U.S. to one of zealous concern with the rights of children in concert with international efforts. Furthermore they state, "Although proponents of the Convention currently face stiff political opposition to ratification within the U.S., policymakers, child advocates, and social scientists can nevertheless make important strides in implementing its principles at local, state, and federal levels" (Limber and Flekkøy 1995). These efforts could not but help to protect LGBT students if applied inclusively to the whole student population. Visibility would be one key to recognition of their particular vulnerability to violation of their human rights. Unfortunately, Limber's position, as explained in Chapter 2, against bullying laws with specific categories as sexual orientation and gender identity, could work to continue invisibility with its correlated lack of protection for LGBT students.

6.9 Human Rights Education as Protection

A similar but more expansive approach is that of Michael Greene, Director of the Center for the Prevention of Violence at Youth Consultation Service (YCS).

Greene while supporting the Olweus program as the best model presently available for anti-bullying programs, critiques it in several areas and recommends that it be replaced with a comprehensive program of Human Rights education. He recommends shifting the emphasis from the behavior of bullies to the “actions and circumstances that create “hostile environments.” Greene states that all forms of bullying are human rights violations and incorporates the CRC articles, 19 and 29, as the basis for his viewpoint. In support of his view, he quotes comments from the UN High Commissioner on Human Rights:

“The school environment itself must reflect the freedom and spirit of understanding, peace, tolerance, equality of sexes, friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin A school which allows bullying or other violent and exclusionary practices is not one which meets the requirements of Article 29” (UNHCHR 2001)

Greene envisions the human rights perspective as serving to mobilize schools and communities to address all forms of bullying with programs that deal with the norms and structures that facilitate the violations. He explains that teachers and administrators, implicitly or explicitly, support the hostile school climate. From the 2004 research of Conn, Galloway and Roland, Greene presents examples of teachers’ roles in creating the environment for violations such as, “portraying or describing all romantic relationships as heterosexual in literature, plays, and sex education classes; bullying among teachers and administrators; dismissive treatment of students who perform poorly in academic pursuits or of students who are obese; ignoring bullying incidents when they occur; inconsistent application of discipline policies and procedures; poor classroom management practices; or condoning sexual jokes and innuendoes” (Greene 2006). For alternative teaching materials, Greene cites human rights curriculum for K-12 adopted by the state of Idaho and the curricular on bullying and sexual harassment from K-12 created by the Wellesley College Center for Research on Women. He also proposes that each school have a “trained investigator” to handle all situations associated with bullying laws, and complaints of sexual harassment and discrimination, etc. (Stein 2003). Greene contends that the demands on administrators to understand the details of the law and to give due process to each complaint is just too great to expect competency, let alone equal rights and justice.

Greene's analysis and recommendation bears resemblance to that of GLSEN with more of an emphasis on all students who have their human rights violated, rather than LGBT students as a single focus group. Greene calls for "mobilizing" which implies a political movement. But given the present U.S. political climate and the activism of the religious right in national and local politics, a movement based on UN conventions and the principles of human rights could be subject to immediate attack. Since its inception, conservatives in the U.S. have attacked the UN and called for U.S. withdrawal from the international body (www.jbs.org). Therefore, Greene's program would have difficulty in being mobilized as a separate movement without immediate polarization but could find an ally in coalition with LGBT youth advocacy groups. It would also benefit LGBT groups if they showed support to all the groups of children who are bullied in a direct way through coalitions and collective actions. The No Name-Calling Week is one start, for example, in that direction. Promoting a human rights curriculum would be a valuable long-term goal for the integration of LGBT students in a climate of acceptance rather than hostility, or even mere tolerance. Also, by incorporating and emphasizing the universal values of human rights in their campaigns LGBT youth advocates would not only counter the U.S. religious right's charge of "special rights" but also build their quest for equality on a moral foundation of humanistic values of both religious and secular origins.

The next section features a discussion of a movement, homeschooling, which challenges the values of public school as beneficial for all children in U.S. society.

6.10 The Homeschooling Movement: Escape & Protection

The homeschooling movement has boomed in the last few decades, and it is growing at the rate of 15 to 20 percent a year. In 1985 it was estimated that there were about 50,000 children being homeschooled. In 2002, the estimates are more than a million and possibly 2 million. Ten years ago, in several states, it was illegal to educate a child at home. Now, it is legal everywhere. In 1999, the U.S. Congress passed a resolution declaring the week of September 19th to be National Home Education Week. *Newsweek* and *Time* did cover stories on the homeschooling movement. In 2001, researchers Stevens and Talbot considered it a social movement instead of merely an education alternative. The questions they asked were: Who are

the parents who homeschool their children and are they conscious of being in a movement?

While there are no good statistics on their percentages, researchers have divided the movement into two groups. One, the larger group, is from the religious right and started to homeschool in the 1980s and 1990s. Their goal is to provide a religious education free from the influences of secularism and “pop culture” (Reich 2002). The other group, smaller and going back to the 1970s, “reflected a liberal, humanistic, pedagogical orientation” (Carper 2000). The first group has nothing to do with the public schools; the second uses public school resources that they cannot obtain at home (Reich 2002). Other names have been applied to differentiate the two groups. The first group was labeled “ideologues” and the second “pedagogues” by Van Galen. Stevens called the former “believers” or “heaven-based” and the latter “inclusives” or “earth-based.” Stevens’ research documented the different forms of organizations the two groups created. The “inclusives” aim to be democratic with loose meetings and decisions by consensus. The “believers,” on the other hand, created a structure that revolved around strong leaders and discouraged dissent. They also brought a business aspect with the marketing of curricular materials and steep dues. Furthermore, Stevens describes the “believers” as interested in making money and centralizing power; the inclusives in grassroots empowerment (Sugg 2005). The description of the “believers” echoes to a degree the description Jimmy Carter applied to the leaders of the fundamentalist movement.

For this thesis, however, the first group is the focus, since it is the one opposed to issues of LGBT rights within the public schools [There is an email Yahoo group of gayhomeschoolers—LGBT or straight—who would fit the perspective of the second group]. Historically, the interest in influencing the public schools goes back to the early organizational period of the religious right. In 1979, the Rev. Jerry Falwell launched the Moral Majority with Rev. Tim LaHaye, founder of the American Coalition for Traditional Values (ACTV).¹² The Moral Majority lobbied for prayer and

¹² ACTV is “a Christian Right organization that claims to represent 43,000 conservative Christian churches throughout the United States of America. Headquartered in Washington, D.C., their advocacy focuses on education, anti-LGBT rights, low taxes, anti-pornography, pro-life and ‘religious freedom’. They have condemned such organizations as GLSEN and Planned Parenthood, and they support the teaching of creationism” [www.wikipedia.org. http://en.wikipedia.org/wiki/American_Coalition_for_Traditional_Values](http://en.wikipedia.org/wiki/American_Coalition_for_Traditional_Values). Accessed online 2/1/07.

creationism in public schools and against gay rights, abortion, and the Equal Rights Amendment (ERA)¹³. Beverly LaHaye, wife of Rev. Tim LaHaye in the same year founded Concerned Women for America to “bring biblical principles into all levels of public policy” and oppose the “anti-marriage, anti-family, anti-children, anti-man” feminism of the National Organization for Women (NOW)¹⁴ (Sugg 2005). In the radical liberal magazine “Mother Jones” John Sugg compared the organizing tactics of the religious right to that of the U.S. “old left” Communist Party and its many splintered factions. In Leninist terms of the “popular front,” “people were recruited through specific causes into a movement tacitly guided by the Party” (ibid.). In an ironic twist, Lenin’s popular front tactics were unconsciously applied with success by the religious right to their causes and issues—abortion, evolution, gay marriage, and school prayer, among others. The same tactics were not as successful for the U.S. “old left” Communist Party. Sugg’s comment is apt: “This is a faith in which religion is not an influence on politics; it *is* politics” (ibid.).

Nevertheless, Sugg’s analogy correctly appraises the religious right as dedicated political organizers and not mere commentators on morals. As to the homeschooling movement, the religious right has had great success in promoting it.

From the perspective of Stanford University political science professor Rob Reich, the surge in homeschooling bodes ill for American society. In Reich’s perspective, the U.S. public school serves not only a function of education but also of citizenship. It’s a place where children learn and respect the fact “that other people will have beliefs and convictions, religious or otherwise that conflict with one’s own. Yet from the standpoint of citizenship, these other people are equals. And students must learn not only that such people exist, but how to engage and deliberate with them in the public arena” (Reich 2002). Removing children from the public school denies them this opportunity to learn how to be a citizen. Professor Reich explains that

¹³ Proposed as an amendment to the U.S. Constitution in 1972, the amendment failed to gain the necessary vote of 2/3rds of the states for ratification by June 30th 1982. The text is as follows: “Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.”

¹⁴ “The National Organization for Women (NOW) is the largest organization of feminist activists in the United States. NOW has 500,000 contributing members and 550 chapters in all 50 states and the District of Columbia. Since its founding in 1966, NOW’s goal has been to take action to bring about equality for all women. NOW works to eliminate discrimination and harassment in the workplace, schools, the justice system, and all other sectors of society; secure abortion, birth control and reproductive rights for all women; end all forms of violence against women; eradicate racism, sexism and homophobia; and promote equality and justice in our society” (<http://www.now.org/organization/info.html>). Accessed online 2/01/07.

“Citizenship is the social glue that binds a diverse people together. To be a citizen is to share something in common with one’s fellow citizens” (ibid.). Furthermore, Reich argues that being a citizen is exercising one’s freedom: “To become free, students must be exposed to the vibrant diversity of a democratic society so that they possess the liberty to live a life of their own design” (ibid.).

Reich’s view demonstrates high ideals about American public schools as teaching laboratories for citizenship. However, there is no getting away from the fact that LGBT students who experience the taunts, harassment, and physical assaults of their schoolmates can find themselves, unfortunately, the lab rats for their abusive peers, neglectful teachers and administrators. For, when biased, homophobic individuals encounter diversity their response can be aggressive in word and deed and far from democratic. When and how do the abusers change their behavior and respect diversity? GLSEN’s school activities are a start, as they offer opportunities for change by empowering LGBT students and their allies to take the lead in proactively educating and defining what human rights for sexual minorities means and to accept no less. If the abusers change and revise their beliefs about LGBT people, then democratic freedom, as Reich defines it, is expressed. Nevertheless, far too many LGBT students tragically resolve an abusive situation by dropping out, running away or by suicide. If a homeschooling option was open to them, that certainly would be preferable as a form of protection and survival.

The motivation of religious right parents for homeschooling comes from a desire for protection and survival, also. The parents of secondary school students know that the separation of church and state prohibits religious instruction, but they don’t agree and they have contested it politically and have won and lost legal battles. In the 1950s the phrase “under God” was inserted in the Pledge of Allegiance that all school children must say in morning assembly every day. The attempt to include a prayer as well was rejected, but it went all the way up to the Supreme Court, and it still is being pursued. However, in 1952, the Supreme Court held that a law providing for release of public school students to attend off-campus religious classes was constitutional (sbc.net 2006). Conservative Christian parents want their cultural perspective to survive in the public schools, and they want to protect their children from the very diversity—especially the visibility of out LGBT students, teachers, and curricular—

that Reich lauds. Instruction in Biblical creationism instead of Darwinian evolution is one prime example of curricular that they want taught in public school classrooms.

However, another strategy has also emerged. Giving up on effecting change within the public schools, the most politically powerful religious right leader, James Dobson, used his daily radio program to encourage his listeners to abandon public schools altogether. On his March 28, 2002 program he admonished his listening audience to take their children out of California public schools, “In the state of California, if I had a child there, I wouldn’t put the youngster in a public school.... I think it's time to get our kids out” (www.home-school.com). Then, in his next day’s broadcast he added other states to quit—Connecticut, Massachusetts, Minnesota, New Jersey, Washington, Wisconsin, Vermont, and Washington, D.C. He pointed to these states because they are the ones with safe schools legislation that prohibits discrimination on the basis of sexual orientation. He also warned about Rhode Island, Pennsylvania, Hawaii, and Alaska as “promoting homosexuality” Dobson said, “It isn’t just California that has drifted into this dangerous stuff. This is where we are, especially on both coasts, but to some degree throughout the nation” (Olson 2002). He also suggested that Christian teachers quit the public schools, “I want to say to all my teacher friends that are out there, I know that you can’t help it....I don't think I’d work there....I couldn’t be in an organization that's supporting that kind of anti-Christian nonsense” (ibid.). He recommended homeschooling and private Christian academies as alternatives.

Several other religious right leaders publicly concurred in Dobson’s position including former Alabama judge Rev. Ray Moore of Exodus Mandate and promoter of homeschooling, and Rev. D. James Kennedy of Coral Ministries. The most significant group responding to Dobson’s call was, however, the Southern Baptist Convention—the largest Protestant denomination in the nation with 16,270,315 members in 2005 (www.sbc.org). In 2004, a resolution at their annual conference by a Baptist preacher on behalf of Moore, was proposed but failed. The resolution asked Southern Baptists to remove their children from “godless” and “anti-Christian” public schools. A related resolution was proposed in 2005 and also failed. It called for churches to become aggressive and proactive in starting Christian schools and in supporting homeschooling. (The website of the group putting forth the 2005 resolution is

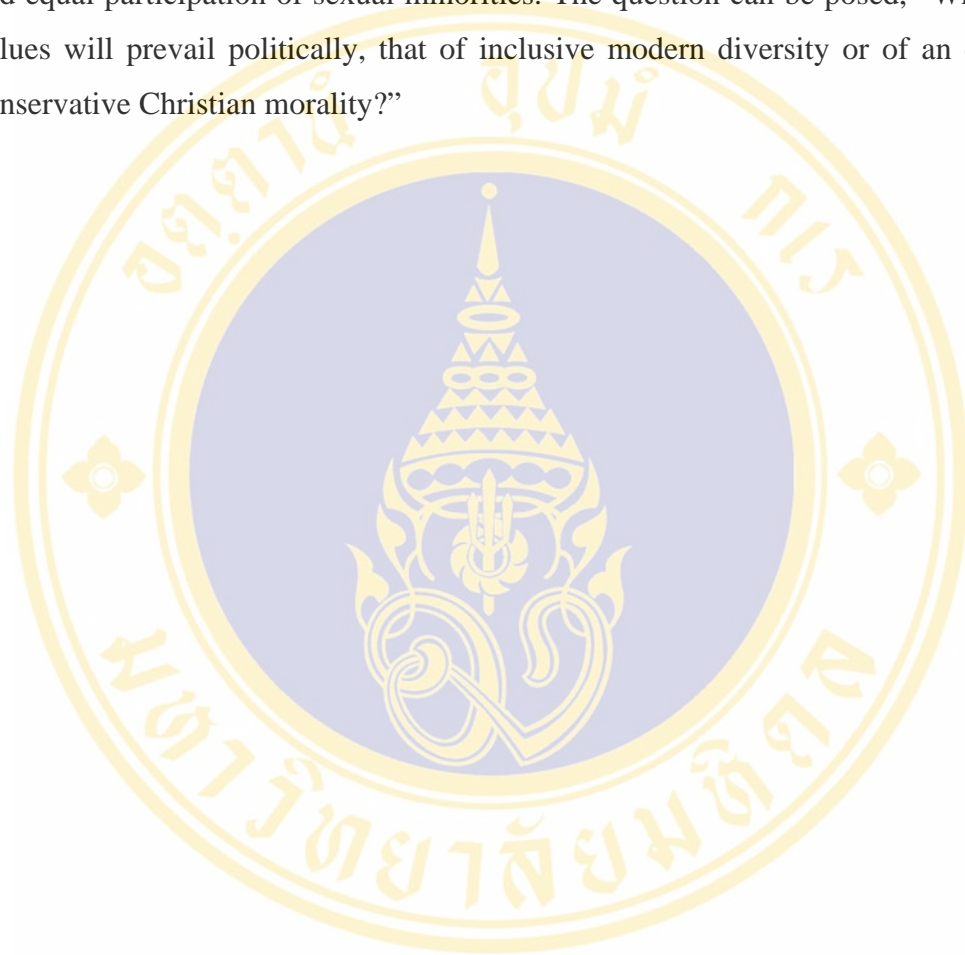
www.getthekidsout.org, but it is not accessible.) A second resolution by Moore's group called on churches to investigate whether "local school systems support homosexuality" and the resolution "criticizes homosexual activists for slandering minorities by claiming that homosexual behavior has any authentic connection with the civil rights movement" (www.biblicalrecorder.org 2005). This resolution also failed, but the issue of leaving the public schools, however, is very much under debate among Southern Baptists. The "Exit Strategy Resolution" received a big boost when Albert Mohler, theologian and president of the SBC main seminary in Louisville, Kentucky, stated that given the "spiritual, moral, and academic decay in the government schools, Southern Baptists develop an exit strategy from the public schools" (Unruh 2006).

This strategy of abandoning the public schools can be seen as nothing less than an admittance of a major defeat for the political agenda of the religious right. The socialization of children occurs in the institution of the public schools as well as at home and in other institutions such as churches, but separating from the schools can encourage adults who are isolated from the common culture. Historically, ethnic and religious minorities have been accommodated in the public schools. Assimilation doesn't have to mean the homogenization of American society. Rather, experiences with and respect for diversity enriches individuals and enables them to build relationships and to work with others from different backgrounds. Protestant theologian John B. Cobb, Jr. identifies public education as the main form of assimilation, yet he holds that pluralism also can be maintained:

To be a full participant in the life of the United States, for example, you must be loyal to the nation state and you must internalize those values that enable you to be effective in its economic life. Beyond that, pluralism can prevail. You can continue in the religion of your choice. You can celebrate the art and literature of your people. You can maintain cultural connections with the land of your ancestors. You can raise your children as you see fit, so long as that does not prevent them from assimilating the core values of the society (Cobb, Jr. 2000).

Cobb cites Professor Henry Young's ecological model whereby the unity of all the diverse species does not consist in a homogenization. "Each retains its real difference from all the others. But each contributes to the richness of a whole that is very different from any one of them" (ibid.). These ideas reflect the dynamic tension in a

multicultural country such as the U.S. Historically, Christian academies were first established by the religious right in the 60s and 70s as a flight from racially integrated public schools. A similar situation is effected when the religious right recommends homeschooling as a flight from the public schools that are beginning to accept the full and equal participation of sexual minorities. The question can be posed, “Whose core values will prevail politically, that of inclusive modern diversity or of an exclusive conservative Christian morality?”



CHAPTER 7

LOOKING BACK & AHEAD

The subtitle to this thesis: A Political and Legal Struggle of Denial, Engagement and Abandonment can be viewed as reference points for summarizing the findings of the study. The premise in the subtitle is that actors for the protecting of LGBT American secondary school students operate from a perspective of denial, engagement, or abandonment. These perspectives, however, can change over time. This study focused on the legal and political struggle over a timeframe of approximately a decade and a half from 1992 to 2006. Significant, some might even say “momentous,” changes occurred during that time in actualizing human rights for LGBT youth.

7.1 Denial of Bullying Handled by LGBT Political Strategy

Before the shootings at Columbine High School, the few U.S researchers interested in the topic of bullying, were focused on the general school population at an elementary school level. However, the primary victims of bullying and school violence were actual or perceived LGBT secondary schools students. LGBT activists in MA, focused on sexual minority youth in schools, pushed the issue politically and gained gubernatorial action (Perrotti and Westheimer 2001). In 1992, the primary actors—educators, psychologists, and LGBT community advocates, including the founder of GLSEN, Kevin Jennings—were commissioned by the MA governor to investigate the issue and find a solution. The commission’s result was the creation of the MA Safe Schools Program for Gay and Lesbian Students—discussed extensively in Chapter 3. The political activity on behalf of the MA governor’s election and the subsequent statewide successful activities of the Safe Schools program illustrate “engagement” with, not only, meeting social needs but also with political realities. The program is a model for the nation.

7.2 Denial of Bullying Handled by Lawsuits

As discussed in Chapter 4, the precedent setting lawsuits won by Jamie Nabozny and Alana Flores, et al. reverberated in school districts around the country. The amount of the settlements in the million-dollar range was one factor. But finding school districts and employees responsible for allowing student on student violence was even more important in shattering the denial of responsibility of school administrators and other staff toward protecting the rights of LGBT students.

The do-nothing attitude of administrators in small-town Ashland, Wisconsin and Morgan Hill, California were very similar though thousands of miles away in distance, history, and socio-economic environment. There was, therefore, something operating in the mentality of these administrators, male and female, that was intrinsic to American culture as a whole. In both instances, the administrators put the blame on the victims for being “openly gay” with the implied assumption that gays must be invisible, or bear responsibility for provoking negative responses from their peers. Thus, LGBT students were not permitted to express who they were but had to follow the heterosexist script and gender conformity promoted by the dominant culture. From the report of the incidents in the lawsuits, it was clear that the administrators didn’t care what happened to gay and lesbian students in their care in contrast to heterosexual ones. There was a double standard operating when it came to protection from violence and delivering justice to the victimized. The victorious lawsuits pointed out that the school administrators in Ashland and Morgan Hill were in denial about the violations of human rights of the sexual minority students in their care. Even after the abused students attempted suicide, they were ignored and the peer harassment went unabated and uncontrolled. This neglect of responsibility on the part of the administrators was criminal. If they neglected their own children as they neglected the abused students in their care, family court would probably have taken their children away from them and charged them with the crime of parental neglect. These administrators failed as *parentis locis*. In tracing the careers of several of the Ashland administrators, it is difficult to understand why they were advanced to positions of even more importance as model educators in the area. It can only be concluded that being found guilty of discrimination in a federal court case was irrelevant to the mores of the education leadership in small town Ashland, Wisconsin.

Finally, in the area of denial, mention needs to be made of the perpetrators in Ashland. Is it shocking that four out of the ten are now gay men? No, because as the AAUW and other research shows, children fear being called gay or lesbian more than anything else. Thus, some youth, questioning their sexuality, in a milieu where LGBT persons are subjected to daily denigration by language and physical threats and abuse, react by unconscious denial. And, some reinforce that denial by being abusive to those who are actual or perceived LGBT. This is part of the heterosexist script accompanied by internalized homophobia on the part of those young (and older) people who can't, for whatever reasons accept within themselves their same-sex feelings.

The one-track script, however, is being broken down by the media's portrayal of LGBT lives positively and of social acceptance in, not only major urban centers, but also in small towns and rural areas. Thus, LGBT youth, themselves, are willing to own their identity at earlier ages and come out to friends, parents, schools and communities, usually in that order. The Internet conversations reported in this thesis reflected the quality of a newly found openness for this generation of LGBT youth. These youth are engaged in exploring how to come out, and what it means to themselves as individuals and to those important to them. The lack of denial—the assertion of who one is—comes with joy but also with struggle. The conversations reported problems with rejection from friends, parents, grandparents, and limitations on their life. While these few conversations cannot be said to be a controlled study or representative of LGBT American youth as a whole, they are informative of how support and sharing can occur across the wide divide of geographic distance via the Internet. Using this methodology for qualitative studies offers new opportunities for research, yet to be delineated more fully by other researchers and other topics. This method proved appropriate for an LGBT youth study as it guaranteed anonymity if the participants decided the effects of disclosure would be detrimental to their life situations.

7.3 Engagement of LGBT Advocates in Protecting Rights

Several LGBT advocacy NGOs are involved in protecting the rights of LGBT students. The first ones that come to mind are those with a legal mission: Lambda Legal, NCLR, Transgender Law Center, and their major ally, the ACLU. Besides

providing pro bono legal counsel for suits, they also provide education and informational guides on how to protect one's rights in schools, for example, in organizing GSAs, protecting freedom of expression, and ensuring equal educational benefits. These organizations also work in coalition with each other, thereby, maximizing resources. The degree of dedicated engagement by these NGOs was brought out in the thesis by the years of legal work that went into the Nabozny and Flores cases. It is also relevant to the continuing success of LGBT students rights that not all complaints of abuse need or can go to court. The information available on these NGOs' websites can help individuals to struggle successfully with situations they encounter in their schools. In addition, the NGOs are responsive to queries and questions from individuals and groups.

The other major LGBT NGOs engaged in education issues, rather than law per se, are GLSEN and PFLAG. As discussed in Chapter 6, GLSEN, the third largest LGBT membership organization nationwide is engaged at all levels, from national, to state, to local. Their network of educators keeps a pulse on the current situation in schools at every level, K-12 through university. Networks have local chapters that meet and deal with the situations that arise in their areas as well as promoting activities and disseminating information among other educators through workshops and annual conventions. PFLAG serves similar function with the added plus of being able to confront and cooperate with other parents at local school board meetings on issues of importance to LGBT students and teachers equality.

GSAs operate with support from GLSEN. From one in 1989 to more than 3,000 in 2005 is a remarkable organizing achievement. There are GSAs in every state. Because surveys show that schools with GSAs are safer for LGBT students, the motivation for having one at a school is not only social and supportive but also protective.

The school administrators and educators who denied the Utah students their right to a GSA were defeated in court several times. The student pioneers for their GSA were totally engaged in pursuing their rights; they gained many benefits including empowerment by acting in the political arena. Many other students who are members of GSAs benefit in a variety of ways as was listed in Chapter 6. The benefits are to LGBT students and to their straight allies. To be engaged in a national movement for

equal rights empowers every individual in the cause. A diminution of rights of one group of people is a diminution of all is a premise of activism for human rights. Thus, the straight students benefit by participating, just as Whites benefited by participating in the Black struggle for civil rights in the 60s and as men do by participating in the feminist movement.

The difficulty in GSA participation is that students are only in school for a few years, so there is constant turnover in numbers and the development of programs. Thus, past successes cannot be easily built on. This causes students to be constantly “inventing the wheel” and limits development. GSAs, then, can become an empowering experience for pioneers such as the students in Utah, but for others where there is no external struggle, the benefits may not be so life-changing. However, the internal struggle for those who own a minority sexual identity and are first willing to be out among classmates by joining a GSA, can be just as challenging on a personal level. This was noted by the student in the Internetchat who said that his mother didn't want him to join the GSA at his school.

7.4 Engagement of Religious Right in Opposition LGBT Rights

In the first-hand incidents reported and testimonies included in this thesis, there are only a couple that directly relate to peer harassment of LGBT students on the basis of a religious belief. That is, an expressed religious belief. Jamie Nabozny mentions the court testimony of one of his attackers as saying he thought it was OK at the time to attack Jamie, because being gay was against religion. In the several years it took for the case to come to trial, this same attacker said that he still believed it was against religion but that it was not OK to attack Jamie for it. The other instance is the court case where district court Judge Rheinhardt and his federal circuit court benchmates decided it was an attack on LGBT students when another student wore a T-shirt proclaiming homosexuality to be a sin and that the school administration was correct to prohibit that shirt from being worn in school.

Nevertheless, the religious right advocacy organizations and religious ministries are both condemning of LGBT persons and of programs to protect their human rights in schools. The condemnation can take the form of virulent hate-filled language. In Chapter 6, however, the school audit supported by many religious right

activist organizations is an example of temperate language yet with embedded code words. The terms “homosexual agenda” and “lifestyle” are terms fraught with biased meanings. What is evident from the school audit is that in order for it to be successful, parent volunteers need to participate. In the same way, for safety of LGBT students in the PFLAG school guidelines, parents have to participate. Parents with children in schools are the ones who have credibility with other parents. No parent wants their kids bullied, and they can understand that other parents feel the same. This is the foundation for working together to make schools safe for all—engaging parents from the religious right and those with LGBT children who are the victims of harassment. A concrete example of this approach reported in the thesis regards teachers associations. When GLSEN and religious right teachers groups were able to work on a document together to honor First Amendment rights of freedom of speech and separation of church and state in schools it was a possible major first step in reducing polarization. The polarization occurred when the ADF’s Day of Truth followed GLSEN’s Day of Silence. Disruptive incidents from students allied with either activity occurred in schools on both days, nationwide. This brought awareness on the part of educators, students and parents that polarization was increasing. Coming together to reduce the polarization was organized by an interfaith group. Parents should be able to attempt the same at the local level.

Though pockets of prejudice prevail and GSAs are beneficial in these schools, there is optimism that, in the main, among American teens tolerance of LGBT youth is moving toward acceptance (Savin-Williams 2005). Changing attitudes are also happening among the rest of the U.S. population. A recent Pew Research Poll (3/2006) reports that even on issues as previously divisive as gay marriage, gay adoption, and gays in the military, the numbers against are declining rapidly: “Half of Americans (51%) continue to oppose legalizing gay marriage, but this number has declined significantly from 63% in 2004.... Opposition to gay marriage has fallen across the board, with substantial declines even among Republicans. ” For adoption, the figures are “46% support gay adoption, up from 38% in 1999.” For gays serving in the military, “a 60% majority now favors allowing gays and lesbians to serve openly in the military, up from 52% in 1994” (The Pew Research Center 2006).

7.4.1 Abandonment of Public Schools in Favor of Homeschooling

As for the issue of homeschooling and abandonment of the public schools, that has not been accepted by the majority of the religious right constituency. The public schools remain the central place where American children and youth are educated and socialized. The recommendation of abandonment in favor of homeschooling by Dobson and Moore while possibly a genuine suggestion, leads open the possibility of large profits accruing to their ministries and supplementary businesses of publishing textbooks, media and guides for homeschooling. In contrast to the NGOs struggling for LGBT students' human rights, the religious right's organizations have vast amounts of monies at their disposal raised through tax-free donations and adjunct businesses. From time-to-time the federal government investigates the non-profit tax status of leading ministries, especially those who solicit through radio and TV media. Charges have been brought in several instances and ministers have been found guilty and jailed. This, again, is a political issue as the party in control of the federal government makes the decisions about who and when to investigate and to bring charges through the U.S. Attorney General's Office.

7.5 Objectives of Study Realized

The first thesis objective "to differentiate how American LGBT secondary school students are discriminated against and victimized by homophobia, harassment, and gender conformity and to specify the immediate and secondary effects on victims and oppressors" can be divided into two parts. The first part refers to the different types of discrimination and victimization directed against LGBT students; the second part refers to the effects of the said discrimination and victimization on the victims and on the oppressors. The thesis detailed the various types by defining and focusing on incidents of bullying, verbal, physical and sexual harassment from research studies, statistical surveys, court testimonies, and anecdotal reports. The effects included physical and psychological harm and denial of equal educational opportunity. Secondary effects included lifelong physical and mental injuries, the latter from lack of self-esteem, stress and anxiety and even post-traumatic stress syndrome. All of the above harms would fit under the category of human rights violations. The high

absenteeism of LGBT students testified to their own self-protective mechanisms to escape from torturous school situations. This doubled the effect of the violations.

Although, the findings were mainly concerned with the effects experienced by the victims, the effects on the oppressors came out in the court cases particularly for the school administrators, teachers, and staff who were judged guilty by the courts and penalized by large cash settlements for the victims. There is a lack of studies specifically focusing on the peer oppressors of LGBT students. This is an area that could be fruitfully explored in future studies. However, there are studies in the field of criminology that predict a higher ratio of adult criminal and anti-social behavior by school bullies in general. These studies did not specify whether the victims of these bullies were LGBT or not. For this reason, these studies were not included as a focus of the thesis.

On the other hand, it can be noted that in the school shootings incidents, particularly regarding the Columbine school massacre, the two shooters who had been subjected to homophobic bullying did single out and shoot their peer oppressors. Also, two thirds of the school shooters in all reported instances were victims of homophobic bullying and revenge against peer and adult staff oppressors cannot be discounted. This could be considered an effect on the oppressors—they suffered violent injuries and even death in revenge from those they bullied. Also, these instances of school shooting violence could be considered to have caused an effect on American culture and society, as a whole, because the interest in curtailing school bullying took off after Columbine. The homophobic aspect, however, though in the forefront of the news, was seemingly dropped as generic Olweus-type violence prevention programs were highlighted and adopted by educators. Whether this was conscious or inadvertent because it was the only organized program available could not be determined. However, the state of Massachusetts had already adopted a program for the protection of gay and lesbian students years before Columbine. This reveals that different locales in the US use different approaches to school bullying when it concerns LGBT victims and their oppressors, whether peers, educators, officials, parents, or the public at large. The approaches again can be said to fit the concepts of denial, engagement, or abandonment.

The second objective to describe the legal mechanisms (local, state, federal and international) that might protect LGBT students from the discrimination and violence of homophobia, harassment, and gender conformity was illustrated in the chapters on policies and laws, state, federal, and international. The conclusion of the study is that anti-discrimination policies and laws that do not specify sexual orientation and gender expression as a category offer little protection. Statistical reports, though few in number are beginning to confirm this conclusion. A single federal law modeled on Title IX with a compliance officer in every school responsible for complaint investigations and reporting to the federal civil rights office could cause an immediate nationwide difference in implementing protection for LGBT students. This is recommended. A significant finding of the study was that anti-discrimination laws protecting the employment of LGBT teachers and staff were important in creating a positive atmosphere and role models for LGBT students and in offsetting the effects of homophobic school environments. The endemic homophobia represented by the wholesale use in US schools of negative phrases as “that’s so gay,” and outright name-calling identified in surveys and anecdotally could not be challenged legally because of the vast amount of resources required, but this language could be challenged by out and allied teachers and administrators who did not fear losing their jobs. The challenge could be classroom by classroom and school by school.

The third objective “to evaluate how students are empowered to initiate, organize, and sustain support clubs such as GSAs and other LGBT activities within the school environment” was met by referring to the presence of GLSEN on the Internet and its organizational skills and resources for outreach and developing programs for individual students and teachers to take the lead in preparing their schools for a GSA. National and local media reporting on GSA challenges in school districts around the nation put the concept on the table and in the agenda of students for and against and those of supporting adults, administrators and political groups. Court challenges and the effect on the LGBT students involved added to the empowerment of initiating students. The concept of gay and straight together added to the sustainability of GSAs. In the case of MA, the financial support from the state guaranteed the establishing and continuance of school GSAs within their state. Virtual

GSAs on the Internet performed important functions of support, discussion, and problem solving as illustrated by the Internet chats.

The fourth objective “to differentiate the laws, socio-political values, and religious beliefs cited by political conservatives and the religious right in challenging anti-bullying laws, LGBT education programs, and support clubs (GSAs), etc., and to describe alternative views from liberals including religious groups” was presented in several sections of the study. The historical perspective of the thesis tracing the religious right and conservative opposition to sexual minority rights placed the present challenges in context. Biblical literalism and organized opposition on all levels, local, state and national as promulgated by radio and televangelists created a powerful coalition intent on stopping any reference to homosexuality in laws, school curriculum, clubs and programs. The GSAs and their organized activities are moving forward but the alternative clubs and activities from the right have polarized the situation. Time will tell whether the recent agreement of both sides on first amendment rights of freedom of expression will be an effective step toward toleration, live and let live. Transgender and gender nonconforming students are particularly vulnerable to the religious rights condemnations that promote traditional social roles of masculinity and femininity. Perceived LGBT students are the greatest number of victims and this can not only be laid at the door of U.S. culture but mainly at the door of the sex-role traditionalist religious right. Liberal denominations are fewer in numbers and less well-organized but some are coming to the forefront in supporting LGBT rights. Religious denominational schools are not entirely opposed and a minority of Catholic schools—the largest denomination with private schools—has GSAs.

Depending on the political leadership in each state, curriculum on minority sexual orientation and gender expression is included or excluded from the schools. On a national level, federal education acts under the conservative Bush administration allow parents to opt their children out of any course, class, assembly, or training that conflicts with their religious beliefs. With a possible liberal Democratic administration, the pendulum could swing the other way in the near future.

The last objective to evaluate the strategies liberals employ to advance human rights protection to LGBT secondary students and the opposing strategies of

conservatives and the religious right was shown in detail by contrasting the two approaches, their differences and similarities. Both use legal arms to bring court challenges but the liberals started first and have greater involvement. The precedent-setting court cases won by LGBT and their liberal allies have changed the direction of the interpretation of constitutional law in favor of equality for LGBT victimized students and GSAs. These are major victories with little chance of reversal. The liberals also focus on professional organizations, major corporations, and mass media. The American Psychological Association and the American Pediatrics Associations influence on society is far-reaching. Others might be considered preaching to the choir, but resolutions still carry weight with their membership especially new professionals in the field. The major corporations in sponsoring equal employment opportunity for LGBT workers and public LGBT events and TV programs serve a very important role in setting a tolerant, accepting and liberal criteria in the workplace which should in time filter down to other more conservative institutions such as schools and churches.

On the other hand, the religious right focuses on churches and even a whole large denomination, such as taking over the leadership of the Southern Baptists and directing it toward opposition to LGBT rights and abandonment of the public schools because of LGBT presence and curriculum. Because of the power of the mass media and of corporate support and advances on behalf of LGBT rights, the religious right has organized nationwide boycotts of major corporations' products. So far, the boycotts have met with limited success although some corporations are considering backing away from LGBT identified support.

On the local level at school board and community meetings, the religious right can initiate a grassroots opposition that can be tenacious. The LGBT liberal groups have not been able to counter the immediacy of the conservative response. Though LGBT parents are in practically every county in the U.S., this does not mean that these parents are willing to be publicly out at school board meetings or any other political event to challenge the representatives of a conservative milieu. Until every LGBT person can be out, the local politics of conservative areas will be controlled by the activism of the religious-right adherents.

Finally, this study concludes optimistically that the protection of the human rights of LGBT American secondary students is proceeding forward, not as fast as it should be to prevent abuse of the entire LGBT school population, but with a pace that gains ground day by day due to the efforts of NGOS, creative writers and mass media producers, civil rights lawyers, LGBT activists, and most of all the brave and proud LGBT students themselves who are willing to be visible and to fight for their human rights.



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