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Recent Topics Related to Human Sexual Practices

Sexual Practices and Sexual Crimes

Edited by Dhastagir Sultan Sheriff



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Meet the editor



Dhastagir Sultan Sheriff is a member of the European Society for Human Reproduction and Early Human Development, the Association of Physiologists and Pharmacologists of India, and the National Academy of Medical Sciences, New Delhi. He is also a resource person for UNESCO. Dr. Sheriff has authored five books, including a textbook on medical biochemistry with additional interest in human sexology. He has published editorials in the *British Journal of Sexology*, *Journal of Royal Society of Medicine*, *Postgraduate Medicine*, and *The Scientist*. He was a former Rotarian, Citizen Ambassador, and was selected for the Ford Foundation Fellowship.

Contents

Preface	XI
Chapter 1 Introductory Chapter: Woman's Claim to Sex Equality <i>by Dhastagir Sultan Sheriff</i>	1
Chapter 2 What Is Wrong with Us? The Growing Issue of Child Sex Trafficking Worldwide <i>by Sara Spowart</i>	5
Chapter 3 Sexual Harassment <i>by Lucy Matsayi Aji, Naomi Nuhu Adamu, Vivian Azumi Kefas, Augustina Godwin and Chrispina Garba Hassan</i>	17
Chapter 4 Unsettling the System of Sexual and Ethnic Oppression in Shyam Selvadurai's <i>Funny Boy</i> <i>by Chitra Sadagopan and Yanuka Devi Baniya</i>	37
Chapter 5 Reparations for Sexual and Gender-Based Crimes: A Premiere Applying an Intersectional Approach at the International Criminal Court? <i>by Ana Martin</i>	49
Chapter 6 Mapping out COVID-19, Social Distancing, Pandemic in Juxtaposition with Sexual Desires Practices in a Gay Latino Immigrants Men [GLIM] Study <i>by Gerardo Betancourt</i>	69

Preface

Sexual health is defined as a state of physical emotional, mental, and social well-being in relation to sexuality. Sexual rights are basic, inalienable rights regarding sexuality, both positive and negative. Negative rights are freedoms from, for example, sexual violence. Positive rights are freedoms to, for example, express one's sexuality.

Human sexuality is influenced by mass media, cultural differences, variation in sexual techniques, masturbation, premarital sex, and homosexuality. Apart from that there is the growing problem of human trafficking.

If we analyze the influence of mass media, mass media exposure may make people think what you see is what you practice. Mass media may set a definition of what is and is not important in sexual behavior. What mass media show as role models may lead to imitation, as imitation is the most important form of flattery. The Internet exerts a very powerful influence on societal sexual behavior. It has both positive and negative influences. Most societies regulate sexual behavior to avoid social disruptions and loss of cultural identity. Forced sexual relations are considered as rape in many societies.

Variations in sexual techniques

There are few societies in which kissing is unknown and there are many variations in kissing techniques. In some societies, inflicting pain on a partner is a common sexual behavior. The frequency of intercourse for married couples varies considerably from one culture to the next. Very few societies encourage people to engage in sexual intercourse at particular times. Instead, most groups have restrictions that forbid intercourse at certain times or in certain situations.

Masturbation

Masturbation is self-stimulation of the genitals to produce sexual arousal and it varies widely across cultures. Almost all human societies express some disapproval of adult masturbation, ranging from mild ridicule to severe punishment. However, at least some adults in all societies appear to practice it.

Premarital and extramarital sex

Societies differ in their "rules" regarding premarital and extramarital sex. Extramarital sex is complex and prohibited in most cultures. Extramarital sex ranks second only to incest as the most prohibited type of sexual contact. Even when extramarital sex is permitted, it is subjected to regulations.

Sex with same-gender partners

A wide range of attitudes toward same-gender sexual expression exists in various cultures. There is wide variation in attitudes toward homosexuality and same-gender behavior. No matter how a particular society views homosexuality, the behavior always occurs in at least some individuals. Same-gender sexual behavior is never the predominant form of sexual behavior for adults in any of the societies studied. Sexual identity as an unvarying, lifelong characteristic of the self is unknown or rare in some cultures.

Standards of attractiveness

In all human societies physical characteristics are important in determining whom one chooses as a sex partner. What is considered attractive varies considerably.

The book discusses the different types of human sexual behavior. Chapters discuss sex equality, child sex trafficking, sexual harassment, sexual oppression, sexual and gender-based crimes, and sexual practices in the context of COVID-19.

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Introductory Chapter: Woman's Claim to Sex Equality

Dhastagir Sultan Sheriff

1. Introduction

Sexuality plays an important role in human life. Sexuality is a not just a biological instinct but much more than. It encompasses love, passion, and mutual respect apart from its inherent pleasurable act. When it comes to discussing sex openly remained a taboo for long.

“The right to joy cannot be claimed in the same way as one claims the right to put a voting paper in a ballot box. A human being's erotic aptitudes can only be developed where the right atmosphere for them exists, and where the attitudes of both persons concerned are in harmonious sympathy. That is why the erotic rights of women have been the last of all to be attained” [1].

These words indicate the social restrictions imposed upon women to express or voice their sexual eroticism openly. It is considered as immodest. In spite of their sexual pleasure being undermined, women considered marriage as an institution to nurture the concept of procreation and family.

It is not merely biological instinct. Yet many women could not discuss their physical needs and enjoy their sexual relationships.

They pointed out that there was a considerable surplus of women in the population, and that, in consequence, some women would inevitably have to go through life with no prospect of satisfying their instinctual urges toward sexual expression and toward maternity unless they were willing to pay the penalties which society imposes upon those who defy its convention. “The problem of the surplus woman”—a term I have never liked—was much discussed after the First World War when it presented itself in peculiarly acute form since so many of the flower of manhood had been lost in battle [1].

To these reformers, then, the “love rights” of women were the right to sexual expression and the right to motherhood. They demanded that unmarried women should be able to enjoy these rights without social stigma or legal disabilities [2–6].

To maintain bodily integrity without mutilation, to have the right to express one's gender identity, to develop a preferred sexual orientation, to beget children without domestic violence form the basic women's sexual and reproductive health rights.

The practice of female genital mutilation (FGM) is done, and many millions of girls and women are affected. Child marriage is still practiced mostly in conflict-affected and refugee camps. A total of 14 Arab women face gender-based violence, forced marriage, female genital mutilation, restriction imposed in wearing dress, getting education, employment, and participation in public life.

The two-finger method to identify virginity is still followed in many of the Arab nations, The most common problem faced by Arab women in Libya is being forced to

marry as second or third wife to an already married elderly person. The capacity of the groom to pay the dowry to marry a woman makes them get married fast. Younger adults without such wealth remain bachelors or get married outside the country (get married to women from certain European countries).

The patriarchal mentality promotes early marriage to beget children and repeat pregnancies without spacing are detrimental to maternal health [2–6].

It is reported that married women experience no erotic pleasure or have the freedom to express their desire for sexual gratification.

With the various proposals, which sprang from this discussion, I am not here concerned; for the most part, they consisted of suggestions for some form of “near marriage” relationship, which would—to put it rather brutally—“share out” the available man power. What we need to recognize is that the love “rights” of women are not necessarily attained by marriage; that indeed, many married women experience no erotic pleasure whatever through physical union. It follows, therefore, that if the love rights of women are to be asserted, the position of married women is of great importance since the majority of women marry [5, 6].

In a relationship, which is based upon equality, as the free marriage is, there must clearly be equality of “rights” in the realm of sex. Husbands claim certain rights. The phrase “exercise the rights of a husband” has become a cliché. But we rarely hear of wives claiming their sex rights. Even at gatherings of women who devote much thought to marriage problems, there is a marked reluctance to discuss this matter. In spite of the flood of enlightenment upon sex, which has done an immense amount of good in recent years, the overwhelming majority of wives accept what comes to them for all the world as though they had no rights at all in the sphere of physical intimacy within marriage, and as though it would be highly indecent even to consider that they had any such rights [6].

In spite of flood information available on human sexuality, erotic rights of women are still remained ignored. Married women also cannot express their emotional feelings or the need to enjoy their sexual relationship openly. Expression of such sexual feelings remains a taboo in society. The society may have adopted live in relationships as part of corporate culture to enjoy sexual freedom. Yet women remain silent when it comes to their sexual rights. Laws, social reforms, gender identity, and books on human sexuality may open the eyes of society to take notice of sex and sexuality. Still, human trafficking, child sexual abuse, rape, and domestic violence haunt the society. When sexuality becomes a part of education, teenage pregnancy, sexually transmitted diseases, AIDS, and other sex-related social problems remain a bone of contention.

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Chapter 2

What Is Wrong with Us? The Growing Issue of Child Sex Trafficking Worldwide

Sara Spowart

Abstract

Sex trafficking of children and adolescents has been on the rise globally, particularly among the world's most vulnerable individuals. These trafficked individuals, if they survive, are left with significant trauma, as well as severe mental and physical health issues and even disabilities. Approximately 80% of trafficked persons are women, and the average age of trafficking is in early adolescence. Sex trafficking of children and adolescents creates nearly irreparable harm and suffering for the individuals that survive, with very high rates of suicide and suicidal ideation resulting from their horrific abuse. Prevention and sexual abuse awareness are important for reducing the number of children and women that are trafficked. However, an even more effective tool is to address the buyer, or demand side, of the sex trafficking industry. Until the demand side and the buyers are sufficiently addressed, the industry will always exist because there is a demand to be met and a market for the services. This chapter explores the importance and critical necessity of addressing the poorly addressed issue of the buyer and the demand side of child sex trafficking.

Keywords: sex trafficking, commercial sexual exploitation, global health, vulnerable populations, human security

1. Introduction

Without men's demand for prostitute women, there would be no such women.

-Sven-Axel Månsson, Sweden, 2003.

Sex trafficking of minors is a growing concern worldwide, and is a result of the growing demand by male buyers for sex with minor age children. Sex trafficking is a form of extreme sexual violence. Sexual violence according to the World Health Organization refers to “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work” [1, 2]. This violence occurs through different forms including, coercion, social pressure, intimidation or by physical assault [1, 2].

2. Child sex trafficking

The United Nations defines human trafficking as, “The recruitment, transportation, transfer, harboring or receipt of persons by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving payments or benefits to achieve the consent of a person having control over another person for the purposes of exploitation” (Article 3, paragraph (a), [1, 2]). Sex trafficking currently impacts every nation on earth. The number of enslaved, sex trafficked children is now at epidemic levels and continues to rise and take new expressions and outlets. Globalization is considered one of the main culprits in the increase of sex trafficking. There are many factors that cause these increased levels such as an increased demand for commercial sex with minors, an increase in pornography addiction, and patriarchal cultural norms that protect buyers and traffickers and create demand. Also, mainstream platforms like Facebook, Uber, Lyft, Instagram, texting and other forms of social media are all major actors that support the trafficking industry. A majority of the sex trafficking of minors is ‘hidden in plain sight’ through mainstream social media, and the buyers can make these purchases even from their work computers and at their places of work [3].

It is estimated that approximately 95% of sex trafficking victims are trafficked at 12 or 13 years of age and the majority are female. Addressing child sexual abuse is a way to prevent and reduce sex trafficking. However, an even more effective way to stop sex trafficking is to address the demand side of the buyers. There are different aspects to the demand for victims of sex trafficking. The first concerns men who seek out victims for the purpose of purchasing sex acts. The second are those that profit from the sex industry such as traffickers, pimps, and corrupt officials that make a profit from supplying victims. The third aspect is a culture that normalizes demand for victim through social media normalization of prostitution, sex work and pornography. Cultural ideas that children and women are less valuable also contribute to the promotion and normalization of demand. These cultural ideas dismiss the victimization, force, fraud, coercion and abuse that these victims experience [4, 5].

In a *Save the Children* Swedish study called “The Client Goes Unnoticed,” an investigation was made on the factors that influence men to pay for sex with children and adolescents and what their perspective, feelings and thoughts were. Certain factors were identified including a permissive education where men were taught to have more freedom than women regarding decision-making power; an education where men expect to have no negative criticism of their sexual activity; experiencing pleasure from participating in a taboo activity through purchasing sex acts with children. In addition, these men reported that they used the purchase of sex with children as a method (1) to affirm their masculinity, (2) affirm and build their confidence on their ability to perform sexually, (3) to demonstrate power and control over someone in a submissive, weaker position, (4) to increase their self-esteem through the imbalanced power dynamic of an adult male with a child, (5) and to attain greater levels of pleasure by experimenting with children and their smaller size [4, 6].

This study highlighted the lack of empathy, dehumanization and disregard of victims, and self-focused mindset these men had. It demonstrated how these men were solely focused on what they wanted at the expense of the victims. This study identified that the root cause of child sex trafficking was the demand for it by the buyers. Essentially, it shows that the industry is created due to the growing demand by clients that specifically want the service of purchasing sex acts with children [4, 5].

3. Why is sex trafficking wrong?

Human sex trafficking exists in the vacuum of a market system where victims are treated as products to be used repeatedly, and are bought and sold as slaves. There are three aspects that allow the sex trafficking industry to flourish. These include the continual supply of individuals to be trafficked in vulnerable situations and countries, the endless demand for sex services, and the organized criminal networks that have infiltrated the industry. Supply refers to the availability of sex services. The traffickers are intermediary actors to supply the 'product' to meet the demand. The demand refers to the buyers of sex acts and their desire for a certain commodity. In the case of child sex trafficking, the desire is for sex acts with minor children [7, 8].

A study by Murat et al. [9], explored the long-term psychological consequences of sexual abuse and its related factors for children and adolescents. Sexual violence is an established risk factor for psychological issues that last into adulthood such as anxiety, depression, anger, PTSD, suicide attempts, low self-esteem, eating disorders, addictions, personality disorders, and numerous other psychological and physiological concerns [9]. Despite cultural norms in social media that may propagate certain ideas, the research that exists indicates that the vast majority of sex workers do not want to work in the sex industry and would leave if they could. A study in 1998 on sex industries in Indonesia, Malaysia, the Philippines and Thailand identified that 96% of surveyed sex workers would leave the industry if they could. They were trapped and unable to leave. A major international study of 854 individuals in prostitution over nine countries of Canada, Columbia, Germany, Mexico, South Africa, Thailand, Turkey, the United States and Zambia identified that 89% survey participants wanted to get out of prostitution [4, 6].

A study in 1995 of prostitutes in San Francisco found that out of 130 women, 88% want to leave sex work. Another study of law enforcement officials and social service workers found that 71-76% of respondents indicated that women in the fields of prostitution were not able to leave and were kept trapped and enslaved in sex work. The lines of distinction between sex workers that are trafficked or not trafficked are gray and go back and forth, but predominantly sex workers are trapped in their work. This enslavement has major implications. A study in Minnesota found that 46% of women in sex work had attempted suicide and 19% physically harmed themselves in ways such as cutting. Other studies have found that 65% of women in sex work had attempted suicide and 38% had attempted it multiple times [4, 6]. Essentially, sex trafficking is a form of sanctioned rape with an enslaved human being. It is comprised of non-consensual sex acts with victims, and results in severe psychological and physical harm as well as a great propensity towards suicide by the victims that have no way out, and no way to process the violence they have experienced.

The Council for Prostitution Alternatives in Portland, Oregon obtained information on violence experienced by 55 victim/survivors of prostitution. This survey found that 81% of women had experienced aggravated assault and had been brutally physically assault on average, 45 times a year. Furthermore, almost 80% had been raped by buyers on an average of 33 times a year. Nearly half of these women had experienced torture by men and/or victims of kidnapping/abduction an average of 5 times a year. Furthermore, the National Coalition Against Sexual Assault reported that approximately 60% of female prostitutes were victims of kidnapping largely by men that paid them for sex acts. Study after study demonstrated that a majority of respondents are victims of kidnapping, rape, severe physical assault, and other forms of violence [4, 10].

Some of the greatest crimes are perpetrated against prostitutes and the abuse committed against them. Another study done in the 1980s of 200 women and girls in the San Francisco, California region found that the vast majority were minors and under the age of 16 years. Also, 70% of them had been sexually assaulted an average of 31 times, as well as numerous accounts of physical abuse. When interviewed, the women and girls believed the men beat and raped them because the men enjoyed it, it helped to increase their sexual excitement and enjoyment, the men did not want or did not have the money to pay for the sex act, and/or that the men hated women. Approximately 75% of victims reported they could not protect themselves from the men's abuse and there was nothing they could do to help themselves or change the situation [4, 6].

4. What is *wrong* with the buyers?

4.1 Patriarchal cultural norms

However, despite the overwhelming victimization experienced by prostitutes/sex trafficking victims, the men that are the buyers create the demand for the existence of the industry. These buyers are predominately men and have been essentially nameless and faceless and referred to as *Johns*. The cultural norm seems to absolve them of responsibility or accountability for creating the existence of the industry. Every dollar they spend on it in any form, is a vote for the sex trafficking industry to exist. Even if it is online and not in person for the purchasing of sex acts, they are contributing to its existence [4, 11].

4.2 Power, control and dehumanization

Research conducted on buyers is growing, but still limited. One study found that men who were aware they had purchased sex from trafficked women did not believe consent from the victim to be a concern. These buyers demonstrated a view that all women and girls in prostitution were objects or commodities to be purchased for a period of time, and did not see them as human beings the same as the buyer. Additionally, some men even preferred purchasing sex from a sex trafficked individual because they felt they would be treated better due to the power imbalance and the buyer's ability to control them. These men also reported that they may have purchased sex from a trafficked individual even though they preferred a consenting individual, because it was cheaper [4, 11].

4.3 Violent and sadistic behavior

Research of men from India, Italy, Thailand and Japan demonstrated that more than 75% of men had a preference for women under 25 years of age and 22% preferred women under 18 years of age [4]. According to anti-trafficking laws, commercial sex with anyone under age 18 years is sex trafficking [4]. It has been identified that there does exist a category of men that prefer and seek out sex trafficking victims. According to Joe Parker, Clinical Director of the Lola Greene Baldwin Foundation, certain men seek victims to commit sadistic, violent sex acts towards them. An issue that is particularly underreported and under-identified is men's acts of violence against sex workers and trafficking victims. The country of Cambodia

for example, is particularly of concern for this. These men who buy sex and commit sadistic acts come from any age or socioeconomic level, any occupation, ethnicity and racial group [4, 11].

The research shows an association and relationship between men who purchase sex acts, and committing criminal acts of violence (including the use of weapons) against these women 'they have paid for' as well as sadistic acts they would not otherwise commit. Some of these women experience such severe violence that they become permanently disabled from the buyers' abuse. It is unknown what portion of men that purchase sex acts also commit acts of violence against the women/children. However, it is established that violent perpetrators seek out prostitutes as they are a population that is devalued and violence tends to be acted on them without recourse or consequence. Men that purchase sex acts have a variety of motives and intentions. They are not all violent, but there is a group of men that are [4, 11].

4.4 Habitual buyers

The research identifies a subgroup of men that likely comprise the bulk of demand for commercial sex, and these are the habitual, regular users. Researcher Sven-Axel Mansson in Sweden identified two groups of buyers, the 'occasional buyers' versus 'habitual buyers.' The occasional buyers were categorized as men that had bought sex on approximately 2-4 occasions over their life span. The occasional buyers were much less likely to engage in acts of violence towards the prostitutes and more law abiding and sensitive to legal repercussions. The habitual buyers comprised the minority of buyers, however they made up the majority of purchases [4].

According to Mansson, these individuals suffer from severe mental illness, sexual addiction to pornography and prostitution, and suffer from financial, work, relationship and overall life functioning difficulty. The habitual buyers comprised the bulk of the violent abuser group, were not concerned about legal measures, and demonstrated anti-social behaviors and disregard for the law. The habitual buyers act out their own psychological problems on the prostitutes. Norwegian researchers identified that it was the habitual buyers that maintained the whole of the buyer side of the commercial sex industry. Therefore, intervention mechanisms that focus on these habitual buyers could potentially change the dynamic of the sex trafficking industry and the horrific abuse perpetrated against women and children by these habitual buyers [4].

In addition to this, the myths and stereotypes regarding the motivation and intentions of the buyers are largely inaccurate. It has been stereotypically believed that the buyers, and especially the habitual buyers are single, lonely men or men that have poor sexual relationships with their partners. The reason stereotypically for seeking out prostitutes was the idea it was fulfilling some unmet need for female sexual companionship. However, the research does not reflect this. In fact, in a survey of almost 500 men in Canada alone, it was found that the majority of the men who purchased sex acts had steady partners, were married, and had families. The great majority that did not yet have children, were planning to in the future [4].

4.5 Sex addiction

In further contrast to the myths, in a U.S. study, 80% of men that purchased sex acts reported that their marriage or committed relationship was sexually satisfying. Interestingly, a Swedish study identified that men that have had a lot of sexual

partners were most likely to purchase sex acts and be habitual buyers. In addition, a majority surveyed in this study reported they were unsatisfied with buying sex acts and even though they were habitual buyers, they wanted to stop. The great majority did not enjoy sex with prostitutes, were trying to stop going and disapproving of their own behavior. Furthermore, it seems that the more a man purchased sex as a commodity, the more they viewed it as a commodity and this perpetuated the attitude of supporting violence against these women and increased the normalization of violent sexuality [4].

4.6 Severe mental illness

Sven-Axel Mansson found in his research that habitual sex buyers have psychological problems concerning their relationship and value to women [4]. Some of these include contempt for women, fear of women, feelings of inadequacy, viewing women as objects and commodities, desire for a disempowered woman and an unusual type of sex. The interactions with the prostitute help affirm these psychological belief systems and help the men to feel more in a state of power and control. Other factors that aggravate the desire to purchase sex acts include the use and persistent use of pornography. Repeated use of pornography helps to desensitize men to sexual violence, to dehumanize women, escalating the depravity that will sexually excite them and then to eventually begin in purchasing sex acts. The purchasing of sex acts is unsatisfying and then the cycle deepens and worsens by continuing a new level of sex addiction [4].

4.7 Overall summary

The greatest take-aways from the research point to the severe psychological disturbance of the men who purchase sex acts, and of particular concern are the habitual sex buyers. In a survey of psychological testing of 140 men that had purchased commercial sex, approximately 33% demonstrated considerable psychopathology and severe mental illness. These men also demonstrated delusional thoughts and beliefs regarding prostitutes that helped to support their behavior and dehumanization of the women. Educational interventions for men may prove effective to help curb the behavior and harmful belief systems [4].

A study of 1342 men that had purchased sex acts identified eight core issues of these men. These include (1) belief that prostitution causes no harm to anyone and is not wrong, (2) Self-centered, narcissistic beliefs regarding sexual relationships, (3) belief that prostitution benefits and is a rewarding job for women, (4) contempt for traditional relationships with women, (5) feelings of inadequacy and low self-worth with women, (6) belief it is the women's fault when there is violence and they are responsible for it, not the perpetrator, (7) pleasure attained from sexual violence, (8) Sex is gained through violence, physical assault and threats [4].

5. Effective interventions with buyers

5.1 John schools

Another mechanism of importance is the initiative of what is referred to as John Schools. These are formal educational programs for purchasers of sex acts. In the

United States and Canada, an increasing number of cities have used educational programs to help re-educate men that have been arrested for purchasing sex acts. The education centers around helping men to understand the damage and harm their conduct has on women, children, families and society. This education is also an attempt to help reconsider and question ideas these men have about buying commercial sex acts and the victims involved, as well as cultivate some semblance of empathy. In addition, the men are educated on their role in creating demand for the industry and that it exists because of them and other men like them [4].

What has been found it that these men that participate in the John Schools usually think sex trafficking is a victimless crime or that *they* (the Johns) are actually the victims by having to take the course and being arrested by police. Different approaches are taken to implement the curriculum including shaming, bringing in sex trafficking survivors to share their experiences, and appealing to the men's narcissism and self-centeredness by helping them understand that it is against their self-interest to participate in purchasing sex acts, etc. The curriculum approach is partly based on the instructors as well as the men attending and their different attitudes and challenges. Another effective educational program is, The Sexual Exploitation Education Program (SEEP). It is one of the first effective programs to address the purchasers of commercial sex acts. However, it was considered controversial and created conflict where survivors of prostitution connected pornography, violence against women and rape to commercial sex acts. The program only last for 2 years and was terminated in February 1997 because of the conflict regarding male identity and violence against women [4].

5.2 First offender prostitution program

Another educational program that has been positive is the First Offender Prostitution Program that was created in San Francisco, California. It aims to educate men that have been arrested for the first time for purchasing sex acts. The education provides information on the negative impacts of prostitution on communities as well as the survivor testimonies and education on sex addiction. It has received awards and recognition for its success and won the Innovations in American Government Award as well as many other awards. This program has been replicated and implemented throughout the United States and Canada for first offenders of sex act purchases. There have also been psychoeducation programs such as Project Pathfinder in the United States to help men through psychological testing and psychological education that have been arrested for purchasing sex acts. There are an increasing number of education initiatives and programs for men that have been arrested for purchasing sex acts. This education also helps these men to understand if they have a sex addiction and many find that they do have a sex addiction that has gone untreated after completing the educational programs [4].

The First Offender Prostitution Program in San Francisco found that the program had a positive impact. In a survey of 747 participants that had completed the program, 100% had learned new information and 97% reported it was unlikely or highly unlikely they would purchase sex again in the future and rated the effectiveness as a 4.48/5. However, these evaluations were also taken upon completion of the program. It is important to also have follow-up evaluations to ascertain the longer-term effectiveness and sustainability [4].

These educational programs are impactful however, the great and overwhelming majority of men that engage in child sexual abuse and child sex trafficking

are never arrested and behave behind anonymity. Other methods to address the issue of buyers are greater community and public education on the buyer issue. In addition, judges can order stay-away orders for purchasers of sex acts to stay away from purchasing sex acts under order of incarceration for not abiding by it; driver's licenses can be revoked as a penalty of purchasing sex acts, postcard warnings can be sent to homes through public health initiatives to educate on the sex trafficking of children. Other ways of addressing the issue of buyers and demand are to publish the names of men that have purchased sex acts on billboards. A project titled "Spotlight on Prostitution" in Omaha, Nebraska displayed billboards with the names of men that were convicted of purchasing sex acts and this proved to be a positive deterrent [4, 12].

Other effective initiatives include completion of formal counseling programs for men that have purchased sex acts or have forms of sex addiction. The Salvation Army's Wellspring Center provides an individually based, 8-week counseling program through lawyer referrals for men that have been arrested for purchasing sex acts. The program entails a significant amount of client education regarding prostitution and challenges the men's preconceived notions that the women engage in prostitution because they like it and it is a choice and that it is a victimless crime [4].

5.3 Swedish case study

Sweden is a unique case study in addressing the issue of child sex trafficking and child sexual abuse through commercial sex acts. Sweden is the first country worldwide to pass a law that criminalizes the buyers for purchasing sex acts. In 1998, the "Act Prohibiting the Purchase of Sexual Services" was passed. This law makes it illegal to buy sex, but not sell one's body for these services [13]. The aim of this law is to punish and deter buyers but not penalize women in the system that may be trafficked. It is part of a larger initiative to counteract violence against women and promote gender equality. This law is also gender neutral. It was revolutionary in its definition of prostitution as a type of male violence against women and a human rights offense. Sweden is the most progressive country in the world on this matter as it views prostitution as a way to oppress and degrade women. Furthermore, approximately 80% of their population agrees with this law. This law has resulted in numerous prosecutions and convictions every year, as well as a major decrease in women and children in prostitution, and also the number of men who participate in commercial sex acts. In addition to this, Sweden has experienced a significant drop in its criminal activity with pimps and traffickers as Sweden is no longer viewed as a good market economy to sell sex [4].

Since this law has passed, the recruitment of new individuals into sex work has almost stopped. To date, this is the most significant and effective intervention to curb sex trafficking of children in the world. The average age someone is recruited into prostitution is approximately 14 years old and the average age of the buyers is approximately 44 years [13, 14]. However, the effectiveness of the law is ultimately due to the attitudes of local police force leadership. Although 80% of the population supports it, the local police are needed to implement it [13]. As in a majority of the world, Sweden's police force has a largely conservative, male and homosocial culture. Initially there was resistance and criticism by Swedish police for implementing the law. However, education regarding prostitution and trafficking in human beings was implemented for the police to specifically help them understand the law and its

potential to reduce or even eliminate child sex trafficking. Since the police education programs were implemented, the criticism and resistance towards the law from police have stopped [13, 15].

The law and the re-education of the police and police support has been astoundingly successful compared to other child sex trafficking initiatives in the world. A year after the first cohort of police completed the education program there was a 300% increase in arrests due to the changed attitudes and understanding regarding trafficking and victims of trafficking and their buyers. In addition to this, all Swedish laws are applicable to Swedish citizens even when they are out of the country. This is critical because there is also a growing problem of child sex tourism that exists where men travel to regions with vulnerable situations. However, incredibly since this law was enacted there has been no increase in the Swedish men that travel abroad as sex tourists. Due to fear of arrest, the activity engaged in by these men has significantly decreased [13, 15].

Another effective measure in addition to the new law and the police force education is a national awareness campaign against trafficking of persons, and particularly of women and children that was enacted in Sweden in 2002 and 2003. This initiative provided education and poster campaigns about victims of prostitution and trafficking to government and public authorities, NGOs, the general public and media, as well as potential sex buyers. Since this law has been enacted a significant number of women have been able to leave the sex work industry entirely. It has brought successful prosecutions not only for the purchase of sexual services but also for other crimes includes child sexual abuse, rape and physical assault. Other countries are using Sweden as an example and model to follow in the issue of sex trafficking. Countries such as South Africa, Venezuela, Lithuania and Estonia are using Sweden's example to try to improve these issues in their own countries [13].

6. Conclusion

This perspective chapter discusses the necessity of addressing the buyer and demand side of the sex trafficking of children. The trafficking and prostitution of women and children is among the fastest growing industries worldwide. It is growing more rapidly than either the drug or arms trafficking industries. It has seen a significant increase in recent decades with the rise of globalization and normalization of prostitution for sexual entertainment [13]. As long as there is a demand, an industry will exist. By addressing and reducing demand, we reduce and eventually eradicate the industry. The evidence overwhelmingly demonstrates that maintaining anonymity and lack of accountability around this issue only strengthens and deepens demand and helps the industry to grow. With the growing level and sophistication of international criminal activity around sex trafficking worldwide, a new approach is needed that seriously addresses the demand side and the role of the buyer. As long as demand exists, there will be an industry that abuses and enslaves children [4].

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Conflict of interest

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Chapter 3

Sexual Harassment

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Abstract

Sexual harassment is a form of harassment that involves unwelcome sexual advances, comments, demand for sexual favors, or other verbal or physical behavior of a sexual nature. It is a violation of a person's dignity and can create a hostile, intimidating, or offensive environment. Sexual harassment can occur in various settings, including workplaces, schools, public spaces, or online platforms. It can be perpetrated by individuals of any gender against individuals of any gender. Both men and women can be victims or perpetrators of sexual harassment. The forms of sexual harassment include unwelcome sexual advances, persistent and unwanted sexual comments, jokes, or gestures, displaying or sharing sexually explicit images, using power or authority to pressure someone into sexual activity. It is also crucial to recognize that the impact of sexual harassment goes beyond the immediate incident and can have long-lasting effects on the victim's mental, emotional, and physical well-being. Many countries have laws and policies in place to address and prevent sexual harassment. Some of the coping strategies for victims may include, encouraging the victim to speak up, provide support, seeking assistance from organizations specializing in handling such cases, such as counselors, psychologist, human resources departments, help lines, or legal services.

Keywords: sexual harassment, forms of sexual harassment, causes of sexual harassment, consequences of sexual harassment, coping strategies

1. Introduction

Sexual harassment is a ubiquitous and damaging type of gender-based discrimination that involves unwelcome sexual advances, requests for sexual favors, or other sexual behavior that is expressed verbally or physically. It creates a hostile or intimidating environment and can occur in various settings, including the workplace, educational institutions, public spaces, and even online. Sexual harassment can have profound and lasting effects on victims, often leading to emotional distress, damage to self-esteem, and a negative impact on their overall well-being. Any unwanted or inappropriate sexual approaches, requests for sexual favors, or other verbal, nonverbal, or physical activity of a sexual character that fosters an uncomfortable or hostile environment are all considered to be sexual harassment.

2. Definition of sexual harassment

Sexual harassment refers to unwelcome and inappropriate behavior of a sexual nature that creates a hostile, intimidating, or offensive environment for the victim. Johnson et al. [1], opine that gender harassment refers to verbal and nonverbal behaviors that express hostility toward, objectification of, exclusion of, or second-class status of members of one gender. Unwanted sexual attention refers to verbally or physically unwanted sexual advances, which can include assault. Sexual coercion refers to when favorable professional or educational treatment is contingent on sexual activity. According to the report of [2], sexual harassment is seen as a type of sex discrimination in numerous nations, including the United States, the United Kingdom, and Australia. Sexual harassment is defined by the Australian Sex Discrimination Act 1984, where they performed their research, as unwanted sexual advances or requests for sexual favors that can fairly be expected to offend, degrade, or frighten the harassed person. According to Suleiman [3], sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and any physical, verbal, or nonverbal behavior that demands or rejects submission to or rejection of such behavior, either explicitly or implicitly. Examples of such behavior include threats, intimidation, taunting, unwelcome touching, unwelcome kissing, phonographic, and other similar behaviors. According to UVA [4], sexual harassment is any action that has a sexual overtone and affects someone's dignity in some way. It could be expressed verbally (comments, innuendo), nonverbally (inappropriate looking, certain movements), or physically (touching). Sexual harassment is said to be a form of social control by men to "keep women in their places. Sexual harassment, as defined by the University of Zambia's sexual harassment policy, is "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when submission to or disapproval of this conduct explicitly or implicitly affects a person's employment or education, unreasonably interferes with a person's work or educational performance or creates an intimidating, hostile, or offensive working or learning environment. Harassment may occur between anyone, and it is also common among members of the campus community: students, faculty, staff, and administrators. Harassment may occur between anyone, and it is also common among members of the campus community: students, faculty, staff, and administrators.

sexual harassment can be defined as Severe or widespread sexually explicit verbal, visual, or physical conduct that is undesirable, impacts working conditions, or fosters a hostile work environment. If the behavior is accepted, it is not sexual harassment. In order to let the harasser know that their actions are upsetting and that you would like them to stop, it is crucial to do so in writing or vocally. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and verbal, physical, or nonverbal behavior that demands or rejects submission to or rejection of such behavior, either explicitly or implicitly, including threats, intimidation, taunting, unwanted touching, unwanted kissing, and so forth [2, 5].

SIU (2020) "Any unwelcome conduct based on an individual's actual or perceived race, color, religion, national origin, ancestry, age, sex, marital status, status under an order of protection, disability, military status, sexual orientation, pregnancy, unfavorable discharge from military service, or citizenship status that has the purpose or effect of materially interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment" is considered harassment.

The term “working environment” as used in this definition refers to more than just the actual place where an employee is allocated to carry out his or her duties. “Sexual harassment” refers to any unwanted sexual advances, requests for sexual favors, or other sexually suggestive behavior when any of the following conditions are met: (1) such behavior is made, explicitly or implicitly, a requirement of employment; (2) such behavior is the basis for employment decisions that affect the individual; or (3) such behavior substantially interferes with the person.

The term “gender harassment” refers to sex-based harassment that does not have a sexual overtone, such as making derogatory remarks, making hostile remarks, excluding others, silencing them, or acting in a stereotypical manner. Sexual harassment is unwanted physical, verbal, or nonverbal behavior that is sexual in nature, such as touching, making sexually explicit comments about someone’s appearance or body, stalking, sending sexually explicit photographs, or making sexual jokes [6]. According to Latcheva [7], we use the idea of gender-based violence as a framework for comprehending various forms of gender-based violence, such as date rape, sexual assault, and sexual harassment. So, from bullying and sexist language to sexual assault and rape, sexual harassment is a continuum of various forms of real and prospective gender-based violence that present in higher education settings. Additionally, this is consistent with the prevailing viewpoint supported by a thorough assessment of national incentives for sexual harassment in EU member states [8]. Above all, sexual harassment is an indication of power dynamics. Because females frequently lack power, are in more vulnerable and insecure positions than men, lack confidence, or have been conditioned to suffer in silence, women are considerably more likely to become victims of sexual harassment. It is crucial to examine some of the root causes of this situation in order to comprehend why women experience the great majority of sexual harassment.

Grossly offensive sexual language and nonverbal behaviors that are directed toward a person’s gender, gender identity, or sexual orientation are referred to as gender harassment. Gender harassment takes many different forms, including flashing, displaying sexual objects or gestures at work, and sending sexually explicit emails or texts to coworkers or friends. This category also includes jokes, phrases, and statements that are sexist or heterosexist. Leering and catcalling, making suggestive or positive and negative comments about a person’s physique, spreading sexual rumors about a person, and electronically exchanging sexualized photographs of a person are all examples of unwanted sexual attention. Unwanted sexual attention is also referred to as unwanted sexual touching, which includes purposeful groping, grasping, squeezing, and rubbing up against another person in a sexual manner. This also applies to obstructing another person’s path or pursuing them sexually, as well as to unwanted, uninvited, and unreturned advances such as persistent solicitations for kisses, dates, or sex, as well as attempted or successful rape. *Quid pro quo SH*, the legal term for sexual coercion, refers to the requirement of sexual favors or contact as a condition of receiving rewards or benefits like employment, a promotion, favorable working conditions, assistance, or a high performance rating. Although it appears that sexual coercion is the most severe and infrequent kind of SH, less severe but more frequent forms of SH can nonetheless cause continuous stress and trauma that is harmful to wellbeing [9, 10]. The issue of sexual harassment is related to the roles that men and women are given in social and economic life, which in turn has an impact on women’s positions in the workforce, either directly or indirectly.

3. Forms of sexual harassment

Sexual harassment can take different forms, including: verbal harassment, non-verbal harassment, physical harassment, visual harassment, quid pro quo harassment. Sexual harassment is not limited to a particular gender and can happen to anyone, regardless of their sex or gender identity. The issue of sexual harassment, therefore, should not be based on hearsay. Various examples of lecturers harassing their students by various tactics, such as touching, winking, sexual comments, etc., and actual intercourse, have been documented in various newspapers. This inspired inquiry into the subject. However, because sex is private and shame is associated with it, not much is known about sexual harassment in tertiary institutions. It has been made clear precisely how commonplace this discriminatory behavior is in our culture by the reports of sexual harassment that have overtaken news headlines. Women who have been silent for years are now speaking up and sharing their experiences with sexual harassment, which includes lewd or derogatory remarks, hostile or demeaning jokes, professional sabotage, repeated unwanted sexual advances, groping, demands for sexual favors, and other offensive and discriminatory actions or language [1, 11].

According to the Australian Human Rights Commission [12], sexual harassment refers to a variety of behaviors such as leering or gazing, unwanted touching, and sexual slurs or taunts. In addition to the workplace [13], cited in [14], educational institutions [12, 15], public spaces [12], and online [16], sexual harassment occurs in a variety of settings. Southern Illinois University System (SIU) [17], argued that sexual harassment can entail online or electronic media interactions, even when they occur off-site or “off the clock.” Examples of actions that may be construed as unwanted sexual conduct via email, cell phone, text, Internet or Intranet posting, online comments, blog posts, social media (such as Facebook, Twitter, LinkedIn, Instagram, YouTube, and Snapchat), or other electronic media include requests or demands for sex, sexually explicit or inappropriate images and videos, sexually offensive language or comments, unwanted flirting, unwanted requests for dates, and cyberstalking.

Sexual harassment may also take the form of physical coercion such as being brushed against or held sexually, having private parts touched, or being coerced into kissing or other forms of sexual behavior. Sexual harassment is unwanted and undesired behavior of a sexual nature that impedes a student’s ability to have an equal opportunity to learn. It occurs in schools. Between 40% and 85% of men and women in secondary and high schools report experiencing sexual harassment in one of the aforementioned forms [18–21]. Being subject to the physical form of sexual harassment (coercion) is less prevalent, particularly among boys/men [20]. Sexual harassment victimization may cause considerable psychosocial strain. Physical or verbal harassment: psychological, physical or verbal harassment, aggression, threats, or assault, including shouting, swearing, or getting too close physically. It can take the form of a hate crime motivated by hatred based on ethnicity/race, religion, sexual orientation, disability, or transgender identity [22].

Earlier studies from educational institutions in Nigeria and across the world had reported between 67% and 99% of different types of sexual harassment in both public and private institutions [23–25]. For instance, Lichty and Campbell ([19]; UUK [22]; Johnson et al. [1]) have identified verbal, nonverbal, indirect, or physical sexual harassment as the main types experienced. Derogatory sexual

statements or sexual jokes frequently constitute verbal sexual harassment. Personal phone conversations, emails, messages, or other sexually explicit content; pressure to go on dates; sexually suggestive statements, jokes, or inquiries; calling an adult “girl,” “hunk,” “doll,” “babe,” or “honey”; Asking about sexual fantasies, shifting lecture talks to sexual subjects, making sexual remarks about someone’s appearance, anatomy, or attire, or making kissing noises are all examples of inappropriate sexual behavior.

According to SIU [17], nonverbal harassment may include the display of pornographic images or objects, obscene gestures, intentional touching, leaning over, or cornering, sexual looks or gestures, letters, and indirect harassment may include being the target of sexual rumors and having unflattering images posted on social media. Neck and/or shoulder massage is another example of indirect harassment. Hugging, kissing, patting, stroking, or pinching; touching a student’s clothing, hair, or body; and unwelcome proximity to another individual. Standing near to or rubbing up against a person; caressing or stroking oneself sexually when another person is present. As opposed to the other three types of sexual harassment, direct sexual harassment entails rape and physical sexual molestation. Inappropriate sexual remarks, unsolicited groping of female students’ breasts, tapping of female students’ buttocks, and luring female students with high sex test results are only a few examples of sexual harassment of female students, according to Onoyase [26]. Worldwide, both industrial and non-industrial societies exhibit these types of sexual harassment.

According to SIU [17] and Matsayi et al. [11], inhospitable working conditions and quid pro quo are two examples of sexual harassment. Quick for quick. It’s “something for something.” This type of harassment happens when a manager or supervisor informs a subordinate that they must perform sexual acts in exchange for a promotion, raise, preferred assignment, or other types of job benefits, or to avoid something negative like discipline or an unpleasant task. An intimidating, hostile, or offensive work environment is created when uninvited sexual approaches, requests for sexual favors, or any other sexual behavior has the intention or effect of materially affecting a person’s ability to fulfill their job duties. Inappropriate contact, sexual remarks, and offensive items used in the workplace are all forms of sexual harassment (Gruber; Osman as cited in Houle et al. [27]).

Sexual harassment can occur in a variety of ways beyond than advances and requests for sexual favors. A hostile work atmosphere or other sexually explicit behavior can be part of or contribute to quid pro quo sexual harassment. For example, actual or attempted rape or sexual assault; demands for sexual favors; intentional touching, leaning over, or cornering; sexual looks or gestures; letters, calls, personal emails, texts, or other materials of a sexual nature; and so forth. Pressure to go on dates; sexual taunting; sexual jokes; sexual comments; calling an adult a “girl,” “hunk,” “doll,” “babe,” or “honey”; turning business conversations into sexually explicit ones; asking about sexual dreams, preferences, or history; sexual remarks regarding a person’s appearance, body, or attire; smacking lips, wailing, and kissing noises; discussing, fabricating, or disseminating rumors about a person’s private sex life; massage your shoulders or your neck; caressing, kissing, patting, stroking, or pinching an employee; touching their clothing, hair, or body; and unwelcome proximity to them. Sexually suggestive posters, cartoons, websites, or magazines displayed in the workplace or shown to someone; playing sexually suggestive or graphic videos or music; and making sexual gestures with the hands or through body movements

are all prohibited. So are touching or rubbing oneself sexually on oneself in front of another person, standing close to or brushing up against a person, looking a person up and down, and more [28]. Touching or making any other physical contact with a coworker, including patting or scratching their backs, holding them by the waist, or obstructing their movement. Unwanted flirting or persistent solicitations for dates that are declined illustrations of sexual harassment sending or publishing messages, emails, or images with sexual or other harassing content putting up posters, images, or things that are sexually suggestive Playing music with explicit lyrics, Tripartite Model of SH, Sexually Harassing Behaviors, and the generally accepted tripartite model of SH (Fitzgerald et al. as cited in [29]) the three behavioral elements of sexual coercion, unwanted sexual attention, and gender harassment are identified. According to Holland and Cortina [30], these three kinds are persistent over time, across cultures, and across occupational sectors.

According to Menon et al. [31], anywhere on a university campus, including in a classroom, a workplace, or a dorm, can be a victim of harassment. Sexual harassment incidents are now more frequently than in the past included in the stress framework, making them more commonly associated with organizational dysfunction at work than with poor personal qualities. According to an analysis of reporting and punishment, the culprit was formally punished in 1.4% of incidents overall. According to the literature, there are two sorts of sexual harassment: “quid pro quo,” which involves asking for sexual favors in exchange for job advancements, and “hostile environment,” which refers to the atmosphere created by unwanted sexual advances, sexist remarks, or other offensive behavior. Due to the inconsistent definitions of what defines a hostile environment, the definition of hostile environment harassment seems to be less obvious to people. For instance, some people consider sexual jokes to be sexual harassment, while others consider them to be a typical aspect of contact at work or school. It may be vital to comprehend how people perceive hostile settings in order to comprehend sexual harassment.

3.1 Primary categories of sexual harassment

The two main categories of sexual harassment are:

- i. **Quid Pro Quo:** This type of sexual harassment occurs when a person in a position of authority, such as an employer or supervisor, demands sexual favors in exchange for job benefits, promotions, raises, or other favorable treatment. It creates a coercive and exploitative dynamic, where the victim may feel compelled to comply due to fear of reprisal or adverse consequences for refusing. According to Bread for the city (nd), Quid pro quo (“This for that”) is one form of sexual harassment. An individual in a position of authority, usually a supervisor, requests sexual favors in exchange for receiving or maintaining a job perk. They may also make inappropriate gestures, jokes, comments, or reactions, or write unpleasant words on their clothing.
- ii. **Hostile environment:** In a hostile environment, the workplace or environment becomes permeated with unwelcome sexual advances, comments, or behaviors that create an intimidating, hostile, or offensive atmosphere. This can include sexual jokes, explicit materials, derogatory comments, or even non-consensual physical contact. Such an environment can interfere with an individual’s ability to perform their job or engage in educational activities.

4. Causes of sexual harassment

It has been suggested that lust, the pursuit of happiness, a lack of moral standards, a lack of conscience, the pursuit of pleasure, a lack of restraint, passion, habit, value, personality disorders, inferiority complexes, immaturity, cheapness, abuse of power, and demonic possession are among the factors that motivate sexual harassment. In addition, inappropriate dressing habits among female students who appear virtually naked may also be contributing causes to the persistence of sexual harassment. According to the opinion, Aluede, as cited in Taiwo et al. [32] and Matsayi et al. [11], one of the causes of sexual harassment is women's indecent dressing, which results in the display of sensual body parts (such as the breasts, navel, and buttocks) through tight and transparent clothing, which is commonly referred to as "sexual flashpoints." These situations frequently lead to school authorities prohibiting indecent dressing by creating codes of conduct to help female students.

Sexual harassment is a complex issue with multiple contributing factors. It's important to note that sexual harassment is never justified or excusable, but understanding its causes can help in addressing and preventing it. Here are some common causes and contributing factors:

1. **Power imbalance:** One of the primary causes of sexual harassment is a power imbalance between individuals. This can occur in workplace settings, educational institutions, or even in personal relationships. The harasser may use their position of authority or influence to exert control over the victim.
2. **Gender inequality:** Societal norms and gender inequality play a significant role in sexual harassment. In many cultures, women and gender minorities have historically been treated as inferior, which can lead to harassment as a means of asserting dominance or control.
3. **Cultural and social norms:** Cultural attitudes and social norms can normalize and perpetuate sexual harassment. For example, objectification of women in media, victim-blaming, and the trivialization of harassment can create an environment where it is tolerated.
4. **Lack of education and awareness:** Ignorance about what constitutes sexual harassment and a lack of awareness about its impact can contribute to its occurrence. Comprehensive education about consent, boundaries, and respectful behavior is crucial in preventing harassment.
5. **Toxic masculinity:** The pressure on men to conform to traditional notions of masculinity can sometimes result in aggressive or disrespectful behavior toward others, including sexual harassment. Challenging toxic masculinity is important in addressing this issue.
6. **Workplace culture:** A toxic workplace culture that ignores or minimizes reports of harassment can enable perpetrators. Employers must create an environment where victims feel safe reporting harassment without fear of retaliation.
7. **Alcohol and substance abuse:** The use of alcohol or drugs can impair judgment and increase the likelihood of engaging in harassing behavior. Parties and social gatherings with excessive alcohol consumption can be high-risk environments.

8. **Online harassment:** The anonymity provided by the internet can lead to online sexual harassment, including cyberbullying, revenge porn, and online stalking.
9. **Unresolved personal issues:** Some individuals may have unresolved personal issues or psychological factors that contribute to their engaging in harassment. This can include anger management problems, narcissism, or a history of trauma.
10. **Social and economic factors:** Economic disparities can contribute to harassment, especially in situations where victims may be economically dependent on their harassers. Fear of job loss or financial repercussions can deter victims from reporting.
11. **Peer pressure:** In some cases, individuals may engage in harassment due to peer pressure or a desire to fit in with a particular social group.
12. **Lack of legal protections:** In regions where there are insufficient legal protections against sexual harassment or where enforcement is weak, perpetrators may feel emboldened.

5. Consequences of sexual harassment

Sexual harassment exposes people to physical, psychological, and professional repercussions. Evidence-based research demonstrates that sexual harassment in the workplace can result in depression, anxiety, post-traumatic stress disorder (PTSD), physical discomfort, unintended pregnancies, sexually transmitted illnesses, increased alcohol use, lower job motivation, and more [33]. The victims of sexual harassment may experience disastrous effects on their educational pursuits. According to Quaicoe-Duco [34], the victims' academic performance worsens because they find it extremely difficult to focus on their studies. In order to avoid the teachers' unwelcome attention, this has led to little engagement among the victims. According to a study conducted in Kenya, women who encountered sexual harassment in the classroom had a 136 casual attitude, lost interest in their work, and lost their sense of discipline [35].

Embarrassment, a loss of confidence, rage, and psychological harm are all experienced by sexual harassment victims [36]. Additionally, sexual harassment causes issues at work like poorer performance [37], higher absenteeism, and lower job satisfaction [38], among other issues. The victim's attitude toward their job may also be impacted by sexual harassment [39]. Employees who experienced sexual harassment reported less job satisfaction, more intents to quit their jobs, and higher absenteeism, according to Merkin and Shah's [40] research. Furthermore, having the impression that sexual harassment in the workplace is not addressed seriously can affect one's physical health [40]. Due to decreased employee productivity and the cost of monetary settlements awarded to victims of sexual harassment, sexual harassment can harm a company's reputation and performance [41].

According to Jyotimala [28], sexual harassment typically has a negative impact on a person's emotional, social, and physical wellbeing. Adolescent females who had experienced sexual harassment in one study described emotions resembling those experienced by rape victims. The following are some significant effects of

sexual harassment on women: (i) Psychological repercussions: sexual harassment causes the victim to lose self-confidence and self-esteem, which is embarrassing and incredibly unpleasant. The victim experiences anxiety, depression, depression, and anger. Additionally, it is a significant role in job stress. The victim's productivity at work suffers as a result, and in severe cases, they may even quit. (ii) Physiological repercussions: sexual harassment victims' physical health is directly impacted by the emotional misery it causes. A sleepless night for the victim could result in pains, joint pain, and other health issues. The victim's inability to focus on her work will make it harder for her to be productive at work. Blood pressure issues could arise in victims. As a result of sexual harassment, the victim could also have food disorders, substance misuse, and even suicidal thoughts. (iii) Financial repercussions: a victim of sexual harassment may suffer serious financial implications. Every year, a large number of women lose their jobs and experience unemployment, which causes financial and economic loss. Because it might have an impact on her work history and references, sexual harassment may have repercussions outside the workplace.

Some scholarly works such as Norman et al. [42], Julie [43], and Suleiman [3] equally acknowledged are the negative psychological impacts of sexual harassment on female students' academic performance. The victims' health is also negatively impacted, which increases their risk of developing STDs and causes dread, trauma, despair, anxiety, and lack of trust. Acquired immune deficiency syndrome (AIDS) or human immunodeficiency virus (HIV). Additionally, they claim that sexual harassment violates the rights of the victims by making the victims' academic performance uncomfortable.

Idris et al. [44] opined that apart from the physical and psychological trauma it exposes the victims to, their productivity is greatly affected. Burn [29] opined that psychologists are concerned about SH since it is widespread and linked to stress-related mental and physical disorders. The situations that SH produces are unfair, threatening, hostile, abusive, and insulting; they undermine victims' confidence and sense of security and obstruct their ability to perform and achieve their goals. According to Bread for the City (nd), sexual harassment that is verbal, physical, or visual, and that is "sufficiently severe, persistent, or pervasive" as well as unwanted, is classified as occurring in a hostile environment. A hostile environment could be produced by a single, serious incident, as a sexual assault. A "hostile environment" is more frequently produced by a string of events.

Vyas and Jodhpur [45] Sexual harassment cause stress: Its effects and consequences. Sexual harassment is a problem that is "coming out of the closet" more frequently. Businesses are beginning to acknowledge the existence of the issue; some managers are recognizing that it may harm their employees, and more victims are beginning to have the bravery to voice their complaints. Additionally, victims do have legal options under current labor laws. Everyone wants to work toward achieving a more opulent and financially secure lifestyle. Both men and women are making good money and succeeding in their careers. Changes in technology are accepted. New environmental developments do not frighten people any longer. The theory behind sexual harassment is that it causes stress and has an impact on the targets' physical and mental health. While sexual harassment can have a negative impact on a victim's health in any situation, workplace harassment is particularly nasty. A labour and law employment attorney who has handled hundreds of sexual harassment cases, Nannina Angioni, is quoted in Spector [46] as describing it as a "slithering snake that ripples its way through a work environment, causing disastrous results." According to

Angioni, “employees talk about having a pit in their stomach while driving to work, experiencing anxiety, panic attacks, unexplained crying fits, and experiencing physical manifestations of stress, such as hair loss, hives, weight gain or loss, insomnia, and lethargy.”

Research showed that people are reluctant to label sexually inappropriate behavior as sexual harassment (Magley; Hulin; Fitzgerald; DeNardo as cited in [47]) and one explanation could be that being a victim of sexual harassment is linked to stigma and vulnerability, which could cause others to be ignorant of or minimize those experiences. Women who experienced sex-related behaviors had extremely similar consequences on their mental health, regardless of whether they labeled these encounters as sexual harassment, according to research by Magley, Hulin, Fitzgerald, and DeNardo as referenced in Vincent-Höper et al. [47]. Since Mackinnon's cited in as cited Houle et al. [27] Social scientists have described sexual harassment as a stressor that is harmful to both one's mental and physical health (Fitzgerald, Hulin, and Drasgow as referenced in Houle, Staff, Mortimer, Uggen, and Blackstone [27]). Harassment has been linked to higher rates of anxiety, depression, and PTSD as well as lower levels of self-esteem, self-confidence, and psychological well-being (for reviews, see Pryor and Fitzgerald; Welsh; Wellness, Steel, and Lee as cited in Houle et al. [27]).

Matsayi [2, 5] opine that, students' wellbeing at postsecondary institutions can be seriously harmed by sexual harassment. The state of one's mental health is among the possible effects. Anxiety, despair, and PTSD can all be signs of sexual harassment, which can also result in a loss in mental health. Sexual harassment can have a negative impact on one's physical well-being and cause physical symptoms like headaches, stomachaches, and muscle strain. In addition to negatively affecting academic performance, sexual harassment can also result in students skipping classes, falling behind on their assignments, or even quitting school entirely. Sexual harassment can make students withdraw from their friends and family, straining friendships and family ties. Future employment opportunities for students may also be impacted by sexual harassment. It may result in diminished self-assurance, diminished job satisfaction, and diminished career opportunities. Their capacity to establish networks and professional contacts may also be impacted. Overall, sexual harassment can have a serious detrimental effect on students' wellness at postsecondary institutions.

Sexual harassment can have significant and far-reaching consequences for both the victim and the perpetrator, as well as for the workplace or community where it occurs. These consequences can be physical, emotional, psychological, and legal in nature. Here are some of the potential consequences of sexual harassment:

1. Emotional and psychological impact on victims:

- **mental health effects:** Victims may experience anxiety, depression, PTSD, and other mental health issues as a result of the harassment.
- **Low self-esteem:** Sexual harassment can erode a victim's self-esteem and self-worth.
- **Guilt and shame:** Victims may unfairly blame themselves or feel ashamed about what happened.

- **Fear and anxiety:** A constant fear of encountering the harasser or similar situations may develop.
- **Isolation:** Some victims may withdraw from social interactions or the workplace to avoid further harassment.

2. Physical health effects:

- **Stress-related illnesses:** Long-term stress from harassment can lead to physical health problems such as high blood pressure, headaches, and digestive issues.

3. Professional consequences:

- **Career impact:** Victims may experience career setbacks, including missed promotions, job loss, or a decline in job performance.
- **Hostile work environment:** A workplace with a history of sexual harassment may become toxic, leading to decreased morale and productivity.

4. Social and interpersonal consequences:

- **Strained relationships:** Harassment can strain relationships with friends and family due to the emotional toll it takes.
- **Difficulty trusting others:** Victims may have difficulty trusting coworkers, superiors, or authority figures.

5. Legal consequences:

- **Legal action:** Victims may pursue legal action against the harasser and the organization, leading to lawsuits, fines, or settlements.
- **Criminal charges:** In some cases, sexual harassment can escalate to criminal charges, especially in cases of assault or rape.

6. Reputation damage:

- **Perpetrator's reputation:** Perpetrators of sexual harassment may face damage to their personal and professional reputations if their behavior becomes public knowledge.
- **Organizational reputation:** Companies or institutions where harassment occurs can suffer reputational damage, impacting their ability to attract and retain talent and customers.

7. Financial costs:

- **Legal fees:** Organizations may incur substantial legal costs in defending against harassment claims.

- **Compensation and damages:** If found liable, organizations may have to pay compensation and damages to victims.
8. **Prevention and awareness:** Organizations may need to invest in training and awareness programs to prevent future incidents of harassment.

6. Challenging stereotypes and myths

Challenging stereotypes and myths surrounding sexual harassment is crucial for creating a safer and more inclusive society. These harmful stereotypes and misconceptions often perpetuate a culture that tolerates or normalizes such behavior. Let us examine some common stereotypes and myths about sexual harassment and how to challenge them:

1. **Myth:** It's only sexual harassment if it involves physical contact or violence.

Fact: Sexual harassment encompasses a broad range of behaviors, including verbal comments, gestures, and non-physical actions that create a hostile or uncomfortable environment. Unwanted advances, comments, or even cyber harassment can all be forms of sexual harassment.

2. **Myth:** Sexual harassment only happens in certain industries or workplaces.

Fact: Sexual harassment can occur in any setting, including offices, schools, public spaces, and online. It is not limited to specific industries or job types.

3. **Myth:** Only women are victims of sexual harassment, and only men are perpetrators.

Fact: Sexual harassment can happen to anyone regardless of gender, and perpetrators can be of any gender. It's essential to acknowledge that anyone can be a victim or perpetrator, and support should be available for all individuals.

4. **Myth:** People who dress provocatively are asking for sexual harassment.

Fact: What someone wears is not an invitation for harassment. Harassment is about power and control, not the victim's clothing choices. Blaming the victim based on their attire is victim-blaming and unacceptable.

5. **Myth:** False accusations of sexual harassment are common.

Fact: Research shows that false accusations of sexual harassment are rare. Most victims hesitate to come forward due to fear of not being believed or facing retaliation. It's essential to take all claims seriously while respecting due process.

6. **Myth:** If someone does not say "no" or resist physically, it's not harassment.

Fact: Consent is a clear and enthusiastic agreement to engage in any sexual activity. Silence or the absence of physical resistance does not imply consent. Consent must be freely given and can be withdrawn at any time.

7. Myth: Sexual harassment is just “locker room talk” or harmless banter.

Fact: Inappropriate comments and behavior can contribute to a hostile work or social environment. What may seem like harmless banter to some can be deeply offensive and distressing to others.

8. Myth: Reporting sexual harassment will lead to immediate consequences for the perpetrator.

Fact: Reporting sexual harassment can be a lengthy process, and outcomes may vary. However, it’s essential to encourage victims to report incidents, as it’s the first step in addressing the issue and holding perpetrators accountable.

9. Myth: It’s not my responsibility to address sexual harassment if I’m not directly involved.

Fact: Everyone has a role in preventing sexual harassment. Being an active bystander by intervening or supporting victims when you witness harassment is crucial in creating a safer environment.

10. Myth: Addressing sexual harassment is an isolated issue unrelated to broader social and gender equality concerns.

Fact: Addressing sexual harassment is integral to promoting gender equality and a more inclusive society. A culture that tolerates harassment perpetuates harmful power imbalances and discrimination.

Challenging these stereotypes and myths requires education, awareness, and active efforts to create a culture of respect, consent, and zero tolerance for sexual harassment. Encouraging open conversations, supporting survivors, and holding perpetrators accountable are essential steps toward a safer and more equitable society.

7. Coping strategies for sexual harassment

Coping with such experiences can be incredibly challenging, and it’s important to seek support and assistance when needed. Here are some coping strategies that may help:

1. **Reach out for support:** Talk to someone you trust about what you are going through. It could be a friend, family member, or a counselor. Sharing your feelings and experiences with a supportive person can be therapeutic.
2. **Seek professional help:** Consider speaking with a therapist or counselor who specializes in trauma or sexual harassment. They can provide you with guidance and coping strategies tailored to your specific situation.
3. **Self-care:** Take care of your physical and emotional well-being. Engage in activities that help you relax and relieve stress, such as exercise, meditation, yoga, or deep breathing exercises.

4. **Educate yourself:** Learn more about your rights and the laws regarding sexual harassment in your area. Knowledge can empower you and help you make informed decisions about how to handle the situation.
5. **Document the harassment:** Keep a record of incidents, including dates, times, locations, and descriptions of what happened. This documentation can be valuable if you decide to take legal action or report the harassment to authorities.
6. **Set boundaries:** Clearly communicate your boundaries to the person responsible for the harassment, if you feel safe doing so. Let them know that their behavior is not acceptable and that you expect it to stop.
7. **Safety measures:** If you feel threatened or unsafe, take steps to protect yourself. This may involve changing your routine, installing security measures, or seeking a restraining order if necessary.
8. **Support groups:** Consider joining a support group for survivors of sexual harassment or assault. Talking to others who have experienced similar situations can provide validation, understanding, and additional coping strategies.
9. **Legal action:** If you decide to pursue legal action, consult with an attorney who specializes in sexual harassment cases. They can help you understand your options and guide you through the legal process.
10. **Self-compassion:** Be kind to yourself. Recognize that you are not to blame for the harassment. Practice self-compassion and avoid self-blame or guilt.
11. **Empowerment:** Take steps to regain a sense of control in your life. This could involve setting goals, making plans for the future, and focusing on personal growth.
12. **Advocacy:** Consider becoming an advocate for change in your workplace or community. Raise awareness about sexual harassment and work toward creating a safer environment for everyone.

Remember that coping with sexual harassment can be a long and difficult journey. It's essential to prioritize your well-being and seek help when needed. Do not hesitate to reach out to organizations that specialize in supporting survivors of sexual harassment for additional resources and guidance.

8. Conclusion

Sexual harassment refers to unwelcome and inappropriate behavior of a sexual nature that creates a hostile, intimidating, or offensive environment for the victim. It is important to note that consent is a crucial element in any sexual interaction, and any behavior without clear and voluntary consent is considered harassment. It is a form of gender-based discrimination and can occur in various settings, including workplaces, educational institutions, public spaces, and online platforms. Sexual

harassment can take many forms, including, verbal harassment, non-verbal harassment, physical harassment, visual harassment, online or cyber harassment. Sexual harassment can have serious emotional, psychological, and professional consequences for the victim. Laws and regulations addressing sexual harassment vary by country and jurisdiction, but many places have legal provisions in place to protect individuals from such behavior in workplaces and other settings. It is essential to raise awareness, promote respectful behavior, and create safe environments where individuals can work, study, or live without the fear of sexual harassment. It's important to recognize that the consequences of sexual harassment can vary widely depending on the specific circumstances of the incident and the response to it. Prompt and effective intervention and support for victims, along with clear policies and training to prevent harassment, can mitigate some of these consequences and help create safer environments. It's essential to recognize and combat sexual harassment to create safe and respectful environments for everyone, and organizations often have policies and procedures in place to address and prevent sexual harassment. Sexual harassment is not limited to any particular gender, and victims can be of any gender as well. Perpetrators can also be of any gender. Laws and regulations vary by country, but many jurisdictions have implemented legal protections and guidelines to address and prevent sexual harassment. These laws often require employers, institutions, and organizations to take proactive measures to prevent sexual harassment, investigate complaints, and provide support for victims. It's essential to recognize the importance of education, awareness, and prevention when it comes to sexual harassment. By fostering a culture of respect, consent, and gender equality, societies and institutions can work toward eliminating this form of discrimination and creating safer environments for everyone. Preventing and addressing sexual harassment requires a multi-faceted approach that includes education, cultural shifts, legal protections, and support for victims. It is essential to create a society where harassment is not tolerated, and victims are empowered to report and seek help when needed.

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Chapter 4

Unsettling the System of Sexual and Ethnic Oppression in Shyam Selvadurai's *Funny Boy*

Chitra Sadagopan and Yanuka Devi Baniya

Abstract

The contemporary novel titled *Funny Boy* (1994) by Shyam Selvadurai, a Sri Lankan Canadian writer is set in Sri Lanka against the traumatic struggles of ethnicity between majority Sinhalese and minority Tamils in the early 1980s. The novel has six chronologically interconnected stories, each concerning the subaltern central character in terms of race, sexuality and gender. The protagonist Arjun Chelvaratnam (Arjie) belonging to Tamil minority household experiences conflicting emotions imposed by rigid and repressive codes of the patriarchal family that forbids him to indulge in his love of cross-dressing game juxtaposed with a series of calamitous ethnic clashes in the country. Racially, there are political restrictions imposed on the minority Tamil groups and within the domestic sphere, Arjie undergoes sexual unease due to his unconventional sexual orientation. This study aims to explore Arjie's plight in realizing his emerging sexuality thus transgressing the restrictive borders of gender and desirability. Further, to ascertain the theoretical insight about the process of gendered 'othering', Michel Foucault's idea of power is consulted to justify and provide critical views on the marginalization of the third gender as power discourse in society.

Keywords: same-sex desire, minority, conventions, sexualized exclusion, ethnic marginalization

1. Introduction

Human society firmly believes in the heterogeneity of sexes to such an extent that there are only male and female sexuality whose social identification align with the gender of man and woman. However, with the increased visibility of transgender as well as gender non-conforming people, sex and gender can be understood in diverse ways than they had been and they are far more complicated. The distinction is that, sex is a biological phenomenon indicated by the reproductive system while, gender differentiates male and female based on the social institutions and cultural norms prevalent in the society. Thus, scholars in feminist studies position their argument that sexuality is biological but gender is a social construct. However, though sexuality is one's birth identity, factors such as dominant cultural forces, public policy, and the law constantly attempt to shape, manipulate, and transform one's identity. As a

result, gender identity is the extent to which society identifies a person as being either masculine or feminine. Right after birth, either male or female, children are taught appropriate norms and behaviors including ways to interact with others of the same or opposite sex within households, communities and work places. When individuals or groups deviate from the established gender codes, they often face stigma, discriminatory practices or social exclusion.

1.1 Objective

Hence, the objective of the paper is to elucidate Arjie's dilemma in crossing the ethnic margins and boundaries of unconventional sexual orientation, thus unsettling the system of oppression from a personal domain.

1.2 Methodology

To explore the topic 'Unsettling the system of oppression in *Funny Boy*', the study has attempted an in-depth critical analysis of the selected text *Funny Boy* using a close reading technique. The topic is examined to show how the power play within the family and the ethnically divided nation as a whole affects the growth and identity of an individual as well as the nation. Within the boundaries of fixed sex and gender codes on one hand and ethnic codes on the other, both the individual and the nation are trying to discover their identity by subverting the codes, which is evident through Arjie's struggle. While examining the novel, Michel Foucault's idea of power is utilized to ascertain the play of power in marginalizing and othering minorities. Burdened by twin predicaments, amidst the ethnic tension and the plight of discovering his sexuality, Arjie loses the comfort of home and his family. At the end of the novel the family has to flee their native land before losing everything, yet the protagonist gains his self by discovering his new identity.

2. Discussion

The novel under study, set during the ethnic strife in Sri Lanka, unfolds the external and internal conflicts encountered by a minority Tamil boy who struggles to negotiate not only with his day-to-day life in the Sinhalese-dominated Colombo but also tries to come to terms with his emergent same-sex desire. The plotline unearths the exclusions that prevail in different walks of life in the Sri Lankan society including education and business.

According to Jazeel ([1], pp. 231–249), homosexuals are stigmatized in Sri Lankan society and perceived as foreign to the nation. Both the ethnic groups in Sri Lanka do not embrace homosexuality or any kind of aberration in sexuality. However, in the narrative, the homosexual relationship of two boys from opposite ethnic groups brings the nation together. *Funny Boy* talks about the violent ethnic conflict which bore so much hatred between the Sinhalese and Tamil folks; but when it comes to gender conflict, there is unification of these two groups. Ethnic conflict divides people yet gender binary and discrimination unite them; it is the gender trouble which brings the two groups together. Nevertheless, characters representing Sinhala and Tamil groups face challenges at home and school due to ethnocentric bias.

Homosexuality or queerness is not a flaw though mostly considered a deviant or a disorder. As asserted by Nayar [2], for both Butler and Foucault gender is not a fact

or natural, but the effect of discourses that are controlled by power structures. So, gender is not fixed, every gender is normal and it is not a disorder. It is the society that perpetuated the idea of 'hetero' as normal and 'homo' as unnatural by programming the mind of individuals. The protagonist in the text under study is constantly troubled by his quest for identity within the heterophobic domestic setting and beyond it amid upsetting ethnic tension in the nation. The plight of Arjie in discovering his identity is seen as crucial because of his minority ethnic and gender status which makes him a doubly marginalized subject within the family and nation.

Each culture has normative standards about the way males and females should behave based on their gender. Instead of being about body parts, it is more about how you are expected to act, based on your sex. Gender identity is a feeling embedded into an individual's life at a very early age. He/she feels and expresses it through clothing, behavior, and personal appearance. However, "appropriate gender roles are defined according to a society's beliefs about differences between the sexes" ([3], p. 335). Gender roles are created and recreated by human's interaction with each other in a patriarchal society. As a social construct, gendered identity is demonstrated by individuals, groups, and societies by ascribing to particular traits, statuses, or values imposed on them based on their sex; yet, these codified norms differ amongst societies and cultures, and over time within the same society.

In recent times, discourse on gender has become an inclusive discussion and it is a general thought that the third gender is no longer an isolated island because it is becoming mainstream. Still, the third genders have to undertake the risk and face the consequences and the social stigmas, by standing on their own. However, though they are navigating themselves, how far their assured destination is, remains unknown, and their acceptance in the society is elusive. In this regard, Sri Lanka was no different, the troubled island was also burning with ethnic conflicts during the 1980s. The voices of minorities for their rights were drowned and their future became uncertain. By unleashing violence, the minorities were forced to navigate toward the unknown future by leaving the island. Thus, the minorities moved toward unknown horizons in search of new destinations. Uncertainty and unknown future being common to both third-gender and ethnic minor groups, these commonalities invited our attention to look into sexuality and ethnicity as juxtaposed entities.

Although the novel under study is not autobiographical, *Funny Boy* (1994) does draw on Selvadurai's experience of the escalating violence between the Sinhalese and the Tamils in Sri Lanka from 1950s to 1980s. It traces the journey of a 7-year-old boy, Arjun a.k.a. Arjie from the simplicity of childhood to the awakening of adolescence with its complexities. The events in the novel are narrated from Arjun's perspective by focusing on his struggles in coming to terms both with Sri Lankan society and his homosexuality. Arjie's experience of being exiled from his so-called normal circle of home began at an early age; during the 'bride-bride' game, his cousin Tanuja points out with the deep conviction that the role of a bride cannot be played by a boy, "a girl must be a bride" (Selvadurai 11). Nevertheless, his fondness for dressing like a bride and the eagerness to transcend his self is evident when he says,

I was able to leave the constraints of myself and ascend into another, more brilliant, more beautiful self, a self to whom this day was dedicated, and around whom the world, represented by my cousins putting flowers in my hair, draping the palu, seemed to revolve. It was a self-magnified, like the goddesses of the Sinhalese and Tamil Cinema, larger than life; and like them, like the Malini Fonsekas and the Geetha

Kumarasinghes, I was an icon, a graceful, benevolent, and perfect being upon whom the adoring eyes of the world rested. (Selvadurai 3–4).

Arjie's problem started when the innocence of childhood games was 'gendered' by the adults. Owing to Tanuja's complaint, her mother, Kanthi Aunty discovers him dressing like a bride and brings him in front of his parents, "she pulled me up the porch steps and toward the kitchen door" (Selvadurai 12) and mocks at Arjie for doing what he liked the most, "Kanthi aunty cried out, her voice brimming with laughter, "see what I found!", (Selvadurai 12). While his parents are embarrassed, others gathered at Ammachhi's place further mocked at his behavior. Cyril uncle sarcastically remarks, "... looks like you have a 'funny' one here" (Selvadurai 14). Arjie's parents, became restrictive about letting their son with girls and entering his mother's dressing so that his queerness could be corrected. They prohibited his access to this feminized space, hoping that Arjie's 'different' gender behaviors and sexual desires were due to his curiosity that could be corrected by imposing the right values that align with his male body. Arjie was instructed to play cricket with his male cousins on forth-coming spend-the-day, "Because (she says) the sky is so high and pigs cannot fly" (Selvadurai 23) in order to make him realize that to be 'different' and to be allowed to express that 'difference' is as unusual as the prospect of flying pigs. Arjie cannot express his sexual orientation without incurring the disgust of an intolerant and unjust society of which his parents are a part of.

The protagonist of the novel is pushed from spaces where he feels safe and happy to spaces which are more rigid and gender-conforming. Physical spaces such as school (Victoria Academy) and family home, which deliberately operates according to the "... notions of middle-class respectability which becomes a necessary precondition for a nationalist and patriotic agenda" ([4], p. 4), becomes the primary space where the protagonist encounters a sense of alienation from the majoritarian discourse since he is looked at as a deviant subject. Nonetheless, the alienation and seclusion he faces enables him to transgress the boundaries fixed for him.

Arjie's homosexuality posed a threat to his father's patriarchy and masculinity. Though the term 'homosexual' is never used directly in the text the implied idea is sensed in the words 'funny' and 'tendencies'. Therefore, Chelvaratnam, the head of the family, takes up Arjie's issue very seriously and decides to shift his school; sends him to the Victoria Academy, a British-style public school in Colombo. Perplexed by his father's decision to change his school, Arjie asks, what is wrong with his current school and Appa replies, "The Academy will force you to become a man," (Selvadurai 210). In addition, even Diggy mentions, "He (Appa) does not want you turning out funny or anything like that" (Selvadurai 210). Arjie's Appa enrolls him in the Victoria Academy and simply believes that Arjie's 'funniness', is a mere childhood fancy, some of which are, to dress up in saris, play bride-bride, stare at beautiful men, and read *Little Women* series on the front porch instead of playing cricket with his male cousins. But, Arjie's desire is not just a passing phase of fancy but an intense conflict of sexuality and identity crisis.

At first, Arjie explores his sexual identity at the family home during the game of bride-bride and later in the school, where Arjie embarks into sexual exploration; the school also institutionalize the masculinization agenda of Arjie's father. Thus, Arjie lucidly understands that his home will not support him in his struggles with himself and his homosexual feelings. Amid external and internal conflicts, when he discovers his sexual identity as expected it is his family that stands against him and the home becomes a gendered site. Arjie's Appa is troubled by his son's lack of interest in

sports and other traditional male pursuits but Arjie is attracted to such interests only through the influences of a few individuals like Jegan, who is the son of Appa's bosom friend Buddy Parameswaran.

Various movies and operas tend to propagate the notion of an ideal family where a boy meets a girl, proposes to her and finally gets married to each other and gives birth to a son preferably. This suggests an idyllic family where the women are submissive and obedient, and men are the head of the family, therefore, they are all 'straight' and there is no room for gay or lesbian relations. Similarly, the protagonist of the novel is expected to abide by the projection of such entertainment. Everything was fine in Arjie's family until his parents found that their son is not 'straight'. Thus, Arjie was caught between the two worlds of boys and girls due to the gender stereotypes which was imposed on him by his family. People still hold on to conventions that expect men and women to behave in alignment with the socially determined gender categories. In a patriarchal society, the socio-cultural norms expect girls and women to be polite, dress in typically feminine ways and exhibit accommodating and nurturing tendencies. Whereas, men are supposed to be strong, aggressive, and bold. Hence, Arjie internalizing feminine attributes was unacceptable to his parents and relatives. A man is not expected to be feminine in hetero-patriarchal society and in doing so Arjie is putting the patriarchal supremacy into jeopardy. Therefore, those who do not behave in ways considered appropriate for their biological sex are regarded as transgender, for they have crossed over the socially constructed boundaries of gender. However, according to Lerner (in [5]), patriarchy was an established form of social organization in which the father or the eldest male member headed a family or tribe. Then, in the course of time, patriarchy also meant governance or domination by men. Thus, patriarchy has transpired over the ages and today it denotes an institutionalized pattern of male dominance in society. Lerner believes that in Western civilization, men have advantages over something which they are not entitled and patriarchy reflects it. Gender stereotypes do not allow people to fully express themselves and their emotions. In addition, gender codes also encourage people to condemn and oppress those as misfits who deviate from the traditional gender roles. As a result, many third genders struggle to reach their full potential. Though Arjie is oppressed by gender stereotypes, he disrupts this notion and once again joins the girls' space to exercise his interest. In doing so, he tries to repudiate the existing norms which is confirmed by everyone in the family. A man entering a female's territory is considered to be an effeminate and such notions do pre-exist in any society.

According to a report on Human Rights Violations against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Sri Lanka [6], the country embraced the colonial laws during British rule with the intention to impose Victorian values on its colonies. The laws criminalizing same-sex sexual desire have been enforced to persecute individuals on the grounds of their sexual orientation and gender identity and such expressions have been retained to the present. Indeed, these laws have been extended to criminalize females as well as males for same-sex sexual conduct. Akin to this idea, Jazeel [1], also agrees that Sri Lanka's contemporary homophobic legacies are the remains of their colonial anti-homosexual legislation that normalized nineteenth-century European bourgeois sexuality. Homophobia is not a typical Asian value, because if one explores the Indian subcontinent's mythologies and devotional literature, "gods take female forms all the time. Sometimes to serve as 'go-betweens' to bring lovers together, sometimes to stand on for a missing wife and do the household chores, sometimes to nurse a sick devotee", ([7], p. 9). Wilhelm asserted that during the Vedic civilization, "the cows, the Brahmanas, the women, and those belonging

to the neutral gender (children, the elderly, the impotent, the celibate and the third sex) were all offered protection as an important social principle” (27). However, in the modern era, the third gender is marginalized, imposed with brutal rules and even prosecuted, but the ancient texts did not stigmatize them. In one of his commentaries, Pattanaik states that, in the religious literature, man becoming woman and woman becoming man by the grace of god is accepted without consternation. In addition, he mentions that “Unlike female-to-male and male-to-female gender transformations that evoked discomfort in modern times, in the mythic stories sexual transformation is accepted rather comfortably by all the characters,” (19).

Queers often feel the pressure to fit within society’s conventional ideas of the male-female binary, considered to be normal. Those who do not fit into the normative paradigm are subjected to ridicule, intimidation and even physical abuse. Arjie lacks a stable ground from where he can explore and discover his ‘unconventional adolescent sexual orientation’ ([7], p. 239). During the game of hide-and-seek, when Arjie and Shehan are hiding in the garage, Shehan seduces Arjie. The fulfillment of same-sex desire takes place at the bottom of the driveway, a neglected space, infrequently used by the family. The darkness of the garage makes it impossible for Sonali (the seeker) to find them. Arjie feels violated although Shehan had already kissed him once before. Arjie could not accept the orchestration of his sexual desire and felt sickened by what had just happened. Arjie tends to be secretive not only about his ‘abnormal’, sexual, and bodily desires but also about his first homosexual encounter with Shehan, which happened during the game of hide and seek. The garage which is the domestic non-space, is the only place in the house where Arjie can explore his as yet ‘latent same-sex desire’ ([1], p. 239). Discovering and coming out as a homosexual is traumatic, for the individual has been constantly imposed by parental, peer, and other societal apparatuses that their behavior is ‘bad’ and ‘unnatural’. Therefore, this leads to homosexual panic in an individual where their sexuality is aberrant from the codified forms of society’s sexuality and sexual identity. However, as the narrative progresses Arjie realizes that Shehan’s act was not to degrade him but was rather an act of offering his love.

Selvadurai’s protagonist Arjie is created in such a way that he does not assimilate into the power play of a heteronormative society. Rather, he creates his own world, a vibrant space where he can fully inhabit his queerness and unify himself with other marginalized characters. According to Lesk [8]

Sri Lanka, despite its cultural Westernization, does not favor the liberating sexual alternates. Arjie, as the novel’s queer, witnesses subjugation not only of Tamils to the majority Sinhalese but of various other groups, notably homosexuals, who barely register except as a joke to Funny Boy’s adults, and women, who despite advancement in Sri Lankan society, are still largely subordinate to men. (38).

Guys and lesbians suffer from heterosexism, the hegemonic construed norms that privilege heterosexuality, along with homophobia, a culture that devalues homosexuality. Thus, their sexuality is vilified, they are subject to shaming, harassment, discrimination, and violence. Most often policemen treat LGBTQ people like criminals ignoring the fact that they are the ones being victimized. In the Amnesty International research report, Mahamoor mentioned that [9] “...being persecuted for sexual orientation or gender identity has no place in our world today, and yet, individuals in Sri Lanka continue to face discrimination, abuse and a complete lack of protection for their real or perceived sexual orientation or gender identity” (2).

Any society must not discriminate against individuals owing to their sexual orientation or gender, however many nations fail to provide rights and safeguarding the third genders.

In the novel under study, Arjie is constantly exposed to spaces to which he does not belong. Some of his everyday crises are he is a misfit amongst the boys of his age, and his anatomy prevents him from being with the girls; he is excluded from the children's world and was forced to seek company from adults; his father insists him to speak Sinhalese thus placing him in Sinhalese-only classrooms, where his Tamil identity is conspicuous, and his sexual attraction to other men in a heteronormative culture that does not encourage non-heteronormative desire causes him to inhabit "a world they did not understand and into which they could not follow" (Selvadurai 285).

In this manner, the novel *Funny Boy* presents a protagonist who is a marginalized subject due to his sexuality and ethnicity. The novel shows the spaces such as Sri Lankan family, home and school playing a significant role in shaping the heteronormative boundaries of modern Sri Lankan society. Therefore, acquiescing to gender norms has been fixed in various spaces only to produce acceptable behavior. The constructs are made normative to such an extent that the non-normative experiences remain hidden and were closeted.

Foucault believed that power is a chain or net-like system of relation where individuals both enact and resist the power. In *Funny Boy*, women's oppression and seeing them as 'other' begins at home where the father represents the patriarchal order. The idea of patriarchy appears in varied forms and operates in multitudes of spaces such as home, office, culture, sexuality, and state. Similarly, Arjie is excluded from 'the girls' space in order to safeguard the family honor, which is basically seen as a normalizing process in the family. Through the normalization process, power in society controls the subjects. Appa's strict obedience toward patriarchy and masculinity, and the supremacy he holds seem lopsided when it concerns his hotel. Appa knows about existent homosexuality in Sri Lanka, however, he feels it is good to boost the country's economy: "What am I to do...but is not it illegal? ... to keep the tourist industry going" (Selvadurai 171). To this, Yuval-Davis calls attention to sex industry tourism [10], "A tourism which has become one of many post-colonial biggest source of economic survival allowing male Orientalist dreams of inexhaustible pools of sexual pleasure and exotic sexual objects" (52–53).

Appa's motif behind admitting Arjie in 'The Victoria Academy' was to produce a son who is heterosexual, thus acquiescing to the norms of masculinity, because Victorian public school was perceived to be a factory producing gentlemen. The Victoria Academy is governed by hyper-masculinity principles whereby young boys are expected to behave according to dominant masculine stereotypes. It is within this ethos of hyper-masculinity that Arjie meets Soyza only to overrule the boundary and discover their relationship with Arjie and acceptance of homosexuality.

Why cannot I play with the girls?'...'You cannot, that's all'. But why?'... 'You're a big boy now. And big boys must play with other boys' she said, 'the world is full of stupid things and sometimes we just have to do them. (Selvadurai 20).

Arjie's dialog with his Amma demonstrates the novel's two competing gender discourses, conformity and non-conformity. Male and female are designations not as thoroughly opposed as the discourses surrounding them suggest. The differences that do exist are, as McNay points out in 'The Prisoner of gender' by King, a "over-determined in order to produce a systematic effect of sexual division" ([11], p. 3).

Foucault's commentary on how subjectivity is produced calls to mind Simone de Beauvoir's famous phrase "One is not born, but rather becomes a woman" (295). Through the corrective measures of the family, Arjie is forced 'to become' a person whom he does not like.

However, Selvadurai's protagonist is motivated to unsettle the system of oppression and resist the power of patriarchy in his familial space and school space. Even though Arjie is in the grip of heteronormative restraint, Shehan's anti-normative performance of gender allows Arjie to break away from Black Tie's gendering structures. Very much like the state of Sri Lanka, the school as Shehan points out is divided between two factions and contending forces: "supporters of Black Tie and supporters of Lokubandara" (Selvadurai, 215). On the one hand, Black Tie represents a Tamilian establishment against which Lokubandara, represents an emerging Sinhalese nationalism. In both of these factions, masculinity becomes a propagative responsibility in shaping gender norms. The student body must agree to pain and violence as they grow.

On their first day of school, Diggy tells Arjie about a number of boys who were "disciplined" by Black Tie: "he began to detail punishments one received for getting on Black Tie's bad side. Once he slapped a boy and broke some of his teeth. Another boy in my class got caned so severely his trousers tore. Then he made him kneel in the sun until he fainted" (Selvadurai 206). Discipline is usually enforced in order to operate control over individuals, while they are being either 'observed', 'normalized', or 'examined', throughout the society to 'ensure control' ([12], p. 221). The Academy was no less than a prison to people like Arjie and Shehan. When Arjie asks how the boys retaliated to Black Tie's punishments, Diggy cautions him not to complain. As Victoria Academy's most markedly queer figure, Shehan is disciplined more than the other boys. Black Tie tends to call him to his office more frequently and publicly punishes him in part because of their ethnic differences, as Shehan is Sinhalese and Black Tie is Tamil. The motivation of Black Tie's hatred toward Shehan is comparable to that of Tamil-Sinhalese conflict, a battle for supremacy.

In a society that labels queer people simply 'funny', Arjie could not only withstand the dominant heteronormative culture but actively resists it. Arjie's part in all these acts of resistance is crucial. He functions as Radha's escort during her secret alliance with Anil, his mother's partner in trying to discover the truth of Daryl's death, and Jegan's confidante during his stay in the Chelvaratnam household. His exposure to events and actions which illustrate the inequities, the narrowness, and the basic injustice prevailing in Sri Lanka reinforces Arjie's inborn desire to be different from and to challenge the 'normal' world. The constant experience of being a misfit in every available sphere causes Arjie to seek solace in literature, which inspires him to create an imaginative space of his own, within himself. It is in this imaginative space and in the physical spaces that he shares with his allies, that he is able to recognize himself and thrives in his difference.

Arjie also finds solace in literature, which he uses to form the imaginative space. He watches the Sinhalese and Tamil movies, envisioning himself as an ethereal, powerful, feminine character. He reads Janaki's Sinhala love comics when he is punished with confinement within the four walls of the house. With the help of Daryl uncle, Arjie's reading of the book which his father feels is 'a book for girls' [13], could be understood as his way of dealing with the assumptions and limitations imposed on him. Various works of literature enable him to subsequently internalize strong female characters and kindle his admiration and interest in femininity and rebellion. Arjie's response in school against Black Tie's values is emphatically subversive and

postcolonial. By embarking on a secret homosexual relationship with Shehan, he strikes a subtle blow against the macho order represented by his father, his brother, and Black Tie. Arjie deliberately misreads Henry Newbolt's poem *The Best School of All* on Prize Day before the chief guest whose support the principal needs so badly. Further, Arjie learns the most significant lesson from his boyfriend Shehan resonating Orwell's words in his essay [14], *Such, Such were the Joys* "the weak in a world governed by the strong" needs to "break the rules, or perish" (365). Arjie, eventually imbibed the power of resistance from his friend Soyza, thus in later phase dismantling all the anachronistic colonial values. While his sense of injustice at the inhuman punishments meted out to his lover Shehan was the main motivating factor, his growing resentment toward the manner in which those in authority took upon themselves the role of deciding what was right and wrong also prompted him to perpetrate the act of subversion. However, this constitutes just a modest blow against patriarchy and chauvinism. Consequently, Arjie comes out audaciously against orthodoxy embracing the beauty of his unique identity.

3. Conclusion

The study has examined Shyam Selvadurai's debut novel *Funny Boy* (1994) using the incidents and experiences which presented the sensitive issues of race, ethnicity, and gender trouble. The novel is narrated from the point of view of seven-year-old Arjie and details his experiences within his family and in his school. *Funny Boy* highlights exclusions that pervade at every level of Sri Lankan society. The paper accentuates the identity crisis in the life of the protagonist, Arjie, who can be best surmised as a confused character owing to his unique sexual orientation, which is questionable within the code-conforming patriarchal family and society as a whole. He is also a typical outcast, separated and in conflict with not only himself but with his society too. In other words, Arjie's experience is the universal struggle of young third genders to establish a stable identity of their own but at the same time, his crisis also reflects the crisis of any person labeled as 'Other' in the society.

The study has found that the identity crisis of the young protagonist is caused by his deviant attributes which are disregarded as per heteronormative codes. The demarcation of spaces for girls and boys enforces the gender stereotypes in the novel. The protagonist is not allowed to play with girls and when he plays with boys he is called a "girlie boy". This separates him from the possibility of being a girl or a boy. This leaves Arjie "caught between the boys' and the girls' worlds, not belonging or wanted either" (Selvadurai 39). However, Arjie's tumultuous personal journey compels him to unlearn whatever he has learned about sexuality and gender roles.

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Reparations for Sexual and Gender-Based Crimes: A Premiere Applying an Intersectional Approach at the International Criminal Court?

Ana Martin

Abstract

Crimes of sexual and gender-based violence have experienced tremendous interest in international justice mechanisms and transitions from violence. Following their recognition and first convictions, gender justice is facing reparations as a new challenge that aims at effective remedies for victims. In the *Ntaganda* case, the International Criminal Court recently allocated reparations for girl soldier victims of rape and sexual slavery applying the principle of gender-sensitive reparations and stating that ‘intersectionality’ should be a core component. Intersectionality is a human rights-based approach to understand the structural dynamic of discrimination underpinning gross violations against marginalized groups in order to obtain an effective remedy. This chapter answers the question whether the International Criminal Court is entitled to and is effectively applying an intersectional approach to reparations for crimes of sexual and gender-based violence in what amount would be true to engagement with effective remedies tackling the root causes of gross violations.

Keywords: sexual and gender-based violence, reparations, intersectionality, child soldiers, international crimes, human rights

1. Introduction

This chapter seeks to explain the value of reparations for sexual and gender-based crimes from the perspective of intersectional discrimination, meaning the understanding of complex patterns of discrimination underpinning violations to obtain the right insight for effective reparations. The chapter demonstrates the validity of this approach by investigating the war crime of sexual and gender-based violence against girl soldiers within armed groups. In so doing, it relies on the *Ntaganda* case study, undergoing reparations at the International Criminal Court (ICC or Court) at the moment, for which the Court has adopted a gender-sensitive and intersectional approach to reparations [1]. The chapter seeks to highlight the relevance of the

Ntaganda precedent to advance reparations for crimes of sexual and gender-based violence against girl soldiers—at the intersection of discrimination on gender, age and socio-economic grounds; whilst noting the potential of this approach to broadly inform reparations for other gross violations affecting the most marginalized identities whose harms are at the intersection of complex discrimination.

Intersectionality is a method to understand the causes, dynamic and effects of violence whose recognition is increasing in academia and accountability mechanisms. The approach was first established by feminist legal scholars who highlighted that discrimination is not just produced on a single ground but, often, on intersecting grounds against the most marginalized identity groups; for instance, discrimination against Black American women [2] or lesbian, gay, bisexual, trans, intersex, queer and other (LGBTIQ+) in the context of decolonization [3] whose complex dynamic requires understanding and visibility to address those harms.

Legal accountability mechanisms incorporate intersectionality as a method to understand the linkages between complex discrimination against marginalized groups, the resulting harms and effective reparations measures. In the field of international human rights law, the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) states that discrimination based on sex and gender is ‘inextricably linked’ with other factors such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation that affect women belonging to those groups in different ways to men, resulting in an aggravated impact due to the compounded factors of discrimination involved [4]. Amongst these intersecting identities ‘girls’ stand out because their gender and age identities place them at a particular risk of sexual violence, including during armed conflict.

Sexual violence in armed conflict—disproportionately affecting women and girls and, thus, due to their gender—is a continuation and exacerbation of preexisting discrimination against women in peacetime [5]. Yet, gender discrimination against women and girls—which also affects men and boys—has been traditionally silenced due to unequal power relations between men and women that have kept the issues mostly affecting women (e.g., violence, domestic work, family care, sexual and reproductive health) hidden and unregulated [6]. Likewise, sexual violence against girls in armed conflict has been downplayed regardless of its devastating effects in terms of physical and emotional development, mortality, social stigma, personal humiliation, trauma, unwanted pregnancies and its resulting economic and psychosocial consequences [7].

International crimes of sexual and gender-based violence have received tremendous attention in recent years by international courts and tribunals. The Rome Statute establishing the ICC, the first permanent international court operating from 2002 with competence to prosecute genocide, crimes against humanity, war crimes and aggression, has considerably expanded the codification of conducts considered crimes of sexual violence (including sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, gender-based persecution as war crimes and crimes against humanity) [8]. This acknowledgment reflects the influence of feminist scholarship, international human rights law and the jurisprudence of prior international criminal tribunals for the former Yugoslavia and Rwanda that sexual and gender-based crimes are amongst the gravest, must be made visible and punished.

The growing interest in international prosecutions for sexual and gender-based crimes has resulted in the crucial question for accountability mechanisms of understanding these harms and where intersectionality is playing an ever-important role in underpinning advances in gender justice. The ICC defines gender as ‘the two

sexes, male and women, within the context of society', thus opening the door to its interpretation as a social construction, and it recognizes the right of victims to reparations, including for sexual and gender-based crimes [8]. The policies of the ICC Prosecutor have been crucial pointing at how gender should be interpreted. The Prosecutor's Policy on Sexual and Gender-Based Crimes, of 2014, stresses that gender (contrary to a biological or sex-based interpretation) refers to the social construction of the 'roles, behaviors, activities, and attributes assigned to women and men, and girls and boys'. Moreover, it endorses that the interpretation of sexual and gender-based crimes must be consistent with international human rights law and, therefore, the Prosecutor will adopt an *intersectional* approach to understand these crimes, namely, considering how 'the intersection of factors such as gender, age, race, disability, religion [... etc.]' give rise to the multiple forms of discrimination and inequality underpinning this form of violence [9]. Likewise, in 2016, the Prosecutor's Policy on Children acknowledged the intersection of age, gender and other grounds compounding multiple discrimination and inequalities at the root of crimes against children, noting children's special vulnerability to sexual violence and connecting these approaches with child-sensitive reparations [10]. In practice, these concerns have catalyzed in the *Ntaganda* case where the ICC first used an intersectional approach to recognize the harms of sexual violence committed against girl soldiers, in 2019, and is now allocating gender-sensitive reparations for those crimes that 'integrate intersectionality as a core component' [11].

The chapter initially presents the *Ntaganda* case explaining how ICC judges identified the harms of sexual violence committed against girl soldiers using an intersectional approach to unpack the root causes of the harms and opening the door to reparations (Section 2). Then, the chapter engages in a critique of intersectionality as a method to inform reparations for gross violations and it responds to the same critique by validating the intersectionality as a tool to achieve effective reparations (Section 3). With this insight, the investigation examines the process of reparations for girl soldier victims of sexual violence in the ICC case *Ntaganda* (Section 4) aiming to assess the Court's application of intersectionality which it measures according to the three-tier test established by Butti and McGonigle [12]. It concludes with a positive assessment of the intersectionality test (Section 5) and ends with some reflections about the contribution of intersectionality to advance reparations stressing the value of measures with a socio-economic component.

2. ICC case *Ntaganda*: an intersectional approach to protect girl soldiers from sexual violence

ICC case *Ntaganda* is a breakthrough in international criminal justice where the Court recognized having jurisdiction over rape and sexual slavery committed against girl soldiers by members of their own armed group [13]. The case concerned the crimes of the FPLC/UPC armed group in the DRC from 2002 to 2003, under the command of Bosco Ntaganda who was convicted as a direct and indirect perpetrator of numerous crimes against humanity and war crimes. These crimes included, among others, murder, deportation, directing attacks against the civilian population and protected objects, displacement, and conscripting and enlisting children to actively participate in hostilities [14]. Sexual and gender-based violence was pervasive both by soldiers and commanders who raped and sexually enslaved civilian women and girls during the main attack on Bogoro and abducted and enlisted girls in the militia for

sexual exploitation [14]. As other ICC precedents have confirmed (e.g., *Lubanga* and *Katanga* regarding the DRC, and *Ongwen* in Uganda) the enlistment (voluntary), conscription (involuntary) and use of children in hostilities serves the strategic purposes of armed groups in gendered ways, in particular, filling military ranks (mostly boys) and sexual exploitation through rape, forced marriage and sexual slavery (mainly girls).

ICC judges in *Ntaganda* reasoned differently than in past cases concerning crimes against children. In *The Prosecutor v. Thomas Lubanga*, ICC judges only convicted the accused of the war crimes of enlisting, conscripting and using children in hostilities [15]. Problematically, in *Lubanga*, the Prosecutor and then the Trial Chamber adopted a narrow approach overlooking a gender analysis of the crimes. As a result, the charges did not include crimes of sexual violence against girl soldiers—of which evidence was abundant—and the trial judges considered that they lacked the competence to examine facts that had not been included in the charges [15]. Conversely, in *Ntaganda*, concerning similar patterns of crimes committed by the same armed group, the Prosecutor and judges showed a sensitive understanding that the intersection of gender and age discrimination in armed conflict made girl soldiers highly vulnerable to sexual violence. Accordingly, the Prosecutor charged the war crimes of rape and sexual slavery against these children. Which movement resulted in the challenge for the Court to decide whether it had jurisdiction over these war crimes that, according to the defense, intended to protect enemy soldiers of the opposite camp and not members of the same militia. Interestingly, on this occasion—propelled by prosecutorial submissions—the judges *shifted* from a narrow interpretation of the violence (excluding a gender analysis) to interpret gender as a social construction *intersecting* with other identities of the victims such as their age and socio-economic status.

An intersectional approach undergirded *Ntaganda*'s interpretation of the legal gap in the protection of girl soldiers from sexual violence where the judges did not lose sight of the girl soldier's identity in the legal analysis throughout the process [16]. The pre-trial judges found that the sexual nature of the crimes 'logically precludes' considering girl soldiers actively participating in hostilities (thus losing protection from attack) and, further, that depriving child soldiers of protection would 'contradict[s] the very *rationale* underlying the protection of children from hostilities' [17]. The trial judges complimented the protection approach. Finding that rape and sexual slavery are subject to a general prohibition at all times under treaty and customary law, they convened that not granting protection from these crimes would be 'contrary to the *rationale*' of humanitarian law which only accepts harm in case of military advantage, which can never happen by raping and sexually enslaving children [18]. Finally, the appeal judges stressed that what matters to determine protection is not the victim status within the armed group but rather the nexus of the rapes and sexual slavery against girl soldiers with the armed conflict, of which there was clear evidence, resulting in the establishment of ICC jurisdiction over the crimes and a precedent allowing to prosecute crimes of sexual violence against girl soldiers committed by members of the same militia [19].

Once jurisdiction was established, the *Ntaganda* judges continued a consistent application of an intersectional perspective during the trial in view of establishing the individual criminal responsibility of the accused. Indeed, the judges recorded many indicia revealing understanding that sexual violence against girl soldiers within the armed group was underpinned by the intersection of gender, age and socio-economic status as factors whose compounded effects determined the vulnerability of girl soldiers to rape and sexual slavery. To begin with, children (boys and girls) were

recruited in large numbers in what amounted to patterns of abduction for the purpose of military training and sexual violence [20]. This circumstance was concomitant with the children's socio-economic status since the UPC/FPLC put pressure on families to contribute the war effort by providing children; while other children joined the armed group due to the coercive circumstances in which they found to cover for basic needs as protection and food [20].

Commanders and soldiers alike raped young female recruits routinely during military trainings and after the battles, and exploited girls for domestic chores, cooking and sex. Actually, girls in the militia were called *guduria*, a large cooking pot to mean that 'they could be used for sex wherever the soldiers wanted' [20]. As a result, some girls became pregnant. Rape and sexual violence were a common practice 'known and discussed' within the armed group and it was left largely unpunished. All this happened in a coercive military environment where girl soldiers had no possibility to leave [14]. Such evidence was key for the trial judges to conclude that rape and sexual slavery against girl soldiers were not simply a risk but, in the prevailing circumstances, crimes that perpetrators 'foresaw with virtual certainty'. This insight was key to establish the knowledge and intent of the accused resulting in Ntaganda's criminal responsibility as a military commander who exercised control over the crimes but did nothing to prevent their occurrence.

An intersectional approach to discrimination against girl soldiers underpinned a very substantive contribution of the *Ntaganda* judgment to international justice. It gave visibility to the grave and specific harms experienced by girl soldiers, a traditionally marginalized group whose harms had been silenced. Further, the large-scale nature of the crimes revealed that sexual violence in the militia played a crucial role in the functioning of the armed group. Consequently, sexual abuse was acknowledged amongst the complex reasons—engrossing the ranks, easy indoctrination and cheap labor—pushing armed groups to massively recruit children. These findings made it evident the need to interpret the war crimes against children—apparently, gender-neutral crimes—as non-gender neutral, seeing the different harms and impacts on boys and girls [21]. Critically for the purpose of this chapter, the Court's conviction for rape and sexual slavery resulted in the possibility for girl soldier victims to claim reparations which (as will be explained below) have led to new breakthroughs on the aegis of intersectionality.

3. The value of an intersectional approach to discrimination for reparations of gross violations

Reparations have become a right of victims of international crimes emerging from the attribution of international criminal responsibility which the ICC Rome Statute has enshrined under Article 75. The right to reparations for international crimes has been strongly influenced by the development of international standards to ensure a remedy and reparation for victims of gross violations of international human rights law and humanitarian law [22]. These standards have expanded initial forms of reparations for internationally wrongful acts such as restitution (re-establishment of the situation), compensation (for economic damage and loss of profit) and satisfaction (like acknowledgment or apology) [23] with a new modality, 'guarantees of non-repetition', that seeks to prevent the recurrence of gross violations by taking measures to address the structural causes of violations [22].

Seeking the non-repetition of gross violations, the international regime of reparations has developed two fundamental principles over the last 15 years, namely, transformative and gender-sensitive reparations, that international courts and scholars have endorsed widely. In the landmark case *Cotton Field* (2009), addressing patterns of sexual violence and murder against marginalized girls in Ciudad Juárez, the Inter-American Court of Human Rights first established that, in contexts of structural discrimination, ‘reparations must be designed to change this situation, so that their effect is not only restitution, but also rectification’ [24]. Moreover, the Inter-American Court found that reparations should take into account a gender perspective ‘bearing in mind the different impact that violence has on men and on women’ [24]. The implications of these adjudicated principles are, according to Sandoval and Rubio Marín, twofold. Whilst reparations aim at the restitution of victims, if there is discrimination, they should also help subvert those structures that made the violation possible and, furthermore, reparations should redress gender-specific harms to help victims cope with the concrete effects of violations in their lives [25].

A transformative and gender-sensitive approach to reparations was endorsed by the ICC from its very first decision, in *Lubanga*, in 2012, establishing the principles and procedures of reparations concerning crimes against child soldiers [26]. The Court declared that, although Article 75 of the Rome Statute only lists restitution, compensation and rehabilitation as forms of reparations, the list is not exhaustive and may include other forms such as symbolic, preventative and transformative reparations [22]. Notwithstanding, the application of transformative reparations to international crimes has not been exempted from critique in a field primarily concerned with the establishment of individual criminal responsibility and not with the elimination of discrimination, or competence of the State as a human rights obligation.

One critique addressed to transformative reparations of gross violations is that it risks displacing the victim-centered approach underpinning reparative justice with a different agenda. According to Walker, aiming at societal transformation places the bar of gender-just reparations too high and establishes a superior objective that is distant from the needs and dignity of individual victims. There is a false dilemma that restorative reparations return the victim to the prior state of inequality while, in practice, the multiform evolution of reparations measures would not preclude addressing the economic and social rights of individual victims to reduce the inequality gap [27].

Another critique of transformative reparations for international crimes concerns the application of international human rights standards on the elimination of discrimination (addressed to the State) to the field of international criminal law concerned with the attribution of criminal responsibility. International courts are not human rights courts. Thus, the incorporation of human rights standards on structural discrimination into the regime of reparations would threaten core principles of international criminal law, first and foremost, the principle of legality which requires a strict interpretation of the law and the prohibition of analogy [28]. Moreover, the critique goes on, that transformative reparations concern legal and institutional measures targeting the collective which are close to development and are competence of the State [27]. Individuals who perpetrate international crimes are responsible for the deeds for which they are convicted not for preexisting discriminatory structures rendering individuals vulnerable to such violations.

Refuting these critiques on the application of transformative reparations to international crimes—as sexual and gender-based violence—is intimately connected with the value that intersectionality can bring to reparations in the field, namely, as

explained below: identifying the root causes of individual harms and consistency with international human rights law standards.

3.1 Surfacing individual needs linked to their root causes in transitional contexts

In answering to the first critique that transformative reparations dilute restorative justice for individual victims, there are arguments in favor of establishing a middle way to address the concrete needs of victims (Walker's concern) without losing sight of a transformative approach. In this, intersectionality plays two important roles. The first role is its capacity as a tool to connect victims' individual needs with patterns of structural discrimination. As Butti and McGonigle posit, intersectionality unpacks individuals' multifaceted vulnerabilities in conflict situations exposing how these are underpinned by preexisting patterns of discrimination and marginalization [12]. In other words, intersectionality links the holistic with its concrete manifestations. It allows addressing individuals' experiences of harm with sensitive measures that tackle their root causes of structural discrimination, thus, with the potential to transform the concrete lives of victims [12]. For example, Butti and McGonigle stress the value of an intersectional approach to achieve effective reparations for young people in the context of the Colombian conflict whose experience is at the crossroads of marginalization, stigma and violence. Even if the Colombian law on reparations adjusts to international standards, disengaging these youth from violence will not depend on medical rehabilitation but on providing them with vocational training and jobs to overcome the scourges of marginalization and stigma and get out of the cycle of violence [12].

A second role of intersectionality supporting effective reparations is its capacity to address the underenforcement of transitions for victims. Transitional agreements tend to uniformize individuals' identities resulting in the impossibility of grasping the needs of the most disadvantaged in armed conflict, especially women and children. Yet, as Ní Aoláin and Rooney note, there is an 'organic link between the exclusions made visible by intersectionality discourse and tracking the failures of transition in relation to women' [29]. As Security Council Resolution 1325 (2000) symbolically recognizes, exclusions in transitions from conflict should be addressed by the meaningful participation of those directly affected in negotiated solutions to influence the redistribution of benefits [29, 30]. By articulating the way gender intersects with social inequalities and discrimination revealing issues of poverty and deprivation at the root of vulnerability in conflict, intersectionality exposes the exclusions of the marginalized which have been historically silenced determining the underenforcement of effective transitions from conflict. The merit of intersectionality thus lies in its capacity to uncover the structures of discrimination underpinning individual harms in conflict as key knowledge that points to the effective way for individual and societal transformation.

3.2 Implementing consistency with human rights standards on reparations and non-discrimination

Answering to the second critique that human rights standards on transformative reparations are inadequate for international criminal law, the ICC Rome Statute itself establishes a clear alignment on the side of international human rights law. Article 21(3) establishes the duty of the Court to interpret the law 'in a manner that must be *consistent* with internationally recognized human rights, and without any

adverse discrimination founded on grounds such as gender [...] or other status' [8]. Accordingly, this provision establishes a legal obligation at the ICC to interpret international crimes—including reparations for sexual and gender-based violence—in alignment with international human rights standards, including the paramount principle of non-discrimination on gender and other internationally recognized grounds.

Human rights mechanisms are progressively recognizing intersectionality as an approach to inform adjudication and reparations that seek to transform discriminatory structures. This is, in particular, the case of gross violations of sexual and gender-based violence where intersectionality is fertilizing across different levels of jurisdiction. Intersectionality has been used by adjudicating bodies regionally (Inter-American Court of Human Rights in *Cotton Field* 2009 [24] and *Gonzales Lluy* 2015) [31], domestically (*Sepur Zarco* 2016) [32] and internationally (CEDAW Inquiry Reports on Canada 2015 [33] and the UK 2018 [34]). Additionally, the CEDAW Committee recognizes that the interpretation of sexual and gender-based violence must be consistent in peace and armed conflict settings, which includes an intersectional approach. Its General Recommendation N° 30 (2013) on women in conflict prevention, conflict and post-conflict introduced the interpretation of violence against women in the field of transitional justice [35]. And, General Recommendation N° 35 (2017) on gender-based violence against women affirms the intersectional nature of discrimination, including in conflict situations, and endorses all forms of reparations explicitly mentioning satisfaction and guarantees of non-repetition [36]. Notwithstanding this formal recognition, the Committee's allocation of economic, social and cultural reparations measures remains underdeveloped and its individual practice unsteady, especially in dealing with measures of non-repetition and a design inclusive of all forms of reparations [37].

There is increasing recognition that institutional inaction concerning gross violations of sexual and gender-based violence results in discrimination in access to justice on gender grounds, thereby breaching the prohibition of gender discrimination recognized by human rights law (CEDAW Convention) and international criminal law (Rome Statute). Precedents in both fields confirm this argument. In her dissenting opinion in the ICC case *Lubanga*, Judge Odio Benito was critical that the refusal by the Trial Chamber to consider evidence of the harms of sexual violence against girl soldiers was discriminatory on gender because it failed to recognize the different impact of violations resulting in the impossibility to repair for those harms [15]. In *Alonzo et al*, the CEDAW Committee reached the same conclusion regarding the reparations of the Malaya Lolas, comfort women victims of the wartime sexual slavery system established by the Japanese during World War II. The Committee declared the Philippines responsible for continuous discrimination due to inaction in providing reparations to women victims of sexual violence crimes, contrary to war veterans, a majority of whom were male. Recommended measures included full reparations covering all the harms suffered by the victims – recognition, redress, official apology, compensation and guarantees of no recurrence [38]. These arguments suggest that failing to consider a gender approach to interpret the sexual and gender-based crimes resulting in the impossibility of obtaining reparations violates the prohibition of gender discrimination. By flagging patterns of complex discrimination, intersectionality allows those adjudicating identifying gender harms and, consequently, providing reparations for those harms ensuring respect for the prohibition of discrimination—on gender and other grounds.

The ICC itself exemplifies the influence of international human rights standards in the design and implementation of reparations—including through an intersectional approach—aiming at a transformative effect. This is precisely happening regarding crimes against children through the Court's explicit recognition of a child and gender-sensitive approach to reparations. From the first-time addressing reparations in *Lubanga*, the ICC's decision establishing the principles applicable to reparations to child soldiers established that these must be transformative, be guided by the best interests of the child and gender inclusive [26]. The Prosecutor's 2016 Policy on Children acknowledges, in consistency with human rights, willingness to understand the way attributes like age 'intersect with other factors' of discrimination underpinning child violations and, by the same token, endorses human rights standards to reparations that are child-sensitive, gender-sensitive, promote the participation of children and reintegration in their communities [10]. Critical for the purpose of this chapter, in *Ntaganda*, the Court deepened the meaning of transformative reparations concerning crimes of sexual violence against girl soldiers stating that a gender-inclusive and sensitive perspective 'should integrate intersectionality as a *core* component' [11]. This statement engages the ICC to adopt an intersectional approach to achieve effective reparations for girl soldiers. The purpose of the next section is to explore whether the ICC—ahead of other international bodies adjudicating reparations—is living up to the purpose of designing and implementing transformative reparations using, for such a high aim, an intersectional approach to discrimination.

4. Gleaning key steps toward inclusive reparations in ICC case *Ntaganda*

The ICC Trial Chamber has recently adopted relevant decisions in the *Ntaganda* case concerning reparations for sexual crimes committed against girl soldiers. In the Reparations Order (March 2021), the Court set out the principles applicable to reparations, defined the harms and modality of reparations and ordered the Trust Fund for Victims (the body providing reparations and assistance) to draft a plan to give effect to the order [11]. In its Decision on the Initial Draft Implementation Plan elaborated by the Trust Fund (July 2021), the Court adopted concrete measures for priority victims which included girl soldier victims of rape and sexual slavery [39]. Recently, in the First Decision on the Draft Implementation Plan for Reparations (August 2023), addressing all potential beneficiaries, the Court approved the objectives, outcomes and concrete activities to implement reparations [40]. The process is still ongoing and pending appeal. Yet, these decisions are pioneering the design and implementation of reparations which are opening the door to enshrining a *gender and intersectional* dimension as a principle of reparations for gross violations of sexual and gender-based violence.

Given the potential relevance of these decisions it is worth asking: Is the Court in *Ntaganda de facto* applying an intersectional approach to reparations? This question is answered in light of the three-tier test for intersectional reparations suggested by Butti and McGonigle regarding the youth involved in violence in Colombia, but more broadly applicable to other harms rooted in intersectional discrimination against marginalized identities [12]. This three-tier test posits that reparations should, firstly, be flexible and consider victims' intersecting identities. In other words, instead of uniformizing experiences of violence, reparations should be sensitive to identify the way intersecting factors of identity and discrimination position particular individuals in a situation of extreme vulnerability and, thus, high risk of experiencing violence

and harm. Secondly, intersectional reparations require the effective input of victims throughout the process as the best place to know the measures needed to transform the factors pushing them to violence. Thirdly, reparations measures should address all the layers of marginalization underpinning the harms of victims as the only way to be effective in tackling the root causes of conflict and ensuring non-repetition [12].

This section examines the value of the *Ntaganda* case operationalizing intersectional reparations according to the above three-legged test. Interestingly, in considering the framework of reparations in *Ntaganda* (which included the establishment by the Court of principles, harms, modalities of reparations and implementation measures), it is possible to ascertain the ingredients of a methodology with qualitative and quantitative approaches and underpinned by an intersectional consideration of the girl soldier identity—of which the Court did not lose sight throughout the process, in coherence its judgment decision. Accordingly, this section addresses the key moments of the *Ntaganda* reparations process, which are also more talking about the contribution of intersectionality to advance reparations for international crimes of sexual violence: the establishment of reparations principles, a representative sample of victims, identifying the harms and types of reparations and implementation measures for victims.

4.1 A principled framework for reparations

The first step of the Court to establish reparations in *Ntaganda* was to define the principles informing their design and implementation, which have the ingredients of a qualitative framework consistent with human rights standards. The *Ntaganda* trial judges relied on the key principles previously identified in the *Lubanga* Reparations Order first addressing reparations for child soldiers who had been conscripted, recruited and used in hostilities [26]. Accordingly, in *Ntaganda*, the Court drew upon *Lubanga*'s overarching consideration that reparations must be consistent with international human rights law, in line with Article 21(3) of the Statute, thereby reaffirming reparations based on the principles of dignity and non-discrimination, gender inclusivity, participation and consultation and a child-victim approach guided the 'best interests of the child' enshrined by the Convention on the Rights of the Child [26].

The *Ntaganda* Reparations Order went, however, further than *Lubanga* developing the notion of gender-sensitive reparations. The Order clarifies the notion of gender-sensitive reparations by which reparations should consider the specific needs of individuals with diverse sexual orientations and gender identities and, moreover, 'should integrate intersectionality as a *core* component' [11]. In an explanatory note, the Court referred to intersectionality as 'acknowledging the complexity and intersectionality of their [victims'] experiences and maintaining a holistic and relational focus' [11]. Critically, this statement acknowledges that gender-sensitive and intersectional reparations should inform the principles framing reparations under the Rome Statute, and it progressively aligns the Court's practice with international human rights standards and feminist scholarship.

4.2 A representative sample of victims

A second step toward reparations in *Ntaganda* was the establishment of a representative sample of victims. Using a quantitative approach, the Court intended to set out the parameters of the future eligibility of victims, the types of harms and the estimated cost of repairing to the potential beneficiaries [41]. The sample included

171 victims (5% of child soldiers victims and 5% of the victims of the attacks) and, crucially, was considered representative of gender and age [41]. Thus, amongst the various identity groups represented, the sample included as a specific category child soldier victims of rape and sexual slavery, children born out of these crimes and the indirect victims (close family members or those with a close personal relationship and suffering a personal harm as a result of the harm caused to the direct victims). Accordingly, with this representative sample, the Court was conducting a holistic assessment of the specific harms affecting girl soldier victims of sexual violence.

The victims participating in the sample demonstrated their eligibility by providing evidence of a set of criteria, namely, identity, the harm suffered and the causal link between the harm and the crimes according to a balance of probabilities [41]. The trial judges concluded that the representative sample of harms had enabled the Court to conduct an individual analysis of each dossier according to a methodology regarding the evidentiary criteria and standard of proof [41]. What this sample revealed was a judicial concern to consider the intersection of gender and age identities as a key criterion to identify the harms of a particularly disadvantaged group. Furthermore, the sample shows engagement with the principle of victim-centered reparations (previously recognized) [11] creating a space to consider victims' testimonies from the outset and as a step necessary to draw the bigger lines of the harms and types of reparations.

4.3 Identification of the harms and types of reparations

In the third step of the reparations process, the *Ntaganda* trial judges identified the harms of victims and the types of reparations to be awarded on the basis of the evidence obtained throughout the process and informed by the reparation's principles. Importantly, as a result of examining both, the judges identified – for the first time in international justice—the harms of girl soldier victims of sexual violence from an intersectional perspective taking into account their experiences of compounded discrimination.

An intersectional approach to understand victims' experiences resulted in the Court's identification of multi-dimensional harms arising from the rapes and sexual slavery for which *Ntaganda* was convicted. These included physical, psychical, psychiatric and socio-economic harm. The latter also included the social stigma affecting the children born out of sexual violence and transgenerational harm, a phenomenon by which social violence is passed on from ascendants to descendants with traumatic consequences for the latter [11]. This multifaceted recognition of harms for crimes of sexual and gender-based violence is very distant from the mere recognition of physical harm that feminist legal scholars have traditionally critiqued to international criminal law. O'Rourke has noted that the *Ntaganda* judgment failed short of identifying the human rights violations of girl soldier victims of sexual violence that must have followed the Court's decision to protect them, in line with Article 21(3) of the Rome Statute [42]. This gap is significantly filled by the *Ntaganda* Reparations Order recognizing the multi-faceted harms of girl soldiers relevant to social, economic and cultural dimensions of human rights that the Court is then due to implement with concrete reparations measures.

Whilst a gender and intersectional perspective identifying the harms of girl soldiers in the Reparations Order is commendable, this recognition would have greatly benefited had the judges included a gender narrative in the process accounting for victims' experiences of harm, honoring the *expressive* value of reparations, *inter alia*, the roles of truth-telling, recognition and satisfaction for victims. The urgency and

feasibility of expressing a gender narrative during reparations would have certainly been stronger had the *Ntaganda* judgment previously recognized these multi-faceted gendered harms and experiences more accurately, as O'Rourke noted [42]. For this reason, it would be important that in future cases both the prosecutor and judges take care to convey victims' gender experiences of intersectional discrimination and harm with more sensitivity throughout the process, especially in the judgment decision, as evidence that can be used in reparations with a unique value expressing the meaning of the harms for victims.

A logical consequence of the Court's identification of harms for the specific category of child soldier victims of sexual violence was the design of 'collective reparations with individualized components' focused on the individual needs of victims within the group [11]. The Chamber justified this choice on the 'holistic approach to the multi-faceted harms' and on the sustainability of reparations in the long-term and in terms of gains [11]. Given the multi-faceted nature of the harms, the judges established that reparations should include different modalities – restitution, compensation, rehabilitation, satisfaction and symbolic reparations – and, crucially, should be transformative and 'strive to tackle the cultural meaning and understanding of violence as the structural barriers leading to victims' stigmatization' [11]. The Court thus links transformative reparations to the elimination of structural barriers which resonates with an intersectional approach to discrimination.

4.4 Implementation

The implementation of reparations started with an 'initial' Draft Implementation Plan elaborated by the Trust Fund and approved by the judges in July 2021. It addressed exclusively the most urgent needs of victims such as immediate medical care and financial hardship endangering the person's life, and had a temporary scope [39] pending its reintegration into the 'definite' Implementation Plan [40]. Interestingly, the initial Implementation Plan focused on the harms of child soldier victims of rape and sexual slavery and the children born out of these crimes as a specific category. By considering that these harms required urgent attention, the Court showed an understanding of the relationship between intersectional discrimination against girl soldiers and the enhanced gravity of their harms of sexual violence. The trial judges approved two of the assistance projects proposed by the Trust Fund's initial plan which addressed many of the multi-faceted harms of girl soldiers previously identified by the Reparations Order: the 'Psychosocial and socio-economic reintegration of girl-mothers of the wars in Ituri'. These projects included rehabilitation measures in the form of medical and psychological assistance and had a strong focus on socio-economic measures. This socio-economic component is outstanding in addressing social issues and stigmas like family mediation and community sensitization (i.e., early marriage, peace, conflict and education) and economic reintegration with measures such as providing microcredit, income-generating activities, schooling for vulnerable children and nurseries for children whose mothers attend these activities [39].

In August 2023, the priority measures for girl soldiers were complemented by the Court's approval of the Draft Implementation Plan for Reparations containing comprehensive reparations for all victims [40]. The Implementation Plan establishes objectives addressing the multi-faceted harms identified in the Reparations Order which touch upon the different spheres of the victim person, namely: physical and mental rehabilitation, socio-economic status and outlook, satisfaction and acceptance of the program as adequate by families and communities. In terms of concrete

measures, on the one hand, the Implementation Plan provides for rehabilitation imparted by experts and tailored to the needs of beneficiaries (including relative to sexual violence, trauma and transgenerational harm) while, on the other hand, it reaffirms a strong socio-economic component clearly intended as guarantees of non-repetition and satisfaction.

Socio-economic reparations measures for girl soldiers in *Ntaganda* commence with a starter sum to enable victims to realistically attend the different programs. The latter includes educational assistance, from literacy courses to university degrees (covering their related costs) for a five-year period. In this way, the Court seeks to 'rectify' the economic harm suffered by direct victims of rape and sexual slavery, and fulfill the aim of providing victims with 'sustainable and long-term livelihood means' [40]. Alternatively, victims can pursue income-generating activities such as vocational training (supported with material and expert assistance) and a cooperative of beneficiaries [40]. Last but not least, the Implementation Plan includes measures to overcome social stigma such as community outreach to raise awareness of the seriousness of the crimes, the building of community centers for former child soldiers to 'provide satisfaction to the harm caused to [girl soldiers] victims of rape and sexual slavery,' and administrative measures like the issuance of identity cards for children born out of rape [40]. The experiences of discrimination of girl soldiers rooted in gender, age and socio-economic status seem thus present across the Court's implementation measures addressing the multi-faceted harms of these persons.

5. Living-up to gender and intersectional reparations? A preliminary assessment

Do ICC reparations measures for girl soldier victims of sexual violence in *Ntaganda* effectively address their harms at the intersection of discrimination? This section answers this question by applying the three-tier test for intersectional reparations proposed by Butti and McGonigle where reparations should (i) identify intersectional discrimination, (ii) include victims' meaningful participation and (iii) address all layers of marginalization [12].

Taking into account the first condition—the identification of intersectional discrimination—reparations measures in *Ntaganda* can be deemed to do so. They are flexible in addressing the specific category of harms of girl soldier victims of sexual violence within the UPC/FPLC armed group arising from intersectional discrimination against these identities on gender, age and socio-economic status. Indeed, throughout the reparations process, the trial judges did not lose sight of the girl soldier identity whose unique vulnerability was highlighted in all relevant reparations decisions; namely the identification of principles, types of harm and reparations and implementation measures. Since the different steps of the reparations process address the specific perspective of girl soldiers in view of informing their multi-faceted harms, first as priority victims (Initial Implementation Plan) and then more comprehensively (Implementation Plan), it can then be affirmed that the *Ntaganda* reparations are flexible and intersectional providing for the specific category of the girl soldier identity.

An intersectional approach to reparations in *Ntaganda* was made possible, first of all, because the judgment decision (refer to section two) had previously adopted this perspective identifying the particular vulnerability of girl soldier victims of sexual and gender-based harms resulting in the conviction of the accused and opening the

door to reparations for those crimes. It may be thus convened that implementing intersectional reparations for sexual and gender-based crimes requires, in line with what Rubio Marín and Sandoval consider as conditions for gender-sensitive reparations, of two necessary steps at international courts: first identifying the facts and violations (for which the judgment and conviction in *Ntaganda* were preconditions) and, as a result, identifying gender-sensitive measures—where intersectionality is a ‘core’ component—allowing victims to cope with the *concrete* effects of the violations in their lives [25] (purpose of the reparations process).

Considering the second leg of the test for intersectional reparations—a victim-centered approach based on the input of victims—the *Ntaganda* process does incorporate such meaningful participation. The Reparations Order recognized the principle of a victim-centered approach giving them a voice in design and implementation so that measures taken reflect their own needs [11]. In consistency with this approach, the *Ntaganda* trial judges created space for the participation of girl soldier victims of sexual violence—to a greater or lesser extent—at these stages. Concerning the design, victims’ participation was rather *sui generis*. Mainly, participation took place through the establishment of a representative sample of victims where the Court examined individual dossiers which included the specific category of child soldier victims of sexual and gender-based violence. Whilst, on the one hand, the sample had the advantage of being representative of victims’ identity groups thereby enabling the Court a holistic understanding of the harms of girl soldier victims of sexual violence, on the other hand, it had the disadvantage of not being inclusive of all individual victims belonging to this category.

Is it, however, realistic to expect that the ICC would revisit the dossiers of all individual victims of the crimes for which *Ntaganda* was convicted at the design stage of reparations? A more realistic and, probably, useful approach at this stage, considering the extensive number of victims, would be able to achieve the most accurate understanding of the types of harm in view of achieving the most representative – inclusive– design for each of the represented groups. No doubt, this representative design would then need to provide the basis for all eligible victims to express their own voice on how to best implement reparations measures according to their specific needs. This was indeed the modality of reparations chosen by the Court by ordering ‘collective reparations with individualized components’ focused on responding to individual needs within the group [11]. This modality suits well an intersectional approach because it seeks individual redress without losing sight of structural discrimination affecting individual victims as members of a marginalized group due to common identity traits. Here, too, intersectionality played a role because both the design and implementation of reparations were informed by the input of girl soldier victims of sexual violence either in a representative manner (the sample) or, more meaningfully, individually (via implementation measures). Victims’ input informing an intersectional perspective of reparations took place holistically and individually. Additionally, the Reparations Order noted that the collective design with individualized components did not preclude the possibility of victims to apply for individual reparations, thereby leaving the door open for an individual design if needed [11].

The implementation stage more neatly provided for a victim-centered process creating the possibility that they express their own individual preferences across the different reparations measures. The Implementation Plan was explicit that rehabilitation measures (physical, mental and social) would be ‘tailored’ to the individual needs of beneficiaries and, likewise, that socio-economic measures (from vocational training and education to income-generating activities) were aimed to adapt to victims’

preferences in order to provide for 'sustainable and long-term' livelihood means for victims [40]. Yet, despite their formal approval, it is worth noting that these provisions will not guarantee *per se* (at the time of writing the process is undergoing) victims' effective participation in the implementation measures. The Court will face challenges. One challenge is outreach to victims, carried out by the ICC's Registry (its administrative body) whose Public Information and Outreach Section (PIOS) will need to work in the field with sensitivity adopting the intersectional approach, that has animated the Court and the Trust Fund, to reach out effectively to victims and communities [40]. Another challenge is the context of continuous insecurity in the DRC which complicates the capacity of victims to demonstrate their eligibility (proving identity, harms and their causal link with the crimes); for which the judges are accepting alternative documents and testimonies and presuming harms (material, physical and psychological) for child soldier victims of rape and sexual slavery [40].

With regards to the third leg of the test for intersectional reparations—addressing all layers of marginalization—the implementation measures approved in *Ntaganda* address the compounding factors—gender, age and socio-economic marginalization—underpinning the harms of girl soldier victims of sexual violence. Ending cycles of complex marginalization exposing individuals to a high risk of violence requires reparations measures that tackle the way inequality structures perpetuate oppression and, alternatively, create opportunities for personal transformation. This is the only realistic way out of individual involvement in violence and a necessary step to halt patterns of violence [12]. The multi-faceted measures foreseen by the Initial and Implementation Plans, specifically designed for child soldier victims of sexual violence, target gender, age and socio-economic issues underpinning their oppression with measures that leverage and develop the different dimensions of their harms, namely, programs for physical and mental health, social and economic reintegration.

Especially, the *Ntaganda*'s component of 'socio-economic status and outlook' featured in the Implementation Plan is strongly supplied. Its explicit aim is to provide victims with 'sustainable and long-term livelihood' and satisfaction, where transformation of personal circumstances can realistically take place. The approval of generous economic and social measures seems adequate to fulfill this aim by means of solid (vocational) education programs and income-generating activities fully supported, family mediation, community training on gender relations and centers for former child soldiers, amongst others. Accordingly, *Ntaganda*'s approach to reparations for girl soldiers does not conceive transformation as an abstract entity disconnected from victims' lives (critiqued by Walker) [27]. On the contrary, the measures approved can trigger transformation for girl soldiers because they tackle the structural impediments in their concrete lives (gender, age and socio-economic issues) which they *transform* into opportunities for change. The Court's 'socio-economic outlook and status' component makes a commendable effort to achieve this aim. In this effort, it is remarkable that reparations measures for girl soldiers combine gender and age sensitivity with measures seriously addressing their situation of *poverty and deprivation* which, observers have noted, are central to address the underenforcement of transitions from conflict for the most marginalized, principally, women and girls [29].

6. Conclusion

The chapter has demonstrated the ICC's adoption of a gender and intersectional approach to reparations for girl soldier victims of sexual violence within armed

groups—a premiere in international justice mechanisms. Through this approach, the Court in *Ntaganda* seeks to seriously engage in reparations that address the compounding causes of discrimination underpinning sexual and gender-based violations—gender, age and socio-economic disadvantage—to achieve effective reparations that transform the concrete lives of victims. The chapter explained how this process was possible. It first addressed the Court’s establishment of jurisdiction and judgment as prerequisites allowing to engage with intersectional reparations. Progressively, in these previous stages, the *Ntaganda* judges did not lose sight of the marginalized identities of girl soldiers in the analysis of their experiences of rape and sexual slavery, resulting in convictions for these harms and opening the door to reparations. The chapter then inquired whether the *Ntaganda* reparations process for girl soldier victims of sexual violence really lives up to the application of an intersectional approach with the potential to transform the lives of victims. This query was answered by applying the three-tiered test established by Butti and McGonigle—identification of intersectional discrimination, victims’ participation and addressing all layers of marginalization—whose analysis in the light of the Court’s key decisions concluded with a positive assessment.

The ICC’s adoption of an intersectional approach to reparations is a great step forward for international justice and, in particular, for crimes of sexual and gender-based violence against girls in armed conflict. Intersectionality in *Ntaganda* provided judges with key insight into structural patterns of complex discrimination underpinning the violations of girl soldiers within the armed group. This insight was critical to design and implement effective reparations where individual measures—targeting girl soldiers as a specific category of victims—tackle the root causes of discrimination—gender, age and socio-economic status—thus providing understanding on how to transform these obstacles into sustainable and long-term opportunities. In other words, intersectional reparations in *Ntaganda* allowed linking individual needs with the structural dimension of discrimination underpinning the harms to achieve change in personal status and outlook.

Remarkably, ICC judges in *Ntaganda* established a framework of reparations with intersectional ingredients which is likely to influence other reparations mechanisms (including non-judicial) addressing crimes against children and, beyond, affecting other intersecting identities vulnerable to gross violations, such as minorities whose gender identity intersects with ethnicity, religion, sexual orientation, etc. This intersectional framework of reparations for girl soldier victims includes, firstly, principles that affirm a child-centered and gender-sensitive approach and has intersectionality as a core component. Secondly, it applies quantitative and qualitative approaches to inform the design of reparations; namely, a sample of victim’s representative of gender and age—where child soldiers victims of sexual violence are a specific category—to obtain a holistic and inclusive perspective of their multi-faceted harms. Third, this insight underpins the design and implementation of collective reparations for girl soldiers with individual components thus, focusing on their individual needs but without losing sight of structural discrimination underpinning their most representative harms. Lastly, the Court gave particular attention to reparations measures that target the socio-economic reintegration ‘outlook and status’ of girl soldiers seeking, through education, income-generating activities and community outreach, to get them out of poverty and stigma as essential components of reparations that ensure non-repetition and satisfaction.

Last but not least, the resulting reparations framework in *Ntaganda* is consistent with international human rights law with which the ICC must align according to


Article 21(3) of the Rome Statute. It is worth noting that despite its alignment with human rights standards on reparations, this framework fully respects the principle of legality applicable to international crimes as it does not affect the interpretation of the criminal conduct nor the rights of the accused. Rather than directly transposing human rights standards to international criminal law, this framework is flexibly used by the Court to understand the context of discrimination where violations take place and victims' experiences of harm. Further, the *Ntaganda* reparations framework is *sui generis* and goes ahead of international human rights standards in certain aspects of victim protection. These include an explicit acknowledgment of a child and gender-sensitive approach to reparations where intersectionality is a 'core' component, a methodology for a holistic representation of the harms of identity groups, and prioritization of socio-economic issues critical to achieve a 'sustainable livelihood' as a key expressive value of reparations.

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Mapping out COVID-19, Social Distancing, Pandemic in Juxtaposition with Sexual Desires Practices in a Gay Latino Immigrants Men [GLIM] Study

Gerardo Betancourt

Abstract

COVID-19 reminded us of the fragility of human beings once humankind had felt they had mastered health, weather, and natural conditions in the world. For many generations, there was no memory of any pandemic close to our lived experience. During the pandemic, I was waiting to start the interviews for my research on Gay Latino immigrant men in Ontario, Canada. Because of COVID, my advisory committee accepted adding three questions about COVID to be analyzed along with the semi-structured questionnaire focused on sexual health practices among Latino immigrants in interracial sexual/romantic relationships. The findings result in the understanding of the role of sex on Gay Latino men and the strategies they developed to somehow deal with the lockdowns, social distancing, the risk of getting infected with COVID-19, and simultaneously satisfy their sexual and romantic needs.

Keywords: COVID-19, HIV/AIDS, sexual health strategies, gay Latinos immigrant men, grounded theory, sexual desires, intimacy needs

1. Introduction

At the end of 2019 and the beginning of 2020, a rumor about a new flu strain started appearing on the news. At first, it did not seem real and was happening in China, so far away for many individuals. For many people, this new disease did not deserve public attention. By January 2020, the news kept pointing out this new disease, called Coronavirus-19, which ended up called COVID-19, due to the year it emerged [1–3]. The new virus was spread very soon, and helped by globalization and easy traveling, the virus arrived on other continents, making any human relocation a perfect host and carrier; within weeks, the virus was found in every country

worldwide. COVID-19 took us by surprise. Non-government would have played an excellent role in how to deal with the new pandemic. It was too much, too fast, too out of control [4–7].

This article will use two theoretical approaches [8–12]. The first one is the autoethnography methodology in which the chapter is narrated in—a first-person account—because this section is about how COVID got inserted into the main story, my thesis process. Moreover, taking advantage of the pandemic, my study was able to open the opportunity to expand the questionnaire about sexualities, to ask them about how COVID and the pandemic changed their sexual lives. All along with the new strategies that the participants of “Gay Latino Immigrant Men” [GLIM] used to mitigate, deal with, and survive the lockdown and the social distancing health guidelines. Autoethnography is a methodology that praises ethnography, an approach that was first rooted in anthropology, in which an individual would have inserted himself in the setting – *in situ* –, observing and describing, eventually, turning into explaining the “everyday” social practices he/she/they/saw. Autoethnography requires a higher method of reflexivity and ethics since it is easy to get lost in your self-narratives, producing bias and not practical approaches related to the study. In time, social sciences began accepting autoethnography as a valid and rich methodology to cover this academic practice’s subjective, limited, and not “scientific” – knowledge production result [13–18].

However, given how COVID got immersed in our lives during my thesis production process, this is the correct approach to situate myself and the reader into the *motif* of this chapter. The methodology used for my thesis, the one I used for interviewing, coding, analyzing, and synthesizing data, was “Grounded Theory” [GT], which I will further explain in the coming sections of this document.

2. Gay Latino immigrant men “GLIM” the study of a thesis affected by COVID

In September 2019, I was still working on my ethics *application* by the Research Ethics Board [REB]. Part of the work was to provide guidelines for an in-depth, face-to-face, semi-structured interview with individuals who wanted to be part of the study. During the process, corrections went back and forth. January came, and then in March, I still needed to get my REB approved. Many research projects that involved human beings’ participation were put to a halt, mine included. Although we moved immediately to complete the courses we were teaching at the time, in my case, a Methodological course I taught was completed online using Zoom [10, 19–22]. Nevertheless, there needed to be guidelines about how to continue research projects since we were still determining for how long the lockdown would be in place or if vaccinations were coming soon or coming at all. The rest of 2020 was a period of suspense. It was up to me, working with the REB department of the University of Toronto and many academics and experts involved in creating guidelines for working extra hours to develop the safety measures for making it possible to use Zoom as a tool for the interviews, making s ethically safe by respecting individual’s anonymity, consent, and confidentiality. Finally, my REB was accepted, and my interviews were conducted on Zoom, protected by a structure that Zoom and the University of Toronto created for a safe and secure

system [13, 15, 16, 23–26]. Interviews were conducted in 2022 ($N = 20$). GLIM were recruited (see **Table 1**).¹

3. Exploring sexual practices of gay Latino immigrant men [GLIM] in interracial relationships, a thesis study

This study is based on the higher rate of HIV infections among GLIM when compared with other ethnic-racial groups (Asian, African-Caribbean, others), only second after the White category in Canada at the time (Data correspond to statistics collected before COVID) [27–32]. Few studies, interventions, and programs were focused on Latino gay communities, particularly in Ontario [24–29]. Given my expertise in the field of working as a front-line worker with Latino immigrants in Ontario and having been trained in Adult Education, Community Studies, essential community Statistics and Epidemiology, Qualitative/Quantitative methodologies and after taking some courses about sexualities, I realized that part of the gap in knowledge about HIV and sexualities was related to the role of understanding pleasure, love, attraction and role that sexualities play in the life of Gay Latino immigrants. Added to these factors, a study needed to be conducted taking into account the relationship or interaction between GLIM] and White men in Canada, where – invisible, subjective, and politically incorrect themes – there was a differential power, agency, and status (not only legal/illegal immigration), but also cultural, lack of official languages proficiency in Canada (English/French), large economic gap, and social networks [33–51].

3.1 Grounded theory

GT [52–60], according to Charmaz, is a suitable methodology for researching and exploring issues, topics, and social phenomena that have not been overly studied. For GLIM the semi-structural questions, approved by the University of Toronto's REB, were central around sexualities, desires, and very intimate questions (some questions even asked about sexual preference, such as: if the individual liked being penetrated or preferred to penetrate, or if they preferred a circumcised/uncircumcised penis, and how much empowerment they felt in negotiating sexual health HIV prevention measurements with a White partner, such as using condoms, avoid anal intercourse, among other relatable topics). Data was collected, transcribed verbatim, and coded using Nvivo-12. GT analysis demands constant comparison, memo writing, and theoretical focusing. In the end, the questions added and focused on COVID-19 ended up being only 3 out of 35.

¹ The table shown at the end of the chapter represents the basic demographic information of the ($N = 20$) GLIM participant's study. One of the inclusive requirements of the study was that individuals were born in a Latin American country (Except Brazil since they have a different language). Interviews were conducted in English or Spanish, depending on the participant's choice. There was a HIV positive category ($n = 3$) but was deleted from the table for this chapter since it was thought not to be relevant for this chapter. Participants age was in range of 25–55. The table also explains how long individuals have been living in Canada, and what economic activity (job) were doing at the time of the interview. The table they also explain from which country of origin GLIM were from. All of them were gay and “out of the closet” as a requirement for the study.

Num	Country of Origin	Years Living in Canada	Profession	Marital Status	Age
1	Peru	12	Marketing	Single	391,984
2	Costa Rica	12	SW/Lawyer	Partnered	501,972
3	Bolivia	10	Bank	Single	491,973
4	Colombia	12	Clothing Designer	Partnered, Divorce	331,990
5	Venezuela	10	Marketing	Partnered	32, 1989
6	Oaxaca, Mex	15/San Diego/CAN	Chemical Eng/MBA	Married twice	501,972
7	Mexican	5	Management/Programming	Partnered/Polyamory	431,980
8	Mexican	Refuge 1st., Student 2nd.	English Teacher	Single	311,992
9	Chile	11	Jewelry	Single	421,981
10	Venezuela	13	Finances to Survival	Single	441,978
11	Mexico, Tulancingo	5	Project Mang/	Common Law	351,988
12	Mexican	19	Accountant	Common L/Divorced	551,968
13	Colombian, Bogota	5	Fam/counter self-server	Single	231,999
14	Colombia, Bogota	15	None particular job	Single	531,970
15	Mex	12 Poz in Toronto	Cleaning/sex educ	Married	421,981
16	Mexico, Sinaloa	4	Machines/Cleaning	Single	431,979
17	Baltimore/Colombia	5 years student	Chemical Engineer	Single	251,985
18	Mexico	5 years student	Medicine/Business	Double Marriage	381,984
19	Venezuela	11 years	Human Resources	Partnered	421,980
20	Venezuela	10 Years	Programming	Partnered	421,980

Table 1.
GLIM demographics.

3.2 COVID-19 questions

The focus of the questions was on trying to understand the social construction of strategies, tools and understanding of how COVID-19 disrupted the life of GLIM in our interview. This aspect was not part of the original research questions. However, my advisory committee accepted my proposal by adding these three questions, given my argument that I thought it would be relevant to know how GLIM sexually adapted to the new pandemic. Two aspects were paramount for me. First, gay men experienced the HIV/AIDS epidemic in the “80s-’90s (not that HIV/AIDS is over in the world, but those interviewed individuals may have belonged to a generation that has missed seeing or knowing stories of people who died at the beginning of the HIV/AIDS). However, the second aspect is that all the GLIM participants were very foremost aware of HIV/AIDS and knew about the basic sexual health knowledge on how to prevent getting infected, or if they were HIV positive, they had knowledge about how to avoid spreading it out the virus to others [1, 8, 11, 42, 54, 61–77].

As follows, there are the questions inserted in the semi-structured interview guide. Thus, the answers were sometimes answered in a different order or took a different exciting direction, and I decided not to stop the narratives. Questions are transcribed as follows.

27. Tell me about the last sexual encounter you had with a White gay man before COVID. What were your sexual health practices (probing for condoms, only oral, serosorting, U=U/TaSP, PrEP, other)?²

28. Tell me about the last sexual encounter you had with a White gay man during COVID. What were your sexual health practices (probing for condoms, only oral, serosorting, U=U/TaSP, PrEP, other)?

29. How did COVID-19 affect your health and sexual health practices? (Probing for having only sex with current partner/monogamy, fuckbuddies, bubble’s strategies, stopped having sex, requesting for vaccination proof, other)³ [59, 67, 71, 72, 78–85].

4. Narratives

Some categories are relevant and worthy of mention. COVID first challenged people about their sexual lives, the ones who were in a relationship or the ones who

² Here it is the explanation of the different terms used in the questions, that are related to HIV prevention. A) Serosorting: means to have sex anal intercourse with someone who is the same HIV status than the self (+ or –). B) TaSP/U=U [TASP] means treatment as prevention, and [U=U] means Undetectable equals Untransmittable. Both concepts related to the fact that when an individual who is HIV+ is under retroviral treatment, and his/her/them HIV viral count is minor (It used to be under 50,000 copies, but new evidence is showing that even under 20,000 copies) in blood, an individual is not capable on passing HIV to anyone else. Finally, C) [PrEP] Pre-Exposure Prophylaxis is a relatively new medication that is taken every day (there are other approaches in Europe; it reduces the chances of getting infected with HIV with an over 90% efficacy).

³ Note: Three participants were interviewed in Spanish, and the accounts were translated and reviewed by the researcher. Both accounts, English and Spanish, had to be reviewed for accuracy. However, sometimes, the researcher had to edit the narratives for clarity and sense because participants were jumping back and forth in their thoughts, and some narratives needed more work for coherency in thinking in linear ways. One of the early conclusions of why this happened may be the emotional, emotive, and intimate character of the topics participants were asked.

were single. Despite new understandings of “modern” families and relationships, the new pandemic confronted people’s understanding of health information. It confronted their prioritization of pleasure and intimacy with the concept of ‘social distancing.’ Finally, it provoked new thoughts and creativity for individuals to create, manage, and support social “sexual bonding” configured by bubbles, rules, and exceptions. Adding to this equation, gay men, without any moral judgment, have relied during the past decade on technology on the form of sexual apps to meet ‘potential sexual partners,’ and many times, those “potential sexual partners” are nothing else but strangers [54, 73, 86–88].

For instance, this is Leo, a 39-year-old Peruvian. He has different reflections about COVID and other people and reflections about himself and how he dealt with the situation:

They (his friends) seemed completely stupid to me in what they were doing. And little did I realize that the people I was dating or having sex with were [sic] (them). They weren't the best. Not for me. So I got away from them, got away from some friends... it was a little difficult for me to trust again. I think there has been some, my brain makes it more difficult for me to trust people now because I have realized how the ethics of people at a time as serious as it was with COVID when people died...

Then he reflected on how COVID forced people to change their ‘open’ relationship to a monogamous one only because of COVID.

... some people had a partner and became monogamous, some people chose their formulas and created a bubble of four of us or five of us, even if they didn't get together at the same time, but nothing more. And some people stopped having sex...

Some others, when they were asked about the strategies they developed to continue with their sexual lives, came up with similar rationales, as mentioned before, such is the case of Adrian, a 40-years-old Bolivian:

... So I had (developed some strategies). Um, yeah, I had a couple of regulars. Yes, it was not that formal like (colonialism). I had conversations with these two people that we were going to be exclusive, or that we were going to be together for about the time of the pandemic that I was having sex with these two guys, for I would say about eighteen months. I had sex with other people as well. But I would say that it was primarily with these two people...

Although Adrian agreed to have some ‘exclusivity contract’ with those people, he says he had sex with others outside the bubble he formed. It can be assumed that many people had similar agreements [11, 54, 72, 73, 75, 77]. Some were respected and followed 100%, while others were hard to follow. Sexual desire was burning individuals inside. Despite the Pandemic, sometimes individuals took their chances in a similar way that in the ‘80s, before all we know about HIV, gay men kept having sex. This is what I call—*La Pasion*—[34], which means that sexual desires are so strong that people stop reasoning to allow their instincts and urges to lead their actions and behaviors despite the health consequences. Also, there is a possibility that some other—well-intentioned people—fell short of their promises/commitments with others as well. For other couples, COVID was the factor

that ‘rushed’ or ‘sprinted’ the formalization of ‘moving together/shack up’ Hugo, Colombian, 33:

...Um! So before Covid hit he (his boyfriend) was spending a lot of time at my place,... It's easier for him to just be here (my place) than it is to be troubled around. So we had. We were kind of like talking about the idea of him moving in, and then (he)..., and he just made it a lot simpler, right? We already [sic] talked about it. Um! It (COVID) probably kind of forced that a lot faster...

To the same participant, Hugo, asking him if that decision to ‘rush’ things up did not present further ‘everyday’ challenges, and as natural as one expected, he referred to this situation:

...So yes, the dynamics of the relationship would be more (intense)... there were some challenges that came up like [sic] during that time, but we knew and identified that it was mainly due to the fact that we didn't have that kind of (a) break from each other...

Not all narratives are stories of success; some individuals endure complex relationships, toxic, dependable, and even violent, given the dichotomy of choosing to live alone or suddenly being forced to share the “roof” with someone. As Martin, 31 years old Mexican refers:

...Yes, I had a sex life. All that happened was that I had only one partner. That was. It was. A [sic] good thing. This boy was very toxic. He was a very (?) person. Oh no, really, it was a very difficult relationship, but he is [sic] the only person I had sex with and we have a good bed as far as possible. Suddenly he did give me a lot of security because I felt like he was going to mess (have sex ???) with half the world, but he also controlled himself because I put the idea ..., you're going to get Covid, into his mind a lot...

Finally, some individuals felt it was tough times during COVID, particularly in year one; as mentioned before, some stopped having sex altogether dating, and some just stayed in ‘their shell’, surviving, hoping for better days, aligned to what Mateo, 42 years old, Chilean:

I think the vaccine (was a game-changer). I [sic] started to relax, and it started having more dates. But in the beginning, I barely have sex in the middle. I had a little more sex because it was more like, I don't know. Oh, I got my first vaccination, so I'm saying, let's have sex, I'm late in the late yeah, I have a little more, but not a lot. I think it (COVID) probably totally changed our sexual lives...

5. Results

In Exciting results are coming out of the data. Firstly, COVID has left a scar that would take generations to forget or erase. Depending on the self-intersectionality is how the pandemic will be remembered [58, 89, 90]. Several questions arise: would this be the last time our society will see a new pandemic? Has COVID-19 taught us a

lasting lesson? What is the total toll in terms of mental health issues resulting from the “lockdowns,” and what about the more prolonged effect on the economy and education workplace policies?

Furthermore, and finally, for this chapter’s sake, how COVID-19 has reshaped our sexualities? Would we see a surge of HIV cases due to these 2 years in a “lockdown”? Has PrEP (Pre-exposure prophylaxis) taken a higher level of importance due to COVID-19?

Data coded, analyzed, compared, and theorized shows further research directions. One direction is to understand better how sexualities are not an easy target that can just get turned off during a difficult situation. Victor Frankl [91], the famous therapist survivor of a concentration camp during World War II, remembered that during the stressful days of “Every day” life in “hell,” sexuality was forgotten by people undergoing surviving stress. He mentioned that sexual desire was gone, women stopped menstruating, and men had minimal libido. Keeping all the proportions (and respect) of two different events, it is true that some individuals in the study shared that they experienced a reduction in sexual desire at different times during the pandemic. Some embraced total abstinence.

During the first years of the HIV/AIDS epidemic, when ignorance and fear reigned over the gay communities in North America, many individuals chose abstinence as well when it was clear and established that sexual interaction had a relationship with the new virus infection rates [64, 92–94].

Another intriguing aspect was the different strategies that individuals employed to survive COVID-19 and keep some sort of normalized lives, such as monogamy and bubble clubs (with ‘exclusive’ membership), that, in the end, were very flexible, showing how populations take health information, interpret it in the way seems to make sense to them. Thus, individuals developed their safe codes and made the best decisions to protect themselves from getting infected. Health literacy, health practices, and behaviors during COVID-19 are an open field to delve into individual’s minds vs. infection rate and health practices during the pandemic and in the aftermath [8, 95–98].

The final finding of this analysis was related to the beginning of the vaccination process. Some participants of the study shared it. It was how social media and sexual apps (e.g., Grindr, Scruff, Romeo, Tinder) helped to self-promote and self-locate “healthy” vaccinated candidates for sex, setting themselves free for an “open market” game. Since the arrival of sexual apps, there has been a very contested and heated discussion about how people use sexual apps, not only to share their sexy pics, sexual practice preferences, and the type of sexual partner sought for an encounter. Moreover, at specific points in time, people use sexual apps to discriminate against particular body types, masculinity behaviors, age, ethnicity, body type, and HIV status. When PrEP came up, that was the new thing to offer or to request in the “meat market” [48, 71, 72, 78, 79, 82–84, 99, 100] negotiation. In this regard, the first vaccination was “like” the new PrEP, the factor used for self-marketing to provide an extra layer of safety and lure attraction, allowing individuals who match their vaccination status the sweet indulging of an “exclusive sex,” a new (sense) of an elite, of homo sexualities without barriers. At the very least for a few months until almost every individual had access to vaccination. However, this data reveals room to understand and further question those social dynamics, symbols of status, and signifiers of desire and attraction. At least until the new COVID variant or a new pandemic comes up to mess up with the social hierarchy of social organization of sex.

6. Discussion

According to Nowaskie [74], your experience as a member of the LGBTQ was related to your knowledge about the HIV pandemic and how to deal with, filter, and manage your sexual needs. I would argue that individuals did their best in the news and information and the intersectional position in which those people were surprised by the pandemic. If they were singles, many study participants stopped having sex or waited until vaccinations started rolling around to feel safer. Some others tried to ‘formalize’ either a relationship or organized a system of ‘bubbles’ with the hope of keeping ‘their fluids’ safe (a serosorting HIV strategy, in which you only have sex with people of your same HIV status) [11]. However, one of the findings of this study was that individuals were weaker, and despite knowing the health information provided by media, some people prioritized the satisfaction of their sexual needs, what I have termed as—*La Pasion*—[34] in which sexualities, intimacy, and pleasure; are more important than health. Immediate benefits overrule long-term health benefits.

Some research stressed using other avenues to deal with sexual desires, such as porn, masturbation, and telephone sex. At the same time, because of the social distancing, there was an expectation of a reduction in HIV/STI infections [2, 38, 41–44]. However, much analysis still needs to be published for us to understand the actual dimension of what happened with sex during COVID-19.

Other reflections can be drawn in terms of how GLIM or other minority populations [2, 9, 10, 101–107] behave during another pandemic, either similar to COVID-19 or a sexual one, such as it happened with Monkeypox [108], or with new resisting gonorrhea, syphilis strains, etc. I think there is a lesson for all of us humankind to learn about COVID-19 at all levels—*micro, meso, macro*—[109].

Finally, I want to argue that given the time of events, right at the beginning, HIV Sexual Health Organizations helped in an incommensurable way, given the fact that for years, those organizations had the ‘knew-how’ of communicating effectively with their communities, had enough knowledge in how to deliver science information in a community level, and had been effective in calming down stress, panic, and isolation, that COVID-19 brought to our lives [3, 42, 110, 111].

7. Limitations

There are several limitations to this study. Firstly, it was a qualitative study with a small sample size ($N = 20$). Therefore, results cannot be generalized to a larger population. Secondly, the sample size is a niche subgroup into a broader population, gay men in Ontario. [GT] is an excellent methodology to explore issues that have not been overstudied, such as the impact and effect of COVID-19 on the sexual lives of X or Y populations. However, more research (more qualitative and quantitative) needs to be conducted as the memories of what happened during those 2 years are still fresh in the minds of the affected populations and communities. The results give us a basic understanding of what happened at the societal level and may help us prepare for the next world health catastrophe.

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Conflict of interest

I declare no conflict of interest.


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Human sexuality encompasses a diverse array of activities and behaviors, and trends in human sexuality influence social structure and development. Sexual health is a state of physical emotional, mental, and social well-being concerning sexuality. This book provides a comprehensive overview of human sexuality and sexual behavior, discussing a wide range of topics including sex equality, child sex trafficking, sexual harassment, sexual oppression, sexual and gender-based crimes, and sexual practices in the context of COVID-19.

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