

Confronting Sexual Stigma and Prejudice: Theory and Practice

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*This is a preprint of a paper that has been accepted for publication in the Journal of Social Issues.
Minor changes may be made to the paper in the course of copy editing.*

AUTHOR NOTE. I am grateful to the National Institute of Mental Health, the Monette-Horwitz Trust, and the University of California at Davis for the support they have provided for my research over the years, and to the American Psychological Association for the opportunities it has afforded me for communicating scientific knowledge to policymakers. I also express my appreciation to my friends and colleagues in the worlds of academia, research, policy, and advocacy – too numerous to name individually – whose work has provided me with inspiration and guidance throughout my professional career. This paper is dedicated to Jack Dynis, who helps me to integrate theory and practice in my own life, and makes it immeasurably richer in the process. Correspondence should be addressed to Gregory Herek, Department of Psychology, University of California, 1 Shields Avenue, Davis, CA 95616.

Abstract

This article explores theoretical and applied questions that are relevant to social scientists' efforts to understand and confront sexual stigma. A framework is presented for conceptualizing such stigma as a cultural phenomenon with structural and individual manifestations. The latter include enacted stigma and felt stigma, as well as internalized stigma, which encompasses self-stigma among sexual minorities and sexual prejudice among heterosexuals. Insights suggested by the model for reducing sexual prejudice are discussed. At the structural level, the framework highlights processes whereby heterosexism legitimates and perpetuates sexual stigma and the power differentials that it creates. Social and behavioral scientists' roles in working to eliminate heterosexism are discussed, and

psychologists' contributions to court cases challenging state sodomy laws are described. It is argued that confronting sexual stigma will not only address an important social problem but will also enrich scientific understanding of human behavior.

Kurt Lewin is famous for his admonition that theoretically oriented psychologists should “not look toward applied problems with highbrow aversion or with a fear of social problems” and that applied researchers should recognize that “there is nothing so practical as a good theory” (Lewin, 1944/1964, p. 169). As in so many domains of human behavior, this advice has considerable relevance to the contemporary problems of sexual stigma and prejudice and to social scientists' attempts to understand and confront them.

In the Lewinian spirit, the present article addresses some theoretical and applied aspects of this social problem at both the individual and structural levels of analysis. In the realm of application, I highlight some key issues in research addressing the reduction of sexual prejudice and the mitigation of its impact at the individual level, and describe some of my own empirical research in this area. At the structural level, I describe work by the American Psychological Association (APA) to communicate the findings from such research to the courts, and I describe some specific *amicus curiae* briefs on which I collaborated.

Such applications of science are best pursued with theoretical guidance. Toward that end, I describe a conceptual framework that I have been developing for thinking about sexual prejudice and related phenomena in their cultural context (for further elaboration, see Herek, in press-a; Herek, in press-b). I do not label this framework a theory because it does not

offer testable hypotheses. However, it provides a useful vocabulary, points to important parallels and interrelationships among phenomena, and highlights key research questions. Thus, I hope it meets Lewin's criterion of practicality. And, although it does not yet constitute a true theory, it helps to integrate insights from the psychological study of prejudice as an attitude with insights from sociological theory and research on stigma as a cultural, group-level phenomenon. In that respect, I hope it contributes to the advancement of general theory in this area.

To begin, it is important to note two ways in which the stigma and prejudice directed at sexual minorities in the contemporary United States and elsewhere are distinct from parallel phenomena directed at racial, ethnic, and religious minorities (see also Fiske & Taylor, in press). First, under most circumstances, an individual's sexual orientation is not readily apparent to casual observers, and many sexual minorities attempt to regulate the extent to which others are aware of their minority status. As discussed below, the concealable nature of sexual orientation creates important parallels between heterosexuals and sexual minorities in how sexual stigma is experienced and manifested. Second, in contrast to prejudice based on race, ethnicity, religion, and many other statuses, sexual prejudice is *not* generally regarded as undesirable or inappropriate throughout U.S. society. Although the legitimacy of sexual stigma is increasingly contested, condemnation and intolerance of sexual minorities remain strong in many sectors of society. This too has important theoretical and practical ramifications.

The Conceptual Framework

At the core of the framework is the construct of *sexual stigma*, defined here as the negative regard, inferior status, and relative powerlessness that society collectively accords to any nonheterosexual behavior, identity, relationship, or community. Sexual stigma is socially shared knowledge about homosexuality's devalued status in society. Regardless of their own sexual orientation or personal attitudes, people in the United States

and many other societies know that homosexual desires and behaviors are widely regarded in negative terms relative to heterosexuality. They are aware of the malevolent stereotypes routinely attached to individuals whose personal identities are based on same-sex attractions, behaviors, relationships, or membership in a sexual minority community. Thus, sexual stigma is conceptualized here as a cultural phenomenon that exists independently of the attitudes of any one individual. It creates the social context in which such attitudes are formed, maintained, expressed, and changed.

Lay accounts of stigma tend to focus on the particular condition or attribute that marks its bearers as diverging in an undesirable way from society's understanding of normalcy. By contrast, social psychological accounts emphasize the social processes through which a stigmatized condition acquires its meaning in different situations (Goffman, 1963; see also Crocker, Major, & Steele, 1998; Jones et al., 1984). In the case of sexual stigma, these culturally constructed meanings have evolved over time – and currently are changing rapidly – as a product of complex social processes (e.g., Herek, in press-b). As with all types of stigma, they are grounded in society's power relations, which means that nonheterosexuals have less power than heterosexuals, that is, less access to valued resources, less influence over others, and less control over their own fate (Link & Phelan, 2001).

Structural Manifestations of Sexual Stigma

Like other forms of stigma, sexual stigma manifests itself both in the institutions of society and in individuals. At the structural level, society's institutions and ideological systems legitimate and perpetuate sexual stigma and the differentials in status and power that it creates. I label this aspect of sexual stigma *heterosexism*. Adapting Link and Phelan's (2001) definition of institutional racism, heterosexism can be understood as a cultural ideology embodied in institutional practices that work to the disadvantage of sexual minority groups even in the absence of individual prejudice or discrimination.

Within society's institutions – including

religion, the law, and medicine – heterosexism has historically legitimized the inferior status of sexual minorities relative to heterosexuals. It continues to justify and perpetuate power differentials between heterosexuals and sexual minority individuals through at least two general processes. First, it promotes a heterosexual assumption (i.e., all people are presumed to be heterosexual) and thereby renders gay, lesbian, and bisexual people invisible in most social situations. Second, when people with a nonheterosexual orientation become visible, heterosexism problematizes them. Nonheterosexuals, homosexual behavior, and same-sex relationships are presumed to be abnormal and unnatural and, therefore, are regarded as inferior, as requiring explanation, and as appropriate targets for hostility, differential treatment and discrimination, and even aggression. By contrast, heterosexuals are regarded as prototypical members of the category *people*, and heterosexual behavior and different-sex relationships are presumed to be normal and natural (Hegarty & Pratto, 2004; for a more detailed discussion of specific aspects of heterosexism, see Herek, Chopp, & Strohl, 2007).

It is noteworthy, however, that as lesbian, gay, and bisexual people have increasingly come to be recognized as a minority group whose members are entitled to recognition not simply as human beings but also as well-functioning members of society who deserve full citizenship and equal rights, discriminatory practices and policies have begun to lose their claims to moral righteousness. In other words, heterosexism's legitimacy in the United States and elsewhere is increasingly contested (e.g., Kelman, 2001). Psychology has played an important role in this process, a point that is discussed in a later section.

Individual Manifestations Of Sexual Stigma

The conceptual framework highlights three key manifestations of sexual stigma among individuals.

Enacted Stigma

Enacted sexual stigma refers to the overt behavioral expression of sexual stigma through

actions such as the use of antigay epithets, shunning and ostracism of sexual minority individuals, and overt discrimination and violence. In my own research, I have been especially interested in extreme forms of enacted sexual stigma, such as violent victimization of sexual minorities, property crimes against them, and other forms of overt harassment and abuse. During the 1980s and 1990s, I collected data from several community samples (Herek, 1993; Herek, Gillis, & Cogan, 1999; Herek, Gillis, Cogan, & Glunt, 1997) which, in combination with other community and campus surveys (e.g., Berrill, 1992; Herek & Sims, 2008), indicated that substantial numbers of sexual minority adults have been the target of harassment and abuse because of their sexual orientation. The main limitation of these data was that they were obtained from convenience samples whose representativeness of the sexual minority population cannot be known.

In a 2005 survey, however, I obtained data from a national probability sample of self-identified lesbian, gay, and bisexual adults. In that sample, about 21% of the respondents had experienced violence or a property crime based on their sexual orientation at least once during their adult life (Herek, in press-c). Gay men were the most likely group to report that they had experienced criminal victimization: About 38% of gay men reported experiencing either antigay violence or property crimes, compared to 11-13% of lesbians, bisexual men, and bisexual women.

The survey also yielded data about other forms of harassment and abuse that are commonly experienced by sexual minorities. For example, 13% of respondents reported having objects thrown at them because of their sexual orientation, 23% had been threatened with violence, and 49% had experienced verbal abuse. As with criminal assault and property crimes, gay men were the group most likely to experience such attacks (Herek, in press-c). The same survey also revealed that employment and housing discrimination are widespread. About 11% of the sample reported having been the target of discrimination because of their sexual orientation, with lesbians and gay men more likely to have experienced it (16% and 18%, respectively) than bisexual women and men (7%

and 4%, respectively; Herek, in press-c; see also Badgett, Lau, Sears, & Ho, 2007).

Enacted stigma exacts a significant psychological toll from its targets. In addition to inflicting physical injury and property loss, for example, hate crimes are associated with greater psychological trauma for the victims than are other kinds of violent crime. In the first study of its kind, my UC Davis colleagues and I recruited a large community sample of sexual minority adults ($N = 2,259$) and compared those who had been the victims of a crime against their person based on their sexual orientation with those who had experienced a violent crime that was unrelated to their sexual orientation. Among the gay men and lesbians, those who had experienced antigay violence manifested significantly higher levels of depressive symptoms, traumatic stress symptoms, anxiety, and anger compared to those who had experienced comparable crimes during the same time period that were unrelated to their sexual orientation (Herek et al., 1999). Other studies have similarly found that sexual minority victims of hate crimes have elevated levels of psychological distress (Mills et al., 2004; Szymanski, 2005).

The most obvious targets of enacted stigma are sexual minority individuals. Their friends, family, and close associates can also be at risk, experiencing what Goffman (1963) termed a *courtesy stigma*. Because sexual orientation is concealable, however, anyone can be labeled homosexual or bisexual in a social interaction. Thus, all heterosexuals are potentially vulnerable to enactments of sexual stigma. This has important implications for understanding a second individual manifestation of sexual stigma, felt stigma.

Felt Stigma

People need not be a target of enacted stigma in order for sexual stigma to affect their lives. Indeed, the knowledge that enacted stigma can occur under certain circumstances often motivates people to modify their behavior in order to avoid such enactments. This is the essence of *felt stigma* (Scambler & Hopkins, 1986), defined here as an individual's expectations about the probability that sexual

stigma will be enacted in different situations and under various circumstances. Because people generally wish to avoid being the target of stigma enactments, felt stigma often affects behavior.

Its manifestations among sexual minorities include high levels of stigma consciousness (Pinel, 1999) and stereotype threat (Bosson, Haymovitz, & Pinel, 2004). Felt stigma also motivates sexual minority individuals to use various stigma management strategies, including attempts to pass as heterosexual, to preemptively avoid enactments of stigma (Herek, 1996). Although such coping strategies can reduce one's risks for discrimination and attack, they can also significantly disrupt the lives of stigmatized individuals, limit their behavioral options, reduce their opportunities for social support, heighten their psychological distress, and increase their risk for physical illness (Cole, 2006; Herek, 1996; Lewis, Derlega, Griffin, & Krowinski, 2003).

In my previously cited national survey, I asked sexual minority respondents about their expectations that nonheterosexual individuals will encounter discrimination or differential treatment in various situations. In their responses, most manifested some degree of felt stigma. More than one third agreed with the statement, "Most people where I live think less of a person who is [gay/lesbian/bisexual]."¹ About one fourth *disagreed* that "Most employers where I live will hire openly [gay/lesbian/bisexual] people if they are qualified for the job." Roughly 40% agreed that "Most people where I live would *not* want someone who is openly [gay/lesbian/bisexual] to take care of their children." Overall, 55% gave at least one response indicating felt stigma (Herek, in press-c).

Because a person's sexual orientation is usually concealable and, consequently, remains ambiguous in many social interactions, heterosexuals also manifest felt stigma. Like sexual minority individuals who attempt to pass as "straight," some heterosexuals use self-

¹ The item wording matched the respondent's preferred self-label.

presentation strategies to avoid being labeled homosexual or bisexual. Such strategies include avoiding gender nonconformity (Bosson, Prewitt-Freilino, & Taylor, 2005; Herek, 1986) and refraining from physical contact with same-sex friends (Roese, Olson, Borenstein, Martin, & Shores, 1992). Felt stigma sometimes even motivates individuals to enact sexual stigma against others to prove to their peers that they are heterosexual. This pattern is especially common among males, who may enact stigma to establish that they are “real men” (Herek, 1986; Kimmel, 1997).

Internalized Stigma

Felt stigma results from the knowledge that homosexuality is stigmatized, regardless of whether or not the individual endorses such stigma or accepts it as legitimate. By contrast, *internalized stigma* is an individual’s personal acceptance of sexual stigma as a part of her or his own value system and self-concept. Like enacted and felt stigma, it is manifested by both sexual minorities and heterosexuals.

I use the term *self-stigma* to refer to internalized sexual stigma among sexual minorities. With self-stigma, the minority individual’s self-concept is congruent with the stigmatizing responses of society (e.g., Jones et al., 1984). He or she accepts society’s negative evaluation of homosexuality as warranted and, consequently, harbors negative attitudes toward the self and toward her or his own homosexual desires. Self-stigma also has been labeled *internalized homophobia* (Weinberg, 1972), *internalized heterosexism* (Szymanski & Chung, 2003), and *internalized homonegativity* (Mayfield, 2001). Not surprisingly, self-stigma often has important negative consequences for the physical and psychological well-being of sexual minority individuals (Herek & Garnets, 2007; Meyer, 2003).

For heterosexuals, internalized stigma is manifested as *sexual prejudice*, whereby one’s attitudes toward sexual minorities are congruent with the stigmatizing responses of society. This phenomenon has also been labeled *homophobia*, *homonegativity*, and *heterosexism* (for a discussion of these and related terms, see Herek, 2004). Although public opinion data collected

over the past three decades reveal trends toward less condemnation and dislike, sexual prejudice remains widespread in the United States.² In response to a General Social Survey question about sexual relations between two adults of the same sex, for example, a majority (57% in 2004) has consistently regarded homosexual behavior as “always wrong.” In the American National Election Studies, the average feeling thermometer ratings for “gays and lesbians” have remained below the neutral score of 50 (the mean score was 49 in 2004) and, compared to the public’s feelings toward other groups, thermometer scores for “gays and lesbians” have ranked near the bottom of the list. My own national surveys have consistently shown that substantial numbers of heterosexuals regard gay men and lesbians as disgusting and consider homosexuality to be wrong and unnatural (e.g., Herek, 1994, 2002a).

Can sexual prejudice target heterosexuals? At this point, it is appropriate to ask whether the current conceptual framework allows for sexual prejudice against heterosexuals by sexual minorities. In a strictly psychological sense, anyone can manifest prejudice against another person because of the latter’s sexual orientation. Sexual minority individuals can be prejudiced against heterosexuals, just as heterosexuals can be prejudiced against lesbian, gay, and bisexual people. However, it is not useful to equate these two forms of sexual prejudice because, as discussed above, prejudice against sexual minorities is part of a larger cultural complex. It represents an individual’s endorsement of an ideological system that disempowers sexual minorities, creates institutional barriers to their full participation in society, and fosters enactments of stigma against them, including extreme violence. By contrast, prejudice against heterosexuals lacks institutional and societal support. Heterosexuals do not constitute a socially devalued and disempowered group. They do not routinely encounter discrimination,

² My comments here are based on my own examination of national survey data in publicly available archives (especially the Roper Center at the University of Connecticut), as well as published sources.

hostility, and bias because of their sexual orientation. In sum, the difference between the two types of sexual prejudice is sexual stigma. When prejudice rests on a cultural foundation of stigma, it has meaning and significance that it lacks when it is simply an expression of individual attitudes.

Correlates of sexual prejudice. Empirical research has identified a group of demographic, psychological, and social variables that are reliably correlated with heterosexuals' attitudes toward gay men, lesbians, and bisexuals (Herek, 1984, 1994, 2002b, in press-a, in press-b). Many of these correlates are also common to racial, ethnic, religious, and other prejudices (Duckitt, 1992). Two of them are especially relevant to the current discussion.

First, heterosexual men and women in the United States differ in the valence and strength of their attitudes toward homosexuality and sexual minorities, and this gender gap displays three principal patterns: (a) women tend to express more favorable and less condemning attitudes than men toward gay people; (b) in the aggregate, attitudes toward gay men tend to be more hostile than attitudes toward lesbians; (c) the most negative attitudes are those expressed by heterosexual men toward gay men (e.g., Herek, 2000, 2002a; Kite & Whitley, 1998). Gender differences have also been observed in the cognitive dynamics underlying attitudes toward homosexuality. In national telephone surveys with probability samples of English-speaking U.S. adults, I have found that heterosexual men's self-reported attitudes toward gay people – especially lesbians – are dramatically affected by the order in which the questions are asked, whereas heterosexual women's responses largely are not (Herek, 2002a; Herek & Capitanio, 1999). When questions about lesbians followed identically phrased items about gay men in a 1999 survey, for example, 59% of the male respondents agreed that “Sex between two women is just plain wrong.” By contrast, the proportion agreeing with that statement was only 42% among heterosexual males who answered the lesbian items first, a difference of 17 points (Herek, 2002a).

Yet another gender-linked pattern is that heterosexual men tend to respond to sexual minorities in terms of whether the latter are male or female, whereas heterosexual women tend to respond in terms of the target's orientation group. In a U.S. national telephone survey in which respondents provided separate feeling thermometer ratings for gay men, lesbians, bisexual men, and bisexual women, I found that the heterosexual female respondents rated bisexuals significantly less favorably than they rated homosexuals, regardless of gender. By contrast, heterosexual men rated sexual minority males less favorably than sexual minority females, regardless of whether the target was bisexual or homosexual (Herek, 2000).

A second important correlate of heterosexuals' attitudes is the extent of their personal contact with sexual minority individuals. Heterosexuals who report personally knowing gay men or lesbians express significantly more favorable attitudes toward gay people as a group than do heterosexuals who lack such contact (Herek & Capitanio, 1996; Pettigrew & Tropp, 2006). Contact is most likely to be associated with lower levels of sexual prejudice when heterosexuals know multiple sexual minority individuals, when those contacts include emotionally close relationships, and when the relationships include open discussion of what it means to be a sexual minority (Herek, in press-b; Herek & Capitanio, 1996).

Individual Interventions: Confronting Sexual Prejudice

The conceptual framework summarized above provides a useful road map for social scientists who are studying sexual stigma and prejudice. It also offers insights with potentially important practical implications for confronting sexual stigma at the structural level and sexual prejudice at the individual level. In the present section, some of these insights are briefly discussed.

First, by framing sexual prejudice as the internalization of sexual stigma – and thus learned from an early age, anchored in strong affect and longstanding beliefs, and repeatedly reinforced by society over the course of development – the framework highlights the

extreme difficulty inherent in trying to change or eradicate it. Efforts to confront sexual prejudice are made even more difficult by the processes underlying heterosexism. As a consequence of the heterosexual assumption and the problematizing of nonheterosexuals, sexual minorities often remain invisible and many individual heterosexuals are unlikely to critically examine their own sexual prejudice and its underlying assumptions. The deep-seated nature of sexual prejudice suggests that relatively brief or superficial interventions are not likely to have a substantial impact on it in most situations. For now, rather than trying to create such interventions, perhaps social scientists might better devote their efforts to observing naturally occurring instances of prejudice reduction among heterosexuals with the goal of identifying the psychological, social, and cultural factors that facilitate it.

Related to this point, the present conceptual framework offers another potentially valuable insight. By framing heterosexuals' sexual prejudice and sexual minorities' self-stigma as manifestations of internalized stigma, it suggests that similar psychological processes might play important roles in eliminating both of them. Sexual minority individuals typically must scrutinize and change a myriad of longstanding attitudes, beliefs, emotions, and behavioral patterns in the course of coming out and overcoming self-stigma. Heterosexuals must go through a similar process in rejecting their own sexual prejudice. Thus, studying how sexual minorities overcome their self-stigma may yield valuable insights into the process of prejudice reduction among heterosexuals.

Drawing this parallel, however, raises another question. For sexual minorities, the motivation to eliminate self-stigma arises from the conflict between a negative evaluation of one's sexuality – to the point even of self-loathing – and a need to establish and maintain a positive feeling toward the self. Accepting and embracing one's homosexual or bisexual orientation is often a matter of psychological survival. For heterosexuals, the motivation to change one's attitudes toward sexual minorities often arises from a conflict between an image of oneself as open and tolerant, and the perception that

harboring sexual prejudice violates this self-concept (Devine, Monteith, Zuwerink, & Elliot, 1991). But what makes this conflict sufficiently compelling to motivate a heterosexual individual to undertake the cognitive effort of reducing her or his sexual prejudice?

For many heterosexuals, the motivation may well come from having close friendships with lesbians and gay men. As noted above, empirical research indicates that heterosexuals' personal relationships with sexual minorities are especially likely to be associated with low levels of sexual prejudice when they include open discussion about the lesbian, gay, or bisexual person's experiences as a sexual minority. Close relationships that include such discussion provide not only the motivation but also the knowledge and psychological resources that heterosexuals need to generalize the positive feelings they hold toward a specific friend or family member to sexual minorities as a group (Pettigrew, 1998). Thus, facilitating such relationships may be one of the most potent strategies available for reducing sexual prejudice. Further motivation and support for an individual's efforts at sexual prejudice reduction can come from other heterosexuals who have already been successful in this regard. The gender gap in prejudice, described above, suggests that heterosexual women are more likely than men to have overcome their internalized sexual stigma. Such women may be especially effective at encouraging their husbands, sons, brothers, and heterosexual male friends to confront their own sexual prejudice.

A third insight from the framework is that sexual prejudice can be usefully distinguished from attitudes toward heterosexism. Heterosexuals' attitudes toward sexual minorities are distinct from their attitudes toward policies concerning, e.g., employment nondiscrimination laws, military personnel policy, and marriage equality. This distinction underlies the notion of *tolerance*, that is, support for the basic rights of all groups, even those that one dislikes (Jackman, 1977). However, it has often been absent in social psychological research on sexual prejudice. For example, many scales measuring sexual prejudice combine assessments of attitudes toward sexual minorities with policy

attitudes (Herek, in press-b).

Support for a distinction between prejudice and policy attitudes can be found in empirical research showing that the public's attitudes toward gay men and lesbians do not fully account for the variation in their attitudes toward policies implicating sexual minorities (Strand, 1998; see also Brewer, 2003; Wood & Bartkowski, 2004). For example, in a 2005 national telephone survey, with sexual prejudice statistically controlled, heterosexuals' antigay policy attitudes were predicted significantly by their egalitarian values, moral traditionalism, and political conservatism (Herek, in press-b). An important implication of this hypothesis is that marshalling popular support for striking down policies that perpetuate sexual stigma may not require the elimination of sexual prejudice. Even individuals who are high in sexual prejudice might be convinced to oppose discriminatory policies, e.g., if those policies are perceived as violating norms of tolerance.

Although it may be possible to eliminate some aspects of heterosexism without first eradicating sexual prejudice, the conceptual framework suggests that eliminating sexual prejudice will ultimately require the eradication of sexual stigma, including the latter's structural manifestations. Historically, psychologists have made important contributions to this effort, as discussed in the next section.

Structural Interventions: Confronting Heterosexism

Over the course of the twentieth century, the stance of American psychology and psychiatry toward homosexuality changed dramatically. The mental health professions and behavioral sciences shifted from playing a central role in legitimizing sexual stigma to using their collective knowledge and expertise to challenge many of its structural manifestations.

A watershed moment came when the American Psychiatric Association's Board of Directors voted to remove homosexuality from its *Diagnostic and Statistical Manual of Mental Disorders* (DSM) in 1973. This decision reflected the profession's acknowledgment that the classification of homosexuality as a mental

disorder had always been based on value-laden assumptions derived from sexual stigma rather than science. It also reflected a recognition of changing social norms about sexuality and the role of sexual minorities in society (Bayer, 1987; Minton, 2002).

The APA moved quickly to endorse the psychiatrists' actions, passing a resolution that stated, in part: "Homosexuality per se implies no impairment in judgment, stability, reliability, or general social and vocational capabilities: Further, the American Psychological Association urges all mental health professionals to take the lead in removing the stigma of mental illness that has long been associated with homosexual orientations" (Conger, 1975, p. 633). The same resolution put the APA on record opposing discrimination, called for legislation to protect the rights of gay people, and urged "the repeal of all discriminatory legislation singling out homosexual acts by consenting adults in private" (p. 633). The psychiatrists had already passed a similar resolution.

Thus, in the course of reversing its longstanding position that homosexuality was a form of psychopathology, the mental health profession committed itself to undoing some of the harm that the illness model had inflicted on gay people. We moved from providing one of the central justifications for denigrating sexual minorities to promulgating the position that homosexuality is a normal variant of human sexual expression – one that is no more inherently associated with psychopathology than is heterosexuality.

This new position included a call for eliminating sodomy laws, which still existed in most states. Such laws, which regulated private sexual conduct between consenting adults, were rooted in a particular model of sexuality that had evolved over the last millennium and which derived from religious teachings. It defined the only permissible form of sex as vaginal intercourse between a husband and wife when conception might occur. All other sexual acts were placed in the proscribed category of *sodomy*, and were considered unnatural and sinful. Sodomy encompassed not only

homosexual behaviors, but also masturbation, heterosexual sex between unmarried partners, bestiality, oral or anal sex between a husband and wife, and sex with the wife on top of the husband. Sodomy laws often carried the death penalty, and were imported from Europe to the American colonies. All states had some version of a sodomy law from the mid-19th century until fairly late in the twentieth century (for a review of the history of sodomy laws, see Chauncey, 2004).

Although criminal prosecutions for private sexual behavior between consenting adults were rare, the sodomy laws were an important pillar of heterosexism. They were regularly used as a justification for denying employment to lesbians and gay men, denying child custody to gay and lesbian parents, discriminating against gay organizations, barring sexual minority immigrants from entering or remaining in the U.S., and keeping gay people out of the U.S. military. They were also regularly cited to argue that, because the behavior that defines nonheterosexuals as a minority can itself be considered criminal, gay men and lesbians should not be granted legal protections of the sort guaranteed to other minorities (Leslie, 2000).

The APA's major involvement with challenges to the constitutionality of state sodomy laws involved the submission of *amicus* briefs to the U.S. Supreme Court in *Bowers v. Hardwick* (1986) and *Lawrence v. Texas* (2003), as well as filing briefs in the intervening years for cases that successfully challenged sodomy laws in the state courts of Kentucky, Arkansas, and Tennessee.³ I had the privilege of helping to write those briefs, in which we sought to inform the Court about current scientific knowledge related to homosexuality and sexual orientation.

³ In 1984, the APA had filed a brief related to an appeal from New York to the U.S. Supreme Court in a case involving the state's sodomy law (*New York v. Uplinger, 1984*). Although the specific legal questions involved in *Uplinger* differed from those in *Bowers v. Hardwick* and subsequent cases, the APA's *Uplinger* brief provided a starting point for its *Bowers* brief.

The story of the 17-year journey from *Bowers* to *Lawrence* provides a case study in confronting structural sexual stigma, and illustrates how social scientists can play a role in such challenges.

Bowers v. Hardwick

The Georgia sodomy law was one of many that criminalized oral and anal sex between same-sex and different-sex partners alike. Michael Hardwick had been arrested in his Atlanta home after a police officer (who had been admitted to the home by a houseguest) peered through Hardwick's partially open bedroom door and saw him engaging in oral sex with a male companion. With assistance from the American Civil Liberties Union, Hardwick ultimately brought a suit against the state Attorney General, Michael Bowers, challenging the law's constitutionality (for a detailed account of Hardwick's story, see Irons, 1988).

The case reached the U.S. Supreme Court in its 1985-86 term, and the APA filed an *amicus* brief jointly with the American Public Health Association. That brief detailed the current state of scientific thinking and empirical research about homosexuality, explaining that the sexual conduct made illegal by the Georgia statute was common in both heterosexual and homosexual relationships, and was neither pathological nor harmful to the individual. Rather, the brief argued, such behaviors play a key role in maintaining intimate relationships, which in turn are important for the psychological well-being of heterosexual and homosexual individuals alike. The brief also explained that homosexuality is not a psychological disorder and it rebutted arguments by the Georgia Attorney General that the statute was an effective deterrent to the spread of AIDS (American Psychological Association, 1986).

By a 5-4 majority, the Court upheld the Georgia statute, declaring that states can legally regulate the private sexual behavior of consenting adults. This outcome was made all the more disappointing by later revelations that Justice Powell had initially sided with the justices who wanted to overturn the statute but then changed his vote (Lewis, 1993). Justice Powell commented that he had never personally known

any gay people. Ironically, several of his law clerks over the years had been gay but, out of concern for their careers, none had disclosed that fact to Justice Powell (Murdoch & Price, 2001).

Three aspects of the majority opinion by Justice White and the concurring opinion by Chief Justice Burger are especially relevant to the present article. First, reflecting the heterosexual assumption and the problematization of sexual minorities that are central to heterosexism, the opinions addressed only homosexual conduct even though the Georgia statute made both heterosexual and homosexual sodomy illegal. As Justice White framed it, “The issue presented is whether the Federal Constitution confers a fundamental right upon homosexuals to engage in sodomy and hence invalidates the laws of the many States that still make such conduct illegal and have done so for a very long time” (*Bowers v. Hardwick*, 1986, p. 190). Second, both opinions found the source for their legal reasoning in another pillar of heterosexism, viz., religious and moral traditions. Justice White wrote that proscriptions against homosexual conduct “have ancient roots” (p. 194). Chief Justice Burger asserted that “To hold that the act of homosexual sodomy is somehow protected as a fundamental right would be to cast aside millennia of moral teaching” (p. 197).

Third, the opinions constructed same-sex sexuality as something very different from heterosexuality, declaring that it has no relationship to family. Justice White wrote, “No connection between family, marriage, or procreation on the one hand and homosexual activity on the other has been demonstrated, either by the Court of Appeals or by respondent” (p. 191). Elaborating further on this theme, he equated homosexual behavior with incest and heterosexual adultery, predicting that if the court were to decide that the constitution protects the right to “voluntary sexual conduct between consenting adults, it would be difficult, except by fiat, to limit the claimed right to homosexual conduct while leaving exposed to prosecution adultery, incest, and other sexual crimes even though they are committed in the home” (p. 194).

Thus, as they were giving renewed legitimacy to

the sodomy laws, the *Bowers* opinions articulated and reinforced many facets of heterosexism.

Lawrence v. Texas

An opportunity to challenge the *Bowers v. Hardwick* decision came fairly quickly, by Supreme Court standards. In 1998, John Lawrence and Tyron Garner were arrested in Texas for having consensual sex in Lawrence’s bedroom. The Texas sodomy law was similar to Georgia’s in that it criminalized oral and anal sex. Unlike the Georgia statute, however, the Texas law applied only to conduct between people of the same sex. In a lengthy series of appeals, the lower courts refused to overturn the law, citing *Bowers v. Hardwick* as precedent. Lawrence and Garner finally appealed to the U.S. Supreme Court which heard the case in the spring of 2003.

For several reasons, legal experts believed it might be possible to overturn *Bowers v. Hardwick* at this time. First, many states had eliminated their sodomy laws, either through the legislative process or because state courts had found them to be in violation of the state constitution. (As noted above, the APA submitted *amicus* briefs in several of the state court cases.) Second, gay people had become much more openly integrated into American life, and public opinion surveys revealed widespread opposition to antigay discrimination. Third, the membership of the Supreme Court had changed since 1986, and a 1996 ruling by the Court in a case that overturned an antigay Colorado voter initiative (*Romer v. Evans*, 1996) suggested it was more receptive to gay issues than in the past (e.g., Tribe, 2004). In addition, many legal scholars regarded the *Bowers v. Hardwick* opinion as not well reasoned and considered it an embarrassment to the Court.

The APA, American Psychiatric Association, and National Association of Social Workers jointly filed an *amicus* brief, one of more than two dozen such briefs that were filed on both sides in the *Lawrence* case. As in *Bowers v. Hardwick*, the APA brief summarized the current state of scientific knowledge relevant to the case, citing an extensive list of empirical studies and literature reviews in support of its

conclusions. Although some arguments were the same as for *Bowers v. Hardwick*, a much larger body of scientific research on sexual orientation was available to inform the *Lawrence* brief than had been the case 17 years earlier. In addition, consistent with the Texas statute, the *Lawrence* brief focused on research about homosexuality (American Psychological Association, 2003).

The brief stressed three major conclusions from behavioral and social science research findings. First, homosexuality is a normal form of human sexuality. In connection with this point, the brief explained why and how sexual orientation is important to the individual; how sexual orientation develops, and the fact that most people do not perceive their sexual orientation to be a choice; and the mental health professions' recognition that homosexuality is not a mental disorder. Second, trying to legally suppress sexual intimacy among same-sex partners deprives gay men and lesbians of the opportunity to participate in fundamental aspects of human experience. In this regard, the brief discussed the importance to gay men and lesbians of sexual intimacy and committed relationships; the centrality of the specific behaviors proscribed by the Texas statute to sexual intimacy and, therefore, to the intimate relationships that are at the core of lesbian and gay families; the similarities between gay and heterosexual intimate relationships; and the ability of gay men and lesbians to be good parents. Third, sodomy statutes – such as the Texas law – reinforce prejudice, discrimination, and violence against gay men and lesbians. Related to this point, the brief presented research findings on the discrimination, prejudice, and violence routinely encountered by gay people, and discussed how antisodomy statutes reinforce and help to perpetuate those enactments of sexual stigma.

In June of 2003, in a decision that marked a major victory in the struggle for the rights of sexual minorities, the Court declared the Texas law unconstitutional by a 6-3 majority (*Lawrence et al. v. Texas, 2003*), reversing *Bowers v. Hardwick*. Justice Kennedy's majority opinion was sweeping in its language and its recognition of the basic humanity of gay people. This is evident in his criticism of how the 1986

Court majority had approached *Bowers v. Hardwick*.

“To say that the issue in *Bowers* was simply the right to engage in certain sexual conduct demeans the claim the individual put forward, just as it would demean a married couple were it to be said marriage is simply about the right to have sexual intercourse....When sexuality finds overt expression in intimate conduct with another person, the conduct can be but one element in a personal bond that is more enduring. The liberty protected by the Constitution allows homosexual persons the right to make this choice” (p. 567).

Justice Kennedy also noted that the continuance of *Bowers* as precedent “demeans the lives of homosexual persons” (p. 575), and asserted that “*Bowers* was not correct when it was decided, and it is not correct today” (p. 578). Near the end of the opinion, he wrote “The petitioners are entitled to respect for their private lives. The State cannot demean their existence or control their destiny by making their private sexual conduct a crime” (p. 578). These statements represent a dramatic break with the *Bowers* Court's view of gay people, and a substantial erosion of heterosexism in the legal realm.

What was the impact of the APA briefs on the Court? In 1986, Justice Blackmun cited the APA brief in his impassioned dissent to *Bowers v. Hardwick*. Subsequently, some of the state courts relied on information from the APA brief in overturning their sodomy laws. The APA brief was not explicitly cited in the written opinions for the *Lawrence* case, although some of Justice Kennedy's recurring themes – his recognition of the humanity of gay men and lesbians, and the fact that sexuality is central to personal identity and intimate relationships – were repeatedly stressed in it. Although we do not know whether and to what extent the brief played a role in shaping the outcome of the *Lawrence* case, what matters is that it was filed. As a joint effort by the largest mental health professional associations in the United States – whose memberships also include many of the

country's leading behavioral scientists – the brief illustrated just how far psychology and psychiatry have come in their understanding of human sexuality, their renunciation of sexual stigma, and their willingness to work for the elimination of heterosexism.

Marriage Equality

The ink had barely dried on Justice Kennedy's decision when questions began to be raised about its impact on marriage laws. Indeed, the Justices addressed this question in their opinions, with Justice Scalia's dissent interpreting the majority opinion as leading inevitably to marriage equality (an outcome not to his liking), and Justice Kennedy denying that such a conclusion was in any way inevitable. Justice O'Connor, who wrote a separate concurring opinion, made a point of separating the *Lawrence* decision from the marriage issue.

Less than six months after the *Lawrence* decision, the Massachusetts Supreme Judicial Court cited it in their ruling that prohibiting same-sex couples from marrying violated the state constitution. A few months later, the mayor of the city and county of San Francisco directed the County Assessor to issue marriage licenses to same-sex couples, and officials in Multnomah County (OR) took similar action. Similar events happened on a smaller scale in New Mexico and New York. Thus began a period of intense legal, political, and cultural focus on the issue of marriage equality (Herek, 2006).

In 2004, I assisted in drafting a new brief that the APA submitted to most of the state courts considering issues of marriage equality for same-sex couples, including New Jersey, Washington, and New York. Those briefs summarized the social science research related to three major lines of argument: (1) In psychological terms, intimate same-sex relationships are not fundamentally different from different-sex relationships. (2) Gay and lesbian couples are currently raising children, and are just as capable as heterosexual couples in this regard. (3) Marriage confers a variety of tangible and intangible benefits that have important effects on psychological and physical health; because they cannot marry, same-sex couples are currently denied these benefits (for a

discussion of the social science data supporting these arguments, see Herek, 2006).

The state courts ruled against same-sex couples in New York and Washington. In New Jersey, the state supreme court ruled unanimously that same-sex couples must be granted the same rights and responsibilities as different-sex married couples. However, a majority ruled that same-sex couples do not have a constitutionally protected right to marry, and that the state could remedy existing inequalities by allowing same-sex couples to form civil unions. In California, the San Francisco weddings led to multiple lawsuits, which were eventually consolidated into a single case. A lower court judge ruled that same-sex couples are legally entitled to marry under the California constitution, but was overturned on appeal. The case is before the state supreme court as this article goes to press, and similar cases are pending in Iowa, Maryland, and Connecticut. Meanwhile, Connecticut, New Hampshire, Oregon, Washington, among other states, have enacted legislation that grants varying degrees of recognition to same-sex couples, and other state legislatures are considering such statutes as this article goes to press.

As noted above, the legitimacy of sexual stigma is increasingly contested. Laws and policies that do not recognize same-sex couples, or that afford them differential status compared to heterosexual couples, are currently a principal focus for challenges to heterosexism. Because much of the debate in this area concerns intimate relationships, parenting, family dynamics, and the personal impact of sexual stigma – phenomena that have been extensively studied by behavioral and social scientists – an ongoing role clearly exists for us in communicating our knowledge to policy makers and jurists. In doing so, we will continue to fulfill our longstanding commitment “to take the lead in removing the stigma of mental illness that has long been associated with homosexual orientations” (Conger, 1975, p. 633).

Conclusion: Theory and Practice

Thirty-five years ago, homosexuality was officially classified as a mental disorder and it was widely assumed that psychology and

psychiatry could assist gay, lesbian, and bisexual people mainly by helping them in their (usually unsuccessful) attempts to become heterosexual. Today, we understand that these outmoded beliefs were based on unfounded assumptions grounded in sexual stigma, and psychologists have dedicated themselves to removing that stigma and its legacy. We are addressing this goal through our theory and empirical research as well as through our engagement with society's institutions.

As we continue to tackle the applied problem of eradicating sexual stigma and prejudice, it is useful to recall that, consistent with the Lewinian perspective, this work will also enrich our understanding of basic social psychological processes. In addition to being significant social problems, sexual stigma and prejudice are interesting sociological and psychological phenomena. Because they are linked to a concealable characteristic and are currently situated at the center of cultural debates about core values, they raise a variety of intensely interesting theoretical questions for social scientists. Thus, the task of confronting sexual stigma and prejudice represents not only an important practical application of our knowledge to a significant social issue. It is also a theoretically challenging area of inquiry that will yield valuable insights into human social behavior.

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