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AMPLIFYING ABUSE: THE FUSION OF CYBERHARASSMENT AND DISCRIMINATION

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Cyberharassment devastates its victims. Anxiety, panic attacks, and fear are common effects; post-traumatic stress disorder, anorexia and bulimia, and clinical depression are common diagnoses. Targets of online hate and abuse have gone into hiding, changed schools, and quit jobs to prevent further abuse. Some lives are devastated in adolescence and are never able to recover. Some lives come to tragic, premature ends. Danielle Keats Citron not only teases out these effects in her masterful work, *Hate Crimes in Cyberspace*; she also makes the profound conclusion that these personal effects are part of a larger social cancer that breeds sexism, subjugation, and inequality.¹

According to one study, almost three-quarters of cyberharassment reports come from women. Nearly half of all lesbian, gay, bisexual, and transgender (LGBT) youth experience cyberharassment each year,² and LGBT teens are three times more likely than heterosexual teens to be harassed online and twice as likely to receive threatening or harassing text messages.³ As a gendered and sexualized phenomenon, cyberharassment plays a role in the continued subjugation of women and members of the LGBT community.

Thanks to Professor Citron, this much (and more) is beyond doubt. I would like to emphasize a further point: for sexual minorities, institutional discrimination amplifies cyberharassment's horrors.⁴ This is not to say that

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¹ DANIELLE KEATS CITRON, *HATE CRIMES IN CYBERSPACE* (2014) (discussing how cyberharassment has a disproportionate and discriminatory effect on women in particular).

² *Comparison Statistics 2000-2011*, WORKING TO HALT ONLINE ABUSE, <http://www.haltabuse.org/resources/stats/Cumulative2000-2011.pdf>.

³ *Out Online: The Experiences of Gay, Lesbian, Bisexual and Transgender Youth on the Internet*, GAY, LESBIAN & STRAIGHT EDUCATION NETWORK, <http://www.glsen.org/sites/default/files/Out%20Online%20FINAL.pdf>.

⁴ I expand on this argument in a forthcoming article, *LGBTQ Privacy*, where I argue and present data suggesting that privacy invasions, with cyberharassment as one example, result

heterosexual victims are crying wolf; to the contrary, cyberabuse is an equal opportunity offender. But LGBT victims face three additional hurdles. First, the personal psychological effects of cyberharassment are likely worse when victims live in jurisdictions with laws that discriminate against them. And despite some notable advances, anti-gay discrimination is still more the norm than exception. Second, when patterns of cyberharassment also involve “outing” the victim as gay, rampant discrimination and lost opportunity can follow. And third, for those LGBT and questioning youth who, by virtue of their families’ geographic and cultural isolation, lack local LGBT friends and role models, cyberharassment transforms the internet, ostensibly a door to a wider digital world of opportunity, into a danger zone. This enhances a no-where-to-turn sense of hopelessness that, although experienced by many victims of cyberharassment, is felt by none more acutely than LGBT youth.

As a definitive account of the effects of cyberharassment, *Hate Crimes in Cyberspace* teaches us that cyberabuse victims experience mood swings, anxiety, depression, panic attacks, fear of social interactions, post-traumatic stress disorder, and a panoply of other injuries that you can also find in the Diagnostic and Statistical Manual of Mental Disorders. Cyberharassment victims also report increases in alcohol and substance abuse.⁵ Institutional discrimination faced by LGBT victims of cyberharassment metastasizes these psychological effects because, as Mark Hatzenbuehler has shown, institutional discrimination enhances all mood, anxiety, and psychological disorders. In a 2010 study, Hatzenbuehler found that institutional discrimination can have a statistically significant negative effect on the mental health of LGB persons: lesbians, gay men, and bisexual individuals who lived in states that banned gay couples from marrying experienced mood, anxiety, and psychiatric disorders at higher rates than LGB persons living in equality states.⁶ It makes sense, then, that LGBT victims of bullying and harassment rival only homeless LGBT youth in the frequency and severity of psychological injury in the community.⁷

in more acute and significant harms for LGBT persons than the general population because of the institutional discrimination faced by sexual minorities.

⁵ CITRON, *supra* note 1, at 6-12.

⁶ Mark L. Hatzenbuehler et al., *The Impact of Institutional Discrimination on Psychiatric Disorders in Lesbian, Gay, and Bisexual Populations: A Prospective Study*, 100 AM. J. PUB. HEALTH 452 (2010), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2820062/>. The study, the results of which were published in 2010, took place before the Supreme Court’s decisions in *United States v. Windsor*, 133 S. Ct. 2675 (2013), and *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015). See also Joanna Almeida et al., *Emotional Distress Among LGBT Youth: The Influence of Perceived Discrimination Based on Sexual Orientation*, 38 J. YOUTH & ADOLESCENCE 1001 (2009).

⁷ See, e.g., Michelle Birkett, Dorothy L. Espelage & Brian Koenig, *LGB and Questioning Students in Schools: The Moderating Effects of Homophobic Bullying and School Climate on Negative Outcomes*, 38 J. YOUTH & ADOLESCENCE 998 (2009); Bryan N. Cochran et al., *Challenges Faced by Homeless Sexual Minorities: Comparison of Gay, Lesbian, Bisexual,*

As a means of “outing” gay persons, cyberharassment also triggers an onslaught of potential discrimination in employment, housing, and the provision of health care. “Outing,” or the revelation of another’s identity, is a frequent element of cyberharassment targeting members of the LGBT community.⁸ It is a central reason why antigay cyberharassment is an invasion of an LGBT person’s privacy. Though emotionally harmful, the closet may be a necessary evil in a discriminatory world: in 29 states, you can be fired, denied a home, and denied public accommodation just for being gay.⁹ Consider the story of Mark C., one of the many LGBT victims of cyberharassment with whom I have spoken in the course of my research.¹⁰ Mark worked as a nurse at a hospital near Memphis, Tennessee, until 2013, when a patient’s daughter called to tell the hospital, doctors, and nurse supervisor that she “didn’t want that faggot [Mark C.] touching” her father. An anonymous mob attacked Mark’s now-deleted Facebook profile, encouraging him to repent, sodomize himself, and commit suicide. His supervisor started an investigation and found that Mark had married his husband in New York in 2012. She reported Mark’s sexual orientation to various individuals in the administration. And despite excellent performance evaluations, Mark was fired for “failure to perform [his] duties.” Cyberharassment that outs its victims, therefore, layers the risk of status-based discrimination on top of already devastating psychological effects.

Many LGBT youth, in particular, also experience acute effects of cyberharassment because of their unique dependence on online social networks. Often faced with geographic isolation from fellow LGBT individuals, gay youth rely on online social networks to replace non-existent face-to-face communities because they allow roughly anonymous virtual interaction with like-minded individuals. Therefore, these adolescents are not only frequent internet users, but also completely reliant on the virtual community they create for social support, information about their sexuality, and answers to any questions they have about being gay.¹¹ Empirical data bears this out. As early as 2001, more than eighty-

and Transgender Homeless Adolescents with their Heterosexual Counterparts, 92 AM. J. PUB. HEALTH 773 (2002).

⁸ Notably, as Citron points out, cyberharassment tends to be generally sexualized: when men and boys are harassed online, their aggressors uses antigay terms like “faggot” to demean and dehumanize even heterosexual victims. CITRON, *supra* note 1, at 15.

⁹ Niraj Chokski, *Where the LGBT Community is Explicitly Protected from Discrimination, in 3 Maps*, WASH. POST (Mar. 30, 2015), <http://www.washingtonpost.com/blogs/govbeat/wp/2015/03/30/where-the-lgbt-community-is-explicitly-protected-from-discrimination-in-3-maps/>.

¹⁰ The conversation with Mark C. (names are redacted, abbreviated, or changed to protect subject privacy) is part of the author’s larger and ongoing cyberharassment ethnography that, to date, includes nearly 40 other LGBT victims of cyberharassment. Recordings and notes from those conversations are on file with the author.

¹¹ See Edward Stein, *Queers Anonymous: Lesbians, Gay Men, Free Speech, and Cyberspace*, 38 HARV. C.R.-C.L. L. REV. 159, 162 (2003) (describing how the Internet has

five percent of LGB adolescents reported that the internet had been the most “important resource for them to connect with LGB peers.”¹² Destruction of that online social support network through cyberharassment is, therefore, particularly harmful because it turns what might have been a gay student’s safe space into a danger zone. Gay and lesbian adolescents’ dependence on online media makes them more susceptible to those who would use it as a sword against them.

None of this is to say that cyberharassment does not devastate all its victims. Indeed, *Hate Crimes in Cyberspace* is as much a chronicle of the cyberharassment epidemic as it is a call to action to do something about it. And for that, we are all in Danielle Citron’s debt. But while it is clear that cyberharassment is a modern weapon used to subjugate sexual minorities, it also makes institutional discrimination worse. Cyberharassment turns second-class citizens into third-class denizens by ballooning psychological harms and triggering discrimination in employment, housing, and the provision of benefits. And it takes away a virtual world of great opportunity from those who need it most. *Hate Crimes in Cyberspace* gives society a roadmap for addressing these problems. We must simultaneously address the underlying institutional discrimination that victims face.

provided isolated gay men and lesbians in otherwise hostile environments “a virtual community that constitutes an emotional lifeline”).

¹² Vincent M.B. Silenzio et al., *Connecting the Invisible Dots: Reaching Lesbian, Gay, and Bisexual Adolescents and Young Adults at Risk for Suicide Through Online Social Networks*, 69 SOC. SCI. MED. 469, 469 (2009) (citing LYNNE HILLIER ET AL., AUSTL. RESEARCH CTR. IN SEX, HEALTH, AND SOC’Y, ‘IT’S JUST EASIER’: THE INTERNET AS A SAFETY-NET FOR SAME SEX ATTRACTED YOUNG PEOPLE (2001), available at https://www.latrobe.edu.au/arcshs/downloads/arcshs-research-publications/its_just_easier.pdf).