

## **If You Really Care about LGBT Rights, You Should Care about Reproductive Justice!**

The Reproductive Justice (RJ) movement places reproductive health and rights within a social justice framework.<sup>1</sup> The movement supports the right of individuals to have the children they want, raise the children they have, and plan their families through safe, legal access to abortion and contraception.<sup>2</sup> The movement also supports the right to express one's sexuality without oppression. In order to make these rights a reality, the movement recognizes that RJ will only be achieved when all people have the economic, social, and political power to make healthy decisions about their bodies, sexuality, and reproduction.

LGBT rights refer to the rights of sexual minorities. Included in this group are people who identify as Lesbian, Gay, Bisexual, and/or Transgender. Like RJ, the LGBT rights movement emphasizes a person's right to control their own reproductive destiny as well as the freedom and legitimacy of sexual activity without reproduction as a desired outcome. By advancing RJ, you are working towards creating a society that fully recognizes and respects the reproductive and sexual rights of all.

***Reproductive justice demands inclusive education and services from schools and health care providers to protect the health and wellbeing of LGBT individuals.***

LGBT sexuality has historically been excluded from important health related discussions, especially sexual education discussions. The absence of such education is detrimental to the reproductive health of LGBT youth. For example, the number of HIV/AIDS cases has increased among gay adolescents, especially among black males.<sup>3</sup> Surprisingly, several studies show that the rate of LGB teen pregnancy is higher than teen pregnancy among heterosexuals.<sup>4</sup> Only twelve states require a discussion about sexual orientation in sexual education courses, and twenty-five percent of these twelve states only require negative information about non-heterosexual sexual orientation.<sup>5</sup> These limitations on sexual education not only stigmatize LGBT youth, but also endanger their sexual health and reproductive lives.<sup>6</sup>

The sexual and reproductive health of the LGBT community is equally impaired by disparate access to high quality, culturally competent health care services. A recent survey revealed that medical students received only five hours of LGBT health training.<sup>7</sup> In a third of medical schools, no LGBT training was taught.<sup>8</sup> In addition to the lack of LGBT inclusive training for medical providers, there is a lack of research on the unique health problems LGBT individuals face.<sup>9</sup> Given the lack of knowledge of those providing health care services to LGBT patients, and the general lack of accessible information, many LGBT individuals obtain no information, and sometimes misinformation, about maintaining their sexual and reproductive health.<sup>10</sup>

***Be it through voluntary or forced sexual contact with men, queer women too are at risk for pregnancy and need the protections that RJ provides.***

Unplanned pregnancies and STDs do not just affect heterosexual women. Not all women in the LGBT community engage in only same-sex intercourse. For example, recent studies show that LGB youth may experience unplanned pregnancies at a higher rate than heterosexual youth.<sup>11</sup> Many queer<sup>12</sup> identified women also have sex with both men and women without using protection.<sup>13</sup> Such voluntary encounters can and do lead to unintended pregnancies and the spread of STDs.<sup>14</sup>

In addition to these voluntary sexual encounters with men, queer women are subjected to a higher rate of forced sexual encounters with men.<sup>15</sup> Some studies suggest that as many as 43% percent of lesbians report being victims of sexual assault.<sup>16</sup> A significant portion of these sexual assaults are linked to animus towards the victim's sexual orientation and the knowledge that queer women are a vulnerable segment of society.<sup>17</sup>

Whether through voluntary or forced sexual contact, RJ seeks to ensure that women facing an unintended pregnancy have the resources and support to determine what is best for their lives; be it access to contraception (including emergency contraception), safe and legal abortion, or prenatal care and the full range of birthing options should women choose to carry their pregnancies to term.

***Reproductive justice is essential to the full recognition of LGBT people's right to raise their children and build their families.***

RJ emphasizes the right of everyone to control their sexuality and build their families in the ways they choose. Encompassed in this right is equal access to fertility services. LGBT people are habitually denied access to reproductive technologies. Infertility treatment centers facilities can and do deny LGBT couples assistance based on personally held biases.<sup>18</sup> Insurance companies also deny lesbians access to fertility services even when their plan covers advanced reproductive assistance.<sup>19</sup> Even in states where insurance companies are required to cover infertility services, women sometimes only qualify for these services if they use their "spouse's sperm" to fertilize their egg.<sup>20</sup> This requirement openly discriminates against same sex couples. As such, for many people in the LGBT community, the notion of a reproductive "choice" is limited.

LGBT people who desire to build their families through adoption have faced discrimination by adoption agencies, solely because of their sexual orientation.<sup>21</sup> Further, LGBT parents that wish to solidify their family ties through second parent adoption – which allows a second parent to adopt a child without the first parent losing any parental rights – are also met with discrimination. Currently, only about half of states allow second parent adoptions,<sup>22</sup> meaning that many LGBT couples are denied the right to fully co-parent their children.<sup>23</sup> These legal obstacles hurt LGBT family formations and limit the ways LGBT parents can protect their families.

LGBT individuals with children also face discrimination in custody cases. Individuals who parented children in heterosexual relationships can lose the right to see their children once they identify as gay.<sup>24</sup> Some courts have even chosen to give custody rights to an absent parent instead of to the present gay parent.<sup>25</sup> In situations where a child is conceived or adopted in a same sex relationship, gay parents risk being denied both legal and custodial rights to children they have raised and supported for many years. Some states, despite the couple's circumstances, arrangements, or marital status, will only recognize the rights of the biological parent.<sup>26</sup> These discriminatory practices inhibit the rights of many LGBT parents to maintain meaningful relationships with their children.

People in the transgender community who wish to build and protect their families face additional obstacles. Many transgender people lack access to important reproductive information that would allow them to make informed decisions about their reproductive choices. For example, many transgender people lack access to adequate healthcare and therefore rarely receive reproductive counseling on issues such as banking sperm or eggs before beginning medical transitioning.<sup>27</sup> Also, transgender people who have the means to adopt a child are highly discriminated against in the adoption process.<sup>28</sup> And transgender parents who desire to transition risk being stripped of their parental or custody rights because of legal and social biases.

***At the core of both reproductive justice and LGBT equality is the belief that society must remove barriers that interfere with people's ability to lead healthy sexual and reproductive lives, and must provide the necessary economic and social supports to achieve these goals.***

Nowhere is the interference with one's control over one's own body more accepted and more pervasive as is seen in the transgender community. Transgender individuals have historically been subject to major limitations, government interference, and medical paternalism regarding what they can do with their bodies. For example, transgender people who wish to undergo surgical and non surgical transition treatments are met with institutional resistance and obstacles. Before they can transition, they have to receive a medical diagnosis telling them that they are indeed transgender before they even qualify to receive medical services.<sup>29</sup> However, since transgender individuals have a much higher poverty rate than the general population<sup>30</sup> and are without adequate insurance coverage, they lack the financial means to obtain the requisite medical diagnosis that would allow them to make decisions regarding their own bodies.

Moreover, people in the transgender community are subject to harsh, uninformed laws that have major consequences on their ability to express their sexual identity. Most states *require* transgender people to undergo permanent physical alterations before the state will fully legally recognize their gender identity.<sup>31</sup> For example, many jurisdictions require transgender men to have radical hysterectomies or mastectomies in order to receive an ID change or birth certificate change.<sup>32</sup> Likewise, in many jurisdictions transgender women have to agree to the removal of their reproductive organs to qualify for the necessary identification changes.<sup>33</sup> Such requirements are intrusive and often completely destroy many reproductive options of people in the transgender community, essentially imposing

permanent sterility on many transgender people who desire to have their gender identity fully recognized under the law.

### *How you can support LGBT equality and reproductive justice*

- Advocate for access to comprehensive sexual education, which includes information about safe sexual practices for LGBT students.
- Support health care facilities with health care providers who offer comprehensive health services to LGBT individuals.
- Support laws and policies that promote equal recognition and treatment of all families, including LGBT families.
- Activist in the LGBT rights movement and the Reproductive Justice movement should call attention to the sexual and reproductive health needs of LGBT communities, especially in communities that are less empowered.
- Support local, state, and national efforts for nondiscrimination laws that protect sexual minorities from discrimination in employment, public accommodations, and healthcare services.

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<sup>1</sup> SisterSong, What is Reproductive Justice?, [http://www.sistersong.net/reproductive\\_justice.html](http://www.sistersong.net/reproductive_justice.html) (last visited June 25, 2009).

<sup>2</sup> Asian Communities for Reproductive Justice, Mission and Vision, <http://www.reproductivejustice.org/missionvision.html> (last visited June 25, 2009).

<sup>3</sup> Black gay adolescences experienced the largest increase in HIV diagnosis than any other racial group. CDC, *HIV Surveillance in Men Who Have Sex with Men* (2010), <http://www.cdc.gov/hiv/topics/surveillance/resources/slides/msm/slides/msm.pdf>.

<sup>4</sup> Elizabeth M. Saewyc et al., *Stigma management? The Links between Enacted Stigma and Teen Pregnancy Trends Among Gay, Lesbian, and Bisexual Students in British Columbia*, 17 CAN. J. HUM. SEXUALITY 123 (2008), <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2655734/pdf/nihms-84991.pdf>.

<sup>5</sup> GUTTMACHER INSTITUTE, SEX AND HIV EDUCATION 2 (2011), [http://www.guttmacher.org/statecenter/spibs/spib\\_SE.pdf](http://www.guttmacher.org/statecenter/spibs/spib_SE.pdf).

<sup>6</sup> Susan M. Blake et al., *Preventing Sexual Risk Behaviors Among Gay, Lesbian, and Bisexual adolescents: The Benefits of Gay-sensitive HIV Instruction in Schools*, 91 AM. J. PUB. HEALTH 940, 941-42 (2001), <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1446472/pdf/11392938.pdf>. [hereinafter *Preventing Sexual Risk*].

<sup>7</sup> Juno Obedin-Maliver et al., *Lesbian, Gay, Bisexual, and Transgender-Related Content in Undergraduate Medical Education*, 306(9) J. AM. MED. ASS'N 997 (2011).

<sup>8</sup> *Id.*

<sup>9</sup> S. Trettin et al., *Lesbian Perinatal Depression and the Heterosexism that Affects Knowledge about this Minority Population*, 9 ARCH WOMEN'S MENTAL HEALTH 67 (2005).

<sup>10</sup> See PRO-CHOICE PUBLIC EDUCATION PROJECT ET AL., *SILENCED BODIES: CONVERSATIONS WITH GAY MEN, BISEXUALS & TRANSGENDER PERSONS, AND QUEER WOMEN OF COLOR ON SEXUAL & REPRODUCTIVE HEALTH, RIGHTS & JUSTICE* 9-28 (2008), <http://www.gaycenter.org/files/imce/docs/causesSilencedbodies.pdf> (Lesbian, Gays, and Transgender individuals all reported problems accessing information about their sexual health and reproductive options).

<sup>11</sup> *Preventing Sexual Risk Behaviors*, *supra* note 5.

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- <sup>12</sup> The term “queer” refers to women whose sexuality does not fit neatly within the heteronormative framework. This would include women who identify as lesbian, bisexual, and questioning.
- <sup>13</sup> Catherine H. Mercer, et al., *Women Who Report Having Sex with Women: British National Probability Data on Prevalence, Sexual Behaviors, and Health Outcomes*, 97 AM. J. PUB. HEALTH 1126 (2007), <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1874216/pdf/0971126.pdf> [hereinafter *Women Who Report Having Sex with Women*].
- <sup>14</sup> *Id.*
- <sup>15</sup> Emily F. Rothman, *The Prevalence of Sexual Assault Against People Who Identify as Gay, Lesbian, or Bisexual in the United States: A Systematic Review*, TRAUMA, VIOLENCE & ABUSE, Apr. 2011, at 55-66.
- <sup>16</sup> *Id.*
- <sup>17</sup> *Id.*
- <sup>18</sup> See *North Coast Women's Care Medical Group, Inc. v. San Diego County Superior Court*, 189 P.3d 959 (Cal. 2008) (woman denied fertility treatment because she was a lesbian).
- <sup>19</sup> Julien S. Murphy, *Becoming Parents: Should Lesbians Count as Infertile Couples? Antilebian Discrimination in Assisted Reproduction*, in QUEER FAMILIES, QUEER POLITICS: CHALLENGING CULTURE AND THE STATE 182, 182-184 (Mary Bernstein & Renate Reimann eds., 2001); see also, CAUSES IN COMMON, REPRODUCTIVE JUSTICE & LGBT LIBERATION 15 (2006), <http://www.gaycenter.org/files/imce/images/causesincommon/cicbooklet2006withcover.pdf>. [hereinafter REPRODUCTIVE JUSTICE & LGBT LIBERATION].
- <sup>20</sup> Maryland, Hawaii, Texas, and Arkansas require a woman to use her “spouse’s sperm” to qualify for insurance coverage for infertility services. See *Resolve, Insurance Coverage in Your State*, [http://www.resolve.org/family-building-options/insurance\\_coverage/state-coverage.html](http://www.resolve.org/family-building-options/insurance_coverage/state-coverage.html) (last visited Sept. 25, 2011).
- <sup>21</sup> Abby Lynn Bushlow, NATIONAL RESOURCE CENTER FOR FOSTER CARE AND PERMANENCY PLANNING GAY AND LESBIAN SECOND PARENT ADOPTIONS (2004), [http://www.hunter.cuny.edu/socwork/nrcfcpp/downloads/information\\_packets/gay\\_lesbian\\_second\\_parent\\_adoption.pdf](http://www.hunter.cuny.edu/socwork/nrcfcpp/downloads/information_packets/gay_lesbian_second_parent_adoption.pdf).
- <sup>22</sup> Second-parent adoptions allows the child to have two legal parents, usually granting the adoptive parent the same rights as biological parent in custody and visitation matters. *Id.*
- <sup>23</sup> Lambda Legal, State Adoption Laws <http://www.lambdalegal.org/our-work/issues/marriage-relationships-family/parenting/overview-of-state-adoption.html> (last visited Sept. 20, 2011).
- <sup>24</sup> *Boswell v. Boswell*, 721 A.2d. 662 (Md. Ct. App. 1998) (father appealing court’s decision to severely restrict his visitation rights because of his sexual orientation); *Mongerson v. Mongerson*, 678 S.E.2d 891 (Ga. 2009) (father fighting visitation order that required him to hide his sexuality from his children).
- <sup>25</sup> *In Re E.C.*, 609 S.E.2d 381 (2004)(court reuniting women with children who had been taken away from her because she was a lesbian); *Moses v. King*, 637 S.E.2d 97 (Ga. Ct. App. 2006)(mother arguing for the return of her child t after she lost custody because she was gay. Lower court gave custody of child to father who had not paid child support in year and a half).
- <sup>26</sup> See *Miller v. Jenkins*, No. 0705–09–4, 2010 WL 605737 (Va. Ct. App. Feb. 23, 2010) (non-biological co-parent fighting to overturn previous ruling that biological co-parent was the sole legal parent).
- <sup>27</sup> REPRODUCTIVE JUSTICE & LGBT LIBERATION, *supra* note 19, at 16.
- <sup>28</sup> Human Rights Campaign, *Can Transgender People Adopt?* <http://www.hrc.org/issues/transgender/1498.htm> (last visited September 25, 2011).
- <sup>29</sup> JOANNE HERMAN, *TRANSGENDER EXPLAINED FOR THOSE WHO ARE NOT* 23-35 (2009).
- <sup>30</sup> NATIONAL CENTER FOR TRANSGENDER EQUALITY, *NATIONAL TRANSGENDER DISCRIMINATION SURVEY 2* (2009), [http://transequality.org/Resources/NCTE\\_prelim\\_survey\\_econ.pdf](http://transequality.org/Resources/NCTE_prelim_survey_econ.pdf).
- <sup>31</sup> REPRODUCTIVE JUSTICE & LGBT LIBERATION, *supra* note 19, at 16.
- <sup>32</sup> HERMAN, *supra* note 29.
- <sup>33</sup> REPRODUCTIVE JUSTICE & LGBT LIBERATION, *supra* note 19, at 16; HERMAN, *supra* note 29, at 45-49.