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Serious Legal Problems faced by Lesbian, Gay, Bisexual, and Other Sexual-Minority People in Western Canada: A Qualitative Study

Community-Based Research Centre

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EXECUTIVE SUMMARY

Context & Approach

While there have been major strides in legal protections for lesbian, gay, bisexual, queer, Two-Spirit, and other sexual-minority people in Canada, sexual minorities continue to face serious legal challenges, including discrimination and systemic exclusions within health systems, workplaces, housing, immigration systems, family law and adoption systems, and police and criminal justice systems. In order to better understand these persistent legal challenges, the Community-Based Research Centre (CBRC) conducted 21 qualitative interviews with sexual-minority people who had recently experienced a serious legal problem in British Columbia, Alberta, and Manitoba to explore the types of legal problems, barriers to justice, and impacts of legal issues experienced by sexual-minority people in Western Canada.

Key Findings

Participants discussed a wide variety of legal problems, including workplace discrimination, family law, immigration and refugee law, human rights law, criminal law, and the prison system. Participants discussed discrimination in a variety of settings, including employment, health systems, and educational institutions.

The legal problems faced by participants were often rooted in systems of racism, settler colonialism, homophobia, transphobia, and cisheterosexism (N.B., a glossary of key terms is included at the end of the report). These structural factors contributed to participants pursuing legal recourse and shaped their legal experiences. Indigenous participants positioned legal systems within histories of colonial violence, which rendered these systems inherently harmful. Homophobia and transphobia contributed to barriers in accessing legal resources, verbal harassment, stereotypes, dehumanization, and bullying within legal processes. Participants also noted how cisheterosexism contributed to the erasure of queer and trans people and the presumption of legal actors who were cisgender, heterosexual, monogamously coupled, and part of nuclear family structures.

Participants experienced several different barriers when attempting to resolve their legal issues, including lack of clarity about legal systems and processes, financial barriers, the disproportionate burden of proof placed on participants, and lack of response or slow timelines within legal processes. Ultimately, these forced many participants to advocate for themselves within legal systems. These barriers contributed to participants' lack of optimism for positive outcomes within legal processes. Participants also identified supportive factors that contributed to their ability to resolve and/or cope with their legal issues, including support from an LGBTQ2+ advocate, their family and community, and their workplace. Experiences with the legal system and/or unsatisfactory resolutions to legal issues had far-reaching impacts on participants' lives, including on their finances, employment and career prospects, social life, and mental and emotional well-being.

Conclusions & Recommendations

The findings suggest that sexual-minority individuals experience limited access to adequate legal assistance and encounter additional barriers to justice relative to cisgender heterosexual individuals. Our findings indicate that access to justice for sexual-minority people will be enhanced by efforts to:

- 1) provide access to legal representation by professionals who are sexual- and gender-minority people themselves and/or who understand the unique challenges facing diverse sexual- and gender-minority communities;
- 2) uplift community and informal support systems for individuals who lack adequate access to legal resources;
- 3) provide access to holistic support services, including mental health support services, for sexual- and gender-minority people who have become engaged in legal processes;
- 4) address the financial burden and barriers associated with securing legal counsel, particularly for those with limited resources;

- 5) acknowledge and uproot the legal system's colonial impacts on the lives of Indigenous Two-Spirit and other sexual- or gender-minority people;
- 6) deconstruct systemic, cultural, and structural barriers, such as homophobia, transphobia, and racism that ultimately produce many legal problems and the disenfranchisement of sexual- and gender-minority people;
- 7) explore decarceral and/or restorative justice approaches for sexual- and gender-minority people who have become engaged in legal processes;
- 8) provide resources for legal professionals (e.g., lawyers, judges, paralegals) on the experiences of sexual- and gender-minority communities including topics on pronoun use, HIV stigma, transphobia, homophobia, cisheterosexism, settler colonialism, and structural racism;
- 9) produce resources specifically for sexual- and gender-minority people that make complex legal processes more transparent for those who need to navigate this system. These resources should include information on sexual- and gender-minority people's rights when engaging legal systems and avenues for redress if they feel that their rights have been transgressed;
- 10) provide resources on the human rights bodies in each province, the issues they cover, how to access them, and what outcomes can be sought through them.

BACKGROUND

Since the partial decriminalization of private same-sex sexual activity between two consenting adults in Canada in 1969, lesbian, gay, bisexual, queer, and other sexual-minority people have gained a variety of legal rights through Canada's justice system. Prior to 1969, same-sex sexual activity between consenting adults was criminalized and could lead to indefinite imprisonment of those who engaged in these activities [1–3]. Sexual-minority people were targeted, fired from public service jobs, and subjected to police surveillance and harassment, including raids on queer spaces, such as bars and bathhouses, for over three decades. [1–2; 4–5].

While progress has been marginal, strides have been made towards greater legal protections and equity for sexual minorities in Canada, including the introduction of human rights and anti-discrimination protections, the removal of the ban on sexual-minority people serving in Canada's military, improved spousal and parental rights, and the legalization of same-sex marriage nationwide in 2005 [2;3;5–7]. Many of these advances in sexual-minority rights have come directly through appeals to Canada's justice system [3;6;7]. However, the limited existing evidence suggests that sexual-minority people still face serious legal challenges in Canada, including in health and social services, employment, housing, immigration, family law, and criminal justice.

Barriers and discrimination within various health systems for sexual-minority people include negative experiences within, and systemic exclusions from, healthcare settings that contribute to unmet health needs relative to heterosexual populations [8–9]. Sexual-minority people report disproportionate burdens in access to mental health services, which frequently fail to acknowledge experiences of marginalization as drivers of mental distress [10;11]. Sexual-minority youth and sexual minority people living in remote areas of Canada are particularly vulnerable to discrimination in health and social services [12–14]. Finally, gay, bisexual, and other men who have sex with men also continue to be barred from blood donation if they have had any kind of sex with another man in the last three months, while transgender donors continue to be screened for eligibility based on their sex assigned at birth unless they have undergone gender affirming bottom surgery, regardless of how they gender identify. Both policies are viewed as discriminatory and outdated according to the scientific consensus on the transmission of human immunodeficiency virus (HIV) [15;16].

In the workplace, sexual-minority people continue to face discrimination and fewer opportunities for job advancement despite the existence of federal anti-discrimination protections [17]. Research demonstrates that sexual-minority people are more likely to report discrimination and violence in the workplace, including within the Canadian Armed Forces and police institutions, which undermine their mental well-being and work-related outcomes [21–24]. Furthermore, multiple studies have shown that sexual-minority men typically earn less than their heterosexual peers [17–20].

Discrimination in access to housing continues to be an issue for sexual-minority people, with sexual-minority youth and adults over-represented in homelessness rates [25–28]. Sexual-minority-specialized housing programs in Canada are scarce and barriers – including discrimination and heterosexism – persist in access to the shelter system for sexual-minority people, who report experiences of verbal assault and physical violence on the basis of their sexual identities [29;30]. Low-income sexual-minority people complained that work-related stress can put them at risk of food insecurity and unstable housing [10].

Sexual-minority people immigrating to Canada face obstacles before, during, and after the immigration process. Widespread cultural biases embedded in legal decision-making during the process of accessing protected status on the basis of sexual discrimination impose conformity to Eurocentric definitions of queerness. The Canadian legal system continues to place a heavy burden on sexual-minority refugee claimants of colour who do not adhere to locally normative expressions of sexual diversity, and who must often rely on legal consultants or support workers for guidance [31–33]. Under this framework, claims to sexual-minority status that do not reflect stereotypical sexual-minority appearance, cultural participation, or sexual openness are erroneously appraised as fraudulent [31]. The ethnocentrism of the Immigration and Refugee Board of Canada is further manifested in its over-reliance on country-level information to assess the severity of asylum seekers' reported violence in their home countries. That can erase asylum seekers' individual experiences, constitutes imperfect evidence for credibility assessments, and perpetuates stereotypical assumptions [34]. Sexual-minority migrants face additional exclusion and lack of representation when accessing settlement services in Canada [35].

Despite advancements in Canada's legal recognition of same-sex relationships, sexual-minority people still experience barriers in family law. While Canada's legalization of same-sex marriage nationally in 2005 represented an important step forward in sexual-minority people's attainment of equal rights, equally valid relationship structures such as consensual non-monogamy and polyamory remain unrecognized [36], and polygamy remains a crime [37]. These relationship structures are common within sexual-minority communities; for example, 3.8 percent of all participants in Community-Based Research Centre's (CBRC) Sex Now 2019

Survey of sexual-minority men reported being in a relationship with more than one person, while 39.0 percent of participants in a relationship reported their relationship structure as non-monogamous. Furthermore, despite the existence of anti-discriminatory legal protections for sexual-minority people in adoption rights, sexual-minority people continue to experience discrimination in the adoption process. Adoption workers' lack of cultural competency training and minimal exposure to sexual-minority issues, in addition to deep-rooted heteronormative perspectives on parenting, can compromise sexual-minority people's adoption requests and experiences [38;39].

Additionally, sexual-minority people continue to face discrimination and violence from police and the criminal justice system. Nationally, sexual-minority people experience higher rates of recurrent criminal victimization relative to their heterosexual counterparts [40] and report elevated experiences of police harassment and inaction, especially among sexual-minority people of colour, which enables the persistence of violence targeting these communities and is a source of violence in and of itself [41;42]. The recent handling of missing persons in Toronto's Gay Village serves as a particularly pertinent example of the lack of value law enforcement places on the lives of queer men of colour [43]. While more research is needed in this area, existing police-reported data also suggest that the prevalence of intimate partner violence (IPV) among sexual-minority couples is proportionally similar to that of their heterosexual counterparts, but that law enforcement officers are unprepared to address IPV among gay and lesbian couples, treating it less seriously than IPV within heterosexual couples [44–46].

Sexual-minority people may also be over-represented in the prison system as offenders. Data from the United States has shown disproportionate rates of incarceration among sexual-minority people, and while comparable Canadian data is sparse, the existing data indicates that sexual- and gender-minority people may also face disproportionate incarceration rates [47]. For example, a study of police interactions among youth in three British Columbian cities found that non-binary participants were more likely to be handcuffed/arrested compared with young women [48]. Specific Canadian laws have disproportionate impacts on sexual-minority people. Until 2019, Canadian law discriminated against sexual-minority people by enforcing a different age of consent for anal sex, although the law was challenged and struck down several times

before this legislative change [49]. Other examples of the criminal law's disproportionate impacts on sexual-minority people include the ongoing criminalization of the non-disclosure of HIV status for people living with HIV, a population in which gay men and trans women continue to be greatly over-represented [50–52], and the persistent criminalization of sex work [41;42]. Given these persistent challenges, it is unsurprising that sexual- and gender-minority people have also been at the forefront of advocating for and theorizing about decarceral and restorative justice frameworks [53;54].

In sum, homophobia, discrimination, and violence against sexual-minority people persist in Canada across multiple spheres of life despite human rights protections and other recent legal gains [2;55–59]. This report aims to generate additional knowledge about the legal problems encountered by sexual-minority people in Canada today and the barriers they face in accessing justice. Qualitative methods, and semi-structured interviews in particular, are a powerful approach to understanding these complex issues because they provide insight into the nuances of interviewees' lived experiences and the broader social contexts in which these experiences occur [60;61]. Building on this existing body of literature, this report qualitatively explores the following research questions among sexual-minority people in British Columbia, Alberta, Saskatchewan, and Manitoba: 1) What types of legal problems have sexual-minority people experienced in the last three years?; 2) How have sexual-minority people attempted to resolve their legal problems?; 3) What barriers have sexual-minority people experienced during their attempts to resolve their legal problems?; and 4) What has been the impact of these problems on sexual-minority people?

METHODOLOGY

This work is grounded in community-based research principles to ensure that all aspects of the project are led by sexual-minority community members for the benefit of communities from the outset. Community-based research involves community members in all aspects of the research process—from formulating research questions to sharing research findings—to ensure research conducted benefits and empowers communities first and foremost [62]. All research team members were peers in terms of their sexual orientation. Given CBRC's stronger

connections to queer men's communities, additional research team members who were queer women were intentionally sought out to help lead and implement this work, which resulted in four queer women joining the team as peer researchers.

The project commenced with consultations with community members across Canada to refine the interview guide and recruitment process. This included consultation with individuals who were identified as key informants by the research team and who possess expertise on the legal problems faced by sexual-minority people in Canada, including members of provincial and civil liberties organizations, legal scholars, and organizations that provide legal support to sexual-minority communities. Most of these key informants also identified as members of sexual-minority communities. Special attention was given to consulting with communities of all genders and sexual orientations to ensure that their voices were reflected in the study. The study was approved by the Human Research Ethics Boards at the University of Victoria, University of British Columbia, and Simon Fraser University (protocol #H20-00538).

Recruitment was conducted through social media ads posted by CBRC and other sexual-minority community organizations, and through legal aid societies (Appendix A). Individuals who clicked on ads were sent to a page on the CBRC website with additional information about the study (Appendix B), including information about the study team, research questions, risks and benefits, and funding source. Individuals were then directed to an online recruitment screener (Appendix B) to determine eligibility and to identify who to interview. To be eligible, participants had to identify as lesbian, gay, or bisexual, or as another non-heterosexual identity (e.g., Two-Spirit, queer); have experienced a serious legal problem in the last three years; live in British Columbia, Alberta, Saskatchewan, or Manitoba; be 16 years of age or older; and be able to complete an interview in either French or English. The definition of legal problems used for this study was broad and informed by the [Canadian Legal Problems Survey](#). This included legal problems associated with financial issues, employment, property damage, immigration, policing, divorce and child custody, medical treatment, discrimination, and harassment. Participants did not have to report engagement in legal action to be eligible. All participants who completed the screener were provided with a list of sexual-minority-friendly mental health resources, regardless of their eligibility or whether they were selected for an interview.

Participants were selected to reflect a diversity of sociodemographic characteristics and a range of legal challenges faced (purposive sampling). Research participants were given information about the study, along with a brief description of interviewers on the research team and were informed that they could choose which peer researcher they wished to speak with. Participants were able to bring a support person of their choosing to their interview, if desired. Support persons were required to sign a confidentiality agreement to ensure that the information shared in the interview was not communicated outside of the interview context.

Interviews took place over the phone or using Zoom and were conducted by peer researchers. Participants received a copy of the consent form (Appendix C) prior to the interview. Before commencing the interview, the interviewer reviewed the consent form and participants provided verbal consent to proceed. Interviews were semi-structured [60] and focused on exploring participants' legal problems, how they attempted to resolve these issues, the outcome of these attempts, and the barriers they encountered (see Appendix D for full interview guide). Interviews ranged in length from 30 to 100 minutes. Participants were given an honorarium of \$50 CAD for their time.

Interviews were audio-recorded and transcribed verbatim, and transcripts were stripped of identifiers (e.g., names, dates, locations, details of legal proceedings) prior to analysis. Participants were given the opportunity to review their transcript. Study data were stored on secure, encrypted University of Victoria servers. Transcripts were thematically analyzed [61] for dominant themes related to serious legal problems and issues of access to justice. The analysis process was led by peer researchers. First, the research team open-coded four transcripts and met to discuss emergent themes. Based on team consensus, a codebook was produced that was applied to the remaining transcripts. Finally, the team met to discuss the findings, and this write-up is the final analytic step of our thematic analysis. Participant quotes are provided with no demographic identifiers in order to help protect participant confidentiality.

FINDINGS

Seventy people completed the online eligibility screener, and 24 completed an interview. Based on content shared within the interview, three participants were deemed ineligible and their

data were not included in the analysis. The findings below are based on the remaining 21 interviews. The average age of participants was 34. Participants reported a range of sexual orientations: five identified as lesbian, nine as gay, two as bisexual, seven as queer, one as Two-Spirit, two as pansexual, and one as asexual (participants could select more than one response option). Five participants identified as women, eight as men, seven as non-binary, and one as “FTM” (i.e., female-to-male, provided as a write-in response). Participants included cisgender, transgender, and non-binary people who identified as lesbian, gay, or bisexual, or as another non-heterosexual identity (e.g., Two-Spirit, queer). Seven participants reported having lived experience as trans, a history of gender transition, and/or identified as transgender. The majority of participants (n=16) identified as White, five participants identified as Indigenous, and one identified as racialized (participants could select multiple response options). Most participants lived in British Columbia (n=14); four lived in Alberta, and three in Manitoba.

Table 1: Sociodemographic characteristics of study sample

Sexual Identity	n
Lesbian	5
Gay	9
Bisexual	2
Queer	7
Two-Spirit	1
Pansexual	2
Asexual	1
Racial/Ethnic Identity	n
White	16
Indigenous	5
Racialized	1
<p><i>*Note – some numbers add up to more than 21 as participants could select multiple responses</i></p>	

Gender Identity	n
Woman	5
Man	8
Non-Binary	7
"FTM"	1
Province of Residence	n
British Columbia	14
Alberta	4
Saskatchewan	0
Manitoba	3
Age	n
< 20	1
20–29	5
30–39	10
40–49	5

The findings presented below begin with an outline of the different types of legal problems participants experienced and how these legal problems were shaped by structural racism, homophobia, and transphobia, as well as by systemic racism. Next, participants’ attempts to resolve their legal problems and navigate the legal system are explored, focusing on the barriers they experienced and supports they identified as well as their perceptions of legal systems and processes. Finally, the impacts of participants’ legal problems and participants’ recommendations for improving access to justice are explored.

Types of Legal Issues Reported by Participants

Participants identified a wide range of legal problems, including workplace discrimination, other forms of discrimination and harassment, family law, immigration and refugee law, human rights law, and criminal law. In addition, they described problems related to interactions with the police and the prison system. Indeed, as will be discussed below, many of the problems participants identified arose from how they were treated within legal proceedings or by legal or state actors rather than by the formal written law itself. Each of these legal issues will be addressed below based on participants' experiences.

Employment Discrimination

Participants reported both covert and overt forms of employment discrimination. Common experiences included fear, exclusion, and mockery on the basis of sexual orientation and/or gender identity, and explicit acts of homophobia or transphobia by both co-workers and management. One participant was very clear about their experiences in the workplace:

They absolutely discriminated against me. My sexual orientation [as a gay man] was a factor in the adverse treatment that I received. They removed me from the workplace inappropriately just because they didn't like what I was doing, my way of going about it. They were – I guess there was an element of fear in there. They were fearful of their comfortable culture being encroached upon or being reshaped in some way.

When asked about what this discrimination looked like in practice, this participant related explicit abuse and harassment on the part of his colleagues:

...I would say a lot of mockery of any kind of femininity. I would say the standard reference to homosexuality as something that is laughable, using terms like, 'What are you, a cocksucker?' and 'Nancy this,' 'Fairy that.' It's all very open. Yeah, I would say it's the casual homophobia around the lunch table. Even in management meetings.

Another participant described experiencing discrimination while working for a religious organization, which the participant viewed as being exempt from anti-discrimination laws. Harassment within the workplace was also discussed by a participant who described experiencing:

...a lot of talk and gossip and toxic culture that when I spoke to or spoke out around I was really met with a lot of disrespect and then when I called it harassment, which is in my opinion what it was, and my union agreed that it was, of course it became quite a battle to get any acknowledgment.

Discrimination and Harassment

Discrimination and harassment also manifested within healthcare and educational institutions. Notably, discrimination and harassment can be difficult to define on the part of the recipient, who may not understand these experiences as immediately discriminatory and may experience difficulty attributing the source of discriminatory treatment to one part of their identity (i.e., associated with prohibited grounds of discrimination). This can be especially true of microaggressions (see glossary) [63]. Some participants experienced more explicit and exclusionary forms of discrimination, such as one participant who described the inadequate care they received due to assumptions made on the basis of their sexual orientation:

...it really all stems down to decisions that were made based on my sexual orientation at the time of treatment, the assumption that I was [sick] with an illness that I did not have as the illness that was occurring is an underlying issue of HIV.

Another participant described facing persistent homophobic and transphobic harassment at their post-secondary institution.

Family Law

Multiple participants also spoke about problems within family law, including challenges related to divorce, child custody, and the distribution of assets. Problems within family law often led to

prolonged engagement with legal professionals and the court system, such as for one participant, who spoke about how their former partner prohibited them from expressing their gender identity during their child custody proceedings, noting:

I was in this weird spot where I was presenting female and then when I got the kids on the weekend I would switch to presenting male.

This participant went on to describe their former partner coercing them into hiding their gender identity from their children, using their ongoing legal dispute as leverage: *“I was required to [hide my gender]. She forced me to.”* In this participant’s case, the transphobia they experienced from their partner also made it more difficult to settle their divorce and child custody proceedings, which prolonged this legal process and had immense emotional and financial impacts. For other participants, interactions with the courts within the realm of family law were less extensive, but no less harmful. One participant noted that while his child custody and divorce proceedings only required him to be in court on one occasion, his former spouse’s lawyer used his sexual identity as a weapon against him:

...the lawyer sort of convinced her to make [participant’s sexual orientation] part of her case. I don’t know in terms of homophobia but I think it’s quite possible.

While this participant’s case was ultimately settled outside of court, these reflections speak to how homophobia and transphobia can negatively shape family legal proceedings for sexual- and gender-minority people.

Immigration and Refugee Law

Issues within immigration and refugee law were shared in participants’ narratives as well. These issues largely centred around the precarious position of immigrants and refugees in their access to services, supports, and employment. One participant spoke to how their immigration status forced them into unhealthy and transphobic interactions with their family:

I completely came out to my mom that I was a trans man and that's where it gets worse. At that point... I was still on a tourist visa, we were working on my PR [permanent resident status] and student permit... The next thing they sent me is a trap, like trying to make me feel guilty and told me that my mom did everything for me to come here to Canada and then everything for me to make it easy, but she kept saying that I don't show any respect for her or her boyfriend. They said, I don't need to talk about that stuff as it'll be twenty plus years before I might be able to afford like top surgery and transition things.

Thus, the participant's immigration status forced them to continue to rely on a family of origin that was unsupportive of their gender identity in order to secure their permanent resident status.

Human Rights Law

Furthermore, challenges within human rights law were described by some participants, with different forms of discrimination (e.g., within health care, government identification documents), leading some participants to engage human rights processes for legal recourse. Most participants in our sample were uncertain of the purpose of human rights commissions or tribunals or how to engage them, and those who pursued human rights complaints generally relied on support from legal professionals to advance their claims. For example, one participant described human rights tribunals as intimidating:

...if a gay person is scared to go to the human rights tribunal that makes sense because the human rights tribunal is made to be scary.

Another participant who described using the human rights process to address both discriminatory healthcare provision on the basis of their gender identity and to change their sex marker on their government-issued ID noted that it was difficult to find legal representation in this domain:

There are only two or three lawyers who really understand and specialize in these issues practicing human rights law.

The “neutrality” of human rights tribunal proceedings (i.e., the need to withhold judgment until the case was heard fully, despite complainants’ experiences of harms) was also criticized, since it contributed to participants feeling blamed for the harms they had experienced:

I feel like there’s some inherent kind of victim blamey-ness in that neutrality but I almost would wish there was like an appointed person who represents you throughout the way and represents your side, but there’s not.

This participant represented themselves in tribunal proceedings, largely due to the cost of hiring a lawyer and their lack of awareness of legal professionals who specialize in human rights law. Others described using the human rights complaint process to address experiences of discrimination and harassment on the basis of sexual orientation and/or gender identity and expression at their school or workplace. For example, one participant filed a human rights complaint after experiencing persistent harassment at their school:

I filed a human rights complaint after I left, and it’s basically been fighting tooth and nail for them to do nothing. I wanted them to update their policy so I wouldn’t be harassed, when I was harassed I wanted apologies, I wanted teachers that made open rape comments in public fired, I just wanted so much to be done.

Ultimately, this participant noted that the human rights process was unsuccessful in resolving their legal issue, as no one was held accountable for this harassment and no institutional policies were changed as a result of their complaint.

Criminal Law

Additionally, participants described challenges within criminal law. For some participants, this meant being the victim of a crime, such as for one participant who described being the target of

an attempted gay-bashing and repeated property damage, which warranted police intervention. For other participants, issues within criminal law stemmed from being accused of and/or convicted of a crime, including one participant who experienced being banned from travelling to the United States due to sex work. This participant noted that convictions under sex trade laws were rare but possible, and even though the participant was not explicitly convicted of a crime, the criminalization of sex work and the intimidation by border agents that this participant was engaged in such work shaped their ability to work and cross international borders. Other participants shared experiences of intimate partner violence, both as a victim and a perpetrator. Thus, multiple issues brought participants into interactions with the criminal justice system.

Policing and Incarceration

Finally, some participants spoke to issues related to policing and incarceration, including experiences of violent treatment by prison personnel acting through patterns of homophobia or transphobia. One participant, who had experienced incarceration, described their experience of violence within the system:

...every week I would go from the prisoner's box to observe the court... I would go every single week and they just kept seeing the changes in me, some days being beaten so bad by the guards. One day I went in there so beaten and bloodied that the guard ordered the sheriffs to take me down so that they could take pictures and send me straight to the hospital.

Other people spoke about problems experienced during interactions with the police, with one participant noting that these interactions were inconsistent:

Personally, having a partner who's got some pretty serious mental health issues, we've had to call police for mental health checks and various things like that before so I've certainly got that experience that has been both positive and not so positive.

The participant went on to explain that this varied, largely based on officers' degree of training in mental health issues. Thus, participants identified a variety of legal problems that brought them into interaction with legal systems.

Structural Factors Contributing to Legal Problems

While participants experienced a range of legal problems, these challenges were generally rooted in systemic forms of oppression, including racism, settler colonialism, homophobia, transphobia, and cisheterosexism, as will be demonstrated below. Participants' legal experiences were thus not only shaped by their sexual orientation, but also by other intersecting aspects of their identities or how others perceived them (e.g., their race/ethnicity, Indigeneity, and gender identity) and associated structures of power [64]. These forces shaped participants' experiences both outside of and within legal systems, cut across multiple legal domains, and often contributed to participants initially pursuing legal recourse.

Settler Colonialism

Several Indigenous participants spoke of how their interactions with the legal system were not only shaped by their gender identity and expression and/or sexual orientation but also by racism and settler colonialism. Participants often described the violence they experienced within legal institutions as unsurprising and as rooted in systems of racism and settler colonialism that were not unique to legal systems, but had shaped many facets of their life outside of legal settings:

...learning about how I was treated in the legal system, it didn't surprise me... it was such a pattern of how I was treated from high school to real life, that I know how Natives are looked upon here in this town, and in other places, and how they're treated, and how gay people [are treated]... I was well aware of how I could be treated, and it for sure played a factor in my legal system stuff because it prepared me for it, it wasn't anything that was new.

This participant's comments highlight how racist and colonial violence was further intensified by intersecting homophobia for many sexual-minority people. Additionally, their experiences highlight the pervasiveness of anti-Indigenous racism across institutions, including within legal systems. Participants also spoke about how interactions with settler institutions like courts, the prison system, and the Royal Canadian Mounted Police (RCMP) were connected to long histories of colonial violence that continue to target, regulate, and dispossess Indigenous people. One participant explicitly described the police and RCMP as tools of ongoing colonization:

I think being Indigenous is the indicator that gets me flagged or targeted or . . . engaged with the . . . prison industrial complex. I also think that the inability for the system to support my intersecting identities makes it even much more violent and harmful, and it's not about protection but also about property, and I continue to be someone who's displaced and dispossessed of homelands for settlers, for settler occupation. And the police or RCMP are active agents in the continued dispossession.

Given that police forces, including the RCMP, are not equipped to interact with Indigenous people in culturally appropriate ways and fundamentally continue to be used as tools of colonization and Indigenous dispossession, it is unsurprising that interactions with the police frequently come with additional harms for Indigenous participants.

Structural Racism

Participants also identified experiences of overt racism at the hands of professionals within the legal system, including a participant who described an experience of having their blood taken without consent while being held in a correctional facility:

This guy came in and he wanted to do my blood for a DNA count or something, and I didn't sign any papers for it, I wasn't court ordered to do it, and he physically came in, grabbed my hand and took my blood. And I'm like telling him no and all this, he made

some derogatory Indian comment, and then left. So I don't, I don't have any information on it, I don't know what my blood was used for, I don't know anything about it.

This participant went on to explain how Indigenous people within the prison system are “treated like a fifth-class citizen” and targeted for harsher treatment, especially in comparison with White inmates. Ultimately, racism and settler colonialism cut across various legal domains and institutions for Indigenous study participants, who frequently experienced legal systems as actively violent.

Participants shared reflections on how legal systems and society more broadly establish and assume a “default” individual who is, among other things, white, cisgender, a man, middle or upper class, and not living with disabilities. This assumption dictates how participants experience the system and are treated, which has immense ramifications for those with identities and experiences that do not fit neatly within this “default” norm. White participants also reflected on the privileges they accrued in relation to racism and settler colonialism, with one participant noting that their white privilege, in combination with their socioeconomic privilege, enhanced their ability to access legal supports:

I think in some ways I had a lot of access which I do attribute to white privilege, and also class privilege.

Other participants spoke to how privilege facilitated access to legal systems, without naming whiteness or class explicitly. For example, one White participant mentioned:

I grew up in a very privileged environment so I know a lot of lawyers, a lot of doctors, just a lot of professionals.

Cisheterosexism

Participants discussed how cisheterosexism—a complex set of structures, institutions, relations, and actions that promote and produce being cisgender and heterosexual as natural, self-

evident, desirable, privileged, and necessary [65]—systematically shaped access to justice for sexual- and gender-minority people, who were rendered invisible within legal processes that often presumed legal actors to be cisgender, heterosexual, monogamously coupled, and part of nuclear family structures. Reflecting on their experiences in family law, one participant spoke about the impacts of being “othered” within this legal system, stating:

...really the whole heteronormative assumption around divorce and separation is just really laughable, like we've both chuckled to ourselves a few times around how you know there really is just this assumption that all divorces are between men and women, that are locked in some acrimonious battle, and that isn't the case, certainly not in our case... There is no mechanism to reflect that our situation is not “other,” it's not deviant, it's not weird, but it was very clear that we were not the norm. Yeah, which felt marginalizing.

Other participants noted that cisheterosexism was reinforced through the lack of sexual-minority representation within legal systems, with one participant indicating “I just wasn't aware of any lawyers who were doing more like LGBTQ2+ like human rights issues in [a province].” Thus, cisheterosexism often erased sexual- and gender-minority people within legal processes and served as another systemic barrier to accessing justice.

Homophobia

Homophobia was a continuous thread across participants' legal experiences, often shaping their legal problems in critical ways and manifesting within the justice system itself. Participants frequently linked their legal problems to broader structures of homophobia by mentioning that they felt sexual-minority people were less likely to be able to access legal resources or advice. Some tied these persistent legal barriers to longer histories of state-sanctioned homophobia, with one participant noting that, “1969 wasn't a long time ago, Trudeau's apology [in 2017] wasn't that long ago,” referring first to the decriminalization of homosexuality in the Criminal Code in 1969 and then to Prime Minister Justin Trudeau's apology for systemic discrimination

against sexual- and gender-minority people in Canada in 2017. Homophobia appeared in many different forms across participants' narratives, including through verbal harassment, stereotypes, dehumanization, and bullying. As one participant described, these forms of homophobia could lead to participants not feeling comfortable being out about their sexual identity at work:

Just lots of gay jokes, they love to throw the word gay around, seemingly in a derogatory manner. "That's so gay" and "What are you, gay?" and this kind of thing. It created an undertone in the department that... made me very apprehensive to come out as gay myself and take a close look at how I was going to go about being my authentic self in the workplace knowing that this is how LGBTQ people are seen.

The climate of homophobia contributed to this participant eventually seeking legal recourse for the discrimination they experienced within their workplace. Homophobia within workplaces could also manifest as stereotypes about sexual-minority people, and gay men in particular, as predatory or sexually deviant:

...they pretty much put me out there as some kind of predator who took advantage of my partner in some kind of like mentorship role, which never existed... and it's like I don't know why you would create a story that is so easily disproven.

Furthermore, participants described overtly homophobic interactions within the justice system, and particularly within interactions with police and prison personnel. For example, one participant described how their sexual identity was used against them in court proceedings:

[My ex-partner's] lawyer brought up like completely impertinent things related to my sexuality in his questioning of me and it just like, it just made no sense why any of it was being brought up, and my lawyer was like, "Yeah, there's no reason for this." But there, it always felt like there was no real consequence to that, like they were just sort of allowed to, they were just able to use that as intimidation throughout the whole thing.

These experiences of ongoing homophobia were often intensified within the prison system, as one participant noted:

And even being in the correctional system, there was never an opportunity to present or to be open about being gay, if you were, you were bullied in there, you would be bullied by staff, you would be segregated, you'd be put in protective custody, all of that kind of stuff.

Similarly, another participant who had experienced incarceration explained that pervasive and overt homophobia further contributed to dehumanization of sexual-minority inmates:

...people are dehumanized enough in that setting and then in addition just as a result of who they are, being further dehumanized and humiliated.

Other participants described experiencing negative stereotypes about sexual-minority people when engaging with the police that discredited or minimized their experience and legal claims, with one participant noting:

...the police officer came there to talk about it and you know, when I was sharing with him some of the things, his comments were, "Well isn't this sort of a common thing in the gay community, to send each other nude pics like that?"

Within the realm of intimate partner violence, another person stated that they felt that the police did not take domestic abuse claims within same-sex/same-gender couples seriously and tied this to a longer trajectory of "too much sour history between the gay community and law enforcement."

Transphobia

Like racism and homophobia, transphobia shaped experiences both outside of and within the legal system and across legal domains for participants with intersecting sexual- and gender-

minority identities. Participants articulated that transphobia was not unique to legal systems or processes, but was a deep-rooted structural and societal issue that continued to follow participants into the legal system. Experiences of gender-identity-based discrimination and transphobia often led participants into the legal system in the first place, including for one participant who described experiencing transphobia in their workplace, which they eventually sought legal recourse for:

I don't identify as cis, like I'm non-binary, and I have never even considered coming out at my workplace, that's just, it's just not something that I ever see happening.

Other participants described how transphobia shapes trans and other gender-minority people's experiences throughout the legal and prison systems, and across various legal domains:

I think that a lot of trans people experience appalling discrimination in access to housing, access to services, access to benefits, criminal law, through the prison system, with police, what else can I think of? You know, basically every aspect where a legal problem could result, the consequences for trans people are often devastating.

Within the legal system itself, transphobia could manifest in a variety of ways, including being misgendered by lawyers and court officials, which several participants mentioned. One participant called being misgendered in legal proceedings “par for the course” since “most people I come into contact with have no idea [about trans identities],” while another participant noted:

With her [ex-partner's] lawyer, you know, certainly being misgendered by her lawyer in mediation was an annoyance. I was still too kind of early in my transition to correct her, I certainly would and will today, if it happened.

This participant's reflection that they would correct misgendering now reveals a systemic assumption that correcting this form of violence is the responsibility of the individual advocate

rather than of the system itself, which should be actively protecting individuals from this harm. In British Columbia, for example, legal counsel and parties have recently been required to give their titles and their pronouns at the beginning of court proceedings [66]. However, binary gendered terms are still frequently used for addressing judges, in addition to the gender-neutral term “your honour,” which one participant viewed as contributing to the erasure of non-binary people within court settings:

I think it's completely absurd that we used gendered titles to describe judges – my lord, my lady, sir, ma'am. There are gender neutral ways to refer to judges and by insisting that we have binary gender titles for judges, the implicit message is that non-binary people can't be judges because there's no way to refer to them in court.

This participant further explained that their ex-partner's lawyer used stereotypes about trans people as deviant and perverse within court proceedings, which further speaks to how transphobia functions within legal systems in similar ways to homophobia, as described earlier:

...her lawyer with a straight face is saying this to me, and then "it's too much for the kids to see," and I was basically a pervert... was some sort of deviant, and I didn't deserve the same access as everyone else, or the same rights as everyone else as a parent.

Ultimately, transphobia rendered legal systems harmful and inaccessible for many trans and gender-diverse participants.

Resolutions and Barriers to Legal Problems

In discussing attempts to resolve their legal problems, some participants indicated that they had successfully resolved the problems they encountered through legal recourse. However, most participants described experiencing multiple barriers to navigating the legal system and satisfactorily resolving their legal problems. Overall, the keys to successful legal outcomes for participants included:

- 1) their ability to access resources and navigate systemic barriers
- 2) the supports and/or resources available to them at the time
- 3) their valuation of and trust in legal systems for resolving legal problems

Participants experienced various barriers in their attempts to resolve their legal issues, many of which are not unique to sexual-minority people. These barriers, which are described in detail below, included: (1) lack of clarity about legal systems and processes, (2) financial barriers, (3) disproportionate burden of proof, (4) lack of response or slow timelines, and (5) having to self-advocate.

Lack of Clarity about Legal Processes

Many participants felt that the legal system was unnecessarily complex and designed to obstruct any successful resolution. Participants often expressed confusion and frustration with legal processes. Even those with advanced education or understanding of the legal system often felt stymied by processes that were perceived to be deliberately cumbersome. One participant who had lost their job as a result of their sexual identity was unclear as to whether their experience constituted a legal case: *“I really wasn’t sure if I qualified, even, because it’s... I’m not sure if it counts as like a legal issue.”* Another participant made it clear that the grievance process that they were involved in with their employer was so convoluted that it was likely that the timelines would run out before their problem was resolved:

Any, for instance, LGBTQ manager in the government who feels they’ve been harassed or discriminated against will be relegated to this process like I was, and they’ll be in that grievance process in blissful ignorance thinking that they’ve got a solution on the horizon when they don’t. By the time they find out they don’t, it’s too late to file a human rights complaint because you’ve gone past that limitation timeline of a year.

Confusion about legal processes meant that some participants were manipulated within legal processes, such as for one participant, who explained, “[Border agents] told me to sign some paperwork which I also didn’t know at the time I didn’t legally have to.” Another participant noted that excessive bureaucracy extended legal timelines past the point of efficiency or desirability:

Getting answers from a healthcare professional that you’ve experienced discrimination with, you have to go through all these processes, all of these processes have to agree at one level or another before you’re able to proceed with any sort of action to seek a resolution.

Financial Barriers

Among most participants, limited access to financial resources was a critical access barrier to appropriate and timely legal assistance, and to ensure fair and equitable treatment in the legal system. Since sexual- and gender-minority people have been marginalized both socially and economically, they frequently have diminished financial capacity to obtain adequate legal assistance [67]. Many participants did not have the necessary funds to access a lawyer in the first place, as demonstrated by one participant: “I’m of course continuing in this vulnerable spot where I have to try and negotiate and engage, rather than just get a lawyer, because I can’t afford a lawyer.” For participants who were unable to secure legal aid, financial barriers often rendered them unable to continue with legal proceedings due to cost, as this participant explained further:

Financially, it destroyed me... my lawyer is still answering my emails but, you know, that bill is over seven thousand dollars right now and I can’t afford it. I’m not living the life I want with my children at all, because I’ve been afraid to exercise basic rights, but I just (deep breath), I’ve been afraid of the court or the judge or the cost.

The intersection between limited financial capital and sexual-minority marginalization was highlighted in another participant's response:

I mean I think there's often a bit of financial burden to getting help. I mean I think that's broadly based for the world and population in general but especially queer people... depending on the individual we're not necessarily working in jobs where we're making big dollars or – and that may be because, maybe by choice... or maybe not so much by choice where we're kind of stuck in relatively limited job in terms of income and growth opportunities.

Furthermore, legal aid services that have been designed to assist lower-income individuals often failed to support participants. Strict eligibility requirements create barriers to access, rendering many individuals who are still unable to pay for costly legal aid ineligible for the service. As this participant stated:

...when you go through stuff like that you're very much alone. That was one of my biggest issues, having to deal with a lot of that stuff on my own because there was just no... I guess I'm gonna have to put it like there was no fair legal access, or legal advice access, you know, it was four or five hundred dollars an hour and that adds up... You can only qualify for legal aid or legal advice through the legal society in [province] if you are facing serious jail time, or if you are going through a family divorce, for family court stuff.

Disproportionate Burden of Proof

Participants also described the difficulties of needing to “prove” that what they experienced rose to the level of legal process. In the case of individuals who turned to the legal system to seek recourse after experiencing homophobia or transphobia, challenging institutions or organizations was difficult, especially when the organization was not held to the same expectation of proof:

...they are not obligated to provide evidence, they can provide a lie in the letter and the ombudsperson has no authority to require them to prove it... In other words, the pressure will be back on the complainant to demonstrate that they made every effort to find alternate work and pull themselves out of the situation.

Another participant shared that, in the case of employment discrimination, even their advocate (i.e., union representative) highlighted the difficulty of articulating harassment on the basis of sexual orientation:

...he'd said like more than likely that was probably a factor, that it's really difficult to prove. Not that he wasn't sympathetic, not that it wasn't terrible, it's really difficult to prove.

Yet another participant, who did file a civil suit against a government agency, stated that because of this burden of proof on individuals who have experienced discrimination, sexual-minority community members are forced to weigh whether pursuing legal recourse is worth the requisite time and energy:

...there are so many discouraging elements to pursuing justice that come at you. It's a wonder anybody ever bothers with it at all.

Further, participants articulated that proving discrimination on the basis of sexual-minority identity to people without lived sexual-minority experience was a challenge:

When there's subtle discrimination against an LGBTQ person you may not necessarily pick up on it unless you're a member of our community yourself.

This lack of sexual-minority cultural competence and sensitivity in the legal system resulted in participants feeling that this system was not meant to serve or support them.

Lack of Response/Slow Timelines

Another barrier to participants receiving the aid they needed was the complex nature of legal systems and the amount of time required to address legal problems. Participants perceived overly bureaucratic procedures as not only restricting, but designed to limit access to justice. One participant explained their legal battle in the health system in this way:

[At] the first level with the health authority, they ask you to submit a series of questions that you have about the care you received. You submit 100 questions. They'll come back at you with 50 that they'll put through, and they're completely reworded and they're designed to reword the question that you originally asked so that you won't actually get the direct answer that you're requesting and those are the questions that will get sent to – you have to agree to the questions, the more you resist the questions the more they get redesigned or dropped, and then once you do agree to the questions that are there they get sent to the executive representatives for that block of healthcare in that healthcare region, within that healthcare authority.

These restrictive requirements proved onerous and discouraging for many participants. Another participant voiced their frustration at the unwieldy and prolonged human rights tribunal process, paraphrasing a confirmation letter as:

[Province's] Human Rights Tribunal has received your correspondence, the tribunal is experiencing a high caseload volume, which is unfortunately resulting in significant delays at many stages in the complaint process. We will respond to your email as soon as possible. Thank you for your ongoing patience. Please note, resending emails will not speed up the response time. If you are filing a new complaint you will be sent a letter confirming receipt of your complaint in approximately one to two months. Your letter will explain the next steps in the tribunals process and provide you with a case number. To speed up our response time please be sure to blah, blah, blah, here's the tribunal's address.

Further frustration was voiced over excessively slow response times regarding particular cases participants were involved with. In one case, it took up to three months for the Crown to review the case, only to reject it due to lack of evidence:

...the Crown reviewed it and it took them almost 3 months of review process. [City] Crown reviewed it and then they sent it to [two other cities for additional] opinion[s], they finally came with the reality that there was a crime committed of a criminal nature, but because it was not witnessed by anyone and didn't leave any marks that there was nothing they could do about it, that the likelihood of charges going through was far too low to merit a trial.

Another participant expressed exasperation at the lengthy timeframes and documentation that ultimately meant their case went cold. They were only able to complete the process at great personal cost:

...to me the whole process is just designed to keep you running in circles until time runs out, or you run out of money to be able to continue any processes... Going back into the legal processes, it's long, it's drawn out, your rights are restricted, what you can and cannot say, what you can and cannot do... The timeframes to do this sort of stuff are also unreasonable considering how long it takes to process and do this stuff, like the timeframes are just insane, the turnaround times... I mean it took nearly two years to get 30 questions answered, which is just, it's unreasonable because it stops you... it stops you dead in life, dead in your tracks because now you've got to do all of this stuff that shouldn't have to be done.

Having to Advocate for Oneself

Since previously mentioned barriers meant that many participants lacked sufficient legal aid, participants were often forced to advocate for themselves within legal systems. This included participants being put in the position of having to inform and educate legal professionals on the

specific needs of sexual- and gender-minority people, even though participants had already faced discrimination or trauma and had turned to the legal system for recourse. These situations inflicted additional trauma, as one participant explained:

I had a regular list of people that I would email, the Diversity Coordinator I think his job position was. I knew the actual faculty department head from my previous time in [school name, year], I actually had him as an instructor, so I had a connection to the head of the department and he was just as apathetic as the rest. I was able to strong-arm him into suspending a student who was showing [anti-LGBTQ] videos of [details omitted], but he was only suspended for about 3 days.

Another participant explained that they were left without an advocate in their union, and had to navigate the process themselves, despite their limited knowledge:

I was not represented by the union, I was outside of the bargaining unit, so the union stepped back and I was left entirely on my own while this was going on. So, I filed a complaint with the human rights commission.

A final participant related their experience navigating the legal system largely on their own due to their inability to hire a full-time lawyer:

It was a lot of travelling, visiting a lot of legal professionals, spending a lot of time on the legislature's website reading legislation, having to learn how the law actually works... it's a lot. And my legal friend, he was doing as much as he could to try and keep costs down for me, so that's why I had to do a lot of the leg work, looking for precedents, looking for like-cases, searching the internet and legal databases for the particular people involved, finding out their information, contacting other suits that are involving the same people, contacting legal professionals and gathering information from them as well.

While this example speaks to the resilience and resourcefulness of sexual- and gender-minority people in navigating legal systems, participants finding themselves with no choice but to advocate on their own behalf also speaks to serious shortcomings within the legal system.

Supportive Factors Identified by Participants

As participants conveyed their experiences of legal challenges, they also described sources of support, foremost among them being LGBTQ2+ community and grassroots advocacy groups. Many of those interviewed, who themselves had adequate community support, felt that sexual- and gender-minority communities provided important support networks for members of these communities who are facing discrimination and limited access to important resources or capital. Additionally, participants also found support through (1) involvement of an LGBTQ2+ advocate, (2) family and community support, and (3) the workplace.

Having an LGBTQ2+ Advocate Within the System

Participants noted that having a legal advocate to assist in navigating complex legal procedures and systems was critical in the success of their legal claims. However, they also argued that legal professionals must possess experience working with LGBTQ2+ individuals in order to be effective advocates for sexual-minority people. This often meant engaging lawyers who were themselves sexual-minority people, as one participant explained:

The only reason that I had support that I did was because the lawyer was a gay man... like I had mentioned I'd gone through my employee assistance program, the lawyers that I had spoken to, my impression – and I mean they're not going to admit it – my impression is that because it was related to the gay stuff – God this pisses me off, I'm [age] years old and it's just stupid, people... sorry. So, he took an interest in it and backed it because he knew it was a fact, he himself had healthcare issues and had access issues to healthcare, but he knew from experience that this is and had been an issue for a long time.

Advocacy could also come from sexual- and gender-minority professionals outside of the legal system, as participants found support through counselling, therapy, and/or professional coaching. As was the case for legal professionals, participants perceived professionals who were connected to or part of sexual- and gender-minority communities as better positioned to offer support, as this participant's response indicates:

I did eventually find, you know, a counsellor who did turn out to be queer and whose partner was non-binary but, more importantly, after our first session I had kind of gone through some of my history, you know, just how what I had shared with you about [church] for example, and she had done a double major in psychology and religious studies and looks for the intersection of religion, gender and sexuality, and so it was like this perfect mix of like total, yeah, affirmation about every aspect of my being.

Collectively, these reflections highlight the importance of having individuals with sexual - and gender-minority expertise within legal and support systems.

Family and Community Support

While many sexual- and gender-minority people experience strained relationships with their families of origin [68], some participants identified their families as a crucial site of support within legal processes. For example, one participant described the financial support they received from their family:

I'm very fortunate that I have a pretty fantastic family and they're able to assist with certain things such as my court costs at the moment. I also am very fortunate that it's a pretty cut and dry case and I'm very confident in it moving forward in a positive direction for myself so, I mean, that certainly allows my family to be a little bit more confident in lending me a whole bunch of money for a lawyer.

The importance of familial financial support was also mentioned by a participant, who reflected on the privilege they held, even as a sexual-minority person, that allowed them to navigate the legal system more efficiently:

The only reason I felt comfortable is because I have very wealthy parents, and I have a lot of privilege and I have a lot of connections. If I was poor, you could bet your bottom dollar there's not a fucking chance I would be able to be making this claim.

Another participant described experiencing housing insecurity as a result of their legal problem and was able to rely on their family for this support:

I'm out of resources, I'm unemployed, I'm living at my brother's, you know, I'm essentially homeless, if it wasn't for my brother I would be living in my car.

Participants also found support in their communities. One person, when asked if they felt that they had access to any resources that were helpful during their legal issue, explained that, while there had been no funded services which they could use, it was from the community itself that they found the most support.

No, no. The services that were helpful weren't funded services, they were people. So there was a . . . a woman in the community who offered children's therapy out of her home, and she did it without payment with the hope that the victim assistance fund allocation would pay her costs, it didn't, and she just wrote off the costs and called it pro bono. So that was good.

The specific connections that individuals have to other people, especially in sexual- and gender-minority communities, shape their ability to navigate the system. It is crucial that these connections to community touchpoints exist and are known about within sexual- and gender-minority communities and social networks.

Workplace Supports

While the workplace was not indicated as a primary source of support by most of those interviewed, some participants mentioned that programs offered at their place of work had been helpful in procuring the necessary finances for their legal case. One participant illustrated the way their previous place of work had benefited them, while at the same time recognizing that many others would not have had the same access and advantage:

I mean with my former employer I was also lucky they had a family assistance benefit-type program for referrals, legal referrals, as well as a discount on their rates. So that was really quite helpful in essentially ensuring that I had a good connection to a lawyer and then was able to take – received a pretty sizable discount on what it cost. So that's also been pretty positive for me and not something that I would think most people necessarily have access to, depending on where you work and stuff like that.

Similarly, another participant noted that their workplace insurance coverage allowed them to access mental health supports, which helped them cope with the impacts of their legal problems:

I basically had unlimited mental health coverage, and so I was going to see a counsellor every 2 to 3 weeks.

It is clear from participants' responses that having the above supports and contacts can make an important difference in ensuring a positive conclusion to an individual's legal process. However, not all sexual- and gender-minority people have access to these resources and connections, and as discussed with respect to systems of navigation, the lack of these supports in legal matters is a systemic inequity.

Perceptions of the Legal System

Participants' perceptions of the legal system were shaped by: 1) their perception of legal institutions as homophobic, transphobic, and racist; and 2) their lack of optimism for a positive

legal outcome. Many of the participants interviewed indicated that they had failed to resolve their legal issues to their satisfaction and this was partially due to a lack of faith in legal processes for resolving their legal problems as LGBTQ2+ people. Participants frequently perceived legal institutions as inherently homophobic or transphobic, which contributed to their lack of optimism for a positive outcome. Sexual- and gender-minority people often experience discrimination, harm, and violence in all areas of life, which can produce trauma-based responses that in turn affect their trust in the legal system—a system that is perceived as both systemically discriminatory and as difficult to access without adequate resources and assistance for marginalized and/or oppressed people. For example, one participant, when asked why they decided not to address their issue with city police, explained:

I decided not to. Because, again, I would be, again, . . . my life would be taken apart . . . and I would be villainized or seen as the problem, when I was not the one who put my hands on another person or threatened them.

Perception of Institutions as Homophobic, Transphobic and Racist

The discrimination, exclusions, human rights violations, and violence enacted against many sexual- and gender-minority individuals often led to a recognition of many legal institutions as being systemically homophobic, transphobic, and racist. For example, one participant noted:

Yes, I think like my experiences of seeing how police officers and courts and judges and other lawyers deal with conflict that might relate to gender and sexuality and to individuals who have alternate gender and sexual identities, I feel like the experience with those systems at large has, it just entrenched my distrust of them, generally.

Another participant suggested that the spaces and facilities available to them in legal institutions demonstrate the many ways that cisheterosexism favours cisgender and heterosexual people, rendering sexual- and gender-minority people as deliberately excluded:

I think that at the court level, at the level of the courthouse, the courthouses themselves need to be made inclusive of people of all genders so that means gender neutral washrooms, it means that you should no longer have these binary, gender segregated barrister's lounges.

Lack of Optimism for a Positive Outcome

Another reason that many of those interviewed failed to positively resolve their legal issue was due to an experience that caused fear and distrust of the police and those in the legal system. This distrust creates an environment of fear in which many situations of intimate partner violence (IPV) in LGBTQ2+ households are never reported. These fears often led to their conclusion that the system would fail them and/or place them in a further compromised position due to being sexual- and gender minorities. This lack of trust and optimism is illustrated in the following statements from two different participants:

I know that my friends are afraid to call the police for help, they're afraid to call domestic violence lines because they automatically direct the police and I just think as far as domestic abuse goes the police are just not the appropriate tool to be using, that's just too much of a sledgehammer, too much sour history between the gay community and law enforcement.

I very quickly became distrustful of the entire institution and I ... just kind of felt like I wanted to avoid interacting with police as much as possible after that. Yeah, I didn't really feel like anyone was on [my] team after that. So yeah, it was definitely a damaging experience.

Finally, one participant noted that their experiences, as well as those of others in the community, demonstrated the ways that representatives of the justice system failed to recognize the needs of sexual- and gender-minority people engaged in the legal process and led to their decision to discontinue their own case:

One of the reasons why I did really try to fight to keep it out of the court, and I gave up on things, compromised on things, I didn't necessarily need the compromise on is a friend of mine had had a very poor experience with a judge in [city], and I just did not want to go through that, like being misgendered repeatedly by the judge despite the name change and the marker change and everything, so I avoided it.

These reflections highlight that participants' perceptions of legal systems were not only shaped by their individual experiences, but by the experiences of other sexual- and gender-minority people within this system. Thus, individual experiences can be accentuated by longer histories of harm inflicted on their communities by the legal system and its various institutions.

Impacts of Legal Problems

Participants identified a range of impacts they experienced due to their interactions with the legal system and poor or unsatisfactory resolutions to their legal issues, including impacts on their employment, finances, social life, and mental and emotional well-being. Attempts to improve access to justice for sexual- and gender-minority people must be attentive to these impacts and experiences of harm.

Employment Impacts

Certain types of legal issues had long-term ramifications on participants' professional lives and career prospects. In one situation, the participant was "outed" at work, which resulted in uncomfortable relationships with colleagues and managers and untenable employment situations. This participant explained that they were "uncomfortable with my sexual identity being water cooler gossip" and was later denied opportunities for promotion within their workplace. For some participants, these workplace conditions led to heightened monitoring by management and other employees, as well as job loss. Other people described the impacts of their legal problems on their ability to advance in workplaces and secure high-paying jobs in the

future. For example, one participant reflected on the career ramifications of having a criminal record:

Yeah, so the criminal record has been a barrier, so there are positions I'm highly qualified for... sort of a very well paid, very well benefitted career to have – high pay, high benefits – so that's been a barrier, having that criminal record.

For other participants, pursuing legal recourse required them to put their career on hold to invest the required time and energy into their legal battle. One participant recalled:

It's been impacting on my career, because like I say you put everything on hold and it's like, you go back to my career and it's like I'm five years behind now. So, it literally puts your life on hold, it impacts every aspect of your life.

Financial Impacts

The financial impacts of legal problems could also be wide-ranging and long-lasting, resulting in loss of income-earning opportunities and immense debt for some participants. As one participant recounted:

The issue with healthcare left me with a huge debt, and then going through the legal process just increased that debt. So, at one point you've got to just measure out, am I going to be spending the rest of my life working just to pay for this just because I said you can't treat me like shit? So yeah, it's a very costly process as well.

This participant further shared having to exhaust their savings and take on loans to pursue legal recourse. Other participants described the expenses associated with pursuing legal recourse led to precarity in their ability to afford food, housing, or health insurance, which could in turn negatively impact their overall security, well-being, and quality of life.

Social Impacts

Legal problems also came with social impacts for many participants, producing tensions within their community and relationships with family and friends. For example, one participant noted that being outed by the police as a minor created tension with their parents:

[The police] tracked down my family, they had a big intervention about it. I ended up getting sent to a therapist who was tasked with telling my parents whether I was gay or not. It was a whole... it was a really massive intervention in my life.

Another participant who was outed to their family and friends by police noted that this led to “members of the community, who were my friends... completely blocking contact with me .” Similarly, one participant, who was unable to cross the border due to their legal problem, mentioned that this meant that they could not maintain relationships with close friends and family in the United States. Other participants noted that legal battles could be all-consuming and required putting one’s life on hold for a prolonged period of time. One participant reflected:

...it forces them out of their life, you know, when you’re going through stuff like that. You lose touch with friends and friendship because you’re so delved into the care and the legal... you lose yourself in it. It’s brutal. And getting out of it, getting out of that mindset is brutal.

Emotional and Psychological Impacts

Attempts to resolve legal problems were also emotionally draining and severely impacted mental health for many people we spoke with, especially when legal problems were not resolved in a satisfying manner from participants’ perspectives and when multiple legal problems intersected. One participant spoke about the prevailing futility they felt as a result of their attempt to resolve a series of legal problems rooted in transphobia:

There's definitely the emotional exhaustion... and then there was always the feeling of this may not result in any change so do I want to put what's necessary into it only to find that nothing changes?

Another participant mentioned how being repetitively misgendered within legal proceedings made “a process that was already very difficult and emotional...just more difficult and more emotional than it needed to be.” Indeed, some participants stated that their legal experiences were traumatic and deeply damaging, occasionally requiring support from mental health professionals to help process their experiences. One participant stated:

...just the amount of therapy and mental trauma, being, getting square with it, is astonishing. I very much remember a time of my life where I did not feel and experience what's going on in my brain the same way it is now, and I'm damaged beyond repair.

These depictions of legal systems as traumatizing for sexual-minority people were common, with one participant generalizing and normalizing this trauma by noting, “Yeah, it's just trauma, that's all, I'm just like every other queer person.” Finally, one participant explicitly mentioned how legal systems can exacerbate existing mental health challenges:

...if you struggle with your mental health, the way that the justice system interacts with you and engages with you is really affected by your wellness and so when somebody's not well... [the system is] essentially causing harm to them, rather than being helpful. That's detrimental to the person, but to society as a whole and to the trust in the legal system.

Participants thus experienced a range of long-lasting professional, financial, social, and mental health impacts as a result of their legal problems and attempts to access justice through legal systems, which negatively contributed to their quality of life.

Gaps and Opportunities Identified by Participants

Participants had several suggestions for improving access to justice for sexual- and gender-minority people, including greater representation of sexual- and gender-minority people within legal systems, more sexual-minority-specific resources, the need to challenge cisheterosexism, creating more accessible tools to navigate the legal system more easily, and similar guides for other legal problems.

Greater Sexual- and Gender-Minority Representation

Many argued that having more sexual- and gender-minority people working within legal systems with both LGBTQ2+ competency and legal expertise would improve legal outcomes for sexual- and gender-minority people. One participant explained:

There would be huge benefits to society and to us LGBTQ folks to have a support they can call upon when encountering various aspects of our legal systems... perhaps there's a list of queer-identifying lawyers out there, just like when we bought a house, we found a gay realtor and we went with their supports and through their advice, same could be said for lawyers.

As this person noted, such LGBTQ2+ competent legal supports also need to be made accessible to community members. For example, these supports should be shared widely through a public directory, and be more accessible to those who face financial barriers. In addition to increasing the number of sexual- and gender-minority legal professionals, participants argued that legal materials must reflect sexual-minority people's experiences, for example by including mention of non-cisheteronormative families in divorce materials.

More Sexual-Minority-Specific Resources

Similarly, participants indicated that there was a need for more LGBTQ2+ specific resources and peer support for sexual- and gender-minority people who are navigating the justice system. For example, one participant stated:

I wish there was a separate LGBTQ+ crisis line because the issues are so different when crises arise, or even just advice lines, something like that would have probably gone a long way, someone to speak with in regards to those types of issues.

Others indicated a need for more community-based sexual- and gender-minority organizations, which are an important resource for LGBTQ2+-competent emotional and social support for sexual- and gender-minority people who are dealing with legal issues. Participants also conveyed that community-oriented supports need to be intersectional to account for the complexities of sexual- and gender-minority people's identities and experiences, with one participant stating:

...really realizing and really seeing my own community, or the gay community or the Native community, that there's no like bridging between different things.

Need to Challenge Cisheterosexism

Other participants argued that cisheterosexist biases within the justice system need to be actively uprooted, since these assumptions shape the way legal problems are framed and resolved. Participants indicated that legal systems should start by acknowledging their existing biases, with one participant suggesting that these institutions "recognize that the policies do discriminate against queer people" As one participant explained, these biases were a source of harm and dehumanization while interacting with legal systems, which served as further incentive to challenge the personal biases of legal personnel:

We ask people to consider their personal bias so that they can understand the way their personal bias informs their approach and considerations and decision making, and I really feel like that would be something that I would invite the system to consider and those people that act as agents of it because that's been, I would say, that human level interaction, that relational level interaction has been for me, anyway, where I've experienced the most harm.

Participants had specific and actionable suggestions about how heteronormativity could be combatted within the legal system, including more easily implementable actions, such as enforcing proper names and pronouns within court settings:

Obviously, space for courts to respect pronouns and names, that are legal names and can still be used in courtrooms, it's not hard. It's nothing we can't figure out if we're committed to it, and so often it feels like we're, the fact that we haven't figured it out means we're not committed to it, which is a way of saying it doesn't matter.

Many of these changes could be implemented through education training for personnel across the justice system to promote empathy and understanding. Such active efforts to produce a more inclusive justice system for sexual- and gender-minority people are needed, as one participant notes:

...[It] requires positive steps on the government's part... It can't be achieved through a passive response and it can't be achieved in response to individuals who have to threaten litigation in order for changes to be made and it is required at every level of government, in every service provided to the public, and it's urgent, it needs to happen urgently. It's been urgent for a long time and trans people are just used to kind of waiting around while people who are not affected don't do anything to make it better.

Ultimately, dismantling cisheterosexism within the justice system requires legal institutions to take action to meaningfully include sexual- and gender-diverse people.

Tools for Navigating the System

Other recommendations from participants included the creation of more easily accessible materials on how to navigate specific types of legal problems through workshops or user-friendly guides. For example, one participant described accessing:

...a number of documents where lawyers kind of break down the human rights process and they kind of like explain how somebody would file a human rights complaint in [province] and what the grounds might be, and basically walking them through the whole process. Something like that for each province would be really helpful.

Decriminalization

Given participants' experiences of the legal system as difficult to navigate, similar guides for other legal problems would also be beneficial. Participants also argued that laws that criminalize sex work and put people who use drugs at risk of incarceration should be eliminated, since these laws continue to be a source of harm for many sexual- and gender-minority people. For example, one participant, whose legal problems were rooted in the ongoing criminalization of sex work, noted:

I have no faith in [the current justice system]... 100% yes, absolutely, other solutions are needed... Like... sex work decriminalizing... would [make us] better [off].

CONCLUSIONS

The findings suggest that sexual- and gender-minority individuals face limited access to adequate legal resources and encounter unique barriers to justice. The data that have been illuminated by this project indicate that these barriers result in sexual- and gender-minority individuals having limited self-determination in and access to Canadian legal systems, which consequently contributes to their disenfranchisement. Access to justice is a complex issue and further investigation is needed to explore all barriers to access. Our findings indicate that access to justice for sexual-minority people will be enhanced by efforts to:

- 1) provide access to legal representation by professionals who are sexual- and gender-minority people themselves and/or who understand the unique challenges facing diverse sexual- and gender-minority communities;

- 2) uplift community and informal support systems for individuals who lack adequate access to legal resources;
- 3) provide access to holistic support services, including mental health support services, for sexual- and gender-minority people who have become engaged in legal processes;
- 4) address the financial burden and barriers associated with securing legal counsel, particularly for those with limited resources;
- 5) acknowledge and uproot the legal system's colonial impacts on the lives of Indigenous Two-Spirit and other sexual- or gender-minority people;
- 6) deconstruct systemic, cultural, and structural barriers, such as homophobia, transphobia, and racism that ultimately produce many legal problems and the disenfranchisement of sexual- and gender-minority people;
- 7) explore decarceral and/or restorative justice approaches for sexual- and gender-minority people who have become engaged in legal processes;
- 8) provide resources for legal professionals (e.g., lawyers, judges, paralegals) on the experiences of sexual- and gender-minority communities, including topics on pronoun use, HIV stigma, transphobia, homophobia, cisheterosexism, settler colonialism, and structural racism;
- 9) produce resources specifically for sexual- and gender-minority people that make complex legal processes more transparent for those who need to navigate this system. These resources should include information on sexual- and gender-minority people's rights when engaging legal systems and avenues for redress if they feel that their rights have been transgressed;
- 10) provide resources on the human rights bodies in each province, the issues they cover, how to access them, and what outcomes can be sought through them.

Additionally, sexual-minority people continue to identify and experience legal systems as homophobic, transphobic, and racist, which in turn undermines trust in the legal system among these communities and has led to a sense of disenchantment with the legal system more broadly. Improving access and confidence in the legal system to protect and support the lives of all sexual- and gender-minority people will require that past harms experienced within this system be acknowledged and actively addressed.

As our data also show, sexual- and gender-minority people who have become engaged in legal processes can also face increased visibility, both within sexual- and gender-minority communities and their broader communities. This increased visibility can compound the stigma they already face as sexual- and gender-minority people, impacting their professional, family, or social lives, and may act as an additional deterrent to accessing the legal system.

Limitations

This study has a number of limitations. The exploratory nature of the data collected through this study cannot capture the full breadth or nuance of sexual- and gender-minority people's experiences with the legal system, as a full qualitative study could have been conducted on any one area of the law that has been briefly discussed in this report. The data contained in this report thus provide a broad sense of various legal issues among sexual-minority people that can serve as a foundation for more focused research into specific legal domains in the future.

The study sample has important limitations on the applicability of findings to all sexual-minority people. Although approximately a quarter of our participants were Indigenous, which provided us with rich data on the impacts of settler colonialism on access to justice, most of the remainder of our sample was white and we were unable to interview any participants who identified as Black. This limits our ability to speak to how anti-Black racism shapes legal problems and interactions with the legal system. Future intersectional research must explore the unique experiences of queer and trans Black, Indigenous, and people of colour (QTBIPOC) within the justice system and to create a greater understanding of the way complex interactions of power and privilege differentials based on gender, race, culture, class, religion, etc. impacts the legal problems faced by sexual- and gender-minority communities. Continued

research is critical in determining the types of systemic changes necessary to improve sexual- and gender-minority people's access to legal resources and address social inequalities and discrimination faced by sexual- and gender-minority people throughout their lives.

Additionally, all study participants were from British Columbia, Alberta, and Manitoba. We had no participants from Saskatchewan, which limits our ability to speak to sexual- and gender-minority people's experiences in that province. Since access to legal processes, such as human rights bodies, varies across provinces, additional work should be conducted to explore how access to justice for sexual-minority people varies across regions and between rural and urban areas.

Finally, while some of our participants had experience working within the legal system, we did not specifically seek to interview legal professionals who work with sexual-minority community members. Sexual- and gender-minority legal professionals – including lawyers, paralegals, frontline workers, case managers, settlement workers, court interpreters, and prison system staff – likely possess a complementary “insider’s” view of how the legal system works for sexual-minority people and should be engaged in future research.

Overall, our data demonstrate that despite advancements in legal protections, which appear to make legal systems more equitable for sexual-minority people in Canada, sexual-minority people continue to face disproportionate and systemic barriers in access to justice across a range of legal domains. Additional community-based research that foregrounds the voices of community members and restores agency to participants is needed to explore the continued impacts of these barriers on sexual- and gender-minority people's lives. Ultimately, improving access to justice for sexual-minority people will require meaningful deconstruction of systemic barriers such as heterosexism, homophobia, transphobia, racism, and settler colonialism, in addition to formal legal protections.

Glossary

*This glossary is not exhaustive and pertains only to terms found in this report. Most of the definitions are based on the *Gender and Sexual Diversity Glossary* found on this [Canadian government website](#) (Termium).

Cisgender: Refers to people whose gender identity aligns with the sex assigned at their birth.

Cisheterosexism: A complex set of structures, institutions, relations, and actions that promote and produce being cisgender and heterosexual as natural, self-evident, desirable, privileged, and necessary.

Decarceration: The practice or policy – often tied to community campaigns – of reducing the number of people subject to imprisonment. [Source: https://www.merriam-webster.com/dictionary/decarceration.](https://www.merriam-webster.com/dictionary/decarceration)

Gender Identity: A profound feeling or sense of being a man, woman, or any space within the gender spectrum.

Heterosexual: Refers to any person who is sexually attracted to people of the opposite or different sex.

Homophobia: Fear, hatred, or hostility towards sexual-minority people.

LGBTQ2+: An acronym for Lesbian, Gay, Bisexual, Transgender, Queer (or Questioning), and Two-Spirit.

Microaggression: The everyday, subtle, intentional — and oftentimes unintentional — interactions or behaviors that communicate some sort of bias toward historically marginalized groups. [Source: https://www.npr.org/2020/06/08/872371063/microaggressions-are-a-big-deal-how-to-talk-them-out-and-when-to-walk-away.](https://www.npr.org/2020/06/08/872371063/microaggressions-are-a-big-deal-how-to-talk-them-out-and-when-to-walk-away)

Misgender: Attributing a gender to a person that does not agree with their stated gender identity. This can include incorrect pronouns, titles, or words that differ from the person's actual gender.

Queer: A previously derogatory term for sexual minorities that has been reclaimed by some individuals in the LGBTQ2+ community to empower and establish identity.

Restorative Justice: An approach to justice that focuses on addressing the harm caused by crime while holding the offender responsible for their actions, by providing an opportunity for the parties directly affected by the crime – victims, offenders, and communities – to identify and address their needs in the aftermath of a crime. [Source: https://www.justice.gc.ca/eng/cj-ij/rj-jr/index.html](https://www.justice.gc.ca/eng/cj-ij/rj-jr/index.html).

Settler Colonialism: An ongoing system of power that perpetuates the genocide and repression of Indigenous peoples and cultures. Settler colonialism normalizes continuous settler occupation and presumes the superiority of white European values over Indigenous forms of knowing and being. [Source: https://www.oxfordbibliographies.com/view/document/obo-9780190221911/obo-9780190221911-0029.xml](https://www.oxfordbibliographies.com/view/document/obo-9780190221911/obo-9780190221911-0029.xml).

Transphobia: The fear, hatred, disbelief, or mistrust of people who are transgender, thought to be transgender, or whose gender expression doesn't conform to traditional gender roles. [Source: https://www.plannedparenthood.org/learn/gender-identity/transgender/whats-transphobia](https://www.plannedparenthood.org/learn/gender-identity/transgender/whats-transphobia).

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APPENDIX A: RECRUITMENT SCRIPT AND ELIGIBILITY SCREENER

Request for Participants – “A Qualitative Look at Serious Legal Problems: LGBTQ2+ People in Western Canada”

The Community Based Research Centre Society, with funding from the Department of Justice Canada, is seeking participants for a new interview study documenting serious legal problems faced by lesbian, gay, bisexual, trans, queer, and Two-Spirit people in Western Canada (including British Columbia, Alberta, Saskatchewan, and Manitoba). If you identify as LGBTQ2+ and have experienced a serious legal problem in the past three years, you may be eligible to participate.

If you are eligible and consent to participate, you will be asked to complete a qualitative interview with a peer researcher over the phone or over Zoom. The interviewer will ask you to share your experiences of serious legal problems and barriers to accessing justice in Canada over the last three years. Your contributions will help to illuminate the legal challenges facing lesbian, gay, and bisexual people. The interview will take approximately 60-90 minutes, and you will be provided with a \$50 honorarium as a thank you for your time.

In order to be included in this study, you must identify as lesbian, gay, bisexual, trans, queer, or Two-Spirit, or as another sexual-minority. Additionally, you must have experienced a serious legal problem (as outlined in our eligibility screener) in the last three years, be 16 years of age or older, and be able to complete an interview in English in order to be eligible. You do not have to have engaged in legal action to be eligible.

If you are interested in participating, please complete the following eligibility screener on Survey Monkey: [insert link]. The screener will ask some demographic questions about yourself and about different types of legal problems you've experienced. You will be asked to provide a name, phone number, and email address so that we can contact you for follow-up. Your contact information will be kept confidential and stored securely on encrypted servers at the University of Victoria. If you are selected to participate in an interview, this information will be destroyed once we have successfully contacted you. Personal information will be destroyed for

participants who are not selected for an interview. If you decide you would like to withdraw from the study, you will have your contact information erased from the servers.

Your contact information will not be shared with the Department of Justice or outside of our research team. However, Survey Monkey servers are located in the United States and as such please be advised that there is a possibility that information about you gathered as part of this research study may be accessed without your knowledge or consent by the US government in compliance with the US Freedom Act.

Participation in this research is voluntary and potential participants are under no obligation to participate. Choosing to participate or not will not affect your ability to access services, standing, or relationships where you might have heard about this study.

If you are not eligible to participate, your contact information will be deleted. All participants, regardless of eligibility, will receive a list of mental health resources that are local to their area. If you experience any negative mental health impacts as a result of your participation, we encourage you to contact these resources. These mental health resources will be low or no barrier and inclusive of LGBTQ2+ communities. You are also able to bring a support person of your choosing with you to your interview if you would like. Support persons will be required to sign a confidentiality agreement to ensure that the information you share in the interview will not be communicated outside of the interview context.

Please note, the research team cannot provide any legal advice and that the researchers are not able to support the research participants with their legal proceedings.

If you have any questions about this research project, please contact CBRC's Research Manager, Ben Klassen at ben.klassen@cbrc.net.

This study is being led by Nathan Lachowsky (University of Victoria, Community-Based Research Centre), Jody Jollimore (Community-Based Research Centre), Daniel Grace (University of Toronto), Olivier Ferlatte (Université de Montréal), Rod Knight (University of British Columbia), and Travis Salway (Simon Fraser University).

SERIOUS LEGAL PROBLEMS – ELIGIBILITY SCREENER

To be hosted on Survey Monkey; data collected will be stored securely and kept confidential

Introduction: Thank you for your interest in participating in this research project entitled “A Qualitative Look at Serious Legal Problems: LGBTQ2+ People in Western Canada.” The questions asked in this survey will help to determine whether you are eligible to participate in this study. We are seeking a diverse group of participants in terms of sexual and gender identities, race/ethnicity, and the nature of legal problems experienced, which is why it is important to ask these questions.

At the end of the survey, you will be asked to provide a name, phone number, and email address so that we can contact you for follow-up. Your contact information will be kept confidential and will not be shared with the Department of Justice or outside of our research team. If you have any questions about this research project, please contact CBRC’s Research Manager, Ben Klassen at ben.klassen@cbrc.net.

1. How old are you?
2. Where do you currently reside?
 - a. British Columbia
 - b. Alberta
 - c. Saskatchewan
 - d. Manitoba
 - e. Ontario
 - f. Quebec
 - g. Newfoundland & Labrador
 - h. New Brunswick
 - i. Nova Scotia
 - j. Prince Edward Island

- k. Yukon
 - l. Northwest Territories
 - m. Nunavut
 - n. Outside of Canada [ineligible]
3. How do you typically describe your sexual identity?
- a. Lesbian
 - b. Gay
 - c. Bisexual
 - d. Queer
 - e. Straight
 - f. I prefer to use another term (please describe):
4. How do you typically describe your gender identity?
- a. Man
 - b. Woman
 - c. Non-binary
 - d. I prefer to use another term (please describe):
5. Do you have lived experience as trans, a history of gender transition, or identify as transgender?
- a. Yes
 - b. No
6. What is your gender expression/presentation?
- a. Mostly feminine
 - b. Mostly androgynous

- c. Mostly masculine
 - d. Fluidity between expressions
7. How do you describe your race/ethnicity? (Check all that apply)
- a. African
 - b. Arab, West Asian (e.g. Iranian, Afghan)
 - c. Black
 - d. Caribbean
 - e. East Asian (e.g. Chinese, Japanese, Korean)
 - f. Indigenous
 - g. Latin American, Hispanic
 - h. South Asian (e.g. East Indian, Pakistani, Sri Lankan)
 - i. Southeast Asian (e.g. Filipino, Vietnamese, Thai)
 - j. White
 - k. I prefer not to answer
 - l. Other (please specify)
8. If you are Indigenous, are you Two-Spirit?
- a. I am Indigenous and Two-Spirit
 - b. I am Indigenous but not Two-Spirit
 - c. I am not Indigenous
9. How would you describe your money situation in the past 12 months?
- a. Comfortable, with extra
 - b. Enough, but no extra
 - c. Have to cut back

d. Cannot make ends meet

10. In the past three years, did you have a serious legal dispute or problem in relation to...

(Check all that apply):

- a. A **large purchase** or service where you did not get what you paid for and the seller did not fix the problem (e.g., a home, renovations, vehicles).
- b. Your **employer or your job**, excluding personal injuries (e.g., not receiving pay for vacation, overtime, severance, maternity, sick leave, or employment insurance benefits, unfair dismissal or disciplinary procedures, or a health and safety issue).
- c. A **personal injury** or serious health issue that occurred at work, in a commercial establishment, in a traffic accident or any other public place.
- d. Your **neighbourhood** such as vandalism, property damage, threats or excessive noise.
- e. Your **house**, your rent, your mortgage, or rent owed to you (e.g. foreclosure, collecting rent, eviction).
- f. Money you owe (**debt**) or collecting money owed to you, excluding rent and housing issues (e.g. declaring bankruptcy, collection agency issues or credit issues).
- g. Obtaining social or housing assistance, old age security or guaranteed income supplement or other **government assistance** or with the amount received (excluding disability assistance)
- h. Obtaining **disability assistance** or with the amount received (e.g. disability pension income, private insurance companies, workers compensation, benefits for disabled children).
- i. **Immigration**, refugee status or sponsoring a family member's application to immigrate to Canada.

- j. Contact with the **police** or other part of the criminal justice system involving being stopped, accused, charged, detained, arrested, or with pardons
- k. Contact with the **police** or other part of the criminal justice system **as a victim or a witness** of a crime
- l. A breakdown of your **family or relationship** such as a divorce or separation, excluding child custody problems (e.g. spousal support or division of property)
- m. **Child custody** or other problem involving parental responsibilities (e.g. child protection or welfare services).
- n. **A will**, or taking care of financial or health issues for a person who was unable to look after themselves.
- o. Poor or incorrect **medical treatment** (e.g. harmed while being treated by a medical professional).
- p. **Civil court proceedings** or a letter threatening legal action over a civil matter (e.g. breach of contract, landlord tenant issues, or suing for money for damages or obtaining recovery from injuries).
- q. Being **harassed** (e.g. at school, university or work, in a public place or in a commercial establishment). Harassment is any improper conduct by an individual that is directed at and offensive to another individual and that the individual knew or should reasonably have known would cause offence or harm.
- r. Being **discriminated against** (e.g. at school, university or work, in a public place or in a commercial establishment). Discrimination means treating someone differently or unfairly because of a personal characteristic or distinction, which, whether intentional or not, has an effect that imposes disadvantages not imposed on others or that withholds or limits access that is given to others.
- s. Your use or possession of **criminalized drugs** or narcotics
- t. Disclosure of your **HIV status** (i.e., criminalization of HIV non-disclosure)

u. Involvement in **sex work**

v. Any other issue – Specify: _____

w. I did not experience a serious problem

11. If you answered yes to any of the above legal disputes or problems, did your legal problem include interactions with the justice system? (eg. police officer, a lawyer, a court, etc.)

12. If you answered yes to any of the above legal problems, please provide us with a very brief (2-4 sentences) description of the legal problems you faced. We are asking this because we want to ensure that we capture a wide range of legal problems in the project. During an interview we would ask for more detail of your experience.

[write-in response]

13. If you are interested in participating in the project, please provide your name, phone number and email address so that we can follow-up with you. This information will be kept confidential and will not be shared outside of our research team.

Name (can be a pseudonym): _____

Phone: ___ ___ - ___ ___ - ___ ___

Email address: _____

APPENDIX B: INDIVIDUAL INTERVIEW CONSENT AGREEMENT

You are being invited to participate in a research study, entitled “A Qualitative Look at Serious Legal Problems – LGBTQ2+ People in Western Canada.” Please read this consent form so that you understand what your participation will involve. Before you consent to participate, please ask any questions to be sure you understand what your participation will involve.

A Qualitative Look at Serious Legal Problems: LGBTQ2+ People in Western Canada

Investigators

Nathan Lachowsky (University of Victoria, Community-Based Research Centre), Jody Jollimore (Community-Based Research Centre), Daniel Grace (University of Toronto), Olivier Ferlatte (Université de Montréal), Rod Knight (University of British Columbia), Travis Salway (Simon Fraser University).

Purpose of the Study

You are being asked to share your experiences of serious legal problems and barriers to accessing justice in Canada over the last three years. Your contributions will help to illuminate the legal challenges facing lesbian, gay, bisexual, trans, queer, and Two-Spirit (LGBTQ2+) people in Canada today. This study is funded by the Department of Justice, Government of Canada.

Study Procedure

If you agree to participate in this study, you will be asked to take part in an interview either over the phone or using the internet service Zoom. The interview will take approximately 1.5 hours and will be conducted by a trained peer research team member. In the interview, you will be asked to share your personal experiences of serious legal challenges and barriers to accessing justice in Canada over the last three years. The interview will be audio-recorded and transcribed by research staff.

Eligibility

In order to be included in this study, you must identify as lesbian, gay, bisexual, trans, queer, or Two-Spirit, or as another sexual minority. Additionally, you must have experienced a serious legal problem (as outlined in our eligibility screener) in the last three years, be 16 years of age or older, and be able to complete an interview in English in order to be eligible. You do not have to have engaged in legal action to be eligible.

Risks and Benefits

There are limited risks associated with this study. However, we acknowledge that recounting experiences of legal problems, including violence or discrimination, can be emotionally difficult. If our discussion brings up any emotional or traumatic experiences, we will provide a list of mental health services that you are encouraged to access for support. If you have negative reactions to any questions, you may choose not to answer a question. You may also choose to discontinue and withdraw from the study at any time without penalty. Your participation or lack thereof in this study will in no way affect any services that you might receive now or in the future from any organization.

For the interviews, we will be using a program called Zoom that may store data in the US. As such, there is a possibility that information about you may be accessed without your knowledge or consent by the US government in compliance with the US Freedom Act. There are a few things you can do to help protect your information, including:

1. using only a nickname, substitute name, or a name that feels more comfortable for you;
2. turning off your camera;
3. muting your microphone when you are not talking.

Along with this consent form, you will find a resource list for local mental health resources that are low-cost or free. If you experience any negative feelings or thoughts as a product of participating in this study, we encourage you to reach out to these resources for support. The person who will be conducting the interview will also check in with you at the end of your interview and will remind you of this resource list if appropriate. You are also able to bring a

support person of your choosing with you to your interview if you would like. Support persons will be required to sign a confidentiality agreement to ensure that the information you share in the interview will not be communicated outside of the interview context.

A potential benefit of your participation is that the experiences you share may be used by the Department of Justice to shape and improve legal policy impacting LGBTQ2+ communities and people in the future.

Incentive for Participation:

You will be compensated \$50 cash for your participation. Compensation (\$50) will still be provided if you choose to withdraw, and you may decide if any input you provided in the interview up until your withdrawal shall be used. The honorarium will be provided to you in the form of an e-transfer to the email address that you used when you signed up for the study. If you would prefer to have a cheque mailed to you instead of an e-transfer, please let us know.

Participant Rights

You are free to withdraw at any time from this project without any penalty or prejudice. In addition, you are under no obligation to reveal identifying information. Compensation (\$50) will still be provided if you choose to withdraw, and you may decide if any input you provided in the interview up until your withdrawal will be used. You can also request to have something specific you said excluded from the transcription by telling the interviewer, who will make note of this. Following transcription and anonymization, you will be given an opportunity to review and approve a final transcript for use.

Participation in this research is voluntary and potential participants are under no obligation to participate. Choosing to participate or not will not affect your ability to access services, standing, or relationships where you might have heard about this study.

Please note, the research team cannot provide any legal advice and the researchers are not able to support the research participants with their legal proceedings.

Confidentiality

Interview data will be stored on an encrypted server at the University of Victoria and consent forms will be stored separately in a locked filing cabinet. Data will be transferred to study team members at other universities via Sync and stored solely on secure university servers. Only our study team and will have access to the data. All interview recordings will be deleted following transcription and transcripts will be anonymized prior to analysis. All identifying information will be removed. All data collected, including transcriptions, will be deleted in its entirety seven years after the completion of the study.

You may use pseudonyms and avoid sharing identifying information (e.g., place of birth) if you wish to further minimize the risk of identification. We ask that you do not share the names or identifying information of people who have not agreed to participate in this study.

Confidentiality will be protected **within the limits of the law**. In accordance with the Wigmore Criteria (<http://www.sfu.ca/~palys/Wigmore.html>), the privacy of participant data precedes any responsibility to report or discuss these activities to state authorities in principle. However, if you are under the age of 18 (19 in some jurisdictions) and disclose experiences of abuse or neglect, or if the research team suspects abuse or neglect, the research team has a duty to report these interactions to the child protective services in your region. Additionally, there may be rare circumstances where we are unable to protect confidential research materials, for example, if these materials are under subpoena and/or are forcibly seized by the police. In order to mitigate this risk, recordings will be deleted upon transcription, transcripts will be fully anonymized, and we will destroy all participant contact information upon completion of the interview and receipt of honoraria.

The results will be shared with academic, governmental, and community audiences. Quotes from participants in the interviews may be included in conference presentations, journal articles, teaching materials, community events, and summaries or reports provided to the Department of Justice. Additionally, results from the study will be available to participants in the form of a short community report that will summarize our main findings, which will be available on the CBRC website and through partner organizations. We will also conduct a public

webinar where our findings will be shared and additional input from LGBTQ2+ communities will be sought. Results will also be shared at community-oriented conferences and events, such as CBRC's annual Health Summit. Finally, we will leverage our experience in intervention development to produce a toolkit for LGBTQ2+ people that will succinctly highlight the common legal challenges and barriers to justice faced by our participants, along with a compilation of resources for legal resolutions to such challenges. All quotes presented in our results will be selected to ensure participants are non-identifiable.

Finally, the researchers will at all times comply with the Tri-Council ethical guidelines for research with human participants.

Questions About the Research?

If you have questions about the research in general, about your role in the study, would like to share your experience with the study, or would like to share concerns about the study please contact:

Ben Klassen

Research Manager

Community-Based Research Centre

604-568-7478

ben.klassen@cbrc.net

Dr. Nathan Lachowsky

Principal Investigator

University of Victoria

250-472-5739

nlachowsky@uvic.ca

This research has been reviewed by the University of Victoria's Research Ethics Board and conforms to the standards of the Canadian Tri-Council Research Ethics guidelines. In addition, you may verify the ethical approval of this study, or raise any concerns you might have, by contacting the Human Research Ethics Office at the University of Victoria (250-472-4545 or ethics@uvic.ca).

Verbal Consent provided via phone (and indicated by the interviewer):

I understand these are voluntary procedures and that I am free to withdraw at any time by contacting the Principal Investigator. I understand that confidentiality will be respected

Interviewer Name & Signature: _____

Date: _____

Time: ____/hh ____/mm

APPENDIX C: INTERVIEW GUIDE

A Qualitative Look at Serious Legal Problems: LGBTQ2+ People in Western Canada

Introductions and Rapport Building

1. What motivated you to come in to do this interview today?
 - a. Could you tell me about your interest in this project?
 - b. Where did you hear about this project?
2. Would you mind starting by telling me a bit about yourself?
 - a. What is your age?
 - b. How do you usually describe your cultural background?
 - c. How do you usually describe your sexual identity and gender (e.g., gay, bi, queer, man, gender queer, trans, etc.)?
 - d. Is there anything else about yourself that you think might be helpful for me to know before we move on? For example, are you currently working or studying somewhere?

Legal Problems Facing LGBTQ2+ Communities – General

3. Before I ask you about your personal experiences, are there any legal challenges that your communities (e.g., other LGBTQ2+ people) more broadly are facing?
 - a. Generally, what kinds of legal problems or challenges do your communities experience, if any?
4. Before this interview, you completed a brief online screener that asked you to identify any serious legal problems you faced in the last three years. Could you describe your recent legal problems for me?
 - a. For example: what was the nature of the problem? When did it occur? Who was involved?

- b. [if needed] On the screener, you mentioned the following legal problems... Can you tell me a bit more about those?
 - c. Are there other legal problems you experienced that we did not ask about or that you did not initially mention? If so, please describe these.
- 5. [If experienced more than one legal problem] How were these problems connected, if at all?
 - a. Please describe how these legal problems intersected or overlapped.
- 6. When you first became aware of these challenges, to what extent did you understand the possible legal implications?
 - a. How much did you know about where to get information and advice about resolving it?
 - b. Were the resources supportive of you as an LGBTQ2+ person?
- 7. Did your sexual orientation and/or gender identity contribute to your experiences? If so, how? If not, why?
 - a. How about other aspects of your identity? For example: age, race/ethnicity, socioeconomic status
 - b. In other words, were your legal problems related to any of the following: sexism, homophobia, transphobia, racism, ageism, etc.? If so, how?

Serious Legal Problems – Discrimination and Harassment

- 8. [If participant indicated experiences of harassment] Can you describe the harassment you experienced? Harassment is when someone offends or upsets another person on purpose (i.e., they knew their actions would cause offence or harm).
 - a. Where did you experience harassment (e.g., school, in a store, at work, when dealing with police)?

- b. Was the discrimination based on any aspects of your identity? (e.g., race, colour, ethnicity; Indigenous identity; religion; age; sex, gender identity or expression; sexual orientation; marital status; family status; a physical or mental disability; language, etc.)
 - c. What was that experience like for you?
- 9. [If participant indicated experiences of discrimination] Can you describe the discrimination you experienced? Discrimination means treating someone differently or unfairly because of who they are or how they identify.
 - a. In what types of situations have you experienced discrimination (e.g., school, in a store, at work, when dealing with police)?
 - b. What aspects of your identity was the discrimination based on? (e.g., race, colour, ethnicity; Indigenous identity; religion; age; sex, gender identity or expression; sexual orientation; marital status; family status; a physical or mental disability; language, etc.)
 - c. What was that experience like for you?

Addressing and Resolving Legal Problems

- 10. Did you attempt to address the legal problems you faced? Why or why not?
 - a. What would a resolution to these problems look like from your perspective?
What would justice look like?
- 11. [if applicable] Can you describe what steps you took to address your experiences? How did you seek justice?
 - a. What approaches did you find helpful in addressing or resolving the problems you faced?

12. Some legal problems may be resolved by going to the police, while others are settled by lawyers and/or in court. Can you describe in general what your interactions with legal institutions or systems looked like? (e.g., police, courts, legal professionals)
- Generally, how do you feel about the police? How do you feel about lawyers and/or courts?
 - Are you confident that you would be able to get help from the police if you needed it? How about from lawyers? Why or why not?
13. Did you encounter any barriers to addressing the legal problems you faced or accessing justice? If so, please describe these.
- What was the nature of these barriers? (e.g. policies, rules, financial, interpersonal, geographic)
14. Did you resolve your problem through the formal legal system or a legal professional? Why or why not?
- If so, how were you treated by these individuals or institutions?
 - Who did you get legal advice from?
 - How much did the legal professional you contacted (e.g. lawyer, paralegal, or law student) help you?
15. What would have made resolving your legal problems easier? Are there any tools or resources that would have improved your experience?
- Thinking about your experiences, what supports (legal or otherwise) would have been helpful?

Impacts of Legal Problems

16. What is the current status of your legal problem[s]? How important {was/is} it for you to address this problem?

17. How have your experiences of legal challenges impacted you? (prompts: physical or mental health, healthcare use, social, family, or personal problems)
- a. Have there been financial or economic impacts? Please describe. (prompts: fees, borrow money, job, housing, EI/benefits)
 - b. How did your experiences make you feel?

Conclusion

18. As you will remember, we wanted to interview you to generate evidence on the serious legal problems faced by LGBTQ2+ people in Canada to inform the work of the Department of Justice and make Canada's justice system more fair and accessible. In thinking about this, is there anything else you would want the Department of Justice or other decision makers (e.g., lawyers, community organizations) to know?
- a. Was there anything that we didn't ask you that you thought we would? Do you have any other comments, questions or feedback?