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# Perceptions of Violence and the Self-Regulation of Identity for LGBTQ People in the UK

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## Abstract

This article will focus on LGBTQ people's perceptions of violence in the United Kingdom in the years following the advent of same-sex marriage using original empirical evidence. These perceptions will be discussed by focussing on the awareness of hate crime legislation, the role of law in constraining homophobia alongside intersections of racism, and of the impact of civil law reform protecting LGBTQ rights. This may be evidenced in many ways, which this article will recount, including demonstrating awareness of hate crimes, avoiding overt shows of affection, and the use of safe spaces to exhibit their sexuality. Empirical evidence will be used to suggest that despite the advent of hate crime protections, increased relationship recognition rights, and greater representation, many LGBTQ people anticipate violence or harm because of their sexuality. This article will use theoretical and empirical analysis to discuss the ways in which violence may manifest in the perceptions of LGBTQ participants and the significance of such perceptions in the 'post-equality' society.

## Keywords

Violence, hate crime, empirical, LGBTQ, sexuality

## Introduction

In the 21<sup>st</sup> Century, there have been significant positive legal changes relating to sexuality, gender identity, and the lived experiences of LGBTQ people in the United Kingdom, including hate crime protections, marriage, non-discrimination law, and legal recognition of gender transition. The introduction of same-sex marriage in England and Wales in 2013<sup>1</sup> was a major milestone in the development LGBTQ

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1. The Marriage (Same-Sex Couples) Act 2013 gained royal assent on the 17<sup>th</sup> July 2013 and came into force on the 29<sup>th</sup> March 2014. Scotland legislated for same-sex marriage in 2014, while legislation took place automatically on the 21 October 2019 in Northern due to the Northern Ireland (Executive Formation etc) Act 2019.

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rights in the recognition of same-sex couples as sufficiently conjugal,<sup>2</sup> and is seen as a victory for LGBTQ politics, activism, and families. For LGBTQ individuals, the law provides the highest protection tailored towards sexual minorities, moving beyond framing sexual minority citizenship in terms of ‘tolerance’ and ‘homosexual privacy’, and towards more inclusive policing; simultaneously, discriminatory laws have been ‘de-homosexualised’.<sup>3</sup> However, empirical evidence suggests that despite familial, civil, and criminal protections, LGBTQ people still fear violence in public owing to their sexuality or gender identity, being an everyday feature of life for LGBTQ people.<sup>4</sup>

The most prominent legal instruments regarding violence and identity are hate crimes, offences with extended sentences attached due to the defendant’s perceived hostility and hatred toward a certain group. The Crime and Disorder Act 1998 and the Criminal Justice Act 2003 enable courts to recognise that certain crimes are motivated by *hostility*<sup>5</sup> and therefore offer wider sentencing powers of varying degrees to perpetrators. Gender reassignment and sexual orientation are recognised as protected characteristics in regard to hate crime.<sup>6</sup> ‘Hate crime is therefore not a new type of crime but a recognition of identity-aggravated crime and an enhancement of existing sentences.’<sup>7</sup> The use of identity in order to aggravate a certain offence lends itself to the notion that certain identities face a higher frequency, volume, or risk of violence, while also demonstrating the law’s investment in the prevention and punishment of hate-motivated crimes. Hate crimes lend credibility to the notion that victims possessing traits which invite stigma, and by specifically focusing on hate crimes aggravated by sexual orientation, victims often deviate from heteronormativity and are therefore subject to a process of othering,<sup>8</sup> inviting stigma by deviating from the established sexual norm.<sup>9</sup>

This article will focus on recent developments and reform that offer further protections and rights to LGBTQ individuals, specifically the impact of hate crime legislation, marriage, and perceptions of violence. LGBTQ people are increasingly visible in society and may encourage people to be more ‘out’ in everyday life.<sup>10</sup> However, the safety and regulation of public space are often a key concern to LGBTQ people as they feel the effects of the social sexual hierarchy. Data from a 2017 Stonewall survey of 5000 LGBTQ people indicated that 38% of respondents avoided holding hands in public due to fear of violence, with the number rising to 58% among gay men.<sup>11</sup> In the north-east, where this research was conducted, 35% of LGBTQ people had experienced a hate crime or incident in the previous 12 months.<sup>12</sup>

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2. Much of Western Europe, North America, various states in Central and South America, South Africa, Australia, and Taiwan have all legislated for same-sex marriage. Pew Research Centre, ‘Gay Marriage around the World’, 3 August 2017, <<http://www.pewforum.org/2017/08/08/gay-marriage-around-the-world-2013/>> accessed 22 November 2019.
  3. D McGhee, ‘Beyond Toleration: Privacy, Citizenship and Sexual Minorities in England and Wales’ (2004) 55 *Br J Sociol* 357–75; K Browne, L Bakshi, J Lim, ‘It’s Something You Just Have to Ignore’: Understanding and Addressing Contemporary Lesbian, Gay, Bisexual and Trans Safety Beyond Hate Crime Paradigms’ (2011) 40(4) *J Soc Policy* 739–56 (744).
  4. L Moran, B Skeggs, P Tyrer, and K Corteen, *Sexuality and the Politics of Violence and Safety* (Routledge 2004); L Moran, ‘Invisible Minorities’: Challenging Community and Neighbourhood Models of Policing’ (2007) 7(4) *Criminol Crim Justice* 417.
  5. It should be noted that the legislation refers to hostility, not hate or hatred.
  6. Criminal Justice Act 2003, s146(2)(a)(i) and (iii): This section applies where the court is considering the seriousness of an offence committed in any of the circumstances mentioned in subsection. Those circumstances are that, at the time of committing the offence, or immediately before or after doing so, the offender demonstrated towards the victim of the offence hostility based on the sexual orientation (or presumed sexual orientation) of the victim, the victim being (or being presumed to be) transgender, and s146(2)(b) and that that the offence is motivated (wholly or partly) by hostility towards persons of a particular sexual orientation or who are transgender.
  7. J Pickles, ‘LGBT Hate Crime: Promoting a Queer Agenda for Hate Crime Scholarship’ (2019) 15(1) *J Hate Studies* 39–61 (39).
  8. G Rubin, ‘Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality’ in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984).
  9. S Boyd, ‘Family Law and Sexuality: Feminist Engagements’ (1999) 8 *Social Legal Studies* 369.
  10. M Bernstein, ‘Same-Sex Marriage and the Future of the LGBT Movement’ (2015) 29 *Gender Soc* 323.
  11. BBC News, ‘Gay Men “Afraid to Hold Hands in Public”, Survey Finds’, *BBC News*, 7 September 2017, <<http://www.bbc.co.uk/news/uk-41179976>> accessed 7 September 2017.
  12. C Bachmann and B Gooch, *LGBT in Britain: Hate Crime and Discrimination* (Stonewall 2017).

Such figures correspond with narratives emerging from the data, in which participants often stated that their actions, that of ‘hiding’ of avoiding public displays of affection, were not affected by same-sex marriage. Recent research from the BBC reveal that the number of reported homophobic hate crime incidents trebled from 2013 to 2020 to 18,000 per year.<sup>13</sup>

This article will focus on the perceptions of violence felt by LGBTQ people in the years following the passage of the Marriage (Same-Sex Couples) Act 2013, assessing the culmination of civil and criminal protections for LGBTQ people. The rationale behind this article lies in the exposing of concurrent disparities between narratives, that of the protection and legal stability offered by marriage and the private sphere, but the feelings of exposure, stigma, and risk in the public sphere. Following the below methodology, the themes emerging from the participant responses will be presented. First, participants’ perceptions of hate crime will be discussed, focussing on their belief in the law to protect their identities; secondly the law’s response to homophobia; thirdly, the relation between LGBTQ identity, race, and violence will be examined, and finally the participants recount their feelings regarding public visibility, marriage, and perceptions of violence. Using these themes, it may be argued that despite marriage’s existence, there is still evidence to suggest that LGBTQ people still do not feel fully protected by the law, and still view that civil protections and criminal sanctions are necessary. The forms of violence experienced or *anticipated* by participants will be addressed, along with the socio-legal context of their existence and the dichotomies of legal protections, and indeed the failings of legal protections to foster feelings of security and safety, in contrast to the feelings of stability and security offered by familial protections.

## Methodology

This article utilises qualitative queer legal methodologies in order to collect data that seeks to reflect the lived experiences of LGBTQ participants, specifically focussing on perceptions violence and the impact of the Marriage (Same-Sex Couples) Act 2013. Drawing on the narratives and perspectives of LGBTQ participants, this research contains analysis of the ways in which LGBTQ individuals elicit their experiences and perspectives of violence and the role of law in providing protection. The empirical data was collected using semi-structured interviews with 29 self-identified LGBTQ people aged between 20 and 67 years old. These participants were collected through mixed-method sampling including online strategic and snowball sampling, representing a mix of socio-economic backgrounds in the north-east of England. Participants self-identified themselves within the LGBTQ spectrum and included transgender, cisgender, and non-binary individuals.

This article will focus on hate crime and the socio-legal impact of same-sex marriage, along with an analysis informed by queer theory and stigma theory: queer theory will be used as a deconstructive tool in order to highlight and investigate the marginalisation and devaluation of non-heterosexuality in public space, and expose the lived experiences of LGBTQ individuals in their perceptions of violence. Queer legal theory is ultimately anti-heteronormative and anti-essentialist, seeking to divorce legal narratives from biologism, and investigate the construction, discipline, and regulation of queer sexuality in relation to society.<sup>14</sup> This article will thus use queer theory, defined as a specific theoretical lens, to interrogate and highlight the experiences and narratives of LGBTQ populations and non-normative sexuality alongside perceptions of the fear of violence in public.

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13. From 6,655 in 2014–15, the year same sex marriage became legal in England, to 18,465 in 2019–20: Ben Hunte, ‘I thought I was going to die’ in homophobic attack’ (BBC News 9<sup>th</sup> October 2020) <<https://www.bbc.co.uk/news/uk-54470077>> (accessed 9<sup>th</sup> October 2020).

14. A Zanghellini, ‘Queer, Anti-normativity, Counter-normativity and Abjection’ (2009) 18(1) *Griffith Law Rev* 1–16.

Interviews were used in order to broadcast the voices of the LGBTQ people, giving emphasis to their lived experiences and realities.<sup>15</sup> During the interview process, participants were asked open-ended questions that focussed on marriage, sexuality, and violence in society. By using this data to inform discussion, it becomes clear that despite increasing familial protections, LGBTQ people still fear for their safety in public due to their sexuality or gender expression. Using the perceptions of 29 LGBTQ individuals and their experiences and perceptions of their fear of violence, stigma, and hate crime, this article seeks to demonstrate the lived experiences and discourse of those participants and highlighting the apparent discontentment following the 2013 Act for some LGBTQ people. In using empirical data to discuss the responses and narratives concerning violence, public safety and fear, the lived experiences of participants is the central element of discourse analysis. These findings may be used to discuss and conceptualise a relationship between criminal and civil law, and socio-sexuality as a contestable and disjointed relationship.

## Perceptions of Hate Crime

Hate crimes were introduced as a measure to recognise and distinguish violent crimes as specifically motivated by a perpetrator's perceived hostility for a certain group. Participants viewed hate crimes as a tool for the protection of sexual minority status, viewing them as a form of greater protection for LGBTQ identity and behaviour. Section 146(2)(i) of the Criminal Justice Act 2003 enables increased sentences for crimes committed where the defendant demonstrated hostility towards the victim's sexual orientation, the victim being transgender, or having a particular disability. Therefore, courts recognise that criminal offences such as harassment, victimisation, and violence motivated by hostility towards the victim's actual or presumed identity,<sup>16</sup> offering wider sentencing powers of varying degrees to perpetrators of such crimes. Hate crime is symbolically significant and an indicator of a person's vulnerability and heightened exposure to victimisation.<sup>17</sup> It is important to consider the ways in which hate crimes are viewed by participants as aids that develop their views of tolerance and acceptance, and whether they manage to quell the fears of violence they face. Hate crimes function by constructing prejudice-related crime as a specific type of offence, allowing liberal democratic states to make a public statement that such crime will not be tolerated and that serious penalties will apply, implicitly claiming that prejudice itself is wrong.<sup>18</sup>

It is important to consider heteronormativity and homonormativity when discussing violence, stigma, and public space, in order to understand the societal context of sexuality and the ways in which normalisation guides certain behaviour and may lead to stigma developing towards groups and identities. Non-normative sexual and gender orientation and expressions can be conceptualised as those that are neither heteronormative, nor homonormative. Heteronormativity can be described as the social norm in which heterosexuality is internalised<sup>19</sup> as a 'default' sexual identity, and is indeed privileged,<sup>20</sup> assumed, and naturalised in a society that 'straightens' the 'slant' of queer desire.<sup>21</sup> Concurrent to this,

15. Data collection was conducted in accordance with the Northumbria University Ethics Committee and conforms to the social justice theory of ethics. This theory focuses on the voices of marginalised populations, which is also the rationale behind the use of queer theory and stigma.

16. M Duggan, 'Gender and Hate Crime Protections' in C Ashford and A Maine (eds), *Research Handbook on Gender, Sexuality and Law* (Edward Elgar, 2020) 317.

17. *Ibid.* p., 324.

18. G Mason, 'The Symbolic Purpose of Hate Crime Law: Ideal Victims and Emotion' (2014) 18(1) *Theor Criminol* 75, 76.

19. L Doan, A Lochr, and L Millera, 'Formal Rights and Informal Privileges for Same-Sex Couples: Evidence from a National Survey Experiment' (2014) 79(6) *Am Sociol Rev* 1172 (1174).

20. M Warner 'Homo-Narcissism; or, Heterosexuality' in J Boone and M Cadden (eds), *Engendering Men* (Routledge 1990).

21. S Ahmed, 'Orientations: Towards a Queer Phenomenology' (2006) 12(4) *GLQ: A Journal of Lesbian and Gay Studies* 543, 562; M Foucault, *The History of Sexuality: An Introduction* (1st edn, Vintage Books 1978); J Butler, *Gender Trouble: Feminism and the Subversion of Identity* (2nd edn, Routledge 1999) 187.

homonormativity may be described as a conduit of heteronormativity, that closely mirrors and reinforces heteronormativity,<sup>22</sup> that normalises same-sex couples. The process of normalisation deploys the ‘sameness’ of same-sex and different-sex couples and deploys assimilationism and integrationist approaches to achieve social change,<sup>23</sup> thus creating a ‘normal’ standard of social identity. Deviation from such standards may thus invite stigma and perceptions of violence.<sup>24</sup>

Stigma, conceptualised by Erving Goffman, was described as an ‘attribute that is deeply discrediting’, which reduces the ‘bearer from a whole and usual person to a tainted, discounted one’.<sup>25</sup> Thus, stigma originates from the possession of an attribute, identity, or practice that lends itself to societal prejudice, exacerbated by societal power dynamics, and may affect people of colour, disabled people, poor people, or LGBTQ people. Link and Phelan have stated stigma ‘exists when elements of labelling, stereotyping, separation, status loss, and discrimination occur together in a power situation that allows them’,<sup>26</sup> and as such those without a stigmatising trait have a ‘method of labelling queer people as such, a means of fitting people to an internal image or stereotype of the negative attributes that queer people must share.’<sup>27</sup> As a result, Orne argues, ‘queer people are separated into a different class with less status, and a process of discrimination develops to ensure continued stigmatization, separation, and status loss.’<sup>28</sup> LGBTQ people, as existing outside of heteronormativity, and therefore possessing a ‘discrediting’ or ‘discreditable’ trait,<sup>29</sup> may be subject to such discrimination, stigmatisation or status loss, which may be iterated as a perception or fear of violence. When considering the constitution of a violent act, one ‘could resort to the power of the law to define the boundaries of unacceptable and acceptable violence, as well as what is recognised as violence.’<sup>30</sup>

Data from Home Office documents show the rise in hate crime statistics for all protected characteristics since 2013, which may be attributed to a variety of cultural and social factors. Racially motivated hate crimes account for the vast majority of recorded hate crime, which the Home Office attributes to terrorist events in the last five years, alongside fallout from the 2016 European Union membership referendum.<sup>31</sup> 2012 and 2013 figures are largely consistent, however the number of hate crimes recorded by the police having more than doubled since 2012/13 (from 42,255 to 103,379 offences).<sup>32</sup> In 2018/19, there were 103,379 hate crimes recorded by the police in England and Wales, an increase of 10 per cent compared with 2017/18 (94,121 offences). Gender identity motivated hate crime the least commonly recorded motivation for hate crime,<sup>33</sup> however despite this, Galop has found that 4 in 5 transgender people record themselves as having experienced a form of transphobic hate crime.<sup>34</sup> Sexual orientation hate crime was the second most commonly recorded hate crime in 38 of 44 police forces. Sexual orientation hate crime has risen from 4588 in 2013/14; 5591 in 2014/15; 7194 in 2015/16; 9157 in 2016/17; 11,592 in 2017/18; to 14,491 in 2018/19. This increase of 10,000 incidences of police recorded hate crime in 5

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22. S Ahmed, ‘Orientations: Towards a Queer Phenomenology’ (2006) 12(4) *GLQ: A Journal of Lesbian and Gay Studies* 543, 567.

23. *Ibid.*

24. J Butler, *Undoing Gender* (Routledge 2004) 26.

25. E Goffman, *Stigma: Notes on the Management of Spoiled Identity* (Touchstone, 1963) 3.

26. B Link and J Phelan, ‘Conceptualizing Stigma’ (2001) 27 *Ann Rev Sociol* 363–85 (377)

27. J Orne, ‘Queers in the Line of Fire: Goffman’s Stigma Revisited’ (2013) 54(2) *Soc Q* 229–53, 232.

28. *Ibid.*

29. E Goffman, *Stigma: Notes on the Management of Spoiled Identity* (Touchstone, 1963) 3.

30. D Richardson and H May, ‘Deserving Victims?: Sexual Status and the Social Construction of Violence’ (1999) 47 (2) *Social Rev* 308–31 (311)

31. *Hate Crime, England and Wales, 2018/19*, Home Office Statistical Bulletin 24/19.

32. *Ibid.*

33. *Ibid.* p. 8.

34. Transphobic Hate Crime Report 2020 <http://www.galop.org.uk/wp-content/uploads/Trans-Hate-Crime-Report-2020.pdf> (accessed 7th December 2020).

years poses significant questions about the threat of violence to those of non-normative sexual orientation.

Hate crime legislation were conceptualised by participants as further evidence that the law accepts LGBTQ sexuality as deserving of protection.<sup>35</sup> Participants view the criminal and civil law as working together to provide protection and status for LGBTQ populations, particularly same-sex couples.<sup>36</sup> Steen and Cohen in their study concluded that many respondents did not have a clear understanding of what constitutes hate crimes;<sup>37</sup> participants in this study were aware of the power to enforce and influence social norms, with the weight of aggravated offences attached:

‘We have moved basically, a lot, and I think there is a lot of, in law pushing that, the police are on top of that, they know that they have to act, if there is a racial, sexual abuse to people, so that’s a part of law, the fact that it is in the agenda is making a positive contribution to society, in a way it is changing because people are now more aware that and so on, regardless of their beliefs, you cannot go and act on them, you cannot go and punch people or abuse them because you know that the law don’t allow you, don’t believe you, don’t understand. Whether racist, or sexist, or protected characteristics.’ (Gay man, 36)

The participant notes the implicit rationale of hate crime law, identified by Mason, to encapsulate the notion that prejudice itself is wrong<sup>38</sup> and that, therefore, the law will act to discourage, eradicate, and punish it. This further reflects the law’s public agenda of disavowing discriminatory violence.<sup>39</sup> In doing so, it may be argued that such a public agenda relies on the social, moral, and legal working in conjunction:

‘I think in some ways it has, but I think society probably impacted on that probably more, society brought that around rather than it probably changed society, I think once you have laws like that, you do need laws like that, I think that, there are the bigots out there and once they realise that they can’t stop progress and they can’t stop change, it shuts them up but then it goes the other way,’ (Gay man, 46)

Such a statement reflects the position that the criminal law maintains, creates, and re-creates social norms, authority relations, and subject positions.<sup>40</sup> Participants were clear in their belief of the power to enforce and project social norms regarding the protection of sexual minorities (and indeed other protected characteristics), and hate crimes are used by participants as evidence reflective of social norms and the moral value of law. Participants indicated their belief in hate crimes to be exaggerated forms of behaviour, attributed to homophobia and a fear of violence, something particularly relevant in the advent of same-sex marriage, which many believed to be an instance of heightened visibility for the LGBTQ population, therefore perceiving additional risk:

‘it’s also kind of stirred up a hornet’s nest as well in that a lot of people who were sort of happy to live alongside gay people as long as they weren’t making trouble, a lot of those people have taken it as an assault on their

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35. D McGhee, ‘Beyond Toleration: Privacy, Citizenship and Sexual Minorities in England and Wales’ (2004) 55(3) *Br J Social* 357–75; K Browne, L Bakshi, and J Lim, ‘It’s Something You Just Have to Ignore’: Understanding and Addressing Contemporary Lesbian, Gay, Bisexual and Trans Safety Beyond Hate Crime Paradigms’ (2011) 40(4) *J Soc Policy* 739–56 (744).
36. C Ashford, A Maine, and G Zago, ‘Normative Behaviour, Moral Boundaries, and the State’ in C Ashford and A Maine (eds), *Research Handbook on Gender, Sexuality and Law* (Edward Elgar 2020) 409.
37. S Steen and M Cohen, ‘Assessing the Public’s Demand for Hate Crime Penalties’ (2004) 91 *Justice Q* 121.
38. G Mason, ‘The Symbolic Purpose of Hate Crime Law: Ideal Victims and Emotion’ (2014) 18(1) *Theor Criminol* 75, 76.
39. V Jenness and K Broad, *Hate Crimes: New Social Movements and the Politics of Violence* (Aldine de Gruyter 1997); G Mason, ‘The Symbolic Purpose of Hate Crime Law: Ideal Victims and Emotion’ (2014) 18(1) *Theor Criminol* 75, 76.
40. W De Haan and I Loader, ‘On the Emotions of Crime, Punishment and Social Control’ (2002) 6(3) *Theor Criminol* 243; A Freiberg, ‘Affective Versus Effective Justice: Instrumentalism and Emotionalism in Criminal Justice’ (2001) 3(2) *Punishment Soc* 265; J Pratt, ‘Emotive and Ostentatious Punishment: Its Decline and Resurgence in Modern Society’ (2000) 2(4) *Punishment Soc* 417.

believes and traditional values so it's riled a lot of people up, that's had an adverse effect as well' (Gay man, 32)

Perceptions of violence and fear of violence are clearly evident, denoting the belief that the advent of same-sex marriage increased the likelihood of hate crimes being committed. Participants were under the impression that heightened visibility, exposure, and discussion would lead to violence specifically motivated by homophobia.

'I think there's been an increase in hate crimes, certainly there was in France, which is where I was when it was all going on there, there was a massive increase in hate crimes, erm, because it kind of shook the hornet's nest, it riled everyone up, but not also that, it unified people who were maybe just quietly crumbling about the existence of gay people in their own homes but weren't ever being vocal about it but certainly found they've got a lot of power, there's millions of people who shared their belief, millions of people, so suddenly you've got a lot of force behind you and that kind of, those who are not very well balanced obviously took that as a strength behind the idea of going round beating people up and that sort of thing, so that was a kind of bad part, but at the same time it really pushed things forward into the mainstream, into the media, big discussion around it in politics, so that was a good thing' (Gay man, 32)

This participant notes, anecdotally, the belief that marriage *encouraged* some to organise, to voice their dissent against same-sex marriage, and to unify in such dissent. Such a belief, that homophobia would encourage such actions belies the perception of the impact of same-sex marriage and the role this has in projecting fears of violence, whether or not it genuinely encourages violence. This resonates with Mason's argument that the process of law-making in which minority group's interests are protected in hate crime legislation is 'shaped, not just by the merits of their case or their degree of political influence, but also by a hierarchy of victimhood that depends on the capacity of particular groups to engender compassionate thinking that challenges prejudiced values and attitudes towards them.'<sup>41</sup>

While it is not possible to directly link the rise of hate crime to marriage, it arguably is attributable to a growth in visibility and the mainstreaming of queer identity, the increased viability of reporting hate crime to police, and the improvements made by police in their reporting of hate crime offences. Pickles has found that queer populations often have negative perception of the police, with very few LGBT+ people being aware of specialised LGB&T liaison officers.'<sup>42</sup> Despite this, it is possible to demonstrate the link between rising hate crime reporting levels and the direct fears of violence evident in the empirical data. The perceptions of risk in society of hate crime and violence is a clear indicator of the perceived prevalence of homophobia and stigma of non-normative queer sexuality and identity, that despite hate crime legislation being in place, has failed to pacify. The heightened penalty attached to hate crime is motivated by a desire to avoid prejudice as a distinct moral wrong.<sup>43</sup>

## Homophobia as Linked to Violence

A significant element of perceived violence and fear is manifest and conceptualised as homophobia, bullying, or bigotry, enabled in the workplace or in public. While the criminal law does not explicitly criminalise acts of bullying or homophobia, it informs the implementation of hate crime aggravated offences by recognising the intent focussing on stigmatisation. Browne et al. have noted that in challenging homophobia, homonormative discourses are often enacted through the restigmatisation of queer

41. G Mason, 'The Symbolic Purpose of Hate Crime Law: Ideal Victims and Emotion' (2014) 18(1) *Theor Criminol* 75, 76.

42. J Pickles, 'Policing Hate and Bridging Communities: A Qualitative Evaluation of Relations between LGBT+ People and the Police within the North East of England' (2019) *Policing Soc* 1.

43. G Mason, 'The Symbolic Purpose of Hate Crime Law: Ideal Victims and Emotion' (2014) 18(1) *Theor Criminol* 75, 78.

expression,<sup>44</sup> producing an ideal gay citizen to be defended from homophobia. The concept of homophobia can thus be problematic in its deployment.<sup>45</sup> Such discourse emerged from the data, which discussed elements of queer identity and expression, drawing stigmatisation in the form of bullying or homophobia, reliant on cisnormative<sup>46</sup> and heteronormative binaries of power. Ultimately, participants believe that the law enables protection against homophobic behaviour, demonstrating a belief in the power of law to protect against bigotry and bullying. As such, one participant informs their discussion of homophobia by considering the ways in which law has accepted sexual orientation as a protected status:

“and it makes people’s reactions easier as well because it’s, you know it makes it more difficult to react to things when it’s like, we’ve got a government that has accepted it, like, governments, most kind of progressive governments around the world have accepted it, so it becomes quite a difficult thing, it becomes more difficult for people to be homophobic.” (Bisexual woman, 26)

This participant equates the threat of criminal sanctions from sexual orientation motivated hate crime with the perceived societal pressure to avoid homophobic actions or language use. Such a perspective again can be related to the notion of stigma management, and the idea that such management leads to the reinforcing of normative behaviour: government protection of sexual orientation ultimately derives from a homonormative ideation of the ideal sexual minority.<sup>47</sup> That is, the privatised homonormative identity, in which queer sexual expression and acts remain in the private sphere. Drawing on the above discussion of the informal privileges enjoyed by the majority of different-sex couples, one participant noted the anticipated reaction to such queer expressions:

“Kissing in public, should be seen as normal, but there’s still that sort of feeling, it’s probably just me, it’s that feeling of awkwardness, people will react in a different way and will actually treat it in a different way, and in part I suspect it’s probably because of the era I was brought up in, where you know in school, gay was used as a term of insult, erm, and there was still a lot of bullying happening around being gay and that sort of thing, and I think there is still that sort of impression in my head that that is still something that could happen.” (Gay male, 33)

The participant’s comments regarding bullying and its typical place in schools informing his later behaviour resonates with Plummer’s theory of polarisation, which states that the societal reaction of hostility towards homosexuality brings an exaggerated concern with matters of homosexuality and a strong potential for polarisation.<sup>48</sup> This leads to an important question of how—in a society in which homosexuality is increasingly accepted and legally sanctioned (in some forms)—it is that the homosexual is either polarised or politically sedated when they are less likely to face oppression. Plummer goes on to conclude that a decrease in polarisation may result in individuals occupying simultaneously heterosexual and homosexual roles, accompanying a decrease in the exclusivity of sexuality.<sup>49</sup> Further to this, younger LGBTQ people may be less polarised due to their upbringing in a more tolerant and accepting society. As such, there may be disparities between the perceptions of violence and homophobia between younger and older members of the LGBTQ *community*, however such an investigation would be outside the scope of this article.

44. K Browne, L Bakshi, and J Lim, ‘It’s Something You Just Have to Ignore’: Understanding and Addressing Contemporary Lesbian, Gay, Bisexual and Trans Safety Beyond Hate Crime Paradigms’ (2011) 40(4) *J Soc Policy* 739–56 (744).

45. J O’Brien, ‘Afterword: Complicating Homophobia’ (2008) 11(4) *Sexualities* 496.

46. The normative cisgendering assumption: M Worthen, ‘Hetero-Cis-Normativity and the Gendering of Transphobia’ (2016) 17 *Int J Transgend* 31.

47. C Ashford, ‘(Homo)normative Legal Discourses and the Queer Challenges’ (2011) *Durham Law Rev* 77.

48. K Plummer, ‘Symbolic Interactionism and the Forms of Homosexuality’ in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996) 81.

49. *Ibid.*, 81.

Participants viewed the law, as encapsulating both civil and criminal protections, as guiding the behaviour of others in order to prevent homophobia and bullying, despite few specific provisions specifically relating to such issues.

“I think people are always gonna have their own opinions and as long as their opinions become actions that, erm, don’t sit within the law, or don’t sit within human decency, erm, it’s not appropriate to be homophobic, erm, well you can be homophobic in your mind, if you’ve got a homophobic mentality, homophobic mind, that doesn’t mean you can translate that into your actions and putting people’s windows out, and going gay bashing, you know, you’ve got to live in what is accepted in society and what’s accepted in the law” (Gay man, 43)

To conceptualise the law’s protection of minorities as a preventative method, aimed at eliminating homophobia in society, indicates a belief that the law and the state are ultimately anti-homophobic. This may demonstrate Ewick’s legal consciousness theory as the participants are acting ‘with the law’,<sup>50</sup> appropriating its terms and practices in the establishment of their identity in order to benefit from the legal protection offered, itself a form of assimilation.<sup>51</sup> Further, the notion of violence as acts of property destruction and physical assault may arguably demonstrate the historic linking of forms of violence to homophobia, reliant on the definitions of the boundaries of unacceptable and acceptable violence, as well as what is recognised as violence.<sup>52</sup> Participants may often resign themselves to the occurrence of homophobia<sup>53</sup> and perceptions that the law is ‘on their side’ furthers the ‘with the law’ approach of legal consciousness.

“yeah it really upsets me, and also like getting frustrated at myself for becoming complacent in thinking that, I guess the last big thing that happened in the UK was the Admiral Duncan bombing in 1999 and that, I mean, with regards to all of the legislation that’s been passed since, that’s ancient history,” (Gay man, 30)

Again, there is a demonstrable consciousness of the law as a protective force, and the view that LGBTQ rights are within the scope of such protections. The participant makes reference to the bombing of a queer venue in Soho as comparable evidence for the growing protection and societal shift for LGBTQ people in the UK.<sup>54</sup> The data suggests that as a whole, law and society are seen as analogous in providing protections against homophobia, through criminal sanctions and as accepted societal standards. Despite this, to consider the role of stigma and bigotry in regards to sexuality in isolation would not fully grasp the deep rooted notions affecting those marginalised populations; as such, Meyer has noted that middle-class white respondents are more likely than low-income people of colour to perceive their violent experiences as severe.<sup>55</sup>

## Race and LGBTQ Identity

While it is clear that some view the power of the law in protecting marginalised populations from stigma and violence, others note intersecting issues that belie the ability of law to affect social change, and the failings of law to tackle social injustice, particularly in regards to racism. From an intersectional perspective of stigma management, race and sexual identity can be used to recognise that single axis

50. P Ewick and S Silbey, *The Common Place of Law: Stories from Everyday Life* (University of Chicago Press 1998) 47.

51. K Hull, ‘The Cultural Power of Law and the Cultural Enactment of Legality: The Case of Same-Sex Marriage’ (2003) 28 *Law Soc Inq* 632.

52. D Richardson and H May, ‘Deserving Victims?: Sexual Status and the Social Construction of Violence’ (1999) 47(2) *Sociol Rev* 308, 311.

53. M Beetar, ‘Intersectional (Un)Belongings: Lived Experiences of Xenophobia and Homophobia’ (2016) 30 *Agenda* 100.

54. S Lee, ‘London nail bombings remembered 20 years on’ (BBC News 30<sup>th</sup> April 2019) <https://www.bbc.co.uk/news/uk-england-london-47216594> <accessed 26<sup>th</sup> October 2020>

55. D Meyer, ‘Evaluating the Severity of Hate-motivated Violence: Intersectional Differences among LGBT Hate Crime Victims’ (2010) 44(5) *Sociology* 980–95.

discrimination fails to accurately encompass the stigma faced by certain groups. Some participants still considered homophobia and racism as a present threat, irrespective of progressive law reform and hate crime protections:

‘We’ve had equal rights legislation for a long time, we’ve got equal pay legislation, we’ve got you know legislation about people being racist and stuff and the law is just the law, no it’s made no difference,’ (Lesbian woman, 68)

The participant focusses on the infallible preventative nature of law, where significant issues arise in the implementation of law regarding equality, equal pay, and particularly racism. The law being ‘just the law’ indicates a perception of failure to encourage positive social change that prevents injustices such as racism or homophobia. The law has been argued to fail to distinguish between racial and racist motivated actions,<sup>56</sup> failing to recognise the intent behind racially motivated crimes and racist crimes, requiring a racist constitutive animus.<sup>57</sup> Such a view contends that hate crime, as a concept, fails to recognise the intersecting prejudices and hate when assessing the role of violence in the lives of LGBTQ participants, particularly those founded in race.

“I never knew I was from a different race, a different colour until I came here, I just never ever saw myself, I never looked in a mirror and thought I am different, because we are so different culturally in the place that I am from, we are so, so diverse that diversity is not part of the agenda [...] When I came here people start picking on you for being different, you have a different accent, you look different, you have a different skin colour, that flagging up my appearance made me conscious of the way I look in a way’ (Gay man, 36)

The above participant, originally from South America, discussed the ways in which micro-aggressions have manifested, a novel experience for him since moving to the UK. The participant ultimately believed that while marriage is a benefit that will reduce the risk of violence towards LGBTQ people, he has experienced the persistence of racism in the UK, amounting to an increased risk of violence or non-acceptance. This is further noted by a Dutch participant:

“So yeah, I do feel accepted by the people I interact with, I can’t say that for society, I think probably quite a few people would not accept me, for the reason I’m gay, for the reason I’m a foreigner,” (Gay man, 32)

Similarly, a participant from The Netherlands noted their intersecting qualities which they perceived to affect their standing in society, additionally citing Brexit as a factor leading to this belief.<sup>58</sup> This participant believes that his position as a gay non-British national would add to the stigma and prejudice he may face, facing the process of othering to some parts of society. Discussions of participants gender and sexuality, Weston notes, are never strictly limited to gender, and encapsulate race, gender, class, and sexuality at intersections of peoples’ lives.<sup>59</sup> ‘Notions of ‘intersectionality’ have developed from initial attempts at identifying crossover points in axes of difference, such as gender, race and class, to more sophisticated attempts at highlighting their mutual construction, embeddedness and movement, rather than static being.’<sup>60</sup> Therefore, it is inevitable that perceptions and fears of violence are often seen through the

56. K Goodall, ‘Conceptualising “racism” in Criminal Law’ (2013) 33(2) *Legal Stud* 215, 218.

57. *Ibid.*, p. 235.

58. It has been found that hate crimes have increased, particularly racially related hate crimes, since the 2016 European Union Membership Referendum: K Lumsden, J Goode, and A Black, ‘I Will Not Be Thrown Out of the Country Because I’m an Immigrant’: Eastern European Migrants’ Responses to Hate Crime in a Semi-Rural Context in the Wake of Brexit’ (2019) 24(2) *Sociol Res Online* 167.

59. K Weston, ‘Me, Myself, and I’ in Y Taylor, S Hines, and M Casey (eds) *Theorising Intersectionality and Sexuality* (Palgrave Macmillan 2010) 16.

60. Y Taylor, ‘Complexities and Complications: Intersections of Class and Sexuality’ in Y Taylor, S Hines, and M Casey (eds) *Theorising Intersectionality and Sexuality* (Palgrave Macmillan 2010) 39.

lens of race and ethnicity for LGBTQ people. These may be additionally heightened by the current Black Lives Matter movement, ongoing inequalities that have led to the higher rate of death for BAME people due to COVID-19, and anti-immigration government policies including the hostile environment, Brexit and the fallout of the Windrush scandal.<sup>61</sup> Goodall has noted that hate crime legislation does not sufficiently focus on the social structures and processes or political ideologies that suffuse racist beliefs.<sup>62</sup>

“I don’t necessarily come across as very gay or flamboyant, but I’ve had people talking in a derogatory way about gay people, so in a way, I’m ticking boxes in the Equality Act, [laughs] I’m gay, I’m a foreigner, I’m a different race,” (Gay man, 36)

This point reinforces the ways in which law may conceptualise certain characteristics, particularly according to the 2010 legislation, but also the ways in which intersecting character traits may invite stigma, owing to the possession of a discreditable identity trait. The participant notes how their identity traits carry different levels of race, citizenship, and sexuality deviate from the presupposed white heteronorm, which the Equality Act lends ‘credibility’ to as a form of difference in legislation.<sup>63</sup>

“Erm, and I, I’ve got to say, there was a level at which, not agreed on the view, but thought, if I was on a date with someone, checking around before you kissed them to see if anyone’s there, and definitely never hold hands with the person I’m going out with because in my head it’s if I do that, there are gonna be ramifications of that, so it’s not agreeing with the overwhelming view because you are complicit with it being you’re not doing anything with it, and then Orlando happened and I was like ‘yeah you know what, fuck that, I’m holding someone’s hand in the street, how the fuck is that even hurting anyone? Oh yeah, it’s not’ and the scales completely fell off my eyes and I got really angry at myself for having let it affect me that much, still, there’s a level of acceptance but its only with regard to certain things, I think, on the whole you can be gay but can you do it behind closed doors please because I don’t want to look at it”, (Gay man, 30)

The participant demonstrates anxiety over world terrorist events and anxiety regarding PDAs, however ultimately shows the ingrained reluctance to exhibit queerness as a negative trait, wishing to expose and deconstruct heteronormative narratives. In reacting to the attack on the 2016 Pulse queer nightclub attack in Florida in which 49 people (most of whom were people of colour) were killed, the participant seeks to reject the narratives of fear, despite the attack. The narratives emerging demonstrate the linking of homophobic and racially motivated hostility for migrant and/or LGBTQ people of colour. This further demonstrates the wide-spread anticipation of violence owing to the possession of an identity or identities that are marginalised.<sup>64</sup>

## Heightened Visibility and Fears of Violence

The impact of same-sex marriage has been an important component in the public visualisation of LGBTQ relationships and in the everyday experiences of LGBTQ people.<sup>65</sup> As a significant symbolic victory for

61. R Shabi, ‘How Immigration became Britain’s Most Toxic Political Issue’ *The Guardian* (London, 15 Nov 2019), E Consterdine, ‘Hostile Environment: the UK Government’s Draconian Immigration Policy Explained’ *The Conversation* (London, 26 Apr 2018).

62. K Goodall, ‘Conceptualising ‘racism’ in Criminal Law’ (2013) 33(2) *Legal Stud* 215, 238.

63. A Powell, ‘Normative Understandings: Sexual Identity, Stereotypes, and Asylum Seeking’ in C Ashford and A Maine (eds), *Research Handbook on Gender, Sexuality and Law* (Edward Elgar 2020) 149.

64. G Mason, *The Spectacle of Violence: Homophobia, Gender and Knowledge* (Routledge, London and New York 2002); S Cowan, ‘The Best Place on the Planet to Be Trans? Transgender Equality and Legal Consciousness in Scotland’ in P Dunne and S Raj (eds) *The Queer Outside in Law: Recognising LGBTIQ People in the United Kingdom* (Palgrave Macmillan 2021) 223.

65. C Chambers, *Against Marriage* (Oxford University Press 2017).

some LGBTQ people, the ability to marry enables same-sex couples to access the ideated ‘gold standard’<sup>66</sup> of relationship recognition, argued to be at the ‘top’ of a sexual status hierarchy.<sup>67</sup> However, it may be argued that due to the increased political, social, and legal visibility of LGBTQ people and same-sex couples, owing to same-sex marriage, heightened representation in media, nationwide Pride displays, and corporate support, the growing visibility and rights of LGBTQ people poses a risk of violence. Indeed, Stacey wrote in the 1990s that ‘by demanding ‘rights’ as an oppressed minority by attempting to open up discussions about sexuality and by trying to challenge definitions of themselves as unacceptable or undesirable, lesbians and gay men were seen to be ‘going too far’ and thus ‘asking for’, and indeed ‘deserving’, any trouble which might come their way.’<sup>68</sup> In the 2010s and 20s, it may be argued that such stigma arising from the granting of significant rights still exists in a ‘post-gay’ society.<sup>69</sup>

Marriage was described by one participant as being ‘a public symbol, a public show of your commitment to somebody else and your life for somebody else’ (*Gay man, 21*). Thus, by marrying, a couple may adhere to the significant public visualisation of same-sex love, affirming and capitalising on the legitimacy, security, and stability offered by marriage.<sup>70</sup> One way in which participants recounted this disparity between the legal institution of marriage and the ‘real-world’ impact of same-sex marriage was the ability (or perceived lack of) to hold hands in public or perform public displays of affection. Public displays of affection (or PDAs) could be holding hands, hugging, kissing, or other forms of affection often performed by those in physical, sexual, or emotional relationships. Manuel de Oliveira et al. note how such public displays of affection for same-sex couples are ‘entangled in the necessity to be at least very attentive to the surroundings in order to avoid problems, but also an acceptable homosexual subjectivity seems to imply the necessity for discretion.’<sup>71</sup> The participants in this study echoed those Portuguese participants in Manuel de Oliveira et al.’s study, that in order to avoid the disturbance heteronormative public space,<sup>72</sup> methods were employed to avoid overt displays of sexuality as participants felt that their safety is threatened if they actively and openly exhibit their sexuality:

“[I]f you wanna hold hands in public, if you want to kiss in public, you have to think about that and there’s, as a straight person I don’t think that would be a thing, so there’s always that inequality there, yes I can get married, but I still don’t know if I’d be able to kiss my own wife in public, so I don’t think anything good has come from it, in terms of pushing equality.” (*Lesbian woman, 21*)

The participant views a specific threat arising from public displays of sexuality despite the supposed formal equality of marriage, existing as a fear or inability to kiss or hold hands in public, from a fear or threat of violence or prejudice. This threat is manifested as an inequality of public space as a means of maintaining the privileging and assumption of heterosexuality, with LGBTQ individuals fearing to deviate from this. Therefore, it may be stated that assimilatory actions such as marrying only goes so

66. C Ashford, A Maine, and G Zago, ‘Normative Behaviour, Moral Boundaries, and the State’ in C Ashford and A Maine (eds), *Research Handbook on Gender, Sexuality and Law* (Edward Elgar 2020) 409.

67. G Rubin, ‘Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality’ in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 150; A Maine, ‘The Hierarchy of Marriage and Civil Partnerships: Diversifying Relationship Recognition’ in F Hamilton and G Noto La Diega (eds) *Same-Sex Relationships, Law and Social Change* (Routledge 2020) 209.

68. J Stacey, ‘Promoting Normality: Section 28 and the Regulation of Sexuality’, in S Franklin, C Lury and J Stacey (eds), *Off Centre: Feminism and Cultural Studies* (Unwin Hyman, London, 1991).

69. M Morris, ‘“Gay capital” in Gay Student Friendship Networks: an Intersectional Analysis of Class, Masculinity, and Decreased Homophobia’ (2018) 35(9) *J Soc Personal Relation* 1183.

70. C Ashford, A Maine, and G Zago, ‘Normative Behaviour, Moral Boundaries, and the State’ in C Ashford and A Maine (eds), *Research Handbook on Gender, Sexuality and Law* (Edward Elgar 2020) 409.

71. J Manuel de Oliveira, C Gonçalves Costa, and C Nogueira, ‘The Workings of Homonormativity: Lesbian, Gay, Bisexual, and Queer Discourses on Discrimination and Public Displays of Affections in Portugal’ (2013) 60(10) *J Homosex* 1475 (1484).

72. *Ibid* p., 1489.

far as to hide overt displays of sexuality, but it does little to advance substantive social equality.<sup>73</sup> Such formal equality may also reinforce notions of homonormativity as a means of regulating public space, which may be done to avoid the attentions of those with homophobic or prejudicial views.

Similarly, an older participant notes how they believe that same-sex marriages does not change the substantial societal acceptance or tolerance of same-sex couples. Despite same-sex marriage representing a public image of coupledness, perceptions of violence are viewed as being ever-present in public space:

“... because it doesn’t change anything, it doesn’t change our position, it doesn’t stop anyone being prejudiced, you know we never hold hands in the street, I love it when I see young women holding hands in the street, I think ‘I wish we could do that’ but we’ve spent too long looking over our shoulders.” (Lesbian woman, 68)

The participant thus perceives societal prejudice, as faced by lesbian women, as a barrier to public acceptance and safety. She states that the advent of same-sex marriage does not sufficiently alter society to allow for public expressions of LGBTQ sexuality or relationships, noting her continued fear of homophobia due to historical attitudes towards same-sex activity. Richardson and May state that such a ‘sexual double standard is based on the naturalisation of heterosexual norms in the public sphere. That is to say that, although the conceptualisation of the private/public binary has led to the public sphere generally being thought of as asexual, hetero sexuality is inscribed in the public as the dominant ideology.’<sup>74</sup>

A male participant also notes the disparity between general public spaces and spaces that accommodate LGBTQ identity, further demonstrating the extent to which LGBTQ people may regulate their behaviour according to heightened visibility and fears of such visibility:

“Do I feel that I need to have separate gay bars? No I don’t but I do because I can actually hold my boyfriend’s, my husband’s hand in there, I can feel open there, but actually they’re horrible and I don’t like going there.” (Gay man, 50)

Gay bars—a form of commercial gay community space—are here presented as a form of sanctuary in which one is able to be open about one’s sexuality. These gay spaces, often known as gay ghettos,<sup>75</sup> allow for the queering of space that often relies on a form of segregation. In doing so, hierarchies are enforced through the colonisation of space by hetero- and homosexual services and spaces. Gay spaces often occupy areas that are traditionally less economically successful, on the outskirts of central urban areas.<sup>76</sup> As these areas are traditionally separated from busier areas of cities (and are usually only found in larger towns or cities), it may be argued that this itself relies on the hiding and self-regulation of identity as protective measures, despite the fact that some public places or areas may be construed as ‘safe’ during the day, yet potentially dangerous at night.<sup>77</sup> Thus, through the self-regulation of LGBTQ behaviour due to fears of violence and homophobia, it may be argued that a sexual hierarchy is reinforced.<sup>78</sup> As such, the participants in this study reference the pressure to avoid displays of LGBTQ sexuality, often due to a fear of expressing themselves.<sup>79</sup>

73. J Eekelaar, ‘Perceptions of Equality: The Road to Same-Sex Marriage in England and Wales’ (2014) 28 *Int J Law Policy Family* 4.

74. D Richardson and H May, ‘Deserving Victims?: Sexual Status and the Social Construction of Violence’ (1999) 47(2) *Sociol Rev* 308–31 (321).

75. K Browne and L Bakshi, ‘We Are Here to Party? Lesbian, Gay, Bisexual and Trans Leisurescapes beyond Commercial Gay Scenes’ (2011) 30 *Leisure Studies* 179.

76. D Alderson, ‘Queer Cosmopolitanism: Place, Politics, Citizenship and Queer as Folk’ (2005) 55 *New Format* 73.

77. D Richardson and H May, ‘Deserving Victims?: Sexual Status and the Social Construction of Violence’ (1999) 47(2) *Sociol Rev* 308–31 (312).

78. G Rubin, ‘Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality’ in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151.

79. Though, as Orne notes, even in supposedly queer spaces, certain LGBTQ individuals still need to regulate their identity in order to feel safe in such a space that may be deemed monolithic. J Orne, ‘Queers in the Line of Fire: Goffman’s Stigma Revisited’ (2013) 54(2) *Sociol Q* 229–53, 248.

Further to this, methods of self-regulation were recounted, which focus on the regulation of behaviour, avoiding PDAs, to the extent that it becomes second nature. The below participant notes how they are 'protected' from violence due to the self-regulation of their behaviour and apparent ability to regulate their queer identity:

"[S]o that one I find quite hard to answer because I think I'm quite protected from that, in terms of how I would know it felt to hold hands in the street, to kiss in the street and that sort of stuff, 'cause I regulate quite a lot as well, I would say. But that comes from me really, not from everyone else, I think, so, I find that one quite hard to answer." (Lesbian woman, 29)

The regulation of open displays of affection or intimacy with a partner may confirm societal standards that impose discretion on LGBTQ couples or groups: Robinson argues that societal pressure to 'blend in' reinforces homonormativity,<sup>80</sup> by reproducing and relying on covert, assimilationist images of homosexuality. The participant appears to protect herself by regulating her behaviour, which arguably relies on the implicit presence of hostility towards displays of affection between same-sex couples. Orne notes how this can be a facet of conceptualising how 'marginalised people can be stigma resistant yet still be aware enough of the stigmatizing views of others to be capable of identity management.'<sup>81</sup> Therefore, the stigma management process may mean that she is unable to exhibit or demonstrate her queer identity in public. Doan et al. note that the ability to conduct public displays of affection is an informal privilege (in addition to the formal privilege of being able to marry), stating that such 'advantages are not legally conferred but arise in interactional settings as a way for the dominant group to maintain superiority over minority groups.'<sup>82</sup> As such, they argue, informal privileges such as PDAs sustain the belief that socially advantaged groups are inherently superior.<sup>83</sup> Therefore, enjoying greater familial rights enables homonormative tolerance,<sup>84</sup> this does not rule out the existence of self-regulation and fears of violence in society.

## Conclusion

This article has sought to highlight the experiences of LGBTQ participants, who still feared the occurrence of violence directed at them because of their sexuality, in particular perceptions of hate crime and legal protections. Themes have emerged from the data, focussing on the positive benefits of hate crime legislation as offering heightened protection through increased sentences, but also of the prevention of homophobia, while marriage as an individualised institution has had little social effect. This leads to the maintenance of self-regulation in public space, and the avoidance of expressions of queerness, particularly avoiding public displays of affection. Such avoidance is fuelled by the perceptions and fears of homophobia and bigotry, from which stems a fear of violence, demonstrating that although the law has civil and criminal protections in place, there maintains a perceived victimisation of queer individuals to violence, heightened by intersectional issues such as race.<sup>85</sup> The understanding of hate crime as a symbolic protection, coupled with equalities legislation and marriage enables LGBTQ participants to feel protected to some extent by the law, however the role of violence is rarely far from the surface. As such, it is clear that there are still significant elements of perceptions of violence in various situational and

80. BA Robinson, 'Is This What Equality Looks Like?' (2012) 9 *Sex Res Soc Policy* 334.

81. J Orne, 'Queers in the Line of Fire: Goffman's Stigma Revisited' (2013) 54(2) *Sociol Q* 229–53, 234.

82. L Doan, A Loehr, and L Millera, 'Formal Rights and Informal Privileges for Same-Sex Couples: Evidence from a National Survey Experiment' (2014) 79(6) *Am Sociol Rev* 1172 (1174).

83. *Ibid.*

84. J Manuel de Oliveira, C Gonçalves Costa, and C Nogueira, 'The Workings of Homonormativity: Lesbian, Gay, Bisexual, and Queer Discourses on Discrimination and Public Displays of Affections in Portugal' (2013) 60(10) *J Homosex* 1475 (1490).

85. D Richardson and H May, 'Deserving Victims?: Sexual Status and the Social Construction of Violence' (1999) 47(2) *Sociol Rev* 308–31 (309).

interactional contexts, owing to the prevalence of heteronormative, and homonormative norms which regulate sexuality and behaviour. Therefore, despite the progress achieved in civil and criminal law protecting sexual minorities and affording rights, perceptions of violence still persist in LGBTQ communities.

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