You First Podcast Episode 58
BONUS: Disability & LGBTQ+ History and Solidarity

Keith Casebonne:

You're listening to You First: The Disability Rights Florida Podcast. In this bonus episode, we share the recent discussion on legal and medical precedents that have led to the division between the disability and LGBTQ+ communities.

Hey everyone, I'm Keith.

Maddie Crowley:

And I'm Maddie, and we're the hosts of You First. Keith and I are kind of laughing because we really thought we were going to get a few months off with putting out podcasts. But basically as soon as we put that out into the ether, a lot of things happened. And a lot of ideas and opportunities, like five things manifested in front of us that day.

Keith Casebonne:

Yeah, the world didn't stop turning like we hoped it would.

Maddie Crowley:

Yeah. Yeah, but the world doesn't revolve around the You First podcast, believe it or not.

Keith Casebonne:

Sadly. Gosh.

Maddie Crowley:

So, yeah, I don't know if there will be much of a break, if much at all. But yeah, there's just some stuff that's kind of too good to pass up on. And just a lot of news and things in the works at Disability Rights Florida, so anyways, we're back.

Keith Casebonne:

Yeah. Yeah, we're back, all right. And we're going to start with this webinar we just recently did. It went very, very well, and we figured you could all tune in. Now, this is on YouTube if you want to see the video version. But this is a podcast, so you're in your car, you're doing chores, or grocery shopping or whatever, and you want to listen in without trying to watch a webinar. We thought this would be a nice way to throw that out there, and so we just took the audio, put it in as is, didn't do a lot of editing or anything, it's pretty much just the straight audio from the webinar. And we thought we'd make a little quick bonus episode for the podcast out of it.

Maddie Crowley:

Yeah. And it makes for a nice episode because it's a really important topic. And like you said, if you're just kind of bopping around town or in your car, YouTube videos don't really load like that. So, hopefully this gives an opportunity for more folks to listen. So, a little bit about the webinar and the conversation, if our listeners or other folks weren't aware of the fact that we were doing the webinar before this episode, earlier this month, on the 4th, we hosted a panel discussion with five really awesome guests that I got to facilitate, which is fantastic.

These guests, who you will shortly hear from, include Simone Chriss, who's the director of the Transgender Rights Initiative at Southern Legal Counsel, Katherine Pérez, the director of the Coelho Center for Disability Law, Policy and Innovation, Victoria M. Rodríguez-Roldán, who is the coordinator of state autism strategy for Maryland Department of Disabilities. And all of these folks, just as a note, have done tons of work at this intersection. So, even though these are their current roles, take some of it with a grain of salt because they've held many, many positions at the intersection of this work. Anyways-

Keith Casebonne:

Yeah, they're rock stars in these areas, for sure.

Maddie Crowley:

Yeah, for sure. And then, two more guests, we have Morénike Giwa Onaiwu, who is returning on the podcast. We had them on about a year and a half ago for our Intersection of Disability and Reproductive Justice in the response to the Supreme Court overturning Roe v. Wade. And they are a global activist, scholar, author, and community leader, just to name a few things. And then finally, we have Claudia Center, who's the current legal director at the Disability Rights Education and Defense Fund, or commonly referred to as DREDF. So yeah, just a little bit about the premise of the webinar. It was about how the history between the LGBTQ+ community and the disability community is often at odds with each other. Historically, the LGBTQ identities were viewed as mental illnesses, and many within that community rightfully rejected this. However, debility and harm from LGBTQ+-related oppression and discrimination leads to worse health outcomes and can cause disability.

In fact, despite trans and non-binary people being explicitly written out of the ADA as unable to qualify for ADA protections, developing legal precedent finds that gender dysphoria can be considered a disability under the ADA. So, there's much to unpack within these histories and the panelists, or podcast guests, however you think about it, will thoroughly explain how these communities have been pinned against each other. They'll also speak a bit to how these histories have led to a wide variety of anti-LGBTQ+ and ableist legislation that we're seeing passed in Florida and across country. So basically, with all this in mind, the goal of the webinar is to really uplift the lived experiences of people who identify both as disabled and LGBTQ+, and discuss the often unspoken history between those two communities as a way to regain power and comfort in these identities and establish some foundation to begin doing more cross-community work and cross-community solidarity to continue moving forward.

Keith Casebonne:

Yeah, needless to say, great guests, great topic, and a great facilitator. This makes for a really great conversation, so we hope you enjoy it.

Maddie Crowley:

My name is Maddie, I use she/they pronouns. And I'm just absolutely thrilled, over the moon, to be joining in conversation with these incredible panelists that we have today to talk about this important conversation. So before we get started, I wanted to go over a few reminders about accessibility, and kind of how we have the Zoom set up for our participants today. So first, for accessibility reasons, please, for our panelists, please say your name as you begin speaking. This helps with a variety of language things, and it also helps with captioning. People who have English as a second language. I mean, we wanna be respectful and make sure that this content is as accessible as possible for all participants. So what that might be, like I started, when I introduce myself, I'll say, "This is Maddie." And then continue with my thought in response to maybe something you're saying or a question.

The second thing is to please speak at a reasonable pace, an accessible pace for our wonderful ASL interpreters. They're joining us today to help bring language access to all folks here, and I want to ensure that we make sure that this is reasonable for them to effectively communicate the information that we're presenting to all people. A couple things regarding how the Zoom is set up. If you have questions throughout the panel for our panelists, you can send those using the Q&A feature in Zoom. So depending on how wide your screen is, it may show up right at the bottom of your Zoom screen, or you might have to click on the three dots that say, "More," and click on Q&A in order to send us a question. We will take some time at the end of the webinar to answer those questions.

Additionally, we do have our chat open, however, the chat works one way. So if you have an accessibility barrier, or if you have a question or concern unrelated to the content of the webinar, please send a chat in the webinar chat itself. Either way, if you send a Q&A or if you send a chat, we'll be sure to see it. So don't worry if you get those mixed up. Either way, we'll see it and we'll ensure that we'll help. Additionally, just as a reminder, this is being recorded, and this will also be available later this week or early next week on Disability Rights Florida's YouTube. So if you wanna rewatch it, if you wanna share it, provide it to someone who couldn't attend, it will be available to you, and we will post it on the Disability Rights Florida social media and website, once it's on YouTube.

Last, I wanted to note something from our partners at NDRN. Jack Rosen, who works for our membership, sorry, membership association, The National Disability Rights Network is hoping to do interviews with trans folks with autism, to weave into a documentary short he's producing on the attacks on gender affirming care targeting people with disabilities. So far, two states have laws on the books regarding and specifically targeting access to care for folks with autism, as well as certain mental health disabilities such as depression. In particular, he is hoping to connect with folks who left states that restrict access to care. The film would attempt to debunk these attacks as nothing more than attempts to restrict access to care, that are using disability as a way to highlight the importance of solidarity between the disability and LGBTQ communities. This film would be informed in center disability justice. Jack is based in the DC area, and he drives and is able to travel within that area to conduct interviews. He also is occasionally in New York and South Florida, and would be potentially able to travel to those locations for interviews. If that's something that folks are interested in, please send us a chat or contact Jack Rosen at the National Disability Rights Network.

So, now that I have gone through my whole spiel and talked a whole lot, I am so excited to now really get into our conversation today. And, again, I'm so honored to share space with people I have looked up to for such a long time. Some of the leaders in this field, we really have such a stellar group of panelists here today, and I really hope folks enjoy it. So to get started, I'd like each panelist to introduce themselves. If comfortable, share your name, pronouns, a brief visual description, a little bit about maybe where you work or what your advocacy looks like. And any other important information you'd like to share with people who are here today. And just a reminder to please say, "This is so and so," when you introduce yourself.

Katherine Pérez:

Hi, everyone, this is Katherine Perez, and my pronouns are she, her, and hers. And I am a light-skinned Latina woman with short, brown hair, and I wear glasses, and I'm sitting on a couch with a gray background wearing like a black and white shirt. Oh, I was brave to go first and now I'm forgetting all the cues, but, oh, let's see, my introduction. So I am the Director of the Coelho Center, which is C-O-E-H-L-O, Coelho Center for Disability Law, Policy and Innovation at Loyola Law School. And I also am a visiting professor of law at Loyola Law School where I teach disability rights. I am a member of the California bar, so I'm technically an attorney, but I really am non-practicing in a traditional sense, I do more policy work.

I also am engaged in academic work. I'll be getting my PhD in disability studies this year, finally, which is exciting. We're not celebrating just yet, but we're almost there, almost. So I identify as a queer disabled Latina. My grandparents immigrated from Mexico. And, yeah, I often identify as queer, but I also identify as pansexual as well. And the disabled part, and maybe I could talk about this a little bit later as well, I have a number of psychiatric disabilities. And, yeah, I think my intersecting identities and intersecting oppression that I experience makes me, in a way, an expert in this space. But otherwise, I'm a little bit intimidated to be in the presence of folks who I know have much more expertise. I think the areas that I am involved with most are in higher education, specifically getting more people with disabilities into legal education and the legal profession. And I do a lot of coalition and policy building work around the intersection of immigration and disability. But thank you for including me, I'm happy to be here.

Victoria M. Rodríguez-Roldán:

Sure, I'll go next. Thank you for being the brave one. In my case, I'm Victoria Rodriguez-Roldan. I am currently the coordinator for State Autism Strategy for the State of Maryland, reappointed by the governor to this position by Governor Wes Moore on August 28th of this year. I am Puerto Rican, Latina, black hair. I'm wearing giant pink headphones with a microphone, wearing a brown blazer. And I would say, I'm autistic myself, I'm a trans woman. And previously, I have worked almost exclusively in either LGBTQ policy or disability policy, at either leading the Disability Justice Project at the National LGBTQ Task Force for five years, and leading the policy department at Glisson, working education policy there. I am a lawyer by training, so I've never practiced a day in my life, and I am almost proud of that at this point.

You know, I seem to have been fortunate in that sense. I have, myself, a fair amount of mental health facilities, and I'm surrounded on my side by medication bottles. I keep them next to me, so I can consult a spreadsheet on the computer when I take them, so I don't forget, it's kinda sad in a way. But I would say, between the expertise that comes with that intersectionality, which has been my focus, and currently, in my back to government role, because I started in government and hated it. And nowadays, I'm back in government 10 years later, and somehow liking it. I would say the goal is to make Maryland the leader, because currently, there's no such other position in any other state like mine, at least that's created by the legislature. So the goal would be to try to create a plan as a policy that establishes a very inclusive role, that acknowledges that autistic people are LGBTQ, are people of color, are queer. And I can keep on going, but, yeah... I hope I didn't forget the cues.

Morénike Giwa Onaiwu:

- I'll go next, if that's okay. This is Morenike, I'm Morenike Onaiwu, my pronouns are she/her and or they/them. And I am a nonbinary, Black, African woman, assigned female at birth. So, I'm dark skinned. I am wearing my micro-braid wig today, and like a black scarf and a black shirt. My background is blurred, but I'm in my bedroom, and I have a stemming device in my hands. I'm pleased to go after my two colleagues who we share being people of color, who are disabled, who are queer, who are really passionate about working in this space. For me, kind of have a range of different types of work. I consider myself an activist scholar, but globally, I am a research fellow at Drexel University.

And I work, I do diversity, equity, and representation in justice work with Autistic Women & Nonbinary Network, but I also do some freelance things with other organizations. And I'm just very passionate about disability justice, about intersectionality, about like neurodiversity affirming work. And really just addressing some of these unnecessary silos that we create for ourselves in the work that we have when there's so much that's interconnected about our communities, that it doesn't help us to be divided. So this panel today, here, whether it's from a professional standpoint, or here, personally, as a person, as a parent, as a member of the community, this is just something that's just really crucial, and I'm just really grateful for the conversation that we're gonna have today.

Claudia Center:

Hi, I'm Claudia Center. I'm the legal director at Disability Rights Education & Defense Fund. I'm so happy to be with my colleagues here today on this important topic. My pronouns are she/her/hers. I am a white, middle-aged woman with brown hair, in my living room in San Francisco. I have friends and family members, both youth and adults who are trans people, who have disabilities other than any gender dysphoria. And I'm very passionate about this issue, and completely agree with what Morenike just said about silos. And I think we're starting to get better. And this gathering is a step toward our collaboration.

Simone Chriss:

Hello, this is Simone Chriss, I use she/her pronouns. I'm the director of the Transgender Rights Initiative at Southern Legal Counsel. We're based in Gainesville, Florida, but we do statewide work. I'm a white, cisgender gay woman, I identify as lesbian. I'm wearing a black suit with a Progress Pride flag lapel pin. I'm at my office, because this is where I live. If you ask my wife, she will attest to that. My office is very messy. So happy to be with you all today. I am a civil rights attorney, and I really have specialized and focused on transgender rights work. And I utilize federal impact litigation to challenge state laws and policies that impede access to justice for trans folks. We do disability rights work as well that is not my area of expertise, but it is an area that Southern Legal Counsel has historically really intentionally focused on. We also do work around the criminalization of homelessness. And as everyone is aware, all of these areas have so much intersection and overlap that they really aren't separate areas of law. Right now, I'm leading multiple federal lawsuits against the state of Florida for the anti-trans laws and policies that have passed recently, particularly those that have stripped access to medically necessary gender affirming care for trans folks, those that create unsafe spaces for LGBTQ youth in schools, et cetera. So I'm sure we'll get more into that a little bit later, but so good to be here with you all. Thank you.

Maddie Crowley:

Wow, this is Maddie. I just wanna say like, I'm just so speechless, and honored to share space with y'all. And yeah, y'all's work and y'all's ability to show up today and give your whole selves this conversation, I just truly appreciate all that y'all are bringing. And I look forward to getting into the conversation with you all as well. Just to start, I do already appreciate all of the kind of themes we're talking about, how all of these things are intersecting. And that's kind of the main point of this conversation, is that we need to address these histories and address our shared experiences, so that we can move forward and build solidarity and work better together. I think each of you touched on that in your introductions, and I think that is such a good foundational thing that participants can hold with them as we continue throughout the webinar and conversation.

Additionally, I think just as a starting point, for those who may not be familiar with some of the topics we're gonna talk about today, I believe we have a poll that I'm going to launch. If folks who are participating can reply to this poll, I'd be really interested to understand what your familiarity with today's topic is. So, very familiar, somewhat familiar, somewhat unfamiliar, and very unfamiliar. And so far, we're leaning more towards being somewhat familiar, having some familiarity with the topic. Okay. Okay, awesome. For time's sake, I'm gonna end the poll, so we can get into some of the questions. But overall, folks are very familiar or somewhat familiar, which is good to keep in mind as we continue the conversation throughout the webinar.

But I just wanted to note, as a starting point, a great way to kind of ground this conversation is the idea of ableism being more than just discrimination against folks with disabilities. It's a system of oppression that decides what bodies and minds and functions are best under capitalism, and kind of what is the ideal body, right? And I think when you think about ableism in that way, kind of considering who best can walk, talk, work, et cetera, it's easy to begin to see how these things overlap and are able to kind of feed into other systems and marginalization.

So just wanna kind of keep that in mind, that we should kind of continue to kind of keep that to ground us and in order to think about what ableism is as a foundational oppression that decides who is and isn't normal. And that is seen throughout all discrimination of folks. So with that kind of frame in mind, I'd love to kind of jump into the thick of the conversation with our panelists and kind of start with really getting at the main part of the conversation, which is... This is a big question, but it's like we mentioned, it's kind of hard to tease it out as individual things. So are we able to provide a historical context that has led to the division between the disability and LGBTQ communities in the medical and legal sphere? So when you think about things like the Americans with Disabilities Act, or the DSM, the psychiatry diagnostic manual, how do our current legal and medical frameworks kind of contribute and continue this division? And are there any specific ways that y'all would want to highlight, maybe specifically about the ADA or those diagnoses, or other legal or medical precedents that I haven't yet named?

Claudia:

This is Claudia, I just wanna acknowledge that the roots of the siloing is, from my point of view, is really from transphobia in the disability community, and ableism in the LGBTQ+ community. And so I recently went back and read the hearing transcript from 1989 when trans people were excluded from the ADA or the effort was to exclude trans people from the ADA, we've kind of had some success in pushing back on this in the courts in recent years. And I think that that's a really low point in disability history that that happened. I don't know that we could have prevented it, I wasn't there, but, I mean, I think we could talk about it more. We could apologize, we could say, "That was really awful, what happened that day, and that the law excludes people on its face who are trans."

Victoria:

I mean, I would say, I wanna attest to not just the topic of transphobia and homophobia within the disability community, because for many years, the disability rights movement has been essentially pale, stale, and male, basically. And the perception that we get, like of the ideal disabled person, is essentially the photogenic white person in a wheelchair, extra bonus points if they're male. And if we can find a gay male, then, yay, we're very diverse, and we all give ourselves a gold star for it. I love how Morenike is nodding along, like, yeah. But I would say then, and this is Victoria by the way, sorry. I would say then, I also want to attest to the problem of ableism within the LGBT community, which is that, as attorneys started getting into the idea of using the ADA for gender dysphoria, and I'm not gonna go too deep into the legal judo involved in getting around the exclusion, because it's kind of an interesting set of arguments.

But what I would definitely say is that there was a whole lot of resistance along the lines of, "Oh, we don't wanna be like those people." And as recently as a couple years ago, you have the whole argument of, oh, being trans isn't a mental illness, basically, which for me creates the answer of, it's not, you're correct, but why are you feeling the urge to yell so hard that you're not mentally ill? What does that say about how you perceive mental illness and whatnot? So that's where I would start off. And honestly, I would also add, and by the way, if any litigant wants to hear me, the idea of trying to oppose the various transition-related care bans using the ADA, that's an idea. I'm just tossing it out there, if you can find a judge that will hear you, you know, all the more power.

But what I would say in that sense, is essentially, it goes back to 1990. And like Claudia said, "I wasn't there either, I was born in '89, so I was probably pooping in a diaper, on a crib, trying to figure out how to stand up when that happened." But honestly, it's not... It created the wedge where the disability movement was already showing what moral compromises it was willing to make. And indeed, the HIV/AIDS movement of the time, which was peak epidemic, had to fight really hard not to get excluded from it, which we do see in the Jesse Helms and Tom Larkin transcripts of that day, which Claudia sent me, we're working on a paper. And it reminded me of how much I hated Jesse Helms, but...

Maddie:

This is Maddie, could someone elaborate a bit more about Jesse Helms and the ADA, and how that all came to be? And explain the ADA, and talk a little bit about it being trans-exclusionary for those who might not be familiar with law?

Victoria:

Trying to figure out which one of us should go first. Claudia, you were doing that research recently, so...

Claudia:

Yeah, so there was a sort of right-wing attack on the bill that eventually became the ADA, beginning in 1989, saying that because the ADA was using the term mental impairment, that that meant that anything in the DSM, at the time, I think it was DSM-III, could be covered by the ADA. So then the right wing would pull out the DSM and read every horrible... Some of 'em are horrible, sort of the things that are like pedophilia, or things that are crimes, if they're acted upon. So started putting those in the record, as this is what the ADA would cover. And so then in order to get the ADA through the House and then through the Senate as well, there was an agreement of a list of disorders from the DSM that would not be covered.

So it was things like pedophilia, exhibitionism, kleptomania, and included was, these are old fashioned words, transvestism, transsexualism, and gender identity disorders not resulting from a physical impairment, is what was ultimately agreed on. And so as a result, it's very difficult to be covered by the ADA solely based on transgender status, even if the person needs accommodations in school related to accessing care or accessing bathrooms, this comes up a lot in prisons and jails. So now, because the DSM has changed so much, and now there are different terms and different analysis of what trans means in terms of the DSM, and now we talk about gender dysphoria, some of the courts are saying that those exclusions don't apply to the modern era.

Morénike:

I just wanna chime in, because there's so much that can be said about this, but just to kind of build up on something that Victoria mentioned a little earlier about how this also intersected in the HIV stigma of the time, and I want to share, like, all of these things have roots, you know? And though people might want to box disability here and queer identity here, or whatever here, these things, they intersect. They cannot be boxed, they're not gonna stay in the boxes. And so one example that I'd like to give is HIV/AIDS was technically covered under the ADA, but some of the ways that the compromises that were made, again, because of some of these things that were shared were that we obtained a huge slew of HIV criminalization laws.

Okay, well, if we're gonna have to cover these people or help them or support them or accommodate them or provide as we saw with the payer of last resort with the Ryan White CARE Act, and so forth, then we need to also make sure that they're not spreading their disability, their ickiness, you know, to the rest of us. Because then those are people who are at the dreaded intersection of both being disabled, and typically, often at the time, perceived as queer.

So currently, we still have more than 34 states, as well as jurisdiction with a number of HIV specific criminalization laws that are very archaic and don't match up to the science. And then we have a number of states that can basically like amplify or supercharge their laws with the existing laws, even if they don't have specific statutes against it. So we see that it's almost been like, "Okay, we're not gonna cover this, we're not gonna cover this, we're not gonna cover this, or we're gonna cover this, but we're gonna do this." It's like, from the beginning, exclusion was kind of built in just to kinda get things through. And so while I'm grateful for the ADA, there are many holes that exist as a result. You know, there's a lot of compromises that were made as a result.

Victoria:

I would just point out a favorite hole that I like to point in the ADA that people often ignore is the weakening of application for it to drug addiction. Katherine, you haven't spoken, please. I don't want us to take the whole monopoly and making fools out of ourselves in front of a crowd. You should partake too.

Katheirine Perez:

Yeah, this is Katherine. No, I'm just waiting for further questions, I feel like that was good comprehensive background. I'm interested maybe, I wanted to call on Simone to see, 'cause I know part of this question is, how does our current legal and medical frameworks continue to contribute to this division? So, I'm interested as to your work in this space.

Simone:

Yeah, this is Simone. You know, I think there's a lot of tension right now in how to best go about utilizing the tools that we have at our disposal in terms of federal laws to protect the rights of LGBTQ folks and the folks that live at the intersection of LGBTQ identities and folks with disabilities. And I think it's hard for a lot of reasons, some of which are just like disagreements around the pathol... I can never say that word, like inappropriately pathologizing gender identity and variance in gender, but also needing and wanting it to fit under and have the protections of the laws that protect on the basis of disability. And then you look at the way that the other side has sort of weaponized in the way that they've always done against marginalized communities.

They've weaponized the gender dysphoria diagnosis, and sometimes co-occurrences of gender dysphoria and autism, and other things like that to deem transgender folks, and particularly, transgender minors, incapable of providing consent, incapable of providing ascent, incapable of understanding the consequences of treatments that can be lifesaving and life affirming. And so there's just so many elements and so many pieces that it's a scary world to be litigating in right now, and it's a scarier world to be living in, especially in states like Florida, where it seems like every day, there's a new law criminalizing the existence of trans folks. But yeah, I think that when we look at, historically, like the way that fear and misinformation and stereotypes and prejudice have been weaponized against these communities, it just seems like, how have we not learned? How do we keep repeating these mistakes over and over and over in the year 2023?

And I hear what was said earlier about using the ADA in cases like the ones I'm litigating right now against the DeSantis Administration in the State of Florida, criminalizing gender affirming healthcare, and it's hard to bring cases of first impression and novel legal theories in a normal world. And we are not living in a normal world right now, and we have such a hostile judiciary that we're fighting for our lives to have sex discrimination under the equal protection clause, which so plainly and clearly includes discrimination on the basis of gender identity and sexual orientation. There's no question. And now we're being subject to rational basis and having to prove invidious discrimination to survive within these courts. And it's such a hostile environment we're litigating in and living in. I don't know if that answered your question, but there's just so much.

Maddie:

Yeah, and I appreciate you kind of tying these foundations into the work that you're currently doing, Simone, 'cause I was hoping that you could speak a bit more to that. And also, for all folks that have been involved in some of this intersectional case work, litigation work, and in understanding kind of these developing and novel legal theories, you know, what kind of work are we seeing at this intersection? You know, how has disability and LGBTQ intersecting discrimination affected people with disabilities who are LGBTQ at a variety of places in their life? Like you were mentioning earlier, healthcare, maybe education, employment, incarceration, transportation, just to name a couple of spheres of how we can view law and people's experiences. And I know Claudia has some experience in the advocacy that she's done through DREDF. I know, Simone, like you mentioned, you're doing some good work as far as starting next week actually, the advocacy you're doing in Florida. So, yeah, if folks could speak a bit to the different things they've been involved in, or just their knowledge of how these things have shown up in the legal realm.

Simone:

I'll just quickly note that, so when I started doing transgender rights work and really stepped into this space, it was due to just an overwhelming need, a dearth of access to legal representation for the trans community. There just weren't people doing this work in Florida. It has obviously become, I had no idea what was coming in the next few years when I started doing this work in 2016. And it's become so much more of like, there are active laws seeking to strip rights from this community and sort of erase them in a way that we didn't see previously. But one thing that I found to be a really helpful tool and technique that I used and that I trained lots and lots of other attorneys on, back before this, you know, really just multifaceted all-out attack on trans lives, was utilizing some of the special education laws, for example, in representing trans kids in schools.

And so there were many unspoken, unwritten, or sometimes spoken and written policies, that excluded transgender youth from the bathrooms that aligned with their gender identity, that didn't allow them to use the name and pronouns that align with their gender identity. And just that created an unsafe environment in which they weren't able to focus on education and academics or socialization, or everything that school is supposed to be, 'cause they were too worried about not drinking water, 'cause they didn't wanna use the bathroom. And that's just one tiny example of myriad ways in which their experiences were impeded by these discriminatory policies.

But I was able to really effectively, for many years, use Section 504 of Rehabilitation Act and the IDEA to build in accommodations in these kids' special education plans, that otherwise, I really didn't have a good legal remedy to seek that, their ability to access an affirming learning environment. And so, I think that's just a tangible example of how folks who are living at the intersection of these identities, we can really look at what tools are available on this side that discuss sex discrimination, and what tools are available over here that have disability-related discrimination or protections, and how can we best utilize those to protect folks? And so, that's just one example.

Claudia:

This is Claudia. I think we're looking at the same thing, in terms of people who are either in states with gender affirming care bans, or in areas that have very little gender affirming care. So if you look at healthcare and you look at transportation, those are two sectors that are extremely ableist and extremely transphobic. So with the trans bans, we're now having people not only have to fight all the existing barriers to healthcare that they were already fighting, but now having to travel. And we know travel's not accessible either. And so we're trying to brainstorm and figure out how to support people in their travel. And also how to make sure people have access to healthcare, that it's accessible, that there's plain language, that there's exam tables that are accessible, that there's ASL in medical care, and so on, and so on, and so on.

Morénike:

This is Morenike, I just wanted to quickly jump in about something that Simone had mentioned earlier related to how this goes back to our youth. And like how we see this with IDEA and Section 504, you know, like this is all kind of like intertwined. And I just was thinking, we're talking about cases, and I'm just thinking about Kincaid versus Williams and the situation with Kesha Williams, but in terms of being forced to be housed with males, being misgendered, and being denied care for the crime of not having bottom surgery, because everyone isn't necessarily going to... That's not what determines one's gender, and it's ironic but not really that this happened in Florida, you know, in Fairfax County of all, I mean, sorry, in Virginia, I'm sorry, in Fairfax County of all places, which, for a number of years, has been essentially the textbook definition of the pre-K to prison pipeline for students, and particularly, for our Black and brown disabled students, you know what I mean?

And so just the whole thing of, again, how does it impact someone in their youth to not drink water and not eat and not this, so that you don't have to use the restroom and so forth? Only to go into adulthood, identify the way you're allowed by law and still be denied because that's not really a disability need. All of these things that people are addressing, these issues are impacting adults, but it's starting very young. It's starting to impact people at the very young ages when they're already disenfranchised. And that's, and again, about not allowing people to give consent or leaving them capable of assent because of their disability and their age. When you look at that layered combination, you know, it's devastating.

Maddie:

For those who are joining us today who are unfamiliar with the Williams versus Kincaid case, like you just were referencing, Morenike, could y'all talk a little bit about that and talk a bit about how that was really important when it came to understanding gender dysphoria under the ADA and kinda was one of, if not, kind of the first big cases that addressed this intersection?

Morénike:

I actually love for one of my colleagues to describe it because being a non-attorney, I don't think I'm gonna use the right, I'm gonna do it all like person language. And so I would really want to kind of someone to hit in on some of those key points.

Claudia:

This is Claudia. I haven't looked at that case in a while, but as I recall, the question was whether gender dysphoria could be considered a disability under the ADA, even though, like we talked about a few moments ago, the ADA excludes a number of uses, the words transsexualism, transvestism, however you say that, and gender identity disorders not resulting from physical impairment. And so in the trans/disability advocacy world, there were sort of two ideas about how to get around the ADA exclusions. One was to talk about that these terms are not even up to date anymore. That now we talk about gender dysphoria and how gender affirming care is one way to treat and mitigate gender dysphoria.

And so it's a different model. So that's one way to get around the exclusions. Another way that people talked about was a constitutional law theory that this exclusion, there was no rational basis for it, there was no reasoned basis for it. That it was really just a desire to harm trans people. And that if you go back and look at some of the case law around gay and lesbian people, I forget the name for the case out of Arizona, where it was deemed a bare desire to harm that you couldn't have local ordinances to help queer people. And that was struck down.

Victoria:

Romer v. Evans.

Claudia:

Thank you, Romer v. Evans. And so there was the idea, this was like a bare desire to harm trans people, to cut them out of this law. But in the end, people really went more with the first argument I talked about that the DSM had changed and our views had changed. And I believe that's how it was allowed to proceed in the Kincaid case. That those terms that were excluded are no longer even what we're talking about. So the condition or the disability is not excluded. Someone asked about Section 1557 of the ACA. I think there are a few cases that use 1557 to try to get coverage for gender affirming care. I read one recently. I'm not enough of an expert to tell you what are all the 1557 trans cases out there, but it is being used by advocates.

Simone:

Yeah, that was one of... I'm sorry, this is Simone Chriss. That was one of the claims that we went on in our case called Dekker v. Weida, challenging the state of Florida's ban on gender affirming care being covered for all Florida Medicaid beneficiaries. We did the equal protection clause of the US Constitution, the 1557 of the Affordable Care Act and the Medicaid Act. And we were successful on each of those claims after a two-week trial. And the other cases that have also utilized Section 1557 of the Affordable Care Act for this type of discrimination have been the Fain case in West Virginia, the Flack case in Wisconsin, the Kadel case, I believe, in North Carolina, and then I think Boyden in Wisconsin. So it is being used. I haven't had as much luck, or, I guess, not luck, I haven't had great success unfortunately with utilizing like having individuals go through the process of filing complaints with the US Department of Health and Human Services under 1557 and having any sort of remedy reached that way. But it has been a successful tool for coverage, not necessarily the criminalization of the provision of care or bans on the provision of care, but for the coverage of care in federal litigation.

Maddie:

This is Maddie. Thank you all so much. I feel like the lawyers watching this were like writing this down in their notes 'cause this is such good info, and as a non-lawyer and not even remotely, I feel like sometimes understanding of all the legalese, it's always incredible to hear y'all, speak through this, and help y'all, and give people the tools to do this work really well. In case there's an ability to kind of shift the conversation a bit to talk about policy 'cause I know some of us on the call are more policy ones and I know there's people attending that are more policy rather than legal practitioners. What kind of disability and LGBTQ-related policies are we seeing across the country regarding the intersection between those two and that are targeting the disability in trans and LGBTQ communities in their efforts?

Victoria:

I feel like this one's more Katherine and I to an extent, but I would say as far as priorities, it is primarily the issue that... Like we need to start encouraging loss that firm, least disability access to... Sorry, I'm losing my train of thought because I just have to get up and feed the dog. She's a ham dog and she's loud. But what I would say, at least in my case, I'm trying to make it an affirmative essence that people with intellectual and developmental disabilities have access to LGBT inclusive education, have access to reproductive healthcare, have access to transition related care, but I do have the benefit of working this in a pretty liberal state. So, yeah.

Maddie:

This is Maddie. Could anybody speak to how, if there's specific examples of how the policies like Victoria was just talking about, maybe could help bridge the gap between the disability communities and like create those policies that are affirmative of both disability and or LGBTQ identities? Also, feel free to answer any of the questions at any time.

Claudia:

This is Claudia. We've been thinking about this a lot in California, not only about gender affirming care, but also abortion access. And if people are having to come to California for either information or care, then it better be accessible. And I kind of referenced that before about plain language and captioning and ASL and exam tables, and some people use support people when they go get care. So we wanna include support people. And if there are abortion funds or trans funds for people, we're gonna need to put aside more money for people who have to travel, who are disabled, 'cause it's gonna be more expensive.

Morénike:

Just to chime in quickly, this is Morenike on that in addition to the issue with transportation, with cognitive accessibility, and so forth, I think that there's also a need to have practical, culturally affirming practices built into these things as well. And so that's something that you would hope one would think to do so, but is not necessarily the case. And so thinking about the heterogeneity, I'm sorry, of the community, both of these communities, ensuring that can you address individuals for whom English is not their primary language or individuals for whom there are certain practices that would be more suitable that need to be done in a different way to, again, be affirming of cultural background and ethnicity, and so forth.

Maddie:

Moving into apologies. This is Maddie. Moving into another part of our questions for y'all today. Kind of thinking, we've talked a little bit about the legal aspect, policy aspect, how medicalization has played a big role in this. This has also had a direct impact on the communities themselves and community members and how they view disability, how they view trans folks, how they view LGBQ folks, et cetera. Could y'all speak a bit to the impact that all of these various factors has had on individuals themselves and kind of speaks to the need for this conversation to happen by itself?

Morénike:

This is Morenike. I'm just gonna say it's hard to know where to start because it's like such a big mess. I just think about the sense of defeat and hopelessness that exists within the community, you know, particularly among our youth. This sense of where is it safe to go? So we already know that within LGBTQIA+ communities, there's a higher incidence of disability, you know, acquiring disability if one does not have one. We know that there's a lot there's a lot of information about the disparities in healthcare which contribute to disability. So there's all of that aspect.

There's not getting the fact that if you're disabled, you're typically not getting the... You know, as you age, you're not getting the type of care that's maybe centered toward your needs. You're not getting accessible sexual education or even being seen as a sexual being. If you're queer, you may not be getting information that's relevant to you in a cis, heteronormative kind of like system in terms of what's given in the public schools and so forth. So there's all these areas where you already may not get the care that you need or when there may only be certain providers in certain areas who can't treat everyone. You know, again, the issue of travel. And so there's all of that.

And then there's the unaddressed mental health piece and all of these attacks on services and service providers. I'm just thinking like, the idea that you have to answer to being called this thing. You have to be in a circumstance where you're not understood, where you can't even use the restroom. If you just think about like all of these things, they're infuriating to us as adults, but we're adults, we're not young. So I'm just thinking if they're so demoralizing, if this is the foundation of the world that you're growing up in, what precedent is there for one to think that there is a way to overcome this when we see these regressive policies really kind of being touted as ways to protect youth or address disability or what have you. It's just like a big disgusting ball of just chaos.

Victoria:

Can I just piggyback on that real quick and say, I mean, as someone who is old enough to have been a trans teenager in the early to mid 2000s, and I remember all those years of Bush and Karl Rove and post-9/11, like I still wouldn't trade being trans now for being trans then. And I do believe then, at least the pessimism is partly for lack of historical memory, which is due to a variety of reasons, including relatively short lifespans in the community. But point is it does, like, I know it's kind of a trouble project cliche, the whole it does get better, blah, blah, blah, but I really do firmly believe then, this backlash is temporary. I realize that policy and legal-wise, some of my prayers are called Gorsuch, save us, which is a really shitty prayer to have to make.

Please forgive my language. But I do firmly believe that the fact that the majority of the justices that did... I really should not be forgetting the name of the court decision, yet I am. But the point is they're still in the court, and thus I do believe we have a conservative judiciary, but not a nihilistic one in that sense. Simone can disagree with me there, but there are still ways to win to an extent. But I really do believe we're just going through the equivalent of the marriage movements version of 2004 when it was fashionable to run against it, even for Democrats and all that. And it eventually gets better. Like I do firmly believe in destiny. I'm gonna go with that mantra of destiny is with us. So yeah.

Claudia:

Were you trying to think Bostock?

Victoria:

Yes! That one.

Simone:

This is Simone, just sort of piggybacking on what you just said. I think there's a lot of cause for fear and anger and frustration and devastation, but I agree with you that there's also reason for hope and not necessarily the Supreme Court, but they have allowed some things to remain in place that were surprising. They did issue a Bostock. So there is some hope there. But more importantly, I think what we see sort of historically is when it comes to marginalized communities like ours, all the ones we're talking about, when people are uninformed, when they are afraid, and they're usually afraid because they're uninformed, the public is more willing to allow things like this to remain in place and to happen and to look the other way because they genuinely don't understand, they're more likely to be swayed by misinformation and disinformation. Even folks that aren't malicious and aren't transphobic or ableist necessarily are more likely to believe the misinformation and disinformation.

And we're finally in a place where we're seeing the justifications that the states are using to oppress trans folks. We're seeing those put on trial in a way that completely dismantles them, it dismantles them in a way that doesn't allow people to actually rationally or reasonably use them as an argument to allow this oppression to stay in place. And just by way of example, they're using the exact same arguments to support, excluding trans people from bathrooms, denying them access to medically necessary safe, effective healthcare, excluding them from playing sports, excluding them from any manner of things. Drag shows, they're banning drag shows, you know, all the things. The exact same justifications, save the children, protect the children, protect girls and women from us, from our community. It's the exact same justification repurposed and repackaged for a different argument. They said it about same-sex marriage, that it would hurt children. The John's Committee and Anita Bryant. Like, none of this is new, it's all just regurgitated garbage. But what we see is that when we put their justifications on trial the way that we did with the Drew Adams case with bathrooms, what they did was they said, "Okay, you keep saying safety and privacy, like we need to be afraid of trans people because cis people's safety and privacy are compromised in the bathroom."

But then when it finally got to trial and they looked at the entire country, the entire country, and couldn't find one instance of a trans person harming another person in the bathroom, not one instance of a cis person's privacy or safety being compromised by the existence of a trans or non-binary person in the bathroom. It makes it really hard for those people to hold onto that as their basis for refusing to shift in their beliefs and thinking these things are okay. And that's what we're doing right now with these anti-trans laws is demonstrating that their justifications just don't hold up. They are not based on facts or evidence, they're based on fear and misinformation. So I do think it will get better and it will find a new target, but it's devastating that there has to be a target of this organized, coordinated, strategic, I don't even know what to call what that machine is that manufactures these laws, but we will get past this.

Katherine:

This is Katherine. I've been a little intimidated to speak up. I feel like you all are much more experts than I am, but I'm definitely been nodding along and agreeing with everything that you all have been saying. Yeah, so my take on some of this or my thought process is that I see the statistics that than the regular population, there's more people who are LGBTQ and disabled. And I think part of that comes through trauma, right? Like we have certain cognitive disabilities, psychiatric disabilities that we get from being through multiple systems of oppression.

But also too, and I've talked with other folks who are queer and disabled, and I think part of it too is that we just have a natural affinity between our two groups. And that is that in essence, it's just about honoring differences in human experience and pushing against the heteronormative white male, Protestant fiction of what is norm, right? So I don't think we've brought up religion yet or that we need to... That's a whole other area. But I have a very complicated background. I've talked about being Latina and queer and having a number of psychiatric disabilities. I'm also neurodivergent, I have ADHD. I grew up with really bad OCD that related to my upbringing in the Catholic church. And so, I mean, I hear you, Victoria, that things are getting better and I wouldn't wanna live 10 years ago, 20 years ago, 50 years ago.

But I also come from a community of very religious people who I think we have to do a lot of work on in terms of acknowledging that we exist, that we deserve rights in both spaces, being both disabled and queer. And I've kind of lost my train of thought, but yeah, I think we have a natural affinity is what I was trying to say in terms of understanding that differences do exist and that we can identify those differences within us and identify as being different from the norm. And statistics to me are always kind of not certain because I know a lot of folks, if they had the resources and understanding of what disability is or LGBTQ identities that they may discover, that they are, in fact, disabled and are queer.

Victoria:

I just wanna make a weird comment. If you think The New York Times coverage of trans kids is bad right now, go to the archives and read up The New York Times coverage of same-sex marriage in 2003 when Massachusetts started in basically because I'm old enough to have been a nerd reading then, and I was 14 at the time, so... It's just the same cycle of life. Humanity makes the same mistakes usually.

Maddie:

This is Maddie. Thank you all for all of your insight into this question. And I appreciate the elements of hope and themes of hope kind of coming through and knowing that our communities see each other and support each other. And I think that's a great segue kind of into our closing section before we get to our plenty of wonderful participant questions. And please feel free to keep sending them 'cause we'll get to them shortly. But as you know, Katherine kind of said, talking about supporting each other and having shared understanding of what it means to be normal or not normal and how those things kind of begin to fade away, especially once you begin to identify or understand how these things work in a larger context as a system of a oppression. Anyways, that's all kind of to give foundation to our final few questions starting with how can the disability and LGBTQ communities work better together moving forward? What has this kind of looked like in the past and how can it improve?

Katheine:

This is Katherine. I mean, for one thing, at least how we could do better on the disability side. And I'm very encouraged by everyone here is centering and promoting leadership by queer disabled people of color, centering leadership, promoting leadership by people who are multiply marginalized, and just get it from their own lived experiences. That's on the disability side. And then I think that would be the same on the LGBTQ+ side as well, is making sure that they're centering leadership. People with lived experience with disabilities as well.

Morénike:

I wanted to just, this is Morenike, echo what Katherine stated because that is so true. You know, when you think about the concept of disability justice, 10 principles, and the leadership of the most impacted, and looking at all of these different intersectional issues and the different elements of who we are and kind of like cross movement solidarity and how we can help one another, the strength in numbers, like the things that we have accomplished, you know, the changes that have occurred, although we know there's still a lot that needs to change have been because of coalition building, because of working together, because of seeing some of our shared needs.

And so I think that that is something that needs to continue to be built. Kind of understand that it's okay, and not only it's okay, it needs to be non-traditional. It needs to be eclectic, it needs to be multidisciplinary, it needs to be multi-generational, it needs to look like this. And so I think we need to give one another some grace. You know, in Dr. Sami Schalk's book that came out about Black disability politics. It talked about how, for example, some elements, looking at certain communities of color and thinking about myself as my parents are immigrants from West Africa who came to this country. And the concept of disability in terms of self-identification as one's primary or core identity, is not something that we see in all communities. But that doesn't mean that doesn't necessarily also mean the same as internalized ableism or shame.

So I guess looking at these different shades of what things are. You know, in terms of just like a lot of these ideas and concepts are outdated in terms of transvestism and all this ridiculous stuff. Like you read it and it's kind of like you're rolling your eyes, how much it doesn't apply. I think a lot of the ideas that I think a lot of the prevailing ideas surrounding disability have not been inclusive of psychiatric disability, of neurodivergence, of a lot of these other things, again, some of the acquired disabilities, like long COVID, and something that is not, as Victoria said, pale, male, and stale. So I think looking at that, like if we can kind of try to utilize that model, like do our movements, does our leadership in these communities look like our communities? Are we amplifying the voices? People shouldn't have to have 10 million degrees behind their name to be able to come in. We've got tons of, as Katherine said, turns of learned and lived expertise, brilliant voices and ideas and innovation right within our communities. And those things need to be bolstered. And to be given a platform to be able to try to help with some of the creative problem solving that we're going to need to kind of continue to make progress.

Katherine:

Yeah. Going back to, this is Katherine, look at me now, I'm being talkative. But you know, going back to the first question, 'cause I'm finally caught up on the first question. You know, I think that laws, yeah, laws, I'll say policies too, but laws and policies are tools, but definitely, they're not everything and they're not sufficient. And as we've kind of said, we can use these tools to work in intersectional spaces, but really, our civil rights laws can be very one issue-based. So I think this community piece to me is the most interesting because I think that the real intersectional justice works happens at a community level. And if the tools are single issue-based, then that means that each of our communities needs to rally around all the issues that come up. So if there's a big LGBTQ case, the disability community has to get on board and understand that the disability community is part of the LGBTQ community, and vice versa.

Claudia:

And I'll add, this is Claudia, I'll add that when we're in particular spaces working, and it's almost any space, but I'll mention some in particular, public schools, public streets, restrooms, airports, healthcare, healthcare, healthcare, any kind of transit, jails and prisons, our people are there and we need to make sure we're representing all of our people, which are gonna be trans and queer people, disabled people, trans people who have other disabilities other than any gender dysphoria they may have. And so how do we hold all those issues when we're working in those spaces and the workplace too?

Maddie:

This is Maddie. In addition to holding our communities for each other, is there any particular examples or ideas that y'all would like to share for those who don't hold these identities or hold one and want to do their best to support those who hold both in their community?

Morénike:

This is Morenike. I would say that I'm really glad that you mentioned that. Because as multifaceted as every last one of us is as many different elements as there are to our personhood, no one person can embody, all communities are all issues from a personal standpoint. And allyship is important, but an ally is a verb. It means doing, it means taking that privilege that you have and utilizing it, not shirking in shame because you aren't being treated this way. Okay, you're not being treated this way. Good. What doors can you open? What causes can you champion? Whom can you bring along? Who can you speak with in your sphere of influence to kind of make changes? What internal work can you do? You know, what gradual changes can you make? But it's about being alongside, not being in front of. I think we all have times, you know, it doesn't matter who we are, what role we play, there's times that we're in front.

There's times that we're on the side, there's times that we're in the back. We need to be ready to shift and be okay with shifting, and know that our role is important. It's not always gonna be glamorous, sexy, and out front. That background work is so necessary, so important. I can't think of any movement. Again, our movements are strong, our communities are strong, but our allies are welcome, assistance to these things that we need to do. No one can carry, no one community or group can carry anything alone. And so I would say learn, educate yourself. Figure things out, ask questions. Don't put that labor on other people. Learn what you can, 'cause you're not gonna know, and be open to continuing to learn. Be open to the fact that you're gonna make mistakes. You're gonna bumble, you're gonna mess some stuff up, as you learn, that's part of the learning process. And find out where you can help and help in a practical way. And do so while still growing as a person, still developing yourself, you know? So don't wait until you've gotten to a certain point to try, okay, when I get this degree or when I get to this age or when I have this amount of money, we need your help now. We need you now. And so I would just encourage people to listen to those around you. Find out how you can help, get involved. Educate yourself along the way. Learn how you can be flexible, be ready to adapt, you know?

Maddie:

I think that's a fantastic answer, and I appreciate each of you providing your insight throughout this whole conversation. And we truthfully have a ton of really great questions. So my friends who are helping feed the questions are going to pose a few to you now. So friends from DRF, if you're able to unmute and ask the first question, please do so now.

Robin:

Hi, Maddie, it's Robin. I'm going to be asking the first question. It's a little long, so give me a minute. How will the recent passage of Florida's Safety in Private Spaces Act impact people's ability/willingness to access/visit state-owned facilities in light of the possibility that this act, which applies to prisons, public schools and state-owned agencies, may include restrooms and changing rooms in city parks, beaches, airports, government buildings, and education institutions? The law criminalizes the use of bathrooms and changing rooms that don't align with gender assignment at birth at the above state-owned facilities. Question is for people with disabilities, LGBTQ, as well as those with intersectionality to both. If these individuals do not present or identify as socially defined masculine, feminine, how will this bill and the risk of confrontation/enforcement impact their choices in employment, education, and recreation? And that's the end.

Claudia:

This is Claudia. And I guess we've lost our Florida legal expert. But I will say that most of us cannot avoid interacting with our government. And that particularly includes people with disabilities. Most people with disabilities particularly, quote unquote significant disabilities are gonna have to interact with their governments. And so you're essentially criminalizing someone's status because people have to interact with their government for their healthcare, for their disability supports, and for their education. So whatever DREDF can do to help with the litigation that will certainly be challenging this, you know, we're here.

Maddie:

This is Maddie. If we can get a better answer for that question, we'll definitely share it out to the participants as well and see if Simone has additional insight that she'd like to share. Unfortunately, she was having some Wi-Fi issues, so we hope she'll be back soon. Can we get the second question from our Q&A?

Tony:

Hi, Maddie, this is Tony, your faithful Q&A moderator. This next question asks, "Is there a consensus or current thought of the division between the medical and social models of disability and how LGBTQIA has also been pathologized? How do we balance the need for legal support through things like the Americans with Disabilities Act or quote special education rights versus the risks of using a medical model that's used or been used to dehumanize?"

Katherine:

Yeah, so this is Katherine. I feel like this is at my alley, especially because I was sort of talking about conceptions of queerness and disability. I kept saying as difference, but really, my understanding and my belief is through a social model, right? And for those who aren't familiar, medical model essentially says that the problem is internal to the individual. So if the problem is internal to the individual, then the solution is that we need to cure, fix, rehabilitate. Whereas a social model of disability looks external to the individual and says that the problem are oppressive systems. And if that's the problem, then the solution is fixing those oppressive systems.

So I think that, and I talk about this, I said I teach disability rights law at a law school, and we do kind of start when I teach both the ADA and the IDA, whether these laws are through a social model or medical model or sort of mixed. And I think in many ways, these laws have moved us toward the social model understanding of disability. But I do understand, and maybe this is what the person asking the question is getting at, is that in many ways, a medical model understanding or the medical realm is still so prevalent in our use of disability rights protections because of having to get, what's the word? Like diagnoses, having to quote unquote like prove one's disability. So all of this sort of medical gatekeeping that happens in order to get protections, right? So maybe that's how I'm kind of understanding the question. Yeah, I'll stop there 'cause I lost my train of thought, if anyone else has any answers to this.

Victoria:

Can you repeat the question again?

Katherine:

It’s in the chat.

Maddie:

This is Maddie, I'll reread it one more time though. Question reads, "Is there a consensus or current thought of the division between the medical and social model of disability and how LGBTQIA has also been pathologized? How do we balance the need for legal support through these things like the ADA or quote unquote special education rights versus the risks of using a medical model that's been used to dehumanize?"

Katheine:

Got it. Yeah.

Victoria:

I mean, to be very honest, we have the issue on the topic of gender dysphoria, for example, that maybe it is a disability in every sense of the word, think of how debilitating emotionally dysphoria can be compared to other mental health issues, for example, mental health disabilities. And that alone gives you a question of whether it qualifies or isn't. So I think the question is any pathologization and the negative sense of disability is a problem for LGBT people as a whole to begin with because the question isn't pathologized, it's why having a medical condition is a problem to begin with. Like the whole we are not crazy, well, if you work, what's the problem with them?

Morénike:

This is Morenike. I just wanted to kind of add to what both my colleagues have shared, because I think that, A, the stigmatization is a problem. The whole oh, well. People will say, "Well, I'm this, but I'm not this." You know, again, this whole idea of needing to pathologize or elevate others or elevate oneself above someone else because of however one feels about oneself and how that just hurts groups. But at the same time, even like the tension in the question I see is that okay, there's the social model, which is in terms of looking at our society overall and looking at the systems, and then there's the medical model, which is you're broken. And then like neither model really captures our true reality. The social model, it does not necessarily make concession for what Victoria was stating that certain things truly can be very disabling or can impact us.

The medical model has its place. So I know that a lot of people are looking at more like the socioecological models or kind of like these interactionist models that are a bit of a hybrid of both that try to eliminate the stigmatizing aspect and affirm difference and disability as an inherent part of humanity as a way of being, while also addressing needs and helping to mitigate challenges or difficulties without seeing those things as some type of just flaw that's just so awful or that needs to be stigmatized. So I think that we need, the ways the systems are right now, we shouldn't need a medical diagnosis to access this or you shouldn't need this or need this or need that. Unfortunately, in the world we live in, we do need those things. And so I think a lot of the paradigm shift until we can change that is how we view those things. You know, like if Victoria was saying, "Okay, so I'm not X, but why is X bad?" You know, we need to fix that. Like, that's in something that's internal that is kind of sadly laden throughout society. And so I think that's an area in terms of the worldview that people have, our lens, our perspective that needs to be addressed more so than the realities of the interplay between medical and social.

Katherine:

Can I say one more thing? This is Katherine. So I think that the ADA and the IDA can be great tools. They're not perfect, but I think they could be good tools. I think where... In the beginning, I said I work a lot in higher education and we use the ADA in order for folks in higher education to get accommodations. And one thing that we look at is we have the tool to get folks accommodations, but how do we do work on the institutional level to change the stigma and perceptions of accommodations for people who still view, for example, accommodations as being like a special treatment or unfair advantage or a fundamental alteration versus how the disability community approaches the ADA and IDA as level the playing field and addressing institutional inequity, right? So I think I understand sort of the fear of using those tools and being pushed into a medical realm, but also I think that those tools, there's a way to conceptualize them through sort of a social model, but that work needs to be done in terms of having people understand, again, that the ADA and IDA are tools for equalizing.

Maddie:

Thank you so much for... This is Maddie, thank you so much for that very robust answer from all of you all. Could we have another question from the Q&A, please?

Laura:

Absolutely. Hey, Maddie, it's Laura, and our third question says, "I'm an intersex activist who works closely with the LGBTQI+ human rights movement, but the core issue impacting our intersex community is the harmful, irreversible and medically unnecessary surgeries done on intersex infants and children. It's an issue that intersects with reproductive rights, children's rights, and I think disability rights, particularly around the issues of parental consents. However, here today, this panel is not even including the I when talking about LGBT. Thoughts? Thanks."

Victoria:

So I just want to say that there is an amazing organization called interACT, which focuses on intersex folks in the LGBT community and a few of the people involved in it. And maybe that would be a topic for another panel of that intersection. But I don't dare go beyond because I'll admit, I'm not an expert and that is admittedly not one of the big topics in this panel, what this set of panelists is good for.

Claudia:

This is Claudia. I also am not an expert, but I think it's an incredibly important topic and I think what would be helpful or might be helpful is to, and this is probably already being done, but for the parents of intersex kids who are supporting the right way to raise and care for intersex kids, which is to not do these unnecessary and harmful surgeries on infants and small children for those voices to also be elevated, at least in our community and in the trans community, the supportive parents have been really important. And so the supportive parents of intersex kids might be another way to try to stop these surgeries that are really harmful. But also, I shared my email in the question and I'd be happy to talk offline about how DREDF might be supportive.

Maddie:

Thanks all. Could we please have another question from the Q&A?

Robin:

All right. Hi, Maddie, it's Robin again. So our next question is, they have been able to recycle and use the same arguments in large part because queer communities left out or kicked out trans communities throughout the years of advocacy just as queer/trans communities have excluded disabled people. How do we build coalitions across identity and stop that cycle?

Katherine:

This is Katherine. I mean, I'll start us off. I don't think I have the best answer, but my experience in leadership is what I said earlier. We need to just continue to make sure that we're centering and promoting leadership of people who have been excluded within these spaces. And then when we in our communities see or hear something problematic that we're calling out or calling in folks who are discriminating against people within our communities or kicking out people within our communities as your question states. And I've seen this happen, you know, and I think we could be better at it. So yeah.

Maddie:

This is Maddie, and I'm gonna take off my facilitator hat for a second and put on my little panelist hat for a second and add to this question as well, because a lot of the work that I've done has kind of been specifically on cross movement organizing, especially the inclusion of disabled folks within other communities who aren't necessarily trying to exclude folks, but by means of not knowing about accessibility or disability inclusion and care and disability justice have just inadvertently or unintentionally left disabled folks out. So I always encourage, I know this is coming from the disability perspective and then asked for both, but I think when we're talking about advocacy, making sure that we're considering how advocacy is accessible for all folks to participate and in what ways they're able to participate is really, really important.

And as we continue to build coalitions moving forward, ensuring that folks with a variety of disabilities are able to show up in a way that's accessible for them is important. Whether that's through digital organizing, with accessibility, or continuing to be COVID conscious as someone who has long COVID. You know, a variety of things. Physical accessibility, web accessibility, there's a whole host of disabled folks who are such great resources on these topics, and I really encourage just generally, more accessibility and disability, wellness-centered organizing and community building. And with that, thanks y'all for letting me jump in. Can we have another question, please?

Tony:

Sure, Maddie. This is Tony. Thanks for your perspective just now. This fifth question asks, "How do we effectively address ableist intersections within LGBTQIA+ populations and communities without first discussing medical and charity models of disability and how these flawed models encourage both lateral ableism and lateral queerphobia, which in turn leads to the policing of all forms of non-conforming bodies and brains?"

Victoria:

So I'm a big fan of the concept, and I'm sorry about the cat. This is Victoria, her name is Claire. But what I was gonna say is then, one issue that we need to keep going is the topic precisely lateral ableism. I sometimes call it hierarchical ableism because again, it goes back to the idea of the photogenic white guy in a wheelchair is the image of what we see in the disability movement, and then we sound all the more stigmatized disabilities around mental health disabilities, like intellectual and developmental disabilities. And that also gives us the problem of how that applies to LGBT people and how the image, I would say, one small curse of our going mainstream in acceptance is that we created the image that we accepted into society of the LGBT community is essentially the one that if it were a person, would be a Bank of America pride flown. And I think that is the future, the equivalent. And by the way, Katherine, I love the dog. But what I would say about the future, I think that is a very likely future in trans advocacy where we end up creating sort of like we did with the marriage movement, the whole white picket fence, just like your neighbors marketing, something along those lines of how does trans identity look within the framework of respectability politics, but yeah.

Claudia:

This is Claudia. There's something about that question that makes me think about the young adults that I know who are trans and who have disabilities and how they talk about their identities and their space in the world and that they take up their space. A lot of the young people coming up. And I mean, this is again going back to the it might get better, it might get better. I feel like these young people, they're not going back. And so the world is not kind, but they're here and they're gonna be trying to pull down the barriers, and hopefully, we're gonna be helping them.

Maddie:

Thank you. That's an awesome answer. Could we please have the next question?

Laura:

Sure, Maddie. Our next question raises, "Could our rights-based model more effectively frame this policy work rather than a primarily social model for disability and human rights and equity?"

Victoria:

I mean, I would say, and I think I have the question about how much time are we planning to take, but I would say we need not that, but a justice-based model basically where we focus on social justice because rights, I think of just the legal rights basically, and that's the easy part. Getting the income, the paper is the easy part as with no disrespect to all my fellow lobbyists and to the litigators for that matter, who get the law named. But the societal change that needs attached when is the hard part in many works.

Claudia:

Yeah, this is Claudia, I tend to agree with Victoria. I think that the disability rights movement has focused on rights because we had success in rights and rights are really important. And now we're here trying to think more about equity and access and things that cost money, and that means defending the Affordable Care Act and making sure that people can have insurance, and well, trying to strengthen it, so that the insurance actually covers things. And yeah, so I think rights is, at least on the disability side, tends to be our history, and we're trying to figure out how to broaden it, I think. I'll try to show my animal.

Katherine:

This is Katherine. Just as an image description, my beagle has popped up into the screen. Sorry about that.

Victoria:

I love beagles.

Katherine:

I have two.

Victoria:

I have a bigger hound, a fox hound, so like a beagle, but huge. But I think when I adopt again, it'll probably be a beagle. I've fallen in love with hounds, but I need it to be smaller.

Claudia:

Claudia is showing her lab pit dog, black.

Maddie:

I love this. As we pull up, what I think is our final question, I will let in my dog, and we will ask the question.

Robin:

All right. Hi, everybody, this is Robin. What is the current situation on diminishing disability definitions decisions under the ADA?

Victoria:

I think that's more a question for Claudia or for the dog.

Claudia:

Well, I would say, in the disability law world, especially since the ADA Amendments Act of 2008, we have gotten more coverage of people as having a disability under the ADA, but that doesn't mean people necessarily win their case. I think that then the battle kinda moves to the other parts of the law. So the judge might say, "Okay, okay, this person has a disability, but they weren't a qualified worker or what they wanted was a fundamental alteration, or it wasn't reasonable." So I think we've managed to resolve some of the barriers for disability coverage for a lot of disabilities. Not all of them, but a lot. But it doesn't mean that sort of the battle moves to the other places in the law. So for example, with the gender affirming care, most of those are going under gender and not disability, but then you have to convince the judge that it wouldn't cost too much to cover gender affirming care. Like that's where you end up. But I think that the Department of Health and Human Services has tried to be strong on this issue, and hopefully, the new regs will come out soon.

Katheine:

Yeah. This is Katherine. And maybe this is not responsive to the question, but you made me think of something, Claudia, too is while we do get past the first test with the amendments of more people being included, I think specifically of people with non-apparent disabilities or like psychiatric disabilities, and in higher education for the last decade or so, a big issue for us is like, what type of accommodations?

Claudia:

Yeah.

Katheine:

And so that seems to be what I'm seeing are pushbacks on types of accommodations for people who traditionally, we didn't conceive of with the passage of the ADA.

Claudia:

Yeah.

Maddie:

Well, I believe this... Sorry, this is Maddie. I believe that was our final question, and either way, we're kind of at time, so I wanted to take a few moments to thank our panelists. Unfortunately, Simone had some tech issues and Morenike wasn't feeling well, so they had to leave a little bit early. But I appreciate all five of you for being panelists on this topic. I think you all shared such important insight that truly will help people within disability rights, LGBTQ rights, organizing, activism, or just folks interested in learning about the intersection, kind of get a better understanding of how this all has shaped up up until this point and where we can go moving forward. And I'm gonna send a quick message in the chat that just reads, "Thank you everybody for attending." Like I mentioned at the beginning, this webinar has been recorded and will be available on our YouTube channel later this week. Additionally, after the webinar ends, you'll receive a survey in your email, and we'd really appreciate it if you could fill it out. It just will help us understand how things went and offer you a chance to give your feedback. Lastly, if you're a person with a disability living in Florida and you feel that your rights may have been violated, you can apply for help from Disability Rights Florida. You can apply online at our website, if one of the other DRF folks can put that in the chat, at disabilityrightsflorida.org, or you can call us at 1-800-342-0823. And thank you all so much for being here this evening. Yeah, I appreciate everybody, and hope you have a great evening.

Keith Casebonne:

Thanks so much for tuning in to this bonus episode. We really hope you enjoyed it.

Maddie Crowley:

Yeah. And like we said before, you can watch the webinar itself on YouTube, so we'll be sure to link to that and the participants' work in the show notes so that you can learn more.

Keith Casebonne:

Yeah, sounds great. Please subscribe to the podcast wherever you're listening so you get notifications about when new episodes drop. And apparently, they'll be dropping sooner than we thought.

Maddie Crowley:

Oh, my gosh.

Keith Casebonne:

I know, we're busy, busy, busy people. We are on all the podcast platforms, and you can also listen or read the transcript of each episode on our website at disabilityrightsflorida.org/podcast.

Maddie Crowley:

Yep. Thanks for listening, and as always, please email any feedback, questions, or ideas about the show to podcast@disabilityrightsflorida.org. And again, happy holidays and have a happy new year.

Announcer:

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