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Surviving Homophobia: Overcoming Evil Environments¹

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Thinking about the evils of homophobia has deepened my understanding of evils, both their harms and their agencies.² It has led me to acknowledge yet a further kind of evil besides the evils of individual deeds, social practices, and social structures. That further category is evil social *environments*. I now find the concept of evil environments helpful, even necessary, to understand the evils of homophobia and what is required to survive them. Jeremy Waldron's work on the harm in hate speech has been an important catalyst for my appreciation of evil environments (Waldron 2012). He argues that hate *speech* can poison a social environment. That kind of poison, I find, has sources also in certain hate *crimes* other than words, including homophobic crimes.³ Recognizing that there are evil environments enables me to understand better the "phobia" in homophobia by orienting me more to the world around us than to psychological worries inside us.

Homophobia is an umbrella concept that encompasses many evils, ranging from severe ostracism to murder aggravated by torture. I define evils as reasonably foreseeable intolerable harms produced (maintained, aggravated, etc.) by inexcusable wrongs (Card, 2002, 2010). So understood, evils have two irreducibly distinct basic elements: an agency element (inexcusable wrongs) and a harm element (intolerable harms), linked by reasonably foreseeable causality. The noun "evils" (plural) is fundamental in my account; I treat adjectival uses of "evil" as derivative. An evil intention, for example (not an evil unless it succeeds), is an inexcusably wrongful intention to do reasonably foreseeable intolerable harm; an evil practice (an evil if actualized and

not just an idea) is one for which there is no moral defense (is morally inexcusable) and which does reasonably foreseeable intolerable harm. My motivating interest is not in labeling persons or governments. My interest is in identifying the evils of deeds, practices, social structures, and now, environments as well.

Atrocities are my paradigms of evil because in them the elements of evils are writ large. "Writ large" does not always mean massive. Atrocities are extreme in their cruelty, inhumanity, or degradation. They are often massive in scope as well. But a single murder can be an atrocity, for example, the 1998 murder of forty-nine year old African American James Byrd, Jr. in Jasper, Texas. Three young white men tied him to the bumper of a truck and dragged him down a country road to his death. His body was found in pieces.⁴

That there is no excuse, no moral defense, does not mean there is no reason or explanation. Rather, it means those reasons carry no moral weight. A reason that might carry moral weight for some deeds, or in some contexts, may carry none in others. That someone truly in need would be helped is often a reason that carries moral weight, but not for killing an innocent wealthy person.

Evil environments are brought about by (and also give rise to and support) evil deeds and practices but are not entirely reducible to them. Like an evil practice that is morally indefensible, an evil environment can be sustained by activities that are partly morally defensible. Some evil deeds, such as issuing certain credible threats, can provide a partial moral defense (excuse) for others' choices that contribute to an evil environment, choices they would otherwise not have made. For example, Aristotle's illustration in Book III of his *Nicomachean Ethics* of "things that are done from fear of greater evils or for some noble object," as "if a tyrant were to order one to

do something base, having one's parents and children in his power, and if one did the action, they were to be saved, but otherwise would be put to death" (Aristotle 2009, p. 38). The subject who obeys the tyrant has at least a partial moral defense. In contrast, there was no moral excuse for Hitler's deportation and slaughter of the inhabitants of lands that he took over in order to create more *lebensraum* (living space) for ethnic Germans.

Evil environments encompass not only what people do but also what they feel even when they do not appear to be doing anything, both reasonable and irrational feelings. Our feelings affect what we are apt to notice, our willingness or unwillingness to take various initiatives, and so forth. Evil environments invade the sensibilities of their inhabitants, transients, and visitors.

In what follows, I present and build upon Waldron's account of the harm in hate speech, extending that account to certain hate crimes that, like the written word, send a lingering social message. I then consider four women survivors of homophobia in relation to such harm. Two who wrote memoirs had been targeted for murder, one in an evil environment, the other in a more positively responsive environment. The remaining two survival stories are less dramatic. But they are important in how they illustrate ordinary challenges faced successfully by lesbians and gay men in emotionally toxic environments. Finally, I reflect on the meanings of survival and some of the costs of surviving an evil homophobic environment.

Building on Waldron's Account of the Harm in Hate Speech

In *The Harm in Hate Speech* (2012), Jeremy Waldron analyzes certain harms wrought by hate speech that lingers in an environment. The speech he is concerned about is less the spoken than the written word – for example, signs in restaurant windows that say, "Jews and Dogs

Prohibited” (Waldron 2012, p. 2). Writings can stay around to become part of an environment, whereas spoken words are less likely to leave a lasting imprint (Waldron 2012, p. 37)). Speech in the form of written and posted announcements send potentially dangerous messages that undermine an important public good. The endangered public good, in our multi-ethnic, multi-racial, religiously diverse society, is that “sense of security in the space we all inhabit” that consists in the assurance that “each person, each member of each group, should be able to go about his or her business” with “no need to face hostility, violence, discrimination, or exclusion by others” (Waldron 2012, p. 4). Speech that undermines this public good does not merely express the speaker’s feelings. As Waldron puts it, hate speech “creates something like an environmental threat to social peace, a sort of slow-acting poison, accumulating here and there, word by word, so that eventually it becomes harder and less natural for even the good-hearted members of the society to play their part in maintaining this public good” (Waldron 2012, p. 4).

Such hate speech, Waldron argues, communicates the message that members of certain groups are unwelcome, and worse: that they do not deserve the basic respect of citizens in good standing. In so doing, it announces to whoever “out there” may share those sentiments, “You are not alone” (Waldron 2012, pp. 2-3). Unless countered, that message can have a “normalizing” tendency, legitimating the like sentiments and prejudices of others. This normalizing has consequences: it makes overt harm more likely and assistance to victims less likely. It carries the suggestion that together, the like-minded may be able to further implement their sentiments to exclude the unwelcome. Such speech is a tool of recruitment.

Waldron points out briefly that, historically, hate *speech* legislation and hate *crime* legislation have raised different issues (Waldron 2012, p. 35). The roles of hate have been

different in each. In crimes, hatred has been relevant as a motivator, anterior to the crime. In speech, what is at issue is the arousal, encouragement, and exploitation of hatred in others, an intended or foreseeable consequence. In the one case, hatred is antecedent to a crime and found in the perpetrator; in the other, it is an intended or foreseeable consequence that hatred be encouraged and ratified in others.⁵ Reprehensible motives need not make a crime more harmful than otherwise similar crimes. But hate *speech* introduces new harm in the ways that it reaches out to others.

And yet, some crimes – the dragging murder of James Byrd, Jr., for example – even without explicit words, also encourage hatred by the messages they send. They are not merely expressions of the perpetrator’s feelings. Cross-burnings at the homes of African Americans are an example of hate crimes that also “speak” and have been treated as speech (as in *R.A.V. v. City of St. Paul* in 1992). Some hate crimes, like overt hate speech, contribute to creating or maintaining environments in which people who belong to unwelcome groups are not safe. The impact of such crimes can also linger. Some crimes are so violent and memorable that decades later, people who were there at that time still talk about them. Leaving a murdered gay victim tied to a fence post for all to see surely sends a message.

“Homophobic” is not a strong enough term, also not a very apt term, for many of the atrocities that it has been used to describe. It does not capture well enough the hostility in anti-gay hate crimes. Still, the term “homophobia” has caught on and may be here to stay. It does have the advantage of being apt for indicating that what is at issue is not just a deed or practice but an environment – the feelings, beliefs, and attitudes that underlie and sustain individual deeds and social practices. And so, I do use the term “homophobia,” despite some ambivalence. .

What Is Homophobia?

Homophobia is a term embraced now for several decades by gay communities to refer to hostilities they experience from those who think homosexual and other queer conduct are evils. Even murders and attempts at the murder have been labeled “homophobic.” And yet, this usage underdescribes, if not misdescribes lethal hostilities. On my understanding of evils, to justify the belief that queer conduct was an evil, it would be necessary to show that it is inexcusably wrong and does intolerable harm. If such showings are extremely unlikely, we may feel a need to probe beneath the surface to look for what could account for such negative judgments of lesbians and gays and the vehemence with which those negative judgments are held. Enter the phobia hypothesis. Phobias are irrational fears. The hypothesis is that irrational fears underlie anti-gay hostility, especially the fear of being lesbian or gay oneself. Hence, the term “homophobia.”

There are several problems with this hypothesis. One problem is that fears do not fundamentally *explain* the negative judgments of lesbians and gays. Usually, fears *presuppose* negative judgments, namely, that the feared things are dangerous. Second, calling fears phobias medicalizes them, which undermines judgments of responsibility. Phobias arouse in others a mixture of scorn and sympathy for their sufferers. Insofar as the term “homophobia” arouses sympathy with homophobes, it suggests that homophobes have no more control over their emotional responses to gays and lesbians than agoraphobes have over their fears of open spaces. But why would hostility be misidentified as fear?

Perhaps the fantasy of others’ homophobia facilitates illusions of gay power, as in the marvellous “Leaping Lesbians” song from 1977 (which you can hear today on YouTube).⁶ The

fantasy is fun. But it masks gay vulnerability in a society in which dominant religions still teach that homosexuals are damned. If anyone might reasonably be thought to fear, it is lesbians and gays, not those who are anti-gay.

A more likely reason for the misidentification, however, is probably the fear many of us have had to overcome regarding the possibility that we might be lesbian or gay. This fear is often referred to as "internalized homophobia." That term is also usually a misnomer. First, although it can name the real fear that one might be lesbian or gay, that fear is probably not *internalized*. One's fears are, of course, internal. But internalized fears originate in others and are imported. When you identify with abusers (as in the hostage syndrome), you internalize, identify with, their point of view, their sentiments, and so on. But when the term "internalized homophobia" names one's fear of being a pariah, it names a rational, well-grounded fear of others' hostilities, which need not be imported. In a genuinely hostile environment, the fear of others' hostilities is not a phobia. It is a sane *response* to that environment, rather than an irrational internalizing of it.

There is also, however, the very real phenomenon that Max Scheler called "emotional infection" (Scheler 1970, pp. 14-18). This really is internalization. To avoid the medical model and acknowledge that what is internalized is not always bad, I prefer the term "emotional echoing" (Card 1995, pp. 165-68). Like mountain echoes, emotional echoes tend initially to magnify the intensity of what they echo, and they fade gradually with distance from the source. The capacity to echo the emotional responses of others is no doubt on the whole a very good and protective thing. There is probably an evolutionary basis for it. When dangers lurk, there is not always time, or even the capacity, for rational argument. Even babies and many other animals seem to echo the emotional responses of those around them (De Waal 2009).

But when we internalize others' anti-gay sentiments, what we internalize is first of all hostility, not fear.⁷ Fears, of course, may follow, and they may also be internalized. These phenomena suggest a plausible answer to the question regarding the source and intensity of widespread anti-gay hostilities. It is possible to pick up (internalize, echo) the emotional feelings (hatreds or fears, for example) of others in your environment without realizing that you are doing it and without any perception of a cognitive basis for those feelings. It is frightening to ponder the implications of that possibility for the spread of anti-gay hostility in a community. Because such feelings lack a cognitive basis in their echoers, rational persuasion is not likely to change how they feel, although their awareness of the lack of such a cognitive basis has the potential to change some of what they believe and how they act. The Salem (Massachusetts) witch-craze of the early 1690s probably spread at least partly by way of emotional echoing. If so, it may be especially appropriate to think of anti-gay purges as witch-hunts.

I find it more plausible that widespread anti-gay hostilities are due in large part to emotional echoing than that most people who have such sentiments have them as a result of their own irrational beliefs. Many people who are anti-gay still think they have never even known anyone who is gay or lesbian.

Further, it is possible to echo others' feelings even when *you do* realize that this is what you are doing and when you actually *reject* the cognitive beliefs that would have justified the feeling. Here is an example from my childhood. Every summer in our house, a bat would manage to get down from the attic into our living space. When that occurred, Mother would wrap towels around her hair and mine and tremble with me behind a door, digging her nails into my shoulders and saying, "I know this is silly; it is irrational to fear bats; they are probably harmless

and scared of us; you shouldn't be afraid of them." Of course, her demeanor spoke louder than her words. I still carry my mother's bat phobia (occasional bat nightmares), although I believed her even then when she said the fear was baseless. And so, it must be acknowledged that we can echo others' hostile feelings, even while we think their hostilities are indefensible (just as we can feel guilty if accused, even when we know we are not).

Echoed feelings can affect the demeanor and conduct of even the echoer who knows (or believes) those feelings are irrational. I avoid bats as much as possible, for example, and have to remind myself periodically, when tempted to poison any bats that might live in my attic, that bats are an important element in the ecosystem. Still, I do not go out of my way to protect bats. Likewise, failing to support or even protect lesbians and gays, if not actively excluding them from one's environment, may be an automatic response in those whose anti-gay feelings are echoed and incompatible with their own beliefs, even if they know these facts about themselves.

In evil environments evil deeds and practices have widespread support and tolerance. Echoed feelings could account for much of that support and tolerance. Many do not go out of their way to protect those who are endangered by evil deeds and practices. They look the other way. They become ignorant because they ignore. Why would they do that? Perhaps simply because of how they feel, especially if they are not given to critical self-examination.

In such an environment, the default becomes not to inquire into bullying and crimes against members of hated groups, such as questionable deaths that may have been murders or other injuries and losses that may not have been accidental. The most vocal response in such an environment, like the misogynous response to women who are raped, is apt to be that the victim was probably "asking for it." The upshot is that for many young people who belong to defamed

groups and justifiably fear becoming social pariahs, suicide becomes an attractive option.

Statistics and Cases

Wikipedia has some hair-raising entries with statistics on lesbian and gay suicides.⁸ One entry, "Suicide among LGBT Youth," says The Suicide Prevention Resource Center estimates that in the U.S. "between 30 and 40% of LGB [sic] youth . . . have attempted suicide" and that while suicide is the third leading cause of death among 15 to 24 year olds, LGB youth attempt suicide "up to four times more than their heterosexual peers."⁹ *Wikipedia's* entry "Violence against LGBT People" says violent hate crimes against LGBT people tend to be more brutal than other hate crimes. It quotes a handbook as saying "an intense rage is present in nearly all homicide cases involving gay male victims . . . it is rare for a victim to be just shot; he is more likely to be stabbed multiple times, mutilated, and strangled."¹⁰ What is important to me is not the comparative "more brutal than" (I do not know if that is true) but simply the absolute level of brutality, which is more easily documented.

The entries just cited do not break down statistics by gender. But *Wikipedia's* "List of LGBT-Related Suicides" names 24 "notable" individuals, three of whom are female.¹¹ *Wikipedia* also has an entry, "Corrective Rape," about a brutal practice of gang rape in South Africa that targets lesbians (although such a practice could, in principle, also target gay men). In the vast majority of articles that I have found on individuals, both suicides and anti-gay hate crimes, however, all the parties were men. Best known today in the U.S. are the 1998 murder of Matthew Shepard (beaten by other men and left to die, tied to a fencepost in Laramie, Wyoming) and the 2010 suicide of Rutgers University first year student Tyler Clementi (whose male roommate had posted on the internet photos of Clementi in bed with a man). I have not yet found

documentation of anti-gay *murders* by women, although Abu Ghraib photos and videos portray Lynndie England's participation in tortures, some of which appear to play on anti-gay attitudes.¹² But women, as well as men, have been victims of anti-gay murders by men.

And so, in the interests of greater visibility for women, I recently reread two narratives by women who survived murder attempts by men who were unknown to them. One is by Terri Jentz, who was attacked in 1977 in Oregon. The other is by Claudia Brenner, attacked eleven years later in Pennsylvania. Brenner's book *Eight Bullets: One Woman's Story of Surviving Anti-Gay Violence*, tells of her survival and her companion's death at the hands of shooter Stephen Roy Carr, an escaped convict (Brenner 1995). Jentz's beautifully written narrative, *Strange Piece of Paradise* (Jentz 2006), is much longer (over 500 pp) and written after a much longer lapse of time. It tells of how Jentz survived and came to understand the attempted murder of herself and her companion while they slept in a tent on the night of June 22, 1977. In each attack, a white male perpetrator targeted, without warning, unarmed female partners who were engaged in something physically ambitious, not stereotypically feminine, without male assistance or protection and not for the benefit of men. Brenner and her lover Rebecca Wight (who did not survive) were hiking the Appalachian Trail. Jentz and her companion (who did survive) were camped overnight in a small Oregon park near the beginning of what was supposed to be their cross-country bike trip.

The Oregon case never came to trial, was never officially solved by law enforcement. Fifteen years after the crime, Jentz returned to Oregon and through persistent efforts solved it herself. After many interviews and research into legal records and newspaper articles, she identified one Dirk Duran as the perpetrator, long-time resident of the area near the wayside park

where the crime was committed. By then, Duran could not be prosecuted for the crime, owing to Oregon's statute of limitations, which applied to murder *attempts* although not to murder itself. Had either Jentz or her companion died, Duran could have been prosecuted even then. But Shayna Weiss (Jentz's pseudonym for her companion, who prefers not to be named), survived, thanks to quick thinking by Jentz and amazingly skillful surgery at a nearby hospital. Weiss never had any memory of the event and did not want to hear about it from Jentz or anyone else.

Both books present the crimes as hate crimes. What sort of hate crimes is less obvious than the authors seem to think. There are several possibilities. Brenner's narrative tell us she is Jewish and that her lover, the "dark skinned, dark eyed, dark haired" Rebecca Wight, had a Puerto Rican mother and a father who was Iranian and European (Brenner 1995, p. 49). Jentz, originally from the mid-western U.S. and whose life "to that point had been filled with big blondish Germans and Scandinavians," tells us that Weiss, who had "shining dark eyes" and "smooth olive skin," was Jewish (Jentz 2006, pp. 27-29). A question not addressed in either narrative is what role antisemitism or racism might have played in either crime or in the lack of normal follow-up to the crime against Jentz and Weiss.

By his own admission, Stephen Roy Carr targeted Brenner and Wight on the basis of their sexuality, although if he had been raised in a racist or antisemitic environment, his hostilities could have had multiple bases. In any case, he was stalking Brenner and Wight on the Appalachian Trail and had watched them make love. In broad daylight, he fired several bullets into Brenner (including her neck and face), which, miraculously, did not kill her, and two bullets into Wight's back, which proved fatal. Wight's quick thinking enabled Brenner to do what was necessary to get herself to the nearest road and flag down help. All attempts to save Wight, who

could not get up, were futile; doctors said later that nothing could have saved Wight. But law enforcement got right on the case and apprehended Carr, who was then tried, found guilty of a hate crime, and sentenced to prison in Pennsylvania.

In contrast, no one was ever charged in the Oregon attempt. The explanation preferred by law enforcement years later was miscommunication among enforcement agencies. Another hypothesis, which Jentz unearthed, was that for law enforcement, Duran was a valuable source of information on local drug dealers, too valuable to send to prison. But what most stays with me, and what most struck Jentz, is that person after person whom she interviewed said “everyone knew” it was Duran. Everyone knew, and yet, no one came forward. For fifteen years.

Why didn't they? Did they not fear that others might be attacked, if no one were held accountable? Normally, one would expect such a violent assault to provoke fears of repetition, especially if a local person were suspected, and that such fears would elicit community cooperation in identifying the perpetrator, rather than community silence. But if it were widely believed that the targets of the crime were members of a group or groups with which the community did not identify, if hostility or callousness toward such groups were widely echoed in the community, there might be no such fears. In short, an evil environment created by any or all of misogyny, homophobia, and antisemitism could contribute to explaining that otherwise puzzling community silence.

The crime was so violent and shocking that it seems to have left an indelible memory in the surrounding community, as Jentz found when she interviewed people fifteen years later who had lived in the area at the time of the crime. The perpetrator, it appears, had deliberately driven his truck over the tent in which Jentz and Weiss were sleeping. He even stopped the truck for a

little while on top of Jentz's body, breaking many of her bones and leaving tire prints on her flesh, before moving it off. He then got out of the truck with an ax and, after chasing and striking Weiss, who cried out, he came back and attacked Jentz also with his ax, breaking one of her arms and inflicting other injuries. Weiss had tried unsuccessfully to flee, but he caught her and wounded her seriously in the head, exposing part of her brain. She was blind for a time after the surgery that saved her life, and she never regained enough sight to be able to drive a car, although she went on to become a practicing physician.

Jentz does not describe this crime as homophobic, nor does she speculate about whether antisemitism might have played a role. She finds the attempted murder a misogynous hate crime. She documents Duran's hatred of women and his long history of violence against his own intimate female partners. But without using terms like "gay" or "lesbian," she also writes of having had a crush on Shayna Weiss when they were Yale undergraduates. And in the acknowledgments section at the end of her book, she expresses thanks "to my partner Donna Deitch," known to many of us as director of the 1986 film *Desert Hearts*, which was based on Jane Rule's first (now classic) 1964 lesbian novel, *Desert of the Heart* (Rule 1964).¹³ Duran had, apparently, been observing Jentz and Weiss earlier in the day and evening when they set up camp. Jentz wonders whether Weiss was picking up on her romantic feelings and might have been put off by them. Readers of Jentz's memoir wonder whether Duran was picking up on them, or thought that he was.

Probably, most homophobes in the U.S., Britain, or Continental Europe are not gunning for us or aiming to run us over in the night, although we should realize that we do not really know how often homophobia *is* behind or supportive of murder. At any rate, I wanted also a

couple of examples of surviving less dramatic homophobia, where the danger is apt to be of losing one's job, having one's career ruined, or alienating one's family of origin. So I thought of Ellen DeGeneris, the lesbian stand-up comedian much loved by TV watchers in the U.S., and I thought of Sally Ride, the American astronaut who died in July 2012 and came out only in the obituary she had written in advance, naming among the survivors "her partner of 27 years, Tam O'Shaughnessy."¹⁴

DeGeneris survived homophobia by coming out on national television in 1994, first on the Oprah Winfrey show and then having her character do it in her own television series. She risked her job and her entire career in film and television. Thanks not only to her talent and captivating personality but also in part to many others who had come out in other contexts before her, she did not ultimately lose those things. Not that she didn't take a hit. Predictably, the media were relentless. But neither her career nor her relationships with her family were ruined. (And *Wikipedia* says today she is still a multi-millionaire).

But is "survival" an inappropriate concept to apply to DeGeneris, who was not, as far as I know, imminently and plausibly threatened with murder? Is it an even more inappropriate concept to apply to Ride, who did not come out during her lifetime in a way that could have risked loss of her job or career? Is it disrespectful of those, like Jentz and Brenner, who literally survived attempted murder, to count people like DeGeneris, Ride, or like me, for that matter, also as survivors? All of us have (so far) survived homophobic environments in which we could reasonably fear that we might become victims of hate crime and in which we could reasonably wonder how much protection we would have. To clarify how those not directly threatened with murder might still be justly regarded as survivors, I turn to explore further the evil in

homophobic evil environments and then consider what it means to be a survivor.

Homophobic Evil Environments and Hate Crime

Homophobic hate crimes do not necessarily produce or even issue from a homophobic environment, although they can. The two cases of attempted murder presented above illustrate contrasting environments in that regard, one hostile, the other more positively responsive.

Stephen Roy Carr may have come originally from a homophobic environment in Florida, where he had escaped from prison. If so, he found himself in a very different environment in Pennsylvania, one not about to let him get away with murdering members of an unpopular group. In contrast, the part of Oregon where Duran assaulted Jentz and Weiss in 1977 was an evil environment. Duran had a history of violence for which the community had not held him accountable. Much of his violence was against women who talked back or were in other ways perceived to violate feminine norms. Lesbians are still widely perceived by others as women who try to act like men, and women perceived to fit that description are apt to be perceived as lesbian. Duran may have been put off by women so independent. He may have perceived them as behaving as if they were men. Weiss talked back when she tried to flee, which seemed to aggravate his anger. Jentz did not move but used a calm tone, telling him to take anything but just to leave them. Remarkably, he then fled, taking only his truck and his ax.

Two models have been used in statutes to define hate crimes: the discriminatory selection model and the animus model.¹⁵ The animus model makes felt hostility essential as a motive. On the discriminatory selection model, it is sufficient that victims were selected by their (perceived) membership in a certain group. How the perpetrator feels is irrelevant. And so, "bias crime" is more accurate than "hate crime" for the discriminatory selection model. But neither captures the

harm of contributing to the creation or maintenance of an evil environment.

In the past, although I have favored hate speech regulation (and fought a losing battle for it on my campus), I have opposed penalty enhancement for hate crimes (Card 2000). Regarding penalty enhancement, I was not persuaded that hatred of individuals on account of their group membership (religious, racial, national, etc.) was more reprehensible than some other hatreds, such as that of a spouse who batters a partner or the hatred exhibited by Ted Kaczinski, the Unabomber, whose target group for receiving his lethal packages (apparently, developers of high technology) is named in no hate crime legislation.¹⁶ Nor did it seem to me that one could say on the basis of its motivation how much harm a crime does. The most nearly convincing argument I had found favoring penalty enhancement was that offered in a law journal by Alon Harel and Gideon Parchemovsky that what is at issue is a matter of fairness in the distribution of protection to members of vulnerable groups (Harel and Parchemovsky 1999). They assumed that typical hate crimes are committed by members of a more powerful or privileged group against members of a less powerful or less privileged group. The more vulnerable group needs additional protection, which penalty enhancement offers, or is meant to offer. That seemed to me more plausible than arguments that hate crimes were more reprehensible or more harmful than otherwise comparable crimes.

However, in reality, members of vulnerable groups are apt to be just as vulnerable, if not more vulnerable, to crimes committed against them by other members of the *same group* (vulnerable, that is, to horizontal hostility) or by members of other groups that are also relatively vulnerable. Recall who suffered from the riots that broke out after the Rodney King verdict in Simi Valley, California in 1992. It was a white jury that brought in the verdict acquitting the

officers who had beaten King while he lay unarmed on the ground. But it was Korean American neighborhoods, not white neighborhoods, that were trashed by enraged African Americans. And so, there is another fairness issue: how fair is it to enhance the penalties of those who are already especially vulnerable, who have already suffered a long history of oppression, who have been, in effect, already “punished” more than enough? Fairness arguments seem to cut both ways.

After reading Waldron’s analysis of the harm in hate *speech* and putting together his analysis of lingering hate speech with Jentz’s narrative of the unsolved brutal crime that still reverberated through the environment in which it was committed, I have had to rethink my critique of penalty enhancement for hate crimes. I had not taken into account the harms Waldron identifies in hate speech. I had not taken into account the legitimization (“normalization”) and recruitment factors and their undermining of the public good of security in our person as each of us “goes about his or her business.” Or that tacit announcement to others “out there,” who may share the hostile sentiments, *that they are not alone* and the pragmatic implication that together those who share such sentiments might be able to translate their sentiments into effect action to exclude members of the hated group or groups. Waldron does not apply his analysis to hate *crimes*. But I think his analysis does apply to hate crimes like that perpetrated against Jentz and Weiss. Like hate speech, such a crime “creates something like an environmental threat to social peace, a sort of slow-acting poison, accumulating here and there, word by word, so that eventually it becomes harder and less natural for even the good-hearted members of the society to play their part in maintaining this public good” (Waldron 2012, p. 4). The environment of 1977 in that part of Oregon, which had tolerated not only the crime against Jentz and Weiss but also widely known domestic violence, was one in which “even the good-hearted members” of

society did not “play their part in maintaining” the public good of basic security and respect. Such an environment was poisoned not just “word by word,” but “act by act” with no accountability. Acts, too, can send intended and foreseeable messages that serve to recruit like-minded others. Jentz’s persistence in exposing unpleasant truths sent a powerful counter-message that should have been sent years before by law enforcement.

Although I was not thinking about a possible connection with hate crime and penalty enhancement, I used the recruitment argument myself a couple of years ago when Bradley Smith, the notorious Holocaust debater, ran an ad in my campus’s student newspaper.¹⁷ The newspaper editorial staff did not like the ad but was unable to see how they could justly refuse to publish it. I argued then, in a class I was teaching on moral philosophy and the Holocaust, that the issue was not really the marketplace of ideas in which everyone is searching for the truth but, rather, speech that functions to recruit antisemites. That function distinguishes hate speech of the sort that Waldron is concerned about from other unwarranted expressions of equally intense hatreds.

The same, I now argue, is true with regard to many hate *crimes*. The Unabomber was not dangerous as a recruiter (he got no visible or worrisome uptake). Domestic batterers are not recruiters. Horizontal crimes within a vulnerable group are not recruitment tools. But racists and those who hate on the basis of ethnicity, religion, gender, nationality or sexuality are not just expressing their sentiments and harming immediate victims. They are putting out messages that pollute the environment, undermining the basic security of everyone in the hated groups, and recruiting like-minded others. As Waldron puts it, they are undermining a public good. Recall the *Wikipedia* entry cited earlier noting that anti-gay hate crimes are often very brutal. They are much more brutal than would be necessary to send a message simply to the victim. It is as

though they were meant to leave an enduring impact on the environment, to signify to others, not present at the scene of the crime but who may share relevant sentiments, that they are not alone and that together they may be able to rid society of perverts, at least force them into hiding. Such crimes send a message to potential victims as well, members of vulnerable groups, that they may be next. The resulting basic sense of insecurity and fear of intolerable harm among potential victims can lead to their moral paralysis or worse, a matter to which I return in the final section below. The only likely fear on the part of perpetrators is the fear of getting caught.

The result in the case of anti-gay hate crimes is an evil environment permeated by credible threats of harm to anyone who is or might be perceived as lesbian or gay or as supportive of lesbians and gays. Credible, pervasive threats of harm are themselves harms. The environment in Nazi Germany between 1933 and 1945 was an evil environment. So was the environment in 20th century states of the U.S. where the Ku Klux Klan was active.

Jentz finds the local culture deeply complicit in the failure of law enforcement even to regard Duran as a suspect. The prevailing attitude in that locale was hostile toward women out at night without male protection, as though they were "asking for it." A decade and a half later, community sentiments were beginning to evolve. But when Duran was eventually arrested, it was "on a kidnapping charge, among others, after he allegedly fired two rounds from a handgun and pointed the weapon at his hunting partner" (Jentz 2006, p. 467). This time he was convicted and sentenced to prison, although for a shorter term than attempted murder would have garnered.

We are now in a good position to return to the question whether DeGeneris and Ride should also be considered survivors.

Surviving and Survival

Surviving is ambiguous, first, between (i) outliving and (ii) being undefeated so far. Literally, to survive is to live beyond. Obituaries list survivors of the deceased. Outliving a danger implies that the danger is over. Although Brenner and Jentz outlived the attacks, none of Brenner, Jentz, DeGeneris, or Rider outlived homophobia. Homophobia is not yet a thing of the past. Yet each, in various ways and with varying degrees of success, resisted being defeated by homophobia, another form of surviving.

It might seem, at first, that survival is never a matter of degree. Unless you are Mark Twain, either you are dead or you are not. Viability and vitality, however, are matters of degree. And we survive, with greater or lesser degrees of success, many things that are not attempts on our lives but that pose obstacles or challenges to important aims and endeavors. We survive ordeals, such as grad school, the tenure track, an election, a job interview, none of which presented mortal danger although they might have defeated important ambitions. Sometimes, we barely survive; we survive but with diminished vitality. We cannot be said to have outlived a trial until it is over. But being undefeated allows us to say we are surviving an on-going activity or process. ("How are you doing?" "I'm surviving" – that is, I am undefeated so far.) Here, surviving is simply remaining viable, still in the running. Brenner, Jentz, and DeGeneris are all surviving in that sense, as was Ride, in a society in which widespread homophobia is not a thing of the past but continually threatens to defeat us in various ways. DeGeneris may have out-lived her fear of becoming a pariah, however, when she came out to her mother, to friends, and eventually, to the world of television viewers. Ride may not have outlived her fear of exposure, but she was surviving homophobia for decades by protecting her privacy.

“Surviving” is further ambiguous between an activity (doings) and what remains. As activity, “surviving” refers to exercising skills or judgment that enable you to overcome, or at least keep your head above water. You are surviving when you exercise those skills successfully. Brenner and Jentz exercised judgment that made a life-saving difference. They outlived mortal danger and were also survivors in the activity sense. But as to what remains, you are a survivor as long as you are preserved, whether by your own efforts, those of others, or sheer luck.

Were Brenner and Jentz unproblematically survivors in this *remainder* sense? What did they manage to preserve? Jentz’s companion lost much of her capacity for sight. Jentz and Brenner were both seriously injured. Neither says very much about the costs of their survival, and neither says anything, really, about the moral costs. Moral costs of survival in evil environments can range from failures to rise to moral challenges (such as opportunities for protest) to outright betrayal of others and complicity in maintaining the evil environments from which they suffer (a matter to which I return shortly). Jentz does write about the psychological costs of her post traumatic stress. And both Jentz and Brenner say enough to convey that the physical costs were major.

What are some common moral costs of surviving homophobia?

The Costs of Surviving Homophobia

Brenner lost her lover, whose quick thinking helped to save Brenner’s life. Jentz and Weiss lost the special friendship that they had before the bicycle trip. But a difference between Jentz and Weiss regarding the costs of survival may be as follows. Almost three decades later, Jentz thanks her same-sex partner with an acknowledgment at the end of her book. Meanwhile,

Weiss married, had children, made no effort to keep in touch with Jentz, and wanted not to know the details of what happened on that fateful night. Possibly, she just wanted to be spared the distress of confronting the past. Such a crime would raise for many who are Jewish the spectre of antisemitism and lead to maintaining a low profile, especially if no one is ever charged with the crime. Many people would also have feared being disfigured by a homosexual identity in a society that brands same-sex intimacy as sick, perverse, ridiculous, and so forth, hardly an asset for an aspiring physician. Costs for Weiss may have included not only her friendship with Jentz but the viability of intimate same-sex relationships in her future and the ability to live as openly as she might otherwise have liked. Being unable to live openly can lead one to be silent on matters one would otherwise speak up about. Such silence can verge on, or even constitute, complicity in maintaining an evil environment.

Brenner's and Jentz's experiences are from a post-closet era. It is because Brenner and Wight were as open as they were – making love in the sunshine – that they were easy targets for a hostile shooter. For Jentz, also, closets were not the issue. Her worries, when she sensed Weiss emotionally withdrawing, were about whether Weiss sensed her feelings, whether she reciprocated them, and so forth. Jentz indicates no worries about third party hostilities. But for many lesbians and gays in the U.S. prior to 1969, survival of homophobia meant living in a closet – the closet in one's head, a real life closet with room for two and a few trusted friends, or an underground community (usually one that met in bars).¹⁸ Post-1969 relative openness and acceptance, however, are luxuries enjoyed by a relative minority of the world's lesbians and gays. For most, closets are not a thing of the past. The week of the death of astronaut Sally Ride (July 2012), my town's local newspaper carried an article on the controversy over her decision to

come out only in her obituary. The article noted that “according to the LGBT Movement Advancement Project, adults aged 30-54 are 16 times more likely to be closeted than those under 30.”¹⁹

Closets, and their flip side, “passing” (for lesbians and gays), can impose heavy moral costs. For lesbians and gays who pass as straight, thanks to their highly developed concealment skills and habits, there is a loss of spontaneity and candor. One develops caution and reticence. Some of that is all right. Spontaneity and candor are not necessarily virtues. But spontaneity is a central ingredient of playfulness. Loss of playfulness is a detriment to lover relationships. It can be fatal to a career as a comedian. Ride, apparently no comedian, chose caution.

With constant concealment, there is apt to be also a loss of trustworthiness. We who become expert liars and deceivers are apt to develop at the same time habits of self-deception. It is easier to avoid getting caught in our lies or betraying ourselves if we lie to ourselves, too. Truthfulness is not always a virtue, either. But a habit of being truthful is central to trustworthiness. Lack of trustworthiness is also a detriment to intimate relationships.

Trustworthiness is important, however, not just in relationships of intimacy but also in regard to our conduct toward others. A danger of passing is that the lies, deceptions, and betrayals we may resort to in order to keep up appearances will not be only about ourselves. We may find it necessary to deny knowing and keeping company with others who are not so closeted. We are apt to find it necessary to deceive others about our partners. Some go further and laugh at homophobic jokes or even volunteer anti-gay sentiments. The height of betrayal comes when we use our power to bring down other gays and lesbians, in hope of deflecting suspicion from ourselves, as former F. B. I. Director J. Edgar Hoover has been suspected of

doing by some of his critics.²⁰ When that point is reached, we are not just surviving a homophobic environment; we are actively helping to maintain it. What survive in the remainder sense now are at best what Primo Levi would have called gray figures, those who are targets of evil but also complicit in maintaining that evil (Levi 1989, pp. 36-69).

For some, an alternative to the closet as a strategy for survival, which serves some of the same purposes without those costs, is separatism. Separatism has the advantage of not requiring systematic deception and continual attention to the hostilities of others. Separatists need not live in a geographically separate space. But they withdraw energy, attention, and resources (time as well as money) from hostile and potentially hostile others and re-direct their energies and so forth toward projects and activities with friendly others.²¹ Separatism is a way to protect against the dangers of echoing homophobia in an evil environment. But a significant danger of this strategy of survival is the risk of being caught off guard by others' hostilities, failing to perceive their murderous intentions before it is too late. And a significant problem for those who confront multiple forms of oppression is with whom to make one's alliances.

In *Twilight of the Idols* Nietzsche wrote, "What does not destroy me makes me stronger."²² Taken as an empirical generalization, that is naïve. What does not destroy us often leaves us debilitated or worse, as Nietzsche's insanity left him. Oppression is not generally strengthening. Its tendency is to stunt development (as Nietzsche well knew). But as a personal commitment Nietzsche's pronouncement makes good sense: what might have destroyed or weakened me is what I can be committed to turning into an asset. Writing a memoir and solving a mystery are ways to do that. Surviving can motivate us to become politically conscious and critical. Being a political activist, of course, has its own risks: unless enough others join us to

bring about social change, we may find ourselves whistling in the wind. Still, political activism seems the best alternative to living in a closet, when there is some basis for reaching out to whoever else may be “out there” who shares your sentiments. If hate crimes can serve to recruit haters, political activism can serve to recruit resistance. Harvey Milk understood this when he addressed the masses by saying, “I come to recruit you!”²³ When law enforcement fails, political activism can send some of the message that should have been sent by law enforcement. This approach might at first look like fighting fire with fire. But I think it is not – at any rate, not fighting hatred with hatred. I think of it in more of a Nietzschean way as turning what might have destroyed you into an occasion for building strength, making involuntary benefactors of your enemies.

A survival strategy that is better regarded as fighting fire with fire would be for members of groups that are targets of hate crimes to arm themselves with the lethal weapons that perpetrators have used to carry out their deeds. From the standpoint of the individual, this response appears morally justifiable, a matter of self-defense. Rules and practices, such as disarmament, that are justifiable or even mandatory when others’ goodwill can be presumed can be suicidal in contexts where potentially lethal ill will is coupled with power. Recall that the women in Oregon and Pennsylvania were unarmed. It is tempting to think it unlikely that a shooter or ax wielder would attack lovers or cyclists presumed to be packing lethal weapons of their own. It is tempting to think that were armed women attacked, they would at least have a fighting chance to defend themselves.

That may be wishful thinking. Recall that Wight was shot in the back and that Jentz and Weiss were attacked while asleep in their tent. Duran was eventually convicted of crimes

committed against a fellow hunter, who was no doubt armed.

A more defensible answer to the threats of homophobia emerges from reflecting on the moral costs of trying to fight fire with fire in this way. What does this strategy preserve? What alternative kind of environment does it support? Is that environment a moral improvement over a homophobic evil environment? Or is it just a different kind of evil environment? Even if one outlives one's particular enemies, there is still a risk of being defeated by them. To push the metaphor, when you fight fire with fire, the earth is still scorched. The most promising strategy for surviving homophobia – that of Ellen DeGeneris and Harvey Milk – is to work on *changing the environment* from one that is evil to one that is respectful and safe, if not positively friendly – in short, to make it possible that at least some of us *will* actually *outlive* homophobia.

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Notes:

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1. I am grateful to Shlomit Harrosh and Roger Crisp for helpful comments on an earlier draft of this essay and to Kathryn Norlock, David Concepcion, Naomi Scheman, and others in audiences of the Society for Lesbian and Gay Philosophy session at the Society for Phenomenological and Existential Philosophy Convention in Rochester, New York (Nov. 2012) and at the Central Division American Philosophical Association convention in New Orleans (Feb. 2013) for stimulating discussion of a much shorter, earlier version.
 2. The present inquiry lays groundwork for a chapter in my larger project of a book on surviving atrocities, the third in my trilogy on evil. In writing the second volume of that trilogy (Card 2010), which reflects on the agency of responders to evils, I had to modify the definition of evils proposed in my first volume (2002). So it is not surprising to find that I may have to modify or amplify my account of evils once again, as a result of reflecting on issues for survivors.
 3. Hereafter, I omit the “(other)” in using the term “hate crime,” since in the U.S., unlike in a number of European countries, hate speech is not criminalized (but is deemed protected under the First Amendment to the U.S. Constitution). When I use the term “hate crime,” it can be assumed not to include hate speech. Waldron, who means to persuade a U.S. audience that the harms of hate speech deserve to be taken seriously, follows that usage as well. Ultimately, however, I want to problematize the assumption that hate crimes do not also “speak.”
 4. For an account of this crime and the aftermath, see Temple-Raston 2002.
 5. On ratification, see Kutz, 2007, p. 293.
 6. “Leaping Lesbians” is sung by Sue Fink on the Olivia Records 1977 album, *Lesbian Concentrate*, and by Meg Christian on her 1977 Olivia Records album, *Face the Music*. Both can be heard on YouTube. I do not know whether it was Sue Fink or someone else who wrote it.
 7. The same point probably applies to much of what is called “internalized anti-Semitism,” “internalized racism,” and “internalized sexism.”
 8. Many *Wikipedia* sites also have bibliographies with references to formal studies.
 9. All *Wikipedia* entries cited were accessed in July 2012. “LGBT” = Lesbian, Gay, Bisexual, and Transgender.” “LGBTQ” adds “Queer.”
 10. That description of murdered gay men reminds me of some descriptions of lynchings of black men in the U.S. during the first half of the 20th century and of testimonies of death camp survivors who witnessed the torture of others who were then murdered.
 11. Are fewer lesbians “notable”? Or do fewer commit suicide?

 12. See Eisenman 2007, the DVD “Taxi to the Dark Side,” and *Wikipedia*’s entry on Lynndie England.
 13. Jentz, p. 542.
 14. Sally Ride’s full-page obituary appeared in *The New York Times*, 24 July 2012, pp. A1 and B8. The penultimate paragraph notes that “Dr. Ride is survived by her partner of 27 years, Tam O’Shaughnessy.”
 15. Frederick M. Lawrence, *Bias Crimes under American Law* (Cambridge, MA: Harvard U. Press, 1999), pp. 29 ff.

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16. Partner battery is a serious problem among both same-sex and heterosexual unions and cannot be assumed to be always a misogynous crime.
 17. Bradley Smith is former director of the Institute for Historical Review and founder of the Committee for Open Debate on the Holocaust.
 18. Nineteen sixty-nine was the year of the Stonewall uprising, when gays fought back against the police who raided the Stonewall bar in Greenwich Village in Manhattan. That event marked a turning point in gay activism in the U.S.
 19. David Crary, Associated Press, "Ride Sparks Posthumous Debate about Coming Out," *Wisconsin State Journal*, 26 July, 2012, A9.
 20. See, for example, Gentry 1992.
 21. See Marilyn Frye, "Some Reflections on Separatism and Power" in Frye, *The Politics of Reality: Essays in Feminist Theory* (Trumanburg, N.Y.: The Crossing Press, 1983), pp. 95-109.
 22. Friedrich Nietzsche, *The Portable Nietzsche*, trans. Walter Kaufmann (New York: Penguin, 1976), p. 467.
 23. Thanks to David Concepcion for reminding me of Milk's speech.