

(Same) Sex and the City

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Luke A. Boso, *Urban Bias, Rural Sexual Minorities, and the Courts*, 60 **UCLA L. Rev.** 562 (2013), available at [SSRN](#).

Places of transformation and constant activity, cities have always loomed large in the cultural imagination. Clark Kent left the cornfields of Smallville for Metropolis, and in the process, discovered his true identity as Superman. Carrie Bradshaw fled to New York City, where she discovered Manolo Blahniks and (after some false starts) true love. The tale of escape from rural life to urban opportunity is not merely one that plays out in fantasies. Instead, such migration accounts for large-scale demographic shifts in American society. In the first half of the twentieth century, African Americans fled the racism and parochialism of small Southern towns for the (relative) freedom and opportunity of Northern and Western cities.

More recently, cities have figured prominently as sites of LGBT identification and acceptance. Consider the popular “It Gets Better” campaign, which aims to combat the feelings of isolation and despair that LGBT youth often face. Premised on the idea that coming out and assimilating into a welcoming LGBT community are integral for a happy adulthood, It Gets Better often assumes that LGBT persons seeking a “life worth living” will do so in the cosmopolitan confines of an urban metropolis. Indeed, in one ad, Michael Bloomberg, the mayor of New York City, rolls out the welcome mat for LGBT youth. “New York,” he advises, “has always been the place where anyone can go and be who they are supposed to be, regardless of ethnicity, religion, gender, or sexual identity.”

It is not surprising that cities play such a prominent role in the It Gets Better campaign. From San Francisco and West Hollywood to Atlanta and New York City’s Chelsea neighborhood, gay life and culture seems synonymous with urban living. And the presence of mainstream LGBT rights groups in these urban centers also makes clear the importance of the urban in the legal construction of gay life and culture. But if gay rights and quotidian life as an LGBT person depends on city living, what about LGBT people who do not live in cities? How do we reconcile this vision of gay identity with those LGBT persons who lack the financial wherewithal or the desire for metropolitan living? How do these people fit into the dominant social and legal tropes of gay life?

These are the questions that Luke Boso poses in his excellent article *Urban Bias, Rural Sexual Minorities, and the Courts*. As Boso argues, the conventional narrative that privileges gay urbanity is problematic on a number of fronts: First, it is unduly exclusive, directing attention to those privileged persons with the ability (financial and otherwise) to leave their communities of origin to make their way to a city. It also presumes that cities are welcoming spaces for gay arrivistes. It does not account for those who may feel ill-at-ease—or are made to feel ill-at-ease—because of their less urbane manners or their seemingly provincial attachments to religion and family as key sources of emotional support.

Second, though the conventional narrative is essentially one of liberation, it discounts the degree to which city life may not “necessarily liberate poor people or people of color who find race and class hierarchies within gay communities.” To that end, the insistence on the gay urban narrative elides further discussion of these hierarchies and helps to cultivate an image of gay life and culture that is largely white and affluent. This portrait, in turn, fuels critiques of the gay community as socially

connected, politically powerful, and affluent—the sorts of images that stymie efforts to denominate LGBT status a suspect class entitled to heightened scrutiny in constitutional analysis.

Third, according to Boso, urban bias is not simply the byproduct of mainstream gay culture. Judges and other decision-makers further entrench urban biases by “internalizing stereotypes about gay people and gay identity and by explicitly approving the belief that sexual minorities do not belong in small towns.” With this in mind, Boso recounts a number of cases in which judges access the gay urban narrative in ways that penalize rural LGBT people who try to live openly within the confines of their rural settings. On this account, the gay urban narrative impedes non-urban LGBT folk who must depend on their local courts, rather than grassroots activism and high-level impact litigation, to protect and advance their rights.

There is much to admire about this article. In drawing attention to the experiences of rural sexual minorities, Boso takes an intersectional approach, considering the ways in which race, class, education, religiosity, and place all play a role in shaping the LGBT experience. In so doing, he joins scholars like Russell Robinson, who have critiqued the mainstream LGBT rights movement as inattentive to the needs of those LGBT people who fall outside of its white, urban, privileged paradigm of LGBT identity.

But what I most enjoy about this Article is Boso’s subtle critique of the neoliberalist impulse that undergirds the gay urban narrative. As Boso recounts, coming out and moving to a city where one can become thoroughly assimilated in mainstream gay culture has become an expectation of gay life. On this account, one cannot passively wait for a happy ending. In order for it to get better, the onus is on the individual to uproot herself, flee to a city, and immerse herself in the LGBT community. If she fails to do so—or if she cannot do so—she deserves whatever lackluster existence can be wrung from her provincial setting.

In insisting that the individual gay man or lesbian is exclusively responsible for his or her future happiness, the gay urban narrative echoes neoliberalism’s prioritization of private responsibility over public provision. But the trouble with neoliberalism is that its emphasis on private responsibility absolves the state of *any* obligation to provide assistance to individual citizens. And this is Boso’s point. The gay urban narrative makes it incumbent on the individual to take responsibility for transforming her life by relocating to a city. The state is utterly absolved of any duty to provide LGBT people with the tools—anti-discrimination legislation, employment protections, heightened scrutiny for constitutional claims—to live happy and successful lives wherever they are located. Thus while the gay urban narrative is one that sounds in the register of liberation, it may actually limit efforts to advance LGBT rights on other fronts.

Boso’s challenge to think about gay life beyond the city is incredibly timely. Gay urban narratives frame the claims in the two same-sex marriage challenges currently pending before the Supreme Court. Edith Schlain Windsor, the petitioner in *United States v. Windsor*, recounts coming out in New York City in the 1960s, meeting the woman who would become her wife at a dance in Greenwich Village, and living a happy life together until her wife’s untimely death. Likewise, Kris Perry and Sandy Stier, the petitioners in *Hollingsworth v. Perry*, were both raised in non-urban settings—Bakersfield, California and an Iowa farm town—before moving to the Bay Area, where they came out, met, fell in love, and raised a family together.

Boso’s article complicates *Windsor* and *Perry* and prompts important questions. Do these cases—and their trajectory to the high court—depend on an urban setting and the access and privilege available to LGBT persons who reside in metropolitan areas? Do claims for same-sex marriage serve the needs of LGBT people who do not live in cities? Does marriage, like the gay urban narrative, simply affirm the idea that gay people are responsible for their own well-being, letting the state off the hook for more

meaningful public interventions that would improve gay (and straight) life, whether urban or rural? The answers to these questions are not obvious, but Boso's important article provides a useful starting point for a much-needed conversation.

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