

The case of r. v.
fraser: masculinity
and homophobia in
the criminal justice
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“ In 1978 Fraser, a 28-year-old taxi driver, killed Gordon Bjornson in his own home by severely beating Bjornson’s head, face and neck with a brass-headed cane that belonged to the deceased”. (Faulkner 2011) Fraser wounded Bjornson a total of 27 times in the neck, head and face and then left Bjornson to bleed out. After help arrived and took him to the hospital, it was too late as his injuries were so severe that Gordon Bjornson died the next morning. When taken to trial for second-degree murder, Fraser’s defense claimed that he had what psychiatrists call “ homosexual panic disorder” (R. v. Fraser, 1980 p. 507). The judge believed this was a justified reason to attack someone with this excessive use of force and only constituted “ manslaughter or a crime of passion” (Faulkner 2011, 242-243). For the purpose of this essay, I will analyze and explain the roles that hegemonic masculinity, heteropatriarchy and homophobia within our Criminal Justice System played in the unfortunate death of Gordon Bjornson as well as in the trial of Fraser.

Before one can understand the role that the Gordon Bjornson’s sexual orientation played in his brutal murder, one must first become familiar with the concepts of hegemonic masculinity and heteronormativity. ‘ Hegemonic Masculinity’ is defined as the “ socialization, internalization and enactment of dominant ideas about masculinity” (Allspach, 2018). These dominant ideas vary within different cultures but are overall similar throughout society, the main characteristics that are constantly mentioned are aggression, control, assertion and physical strength. In the Canadian context, a hegemonic male is a “ white, middle class, heteronormative, abled bodied male” (Allspach, 2018), the role of a Canadian male is attributed to their masculinity and in

asserted through careers such as being in the police force, a fire fighter, a hockey player etc. These dominant roles are enforced through behavior that is “repeated, adapted, normalized, internalized” (Allspach, 2018) and it is eventually reenacted. These ideas become so popular and dominant in our society due to the way that the media helps to construct violence as a cultural norm. The media “plays a key role in reproducing and producing stereotypes” (Allspach, 2018). Therefore, in order to make us compliant to their views that they demonstrate in their institutions of what a ‘standard’ male should look and act like, they repeatedly portray them as powerful, aggressive and dominant. This manipulation and explanation is the reason that male violence is commonly normalized and validated.

‘Heteropatriarchy’ is defined as when “heterosexism and patriarchy combined ideologies that reassert domination over women and gay and lesbian population” (Allspach, 2018). Essentially, it is a term to refer to the domination of heteronormative society over anyone that is perceived as a ‘threat’. To elaborate, ‘Heteronormativity’ is the principle that “people fall into two distinct and complementary genders (man and woman) with natural roles in life”. (Allspach, 2018). The notion leaves no space for anyone who does not fall into those specific categories and instead asserts heterosexuality as the only “normal” or acceptable sexual orientation. Although this sounds like a ridiculous concept, it is the dominant idea that is constantly promoted in our society. For this reason, people such as those in the LGBTQ community that don’t fit this mold are constantly victimized.

Despite what the judge decided, many believe that Fraser’s actions were a clear example of a hate crime. This bias-motivated and prejudiced crime is <https://assignbuster.com/the-case-of-r-v-fraser-masculinity-and-homophobia-in-the-criminal-justice-system/>

defined as “ everyone who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace” (Criminal Code 319 in Allspach, 2018). An identifiable group can be determined by religious, racial, gender-based or, in Gordon Bjornson’s case, sexual-orientation and gender-identity association. This definition in itself is rooted in religious discrimination, racism, sexism and homophobia as it subconsciously identifies white, heterosexual males as the norm. A breach of peace can vary in intensity and can comprise of anything from threats and harassment to assault and arson. Hate crimes are often very difficult to prove however, when charged, the offender is “ liable to imprisonment for a term not exceeding two years” (Criminal Code 319 in Allspach, 2018). Despite being portrayed as a law designed to protect the rights of all people, the hate crime law is one of the only laws that specifically outlines when a person is not in violation and cannot be convicted. Some would argue that the justice system is basically doing the defense’s job by giving reasons for offenders not to be committed of a hate crime. The concepts of ‘ Hegemonic Masculinity’ and ‘ Heteropatriarchy’ play a key role in this hate crime as Fraser felt that his entire identity as a heterosexual male was threatened when alone with Bjornson, and decided to attack him solely due to his sexual-orientation.

This obvious homophobia that was at the root of Frasers attack is a perfect example of the consequences one may face if they display any signs of subordinate masculinity. When men have “ different positioning in terms of race, cultural behavior, sexuality, class, gender” (Allspach, 2018) they are classified as being ‘ Subordinate’. Unfortunately for Gordon Bjornson, being a

homosexual man does not comply with the hegemonic norms of masculinity, which subjects him (and many other men like him) to an increased amount of discrimination and male to male violence. To combat or compensate for this “lack of masculinity” some men “put on a front to survive whatever masculine environment they’re in, but this comes at a cost of their psychological health” (Tough Guise, 1999 in Allspach, 2018). The ‘masculine’ men that administer this violence are those who believe that, by someone else exercising their human right to love whomever they please, subordinate men are a threat to heteropatriarchy and therefore take it upon themselves to make sure those dominant ideologies for masculinity remain untouched. In this case, the judge “linked a fear of homosexual attack with a man’s sense of identity as a male” (Faulkner 2011), essentially justifying the offenders ruthless attack by stating that, even though he was not in any imminent danger, his ‘manhood’ was threatened. It is somewhat ironic that a concept such as ‘hegemonic masculinity’ that is said to be grounded in so much strength and assertion is so fragile and easily threatened.

By excusing Frasers actions, the judge is primarily placing blame on the victim. The process of labeling a victim is one that frequently seems to be problematic and inaccurate. The legal definition of a victim, according to the Corrections and Conditional Release Act (CCRA), is “in respect of an offence, means an individual who has suffered physical or emotional harm, property damage or economic loss, as a result of the commission of an offence” (CCRA, s. 2, 2015 in Allspach, 2018). Even though this appears to be a clear definition, due to societal norms and the hegemony created through media representations, victims are not always correctly acknowledged.

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This directly links to the ‘Victim Provocation’ theory that outlines the “victim as the initial aggressor and instigator” (Marvin Wolfgang 1994-1998 in Allspach, 2018). In this instance, Gordon Bjornson became a victim due to his sexuality, which the judge deemed a sensible reason for victimization. By accepting the defense’s claim of ‘Homosexual Panic Disorder’, the judge is basically excusing and allowing hate crimes to continue to occur as he is potentially setting precedent for future cases. Similarly, since HPD is not an established psychiatric illness, the defense would have to corroborate their clients claims with psychologists. Since the Canadian Justice System is operating under laws, staff and policies that are grounded in concepts and views that correspond with heteropatriarchy and hegemonic masculinity, it would be very easy to find a few homophobic psychologists so support this disorder on the stand. The judge’s careless acceptance of this defense also worsens the ongoing issue revolving around reporting issues within the LGBTQ+ community. There are many factors that affect the massive underreporting of crime, one being the victim’s awareness of the institutional prejudice that they may face as a member of a marginalized community. Despite how “multiple forms of LGBTQ+ victimization appear to be on the rise” (Hambleton, K. Newman C. 2018 in Allspach 2018), most victims are aware of the discrimination and stereotyping they may fall into if they report a crime to the police, they are unlikely to report. Similarly, some LGBTQ+ victims are aware of the lack of action taken against their victimizers, such as in the R. v. Fraser case, so they have no trust in the system and don’t bother reporting it. Rather than achieving justice for victims such as Gordon Bjornson, these systemic issues protect homophobic offenders such as Fraser.

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Taking all of this into consideration, it becomes apparent that, despite being portrayed as fair, just and equal, our justice system is designed to help and justify people that coincide with concepts such as hegemonic masculinity and heteropatriarchy. Not only are these ideologies facilitated and perpetuated within our justice system, but they are actually promoted.

Because of these dominant ideologies within our society, a man lost his life at the hands of another that was clearly insecure about his own masculinity.

In this case of R. v. Fraser, it is interesting to observe the dynamic of a male that is deviating from masculinity and one is a homophobe. If one were to take anything from this case, it is the fact that the justice system continues to overlook the rights of those that don't particularly fall into their mold and instead neglect them and treat them with disrespect. In order to stop this endless cycle of offending and reoffending, we must recognize the prejudices that play huge roles in our justice system – “ what we cannot acknowledge, we cannot change” (Allspach, 2018).

References

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