INSTITUTIONALIZING ESSENTIALISM: MECHANISMS OF INTERSECTIONAL SUBORDINATION WITHIN THE LGBT MOVEMENT

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INTRODUCTION

Intersectionality scholars have long argued that the dominant legal interpretations of discrimination—as unidimensional bias based on separable axes of stigmatized identity—have become inscribed in the discourse and political agendas of the most prominent contemporary movements for equality.[1] Drawing on the critical race theory (CRT)

    1.   *See, e.g.*, Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139, 152 ("Looking at historical and contemporary issues in both the feminist and the civil rights communities, one can find ample evidence of how both communities' acceptance of the dominant framework of

view of legal institutions as a tool of racial subordination, these scholars have shown how movements against racism, patriarchy, and homophobia have shoehorned broad-based struggles for social change into rights claims that conceptualize racial, gender, and sexual identities as uniform and monolithic categories of shared experience.[2] Movement activists, hungry for change, have seized upon single-axis identity narratives, which offer both an ingrained political resonance and a legally legible framework with the potential to garner formal recognition.[3] In so doing, these movements obscure the unique forms of oppression that occur at the intersections of these categories, perpetuating inequality among multiply subordinated individuals.[4]

Intersectional analyses of the LGBT movement have been at the forefront of this area of scholarship in recent years.[5] Critics have documented how mainstream LGBT rights groups, dominated by White and class-privileged gay men and lesbians, have engaged in strategies and discourse that marginalize the needs and obscure the existence of

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discrimination has hindered the development of an adequate theory and praxis to address problems of intersectionality.").

2.   *See, e.g.*, Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581, 588 (1990) (describing "gender essentialism" and "racial essentialism").

3.   *Id.* at 589 (discussing reasons for the persistence of essentialist frameworks in the feminist movement).

4.   Crenshaw, *supra* note 1, at 149–50 ("[T]he continued insistence that Black women's demands and needs be filtered through categorical analyses that completely obscure their experiences guarantees that their needs will seldom be addressed.").

5.   Devon W. Carbado, *Black Rights, Gay Rights, Civil Rights*, 47 UCLA L. REV. 1467 (2000); Darren Lenard Hutchinson, *"Gay Rights" for "Gay Whites"?: Race, Sexual Identity, and Equal Protection Discourse*, 85 CORNELL L. REV. 1358 (2000) [hereinafter Hutchinson, *"Gay Rights" for "Gay Whites"*]; Darren Lenard Hutchinson, *Out yet Unseen: A Racial Critique of Gay and Lesbian Legal Theory and Political Discourse*, 29 CONN. L. REV. 561 (1997) [hereinafter Hutchinson, *Out yet Unseen*]; Anthony Michael Kreis, *Gay Gentrification: Whitewashed Fictions of LGBT Privilege and the New Interest-Convergence Dilemma*, 31 LAW & INEQUALITY 117 (2012); Roel Mangiliman & Myron Dean Quon, *In the Margins: How Mainstream Legal Advocacy Strategies Fail To Fully Assist Asian American, Native Hawaiian, and Pacific Islander LGBT Youth*, 19 ASIAN AM. L.J. 5 (2012); Russell Robinson, *Marriage Equality & Postracialism*, 61 UCLA L. REV. 1010 (2014); Darren Rosenblum, *Queer Intersectionality and the Failure of Recent Lesbian and Gay "Victories,"* 4 LAW & SEXUALITY 83 (1994). For intersectional analysis focused on the LGBT movement's marginalization of transgender people, particularly those who are low-income and of color, see Gabriel Arkles et al., *The Role of Lawyers in Trans Liberation: Building a Transformative Movement for Social Change*, 8 SEATTLE J. FOR SOC. JUST. 579 (2010); Craig Willse & Dean Spade, *Freedom in a Regulatory State?:* Lawrence*, Marriage and Biopolitics*, 11 WIDENER L. REV. 309 (2005).

low-income queers of color.[6] LGBT activists have largely directed their efforts toward the pursuit of formal legal rights based on movement constituents' "common" sexual identity.[7] In basing their agendas on unidimensional assumptions of sexual identity, LGBT rights groups end up neglecting the needs of low-income LGBT people and queers of color, restricting effective intersectional representation.[8] Furthermore, LGBT activists have strategically selected rhetorical strategies, such as "[f]acial comparisons between race and sexual orientation," which essentialize race and sexuality and further marginalize intersectional realities.[9]

In this Article, I draw on the institutional research in sociology to suggest a series of structural dynamics that may further explain the persistence of essentialism in LGBT civil rights agendas and the agendas of similar civil rights movements. Instead of characterizing the marginalization of intersectionally subordinated groups like queers of color as the result of insensitive or strategic decisions made by individual movement leaders, I emphasize the institutional and organizational processes that reinforce patterns of intramovement marginalization.[10] Attributing intersectional subordination to leadership failures, I argue, inaccurately depicts the problem as highly contingent rather than systematic and obscures the structural forces at work. Using specific examples from the context of the LGBT movement, I show how an institutional approach would contribute to current understandings of fundamental aspects of intersectionality theory, including the mechanisms that enable essentialist identity narratives to dominate social movements; how a movement's institutional context shapes activists' strategic behavior; and the opportunities for agency that exist for movement actors who hope to create alternative and more intersectionally inclusive movement agendas. I argue that the sociological literature, in addition to adding greater analytical depth to theories of intersectionality, would help to align antiessentialist

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6.   *See, e.g.*, Carbado, *supra* note 5, at 1505 (arguing that LGBT movement rhetoric drawing analogies between race and orientation "deracialized aspects of sexual identity and desexualized aspects of racial identity"); Robinson, *supra* note 5, at 1038 (arguing that LGBT rights groups have "prioritize[d] rights that are most meaningful for people who are middle or upper class").

7.   Robinson, *supra* note 5, at 1038–39.

8.   *Id.* ("Wealthy white males dominate the gay rights agenda, which prioritizes rights that are most meaningful for people who are middle or upper class and neglects the discrimination faced by poorer LGBT people, such as in the contexts of immigration and mass incarceration.").

9.   Carbado, *supra* note 5, at 1496.

10.   *See infra* Part II.

critiques of identity movements with broader critical race understandings of structural racism.[11]

Part I of the Article introduces the legal scholarship on essentialism and its relation to multidimensional oppressions, specifically racism and sexism. I then discuss antiessentialist critiques of the LGBT movement, particularly with regard to the identity narratives and litigation agendas pursued by LGBT movement leaders. Part II discusses the institutional research in sociology, showing how this research conceptualizes patterns of dominance and subordination within social movements. I apply key insights from the sociological work to illustrate how an institutional perspective on the LGBT movement's trajectory can be applied to explain undertheorized mechanisms of racial subordination within that movement. Part III synthesizes the insights gleaned from this account of the LGBT movement's history and identifies specific methodological tools scholars could use to further empirically investigate the factors that promote (or constrain) the dominance of essentialist identity frameworks and the marginalization of intersectional identities and experiences in mainstream identity movements. The Conclusion explores the implications of institutional marginalization within social movements and the possibilities for more representative movement agendas that acknowledge the interconnections among racism, sexism, and homophobia.

I. Essentialism, Identity Politics, and LGBT Movement Critique

This Part reviews and analyzes the literature on intersectionality and antiessentialism. I highlight how this literature tends to attribute the subordination of multiply oppressed movement constituents to the strategic choices or insensitivity of movement leaders. I argue conceptualizing the problem as a moral or vision failure on the part of individual leadership fails to account for the structural factors that contribute to intersectional subordination. Following the CRT theories of structural racism, I argue that strategy alone cannot explain why essentialist identity logics arise within and come to dominate social movements.

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11.   *See infra* Part III.

A. Intersectionality and Strategic Essentialism

In a robust body of scholarship spanning nearly four decades, intersectionality scholars have documented how identity-based movements tend to stake out priorities that address the concerns of more privileged movement constituents while overlooking the concerns of movement constituents experiencing multiple, intersecting forms of subordination.[12] Pioneers of intersectionality theory in the legal academy have written extensively on this dynamic in the context of the antiracist and feminist movements.[13] Kimberlé Crenshaw in particular is known for developing the argument that identity-based political representation focused on "women" or "African Americans" has reinforced the false assumption that there exists an authoritative universal experience of what it means to be a woman *or* to be Black.[14] This false universal voice obscures the unique impact of intersectional forms of oppression, making discrimination against Black women unintelligible either as sex- or race-based discrimination.[15] Accordingly, feminist organizations prioritized political projects that privileged the White female experience and antiracist organizations prioritized political projects that privileged the Black male experience.[16] Thus, the identity politics model that defined these movements became "centered around mutually exclusive notions of race and gender" and ultimately left women of color "without a political framework."[17]

Observers of the LGBT movement have issued similar antiessentialist critiques of the mainstream LGBT rights movement.[18] Several legal scholars have argued that the LGBT movement's emphasis on sexual identity racializes what "counts" as a gay movement issue: it assumes mutually exclusive notions of racial and sexual identities, which construct issues of racial justice as outside of,

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12.   *See* Crenshaw, *supra* note 1; Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1993); Harris, *supra* note 2, at 581.

13.   *See generally* Crenshaw, *supra* note 1.

14.   *See id.*; *see also* Harris, *supra* note 2, at 588 ("The source of gender and racial essentialism (and all other essentialisms, for the list of categories could be infinitely multiplied) is the second voice, the voice that claims to speak for all.").

15.   Crenshaw, *supra* note 1, at 159–63 (discussing how "sexist expectations of chastity and racist assumptions of sexual promiscuity combined to create a distinct set of issues confronting Black women"); Harris, *supra* note 2, at 588–89.

16.   Crenshaw, *supra* note 1, at 152.

17.   Kimberlé Williams Crenshaw, *Beyond Racism and Misogyny: Black Feminism and 2 Live Crew*, *in* WOMEN TRANSFORMING POLITICS: AN ALTERNATIVE READER 549, 554 (Cathy J. Cohen et al. eds., 1997).

18.   *See supra* note 5 and accompanying text.

or not fundamental to, the movement.[19] Mainstream LGBT legal organizations have accordingly focused on strategies and priorities that "primarily benefit[] white and wealthy gay men and lesbians"[20] and have neglected issues that would have a more meaningful impact on the lives of LGBT people of color.[21]

Marriage equality, the most visible goal pursued by LGBT activists in recent years, powerfully illustrates a mainstream movement priority that lacks relevance to many queers of color. The right to marry is of no use to LGBT people "unless they are already privileged in our society or if they are partnered with people who already have access to privileges, such as wealth, immigration status, jobs, healthcare, and housing."[22] Marriage equality as a priority thus serves a segment of the LGBT population that tends to be whiter and richer on average.[23] Whites are also statistically more likely than people of color to get married in the first place as they experience greater cultural and financial incentives to marry.[24] Several legal scholars have argued that pursuing marriage rights is a misallocation of movement resources, which should be spent pursuing far more basic substantive issues that would improve the lives of low-income LGBT people of color (e.g., securing health care, housing, jobs, citizenship).[25]

Legal scholars have also criticized LGBT movement leaders for deploying rhetorical strategies that present racial and sexual identities in ahistorical and essentialized ways.[26] For example, LGBT rights groups have drawn on analogical arguments in their marriage equality advocacy, claiming that same-sex couples should be afforded the same civil rights people of color already enjoy.[27] Such analogical arguments presume that advancements in civil rights have solved the problems of

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19.   *See* Hutchinson, *Out yet Unseen*, *supra* note 5, at 634; Robinson, *supra* note 5, at 1036; *see also* URVASHI VAID, IRRESISTIBLE REVOLUTION: CONFRONTING RACE, CLASS AND THE ASSUMPTIONS OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER POLITICS 40 (2012) (discussing how issues that are not "purely gay," interpreted as affecting White gay men and women, become defined as "non-gay" issues).

20.   Willse & Spade, *supra* note 5, at 311.

21.   Hutchinson, *Out yet Unseen*, *supra* note 5, at 634; Robinson, *supra* note 5, at 1038; Willse & Spade, *supra* note 5, at 311–12.

22.   Arkles et al., *supra* note 5, at 608.

23.   Rosenblum, *supra* note 5, at 83–85.

24.   Hutchinson, *"Gay Rights" for "Gay Whites*,*" supra* note 5, at 1370–72.

25.   NANCY D. POLIKOFF, BEYOND (STRAIGHT AND GAY) MARRIAGE: VALUING ALL FAMILIES UNDER THE LAW 55 (2008); Marlon M. Bailey et al., *Is Gay Marriage Racist?*, *in* THAT'S REVOLTING!: QUEER STRATEGIES FOR RESISTING ASSIMILATION 113, 115–17 (Mattilda Bernstein Sycamore ed., 2004).

26.   Carbado, *supra* note 5, at 1471.

27.   Robinson, *supra* note 5, at 1023–26.

racism, obfuscating the permanence of institutional racism.[28] Similarly, LGBT rights groups during the "Don't Ask Don't Tell" controversy relied on analogical arguments in challenging the U.S. military's ban on LGBT service members, comparing the ban to earlier military exclusions of African American service members.[29] Critical accounts of these race-sexuality analogies point out how such rhetoric "falsely disaggregates race and sexuality"[30] and obscures the existence of queers of color.[31]

Other critical work has identified even more overtly strategic moves that LGBT rights groups have made to marginalize LGBT people of color. For example, some argue that LGBT rights litigators have strategically chosen White, gay men to be their plaintiffs in test case litigation in order to present an "uncomplicated" or "pure" discrimination case that will not "confuse the issue before the court."[32] Responding to the judicial tendency to favor single-axis claims of discrimination, LGBT rights litigators have sought out clients who but for their sexual orientation would not have fallen victim to discrimination.[33] White LGBT plaintiffs were purposefully selected to enhance (White) public sympathies for the movement's goals.[34]

B. Strategic Essentialism & Structural Racism

The critiques of LGBT essentialism have significantly advanced intersectionality theory by exposing further connections between multiple forms of disempowerment and by refining theories of the mutual construction of racism and other forms of oppression. These critiques have also advanced critical race theories of "colorblind" racism by showing how post-racial assumptions operate within identity movements and further subordinate the intersectional experiences of those who are racial *and* sexual minorities.[35]

However, a point that remains underdeveloped in this work is how structural processes, such as those identified in CRT theories of structural racism, may explain the persistence of essentialism in

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28.   *Id.* at 1038.

29.   Carbado, *supra* note 5, at 1468.

30.   *Id.* at 1485.

31.   *Id.*; Hutchinson, *"Gay Rights" for "Gay Whites," supra* note 5, at 1377.

32.   Rosenblum, *supra* note 5, at 93.

33.   *Id.* at 93–94.

34.   Carbado, *supra* note 5, at 1506.

35.   *See, e.g.*, Robinson, *supra* note 5, at 1038 (arguing that colorblind assumptions in LGBT rights rhetoric "ignores the fraught relationship between the mainstream gay community and many black sexual minorities").

progressive movements. "Structural racism" or "institutional racism" refers to the theory that racial subordination and privilege are mainly the product of structural processes, impersonal organizational practices, or other routinized forms of social interaction. Key to this theory is the idea that racial inequality cannot be reduced to individual behavior, nor can it be explained by focusing on (intentional or subconscious) individual actions that affect marginalized groups.[36] Critical race scholars (and increasingly social scientists)[37] have used structural racism to explain how racial disparities result from a variety of organizational and other group-related practices, including the courts, schools, and the media.[38]

By and large, antiessentialist critiques of identity politics do not engage with structural racism to explain the origins of intersectional subordination within identity movements. On one hand, this work has deepened understandings of the mechanisms that perpetuate structural subordination *at the social level*. For example, Darren Lenard Hutchinson has argued that treating "racism and heterosexism as wholly separate phenomena" perpetuates structural inequality by both reinforcing identity narratives that erase intersectional realities and by causing activists to "withhold their advocacy from incidents of discrimination and structures of subordination that involve these synergistic forms of exclusion."[39] Yet there is little discussion of how the institutional mechanisms identified in structural racism theories may operate to perpetuate intersectional subordination *at the movement level*. Instead, when these critiques seek to explain why intersectional marginalization persists within social movements, the focus generally turns to the individual decisions made by movement leaders.

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36. Ian F. Haney-López, *Institutional Racism: Judicial Conduct and a New Theory of Racial Discrimination*, 109 YALE L.J. 1717, 1723 (2000) (describing institutional racism as "a theory of racism that explains organizational activity that systematically harms minority groups even though the decision-making individuals lack any conscious discriminatory intent"); *see also* Devon W. Carbado & Daria Roithmayr, *Critical Race Theory Meets Social Science*, 10 ANN. REV. L. & SOC. SCI. 140, 159 (2014).

37. DARIA ROITHMAYR, REPRODUCING RACISM: HOW EVERYDAY CHOICES LOCK IN WHITE ADVANTAGE 4–5 (2014).

38. CARL GUTIERREZ-JONES, CRITICAL RACE NARRATIVES: A STUDY OF RACE, RHETORIC, AND INJURY 31 (2001).

39. Darren Lenard Hutchinson, *Identity Crisis: "Intersectionality," "Multidimensionality," and the Development of an Adequate Theory of Subordination*, 6 MICH. J. RACE & L. 285, 294 (2001); *see* Hutchinson, *"Gay Rights" for "Gay Whites,"* *supra* note 5, at 1368 (arguing that "equality discourse, in the context of legal theory, political activism, and equal protection litigation, racializes gays and lesbians as white and upper-class in order to deny them the protection of constitutional and statutory civil rights structures"); *see also* Crenshaw, supra note 1, at 152.

Specifically, the critiques alternate between the pragmatic considerations and perceptual deficiencies of movement leaders, who either strategically privilege White constituents or unwittingly fail to take race into account in their decision-making. The pragmatic explanation emphasizes instrumental behavior, such as that of movement litigators who select claims and priorities based on their perceived political efficacy and their chances of winning in court.[40] This explanation frames lawyers' decisions to represent more "sympathetic" White plaintiffs[41] or to avoid untenable intersectional discrimination claims[42] as intentional subordination designed to achieve strategic advantages.[43] The perceptual explanation emphasizes a sort of implicit bias that shapes the behavior of movement leaders.[44] According to this theory, LGBT movement leadership has been permeated by White, middle- and upper-class, gay men and lesbians,[45] who "fail[] to comprehend, challenge, or feel concern for the subordination endured by less powerful gays and lesbians."[46] Movement leaders also uncritically accept the dominant, single-category construction of identity that permeates antidiscrimination law,[47] making it difficult for them to recognize intersectional discrimination.[48]

In the remainder of this Article, I draw on the sociological literature on institutions to develop an institutional account of intersectional marginalization that would further align antiessentialist critiques with theories of structural racism. Instead of characterizing the

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40.   Carbado, *supra* note 5, at 1514.

41.   *Id.* at 1469.

42.   *Id.* at 1518; *see* Arkles et al., *supra* note 5, at 604 (discussing "[l]egal systems' reluctance to acknowledge the reality of intersections of oppression").

43.   Willse & Spade, *supra* note 5, at 327 (arguing that "the individual rights perspective has been chosen as the LGBT agenda, and redistributionist liberation struggles have been undermined and cast aside").

44.   *See* Samuel R. Bagenstos, *Implicit Bias, "Science," and Antidiscrimination Law*, 1 HARV. L. & POL'Y REV. 477, 482 (2007) (describing implicit bias).

45.   Keith O. Boykin, *Where Rhetoric Meets Reality: The Role of Black Lesbians and Gays in "Queer" Politics*, *in* THE POLITICS OF GAY RIGHTS 79, 79 (Craig A. Rimmerman et al. eds., 2000).

46.   Hutchinson, *"Gay Rights" for "Gay Whites," supra* note 5, at 1384; *see also* Arkles et al., *supra* note 5, at 585; Robinson, *supra* note 5, at 1038–39.

47.   Crenshaw, *supra* note 1, at 150 (arguing that the marginalization of Black women from feminist and Black liberationist agendas "reflects an uncritical and disturbing acceptance of dominant ways of thinking about discrimination").

48.   Bradley Allan Areheart, *Intersectionality and Identity: Revisiting a Wrinkle in Title VII*, 17 GEO. MASON U. C.R. L.J. 199, 231 (2006) ("Attorneys fail to recognize intersectional discrimination and therefore fail to adequately present intersectional claims.").

marginalization of intersectional subordination as the result of "individual phenomen[a] or as a collective phenomenon that aggregates individual-level motivations or behaviors,"[49] this institutional approach emphasizes a key tenet of structural racism: that racial subordination—including racial subordination that intersects with other status-based subordinations—is primarily the result of institutional forces that act directly upon and within social movements.[50]

II. AN INSTITUTIONAL PERSPECTIVE ON INTERSECTIONAL MARGINALIZATION WITHIN SOCIAL MOVEMENTS

This Part offers an institutional perspective for analyzing patterns of dominance and subordination within social movements. Drawing from the institutional research in sociology, I identify a set of structural mechanisms—institutional pressures and the institutionalized practices of social movement organizations—that enable certain forms of political activism to prevail while constraining others. I then apply the insights of sociological institutional theory to the historical trajectory of the LGBT movement. In so doing, I offer an alternative account of the persistence of essentialism in civil rights movements, which emphasizes institutional dynamics rather than individual leadership or strategic failures in promoting essentialist political projects.[51]

A. Institutional Research in Sociology

Sociologists define institutions as stable social constructs like work, law, or the family, which structure and give meaning to social life.[52] Institutions are comprised of formal and informal rules, enforcement mechanisms, and belief systems that provide the backdrop for and guide social interaction.[53] They are maintained and reproduced by human activity and action routines sequenced around these shared

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49. Carbado & Roithmayr, *supra* note 36, at 160.

50. *Id.* at 159 ("CRT's position [is] that racial disparities cannot be fully reduced to or predicted from individual behavior and are instead a function of structural forces.").

51. *Cf.* Haney-López, *supra* note 36, at 1723 ("New Institutionalism posits that frequently repeated but largely unexamined social practices or patterns at once structure and give meaning to human interaction.").

52. ANTHONY GIDDENS, THE CONSTITUTION OF SOCIETY: OUTLINE OF THE THEORY OF STRUCTURATION 24 (1984).

53. JOHN CAMPBELL, INSTITUTIONAL CHANGE AND GLOBALIZATION 1 (2004).

understandings.[54] Once created, institutions act as "powerful external forces that help determine how people make sense of their world and act in it."[55]

The law, viewed as a social institution, is comprised not only of formal rules and sanctions but also of a broad set of principles (e.g., equal opportunity, equal treatment), concepts (e.g., discrimination, rights), and definitional categories (e.g., protected trait, protected class). Concepts like these that are embedded in the law form part of the conceptual "tool kit" people draw from in interpreting their world and constructing a course of action.[56] Social movement actors, for example, often use the language of "rights" to frame a social situation as harmful or unjust.[57] This occurs not only during litigation but also in informal settings[58]—even when no formal claims are on the horizon or when judges have explicitly rejected a formal entitlement to legal rights (as in claims for "animal rights").[59] It is through this type of everyday, informal reliance upon legal concepts to interpret and guide social understandings and action that law emerges as one of many social institutions that "invisibly structure social life in ways that reinforce and recreate themselves."[60]

Institutional influence is often manifested in organizational dynamics and interactions.[61] Organizational actors tend to implement

54.   C. WRIGHT MILLS, THE SOCIOLOGICAL IMAGINATION 30 (Fortieth Anniversary ed. 2000) (defining an institution as "a set of roles graded in authority" that have been embodied in consistent patterns of actions and legitimated and sanctioned by society or segments of that society).

55.   CAMPBELL, *supra* note 53, at 1; *see also* Mark C. Suchman, *On Beyond Interest: Rational, Normative and Cognitive Perspectives in the Social Scientific Study of Law*, 1997 WIS. L. REV. 475, 476 (describing how legal institutions "define, constitute and construct a shared reality in which certain behaviors become socially nonsensical").

56.   Ann Swidler, *Culture in Action: Symbols and Strategies*, 51 AM. SOC. REV. 273 (1986).

57.   Gwendolyn Leachman, *Legal Framing*, 61 STUD. L. POL. & SOC'Y 25, 33–37 (2013).

58.   *Id*. at 27–28.

59.   *See* HELENA SILVERSTEIN, UNLEASHING RIGHTS: LAW, MEANING, AND THE ANIMAL RIGHTS MOVEMENT 225 (1996).

60.   Catherine Albiston, *Institutional Inequality*, 2009 WIS. L. REV. 1093, 1103 ("Once institutions are established, they invisibly structure social life in ways that reinforce and recreate themselves. Everyday social interactions that conform to institutions generate regular patterns of behavior that support the existing social order. This collective compliance gives meaning to social life and reproduces and reinforces the patterns of behavior that make up social structure." (footnotes omitted)).

61.   W. RICHARD SCOTT & GERALD F. DAVIS, ORGANIZATIONS AND ORGANIZING: RATIONAL, NATURAL, AND OPEN SYSTEMS PERSPECTIVES 263 (Routledge 2016) (2007).

practices and create organizational forms that resonate with the taken-for-granted schemas and cultural scripts that permeate their institutional environment.[62] For example, social movement actors often implement organizational structures that mirror the type of largescale, bureaucratic structures that permeate their institutional environment in corporate and government sectors.[63]

Specific varieties of institutionally sanctioned organizational models tend to become dominant within a given organizational field or group of organizations that serve a similar social purpose.[64] Organizations within a given field operate collectively, looking to one another for cues as to what "works" or "the way things are to be done."[65] This creates convergence in organizational behavior and patterns organizational practices at the field level.[66] Social movement organizations for example—a field of organizational life aimed at creating social change—tend to converge around a common repertoire of political tactics and organizational templates.[67] Movement actors borrow organizational templates that have been established and legitimated in other political struggles both past and present.[68]

One of the most widely borrowed organizational forms among contemporary social movement organizations is the impact litigation model of the NAACP Legal Defense Fund (LDF). This organizational model, which coordinates organizational action around strategic "test cases" designed to incrementally expand formal legal rights, has been implemented in movements advocating on behalf of "women, disabled people, the environment, [LGBT people], student journalists, and animals."[69] Social movement organizations increasingly implemented

62.   *Id.*

63.   JANE WARD, RESPECTABLY QUEER: DIVERSITY CULTURE IN LGBT ACTIVIST ORGANIZATIONS 25 (2008).

64.   SCOTT & DAVIS, *supra* note 61, at 261–63; Doug McAdam & W. Richard Scott, *Organizations and Movements*, *in* SOCIAL MOVEMENTS AND ORGANIZATION THEORY 4, 10 (Gerald F. Davis et al. eds., 2005) (defining a field as "a system of actors, actions, and relations . . . whose participants take one another into account as they carry out interrelated activities").

65.   Mark C. Suchman & Lauren B. Edelman, *Legal Rational Myths: The New Institutionalism and the Law and Society Tradition*, 21 LAW & SOC. INQUIRY 903, 911 (1996) (reviewing THE NEW INSTITUTIONALISM IN ORGANIZATIONAL ANALYSIS (Walter W. Powell & Paul J. DiMaggio eds., 1991)).

66.   SCOTT & DAVIS, *supra* note 61, at 261.

67.   Lauren B. Edelman et al., *On Law, Organizations, and Social Movements*, 6 ANN. REV. L. & SOC. SCI. 653, 655 (2010).

68.   Debra C. Minkoff, *The Sequencing of Social Movements*, 62 AM. SOC. REV. 779 (1997).

69.   David S. Meyer & Steven A. Boutcher, *Signals and Spillover:* Brown v. Board of Education *and Other Social Movements*, 5 PERSP. ON POL. 81, 88 (2007).

this impact litigation model in the wake of the LDF's high-profile victory in *Brown v. Board of Education*[70]—a decision that signaled the approval of state authorities and thus the fit of the impact litigation approach with existing institutional arrangements.[71] Over time, as organizational templates like the LDF's impact litigation model become an increasingly established and expected form of carrying out collective goals, social movement actors implement these templates more reflexively than strategically without actively examining their choice or considering alternative possibilities.[72]

As the *Brown* example suggests, major shifts in existing institutional arrangements (e.g., a major legal development, political upheaval, or significant economic downturn) can create periods of crisis in organizational fields, upsetting the stability of longstanding and accepted organizational routines.[73] During these crisis periods, organizational actors "struggle to clarify differences, forge agreements, and mobilize consensus," circulating a variety of alternative models that resonate with new institutional arrangements.[74] External "shocks" in the institutional environment thus provide a major source of innovation, creating opportunities for organizational actors to reshape the dominant practices of their fields.[75] The legal and cultural shift signified by *Brown*, for example, acted to destabilize previously accepted templates for political action based primarily on the provision of social welfare services, which had dominated strategies for social change until the 1960s.[76] Activists then looked to their institutional environment for cues as to what types of organizational behavior seemed most legitimate in

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70.   347 U.S. 483 (1954).

71.   *See* Hayagreeva Rao et al., *Power Plays: How Social Movements and Collective Action Create New Organizational Forms*, 22 RES. ORGANIZATIONAL BEHAV. 237, 242 (2000) (Organizations are typically considered legitimate when they abide by institutional norms and rules.).

72.   *Cf.* Suchman, *supra* note 55, at 476.

73.   Edelman et al., *supra* note 67, at 670–72.

74.   Elizabeth A. Armstrong, *From Struggle to Settlement: The Crystallization of a Field of Lesbian/Gay Organizations in San Francisco, 1969–1973*, *in* SOCIAL MOVEMENTS AND ORGANIZATION THEORY, *supra* note 64, at 161, 167.

75.   Timothy J. Hargrave & Andrew H. Van de Ven, *Institutional Work as the Creative Embrace of Contradiction*, *in* INSTITUTIONAL WORK: ACTORS AND AGENCY IN INSTITUTIONAL STUDIES OF ORGANIZATIONS 120, 120 (Thomas B. Lawrence et al. eds., 2009).

76.   Debra C. Minkoff, *Bending with the Wind: Strategic Change and Adaptation by Women's and Racial Minority Organizations*, 104 AM. J. SOC. 1666, 1666–67 (1999) (providing the example of the National Urban League's transformation from a direct service agency to a civil rights organization).

the existing context.[77] The highly visible courtroom victories of the NAACP LDF provided traction for innovators to adopt alternative strategies modeled after the successful impact litigation approach to political advocacy.[78]

While institutional context is important, characteristics internal to a specific organizational population also play a role in determining which forms of organizational behavior will become dominant. The values, practices, identities, and collective memories shared by a dominant organizational constituency shape organizational actors' perceptions of what constitutes a "rational" or "legitimate" form of organizational action.[79] Institutionally sanctioned organizational strategies that conflict with actors' pre-existing values and perspectives will be rejected or adapted to preserve a "narrative fidelity" to pre-existing values.[80] For example, social movement organizations that have staked their identities on an ability to negotiate with (or challenge) government actors will typically resist adopting strategies that would compromise these fundamental organizing principles.[81]

Professional networks are another type of structure internal to organizational fields that contribute to the dominance of particular organizational forms.[82] Professional networks—forged through common professional affiliation, social ties, and normative orientations indoctrinated through professional socialization—act as "conduits through which new models, concepts, and practices diffuse and become

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77.   Debra C. Minkoff, *Macro-Organizational Analysis*, *in* 16 METHODS OF SOCIAL MOVEMENT RESEARCH 260, 263 (Bert Klandermans & Suzanne Staggenborg eds., 2002).

78.   Meyer & Boutcher, *supra* note 69, at 90 ("Activists read the *Brown* decision, aided by popular interpretations of its influence, as a signal of the openness of the Courts to rights claims from those unlikely to win through other political means.").

79.   Ellen Reese & Garnett Newcombe, *Income Rights, Mothers' Rights, or Workers' Rights? Collective Action Frames, Organizational Ideologies, and the American Welfare Rights Movement*, 50 SOC. PROBS. 294, 297 (2003).

80.   David A. Snow & Robert D. Benford, *Ideology, Frame Resonance, and Participant Mobilization*, 1 INT'L SOC. MOVEMENT RES. 197, 210 (1988).

81.   *Id.*

82.   John L. Campbell, *Where Do We Stand? Common Mechanisms in Organizations and Social Movements Research*, *in* SOCIAL MOVEMENTS AND ORGANIZATION THEORY, *supra* note 64, at 41, 61 ("[O]rganizational theorists also understand that networks provide the foundation for all sorts of organizational innovation and activity." (citation omitted)); *see also* Walter W. Powell & Paul J. DiMaggio, *The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organization Fields*, *in* THE NEW INSTITUTIONALISM IN ORGANIZATIONAL ANALYSIS, *supra* note 65, at 63, 71; SCOTT & DAVIS, *supra* note 61, at 270 ("[P]rofessional activists operate . . . so that, eventually, one vision of the field is privileged over others.").

part of an organization's repertoire."[83] As professional networks become increasingly established within an organizational field—including within a field of social movement organizations—the field increasingly converges around the organizational practices championed by and shared within these networks.[84]

In summary, the sociological literature conceptualizes the dominance of particular organizational models and practices within a social movement as a function of both institutional pressures (external to the movement) and the internal, structural conditions that exist within the movement.[85] The next Section applies these insights in developing an institutionalist account of the LGBT movement's history that explores how the structural mechanisms identified in sociological work may contribute to the dominance of essentialist models of identity-based organizing and, by extension, the marginalization of intersectional issues and constituents within identity movements. Through this analysis, I illustrate how an institutional approach would address key questions that remain underdeveloped in current antiessentialist legal scholarship: What are the mechanisms through which essentialist identity narratives come to dominate social movements? What role do instrumental strategies play *vis-à-vis* the constitutive influence of institutionalized political and legal logics of identity? What opportunities for agency exist for movement actors and organizations to transform existing institutions (to create new non-marginalizing approaches)?

B. Institutional Mechanisms of Marginalization Within the LGBT Movement

This Section uses examples from the LGBT movement to demonstrate how an institutional approach to intersectional marginalization would analyze the implementation and institutionalization of movement strategies that marginalize multiply

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83. Andrew H. Van den Ven & Timothy J. Hargrave, *Social, Technical, and Institutional Change*, in HANDBOOK OF ORGANIZATIONAL CHANGE AND INNOVATION 259, 280 (Marshall Scott Poole & Andrew H. Van de Ven eds., 2004); *see also* Powell & DiMaggio, *supra* note 82, at 71 (Professional networks produce a shared set of common norms.).

84. SCOTT & DAVIS, *supra* note 61, at 269 (As the flow of information and degree of contact among professional and other movement networks increases, "'the practices and symbolic constructions which constitute [a movement field's] organizing principles' [become] more pervasive." (quoting Roger Friedland & Robert R. Alford, *Bringing Society Back In: Symbols, Practices, and Institutional Contradictions*, in THE NEW INSTITUTIONALISM IN ORGANIZATIONAL ANALYSIS, *supra* note 65, at 232, 248).

85. *See* Minkoff, *supra* note 77, at 262.

oppressed groups like queers of color. I show how the ascendance of an essentialist model of LGBT identity politics can be traced to the rise of a specific form of professionalized, civil-rights-focused LGBT movement organizations beginning in the 1980s. I emphasize the interplay of three types of institutional pressures that have reinforced the dominance of LGBT civil rights organizations and, by extension, the essentialist identity narratives those groups embody: changes in the LGBT movement's external (legal, political, and cultural) environment; funding opportunities (and constraints) posed by the movement's external resource environment; and the establishment of organizing logics and professional networks within the field of LGBT politics. These institutional pressures, I argue, have constrained LGBT activists' strategic agency and have structured the movement's political trajectory.

1. "UNITY THROUGH DIVERSITY": EARLY APPROACHES TO GAY IDENTITY ORGANIZING

The contemporary model of LGBT identity politics developed out of a substantively different form of identity-based organizing that originated in the 1970s.[86] Movement groups organized under the banner of "gay rights" or "gay pride" proliferated in the 1970s as activists increasingly converged on an identity-based framework for political organizing.[87] However, unlike the most visible variants of identity politics seen today, this early era of gay rights activism viewed gay identity as an inherently individualistic, eternally varying concept.[88] Activists organized under a mantra of "unity through diversity," proliferating organizations that celebrated unique features of gay identity, including intersectional gay identities.[89] Small, loosely structured, local gay rights groups dominated the movement, bearing titles like Asian Pacific Alliance and Gay American Indians.[90]

The development of an early gay identity approach focused on individualism and diversity can be attributed to a historically contingent set of circumstances that punctuated the movement's early

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86. ELIZABETH A. ARMSTRONG, FORGING GAY IDENTITIES: ORGANIZING SEXUALITY IN SAN FRANCISCO 97–112 (2002).
87. *Id.* at 99–102.
88. *Id.* at 98.
89. *See id.* at 2.
90. *See id.* at 21–22.

development.[91] An initial upsurge in gay activism emerged in the late 1960s as an outgrowth of the radical and progressive New Left, a coalitional approach to politics that united multiple progressive causes from the Black Panthers to the short-lived Students for a Democratic Society (*political environment*).[92] Yet, just as it unleashed a fleeting moment of radical, liberationist gay organizing, New Left organizing steeply declined across the nation in the early 1970s.[93] As gay activists witnessed this rapid decline, marked by the failures of peer radical organizations, the legitimacy of this approach was immediately called into question (*political environment*). As a result, that initial radical impulse never became fully institutionalized or settled as the dominant political form of gay activism; gay activists sought out more viable alternative political frameworks that made sense in a changing political landscape that was evidently destructive to radicalism (*strategic behavior*).

It was at this point—when "more radical socialist ideologies lost their luster"—that gay activists began to draw on the rights-based approach to identity organizing long established in the U.S. "history of civil-rights struggles and ethnic-based, interest-group competition" (*political environment*).[94] Other developments in the institutional environment further enhanced activists' embrace of the rights-based approach. In particular, private foundation support for nonprofit organizations expanded significantly in the 1960s and 1970s (*resource environment*), channeling resources to more moderate movement organizations using traditional rights-based strategies.[95] During the

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91.   This argument has been developed by sociologist Elizabeth Armstrong through a comprehensive analysis of gay and lesbian organizations in San Francisco from 1950 to 1994. *See generally id*.

92.   *See generally* Mary Bernstein, *Identities and Politics: Toward a Historical Understanding of the Lesbian and Gay Movement*, 26 Soc. Sci. Hist. 531, 542 (2002).

93.   *See* Todd Gitlin, The Whole World Is Watching: Mass Media and the Making and Unmaking of the New Left (1980).

94.   Armstrong, *supra* note 86, at 84 (quoting Steven Epstein, *Gay Politics, Ethnic Identity: The Limits of Social Constructionism*, 17 Socialist Rev. 9, 20 (1987)).

95.   J. Craig Jenkins, *Channeling Social Protest: Foundation Patronage of Contemporary Social Movements*, *in* Private Action and the Public Good 206, 207–08 (Walter W. Powell & Elisabeth S. Clemens eds., 1998) (demonstrating that foundation support for social movements spiked during the mid-1970s); *id*. at 208 (Much of private foundation support during this time went to organizations that emphasized legal and political advocacy.); *see also* J. Craig Jenkins & Craig M. Eckert, *Channeling Black Insurgency: Elite Patronage and Professional Social Movement Organizations in the Development of the Black Movement*, 51 Am. Soc. Rev. 812, 819 (1986) (documenting how increased private foundation funding of the civil rights movement "was largely directed at the moderate classical [social movement organizations], especially the NAACP").

same period, legal reforms that enabled plaintiffs' attorneys to recover attorney's fees in civil rights enforcement actions promoted the expansion of social movement groups using impact litigation.[96] This increased the presence and prominence of rights-based modes of movement organizing, making alternatives less apparent.

2. PROFESSIONALIZATION, IMPACT LITIGATION, AND SINGLE-ISSUE IDENTITY POLITICS

The LGBT movement underwent substantial restructuring again in the 1980s in response to several significant developments in the movement's institutional environment. Conservative religious right groups expanded significantly in the 1980s with opposition to gay rights as a core feature of their political agenda (*political environment*). The rise of religious right groups gave antigay politicians and initiatives political purchase,[97] leading to the passage of numerous pieces of antigay legislation at the local and national level (*legal environment*).[98] This overt political hostility provided the kindling for more intensified antigay sentiment as the onset of HIV/AIDS began to scourge the gay community in the mid-1980s. Conservative tropes framing the disease as sin-based retribution proliferated in the mainstream media (*cultural environment*).[99] President Ronald Reagan, who ascended to power through the support of religious right groups, sponsored a national policy of AIDS denial and the withholding of funding until the disease had a firm death grip on gay communities nationwide (*political environment*).[100]

Under the twin threats of the devastating escalation of AIDS and a homophobic political movement that appeared equally dedicated to the annihilation of gay communities, gay and lesbian activists defensively consolidated a collective identity framework that downplayed rather than celebrated intramovement diversity.[101] Lesbians, who had previously organized separately from gay men—reflecting the diversity-based identity logic of the 1970s—increasingly banded

96. Catherine R. Albiston & Laura Beth Nielsen, *Funding the Cause: How Public Interest Law Organizations Fund Their Activities and Why It Matters for Social Change*, 39 LAW & SOC. INQUIRY 62, 65–66 (2014).

97. TINA FETNER, HOW THE RELIGIOUS RIGHT SHAPED LESBIAN AND GAY ACTIVISM 23–25 (2008).

98. Bernstein, *supra* note 92, at 556.

99. DIDI HERMAN, RIGHTS OF PASSAGE: STRUGGLES FOR GAY AND LESBIAN LEGAL EQUALITY 90 (1994).

100. FETNER, *supra* note 97, at 51–52.

101. *Id.*

together with gay men in joint "gay and lesbian rights" groups.[102] Gay and lesbian groups cultivated an "us versus them" narrative, emphasizing the "shared" experiences of sexual minorities as victims of a common enemy.[103] The narrative of "unity through diversity" that inspired 1970s-era mobilization was replaced by a focus on an essentialized gay experience and common, collective goals.[104]

The threats of AIDS and the antigay backlash also contributed to the ascendance of a professionalized model of gay rights organizing focused on single-issue politics. The climate of crisis "mobilized huge numbers of formerly apathetic gay men and lesbians," unleashing an unprecedented flow of resources to movement organizations (*resource environment*).[105] At the same time, the severity of these threats challenged the legitimacy of broad-based, multi-issue grassroots organizing. Large, national organizations with bureaucratic structures and professional staff offered an established alternative organizing model that seemed better equipped to confront the community's serious challenges (*political environment*).[106] Activists channeled resources into these professionalized groups, which in turn expanded rapidly in size and prominence.[107]

Professionalized LGBT movement organizations were able to cultivate a rich array of funding sources, sustaining these organizations and institutionalizing the essentialist model of identity politics that they embodied.[108] Movement organizations rely on the financial support of corporate sponsors, government funds, and particularly, foundational philanthropists (*resource environment*). These institutionalized sources of funding tend to favor movement organizations with more "moderate" political orientations that use state-based channels for pursuing social change.[109] Professionalized LGBT organizations thus embodied an organizational form that institutional funders could readily identify with

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102.   Bernstein, *supra* note 92, at 559.

103.   Tina Fetner, *Working Anita Bryant: The Impact of Christian Anti-Gay Activism on Lesbian and Gay Movement Claims*, 48 Soc. Probs. 411, 419 (2001).

104.   Fetner, *supra* note 97, at 96.

105.   Bernstein, *supra* note 92, at 559.

106.   Fetner, *supra* note 97, at 51–52.

107.   *Id*. at 54–56; Bernstein, *supra* note 92, at 554.

108.   Amy L. Stone, *Diversity, Dissent, and Decision Making: The Challenge to LGBT Politics*, 16 GLQ: J. Lesbian & Gay Stud. 465, 468 (2010) (reviewing Fetner, *supra* note 97; Amin Ghaziani, The Dividends of Dissent: How Conflict and Culture Work in Lesbian and Gay Marches on Washington (2008); Jane Ward, Respectably Queer: Diversity Culture in LGBT Activist Organizations (2008)).

109.   Minkoff, *supra* note 77, at 262.

and "read" as legitimate.[110] The bureaucratic structures of these organizations also facilitated the establishment of routine practices of organizational maintenance, such as formalizing ties to sources of organizational resources.[111] Thus, the structure of professionalized LGBT movement groups allowed them to establish and maintain a steady flow of resources necessary to their survival, leading to their long-term durability and prominence within the LGBT movement. Accordingly, structural features of the movement's resource environment enabled professionalized groups to proliferate along with the single-issue form of identity politics these groups deployed.

As I have shown elsewhere, LGBT impact litigation groups have been more successful than any other type of LGBT movement organization (including other professionalized organizations) in achieving long-term organizational survival.[112] Legal groups like Lambda Legal and the National Center for Lesbian Rights, which use litigation strategies modeled from those employed by the NAACP, have become an engrained feature in the LGBT political landscape.[113] At the same time, the impact litigation approach these groups use is premised on winning favorable legal precedent; their agenda-setting "script" entailed prioritizing issues and adapting strategies that could attain formal courtroom victories.[114] Given that the legal frameworks within which these groups work offer little opportunity for strategies targeted at intersectional advocacy, the institutionalization of the impact litigation organizational model may have contributed to the racial marginalization within the LGBT movement.[115]

As professionalized and impact-litigation-focused LGBT organizations came to monopolize movement resources, other organizational models had difficulty establishing a foothold.[116] In the early stages of institutional crisis caused by AIDS and the surge in

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110. WARD, *supra* note 108, at 132 (discussing how professional organizations are more likely to receive funding).

111. J. Craig Jenkins, *Resource Mobilization Theory and the Study of Social Movements*, 9 ANN. REV. SOC. 527 (1983).

112. Gwendolyn M. Leachman, *From Protest to* Perry*: How Litigation Shaped the LGBT Movement's Agenda*, 47 UC DAVIS L. REV. 1667, 1705–12 (2014).

113. *See id.* at 1671, 1717.

114. *Id.* at 1719–27.

115. *Id.* at 1748–49.

116. Once the legitimacy of an organizational form is established, organizations using alternative practices tend to succumb to competition, increasing the density of that form among the remaining organizations in the field. As the form becomes institutionalized, it stifles the implementation of other types of organizational practices. *See* Debra C. Minkoff, *From Service Provision to Institutional Advocacy: The Shifting Legitimacy of Organizational Forms*, 72 SOC. FORCES 943 (1994).

antigay counterattacks, "queer" political activism emerged as a viable alternative to the identity-based LGBT advocacy approach (*political environment*).[117] Queer political organizations explicitly challenged the essentialist assumptions of the rights-based approach to identity politics,[118] arguing that it obscured intersectional inequalities and the fluidity within sexuality and gender categories.[119] While the innovation of queer politics resulted in an expansive initial proliferation of queer organizations, this outburst was ultimately very short lived; most of the queer groups formed in the late 1980s had been disbanded by the mid-1990s. The fate of queer politics reflects the tendency of movement organizations to experience an initial surge in alternative organizational models during times of institutional crisis, followed by the rapid decline of alternative models that fail to establish consensus in the field.[120]

3. ORGANIZATIONAL PROCESSES AND THE INSTITUTIONALIZATION OF ESSENTIALISM

The rise of professionalized LGBT rights groups created dense professional networks within the LGBT movement, which served to institutionalize a common set of movement agenda-setting routines that privileged (essentialist) legal frameworks for identity. Networks of professional LGBT activists led to more regular interaction among movement organizations and acted as conduits for the diffusion of "best practices" and shared procedures for organizational agenda-setting. For example, attorneys working in LGBT rights organizations established a tightly knit network starting in the very early years of those organizations' existence fortified through annual meetings and ongoing informal consultation (*professional networks*).[121] Through this regular contact, early gay and lesbian rights groups developed a coordinated approach to impact litigation, involving collective adherence to jointly negotiated litigation strategies.[122] The network of LGBT rights attorneys

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117.   Josh Gamson, *Silence, Death, and the Invisible Enemy: AIDS Activism and Social Movement "Newness,"* 36 SOC. PROBS. 351, 354–55 (1989).

118.   STEVEN SEIDMAN, DIFFERENCE TROUBLES: QUEERING SOCIAL THEORY AND SEXUAL POLITICS 92 (1997).

119.   Rosenblum, *supra* note 5, at 87–88 (arguing that "queer" implies "the truly polymorphous nature of our difference" and is thus "a political category permitting both the recognition of differences and intersectionalities").

120.   Armstrong, *supra* note 74, at 167 (discussing how crisis periods inspire movement actors to "mobilize consensus" and "circulate a variety of different possible solutions").

121.   Bernstein, *supra* note 92, at 557 (discussing "the network of lesbian and gay legal interveners" that had grown substantially in the 1970s and 1980s).

122.   Leachman, *supra* note 112, at 1691.

facilitated the expansion of professionalized legal groups in the movement, further increasing the prevalence of rights-based strategies seeking formal legal protections for sexual minorities.[123]

The bureaucratic structures of professionalized LGBT rights groups also promoted agenda-setting practices infused with corporate-like considerations of organizational maintenance. Bureaucratic movement groups tend to pursue agendas that promote organizational survival—causing organizational actors to place higher value on strategies that improve organizational fundability, public image, and competitive advantage *vis-à-vis* other movement organizations.[124] Indeed, this is why movement actors seeking more radical or transformative social change generally favor informal, grassroots structures, which "avoid the problem of sacrificing their ethics to preserve the organization."[125]

Jane Ward has examined how corporate organizational structures affect professionalized LGBT movement groups' ability to pursue agendas that meaningfully represent comparatively disadvantaged movement subgroups.[126] In one of her case study professional groups, an LGBT Latino/a community center, Ward found that organizational actors framed the pursuit of diverse representation as a valued objective insofar as it promoted organizational maintenance goals, such as facilitating organizational productivity and solidifying ties to funding.[127] Even as diversity was incorporated into the organization's agenda, the vision of diversity it implemented was permeated with outcome-based values much like those seen in the corporate context.[128] As a consequence of this corporate model of diversity—particularly in its appeal to funding focused on constituencies at risk for HIV/AIDS (Latinos)—the organization failed to meaningfully prioritize more marginalized movement constituencies (i.e., transgender Latino/as and Latina lesbians and bisexuals).[129]

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123. Bernstein, *supra* note 92, at 557 ("The ACLU's Gay and Lesbian Rights Project was one indirect result of Lambda's Ad Hoc Task Force to Challenge the Sodomy Statutes [a professional network of LGBT rights attorneys]." (citation omitted)).

124. Suzanne Staggenborg, *The Consequences of Professionalization and Formalization in the Pro-Choice Movement*, 53 AM. SOC. REV. 585 (1988).

125. Kathleen J. Fitzgerald & Diane M. Rodgers, *Radical Social Movement Organizations: A Theoretical Model*, 41 SOC. Q. 573, 580 (2000).

126. WARD, *supra* note 108, at 26.

127. *Id.* at 26.

128. *Id.* at 25.

129. *Id.* at 105.

The next Part summarizes the main theoretical insights gleaned through this analysis and the specific methodologies that future eCRT scholarship might employ to explore these insights further.[130]

III. Lessons from the LGBT Movement: Suggestions for Future eCRT Research

This Article has illustrated how an institutional approach to intramovement marginalization would build on current intersectionality scholarship by highlighting how strategic decision-making by movement leadership interacts with a broader array of contextual and organizational factors to promote the dominance of essentializing movement narratives of identity. I turn now to discuss the main insights developed in this analysis and the specific methods eCRT scholars could use to further explore the mechanisms of intersectional marginalization within social movements.

First, this analysis suggests that while activists may gravitate toward established models of identity politics that resonate with current institutional arrangements, the strategic impulse toward resonance is mediated by a movement's history and the political ideologies that collective actors hold dear. As the early period of gay identity organizing in the 1970s illustrates, in movement contexts galvanized by a more radical political approach, established political models that clash with preexisting movement values and logics will likely not be incorporated wholesale. In the wake of the New Left's decline, activists organizing around "gay rights" or "gay pride" looked to established templates for political organizing as a foundation for establishing new practices. However, gay activists adapted the established organizational templates—even transforming their substance—to strike the right fit with preexisting movement ideals. This suggests that essentialist identity politics models are not unavoidable despite their strong hold and prominence in the contemporary U.S. political context. Thus, rational, strategic behavior alone cannot explain why certain forms of political activism—including essentialist forms of identity politics that marginalize queers of color—will fail or prevail. A movement's preexisting history and shared values matter and partially determine which types of political strategies become dominant.

Future empirical research could therefore build on understandings of strategic essentialism by further investigating the internal social

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130. Kimani Paul-Emile, *Foreword: Critical Race Theory and Empirical Methods Conference*, 83 Fordham L. Rev. 2953, 2954 (2015) (describing "eCRT" as an area of academic inquiry that combines critical race theory and empirical methods).

movement conditions that promote the use of essentializing organizational frameworks or strategies. The diffusion models of macro-organizational research offer a useful methodological device for this sort of research. Studying the diffusion of single-axis identity organizations across different types of social movements would help to theorize the particular movement conditions (e.g., shared political ideals, historical trajectories, or normative commitments) that make social movements more or less susceptible to adopting essentializing organizational models or practices during a particular social and historical context. While intersectionality scholarship has focused on the dominance of essentialist identity frames—stressing the influence of prevailing legal constructions of identity in antidiscrimination law—it is critical to understand the conditions that mitigate the dominance of essentialist frameworks to form more precise theories about the nature and influence of antidiscrimination laws.

Second, identity narratives are intertwined with specific organizational forms—and may be engrained in activists' definitional assumptions and cultural scripts for organizing. The periods of LGBT movement history in which intersectional representation have been most prominent have been accompanied by the presence of more localized, grassroots organizational models (i.e., gay identity organizations of the 1970s; queer direct action groups of the 1980s). Conversely, the periods of LGBT movement history most associated with essentialist identity frameworks have been accompanied by the institutionalization of professionalized organizational templates defined by large-scale, advocacy-based approaches to political and legal advocacy. This suggests that activists may implement identity narratives at a preconscious level simply by carrying out culturally defined assumptions and expectations about what organizations of a certain type "look like."[131] Professional organizations, for example, are expected to "get things done"—to generate discrete advances in legal and policy arenas for a group the state can identify. In implementing professionalized advocacy according to these cultural assumptions, social movement activists may replicate the identity frameworks this model assumes without any cognitive awareness (let alone strategic recognition).

These sorts of cognitive processes associated with organizational reproduction have yet to be explored in current intersectionality theory. Future empirical research is needed to understand the extent of these cognitive processes' influence as well as their interaction with the strategic practices and antidiscrimination frameworks emphasized in

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131.   *See* Suchman, *supra* note 55, at 476.

current work. Participant observation methods would be particularly appropriate for work in this vein.[132] Projects of this type would investigate how movement actors frame and implement organizational strategies, focusing both on the direct motivations actors attribute to their actions and the indirect assumptions and codes that are built into their daily work.[133] Comparative analyses could also be used to establish more precisely how much of a role institutional context (and particularly legal institutions) play in producing or mitigating essentialist identity strategies.[134]

Third, the dominance of particular identity logics within a movement is often the product of detached institutional arrangements and organizational routines rather than individualized decision-making. The LGBT movement provides several examples of organizational arrangements that have facilitated the diffusion of certain identity logics and the subordination of others. The rise of professionalized movement groups is one illustration: The bureaucratic structures of these organizations enabled them to secure long-term funding and to survive over time. At the same time, the imperative of organizational maintenance produced an outcomes-based approach to agenda-setting, which marginalized less privileged movement constituents like queers of color, whose perspectives did not fit with the expectations of institutionalized foundational support and legal models of representation. Similarly, as movement resources were increasingly channeled into these professional groups, the dominance of the professional model has become ironclad, making it extremely difficult for those who advocate more radical models or alternative identity approaches to compete. Statistical analysis of organizational disbandment within social movement populations can be used to examine how dynamics such as competition for resources and the legitimation of organizational forms relate to the long-term stability of impact litigation groups and other professionalized social movement

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132. *Cf.* Paul Lichterman, *Seeing Structure Happen: Theory-Driven Participant Observation*, *in* METHODS OF SOCIAL MOVEMENT RESEARCH, *supra* note 77, at 118, 140–41 (discussing how participant observation may be used to investigate varying definitions of success in grassroots versus conventional interest group advocacy).

133. *See id.* at 120–21 (defining participant observation).

134. For example, such work could compare either the discourse or predominant organizational forms used by labor movement organizations in the United States to those in other countries with legal protections against workplace harassment that do not require status-based pleadings (e.g., France).

organizations and, by extension, the specific identity narratives those groups embody.[135]

Finally, external shocks from a movement's institutional environment create opportunities for a substantive reframing of dominant identity narratives. The LGBT movement provides several examples in its history of times where alternative approaches that highlight intersectionality have become more prominent. The surge of queer politics in the mid-1980s is a prime example. Early "gay liberation" took a similar approach, with organizations celebrating intersectional identities proliferating in the movement field.[136] In-depth case studies exploring periods of institutional crisis—in which movement actors seize the opportunity to contest established identity models—can provide crucial theoretical insight into opportunities for reframing identity logics that erase intersectional subordination. Such work would expand understandings of the institutional conditions under which activists develop challenges, what types of leadership or strategies most effectively diffuse such alternative organizing models, and what methods can be used to legitimate organizational models that meaningfully incorporate intersectional representation.[137]

CONCLUSION

This Article has argued that institutional conditions and organizational processes are better able to explain the strategies and goals of social movements than the fact that individual movement actors rely (strategically or reflexively) on fixed notions of single-axis identity. Instead of examining the existence and nature of essentialist identity narratives, this Article emphasizes investigation into the mechanisms that explain how essentialist identity models and marginalizing political strategies rise to prominence and the processes that mediate the implementation of these practices. In so doing, this Article widens the scope of analysis to a broader set of contextual and systematic processes that can limit (or promote) a movement's ability to effectively advocate for multiply subordinated movement subgroups.

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135.   *See, e.g.*, Debra C. Minkoff, *The Organization of Survival: Women's and Racial-Ethnic Voluntarist and Activist Organizations, 1955-1985*, 71 Soc. Forces 887, 887 (1993).

136.   Armstrong, *supra* note 86, at 97.

137.   Dara Strolovitch's research has generated productive insights into these types of questions. Strolovitch uses extensive survey and interview data to determine the organizational factors that enable certain groups to provide extensive representation for intersectionally disadvantaged groups. Dara Z. Strolovitch, Affirmative Advocacy: Race, Class, and Gender in Interest Group Politics (2007).

Just as critical race theories of structural racism investigate the institutional processes that generate racial subordination in other social contexts, this Article investigates the institutional processes that may generate intersectional subordination within social movements. Future empirical research exploring these institutional mechanisms, including the types of projects I propose here, would thus deepen the connections between two major areas of critical race scholarship, promoting a tighter and more coherent theoretical design.

In addition to its contributions to CRT, future empirical research along the lines I propose here can equally be implemented to make critical interventions in the sociological research on institutions. While race has often been at the periphery of sociological institutional theory,[138] there is a growing body of empirical research directed at building institutional theories of racial subordination.[139] The growing interdisciplinary focus on institutional racism makes this a fertile area of focus for eCRT scholars.

Future research that holistically examines these complex institutional sources of intramovement marginalization is much more capable of eradicating it. There are no easy solutions to a problem for which individual leaders, whose behavior could be targeted and changed, are only partially to blame. Individual-oriented remedies such as sensitivity training for movement leadership will clearly be inadequate and may even reinforce the view that intersectional marginalization "is produced primarily at the level of the individual rather than at the level of structural process."[140] Organizational remedies that focus on shifting the identities of organizational decision makers[141] may also be only partially effective, given that the structural processes identified here transpire through collective interactions among movement organizations, not just within them. Intersectionality might alternatively consult the types of prescriptive approaches advocated by employment law scholars for changing the cultural logics that structure

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138. Carbado & Roithmayr, *supra* note 36, at 160 ("Many existing models of sociology, social psychology, economics, and political science tend to focus on racism as an individual phenomenon . . . .").

139. ROITHMAYR, *supra* note 37.

140. Carbado & Roithmayr, *supra* note 36, at 159 (arguing that "individual-oriented remedies reinforce the view that racial disparity is produced primarily at the level of the individual rather than at the level of structural process").

141. Some innovative organizational strategies have been proposed to reverse problematic agenda-setting patterns among LGBT organizations. *See* Leonore F. Carpenter, *Getting Queer Priorities Straight: How Direct Legal Services Can Democratize Issue Prioritization in the LGBT Rights Movement*, 17 U. PA. J.L. & SOC. CHANGE 107 (2014) (arguing for the inclusion of legal services organizations in organizational processes for creating impact litigation strategies).

employment organizations.[142] However, additional empirical investigation into the institutional and organizational mechanisms of intramovement marginalization identified here is a necessary first step if we are to understand how movements can reverse entrenched forms of intersectional subordination.

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142.   *See, e.g.*, Tristin K. Green & Alexandra Kalev, *Discrimination-Reducing Measures at the Relational Level*, 59 HASTINGS L.J. 1435 (2008); Tristin K. Green, *Work Culture and Discrimination*, 93 CALIF. L. REV. 623 (2005); Susan Sturm, *Second Generation Employment Discrimination: A Structural Approach*, 101 COLUM. L. REV. 458 (2001). *But see* Samuel R. Bagenstos, *The Structural Turn and the Limits of Antidiscrimination Law*, 94 CALIF. L. REV. 1 (2006).