

Episode 247: The Flurry of Anti-Trans Legislation

Lizzy: Hi, I'm Lizzy Ghedi-Ehrlich.

Lisa: And I'm Lisa Hernandez.

Lizzy: and we're your hosts for Scholars Strategy Network's No Jargon. Each month we'll discuss an American policy problem with one of the nation's top researchers without using jargon. And this month in light of current policies across America targeting transgender individuals, we're focusing on transgender rights, but also how those relate to everyone's rights.

Lisa: Hmm. And I mean, we're definitely in the middle of a lot of trans policies or anti-trans policies really coming forward in all kinds of state legislatures. So this is an opportune time.

Lizzy: Yes, no, the, um, considering how small this population is, it is a truly wide variety of pieces of legislation, targeting healthcare, targeting sports, targeting mostly youth, but not exclusively by any means, and just people's ability to exist. so, you know, the question is, what does that mean for everyone?

Lisa: Hmm. True. I mean, everyone's gender expression, everyone's different forms of how to identify themselves, how they view themselves. I mean, it's affecting a lot, especially within the education system.

Lizzy: Well, that too. You know what, you're saying a lot of things that are setting me up to believe that you're actually really gonna get a lot out of this conversation that we just recorded for this week's episode. I spoke to Professor Zein Murib, an assistant professor of Political Science at Fordham University.

Professor Murib's research focuses on sexuality, gender, and race, and US politics. Their academic publications include work on transgender politics and LGBT politics, and their forthcoming book is titled "Terms of Exclusion: Rightful Citizenship Claims and the Construction of LGBT Political Identity". Here's our conversation.

Hi, Professor Murib. Thanks for coming on No Jargon.

Zein: Hi. Thanks for having me.

Lizzy: So while some of your work focuses on LGBT politics more broadly, you also focus specifically on the trans community. And of course we are seeing a very high volume of bills in a very high volume of states right now that are specifically targeting transgender people.

Can you share a few examples of current policies that are affecting transgender rights?

Zein: Yes. Well, so to just give a full rundown of the state of where this legislation stands, with respect to bans on healthcare for trans youth. There have been six that have been signed in Utah, South Dakota, Mississippi, Tennessee, Iowa, and Georgia. And there are two awaiting signatures—one in Kentucky and the other one in West Virginia.

Additionally, there are seven bills that are close to passage. Those are in Indiana, Oklahoma, Nebraska, South Carolina, Montana, Missouri, and Idaho. And I'm giving that exhaustive list to give just a broad overview and perspective on the scope of this legislation that basically makes it illegal for trans youth and their parents to authorize healthcare that would help them to align their bodies with their gender identity.

An important thing to note about these surgical and medical interventions is that more often than not—there's actually very few cases where people under 18 are able to access these interventions, with the exception of hormone blockers. So in a lot of cases, this is doing something that is already in place thanks to medical norms.

Lizzy: Right. And that's, I mean, the legislation you listed, that's only about gender affirming healthcare for minors. There's a ton of bills right now that are addressing a lot of different aspects of trans people's lives.

Zein: Yes. The other strain of legislation that we're seeing now is legislation that bans trans people, specifically trans girls and women from competing in athletics.

Lizzy: Yeah, I actually just saw there was an international rule specifically that Castor Semanya, the runner, again not a trans woman actually, but bars her from competing without some sort of medical intervention. We're getting really into the weeds about people's bodies and their hormonal compositions it seems.

Zein: Yes, absolutely. And in fact, in Florida, for example, there was this pending school board decision that would've required non-trans girls to disclose their menstrual histories with the athletic association and there was this big fight that took place and they basically rolled back that rule out of interest for those non-trans girls privacy.

But in its place they are now required to disclose the sex they were assigned at birth. And so we see all of these checks on sex that are being put into law sometimes in these really explicit ways that get a lot of media attention, and then in other ways in these more hidden sort of policies that impact the lives of trans people.

Lizzy: So here's the big question. I think for me at least, this is something I really think about a lot. This is a really tiny population that is spurring a lot of legislation, like truly breathtaking

volume in 2023. Do you have ideas that you wanna share about why this very small population is the focus of so much legislative activity?

Zein: Yeah, I think that you're exactly right. These are vicious, coordinated, and cruel attacks against transgender people, and especially transgender youth. And for years, anti-trans campaigns like this have been rebutted by citing statistics that point to the vulnerability of trans people, who research shows exhibit disproportionate rates of struggles with mental health and are harassed more frequently and violently than their white LGBT counterparts.

This means that they're systematically closed out of opportunities to thrive. And I think that part of the motivation for pushing this legislation forward is pragmatic electoral project of trying to get people out to vote who don't know enough about trans people, but think that they know a lot about gender and what biology is and how it ought to work, and kind of appeals to them to get them to come out to vote.

I think that that's actually only a small part of the electoral strategy. I think the other part of it is that we are living in this moment, of a real fight over what the norms that will be held in the United States are. And I think that a lot, I think a lot of this boils down to maintaining ideas about who is a proper citizen, and in that case, the family is the bedrock of that, right? Headed by one man and one woman who make children and buy property and go to work every day. That's what's at stake. I think that that's what they're trying to shore up—these opponents of trans rights.

Lizzy: Yeah. So you said it boils down to ideas about who is a quote unquote “proper citizen.” And I'd love if you could talk about the public's perceptions or perhaps misperceptions of transgender people, because of course we know that the public as constituents, they're affecting these policy decisions.

Zein: I've done a lot of research thinking About how it is that people talk about trans people and what it is that they understand about trans people and what they don't understand. and so I have this one paper, it's in a journal called “Laws”, and it's called “Don't Read the Comments.”

And basically what I do is I look at the way that social media users, specifically YouTube audiences understand transness, particularly with respect to trans athletes. And so I look at the comments and what my research shows is that in general people do not have a basic understanding of what it means to be transgender or that they hold very superficial or stigmatizing understandings of transness.

What I like to do is shift the conversation and ask people to expand the scope to consider that we are all constantly undergoing processes of gendering. We do this when we wake up in the morning and decide what to wear, when we select our hobbies, or who we make relationships with. All of these are daily aspects of life that are also decisions about gender.

Lizzy: Yeah, I've seen some really important, kind of social media work lately saying, you know what else is gender affirming care? Like even shaving your legs, getting certain types of corrective surgeries, weight loss surgeries, anything that changes the shape of your body to make you feel more like yourself. And those are things that we offer to non-transgender people as a matter of course. And like you said, things that we do every day upon waking up.

Zein: Absolutely. I have an exhaustive list of this, but I'll wanna highlight two things in response to that comment. On the adult front, both women and men, non-trans women and non-trans men, use exogenous hormones to affirm their gender identities. And these are included, but not limited to women who are going through menopause, who use estrogen to maintain soft skin and hair. We can think of those as gendered characteristics. Men who experience sexual dysfunction use testosterone.

Bodybuilders also actually use both testosterone and estrogen. So testosterone to build muscle, and then estrogen to drop weight before a competition. A few years ago in the New York Times, Jane Brody had a piece about how parents in New York City who have a lot of disposable income were seeking hormonal interventions for their short children so that they could grow taller.

So I, you know, I'm trying to sample as broad a range of possible hormonal interventions to show that discourse around trans youth is being politicized to generate hysteria around trans youth and hormones when in reality there's not a real there there.

Lizzy: Right. Well, that's the other thing I think maybe people don't understand and you can say if this is something that you found as well in doing your research. Just that there's this idea that testosterone is for men and estrogen is for women, as if those were two distinct types of bodies that have no, you know, of the other hormone within them, or that those hormones don't fluctuate at times of our life.

It's just, it's absurd.

Zein: And it's wrong. So, both women and men have versions of testosterone. It is part of their hormonal makeup. Right, we just call it a different thing. When it's in people assigned female at birth, it's androgens. And in men it's testosterone. There's a great book by Rebecca Jordan-Young and Katrina Karkazis on, it's called "Testosterone: Unauthorized Biography", and it talks about the ways that the science around hormones isn't really settled and so what stepped into the place of that information that could be objective is stories that we tell about testosterone. And I think that those stories are doing a lot of work in this political moment.

Lizzy: Yeah. And tell us some more about the stories that you are encountering, that people are telling about the populations that maybe you're saying there's a clear lack of understanding. Especially, you know, if there's public attitudes that are resulting from a lack of understanding of

transgender identity. What can we do? What's the next steps when it's about changing people's understanding and how they're working in the world.

Zein: One of the things that I found so concerning in this research that I did on YouTube users and the way they talk about trans people, and especially trans youth and trans girls, is the way that they quickly go to dehumanizing rhetoric. and basically deny personhood to trans people. And by personhood here I'm referring to the things that we need in order to thrive.

So safety opportunities to compete in sport, opportunities to have friends. It is this very flattening rhetoric that basically says you must be mentally ill, or have something incredibly wrong with you in order to be trans, and therefore you don't deserve to have any of these things. And I think that's one of the most alarming parts about this legislation is that, I think a lot of the reason that it is gaining so much steam right now is that there's a lot of misinformation about trans people.

But then I think that there's also a mobilization that doesn't care if trans people are erased from public and social life. In fact, I think that that's the goal.

Lizzy: Yeah. And I mean, part of that, when you're, when you are talking about a small population, it is entirely possible to be someone living in the United States and not know a lot of trans people. And I think that it can make it easier to either dehumanize, you know, if that's what's being fed to you, or to not care.

Zein: One of the things that I think is really interesting about the way that the debate, and especially about trans athletics gets framed is that banning trans girls from sports will ensure fairness for non-trans girls.

And one of the things that shows up in that discourse is a very specific understanding of the non-trans girls who will be protected. More often than not, the people who are seen as deserving protection are white girls and women. And I think that's a really important piece of this puzzle because this wave of anti-trans legislation isn't operating in a vacuum.

It also goes alongside a nationwide campaign promoting critical race theory bans, and I'm putting this all in air quotes. So in 2023, there are 16 states that are currently considering critical race bans. It's Washington, Montana, Wisconsin, Michigan, Ohio, Pennsylvania, Rhode Island, Missouri, Kentucky, West Virginia, Utah, South Carolina, Alabama, Georgia, and Texas.

And I like to say all the states because I want people to understand the scope of this. And many of those states are also states where they're considering anti-trans legislation. And so I think linking those things is really important in the way that we talk about them.

Lizzy: Yeah. Well, tell me a little bit more about those linkages. Let's make that explicit for people who don't see that right away. What is the thing that makes a legislator, let's say a

hypothetical legislator, more likely to be in support of a ban on gender affirming healthcare and a ban on the teaching of race in public schools.

Zein: Yes. Well, I think it goes back to what I was saying earlier about who is understood to deserve protection. In the case of athletics, it's white girls and women, and that extends even broader to who it is that we consider, like a proper citizen.

And in this country, there is the perception that who is considered a citizen is under threat. And we see this in the anti-migrant discourse that is so vehement. And we also see it with critical race theory bans that are more often than not introduced in state legislatures with this speech about how it makes white children feel bad about themselves to learn about the history of race in this country, and that's about protecting white youth in the same way that white youth are being mobilized to as vulnerable, right, to protect them from their trans competitors.

So at the end of the day, this is all a project. If I were talking with students, I would say this is a project that's informed by white supremacist norms, by hetero patriarchal norms, things that people are looking to ensure in this moment, and to politicize in this moment.

Lizzy: As the parent of some small white children, it is so wild to me that there is this incredibly strong belief, really uniting big groups of people, that those children are not resilient and will be harmed by being introduced to anything that does not look like them.

Constantly confused by that. And I think, and we haven't even talked about—there's so much legislation happening here that is all tied together and the way you're framing it about, you know, citizenship and who's sort of allowed in the public sphere and who fits, has got me thinking about how it all works together.

We have not spoken about drag bans. Of course, people who dress and drag that says nothing about whether they are trans or cis or they're, you know, their gender or sexuality. So a separate thing, but similarly focused on like, who you are allowed to be in public and specifically again, that focus on, "oh no, the children," like, "don't let them see these variations of who can exist in public spaces."

Zein: Yes, it's definitely alarming and I'm thinking about library book challenges as well in addition to the drag bans where there has been a very coordinated mobilization to challenge the books that are included in school libraries. A colleague of mine, Richard Price, does work on this, and what he's found is that what is happening is that there are centralized organizations that are sending lists to activists on the ground to show up at school board meetings and talk about these books in really pejorative and oftentimes patently false ways.

And so, I don't know, on my social media feeds, one of the things that I've seen is that recently a principal in Florida, banned teaching about the statue of David, right?

Because it was understood to be pornographic and that, I mean, we can recognize that is an example of absurdity, but it's also happening with books that are being constructed as pornographic. So books for young adult audiences that are about sexual health are being banned because it says that they're pornographic.

And it's just not true. And we can see the ways that these myths about what is proper and what is improper are being used to mobilize a particular political constituency.

Lizzy: Yeah. Can you tell us a bit more about what you think this all means for the future of the LGBT rights movement? It just has felt like for such a long time there was consistent forward progress, but largely on the marriage equality front. That felt like such a big win. And it felt like there were some things that were settling into place in just American public life that now feel less settled.

What do you think this means for the future?

Zein: Absolutely. So my forthcoming book, "Terms of Exclusion: Rightful Citizenship Claims and the Construction of LGBT Political Identity" looks at the ways that whenever you mobilize a marginalized group around rights claims, it requires elevating the citizens, the people, the members of that group who are closest to the normative citizen.

And so we see with the marriage appeal that the people who benefit from that are gay, white men and some lesbians, those who are gender normative and all of these different ways, benefit from same-sex marriage. And it leaves everyone else behind. So that's one concern with rights.

The other concern with rights is the state can give you rights. And as we've seen with the Dobbs decision, for example, and some other decisions that are gonna come down the line in the next few months, they can also take rights away. And so my vision, my hope for LGBT politics moving forward is that we abandon rights entirely and that we look to other sorts of political projects that make a net benefit for as many people as possible. So for example, universal healthcare,

Lizzy: Hmm. Tell me more about that. I wanna hear more about what we need to organize around next. You really teased that and also a very bleak, but I believe evidence-based, vision of the near future where yes we are, about to see a few more rights removed pretty soon. So I want to know what you're thinking about, how we can work together to prepare for that.

Zein: Yeah. I mean, you know, the trouble with this is that rights are really easy. The templates, the stories that we have in place to make rights claims are very well established. The harder work is doing things like making structural changes that, again, benefit as many people as possible. So I named universal healthcare as one.

We've seen an ongoing battle in this country over universal healthcare. If everyone had access to healthcare, that would address a lot of the problems that a lot of groups are facing, right? who don't have access to basic care. It would also eliminate this concern for needing to be married, authorizing same sex marriages, because a lot of times what people would do is they would do that in order to access employee sponsored healthcare of their spouse.

Right? We can all agree that everyone needs access to healthcare, and even people in this country who have employer sponsored healthcare face obstacles in accessing it, right?

So you might not have good insurance, or you may have to wait six months to see a doctor. If we were to prioritize universal healthcare that is efficient and effective for as many people as possible, what that would do is it would resolve some of these tensions that we see emerging between different groups.

And so the rollback of abortion rights and Dobbs has been used by some feminists to claim that this is because trans people have been taking all the attention away from real women. And what I think gets missed by that fracturing is that the thing that ties trans people and women who want to control their reproduction is bodily autonomy.

And so if we can develop a public health system that has provisions built in for bodily autonomy that frames issues around reproduction and gender identity, not as individual problems, but as public health issues, which I think the discourse on abortion is shifting towards. especially people highlighting the ways that women will die if they don't have access to abortions that will be lifesaving. Right? So now we're, we're talking about abortions as, or the denial of abortions, as forced pregnancy, which I think is a really important term. But, by the same token, trans people are also going to be really harmed if we continue to take away the right to people to control their bodies.

And I think that's why it's starting with trans youth. I think, you know, to quote Angela Davis, "If they come for you in the morning, they're gonna come for me in the night." I think it's starting with trans youth and I think we've already seen in Texas, there's already a bill that's looking to expand the bans on healthcare for trans people up to the age of 26.

Lizzy: Oh yeah, no, they're immediately moving right up the ladder. We have stopped very briefly on legislation that only affects minors.

Zein: Exactly. And so again, thinking about universal healthcare as one way to address those problems.

Lizzy: Mm-hmm. And what does that mean for the future of coalition building for LGBT activities or the movement, you know, as a whole? It feels like it requires a different type of organizing, maybe, because we're talking about changing the whole US healthcare system, for example.

Zein: Absolutely. I would love to see an LGBT movement that seeks these connections. So not only to non-trans women or women who are in heterosexual relationships, and around abortion, but also thinking about immigration issues, right? And who constitutes a family, who constitutes a proper citizen. And part of redesigning the LGBT movement or pivoting will be going to people who are most negatively affected in these moments and asking them what they want and need, and then designing a political movement around that.

And that's been part of LGBTQ organizing. That's part of what I talk about in my book. It's been for decades, this is the way that it's been done. And the kind of challenge now is that the rights based movement has taken a center stage, but there's always been this work behind the scenes to forge these inclusive coalitions.

The other thing that I would say is that there's this narrative circulating at the moment that critical race theory bans and bans on trans youth in sports or LGBTQ topics in schools were spurned by the pandemic when a lot of parents were doing homeschooling and suddenly—this is how the narrative goes—and suddenly we're shocked to see what their children were learning.

I don't think that's true. I can't empirically verify this, but what I can't say is we do empirically know that there is a very long history of a parent's rights movement in this country that is sought to change it so that you know, homeschooling was no longer criminalized, but supported by the state.

And I think that they have seen this post-covid moment as a window of opportunity to move the ball forward on these arguments that are about securing parental rights. The supreme irony of it all is that the rights that they are arguing for as parents come at the cost of parents of trans youth.

And that I think is a tension that I don't have a policy-based solution for, but I want to—my job as an academic—is to put that out there into the world, and I love that your audience is a policymaking audience. And so I'll just say, I would love to see some sort of solution that can resolve this dilemma, and put on the table that this is not a new problem, this is just a symptom of an ongoing problem.

One of the things that I would like to see more of in this conversation about the attacks on trans people is trans people sharing stories of, the sort of joy and ebullience that there is that can be in living your life the way that you want to live your life.

I think that we have worked really hard to emphasize the negative aspects of what happens when you deny people access to trans healthcare. And I think it's really important to state those things over and over and over again. But I also worry that we're going down this path of saying that it's all, you know, it's all darkness, it's all terrible things.

And it's like, no, actually, people who access trans-affirming care or gender affirming care are happier. There was just a piece in the Washington Post a couple days ago that said exactly this: Trans adults say that they're happier in their lives after transitioning versus before. So I think that these are important things that we need to highlight.

And then I would go back to what I was saying earlier, which is we're all gendered. It's not just trans people who are gendered. We're all doing gender things all the time, always. And so thinking about gender in these expansive ways.

Lizzy: Yeah. Thank you so much, Zein. And thank you for listening.

For more on Professor Murib's work, check out our show notes at scholars.org/nojargon. No Jargon is the podcast of the Scholars Strategy Network, a nationwide organization connecting journalists, policymakers, and civic leaders with America's top researchers to improve policy and strengthen democracy.

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