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## DIGITAL LAWFARE AND ACTIVISM BY LESBIAN, GAY AND BISEXUAL PERSONS IN ETHIOPIA

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### 1 Introduction

Ethiopia, similar to many African countries, criminalises homosexuality and there is a high level of heteronormativity. As a result, the physical or public space including mainstream media is almost completely closed to any activism around lesbian, gay and bisexual (LGB)<sup>1</sup> persons. As a way of responding to this harsh environment, LGB activists have resorted to digital measures to find relationships and support, and to circumvent and push back against the reality that either denies their existence or is determined to make them invisible. This chapter explores the state of the ‘digital rights’ movement in Ethiopia and how LGB persons respond to homophobia and heteronormativity through digital lawfare. It closely looks at how the triple and intricate barriers of criminalisation, hostile social norms, and stifling political environment contribute to absence of visible activism, both offline and online. While acknowledging the complexity of the relationship between these triple barriers and LGB spaces, the chapter highlights how the community’s dependence on the digital space is a reflection of the exclusionary and controlling physical reality that they find themselves in. The digital space provides a possibility to navigate through such context and constantly negotiate a space to exist, love and live. But at the same time LGB persons are invisible to the public. These paradoxical relationships and temporal existence in both spaces amplify how persistently individuals resist the social and legal code of life and defy heteronormative law and cultural values by maintaining alternative digital media visibility and cultivating a space to connect with other LGB persons in the country and beyond and to advocate for their rights.

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1 Gender identities or sexual orientation beyond LGB (including transgender, queer, intersex, asexual) hardly feature in any published or grey literature in the country.

This chapter emerges from a broader research project that examines the state of LGB persons' health and wellbeing and its determinants in Ethiopia. The study employed a mixed-methods approach<sup>2</sup> and sought to explore access and use of digital spaces among LGB persons, and experience of rights engagement online and offline. The questionnaire and interview guides explored to a varying degree multiple themes that helped to tease out experiences of LGB persons and how they navigate the online and offline spaces in order to engage or not in politicisation and activism. The qualitative and quantitative data collection was conducted concurrently and was completed within a period of two months (November and December 2017) using snowball sampling. The chapter heavily draws from an earlier study that covered the views of men who have sex with men (MSM) regarding activism and social mobilisation to change the status quo.<sup>3</sup> All names mentioned in this article are pseudonyms to protect the identity of the respondents.

Getting ethical clearance for the research has been difficult in Ethiopia both because of the social and political sensitivity of the issue and due to the absence of an Institutional Review Board (IRB) for social science research in the country. The National Research Ethics Committee and the IRB at the College of Health Sciences are mandated to issue ethical clearance, but judging from the authors' past negative experience, they would not have approved research involving persons in same-sex sexual relationship due to deeply entrenched heteronormativity in the institutions and among members of the ethics committees. The researchers have put in place multiple mechanisms to ensure that the study would be conducted in line with proper ethical principles of autonomy, justice and beneficence. Researchers were cognisant of the social and legal risk participants run in the case of exposure. The protection of participants was therefore of utmost priority during recruitment, data collection, and write up. Participants were informed of the nature of the study and its purpose, and the voluntary nature of their participation. They were assured that they were free to pull out at any stage. All participants were requested to provide verbal consent. All the interviews were conducted in private spaces considered safe by participants. While keeping track of the LGB persons who took part in the study, care was taken not to have any identifying information such as name or address in the questionnaire or transcribed interviews to ensure confidentiality. While integrating excerpts of responses, participants were

2 See JW Creswell et al 'Best practices for mixed methods research in the health sciences' Commissioned by the Office of Behavioral and Social Sciences Research (OBSSR) (2011); JW Creswell *Research design: Qualitative, quantitative and mixed methods approaches* (2009).

3 G Tadele 'Under the cloak of secrecy: Sexuality and HIV/AIDS among men who have sex with men (MSM) in Addis Ababa' (2008).

mentioned using a combination of age and data source to avoid linking responses to participants. Physical and digital data from the questionnaire, interviews, and focus group discussion do not have any information that links data to a particular person. Data is kept safe in secure spaces.

## 2 The legal status of same-sex relations and LGB organising in Ethiopia

The 2004 Penal Code explicitly outlaws same-sex sexual acts.<sup>4</sup> Article 629 on Homosexual and other Indecent Acts states that: ‘Whoever performs with another person of the same sex a homosexual act, or any other indecent act, is punishable with simple imprisonment’.<sup>5</sup> Contrasting views prevail about the degree of enforcement of this law in the country. LGB activists claim that many LGB persons have experienced the brunt of the discriminatory and harsh legal environment.<sup>6</sup> The government, in contrast, argues, in defence of its human right record in international human rights fora, that it has not been enforcing the provisions of the criminal code on same-sex conduct.<sup>7</sup> On the other hand, religious groups have long urged the government to enforce the laws, revise the Constitution to explicitly reject homosexuality, and uphold the nation’s conservative culture.<sup>8</sup>

The 2009 Charities and Societies Proclamation Law,<sup>9</sup> has a provision that denies registration to any association that has been deemed illegal or appears to purport violation of ‘public morality’, which by extension appears to apply to organisations or associations that seek to advance the rights of LGB persons.<sup>10</sup> An attempt to establish a legal association for LGB persons was promptly turned down by the government, and the individual who attempted to register the association eventually had to leave the country because of harassment.<sup>11</sup>

4 Federal *Negarita Gazeta*, Proclamation 414/2004: The Criminal Code of the Federal Democratic Republic of Ethiopia, at 182-183.

5 As above.

6 See for example C Overs ‘Interview with Beki Abi of DANA Social Club, Ethiopia’ IDS Opinion, 25 November 2019 <https://www.ids.ac.uk/opinions/interview-with-beki-abi-of-dana-social-club-ethiopia/> (accessed 4 April 2022).

7 LR Mendos *State-sponsored homophobia* (2019) [https://ilga.org/downloads/ILGA\\_State\\_Sponsored\\_Homophobia\\_2019.pdf](https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf) (accessed 28 April 2021).

8 ‘Gay gathering sparks row between Ethiopia’s churches and state’ *Reuters* 29 November 2011 <https://www.reuters.com/article/idUS302027486920111129> (accessed 4 July 2022).

9 Federal *Negarit Gazeta*, Proclamation 621/2009: Proclamation to provide for the registration and regulation of charities and societies, at 1-2.

10 Mendos (n 7).

11 T Thomas ‘The secret lives of homosexuals in conservative Ethiopia’ *MedIndia*

There are stories of persecution, arrests, and prosecution of sexual minorities encountered in Ethiopia. Zeberga (a male sex worker) was arrested by the police and imprisoned for a month for engaging in homosexual sex, he stated:

The police took me and said they have received information that I engage in homosexual sex and I said that it is indeed correct and I do but I have never raped anyone or done it without the consent of a partner. And the commander of the police station was furious when he heard me saying that. He screamed, 'Are you telling me that you are a bushti [faggot]?' and hit me on my forehead with the butt of his pistol. And I objected that there is no reason why he should hit me, that I haven't forced any one to have sex with me, that all I have done is satisfy my feeling with someone else who had the same feelings [*yewiste simet new beqa yenekahut yasgededkut sew yelem*]. They held me for about one month and then they took me to court and the judge asked what I was there for and they read the charges. And the judge asked me if I have done what they have accused me of. I told him I have but I have never done it without consent. And he said if I haven't been caught in the act and if there is no one who is accusing me of forcibly having sex with them, the court cannot sentence me guilty just because I have said I have done it and told the police to release me on bail [*yemetawekia wass*] ... there were about 26 other guys who were arrested around Giorgis for the same thing ... And they were released too.<sup>12</sup>

Zeberga also indicated that many other gay persons were caught by covert policemen, who approached male commercial sex workers as if they were clients:

The police caught them posing like gay, you know, going there and asking some guys for sex as if they were customers, and they catch them when the guys go to them thinking they have got clients.

Ayele, an elite<sup>13</sup> informant, also reported a story of a gay person who was detained and went through a horrible experience. The police caught two gay persons having oral sex around St George Church. The police arrested, tied and beat them and told them that they would be released if they admitted the truth and gave out names of other gay persons. Then, the arrested persons gave the names of alleged gay persons to the police.

19 May 2009 <https://www.medindia.net/news/The-Secret-Lives-Of-Homosexuals-In-Conservative-Ethiopia-51528-1.htm> (accessed 28 April 2021).

12 Interview with Zerberga (date and place withheld for confidentiality reasons).

13 For the purpose of this paper the term elite refers to those with good economic and social status and who claimed that they were not involved in male sex work.

Someone who knew that his friend was gay tipped off the police and then he was arrested in the piazza:

The police took him, along with others, and locked him without any evidence. There were around 20 people who were locked up. All of them denied the allegation. But, they were severely beaten. He had been in prison for three months along with 20 alleged homosexuals without being taken to court. He was bailed out at last. Even after being released, he was abused by police. The police threatened his mother that they would arrest him again unless she bribed them with some money, and his family suffered a lot. Finally, they were able to send him to England. I even asked him why he doesn't write it and share to the Yahoo groups. He told me that it is a long story and he would like to write a book about it.

All these examples suggest that there is sporadic enforcement of the law against homosexuality, and such arrests resulted in inhumane treatment in correctional institutions – not only by the agents of the criminal justice system, but also by fellow detainees or inmates. Correctional institutions in many developing countries like Ethiopia are notoriously harsh environments (overcrowded with little or no basic facilities) in which mistreatment and abuse pose serious challenges. As the above narrative suggests, detained homosexuals are subject to harsher experiences than other detainees or inmates. The police officers we interviewed also supported the stories above that prisoners suspected or known to be gay are made to endure unspeakable treatment from fellow prisoners.

Jemal, who engages in sexual activity with other men and is a sex worker, also stated that he was tired of harassment by the public and the police. He, however, seemed to have adopted a strategy of telling the truth to the police instead of denying it:

[F]or instance, street children, or others living by side streets may insult you, they may become suspicious when they see you strolling on the street again and again. They may be suspicious when they watch you getting in automobiles and at times the police may follow you. In fact, I know some policemen who are themselves gay and in such cases they even threaten to arrest us unless we are willing to have sex with them for free. I have been once caught by a policeman and I was very melancholic and told him all my problems. He felt very sad about my story and advised me to pray and to remember always God so that I can give up this sexuality and set myself free very sooner. If I am caught, I would admit that I am gay politely and with regret. I would tell the policemen all the stories and that I am not happy at all in this gay life, just like I am telling you right now. And I am very persuasive and they usually let me go after giving me some pieces of advice. If some guys

deny that they are gay and if they try to tell the policemen lies, they hate them for being cheaters and would beat them, tear their clothes and harass them.

In the absence of a court trial, Jemal adopted what is known as ‘bargain justice’<sup>14</sup> and he asserted that ‘pleading guilty’ enabled him to escape police brutality. In a way, he was acting out his agency and circumventing the policed environment surrounding his sexuality. He admitted his sexuality to the police in a very convincing way, embracing the public sense of shame, and depicted himself as helpless and unhappy. By doing so he created a space to avert the worst outcomes (violence or arrest/detention). The situation indicates the complexities that homosexuals go through while expressing their policed sexuality.

Overall, from the stories above, it appears that there is occasional enforcement of the law and many of them reported about others who were arrested and experienced unspeakable suffering in prison.

### 3 Public opinion on LGB rights in Ethiopia

Notwithstanding criminalisation, many studies note that deep-seated heteronormative social norms remain the most potent force against acceptance of homosexuality, and account for the invisibility of any form of same sex sexual relationship in public spaces or LGB activism in the country.<sup>15</sup> There are strong heteronormative structures in place that quell any expression of homosexuality. A 2007 PEW global attitude survey found that 97 per cent of Ethiopians are in favour of criminalisation of homosexuality.<sup>16</sup> In a 2020 Afrobarometer national survey of 2 400 adults across the country, nine out of ten participants expressed strong dislike to having homosexuals as neighbours.<sup>17</sup> These findings demonstrate the close alignment between law and morality, and specifically the synergy between the conservative discriminatory social norms, and the criminalising legal environment. LGB persons have to grapple with hidden powers manifested in self-censorship, fear and anxiety.

14 R Henham ‘Bargain justice or justice denied? Sentence discounts and the criminal process’ (1999) 62 *Modern Law Review* 515.

15 As above.

16 PEW Global ‘47-Nation PEW Global Attitudes Survey’ (2007) 35 <https://www.pewresearch.org/wp-content/uploads/sites/2/2007/10/Pew-Global-Attitudes-Report-October-4-2007-REVISED-UPDATED-5-27-14.pdf> (accessed 5 July 2022).

17 Afrobarometer ‘Summary of results: Afrobarometer Round 8 Survey in Ethiopia, 2020’ (May 2020) [https://www.afrobarometer.org/wp-content/uploads/2022/02/afrobarometer\\_sor\\_eth\\_r8\\_en\\_2020-07-03.pdf](https://www.afrobarometer.org/wp-content/uploads/2022/02/afrobarometer_sor_eth_r8_en_2020-07-03.pdf) (accessed 4 July 2022).

Perhaps swayed by the negative public opinion, Beqalu (a male sex worker himself) is one of those informants who called for harsh measures to be taken against homosexuals (in addition to warning people not to be involved in it). He also argued that homosexuality should not be allowed to spread, and people should pray so that their children should not fall into the trap of homosexuality:

You can't control it; I mean you can't control all the people in Addis for example. So control cannot make it disappear. I think people should be warned, for example. You can warn people that they would be executed if they are caught doing such things. I don't think it should be allowed to spread. It will be spoiling the young ones. But the young ones are too greedy and it will surely spread. They would go along and sleep with you for a few beers or a pair of new clothes and they would be calling you every other day asking you to meet again. So I don't know what can be done to stop it. I guess people should pray to God to protect their kids from this. That is all I can think of. Parents should pray that their children may not fall into it, and they should bring them up properly. And I am sure street children will all be gay because they grow up seeing it. They see their mother having sex for money all the time; and the kid will grow up thinking I can make money, too. He will get his ear pierced and in no time he is a prostitute like his mother.

The above response depicts the cognitive dissonance homosexuals experience in the face of extreme heteronormativity to the extent that they summon the worst forms of punishment upon themselves and people with similar sexual orientation.

#### **4 The internet as a form of lawfare**

The role of the new digital media is highly contested in the literature. In addition to the widely dominant congratulatory narrative that upholds digital media as a panacea,<sup>18</sup> there are perspectives or views that insist on more nuanced and complex takes on the new digital media.<sup>19</sup> The internet offers an alternative space for the less powerful such as minority groups like LGB persons and activists. However, the access to and freedom in this space is constrained by powerful actors such as the government, certain institutions, and the community who seek to undermine opposing views

18 M Nekrasov, L Parks & E Belding 'Limits to internet freedoms: Being heard in an increasingly authoritarian world' *LIMITS 2017 — Proceeding of the 2017 Workshop on Computing within Limits* (2017) 119-128.

19 S Srinivasan, S Diepeveen & G Karekwaivanane 'Rethinking publics in Africa in a digital age' (2019) 13 *Journal of Eastern African Studies* 2.

and narratives, and uphold dominant social norms.<sup>20</sup> To this end, these actors engage in actions that compromise safety and freedom of members of the less powerful groups, who are often subject to relentless online and offline hounding and violence. Further strictures exist in the form of self-censorship that individuals experience in order to keep their sexual identity private.<sup>21</sup>

Ethiopia is listed as one of the countries that has the lowest access to Information Communication Technology (ICT) and the internet in Africa. A gender gap prevails, with far more men (12 per cent) using the internet than women (4 per cent). Access to the internet is also largely restricted to urban areas and among digital literates.<sup>22</sup> Power outages and intermittent internet disruption for political and other reasons are common. The government has a stronghold on online spaces through the Ethiopian Telecommunication Corporation, which is the only institution with the mandate to provide internet access across the country. This coupled with a massive rural population that dwell in settings devoid of even the most basic infrastructure has been cited as major impediments to internet access. Despite international<sup>23</sup> and national<sup>24</sup> provisions that seek to protect freedom of speech and the right to information, the government engages in activities that stifle opposing political views. The government has the leverage to do so as it is the sole provider of internet service in the country.<sup>25</sup> In other words, although the internet has the potential to overcome constraints of space and time and could bring real power to the people, digital authoritarianism<sup>26</sup> as manifested through internet blackouts and surveillance stifle its powerful potential for social change, and turn it into another government control apparatus.

20 OpenNet Initiative 'Internet filtering in Ethiopia' (2009) 1-9 [https://opennet.net/sites/opennet.net/files/ONI\\_Ethiopia\\_2009.pdf](https://opennet.net/sites/opennet.net/files/ONI_Ethiopia_2009.pdf) (accessed 28 April 2021); Nekrasov, Parks & Belding (n 18); A Shishkina & L Issaev 'Internet censorship in Arab countries: Religious and moral aspects' (2018) 9 *Religions* (2018) 358.

21 See Nekrasov, Parks & Belding (n 18).

22 J Poushter 'Smartphone ownership in emerging economies continues to climb in and internet usage but advanced economies still have higher rates of technology use' Pew Research Centre (22 February 2016).

23 UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III); and UN Human Rights Council Resolution, The promotion, protection and enjoyment of human rights on the Internet, 18 July 2016, UN Doc A/HRC/RES/32/13 (2016).

24 Constitution of the Federal Democratic Republic of Ethiopia (1994) art 29 on the right of thought, opinion and expression.

25 OpenNet Initiative (n 20).

26 T Dragu & Y Lupu 'Digital authoritarianism and the future of human rights' (2021) 75 *International Organisation* 991.

The internet is thus a contested space where diverse groups seek to advance their respective narratives and counter narratives.<sup>27</sup> In light of the prominence of online platforms, authors like Pantazidou<sup>28</sup> have emphasised the need to look into issues of power in these spaces:<sup>29</sup>

As an increasing amount of norms, beliefs, negotiations and mobilisations are shaped through virtual, online spaces, a further question arises about who has access to those spaces and what are the sources of power and terms of engagement within them.

Findings from an earlier publication show that the majority of research participants prefer to get information on sexual health needs, meet partners, and engage in activism online.<sup>30</sup> This high uptake and usage of online media platforms has encouraged the authors to investigate further experiences of LGB persons online including practice of use, culture of 'coming out', experience of arrests, benefits and danger/vulnerability associated with activism and claiming rights through physical or digital spaces as LGB in Ethiopia.

Living under multifaceted scrutiny and facing multiple forms of exclusion in public spaces the LGB community in Ethiopia turns to the internet as an alternative space to be part of imagined communities, 'live and love', have a voice, and access information.<sup>31</sup> This is further enabled by the growing prominence of the internet as a medium of communication globally<sup>32</sup> and the staggering uptake of social network platforms such as Facebook among internet users.<sup>33</sup>

By and large, those for and against exploit the internet to advance their causes. MeskelSquare for instance was one of the blogs sites that entertained discussions on homosexuality in Ethiopia. It generated highly emotional insults and sometimes violent rhetoric from both sides. Both

27 M Pantazidou 'What next for power analysis ? A review of recent experience with the powercube and related frameworks' (2012) 44 *IDS Working Papers* 1.

28 As above.

29 As above.

30 G Tadele & WK Amde 'Health needs, health care seeking behaviour, and utilization of health services among lesbians, gays and bisexuals in Addis Ababa, Ethiopia' (2019) 18 *International Journal for Equity in Health*.

31 Tadele & Amde (n 30); Srinivasan, Diepeveen & Karekwaivanane (n 19).

32 OpenNet Initiative (n 20); Nekrasov, Parks & Belding (n 18).

33 Poushter (n 22).

opposing and supporting views are posted as the following examples from two bloggers indicate:<sup>34</sup>

The only reason we see more gays in different parts of the world is because people come to terms of understanding and supporting us. I know Ethiopia may not be ready to come to full acceptance of gay people at this time ... but I am sure there are some grass root activities going on ... sooner or later our rights and existence will be acknowledged and supported. The only message I may have is 'do not judge us because of our sexuality ... and remember every family have someone gay very close to them ... we can be your brother, sister, uncle, aunt, father, mother ... or cousins and best friends ... so before you say something bad about us think twice about it for a second'.

Hell no! There is no way Ethiopia will allow openly Gay Practice. We the real people of Ethiopia would rather die than approving Gay right in Ethiopia. First of all, this shit has become topical among White Europeans who still want to demolish that beautiful and unmixed culture of Ethiopia. We Ethiopians (Muslim to Christianq) will hold hand in unison and push back the issue as we did to Fascist Italy! I absolutely agree that Ethiopian Gay people are those who were born in different country specially in Europe or USA otherwise we are clean as blue sky in the summer!<sup>35</sup>

These views reflect a human rights perspective on the one hand and a strong negative reaction on the other. The first position reflects on the rights perspective while the second view sheds light on a homophobic stance (anger, disgust and discomfort with homosexuals). The second writer argues that Ethiopian gays were not born on Ethiopian soil. Rather, they were born in the Western world. In other words, homosexuality is imported from the West and is not inherent to Ethiopian society.

In the absence of any institutions/interventions seeking to advance the interests of LGB persons, there were reports of organised efforts by LGB persons themselves online, but this is largely done using the HIV angle:

There are ... Facebook [groups]. There are no organisations working on our issues so the only choice we have is to [do it] ourselves ... the only thing we can do is to teach anonymously online. Because it is difficult to do it in person. So my friends and I have a page that provides information on health issues. We post twice a week on HIV or STI/STD. So people could discuss

34 Anonymous [http://www.meskelsquare.com/archives/2005/04/holding\\_hands.html](http://www.meskelsquare.com/archives/2005/04/holding_hands.html) (accessed 28 July 2012).

35 As above.

there and if they have any questions they will inbox us and we will answer as much as we can. Once a week after work a friend of ours who is also like us and who is a health professional talks to people who need help or advice. We have over four thousand followers. I would rather not tell you the name of the page but we are doing a good thing on health issues but we are not working on advocacy yet. All we can do is to try to help people get condoms and lubricants for free.<sup>36</sup>

Others admitted campaigning for the rights of LGB persons online but with no success:

I am vocal online so when these sorts of things happen people come to us. There are stories when we campaigned for the release of imprisoned guys. For example, there were two guys who got caught in a hotel room and the people who caught them beat them and called the police and the police took them. I know more than four people who are still in prison for more than two years ... they do not tell you their charges officially. I tried to visit them and it is very horrible that the fellow prisoners pulled out the nails from the toes and fingers of one of them. But there is nothing we can do other than campaigning online. We talked to some foreigners and we took them with us but they were not able to help because our legal system is very difficult.<sup>37</sup>

LGB persons have increasingly enlisted digital platforms such as Facebook, Twitter, WhatsApp, Viber, Telegram, Instagram, Google+, yahoo groups and websites, which have profoundly impacted their lives. Benefits of being on digital space are well documented in the literature in many contexts:

Digital media provide[s] new possibilities for people to interact with one another and with the world around them. They alter existing forms of social exchange and belonging, and create new ones. Social media platforms like Facebook, WhatsApp and Twitter are increasing awareness of shared identities that transcend physical place in everyday activities and routines. In so doing they are giving rise to new forms of 'networked sociality' that are inflected by, or in conflict with, local cultural values and norms.<sup>38</sup>

36 Interview with a 25-year-old interviewee (date and place withheld for confidentiality reasons).

37 FGD informant 2 (date and place withheld for confidentiality reasons).

38 S Srinivasan, S Diepeveen & G Karekwaivanane 'Rethinking publics in Africa in a digital age' (2019) 13 *Journal of Eastern African Studies* 2.

A recent study in Ethiopia found that the LGB participants heavily rely on online spaces for various purposes.<sup>39</sup> The use of internet by 9 out of 10 LGB respondents in the survey (90 per cent of respondents) is hardly a reflection of the access rate nationally, which stood at 8 per cent.<sup>40</sup> The LGB community's dependence on the digital spaces evident in this research is a reflection of the criminalising and heteronormative physical reality that LGB persons find themselves in, and which fosters social exclusion and violence. The digital space, provides a possibility to navigate through such context and constantly negotiate a space to exist, love and live while remaining invisible in public. Srinivasan et al emphasise the importance of examining and understanding the African's lived experiences in the social, political, and economic spheres in this digital era to appreciate 'the disruptive effects of digital transformations across the continent'.<sup>41</sup>

It was evident that online social network platforms play a key role in the lives of LGB persons, allowing them a degree of freedom to circumvent the legal and social strictures. Online platforms provide an alternative space that facilitates visibility of LGB communities and their embodied experience of power and structural violence. Most importantly the digital space is where LGB persons feel safe to connect and exist as LGB individuals, experience a sense of belonging with fellow LGB persons, be part of online communities, get respite from depression and communicate sexual health and mental health issues. Some also use the space to educate fellow LGB persons and engage in online activism and politicisation.

The significance of digital space on LGB lives suggests the chasm in the experiences of LGB persons, and the isolated and precarious existence of many without such access, either on account of low education, non affordability of smart phones or internet, or lack of infrastructure. One Ethiopian LGB activist intimated: '[M]ost queer lives are lived in complete isolation and there aren't even small LGBT sub cultures you can find in other parts of East Africa.'<sup>42</sup> One activist in a recent interview further describes: 'Our activism, information and support functions mainly happen online. These are complemented by small and very secret meetings, a bit like the "cells" of an underground resistance movement'.<sup>43</sup>

39 Tadele & Amde (n 30).

40 Poushter (n 22).

41 Srinivasan, Diepeveen & Karekwaivanane (n 19).

42 Overs (n 6).

43 As above.

Despite being an alternative space for LGB persons to get on with their lives, it is difficult to describe the space safe, as online spaces are not immune to violence and almost all LGB using the digital platforms found it necessary to use pseudonyms. Thus, LGB persons face risk of being outed on these spaces due to breach of security, lack of protection, or poor digital literacy. This turns the platform to become a space for abuse, and further threat on the wellbeing of LGB persons. When privacy and safety of LGB persons on the digital space is compromised, the digital space seems more an extension of the physical world than an alternative to it.

The sense of insecurity and the implications of being outed makes the researching of online experience of this group a daunting challenge. Illustrating the ethical dilemmas and challenges faced when researching LGBT issues, Odoyo<sup>44</sup> reported the acute anxiety that LGBT persons experience in online spaces, challenging the notion of safety that online spaces are supposed to provide. LGBT persons reiterated a feeling of being constantly spied on online.

This hostility towards the LGB community raised security concerns that affected the validation of the findings of this study. By the point of validation, members of the queer community in Addis Ababa reported that they were being surveilled by the government after receiving word that the government somehow had compiled a database bearing the names, social media identities, addresses and contact information of at least 200 queers with no indication of the reason for the existence of said database. They reported monitoring of foreign embassies by the government who are purported to have also collected information about any visits to said embassies by members of the queer community. These concerns made the community understandably reluctant to communicate via email, social media or even meet. As a result, most members of the community have deleted their social media presence, changed their email addresses and consequently fled Ethiopia and sought refuge in other countries such as Kenya.<sup>45</sup>

Some LGB persons expressed facing abuse online and not doing anything about it. But in some instances when adversaries are trying to out them, by posting their identities including photos and address, they report to Facebook and are able to get the photos removed.

44 R Odoyo *Outsider citizen: A landscape analysis of the human rights of sex workers and LGBT people in Ethiopia 2014-2015* (2015) <https://globalphilanthropyproject.org/wp-content/uploads/2016/03/Outsider-Citizen.pdf> (accessed 9 July 2022).

45 Odoyo (n 44) 9.

According to a study in Ethiopia, despite the various measures meant to stifle free speech or internet access in the country, the use of online tools that help circumvent government censorship are widely used:

Now many are aware of getting around government blocks by using proxies and VPN (Virtual Private Network) technologies. Circumventing technologies, which were unheard of before or left for the tech savvy ones, become common on daily conversations of the youth in Ethiopia ... The accessibility of circumventing tools also helps internet users to avoid self-censorship.<sup>46</sup>

These tools which afford private and secure online communication and browsing did not come up in this study. This is perhaps because the LGB persons do not feel being under the watchful eyes of the government, or perhaps due to lack of know-how and access to these mechanisms.

## 5 Limitations of online lawfare

There are online counter movements against LGB persons as well. Participants mentioned that the online spaces are fraught with vocal detractors of the LGB agenda, who seem to enjoy resurgence in popularity especially as they vociferously spearhead protests against events that they consider too liberal and alarming, for example hosting of international HIV conferences locally: 'There were [online] pages opened by the religious leaders. They used to post quotes from the Bible about us.'<sup>47</sup>

The interviews reveal the nature of violence and insecurity LGB persons experience online from being called names and unsolicited advice to convert to heterosexual, to threats of murder and violence. Despite homosexuality being illegal, LGB persons emphasised that much of the abuse they encounter is from religious individuals and groups, and less from law enforcement bodies:

Whenever people discuss homosexuality with us online no one ever says that I will report you to the police because it is a crime; they say it's a sin, they say it's not our culture and threaten to kill us or beat us or if they are tolerant enough they will tell us to go to the West because that's where people like us belong.<sup>48</sup>

46 HH Abraha 'Examining approaches to internet regulation in Ethiopia, *Information & Communications Technology Law*' (2017) 26:3, 310.

47 FGD informant 1 (date and place withheld for confidentiality reasons).

48 FGD informant 7 (date and place withheld for confidentiality reasons).

People have called me names or even sent me threats [online] telling me that they are going to find me and kill me. In the beginning I used to be so scared and intimidated to the point of losing sleep or having nightmares.<sup>49</sup>

The qualitative data further shows that LGB persons are still fearful of being outed online, which could affect their relations offline with families and communities. Hence, many resort to using pseudonyms and having multiple accounts to protect identity:

I have two Facebook accounts. Sometimes you chat with someone and when you reveal your sexuality, you might be mistaken and he *might* overreact. He might expose you ... I have two Facebook accounts. One for family, colleagues and straight friends and another with a pseudonym for my gay friends.<sup>50</sup>

I have an account my family doesn't know about in a different name; because my brother and sister go through my phone, I use another phone not the one I formally use.<sup>51</sup>

Despite all these they are prone to their security being compromised, and they face the most acute anxiety of their significant others finding out, and being humiliated and excluded:

Someone went as far as posting my picture online using anonymous account. But my friends and I reported the picture and got it taken off from Facebook.<sup>52</sup>

This relates to the level of internet literacy of some of the LGB persons, that is they were able to get in touch with the company to retract the post. The responsiveness of the corporation is commendable. However, that may be too little too late once word is out about the sexual and personal identity of the victims. Further, not all LGB persons took measures to address online abuse and violence, which they often face from people who do not really know their real identity. When asked how they dealt with crime (violence attacks, physical assault, etc) committed against them online/on social media, 17 LGB persons said they did nothing in response. The qualitative responses also suggest a sense of helplessness in the face of violence and discrimination.

When your name, phone number and pictures are posted [by someone who want to publicly out you] It is scary. Yes [the person posted] my real name

49 32-year-old interviewee (date and place withheld for confidentiality reasons).

50 FGD informant 4 (date and place withheld for confidentiality reasons).

51 23-year-old interviewee (date and place withheld for confidentiality reasons).

52 25-year-old interviewee (date and place withheld for confidentiality reasons).

along with the name I told you ‘natty’ [pseudonym] and my phone number was posted and more than five of my friends were on the list as well. So we had to leave the country.<sup>53</sup>

The extent of shock and fear is palpable from the above response. It is common for individuals to leave their country for fear of persecution from the government due to political reasons and the fate of LGB persons also seems the same.

## **6 An uncomfortable agreement: Justifications for continued online lawfare in Ethiopia**

The LGB movement in Ethiopia largely exists online, rather than physically. According to a respondent:

Nobody is willing to take the risk of being out. I know if I was to come out and speak up there would be change but I would be dead for sure. And I can't live in the country.<sup>54</sup>

Most people do not engage in activism – online or otherwise because of fear. Let alone LGB activism, political activism for the general population is dangerous here. But still there are some people who are in a movement. They don't totally expose themselves but like they take pictures wearing a rainbow flag and things like that. There are also online websites. Because I am not that much interested, I do not follow deeply.<sup>55</sup>

The reason for this is largely due to the fear of harassment and the security concerns that rise from engaging in activism. Those who oppose advocacy towards decriminalisation of same-sex relations prefer to maintain the status quo. They recognise the benefits in terms of visibility of LGB issues, many also feel that risks of activism outweigh the benefits. LGB persons fear that activists actually endanger their wellbeing and lead to closure of emerging LGB spaces both online and offline. Here is a practical example:

There was a problem after ICASA [2011 International Conference on AIDS and STIs in Africa that took place in Addis]. ... [S]ome of my friends and I had to leave the country for six months or more. People were posting our names and photos on different pages. I believed I was secure but somehow

53 25-year-old interviewee (date and place withheld for confidentiality reasons).

54 32-year-old interviewee (date and place withheld for confidentiality reasons).

55 FGD informant 5 (date and place withheld for confidentiality reasons).

people would find something. So they had my name, phone number and pictures and they were saying 'these are gay activists.' something like that.<sup>56</sup>

Some informants sound very cynical about the purpose that politicisation online could accomplish in a very conservative society. Hence, they mentioned that they are not keen to be part of such a movement considering how heteronormative society is and the implications of visibility to their safety and wellbeing.

But I can't be out in public as a gay man and debate on TV like they do in Kenya. So I don't see the need for politicisation.<sup>57</sup>

Others make further distinctions about the goal of the advocacy. They emphasise the importance of changing people's perceptions more than advocacy for decriminalisation of same sex sexual relationships.

I don't believe changing the law on paper would help change peoples' mind. I think we need some sort of campaign like those done in 1990s to change the stigma against people living with HIV/AIDS or those done to stop gender based violence and female genital mutilation or to empower women. The reason most people are against homosexuality is not because it is a crime rather it is because of their religion and culture. So if we want to change their mind we need more than changing laws.<sup>58</sup>

And yet others feel that maintaining the status quo allows space for LGB people to exist and as such activism should wait for societal attitudes to change:

I am not saying the society has the moral obligation to put us in jail, or discriminate against people because of their sexuality ... but so far I know it was peaceful!! No one is executed or taken to jail because he is gay, even if there is a rule that is written with black and white! So I would say the society and government were so quiet about it so far, let us not provoke the government/the public and invite further complication on us [*ena agul qoskusen yemayehon neger anamita!!!*] Believe me, they have the legal power to take every one of those petitioners to prison!!!! I strongly recommend for us to enjoy the things we have at hand and demand for legal rights later, very later in the day. Because legality by itself is nothing, it is not going to stop discrimination or mistreatment. How many in this group really accepted themselves? Before asking others to accept us, first let's get done with ourselves (*yewistachinin*)

56 Interview with a 25-year-old (date and place withheld for confidentiality reasons).

57 FGD informant 7 (date and place withheld for confidentiality reasons).

58 FGD informant 4 (date and place withheld for confidentiality reasons).

*meche cheresin-na new?*) ... and even if that right is granted, believe me it won't happen any time soon, what are you planning to do with it? Get married? For God's sake, if those people who demand for their 'right' are in this group, please, please, don't move faster than your environment (Society)!!! Because you would end up crushing.

Another person added:

Asking for rights I think, what these guys did is not completely an act of stupidity. They lack some comprehension of the current situation of our society and what the consequence of their act. They should have done the cost-benefit calculation thoroughly. To the best of my knowledge, there is not any special discrimination against Gay people. What do they mean by saying 'right?' Right for what? Marriage? To do whatever they want to do in public? At least, they could post their plan in this forum and get some opinions because we are stakeholders in the situation. You can stay in the closet as long as you want and still have a fulfilling and happy gay life. Coming out only makes your life easy, and I don't recommend it if it does the opposite- makes your life even worse. Coming out to others is optional, but it is absolutely mandatory to come out to yourself (accepting and loving yourself as you are). Because no matter what you do, you can never change who you are!

Mamush, another young man from a well-off family, also considers homosexual life as a hassle because he has to be mindful of it so that his family and other significant others should not uncover that he is homosexual. He said that, even if homosexuality is legalised, he would not come out openly; and he expressed his preference for homosexuality to remain illegal: 'I don't think it would be better for it to be legal and acceptable. We are much better off doing it behind closed doors as we used to.'

Despite the overwhelming opinion not to outrightly engage in activism, some individuals in Ethiopia are in favour of activism and legalisation. Male sex workers in particular, expressed a slightly different position arguing that homosexuality should be legalised. And, such legalisation at least may allow them to be on an equal footing before the law when they are abused or harassed by the public. Thus, they expressed the need for freedom and protection by the government:

The government should help us exercise our right to move freely and live in our way without harassment. We are subject to name calling and are stoned

whenever we pass streets. They call us *bushtis*. We are even abused by street children.<sup>59</sup>

Bitew also argued along those lines saying that he longs to see the day gays in Ethiopia have the freedom that gays in the Western society enjoy:

Let me tell you something that will make me happy. If you take Europe, gays have their own places where they enjoy freely and get married without any fear. I want Ethiopian gays to enjoy those freedoms. Then, I would like to come out to my family. I would be really happy if our government grant us the freedom to marry, wear whatever clothes we want, enjoy in our places and do everything we want like the European or American gays do. The government issued a policy to stop stigma and discrimination against HIV victims here in Ethiopia. I would really be happy if the government takes the same step: declaring to stop stigma and discrimination against gays. I also want my family to know who I am. That would really make me happy. The message I would like to convey to the government and the public is that they should let us enjoy our freedom like any other members of society [heterosexuals]. We want to go out and enjoy ourselves freely. There are many gays who hide themselves in schools. I really want the people to change their attitude towards homosexuals like the Europeans. Whether we like it or not, homosexuality is prevalent in our country. This is a real fact. So, I want the people and the government to change their current attitude and stop stigma and discrimination towards gays.<sup>60</sup>

He continued and said that he plans to come out to his family when their rights are protected by the government and when he manages to have his means of livelihood.

If the government declares our rights, I will be coming out of my closet. Right now, I don't have my own things to support myself. I don't want to fall out with my family. So, I have to settle and have my own things before I disclose to them. Even if I have my own things, I don't want to depart with my family by disappointing them.

Bitew argued from the rights perspective and pleaded for legalisation. Legalisation is, in fact, one step forward to stop stigma and discrimination as the victims will have legal ground to sue those who discriminate. When suggestion was made of the limits of legalisation and negative public opinion even in the West, Bitew reacted in the following way:

59 Interview with Dagmi (not real names) (date and place withheld for confidentiality reasons).

60 Interview with Bitew (date and place withheld for confidentiality reasons).

I didn't mean legalisation is the only way to stop the harassment we encounter in the street. Actually, the streets where we hang out are not the kind of places to respond to verbal attacks hurled at us. If we do so, the police would come and drag us into jail if they identify us as gays. But, if our way of life becomes legalised, the police wouldn't take sides with those who call us names; and wouldn't take us to prison as both of us have an equal right to live freely. That is why I said I would be happy if the government declares homosexuality legal. Should the government states that our way of life is legal officially, I won't at least be subject to harassment in the streets, and I could also rent a house freely.

His argument advances the point that legalisation could help in protecting LGB persons from the double standard exercised by the police and other agents of the criminal justice system when they face harassment and verbal attacks by the public on the streets.

Another informant (Berhe) echoed the same line of thought, arguing how HIV is affecting MSM because of stigma and discrimination coupled with illegality. He expressed his rage against the government in the following words:

I tell you many guys have been victims of HIV. And [the sad thing is] the government is not doing anything about it. Just because it is out of our culture and way of life, we don't have to die. [*gena legena bahil teblo, kotetam bahil yeteyaze sew iko*]. I can only live my own life, I can't live someone else's life. And just because there are laws for how men should be, we can't all be forced to live that way [*sew wend silehone wendawi hig wetito indih hun ayibalim*]. We all have our own peculiar ways and our own lives, there are many things that are just our own [as individuals]. So the government can't have all of us behaving in the same way. And there are women as well who are lesbians and they have [places in Arat Killo] and some places in Bole [where they meet]. But theirs isn't as wide spread [as ours]. But there are quite many guys who might have got HIV because of the secrecy, stigma and discrimination related to homosexuality.

Others advocated for secluded and limited freedom or autonomy, which partly meant securing exclusive gay locations which could not be accessed by heterosexual persons.

From the foregoing discussion, informants are divided concerning what the legal status of homosexuality should be in the country. The informants seem to have trouble embracing their criminalised and ostracised identity as a gay person, and dread the repercussions of being open or outed to their social capital and the resulting stigma and

discrimination. In addition to external stigma, they are also haunted by internalised stigma and experience cognitive dissonance about their sexuality, and the associated strain on their mental health. This is not a surprising finding, given that the majority, if not all, grew up in a conservative, homophobic and heteronormative society and heterosexual families, where sexual feelings (even to the opposite sex) must be repressed. Lower class gays particularly male sex workers harbour the same feelings, but they seem to be invested less in conventional norms and have less of a stake in conformity. Essentially, the less someone has to lose, the more likely they are to take risks. Thus, male sex workers were relatively out in the public with implicit forms of activism (with their conspicuous ways of dressing, walking and etc) and advocated for recognition and protection of homosexuals.

## **7 The conspicuous absence of advocates, civil society groups and HIV/AIDS programming**

The foregoing discussion suggests that rights discourse is at its infancy or non-existent in Ethiopia when it comes to sexual minorities. How one can account for these excessively heteronormative or homophobic attitudes among the LGB persons themselves and lack of organised, or even underground, activism is a question that begs an answer or further research. It is our impression that this can be ascribed to the triple barriers: criminalisation; heteronormative social norms; and a political environment hostile to all forms of political mobilisation. Though the context and level of authoritarianism and illegality of homosexuality differs, many other African countries criminalise<sup>61</sup> homosexuality and do have repressive regimes. All the same, some of these, unlike in Ethiopia, seem to have a relatively vibrant and resilient gay community and activism that push back on the draconian legal system and authoritarian rules against homosexuality and homosexuals. Many authoritarian African countries where homosexuality is illegal still tolerate HIV/AIDS programming for the gay community. The health programming exception does not apply in Ethiopia, and hence not a single programming targeting sexual minorities exists in the whole country. Thus, the relationship between legal status, heteronormativity and the authoritarian system on the one hand and the gay spaces on the other hand is complex, fluid, ambiguous and sometimes contradictory and requires a more nuanced contextual understanding.

61 Nearly three-quarters of the continent or at least 38 countries have outlawed consensual gay sex, see PEW Global (n 16).

A high level of heteronormativity and strong family ties or ties with significant others backed by indigenous religion<sup>62</sup> are perhaps the most influential reasons for such invisibility. Thus, of all barriers, a deep-seated heteronormative attitude remains the most potent force against acceptance of homosexuality, and accounts for the invisibility of any form of same-sex sexual relationship in public spaces or LGB activism in the country. Homosexuality is thus so strongly condemned that it is virtually impossible to talk about it or come across the topic being discussed. The issue of homosexuality is also willfully conflated with pedophilia to the extent that even an association that works to help male sexual assault victims has been a victim of prejudice. ‘We rarely receive any funding apart from UNAIDS and a number of other US-based organisations’ Sultan Muhe, a former homosexual sex worker and child rape victim, says of his NGO, the Bright for Children Voluntary Association. He added that ‘I have even encountered insults. One NGO president once labelled my organisation “a bunch of faggots” and asked me to leave his office’.<sup>63</sup>

Because of the above and other reasons, strong feminist scholarship and movement that focus on issues of class, human rights, ethnicity, popular culture, body and the self, reproduction, sex work, gender identities and sexual orientation, discrimination, oppression and stereotyping also do not seem to exist in Ethiopia. This is in contrast to the situation in Uganda, for example, where feminist scholars and advocates like Sylvia Tamale and Stella Nyanzi are instrumental in making the gay rights’ movement more visible.

A combination of lack of awareness and poor judgment has also led to socially widespread conflation of male child sexual abuse (pedophilia) and homosexuality. Of the more than 10 000 rape cases in one year, 22 per cent involved young boys, some even as young as two.<sup>64</sup> Several expatriates from western countries have been implicated in such incidents. The most notorious occurred in the mid 1990s when dozens of young victims of Ethiopia’s 1984 famine were sexually abused in an orphanage run by Swiss-based charity group *Terre des Hommes*. The involvement of some western expatriates in sexually abusing male children reinforced already deeply entrenched public discourse that homosexuality is an imported practice from the global north and a discourse that conflates homosexuals

62 It is also puzzling that in many other African countries, Pentecostal churches that are openly anti-gay are present in large numbers but such Christian denominations in Ethiopia are a minority in a country where approximately 45 per cent and 35 per cent are followers of the Ethiopian Orthodox Church and Islam respectively.

63 Cited in Thomas (n 12).

64 G Tadele “‘Unrecognized Victims’: Sexual Abuse against Male Street Children in Merkato Area, Addis Ababa’ (2009) 23 *Ethiopian Journal of Health Development* 174.

with pedophiles. All these developments reinforced strong public negative attitude towards homosexuality which in turn dwarfed activism and rights discourse.

HIV/AIDS in many African countries played a key role in bringing sexuality research to light albeit in a very restricted public health focus on sexual behaviour as it relates to HIV transmission and prevention. HIV/AIDS has also opened the doors to MSM HIV/AIDS programming thereby leading to visibility and 'recognition' by NGOs and even by some governments to closely work with gay activists or gay led organisations. There is no MSM HIV/AIDS programming in Ethiopia and why this has not happened is puzzling. The 2009 Civil Society Law also did not allow organisations receiving more than 10 per cent of their funding from abroad to work on the rights issues or advocacy<sup>65</sup> and this crippled any foreign organisations from supporting grassroot movements focusing on rights issues. Geopolitical importance of the country and capable authoritarian leader (the late prime minister, Meles Zenawi) who was able to negotiate aid without yielding to western demands of good governance, democracy and human rights must have also contributed to an almost muted stance of donors in pressing the government to open the space for the gay community. For instance, Ethiopia was able to receive many rounds of huge funding from Global Fund to Fight AIDS, TB and malaria without including MSM HIV/AIDS programming.

## **8 Conclusion**

Are rights of LGB persons part of the discourse in Ethiopia? Is there a rights awareness or a sense that their human rights are being violated? How do they view the law criminalising same sex intimacy? The range of information presented in this article has a number of implications regarding these questions. It emerges from the stories presented above that there is no open mobilisation or activism by LGB persons in the public sphere in Ethiopia, and very little even in the digital world.

Thus, the existing social and political environment in the country promotes discrimination, violence and stigma against homosexuality. Societal attitudes toward homosexuality, as is the case in many societies, are characterised by conservatism emanating, most importantly, from religious beliefs that recognise the act as sinful indulgence inviting or meriting God's wrath, and cultural beliefs that reckon it as degrading masculinity:

65 SA Yeshanew 'CSO law in Ethiopia: Considering its constraints and consequences' (2012) 8 *Journal of Civil Society* 369.

It is however worth noting that the degree of legal repression, and the use of judicial mechanisms, against homosexuality in Ethiopia can be considered lenient compared to countries with more enforcement and far more grave punishment, such as the death sentence. All the same, the very fact that homosexuality is criminalised seems to have given license to all kinds of hate crimes and violence against this community, emboldening offenders to act with impunity. It does not seem likely that there will be a change in the legal arena any time soon, as reflected by the fact that the Penal Code of the country was revised for the first time in 2005, after 48 years, and maintained the criminalisation of homosexuality. Of course, there was no development to promote any change in this regard, as there were no visible efforts promoting the cause of this group, and most homosexuals were closeted. As shown above, the Ethiopian gay cyber-community, particularly the elites, are too dispersed or discordant to be a strong agent of change, at least for now.<sup>66</sup> As highlighted above, there is even division among the homosexual community about the desired legal status of homosexuality. Some even seem to accept the existing legal repression, and do not consider homosexuality as a sexual orientation or lifestyle worth pursuing.

Feminist social constructionist theory argues that the body is first and foremost defined by the society and community structural and cultural discourses from defining pink for a girl and blue for a boy, to disciplining the body to the ways of heteronormative society at large, or defining what deviant sexuality looks like. Thus, it is important to consider the invisibility or hidden sexual performances and expressions of Ethiopian LGB persons from such influential and nuanced societal values and control. So much of this discussion offers insights into a deeply marginalised community, not having the power and reluctant to engage in claiming their rights.<sup>67</sup>

Overall, living under such multifaceted scrutiny and facing multiple forms of exclusion in public spaces, the LGB community in Ethiopia turn to the internet as an alternative space to be part of imagined communities, 'live and love', have a voice, build solidarity networks and access information.

66 A Jjuuko 'The incremental approach: Uganda's struggle for the decriminalisation of homosexuality' in C Lennox & M Waites (eds) *Human rights, sexual orientation and gender identity in the Commonwealth* (2013).

67 For more information on this see, CO Izugbara & C Unide 'Who owns the body? Indigenous African discourses of the body and contemporary sexual rights rhetoric' (2008) 16 *Reproductive Health Matters* 159; G Tadele 'Heteronormativity and "troubled" masculinities among men who have sex with men in Addis Ababa' (2011) 13 *Culture Health Sexuality* 457.

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