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The Table at UMB

The Current Landscape of Trans Legislation

MAY 31, 2023 THE INTERCULTURAL CENTER AT UMB SEASON 2 EPISODE 2

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Lauren: I think what a lot of folks miss is just the understanding of what gender is and how it's been a social construct that has been created to divide folks by the things you can wear, and where you should work, and how you should talk and speak, we should allow people to be people and support their rights to be people, their rights to be free and free from oppression and discrimination and just your right to kind of live and thrive in your community. And that's what's missing from a lot of these legislations.

[Introductory Music]

Rosemary: Welcome to the Table podcast. This is still the place where we invite guests to unpack

questions regarding social identities and social issues, culture norms, and current events. My name is Rosemary Ferreira

2023 has been a difficult year for LGBTQ plus rights. That's lesbian, gay, bisexual, transgender, queer, and other innumerable identities included under the LGBTQ plus umbrella like asexual and intersex.

We're recording this episode in mid-May, and as of today, the American Civil Liberties Union, or the ACLU has identified 482 anti LGBTQ plus bills that are active in this year's legislative session. All of these bills are a threat to the LGBTQ plus community as a whole, but many of them specifically target transgender youth.

You may have heard about two bills that recently passed into law in the state of Florida. House Bill 1069 requires that sex ed programs teach that sex is binary, unchangeable, and determined at birth.

Senate Bill 254 severely restricts individuals under the age of 18 from receiving gender affirming care within the state. Under this bill, the state punishes parents who are supportive of their transgender children, rewards parents who aren't, and criminalizes healthcare professionals who even plan to provide gender affirming care to adolescents or teenagers.

Unfortunately, Florida is not alone. Other states who have restricted or banned gender affirming care are Arkansas, Georgia, Idaho, Indiana, Iowa, Kentucky, and Mississippi.

While some who support these laws claim they want to protect children, let's be clear. These laws are an act of violence against the trans community. Anti-trans laws contribute to the demonization of trans people in the US who are already four times more likely to be victims of a violent crime. And for 86% of trans and non-binary youth, these laws have a significant negative impact on their mental health.

Not all states are adopting anti-trans laws. In fact, states such as New York, Illinois, California, and our own home state of Maryland have passed laws to ensure the protection of LGBTQ plus people. Including non-discrimination laws that include sexual orientation and gender identity, safer school policies, and making gender affirming healthcare more accessible for transgender people.

For this episode, we wanted to get a sense of the current legal landscape as it relates to pro and anti-transgender legislation in the US. And find out, when it comes to LGBTQ plus legislation, what makes the state of Maryland different?

Our guest is Lauren Pruitt, legal director for Free State Justice. Free State Justice is a social justice organization that works statewide to improve the lives of LGBTQ plus Marylanders and their families through legal services, policy advocacy, outreach, education, and coalition building.

Just a quick note. The following is a discussion between three cis women, myself included.

This is not the only conversation that we'll be having this season about LGBTQ plus experiences in the U.S. We have some exciting future episodes planned where we center more LGBTQ plus folks, so stay tuned.

[Music Transition]

Lauren: My name is Lauren Pruitt. I am the legal Director for Free State Justice. I have been at Free State for about four and a half years. Started as a contract attorney, then a staff attorney, and the pro bono coordinator, and most recently promoted to legal director.

I am from the Maryland area, born in New York. I went to Howard University for undergrad, so I always have to shout out our vice president Kamala Harris, and went to Georgetown for law school.

Been in the DMV area since the third grade. So that's where kind of my passion comes from to support Maryland's LGBTQ plus community statewide.

Courtney: Can you describe the current legal landscape as it relates to pro and anti transgender legislation in the U.S.?

Lauren: In the United States, I would have to characterize the legal landscape as it relates to trans legislation as deeply troubling. There are an enormous number of anti LGBTQ plus bills that have been introduced in state legislatures. Many of them targeting the trans community specifically.

I think the troubling part is that most Americans don't support these bills, but we do see individual support for them on the rise. And that can be frightening when you have legislation that is attacking basically just your existence. So legislation relating to education, healthcare, just the ability to create a family in your state, to take care of your family. The reduction of discrimination protections for folks.

[Music Transition]

Rosemary: The poll conducted by PBS News Hour, NPR, and Maris Poll in March 2023 shows that 54% of Americans oppose legislation that criminalizes gender affirming care for minors. While the majority opposition is promising, what's even more frightening is that in 2021, 64% of Americans oppose anti-trans legislation. Which means in two years, opposition for anti-trans legislation has decreased 10%, and support for anti-trans legislation has increased 15%.

You might be asking yourself, why is there such a sharp increase in support for anti-trans legislation? Well, here's one theory.

Did you know that in 2015, more people in the US said that they had seen a ghost, at 18%, than met a trans person, which was 15%? Fast forward to 2021, the Pew Research Center reports that 42%, or one out of four Americans know someone who is transgender. So the good news is that trans people are now more visible than ghosts.

But we know that visibility alone isn't enough to secure equitable treatment for trans people. Furthermore, as trans people in the US gain more visibility and make groundbreaking strides, such as Michaela J. Rodriguez, being the first trans actor to win a Golden Globe last year, a harsh and violent backlash of political rhetoric and legislation that seeks to harm and punish trans people has also increased.

[Music Transition]

Lauren: We appreciate that in Maryland there have been steps taken to protect the trans community, but obviously a significant amount of work remains to be done, even in Maryland and other progressive states.

The ACLU reported that there's been over 474 anti LGBTQ plus bills introduced this year. Of those almost 50 have become laws. We've seen about a hundred that have been defeated, but we see over or more than a hundred that are continuing to advance.

So extremely alarming. And the reason why this is important for Marylanders is because we will see those same bills just kind of copy and pasted all across the U.S. So if it works in one state, then those same proponents will bring it to other states, and that's how you see kind of a, an avalanche of these, copy and paste bills.

Rosemary: I wanna dive a little bit deeper into these anti LGBTQ plus bills can you speak a little bit more about anti LGBTQ plus bills and anti transgender specific bills. How are those different, how are they similar impacting those particular communities?

Lauren: I think typically we see anti-trans bills relating to healthcare and gender affirming care.

I guess there's just so many ways that you can. Target a particular population. But in general, I think that the largest number that we see are just relating to not wanting state funded care to pay for folks gender affirming care especially as it relates to children. Making it a criminal act to provide gender affirming care for your child.

As it relates to just LGBTQ plus community as a whole, we'll see not a lot of education bills, whether it relates to, not having that community discussed at all as far as sex education or in anti-bullying courses where they don't discuss that this community is a protected class.

I would say, you know, most alarming places that it's discussed is just in sports. I played sports coming up, played division one soccer and lacrosse at Howard, played professional football. And the way that they discuss especially trans women playing sports is really disheartening. And I think one of the issues that is rarely talked about is the way in which it will also affect cisgender women.

What typically happens is that if you're attempting to force trans women to prove that they should be able to play on a women's team, there are also going to be cisgender women and girls that now have to prove that they should be allowed to play on that same team.

Folks aren't thinking about that schools are now wanting to keep menstruation records in high schools. They are requiring internal and external physical exams of girls. It makes the entire process difficult for both trans and cisgender women and girls. In a way that I don't think any parent or any individual would actually support if they read more than just the title of the bill.

Like for example, in Maryland, the bill was Save Women's Sports Act. So that sounds great. But if that means that you are requiring all girls to have these invasive physicals by team doctors or, I don't know if it's going to be principals of schools. Like who are we gonna have that's going to be ensuring that folks were born a female? That's just not something that I think most people would

support if they really read into how these bills and various legislation, how they would be enacted, how they would be actually implemented.

I think what a lot of folks miss is just the understanding of what gender is and how it's been a social construct that has been created to divide folks by the things you can wear, and where you should work, and how you should talk and speak, and your presence in the family, and you know what tasks you're supposed to do at home. Certain folks can cut the grass while others should do the laundry. I mean, those things are so outdated. Understanding that that's what it is will, I think, assist folks in realizing that, we should allow people to be people and support their rights to be people, their rights to be free and free from oppression and discrimination and just your right to kind of live and thrive in your community. And that's what's missing from a lot of these legislations.

We at FreeState are doing what we can, whether it's in Maryland or working with national organizations, to highlight these inconsistencies and highlight Maryland as a state where every year bills are being passed to show that Maryland is more progressive, and more accepting, more inclusive.

That's one thing that I wanna highlight about Maryland and highlight about this area in general. And hope that we can then become the state where other states are copying our legislation, and copying our governor's executive orders. People can come here and know that they'll be shielded from, having like criminal behavior relating to gender affirming care for themselves or for their children.

That's also a missing piece that people don't realize that gender affirming care, a lot of folks just equate it with some sort of like a surgery or even medication, but it entails a large scope of various treatments from mental health services. To, all types of physical treatments.

I think it's just really, really important that people understand, that a person shouldn't be threatened with jail for being able to take their child to a therapist to discuss gender dysphoria. We wanna make sure that in Maryland people know that they are supported and the community is supported.

So I think, that as a step for Maryland would be amazing. And just establishing some sort of state coordination to protect gender affirming care for people and for the entities that are providing that care, would be great to see in Maryland.

Rosemary: Thank you for sharing that. And that's exactly why I think in the question, asking both anti and pro LGBTQ plus legislation, because I think it's also important for us to be able to identify like what is freeing? What legislation is in alignment with the freedom of queer and trans people.

Courtney: My mother and I were having a brief conversation this morning, and while some of this isn't directly related to trans legislation, I do think that I'm having a lot of conversations at the university level. To Lauren's point there seems to be a misunderstanding of gender and reporting requirements, and I'm not really clear on the reporting requirements.

What I know is that the university has to report data to the federal government. And what I'm told and haven't really fact checked is that we do have to report on legal sex. It seems like the interpretation is that legal sex is only male and female.

So what we're seeing on application forms in our various databases where we're storing information about our student population is that for legal sex, we only have two options. We have M and we have F. However, what I've been pointing out to folks is that in the state of Maryland, several years ago on the driver's license, there was an approval of the non-binary distinction of X, right? And there are lots of other states that have similar practices both on driver's licenses and birth certificates.

So now I'm wondering what is going on with that? If we are in a state where there is more than just binary recognition of the legal sex, have we not caught up or has the federal government not caught up? Are they still requiring the collection of data that is specifically related to the binary? And like, how do we push back? How do we advocate?

I think that it ultimately is that folks just really do not understand and they're not keeping up to date on practices.

So I don't know if there's anything that Lauren can weigh in on this as far as like the federal government and what the requirements are and whether that's keeping up with the states. But I'm really curious about that, to make sure that we're able to support students properly at the institution.

Lauren: I think that's a great point. I will say that all bureaucracies are slow. So as these changes are being made as you mentioned, adding the non-binary choice on driver's license came first, birth came later. But we still had to wait for court forms to catch up. We still had to wait for if you were filing for custody or wanted two parents on a birth certificate, there was a time when it still just said mother and father. We are still fighting to ensure that a parent who changes their name or administratively changes their sex can then update their children's birth certificate.

This is a large portion of the work that Free State does is working to ensure that a person's documents match and people take that for granted.

But when you have, I think the numbers are like 80%, 90% of trans individuals documents don't match from their birth security, to a driver's license or state ID, to their passport. Then to like insurance documents and your diplomas on the wall. That is frustrating, especially because depending on the job interview, the housing application, every time you have to out yourself and explain why things don't match or you just get an immediate denial because you gave one name, but your social security is under another name.

These are things that we are trying to ensure are better for folks, are consistent. And then we're also, trying to work with organizations and corporations to stop asking for gender when it does not matter, when it's just not necessary, especially if you're not gonna give all of the choices that a person would identify as. It can trigger folks who are suffering from gender dysphoria when they have to make these binary choices. And if I'm just buying sneakers at Nike, you should just let me

buy sneakers. I shouldn't have to identify myself as one way or the other. I can just purchase whatever sneakers I want.

We've been discussing very closely with the various school systems in the area. We're at the point where we don't need to separate the classrooms by boys and girls. There's just so many other ways that you can separate a classroom. I know these things have been done traditionally, but I think we're at a point where we can be a little bit more thoughtful, a little bit more inclusive in our language. And it all comes from trainings and developing techniques, and not just continuing to do something because it's always been done.

If it's okay, I would like to talk a little bit about some of the priority legislation that Free State focused on.

The biggest win of last session was the Transhealth Equity Act. This means that starting January 1st, 2024, Maryland Medical Assistance Program will provide gender-affirming treatment in a non-discriminatory manner.

This is huge for folks who have government insurance. It means that their care will actually be assessed based on them individually. And not just we don't cover, this type of care. Although this is for state assistance, generally private insurance will follow. So, this is a great kind of start to having gender affirming care covered by insurance.

And it really is lifesaving. When you have folks who are in a state where they're not able to get the care they need. This also includes mental health as well as your physical care. You have people that commit self harm. Who possibly commit suicide or attempt suicide. Just being able to see a doctor, see a medical provider, and know that they're gonna assess you for you and your condition, and base your treatment on your needs.

One of the other bills is HIV decriminalization.

And so of course there are bills on the law that make it illegal to pass on certain diseases to other folks, and therefore there's no need to have this particular disease singled out. It just stigmatizes folks with HIV, and that's just not something that is in line with what kind of Maryland presents as being progressive. This is something that our policy team has been working on and will continue to work on.

Notably Governor Moore ran on a commitment to pass this legislation and has renewed that commitment.

Another bill that did not pass but we're really working on is the Respect, Agency and Dignity Act. Basically this is a bill that would protect trans individuals who are incarcerated. It's kind of almost a catch 22 because trans folks have typically been overpoliced. Because of a lack of support, typically have unstable homes, from a young age. Are frequently discriminated against in employment and education. A lot of times pushing someone towards underground income streams in order to support themselves or support their families.

It's just all of those things together, it makes a perfect storm to end up in contact with the criminal

justice system.

What we see is once you're in the criminal justice system, and then in the corrections system, there is no recognition of your identity. You are placed in whatever housing that the system deems you should be in regardless of the threat to that individual.

And so this particular bill is just focusing on improving conditions of confinement, ensuring that folks have access to medical care. The jails were very slow on allowing a person to see a doctor. And a trans woman who is on estrogen, if that estrogen is somehow stopped, it is really like going through menopause. And every time the prison or jail stops your estrogen for whatever reason, you could almost every month kind of go through menopause.

We're just looking to stop those types of behaviors. We understand the need for the correction system, but it just has to ensure that that their eighth amendment rights are protected and that they're not just being discriminated against. That's something that's very important to us at Free State. We support and work to advance the rights of all LGBTQ plus individuals, but there are some folks that are in these very vulnerable classes, like our youth, like folks who are incarcerated, that we have to be cognizant that they're gonna have special needs and possibly take a different focus.

Implementing some sort of non-discrimination policy within our correction system, working with the correction system to figure out a way to not just keep folks in solitary confinement based on what they say is their own protection. That sounds good but then when you hear that the person can't earn good time, only gets to go get out of the cell one hour a day. When you hear those things it's like that's no way to have a person incarcerated. There's no way to support the rehabilitation of that individual while they're, you know, on this lockdown schedule 23 hours a day.

Courtney: Did you say that the Respect, Dignity, and Agency Act did not pass.

Lauren: Correct.

Courtney: What do you think needs to be done in order to get it to pass?

Lauren: There was a very big focus on the housing portion of it, even though it wasn't stated as a requirement that, for example, based on a person's gender identity, that's where they should be housed. It stated that a person's housing assignment should be based on their particular circumstance, threat level, criminal activity, past crimes, issues while incarcerated.

There was a lot of issues or a lot of very particular circumstances relating to that individual that the jail or the institution should use to determine that person's housing. And this is actually already codified into law. It's also included in PREA, which is the Prison Rape Elimination Act. That that is how housing is supposed to be done. But unfortunately in Maryland, it's kind of just a blanket based on sex assignment at birth, where we are going to house you.

That was kind of the sticking point, that is all folks wanted to talk about. Even though we continuously explained that the bill does not require a mass movement of individuals. It really wasn't even like the sole focus of the bill. The bill was really just focused on, getting people appropriate commissary.

One of the things that we found in Maryland was that the commissary options, so those items that you can get additional to what's given to you by the state was gendered. It was focused on what type of facility you were in. So if I'm a trans woman and I need a bra, or sanitary napkins, or any other item that is allowed in a women's facility, I couldn't get access to it if I was housed in a male facility. So those were the things we were focused on. Ensuring that folks are getting hormones or any other types of therapy or medications based on gender dysphoria or whatever other diagnoses they had.

Trying to get the delegates and the senators to really understand what the focus was was just difficult. Every year that we've presented these types of bills, it gets better. People get more educated.

But the thing that will push us over the finish line will be to have folks who have lived experience continue to come out and to testify and really answer those questions about what it is like in these facilities.

Because the other thing that happens is that the institutions come out and really just kind of read their policies and say, this is what we're doing. But we all know that what is in practice and what is on paper are sometimes vastly different. And that's what I think we see in corrections.

I testified on a number of various corrections bills. I'm a former corrections officer in the state of Maryland, so I could explain what was actually happening, what I actually saw. And that's sometimes helpful for our delegates and our senators to really understand why these bills are necessary.

Because when you know, BCPS stands up and says, "well, these are our policies, this is what we do, everyone is given, a housing assignment based on, X, Y, Z. " We want folks to say, this is not what happened. We had folks testify and say, "I was in solitary confinement for four and a half years out of my five year sentence, and nothing was relating to anything that I had done. But I was unable to earn good time. I was unable to work, I was unable to use the phone at normal hours to call my family. Unable to have visitation at normal times. There was always issues with moving me because, there was issues with, strip searches and pat down searches."

That's what we need to really solidify why this bill is that important.

Courtney: Lauren, you may know that at the University of Maryland, Baltimore, we are educating students who are pursuing careers in law, social work, public health, various sciences, various healthcare professions like medicine, nursing, physical therapy, pharmacy. We also have a master's program in diversity, equity, and inclusion.

Do you have ways that you can suggest that students, faculty, staff, who are in these various areas can support both the local and the national efforts to advance equity and justice for trans folks?

Lauren: I'm glad you asked this question because it is so important for folks in those professional arenas to have an eye for equity as it relates to the LGBTQ plus community and pro-trans legislation in general.

Just making sure that your organization applies best practices is amazing. Implementing anti-bias training and programs and policies. And if the organization you work for doesn't have those things, the individual that works there is the first to notice. So creating kind of those alliance groups within the organization.

And, some folks think I'll have to be part of the community to start a group like that, but not really. If you're an ally, if you are someone who notices there's a need, sometimes it's difficult for, if you are the only Black person at an organization to stand up and say, "I need a Black alliance group within the organization," you may not feel comfortable stating that. But having an ally who stands up and says, "we have all these other groups, I think we should have an African American Alliance group, or a gay straight alliance as they do in some of the schools." It means that we can all work together and understand that we want our policies and procedures within our organization to support everyone.

After that supporting local organizations, national organizations that have a focus on LGBTQ plus issues can be huge. Organizations like Free State or Baltimore Safe Haven, which is a local organization in Baltimore City that focuses on the trans community. Or national organizations like the ACLU or the Trevor Project or Trans Lifeline. Whether it's financial support or volunteering, phone calls to senators, representatives, or on the state level delegates and senators. All of those things can be hugely impactful.

We've had delegates and senators that have brought bills based on a call from one constituent. One constituent calls and say, I have a problem. And I think, you can help. And they have turned into an entire bill. Really talking to your local legislators can be so helpful and impactful for the entire community.

It also compliments just voting, and knowing who you're voting for. It's not just the president and that ticket that's important. I would think that the local level or the state level is even more important for your everyday life. So knowing who those folks are, knowing who your delegates are, your senators are knowing who's representing you. Holding those folks accountable for doing their job and for representing you and not their own either biases or thoughts on particular legislation. They're supposed to be representing the public that they are serving. Letting them know what you think and feel is really, really important.

That also leads to testifying. I don't think people realize it is very easy. Anybody can testify. Everybody gets the same two minutes, from the attorney that's working with the sponsors of the bill, all the way to the person who has lived experience, and we need everybody in between.

So based on your practice, if you're a doctor, a nurse, a pharmacist, if you wanna talk about how difficult it is for folks to get various medications. You have folks who are coming in and maybe they have difficulties getting a prescription refilled based on all different types of circumstances. That can be huge if that relates to that type of bill.

You'll see the folks who are constantly in Annapolis throughout session. You can just ask them, what can I do? We will tell you the rundown on how to testify, when to, when you have to submit your written testimony. It's really nice in Maryland now you can either testify virtually or in person.

You don't even have to like, spend all day in Annapolis, because they don't give you a time. You can log in on Zoom and then it'll pop up when it's ready for you. If you feel strongly about this community and about these issues there's so many ways to fight anti legislation.

Supporting the various Prides around the state. It's not just for the community, it's for allies, and that's what we wanna see. We wanna see people there getting more information, learning about the history. I think that's the only way you can get rid of various stereotypes.

There's so many different ways and we want folks to come out and to, get involved, and it really does matter. Every single person who makes one phone call, testifies on one bill, marches in one parade, we need everybody together.

Courtney: Wow. Lauren, you gave such a thorough list and examples of how people can get involved, so there's no way listeners can say after hearing this, I'm not sure what I can do next.

You gave countless examples about pouring into organizations that are doing this good work. Not missing that funding piece. A lot of these organizations need funding, right? So that's something that individuals can do. They can dedicate their money, they can also dedicate their time. Sometimes that's like the missing piece. People are like, I wanna get involved., I'm not sure how to get involved and I'm not sure what my place is. And you've provided a list of examples that can work for various people in their comfort zones and how they're ready and willing to get involved and what sort of time they have as well. So thank you so much for that.

Lauren: And last just to speak to the LGBTQ plus community directly.

I know there's just a sense of weariness, and a sense of, the way that I feel like I should be living is never going to match up with the actual experience that I will have. Free State along with so many other organizations, whether at a state level or at a national level, are working tirelessly to ensure that folks get the care they need, their rights are protected, and that's at every step in life to make sure you are free from discrimination. Whether it's employment, whether it's housing, whether it's at public accommodations in education. The work is being done. It is slower than we want, but that's what we always see, relating to social change. But I just don't want folks to give up. I want them to know that they have a voice. Their voice is very strong, but we are definitely stronger together.

Feel free to reach out to Free State or any other organizations in your area to get that support and to strengthen numbers. We want to band people together, and that's part of the coalition building that Free State feels is so important.

[Closing Music]

[Credits]

Angela: The Table is a production of the Intercultural Center in the Division of Student Affairs at the University of Maryland, Baltimore. It's hosted and produced by Courtney Jones Carney and Rosemary Ferreira. This episode was also written by Rosemary and me, Angela Jackson, senior

marketing specialist in the Division of Student Affairs and executive producer and editor of this podcast.

A big thank you to our guest, Lauren Pruitt, for joining us at the table.

For more information about the Intercultural Center, including events where students can learn more about social identities and social issues, culture norms, and current events, visit umaryland.edu/thetable.

Thanks for listening. See you next time.

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