

A Reconstructed Communitarian Perspective of Justice to the LGBTQ+ Struggles in the Philippines

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Abstract

The LGBTQ+ struggles in the Philippines are marked by an antagonist nature of Philippine society that has caused an underlying homophobia inspired by a cultural notion of heteronormativity, which permeates into different political and social structures. These struggles aim to promote equality for LGBTQ+ members in terms of the enjoyment of civil, social, and political rights. This paper contends that an idea of justice in the communitarian perspective can assist significantly with this goal. The communitarian theory of justice criticizes Rawlsian liberalism which highlights moral autonomy. Although an attractive perspective against conformism, individualism, accordingly, is inadequate because first, it does not provide support and defense for LGBTQ+ discrimination and second, it cannot strongly engage in political deliberations. This paper further argues that a reconstructed communitarian theory in Michael Sandel's descriptive framework of the "constitutive conception of community" and Michael Walzer's political framework of "complex equality" can help attain this goal. With this communitarian reconfiguration, respect for boundaries for the LGBTQ+ community is secured which allows it to control its own destiny.

Keywords: Justice, LGBTQ+, Community, Constitutive Conception, Complex Equality

Introduction

When a colleague in school came to visit, he saw the title of my thesis and asked; are there still struggles that LGBTQ+ persons experience in the Philippines? It was a perplexing question that proved a certain misunderstanding of the different issues surrounding the problem of gender. Heteronormativity is continuously a force to be reckoned with in the Philippine political and social settings. The identification of LGBTQ+ struggles in the Philippines was a personal dilemma because the author is a straight male whose perspective belongs outside the LGBTQ+ sphere.

There needs to be a kind of stepping inside, although partially, to perceive what is incomprehensible in my own sphere. Stepping inside means being sensitive about the issues surrounding the LGBTQ+ and empathizing with friends and people from the LGBTQ+ community from the perspective of equality. The struggles of the LGBTQ+ community were personally chosen among other marginalized groups because of personal and political reasons. I have many close friends from the LGBTQ+ community and many of them I go to church with. Some of them are closeted, have come out to close friends but not yet to their family, and others are out in the open.¹ This is still alarming because there is still an uneasy attitude shown by church members toward homosexuals. Church members are silent in the open, but they are not accepting in private conversations. Our church (UCCP) has yet to develop a strong theological concept of recognition for LGBTQ+ persons, a challenge that would somehow illicit an open discussion within the church. Being a pastor, this concerns me greatly and I hope that this philosophical writing for the LGBTQ+ would provide insights for that challenge. The political reason stems from the fact that the demographics of LGBTQ+ persons are a wide range. There are LGBTQ+ persons even within marginalized groups and it takes special recognition to identify identities within identities. As Susan Wolf notes in her commentary on Charles Taylor's *Multiculturalism and the*

¹ Like being in the closet, close, or in secret, being *closeted*, in homosexual culture means hiding their sexual identities, and *coming out* is revealing one's sexuality. Jack Drescher, "The Closet: Psychological Issues of Being In and Coming Out," *Psychiatric Times* 21, no. 12. October 1, 2004, <https://www.psychiatristimes.com/view/closet-psychological-issues-being-and-coming-out>

Politics of Recognition, the demand for recognition does not just focus on cultural identities but also other identities, such as gender, struggling to make their identities known.² It challenges us to think sensitively about how LGBTQ+ identities are treated within marginalized groups, say for example within the tribe of an Indigenous People. This study reiterates that within marginalized groups, homosexual members are least recognized and given equal treatment.

Equality and Justice against Patriarchy and Heteronormativity

When we draw up equality as a lens to see our LGBTQ+ brothers, sisters, friends, workmates, and churchmates, inequality pops up in the picture. For example, is there any social criteria that can determine the lesser status of same-sex love than heterosexual love that politicians and most of the Filipino masses abhor even the suggestion of same-sex marriage? Many stories about inequality propagated by the heteronormative culture in the Philippines are worth listening to.³ For instance, in the workplace, Emmanuel David perceives opaque problems in BPO companies where “trans” workers struggle to adapt to “occupational positions.”⁴ As the author observed, occupational positions are dependent upon the managerial perception of utility for “trans” workers and usual roles such as providing a lighthearted mood in the workplace through comic roles that are assigned to them. But as they work up to higher positions, certain expressions are forced within limits of what is deemed “appropriate.” David calls for more research focusing on gender identifications in the workplace to provide a bigger picture of the dynamics of power relations influenced by the heteropatriarchal normativity in Philippine society.⁵ The same issue is seen

² Charles Taylor, *Multiculturalism: Examining the Politics of Recognition*, ed. Amy Gutmann (Princeton N.J.: Princeton University Press, 1994), 77.

³ Defined in Merriam-Webster as: *of, relating to, or based on the attitude that heterosexuality is the only normal and natural expression of sexuality*. Merriam-Webster.com, “Heteronormative” accessed November 10, 2023, <https://www.merriam-webster.com/dictionary/heteronormative>.

⁴ “Trans” workers are descriptions of transgender subjects including their experiences institutionalized into the workplace. Emmanuel David, “Purple-Collar Labor: Transgender Workers and Queer Value at Global Call Centers in the Philippines,” *Gender and Society* 29, no. 2 (2015): 169–194. <http://www.jstor.org/stable/43669955>.

⁵Ibid., 169-194.

by Dana Collins in her research on gay spaces where gay men in Malate — a district in Metro Manila — struggle to locate spaces to fully express their identities. Collins calls for research to understand them in their own lived experiences involving relationships, power dynamics, and economic dignity.⁶

This heteropatriarchal normativity is also presented vividly in media platforms. For example, Robert Diaz explains how the media portrays gay identities based on market needs like how the “hyperfeminized bakla” subject is always being portrayed by gay characters or how a same-sex relationship can be understood based on a heterosexual relationship background.⁷ Apart from a heteropatriarchal presentation, authentic gay identity expressions will be unaccepted. This is also true in Libay Linsangan Castor’s criticism of Philippine cinema in which lesbian characters portrayed the “butch-femme dichotomy” of lesbian couplings where the “butch takes on the traditional masculine role of the husband while the femme takes on the traditional feminine role of the wife.”⁸ She argues that this dichotomy is seen as a “patriarchal mimicry that needs to be deconstructed, challenged, and eradicated altogether.”⁹ The media platform must be true to the reality of homosexual expressions as a tool for information. This selective bias needs to be challenged by the LGBTQ+ community which is underrecognized in Philippine society.

Filipino LGBTQ+ struggles are not only found in the Philippine geographic setting but also different parts of the world as Filipino communities outside the country are being recognized. At some point, queer struggles are evident in—the notion of citizenship of migrant workers in foreign countries. As Sonia Otalvaro-Hormillosa observes, “experiences of privilege and diaspora are informed by race, class, gender, nationality, and/or sexuality,” and rights of citizenship will often depend on the norms of various locations in which it is mostly

⁶ Dana Collins, “Performing Location and Dignity in a Transnational Feminist and Queer Study of Manila’s Gay Life,” *Feminist Formations* 24, no. 1 (2012): 49–72. <http://www.jstor.org/stable/23275089>.

⁷ Robert Diaz, “The Limits of Bakla and Gay: Feminist Readings of My Husband’s Lover, Vice Ganda, and Charice Pempengco,” *Signs* 40, no. 3 (2015): 721–45. <https://doi.org/10.1086/679526>.

⁸ Linsangan Cantor Libay, “To Conform or Not to Conform, That is the Genderqueer Question: Reexamining the Lesbian Identity in Bernal’s Manila By Night,” *Kritika Kultura* 19 (2012): 93.

⁹ *Ibid.*, 109.

heterosexist.¹⁰ For Otalvaro-Hormillosa, the Filipino diaspora would then need to adopt the notion of “hybrid identities which can challenge oppressive and totalizing constructions of race, gender, class, sexuality, and nationhood.”¹¹ This would need a community that would challenge the space of cultural production.

Another important issue on LGBTQ+ struggles in the Philippines is same-sex marriage which faces a very strong opposition in the society and legislature. Same-sex marriage will still have a very long and tedious journey to be accepted and is still dependent on the passage of the SOGIE Bill. For Felix Herrera, the main obstacle to passing the same-sex marriage bill is still the very strong influence of the Catholic Church on conservative and religious politicians.¹² This issue will be very much dependent on how our society recognizes that homosexuals have equal rights as members of this society, Carlos Conde argues that allowing same-sex marriage would “strengthen everyone’s rights,” emphasizing that gays’ and lesbians’ fundamental rights are equal to everyone else’s.¹³ This recognition, again, is dependent upon a strengthened and valued LGBTQ+ community that will inform important values.

The inequalities told in the different LGBTQ+ stories of struggles in different structures of society are propagated by the heteronormative aspect of our religious-cultural heritage. This is documented by Jomar Flores in his work “Reclaiming Our Historic Rights: Gays and Lesbians in the Philippines,” where from pre-colonial times until the 1980s saw how homosexuals were degraded by a religious consciousness all for the preservation of natural law and procreation.¹⁴ The strong religiosity in the Philippines saw the violent

¹⁰ Sonia Otalvaro-Hormillosa, “The Homeless Diaspora of Queer Asian Americans,” *Social Justice* 26, no. 3 (77) (1999): 103. <http://www.jstor.org/stable/29767163>

¹¹ *Ibid.*, 119.

¹² Feliz Herrera, “A Rundown on the History of Same-Sex Marriage in the Philippines and the Future Struggle Toward LGBTQI+ Rights,” *Esquire*. January 7, 2020. <https://www.esquiremag.ph/politics/news/same-sex-marriage-in-the-philippines-a2292-20200107>.

¹³ Carlos Conde, “Philippines Should Adopt Same-Sex Marriage,” *Human Rights Watch*. March 20, 2017. <https://www.hrw.org/news/2017/03/20/philippines-should-adopt-same-sex-marriage>.

¹⁴ Jomar Fleras, “Reclaiming Our Historic Rights: Gays and Lesbians in the Philippines,” in *The Third Pink Book*, eds. Aart Hendriks, Rob Tielman, and Evert van der Veen (Buffalo: Prometheus Books, 1993).

suppression of homosexuals starting from the burning at the stake of the already present effeminate, transvestite *babaylan* shamans, to sex workers during the American occupation, to stereotyped as low-class citizens blamed for the emergence of HIV/AIDS pandemic in the 80's.¹⁵ Many of whom find refuge behind the walls of seminaries and monasteries.¹⁶

Homosexual suppression has led gays and lesbians to adopt a heteronormative stance, as argued by J. Neil Garcia in *Philippine Gay Culture: Binabae to Bakla, Silahis to MSM*, where gays must maintain an effeminate, transvestite persona whose sexual desire is the heterosexual male; and lesbians maintain a masculine "butch" persona whose sexual desire is the heterosexual female.¹⁷ For Garcia, this containment of identity and the inability to view homosexuality in another form hindered the gay liberation movement from the 1960s to the 1990s (arguably until the present).¹⁸ Garcia discusses the present development of sexualized spaces that have placed the LGBTQ+ discourse in the mainstream culture but are still not fully accepted by the general public. He argues that LGBTQ+ discourse cannot be separated from the national and postcolonial discourse and are implicated with each other.¹⁹ Postcolonialism, from Garcia, implores a "critical nationalist knowledge" where performativity lies in the continuous consciousness from identification (subject accepts the labels given by colonialism) towards a counter-identification (subject rejects the labels and denies their basis) into disidentification ("subject unapologetically accepts and yet critically transforms, hybridizes, and/or appropriates the concept provided by colonialism").²⁰ The continuing challenge of LGBTQ+ studies is to find "creative ways to marshal the eloquent force of both postcolonial and queer theory's conceptual sophistication" to deconstruct the oppressive ideologies of heteronormativity, homophobia, effeminophobia, etc.²¹

¹⁵ *Ibid.*, 69-78.

¹⁶ *Ibid.*, 71.

¹⁷ J. Neil Garcia, *Philippine Gay Culture: Binabae to Bakla, Silahis to MSM*, 2nd ed. (Quezon City: University of the Philippines Press, 2008), 5.

¹⁸ *Ibid.*, 5.

¹⁹ *Ibid.*, 438.

²⁰ *Ibid.*, 439.

²¹ *Ibid.*, 451-452.

The deconstructionist argument of Garcia challenges us to face sensitive issues head-on. It is a challenge where if we can be sensitive even to the least recognized group in society then society becomes keen with other misrecognized groups. As Jean Cequina narrates in her interview with Kaye Brier, a transwoman journalist in *Negros Oriental*, “Inclusivity is not only confined to gender equality in the workplace but also equal opportunities in all aspects of life. We can only say that we are really an inclusive country if Filipinos have equal access to education, basic health care, and the social services that we deserve.”²²

The LGBTQ+ struggles tackle important issues like dessert, equality, justice, etc. in which theories of justice try to answer these issues. But the question is what form of justice can properly address the plight of LGBTQ+ persons? If justice is defined in Merriam-Webster as “the quality of being just, impartial, and fair,”²³ how is being impartial, fair, or giving someone her due applied, especially in the context of gender struggle? Is it the kind of justice that values individual autonomy and political freedom where there is very little to no constraint from the State in the libertarian and liberal sense? Or is it a kind of justice where certain social standards are developed through deliberation of policies already practiced by communities affected by issues of justice?

Theories of Justice and LGBTQ+ Struggles

Theories of justice have widely been considered relevant since Plato. Will Kymlicka notes that the intellectual landscape in political philosophy has developed a traditional picture of the political landscape of a pull in a single line where the left argues for equality (socialism) and the right argues for freedom (free-market capitalism).²⁴ Theories of justice following this tradition try to find a

²² Jeans Cequina, “Kaye Brier’s silent but successful journey as possibly the first TransPinay in the Philippine news industry,” *Pop*, October 10, 2022, <https://pop.inquirer.net/334406/kaye-briers-silent-but-successful-journey-as-possibly-the-first-transpinay-in-the-philippine-news-industry>.

²³ Merriam-Webster.com, “Justice” accessed September 16, 2023, <https://www.merriam-webster.com/dictionary/justice>.

²⁴ Will Kymlicka, *Contemporary Political Philosophy: An Introduction*, 2nd Ed. (New York: Oxford University Press, 2002), 2-3.

mixture of equality and freedom between the lines.²⁵ One important theory relating to this is John Rawls' "justice as fairness" arguing for freedom in his "liberty principle" and equality in his "difference principle."²⁶ This famous work drew a lot of attention, especially from the "communitarians" who contested Rawls' premise of the "original position" drawing a full-blown debate called the liberal-communitarian debate in the 1980s. The liberals (following John Rawls) argue for a conception of justice centered on the propagation of individual rights and freedom with minimal constraints from the state,²⁷ while the communitarians argue for the priority of the so-called "common good and values" as standards to measure justice drawn from the communities that members participate in.²⁸

The question, therefore, is which of the two arguments can help appropriately address the struggles of the LGBTQ+ in the Philippines?

This paper would argue for the latter because full individual expression of autonomy and self-determination is unachievable without the support and defense of the direct community one is a member of especially in the Philippines. However, the concept of community in the Philippines must be reconstructed to accommodate this thought. To elaborate further, let me first present two important communitarian theories from the two most prominent communitarians, namely, Michael Sandel and Michael Walzer.

In *Liberalism and the Limits of Justice*, Michael Sandel's argument rests on a critique of Rawls' popular idea of the unencumbered self" who is making moral and political judgments from an "original position." Arguing against Rawls, Sandel finds Rawls' hypothetical situation of the "original position" to be inadequate since, accordingly, it does not describe the identity of the moral subject placed in there. For Sandel, an unencumbered "deontological self" does not fit the theory of justice. Instead, it undermines the whole theory since, to Sandel, "we cannot be the kind of being the deontological ethic requires us to be."²⁹ He then concludes that we are "encumbered

²⁵ Ibid., 2.

²⁶ Ibid., 56.

²⁷ Richard Dagger, "Individualism and the Claims of Community," in *Contemporary Debates in Political Philosophy*, ed. by Thomas Christiano and John Philip Christman (United Kingdom: Wiley-Blackwell, 2009), 304.

²⁸ Kymlicka, *Contemporary Political Philosophy*, 232.

²⁹ Michael J. Sandel, *Liberalism and the Limits of Justice* (New York: Cambridge University Press, 1982), 48.

selves” and that we draw our autonomy not on abstraction but on our particular experiences in history and interactions with the direct community that forms our individual unique character — as reinforced and developed also by “friendship.”³⁰ “Community” then for Sandel is understood to be a “constitutive conception” where persons view their identities as conceived by the community of which they are part.³¹ Sandel insists that we cannot view ourselves independent of our constitutive attachments, “as members of this family or community or nation or people, as bearers of this history, as sons and daughters of that revolution, as citizens of this republic.”³² For Sandel, our autonomy and political freedom are best expressed in a participatory “Republican” regime; where people are free to participate in cultivating virtues and communities are engaged in developing a public spirit in self-government to disintegrate atomist citizens.³³

More so, Sandel's take on homosexuality is connected to his republican stance where deliberation of important social issues like same-sex marriage must be taken as a necessary feature of a democratic society. In his lecture relating to his book *Justice* in the Boston University Law Review, he argues that deliberations are important to bring out the *telos* of a social institution like marriage and the goods that it honors.³⁴ When deliberating about same-sex marriage, Sandel thinks that a more judgmental and non-neutral interpretation will eventually help us lead to a more accurate purpose of marriage which is love and permanent commitment of the couple. This process of judgmental deliberation on marriage can question and overcome “the traditional” purpose of marriage which is procreation. For Sandel, “When faced with two rival accounts of the purpose of the social practice, one way to adjudicate them is to ask which account makes better sense of existing marriage laws taken as a whole.”³⁵

With Sandel's discussion above, we can see how a “constitutive conception” can be a useful tool in affirming the legitimacy of the

³⁰ *Ibid.*, 180.

³¹ *Ibid.*, 148–150.

³² *Ibid.*, 179.

³³ Michael J. Sandel, *Democracy's Discontent: America in Search of a Public Philosophy* (Cambridge and London; Belknap Press, 1996), 314.

³⁴ Michael Sandel, “Distinguished Lecture,” *Boston University Law Review* 91 (2011): 1307.

³⁵ *Ibid.*, 1309.

LGBTQ+ community worth recognizing. But Sandel's notion of community is limited since it only focuses on communities we are born into, like family, race, religion, tribes, and nation, and not communities that are products of voluntary associations, like workers' unions, academic communities, and women and LGBTQ+ communities. There is a need then to reconfigure Sandel's "constitutive conception" to accommodate the LGBTQ+ community.

My contention with Sandel's point is that, if voluntary associations like the LGBTQ+ community are recognized then as a legitimate community, then homosexuals should be viewed in equal standing with heterosexuals. The republican process of deliberation in Sandel might view homosexuals as inferior because they will be at the mercy of the findings or conclusive position of the dominant culture. The process of deliberation does not in any way ensure that decisions are made in favor of homosexuals since it would depend on which principles the majority voice would stand. If the majority were traditional and conservative, then, the process of deliberation would be in favor of the traditional views of, for instance, marriage, and the exploitative mechanisms against homosexuals would prevail. The recognized community must enforce its way into the dominant culture for its agenda and values to be heard.

The capacity to impose is one feature of a community that must be used in a society that does not listen to the plight of the minority. Sandel's communitarianism cannot support this because he views the community as a larger political community. Separate communities like the LGBTQ+ community will possibly be swallowed up by the dominant culture, especially in the Philippines. Hence, this will need a theoretical concept that separates communities from the larger political community. To make sense of this, we turn to Michael Walzer.

Michael Walzer differs from other communitarians in his criticism of Rawlsian liberalism. Instead of developing a full argument about the autonomous identity or interconnectedness of a subject, he focused on arguing for an alternative distributive theory to Rawls' "principles of justice." In *Spheres of Justice*, Walzer contends that the starting point of our decision-making in "the original position" is "illusory" because we are particularly situated with a "firm sense of own identity" and cannot be otherwise.³⁶ With this diversified premise

³⁶ Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (Oxford: Robertson, 1983), 5.

of subjects, he argues that there cannot be no singular principle on how to distribute goods but different social goods must be distributed according to how different institutions uphold the meaning of the goods specific to their needs. Procedures and agents of distribution will also depend on the understanding of such goods by a specific institution. The distribution of goods for Walzer is “the inevitable product of historical and cultural particularism.”³⁷ This brings down into particular contexts the universalist theory of distributive justice in Rawls.

Walzer calls Rawls’ distributive principle as “simple equality” because there is a universal distribution of the “primary goods” (basic liberties, rights, and opportunities) across all borders.³⁸ Walzer, however, disagrees with this principle because, for him, goods that are distributed across borders will have an effect of “domination,” especially of money when money is considered to be the basic medium of exchange. For Walzer, the most appropriate is the “monopoly” of goods where there is autonomous distribution of all social goods according to the institution/community that views such goods as necessary.³⁹ This will ensure respect for the cultural particularity of communities who understand their goods and know how to distribute them properly. This is what Walzer calls “complex equality,” that is, “the desire in which different social goods are monopolistically held — as they are in fact and as they always will be barring continual state intervention — but in which no particular good is generally convertible.”⁴⁰ One example is the good of money which is inappropriate and does not “fully”⁴¹ belong in the sphere⁴² of ecclesiastical office but is very much appropriate in the market.

Walzer realizes that, in complex equality, there will be little inequalities, but these inequalities will not multiply if goods are

³⁷ *Ibid.*, 6.

³⁸ Stephen Mulhall and Adam Swift, *Liberals and Communitarians*, 2nd ed. (United Kingdom: Blackwell, 1996), 148.

³⁹ *Ibid.*, 148.

⁴⁰ *Ibid.*, 149.

⁴¹ I use the term “fully” because, in interpreting Walzer, we also see that money is the basic medium used for exchange that can cross borders, but it cannot be a primary good of a sphere like the church.

⁴² The term “sphere” is used by Walzer to describe the particularity of social practices that have communal meanings like healthcare, education, and religion. This can also include different communities and social associations.

confined within the sphere and are managed properly. For Walzer, tyranny only arises when a good that does not belong to a specific sphere invades it. For example, if money is valued more than piety and religious programs in an ecclesiastical office, this will create chaos and will lead to injustice. Achieving justice here is “vigilantly to patrol the barriers between goods, preventing conversions between goods whose meanings, and hence principles of just distribution, are distinct.”⁴³

Drawing back to the concern of addressing the LGBTQ+ struggles through a communitarian perspective, we can view Walzer's theory of complex equality as a political structure in which the LGBTQ+ community, having descriptive legitimacy from Sandel, can be viewed as one sphere of society. The LGBTQ+ community will be considered a community in Walzer's perspective if it possesses values that are recognizable from the standpoint of the general society. I argue that the LGBTQ+ community is a community because it possesses values such as diversity of identities, inclusivity of differences, and sexuality and gender values. These values are theorized as good as they provide social meanings for the members of the LGBTQ+ community.

In summary, the communitarian theories of Sandel and Walzer provide an alternative theory of justice that might answer the problems of liberalism. Carlos Ball argues that even though the ideals of freedom of self-expression in liberalism are appealing to gays and lesbians, it will not guarantee to make life better for them because oppression is deeply rooted in society.⁴⁴ The value of a community, for Ball, is important in this respect along with how the value of community backs up the articulation of pro-gay and lesbian positions on disputed issues, contributes to their identity, acts as a buffer from discrimination, and provides belongingness in addition to the protection from the state.⁴⁵

However, the communitarian framework of Sandel and Walzer for Ball shows limitations that hinder gays and lesbians the advantage of being in a community. This for Ball is the lack of autonomy and choice in their theories. Sandel, for example, neglects voluntary

⁴³ Ibid., 149.

⁴⁴ Carlos Ball, “Communitarianism and Gay Rights,” *Cornell Law Review* 85, 443 (2000): 514. <https://scholarship.law.cornell.edu/clr/vol85/iss2/2>

⁴⁵ Ibid., 513–515.

communities as true communities because they are by nature instrumental.⁴⁶ But voluntary communities, for Ball, are more favorable because the responsibility to decide, bargain, and compromise on the rules is placed on the individual.⁴⁷ Unlike fixed or given communities where rules are usually set up in place before individuals are born and have no say in the rules that are already set up in place. Most members may seem to accept the culture of fixed communities but those who would try to defy them would risk being an outcast, a very common situation for the gays and lesbians in the Philippines.

Walzer's theory hints at accommodating autonomy in complex equality but focuses on already established institutions as "spheres in themselves". Members of each sphere are given the responsibility to deliberate issues concerning the values and goods exclusive to that specific sphere. The theory also gives a possibility of refuge for members who would opt out of a "minimalist universal moral code" of justice.⁴⁸ Gays and lesbians can participate in the deliberations in the institutions of marriage to fight for same-sex marriage but can resort to the universalist code if their fight becomes futile.⁴⁹ Ball argues that the universalist code still is unhelpful to gays and lesbians in the long run because they will remain beggars outside the different social spheres. The processes of deliberation integral to communitarian theories, including Sandel's civic participation, are disadvantageous for gays and lesbians because for Ball, in the public (or internal) discourse, there will always be a "social force" driven by what the "majority" thinks is good.⁵⁰

In the end, Ball admits that the process of discourse, deliberation, and compromises about social issues involving gays and lesbians may not satisfy most of them but would only demand equality for state-provided benefits just like everyone. What is important for Ball is that, through this kind of engagement with those opposing theories, the conceptualizations of gay and lesbian rights are improved through the recognition of the important values each theory offers. In

⁴⁶ *Ibid.*, 475.

⁴⁷ *Ibid.*, 476.

⁴⁸ *Ibid.*, 502.

⁴⁹ *Ibid.*, 502.

⁵⁰ *Ibid.*, 480. Ball criticizes Sandel's suggestion for judges to promote the common good instead of staying neutral because if so, they would become guarantors of a probable majoritarian bias. 304.

this sense, the “role that communities and shared traditions play in the creation of a just society, but at the same time remains deeply committed to individual autonomy and freedom” is recognized.⁵¹

Reconstruction of the Communitarian Perspective

Ball’s analysis made it clear that the communitarian problem from Sandel and Walzer lies in the alienating (deliberately or not) nature of their theories towards the LGBTQ+. Sandel’s “constitutive conception” is inadequate because it focuses on fixed communities where one is born while Walzer’s complex equality does not recognize the LGBTQ+ community as an independent sphere itself. With this, a need to reconstruct both important concepts must be done to accommodate LGBTQ+ concerns. The method of reconstruction presented in this paper is a conceptual deconstruction of theories to accommodate the unincluded yet conceptually related aspects of the theory, thus, transforming the theories into a more inclusive one.

Michael Sandel’s “constitutive conception” of a community is important in the sense that it provides a descriptive criterion of what a community is basically. He insists on this description because other forms of community are “instrumental” and “sentimental” and would only use the community for selfish aims.⁵² The “constitutive conception” of a community is likened to our Filipino view of community. As Marvin Soriano notes, the Filipino family has a strong influence that “encompasses the political, religious, economic well-being of Filipinos”⁵³ and “reveals that we value relationships among others.”⁵⁴ This strong identification with our fellow, whether as churchmates or having the same ethnic backgrounds, falls into the description of the “constitutive conception” of community, according to Sandel.

A careful analysis of the description is not only limited to the established communities in the Philippines but also includes newly

⁵¹ Ibid., 517.

⁵² Sandel, *Liberalism and the Limits of Justice*, 149.

⁵³ Marvin Soriano, “Revisiting the Place of Values in Philippine Society: A Preliminary Assessment,” *Research Notes in Philippine Studies 219: Seminar in Philippine Society and Culture* (2021): 6. https://www.researchgate.net/publication/350731774_Revisiting_the_Place_of_Values_in_Philippine_Society_A_Preliminary_Assessment, 6.

⁵⁴ Ibid., 7.

developed communities like the LGBTQ+ community that finds its association based on its attachment that is a **constituent of their identity**. If dominant and established communities in the Philippines like religious communities or ethnic groups (Bisaya, Ilongo, Waray-waray, etc.) find their legitimacy in Sandel's "constitutive conception," then the LGBTQ+ can be considered a legitimate community by virtue of the "constitutive conception." This then would imply that the LGBTQ+ community, along with their concerns, must be recognized equally as other dominant and established communities in the Philippines. With this description, the LGBTQ+ community can also be considered a legitimate community in the Philippine context.

Unfortunately, this attempt to reconstruct Sandel's "constitutive conception" to elevate the LGBTQ+ community as a legitimate community in the Philippines, in closer introspection, is still not enough to support the community. This is because the Philippine society is already dominated by established communities, who we can confidently assume are discriminative against the LGBTQ+. To insert a novel community into Philippine society without any structure that would support them would throw them into the lion's den to be devoured. Here, we must adopt a political structure wherein such a community is given an equal standing among other established communities. This is where I adopt Walzer's "complex equality" to infuse the concept of autonomy into communities. But first, a reconstruction of "complex equality" is also needed.

From Ball's criticism, it is not clear whether Walzer accepts the LGBTQ+ community (or any identity groups) as spheres in themselves. If Walzer describes the "sphere" as institutions, associations, and communities with their own distributive pattern for social goods and meanings, this would mean that an important aspect for a community to be considered a sphere is that it possesses values and meanings of its own and that these values can be turned into social goods that can be distributed among the members of the spheres.⁵⁵ The question now is, does the LGBTQ+ community possess values, social goods, or meanings on its own to be considered a sphere on its own? In general, Amy Gutmann argues that identity groups possess values and are valuable because they promote the values of civic equality, equal

⁵⁵ Walzer, *Spheres of Justice: A Defense of Pluralism and Equality*, 10.

freedom, and equal opportunity.⁵⁶ In particular, being open to sexuality can be a social value and good within the LGBTQ+ community as argued by J. Neil Garcia.⁵⁷ Humor and creativity are some values possessed by LGBTQ+ persons as presented by Emmanuel David⁵⁸ and are very much evident in drag shows, gay beauty pageants, and even in private events hosted by LGBTQ+ individuals. Optimism is another value inherent in LGBTQ+ persons especially those who are living in poverty as presented by Dana Collins.⁵⁹ And that there are still more values beyond what a cisgender male like me can imagine. With this, we can have a reconstruction of Walzer's political structure to include identity groups like the LGBTQ+ community as a sphere among many and endow them with the autonomy they deserve.

The important implication of this is that LGBTQ+ members will be given the chance to govern the affairs of their shared culture and meanings by themselves. This way, the LGBTQ+ community will be given a chance to assert their concerns such as same-sex marriage to the general society in the processes of deliberation. With this newfound autonomy, the LGBTQ+ community can now strongly influence other spheres, for example, the sphere of religion to include same-sex marriage in their process of deliberation and can also insist that the basis for same-sex marriage is not procreation but a lifelong commitment to the partner. Because of the independence and autonomy of the LGBTQ+ community, the members will now not rely on the mercy of the spheres that they do not belong to anymore but can insist on their rights and recognition. This way, the LGBTQ+ community will be part of the self-governing process of a communitarian democracy, providing insights into LGBTQ+ concerns to other spheres and at the same time providing criticisms for misuse and misappropriation of communal values in our Filipino shared meanings and traditions.

Conclusion

⁵⁶ Amy Gutmann, *Identity in Democracy* (New Jersey: Princeton University Press, 2004), 19.

⁵⁷ Garcia, *Philippine Gay Culture: Binabae to Bakla, Silahis to MSM*, 420.

⁵⁸ David, *Gender and Society*, 183-185.

⁵⁹ Collins, *Feminist Formations*, 66-67.

The discussion presented above is an attempt to address the LGBTQ+ struggles in the Philippines through the lens of the development of the theories of justice. This attempt recognized the difficulty of such a project considering that many other factors needed to be further discussed to shed more light. For example, LGBTQ+ in itself has many other sub-groups that also have differences or struggles with each other. Another aspect of the struggle to discuss is the socio-economic status of LGBTQ+ members where they belong. At the theoretical level, a challenge to develop a Philippine-based (communitarian) theory of justice is also evident as something that speaks our own experiences and thoughts. In any case, I hope that this paper elicits more discussions on the LGBTQ+ struggles in the Philippines in the future.

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