

Gaslit Nation Transcript

Protect the LGBTQ Community: An Interview with Chase Strangio of the ACLU

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[intro theme music]

Sarah Kendzior:

I'm Sarah Kendzior, the author of the bestsellers, *The View From Flyover Country* and *Hiding in Plain Sight*, and of the upcoming book, *They Knew: How a Culture of Conspiracy Keeps America Complacent*, available for pre-order now.

Andrea Chalupa:

I am Andrea Chalupa, a journalist and filmmaker and the writer and producer of the journalistic thriller, *Mr. Jones*, about Stalin's genocide famine in Ukraine, a film the Kremlin doesn't want you to see so be sure to see it.

Sarah Kendzior:

And this is *Gaslit Nation*, a podcast covering corruption in the United States and rising autocracy around the world.

Andrea Chalupa (00:00:48):

Welcome to our special spring series, *Gaslit Nation Presents... Rising up from the Ashes: Cassandras and Other Experts on Rebuilding Democracy* [Electric Guitar SFX]. Our bonus episodes available to Patreon subscribers at the Truth-teller level and higher feature our esteemed guests taking the *Gaslit Nation Self Care Q&A*, so for fun ideas, sign up to hear that.

Sarah Kendzior:

Joining at this level also gives you access to hundreds of bonus episodes on topics in the news today. We'll be back with our regular episodes in July. If you're signed up any time between now and then at the Democracy Defender level or higher on Patreon—

Andrea Chalupa:

You'll get special access to watch a live taping of *Gaslit Nation* over the summer. More details to come. This interview was recorded December 6th, 2021.

[begin [opening clip](#)]

Chase Strangio (01:40):

Amy Stevens was fired from her job when she informed her employer that she's trans and one of the heartbreaking things about Amy's story is she—like so many trans people—tried everything not to be trans. The only way that she was gonna survive in her one life was to live as her authentic self. And she brought a complaint to the federal government under the Obama administration at the time. Once we shifted to the Trump administration, there was a real risk that the agency that had brought Amy's case

was no longer gonna represent her interests. I became involved in this case in April of 2019 when the United States Supreme Court decided to hear Amy's case, along with two other cases, through June of 2020 when the case was decided.

Chase Strangio (02:34):

There was something really amazing about the build up to the decision, which was issued on the morning of June 15th, because on June 14th there was the Trans Liberation March in Brooklyn and you had 15,000 people rallying for Black trans lives, this beautiful moment where there was so much love. There was so much solidarity. And then to go from that incredible momentum and organizing to then the morning of June 15th, getting the decision, having it be a win, having it be a six-three win, which is something we never anticipated was this incredibly exhilarating moment of joy, and then we had to contend with the fact that two of our three plaintiffs had died before they ever got to see the legacy of their fight. What the decision does is ensure that LGBTQ people are protected in employment, in housing, in credit, in education, and in healthcare. Some of my most memorable experiences of being a trans lawyer are just sitting with our clients in moments of deep sadness or, you know, celebration, relishing the fact that no matter what happens in the court, we're still here and that we're gonna build power and solidarity and take care of each other.

Chase Strangio (03:46):

Ultimately, we are in the process of transforming what it means to be alive as a trans person in the world right now.

[end [opening clip](#), begin interview]

Andre Chalupa (03:54):

We are joined today by a champion of human rights. Chase Strangio is Deputy Director for Transgender Justice with the ACLU's LGBT and HIV project, and a history-making expert on transgender rights. He is on *Time* magazine's 2020 list of the 100 Most Influential People in the World and the lawyer behind the historic June 2020 Supreme Court ruling protecting LGBTQ rights in the workplace, as you heard in our opening clip from *Time* magazine. We're going to talk about his long impactful career with the American justice system, how to protect human rights in a time of growing far-right autocracy, especially given the religious extremism of today's Supreme Court majority, and the legal warfare being waged in state governments across the country against LGBTQ people, especially trans people. Welcome to Gaslit Nation, superhero Chase Strangio.

Chase Strangio (04:49):

Thank you for having me. I'm excited to be here.

Andrea Chalupa (04:52):

Obviously you have accomplished so much in your short life and you've moved our society forward in a major way and protected so many people—so many vulnerable people—including children, of course. You've been working as a lawyer for many years, doing all this really, really heavy lifting work against large forces trying to stop you. You've been on the front lines of pioneering rights for trans people. Could you tell us about why you got into law and who inspired you to have the courage to take on these big cases?

Chase Strangio (05:22):

Oh, yeah. So, I was someone who did [have] and continues to have a great deal of skepticism about law and our legal system in the United States and so I sort of always came at it from a point of critiques or recognizing we have a constitution that orients our society and our laws and our material survival opportunities that was founded under a system to maintain chattel slavery, under a system of genocide, and so we can't really think about law without thinking about those histories, which are obviously central to the way that law has been manifest for the past several centuries. And so I come to law with skepticism and critique. I was someone who studied history in college and was particularly interested in the telling of history and sort of, How do our narratives about the past and about ourselves reflect power in the present and sort of predict the future?

Chase Strangio (06:31):

And so I definitely came from this idea that I would be an academic or studying history. I think what happened for me was I, just practically speaking, was not interested in ever entering an academic job market and really disillusioned with the academic institution as a site of change-making. And so I wanted to explore other options despite my skepticism about law. I ended up after college working as a paralegal and sort of recognizing the power that could come with sort of a harm reduction type of intervention in, in legal systems. And so I sort of came to law with that goal, which has changed over time, or grown and adapted over time, but I definitely found my way somewhat reluctantly. But as I became more and more involved with different movements—social movements for change—in the early 2000s, I found my way to law school and with the goal that I would be a lawyer that was in the service of movement work to the extent that that's possible.

Chase Strangio (07:45):

There's a lot of questions about what is the role of law in movements for social change, but did that, found my way to law and then have tried to use my access to the legal system, my knowledge about the legal system, to try to hold back the systems of governmental violence, corporate violence, that limit people's survival opportunities and organizing potential. So that's sort of how I'm oriented to law and continue to try to use it as a tool. In terms of how I was inspired and who inspired me, I think there are so many different people. Initially in my career, my first job out of law school was at the Sylvia Rivera Law Project, which is a collective organization based in New York City that was founded by Dean Spade.

Chase Strangio (08:34):

Dean was a huge influence on my going to law school and my early career. And I think other trans lawyers who were doing a lot of work at that time—Alex Lee, Gabriel Arkles—who were really instrumental in informing what I believed to be possible as a lawyer and how to maintain a critique while engaging in the reform-based work that law necessarily is. And then sort of people in history who were lawyers—Pauli Murray, Thurgood Marshall—and other leaders who were known to me or became known to me as I became a lawyer and sort of think about, Well, what does it mean to litigate over your existence (which is something that I do) and what does it mean to use a tool that is inherently violent to try to minimize violence? So those are some of the people that have inspired me and some of the things that I think about when engaging in the work that I do.

Andrea Chalupa (09:31):

How have you seen America's legal justice system change over the years in terms of LGBTQ rights? What changes have helped? What changes have set us back?

Chase Strangio (09:41):

Yeah, I mean, there's this interesting thing that happens in the public discourse especially with LGBTQ rights, which is we often hear that in the realm of civil legal, like movements for legal rights and civil rights, the LGBTQ movement has made record progress. And I think that part of that is true. I think if you look at the early 2000s, you had a time period where most of the states in the country were passing constitutional bans on marriage for same sex couples. Then fast forward to 2015 and you have the Supreme Court striking down all of those bans in the *Obergefell* decision and in 2003 with *Lawrence v. Texas* overturning their prior decision in *Bowers v. Hardwick* and finding that restrictions on consensual sexual activity between adults in private are unconstitutional.

Chase Strangio (10:37):

And so you have these sort of monumental Supreme Court decisions recognizing formal legal protections for gay and lesbian people largely, and then of course the Supreme Court's decision in 2020 in *Bostock* recognizing that federal laws prohibiting sex discrimination also prohibit discrimination against LGBTQ people. And so, you know, these are some very fast changes in the formal legal protections that LGBTQ people are experiencing. Of course, it's not that the movement for LGBTQ legal protections or organizing among LGBTQ people started in the early 2000s. I mean, those are decades and century long movements and so when you properly calibrate the timeframe, you could recognize it as very slow progress that has a concentrated period of some significant formal successes. And those successes have been transformative. I think that as much as I spend a lot of time critiquing formal legal equality, critiquing the marriage equality movement—which I think are both very justified critiques—the changes that we have seen as a result of *Obergefell*, as a result of *Bostock*, are very substantial, both in the formal legal sense but also materially in people's lives.

Chase Strangio (12:01):

And I don't want to understate that. That said, as we've seen in many movements, whether you look at the civil rights movement and decisions in cases like *Brown v. Board of Education*, or you look at the reproductive rights movement and decisions like *Roe*, or you look at the LGBT rights movement and decisions like *Obergefell*, these sort of landmark Supreme Court cases do have these significant cultural and material changes. They also result in significant backlash and very slow implementation. So it's not like we don't have segregation in schools now. It's not like people have wholesome access to reproductive healthcare and it's not like same sex couples are experiencing all sorts of equality that *Obergefell* promises. And so I think that we have to recognize the limitations of formal legal movements as well as the real significant disconnect between the law in terms of what it says and ultimately the law as experienced in people's lives, which of course is greatly impacted by race, by immigration status, by disability, by class.

Chase Strangio:

So all of those things are always gonna have such a huge impact on what the law actually means in a survival sense in people's lives. I think that the backlash, of course, in the LGBTQ context has been incredibly aggressive towards trans people. And so while we had the landmark decision in *Obergefell* in 2015, in the six years since, it's been attack after attack after attack on trans people with a federal judiciary that is shifting significantly further and further to the right, which means that this backlash is not only being experienced through state legislative attacks, but of course through changes that have been—and I think what I fear is—will be increasingly codified in the courts.

Andrea Chalupa (14:05):

On that note, currently there's concern that we might lose gay marriage. How likely is that to happen?

Chase Strangio (14:11):

This is something that comes up a lot. <laugh> I mean, it even, you know, it came up in the Dobbs argument, which is the Mississippi case that is seeking to overturn *Roe v. Wade*, and when Trump was elected, we heard a lot about, well, Is marriage equality in jeopardy? And I have two sort of general reactions to it. The first is that the salience of marriage as like the signifier of LGBTQ rights, I think, is something that gives me great pause because after *Obergefell* was decided in 2015, you had lots of well-resourced LGBTQ orgs and lots of people in the public sort of believing that the work was done. And of course, even if marriage equality remains forever, the reality is that so many LGBTQ people—particularly Black and Brown LGBTQ people, particularly trans people and non-binary people—are experiencing such significant precarity that marriage did nothing to resolve.

Chase Strangio (15:09):

So I think there's a question about, well, we obviously don't want major civil rights cases overturned at the Supreme Court and that should be a separate question of grave concern to us all, but on some level there are lots of people in LGBT community who are like, "Well, who cares? What about all of the other things that have never been realized and that are just getting worse and worse for us?" And so I think there's that question about, well, how much do we sort of turn to marriage as the sort of salient signifier of LGBTQ people's positions in law society? And then fundamentally well, is *Obergefell* at risk of being overturned? I think, no. And I may be an outlier and I may change my tune in a year, so ask me again.

Chase Strangio (15:54):

Because I think a lot of people thought, Well, *Roe* isn't gonna be overturned. And obviously I think that people feel really differently now. So things can change really quickly. Obviously, there are some fundamental differences between *Roe* and *Obergefell*. I think the most significant one was when they were decided. I have no faith in the Supreme Court, I will say, but I think it is very unlikely that they will directly overturn a decision that was only decided 16 years ago. That said, they don't have to overturn it in order to make it relatively meaningless. And I think that's the thing that we have to be really tapped into, which is that we have very aggressively rightward shifting state legislatures that are innovative in their efforts to restrict people's rights and attack different communities.

Chase Strangio (16:50):

And I think what we will more likely see, or at least more quickly see, are all of these successful efforts to chip away at marriage and the protections that flow from it, whether that's expanding religious exemptions so that people are more likely to be denied benefits, restricting parental protection so that, you know, same sex couples don't enjoy the same protections that married different sex couples do. I think we're gonna see all of those things happening and being upheld quickly before we see a direct assault on *Obergefell* and it ultimately being overturned. That doesn't mean it won't happen. It just means I think we're gonna see other things first, just as we saw in the context of abortion, you know, 50 years of TRAP laws and other restrictions on access to abortion to make the right for many people meaningless and I think that's what we're going to see in other contexts as well.

Chase Strangio (17:37):

Separate and apart from that, we're also seeing incredibly disturbing attacks—particularly on young people, but on so many communities—where at the end of the day, if people are gonna have their healthcare criminalized, if people are gonna be charged with felonies for teaching LGBTQ content in schools, they're never gonna get to the point of being able to get married because we're gonna have some serious questions about survival that we have to contend with before we answer some of those other questions. And so I think there's a lot of different things happening at once that we have to contend with concurrently.

Andrea Chalupa (18:14):

What's the current landscape—or hellscape, I should say—in terms of these laws sprouting up across the country, targeting LGBTQ people? Could you walk us through some of those, especially the ones that most concern you?

Chase Strangio (18:28):

Oh, yeah. There are so many. I first wanna say that understanding what's happening, like, we have to sort of look at, you know, zoom out a little. We don't even have to zoom out that far, but if we go to 2013, you have the Supreme Court and *Shelby County v. Holder* striking down Section 5 of the Voting Rights Act. And I think that's where you start to really understand how we got to some of the scariest places we are in today, which is that that then opens the door to all of the voter suppression gerrymandering efforts that we see successfully playing out in the states, which entrench power in very conservative legisla legislatures. And so that's one sort of structural thing that happens and is continuing to happen more and more so being greenlit by the Supreme Court, which is also shifting further and further to the right.

Chase Strangio (19:20):

Ultimately then you have that sort of structural predicate and then you have *Obergefell* decided in 2015 leading to a huge amount of backlash in the states. And that begins largely in two ways in the 2016 era, I should say, of LGBTQ attacks in state legislatures, which are focused largely at that time on expanding religious exemptions—so, allowing people to discriminate based on religious or moral beliefs in order to chip away at marriage protections. That comes right after... I mean, that's always been happening, but it sort of escalates post *Obergefell*—and then also attacks on trans people in 2016, focusing particularly on youth using restrooms in schools, which is sort of the proliferation of the anti-trans bathroom bills. And these things built up over the last six years and are getting more and more extreme while states are getting more and more gerrymandered, while voter expression is getting worse and worse.

Chase Strangio (20:26):

And we've reached a point in 2021/2022 where we're seeing in state legislatures such aggressive attacks on trans people in particular that are now focusing on... Some of the areas of greatest concern for me are criminalizing healthcare for trans minors. Here, we're talking about something that the public discourse and the media are instrumental in facilitating because there is a widespread misinformation campaign about what it means to be trans, what it means to have care when you're a trans person. And the repetition of very far-right talking points has made its way into very liberal and progressive media as relatively normative ways of talking about trans people, debating trans people as a group, debating whether trans people inherently caused harm to others. And that has—as much as all of these other things—facilitated the very, very scary place we're in today, which include proposals to criminalize care

for minors or otherwise restrict the care, efforts to ban trans kids from restrooms at school, from sports teams at school.

Chase Strangio (21:35):

I think that some of the newer things that are emerging, which are very much in line with other things that we're seeing, are these sort of connected to the anti so-called critical race theory bills, which are under the guise of parental rights, like mandatory outing of students to their parents. So these bills come in a lot of different forms. A lot of times they are structured around if any child is expressing any exploration of identity, a school staff member is required to disclose that to a parent. And obviously this poses a significant risk to LGBTQ young people who often face rejection at home and need a safe space to explore who they are. And this would really put a lot of young people in a very precarious position if these bills start to pass.

Chase Strangio (22:25):

Alongside the anti so-called CRT bills, you have restrictions on teaching LGBTQ content in schools, criminalizing the *mention* of LGBTQ content in schools and then efforts to restrict the ability of students to use their affirmed names and pronouns in schools. So we're seeing all of these things grow at the same time. In 2021, we had more anti-trans bills passed in that year than in the previous 20 years combined, where you had the state of Arkansas banning healthcare for trans minors and nine other states banning trans kids from participating in sports. We had a few other anti-trans laws pass and I think what we will see is, in 2022, this escalates and we will continue to see this escalation.

Chase Strangio (23:21):

And the scariest part, of course, is that the check on these legislative actions is supposed to be the judiciary, but we know that when we sue to challenge these laws in federal courts that are full of Trump appointees that we're facing a very hostile federal judiciary. So there's a real question on when you have gerrymandered state legislatures that are intent on defying precedent and federal law and passing new restrictions on people's rights and a federal judiciary that is intent on upholding those things, it raises a lot of questions about how we can change the conditions that we're living in.

Andrea Chalupa (24:02):

So I think what's really important for people to understand—which I often forget—is there's the law, and then there's the implementation of the law. And like you said, laws can be passed but the states could block them, do all sorts of things to slow them down. We saw that with Obamacare. There's also concern that even if voting rights do get passed, so-called red states could do things to just ignore it. So whose job is it to enforce the law? What powers does the Department of Justice and Attorney General Merick Garland have to ensure that these laws get implemented and people are protected?

Chase Strangio (24:41):

Yeah, so, I mean, obviously there's state law and there's federal law and there's different enforcement at different levels. For state laws, you have state executive officials enforcing them. And then at the federal level you have the Justice Department and the various executive agencies. I think that one of the realities of this time, if you look at the last few decades in particular, is that Congress has been so ineffective. What that has meant is that we've seen an expanded executive. So essentially you have Congress not doing its legislative job because of, you know, lots of reasons. But because of sort of the nature of

partisan politics, the filibuster, there's other reasons. And so Congress is doing very little, so you have then the executive trying to do more. And that's true under all of the last five presidents.

Chase Strangio (25:34):

It's not even a partisan thing. You have, you know, Trump and Obama trying to use and expand executive power to do more through administrative agencies and enforce legal protections through the executive office—existing legal protections since we're not passing any new legislation by and large. But what that has meant is that we end up in this sort of stalemate where you have the federal government through the executive agencies trying to enforce or expand or do something with the law, and then you have other people trying to stop them through lawsuits. And what we've seen a lot of in the last 10 years in particular is that when you have the government—the federal government—doing something, for example, one example would be enforcing the Affordable Care Act, but then what happens is you get a million lawsuits filed in very strategic judicial forum to try to block it.

Chase Strangio (26:27):

And you end up with a bunch of nationwide injunctions in this stalemate between the federal government, through the executive, trying to enforce the law and then the judiciary coming in and stopping it. And then nothing happens. In this current context where you have the Biden administration, you know, I have lots of critiques of the Biden administration—endless critiques—but they are also in a tough position because in the context of LGBTQ rights, for example, we would want the administration to promulgate regulations enforcing, for example, federal civil rights protections prohibiting sex discrimination which, now because of *Bostock*, explicitly includes LGBTQ people. But we know that if they do that, our adversaries will just sue and seek a nationwide injunction to block everything that the government does. And so, yes, while the Justice Department is authorized and various agencies within their statutory mandate are authorized to enforce the law in various degrees, we also are in a context and climate where the likelihood that everything they do will be immediately blocked in court is high. Now they can and should be more creative, more robust, take it to court, do whatever they can, but it is challenging. I think as we've seen too with any sort of broad civil rights pronouncement, whether it comes through a Supreme Court decision or a Congressional act, there are lots of constraints on implementation. If we don't have robust movements of organizers and support for people on the ground, the reality of people's lives are in no way going to line up with the promise of whatever is passed or decided by the Supreme Court.

Andrea Chalupa (28:03):

Why do you think Republicans, of course, especially, have turned trans people into their latest scapegoat? Clearly, of course, trans people have always been under threat, especially non-white trans people, but lately there's been this aggressive hate campaign. Why do you think that is?

Chase Strangio (28:19):

A few reasons. There's the big structural reason and then there's some other sort of subsidiary reasons. I think first and foremost that queer people—and particularly trans people—represent a threat to the organizing principle of far-right structural societal orientation. And that is to say that I think if you look at—

Andrea Chalupa (28:44):

The patriarchy. [laughs]



Chase Strangio (28:45):

[laugh] The patriarchy, yeah. The desire to impose control on a population often utilizes both governmental structure and a family structure. And that family structure is almost always one that represents a Christian nuclear (white, often) family, particularly as it's been manifested in the United States and other parts of the world where you have heterosexuality being the organizing principle, control over sex and body being central to the maintenance of whatever other sort of power the government is trying to maintain and control. So there is this way where the trans person and the trans body poses a fundamental threat to this notion and that controlling people's gender and sexuality is part of the fascism that we're seeing around the world. If you look at some of the most right-wing governments that have come to power in the last 10 years—whether it's the Trump administration, whether it's in Brazil, whether it's in Eastern Europe, in Hungary, for example—the fixation with gender and sexuality and what is called outside the US largely gender ideology is sort of central to the fascism of the government.

Chase Strangio (29:59):

There is this sense that you cannot control your population without controlling their bodies and their sexuality as well, and that trans people represent a threat to that, and that if you look at the global context and the shifting fixation with trans people, it is also part of this very far-right rise of governmental structures as well. I think, too, in the United States in particular and sort of how these politics have been manifested over the past several decades that we have seen the rise of the Christian Right as part of mobilizing the Republican Party and maintaining power and using attacks on queer and trans people as a base mobilizing mechanism. And so a lot of times in lobby and state legislatures, for example, a lot of the lawmakers—the Republican lawmakers—don't care about any of these things if you sit and talk to them in private

Chase Strangio (30:51):

But what happens in the structure of their party is such that they'll be threatened with a primary from the right if they don't sort of appeal to these politics and sort of try to mobilize what is understood to be the Christian Right base and, you know, a fixation with queer and trans people has been central to that mobilization within the party over the last several decades in that when marriage equality became the law of the land through the Supreme Court's decision in *Obergefell*, a lot of that fixation and shift as part of the Republican machine, which had been very focused on stopping same sex marriage, then shifted immediately to trans people as an effective target that could be easily scapegoated. And what we've seen unfortunately over the last, you know, five-ten years in particular is that they've been able to conscript a lot of more left-leaning liberal and progressive people within the discourse of attacks on trans people, which has allowed these to become even more effective for mobilizing their base at the expense of trans people. Unfortunately, it's just a product of a lot of misinformation that has been weaponized quite effectively in the service of a very far-right leading agenda that others are—whether knowingly or unknowingly—becoming a part of.

Andrea Chalupa (32:13):

Yeah. How especially are children and young people who are trans being impacted?

Chase Strangio (32:18):

The fixation is largely on children and young people right now and so much governmental violence is done in the name of protecting women and children. I mean, if we look... Obviously you can look in a

global context at how we justify our military intervention abroad, or if you look at, you know, the histories of violence against Black men, for example, as being part of the myth of “protecting white women”, that we sort of situate a vulnerable victim—often connected to whiteness, womanhood and childhood—as needing to be protected to justify governmental overreach in one way or another. So we’ve always seen that and I think that's one of the reasons why we should always be cautious of pieces of legislation that are attached to a child's name or some other rhetoric around the paternalism and protectionism of protecting women and children.

Chase Strangio (33:17):

It's often a guise to justify egregious violence. In this particular case, I think what we're seeing are efforts to genuinely stop people from being trans. And if you look at the rhetoric that's being used in state legislatures and the media, one underlying theme is this idea that being trans is bad, is harmful, and it should be stopped, and the easiest way to stop it is before people have gone too far down the path of transness. Again, it's this idea that one can choose out of it, that it's inherently harmful, both of which are false but are being used to try to step in and stop kids from realizing but in most cases just getting to be who they already know themselves to be. And unfortunately what this means is that we are perpetuating a discourse that kids are listening to that is so deeply harmful.

Chase Strangio (34:16):

And I know that so many young people are going to their state legislatures to testify and having to listen to lawmakers talk about how bad they are and inherently harmful they are. These are young people who already have been through so much and this is what is so hard for me to understand, is that all of these efforts are sort of being pushed with this narrative that, you know, people aren't really trans and others are making them that way. Doctors are making them trans. Their parents are making them trans. But the reality is what you usually have is a young person, let's say, who has struggled inside, lonely, in pain to find out who they are and against all odds has the courage to name who they are and tell other people, often facing immediate rejection from their family in one way or another.

Chase Strangio (35:01):

Even supportive families often come to their support after a period of rejection. And the families, you know, are working through it and struggling and then maybe they get to a point where they're affirming and loving, finally. And then *they* are often facing resistance in the medical system, resistance in their communities. So there's all of this rejection happening over and over and over before there's any affirmation. So what we're seeing is this very false idea that is so counterfactual that people are being pushed into being trans when the reality is, of course, people are being pushed into being cis and that's not possible. After already trying to make themselves cis, they know they're trans, but are being told that they're wrong, that they're bad, that they should not be happy.

Chase Strangio (35:49):

And then they're having their care being taken away. They're listening to horrible, horrible things. And that just exacerbates the underlying stigmas and poor mental health outcomes that trans young people are already experiencing, not because it is inherently harmful to be trans but it is inherently harmful to be treated badly, which is of course what is happening. Arkansas, for example, passed five or so anti-trans laws this last legislative session, including this ban on care for young people which we thankfully were able to get blocked in court for the time being. Some families fled the state as a result.

There was a spike in suicide attempts—known suicide attempts—within LGBTQ and particularly trans young people in the state.

Chase Strangio(36:35):

We know that when these bills are introduced, even if they don't pass, that it has a significant and deadly harm on people's mental health and physical health. The other thing is that when people don't... This is just like with abortion. If you can't access care legally, you will still access the care, you'll just access it in a less safe way that results in more harm. We can't stop people from being who they are. We can't stop people from meeting what they need. What we can do, and what we do do, unfortunately, is stop people from getting safe, affirming good care. And that's the impact of this.

Andrea Chalupa (37:08):

What are some ways that we can help as a society? And our listeners, how can we help support young trans people and children?

Chase Strangio (37:17):

I like to think of it in sort of like from the smallest to the biggest, which is, you know, first and foremost, we have a huge impact on the world around us. All of us do. And so partly it's just challenging ourselves to be more aware in our lives. I'm a parent. As a parent, I think about our network of parents and caregivers and just asking ourselves, Well, do we need to gender everything in the way that we are? Do we need to ask every person whether they have a boy or a girl when they tell us they're having a kid or when they tell us that they have a child? Aren't there other things that we want to know about in their lives? And sort of pushing ourselves to think more broadly and create more space for people to explore and realize who they are.

Chase Strangio (37:59):

I think we all have a role to play. The system of binary gender is so destructive and has been for so long, and yet is something that we also reflexively rely upon, so trying to make more space for creativity and exploration in our immediate families and communities, I think, is such an important part of what we are doing and all can do. And then there's sort of pushing back on narrative when people are saying, "Well, I don't want trans girls playing with my cis girls in sports because they're just going to dominate and hurt cis girls", really stopping and thinking, "Well, why do I think that and what is actually true?" and pausing and reflecting and saying, "Well, I've heard this but I'm worried that I am internalizing negative anti trans discourse." I think watching the documentary *Disclosure* is a hugely helpful exercise.

Chase Strangio (38:50):

It's a film that documents trans representation. It's a documentary that documents the history of trans representation in film and media over the last hundred years and one of the things that's so striking, even for me as a trans person who does this work all the time, is how much negative stereotype things about trans people we've all internalized and bringing that to our consciousness and then countering it in our lives. So that's sort of one systemic thing that people can do. Educate yourself on the negative things you've been told and start to identify them in your life and start to push back on it. Then there's sort of the bigger structural things that we can do in the political arena, which again are inextricable from these larger sort of pushing back on community-based norms, pushing back on discourse, because at the end of the day, the courts make decisions based on what's happening in the world.

Chase Strangio (39:42):

Judges and justices are human beings that are responding to the culture that they're living in, so the more we change that culture, the more we change laws and policies. That's true with legislative change as well. But of course, I think that we're living in a time where 2/3 of the country will introduce anti-trans bills every single year. That's the reality that we're facing right now, which means that the likelihood that you reside in a state that is pushing some sort of anti-trans bill is high. So engaging in state politics is hugely important. I think that because of the nature of presidential politics over the last decade, we've increasingly lost sight of the impact that state law making has on our lives and, in turn, states have been able to do enormous amounts of harm and damage.

Chase Strangio (40:28):

We can contact our state representatives, our state senators, and that is incredibly important. That's where most of the horrible things that are happening to trans people are happening and because the courts are how they are, we need to be watching our states, seeing what type of voter suppression legislation is being introduced in our state. Or if we live in a more progressive state, how can we facilitate increased access to the polls? How can we facilitate increased access to education? Do we live in a state that is proposing legislation that would ban certain curricula in school? Pushing back on those things is hugely important and, you know, stopping anti-abortion bills, pushing back on all efforts to control and restrict our bodily autonomy and then, of course, pushing back on the explicitly anti-trans laws; the bathroom bans, the sports bans, the healthcare bans. We all have a role to play. Then, of course, continuing to push Congress to do more, to pass federal voting rights legislation and other pieces of civil rights legislation that will impact people's lives.

Andrea Chalupa (41:33):

What are some clever and impressive ways that the Far Right uses the legal justice system as warfare against its enemies? What have you observed that stuck out to you as particularly strategic? Are there any tactics that are worth learning from? How can some of these dangerous strategies be stopped?

Chase Strangio (41:51):

Well, I mean, I think that the Right has out organized us in so many ways. And so if we look at sort of, you know, both politically, in other ways, you look at the Republican Party over the last 20 years or more and they have been very strategic at taking over school boards and then taking over county-elected structure, you know, legislative bodies. And then taking over state legislatures and being methodical. I do think that there is a lot to learn from that in looking at the power that school boards have, the power that state and local government has, and that those are sites that we should be organizing around both for people running for office but also sort of different bodies that we are pushing back on and power-mapping and organizing around.

Chase Strangio (42:39):

It's not just about Congress and the presidency. There's a lot more that we have to do. We have to play a long game as well as a short game. Organizing in churches, like organizing in different places is hugely important in building power for your base and so I think that is something that we need to continue to practice within liberal and progressive spaces to the extent that people can maintain an investment in that work, which is about making sure that people are fed, making sure that people have access to transportation, making sure that people have access to healthcare, giving people resources so that they

may be in a better position to advocate for themselves I think is such a huge and critical part of what we need to do.

Chase Strangio (43:23):

If you look at, for example, Reverend Dr. Barber in North Carolina and the Moral Mondays, I mean, that is hugely important, his work to take a legislature that was very strategically overtaken by the Right and push back through organizing, through anti-poverty work, through caretaking. I think that is gonna be our imperative moving forward. I think if we look into a future where, for example, *Roe v. Wade* is overturned, other things are in jeopardy, trans people are under attack, schools are under attack, that we have to care for each other and organize. And lots of people are doing it. There are so many movements where the organizing is so beautiful and robust. It has to be better-resourced. It has to happen on a broader scale.

Chase Strangio (44:06):

We can't over-rely on the courts. I think in the beginning of the Trump administration that there was a sense that the courts would save us, but they didn't. And they won't. And we can continue to use litigation and reform-based legal advocacy as a harm reduction tool, but it is not a liberation tool. And so I think we just have to keep that in mind, that there may be short term legal strategies to decrease harm, but long term strategies have to be built where power-building and material survival are at the center.

Andrea Chalupa (44:36):

Given the court-packing that went on under Trump, how two of the judges, especially Brett Kavanaugh and Amy Coney Barrett, were seen as controversial picks, do you think that the Supreme Court is in danger of a legitimacy problem? That under the majority it's become an extreme activist court?

Chase Strangio (44:54):

First and foremost, I think this question sort of requires one to assume that it was legitimate in the first place. And I think that the idea of nine lifetime-appointed people having as much power as they do I think raises a lot of questions. Obviously, you know, my work is very much tied to the Supreme Court and I continue to litigate before the Court and will continue to, but that doesn't mean that I necessarily think it's legitimate or that I think these systems are legitimate because they have such violent histories and consequences. Obviously those things are exacerbated significantly at the moment. If you look at, you know, obviously what happened with Mitch McConnell and Merrick Garland, and then with the rushed nomination of Justice Barrett, and the very tainted nomination of Justice Kavanaugh, that there are lots of questions about what the Court represents. And I'm someone who believes that it's always ideological.

Chase Strangio (45:51):

When you file a lawsuit, the single most impactful moment is when you find out what judge you have. Judges are people with ideological orientations. Law is not a science. I don't believe that. I don't believe that there's such a thing as uniformly applied principles in law. You're making your case to a human being or a set of human beings with pre existing conceptions about what—especially in the context of civil rights, of human rights—that there's something always somewhat illegitimate about it. That doesn't mean that I am going to just throw up my hands and not continue to engage in the system because I'm someone who's chosen this reform-based path. Assuming that the Court overturns *Roe* in *Dobbs* in June and does a series of other horrible things that we might expect it to do, will it be seen as more and more

political and partisan? Yes, absolutely. But I mean, what was *Bush v. Gore* if not a partisan Supreme Court decision that had an absolute transformative impact on the history of this country? So this is not necessarily new, but it is worse and it is getting worse.

Andrea Chalupa (47:01):

Dictatorship depends on consolidating power through legal warfare and taking over the courts. We saw that with the rise of Hitler. He became a dictator after only six months in power, thanks to his takeover of the legal system. Trump and McConnell packed around 30% of their judges onto the federal courts. We're going to be living with those judges for a long time. How big of a danger do you think our democracy is in given the current state of our judiciary?

Chase Strangio (47:31):

I think everything is in very significant danger. The political systems that we have come to rely on, or that people have relied on to varying degrees, I think lots of people have had no trust in the legal system for centuries for good reason, particularly Black and Indigenous people. So it's not like there was a system to rely on for many people before. Is it much worse now? Yes. Is democracy as we have understood it in this country in danger? I would say, yes. Are people's lives in danger? Yes. I think all of those things are true and the more we engage in some sort of, whether it's US exceptionalism or collective denial about the idea that everything is gonna be fine because it's the United States, I think the more we're going to see ourselves in peril.

Chase Strangio (48:24):

It's not fine. It hasn't been fine for a long time. It was designed not to be fine and it's just getting much worse. And because of climate change, because of climate change's impact on the pandemic, because of these courts' willingness to restrict governments' ability to care for people, whether that's through environmental regulation or mass mandates or vaccines, I think that there are lots of ways where the health and survival of some communities that are particularly vulnerable to governmental violence, in the global south, communities of color, immigrant communities, stable communities are gravely imperiled in the short term. And we're all gravely imperiled in the medium term.

Andrea Chalupa (49:09):

What can people listening do to help protect LGBTQ rights and the work you do?

Chase Strangio (49:15):

Give money to grassroots organizations. I mean, when we think about our lessons from the last 50 years of many movements, at the end of the day, that the people we've charged with carrying out implementation and holding the government accountable, it's not the government. We can't trust the government to hold itself accountable or to implement its own laws. We have to do that and we have to do that through robust grassroots movements. And if those movements and those people and those organizations aren't well supported, then we're all in trouble. Just like economic systems don't trickle down, neither do rights. And neither does food or other material protections, so we need to invest in a base-building, power-building, from-the-bottom-up model, which means donating to organizations that are doing the work on the ground, small organizations, changing the conversations we're having in our families, our homes, our communities. There's engaging in politics, not just at the federal level but at the state and local and school board level.

Chase Strangio (50:09):

I mean, look, our opponents are still mobilized in school board meetings. I mean, I don't know if you can call it "mobilized" or just something else, but they're there [laugh], and those are sites of decision-making and power over our children's lives, but in turn over all of our lives. We have to be more engaged. We have to be ready to throw down, whether that's our money, our support, our time, our emotional resources. I can't stress enough, we are all traumatized. We're traumatized from years of living under a pandemic. Many of us are traumatized for years of living under Trump. And for many communities, particularly Black and Indigenous communities and immigrant communities in this country, there's generational trauma, compounding structural traumas that people are experiencing every day. If we don't invest in caring for people and making change, the precarity that we see is going to impact all of us.

Andrea Chalupa (51:01):

How would you like to see our justice system reformed?

Chase Strangio (51:05):

I think there's sort of two ways to think about it. I think ultimately that reform is just not gonna cut it at some point, that when we think about abolition movements, when we think about carceral structures, I mean, there is no non-carceral structure in our legal system. I believe that we may not get out of the dangers that we're in without a new constitution, a new—entirely new—system, because I think unfortunately reform is really tinkering around the edges and redistributing the violence and not leading to the transformation that we need. That said, I recognize that starting over is not something that happens quickly. And so the question, I guess, is can you reform in the short term towards abolition in the long term?

Chase Strangio (51:52):

And I'm not sure you can, but I'm not sure what the alternative is. You know, I think we do need radical court transformation. I am someone who personally believes in expanding the Supreme Court. That's just me. That's Chase, not any organization that I'm affiliated with. I believe in sort of massive investment creative solutions to changing our justice system, which is really just an injustice system. And so I think we need court packing. We need changes to the federal judicial system. We need to get rid of lifetime appointments. I think that we need to think about how to change the nature of the lower courts. I think we also need to come up with large scale investments in survival, but those things can't happen without a change in the legal system because what we've seen time and time again about any effort to care is immediately struck down in courts, and that is of course the challenge that we're in.

[outro theme music]

Andrea Chalupa:

Our discussion continues and you can get access to that by signing up on our Patreon at the Truth Teller level or higher.

Sarah Kendzior:

We want to encourage you to donate to your local food bank, which is experiencing a spike in demand. We also encourage you to donate to Oil Change International, an advocacy group supported with the generous donation from the Greta Thunberg Foundation that exposes the true costs of fossil fuels and facilitates the ongoing transition to clean energy.

Andrea Chalupa:

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