Alright

John, we're ready. Good afternoon everyone. On behalf of the American Geographical Society Council, our members, and the staff, it's my pleasure to welcome you to this special Leadership Spotlight focused on Technology and LGBT+ Communities' Location Privacy during COVID-19 with Victor Madrigal-Borloz, who is the United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.

To those of you participating in our conversation on WebEx and those that are watching our live stream on Facebook, it's great to have you joining us this afternoon.

We are proud to partner our EthicalGEO initiative with the Henry Luce Foundation to investigate the societal implications of geospatial technology and location tracking.

Mobile location-based applications have become ubiquitous in our society, and as all of you know, they have changed the way we live our lives in a very short period of time.
There are, however, problematic and unanticipated effects of using this technology. To better understand the ethical implications of a use, we have provided this platform to frame the discussion and to address these issues as they are already impacting our lives on a daily basis.

COVID-19 has put a spotlight on the concept of using mobile tracing and surveillance to fight the pandemic. Around the world, the utilization of this technology to fight the coronavirus has been employed to various degrees and already governments and people worldwide are faced with the issue of compromised privacy and what that means, as we go forward.

Over the past several weeks, we have convened five Blue-Ribbon Panels and looked at the ethical implications of mobile location technology and the impact on vulnerable publics from an international perspective and from the unique American experience. In addition, we had a panel of national security leaders who focused on mobile tracing technology and it’s used in national security and the impact on democracy. This past week, we heard from state and local leaders, who shared their invaluable experiences with us, and from experts on the issue of data quality and building trust.

In the case of all the panels, the discussions were eye-opening and extensive. We also had the opportunity to hear from Ambassador Samantha Power in a Leadership Spotlight session where she added the human rights aspects of the use of mobile technology. And most recently we heard from the researchers at Harvard University, who conducted the seminal study on the use of mobile location tracing in the United States.
Today, we will be discussing how various location technologies used to fight COVID-19, may have negative consequences on LGBT+ human rights. This conversation will most certainly help serve as one of the sources of information and data that policy makers should use to help guide us into the future. Before we move on, I would like to explain to those of you on our WebEx platform the best way to get the most out of today's discussion. To those viewing on desktop computers or laptops, we recommend that you customize your viewing by hovering the mouse in the top right of your screen, and selecting the icon in the middle. From the three options shown, please select ‘grid view’ for optimal viewing. During our Q and A session later, to ask a question, hover your mouse under the arrow and click on the question mark icon the gray bar at the bottom of your screen. For those of you that are using a tablet or mobile device, select the icon with the three dots, which will then allow you to select the question mark icon to submit your questions to our panelists. Now, it's my pleasure to introduce to you Dr. Marie Price, the President of AGS, and our moderator for today's session. Welcome Marie and Victor. We're looking forward to your conversation. Thank you John. Now I’d like to introduce our speaker. Since 2018, Victor Madrigal-Borloz has served as the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.
His work assesses the implementation of international human rights law, raises awareness, engages in dialogue with all relevant stakeholders, and provides advisory services, technical assistance, capacity building to help address violence and discrimination against persons on the basis of their sexual orientation or gender identity.

Dr. Madrigal-Borloz, a Costa Rican jurist, is also a senior visiting researcher at Harvard Law School’s Human Rights Program. Until June 2019, he served as the Secretary-General of the International Rehabilitation Council for Torture Victims, a global network of over 150 rehabilitation centers. He is the founding member of the Costa Rican Association of International Law, a founding Board member of the International Justice Resource Center, and a founding Board member of Synergia-IDH. Victor, welcome. We're so happy to have you here, thank you very much. Thank you very much for having me. We have had panels earlier in the year about vulnerable publics including the LGBTQ community. It would really be helpful for our listeners,
if you could provide a brief overview of the work being done by the United Nations for the protection of the LGBT community, and also how they’ve responded, particularly during the time of COVID.

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Thank you very much Marie. It’s a wonderful opportunity to be here and a great honor to be here. Thanks to the American Geographical society, not only for inviting me, but most importantly for putting together this task force, which analyzes what I consider to be a fundamental aspect in data gathering and management. So thank you for that and I look forward to continued work together in relation to this issue.

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Now,

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of course, LGBT, or otherwise sexually or gender diverse persons have existed all throughout history in every corner of the world and therefore their lived realities have always been a part of the work,

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the human rights work that the United Nations takes forward. But in reality,

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it was never that visible. It was possibly surrounded by the same conditions of capacity that LGBT lives were surrounded for a very long time.

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It is now, it’s only about some three decades ago that work started in a somewhat systematic way within the United Nations and really we have to only go back to 2011

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for the first time that the Office of the High Commissioner for Human Rights was requested to produce a report on the lived realities of LGBT persons and violence and discrimination that they suffer around the world.

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Now, the outcome of this report was a harrowing perspective of violence and discrimination, pervasive everywhere. And it produced the building blocks for a political work creating the mandate of the Independent Expert that I have the honor to actually occupy since January of 2018. The mandate of the Independent Expert was created in 2016. The first mandate holder being Professor Vitit Muntarbhorn of Thailand and I’m the second mandate holder. Since then, our work has been to provide visibility as to how violence and discrimination occurs around the world in the everyday lived realities of persons, and on the basis of sexual orientation and gender identity. And secondly, on the basis of that knowledge, we have the mandate of providing advice to states in relation to what measures can be put in place to ensure that violence and discrimination are addressed, and eventually eradicated. Now, in March of this year when it became evident that COVID-19 was a phenomenon of absolute unique nature, I was very aware that the mandate had no pandemic plan in place. So very fast, I actually placed a mandate in a very active listening position. I sent a number of open letters to LGBT communities around the world. And beginning at the end of March and ending towards the beginning of April,
I held a series of town meetings and participated in thousands of gatherings to hear the problematic as lived by LGBT persons, and how they were interacting in their experience with the pandemic and the conditions creating high pandemic response of course. All in all, in that process, I have gone through interactions with over 1,000 individuals coming from over 100 different countries that provided both anecdotal evidence and perspectives on the implications of the pandemic on LGBT persons. Now, the process continues with another couple of measures that I'll refer to later, but I want to now mention to you, what is the basic finding that I have actually arrived to in relation to this. Pandemic response becomes problematic for vulnerable and historically discriminated person's for many reasons, but in the particular case of LGBT persons I've been able to create a system accusation of three in particular. The first one are actions in which it is
the suspicion or evident that the state is using the pandemic to persecute LGBT persons, and to pass either political measures or persecuting measure that otherwise would be unviable in any other context, so an abuse of the state of exception.

I am on the public record, for example, concerned about a particular raid in an LGBT shelter in Uganda, where the motive given was COVID-19 measures infringement, but in reality, very quickly one could see that the motive was that the local authorities didn't want a shelter catering for LGBT persons. I'm also on the record with enormous concern about the adoption by Hungary of certain measures regressing on the legal recognition of gender identity for trans-persons. In a context of pandemic where we know that legal recognition is essential to access certain help, the Hungarian government has actually backtracked with a justification of the pandemic. So that's the first type of concern.

The second is measures that, albeit, without a discriminatory intent, end up having discriminatory impact because they are not designed either with good evidence or in consultation with the concerned communities.
Let me give you an example.

Certain Latin American countries designed and implemented gender-based quarantines in which on Monday, Wednesday and Friday males would be able to go out. Tuesday, Thursday and Saturday, females would be able to go out.

But these measures which assumed that the world is divided, uniquely into male and female, did not take into account gender-diverse persons, which were basically condemned to stay at home.

Because on the day that their appearance was corresponding, their documents weren’t. And on the day their documents were corresponding, their appearance wasn’t their gender expression.

So there you have an example of indirect impact, a measure not designed, but having an impact.

And the third consequence of enormous concern is the fact that LGBT people do not arrive to this pandemic on a level ground. LGBT people across the board have lower outcomes when it comes to health. They are disproportionately represented in the ranks of the poor. 40% of homeless youth identifies as LGBT, which of course, is disproportionately representing LGBT persons in this population. It means that the pandemic will impact persons in a disproportionate way, and we will have the chance, Marie, to discuss this.
The work of both my colleagues and special procedures,
on other special operators in mind from that moment on,
has been to identify advice to states on how to address, prevent, and in the case necessary,
prosecute these instances of abuse.
Thank you for that summary. Obviously, you’ve been very busy and I think we’ve all discovered during this pandemic about even the mandate to stay at home, if you are homeless, you can’t comply, and there have been some creative solutions, but obviously real challenges.
So, the origin of this Location Tech Task Force is to look at the ethical implications of using mobile location technologies to track COVID-19, and most typically these are through apps on our cellphones,
or using Bluetooth connections.

And we're interested in how real-time location tech infrastructures could impact vulnerable communities; LGBT communities, immigrants, ethnic minorities.

So, from your perspective, what are the harms that you've identified, either unintended or intended, that LGBT people being tracked using these contract tracing tools have experienced or may experience?

Thank you Marie, and of course this is a fantastically important point nowadays. Now, interaction of LGBT communities with apps is something that has a whole history of its own, because in some context apps actually are the basis for individuals to be able to meet or to be able, even to create communities.

For example, I've received a number of expressions of concern throughout the years of how hostile governments utilize dating apps by having their agents create fake profiles,
and then utilizing triangulation to entrap gay men who are actually seeking to contact other gay men. That is, for example, a very explicit example.

That’s a very clear example of the way in which this technology can be used to actually persecute persons.

Now, I would say that the analysis of risk has a lot to do with the nuance of the context in which one is placed.

As you may know, LGBT, persons around the world live their lives in deeply contrasting realities.

We have a staggering two billion people that nowadays live in contexts in which sexual orientation and / or gender identity is criminalized, 69 countries in which that is the case.

Well now imagine, in that situation, what it means to ask persons to provide information about their sexual orientation
and their gender identity. It is tantamount to self-incrimination,

that is one aspect in one context in which one needs to refresh,

how can one understand the ethical implications of data gathering and management
in a context in which the very identity that you’re asking about is criminalized. And then
you have other contexts in which
decriminalization or criminalization never existed, or where decriminalization has been
effectuated, where deep stigma and discrimination still prevails.

I can give you a very specific example. There is a particular story that is important for
the communities right now, happening from the lesson learned in South Korea,

where tracing technology was not only being used, but the whereabouts of persons
that actually had tested positive were being divulged.

And in a way,

where it allowed the great public to access the information that a particular outbreak
was coming from a traditionally LGBT quarter. And that information

compounded itself with deep stigma and discrimination that has been cast over decades

and sometimes centuries about the assumption that LGBT people may be
promiscuous, or are ill by their own nature, or just do not follow social norms and
they’re not good citizens.

And this compounding, in my view, may not have had discriminatory intent, but it
clearly had a harmful impact on society.

Now,
imagine the reality in that example,

that I'm giving you. Persons who knew that this was the case,

started to then, reportedly, to use fake profiles and to give false information into the

tracing applications,

which means that the data will no longer have integrity.

So, not only have you created harm, but you have created distress in the whole system, which is, of course, a huge liability. And finally, even in contexts where acceptance is the rule.

Even in contexts, where respect is the rule, you cannot rule out completely, the possibility of political digression.

There are many examples of contexts in which governments have requested their citizens to disclose information,

only to have a change of government

make a very repressive government

possess information on a particular element of the identity of the persons.

So, all of these are the risks that are entailed in data gathering and management, which get exacerbated in the case of mobile data capturing and tracing. Why?

Because,

as we all know,
we put a lot more information,
unconsciously into our mobile devices than we even realize. The calculation right now is
that it only takes a cycle of 21 days into
your imprint in the digital data
that is captured by your phone for experts to be able to figure out all of the elements of
your life. And, of course, that is very concerning when the appropriate framework is not
in place.
Those are really good points. Certainly,
we have heard from local governments who have tried contact
tracing, the importance of making the data accessible only to very few people,
and then cleaning the data and not keeping it, after the tracing this happened.
So, there are protocols that need to be in place to protect everybody, right, because this
is a lot of information. And the case you raised again in South Korea has come up in
other discussions as well.
Many vulnerable populations have safe places that they gather,
and this is very true in the LGBT community,
and one of the real concerns is
if this technology is not used well,
these safe places may become exposed and are no longer safe. Is this a concern that you share in thinking about how tracking technology moves forward under COVID?
Absolutely.

The relationship of LGBT persons with space, and particularly with urban space is a constant that we cannot ignore at all. It has to do with the creation of community. It has to do with the creation of notions of self and protection in the case of trans-persons, it basically is the difference between life and death.

So all of those elements compounded with other statistically meaningful factors, for example, the fact that gay men and transwomen are particularly represented statistically, in persons living with HIV/AIDS, will mean that they will typically be around centers of health that are designated for HIV treatment.

Otherwise, in very many parts of the world, the work against HIV/AIDS has allowed the work of support of LGBT communities.
There's a number of social codes that are important in relation to this, in that so far have been managed by protocols of discretion, advertising by not putting signs on the street. Marie,

I see this in every trip that I go.

I'm often taken to clinics in which the work of counseling to LGBT persons and HIV prevention is hand in hand, and they are usually on the outskirts, in non-specific places because of concerns.

Of course, that information has to do with very specific realities of safety and personal integrity. It concerns me enormously that this information might just be used in ways that are not human rights compliant.

You know, I'm old enough that I remember when the AIDS pandemic became known to the world in the late 70's / early 80's. I do remember that the concerns of stigma and privacy, and of course we still live with HIV/AIDS, there are treatments, but it is around the world, and I wonder, has that experience helped to inform the concerns that the LGBT community faces with COVID?

It has actually, in my experience, created almost an organic relationship with the way the pandemic response has been enacted within LGBT communities.
On the one hand, you see this fantastically able, powerful movement that comes together, because it has experience on how to deal with a pandemic, and as you very rightfully say, strongly associated with stigma and discrimination, in fear and exclusion and so on and so forth. And all over the world, my observation has been of organizations that very fast are able to make the move to working on extremely basic issues. So many of the persons in these communities don't have access to credit and don't have savings. Think of trans-women that are disproportionately represented in the sex-worker population, for example, or extremely represented in the informal working settings. All of these people lost their livelihoods from one day to the next without bank accounts, without savings, without access to credit in most cases because they don't have a recognized legal identity. They were basically facing the fact that in the following days, in the following hours, they didn't have what to eat, and the way that the community was has put itself together, I believe, built on experiences of resilience of, of course, previous and the AIDS pandemic being, certainly the milestone example there. But it does, on the other hand, also show to us
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how extreme vulnerabilities continue to exist out of
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stigma and discrimination.
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The number of religious and political leaders around the world,
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including in the United States,
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who have blamed the existence of LGBT
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persons or sex / marriage,
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for example, the existence of the pandemic itself is staggering. As is
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staggering, in many cases,
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the lack of response of the highest political authorities condemning those expressions.
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And that has meant, by association, that there has been an increased level of violence
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against LGBT persons in a number of contexts,
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and also an extreme exacerbation of vulnerabilities expressed,
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in terms of mental health, that is faced by the community because fear is very real,
anguish about the future is very real.
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And if you compound social rejection and compounded stigma, it becomes an
extremely different, difficult equation.
I'd like to shift gears a little bit and ask you a question regarding the United States.

As you're well aware, the Latinx and African-American populations have been disproportionately impacted by COVID-19. Do you see it relevant to address the intersectionality between these groups and the LGBT community in terms of particular vulnerabilities and improving our responses? I believe so. My mandate, in all of my work, is intersectional in nature. Very early on when I was doing my work, a feminist activist from the Global South said to me, Vitor, we embody many identities in one body. Our experience of privilege and discrimination which may vary in time and space, are the result of that multitude of identities that we embody in one particular case, so to speak. And so, that is something that I have taken with me all the time because it means that we cannot disregard the multiplicity of identities and intersectionality, but at the same time, we need to acknowledge that one of the most powerful political decisions when it comes to data is what points do you recognize as valid and necessary points of data gathering and desegregation. And so, I believe that the data is screaming to us that there is a disproportionate impact of poverty in Black and Latino populations, as you said it very well. I can give you a number of examples taken out of my report on social inclusion.

Trans-women, for example, are 6 times more likely to be poor than their cis counterparts, but if you desegregate, and you actually see the population of Black trans-women, they are 36 times more likely to be poor, so even there
you have a division that desegregating the data by that population allows you a complete different understanding of how the evidence space works. Another example, this one coming from my work on COVID-19.

It is a lot more common for Latino youth to remain longer at home, and to have multi-generational family structures.

It means, and, of course, within communities that are deeply deeply stigmatizing, sexual diversity and sexual orientation. A lot of this youth are now requested to stay at home, perhaps to share computer equipment, in which they are probably reaching out, conversations are being overheard, and we are finding out that the increased risk for depression, anxiety, substance use, and suicidality in Latin youth,
for example,\n
is disproportionate in relation to others because disproportionately they have decreasing positive social interactions, increasing negative social interactions, economics trade, unemployment concerns, and increased housing stability, and we wouldn't be able to see that if that data wasn't crossed along those axes. You mention Latin America, it's really the Americas that have some of the highest infection rates and there are other places that are at least currently right high right now, the Middle East, there's some areas with very high infection rates as well. And you have to, sort of, look at what are the political contexts and levels of trust that people have in their governments and authority and capacity, right? And I think so many states right now, again, in the Americas, the level of trust is not very high and that has real consequences in terms of developing policies that people feel like they should comply with or ignore.
So, I wanted to switch gears a little bit. And, you're a lawyer, and deal regularly with the international community.

Do you have any examples of where contact tracing in the world is mandatory, as a way to fight COVID? Well, what we know now, you know, of course, as you can imagine, this is a quickly moving target, right?

We know, the last time that I saw a study in relation to this, more than 50 countries have implemented some sort of contact tracing applications and these types range from completely voluntary to decentralized / centralized, and then something which is mandatory.

My information is that we have mandatory applications being used in China, in Bahrain, in India, and Indonesia and in some cases, not established necessarily by law, but becoming de-facto mandatory.

For example,

I have received the number of claims that, in some cases, persons detained as a result of breaking quarantine or curfew rules will not be released unless they download an application, for example.

So, there you have an example where it may be that it's not established as mandatory, but the circumstances in which it is actually enforced, make it de-facto mandatory, and I'm actually receiving information,
I would say constantly in relation to situations like that, and remember we are also dealing in contexts where,

because of the examples that I gave at the beginning, it is more likely to find yourself arrested because of breaking the quarantine

if you are trans because your conditions will compel you to be on the street exercising sex-work, or if you’re in an LGBT shelter because that is the shelter that will be targeted. So there you see how the cycle works, right?

Then you will be the one, kind of, downloading the application, and so on and so forth. Now, allow me to make a digression, but again, it’s an example that predates the pandemic from which we have learned so much. You know, how the Chechnya, so called gay purge started? It started because there was a raid in which a telephone was ceased and that telephone contained a series of information of a person who was gay and had a network of gay persons, social network of gay persons around him, and the information mined from that phone gave rise to the persecution of a whole population in Chechnya. I’m on the record with two statements in relation to the concern that I deployed in relation to this. That is a whole process of persecution that came from mining, originating, information contained on one phone. And that was not at the beginning, the purpose. It was actually completely accidental, the finding of that phone and the mining of information based on that. So, there you have another example.
I'm sorry to have digressed Marie. I just, kind of, there you have a clear example where it works almost as mandatory but, by the way, just to complete that idea, the allegation in the Chechnya case is that people that were subsequently found through the mining of this information, were subjected to either cruelly inhumain treatment or torture to reveal their own networks. And that's how you can actually trace, of course. So the tracing can have a legitimate objective, but you can also trace with an illegitimate objective. The tracing in itself is just a method. Your purpose in relation to it is what needs to be legitimate, otherwise you may be in a situation of grave abuse. We definitely heard from people representing workers in the Gulf and how apps are mandatory there. Everyone's supposed to have them on their phones and I think people object less to contract tracing if it's voluntary, but when it's mandatory or coercive in the example you gave, is deeply concerning. Again, from a legal perspective,
do you see

movement where regulation for contract tracing is emerging in international law.

And I say this,

because one of the end products of this set of panels is that we're working with an organization in the U.K.

on the Locus Charter to try and come up with guidelines of the safe use of contact tracing.

Now I'm going to be a bit humble, Marie, in relation to this.

This is a very, very highly specialized area with enormous technical components, but the way that I understand this is that, of course, it's data, it's information,

and where I see international law going is in maintaining itself at the level in which general principles can be identified,

that will be, in a way, valid and applicable everywhere,

and then the construction of contextually appropriate responses.

And so,

for me,

in my work on data,


I make point of reference to two fundamental instruments, which is, on the one hand, the Fundamental Principles of Official Statistics, which I adopted by the Statistical Commission and endorsed by the General Assembly of the U.N, which has a detailed set of implementation guidelines, and what they do in relation to that is to identify minimum legal frameworks to safeguard the human rights of individuals who provide data.

And on the other hand, I had a source, the guidelines on a human rights-based approach to data, which were issued by the Office of the High Commissioner for Human Rights, which was enormously useful because they include sexual orientation and gender identity for desegregation of identification transparency, and so on and so forth.

On the basis of that work, in many other sources, I issued a number of recommendations on what I considered to be best practices in relation to data in my report that I presented to the Human Rights Council a year and a half ago. My report on data
in which included no harm self-determination,
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privacy and confidentiality,
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local use,
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participation,
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transparency and accountability, and impartiality as 7 basic principles to ensure that
framework.
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And I think from the point of view of sexual orientation and gender identity, all of those
are firmly grounded, not only in international law, but also in the lived realities of LGBT
people around the world, so if you were to ask me, I think that this is the ample
framework for this to exist, and now I go back to being humble because I recognize
that there may be specificities to contact tracing that are very connected to the way
that it moves so fast in medical element, but of course, I'll leave it more to the experts in
the field. We have a panel next week on convening legal experts. The legal question of
personal data, I think has moved further along than the actual how is one's location
trolled in terms of the ideas of privacy. So that makes for a really interesting challenge.
The ability to track real-time location is relatively new, and this is one of the other new
challenges to come along with technology. We have a couple of questions coming in
from listeners. I wanted to
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turn a more hopeful direction, in that, obviously, context matters,
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some states are much more accepting of the LGBT community and other states, as you
mentioned, have laws that are extremely exclusionary and prejudicial.
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What do you see in terms of the idea of combating COVID in a way that the LGBT
community in any country would be less vulnerable?
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What are the kinds of, best practices that you could see putting into place?
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So,
as part of the process that I was describing that I undertook and continue to undertake in relation to pandemic and pandemic response,

very early on,

I was able to issue a set of guidelines,

which I called the ASPIRE guidelines, and it's a mnemonic device, I think that's the word in English that stands for (A) Acknowledging that LGBT persons are everywhere, in that they are meaningful parts of our communities. I think acknowledging is important because it lies at the base of understanding that data needs to be gathered in terms of sexual orientation and gender identity, but particularly because we live in a world where a significant number of people still live under contexts where the official discourse is that gay people do not exist in that territory. I don't know how many of you are knowledgeable of such contexts, but even I was shocked at the beginning of my work to undertake official dialogue with high-level political officers that say 'these people don't exist in my country'. So I think acknowledgment, that's what the A is for. S is for (S) Supporting civil society. I mentioned to you, Marie, in relation to one of your previous questions, the importance of these networks, that are also a huge asset for humanity,

in terms of pandemic response, but they need to be maintained strong if they are to be that,

and,

of course,

I'm enormously worried about the frailty of some of these organizations when they are individually needing to face the pandemic,
context created by the

P stands for (P) Protect. There needs to be a protection against persecution of the types that I have expressed,

and that includes the maintenance, the continued access to an independent justice system that allows to question decisions that may be administrative and may be misguided. I stands for (I) Indirect discrimination.

It's a real risk, particularly when measures are not designed or implemented with active participation, which is the participation of the communities.

It also is the case that we need (R) Representation of the communities in the groups that are working actively because expertise is to be recognized as an asset in creation of pandemic response.

And finally an (E) Evidence based approach that is necessary to ensure that public policy will be fundamental in evidence and in scientific thinking, rather than in preconception and in stigma.

So, there you go, it's Acknowledgment, Support, Protection, Indirect discrimination, Representation, and Evidence, and that is ASPIRE.

And those are the guidelines that I sent to all of the states in the international community at the end of May of this year,
and which will be the basis of my dialogue with the international community, both in the presentation of my report to the General Assembly, and even going forward in relation to pandemic response.

I think that there's a lot of lessons that we need to learn. Now, contact tracing and issues of such personalization as you were mentioning such as live location will become part of that conversation because, in my view, they must be subject to the same group of guarantees, which protect, of course, the disclosure of any other type of information, within their specificity. So, to me, that's kind of the way to go in ensuring, of course, that a human rights based approach, which includes a clear support of the idea of non-discrimination. So, as you might imagine, we have a lot of questions. People are listening in and enjoying the conversation. And one of the questions, I think, you mentioned how apps have been very important for forming communities for LGBT people.
Can you think of any positive way that mobile contact tracing could specifically benefit the LGBT community?

Well, let's imagine, I mean, one of the things that fundamental principles to which I was making reference recognizes is that data is always good if the objective is legitimate. The more data you have, the more intelligence you have, the more you can actually take informed decisions about how reality looks. Let's think about this Marie, we could reproduce the world in our decision-making process. If we could have a perfect reproduction of the world, decisions would be flawless, because they would be informed by the exact reproduction of reality, right? So we could have in front of you, the globe, with all its complexity as a perfect accurate representation. Well, I guess, for many people that would be the idea of gunk, right? It's the idea of perfect knowledge of reality. And so, of course, data is always good if the objective is good, and data is always desirable. Let me give you an example where this, I come from a long time association, as you said.
from the world of torture. I happen to have had the honor of leading a number of task forces when it came to answering from human rights-based responses in situations of conflict and of attack, for example, a number of those. Real-time information about where people were being taken, real-time information about where people were being kept, real-time information about how long they have been getting that location, was always fundamental to prevent torture because we all know that torture happens, disproportionately within the first 24 hours of detention. The experience of armed conflict and civil strife, and repression in Latin America tells us that forced-will disappearance happens inevitably, within the first week, where you're taking. So, of course, all of these elements would be enormously useful if you work to map and to understand. Imagine, for example, secret dimension centers. I mean, the applications would be absolutely endless. But, of course, it all depends that you have the people receiving the intelligence for the appropriate purpose, and we go back to a question of political intent. If the political intent is to persecute and to perpetuate stigma, then, of course, limitations are absolutely, not only important, but they become part of the reality in which people survive, providing false information, ensuring decoys are allowed, and so forth. This is where the idea of a strong legal framework of lawful use in the idea of transparency, the idea of informed consent,
so many things become absolutely fundamental in relation to this framework. Another question from a viewer,

basically saying,

how can we be better allies to the community during COVID, in particular,

are there resources or organizations that you recommend supporting, especially during this time?

Well, the first one is, I believe an acknowledgement. I want to use the ‘A’, from my ASPIRE guidelines.

I think that this pandemic created, during the beginning, I think our understanding has become a lot more nuanced, created drive for compartmentalization within different groups and communities. You know, we heard a lot about older persons. We heard a lot about persons living with disability, but in reality nobody is just that, right?

And so my work was very strongly aimed at ensuring that people will understand that when we are talking about LGBT people, there is an intersectionality that we need to understand that there are older LGBT people, that are young, that are staying at home older, that are facing their own problems, and so on and so forth.

So, maintaining a view to looking at life through that prism of different identities is fundamentally important.

Embracing diversity means to be able to look at those different elements and to understand what they mean in the reality of persons.

And I think that’s what people can do to
be better allies, to look with that prism and understand that diversity is there. As to particular organizations, 

as you can imagine, in my position, it’s a big no-no to do individual endorsements. 

I would say, however, that given that I am a United Nations Special Procedures mandate-holder, I would say, I believe strongly in the ability of the U.N. to deliver incredible support in relation to this pandemic. 

My colleagues in special procedures and I have been working non-stop to actually prioritize, to try and get this into service conduits, between victims and the disenfranchised populations and power. 

And I think the United Nations and all of its agencies deserve the support that we require to actually carry this forward. For our viewers, we will be posting a video that Victor provided us that addresses some of these issues that you can look at after the conversation is over and there’s going to be a report coming out this fall, is that right Victor? That is correct, I will present it to the General Assembly on 27 October. I believe it’s going to be virtually, because I believe that the General Assembly will be mostly virtual this year, but it will be 27 October for sure, that date is set
already. So maybe this isn't an diplomatic question, but I'm going to ask it anyhow. Could you,

I think you could definitely point to some countries that are using contact tracing and taking advantage of a crisis to maybe target LGBT communities, and you gave that example in Uganda.

Do you see the countries that are doing this well, and following the, you know, your ASPIRE framework and what does that look like?

Who are those countries? I see efforts everywhere Marie, and I will provide you with a number of examples, not to be too cryptic, coming from different latitudes.

I think, we all first need to acknowledge that on the one hand I think that it would be very, I would be hard pressed to find anybody who had a perfectly executable plan from Day 1 in relation to the pandemic. So, I think that a number of governments struggled from the beginning to actually respond to it for very many different reasons, that I won't get into right now. However, the learning curve, I think has been different in different latitudes. I think that those states in which there has been an acceptance of not only the pandemic itself, but the realities that people would be disproportionately
impacted by it because of their particular position in that intersectionality, and particularly in relation to social inequality and exclusion in poverty and the efforts to reaching out to those communities are giving what I think are very interesting examples.

I know that Argentina presented a number of examples that I considered to be quick practice in relation to COVID-19 response.

Now, that includes, not to be too abstract, that includes quickly ensuring that there would be from very basic needs, such as food assigned to certain points, to assessing, within each context, whether it be religious authorities, whether it be community authorities, whether there was a good relationship with the police, whether it should be a community-based element doing that. Provision of information and gathering of data, getting more into the point of tracing and contact tracing. In Argentina, all of that was done within the community, which means that the community was the one having the safeguard of how was the information processed and anonymized under certain, of course,
protocols and rules.

And then it was delivered at a certain stage, as a certain product,
to the government, to the local governments. There you have an example where the community lent itself and its credibility towards its members to say, ‘we will ensure that you're protected in relation to this’.

And that was a good practice in relation to this.

There's been a number of very interesting initiatives in certain European countries in relation to contact tracing that I'm studying.

All of them, without exception, include the communities.

Where the communities have been involved in the design and implementation of the process,
you'll see a very little fail. Where they are denied or they are completely not part of the process, is where you see those bad stories coming from, or horror stories in some cases.

So, part of your ASPIRE framework is the maybe unintended consequences when you don't have community engagement and then obviously intentional ones as well.

So, unfortunately, we have a lot more questions and I don't want to take up too much of your time. This has been a fascinating conversation.
I guess I'll end with this last one, and then you can add any other comments you might have.

There seems to be a real concern that, in particular for LGBT people, the need for their privacy and data collection. So, do you ask someone's gender identity or not?

Would that cause more problems than health? How do you answer that question? You know, there's discussion now in the US data, including race and ethnicity? I don't think there's a, I don't know why they're talking about gender identity.

So do you have anything to offer in that respect?

I would place it in the context of,

of course,

what is the official positioning in relation to these issues and whether there is a state-sponsored policy of persecution,

or whether we are talking about more socially informed processes and, so on and so forth, I would place it there.

I can tell you I have always had great concerns about data collection in relation to sexual orientation, gender identities in environments of criminalization.

I've said to the international community that I believe decriminalization has to happen everywhere in the world, in part, because I think, until that is the case, states cannot really say that they know their population

well, and it connects to everything,

Marie. If states do not know how families are conformed, who people are living with under the same roof and how their families look,
they will not understand how their housing policies should look. If states do not understand how to breakdown health concerns, which we know are objectively different, if you break them down, their health policies are flawed in my view, there again, there again, there again, it goes along. So I have real concerns in relation to that. In environments where the legal framework is in place, what you need to look is, what is the specific sanction that may be socially enforced to individuals for revealing their identity. And you need to manage of course information in that context. I'm on the record, in my report of Mozambique, making a comment to the fact that it's a country that decriminalized, but where still, coming out of the closet would condemn you to absolute social exclusion. So, in that case, of course, I mean, particularly because I don't think that the systems are in place to ensure that data would be managed in a way where people can have full trust in it. And again, now, let's think about even the third context.
How many people have been asked by progressive governments that have a particular progressive stance. I’m going to give an example that is by no means exclusive to one context.

Trans people serving in the military. They may be asked to reveal data and to have that data processed in an official context, in a particular context.

If that context is to change and a ban is to be enacted, how is the data going to be used on that basis, and what was the informed consent in relation to the particular intent versus the moment in which the data is used? I have real questions in relation to this.

So,

my answer would be,

depending on all of those aspects, still in very many contexts, including the most progressive ones, you may have exercises that are so technically well-defined, so technically well-designed that they can provide very good intelligence without endangering persons. What are the basic things that need to be done, I think, you know, in every context until you have the whole legal framework is, you need to have community-sensitive communication and design, you need to ensure that information is decentralized.

It needs to be used for a particular specific element and then very important, it needs to be de-politicized.
Data cannot be subject to the nuances and comes-and-goes of political processes. It needs to be having impartiality.

so where are you place it is also very very important. One last point in relation to the overall topic that we're talking about Marie,

and I don't want to leave it out just because it's part of the full map that I have here in front of me,

I've covered everything,

but there's one thing that I didn't cover.

I also have significant concerns about the digital divide. We know that people having access to mobile phone technology or internet, are not necessarily representative of the whole of the population.

So, one of the things that we will need to begin to really try and capture is how do we fix how skewed the picture is going to be if we exclude that 50% in Latin America don't use the Internet.

Is it going to mean that the picture that we get of the world that we have in front of us is going to be completely excluding the poorest ones, and therefore our solutions will only be catering for those that are already with a certain degree of privilege.
The data that I have is that there's 2 billion people without access to mobile technology, that's 2 billion out of 7 billion persons. So, for example, if we work to deeply trust in a future tracing based on mobile technology.

How are we going to cater for the two billion people that are not going to be seen in that picture? And secondly, data that I have 50% of people in Latin America not having access to Internet, some 75% of people in Africa, not having access to the Internet. So, how will you actually breach the skewed way in which the picture would look?

That's not only for LGBT people, but of course, includes LGBT people who are disproportionately represented in those that are the poorest in the population. Right, and vulnerable and often disenfranchised. Victor, this has really been an enlightening conversation.

You added your expertise, your depth, your experience in many countries around the world and it was a pleasure to have you share your information and be part of our Leadership Spotlight.

I'm going to have to close this off for now. I do want to give my thanks to the Luce Foundation.

The Henry Luce Foundation has supported this project, and we are very grateful for their wisdom in realizing that this particular issue of contact tracing and location tracing has implications well beyond COVID.

Victor Madrigal-Borloz, again, we thank you for your work and your time, you've been a wonderful addition.

We do have a couple more panels coming up. One, Victor, you might even be interested in Legal Perspectives on Mobile Location Technology during COVID, where we have several lawyers that will be speaking.
And then I'm also delighted to have Dr. Mei-Po Kwan coming to us from Hong Kong talking about Tracking Movement through Space during COVID-19 and Beyond, where I think she'll really also give us an East Asian perspective and a global perspective.

I thank you all for joining us today and listening.

It's always a pleasure to get together with intelligent, caring people who are trying to address this most difficult time with sound policy, depoliticising issues, clean data, and also caring for the most vulnerable. So, thank you very much, and we hope to see you at the next EthicalGEO event.

Thank you very much. Bye-Bye.