

Public, Pubic, and Private

Religion in Political Discourse

In recent decades, religion in America has gone both public and pubic, not only for the Right, but for the wide swaths of the “middle” who live under the dispensation of “family values.” This image of religion in America, of course, is distorted: it leaves out the diversity of belief and unbelief, and the diversity—not to say pitched battles—*within* most religious groups on matters social and sexual. Religious progressives, in particular, are missing faces in snapshots of the national “family.” And that is not simply due to the shortcomings of religious progressivism itself. The effective identification of religion with social conservatism rests on economic and ideological forces that are global in scope, as other essays in this volume ably document. But precisely because the course and character “religion” are bound at every point to the political economy, to query this category may allow us to imagine a public ethic that is less fixedly pubic and a religious discourse that is more authentically public.

Curiously, both secular liberals and conservatism (religious and social) tend to presume that sexuality and reproduction, primarily of the strictly conventional sort, are the central concerns of religion. The difference is that while secular liberals, precisely for this reason, want religion consigned to the “private,” conservatives for the very same reason are calling religion out of its private enclaves, to restore the supposed foundations of social life. Progressive religion, still more curiously, combines these approaches. With respect to sexuality and reproduction, it tends to speak the language of secularism, but when it comes to economic, social, and political issues, it prophesies boldly in the public square. However, progressive reli-

gion does not offer clear accounts of why the sexual aspects of religious ethics, in particular, should not be “imposed” in public. Nor has it adequately explained why the social aspects of religious ethics should be “imposed” on citizens in a democratic polity for whom the highest standards of religious ethics are supposed to be voluntary.

In fact, and this lies at the center of the riddle, “religion” is bound to not one but two sorts of “privates,” not only to sexuality but also to private property, and through it to every sort of “public.” This second marriage is more secret, for private property, under the aegis of secularism, is distinctly *not religion*. Therefore, it is not socially accountable in the ways religions might require; economic justice becomes charity; and charity, as the provision of 1996 (discussed below) puts it, is a “choice.” But this exemption from accountability also makes private property like religion; no more than religious beliefs do economic motives need to justify themselves publicly or in terms of a common good. Economic privates, in this sense, enjoy both the legitimations of the private and those of the public. And religion plays a central role in constructing each sort of legitimation, because the definition of “religion” simultaneously delineates what is “not religion”—notably, the state, the market, and the academy. Each of these realms is said to be open to all rather than restricted, based on rational procedures and mechanisms rather than on tradition or revelation, driven by choice and desire rather than by rules, rituals, and authority. Finally, and this draws the circle into a knot, the structures of sexual life, while ostensibly given to the custody of religion, are profoundly imbricated with these public realms. How family is defined, for example, decisively influences the access of women to political and economic power; and the tolerance (or intolerance) of sexual difference profoundly affects whether gay and lesbian people can participate in democratic processes.

In these ways, the division between religion/not religion, like that between private/public, legitimates what lies on both sides of it. Rather than invoking these distinctions to resolve public issues, the distinctions themselves must be carefully interrogated. Whose “privates” are covered and whose are exposed by these divisions as they currently operate? Who is called to public account and who is not? Who gets to own their “privates” and whose privates are owned by others? Whose private views and interests sit unnoticed in the public arena, and whose raise a stir?

This essay will interrogate the category of “religion” under two crossed spotlights, one trained on the right to sexual dissidence and the other on poverty, social provision, and the right to work. In the first case, progressive religionists tend to retreat from public ethical discourse on secularist principles. Here I aim to show how the religious/secular division serves conservative ends, and how progressives, both religious and not, may lay claim to the public power now monopolized by conservative religion. In the second case, progressive religionists are already taking ever more active public roles but also risk becoming agents of conservative sexual mores and hence a conservative political economy. Here my aim is to suggest how progressives might exercise this public leadership in ways that, rather than consigning social provision to charity, calls citizens and government to their appropriate responsibilities.

Religion and Gay/Lesbian Rights¹*Progressive Perspectives*

Reviewing the range of American religious views concerning homosexuality, what stands out immediately is the depth and intensity of disagreement, not only between but within religious bodies. Popular representation to the contrary, *there is in fact no single or coherent "religious" position on homosexuality in America*. It is true that the two largest denominations in the United States—Roman Catholicism and the Southern Baptists, respectively—remain morally opposed to homoeroticism and politically opposed to gay civil rights legislation. But the religious picture in the United States includes far more than these two denominations, and even within these two the situation is more complex than one might guess from the media.

For example, the decriminalization of consensual same sex acts in private has been officially supported for decades by many religious groups. The United Church of Christ issued the first such statement in 1969; since then it has been joined by (among others) the Presbyterian Church USA (1970 and 1978), the Union of American Hebrew Congregations (1977), the Evangelical Lutheran Church in America (1970 and 1978), the Unitarian Universalist Association (1970), the Reformed Church in America (1978), and the Missouri Lutheran Synod (1981).² In many cases, this is linked with moral acceptance of homoeroticism in principle. Just as significantly, however, there are denominations, such as the Reformed Church and the Missouri Lutheran Synod, that support decriminalization while remaining firmly *opposed* to homosexual acts on moral grounds.³ Though hardly a radical stance, decriminalization is nonetheless extremely significant as a political position, since anti-homosexual sodomy laws are still on the books in many states.⁴ Moreover, in the infamous *Bowers* decision of 1986, the Supreme Court argued that homosexual sodomy could be criminalized because its moral proscription has "ancient roots"—further specified by Justice Warren Berger as "Judeo-Christian moral and ethical standards."⁵

In addition to supporting decriminalization, many religious groups urge their members to take active leadership in promoting the human and sometimes the civil rights of gay and lesbian people.⁶ Again, this is especially striking when accompanied by disapproval of homoeroticism itself. The Church of the Brethren (1983), while morally opposing homosexual behavior under all circumstances, nonetheless pledged itself to "challenging openly the widespread fear, hatred and harassment of homosexual persons" and "advocating the right of homosexuals to jobs, housing and legal justice."⁷ In October 1997 the Roman Catholic bishops wrote that "all of us must strive to eliminate any form of injustice, oppression, or violence, against [homosexuals]."⁸ Even some extremely conservative denominations—for example, the Church of the Latter Day Saints—acknowledge that homosexuals have been subject to "bias" and "social injustice."⁹

Same-sex marriage is a particularly salient issue for religions in the United States, since the civil rite of marriage may also be a religious rite, as Rebecca Alpert discusses in this volume. In some cases—among them, the North Pacific Yearly Meeting, the Metropolitan Community Church, the Unitarian Universalist Associ-

ation, and Reconstructionist Judaism—same sex marriage is heartily endorsed as both a civil and a religious rite.¹⁰ In other cases, religious groups support same-sex marriage or its contractual equivalent as a civil right, even though the denomination itself is not prepared to perform these ceremonies as religious rites. The United Methodist Church, within the same declaration, asserted that homosexual practices are “incompatible with Christian teaching” and that it is “a clear issue of simple justice” to protect the rights of homosexual persons who have “shared material resources, pensions, guardian relationships, mutual powers of attorney.”¹¹ Internally, however, the denomination remains intensely divided on whether clergy should perform same-sex marriage, with official governance bodies responding resoundingly in the negative.¹² Similarly, the Central Conference of American Rabbis (Reform) Judaism has publicly supported civil same-sex marriage and opposed the Defense of Marriage Act (1996) yet remains divided on whether rabbis may perform the ceremonies.¹³

The ordination of gay clergy, while a strictly religious matter, deserves mention as a particularly salient measure of religious diversity concerning homosexuality. This is certainly the issue on which it is most difficult for religions to “go all the way” in regard to lesbian and gay rights. Yet even in this area there is far more support for lesbians and gays than one would glean from popular representations. Unitarian Universalism, Reconstructionist Judaism, and the Metropolitan Community Church all happily ordain qualified homosexuals, without any demand for sexual abstinence. And, while many religious groups do have moral concerns about homosexually active clergy, most of these regard homosexuality as a more or less fixed condition. The denial of ordination on the basis of orientation alone would therefore seem unjust; the contested issue instead becomes whether a candidate intends to “practice” homosexuality after ordination. That has become the controverted question among Presbyterians, Episcopalians, United Methodists, in the United Church of Christ, and even in the Roman Catholic Church.¹⁴

In religious groups that continue to officially oppose homosexuality, internecine controversy typically persists, indicating that moral equilibrium has not yet been reached. For many denominations, an interim strategy is to devolve many policy decisions on homosexuality to the local level. Examples include the Presbyterian “More Light” churches, the “Open and Affirming” congregations within the United Church of Christ, and the “Reconciling Congregations Program” of the United Methodist Church.¹⁵ The Episcopal Church in the United States, which includes many progressives, has had to contend with the condemnation of same-sex marriage by the Lambeth Conference and by a number of U.S. Episcopal bishops. The solution, for the time being, is that bishops are not censured for implementing same-sex marriage at the diocesan level. At the local as well as the national level, gay-affirmative laity have organized within virtually every religious denomination in the United States. The Catholic group “Dignity,” founded in 1969, was one of the first, and it has been followed by dozens of others.¹⁶ Such groups have now existed for decades, even in the face of official opprobrium, and are proliferating so quickly that it is virtually impossible to track them all.

Why, then, has this wide and turbulent range of views had so little public visibility? Why has it not become a stimulus for democratic debate about the politics of

sexuality, the politics of religion, and the intersection of the two? Why does “religion” now function almost exclusively to authorize the repression of sexual difference, usually in fierce opposition to large segments of its own adherents? Again, the inefficacy of progressive religion is due to forces that are social, economic, and political, rather than simply ideological. We should not expect that these power relations will be transformed simply through adjustments of theology or political rhetoric. Nonetheless, the weak points of progressive religious ideology are also the points at which the impressions of these material forces are most clearly evident, and therefore the point where critical reflection has to begin.

I want to suggest three such weaknesses, which together illuminate the unique problematic of religion as a problem in American political discourse. First, many progressive religious positions on homosexuality rely on a dubious appeal to the notion of a fixed homosexual orientation—in other words, an argument from “nature.” Secondly, this argument from “nature” is meant to minimize or obscure the challenges that sexual minorities might represent to hegemonic norms; hence it obstructs just the sort of public ethical expression and public ethical deliberation that are needed around controverted issues of sexuality. Thirdly, progressive religionists continue to rely on ideals of public and private that legitimate both the “religious” and the “secular” and that construct “religion” in a way that can only ratify, not critique, hegemonic norms. Finally, I will propose that the inscrutable category of religion be demystified, its inappropriate powers be deflated, and its appropriate political claims be extended to all communities of conscience—including those that support homoeroticism. On that basis, and only on that basis, I am suggesting, can a more rational, more ethical, and more democratic discourse about homosexuality in America be accomplished.

The Gay “Nature” Argument

Many progressive religious groups have founded their support for gay rights on the claim that some individuals are gay either by nature or by a disposition sufficiently fixed that it could be considered “second nature.” In Bible-based theologies, this arguably implies that homosexuality is part of the creation that God declared “very good.” Versions of this argument have appeared in the official declarations or publications of most religious groups or organizations that support gay rights.¹⁷

The nature argument does reflect the self-understanding of many who experienced homoerotic feelings well before they knew what those feelings were and even when they dearly wished such feelings would disappear. However, although for many individuals homoerotic patterns are *de facto* permanent, the attribution of this to a fixed or innate “orientation” is itself entirely historically contingent. The English term “homosexuality” has been in use for little more than a hundred years. Moreover, as most historians of sexuality today agree, the very notion of “sexuality” as a fixed and central component of “identity” is equally recent.¹⁸ We should also bear in mind that the components of “sexual identity”—say, desire and fantasy versus sexual practice, or self-understanding versus social designation—do not always operate in concert. I could experience lesbian desires but not act on them, or engage in lesbian sex without desire; I could be thought of by others as lesbian but not

so regard myself—or any other mix and match of “identity” pieces. What does it mean to speak of such a complex psycho-social reality as fixed or innate? In particular, what does it mean to say of a woman that she “could not be otherwise” than homosexual? That sort of self-description corresponds best to male sexual experience, in which the absence of erection is likely to bring “sex” to a halt, given how “sex” is likely to be defined. When asserted by a lesbian, “I cannot be otherwise” can bespeak a self-affirmation that is most salutary, or a suffering that is most genuine. Or perhaps both. Yet in either case it is constrained or enabled by social circumstance for women in very particular ways. As a glance through human history quickly reminds us, “sex” has not depended much on the desire or satisfaction of women—and for this, sadly, the species owes its females considerable gratitude.

Appealing to a fixed or innate homosexual orientation may seem expeditious also because it directly counters some of the most vociferous religious opponents of gay rights. For example, the Southern Baptist Convention insists that homosexuality is a “lifestyle” and hence a culpable choice.¹⁹ However, this cannot be theologically checked by the assertion that homosexuality is innate or “natural,” because in Christian theology, nature is regarded as “fallen.” After the Fall, all creation—including human nature—is viewed as *disoriented* in relation to God.²⁰ That is why the Roman Catholic magisterium, although referring to a “permanent” or “constitutive” homosexuality for more than twenty-five years, has remained all the while a stalwart opponent of gay civil rights.²¹ For official Catholicism, a homosexual constitution is one of the many “objectively disordered states” arising from “man’s innate weakness following original sin.”²² It is cause for sympathy, not for blame, but also, most assuredly, not for celebration.

The designation of a homosexual nature, then, need not lead to support for homosexual lives, rights, or relationships. It can function in precisely the opposite way. By distinguishing the “condition” as involuntary from the acts as voluntary, a religious body can offer an acceptance to “homosexual persons” that it strictly withholds from “homosexual acts.” And because the “acts” are not supported, neither are the persons when they “enact” their sexuality by living uncloseted lives. Unfortunately, it is just then that these persons need civil rights protection, because it is just then that they incur violence and discrimination.

“Nature,” as the basis of rights, has a long pedigree within Western thought. For many gay civil rights advocates, religious and secular, it has the apparent advantage of linking homosexual civil rights with those of racial minorities. However, racial divisions themselves are hardly fixed and natural, as attested by the intensive legal and social means that have been deployed to *make and keep* the “races” separate.²³ Moreover, the analogy with race betrays the normative issues at stake in the gay rights debate by tacitly assuring the presumably heterosexual “majority” that homosexuality is not contagious and will not increase its numbers with social tolerance. To the conservative argument that activists are trying to “promote” homosexuality, one can then reply that it is no more possible to promote homosexuality than, say, to promote green eyes.

The heart of the conflict, however, is normative: it is about whether homosexuality is healthy or pathological, righteous or sinful, attractive or repulsive. And neither temporally nor logically does the normative evaluation of homosexuality sim-

ply follow from empirical or historical findings. Even Dean Hamer, a leading researcher in the ill-conceived search for a “gay gene,” recognizes that a genetic disposition toward homosexuality could be assessed as a pathological mutation just as easily as a normal variation.²⁴ Whether we are concerned about sex, race, or sexuality, normative judgments preexist and determine the empirical designation of fixed natures. “Naturally,” the reverse seems to be true; this is precisely the ideological sleight of hand that makes biases based on supposedly “natural” features (such as sex, race, or sexuality) seem so compelling. But the dynamism of discrimination is not that people are treated badly because they belong to a particular class; that would presume that the class and its significance were simply given as neutral facts. As legal scholar Janet Halley has incisively argued, discrimination classes people in a particular way *so that* they may be treated badly, something the Supreme Court itself has acknowledged in a much discussed 1938 case.²⁵ Constitutionally, Halley argues, the question is whether law or policy are drawing a boundary against a group for purposes of discrimination. If so, *it is the boundary-drawing itself that is unjust*.²⁶

Perhaps the greatest appeal of the “gay natures” argument is its congruence with popular gay rights discourse, in particular with the rhetoric of secular gay rights groups such as the Human Rights Campaign. Whatever political efficacy this ever possessed has been seriously diminished with the emergence of a kind of anti-gay activism that has recast homosexual civil rights as homosexual “special” rights. Although most of these activists belong to the Religious Right, it is well worth noting that their rhetorical strategy, which has been extremely effective, relies neither on religious language nor on judgments about the fixity of homosexuality. Instead they argue, based on highly skewed data, that homosexuals already enjoy a disproportionate degree of economic and cultural power.²⁷ Whenever and wherever they live quiet (read: “closeted”) lives, it is asserted, homosexuals already enjoy perfect social toleration. What “gay civil rights” demand is the right to publicly affirm homoeroticism as good (i.e., to live uncloseted lives) without incurring the social sanctions that would “normally” follow. And that, claim these activists, amounts to the “promotion” of homosexuality.²⁸ Whether homosexuality is a perversion or a disability, a willful choice or a desperate compulsion—is rendered, ingeniously, quite irrelevant. The point is that it is bad, and seriously so. To accept or even recommend a pathology is, after all, just as perverse as to recommend wickedness. Moreover, indifference to pathology is callous, and nonacceptance of a pathology, even on behalf of those who accept it for themselves, may seem deeply compassionate.

Normative Questions

So we are forced back to the very normative issues that the appeal to homosexual natures was meant to avoid. If sexuality is not “fixed” or immutable, then the uncloseted visibility of gay and lesbian persons does “promote” homoeroticism. For example, the high school student with an openly gay teacher may well find homosexuality more understandable and imaginable, even attractive and compelling. She may have, indeed, a greater risk/hope of “becoming gay.” But the salient question is: why would that be bad? Why would an increased range of sexual inquiry and choice not be good for this student and for the rest of us as well? If homosexu-

ality is not just a “given,” but partakes of choice, then one *can* reasonably be asked to defend that choice—either its content or simply the value of its availability as a choice. Most startling of all, if homosexuality partakes of choice, then so does heterosexuality—and one must either defend *that* choice or explain why the absence of choice about heterosexuality is socially necessary or good.

But to say that sexuality does and should involve choice is also to say that the range of appropriate moral choice in sex itself is wider than convention and religious tradition would have us acknowledge. For example, as Christine Gudorf argues in this volume, homoeroticism and other contemporary trends underline sexual pleasure as a distinct good, in and of itself.²⁹ But if pleasure is given normative weight, then traditional religious criteria such as monogamy and procreation (which were not formulated to foster sexual pleasure!) cannot but be subject to re-examination. Moreover, homoeroticism and other forms of sexual dissent render more visible the *variety and incommensurability* of the various functions of sex. Sex can do many things besides stabilizing a nuclear couple for purposes of childrearing and/or relational intimacy. It can express love, enact aggression, share pleasure or withhold it, or enhance one’s ego. It can enable survival, dominate or humiliate partners, foster intensity of experience, calm and comfort, betray or get even with a spouse or partner. It can make babies or make money, seal a commitment or explore fantasies. And so forth.

The ethical conundrum is not simply that the goods of sex may not go together in one particular type of sexuality—that procreation and love, or pleasure and procreation, may separate in a given instance or for a given population. The conundrum, first of all, is that these and other values that can be advanced through sex just do not go together in any intrinsic way. Sexual pleasure is not automatically or easily confined to the bounds of interpersonal commitment; the exigencies of survival may defy those of self-actualization within one’s sexual life; the expression of love for a partner may not be accompanied by intensity of personal experience. If so, then it is extremely difficult, if not impossible in principle, for every instance of sex to accomplish every good thing that sex can do. The salient moral question then becomes, not whether all the putative goods of sex (say, love, pleasure, commitment, economic stability) fit in each and every sexual act or relationship, but rather whether those goods are present in the totality of a person or community’s life. Moreover, the harms of sex, which can be substantial, are not easily separable from the goods. Worst of all, we do not always agree on which is which—not even with the person on the next pillow. If this points to the seriousness of sex as an ethical issue, it also shows how wide range of freedom is needed for citizens to envision and enact their own versions of sexual ethics.

To affirm sexual diversity and dissent is to recognize that people have distinct and often incompatible views of what makes a sexual life good or bad (or, at least, good enough or too bad). More than that, it recognizes that these disagreements may be both profound and legitimate. That does not mean that everything that can be done with sex ought to be done with it, either in personal life or in social life. Even libertarians agree that sex that involves violence or coercion should be proscribed by law and policy. And prohibitions of violence and coercion, while necessary for constraining harm through sex, are hardly sufficient as goods of sex. That is

why it is important not to conflate sexual ethics with sexual regulation, as do many sex radicals. At the interpersonal level, we do well to reflect on how to conduct our sexual lives in ways that are gratifying and just—and most of us do badly when we do not so reflect. At the collective level, citizens do need to recognize that there are different accounts of the goods and harms of sex, to discern the arenas in which those purported goods and harms occur (i.e., whom they really affect and how), and to deliberate about the means appropriate within those different arenas. All this belongs to the realm of sexual ethics, and to the aspects of social ethics that bear on sex and reproduction. But only a small part of these ethics could be used to justify sexual regulation—only when it is established that public interests are at stake, when it is agreed what those public interests are, and when the interests are sufficiently vital to justify coercive measures.

This is where, politically speaking, the going gets particularly rough. For in addition to cultivating extremely different versions of what constitutes personal good and harm, Americans also hold disparate and dissonant versions of social life and the common good. Most progressives, like most libertarians, argue that law and policy ought to concern themselves only with constraining those harms that can be understood as violence.³⁰ I concur, not because there is no social interest in other goods and harms of sex, but because there are many and far more constructive ways for citizens to exert ethical influence upon each other than through political force. I would not concur, however, with the facile remanding of sexual matters to the “private,” sphere, because discernment of the “public,” the “private,” and the appropriate relation between them must itself be a matter for democratic deliberation, as the aftermath of *Roe* (1973) and *Bowers* (1986) has made abundantly evident. The language of privacy, tolerance, inclusivity, and deregulation can function just as absolutistically as do conservative religious claims and can obstruct communication just as much.

One example of failed ethical deliberation is the way in which monogamy is sometimes invoked in debates about family and sexuality. Lasting and monogamous sexual relationships are of deep personal value to many Americans; while for many others this ideal may be descriptively or normatively inadequate. Ethical expression, debate, and experimentation concerning monogamy and non-monogamy are therefore appropriate and salubrious. It would be quite inappropriate, however, to appeal to monogamy as an argument either for or against gay *civil* rights. For example, in a televised debate with an anti-gay religious activist, Andrew Sullivan protested: “If I had a boyfriend and we actually had a loving relationship in our own home, you believe in upholding laws that would imprison us for that behavior.”³¹ It is true, of course, that gay and lesbian people are as capable of marital love as is anyone else. But what bearing should this have on the decriminalization of homosexual sodomy? Would straight citizens be willing to stake the privacy of their own bedrooms, their freedom from imprisonment, their bodily self-determination, and their intimate associations on how the majority of their fellow citizens assess the quality of their particular sexual relationships? When discussions go like this, it is a sign that something crucial is missing—on the one hand, discernment of the spheres of life that are at issue (e.g., interpersonal life vs. citizenship); on the other hand, robust debate about sexual ethics rather than the ritual invocation of moral

conventions. Public discourse about sex and reproduction can and must be ethical discourse, but the ethics are those proper to the public sphere, discerning the common good and concerned with the quality of social life as a whole

The Public and the Private

As we have seen, progressive and moderate religionists tend to ally themselves with secularism on the question of gay rights, as on the question of abortion. Relying on the notion that certain ethical matters are private, they often fail to articulate the public ethic within which the “private” is delineated in this particular way.³² They do not justify the availability of homoeroticism as a positive social good. Such an explanation could be possible even for denominations with moral compunctions about homoeroticism; there are many good reasons why a liberal democracy should tolerate a multitude of behaviors and an even greater multitude of beliefs that the majority of citizens see as wrong. For religious groups that find moral good in homoeroticism, it is important to articulate how those goods are also *social* goods—how, for example, the availability of homoerotic relations can contribute to gender equality and hence to the equality of citizens, or how same-sex marriage might contribute to the economic security of families.

The need for genuinely public progressive ethics has become much more pressing over the past two decades, as conservative religionists have imported their religious ethics ever more whole cloth into the public sphere. For example, the Southern Baptist Convention made its case against gay rights legislation explicitly in terms of religious authority: all homosexual practices “are sin and are condemned by the word of God”; members were therefore urged to actively oppose laws that “under the deceptive guise of human rights, have the effect of giving public approval to the homosexual lifestyle.”³³ Arguing against proposed gay rights legislation, the Catholic bishops of Massachusetts lamented the “common perception in our country that whatever is declared legal, by that very fact, becomes morally right,” substantiating this with reference to “the tragic abortion experience of the past ten years.”³⁴ Cardinal Ratzinger, writing for the Vatican in 1986, put these vestigial theocratic aims in unmistakable terms, fulminating against “civil legislation to protect behavior to which no one has any conceivable right” and warning that, where such legislation is passed, we should not be surprised if “irrational and violent reactions increase.”³⁵

Citizens, given the legal latitude to reach different moral conclusions than do these religious denominations, obviously might do so. This alone is sufficient reason for legally constraining moral freedom, in the opinion of the Southern Baptist Convention and the Catholic hierarchy. How can a denomination oppose gay rights on grounds that are common neither to all citizens, nor to all religious denominations in the United States, nor even to a consensus of their own members? More to the point, how can these political positions be held by denominations that simultaneously and (let us grant) seriously claim to support religious freedom?

An answer may be found in a closer analysis of the “secular” public sphere. In his well-known study of the division of American religion along liberal-conservative lines, Robert Wuthnow found that religionists tend to become politically active

only when they feel that the political sphere is violating their basic beliefs and values.³⁶ When mainline religion appears absent in the public arena, it is because the public sphere is already felt to covertly embody its central social norms. That may explain why conservative denominations act as if the “privacy” of their religion is somehow violated by religiously disobedient sexual beliefs and behavior, even when performed by citizens who are in no way under the authority of their religion—and especially when the dissident behavior or belief is protected under civil law.

Dominant groups, whether religious, social, or economic, experience their “privates” as extending well into the public; indeed, their “private” beliefs and interests tacitly constitute the public in fundamental ways. This tacit ownership of the collective “public” by particular “privates” can only occur because the public sphere does not accrue its fundamental coherence and stability by means of law and policy. On the contrary, the public is given shape and efficacy through conventions, norms, and values that “go without saying”—in other words, hegemonic norms. These unarticulated norms are exempt from the sorts of open inquiry, negotiation, and reason on which public life is supposedly predicated. Under the dispensation of secularism, religion too is exempted (or excluded, depending on one’s viewpoint) from public inquiry, from the need to explain itself rationally or negotiate its claims in relation to others. In this way, religion becomes the perfect reliquary for hegemonic norms, ostensibly exerting no influence on public life but tacitly providing norms that serve *status quo* and that are never required to defend themselves. So when hegemonic norms are threatened—as they are in the debate about gay rights—“religion” is openly asserted as their basis, and the type of religion asserted will be authoritarian, absolute, non-negotiable, and intelligible only to believers. That is why counter-hegemonic views, such as support for gay rights, simply do not register publicly with the credibility and authority of “religion.” In other words, it is not that opposition to gay rights gains its public authority by being “religious”; it is that views of homosexuality can only gain public authority as religious to the extent that they support the *status quo*.

Theorists of sexuality have a name for the private space that is really the hegemonic public space, the space where normative religion and normative sexuality are secretly joined—that is the “closet.” As Eve Sedgwick has pointed out, the aim of the closet is less to make homosexuality invisible than to make *heteronormativity* invisible. Heterosexuality must appear as a natural state of affairs, rather than as a rule imposed by intimidation, coercion, and violence; only thus can it maintain an unexamined privilege.³⁷ As I argued above, this privilege, its coercion, and its violence are not undone by exposing the existence of sexual “minorities” who are “minor” exceptions to the norm but who do not contest the norm itself. In the same way, it is not enough to expose the existence of religious groups that support gay rights or the decriminalization of homoeroticism. The closet is not dismantled by “outing” the minorities, but only by “outing” the very norms that define these minorities as such. To “out” what goes as “religion” is to force it to come out from behind its *de jure* status as private and voluntary, and to expose its *de facto* status as public, political, and, to a significant degree, coerced.

When it comes to matters of sexuality, progressive religions generally do not “out” the dominant norms, because they are not prepared to question the context

within which gay people are made into problematic minorities. Nor, evidently, are they prepared to question the construct of “religion,” since often their argument on behalf of gay rights is simply that religious values should not be “imposed” in the public sphere. I would agree that a sexually capacious public sphere is a good in itself, and that our public sphere could and should be made more capacious. But this is different than implying, as appeals to religious and sexual privacy often do, that the public sphere can or should be sheerly neutral with respect to values. For one thing, this approach will always tend to reinforce conventional norms, because these are the norms that appear neutral—i.e., obvious and commonsensical—to most people. More profoundly, the problem is with the notion of secularism at work in this approach, which constructs religion as a composite of special exclusions and special privileges.

Secularists, including religious progressives on matters of sexuality, want the exclusions without the privileges—e.g., the disqualification of views from public discourse simply because they are religious. Conservatives want the privileges without the exclusions—e.g., the absolutizing of particular moral standards simply because they are religious. But these unique privileges and exclusions provoke and enable each other, together constructing the category of “religion” on which both conservative and progressive religionists rely for their peculiar legal and social standing. And “religion,” as I have already suggested, validates that which is “not religion” as objective, inclusive, open, neutral, and fair. Religious believers and institutions, too, have much at stake in these realms that are “not religion,” particularly in the market and state. Since the religion/not religion division, like the public/private division, serves the *status quo* on both sides of it, social critique and imagination will be inhibited by appealing to either.

Sexual Dissent and Religious Freedom

Once the argument about freedom of sexuality is understood not only as an argument from “privacy,” but as a matter of public and political ethics, sexual dissidents can lay claim to the moral ground hitherto available only to religion. To put it differently, gay and lesbian rights would no longer have to be construed, in the manner of a naive secularism, as freedom *from* religion or ethics. Instead, the right to sexual dissidence could be understood as a freedom of conscience, speech, and association—in other words, as something very much *like* freedom of religion. This provides, as a first advantage, an alternative to the problematic “like race” arguments for gay civil rights. And, indeed, sexual differences are more like religious differences than they are like racial differences. Like religion, a sexual preference that is consistently affirmed and lived becomes central to one’s self-understanding, behavior, style, and community—that is, to one’s “identity.” Also like religion (at least in the American context), choice and belief determine where you will land just as much, and maybe more, than does where you were planted by history or biology.

Recalling the positions of progressive denominations, it is clear that gay and lesbian rights are quite literally connected with religious freedom, since anti-gay law and public policy are in effect based on an illegitimate preference for one type of religious position over another. But the analogy goes farther, allowing us to name

the “religious” functions that pervade the supposedly secular realm. Heteronormativity, in effect, is a religion—a set of beliefs, rituals, and moral commitments that explain and regulate the life of a community; this would be so even if heteronormativity were not underwritten by what is conventionally called “religion.” Therefore, as historian Lisa Duggan not quite facetiously proposed, queer activists might well be “the new dis-establishmentarians, the state religion we wish to dis-establish being that of heteronormativity.”³⁸

Granted, sexual dissidents hardly agree with each other on everything, but nor do many religious bodies. In Duggan’s words, sexual dissidents are connected by “a constellation of non-conforming practices, expressions and beliefs.”³⁹ Inasmuch as they claim civil rights, sexual dissidents share the belief that it is right and just to publicly dissent from conventional sexual norms, and to do so without suffering undue sanctions such as the denial of physical safety, jobs, housing, or child custody. Anyone, straight or not, can join this “church.” Anyone can believe that, in a democratic polity, the burden of proof must be upon those who would constrict the range of belief, association, and consensual sex, not upon those who would expand it. Anyone can believe that, because the goods that accrue to sexuality are so diverse, so incommensurable, and so central to human well-being, the world is a better place when dissident sexualities can be explored, fostered and, yes, *promoted*. But the right to promote these convictions does not depend in any way on whether sexual dissidents succeed in converting the world—any more than do the rights of Evangelical Christian or Quakers, Greenpeace or the National Rifle Association.

Construing gay rights in this way clearly connects these rights more with freedom of speech than with freedom of action. But this, argues Janet Halley, is appropriate in the post-Bowers era, when the Court has denied homosexuals freedom of action, even in private.⁴⁰ Moreover, freedom of speech is the key to exercising future influence over the laws that regulate behavior; it is the *sine qua non* of political participation. Since *Bowers*, the Court itself has recognized this right of political participation in striking down Colorado’s Amendment Two, which would have preemptively disabled any future political activity by gay rights advocates.⁴¹ Freedom of speech can also be a new basis for civil rights advocacy, Halley proposes. Because discrimination inhibits the free expression and hence the political participation of homosexuals, it can be argued, discrimination must be legislatively proscribed. It is worth noting, also, that the Court has also recently pared down freedom of religiously motivated action, when in 1997 it denied that religious freedom could justify violations of facially neutral law.⁴²

The tensions and incoherences produced by the unique construct “religion” are not likely to be legislatively or judicially resolved in the near future. But they have at least begun to be widely recognized and, on the grassroots level, can be directly addressed. At the level of public discourse and political organizing, to dissolve the boundaries around “religion” would require progressive religionists and other gay rights advocates to welcome religion into the public conversations we create, but also to insist that religiously-based ethical claims be made intelligible and, like any other political claim, be subject to certain kinds of negotiation. It would call upon secular advocates, like religionists, to articulate their claims in terms of the

common good and a public ethic. In so doing, they would finally lay claim to the public power hitherto monopolized by conservative religion.

The Welfare Debate

“Charitable Choice”

A new chapter for religion in the American public sphere was inaugurated in June 1996 with the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). Defining poverty as fundamentally a matter of personal responsibility, the act aimed to reduce the “dependence” of poor families on government by discouraging “illegitimacy” and, via carrot and stick, transitioning poor parents into wage work. The stick is larger than the carrot, however. Any adult receiving assistance must be engaged, within twenty-four months, in an activity defined as work. Most often, these end up being minimum wage jobs, although certain unpaid activities such as community service may also count as work.⁴³ By the year 2002 states must show that 50% of all single parents and 90% of all two-parent families receiving aid are engaged in “work.” And while data are kept as to the wages and benefits of recipients who are working, only random samples of such data are kept for those who, with or without jobs, go off the rolls. Clearly, the law is aimed primarily at the reduction of welfare rolls. Only in a secondary and contingent way is it concerned about whether poor parents actually get jobs, and its concern for viable wages and benefits ranges from transitory to nonexistent.

Even less is the law intended to ensure a minimal income for families. TANF (Temporary Aid to Needy Families) terminates the federal entitlement of individuals to cash assistance and stipulates that no individual may receive more than five years of aid in the course of a lifetime. States have complete flexibility in determining eligibility requirements and benefits levels. If states so choose they may legislate a “family cap”⁴⁴ or deny aid altogether to teenage parents. States may use TANF funds in any manner deemed consistent with the goals of TANF (e.g. reduction of “illegitimacy”) and may transfer up to 30% of TANF funds to their social services or childcare block grants. In 2002, when current federal block grants end, states will be free to decide how and even whether to provide for the poor. At present, there is no telling what they, or the federal government, will do.

With the future presence of the public partner entirely in question, the law for the time being encourages social provision through “public-private” partnerships. It is in this context that “faith-based communities” have been invited to take an expanded role in social provision. The “Charitable Choice Provision” of the PRWORA is in one sense an antidiscrimination law; it stipulates that religious groups must be considered for contracts or voucher programs “on the same basis as any other non-governmental provider,” provided that neither the Establishment clause, nor state provisions, nor the religious freedom of clients is compromised. In another sense, the discrimination now prohibited includes discretionary judgments that states, on the basis of complex judicial precedent, may well have felt obligated

to make. For example, the provision not only allows religious providers to display religious symbols, but it also allows them to use a religious approach to assisting the needy, though clients cannot be made to actively participate in services and if they object to a provider's religious orientation they must have access to an alternative provider. Religious providers may not use contracted funds for sectarian purposes, but such restrictions do not apply under a voucher program.⁴⁵

Doctrinaire secularists may be concerned that, as poor citizens rely on religious groups for survival, they will be subject to undue and possibly coercive religious influence. That is not the point of this argument. As a social services provider, religious groups may not be *especially* coercive; any provider, religious or not, will come to have undue and coercive power over poor citizens if poverty is redefined as a personal failing rather than a social responsibility. If poor women are pressured not to have children, scrutinized in their most intimate lives, or subjected to patronizing programs of moral reform—all of this will be no less oppressive or demeaning in settings where it is not “religious.” Moreover, there are senses in which some religious providers may be especially suited to address the problem of poverty.

Progressive Religion and Social Provision

“Faith communities” include groups across the political spectrum, and, on this issue, the spectrum may be weighted to the Left. Progressive religious providers are often closer to poor communities than are secular agencies, and they are well acquainted with the damage poverty inflicts on the human spirit and community as well as on social and economic circumstances. They are equipped to organize communities rather than simply assist individuals, and many of them deliberately aim at building the political skills and “social capital” of poor communities.⁴⁶

Progressive and moderate religionists also have the sorts of ethical framework within which poverty can be re-articulated as a social rather than a merely personal problem. Prior to the Personal Responsibility Act, dozens of religious groups laid out those frameworks, in statements insisting that the problem before America was poverty itself, not simply the welfare system.⁴⁷ Although many of these groups are prepared to partner with government for social provision, they insisted that government not abandon its part of this responsibility. As for “personal responsibility,” they recognized work and family planning as incumbent on individuals but also urged government to shoulder its own proper burdens—e.g., legislating a minimum wage adequate to self and family support and ensuring the availability of health care and child care. Since 1996, many of these groups have been careful not to overlook the social and political aspects of poverty. The Campaign for Human Development, a project of Catholic Charities, is a good example; it has dispersed more than \$500,000 in grants to support community organizing and citizen empowerment among the poor.⁴⁸ In early 1999 the Call to Renewal Conference brought religious agencies together to generate “public policy from below” aimed at eliminating poverty. Religious providers are also tracking the results of the new policies—for example, increased demands on food pantries and shelters, the percentage of former recipients who get jobs (about 50%), and the percentage of jobs with health benefits (about 25%).⁴⁹ In the future, religious providers might consider many other ways to

put their social vision into action—for example, refusing to hire or place former recipients for less than a family wage.⁵⁰

Nonetheless, progressive religionists can hardly view the current situation as a victory. During the legislative battle, the efforts of liberal religionists were mostly ineffective and in the end were reduced ultimately to the few concessions around issues such as the “family cap.” In the near future, the risk of serious moral compromise or counterproductivity will increase, and the roots of those risks must be understood. Although there is no reason to specially exclude religious groups from assisting with social provision, it is important to ask why a new doorway in the supposed wall between church and state is opened just now and just for these purposes. Why is it now, as the problem of poverty is reduced to that of slashing welfare rolls, which is then reduced to an issue of sexual morality, that of “illegitimacy”—that the problem becomes newly “religious”? Why is it that now, as corporate capital grows ever more resistant to democratic controls, that social provision is transplanted to the child’s garden of “charitable choice”?

Notwithstanding the positive possibilities just enumerated, the political motives and outcomes of charitable choice may not be so sanguine. As if leaving a baby at the church door, government may be partnering with “faith-based communities” because these are the agencies that will be most morally unable to abandon the poor if it turns out that government is gone for good. And although progressive religionists try to emphasize social vision over sexual moralism, it is plainly the latter with which they have been publicly charged. How is “religion” being defined such that its *imprimatur* sticks only to the sexual moralism and not to the social vision? To refuse the charge of moralism and refute this definition of religion, it is not enough for progressives to merely downplay the sexual norms they are supposed to enforce. They have to understand and publicly articulate the way in which the social vision encoded in the term “illegitimacy” cannot be compatible with economic and political justice. The same applies to the questions of poverty and of work. If progressive religionists do not articulate the tensions between their own social vision and that which dominates the current political horizon, if they do not explicitly address the tensions and ambiguities within and between religious communities themselves on questions of economic, racial, and gender justice—then their public efforts can only work on behalf of those norms that “go without saying.”

Religion, Women, and “the Family”

No tensions have been less adequately addressed than those surrounding welfare as a women’s issue. As feminist thinkers have elucidated, childrearing is a form of social labor, a set of services upon which society absolutely relies, ordinarily performed by women and ordinarily unpaid.⁵¹ To the degree that childrearing consumes their labor, women are made dependent on the financial support of men; marriage, in effect, becomes mandatory for them. This obviously compromises the reproductive and sexual freedom of women as individuals. But even disregarding the implications for the lives of individual women, it profoundly compromises the *citizenship* of childbearing women. Consigned to the “private,” their access to economic, political, and social power becomes, at best, unsteady and inferior; at worst,

entirely dependent on men. When the PRWORA pronounces that “marriage is the foundation of a successful society,” it is presuming that this second-class citizenship of women does not count against social “success.”

The sexual, economic, and political arrangements encoded in PRWORA’s condemnation of “illegitimacy” are especially evident when one notices that the condemnation is not confined to teenagers or even to women in need of public assistance.⁵² In other words, the issue of teen pregnancy is used to cover a general endorsement of the father-dependent family, and the enforcement of this patriarchal model is presumed to be the special province of “faith-based communities.” In the last section I noted that once the hegemony of heterosexuality has been challenged, “religion” is openly invoked as its basis, despite the fact that citizens are supposed to be religiously free and despite the fact that there is not even a consensus among religious groups on this point. In a similar way, the married, heterosexual family is openly mandated by PRWORA as a condition of reproductive life, at precisely the point when this norm no longer fits the complex reality of American family life.⁵³ “Religion” is encouraged to execute this mandate because it is assumed that religions—at least, “legitimate” ones—exist fundamentally to conserve this and other hegemonic norms.

Ralph Reed complained of Aid to Families of Dependent Children (AFDC) that it made the state into the father.⁵⁴ In a sense, he was correct, but the point was to shore up the father-headed family, not to undermine it. AFDC (1961) grew out of Aid to Dependent Families (ADF; Title IV of the Social Security Act of 1935), which in turn evolved from state-level Mother’s Aid laws. Both Mother’s Aid pensions and ADF were entirely predicated on the economic dependence of women on men. They were intended for widowed mothers, husbandless through no “fault” of their own, and their purpose was to avoid or minimize the need for these women to work for wages. Moreover, these laws tied benefits to notions of motherly capacity, “racial welfare,” and moral fitness that were intrusively monitored and that included such middle-class standards as chastity, church attendance, temperance, and “American” cooking.⁵⁵

As many scholars have shown, these ideals of motherhood and family also expressed and sustained white racial domination. Of women receiving Mother’s Aid pensions in 1931, 96% were white and 3% were black.⁵⁶ Under ADF, eligibility requirements were set by states, as a result of which discriminatory practices could continue at that level. Only in the 1960s and 1970s did African-American women enter the public assistance system in significant numbers, and that owed much to the organizing efforts of African-American women themselves through the National Welfare Rights Organization. AFDC was far more accessible to women of color than its predecessors had been, but unlike them it was distinctly not construed as a support for “good” wives and mothers. On the contrary, it came to be understood in terms derived from Daniel Patrick Moynihan’s “Report on the American Negro Family,” in which black families were cast as pathological due to their supposed “matriarchalism.”⁵⁷ While Mother’s Pensions had stigmatized African-American and other poor women for not staying home and rearing children, in the era of AFDC they would be stigmatized for doing just that. And while Mother’s Pensions had denied them the supports that would have enabled them to stay at home with

children, post-AFDC they were to be denied the conditions that would make it possible to sustain a family on wage work. Although criticized for “dependence,” it would be in some senses more accurate to say that impoverished single mothers are stigmatized for their independence. Whether by choice or by circumstance, they are rearing children outside marriage, evidently (though not always truly) without the support or supervision of men. That has become socially intolerable, especially for African-American women, whose procreativity has for so long been placed at the sufferance of white men, as Traci West powerfully argues in this volume.⁵⁸

Progressive and moderate religionists criticize the Religious Right’s views of state and economy, but they have been far less bold in opposing conservative views of the family. In some cases, as Elizabeth Bounds shows with reference to the Evangelical Lutheran Church of America, that is because the middle-class nuclear family is tacitly assumed, although not actively defended.⁵⁹ Whatever the reason, it must be said that progressive religionists have not adequately voiced what is wrong with a society in which the cost of rearing children is the exclusion of women from public life and power. That they have either not undertaken this moral critique or have not declared it publicly cannot be unconnected with the fact that American religion today gains public authority almost exclusively when it serves as the guarantor of “family values.” Progressive and moderate religionists know, tacitly or explicitly, that to speak against these social norms is to risk their authority as “religion.”

The U.S. Catholic Conference (USCC) is a case in point. As if to underline their moral credentials in the welfare debate, the bishops’ statement on welfare declared that “no institution is more committed to . . . marriage, family, responsibility, work, sexual restraint and sacrifice for children than our church.” Despite their forceful argument that social and personal responsibility are complementary, the USCC was presuming a social order in which women are economically dependent on men. Individual responsibility was therefore thought to consist largely of compliance with the sexual and reproductive mores that uphold this particular social order. Sexual noncompliance, however, was the chief cause of social decay. For example, making teen pregnancy a root cause of poverty, they urged that it be fought “with at least as much vigor as we fight against teen smoking and substance abuse.”⁶⁰ Because of their concomitant rejection of contraception and abortion, what the USCC says about teen pregnancy is also a statement about sex. From the get-go, sex is figured more a proclivity to addiction than an expression of health, affiliation, and liberty. Ethically, these assumptions are deeply problematic, both for their patriarchalism and for the ease with which they slip from serious social criticism to a sexually timorous moralism.

The targeting of teen pregnancy is not unique to Catholicism or indeed to the religious or political Right; President Clinton once labeled it “our most serious social problem.”⁶¹ In addition to their ethical shortcomings, such claims are also empirically dubious or simply incorrect. It is more accurate to say that poverty causes high rates of childbearing than to say that high rates of childbearing cause poverty, as has been widely and cross-culturally observed by scholars and policymakers alike. Moreover, as sociologist Kristin Luker shows, the “teen pregnancy” panic is predicated on misleading confluences of various categories, for example, birth rates

and birth ratios, birth rate and pregnancy rate, teen motherhood and teen single motherhood, single motherhood and teen motherhood, single motherhood and unmarried motherhood. Contrary to political rhetoric, the birth rate among teens has actually declined dramatically and steadily from 1960 to present.⁶² Single motherhood, however, has increased: one in three families is now headed by a never-married woman, according to Census Bureau statistics. But only one-third of those single mothers are teens. Due to the increase in cohabitation during these decades, and the fact that the welfare system itself has discouraged marriage, many unmarried mothers are not truly single but do in fact have partners who may assist them financially. Many single mothers are single due to divorce, and many are impoverished by divorce, while many other single mothers, including lesbian mothers, are able to support their children without any state assistance. All of these distinctions blur in the rhetoric of the supposed “teen pregnancy crisis” or “crisis of the family,” which hides the profound lack of social consensus on the precise nature of the problem, the precise social interests at stake, and the appropriate solutions.

The most salient change in these decades is not a rise in teen motherhood as such, but a general decline in the marriage rate and a bifurcation of families into two kinds, reflecting the growing disparity between the affluent and the poor in these decades. In the affluent pattern, marriage is more common but is typically delayed, numbers of children decrease, and both parents are likely to work. In the poorer pattern, marriage rates decline, birth rates are higher, and childbearing is earlier.⁶³ Targeting “teen pregnancy” fudges on the question of whether the socially relevant concern is poverty or simply the maintenance of the two-parent family. More insidiously, it translates the causes of poverty from the economic and political realms to the realms of the sexual and renders this (mis)translation more plausible by naming a group (teenagers) over whose sexual behavior adult citizens arguably are entitled to some control. But the changed marriage rates and family patterns, like the changed economic circumstances, apply mainly to adult Americans. And since adults cannot as easily be represented as hormone-intoxicated, we have to ask why adults are making different choices than they used to, and take seriously these reasons.

Adult women, for example, are frequently choosing to delay marriage or not marry at all, to leave marriages in which they are unhappy or abused, or to live and rear children in same-sex couples. These choices are often constrained, sometimes extremely so, by the choices of men and by other external factors. For example, if William Julius Wilson is correct, marriage rates in poor African-American communities have declined as a result of job loss.⁶⁴ Nonetheless, the availability of contraception and the legality of abortion does increase the element of choice in women’s childbearing.⁶⁵ Although there are still constraints on these choices, especially for poor and teenaged women, it is essential to regard all women as moral agents, striving within those constraints to make choices that are rational, practical, and principled. Among those considerations are all the factors, noted above, that count against the father-headed family or male-dominated marriage, as well as all those that count against middle-class marriage and family patterns for economically poor citizens.

Progressive religionists, in addition to facing these ethical and shortcomings

and empirical distortions, have a responsibility to debunk the quasi-historical religious claims behind the father-headed nuclear family. The Religious Right would have us trace this social form, if not to Fred and Wilma Flintstone, at least to biblical times. But as Rosemary Ruether discusses in this volume, this model of family is no older than the nineteenth century. Even then, it pertained mainly to white and middle-class people; now, as noted above, it is not even accurate for them. Religious conservatives are certainly correct that patriarchalism is the assumed social world of the Bible, but it was enacted not through nuclear but through extended family forms—not a minor point given that extended family patterns today continue to be rendered invisible or made illegitimate by the nuclear norm. And, *contra* James Dobson, Christianity historically could not have had less “focus on the family.” Until the Reformation (and for Catholicism, much more recently), Western Christianity saw religious celibacy rather than sexuality of any kind as the privileged expression of Christian spiritual life. Most significantly, patriarchalism is *now* widely questioned among religionists of every faith—just as are the racism, ethnocentrism, and imperialism that traditionally have characterized much human society and hence much religion. However these struggles for “religion” turn out, they must be recognized as real and utterly serious. In the meanwhile, religionists committed to gender and racial equality must therefore be very clear about what they are endorsing if and when they pledge support for “the family.”

Religious Ethics of Poverty and Work

Progressive and moderate religious groups have emphasized that responsibility for poverty is at once individual and social. Though sound, this maxim is unilluminating unless one specifies what sort of society, and what sort of “individual,” is presumed. Christianity, for example, has elaborated through most of its history a quite complex ethic of economic responsibility, but for the most part has not even aimed at the elimination of poverty as such, as Ruth Smith argues in an important essay.⁶⁶ Medieval Christianity posited that the non-poor and the voluntarily poor had a responsibility to give alms to those who were involuntarily poor. Unfortunately, the purpose of the almsgiving was to ensure the salvation of the *almsgivers*. And the beggar, in accepting these alms, was also accepting her own state of poverty as a part of this economy of salvation. Reformation Christianity, rejecting almsgiving as a spiritual “work,” mandated a more genuine amelioration of poverty as a condition. Yet in dissolving the spiritual role of beggar, it also created a theological climate in which involuntary poverty could be read as personal vice or reprobation—in other words, distinctions between the “deserving” and the “undeserving” poor.

There has been much authentic *caritas* and even some radical movement for justice in this and other religious traditions on poverty. But to claim these strands, religionists must extricate them from histories that, in truth, contain much we should not wish to replicate. Most progressive and liberationist Christians know that, even as they assert the “preferential option for the poor” as moral doctrine. However, in the welfare debate they have not voiced these conflicts, present and past, very clearly or publicly. It is not hard to understand why, for to do so would again compromise the public power accruing to religion as the reliquary of unar-

articulated absolutes, and it is hard to relinquish absolutism when one's opponents are absolutists. A typical alternative strategy is to sacralize one's own position with an inspirational and indisputable religious ideal (e.g., the biblical God's interest in "widows and orphans"), without duly accounting for the fact that other adherents of the ideal appear to draw from it entirely different political conclusions.

Progressive religionists are seriously obligated to speak prophetically in and against their own histories on these matters, because it is in the context of these histories that poverty is being redescribed as more of a religious (and "personal") than political and economic problem. In the 1980s, along with the dramatic increase of street beggars in my semi-urban neighborhood, I was struck at how often those to whom I gave a bit of money would respond "God bless you." It was as if they were offering to reinstate the social contract of the Middle Ages, in which tokens of charity were offered to wrest God's blessing on wealth and to assuage the terrible dread that those who are not poor feel for those who are. The same social contract was iconographically represented by the African-American former welfare mothers who stood proudly at Clinton's shoulders as he signed the Personal Responsibility Act, as if by assuming "personal responsibility" they could erase the stain that public discourse had placed upon their moral reputations. Since that time, conservative religionists have kept up displays of moral reform by publicizing a steady stream of testimonials by former welfare recipients to the value of religious "tough love."⁶⁷ It is not hard to shame impoverished people for their poverty, but those who do should be ashamed to succeed. Poverty does damage spirit and community, but so does material comfort. And ugliest among the corruptions of comfort is the callous belief that poverty does not happen to good people.

Today, I would argue, the main public function of religion in regard to poverty is to render credible this belief, which despite its inhumanity functions as theological: that, with a few concessions to hard luck, *economic status depends fundamentally upon personal merit*. This, more than any "religious" claim, is the doctrine upon which the social order rests. Like most orthodoxies, it is enforced most cruelly just when people have most reason to repudiate it. Now, we should surmise, is one of those times for capitalism. One reason may be that global capitalism, while often said to increase the number of high-skilled jobs, adds most dramatically to the number of low-wage jobs.⁶⁸ Further, there is no question but that the low unemployment rate of recent years exerts an upward pressure on wages. Businesses interested in holding down the minimum wage therefore wish to increase the pool of unemployed low-wage workers. The reduction of the welfare rolls clearly supports these aims.

AFDC was widely criticized, and correctly so, for not sufficiently encouraging wage work. Progressive religionists, in their statements and policy on welfare, have supported the responsibility to work, adding that this entails a social obligation to provide the conditions under which wage work can be a viable means of self and family support. I would heartily agree that work is both a responsibility and a right. Indeed, if public policy proceeded upon these principles—and if child care were included within the category of work—the problems of social provision could be largely resolved. But if AFDC failed to support work and the Personal Responsibility Act succeeds, that is not because in 1961, Americans did not believe in a re-

sponsibility to work, whereas now they do. It is because neither in 1961, nor in 1996, nor since, have corporate interests been willing to support a *right* to work, and neither then nor now has the American public understood that the interests of corporate capital are not necessarily their interests. The Clinton administration has shown some sympathy to a right to work, but its efforts in this regard waned after its original health care proposals were soundly defeated. Since then its initiatives on behalf of the right to work have been far more modest, and its successes, such as raising the minimum wage, far from adequate. In the end, the only intimations of a right to work within the PRWORA are some limited child and health care benefits, largely transitional and based on governmental beneficence rather than on corporate obligation. It is not for nothing that the dismantling of public provision has been most vigorously championed by the most vigorous opponents of a family wage, national standards of health care, and national access to affordable child care; theirs has been the political victory.

For all the rhetoric of “personal responsibility,” the forces that most powerfully determine work’s availability, wage, and conditions could not be farther beyond the purview of poor people. Nor for that matter, the purview of “religion.” Increasingly, they are beyond the ken of government itself. These are the portentous “signs of the times” that progressive religionists must read in terms of their best social visions. This is why “religion”—not the state and not the market—is now being privileged to handle the problem of poverty. The reduction of poverty from a problem of citizenship to a matter of charity, the shift from social analysis to individualized and sexualized moralism, the abdication of national accountability for local voluntarism—all this, far from putting people’s lives back into their own hands, belongs to a large-scale and ever more rapid yielding of the social, economic, and political life to economic forces that are utterly and unaccountably “private.” The problems encrypted in social provision are about the viability of democratic life in the face of these anti-democratic forces. It is not just for the sake of the poor, then, that progressive religion must refuse to confine itself to the moral or spiritual “parts” of life, the poor and vulnerable “parts” of society, or the “private parts” of individuals. It is for the sake of their own integrity as moral communities, and for the health of the political whole to which those communities belong.

Conclusion

These two cases lay bare the heterogeneity and historicity of religions as traditions that are subject to the ambiguity of all things human. In one sense, this undermines the authority that religions often claim as reliquaries of impenetrable absolutes. But that is the price of the ticket, since the “privilege” of absolutism cannot but provoke unique exclusions of religion from public and political life. What the ticket buys is not only fuller entry of religion into public life, but a public discourse in which all groups and persons—not just “religion”—are challenged to clarify their normative assumptions and to speak to the common good.

The fuller entry of religious groups into public life would not require a Rawlsian notion of “public reason” from which religious or ethical language as such is

excluded.⁶⁹ However, it does ask of religious and other communities of conscience a sort of ethical bilingualism—that is, a tailoring of ethical warrants, scope, and sanctions to different dimensions of a group’s existence. Although oversimplified, it is helpful at least to begin by distinguishing the existence of groups as *communities* in their internal lives and as *publics* in relation to the society as a whole. As communities, it is perfectly appropriate for religious groups to rely on authorities not acknowledged by other citizens, or to commit themselves to more totalistic visions, and more demanding principles than those constituting the political order. Religionists can invite other citizens to share their communities by accepting, in part or whole, their belief systems, social visions, or moral ideals. Leaving aside the question of which public works should be relegated to religion, religious groups that do offer public service should be free to predicate that service on their beliefs—for example, to predicate their social provision on ideals of radical economic redistribution, or of sexual morality, that are not shared by other citizens. That is even so when these works involve government funds, provided that the stated public mission is not compromised.

In these and other ways, religious groups can and should be free to testify publicly to their beliefs. But while testimony is the native language of communities, deliberation must be the public language of democracy.⁷⁰ Testimony is a prolegomenon to deliberation (and it is not only religious people who testify to their beliefs), because it enables other citizens to understand why the believer believes as she does. But it does not enable those others to understand why *they* should believe as the believer does, or which of her beliefs holds a claim on the public conscience. That requires deliberation, and to participate in democratic deliberation, religious groups (again, like believers of every political stripe) must make their positions intelligible to citizens outside their communities and engage in the sorts of compromise and negotiation appropriate to a democratic polity.

To those who conceive ethics as nothing but the implementation of absolutes, this sort of deliberation will not appear ethical at all. But for them nothing like a democratic ethic is really possible. For those of us who committed to a public sphere that is determined not just by power but by deliberation, negotiation, and consideration of the common good, public ethics can only be partial and provisional—partial in that it leaves the fullest elaborations of moral good to smaller spheres; provisional in that it is subject to change and renegotiation. That does not mean that such an ethic will have nothing to do with ethics as we know it individually, or with religion as we live it in our particular communities. On the contrary, it will mean that we are creating the specific kind of public ethics and religious dialogue that are appropriate to a pluralistic democracy.

As publics, the basic ethical warrant deployed by religious and other communities must be political—the right to democratic participation. “Radical democrats” note that the conditions of that participation are both formal and material. Formal conditions could include constitutional rights such as free speech and equal protection, as well as what Nancy Fraser calls “cultural recognition.” Material conditions could include what she calls “economic redistribution”⁷¹ and, additionally, social capital, laws, and policies that correct inequities. Gay and lesbian people, for example, need more than free speech. They need civil rights laws that protect that free

expression from the extreme and undue sanctions to which society demonstrably subjects it. Impoverished citizens, analogously, cannot exercise political power unless they have access to decent education, civic organizations, and income beyond that which is necessary for bare survival. These citizens, like the rest of us, are entitled to free expression and association, fair and basic economic opportunity⁷² as conditions for the possibility of meaningful participation in the political process. For some of us, advocating for and with these citizens will also be matters of love, compassion, or utopian vision. But when it comes to public ethics, those are not the basic principles at stake, and if we try to make them so, we effectively strip ourselves of any genuinely political warrants.

Whether religious or not, activists are always drawn to means that are less than deliberative and democratic. That is understandable, given that the material and formal conditions of democratic participation exist in dialectical relation, and that for so many the material conditions are needed so urgently. We may be tempted, for example, to rely more on financial clout than on deliberation or moral suasion for political influence; or to employ public rhetoric meant to shock, infuriate, or otherwise silence the opposition. This is not an argument against all such means; justice sometimes demands that we consider “any means necessary.” But it is a clarion call to engage in a kind of public dialogue and deliberation that is rarely on the agenda on American publics, from left to right. Politics may be war by other means, but the less different are the means, the less genuine the politics.

Here, perhaps, religions do have something if not unique at least exceptional to offer to public discourse. Religions have—indeed they *are*—traditions of ethical debate within fundamental shared commitments. At least sometimes, they sustain community in the presence of conflict, conviction in the midst of doubt, ideals that outlive hypocrisy and failure. At their best, they may even know and share something of that love “which surpasses understanding”—and that, if not the foundation of public life, is for some of us its horizon.

Notes

1. It may be noticed that in this heading and at points throughout this section I sometimes use the term “homosexuality,” sometimes the phrase “gay and lesbian,” and sometimes the tag “sexual dissidents.” When I use the categories “gay” and “lesbian,” that is because these are the categories employed in the religious documents, legislation, and political discourse I am discussing, which ordinarily involve the notion of fixed sexual identities and usually do not include categories such as bisexual and transgendered persons, or other alternatives such as “sexual minorities” or “queers.” To express my own view, I could use the term “queer,” which is useful in that it connotes sexual nonconformity in general. However, it does not communicate well outside specific academic and activist communities. “Sexual minorities,” while broader than gay and lesbian, is problematic because it carries analogies with race that are inappropriate (as I will argue). It also implies that only a minority of citizens have a stake in the social availability of a wide range of sexual choices, which I heartily dispute.

Since, as will be elaborated in this chapter, I regard sexual nonconformity as a matter of choice, preference, conscience, and political participation rather than a matter of innate or

fixed “identities,” the most precise term for the question in question is “sexual dissidence,” a term coined by Gayle Rubin (see Rubin, “Thinking Sex: Notes for a Radical Theory of Sexuality,” in *Pleasure and Danger: Exploring Female Sexuality*, ed. Carole Vance [New York: Routledge, 1984]). When I am referring to my own views, this is the term I will use.

2. For these and most other official religious statements on homosexuality in the United States, see J. Gordon Melton, *The Churches Speak on Homosexuality: Official Statements from Religious Bodies and Ecumenical Organizations* (Detroit: Gale Research, 1991). See also Jeffrey Siker, ed., *Homosexuality in the Church: Both Sides of the Debate*, (Louisville, Ky.: Westminster/John Knox Press, 1994), esp. 195–208.

3. In *Bowers v. Hardwick*, the Presbyterian Church USA went so far as to file a brief of *amicus curiae* at the Supreme Court on behalf of gay respondent Hardwick, even though Presbyterians themselves were and remain profoundly divided over the moral acceptability of homoeroticism.

4. There are nineteen anti-sodomy laws at the state level as of this writing, five of which pertain only to same-sex sodomy.

5. *Bowers v. Hardwick*, 478 U.S. 186 (1986).

6. Examples include the Union of American Hebrew Congregations (1987); the United Church of Christ (1975); the Evangelical Lutheran Church in America (1977); and the Presbyterian Church USA. See Siker, *Homosexuality and the Church*, and Melton, *The Churches Speak on Homosexuality*, for documentation.

7. Melton, *The Churches Speak on Homosexuality*, 87.

8. The U.S. Catholic Conference, “Always Our Children: A Pastoral Message to Parents of Homosexual Children and Suggestions for Pastoral Ministers” (Washington, D.C.: United States Catholic Conference, Office of Communications, 1997), 4.

9. Melton, *The Churches Speak on Homosexuality*, 362. These moral assertions may seem disingenuous when unaccompanied by support for gay civil rights legislation; more disingenuous still when accompanied by active opposition to civil rights legislation. But they also may express a denomination’s sincere effort to differentiate religious ethics from the ethos appropriate to the political sphere. In any case, they deserve to be taken at face value, and they invite public accountability.

10. For statements on same-sex marriage by the North Pacific Yearly Meeting and the Unitarian Universalist Association, see Melton, *The Churches Speak on Homosexuality*, 145 and 269, respectively. For explication of Reconstructionist (and other Jewish) stances on same-sex marriage, see the essay by Rebecca Alpert in this volume.

11. Siker, *Homosexuality in the Church*, 208.

12. In 1996 the United Methodist General Council placed a prohibition on same-sex ceremonies within its “Social Principles.” According to Reverend Jimmy Creech and other proponents of same-sex marriage, this should have had lesser weight than church law. In August 1998 the United Methodist Judicial Council invalidated this interpretation by declaring that Methodist clergy can be disciplined for performing these ceremonies. See “United Methodist Church Bans Same-Sex Unions,” *Christian Century*, 115, no. 23 (August 1998): 775.

13. Again, see Alpert in this volume.

14. The Catholic situation is further complicated by the celibacy vow that, because mandatory for all priests, has not been an especially reliable predictor of sexual practice. The hierarchy appears to have a greater concern about whether gay priests will remain celibate, and that concern is not entirely inappropriate. The Catholic church does appear to have a higher percentage of gay clergy than the general population (15–20% by some estimates), a significant number of whom claim and enact this identity, at least within a gay circles (see Tim Unsworth, “Gay Priests,” *National Catholic Reporter* 33, no. 21 [November 1996]:17).

Since Catholicism is officially committed to compassion for the homosexual condition, the hierarchy is loathe to reject candidates for homosexuality as such; however, gay candidates are often subject to greater scrutiny. In a recent investigation, the *National Catholic Reporter* found only one U.S. diocese (Omaha) that rejects openly gay candidates as a matter of policy. But many other dioceses have reservations about the capacity of gay candidates for celibacy and sometimes add provisos such as two years of prior celibacy, or no involvement with gay culture (see Robert McClory, "Some Seminaries Thrive, Others Struggle," *National Catholic Reporter* 33, no. 39 [September 1997]: 3).

15. See Melton, *The Churches Speak on Homosexuality*, 203–39, for documentation of the debate within the United Church of Christ from 1969 to 1985.

16. For example, the Episcopal group "Integrity," the United Church of Christ's Coalition for Lesbian/Gay Concerns, Lutherans Concerned/North America, a solidarity movement for Christian lesbians called "CLOUT," and a youth organization called Queer Young Christians. There is even a pro-gay evangelical organization, called Evangelicals Concerned, and an organization of gay and lesbians within Eastern and Orthodox Christianity, called "AXIOS."

For an account of intense intradenomination conflicts about homosexuality, see Keith Hartman, *Congregations in Conflict: The Battle over Homosexuality* (New Brunswick, N.J.: Rutgers University Press, 1996).

17. Examples include "Toward a Quaker View of Sex," Friends Home Service Committee in London (1963; referenced in Melton, *The Churches Speak on Homosexuality*, 199), which was very influential on Quakers and others in the United States; the Reformed Church in America (1978; Melton, 171); the Presbyterian Church USA (1970, 1979, and 1983; Melton, 147, and Siker, *Homosexuality in the Church*, 200); the Missouri Lutheran Synod (1981; Melton, 139); the Evangelical Lutheran Church in America (1978 and 1980; Melton, 120 and 127, Siker, 198); the Church of Jesus Christ of Latter Day Saints (1987; Melton, 364); the Episcopal Church in the United States (1979; Melton, 89, and Siker, 196).

The assertion that homosexuality is a fixed, innate, or even genetic condition is also central to the pro-gay arguments of many progressive or moderate theologians and ethicists. (See essays by John MacNeill, Chris Glaser, Victor Paul Furnish, Lisa Slowe Cahill, James Nelson, Chandler Burr, Virginia Ramey Mollenkott, and Jeffrey Siker, in Siker), *Homosexuality in the Church*.) For an extended form of this argument, see Patricia Beattie Jung and Ralph Smith, *Heterosexism: An Ethical Challenge* (Albany: SUNY Press, 1993), which not only argues that homosexual acts are "natural" for gays and lesbians but that (in the absence of the charism of celibacy) it would be "unnatural and immoral" for them to engage in heterosexual acts (31).

Interestingly, some of the denominations that are most ethically at ease with homoeroticism have not felt so compelled to "fix" homosexuality as an orientation. The United Church of Christ, while referring (via Kinsey) to "the 10% of the population whose affectional or sexual preference . . . is predominantly toward persons of the same gender," did not specifically attribute this to an innate or permanent character trait. Instead the statement's focus was on the fact of discrimination, which may be provoked by "public revelation of even a single [homoerotic] experience" (1975, in Melton, *The Churches Speak on Homosexuality*, 205–6). The Unitarian Universalist Association described homosexuality, somewhat awkwardly, as "an inevitable sociological phenomenon"; its point, however, was that homosexuality is "not a mental illness" (1970, in Melton, 266).

18. For a lucid account of this debate, see David Halperin, *One Hundred Years of Homosexuality and Other Essays on Greek Love* (New York: Routledge, 1990), 15–40.

19. Melton, *The Churches Speak on Homosexuality*, 200–201.

20. The Evangelical Free Church (1978) put this very crisply when, in condemning

homosexuality, it wrote, "We are all subject to a variety of powerful *orientations* [emphasis mine] which have the potential for bringing forth sin" (ibid., 108).

21. In 1984, for example, the bishops of Massachusetts condemned the ridicule and ostracism of gays. But they did so in the context of a statement opposing the gay civil rights legislation then under discussion in Massachusetts that subsequently passed over their objections (see Roman Catholic Bishops of Massachusetts, "Statement on Rights of Homosexuals" [1984], in ibid., 37–45). Similarly, in October 1998, the Alaskan bishops publicly supported "Proposition 2," an ordinance that would preemptively invalidate same-sex marriage.

An interesting but unfortunately minor exception is Bishop Leo O'Neil of Maine, who agreed to support Maine's gay rights legislation of 1995, but only when it was amended to disclaim moral support for sex outside heterosexual marriage. In the spring of 1997, however, when the Christian Coalition and the Christian Civic League of Maine led a campaign to repeal this legislation, Bishop O'Neil remained neutral and the anti-civil rights campaign prevailed. See James Kales, "A Referendum in Maine on Gay Rights," *Commonweal* 121, no. 2 (January 1994): 7, and Chris Bull, "A Clean Sweep," *The Advocate* 738, no. 35 (July 1997).

22. Sacred Congregation for the Doctrine of the Faith, "Declaration on Certain Questions Concerning Sexual Ethics" (1975), and "Letter to the Bishops of the Catholic Church on the Pastoral Care of Homosexual Persons" (1986); see Melton, *The Churches Speak on Homosexuality*, 13 and 40, respectively.

This "acceptance" of the homosexual condition is commonly misconstrued as a statement that homosexuality is good or even neutral, as was the case with the media's reception of the U.S. Catholic Conference's 1997 statement "Always Our Children." The U.S. bishop's statement was gentler than the Vatican's in tone, partly due to its pastoral concerns, and relied heavily on the notion that homosexuality is a fixed and unchosen condition. However, the bishops emphasized that the statement "does not break any new ground theologically" and "is not to be understood as an endorsement of what some have called a 'homosexual lifestyle'" (1). Indeed, they could scarcely have represented the homosexual condition in a positive or neutral light, given that the Vatican's 1986 statement, which remains the fullest and most authoritative Catholic teaching on the subject, was provoked by the desire to refute this "misconception."

23. See Janet Halley, "The Politics of the Closet," in *Reclaiming Sodom*, ed. Jonathan Goldberg (New York: Routledge, 1994), 145–204, esp. 150–152.

24. Dean Hamer and Peter Copeland, *The Science of Desire: The Search for the Gay Gene and the Biology of Behavior* (New York: Simon and Schuster, 1994).

In fact, it could be added that the search for a gay gene is itself a product of normative assumptions (e.g., that homosexuality needs to be explained and justified in a way that heterosexuality does not). Only in the context of those assumptions could this research appear significant or even intelligible.

25. *United States v. Carolene Products*, 304 U.S. 144 (1938).

26. In a footnote of *Carolene*, which Justice Powell has called "the most celebrated footnote in constitutional law," Justice Stone wrote that judicial intervention is warranted when legislation denies "a discrete and insular minority" access to the political process. See Halley, "The Politics of the Closet," 145ff., for a full discussion.

27. See Didi Herman, *The Anti-Gay Agenda* (Chicago: University of Chicago Press, 1997). Herman names this new anti-gay tactic "Rights Pragmatism" and offers a critical analysis of its demographic claims about homosexuals.

28. Nan Hunter dubs this the "No Promo Homo" argument. Cited by Lisa Duggan, "Queering the State," *Social Text* 39 (1994): 11.

29. See Christine Gudorf's essay in this volume and also *Body, Sex and Pleasure: Reconstructing Christian Sexual Ethics* (Cleveland: Pilgrim Press, 1994).

30. Beverly Harrison makes an excellent ethical case to this effect in her essay "Sexu-

ality and Social Policy,” in *Making the Connections: Essays in Feminist Social Ethics*, ed. Carol Robb (Boston: Beacon Press, 1985), 83–114. Sisela Bok makes an equally strong general case for ethical “minimalism” in law and public policy in *Common Values* (Columbia: University of Missouri Press, 1995).

31. Sullivan’s opponent was Janet Folger of the Center for Reclaiming America for Christ (*Nightline*, 30 July 1998).

32. For example, in 1978 the Reformed Church in America wrote that sexual conduct “is primarily an ethical question and not the concern of criminal laws”; therefore, “legislation specifically directed toward homosexual persons is unnecessary and constitutes a prejudicial attempt to legislate private morality” (Melton, *The Churches Speak on Homosexuality*, 172). Similarly, the Missouri Lutheran Synod’s statement of 1981 attributed a morally educative role to law, yet also noted that “not all matters of morality are fit subjects for legislation,” only those that “impinge on the common good.” Whether homosexual acts in private do so impinge, they added “is difficult to judge.” That they were nonetheless willing to support the decriminalization of homosexual sex (as previously noted) is somewhat perplexing. However, the statement continued on to assert that even if consensual same-sex activity were to be decriminalized, “The state would still have a legitimate interest in protecting children from homosexual influence in the years when their sexual identity is formed” (Melton, *The Churches Speak on Homosexuality*, 130).

33. *Ibid.*, 201. This statement was issued in 1980; similar statements were issued in 1976, 1977, and 1985.

34. *Ibid.*, 39.

35. Congregation for the Doctrine of the Faith, “Pastoral Care of Homosexual Persons” (*Ibid.*, 43).

36. Robert Wuthnow, *The Restructuring of American Religion* (Princeton: Princeton University Press, 1988).

37. Eve Kosofsky Sedgwick, *The Epistemology of the Closet* (Berkeley: University of California Press, 1994).

38. Duggan, “Queering the State,” 9.

39. *Ibid.*, 11.

40. Moreover, Halley notes, that since free speech is a condition for the possibility of political participation, the Court “repeatedly states its protection of free speech as arising not from rights vested in individuals, but from a collective right we all share to participate in the wars of political truth” (“The Politics of the Closet,” 183).

41. 000/US/94–1039. Interestingly, while gay rights advocates in the Romer case relied heavily on the idea of a fixed or innate homosexual orientation, that was not central to the Court’s reasoning. Instead, the majority’s concern was for the integrity of the political process, which it realized is fundamentally corrupted when a group is delineated for the specific purpose of exclusion.

42. *Boerne v. Flores* (1997), which struck down the federal “Religious Freedom Restoration Act” of 1993 (000/US/95–2074).

43. In addition to community service, work is also defined to include unsubsidized employment, subsidized public or private employment, on-the-job training, education directly related to a job, high school or GED education, work experience, job search and readiness training, up to twelve months of vocational training, and providing child care for another recipient who is engaged in community service. (See Section 104 of the Personal Responsibility and Work Opportunity Reconciliation Act.)

44. Though the family cap measure within the PRWORA was defeated, this means only that such a cap would have to be legislated at the state level, but is not enforced from the federal level.

45. For these and other issues related to Charitable Choice, see the January 1997 "Guide to Charitable Choice," published by the Center for Public Justice (Washington, D.C.), and the Christian Legal Society's Center for Law and Religious Freedom (Annandale, Va.).

46. Social capital refers to the sorts of norms, connections, and interpersonal confidence upon which social organizations rely, and which has been said to be declining with the decline of civic life in America. See Robert Putnam, "Bowling Alone: America's Declining Social Capital," *Journal of Democracy* 6, no. 1 (January 1995).

47. Statements were issued by, among others, the Evangelical Lutheran Church of America and the Central Conference of American Rabbis, and the U.S. Catholic Conference. The National Council of the United Church of Christ in the USA produced a statement that was endorsed by more than twenty-five religious denominations and organizations, including the American Baptist Churches USA, the Episcopal Church, the United Methodist Church, the National Council of Jewish Women, the Presbyterian Church (USA), the Union of American Hebrew Congregations, the Unitarian Universalist Service Committee, the American Friends Service Committee, and the National Council of Churches.

48. For purposes of this section, I will characterize the Roman Catholic position as moderate, in that it combines the conservatism of Catholic sexual ethics with the progressive tendency of Catholic social ethics. The views of the U.S. Catholic Conference may prove to have a particularly large social impact, because Catholic Charities is the largest nongovernmental social service provider in the United States.

49. These job placement and health benefits estimates were the informal consensus of participants in the Call to Renewal Conference. For information on a study of hunger by Catholic Charities, see "Hunger on the Rise," *America* 178, no. 3 (January 1998): 1.

50. Due to the new system of provision, religious and other private agencies soon may find themselves in a new and awkward relationship with the minimum wage. State subsidized jobs are among the permitted means for placing welfare recipients in jobs, and states employing that means are likely to do so through agencies with which they already have contracts. Thus, religious social service agencies may be availed of minimum wage workers at no cost to themselves, and the numbers of available subsidized workers will no doubt increase as time limits for employment come due. At that point, providers will either be forced to actively resist or, by nonresistant compliance, to accept the minimum wage.

For a discussion of subsidized workers and other challenges before faith-based providers, see Mary Jo Bane, "Faith Communities and the Post-Welfare Reform Net" in *Who Provides?*, ed. Mary Jo Bane and Brent Coffin, forthcoming.

51. For an excellent discussion of welfare policy and, more broadly, American politics in light of this insight, see Constance H. Buchanan, *Choosing to Lead: Women and the Crisis of American Values* (Boston: Beacon, 1996).

52. For example, states that show a reduction in illegitimacy are eligible for a federal funding bonus; nothing in the provision would exclude from the ranks the "illegitimate" those children born to and independently supported by adult single mothers.

53. On the changing realities of family life in the United States, see the essay by Rosemary Ruether in this volume.

54. Ralph Reed, *Active Faith: How Christians Are Changing the Soul of American Politics* (New York: Free Press, 1996), 78.

55. There is a rich body of historical and political literature on social welfare for mothers, its social aims and assumptions, and its differential effects by race and class. One good collection is Linda Gordon, ed., *Women, the State and Welfare*. (Madison: University of Wisconsin Press, 1990). For discussion of the moral regulations associated with aid, see especially the essay by Barbara Nelson in that volume.

56. This is according to a 1931 study by the Children's Bureau of the U.S. Department of Labor, cited by Barbara Nelson in "The Origin of the Two-Channel Welfare State" in *Women, the State and Welfare*, 151, n. 75.

57. Patriarchalism is not the only way to run a society, Moynihan conceded, but it is the way ours is run; moreover, "It is in the nature of the male to strut." A plethora of cognitive, moral, and social deficiencies, he argued, could be attributed to the "matriarchalism" of the African-American family. See Daniel Patrick Moynihan, "The Negro Family: The Case for National Action" (Washington, D.C.: Department of Labor, Office of Policy Planning and Research, 1965).

It should be noted, however, that in addition to his patriarchal moralism, Moynihan's analysis had a social prong. Since white society was responsible for the plight of the black family, he argued, it was obligated to support public assistance to these families. As time would tell, the racist and moralistic side of Moynihan's analysis could be entirely severed from his social analysis, the latter being largely absent from the PRWORA.

58. For a thoughtful discussion of welfare policy in relation to controlling the fertility of African-American women, see Susan L. Thomas, "Race, Gender and Welfare Reform: The Antinatalist Response," *Journal of Black Studies* 28, no. 4 (March 1998): 419–46.

59. See Elizabeth M. Bounds, "Welfare as a Family Value: Conflicting Values of Family in Protestant Welfare Responses," in *Welfare Policy: Feminist Critiques*, ed. Elizabeth Bounds, Pamela Brubaker, and Mary Hobgood (Cleveland: Pilgrim Press, 1999).

60. U.S. Catholic Conference, "Moral Principles and Policy Priorities on Welfare Reform," *Origins*, 30 March 1995, 675 and 676.

61. William Jefferson Clinton, State of the Union Address, January 1995. It is also worthy of note that Clinton called upon church and community leaders to resolve this problem.

62. Birth (or pregnancy) rates compare number of births (or pregnancies) to a numerical constant (1,000 women). Ratios, on the other hand, compare two events—e.g., the number of "illegitimate" births per the whole number of births in a given period. Ratios therefore fluctuate in terms of two variables; rates in terms of only one. For example, illegitimacy (for all women, adult and teen) will appear to have increased much more (about a 250% increase) if we look at its ratio per 1,000 births, than if we look at its rate per 1,000 women (a 70% increase). Like other women in America, teens who do give birth are less likely to marry than they were two or three decades ago. But that does not mean that teens are more likely to give birth. Contrary to political rhetoric, the teen birth rate has decreased substantially: in 1960, it was 91 per 1,000; in 1970, 70 per 1,000; in 1990, 60 per 1,000. The teen pregnancy rate has increased, but significantly less than has teen sexual activity. See Kristin Luker, *Dubious Conceptions: The Politics of Teenage Pregnancy* (Cambridge: Harvard University Press, 1996), 195–201 and 229, n. 12, for detailed presentations of this and related data.

These figures are not meant to gainsay the fact that teen sexual behavior has changed in these decades. Today, far more teens are sexually active and become pregnant, while far fewer marry. But it is not at all self-evident how we should interpret these changes, the social interests at stake in them, or the appropriate solutions. For example, is teen sexual activity taken as intrinsically problematic and, if so, why? If the objections are fundamentally moral, on what basis can they be imposed as law or policy upon other citizens, adult or minor? If there are social interests at stake in whether teens have sex, or become pregnant, or have abortions, it is important to clarify the precise nature of those interests. If poverty is the chief social concern, it must be asked whether poor teenagers, who comprise the great majority of teen parents, would actually be significantly better off economically had they delayed childbearing. Studies have shown that more than 80% of teens who become pregnant were poor or nearly poor before they became parents. Moreover, while middle-class young women can expect that delaying childbearing will bring social gains, poor teens know that "postponing

their first birth is unlikely to lead to a partnership in a law firm,” as Luker puts it (106 and 107, n. 80).

How these questions are answered determines what sort of problem “teen pregnancy” is taken to be, which in turn determines which solutions seem appropriate—e.g., abstinence education or fuller sex education, making reproductive services available, or simply addressing the underlying conditions of poverty.

63. *Ibid.*, 81–108.

64. William Julius Wilson, *When Work Disappears: The World of the New Urban Poor* (New York: Knopf, 1996).

65. Here we have to note that abortion, while legal, is unavailable to many American women and particularly to teenagers due to several factors, including aversive court decisions, the physical intimidation of providers, and the denial of government funds. In addition to the factors discussed by Wilson, these are important constraints upon the reproductive freedom of poor women, especially poor teens.

66. Ruth Smith, “Salvation and the Need for Poverty,” in *Welfare Policy: Feminist Critiques*.

67. See for example Carl Dudley, “Essential Conversions: The Welfare Revolution,” *Christian Century* 114, no. 28 (October 1997), Barbara von der Heydt, “Tough Medicine for Welfare Moms,” *Policy Review* 83, no. 16 (May/June 1997), or any number of issues of *Christian America* (a publication of the Christian Coalition). Dudley’s article is a good illustration of Ruth Smith’s observations about the dangers of classical Protestant beliefs about wealth and poverty. He writes that “unemployment offends God, for it is, the Reformers thought, the misuse of a divine bequest.”

68. For a detailed discussion of this point, see Mary Hobgood, “Poor Women, Work and the U.S. Catholic Bishops: Discerning Myth from Reality in Welfare Reform,” in *Welfare Policy: Feminist Critiques*.

69. John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993).

70. Cf. Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Cambridge: Belknap Press of Harvard University Press, 1996).

71. For essays by Fraser and others on radical democracy, see *Radical Democracy: Identity, Citizenship and the State.*, ed. David Trend (New York: Routledge, 1995). See also Nancy Fraser, *Justice Interruptus: Critical Reflections on the Post-Socialist Condition* (New York: Routledge, 1997).

72. The notions of “basic opportunity and “fair opportunity” are borrowed from Gutmann and Thompson but are not meant to endorse the particular content they ascribe to each.