





# Philosophy and Lesbian, Gay, Bisexual, and Transgender Issues

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Timothy F. Murphy, Editor

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## CHAIR'S CORNER

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### Talia Mae Bettcher

California State University, Los Angeles

I am excited to start my first term as chair of the APA Committee on the Status of Lesbian, Gay, Bisexual, and Transgender People in the Profession (as of July 2009). And I would like to express my deep gratitude to Mary Bloodsworth-Lugo for her dedicated service as chair of this committee from July 2004-June 2009.

Last winter and spring we co-sponsored two sessions with the Society for Lesbian and Gay Philosophy (SLGP). At the Central Division meetings (2009) in Chicago, we co-sponsored a session entitled, "GLBT Issues in Applied Ethics." Participants included Julie Klein (chair), Bassam Romaya, Dennis R. Cooley, and Rachel Heller. At the Pacific Division meetings (2009) in Vancouver, we co-sponsored an open session. Participants included James A. Martell and D. Rita Alfonso.

This year, at the Eastern Division meetings (2009), again with the SLGP, we co-sponsored a round-table discussion titled, "Sexual Orientation, Discrimination and Moral Compromise." The participants included: John Corvino (chair), Avi Cramer, Andrew Koppelman, Alastair Norcross, and Thomas Williams. One of the issues discussed was the petition concerning departments at religious institutions which discriminate on the basis of sexual orientation. This winter, at the Central Division meetings (2010), we will also be co-sponsoring an open session with the participants Andy Wible (chair), Dennis R. Cooley, Carol Viola Ann Quinn, and Raja Halwani (commentator). Ideas for future APA session topics and participants are encouraged. Please direct such ideas to the APA LGBT Committee chair (tbettch@calstatela.edu).

During the summer of 2009, the committee spent considerable time consulting with the Committee on Inclusiveness in the Profession, which was charged with drafting a report and recommendations in light of the petition and counter-petitions concerning the APA's statement on non-discrimination (particularly, its stance on discrimination on the basis of sexual orientation). We also composed a letter which was presented to the Board of Officers. The letter addressed some of the specific arguments from the most recent counter-petition as well as raised concerns about the proposal (ultimately endorsed by the Board of Officers) that the APA should continue to allow institutions which discriminate to advertise in JFP, while flagging their non-compliance. While we are pleased that the Board of Officers has decided to adopt an appropriately strict statement on non-discrimination, we remain dismayed by its weaker position on enforcement. Still, progress has been made. And progress is often slow and hard won.

I would like to thank Timothy Murphy for his on-going work as editor for the Newsletter on Philosophy and Lesbian, Gay, Bisexual, and Transgender Issues (he has effectively rejuvenated our newsletter!). I would also like to welcome our two newest members (whose terms begin effective July 1, 2010): Kim Q. Hall (Appalachian State) and Alexa Schriempf (Penn State).

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## ARTICLES

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### *Update on the APA Nondiscrimination Statement and Enforcement Policy*

#### Cheshire Calhoun

Arizona State University

The APA's Statement on Nondiscrimination has been in place since 1990. It was revised in 1998 to include "gender identification" among the bases for unethical discrimination. Advertisers in Jobs for Philosophers (JFP) have been asked to read the statement and have been informed that they are expected to comply with it.

As of the November 2009 meeting of the APA Board of Officers, the nondiscrimination statement has been revised to clarify that the APA rejects any status-conduct distinction that institutions might invoke to rationalize what amounts to discriminatory treatment. The APA has also added a clear statement of its method of enforcing its own policy on nondiscrimination.

Below are three texts that you may find to be of interest.

- I. The first is APA Executive Director David Schrader's summary of the APA's process of addressing the three petitions that were presented to it.
- II. The second is the approved, revised Statement on Nondiscrimination together with the new enforcement policy.
- III. The third is the APA Committee on Inclusiveness's report and recommendations in response to the petitions.

First, a few observations about this material. By comparison to other professional organizations, the APA is quite small and, so also, quite limited in funding. This translates into a very small staff in the National Office. What this means for enforcing the nondiscrimination statement is that the APA doesn't have the resources to do proactive research. Enforcement, of necessity, has had to wait for complaints to be filed; or, in the case of the new policy, for advertising institutions to check off the little box refusing compliance with the nondiscrimination

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statement. However, there is nothing to prevent others—say, the APA Committee on the Status of LGBT Persons—from doing the investigative research to determine who's in compliance and who's not and then providing the APA with the documentation.

The revision of the nondiscrimination statement originally proposed by the Inclusiveness Committee included one fairly substantial concession to religious organizations that have sexual conduct codes: "The APA also recognizes the interest of some religiously affiliated schools in establishing a sexual conduct code. A sexual conduct code is not inconsistent with the APA's position against sexual orientation discrimination so long as the code applies only to students and employees while on campus or a campus-sponsored event." The Board of Officers fairly quickly agreed that the Nondiscrimination Statement should be tougher than this and struck this bit about sexual conduct codes from the text.

However, the enforcement policy originally proposed by the Inclusiveness Committee was the tough one of barring noncompliant institutions from advertising in JFP and from using the Placement Services. The Board chose the less tough option simply flagging noncompliant institutions—as is currently done for AAUP censored institutions.

### **I. A Brief Summary of the APA Process for Responding to the Set of Petitions**

The following summary is taken from the approved minutes of the 2009 APA Board of Officers Meeting which will be published in the May Proceedings and Addresses of the APA:

"[David] Schrader described the process by which the proposed revision of the APA Statement on Nondiscrimination has been developed. In the Spring of 2009 the National Office received three petitions, one urging substantial revision of the APA Statement on Nondiscrimination, two opposing such revision. The National Office also received several communications from members on the issue, and a motion from the Pacific Division Business Meeting calling on the Pacific Division Executive Committee to request that the APA Board of Officers consider revising the APA Statement on Nondiscrimination. The Executive Director referred all three petitions and all additional material received by the National Office to the Committee on the Inclusiveness of the Profession and the Committee on Academic Career Opportunities and Placement for consideration. These two committees were selected because they are Standing Committees, and hence their chairs serve on the Board of Officers, and because the issues raised by the petitions fall within their charges. The Executive Director also requested that the two standing committees engage in conversation with two other committees within whose charges the issues fall, the Committee on the Status of Lesbian, Gay, Bisexual, and Transgender People in the Profession and the Committee for the Defense of the Professional Rights of Philosophers."

### **II. What the APA Nondiscrimination Statement and Enforcement Policy Now Look Like**

The Statement: The American Philosophical Association rejects as unethical all forms of discrimination based on race, color, religion, political convictions, national origin, sex, disability, sexual orientation, gender identification or age, whether in graduate admissions, appointments, retention, promotion and tenure, manuscript evaluation, salary determination, or other professional activities in which APA members characteristically participate. This includes both discrimination on the basis of status and discrimination on the basis of conduct integrally connected to that status, where "integrally connected" means

(a) the conduct is a normal and predictable expression of the status (e.g., sexual conduct expressive of a sexual orientation), or (b) the conduct is something that only a person with that status could engage in (e.g., pregnancy), or (c) the proscription of that conduct is historically and routinely connected with invidious discrimination against the status (e.g., interracial marriage). At the same time, the APA recognizes the special commitments and roles of institutions with a religious affiliation; and it is not inconsistent with the APA's position against discrimination to adopt religious affiliation as a criterion in graduate admissions or employment policies when this is directly related to the school's religious affiliation or purpose, so long as these policies are made known to members of the philosophical community and so long as the criteria for such religious affiliation do not discriminate against persons according to the other attributes listed in this statement. Advertisers in Jobs for Philosophers are expected to comply with this fundamental commitment of the APA, which is not to be taken to preclude explicitly stated affirmative action initiatives.

The Enforcement Policy: Institutions that advertise in the JFP will be asked to indicate whether they comply with the APA Nondiscrimination Statement, and ads from those institutions that will not comply will be flagged. Any advertisement in the JFP sponsored by an institution that upon full investigation is found not to be in compliance with the APA Antidiscrimination statement shall be so labeled.

### **III. The APA Committee on Inclusiveness's Report and Recommendations (August 2009)**

The following Report on the APA Non-Discrimination Statement and Recommendation for Implementation was reviewed by the members of the Committee on Inclusiveness in the Profession and the members of the six diversity committees. All responding members of the Inclusiveness Committee (11 out of 12; 1 did not reply), including the incoming associate chair, voted to support the report and recommendation. All members of the Committee on the Status of LGBT Persons in the Profession (8 out of 8) voted in support. All responding members of the Committee on the Status of Women in the Profession (9 out of 11; 2 did not reply) voted in support. Five of 7 responding members of the Committee on the Status of Asian and Asian-American Philosophers and Philosophies voted in support; two did not support. The report and recommendations were also circulated to the Committee for the Defense of the Professional Rights of Philosophers as well as the Committee for Academic Placement and Career Opportunities.

Two comments not included in the report deserve mention: First, it is not at all clear what falls under "homosexual conduct" and "homosexual behavior" in the codes of conduct at issue, so that codes of conduct proscribing homosexual conduct may be overly broad. Some institutions' disambiguating language—for example, that homosexual behavior includes hand holding or announcing a romantic relationship—are worrisome insofar as they place restrictions on lesbian and gay persons that are not similarly placed on heterosexual persons at those institutions. Second, the listing of homosexual activities among sexual violations such as rape and sexual harassment in some policies appears to reflect hostility toward same-sex conduct that far exceeds the hostility toward premarital heterosexual relationships. The report and recommendations below do not take up either of these issues.

Petitioners and Counter-Petitioners disagree in their interpretations of the APA Nondiscrimination Statement. Petitioners request that the APA "enforce its policy and prohibit institutions that discriminate on the basis of sexual orientation from advertising in Jobs for Philosophers or (2) clearly mark

institutions with these policies as institutions that violate our anti-discrimination policy.” Counter-petitioners request that the APA “should continue its current practice” and, if necessary, clarify that, although it “prohibits advertising by institutions that discriminate on the basis only of sexual orientation, or their status with regard to any of the other listed categories, it does not necessarily prohibit advertising by institutions that, because of their religious or moral commitments, have conduct codes, which might disproportionately burden employees depending on their sexual orientation, their sex or one of the other listed characteristics.”

The central questions at issue are whether the APA nondiscrimination statement is reasonably interpreted as predicated on a status-conduct distinction such that institutional prohibitions on “homosexual behavior” or “homosexual acts” would not qualify as discriminatory. If not, what kind of conduct prohibitions are excluded by the APA’s anti-discrimination policy?

The APA Statement on Nondiscrimination is not framed in terms of the status-conduct distinction. The Statement simply “rejects as unethical all forms of discrimination based on race, color, religion, political convictions, national origin, sex, disability, sexual orientation, gender identification or age.”

The APA Statement is, however, clear that there is no exemption for discriminatory practices predicated on moral or religious beliefs (e.g., that God separated the races or that marriage is only between a man and a woman). The only religion-based exemption is as follows: “it is not inconsistent with the APA’s position against discrimination to adopt religious affiliation as a criterion in graduate admissions or employment policies when this is directly related to the school’s religious affiliation or purpose, so long as these policies are made known to members of the philosophical community and so long as the criteria for such religious affiliations do not discriminate against persons according to the other attributes listed in this statement” (emphasis added).

The counter-petitioners argue (a) that the APA nondiscrimination statement prohibits discrimination on the basis of status, not conduct, and thus applying the APA statement to conduct regulations represents a “change” of APA policy; (b) that prohibiting “homosexual behavior” is compatible with not discriminating on the basis of sexual orientation status; (c) that such conduct prohibitions, which have a disproportionate impact on gay or lesbian persons are analogous to prohibitions on adultery, which have a disproportionate impact on married persons; and (d) that were the APA to object to conduct codes that prohibit “homosexual behavior” as part of a general prohibition of non-marital sex, the APA could do so only on the basis of a moral viewpoint about marriage, not on the basis of discrimination, and the APA should not adopt positions on controversial moral issues.

In response:

The APA nondiscrimination statement is not reasonably interpreted as predicated on a status-conduct distinction. Were the APA Statement interpreted as only prohibiting discrimination on the basis of status, the following patently discriminatory practices would not qualify as discriminatory under the APA statement:

- not discriminating on the basis of racial status but denying admission to applicants engaged in an interracial marriage or known to advocate interracial marriage or dating (as was done by Bob Jones University; see *Bob Jones University v. United States*, 461 U.S. 574 (1983)).

- not discriminating on the basis of religious status, but requiring employees to sign a statement affirming that they will not attend synagogue, wear a yarmulke, or participate in any other Jewish religious practices.
- not discriminating against those whose status is female, but terminating the employment of any employee who gets pregnant.
- not discriminating against the status of being transgendered, but requiring employees to sign a statement affirming they will not have a sex change operation, take hormones that change their apparent sex, or wear clothing of the opposite sex.
- not discriminating on the basis of disability, but prohibiting employees from bringing a seeing eye dog into any campus building.

In short, conduct regulations cannot be assumed to be nondiscriminatory simply because they are consistent with admitting or employing individuals who have the statuses mentioned in the nondiscrimination statement.

Specifically at issue in the Petition and Counter-Petition is whether an institutional code of conduct that prohibits students and faculty from engaging in “homosexual behaviors” or “homosexual acts” at any time and in any place discriminates against those who are gay or lesbian. It is difficult to see how they do not, even if the policy applies equally to both heterosexual and nonheterosexual persons.

- First, in *Loving v. Virginia*, the State of Virginia claimed that a (conduct) bar to interracial marriage applies equally to all races, and thus did not discriminate on the basis of race. The Supreme Court rejected this argument on the grounds that such a (conduct) bar was integrally connected with the maintenance of white supremacy. Prohibition of same-sex conduct has been similarly integrally connected with the view that gay men and lesbians suffer a psychopathology, are physically abnormal, and are morally suspect kinds of persons.
- Second, the explicit prohibition of “homosexual behavior”—as well as its implicit prohibition when institutions ban nonmarital sex while also regarding homosexual behavior as intrinsically nonmarital—has a significantly disproportionate impact on heterosexuals versus nonheterosexuals. Such conduct regulations substantially interfere with the private intimate and social lives of gay and lesbian students and faculty, because it in essence requires them to adopt a celibate lifestyle as a condition of admission or employment. The disproportionate impact of a ban on “homosexual behavior” is not analogous to the disproportionate impact that a ban on adultery has on married persons. Married persons have no social history of being subjected to penalties and burdens that the unmarried are not similarly subjected to; prohibition of adultery does not make meaningful expression of one’s marital status impossible; the effects of the regulation are avoidable (through divorce); and marital status is not mentioned by the APA nondiscrimination statement.
- The primary issue, however, is not disproportionate impact but the fact that hostility to the conduct cannot be cleanly separated from hostility to the status. A defining feature of the status gay or lesbian is precisely the disposition to engage in same-sex conduct, where that includes not just sexual activity, but announcing a romantic attraction, holding hands,

and the like (a range of behavior that Azusa Pacific University specifically notes in its bar on “Homosexual acts or behavior (proclamation of a romantic same sex relationship, hand holding, etc.)”). A bar on “homosexual conduct” no matter where, no matter when thus bars the actualization of the status and thereby prohibits individuals from being gay or lesbian in any meaningful sense. It is analogous to barring those whose religious status is Jewish from actualizing that status by attending Synagogue, wearing a yamulke, or celebrating Yom Kippur.

- Codes of conduct, like the ones at issue in the Petition and Counter-Petition, that regulate behavior no matter when, no matter where, are quite different in effect from codes of conduct that apply only to employees and students while on campus or at campus-sponsored events. Compare, for example, Belmont University’s limited sexual conduct regulation: “Specific behaviors of sexual misconduct are those which occur on campus or at a university sponsored activity (on or off campus) and include, but are not limited to: sexual relations outside of marriage, homosexual behavior; sexual harassment, rape (date, acquaintance and stranger rape), other non-consensual sex offenses and possession or distribution of pornographic materials.”

In sum, a meaningful anti-discrimination policy cannot be limited to prohibiting discrimination based on status while permitting all conduct regulations regardless of the historical connection of such conduct prohibitions with invidious status-based discrimination, or the disproportionate impact of those conduct regulations on persons with different statuses, or their impact on the possibility of meaningfully occupying a particular status. The nondiscrimination statement must extend to discrimination on the basis of conduct that is integrally connected to that status, where “integrally connected” means (a) the conduct is a normal and predictable expression of the status (e.g., sexual conduct expressive of a sexual orientation), or (b) the conduct is something that only a person with that status could engage in (e.g., pregnancy), or (c) the proscription of that conduct is historically and routinely connected with invidious discrimination against the status (e.g., interracial marriage).

Finally, counter-petitioners claim that they are themselves being discriminated against for holding the view that “no homosexual relationship is rightly regarded as a marriage,” and they claim that this is a view held by the majority of American citizens.

The counter-petitioners may be right that the majority of Americans regard marriage as requiring one man and one woman. What is at issue, however, is not the definition of marriage but whether it is reasonable, because nondiscriminatory, to deny employment or admission to individuals who enact their sexual orientation identity. The point of this discussion is to insist that it is not. The rationales behind prohibitions of “homosexual conduct” are not easily distinguishable from the rationales that have historically supported systematic and invidious discrimination against gays and lesbians. And the unlimited prohibition of the conduct, no matter where, no matter when, is not easily distinguishable from hostility to the status given that the defining feature of the status is a disposition to “homosexual conduct.”

## **Recommendation for Board Action Concerning Implementation of APA Non-Discrimination Policy**

1. Require agreement with the following statement as part of JFP ad submission process:

“This employer complies with the APA Statement on Nondiscrimination, which rejects as unethical all forms of discrimination based on race, color, religion, political convictions, national origin, sex, disability, sexual orientation, gender identification, or age.”

Check off one and only one:

\_\_\_\_ This employer complies with the APA’s Nondiscrimination Statement

\_\_\_\_ This employer does not comply with the APA’s Nondiscrimination Statement

2. Accept ads in JFP only from institutions that comply with the APA’s Nondiscrimination Statement.

3. Deny access to advertising in JFP and to APA Placement Services to (a) institutions that have formal employment and admissions policies that violate the APA nondiscrimination statement and (b) departments that have engaged in discriminatory hiring practices. Denial of access to JFP and Placement Services will be pursuant to certification by the Board of Officers, upon the recommendation of the Committee for the Defense of the Professional Rights of Philosophers, that the institution’s formal hiring and admissions policies or the department’s hiring practices have violated the APA nondiscrimination statement. If at a time when issues of JFP will appear before the next meeting of the Board of Officers, the executive director may deny access to JFP and Placement Services upon the recommendation of the Committee for the Defense of the Professional Rights of Philosophers.

Institutions shall be barred from advertising in JFP or using the placement services so long as their formal policies are in place; and departments shall be barred from advertising in JFP or using the Placement Services for a period of time to be determined by the Board in each case.

Rationale:

1. The proposed enforcement policy is consistent with APA past practice. Currently, each issue of JFP lists by number job ads by institutions that are on the AAUP’s list of censured institutions, or that have been certified by the APA Board of Officers as having prima facie violated the professional rights of philosophers, or that the APA executive director determines have engaged in questionable employment practices when JFP must be issued before the Board meets. Advertisers in JFP have in the past been asked to agree to the Statement on Nondiscrimination. There are current plans to have a check-off box on the form for submitting a JFP ad affirming compliance with the APA nondiscrimination policy.
2. Effective enforcement of the nondiscrimination statement is consistent with the APA’s increasing commitment to diversifying the profession and supports the charge to the various diversity committees to increase equality of opportunity and eliminate discriminatory practices.
3. The enforcement policy amounts to the APA’s refusing to assist the job searches of institutions whose employment and admissions practices discriminate against some members of the APA. While the policy would disable some institutions from advertising jobs of interest to APA members, those institutions have other recruitment venues open to them (such as The

Chronicle of Higher Education), venues that are also standardly made use of by APA members seeking jobs. The enforcement policy also does not interfere with religious institutions' ability to enact whatever policies and codes of conduct they see fit; it merely restricts access to an advertising outlet for those who opt, as a matter of policy, to violate the APA's nondiscrimination statement. While restricting access has some effect on these schools, it cannot be construed to interfere with their governance in any strong sense.

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## ***From Tinky Winky to Michelle Obama: Bodies/Figures/Identities. Or: Making a Case for Promotion from Associate to Full Professor via Two Different Appearances***

**Mary K. Bloodsworth-Lugo**  
Washington State University

When it came time to apply for promotion to full professor at Washington State University, I was asked to make a presentation on my university work and research. The first topic involved my placement as a faculty member and administrator, and the second involved the scholarly projects I had taken up during the last six years. My roles and projects could appear rather disparate without some sort of explanation, since the six years involved three-to-four administrative roles and four-to-five large scholarly projects. The projects could be said to begin with the figure of Tinky Winky and to end (or, continue into the present and future) with that of Michelle Obama.

On the issue of university position and placement, I held multiple positions over the six years. In addition to a faculty appointment in the Department of Philosophy or the Department of Comparative Ethnic Studies, I also served as acting chair of Women's Studies, an Associate Dean for Curriculum and Students, Director of Liberal Arts General Studies, and Interim Director of American Studies.

Overall, I only have been in the "same place" for one—perhaps two—of my post-tenure years. I have generally adopted and straddled multiple assignments and locations, not completely unlike the initial job description that accompanied my hire at WSU in 1997—[which was] "joint faculty in Philosophy and Women's Studies." At the end of my first year at WSU, I even gave a presentation at the Women's Studies awards ceremony in which I discussed my "two hats." I gave a performance using two actual hats, and I made points regarding the complicated territory of dual assignments using hand-drawn images on overhead transparencies. My main point was to express a certain discomfort and the sense of double-duty that attached to multiple roles—a point that was certainly not original or unique to me, but one that was nonetheless playing itself out on my body during that first year in a faculty role. As Ann duCille remarked in a different context in 1996 "One of the dangers of standing at an intersection is the likelihood of being run over by oncoming traffic."

In charting my post-tenure life, I arrived at two related conclusions about myself: (1) I tend to gravitate toward straddling otherwise different and disparate locations and (2) apparently, I don't dislike administrative work quite as much as I tend to think I do; otherwise, I should have been able to refrain from accepting at least one or two of the preceding positions. I am sure that other conclusions could be drawn here, as well—including ones about being easily distracted, or

lacking good judgment or a certain level of sanity—but I will leave this part of my trajectory for now in order to describe my tenure period so far, something that could be considered "my body of work."

In terms of naming and identifying the primary projects of the post-tenure period for myself, I have typically considered them to be: (1) my book, *In-Between Bodies*; (2) my anthology, *A New Kind of Containment*; (3) the animated films project, *Animating Difference*; and (4) the co-authored book, *Containing Un-American Bodies*. So, in considering my post-tenure years, the question became one of identifying the consistency residing in these varied projects. In the research statement accompanying my promotion materials, I specify the cohesion like this:

A thread unifying my research and scholarly activity has been a focus on figures and bodies, especially vis-à-vis social categories of identity such as race, sexuality, and gender. While primarily theoretical in nature, my work has examined how certain constructions of bodies have acted to materially situate and regulate certain individuals and groups of individuals and how certain problematic constructions can be reframed and resisted.

In what follows, I will move through the four large post-tenure projects to briefly show how this unifying thread is illustrated in each. To do this, I will highlight some of the bodies/figures/identities discussed within these projects, although the projects themselves include many others and the discussions there are (hopefully) more nuanced than I can express here.

### **Project 1**

I used *In Between Bodies: Sexual Difference, Race, and Sexuality* (SUNY Press, 2007) to try and show that while theories of sexual difference discuss bodies as lived (and not as mere biological or inert entities), those same theories miss or fail to notice aspects of lived bodies. Consequently, there are instances of erasure and failure to notice how particular lived bodies pose challenges to the adequacy of these theories of difference.

My earlier point about straddling dual roles within the academy remains a worthy direction for discussion since many women, LGBTQ individuals, and people of color often hold such roles since these categories ("woman," "LGBTQ," and "of color") themselves often intersect in the same bodies. But these concerns are still different from the issue of living at an intersection of binary terms. DuCille's comment regarding intersections becomes significant insofar as, for example, Black women within the academy embody a challenge to traditional conceptions of who has intellectual authority and who belongs within the institution, as well as who has always been rendered an outsider to its operations. In a certain way, then, certain identities embody presumed contradictions.

In the *Physics*, Aristotle maintained that "two distinct bodies cannot coincide" (209a 4-7). The notion that two distinct things cannot occupy the same place served to inform subsequent Western thought on the issue of bodies, locations, place, and space. But then we might consider the body of trans-man Loren Cameron—a body on which "male" and "female" (terms often considered to be binary and, thus, distinct) could be said to coincide. Cameron's self-portraits, in *Body Alchemy* (1996), do not neatly fit within traditional categories of male and female. Aspects of Cameron's body emerge as male, while others emanate as female, suggesting their coexistence within one body. In the case of Cameron, the body demonstrates a refusal to "completely transition" to the so-called opposite sex. As Cameron has said of the changes to his body, they comprise "my not-so-presto-chango female-to-male" body. This state of

affairs renders implausible any easy notion of two mutually exclusive categories (male and female); Cameron's portraits demonstrate that there is no male or female body; rather, male and female are themselves in states of flux and fluidity.

As a social complication, we can well note that the trans body itself can be rendered invisible as a trans body in various ways. The both/and ambiguity of Cameron's body is not apparent when Cameron is clothed (clothed, that is, in traditional men's wear). As Jason Cromwell remarks in *Transmen and FTMs*, "[m]any female-bodied transpeople are or become invisible by living as men. They often become invisible as transgendered people and only visible as men" (1999, 12).

Even accepting this as so, we might additionally note to be visible as a white (trans) man or to be visible as a Black (trans) man, for instance, are two very different states of affairs. As an illustration of this point is the story of Ethan, conveyed in Kortney Ryan Ziegler's documentary, *Still Black: A Portrait of Black Trans Men* (2008)—recounted here in summary:

Ethan's story of being stuck in his wheel chair a block from home is perhaps the most illustrative of the fear and loathing that black masculinity creates in the minds of the mainstream. He talks of being stuck in the snow for over 1/2 an hour while no one stopped to help, staring at him from inside their cars, until finally someone rolled their window slightly and offered to call the police. Ethan explained that he was only a block from home and that he would likely be frozen to death by the time the police came. Yet it took even longer for someone to do what they had done multiple times before, when he still had a female body, which was to get out of their car and help him on to the sidewalk. Ethan is incredulous that anyone would fear his permanently disabled and visible immobile (lower half) body. Yet he has not grown up with the fear and loathing that would allow him to understand the particularly gendered grafting of criminality onto the black male body that makes people doubt their own eyes and worry that he is faking it to lure them out of their cars into a carjacking.

As Ziegler states of the trans men portrayed in *Still Black*, "They may change their bodies and who they are, but they're still Black. Whatever they do with their lives, their Blackness is still visible." So, while we might wish to consider the trans-invisibility that occurs with its consolidation into "being a man," the meanings afforded to becoming or to what could be called "being a man" vary vis-à-vis race and certain racialized (bodily) inscriptions.

To shift to a different sort of example and to consider issues of trans-invisibility from a different angle, we might recall the 1999 incident involving Jerry Falwell and Tinky Winky in which Falwell purportedly "outed" Tinky Winky of the Teletubbies children's television show by offering the following calculus: "He is purple—the gay-pride color; and his antenna is shaped like a triangle—the gay-pride symbol." For Falwell, the alleged gayness of Tinky Winky in and of itself might not have been as problematic as the promotion of the "homosexual lifestyle" thought to be advanced by Tinky Winky's inclusion within a PBS children's television series. Falwell has since died, but not before he—along with the Reverend Pat Robertson—blamed the events of September 11, 2001, on so-called pagans, abortionists, feminists, and gays and lesbians.

What is central for our purposes here is not only the Falwell comments regarding Tinky Winky but the response to those comments by the PBS series spokesman and the queer community writ large. Steven Rice, a spokesman for Itsy Bitsy

Entertainment, which licenses the Teletubbies in the United States, commented: "The fact that he carries a magic bag doesn't make him gay. It's a children's show, folks. To think we would be putting sexual innuendo in a children's show is kind of outlandish." For their part, queer communities embraced Tinky Winky as a bona fide member; clearing store shelves of Tinky Winky merchandise—reclaiming him, in a sense, from Falwell. The overwhelming response on the part of queer communities was to embrace Tinky Winky as gay and to buy Tinky Winky figures for themselves. Queer communities did not generally attempt to prove Falwell's calculus problematic in its assessment of Tinky Winky, for example, by explaining how Falwell actually ascribes a sex, then reads gender attributes as inappropriate for that sex, and then conflates gender and sexuality, all to render Tinky Winky a "homosexual." The conflation between gender identity and sexual identity is fairly common, of course. As Loren Cameron remarks, "Whatever the reason for my physical discomfort, it doesn't automatically determine my sexual preferences. That's another deal altogether. ... Even the shrinks have recently caught up to the fact that gender and sexuality are two different issues." The point I am making here is that rather than unravel the confections packed into the Falwell remarks and incident, possibly noting Tinky Winky as more likely trans than gay, queer communities generally embraced Tinky Winky as gay themselves, with the effect of erasing any possible trans meanings of Tinky Winky's identities.

## Project 2

Much of my post-tenure work has centered on the merger of otherwise distinct issues and the rhetorical, as well as material, means by which those in power conceive and promote bodies in order to serve their own interests. Within a context of the post-September 11, 2001, United States and "the War on Terror," this focus appears in both my anthology and the co-authored book: *A New Kind of Containment: "The War on Terror," Race, and Sexuality* (Rodopi, 2009), edited by Carmen R. Lugo-Lugo and Mary K. Bloodsworth-Lugo, and *Containing (un)American Bodies: Race, Sexuality, and Post-September 11th Constructions of Citizenship* (Rodopi, forthcoming), by Mary K. Bloodsworth-Lugo and Carmen R. Lugo-Lugo. This focus likewise informs a series of six or seven co-authored, refereed journal articles, also with Carmen R. Lugo-Lugo.

The following remarks from former President G.W. Bush can be used to highlight some of the confections that recurred during his presidency.

The attacks of September the 11th showed our country that vast oceans no longer protect us from danger. Before that tragic date, we had only hints of al Qaeda's plans and designs. Today in Iraq, we see a threat whose outlines are far more clearly defined, and whose consequences could be far more deadly. Saddam Hussein's actions have put us on notice... (2002)

The reason I keep insisting that there was a relationship between Iraq and Saddam and al-Qaeda [is] because there was a relationship between Iraq and al-Qaeda. (2004)

The G.W. Bush years displayed a consistent merger of September 11, 2001, terrorism, Afghanistan, and Iraq, so much so that by September 2003 (just two years after the September 11th events), 70 percent of Americans linked Saddam Hussein to the attacks of September 11, 2001, according to a *Washington Post* poll.

President Bush and the Bush administration consistently deployed language of answering "every danger and every enemy that threatens the American people," of "mobilizing

against the threats of a new era,” of “confronting and defeating the man-made evil of international terrorism,” and of fighting a “war against a scattered network of killers.” Intertwined within these conversations, that were ostensibly focused on “the War on Terror” and the war in Iraq, were various domestic issues including same-sex marriage which was—not coincidentally—represented as a threat to existing [heterosexual] marriage and society or civilization more broadly.

But at the same time as certain issues were being conflated, particular categories were being pressed apart. Presumed binaries were shored up, as illustrated by President Bush’s immediate response to the September 11, 2001, events, “Either you are with us, or you are with the terrorists” (2001). In a May 2003 press conference, President Bush similarly stated:

I believe a marriage is between a man and a woman. And I think we ought to codify that one way or the other. And we’ve got lawyers looking at the best way to do that.

This statement was reiterated in 2004 as follows:

I called on Congress to pass, and to send to the states for ratification, an amendment to our Constitution defining and protecting marriage as a union of a man and a woman as husband and wife. The need for that amendment is still urgent, and I repeat that call today.

In these remarks, the threat of international terrorism becomes discursively equivalent to the threat of gay men and lesbians (in particular, the threat of same-sex marriage) at the same time as “man” and “woman” are reinforced as distinct categories (albeit ones that should be brought together under the umbrella of heterosexual marriage). Americans are told which issues to perceive in similar terms and which categories to keep distinct, all the while blending and mixing an array of international and domestic concerns.

Immigrant bodies were also implicated in the web of conceived threats to the post-September 11th nation. Immigration emerged as a central issue in 2006 when Congress advanced several pieces of legislation that depicted undocumented immigrants as threatening and “illegal” in two related ways: depicting immigrants as criminals (and, thus, as residing outside of the law), or depicting them as requiring “legalization” (and, thus, as demanding containment within the fold of the law).

Common to both depictions was the sentiment expressed, namely, that so-called “illegal” immigrants were not only legally alien, they were also foreign to renewed conceptions of Americanness—thereby conflating, among other things, legality and nationality. During this time, Republican Representative Tom Tancredo (Colorado) remarked, “For years the government has turned a blind eye to illegal immigrants who break into this country. It isn’t any wonder that illegal aliens now act as if they are entitled to the rights and privileges of citizenship.” Republican Representative Dana Rohrabacher (California) more tangibly connected immigrants to criminality by stating, “We do not need more people from foreign countries coming in, taking the jobs of Americans. . . . I say let the prisoners pick the fruits.”

The issue of same-sex marriage resurfaced in 2006 (a midterm election year) in various arenas. Immediately prior to the midterm election, politicians once again linked the issue of same-sex marriage to other issues rendered as threats. The following offers a clear example:

In one North Carolina congressional district. . . , Republican [candidate] Vernon Robinson. . . aired a

radio ad attacking Democratic Representative Brad Miller with mariachi music playing in the background: “Brad Miller supports gay marriage and sponsored a bill to let American homosexuals bring their foreign homosexual lovers to this country on a marriage visa. If Miller had his way, America would be nothing but one big fiesta for illegal aliens and homosexuals.”

In this instance, so-called “homosexual lovers” and so-called “illegal immigrants” are represented as parallel or analogous threats with the merger of the two different groups being used to highlight the magnitude of the perceived danger.

On the issue of President Obama and connotations, to which we can now turn, we can point to the following examples that have played out on Obama’s body and which demonstrate both the reconstitution of categories as binary and the conflation of distinct issues discussed above:

1. On a billboard: “Barack ‘Hussein’ Obama equals more abortions, same-sex marriages, taxes, and gun regulations.”
2. On a poster: “So America, you want change? . . . just wait.”
3. CNN News headline: “Where’s Obama?” (meaning Osama bin Laden)
4. On a t-shirt: “The Difference Between Obama and Osama is just a little B.S.”
5. Cartoon: (Obama draped in U.S. flag) “No One Can Doubt My Patriotism Now!” (Man to Wife) “Look, Honey. . . A Muslim Terrorist Wearing a Burka.”
6. The New Yorker magazine cover (of Michelle and Barack Obama)

These examples demonstrate a perceived connection between Obama and terrorism, highlight the “threat” contained within his middle name, and question his patriotism and claims to “Americanness.” Obviously, within the framework addressed above, one can either be on the side of good or evil, one can be patriotic and American or unpatriotic and un-American. At the same time, the threat of various categories is intertwined in the messages sent through these examples that conflate the body of Obama with Middle Eastern imagery, imagery intended to invoke the events and lingering threat of September 11, 2001.

A different sort of example addresses the intersection between stereotypical Black male imagery (in the form of a Mr. T-type figure) and Middle Eastern imagery:

1. On a sign: “Gimme Yo Change!”

Here, concerns about terrorism and national security play out on Obama’s perceived or implied Middle Eastern body while also deploying stereotypes of Black men, interestingly, bringing two sources of perceived threat together in the one image, underscoring the perceived threat posed by the figure of Obama.

### Project 3

Prior to considering the figure of Michelle Obama, as depicted on The New Yorker magazine cover in 2008 I would like to briefly return to Steven Rice’s comment regarding the outlandishness of sexual innuendo within children’s programming from earlier. To do so, I will use a few points from *Animating Difference: Race, Gender, and Sexuality in Contemporary Films for Children*, with C. Richard King and Carmen R. Lugo-Lugo (Rowman & Littlefield, 2010).

Contemporary animated films for children certainly do contain sexual innuendo. However, the innuendo might go unnoticed given its typical placement within a normative frame of heterosexuality. Here are just a few examples:



1. The sexual banter between Woody and Little Bo Peep in *Toy Story* (e.g., Little Bo Peep to Woody: “What if I get someone to watch the sheep tonight? Can you come over?”)
2. The marriage of Mr. and Mrs. Potato Head in *Toy Story II*
3. The struggle for the affection of Chel, between Tulio and Miguel, in *The Road to El Dorado*
4. Lola’s seduction of Oscar in *Shark Tale*
5. Displays of lemurs “doing it” in the opening scene of *Dinosaur*
6. Zini’s practicing his pick up lines in that same film:  
“Girl, I’m the professor of love. And school’s in session.”  
“Hey, sweetie. If you’ll be my bride, I’ll groom ya.” (and later)  
“Are you ladies up for a game of monkey in the middle tonight?”

Within these examples, not only is there not no sexuality, there is glaring heterosexuality. This claim seems a more accurate reflection of the actual status of sexuality within children’s programming (animated films in particular) than the position that animated characters have no sexualities or that sexual innuendo is absent from the storylines of children’s entertainment. All of the characters discussed above not only have [hetero]sexualities, they also convey more nuanced lessons from within the category “heterosexual” itself. That is to say, Oscar’s attention is depicted as properly directed at women while, ultimately, he must end up with the right kind of woman (Angie); Woody must compete for the affections of Little Bo Peep, while she is distracted by the flashiness of the wrong sort of man (Buzz Lightyear).

Even when a character is depicted whose sexuality is unclear, such as Lenny in *Shark Tale*, the lack of certainty only affords the sort of mild put-down illustrated by Oscar’s comment regarding wanting “None of that snuggly buggly” stuff when discussing sleeping arrangements. With this distancing remark, heterosexuality is recentered and given its rightful place as the only “normal” sexuality. In the case of Tulio and Miguel, any lack of clarity regarding the nature of the male-male relationship is resolved through the introduction of Chel, the irresistible sort of woman. When particular moments occur that could be considered transgressive within animated films, they are always reincorporated back into a standard, normative frame, or the otherwise transgressive or progressive lessons (regarding sexuality, gender, or alternative family structures, for example) come at the cost of playing out particular stereotypes in other arenas (*vis-à-vis* ethnicity or race, for instance).

Likewise, racialization—including racialized anthropomorphism—takes place on various levels within these films for children. On a basic level, these films provide children with important signifiers that chart racialized, and racist, dynamics. On a more profound level, these films serve as tools that help to teach children to maintain the racial (and racist) ideologies that maintain the status quo. For instance, even though Oscar is no generic fish, we are taught that he should nonetheless be happy to be a fish (a Black fish), to live in the ghetto, and to enjoy the lot assigned to him in life. At the end of *Shark Tale*, Oscar settles into his newfound life as co-owner of the *Whale Wash* (with Sykes). While we note that he has indeed moved from his father’s lot as long-time tongue scrubber, he has not risen so far as to make a white audience uncomfortable with the success of a Black man/fish. After all, Oscar shares his bourgeois success with a white man, Sykes.

Similarly, in *The Road to El Dorado*, we learn that the conquest of the Americas is over, and there is the possibility that multitudes of Indigenous folks did not die after all. Rather, their civilizations may actually be hidden behind large rock formations impossible for us to find—thus, we need not feel guilty about the extermination of entire cultures. We need not worry about rape either, for we are told that Indigenous women were actually more than willing to leave their families to live adventurous lives with European men (as demonstrated by the relationship between Chel and Tulio). And slavery, we are instructed, was an institution for evil people who fundamentally deserved it (as depicted by the enslavement of the High Priest by Cortez).

Moreover, there is an ethnicization of race in more recent animated films, suggesting that children are not only being taught “crude” racial categories but more intricate ways of conceiving “race” in relation to ethnic markers. While it might be argued that there are some positive aspects to such portrayals, we could argue that the real purpose of the ethnicization of race—in a film such as *Shark Tale*—is to differentiate characters in not-so-positive ways. For example, Lino (Italian white) is contrasted with Sykes (nondescript white) in ways that promote negative stereotypes of Italians in comparison to “other” whites. While Sykes may wish to exploit Oscar and his newfound fame, Sykes is himself victimized by Lino’s perpetual bullying, thereby rendering Sykes a “better” kind of white fish than Lino.

### Concluding Thoughts

In conclusion, let me—perhaps not too surprisingly at this point—look at the issue of the racialization of the First Lady, Michelle Obama, not an animated character, to be sure, but a figure nonetheless under much scrutiny.

As Meghan Daum notes in a recent opinion piece for the *LA Times* titled, “Michelle Obama’s No Win Role,” “[a]s beloved as [Michelle Obama] is, she also will inevitably be poked, prodded, scolded and even hated in equal and possibly greater measure over the years.” And as Ann DuCille has remarked regarding the figure of the “Black woman,” “[She is] somewhere between monster and mammy: demanding, demeaning, impossible to please, but at the same time possessing irresistible custodial power and erotic allure as the larger than life (racialized) Other.”

It would seem clear that certain traditional dichotomies referred to earlier in this presentation—such as “male” and “female,” or stereotypes of “male activity” and “female passivity”—clearly do not account for classic stereotypes of specific nonwhite racialized identities: for example, the “emasculated” (“passive”) Asian/Asian American man, or the “super-strong” (“active”) African American woman. Consequently, it could be maintained that the notions of “male activity” and “female passivity” are raced; namely, raced as white—both as concepts and in their expected, lived manifestations.

Even with stereotypical depictions of Black women, such as the stereotypes of the mammy and the Jezebel, we can see ways in which activity and passivity do not align in accord with white expectation. Both the mammy and the Jezebel depart from roles traditionally assigned to white women: the mammy might be more passive (in her caring, primarily, for the white household), while the Jezebel might be more active (in her sexual allure and aggressiveness), but neither of these renderings keeps with expectations afforded to whiteness and therefore demonstrate the role expected of the “Black woman” and how she deviates from the “white woman.”

As a brief circling back to an earlier point in this presentation, let me note that both Loren Cameron and Sarah Bartmann—the

“Hottentot Venus”—defy the gendered and raced expectations of the so-called “body.” That is, from a normative, mainstream position, neither body appears as expected. Of course, in the case of Cameron, he has chosen to “put his body out there,” as a way of startling those who think they know and want to place their expectations on him. In the case of Bartmann, no such choice was afforded, as her body was put on display—even after her death—against her expressed desires. The exhibition of the “Hottentot Venus,” whose sexual anatomy was considered exaggerated in form—supported the notion of a heightened sexual activity of the black female body itself—thereby conflating the body with its ascribed attributes.

While lacking room to fully consider the position of Michelle Obama and the directions that her body/figure/identity might offer, we can nonetheless take as a starting point Michelle Obama’s bare arms or biceps. Regarding the issue of Michelle Obama’s biceps, Maureen Dowd remarked in a March 2009 New York Times article, “Let’s face it: The only bracing symbol of America’s strength right now is the image of Michelle Obama’s sculpted biceps.” Dowd addresses a criticism by the Times journalist, David Brooks (“She’s made her point. Now she should put away the Thunder and Lightning.”) and a remark by Sandra McElwaine (“Someone should tell Michelle to mix up her wardrobe and cover up from time to time.”). Dowd also quotes one Republican congressman who was overheard whispering to another, “Babe,” upon Michelle Obama’s appearance at her husband’s address to Congress in a sleeveless eggplant dress.

So, why the fuss over Michelle Obama’s biceps—or, as an ABC News headline read, “Michelle Obama’s right to bare arms causes uproar”? To this, we can ask, why the uproar; what does the uproar reveal?

Michelle Obama has stated, speaking of her trajectory in life in general:

Every step of the way, there was somebody there, telling me what I couldn’t do. Applied to Princeton. “You can’t go there, your test scores aren’t high enough.” I went. I graduated with departmental honors. And then I wanted to go to Harvard. And that was probably a little too tough for me. I didn’t even know why they said that.

Michelle Obama stands at a variety of intersections—Black woman/Ivy League-educated being just one—many of which contradict expectation and place her in the path of oncoming traffic (or in a position to be poked and prodded). One way to explain the uproar over her bare arms/biceps is as follows: the exposed biceps demonstrate a refusal of Michelle Obama to embody “the mammy” at the same time as “the look” is relegated to the “hot” and “sexy,” thereby conjuring the stereotype of the Jezebel. Given the mammy and Jezebel stereotypes/images/roles, Michelle Obama’s appearance in the White House should be in service to the white family rightfully residing there, while it should not offer allure to the white men around her and usurp the power away from her husband, the first Black president.

Michelle Obama might be wearing a similar hairstyle, set of pearls, and sleeveless dress in her official White House portrait as Jackie Kennedy, but Michelle Obama is no Jackie Kennedy (despite many such comparisons). In making this observation, I am primarily referring to the trouble that Michelle Obama has already seen and referencing the variety of gendered, sexualized, and raced markers or signifiers referred to throughout this presentation. These include, but are not limited to, clothing and accessories, colors (purple, for Tinky Winky), motorcycles (for Loren Cameron), wheelchairs (for Ethan), academic degrees (for Michelle Obama and Ann duCille), administrative

positions or faculty appointments (for me and others), claims to Americanness (for Barack Obama), and marriage rights (for same-sex couples). Such markers—infused with meaning—are attached to bodies that are always already marked, interpreted, and full of meaning themselves. Thus, the meaning of Michelle Obama wearing pearls and a sleeveless dress will be different from Jackie Kennedy doing the same—the different meaning, in the White House portrait, being reinforced by Michelle Obama’s more assertive posture. Which is to say, there is no fact of the matter on the issue of bodies; rather, bodies are always open to the shifting interpretations offered to/of them—offered, in fact, whether those bodies are nude or clothed or clothed in ways that adopt or defy particular constructed and fabricated meanings—meanings that are reiterated and demanded time and again, even if those demands can sometimes be challenged and even cause an uproar:

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## ***The Ethics of Homosexuality: Neither Genetics nor Marriage Is the Answer***

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There’s no denying that scientific studies influence public opinion and religious interpretations of homosexuality. In particular, some people interpret scientific studies as showing that homosexuality is involuntary and therefore morally excusable. This interpretation doesn’t sit well with those who want to condemn homosexuality as immoral (for philosophical reasons), or sinful (for religious reasons), or as alterable (for reasons of clinical therapy). By the same token, folks in these latter camps can’t ignore the science either, and they walk a very fine line in trying to parse reports that are consistent with the view that sexual orientation is shaped by biology.

For example, in 1975, the Vatican’s Sacred Congregation for the Doctrine of the Faith noted that some people “have begun to judge indulgently, and even to excuse completely, homosexual relations between certain people.”<sup>1</sup> The Congregation said this excusing of homosexuality was based on “observations in the psychological order.” Specifically, some psychological studies seem to show a distinction “between homosexuals whose tendency comes from a false education, from a lack of normal sexual development, from habit, from bad example, or from other similar causes, and is transitory or at least not incurable; and homosexuals who are definitively such because of some kind of innate instinct or a pathological constitution judged to be incurable.” In other words, some people are homosexual for reasons beyond anyone’s power to intervene against that outcome: better education wouldn’t change things, not a better supervised sexual development, and not better role models. For some people, their homosexuality is locked in from the beginning. The Congregation itself says that this view is not unreasonable: the view seems to fit the facts of how some people behave, and psychological studies confirm as much.

Even so, the Congregation went on to repudiate the idea that homosexuality is morally acceptable, even if it is locked in from the beginning for some people. The Congregation points to Scripture to make the point that “homosexual acts are intrinsically disordered and in no case can be approved of.” For my money, pointing to Scripture may be able to show a behavior is sinful but pointing to theological arguments isn’t the same as arguing that something is necessarily immoral in a philosophical sense. That said, the difference between sinfulness and immorality is another discussion for another time. The idea the Vatican wants to hold out here is that

involuntary traits can be wrong in themselves, no matter if they are not chosen in the way other sins are.

In the same 1975 document, the Catholic Church went out of its way to recommend a respect for homosexual men and women, but it shortly afterward had to issue a kind of retraction. By 1986, the Vatican had come to believe that some commentators were reading too much into its acknowledgement of innate homosexuality. They worried that people were extending too much acceptance to homosexuality, perhaps treating involuntary traits as altogether excusable. No, no, the Congregation cautioned: "Although the particular inclination of the homosexual person is not a sin, it is a more or less strong tendency ordered toward an intrinsic moral evil; and thus the inclination itself must be seen as an objective disorder."<sup>2</sup> The Congregation did not further specify the nature of what it means by disorder.

So, let's review: according to the Vatican, homosexual orientations can be involuntary (science seems to show as much), and while that orientation is not in and of itself sinful, it is nevertheless disordered. The take-away message is this: whether innate or not, homosexuality is bad, and no social response should indicate otherwise, except for that penumbra of respect that is due all persons.

The Congregation's 1986 attempt to close the barn door it opened in 1975 highlights a political effect of sexual orientation research: the belief that sexual orientation is involuntary softens public hostility toward homosexuality. And most people don't seem to parse very closely—if at all—differences between the terms involuntary, innate, inborn, genetic, biological, and immutable. Many people seem to think that tolerance should be extended to sexual interests and identities beyond anybody's control. Science that shows that sexual orientation emerges in people early on and in a way that does not amount to a choice puts homosexuality beyond the reach of moral judgment: it need not be, for example, the choice of sexual routes who are sampling their way down the ladder of sensual delights. Moreover, other social science shows that most homosexuals don't live up to their moral billing as degenerates, criminals, or psychosexual cripples. It's hard to stay vigilant against the supposed evils of homosexuality when science shows that the social reality of gay men and lesbians undercuts spurious accounts of origin and social vitriol at every turn.

In "Religion, Genetics, and Sexual Orientation: The Jewish Tradition," Dena S. Davis considers the impact of sexual orientation research on a non-Christian religion's view of homosexuality.<sup>3</sup> She explores the question of whether genetic studies of homosexuality alter—or should alter—the religious judgment that homosexuality is sinful. Davis is not concerned with the impact of psychological or sociological research on homosexuality; she's interested in the studies that link homosexuality to genetics. As the public indexes such things, I suspect most people believe a genetic account (of anything) is somehow more scientific than a psychological or sociological account (of anything). After all, genetics deal with organisms at their lowest level of causality, the molecular level. In any case, genetics do tend to dominate the discourse anymore when talk of sexual orientation comes up. Sometimes that science gets more deference than it deserves. A few key studies have had interesting links to sexual orientation, but none has shown any kind of direct link between genetic traits and sexual orientation.<sup>4</sup> There is no study that shows that if a man or woman has a particular genetic trait, he or she will also have a homosexual orientation, specifically because of that genetic trait. Mostly, contemporary studies indicate interesting correlations, correlations that might or might not pan out in the future. There may well be biological (causal) influences

on sexual orientation for some people, but no one has yet discovered the smoking double-helix.

In any case, Davis interprets things in the following way: some Jewish interpretations condemn homosexuality, which approach is difficult to reconcile with the idea that homosexuality may be an involuntary, deeply irresistible trait. Evidence that homosexuality is genetic seems to cut against the stigmatizing impulse in two ways: stigmatizing efforts must necessarily fail if sexual orientation is genetic, and why blame people for sexual interests beyond their control? What sense, she wonders, does it make to ask people to resist the irresistible? Not only that, but same-sex couples can themselves contribute to religious goals and social life in general as well. Jewish homosexual men and women can, for example, pair off and raise children, and raise them in the Jewish faith too. In other words, gay and lesbian couples can assume all the trappings of marriage, or at least the differences between them and non-homosexual couples start to look vanishingly small once they are embraced into the reproductive fold. For all these reasons, Davis wonders, shouldn't some Jewish theological objections to homosexuality wither away?

Davis is in distinguished company when advancing this kind of argument. In its 2003 *Lawrence v. Texas* decision, the Supreme Court made the following observation in support of its conclusion that states have no right to sanction private, consensual sex between men or between women: "When sexuality finds overt expression in intimate conduct with another person, the conduct can be but one element in a personal bond that is more enduring"<sup>5</sup> In other words, the Supreme Court went out of its way to acknowledge the role of sex between men (and between women) insofar as it involved long-term personal relationships. This language of relationships comes a very long way from the sodomitical rhetoric that stamped the court's 1986 *Bowers v. Hardwick*, but it reads homosexuality selectively in order to do so.<sup>6</sup> What's missing from *Lawrence v. Texas* is any defense of sex qua sex. The Court managed to defend homosexuality insofar as it involves pair-bonded relationships but to look the other way when it comes to most of the homosexual sex that actually transpires in the United States. What's not in *Lawrence v. Texas* is this: a legal defense of the right to have rollicking good, old-fashioned, no-strings-attached sex. And gay people have a lot of that kind of sex (as do heterosexuals).

Davis's article shares the tone in *Lawrence v. Texas* insofar as she more or less asks how closely sex between men and sex between women can approximate sex that occurs in marriage, sex that is procreative, and sex that solders the bonds of religious and civic community. But neither of these accounts makes sense of homosexuality as a whole. For example, even as you read these words, gentle reader, many gay men across the land are looking for opportunities to have sex with strangers. They are looking for sex on-line, in bars, in college dining halls, and at church picnics. Not only that, but many of these folks want no "personal bond that is more enduring." If we want a general defense of homosexuality, it cannot be one that treats the sexuality of gay men and lesbians only as a simulacrum of marriage in its civil or religious meanings.

The other thing that strikes me when it comes to discussions of genetics and homosexuality is how willing people are to accept existing studies of homosexuality as confirming the involuntary nature of that sexual orientation. Yes, the 1993 Hamer study did make a big splash when it appeared: it showed that gay brothers shared a genetic region at a higher rate than expected. However, a study shortly afterward disconfirmed those findings.<sup>7</sup> Furthermore, an additional study that came out of the Hamer lab did not either confirm the original findings.<sup>8</sup>

Taken collectively, genetic studies to date are more suggestive than anything else, but some people seem perfectly willing to believe the genetic fix is in when it comes to homosexuality, regardless of the patchy state of the evidence. In other words, people seem to be looking for scientific views that match their beliefs. To make this point from the other direction, remember that some psychologists and religious parties are committed to the view that homosexuality is not “real,” that it is only a psychological artifact that can be prevented and sometimes resolved. It is no accident that people in this camp are—without fail—harsh critics of genetic studies of homosexuality.<sup>9</sup>

Only more science can help clarify whether and to what extent homosexuality is wired in for some people. In the meantime, I don’t think it helps to treat *Science of the Moment* as the threshold of the moral acceptability of homosexuality. Even if we didn’t know anything more than we already do about how sexual orientation unfolds in people, I believe moral philosophy can sufficiently defend not only the morality of homosexuality in its sex acts but the rights of homosexual people to access and equity in regard to all social goods.<sup>10</sup> We don’t need more genetic studies to know, for example, that two men or two women can have sex in a way that harms neither the people in question nor brings the roof down on the social order. I also don’t think that we need more genetic studies to answer the question of whether men or women in coupled relationships ought to have presumptive rights to make healthcare decisions for their partners when one of them becomes unable to do so.

Neither do I think that the ethics of homosexuality should turn on its moral suitability for marriage. The Supreme Court’s tack—in couching homosexuality in relational terms—broke no new social ground. In fact, the *Lawrence* decision really was only catching up to where society had moved in regard to public sympathy for gay and lesbian people. In 2003, it was very hard to pretend that gay and lesbian people should be refracted through the prism of “sodomy,” as a way of understanding their legal and social interests. Ironically, despite saying that *Lawrence* had had no bearing on the question of same-sex marriage, the language used by the court—couples in enduring relationships with one another—laid down a virtual moral charter for that right. For all that, I don’t believe that the sex that transpires between men or between women is morally acceptable only to the extent it looks like, smells like, feels like marital sexuality. People in religious traditions are free to decide for themselves, of course, whether homosexuality is condemnable for theological reasons, whether under some circumstances (only to the extent it mimics marital sexuality) or under no circumstances (free-wheeling unattached sex). But from the point of view of secular moral philosophy, from the perspective of what it means to the parties involved, non-marital sex can have as much to recommend it as sex that occurs within the confines of marriage, and that’s true no matter what science ultimately shows about one man’s erotic interest in other men, one woman’s erotic interest in other women. I should hasten to add that this part of the argument—the moral integrity of homosexual sex apart from marriage—is not an objection by itself to same-sex marriage.

Some commentators have urged gay and lesbian activists to “dump marriage” as a political priority since the pro-marriage movement drains resources from more important efforts, offers only a false promise of happiness, and focuses on benefits for only a few gay men and lesbians, namely, those who are more interested in conventional relationships rather than forging “interesting and productive relationships outside marriage.”<sup>11</sup> That’s one view, but—on the other side of things—political gains do not always neatly map onto idealized priority lists,

and marriage does offer benefits that are not available to non-married people. As a matter of legal ethics, it seems to me dubious to allow every straight couple the right to marry no matter how debased the parties might be—think of your favorite mass murderer here—but to exclude every gay and lesbian couple from that institution. It seems to me that same-sex marriage is a battle worth fighting even if it doesn’t express the kind of relationship important to all gay and lesbian people, and even if people approach it with unrealistic expectations about what it can contribute to their happiness. But this is to have a debate about the merits of marriage properly speaking; this is not the same as saying that homosexuality is morally tolerable only to the extent that it approximates marital ideals. It isn’t; like heterosexuality, homosexuality’s moral justification turns on what it means to the people involved in a relationship. And that kind of moral analysis doesn’t require looking to genetics or marriage for answers.

#### Endnotes

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## *Is There a Duty to Be Out?*

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In a 2009 blog entry, Andrew Sullivan claimed that “all gay people have a moral duty to be out.”<sup>1</sup> He justifies this view in a number of ways, but the primary justification is that the more people who come out, the greater the positive impact in changing people’s minds about homosexuality. For Sullivan, crafted arguments appealing to reason will not convince people, but “a slowly rising tide of familiarity” will drown out “people’s disgust, revulsion, and deep-down aversion to ‘the other.’” (These are one of Sullivan’s readers’ words, but Sullivan agrees

with the characterization of his position.)

A recent Gallup poll on gay marriage (it is more accurate to label this gay and lesbian marriage) supports his contention. Nationally, 40% of respondents were in favor of legalization, while 57% were against. When the figures were broken down by whether the respondent knew a gay or lesbian person, the results were significantly different. For those knowing at least one homosexual person, 49% were for legalization and 47% were against. For respondents who personally did not know a gay or lesbian individual, only 27% were in favor of legalization, while 72% were against. Moreover, being comfortable around a homosexual is markedly different for those who know compared to those do not know another homosexual—88% and 64%, respectively.<sup>2</sup>

With this relatively thin empirical evidence, what are we to conclude about a moral obligation for all gay people to be out? I'll make a philosopher's radical claim that the answer is a big "It depends upon the circumstances."

If the actual or reasonably perceived risks attached to coming out are significant harms to the outed person's life, then, in general, the person has no duty to out himself. In the 1950s and '60s United States, for example, many homosexuals worked hard to pass as heterosexual so that they would not lose their jobs, be subject to police surveillance, or suffer any other severe negative consequence resulting from being thought homosexual or "swishy."<sup>3</sup> Even in today's more enlightened society, there are dangers to mental and physical health, careers, and even lives. Less tolerant societies often pose greater risks to homosexuals, including violent attacks and murder. These excessive burdens override any duty to be out; we know that it is unjust to require innocent individuals to pay severe costs merely to maximize utility for society as a whole. If innocents want to be moral saints by being out in these precarious situations, then that is their prerogative, but we cannot expect them to risk such a fate.

It is here that we see the benchmark by which we can measure if a harm is significant enough to preclude the being out duty's existence. If the injury suffered is undeserved, and greatly reduces or prevents a gay or lesbian agent's life's flourishing, then there is a *prima facie* justification for the claim that the agent has no duty to be out. A flourishing life is an existence in which one's basic physical and mental needs are met in a way that is sustainable and good for the person's well being and happiness. Provided that remaining closeted in very dangerous circumstances is necessary for obtaining or maintaining such a life, Sullivan is mistaken about imposing a moral obligation all gay people have that would require too much self-sacrifice.

However, Sullivan might be correct if the situation is sufficiently different. Suppose that a deeply closeted politician, for his own profit, has made a career of outing people, regardless of the injuries it caused them. He crusaded against gay and lesbian people to appeal to his base and bigoted voters and to win office. If likes should be treated alike, his exposure of those who were in the same situation as he is demands his self-outing.

In different but rare circumstances, the good of the whole can truly outweigh the good of the few. It is conceivable that a person could be so well placed in society that the person's being out would cause such a massive sea change in public attitude that homosexuals would no longer be treated as second-class citizens. Since we can find many of the anti-homosexual crowd in audiences of Mel Gibson's movies, Gibson might be able to make them change their narrow views if he should suddenly proclaim that he is homosexual, and then live his life accordingly. (I am not implying that Mr. Gibson is anything other

than a heterosexual man.) Such a revelation might ruin Gibson's career; but the utility is too great to allow him to remain closeted. (This argument applies more in theory than practice.)

Sullivan's claim seems strongest in a more likely set of circumstances. Assume that a person does not deserve to be outed, and she is not a cultural icon capable of vastly altering public opinion for the good. Basically, let us focus on average people, who happen to be homosexual, in average society. For these individuals, a moral obligation exists if the following two conditions are met.

First, if being out does not pose a significant danger to a person's flourishing life, then there is good reason to think that the duty to out oneself exists for the person. In some cases, being out will actually help the person's flourishing by allowing her to create and nurture caring relationships that would otherwise be denied to her whilst closeted. Other benefits would ensue. Among them, the sheer relief gained by eliminating the mental strain caused by maintaining a closeted life, e.g., having to ensure never giving oneself away in conversation or other actions, and denying one's identity, which causes shame, degradation, and inadequate self-esteem, can go a long way in improving a person's happiness. In an influential paper, Mark Chekola argues that the loss of privacy from being out is more than compensated for by the elimination of living with the implied worthlessness that living in the closet suggests.<sup>4</sup> In addition, outed people enjoy more relational goods, which are "goods that arise in our relationships with others in personal non-instrumental ways and we recognize that they are important components of our well-being."<sup>5</sup> Hence, if coming out is beneficial enough to the agent, there is good reason to do it, in terms of one's duties to one's self.

There can still be adequate reason to be out even in situations in which flourishing is reduced as a result. Granted that many in society are accepting, there is still a vast element that makes homosexuals' lives less worth living than it does for heterosexuals in the same circumstances. Besides negative comments, looks, exclusions, stereotyping, and other common low-level nastiness, this group issues more serious threats to mental or physical safety, such as being emotionally or physically attacked. However, as long as homosexuals can have flourishing lives, these devaluations are insufficient to preclude a duty to be out. Living as one truly is in an overall tolerant and nurturing environment is better for each gay and lesbian person than having to maintain a stifling façade. The duty's second condition requires a reasonable chance of success. That is, being out must make it more than likely that at least one person will become more accepting of homosexuals than if the person remained closeted. The justification for this condition is obvious. No one has an obligation to reduce or endanger her flourishing unless there is adequate reason to do so. Since there is such risk attached in some quarters to homosexuality, there is no need to threaten oneself for a dubious beneficial outcome. Luckily, if the action is likely to help further the social acceptance of homosexuals as full-fledged members, then the case for the duty's existence becomes stronger: No particular outing is likely to change a large number of people's minds, but much like a pile of sand, each little contribution adds to the overall whole, as well as possibly helping individuals grow in their particular understanding and tolerance.

Sullivan's contention that gays and lesbians have a duty to be out is therefore correct for some subsets of gay people. Although it is more comfortable for them to pass, it is wrong to do so.

#### Endnotes

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- 2 L. Morales. "Knowing Someone Gay/Lesbian Affects Views of Gay Issues." (2009). At: <http://www.gallup.com/poll/118931/Knowing-Someone-Gay-Lesbian-Affects-Views-Gay-Issues.aspx>. Accessed 4 June 2009
- 3 C.M. Loftin. "Unacceptable Mannerisms: Gender Anxieties, Homosexual Activism, and Swish in the United States, 1945-1965." *Journal of Social History* (2007). At: <http://www.articlearchives.com/society-social/sex-gender-issues-gays-lesbians/1662209-1.html>. Accessed 2 June 2009
- 4 M. Chekola. "Outing, Truth-Telling, and the Shame of the Closet." *Journal of Homosexuality* 27 (1994): 67-90
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ethics importantly continuous with Foucault's clearly ethical work of the 1980s. Huffer writes,

what we generally tend to think of as Foucault's final and limited "ethical" work—his return to Greco-Roman and early Christian practices of freedom in volumes 2 and 3 of *History of Sexuality*—might not be seen as the sum total of Foucault's attempts to conceptualize, along Nietzschean lines, a non-wounding postmoral ethics. Rather, they might be seen as the two "final" episodes in a series of historical or genealogical studies including *History of Madness, Discipline and Punish*, and the three volumes of *History of Sexuality*—that constitute Foucault's ethical work. (179)

According to Huffer, Foucault takes up ethics as an historical question in all these works, as a question about the cost of Western subjectivity. And in insisting on its questionableness, Foucault opens his own thinking to what Huffer calls an "erotic ethics of alterity" (197).

What Huffer means by this phrase takes much of her book to set forth, but it is her central exegetical claim and the basis of her critique of queer theory. Huffer insists that the question Foucault asks in *History of Madness* is this: "Why is it not possible to remain in the difference that is unreason?" (Huffer, 197; *History of Madness*, 352). The answer is that the cost of modern Western subjectivity is simply the silencing of unreason, the abandonment of any avenue for entering, let alone abiding in, that difference. Rationality constitutes itself in the modern age by splitting off unreason from reason and then by condemning and sequestering that which it identifies as unreason and depriving it of discourse. Thus does subjectivity come into being in its relation to truth in the Cartesian and post-Cartesian world. The subject of reason must provide the foundation for knowledge, an obligation that locks both subject and the truth it seeks and prizes in a non-transformational mobility that can never, must never, incline itself, porous and penetrable, toward an historical other that might threaten to breach its epistemologically necessary boundaries.

Foucault's project in *History of Madness* is paradoxical, Huffer says (242), because as a modern, knowing subject, one simply cannot return to the point of subjectivity's origin and come to know madness. But it is not knowledge that Foucault seeks. Nor is it a kind of de-subjection that would enable a healing of the split; there simply is no return in that sense. To explicate Foucault's early effort, Huffer draws on a late work, his lecture series of 1981 entitled *The Hermeneutics of the Subject*, where he enjoins his auditors "to become again what we never were" (Huffer, 243). In this impossible exhortation, Foucault "articulates the possibility of our own transformation, the possibility of our own becoming other," a possibility that exists in the present insofar as we are "a plurality of first-person subjects connected...to the persistence of the past" (243). We cannot return to and past the point of origin, but in turning toward that ungraspable historical moment, we can (re)mobilize and become other to what its expulsion has made us.

"We might go so far," Huffer writes, "as to call transformation the basic ethical principle in Foucault. Except, of course, that the notion of a principle would suggest that Foucault's thinking about ethics is propositional" (243). It is, instead, the cultivation of an attitude; as such, it is a poesis, a fashioning, a making, a practice of freedom. This is not the self-stylization in which some commentators have chided Foucault for indulging; it is not an individualistic preoccupation with the ephemera of idea and appearance. It is a rigorous, other-directed pursuit with high political stakes: "Such an erotic ethics practices the art of living as a specifically historical, archival task whose political stakes

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## BOOK REVIEW

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### *Mad About Foucault: Rethinking the Foundations of Queer Theory*

Lynne Huffer (Columbia University Press, 2010).

Ladelle McWhorter  
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Lynne Huffer's *Mad About Foucault: Rethinking the Foundations of Queer Theory* (Columbia University Press, 2010) is a stunning book. It is rich, fresh, complex, difficult, and a book to wrestle with, at least at those points where one can get a firm enough grip and not simply be pulled along in their wake. Unabashedly, Huffer proclaims her love for the Foucault whom she has discovered in the archives and, most especially, in *History of Madness*, which is Jonathan Murphy and Jean Khalifa's translation of *Folie et Déliraison: Histoire de la folie à l'âge classique* (previously translated in an abridged version as *Madness and Civilization* in 2006). And with great passion and enthusiasm, she shares that love and, more importantly, that Foucault with her readers.

That Foucault is not a Foucault whom most queer theorists or indeed most Foucault scholars will readily recognize. He is, for one thing, a young man, just over thirty, suffering and grieving a lost love while discovering working and playing in an Uppsala archive, listening to the murmuring voices of generations of *petits fous* through and between the lines of reasoned discourse compiled by generations of physicians, alienists, psychiatrists, and psychoanalysts. He is a Foucault writing an impossible book, a book on the history of madness.

It is this Foucault who appears on Huffer's book's cover. He is seated at a dinner table, inclining forward, intent on someone not pictured. His lips are slightly parted, his brows raised, his eyes bright. He has, of all things, hair—yes, all over his head—and he is wearing, of all things, a necktie. This is not the cue-balled, turtle-necked, laughing Foucault of later years. He appears to be a little unsure of himself, yet he is wholly engaged with that unseen other: he is open-faced and sweetly vulnerable. This is the Foucault whom Huffer calls an ethicist of eros.

Against what might be called the received view in Foucault studies, Huffer reads the 1961 *History of Madness* as a work of

are the transformation of the present” (244). The archive is its staging area, the field of pursuit where modern subjectivity seeks to undo itself by inclining toward what, by virtue of its historical conditioning, it cannot see. “The archive thus becomes, in this ethical parrhesia, the site of an erotic, courageous listening [...] Like the heterotopian mirror, the modern archive becomes the site of an ethical encounter where the self-reflective symmetry of the knowing ‘I’ is confronted by a real alterity that puts the reasoning subject into question” (249).

Huffer offers this erotically inclining, ethical Foucault to feminists and queer thinkers as a corrective, or as a disruption, or perhaps simply as a gift of an opening toward what she believes can be a more radical and freeing queer feminist politics than that afforded by queer theory as it has taken shape over the past two decades. Queer theory is, or at least has largely become, too dependent on the categories of psychoanalysis, she argues, and too obsessed with the limited (and peculiarly American project of) undoing oppressive identities.

Although Huffer pays homage to queer theorists in general and to Judith Butler in particular (171), she is sharply critical of Butler’s concept of performativity and the direction in which its uptake has pushed queer theory. “Performativity,” Huffer writes, “is the name queer theory gives to a conception of subjectivity that, along Nietzschean lines, questions the givenness of a coherent subject endowed with interiority” (108-9). This, she contends, is far from Foucault’s notion of subjectivation. While both projects place interiority in question, they do so in vastly different ways with enormously different effects. Performativity constitutes a fundamentally dialectical strategy for undoing sexual identities; it reverses the familiar assumption that what is inside projects itself toward the outside, insisting instead that what is outside—language, culture, society—constructs the illusion (and sometimes the experience) of an inside, a gender identity that matches (or fails to match) bodily appearance and its attendant social expectations. Thus, performativity “remains invested in the philosophical act of negation and, consequently, undoes gender but not the subject itself” (112). Performativity’s target is identity, not subjectivity. Consequently, it remains within the orbit of identity even while it tries to disrupt its operation. “Performativity needs the acts-versus-identities opposition in order to reverse and parodically resignify sex and gender” (114). It “draws on a slice of Nietzsche—Genealogy’s description of ‘the popular mind’ that separates the doer from the deed—to ground its nature-culture, identity-acts reversals. But performativity does not specifically address precisely that dimension of Nietzschean interiority which constitutes the heart of Foucault’s ethical critique of the emergence of ‘man’: the internalization of morality as the ‘serious illness’ that is the psyche or the soul” (114). Insofar as performativity takes up the question of ethical subjectivity, it “reverses the queer and the bad in order to reconstitute the queer as good. The queer becomes something to be celebrated and claimed. ... But rather than submitting morality itself to the Nietzschean historical critique it requires, performativity replaces ‘bad’ family values with ‘good’ queer ones, thereby engaging in a process of normalization” (114). Huffer cites Butler’s *Undoing Gender* in this connection.

By contrast (and drawing heavily on Deleuze), Huffer reads Foucault’s project, particularly as it unfolds in *History of Madness*, as an attempt to think subjectivation by thinking subjectivity at its limit, where its outside is not culture, society, and language, but, rather, madness. “Foucault’s Nietzschean rejection of the cogito is more than a replacement of rationalist certainty with a healthy skepticism characterized by what would still be a kind of Cartesian doubt forever in search of a reason that would ground morality” (112). While Foucault would certainly agree

that subjects are effects of their social and cultural surroundings, he “is interested in certainty and doubt less as indications of the subject’s social construction than as functions of the rationalist structures through which thinking itself has been defined to underwrite moral norms” (112). Cartesian values—in particular the value of epistemic certainty—“arrests the movement of thinking toward its limit” (112), refusing to allow any chance of desubjectivation, of undoing. And it is this immobility of thought that affords the stable ground for “man,” for the modern subject of both knowledge and morality.

The limit can be called madness, an unthinkable outside. It can also be called sexuality, as Huffer’s detailed discussions of the forced alliance between unreason and passions and perversions and the mass expulsions of all those *petits fous* repeatedly illustrate. Reason’s interiority is created by the production and maintenance of this outside and by the resulting impossibility of thinking at its own limit. And we are subjectivated thusly; we are reason’s children. Hence, undoing identity through the strategy of thinking it performatively will do little, perhaps nothing, to animate thinking to the limit of subjectivation. This—and not French hostility to American preoccupations—was why Foucault was not interested in identities and why he rarely used the term. Identity is simply not the issue; the issue is subjectivation and the moral norms its modern forms of interiority make possible.

One reason queer theorists have not read Foucault’s project in this way, Huffer contends, is that they have tended to read the highly schematic *History of Sexuality*, Volume 1: An Introduction only and have not read it against the background of Foucault’s much earlier (and later) work. When we see Foucault’s long-term project as questioning subjectivity in the Nietzschean tradition of questioning moral interiority, his 1970s work on sexuality cannot be isolated from his interrogation of madness and cannot be read as a straightforward revelation of the historic-political dimensions of sexuality’s nature.

Placing the issue of subjectivation at the fore moves Huffer to mount a perhaps even more serious challenge to contemporary queer theory. As Huffer reads Foucault, his rejection of psychoanalysis is sweeping and definitive, not ambivalent as so many queer theorists have claimed (141). The psyche is a name for modern moral interiority, the enfolding that Nietzsche asserts was produced through so much blood and agony. It is not the truth of human being and certainly not a resource for resistance to the ongoing torment of moral subjectivation. Huffer maintains that it is in *History of Madness*, Foucault “levels his most devastating blow against Freudian psychoanalysis” (158). Freud’s work is the culmination of nineteenth-century psychiatry and its attempt to seize the authority of the priest as well as the paterfamilias to control the lives and thoughts of all those who can be brought under its sway. Psychoanalysis is patriarchal, Foucault maintains; concentrating everything on the doctor-patient dyad, it reigns through and as the power of the father and the family. And the psyche is its instrument. “Foucault’s historicization of the psyche in *Madness* underscores his view that, rather than constituting a force of disruption, it serves to solidify our *assujettissement*. This Foucauldian understanding of the psyche, so obvious in *Madness*, challenges the common Freudian claim that psychoanalysis frees the queer subject through a psychic resistance—from within—to heteronormative subjectivation” (135).

While the psyche is figured in Freud’s work and in queer theory as excessive with regard to identity, it is not and can never be excessive with regard to modern subjectivity; thus, while it may be a resource for resistance to identity, it can do nothing to move us up against or beyond modern moral subjectivation.

Huffer therefore contends that queer theorists must abandon the path of thinking that ties us to the ahistorical psyche as a central category in our critique of heteronormativity. That avenue is worse than a dead end. It is a tight circle right back to—perhaps even simply within—the subjectivizing structures that produce the injustice and pain we seek to critique and dismantle.

As this brief and, unfortunately, far too schematic account of Huffer's arguments surely indicates, *Mad About Foucault* is an important book. It provokes, jokes, and teases, but it also offers some very rich ideas to think through. If taken seriously, it might well re-shape queer theory in the coming decade. It certainly should convince us to re-read *History of Madness* and to re-think our assumptions about Michel Foucault. No Foucault scholar or queer theorist can afford to ignore it.

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## CONFERENCE REPORT: 2007 PACIFIC

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The Society for Lesbian and Gay Philosophy and the APA Committee on the Status of Lesbian, Gay, Bisexual, and Transgendered People in the Profession co-sponsored the panel, "Transgender/Feminist," at the 2007 Pacific APA meetings in San Francisco. When session organizer and chair D. Rita Alfonso (Grinnell College) introduced the panel, she remarked that her originally considered title was "The Coming Gender Wars," given a noted parallel to the '80s sex wars. However, Alfonso quickly shared two points: (1) "wars" is not necessarily the best of metaphors at present, and (2) the gender wars have already taken place. In actuality, we are positioned to evaluate the last ten years of reaction by feminists to transgender activists. Thus, the title, "Transgender/Feminist," was meant to signal a possible intersection between transgender and feminist activism as well as a recognition that divisions (still) occur:

Civil rights lawyer Sondra Solovay and attorney and philosopher Dylan Vade opened the discussion with, "No Apology: The Intersection of Fat and Transgender Law." Solovay and Vade noted that, in order for fat or trans people to receive protection under the law, there is an expectation of assimilation and adherence to fat/trans-phobic norms. Victims must reinforce an oppressive structure in order to secure rights. Solovay discussed two recent lawsuits alleging discrimination based on weight and their divergent outcomes: in the first case, the individual won nearly one million dollars; in the second case, the individual lost. The different outcomes reveal that an apologetic stance must be adopted to prevail in court. Vade addressed the connection to trans issues, noting that both fat and trans bodies are non-normative. As with weight-based discrimination, trans people must be apologetic to receive judicial relief. Further, since gender stereotypes are heightened in the courts, one must both adhere to gender stereotypes and express apology for being trans. Solovay summed up this expected posture by stating "Either you have your rights in court or you have your dignity." Certain "truths" must be confirmed for the courts; for example, "everyone wants to be thin—even fat people," or "I'm a woman trapped in a man's body." While disability law has been of limited use to fat and trans people, disability law itself carries an apologetic tone: "The problem lies with me. Please grant me an accommodation if it is not

too much trouble."

In biologist Julia Serano's presentation, "Feminine Wiles: Re-thinking Sexism and Anti-Trans Woman Sentiment," Serano advanced the position that transwomen often endure transmisogyny. While transmisogyny is informed by transphobia, Serano believes that stands on its own as a kind of demeaning attitude toward MIFs (e.g., the sensationalistic treatment of MIFs in the media as sex workers or providers of certain sex fantasies). Moreover, Serano indicated that transmisogyny has largely gone unnoticed within feminism and trans studies, and that MIF spectrum people are particularly plagued by "a supposed triviality of male femaleness" whereby "masculinity always appears as sincere by comparison." Feminist criticisms of transwomen, Serano pointed out, have been primarily focused on gender essentialism (the notion that transwomen are really men), while masculinity and FTM spectrum people are often embraced within these same communities (demonstrating misogyny rather than transphobia).

Also speaking to the issue of treatment endured by transsexual women, artist and trans activist Shawna Virago described her long-time experience working for the nonprofit organization Community United Against Violence (CUAV) in San Francisco. In her presentation, "Violence Against Women, A Transgender Perspective," Virago conveyed multiple challenges she has faced in her attempts to educate others on issues surrounding gender, including complications engendered by race, ethnicity, and class. Virago's educational efforts have included speaking to the San Francisco Police Academy about trans domestic violence. Such work has occurred within a context in which 23 out of 25 murders seen by CUAV in the past ten years have been of transwomen and within which transsexual women are quite often targets in police abuse cases. Virago underscored the need for whites to commit to anti-racist work and conveyed the ironic message that everyday lives are often forgotten within rhetoric surrounding power, abuse, and privilege. She argued that we live in a culture that is not self-conscious: killers often justify their actions on the basis of male and heterosexual shame, and courts often do not sympathize with transsexual victims.

The final panelist, gender studies historian Susan Stryker, addressed the 1966 uprising of transgender street workers in the Tenderloin District/Neighborhood of San Francisco in a talk called "Feminist Theory and the History of Transgender Activism." While the Tenderloin District was a residential ghetto for transgender people (denied employment if they were perceived to be transgendered), it was also a tourist zone. Stryker discussed the constriction of this space in the 1960s, with displaced people entering the war in Vietnam heating up, and soldiers visiting the neighborhood prior to leaving for Vietnam. According to Stryker, trans people started to organize and formed the first trans-inclusive political groups, while turf wars erupted in August 1966. In concluding remarks, Stryker linked her interests in a historical topic, such as this, to the relationship between bodies and spaces—the ways in which bodies are parts of the living world and are both produced by a certain time and space and leave traces on the world.

Stryker's concluding remarks synthesize threads woven by the five panelists: one is often asked (demanded) to behave in ways that benefit others, others who have themselves written the rules of engagement; at the same time, one is positioned to challenge the very "rules" themselves (through law, theory, praxis, education, history). As a response, when one challenges the "rules" in certain ways, it is not surprising that the rhetoric around the rules shifts to accommodate the challenges.



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## NEW IN PRINT

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**Varden, Helga.** “A Kantian Conception of Rightful Sexual Relations: Sex, (Gay) Marriage and Prostitution.” *Social Philosophy Today* 22 (2007): 199-218

Why should gays and lesbians have the right to marry? By and large, feminist theorists fail to provide much of an answer to this question since they consider marriage an inherently oppressive institution. In their view, the world would be a better place if no one ever married but rather just loved one another instead. Neither do queer writers provide much of an answer to the question of why anyone should have a right to marry. If pressed for an answer, they typically argue from the perspective of equal rights: if some citizens have a right to marry, then every citizen should have the same right. Although this response captures some of the rightful outrage against, for example, California’s passage of Proposition 8 or Obama’s invitation to pastor Rick Warren to deliver an Inauguration Day invocation, it doesn’t really seem to capture the heart of the injury sustained when gays and lesbians presumably are excluded from marriage. The issue is not that it’s either everyone or no one, but rather that everyone should have the right to marry in the first place. Why is this the central concern? I argue that denying gays and lesbians a right to marry is to deny the possibility of rightful unification of their private lives with the people they love. In being denied this right, gays and lesbians are denied entrance into civil society, because they are forced to stay in a situation where there is no rightful solution to conflicts or disagreements, including reasonable disagreements, between individuals sharing a private life. Gays and lesbians, therefore, have more than just run of the mill discrimination about which to be rightfully outraged. The most surprising aspect of the paper may be the use of Kant’s theory of justice, when lent

appropriate consistency, to provide the theoretical foundation for a strong legal and political argument to support gays’ and lesbians’ right to marry. In addition, I argue that Kant’s position can explain why consensual sexual interaction amongst legally responsible persons can never be rightfully outlawed, as, for example, in sodomy laws, and why the question of whether or not prostitution should be outlawed depends on whether state institutions can protect real choice for all its citizens. Kant’s theory of justice, therefore, may be a powerful friend rather than a foe in the fight for sexual justice.

**Timothy F. Murphy.** “The Ethics of Helping Transgender Men and Women Have Children.” *Perspectives in Biology and Medicine* 53 (2010): 46-60

A transgender man legally married to a woman has given birth to two children, raising questions about the ethics of assisted reproductive treatments (ARTs) for people with cross-sex identities. Psychiatry treats cross-sex identities as a disorder, but key medical organizations and the law in some jurisdictions have taken steps to protect people with these identities from discrimination in healthcare, housing, and employment. In fact, many people with cross-sex identities bypass psychiatric treatment altogether in order to pursue lives that are meaningful to them, including efforts to have children. Cross-sex identification does not render a man or woman unfit per se as a parent because that gender identity does not disable the ability to understand the nature and consequences of pregnancy or necessarily interfere with the ability to raise children. Moreover, no evidence suggests that being born to and raised by transgender parents triggers the kind of harm that would justify exclusion of trans-identified men and women from ARTs as a class. The “normalization” of transgender identities by the law and professional organizations contributes, moreover, to the need to re-assess pathological interpretations of cross-sex identities, and trans-parenthood puts that question into sharp relief.