

GAY RIGHTS: BATTLING HOMOPHOBIA¹

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For the sixth time in as many years, Gay and Lesbian Awareness Week is upon the Brown community. This occasion motivated me to write this essay to those who know little about our struggle for justice but are open-minded enough to hear what reasons prompt us to devote time to a cause so little understood by the public. My experience as a gay activist suggests that this lack of understanding is one of the main obstacles to progress. An explanation of our motivations is one of the best weapons to dispel the misconceptions that cloud our minds.

¹ “Notes on Human Rights” was my intended title but the BDH editor changed it. I remain reluctant to modify “rights” with adjectives when “rights” refers to the principles the Universal Declaration of Human Rights proclaims. Such adjectives suggest categories of rights. Those who oppose laws protecting LGBTQ+ people have exploited the ambiguity to say LGBTQ+ persons want special rights. This is not true. LGBTQ+ people demand the rights all persons should enjoy but prejudicial discrimination denies many. These considerations explain why “gay marriage” and “same sex marriage” morphed to “marriage equality.” But I recognize that highlighting a group’s cause may require using adjectives.

At the outset, the reader's demand that evidence of oppression be presented must be satisfied. I will do so with a true story.

Karen Thompson, a faculty member at Saint Cloud State, and Sharon Kowalski, an elementary school teacher, have had a relation for five years; but only their closest friends knew it. Keeping this relationship hidden was their way of avoiding discrimination and harassment, such as being fired from their jobs or evicted from their neighborhood.

About three years ago, Sharon was rendered quadriplegic and became a patient at St. Cloud Hospital. Karen visited her for many hours a day to help with her recovery. The frequency of Karen's visits led Sharon's parents to question Karen's role, and to limit her visiting hours. At a psychologist's advice, Karen "came out" to Sharon's parents, so that they might understand her intense concern. The parents' reaction was to reject her daughter's lesbianism and to accuse Karen of sexually abusing Sharon. The courts granted them guardianship, with the condition that Karen retain equal access to visiting hours and medical staff.

Karen's continuing involvement in Sharon's therapy proved beneficial. With her help, Sharon began relearning to write, eat and talk, but the parents persisted in discontinuing Karen's role and successfully filed to have their daughter moved to Miller-Dwan Hospital in Duluth, on the pretext of an evaluation. Karen's contact with Sharon is severely restricted now, because Duluth is a six-hour drive from her residence. This legal victory is particularly depressing, considering that the staff at St. Cloud had filed affidavits testifying that they view Karen as the key to Sharon's recovery.

Since her arrival at Duluth, Sharon's recovery has regressed. Her lack of interest in continuing to relearn speech and other functions has led to a diagnosis of depression. Nonetheless, Sharon's parents are back

in court, asking that Karen's already limited access to Sharon be stopped completely. The medical staffs at Miller-Dwan, County Manor (a nursing home where Sharon was a patient) and St. Cloud have once again filed affidavits similar to the earlier ones. This is more or less how things stand as you read this essay.

Any rational person would conclude two of Sharon's moral rights are being violated: her right, as a patient, to have the best chance of recovery and, as a consenting adult, to develop her relationship with Karen. Parents want the best for their children. How can Sharon's parents behave in a way that obstructs her recovery?

The answer is homophobia. Weinberg coined the term "homophobia" to denote the fear felt by heterosexuals in proximity to homosexuals and the self-hatred experienced by some gays and lesbians because of their sexual orientation. I want to extend Weinberg's definition to include the cause of the behavior he described. Homophobia is the belief that heterosexuality is the only legitimate form of sexual expression. It is part of a web of beliefs about human sexuality that justifies transgressing the human rights of homosexual persons. Homophobic ideology permeates educational systems, advertising, literature, law, the media, religion, socializing....

A customary day like Saint Valentine's is a painful reminder to us that only heterosexual couples are allowed to express their love for each other openly. By indoctrinating us all, homophobia is a form of totalitarianism not different in kind from its counterpart behind the Iron Curtain, an analogy justified by the fact that both communist and homophobic societies have developed structures to reward those who conform, punish those who do not, and deter alternatives.

As evidence, consider the fact that Karen and Sharon would not be going through this ordeal had their relation been heterosexual. Moreover, by failing to conceive alternatives, Sharon's parents

exemplify the behavior that characterizes the ultimate success of indoctrination. This indoctrination is so pervasive that it affects the mental attitudes of gays and lesbians as well as straights. I remember when I first saw two men kissing at a bar in New York's Greenwich Village; I was shocked.

In any case, the tragic dimensions of Karen and Sharon's experience expose the extent of homophobia in our lives. This is why I chose it ---from among many --- to document oppression. Real life stories move our souls more swiftly than rational arguments and public opinion polls to the same effect.

The ultimate aim of the gay and lesbian civil rights movement is to dissolve from lack of necessity. On that day, relations among persons will be judged for legitimacy not on the gender of the individuals involved, but on whether such relations lead to happiness as well as to emotional and personal growth. No longer will legitimacy be confused with conformity to standards that fail to account for individual differences and needs.

But this day is far away, for prejudice does not vanish easily. Meanwhile, we need laws to correct the present inequities. To be sure, no law ---not even God's--- can effect understanding in us; this is a long-term challenge without quick victories. However, laws can correct injustices and educate in the process; yet many oppose extending to gays and lesbians the civil rights afforded other groups. Their reasons seem reducible to three arguments:

- (1) Government should not be used to settle this issue lest democratic institutions and individual freedoms be constricted; social change should be free from governmental coercion. Invoking judicial restraint, Judge Bork and then Judge Scalia (now a Supreme Court Justice) used this reasoning in 1984 to uphold

the Navy's discharge of a gay officer. Let us call this the pseudo-democratic argument.

(2) Homosexuality is an illness; call this the clinical argument.

(3) Homosexuality is a choice; let's call this the choice argument.

The last two arguments are often used together, though apparently incompatible. The three set dangerous precedents for democracy and are vulnerable to damaging objections.

To assess the tenability of the pseudo-democratic argument, one may ask what conditions would be required to bring awaited social changes about. Presumably, the gay and lesbian minority must take responsibility for showing the heterosexual majority the injustice of the status quo, hoping this educational process would lead to new social arrangements. But given the dominance of homophobia, gays and lesbians would risk their jobs, homes, and lives in order to sensitize the heterosexual majority.

In 1977, a wave of physical violence and murders against gays and lesbians ensued when Anita Bryant crusaded against a proposed ordinance extending civil rights protections to the homosexual community of Florida's Dade County. It is clear that a society in which only one side can present its ideas without fear of reprisal is neither free nor democratic, by definition.

Historically conscious readers have surely noted the pseudo-democratic argument was also used, *mutatis mutandis*, to obstruct civil rights during the fifties and sixties. In those days, one of the versions of the argument was directed against the civil disobedience tactics some Black leaders had adopted. These tactics were inappropriate, the argument went, because citizens must obey laws enacted by democratically elected legislators who remain accountable to their

electorate. The electorate can express its disapproval of any existing law by lobbying their elected representatives or removing them from office.

Martin Luther King aptly refuted this argument in his *Letter from Birmingham Jail*: "... all sorts of devious methods are used to prevent Negroes from becoming registered voters, and there are some counties in which, even though Negroes constitute a majority of the population, not a single Negro is registered. Can any law enacted under such circumstances be considered democratically structured?" The pseudo-democratic argument was as pseudo-democratic then as it is today. It is no more than a smoke screen that hides discriminatory intent.

The true intentions are exposed when we examine the principle underlying the argument: Prevailing social attitudes must take precedence over the documented discrimination caused by those attitudes. This principle is a menace, for it can justify the subjugation of any group. If today government is going to leave unchecked the harassment of law-abiding gays and lesbians pending a shift in social views, there is no guarantee tomorrow's passions will not restrict our freedoms of assembly, speech and worship.

Confronted with these objections, some pseudo-democrats reply that nondiscrimination based on sexual orientation should be left to individual company policy and not compelled by law. But this reply avoids the issue, for the absence of a law permits gays and lesbians to be denied the protections of law accorded all other citizens.

Let's move next to the clinical argument. At one time, the American Psychiatric Association classified homosexuality as a mental disorder. This classification reflected the view in the professional literature at the time; this literature was flawed by the absence of control groups. Only two populations of homosexuals were studied: guilt-ridden patients seeking treatment to change their sexual orientation, and prison inmates.

The hypothesis that homosexuality is a pathology is not verified by reference to results obtained from testing only two subpopulations of homosexuals. This is all the more obvious when we consider that the two groups tested are probably more likely than the rest of the population to exhibit pathologic behaviors. An acceptable experimental design would have compared test results on populations of homosexuals and heterosexuals assumed to differ from one another in only one characteristic --- their sexual orientation; but this was not done. Investigators trained in the rigors of scientific method violated the canons of that method by failing to conduct controlled experiments. The results of such failure were the generalization of findings on two atypical groups to the whole homosexual population and the subsequent confusion of homosexuality with pathology. How did these lapses pass professional peer review?

In 1957, Hooker published a seminal paper that for the first time applied the standard method of controlled experimentation to research on homosexuality. A nonpatient sample of homosexual and heterosexual persons was administered the same battery of projective tests. The test interpreters, all experienced diagnosticians, could not differentiate one group from the other on the basis of test results. Control groups became mandatory from that day on, and subsequent research findings replicated Hooker's results. Studies with control groups do not substantiate the theory that homosexuality is a pathology. (For bibliographic references see Silverstein's address to the APA in *Journal of Homosexuality* 2 (1976-7): 153-58).

These research findings were presented to the APA Nomenclature Committee in 1973. After analysis, the committee recommended the *Statistical and Diagnostic Manual* be amended to reflect these findings. The Board of Trustees accepted the proposal, noting that, "homosexuality *per se* implies no impairment in judgment, stability, reliability, or general social or vocational capabilities." The American Psychological Association, The American Medical

Association and other scientific groups have adopted similar statements. In this light, homosexuality itself cannot be used to denote sickness. The clinical argument is clinically outdated.

What about the choice argument? One of its variants was stated in Houston two years ago: "The other guarantees of the ordinance forbid discrimination on the basis of race, color, religion, age, disability, sex and national origin. They are acts of God. Homosexuality is a conscious selection...that deviates from the social norm. Should such a deliberate selection be lumped together with the acts of God?"

The degree of certainty assumed by this argument is questionable. Biological data suggest fetal hormonal exposure could lead to lifelong behavioral and physiological characteristics; specifically, prenatal hormonal influences may affect sexual orientation, whatever that orientation may be. One of these suggestive studies, published in *Science* (1984), found that response to estrogen differs in homosexual males and heterosexual women and men.

These data suggest the choice argument is untenable, for it seems inconsistent to oppose discrimination against persons due to a determined trait while endorsing the discrimination of others with perhaps equally determined traits.

I might add the majority of gays and lesbians are convinced they did not select their sexuality; instead, they believe their sexual orientation is innate, in the sense that it was present in them prior to and independently of their discovering and coming to terms with it. They suspect the same is true for heterosexuals, but society's reinforcement of heterosexuality makes the process easier for heterosexuals, so no one gives it much thought. This consensus deserves consideration as a report of human experience, but it should not substitute results obtained in controlled experimentation.

Theories on the biological determinism of sexual orientations are old. In 1899 and 1905, Hirschfeld campaigned to abolish Section 175 of the German penal code, which punished homosexuality; his research had led to a biological theory of sexual orientation. The Reichstag did not consider the topic worthy of debate. Hirschfeld's books and lab were burned. Remember Galileo's inquisitors?

The civil rights of gays and lesbians are strengthened by this research, but they do not depend on it. If sexual orientation were a choice of behavior with or without biological influence, homosexuals' need for legal protection would be similar to that required for religious and other freedoms. Two or more groups may disagree in their views and lifestyles, but the legal protections afforded them keep intolerance from becoming the law of the land, as it has in many countries. Indeed, to paraphrase Milton Friedman, America could not be the land of the free until we are free to choose our sexualities.

Justice Blackmun made this principle clear in his dissent from last summer's *Bowers v. Hardwick*, the Supreme Court ruling on the constitutionality of state sodomy laws: "Depriving individuals of the right to choose for themselves how to conduct their intimate relations poses a far greater threat to the values most deeply rooted in our nation's history than tolerance of nonconformity could ever do."²

I can say more I have to stop here. I hope this essay has helped you to understand our struggle to bring about a society of justice and respect for all. But understanding is not enough: action is needed. Your

² The Supreme Court has overruled *Bowers*. See *Lawrence v. Texas*, 539 U.S. 558 (2003). Accessed Apr. 21, 2023:

<https://www.supremecourt.gov/opinions/boundvolumes/539bv.pdf>

own actions I shall leave to your conscious, but I shall be blunt concerning institutional action.

The prejudicial misconceptions that lead to homophobia should be reason enough for a university to adopt policies to bar discrimination based on sexual orientation. The LGSA³ campaigned for such a policy some three years ago. The fact that more than half the student population and an equally impressive number of faculty members endorsed the proposed policy was the most gratifying result of the campaign. But the administration balked, arguing that law did not require this policy.

This reasoning is disturbing. Suppose a change in the political climate would lead to the repeal of present laws protecting minorities and women. Would Brown scrap its nondiscrimination policies if the laws requiring them were repealed? The reason prompting the administration not to issue a policy protecting sexual minorities casts doubt on Brown's true intentions for having nondiscriminatory policies and lets us ask this alarming question: Do the present nondiscrimination policies exist due to legal coercion or to conviction arising from their moral rightness?

Several companies and universities have adopted policies preventing homophobic discrimination, though no law required them to do so. Penn Mutual's statement sums up their rationale: "Equality of opportunity is a sound business objective that, by allowing us to make effective use of our human resources, helps us secure profitable growth."

Let us hope this light will soon guide our university; otherwise, its failure to do what is right should alert other minorities and women that their place here hangs precariously on the swinging balance of America's political pendulum.

³ LGSA = Lesbian & Gay Student Association, the name of Brown's student group. This footnote was not in the original; it was not necessary for the audience.

A Ph.D. candidate in the Philosophy Department, J.A. Díaz is on the Board of Directors of the Rhode Island Alliance for Lesbian and Gay Civil Rights.

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