

Theory, Tradition, and Contemporary Marriage

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The creation stories of various cultures include tales of Creators, and creatures both male and female;¹ the folk tales of many lands include a running battle of wits between the sexes.² In some respects, it is in those narratives that marriage is the combination of the respective strengths of male and female³; the culmination of their efforts to best each other is in marriage transformed into a joint project of best selves. While some in our contemporary cultures may view these foundational stories as little more than myth, others note that the women and men who have gone before us, our fathers and our mothers, recognized strengths and weaknesses common in the respective sexes, and were wise enough to appropriately recognize the need for men and women to cooperate in all aspects of society, but most especially in the home and family. Cultural wisdom comes from learning from those who went before.

Marriage has for centuries been the image of unity despite differences, and to some degree, has reflected the belief that “neither man nor woman is perfect or complete without the other;” they are enough alike to love each other, but enough different that they need to unite their strengths and stewardships to create a whole.⁴ The heterosexual union has formed an implicit norm for families and for family studies. For those who hold cultural or religious beliefs which support the traditional family founded on heterosexual marriage, or those whose lived experience of marriage has been fulfilling, a good marriage may appear to be obviously beneficial to men, to women, and to their children.

What may be less obvious, though, is how community—the ties that bind us in civil society—depends upon heterosexual marriage. As Wendell Berry notes, a community entails

a set of arrangements between men and women. These arrangements include marriage, family structure, divisions of work and authority, and responsibility for the instruction of children and young people. These arrangements exist, in part, to reduce the volatility and the danger of sex—to preserve its energy, its beauty, and its pleasure; to preserve and clarify its power to join not just husband and wife to one another but parents to children, families to the community, the community to nature; to ensure, so far as possible, that the inheritors of sexuality, as they come of age, will be worthy of it.⁵

Good News about the Traditional Family

Let’s consider some of the arguments in favor of traditional marriage.

Heterosexual Marriage is Good for Men and for Women

It now appears, from an analysis of two waves of data from the National Survey of Families and Households that the “emotional benefits of marriage apply equally to men and women, but that men and women respond to marital transitions with different types of emotional problems.”⁶

Marriage may provide the emotional support men and women need to face life’s various stressors. It may be that for many individuals, gender roles within the family may have served more as patterns against which the rising generation measures its development, rather than as cages which trap men and women and constrain their development. Marital roles invite greater knowledge of self and Other as the couple learn to love and support each other in the ordinary irritations and in the extraordinary joys of family life together. Jerrold Levinson contends “On the assumption that gender, the difference between masculine and feminine, whatever the extent of its natural basis, marks a highly significant division in the human world . . . the choice of homosexual over heterosexual orientation in the sexual arena arguably counts as a suboptimal one, because it offers reduced scope for the development of certain virtues, such as courage, maturity and trust, which initiating and sustaining a heterosexual relationship calls forth. As such it represents a missed opportunity in self-development, a small failure in duty to the self.”⁷

If it is the case that “the modes of being of men and women remain emotionally, bodily, and socially distinct, even in the modern world, and even as both modes exemplify personhood to the full . . . [then] in a sexual relationship . . . they are brought into contact in a way that allows for some sort of knowledge—knowledge by acquaintance, if you will—to flow across the divide.”⁸

I would argue further that by virtue of loving her husband and sons, it is possible for a woman to better perceive some of the strengths, concerns and some of the vulnerabilities that she could not see in her own father or her own brothers—and that might elicit a more understanding response to the males in her family and toward males generally. Conversely, through the experience of loving his wife and daughters, a man may be able to understand his own mother and sisters better, and perhaps have more concern for women in general. Marriage and family life does positively contribute to better physical, emotional, and financial health for men and women.

The same cannot yet be said for same-sex pairing. One suboptimal aspect of same-sex pairing is that it is not psychologically healthful. It appears that there are significant differences in psychological or physical health of gays and lesbians as compared to heterosexuals. A large-scale Dutch study found, for example, that there is a “higher prevalence of substance use disorders in homosexual women and a higher prevalence of mood and anxiety disorders in homosexual men, both compared with their heterosexual counterparts.”⁹ The usual response to statistics like these is that social stigma associated with homosexuality causes this suffering, and that were there more social acceptance of same-sex couples, there would be greater psychological health among gays and lesbians. Given that this study was conducted in the Netherlands, arguably the society most friendly toward non-heterosexual coupling, that conclusion is difficult to sustain.

Heterosexual Marriage of the Parents Benefits Their Children.

Heterosexual marriage capitalizes on the strengths of both a man and a woman, and protects against the weaknesses or vulnerabilities of either sex. Several decades of research suggest that there are differences between the sexes, and that by combining those differences in the child's behalf, the child benefits.¹⁰ Some research, for example, indicates that mothers tend to be risk-adversive and emotionally nurturing, while fathers tend to encourage their children to try new things, but tend to be less emotionally expressive.¹¹ It may be that such complementarity allows for the best emotional and social development for children, by encouraging growth while protecting them from grave harms. If it is the case that a same-sex couple would, in effect, double the both the strengths and weaknesses common to their sex, their child might not receive an upbringing as "balanced" as heterosexual parents could provide.¹²

Heterosexual Marriage Benefits Society.

Because traditional marriage helps create a stable environment in which a child may learn of his or her physical, emotional, social, cultural, and religious heritage, the society as a whole derives a benefit. Couples who invest themselves heavily in their marriage and in the rearing of their children build human capital, the basis for any successful society.¹³ Marriage requires that individuals think of someone other than themselves; marriage is bigger than the self (or even the two selves), and requires commitment to each other and to the community.¹⁴ Each wife and each husband holds a place of honor and importance in the giving and sustaining of human life; to deliberately deprive a child of the heritage of either a mother or a father is to impoverish that child in a multitude of ways.¹⁵ The female-male combination is more stable, more sustainable than either male-male or female-female,¹⁶ and so provides the best environment for child-rearing.

Marriage is the Foundation for the Multigenerational Family.

The longing to know about one's "roots," appears to be universal, and the multigenerational traditional family allows a child to see how family works across generations. The small child who helps her grandmother take a plate of hot food over to her great-grandfather learns about how interesting old people are, and how to treat them with respect. She begins to understand how one generation can help the next ones and is, in turn, helped by children and grandchildren. This helps her think of life not as bounded simply by her own birth and death, but as an overlapping chain of concern and commitment, of which she is a part.

The ever-growing practice of genealogical research as a hobby, as family history, and as a business illustrates the deep-felt need individuals have to find out more about their families of origin, and ultimately about themselves, and much of that self-knowledge can come by watching a parent care for a younger sibling, or care for an elderly grandparent, or by working with a parent or grandparent. In every day tasks, the child is invited to see how mothers and fathers, husbands and wives, men and women approach problem solving, negotiate resolutions, find humor in everyday incidents, or comfort each other when fearful or sad. In this context, the child learns that his or her actions affect other generations of the family, and learns how the respective gifts of men and women can bless the lives of their families.

What the Data Can't Tell Us

While a significant number of studies of the family offer support for the traditional family, it may be short-sighted to count on a compilation of data to validate a family form. Various studies in sociology, gerontology, child development, psychology, and family studies report data on sex differences, for example, but the interpretation of those data vary considerably from researcher to researcher. Some researchers characterize sex differences as “complementary,” and perhaps benign; other researchers condemn the belief in complementary gender differentiation as contributing to the oppression of women.¹⁷ While additional research is always needed to test what appear to be truisms, all research on the family is based on assumptions about the nature of human beings, the meaning of human sexuality, and the purpose of the family, and so should consider the philosophical and historical aspects of the heterosexual family, so that the data gathered reflects a clear-eyed assessment of the philosophical assumptions behind the research.¹⁸

All research proceeds on philosophical assumptions. Perhaps in part because so many families seem so troubled today, numerous scholars propose that we no longer view heterosexual marriage as the essential foundation for families. Rather, it is proposed that via “queer theory”¹⁹ the heterosexual norm for families be displaced, and that researchers focus on “family construction processes,” rather than on the structure of the family. In a sense, then, each individual is seen as constructing his or her sexuality and family according to his or her desires. The challenge of those incorporating queer theory into family theories, is “to bracket all assumptions about what configuration of members qualifies as ‘family,’ as individuals “make decisions to resist or accommodate heteronormativity.”²⁰ As sexual minority activists seek increased political power and social acceptance, the gay and lesbian rights movement argues that [t]he appropriation of the family model is crucial, as the family is the central place where sexual citizenship is affirmed. In contrast, a queer political strategy, born out of queer and AIDS activism of the 1980s, challenges the heterocentric model altogether.”²¹

It is my belief that family theory, research, and practice will require that there be a more complete understanding of the philosophy of the family in order for the data gathered to be interpreted in ways that will help us to better understand, support and improve what is generally termed the natural or traditional family--married biological parents and their children. I do not believe that it will be helpful to jettison heterosexual marriage as the norm, or to move to a “normless” theory of family studies.

Such a proposal is inherently contradictory in that it posits a social constructionist view of heterosexuality, but accommodates an essentialist view of individual desire²². Moreover, queer theory faces natural, biological limits which reduce its explanatory power.²³

Nevertheless, the proposal, though hardly new, is quite serious, and appears to have been well-received, for example, at the premier conference in North America on family theory, and is likely to have a significant impact on the kind of data-gathering done about families in the years to come. Legislative proposals in many nations reflect this approach already. Family theorists Ramona Faith Oswald, Libby Balter Blume, and Stephen R. Marks, describe heteronormativity as “a vast matrix of cultural beliefs, rules, rewards, privileges, and sanctions that impel people to reproduce heterosexuality and to marginalize those who do not.”²⁴ Their description of the binary thinking upon which they believe heterosexuality rests, appears to be

an intentionally faulty description of cultural practices, which when so described, are more open to attack from those who object to the alleged demand that individuals are required to fit into sex-stereotyped gender, sex, and family roles.. While acknowledging that “evidence abounds that many individuals’ lived experiences are not (and were not) as constricted as the ideological composite would suggest,” they find it objectionable that heteronormativity persists as “a continuing interpretive resource that guides social action at multiple levels.”²⁵

This proposal reflects first, that Gay Lesbian Bisexual, and Transgendered (GLBT) activists and academics do not “at any one moment,” as Douglas NeJaime points out, “express a single normative vision for the GLBT community,”²⁶ and second, that there is reluctance in the GLBT community for sexual norms of any kind to be recognized, because they fear that such norms may restrict them from engaging in sexual activities they desire, or may deprive those activities of the social acceptance or approval the GLBT community desires. The belief that individuals have the capacity, and the right, to define themselves and their relationships, seems to be fundamental to contemporary queering of family theory. There is an effort by researchers to “invert and subvert dualistic thinking” about men, women, and human sexuality, even as they acknowledge that norms remain central to the gathering and interpretation of data.²⁷ This undertaking – the deconstruction of the notion of heterosexual normality – will, they believe, give us a better understanding of heterosexuality itself, even as it is destabilized as the norm against which all other family forms are evaluated. In contrast to the traditional family structure, with its alleged binary thinking, they are interested in “complex gendering, complex sexualities, and/or complex families.” In short, they study: ways in which “humans resist or subvert sex stereotyping;” the practices of “homosexuality and heterosexuality . . . [and] bisexuality, asexuality, people who change their sexual identifications, and people who refuse any sexual identification or call themselves queer, as well as other fully consensual ways of complicating sexual identities and practices;” and the ways that individuals construct families, including biological and legal ties, and ties with “chosen” family members.²⁸ The subtext of their proposal is that affirming the dignity, creativity, and value of marginalized persons be a salient feature of family studies.

I agree that each individual is unique, valuable; I don’t think, however, that queer theory is the means to a positive transformation of the family or of family studies because:

Queer theory is inherently contradictory.

Queer theory faces natural or biological limits which reduce its explanatory power.

Queer theory is likely to disadvantage women.

Queer theory is likely to reinscribe the view of non-heterosexuals as abnormal.

Queer theory is likely to disadvantage children.

Each of these issues will be addressed in sequence below:

Queer theory is inherently contradictory.

If the social construction of heteronormativity is as powerful as it is described to be, then it is unclear how sexual, or gender self-definition can *not* be socially constructed, too. It appears that Oswald, et al, may represent the impulses “to reinvent” the way an individual “does” family, or “inner sensibility” in an essentialist fashion, since such impulses or sensibilities

seem not to be represented as socially constructed. There is no explanation, however, of how an impulse or an inner sensibility—of all human acts or sentiments—escapes being constructed either according to heteronormativity, or in resistance to heteronormativity. It may be that they are proposing a structuralist transformation: that is, by changing the structure of the family—disentangling sexuality, gender, and family configuration—desires and sensibilities will arise that are not influenced by heteronormativity. Certainly they are tracking what they see as the “potential family transformation that may lead people to queer their own patterns of doing family. . . .”²⁹

Another contradiction of queer theory is that while it ostensibly destabilizes all categories of sexuality, it is marshaled primarily in the defense of and affirmation of categories of sexual minorities: gays, lesbians, bisexuals, transsexuals, transgendered persons, and individuals questioning their sexual identity. This would appear to be an anti-essentialist theory used in support of essentialism, a contradiction of some consequence.³⁰

Further, it is not apparent from the present proposal and studies based on such an approach whether destabilization of sex, gender and family is:

- 1) intended to continue indefinitely;
- 2) should continue until certain preferred sexual orientations gain legitimacy;
- 3) should be practiced only until all categories of sexuality appear to be equally respected in society; or
- 4) should continue until there are no boundaries, that is, no norms for human sexual desire or activity. None of those outcomes seems likely.

Destabilization is unlikely to continue indefinitely because people have a stake in what is destabilized and any post-destabilization norms that arise. Decentering heteronormativity may simply shift normality to include alternative family structures or alternative sexual preferences. However, it is unclear why such a shift would necessarily improve the lives of individuals or groups, or even how it would be possible to evaluate whether the changes were good or bad.

Should destabilization of heteronorms expand far enough, a queernorm would likely arise³¹, which would then need to be destabilized, presumably by hetero- or other norms. But the destabilizing proposed by queer theory seems unidirectional: it is intended to undermine heterosexuality. Current objections to reparative therapy demonstrate that at least some homophiliacs have little tolerance with analyses or behaviors intended to destabilize queerness, if such destabilization tends toward heterosexuality.

It is unclear how to stop the destabilization process if we want simply to help queer folk gain legitimacy, or respect equal to heterosexuality. If we accept the analysis of binaries presented in Qswald’s analysis³² (and which are presumably equally applicable to triads, or quads, or quints), we would have to assume that one category would inevitably end up having more prestige or power than another, so there’s no guarantee that destabilization will result in a net gain for queer individuals or groups.³³

The real issue then, is choosing and defending the reasons, or grounds, for esteeming one category--whether it be varieties of sexual behaviors or varieties of family structures--as more valuable than another. Those grounds have historically included tradition, religion, and sustainability. It appears that Oswald, et al, propose creativity as the ground for judging family theory - either that or they are recommending a study of the family without reference to norms, other than that the family forms chosen be based on the mutual consent of adults.

Creativity as a criterion for judging the decentering project seems less than useful, since creativity is notoriously hard to measure. Is creativity in sexuality, gender, and family, by definition, only present when it challenges heteronormativity? If creativity is measured only by variation from the norm, then it ceases when the norm ceases to exist. It might be expected that over time sexual practices would pendulate between heterosexual and other categories, or that the creativity might move out of what are now considered fairly firm sexual boundaries of normality and into what are now considered immoral, illegal, or dysfunctional sexualities: necrophilia, bestiality, public lewdness, intergenerational sexual activity; incest, or coercive sexual activities. Left unexplained are what evaluative standards might be imagined as replacement(s) for a norm or norms for individual sexual behavior and family structure or process.³⁴

We already have published research on the fluidity of adult sexual identity, and it has been posited that such fluidity may actually be beneficial to children. However, we may not want to become a society of multiple sexual identities any more than we would want to become a society of multiple personalities. "Our existing society is one that depends in many circumstances on the ability to correlate a human body fairly reliably with a set of behavioral dispositions,"³⁵ John Dupre points out. While he concludes that "attempts at descriptive accounts of normal behavior can aspire only to the statistical," normative judgments of behaviors, he asserts, are culturally embedded, and should not be confused with statistical norms.³⁶ That means that we are likely to make comparisons among "the spectrum of 'sexual lifeways,'" and judge some better than others, even if the current norm is decentered. A new norm, or a norm for each subcategory is likely to arise, i.e., what is normal for heterosexuals, what is normal for nonheterosexuals.³⁷

Queer theory, like social construction theories in general, faces natural or biological limits which reduce its explanatory power.

As Richard Williams has argued,

... it seems to be a fact that human beings cannot 'conjure.' That is, we cannot, by any narrative act or any exercise of rational powers, bring into existence things in the material world. There are certain stubborn states of physical affairs—reflecting an underlying ontology—which do not adapt themselves to our narratives. We should be careful in assuming that there are no similarly stubborn ... states of human affairs—reflecting an underlying ontology—which similarly do not adapt themselves to our narratives, which we must thus seek to apprehend, and to which we must give considerable deference.³⁸

One reason heterosexual coupling has been dominant is that it is sustainable, it can reproduce itself, while same-sex couples cannot. For most of human history that ability to give and sustain life has been of fundamental importance, particularly to women. That such matters

of material fact can be characterized as “socially constructed” is an index of our wealth and of our reliance on technology. But both are historical and cultural anomalies. Only now and only in a few countries with access to advanced medical technology can costly contemporary desires such as sex reassignment surgery or gestational surrogacy be fulfilled.

The desire to decenter the heteronormative family may be an ethnocentric project in nations where most people are rich enough not to have to worry constantly about survival. The desire to define one’s self and relationships seems a romantic western notion, as contrasted to some Asian cultures which do not so privilege autonomy. As John Rothfork expresses it, “. . . Asians feel relieved and grateful to be given a set of directions and a provisional role to play; to start (living) somewhere instead of eternally dreaming about it (in adolescence).”³⁹ Queer theory may have less relevance in developing nations where simply sustaining life is hard, or in cultures where the multigenerational family is more important than the nuclear, or even the “intentional” family, or family of affinity or choice.⁴⁰

Until technology obviates the need for at least one man and one woman (suppliers of sperm and ova) in reproduction, it is highly likely that family will retain much of its heterosexual nature.⁴¹ Human reproduction is still a cooperative process between female and male, even when mediated by medicine or contract. Thus, the normativity of the heterosexual family is not merely socially constructed, it is part of the facts of our lives and part of our collective history. There are natural, factual limits to social construction projects because there are natural, factual limits to our bodies, and likely to our minds.

Queer theory is likely to disadvantage women.

Feminist theory alleges that the family has been identified as a site of oppression for women, but feminist theory has also recognized the family as a site of power and influence for women. Because the heterosexual family is the only important social institution in which large numbers of women have always participated, and have been *necessary* participants, I am unwilling to legitimate any form of the family that excludes women, or only exploits women’s reproductive capacity.⁴²

To some extent, intended or not, the feminisms of the past thirty years have erased the historical female role in bearing and sustaining life. To a large degree, both men and women now pursue “a fairly unsatisfactory version” of the male gender role.⁴³ That is unfortunate, and should not be replicated in the application of queer theory to family studies, lest women find that queer theory is hazardous to their social status.

The recent move to what “social critic John O’Neill calls the ‘libidinal body,’ the body that titillates and ravishes and is best embodied as young, thin, antimaternal, calculating, and disconnected,” is, as Jean Bethke Elshtain reminds us, “deeply, and troublingly antinatal–hostile to the regenerative female body and to the symbolism of social regeneration to which this body is necessarily linked.”⁴⁴

At a minimum, we can expect in family studies, as has happened elsewhere, a collision between queer theory and feminist (especially lesbian) feminist theory. As expressed by Amy Goodloe, queer theory “privileges sexuality, in both political analysis and cultural expression, over gender, and thereby threatens to erase or reduce the gender-bound experience of lesbians

as women.”⁴⁵ Some lesbian feminist theorists seem to have judged queer theory as male privilege and sexuality co-opting the work of feminists over the last three decades. Some “lesbian scholars have become acutely aware of the hegemony that queer theory threatens to hold over all studies of gender and sexuality in the academy, and have thus launched into full-scale critiques of its totalizing tendencies.”⁴⁶

Consider how the use of “gay” is in widespread usage, and sometimes represents gays and lesbians, sometimes the entire queer community, even in the most unlikely contexts. It is frequently alleged that there is a significant body of research on *gay* and lesbian parents. That research (which specializes in nonsignificance), is almost entirely about *lesbian* parents.⁴⁷ Though research also shows us that the sexual and coupling behaviors of male same-sex couples differs considerably from that of female same-sex couples, lesbians seem willing to allow gays to trail them into parental legitimacy. I don’t understand that apparent lesbian passivity in the social context of aggressive gayness.⁴⁸

Queer theory claims to represent transgender and transsexual concerns, but both of those groups tend to identify a different gender or sex as being necessary or essential to their identity. That could be interpreted as a case of essentialism (of gender or of sex) reified in cross-dressing or in a sex-change operation. It might be possible to define those choices as the ultimate examples of self-created sexual identities,⁴⁹ but that would need to be sketched out so that we could distinguish between essentialism and creativity in transgendered or transsexual persons. These forms of “self-fashioning” can hardly be the expression of “random presocial desires [because they] . . . take place in larger political contexts.” They may simply be variants of heteronormativity.⁵⁰

Queer theory is likely to reinscribe the view of nonheterosexuals as abnormal.

Dennis Altman notes that “‘Queer theory’ shares with much of contemporary postmodernism an emphasis on representation as an aesthetic rather than a political problem, a desire to deconstruct all fixed points in the interests of ‘destabilising’ and ‘decentering’ our preconceptions. Given the arcane language within which much such theory is written . . . this theory is almost totally ignored by the vast majority of people whose lives it purports to describe.”⁵¹

Altman is unconvinced that queer provides a useful term for political strategy or even in understanding power relations. “Indeed,” he contends, “there is a basic confusion around ‘queer,’ which is sometimes used to describe a particular way of being homosexual, perhaps expanded to include bisexual desires and unorthodox gender behaviour, and sometimes meant to represent the whole gamut of opposition to the sex/gender order, so that lesbian prostitutes and heterosexual, suburban sado-masochists are equally ‘queer.’” At this juncture, there may be too much slippage in core concepts for the project of decentering heteronormativity to provide an insightful theory or stable base for positive social change.

Anthropologist Donald E. Brown reportedly lists traits universal to all known people across all time periods: it is the heteronormativity of “‘families built around a mother and children, usually the biological mother, and one or more men,’ what columnist John Derbyshire calls “normality at the most basic level, recognized as such by Lapp reindeer herders, Roman Senators, Turkish peasants, Chinese warlords, fishermen on Lake Chad, stallholders in the

bazaars of Persia and aborigines in the Australian bush . . . by all human beings that have ever lived, except our enlightened selves.”⁵²

The destabilization approach may have the unintended effect of reinscribing a view of sexual minorities as either uncommonly driven by sexual desire, or as unstable because it is difficult for the law to accommodate the destabilization of sex and gender categories. For most people arrested and taken to jail, for example, it matters whether they are searched by or housed with persons of their own biological sex or not. Currently, in our response to and our analysis of domestic violence, both sex and gender appear to be salient features. Is domestic violence theory therefore unqueerable, even though we know that both gay and lesbian couples also experience domestic violence?

In child custody cases the best interests of the child include having a stable and permanent bond with the parent; anything which destabilizes the parent’s sexuality, gender, personal identity, or household may impair the stability of the parent-child bond, and negatively impact a custody decision. DSM-IV (APA 1994) recognizes as normal those who can demonstrate a stable, unitary, and consistent identity separate from other subjects.⁵³ Will judges consider a transsexual as stable as his/her heterosexual ex-spouse in custody cases? Given the fact that sex-reassignment surgery requires a showing of psychological distress to justify such drastic intervention, it may be that such a signifier of instability will be determinative in some cases.

One legal scholar expressed the difficulty with inconsistent or contradictory theories of queerness in discussing litigation tactics on behalf of sexual minorities: “What would you do if you were trying a class action with the most unruly of classes, like trying to herd kittens scurrying every which way [with] their theories, wants and desires?”⁵⁴

Is queer theory a fad? Gerald Graff contends that “[r]evolutionary ideas are picked up lightly, worn for a season, and disposed of when next season’s models come in. The very profusion and confusion of ideas simultaneously competing for attention ensures that many, if not all, viewpoints will be tolerated while few have much impact.”⁵⁵ Some theorists contend that queer theory is being used to shore up heterosexuality by helping to create a “sense of ‘virtual equality’ based more on ‘the appearance of acceptance by straight America than on genuine civic parity.’”⁵⁶

Queer theory is likely to disadvantage children.

Queer theory may turn family studies into a merely descriptive art, rather than a predictive or evaluative science.⁵⁷ If there is no norm, if queering family studies affirms the capacity of all people to define themselves and their relationships, it would seem that each individual’s desires, however fluid or capricious, would be validated, and so could be described, but not evaluated.

In a normless form of family studies, what process or criteria might be used by a custody evaluator? What guidance can normless family studies give a judge who must decide the fate of a child born during a heterosexual marriage, and now after her parents’ divorce, must live either with her mother, who is now a Christian polygamist, the second “spiritual” wife of a man who is currently advertising for a third wife on the internet,⁵⁸ or her father, who is in a polyamorous

living arrangement with one woman, two men, and their respective children (four in number). Both family forms help decenter heterosexual norms, but it is unclear how affirming the human dignity, creativity and autonomy of the respective parents would provide a principled basis for evaluating the efficacy of the family forms available to this child.

It is unsubstantiated, wishful thinking to suppose that a child caught in the instability of her parents' fluctuating sexual identities will necessarily, like the daughter of a lesbian and transsexual activist "father" highlighted as a success story for sexual fluidity, "emerge from her adolescence with a much better chance than most of us to select whatever form of sex and gender expression and sexual object choice are most compatible with her inner sensibilities."⁵⁹ We do know that family instability increases a child's risk of abuse,⁶⁰ and that "less sexually permissive family cultures" delay adolescents' sexual debut, reducing their risk of pregnancy and sexually transmitted diseases.⁶¹ To make the queered version of family studies useful in the law, we would need to have a reasonable way to judging whether a child will have a safe, stable home whether straight or queer.

The proposed queering of family studies does not give us any way of measuring the effectiveness of family forms or processes. Presumably consent in sexual relationships, and egalitarian, nonexploitive family forms are more desirable than their opposites, but we can't assume that simply decentering heterosexuality will insure that those qualities of family will arise. Perhaps "disentangled" desire will result in a Sartrian "insatiable desire to consume, acquire, dominate, violate, and destroy,"⁶² causing increased inequity, exploitation, or coercion. Certainly that concern is part of the subtext of the debates about same-sex marriage, polyamory, polygamy, intergenerational sex, pornography, and other aspects of sexual behavior outside traditional boundaries, all of which might be seen to have the potential to destabilize the heteronormative family.

Right now postmodernist feminist, lesbian, and queer theories can attribute any and every negative individual or familial trait to heteronormativity, because it is the dominant form. As researchers study creatively self-defined individuals and their sexual behaviors, and their families of choice, will the researchers have the evaluative tools to report negative outcomes, if any? If the "main goal" is de-centering heterosexuality and heteronormativity, by definition, that precludes to some extent self-critical analysis, or any critique that would subvert that decentering. If queer theory does not allow a self-critical stance, all that is left for us is to appreciate that "diversity," and suspend judgment about the potential impact those disorders could have on individuals and their children.

Surely a researcher would be at liberty to reread with a "straight eye" the coming out stories of gays and lesbians not as parents rejecting their children, but as children rejecting their parents, the multigenerational family, their own history, and condemning the very heterosexual relationships which brought them into being, just as queer theory rejects heteronormativity, our own history, and the relationships which brought us into being. Perhaps theorists engaged in an overt effort to destabilize heteronormativity could remain open to the possibility that their efforts could also result in individual, familial or social ills. Presumably they would not feel constrained to hide those ills.

To keep family theory part of an interpretative or predictive social science, it is necessary to master the individual agent's or family's self-description;⁶³ but that does not mean that we

must adopt that individual's or family's point of view. Researchers must be willing to evaluate families, their structures, functions, aspirations, processes—at least if we want family studies to remain a relevant, applied social science.

The Donald Norman axiom that “[A]cademics get paid for being clever, not for being right,”⁶⁴ ought to sober us. We haven't got family theory right, yet. But queer theory may be more usefully applied to texts than to people. It doesn't much matter what kind of interpretation we make of *Hamlet*; we can be creative, and put binary opposites into play, and at worst, people only get bored and stop reading or listening. In contrast, a theory of the self or the family which encourages creative experimentation with sexual identities could have grave consequences for some teen questioning heteronormativity, as well as the society that may have to pick up the pieces.⁶⁵

Philosophical Bases for the Traditional Family

I have rehearsed and critiqued⁶⁶ the proposed normless family theory at length in order to illustrate the results of a paucity of good theoretical and philosophical work in support of the natural family. There has been an erosion of what many would see as the foundation for personal identity, family structure, and society and culture generally. While we have a rich history and tradition about family life, and considerable research about family processes and dynamics, we have relatively little about the underlying justification for the heterosexual family⁶⁷, perhaps because it seemed self-evident, or because religious and cultural tradition were more generally valued until recently.

As scholars proceed to collect data that many of us would hope would be supportive of the natural or traditional family, it will be necessary for some to continue the theoretical and philosophical work as well. One fruitful area may be a reintroduction of at least some natural law concepts articulated for our own times. For example, Robert George notes that some of the most contentious issues today “are concerned with sexuality, the transmitting and taking for human life, and the place of religion and religiously informed moral judgment in public life.” He argues that the positions on these issues taken by traditional Christian, Jewish, and to a large extent Islamic morality are rationally superior to the positions taken by those who have abandoned that religious worldview in favor of various “isms”—“feminism, multiculturalism, gay liberationism, lifestyle liberalism,” what he calls “secularist orthodoxy.”⁶⁸ He also acknowledges classical philosophy, rather than religious tradition, can form a basis for similar conclusions. The important point being that such a philosophical foundation allows a basis for a shared understanding of what constitutes a basic human good, and acknowledges that there can be a consensus, rather than each individual constructing his or her own conception of what is good or moral.

George lists marriage as an intrinsic or basic human good which provides noninstrumental reasons for choice and action, thus justifying a definition of marriage and family. He argues that the heterosexual marital relationship

mak[es] spouses truly, and not merely metaphorically, ‘two in one flesh.’ The sexual union of spouses—far from being something extrinsic to marriage or merely instrumental to procreation, pleasure, the expression of tender feelings, or anything

else—is an essential aspect of marriage as an intrinsic human good. Marital acts are the biological matrix of the multi-level (bodily, emotional, dispositional, spiritual) sharing of life and commitment that marriage is.⁶⁹

George concludes that “marital acts realize the unity of marriage, which includes the coming to be of children. In consensual nonmarital sex acts, then, people damage this unity, the integrity of the marriage, inasmuch as the body is part of the personal reality of the human being and no mere sub-personal instrument to be used and disposed of to satisfy the subjective wants of the conscious and desiring part of the ‘self.’”

This is a brief introduction to the foundation George lays for heterosexual marriage and against sexual activity outside of marriage. It is an implicit refutation of homosexual marriage, and could help provide the foundation for a philosophy, or a psychology, or a family theory undergirding research that would support the viability or efficacy of the traditional family. Additional work needs to be done to answer the postmodernist and feminist critiques of the traditional family, and to find legal models of the family that are more appealing than contract or economic analysis.

John Witte, Jr., reminds us that

marriage is one of the great mediators of individuality and community, revelation and reason, tradition and modernity. Marriage is at once a harbor of the self and a harbinger of the community, a symbol of divine love and a structure of reasoned consent, an enduring ancient mystery and a constantly modern invention.⁷⁰

As he points out

Ideally, marriage enhances the life of a man and a woman by providing them with a community of caring and sharing, of stability and support, of nurture and welfare. Ideally, marriage also enhances the life of the child, by providing it with a chrysalis of nurture and love, with a highly individualized form of socialization and education.⁷¹

If we are to continue to view this ideal, if only as an aspiration, we need to draw on the resources of tradition, theory, practice and research to present a coherent body of knowledge that makes that aspiration a genuine, living possibility.

¹ See, e.g., Bernard Doyle, *Creation Myths*, ENCYCLOPEDIA MYTHICA FROM ENCYCLOPEDIA MYTHICA ONLINE. http://www.pantheon.org/articles/c/creation_myths.html [Accessed October 05, 2004].

² See, e.g., ROBERT ALTER, *THE ART OF BIBLICAL NARRATIVE* (1981).

³ MELISS BUNCE, *HAPPILY EVER AFTER: FOLKTALES THAT ILLUMINATE MARRIAGE AND COMMITMENT* (August House Publishers, 2003).

⁴ See, e.g., Sheri L. Dew, *It is Not Good for Man or Woman to Be Alone*, *ENSIGN*, Nov. 2001, 12, at [http://library.lds.org/nxt/gateway.dll?f=templates\\$fn=default.htm](http://library.lds.org/nxt/gateway.dll?f=templates$fn=default.htm).

⁵ Wendell Berry. *Sex, Economy, Freedom and Community* 120 (Pantheon Books, 1993).

⁶ Robin W. Simon, *Revisiting the Relationships among Gender, Marital Status, and Mental Health*, AMERICAN JOURNAL OF SOCIOLOGY, 107:4 (Jan. 2002).

⁷ Jerrold Levinson, *Sexual Perversity*, THE MONIST, 86:1, 30-54, at 41, (2003) referring specifically to Roger Scruton, *Sexual Desire: A Philosophical Investigation* (London: Weidenfeld and Nicolson, 1986) [U.S. edition: New York Free Press, 1986]. Levinson is not condemning homosexual relationships, however.

⁸ *Id.*

⁹ Theo G. M. Sandfort et al., *Same-sex Sexual Behavior and Psychiatric Disorders: Findings from the Netherlands Mental Health Survey and Incidence Study (NEMESIS)*, 58 ARCHIVES OF GENERAL PSYCHIATRY 85 (2001). This large-scale study was conducted in the country which is arguably the most gay/lesbian friendly in the world, so it is unlikely that the disorders arise from homophobia, internalized or otherwise, the authors seem to conclude that "sex-atypical levels of prenatal androgens play a major role in the causes and development of homosexuality."

¹⁰ STEVEN E. RHOADS, *TAKING SEX DIFFERENCES SERIOUSLY* (San Francisco: Encounter Books, 2004) compiles and summarizes a significant amount of the research in arguing that the differences appear to be real, and ought to be recognized by individuals and policy makers.

¹¹ Research on gender differentiated parental approaches are summarized in BRENDA HUNTER, *THE POWER OF MOTHER LOVE: TRANSFORMING BOTH MOTHER AND CHILD* (Westbrook Press 1997) and also in KYLE D. PRUETT, *FATHER NEED: WHY FATHER CARE IS AS ESSENTIAL AS MOTHER CARE FOR YOUR CHILD 17-53* (The Free Press 2000).

¹² James M. Herzog, a psychoanalyst, has examined what he calls "father hunger" among the children of divorced parents. Boys especially seem to need to have a father who is loved by the mother, showing him how to "recognize his masculinity and claim it functionally rather than succumb to its inherent capacity to disorganize and destroy." *FATHER HUNGER*, (Hillsdale, NJ: The Analytic Press, 2001) 310-311. Herzog contends that fathering is "a distinctly male form of caretaking," which he argues can only successfully occur in the presence of a mother, and is "contingent on the presence of homeostatic-attuned caregiving by the mother." At 259-260.

¹³ ANN CRITENDEN, *THE PRICE OF MOTHERHOOD* (Metropolitan Books 2001).

¹⁴ WENDELL BERRY, *SEX, ECONOMY, FREEDOM AND COMMUNITY* (Pantheon Books 1993).

¹⁵ See Camille S. Williams, *Planned Parent-Deprivation: Not in the Best Interests of the Child*, WHITTIER JOURNAL OF CHILD AND FAMILY ADVOCACY, in press.

¹⁶ See JANIS S. BOHAN, *PSYCHOLOGY AND SEXUAL ORIENTATION: COMING TO TERMS* 192 (Routledge 1996); Michael Shernoff, *Male Couples and their Relationship Styles*, 2 THE J. OF GAY & LESBIAN SOCIAL SERVICES 2 (1995), at <http://www.gaypsycholtherapy.com/relstyle.htm>; David E. Greenan, *Do Open Relationships Work? Gay Couples and the Question of Monogamy*, 27 PSYCHOTHERAPY NETWORKER 3 (May/June 2003), at <http://gaypsychotherapy.com/networkermonogamy.htm>; Michael Shernoff and Jack Morin, *Monogamy and Gay Men: When are Open Relationships a Therapeutic Option?: Case Study and Commentary*, FAMILY THERAPY NETWORKER (March/April, 1999) at <http://www.gaypsycholtherapy.com/MONOAMYCASE.htm>. Also, LAUMANN, ET AL, *THE SOCIAL ORGANIZATION OF SEXUALITY* (1994), cautions that the sample size of persons in his study who might be classified as homosexual is too small to confidently generalize to the larger population, he also notes "the group of people with same-gender partners (or who define themselves as homosexual or bisexual) have higher average numbers of partners than the rest of the sexually active people in the sample." Laumann, at 312. "Married men and married women exhibit substantially higher rates of sexual exclusivity than do people in other marital statuses." Laumann, at 192. Laumann opines that formal recognition of same-sex relationships might provide social pressure supportive of long-term bonding for same-sex couples. Laumann, at 316.

¹⁷ See, for example, Angelamaria Loreto et al., *Equal Dignity Between Man and Woman Enhances the Value of Differences: The Keys of Conflict Resolution, Integration and Cooperation Are in the Brain*, INTERNATIONAL CONFERENCE, BARRIERS TO WOMEN'S CAREER IN ACADEMIA: A DIALOGUE BETWEEN SOCIAL PSYCHOLOGY AND POLICY, Sala della Biblioteca - Palazzo della Penna, Perugia, 6 October 2001. Nuray Sakalli, links "complementary gender differentiation" to "benevolent sexism" and violence in *Beliefs About*

Wife Beating Among Turkish College Students: The Effects of Patriarchy, Sexism, and Sex Differences, *SEX ROLES: A J. OF RESEARCH*, May, 2001. For a religious interpretation of the complementary natures of the sexes see <http://www.vision.org/jml/0310/feminism.html>.

¹⁸ This caveat is applicable to the social sciences generally. See BRENT D. SLIFE AND RICHARD N. WILLIAMS, *WHAT'S BEHIND THE RESEARCH? DISCOVERING HIDDEN ASSUMPTIONS IN THE BEHAVIORAL SCIENCES* (Sage, 2001).

¹⁹ "Queer" is not used here as a pejorative, but is the term selected by those advancing the theory, and is used to refer to a variety of activities or beliefs in opposition to heterosexuality. Martha M. Ertman, *Constructing Heterosexuality: Reconstructing Marriage: an InterSEXional Approach*, 75 *DENVER UNIVERSITY LAW REVIEW* 1215, 1226-1227, (1998) notes that "Queer Legal theory builds on the insights of poststructuralism, feminist and critical race theory, as well as critical legal studies to critique legal theory and doctrine based on their impact on gay people."

²⁰ Ramona Faith Oswald, Libby Balter Blume, Stephen R. Marks, *Decentering Heteronormativity: A Model for Family Studies*, in VERN L. BENGTON, ALAN C. ACOCK, KATHERINE R. ALLEN, PEGGYE DILWORTH-ANDERSON, DAVID M. KLEIN, *SOURCEBOOK OF FAMILY THEORY AND RESEARCH* (Thousand Oaks: Sage, 2004), 148..

²¹ Keri Jacqueline Brandt, *The Skin We Live In: Explorations of Body Modification, Sexuality, and Citizenship*, Review Essay, *SYMBOLIC INTERACTION*, 27:3, 429-436, at 430.

²² This problem has been recognized by feminist and sexual orientation theorists, who have attempted to keep, for example, "woman" from collapsing "into Aristotelian essentialism because essence is not viewed as an immutable underlying characteristic of a thing. It changes with cultural understanding which is itself informed by empirical science, but . . . always involves power. . . . There is no fixed definition of woman as stake because the possibility of such a move is closed by the emphasis upon an essence that is subject to change." JANICE RICHARDSON, *SELVES, PERSONS, INDIVIDUALS: PHILOSOPHICAL PERSPECTIVES ON WOMEN AND LEGAL OBLIGATIONS* (Ashgate, 2004), at 40 (discussing feminist nominalism and essentialism, particularly in the work of Battersby). EDWARD STEIN, *THE MISMEASURE OF DESIRE: THE SCIENCE, THEORY AND ETHICS OF SEXUAL ORIENTATION* (Oxford University Press, 1999), describes queer theory as "the project of dredging up the heterosexist and homophobic assumptions deeply embedded in various disciplines. By exploring sexual orientation in metaphysics, science, and ethics, I have tried to break free of the tyranny of custom in thinking about sexual orientation using philosophy and queer theory." His discussion of social constructionism and essentialism includes a list of strengths and weaknesses of the theoretical perspectives he examines. Needless to say, however, his effort to free himself of the "heterosexist and homophobic assumptions" to which he refers demonstrates his own allegiance to social acceptance of homosexuality, and other alternative sexual practices.

²³ See Stan J. Knapp and Camille S. Williams, *Where Does Queer Theory Take Us?*, in VERN L. BENGTON, ALAN C. ACOCK, KATHERINE R. ALLEN, PEGGYE DILWORTH-ANDERSON, DAVID M. KLEIN, *SOURCEBOOK OF FAMILY THEORY AND RESEARCH* (Thousand Oaks: Sage, 2004), 626-628

²⁴ Ramona Faith Oswald, Libby Balter Blume, Stephen R. Marks, *Decentering Heteronormativity: A Model for Family Studies*, in VERN L. BENGTON, ALAN C. ACOCK, KATHERINE R. ALLEN, PEGGYE DILWORTH-ANDERSON, DAVID M. KLEIN, *SOURCEBOOK OF FAMILY THEORY AND RESEARCH* (Thousand Oaks: Sage, 2004), 144.

²⁵ Id.

²⁶ Douglas NeJaime, Note: *Marriage, Cruising, and Life in Between: Clarifying Organizational Positionalities in Pursuit of Polyvocal Gay-Based Advocacy*, 38 *HARVARD CIVIL RIGHTS-COMMUNITY LAWYERING LAW REVIEW* 511 (2003).

²⁷ See Peter Hegarty and Felicia Pratto, *The Differences that Norms Make: Empiricism, Social Constructionism, and the Interpretation of Group Differences*, 50 *SEX ROLES* (78) 445, 452 (April 2004).

²⁸ Ramona Faith Oswald, Libby Balter Blume, Stephen R. Marks, *Decentering Heteronormativity: A Model for Family Studies*, in VERN L. BENGTON, ALAN C. ACOCK, KATHERINE R. ALLEN, PEGGYE

DILWORTH-ANDERSON, DAVID M. KLEIN, SOURCEBOOK OF FAMILY THEORY AND RESEARCH (Thousand Oaks: Sage, 2004), 148.

²⁹ *Id.*, at 151.

³⁰ See Charles Taylor, *Foucault on Freedom and Truth*, 178-9 in PHILOSOPHY AND THE HUMAN SCIENCES: PHILOSOPHICAL PAPERS 2. Cambridge UP, 178-9 (1985). Charles Taylor wonders (in footnote 51) whether Foucault is trying to have it both ways with the notion of resistance arising from desire, from the body, inarticulate and unarticulated even to ourselves. This makes no sense, he says, concluding that resistance requires that there must be an articulation, and an affirming of the truth of that articulation against the specious claims of the system of control. This, of course, is a much simplified fragment of both Foucault's work and Taylor's critique.

³¹ John Dupre, *Normal People*, SOCIAL RESEARCH 65:2, 221-249 (1998).

³² See Oswald, *et al*, *supra* n. 20.

³³ In analogous fashion, destabilizing a totalitarian government does not necessarily result in freedom nor democracy for a nation.

³⁴ The deconstruction of heteronormativity has already begun, but it may only reinscribe the existing binary: the heterosexual and the queer. It appears that the task of deconstructing of heteronormativity could be mistaken for endorsing what Freud called "polymorphous perversities" at their most creative.

³⁵ Even if the multiple sexual identities, or a fluid identity, seemed optimal to the individual, that is no guarantee that the individual's spouse would agree, or would develop a similarly fluid sexual identity accepting of the spouse's variations. This could significantly impact familial stability.

³⁶ Dupre, *supra*. at n. 22.

³⁷ If the deconstruction alluded to is a deconstruction of norms in general, then queer theory may have incorporated a misunderstanding of deconstruction *a la* Jacques Derrida, who notes that "deconstructing academic professional discourse doesn't mean destroying the norms or pushing these norms to utter chaos," and cautions "I'm not in favor of disorder." Interview with Gary A. Olsen, *Jacques Derrida on Rhetoric and Composition: A Conversation*, IN GARY OLSEN & ILENE GALE EDS, INTERVIEWS: CROSS-DISCIPLINARY PERSPECTIVES ON RHETORIC AND LITERACY s., Southern Illinois UP, 121-141, 1991), quoted in James E. Faulconer, *Deconstruction* (1998), at <http://jamesfaulconer.byu.edu/deconstr.htm>.

³⁸ Richard N. Williams, *Psychology in the Breach: The Importance of Being Earnest*, in NIAMH STEPHENSON, H. LORRAINE RADTKE, RENÉ JORNA, HENDERIKUS J. STAM, THEORETICAL PSYCHOLOGY: CRITICAL CONTRIBUTIONS, SELECTED PROCEEDINGS OF THE NINTH BIENNIAL CONFERENCE OF THE INTERNATIONAL SOCIETY FOR THEORETICAL PSYCHOLOGY, Calgary, Alberta, Canada June 3-8, 2001 (Concord, Ontario: Captus University Publications, 2003), 2-10.

³⁹ John Rothfork, *Foucault on Freedom & Truth*, CHARLES TAYLOR, PHILOSOPHICAL PAPERS 2: QUESTIONS & ANSWERS #6 "Foucault offers us an angry, adolescent day-dream of identity as uncompromised. The outrage in his tone implies that we have been victimized by the conditions of actual life." at <http://jan.ucc.nau.edu/~jgr6/NMT/2Tay6.html>.

⁴⁰ For a discussion of intentional families see KATH WESTON, *FAMILIES WE CHOOSE: LESBIANS, GAYS, KINSHIP* (Columbia University Press, 1991)

⁴¹ We do not yet clone human beings, so the heterosexual family *is* both social and biological. Although it is unclear, apart from the many ethical concerns, what relationship the clone would have to the person cloned. It isn't a child, although like a child he or she was brought into being by another person—but only one, not two persons. A delayed twin, perhaps, although can it be said that the parents of the person cloned are also the parents of the clone?

⁴² For example, the gay couple who use a woman as a gestational surrogate to produce for them a child biologically related to one of them.

⁴³ See Rita M. Gross, *What Went Wrong?: Feminism and Freedom from the Prison of Gender Roles*, 8-20 CROSSCURRENTS, 53:1(Spring 2003).

⁴⁴ Jean Bethke Elshtain, *Against Gay Marriage—II: Accepting Limits*, 685-686 COMMONWEAL (22 November 1991). She quotes John O'Neill, in part.

⁴⁵ Amy T. Goodloe, *Lesbian Feminism and Queer Theory: Another 'Battle of the Sexes'?* at <http://www2.kenyon.edu/Depts/WMNS/Projects/Porteousd/Lesbian%20..> (1994). Goodloe's discussion is here in reference to Arlene Stein's 1992 article *Sisters and Queers: the Decentering of Lesbian Feminism*, 22.1 SOCIALIST REVIEW 33-35 (January 1992).

⁴⁶ Goodloe, at 3.

⁴⁷ "As is common in research on gay and lesbian parenting, more lesbian mothers (336) than gay fathers (79) volunteered to participate. This may be due to the fact that the sample included only custodial parents, and for previously married individuals, fathers are still less likely to receive custody than are mothers. Another possible explanation is that there may be fewer gay fathers than lesbian mothers in the nation, or the sample may not be representative of the true proportion of gay and lesbian parents in this country." Beverly R. King, *I Have "A Mommy, a Daddy, and a Barbara": The Psychology of Parenting as a Lesbian or Gay Man* (sic), 39(4) JOURNAL OF SEX RESEARCH, 335 (2002), describing the National Study of Gay and Lesbian Parents. See also Charlotte J. Patterson, 62 *Family Relationships of Lesbians and Gay Men*, JOURNAL OF MARRIAGE AND THE FAMILY 1052-1069 (November 2000). "Although some gay men are also becoming parents after coming out, no research has yet been reported on their children."

⁴⁸ Perhaps there is some kernel of truth to the Dan Savage theory of lesbian deep-process versus gay nonprocessing (or to the old notion that changing the family structure changes family process). DAN SAVAGE, *THE KID (WHAT HAPPENED AFTER MY BOYFRIEND AND I DECIDED TO GO GET PREGNANT: AN ADOPTION STORY)* (Penguin, 2000). When the various females can't make a decision about collaborating with Dan to make a baby, Dan and his lover, Terry, decide to adopt the child of a young woman they refer to as a gutterpunk. *But see* the feisty Ruthann Robson, *Resisting the Family: Repositioning Lesbians in Legal Theory*, 19:4 SIGNS 975 (Summer 1994), who argues that "family must be problematized as a nonessential, cognitive, and contested category," (at 979) arguing that the "domestication of lesbianism must be resisted" (at 991), and that "lesbian relations are comensurate [not to familial relations] but only to themselves" (at 993).

⁴⁹ See Bernice L. Hausman, *Recent Transgender Theory*, 27(2) FEMINIST STUDIES, 465 (2001), quoting PAT CALIFIA, *SEX CHANGES: THE POLITICS OF TRANSGENDERISM* 224 (Cleis Press 1997). "A new sort of transgendered person has emerged, one who approaches sex reassignment with the same mindset that they would to obtaining a piercing or a tattoo." *But see*, Cressida Heyes' discussion of Raymond and Hausman, *infra*.

⁵⁰ See Cressida J. Heyes, *Feminist Solidarity after Queer Theory: The Case of Transgender*, 28(4) SIGNS: JOURNAL OF WOMEN IN CULTURE AND SOCIETY, 1093 (2003), especially her discussion of the work of Janice Raymond and Bernice Hausman, at 1098-1109.

⁵¹ Dennis Altman, *On Global Queering*, AUSTRALIAN HUMANITIES REVIEW at <http://www.lib.latrobe.edu.au/AHR/archive/Issue-July-1996/altman.html> (1996).

⁵² John Derbyshire, *Situation Normal*, NATIONAL REVIEW, June 11, 2001, at <http://olimu.com/Journalism/Texts/Commentary/Normal.htm>, quoting Brown, in part.

⁵³ Marie Crowe, *Constructing Normality: A Discourse Analysis of the DSM-IV*, 7 JOURNAL OF PSYCHIATRIC AND MENTAL HEALTH NURSING, 71 (2000).

⁵⁴ Kate Diaz et al., *Queer Law 1999: Current Issues in Lesbian, Gay, Bisexual and Transgendered Law*, 27 FORDHAM URBAN LAW JOURNAL 279, 359 (2000).

⁵⁵ GERALD GRAFF, *AMERICAN CRITICISM LEFT AND RIGHT, IDEOLOGY AND CLASSIC AMERICAN LITERATURE*, Sacvan Bercovitch & Myra Jehlen eds., Cambridge UP, 94 (1986), quoted by Helene Meyers, in *To Queer or Not to Queer: That's Not the Question*, 24(1) COLLEGE LITERATURE 171 (1997).

⁵⁶ URVASHI VAID, *VIRTUAL EQUALITY: THE MAINSTREAMING OF GAY AND LESBIAN LIBERATION* xvi (Doubleday 1995), quoted by Meyers, H., in *To Queer or Not to Queer: That's Not the Question*, 24(1) COLLEGE LITERATURE 171 (1997).

⁵⁷ I understand the objections to using science as applied to human behavior, but use the term here as a short reference to what are usually termed the social sciences. "Science" also carries the sense that its knowledge claims are at least somewhat more than whimsy, desire, and self-construction.

⁵⁸ The scenario is imagined, but possible. See <http://www.polygamy.net> and <http://www.polyamorysociety.org/page6.html>.

⁵⁹ Ramona Faith Oswald, Libby Balter Blume, Stephen R. Marks, *Decentering Heteronormativity: A Model for Family Studies*, in VERN L. BENGTSON, ALAN C. ACOCK, KATHERINE R. ALLEN, PEGGYE DILWORTH-ANDERSON, DAVID M. KLEIN, SOURCEBOOK OF FAMILY THEORY AND RESEARCH (Thousand Oaks: Sage, 2004), 151.

⁶⁰ See, e.g. Robin Frerwell Wilson, *Children at Risk: The Sexual Exploitation of Female Children After Divorce*, 86 CORNELL LAW REVIEW 251 (2001); and Michael N. Stiffman et al., *Household Composition and Risk of Fatal Child Maltreatment*, 109:4 PEDIATRICS 615-621 (2002). Unrelated adult males in the household are the most common perpetrators.

⁶¹ This is a rereading of Oswald, et al's reading of Erin Calhoun & Lisa V. Friel, *Adolescent Sexuality: Disentangling the Effects of Family Structure and Family Context*, 63:3 JOURNAL OF MARRIAGE & FAMILY 669 (2001).

⁶² Craig Beam, *Sartre vs. Nietzsche: Will to Power, Platonism, and Pessimism*, 17(2) THE CARLETON UNIVERSITY STUDENT JOURNAL OF PHILOSOPHY 3 (1998), at <http://rideau.carleton.ca/philosophy/cusjp/v17/n2/beam.html>.

⁶³ Charles Taylor's caution in *Understanding and Ethnocentricity*, PHILOSOPHICAL PAPERS 2 (Cambridge UP, 1985).

⁶⁴ As should the article introduced by that axiom, authored by Chip Morningstar, "How to Deconstruct Almost Anything," at <http://www.icp.com/~mary/decon.html>, also at <http://www.fudco.com/chip/deconstr.html>.

⁶⁵ See, e.g. Stephen T. Russell et al., *Same-Sex Romantic Attraction and Experiences of Violence in Adolescence*, 91:6 AMERICAN JOURNAL OF PUBLIC HEALTH 903 (2001); also, Laura Dean, et al, *Lesbian, Gay, Bisexual, and Trans gender Health: Findings and Concerns*, 4:3 JOURNAL OF THE GAY AND LESBLAN MEDICAL ASSOCIATION 101 (2000). Because fecal material can carry so many pathogens, anal-genital and anal-oral sex have a high risk of infecting at least one of the participants.

Although homosexuality has been declassified as a psychological disorder for decades, the tendency of MSM [men who have sex with men] to engage in high-risk sex has led researchers to propose that in addition to educational efforts about the biological facts of high-risk sexual practices, preventative measures must also address the "psychosocial factors" which "influence sexual risk-taking." Dean, at 114.

⁶⁶ A significant portion of this paper was from my response to and earlier version of Oswald, et al's *Decentering Heteronormativity*; both were presented at the Theory Construction and Research Methods Conference in Vancouver, B.C., November 2003.

⁶⁷ There is considerable debate in law reviews, much of which relies on various philosophical or theoretical constructs, but relatively little philosophical discourse on the natural family itself, other than feminist critiques, which tend not to support the traditional family.

⁶⁸ Robert George, *A Clash of Orthodoxies*, 95 FIRST THINGS 33 (Aug/Sept. 1999). Available at <http://print.firstthings.com/ftissues/ft9908/articles/html>.

⁶⁹ *Id.* at 36-37.

⁷⁰ John Witte, Jr., *The Meaning of Marriage*, 126 FIRST THINGS 30, 30 (October 2002).

⁷¹ *Id.* at 41.