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A LESBIAN VISION

Mary Newcombe*

It is with true pleasure and pride that I compose these thoughts of welcome to this new journal. As an alumna of relatively recent vintage, I can attest to the creation and nurturing of a vibrant feminist legal tradition at UCLA School of Law over the past ten years. As an activist lawyer in the lesbian and gay community, I have relied on this scholarship for my own work, and more importantly, for my own inspiration — both in private practice and as an attorney for Lambda. I see this reflected in the aspirations of the founders of the *UCLA Women's Law Journal* as well. This journal is possible only because of this strong feminist *tradition*, an odd word perhaps for a commitment to change and restructuring, but one that gives proper weight to the power and potential awakened by that commitment.

I have been involved in the study of law for exactly a decade. The feminist tradition and theory developing at UCLA and across the country has shaped my efforts and those of many of my colleagues. It is a tradition which I believe holds the key to our survival. The *Journal* must continue this tradition by raising the questions that will ensure our survival.

I have been asked to contribute to this introductory issue to articulate, on behalf of many students, faculty, and alumnae, a lesbian vision of the challenges raised by a patriarchal system of law. This system is premised on normative assumptions about who people are, what they need, and how they should live their lives — assumptions developed primarily to support and maintain the patriarchy. The challenge we face is not to shy away from questioning

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the assumptions that underlie this system. We must be prepared to embrace those assumptions which ring true for us, and more importantly, to be prepared to jettison those assumptions which only serve to limit us. I believe that the prism of a lesbian perspective juxtaposes assumption against truth and thus helps train our vision to operate independently and freely.

What is a lesbian vision? It is first a voice. We have been silent (and silenced) for too long. We must affirm our identities and speak the truths of our lives or we will continue to suffer the invisibility that has permitted the development of a legal system that does not even acknowledge our existence. To begin, we must use the constitutional protection of the first amendment to name ourselves so that we are recognized and our identity respected. Few courts have understood the complexity of sexual identity or its pronouncement; most have stigmatized lesbians and gay men individually with a label of "aberrant" behavior that ignores the simple fact that we are because we love, not because we do. We must show that the polarity of sexual identity is a myth created, as are many myths, to inculcate fear of the Other, fear of difference. By understanding this oppression and linking with other victims of this polarized thinking — us versus them — we can help liberate our culture from the restraints that teach us to fear and hate each other, and sometimes ourselves.

We must also use our voice to redefine and recreate those parts of our lives essential to our humanity: what it means to love, to be sexual, to procreate, to parent, to create families and communities. Because of the refusal of the legal system to recognize our relationships and families, lesbians and gay men have been separated from those they love — their partners, their children, their communities. In California, and throughout the entire country, lesbians and gay men cannot marry. With rare exception, lesbian and gay couples cannot legally adopt, nor can they ensure a continuing relationship with their children in the event the couple separates.¹ These legal barriers have taught us other ways to understand our needs for family and community. The answer may not lie so much in ending the constraints precluding us from doing these things, but rather in reconsidering what our society hopes to accomplish through these limited legal constructions. How can we, whether gay or straight, redefine these legal institutions to reflect more accurately the ways

1. See Sella, *When a Mother Is a Legal Stranger to Her Child: The Law's Challenge to the Lesbian Nonbiological Mother*, 1 UCLA WOMEN'S L.J. 135 (1991).

we live and the needs of everyone in our society? How should we think about reproductive technology, which has vastly outstripped our outmoded notions of procreation, parenting, and family? Should access to health care flow from the fortuity of employment benefits that protect only some workers, their marital partners, and their legally recognized children? Who should be denied that access? Have we inadvertently recreated a system of illegitimacy, where some children receive the protection of the law and others do not? These are only some of the questions that lesbian and gay individuals confront out of necessity.

We must also use our voice to counter the homophobia and sexism that prevents all of us from living a life free from stereotypes and unjustified expectations. Gender stereotyping is but one more way of limiting ourselves and teaching fear of difference. Lesbians and gay men have confronted stereotypes about what it means to be a woman, what it means to be a man, and we have rejected those roles we cannot, or will not, assume. There is a fundamental courage in the act of this reflection that should be instructive for all.

Finally, I believe that we must use our voice to challenge the repression of sexual intimacy. We live in a sex-phobic culture that encourages the manipulation of sex as a tool of power, not as an expression of intimacy. We must defend the right of reproductive freedom as vigorously as our right to be sexual with members of our own sex. It is the dissociation of sex and procreation, the association of sex and intimacy, that we must recognize in each struggle. The decisions in *Bowers v. Hardwick*,² in which the Court upheld Georgia's sodomy law, and in *Webster v. Reproductive Health Services*³ where the Court curtailed a woman's right to reproductive freedom, are defeats for us all. We must band together in the face of these devastating losses or risk the total loss of what it means to love. We must recognize that the alternative — sex only for procreation — is a tool of suppression.

These are profound challenges, not only for the lesbian and gay community, but for the entire nation. I commend the women who have launched this journal for their commitment to struggling with these questions, for positing new ways of thinking, for pushing us closer to much needed answers.

2. 478 U.S. 186 (1986).

3. 109 S. Ct. 3040 (1989).

