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The Family and Religion

Gordon A. Babst

The family is an apparently universal historical social institution strongly associated with the household, parenting, lineage, inter-generationality, and personal identity. Often regarded as the central institution in any society, its construction and sustainability have been seen as pivotal to the enduring success of any society, and so what is meant by the family entails consulting the entire range of human inquiry, from anthropology to zoology. In this volume, attention is focused on the role of religion in the construction and maintenance of the family and our understanding of it. More specifically, this volume will examine the nexus of religion and the family in contemporary American society, with attention to the changing nature of the family as precipitated by changes in the individuals who are considered to make up a family, such as same-sex-headed households raising children. Here we provide some general historical background, discuss the functions of the family, and then approach the connections between the contemporary family and religion in the light of the individual interests and the social interest wrapped up in the family.

It will become clear that the family refers to either an actual family consisting of the persons related to each other (or said to be related to each other as family), or to a social construction involving religious elements that can be seen ideologically such that, seen in this way, some persons who relate to each other as family are not at all seen to be a genuine family and so may be disregarded, effaced, or stigmatized. It will also become clear that

the family, once tradition-bound and socially-regulated, may evolve into a new site of individual freedom.

The freedom that is to be won, however, will emerge from the resolution of conflicts with supporters of a “traditional pro-family” agenda, a contest that must be engaged because traditional concepts of the family in the West, which have been informed in the main by religious sources, continue to underpin the law and so can be enforced on everyone, regardless of any particular family’s fit with the law. In the law, then, is already ensconced a normative vision of the family such that to raise the issue of same-sex marriage, for example, is to engage in conversation with people of different views who have tradition and law on their side, and to implicate church/state issues as well. Likewise, issues such as providing parents with vouchers to use towards the education of their children in private schools, including sectarian ones, not only implicate church/state issues up front but may also intrude on many a family’s personal choices that may not promote their or their children’s liberty.

In this introductory chapter we will steer clear of specific legal arguments, and focus attention on the general relationship between religion, families, and the law, which subsequent chapters will fill-in with greater detail and analysis. The next section presents some significant perspectives from the history of the institution of the family in the West, focusing attention on understandings that are grounded in Hebrew and Christian biblical texts, Greek and Roman social norms, and modern practice in liberal-democratic societies such as the United States.

HISTORICAL BACKGROUND

The family is present in a number of places in the ancient Hebrew Bible, though it presents no consistent understanding of the family and its passages are far less explicit about the family than they are about sexual relations. While some contemporary commentators tend always to see in it specific, unequivocal meanings, even a literal reading presents a great variety of understandings about the family and its construction. For example, the Old Testament more than once seems to condone incest (e.g., Abraham and Sarah had the same father) and a married spouse having conjugal relations with an outside person for the purpose of conceiving a child, thereby revealing that the family is the site of childbearing, though not necessarily of exclusive monogamy irrespective of children. And for a man to take many wives also features favorably, as befits this definitively patriarchal society.¹

Humankind is commanded to be fruitful and multiply and also to honor one’s parents; hence, a relationship between succeeding generations is im-

plicity an aspect of the family in this tradition. One might even include the family of man as one understanding that is presented in the Old Testament, alongside understanding tribes as family, and heads of families understanding their extended families as tribes. One might also speculate that the Old Testament presents an alternative understanding of the family of man as split into different tribes based on the moral conduct of some of the descendants of Adam and Eve, an understanding that later contributed to the justification for the enslavement of native Africans in the American South, regarded as the descendants of Ham.²

Beyond ancient biblical sources, anthropologists indicate that ancient peoples most likely shared childrearing rather than leaving this in the hands of individuals or couples, and that lineage was determined matrilineally, at least for hunter-gatherer societies prior to the agricultural revolution that prompted people to settle into permanent villages and cities. Suffice it to say that a broader understanding of the family probably obtained among ancient peoples and was reified in their religious beliefs more than popular images or narrow readings of one or another ancient text may suggest. Nonetheless, written records tend to provide clearer descriptions of family life, or at least of the ideals of family life that may have been the prism through which the family was viewed.

The ancient Greek understanding of the family seems less based on religion than on social mores regarding gender roles and socioeconomic status. In Greek philosophical thought, intellectual or civic friendship was elevated above family. The wealthy Greek family in the classical age consisted of a man who lived most of his life in the company of other men, engaged in public affairs or in the military; a wife who had no public life outside of perhaps marketing, and certainly no political or social life outside of her circle of female friends; children; and slaves who did the household chores. The Greek pantheon does not suggest any preferred family structure, nor did its Roman successor. However, the classical Roman family with socioeconomic status considered itself more as part of a noble family dynasty than did the Greek.

Republican and then Imperial Rome was ruled more by male heirs in important families than through a male citizen's individual participation in collective decision-making, as was the case in old democratic Athens. The practice of exchanging wedding rings is said to have originated in Roman times, though then the ring was likely iron and was placed by the husband around the wife's neck, by which she was led from her birth family to her new family residence, a symbolic yet unambiguous indication of the husband's power over her. In Roman times the family meant everyone in the household or *familia*, whatsoever kin and servants happened to be included

in the residence. This understanding continued into medieval Europe, though a winnowing of the extended family gradually occurred. Again, generalizations serve to illustrate but necessarily hide from view a great variety of understandings and practices associated with the family, especially at different levels in complex societies.

The advent of Christianity and the New Testament that chronicled its beginnings and counseled the early Christians was written in an intellectual culture that was Greek, in a region that was under Roman administration, and, of course, expressed continuity with a Jewish heritage even as it broke away from it. It was the view of the family articulated by several early Christian authors that has anchored the predominant tradition in the West ever since, a view that attempts to inscribe some explicit conformity between the practice of the family and religious beliefs in their writings.³

The New Testament presents the “Holy Family,” consisting of a virgin woman, who is the mother of the Christ child, and her husband, who is not the father. Other women are presented who are presumably sexually active, childless, and husbandless, yet have the potential to be reborn in a new spirit that includes forgiveness for their past transgressions. The Christian New Testament generally is interpreted as establishing a new social order that stands in sharp contrast to its original context, as well as any context the early Christians found themselves in. For example, St. Paul wrote with ardour to persuade early Christians to turn away from their customary sexual behavior, because to break the connection between this most intimate, though often public, aspect of one’s life and one’s pagan religion was to effect a radical departure from the old and to make possible and facilitate an embrace of the new. Later, St. Augustine of Hippo, whose early life trajectory self-admittedly indulged his sexual appetite and youthful disdain for a more settled family life, upon conversion to Christianity became one of the staunchest advocates for the chaste life or, failing that, monogamy between one man and one woman. After all, the model for conception of a child occurred without sexual intimacy and did not involve the woman’s husband, which may have as yet un-mined implications today for the religious acceptability of artificial insemination, surrogate motherhood, and other technological innovations that are transforming our understanding of the family.

While Augustine’s restrictive prescriptions for marital bliss did not lend themselves to successful propagation of the species and maintaining an ongoing and expanding community, they nevertheless became central to the Christian vision of both sex and the family, a vision that has survived to this day. The form and nature of family life was connected to salvation, and thus issues of righteousness and transgressions assumed cosmic signifi-

cance and were the concern of the entire society. The model family was not merely one man and one woman married to each other, but this pair in the image of the ideal union between Christ and the Church, reflecting a love that should be emulated by each individual and in which spirit the two persons are brought together in holy matrimony. Any fleshy desires between the married spouses were condemned, as the only purpose of carnal relations was to beget children, the sole and rightly desired outcome that redeemed the sex involved. Augustine's views were echoed by later Christian and non-Christian thinkers in the Western tradition, who had both this early Christian and the still earlier Greek and Roman gendered understandings of the family to consult. The family in the West has been tied to the template of a heterosexual monogamous union in which privilege resides in the husband, while the wife is bonded to domestic affairs, the realm of necessity, and not freedom, as the ancient Greek philosopher Aristotle would say.

The modern social contract tradition, which began in the seventeenth century, was conceived in and meant to apply to a society in which religion had a strong presence, even if conceived of as a civic religion. Arguably, the social contract theorists did not address injustice within the family, leaving it in an emerging zone of privacy and so shielded from the state, the better to carry on its functions. Status within the family continued to determine status and roles in civil society and to curtail the political rights of women, whether or not they were mothers or wives. Hence, women, for example, were expected to be subservient to their husbands, their voice covered by his in any public issue such as property rights and politics, and this was reflected in the law. The heterosexual family unit remained intact under social contract theory, and alternative familial arrangements were socially and legally taboo. Given the simultaneous emergence of the capitalist economy that was premised on independent, individual workers, the male member of the heterosexual family, the husband and father, became a wage earner, while the wife and mother became even more ensconced in the domestic sphere.⁴

Protestant theology supported this division of labor, and it articulated a vision of partnership between the spouses in the service of their community and of their God that sustained them through hard times and helped to explain the blessings of good times. Nonetheless, the division of labor within the family continued to undermine its capacity to promote the freedom of individuals and the authority of a secular sphere that could be free of religious influence. Matrimony's conjugal unity and common household have hidden distinct juridical personalities, an issue of secular inequality that has been less bothersome because of the imprimatur of religion, which,

among other things, sanctified the free reproductive labor of women, making it central to their role in society.

It has been only in the last two centuries that individuals, utilizing and daring to expand the civil liberties available to them, have asserted a right to love whomever they please and to base the decision to marry, for example, on the basis of love, rather than on their or other persons' interests in property, family dynasty, or class. In the nineteenth century, several prominent civil libertarians attempted to raise public awareness of the intolerance of society towards persons whose sexuality, now an aspect of an individual's identity, was different from the norm, and to encourage the burgeoning social science research into human sexuality. These early writers and researchers hoped that in the face of the new, more scientific approach to understanding the social nature of human beings, the older understandings based in religion and popular morality would recede and fade from view.⁵ These pioneers further hoped that reform in the law and in people's attitudes towards acceptable familial relations would change in the face of empirical research findings.

However, religious constraints continued to govern as regards the permissibility of whom to love or with whom it is acceptable to form a family unit, such that inter-religious families and mixed-race families remained off-limits, though these constraints slowly fell from favor while plural marriages and non-heterosexual relationships have remained widely censored by mainstream religion unto this day.⁶ In the United States, it was not until after mobilization for World War II that many Americans encountered and got to know one another's differences as well as new points of commonality, breaking down the ignorance that racial bias, religious beliefs, and general unfamiliarity had long held in place in the face of individual desires to form bonds with each other across various, often legally-sanctioned, divides.

FUNCTIONS OF THE FAMILY

Given the cursory historical overview presented earlier, the family has been understood in many ways, both within the same general tradition and also in the light of different religious beliefs. One constant appears to be a concern for blood ties, which have been regarded as determinative of any or all of the following: personal identity, family relationships, property rights, socioeconomic status, and political privilege. Religion has served to sanctify and endorse an approach to blood ties that has vested familial power in the father and political decision-making in the male citizenry, thus assuring everyone of the legitimacy of blood ties as understood and administered in

this legally sanctioned way. The stable family provided the institutional structure to raise children, and this ultimate function of the family was reflected in religious doctrine, practice, and belief. Yet as historical research has shown, the nurturing of children does not require the confines of the family and has occurred under the auspices of alternative arrangements.

The functions of the family closely resemble those of marriage, though it provides a larger vehicle in support of the social order and, in turn, a more convenient site for the administration of law and policy over more people than does the institution of marriage. The primary function of the family in the western tradition was that prescribed to it by religion; namely, the begetting of children and their rearing in a religious environment to ensure the continuance of a religious tradition. Non-heterosexual relationships did not signify legitimacy with respect to this function, owing to a strong religious sanction against them and against any sexually deviant practice. Even childless marriages were regarded as abnormal and deficient, given that they did not fulfill the family's function of producing offspring, future workers, soldiers, or citizens. The family has always been over-determined by religious ideology and relationships of social, political, and economic power. Rationales grounded in biological imperative have dovetailed with, but do not overlap, the predominant understanding and function of the family, and they have never provided the justification for any particular family form.

Tying both family and marriage to children would seem to suggest that before having a child, a married couple is not yet a family, and that after any and all children are grown and have left the household, they return to not being a family, or not quite a family. Yet, in all societies there have been children who have no parents for one reason or another, and who nonetheless need parenting. Opening up parenthood to non-biological children has greatly benefited the social welfare, though once this step away from the traditional functional family has been made—such as in the nineteenth-century when the family came to include adopted children—the next step to allowing single persons or same-sex couples to adopt children and so too to be considered families is made more possible. However, these latter moves, which are on the increase in American society today, have been met with swift and stern religious objection.

Initially, political activism stemmed from individuals working from within divergent groups such as the women's movement and the gay and lesbian movement, taking their cues from the Civil Rights movement of the 1960s. These activists argued for greater freedom and privacy rights for women in general and also for sexual minorities. For women, the freedom

sought was based in equality and recognized the inequality confronting many women who chose not to lead their lives in the traditional family setting. For sexual minorities, the freedom sought was also based in equality but was overtly pitched as a sexual liberation from old norms regarding sexual activity and the family structure and so directly challenged traditional normative understandings. Thus there arose in the 1970s a powerful reaction grounded in religious fundamentalism that sought via political means to corral both the women's liberation and gay and lesbian liberation movements, reverse their gains, and return the United States to an earlier era of stable family life and conformity with traditional sexual mores.⁷ The very nature and function of the family and the purpose of human sexual powers were being contested very publicly, and many religious believers were challenged to engage with each other and their traditions to come to an understanding of themselves and their apparent political opponents. While many denominations chose to remain true to their traditions, a few broke away from them and, after a process of internal debate, came to affirm alternative family forms and expressions of sexuality, recasting old issues such as sex outside of marriage and gay and lesbian families as opportunities to expand their religious horizons and embrace social change.⁸

On the one hand, single parenthood, especially if by choice, indicates heterosexual activity outside the parameters of marriage, while on the other hand, same-sex parenthood denotes impermissible sexual activity outside the parameters of marriage. New technology that has made it possible to have children without sexual activity challenges both marital and familial norms and has evoked in the minds of some religionists the specter of Frankenstein, of attempting godlike powers. Curiously, the trend of single and married individuals who have relied on technology in order to have children and so form a family has proven to be far less of a morals issue overall than has same-sex marriage or gay parenting. Restricting the analysis to the naturalness of the recourse to technology, however, would seem to warrant the condemnation of unnatural technological intervention no less than putatively unnatural sexual relations between two persons.

The reason for this distinction is because heterosexual couples who resort to technology are thought to do so because of an unfortunate physical failing on their part, not because of a failure to want to conform and meet the traditional expectations of forming a family, while single individuals, by themselves, do not raise the specter of homosexuality, though single motherhood challenges traditional gender roles.⁹ Legal recognition of same-sex marriage and acceptance of gay parenting, by contrast, implies new forms of the family, new types of household, and seems to break the link between sexual activity and parenting, lineage, intergenerationality, and identifying

the community as a continuing iteration of a cherished tradition, one that assertions of political power have always secured until individuals were freed from the bonds of tradition to form their own, by their own lights.¹⁰ To allow—and not condemn—this radical experimentation is to threaten how “we” understand “our” values and purpose on this Earth and to displace “our” community as privileged judge of right and wrong, one guided by longstanding religious insights. The family today is a site of contestation, where religious conservative adherents of tradition and their followers confront younger religious believers and many others who would inaugurate new traditions or recall and emphasize different aspects of the old, both sides simultaneously exercising and negotiating their freedom very close to that most cherished place of all, home.

THE CONTEMPORARY FAMILY

The contemporary American family is less defined by religion than it once was, and people are less inclined to accept legal discrimination against alternative family structures than once they were. The factors that have led to the decline of the traditional understandings of the family and its functions include different family formations involving both heterosexual and non-heterosexual individuals and couples. The notion that the traditional family headed by the father and husband must be maintained because only through the generation of children within this institution can we be assured that the male head of household is heterosexual (and so the privileged positions in the social and political hierarchy will be occupied only by heterosexual males, in keeping with traditional religious understandings) is no longer widely held, though belief in it remains strong. The structure of the family has become more a matter of choice, expressing the liberty of individuals, than a matter of conformity to tradition. This has made possible new performances of family life, some in keeping with tradition, some not. Importantly, the unitary vantage point from which any family is judged as morally worthy, a vantage point overly determined by religion, has lost its hegemony. For example, not allowing a gay person to exercise his or her right to marry the adult individual he or she chooses because of religious tradition is increasingly viewed as illegitimate on the part of the law and the wider community. Still, some statutes from an earlier era will continue to remain on the books until people get around to addressing them and taking action. Hence, though the pace of change has picked up, there is still a back-and-forth articulation of tradition and revision with respect to legal and cultural understandings of the family.

The Law, Religion, and the Family

In the United States the traditional patriarchal family, a unitary arrangement in the law, is no longer the legal norm, though American law has been slower to adapt to twenty-first century practice than has the law in most western European countries.¹¹ While for the Supreme Court marriage remains a fundamental human right, one originally grounded in a religious view of marriage that was explicitly referenced in its early marriage cases, today divorce, childbearing by single individuals, adoption by gay or lesbian persons, and legal provision for surrogate motherhood—among other contemporary practices—are provided for in the law and increasingly utilized by individuals who are increasingly wont to form and reform their families as per their individual wishes. And these innovations in practice and in the law are reflected at the international level in legal conventions among countries that provide for marriage across a variety of divides, international adoption, divorce, and enforcement of maintenance obligations such as spousal and child support.

Arrival at this contemporary state of affairs with respect to the nexus between religion and the family is built, however, upon a slow but steady diminution in the traditional patriarchal family as the regulative ideal for the law, and so too as its anchor in religion. Oddly enough, just as the patriarchal aspect of the family is receding, the cultural understanding of fathers as parents in their own right and the legal relationship between father and child is arising. This suggests that patriarchy was always less about the practice of fatherhood and more about power and control legitimated by religion. In practice, with respect to the politics of gay and lesbian rights, which tends to be considered a morality issue, a politician's religious affiliation has been found to be an important predictor of his or her vote on any legislation, a backhanded way in which religion has influenced the law, in turn restricting or expanding the public space for experimentation in family forms. Religion also certainly plays a powerful up-front role with respect to anti-gay lobbying, influencing legislators without regard to their own personal religious or secular views.

Religion in the United States historically has conditioned who may marry, whom one may marry, and who may adopt which children. Given that marriage, though a civil contract, requires solemnization, prior to the advent of justices of the peace this meant that to be legitimate a marriage had to occur in front of clergy. The law sanctioned, and religion solemnized, marriages between almost any two adults, no matter how foolish or ill-conceived the marriage. This limited legitimate marriages to the faithful, in the first instance, and then constrained marriages and family formation

within one or a limited number of faith traditions. So too was once the case with adoption of children; adopters without any religious affiliation were seen as morally unfit, a lawful practice that may still remain more as a rule of thumb for some adoption agencies, and children needed to be placed with a family of the same religion. The religious question also came into play in deciding which parent should be awarded custody of a child in case of divorce. From the perspective of religious adherents, these differences may turn on whether religious identity is itself regarded as a choice or as an inheritance and to what extent each side of the question of identity formation regards the other as either tolerable or as a threat.

The law has already eliminated bastard status for non-marital children, which was once a measure of legitimacy and a powerful reminder of the religious wellspring of our understanding of family legitimacy. The church of yesteryear preferred the product of licit sexual activity in a bad marriage to illicit sexual activity, even if neither the sexual activity nor the child were desired by either party. Children born out of wedlock were socially stigmatized, and this was reflected in the law and in the inheritance rights it afforded.¹² The illicit sexual relations that illegitimate children represented were seen to loosen the social fabric, and they also brought stigma and legal consequences on their parents—especially if either were themselves married—by echoing biblical injunctions against fornication and adultery. The changing perception of these once socially deviant practices and the different way the law is treating them by not pursuing individuals and criminalizing such behavior or otherwise disadvantaging any offspring of an illegitimate pairing suggests that there has been a cultural shift in values, and the blame for this is often laid at the doorstep of the sexual liberation movement and the women's movement that achieved national prominence starting in the 1960s.¹³

This slow progression in public opinion and evolution in the law stimulated by the Civil Rights movement, coupled with the greater realm of freedom afforded individuals in their private lives, a domain the law has increasingly protected, may have reached its zenith around the turn of the last century. For example, the Federal Defense of Marriage Act (passed in 1996) and the many subsequent related acts at the state level have sent a clear signal to nontraditional couples and families that they may not be respected in the law or that they will be treated differently or as less than ideal, at a minimum. Responses to such actions that reassert traditional religious understandings in the garb of secular purpose have included affirmations in the law of non-traditional families, especially of same-sex couples, through devices such as civil unions and domestic partnership registries, as well as provisions for the adoption or custody of children by gay

men and lesbians. Most European countries have moved in a different direction at the level of national and European Union policy, with several allowing same-sex marriage, legally sanctioning alternative family forms, and accommodating the growing interests of transgendered people.

Cultural Understandings of the Family

Implicit in the changing legal understanding of the family and the diminution of religious influence over it is the emerging challenge to the law's privileging of married over single individuals, a distinction not found in the U.S. Constitution, though one hitherto palpable throughout American society and law. In the older, traditional understanding of the family, the marital union is more or less a vessel for intergenerational transmission of values—of society's hegemonic norms—rather than a vehicle for the secure reproduction of the species. In discussions of the family and the sexual relations implicit in it, the term *natural* is rarely used as a natural scientist would use it; rather, it is deployed within a cultural framework in which signification and meaning are ascribed to biological or physiological processes. The slippage between “cultural” and “natural” occurs when what is in fact cultural or understood in such valences is attributed to “nature,” as if the morally-charged signifiers at issue were as accessible and obvious as the scientist's understanding of human reproduction. Instead, society today understands that no religious or ideological concept of the family is neutral or even suitably neutral by itself to ground the law and be the basis for discrimination in the distribution of political or economic privileges.

Because of the different functions of the family in contemporary lived practice and the diverse cultural understandings of it, many of which are quite free of religious determination, American law is starting to lag behind society in providing distinctions in the law that serve the people in their different relationships that the culture signifies as family. Now, society is challenged with crafting new laws to match the evolving nature of the family and the individuals who are asserting their political rights and civil liberties on the one hand, and, on the other hand, balancing all that against the social role the traditional family has played, a dominating role that continues in some American subcultures such as evangelical Christianity. As has always been the case, society needs to ensure that somehow a steady hand is rearing the future generation and that persons are able to have an intimate life and experience human companionship—historically universal needs whatever the cultural understandings or legal regime.

There is a dance, then, between individual aspirations and the social context within which they find fulfillment, though religious belief is not

carrying the tune or determining the permissibility of this or that form of family. This gradually opening space has made possible greater diversity within traditional family forms, even as it more obviously creates room for diversity in the family form itself. Religions too are struggling with questions of the family, with some becoming more liberal in the process, others staying the same, and still others entrenching their orthodox beliefs and practices. Regardless of the debate among religious adherents, the older privileging of one gender over another and restrictions based on sexual orientation that once characterized social acceptability have been superseded widely enough so as to prevent any reversal in this trajectory, though this does not speak to the near-term outcome of this evolution or to the success of any new family form.

Addressing the new gender and sexual orientation aspects of family has become unavoidable in any case, regardless of whether religious ideology keeps pace, because technology exists to make it possible for practically anyone to form a family with almost anyone else and to extend the family into the wider community, much as it once was. Arguably, technology is having a greater impact on women's ability to form families of choice. Today a child can have several mommies or daddies and can have been both adopted and also the offspring of an original sperm donation carried by a surrogate mother, for example, vastly complicating legal accommodations and religious understandings (even when all the parties involved are heterosexual), thereby providing multiple opportunities for the family to become a new site of freedom. And this freedom is twofold, disentangling "family" from whether anyone has contributed genetic material to it and detaching its members from any socially hegemonic understanding of who is permitted to comprise it.

CONCLUDING OBSERVATIONS

The family and religion have been intertwined throughout recorded human history, making a general theory specific to this relationship difficult. From the Nietzschean perspective, the family stands in the light of religion in much the same way any other social institution does; namely, religion serves to undergird the dominant view of the nuclear family by bestowing upon it the quality of being morally good, which permits rightful enforcement of the reigning ideology upon individual people, once accomplished through assertions of ecclesiastical power and later through state power. Liberalism points in the direction of family being a matter of choice or of accepting a family that is simply the result of choice, provided there is the commitment one expects family members to have to one another, even if

this commitment is not based in religion, which is perhaps the iconic form of commitment in the West.

To the extent, then, that there is occurring a reevaluation of family values in the United States today, broadly speaking (and with differences in degree in practice and its reflection in law and policy), the family and religion nexus of yesteryear is definitely fading. And, due to the civil liberties afforded to individuals in western societies and the guiding ideals of equality and liberty, this transformation of the relationship between the family and religion might signal the further privatization of religious belief and the further secularization of society with respect to the reach of political power in support of any religious perspective, or even in favor of a general religious understanding over a non-religious perspective.

NOTES

1. The practice of polygamy was reintroduced by the Mormon Church, prompting a confrontation with the U.S. government that resulted in the Church being escheated of its property and polygamy being outlawed, the latter in the case of *Reynolds v. United States* (98 U.S. 145 [1878]), the first Supreme Court case directly relating to family formation, here intertwined with the beliefs of a new religious minority. Polygamy remains illegal in the United States.

2. Of course, many arguments *against* slavery and the later regime of Jim Crow discrimination against African-Americans during the Civil Rights movement were also couched in biblical language.

3. The chapters in Part One of Kieran Scott and Michael Warren, eds., *Perspectives on Marriage. A Reader, Second Edition* (New York: Oxford University Press, 2001) provide a good entry into early Christian views on marriage and the family.

4. Carole Pateman's *The Sexual Contract* (Stanford: Stanford University Press, 1988) is a political theorist's searching analysis of the patriarchal underpinnings of the social contract tradition and the lesser degree of freedom the classical social contract thinkers accorded to women.

5. Part II, "The Beginnings of a Gay and Lesbian Movement," in *We Are Everywhere: A Historical Sourcebook of Gay and Lesbian Politics*, ed. Mark Blasius and Shane Phelan (New York: Routledge, 1997), provides many of the original voices in this late-nineteenth and early-twentieth century discussion.

6. Indeed, it was not until the 1967 case of *Loving v. Virginia* (388 U.S. 1 [1967]) that the remaining anti-miscegenation laws prohibiting interracial marriage in six southern states were struck down by the Supreme Court.

7. Progress that favors gay or lesbian family formation tends to be less secure than other gains in the law. For example, even once same-sex couples are granted benefits by a state, this may be subject to later popular referendum or opponents' legal strategy, as happened recently in Michigan, where a state court repealed an earlier decision that allowed universities and government agencies to provide do-

mestic partner benefits, as reported by David Eggert, “Michigan Court Rules Gay Partners Can’t Get Benefits,” *The Orange County Register*, February 3, 2007.

8. Several denominations even recognize same-sex marriages, though one in particular—the American Episcopal Church—is under siege by its worldwide fellow Episcopalian churches for the stances it has taken on this issue, which its new female prelate has championed.

9. For the first time in the history of the United States, single women, including unmarried, widowed and divorced women, outnumber married women, and comprise 51 percent of the adult female population, a demographic that has social, economic, and political consequences. Helen Fisher argues that this trend represents a return to the state of affairs before the institution of marriage in her op-ed essay “History Loves an Unmarried Woman,” *Los Angeles Times*, January 21, 2007.

10. The essays in Part IV, “Family,” in *Sex, Preference, and Family: Essays on Law and Nature*, eds. David M. Estlund and Martha C. Nussbaum (New York: Oxford University Press, 1997), address issues such as these.

11. For example, the State of North Dakota only very recently rescinded its law that criminalized unmarried cohabitation, a law that dates to its statehood in 1889 and is similar to those which remain on the books in seven other states. See “Living Together Is No Longer Criminal in North Dakota,” *The Orange County Register*, March 2, 2007.

12. The Uniform Parentage Act, amended in 2002, extended the parent and child relationship equally to each child and each parent, regardless of marital status, and the Uniform Probate Code has replaced “bastard” with “non-marital children.” See Walter Wadlington and Raymond O’Brien, eds., *Family Law in Perspective* (New York: Foundation Press, 2007), 105–106.

13. Not surprisingly, same-sex parents and adoptive parents have to negotiate the same class, health, education, and other issues that face any family, though often without the support of their religious leaders or their community. See the chapters in Part 2, “Parenthood,” in *Queer Families, Queer Politics: Challenging Culture and the State*, ed. Mary Bernstein and Renate Reimann (New York: Columbia University Press, 2001), for illustrations and analyses of these tribulations.

FURTHER READING

These works were consulted in the preparation of this chapter and will be particularly helpful for further study of the issues related to the family and religion. Readers who want more in-depth treatments of the family and religion in historical context and with a focus on the United States will profit from consulting the edited works by Sands, *God Forbid: Religion & Sex in American Public Life*, and by Scott and Warren, *Perspectives on Marriage. A Reader*. The Estlund and Nussbaum edited volume, *Sex, Preference, and Family: Essays on Law and Nature*, and Winfield’s *The Just Family* provide philosophical treatments of the family with an emphasis on ethical argument, while Pateman’s *The Sexual Contract* remains the classic reference for the lack of inclusion of women and the family into modern liberalism. Blasius

and Phelan's edited volume, *We Are Everywhere: A Historical Sourcebook of Gay and Lesbian Politics*, is invaluable because of the wide variety of sources it contains, all in their original voices, and Bernstein and Reimann's *Queer Families, Queer Politics: Challenging Culture and the State*, and Mason, Skolnick, and Sugarman's *All Our Families: New Policies for a New Century, Second Edition*, will be of interest specifically for their treatments of sexual diversity issues and the family, while Say and Kowaleski's edited work, *Gays, Lesbians & Family Values*, focuses attention specifically on the religious issues and arguments surrounding contemporary non-traditional families. For a discussion of family law, see Krause and Meyer's *Family Law in a Nutshell, Fourth Edition*, and Wadlington and O'Brien's *Family Law in Perspective, Second Edition* and *Family Law Statutes, International Conventions and Uniform Laws*.