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Fundamentally Incompetent: Homophobia, Religion and the Right to Parent

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Introduction: The Moral Right to Parent

It is widely assumed that adults who engage in procreation with a view having children that they intend to raise have a presumptive moral claim to serve as the custodial parents of the children they create. The moral right to parent grounded in ‘ordinary’ procreation of this sort in turn provides justification for legal rights of parents. Indeed, in most cases, legal guardianship of children by parents flows more or less directly from successful procreation by a couple.¹ Adults who become parents in this way typically acquire a special set of rights and responsibilities. Parents have responsibilities to protect and secure many important interests of their children but they also enjoy many special prerogatives to shape and control many facets of children’s lives. The moral right to parent extends to parents a good deal of authority over children and affords parents protections from outside interference with respect to a wide range of matters that affect the upbringing of children. Thus parents have wide discretion to make decisions about their

¹ Of course, not all cases are typical. Technological developments in artificial reproduction technology and the associated advent of various kinds of surrogacy arrangements raise important moral and legal issues about the precise nature of biological procreation and the relationship, in more complex cases, between procreation and acquisition of the right to parent. Our analysis focuses on the ‘ordinary’ cases but would nonetheless have implications for the moral claim of persons to have parental rights in surrogacy cases.

children's diet, education, cultural influences, language, and religious identity. The moral right to parent is not, of course, absolute. Parental authority must be exercised in ways that are compatible with the rights of children. Moreover, acquiring and maintaining the moral right to parent is conditional on satisfying a threshold of competency. Would-be parents need not be perfect but competent parents must be able to identify and promote at least their children's basic interests.² So the right to parent is jeopardized when parents violate or threaten to violate the basic welfare of children through various kinds of physical, sexual or emotional abuse. Similarly, though somewhat more controversially, adults who seek to indoctrinate children with noxious ideologies or who deprive their children access to conditions hospitable to the development of normal moral capacities may be denied or may forfeit the right to parent.³

The precise contour of the right of parents to shape the values and commitments of children is the subject of considerable academic debate. Some theorists hold that children's right to an autonomy facilitating upbringing imposes strict limitations parental efforts to influence

² Determining the precise dimensions of parental competency is a complex matter because it depends on (a) identifying the justice-based entitlements of children with respect to their upbringing and (b) determining how the social division of moral labor affects which agents are assigned which responsibilities for meeting children's claims. For instance, if we suppose that children have a right to health care then whether a parent is competent or not can depend whether the state secures children's access healthcare. If the state does not provide healthcare to children and we assume that responsibility for meeting children's healthcare needs falls to parents, then parents who cannot provide healthcare to their children may, in that social context, fall below the threshold of competency. See Macleod 2015 for discussion of this point and facets of parental competency more generally.

³ In the Canadian case *Director of Child and Family Services v. D.M.P. et al.*, 2010 MBQB 32, a white supremacist couple lost custody of their children on the grounds that efforts to inculcate their children with racist ideology made them unsuitable guardians of their two children.

children. Matthew Clayton, for instance, opposes ‘comprehensive enrolment’ of children by parents.⁴ He argues that parents not attempt to secure their children’s allegiance to a conception of the good and may not require that children participate in distinctive religious or cultural practices of their parents. Macleod, by contrast, argues that parents may provisionally favour a particular conception of the good and may include children in religious and cultural practices deemed important by their parents.⁵ But parents must favour their conceptions of the good in a way that is compatible with the facilitation of children’s autonomy and they make not, consequently, attempt to authoritatively fix their children’s views. More conservative theorists, such as William Galston,⁶ contend that the limits on the authority of parents to shape their children’s values are extremely limited. On his view, parents may go to great lengths to secure their children’s allegiance to a conception of the good even at the expense of facilitating the autonomy of children. Our objective in this paper is not to resolve general issues about the extent of parental prerogatives to shape the views and attitudes of children. Indeed, for the purposes of our analysis, we shall assume that parental prerogatives in this domain are quite strong. That is, we assume that, to a significant degree, the right to parent allows parents to raise children in ways that express the religious and cultural values of parents. Similarly, we allow that parents may encourage children to adopt and share these views. The issue we wish to address, arises in cases

⁴ Clayton, M. (2006). *Justice and Legitimacy in Upbringing* (Oxford: Oxford University Press).

⁵ Macleod, C. (1997). ‘Conceptions of Parental Autonomy,’ *Politics and Society*, Vol. 25, No. 1: 117-140.

⁶ Galston, W. (1991). *Liberal Purposes* (Cambridge: Cambridge University Press).

in which the expression of parental values in child rearing runs contrary to the claim of children to be loved and respected by parents. Our basic question is whether parents who hold, and seek to express, attitudes and beliefs that are contemptuous of sexual minorities are competent parents. We show that the expression of homophobic views and attitudes by parents poses a serious threat to the well-being and moral integrity of children. And we argue that adults who embrace and express extreme forms of homophobia fall below the threshold of competency requisite to acquiring and maintaining the moral right to parent. This paper explores this issue by considering whether conservative religious fundamentalists who hold and express strongly homophobic beliefs should be considered competent parents. We focus on the case of religious fundamentalists because some religious fundamentalists seem unwilling to love and respect children who are or might be gay. The systematic denial of love and respect to gay youth by homophobic parents causes a great deal of harm to children and arguably constitutes a form of abuse.

Denying religious fundamentalists the right to parent may seem, at first glance, illiberal and it also seems contrary to the widely accepted view that the decision of a couple to procreate normally gives rise to a right to parent. Liberalism traditionally endorses strong rights of religious liberty and such rights are usually understood as permitting religious people to hold and express controversial and illiberal views about sexuality. Fundamentalists, it would seem, have the right to criticize and even condemn sexual practices or relationships that they believe are morally objectionable or sinful. But liberalism is also committed to safeguarding the welfare of children and to fostering the conditions in all persons, including sexual minorities, are treated with respect. Rawls, for instance, argues that self-respect is the most important primary good and

that a just society must ensure that all persons are provided with the social conditions of self-respect.⁷ We consider whether the threat to the welfare and self-respect of children posed by homophobic parents is sufficiently grave to warrant state assessment of the suitability of religious fundamentalists to be parents. We do, of course, recognize that not all religious fundamentalists are homophobic and some religious people with who view homosexuality as sinful are able to love and nurture their children irrespective of whether they are gay or not. Similarly, we recognize that viscous forms of homophobia are sometimes held by non-religious people.⁸ However, we focus on the case of religious homophobia because of its prevalence in contemporary North America and because homophobia rooted in religious belief is sometimes thought to be tolerable in virtue of its links to longstanding religious traditions. The theological, doctrinal and cultural commitments of Christianity, Judaism and Islam are, we realize, internally diverse and complex. Nonetheless, each of these faith traditions has strongly homophobic elements that are embraced by fundamentalist adherents to each of these faiths. From a liberal point of view, our suggestion that some religious fundamentalists – whether Christian, Jewish or Moslem - may be denied the moral right to parent may seem especially contentious. It is important to emphasize that our argument focuses on the *moral* right to parent and not, in the first

⁷ Rawls identifies two aspects of self-respect: “First of all, as we noted earlier, it includes a person’s sense of their own value, his secure conviction that that his conception of the good, his plan of life, is worth carrying out. And second, self-respect implies confidence in one’s abilities, so far as it is one’s power, to fulfill one’s intentions. When we feel our plans are of little value, we cannot pursue them with pleasure or take delight in their execution” (Rawls 1999: 386).

⁸ We also recognize that there are other kinds of beliefs and attitudes of parents that can pose a parallel threat to the welfare and self-respect of children. For instance, some potential parents may harbor views about persons with disabilities that are harmful and demeaning to children with disabilities. If the general structure of our argument is sound then such would-be parents could also be deemed incompetent and would lack the moral right to parent.

instance, on the legal right to parent. Our argument does have implications for laws and state policies and we will broach these later in the paper. We do not defend the view that homophobic fundamentalists can be legally prevented from procreating or from serving as the legal guardians of their children. Denying that homophobic fundamentalists have the moral right to parent need not entail denial a legal right to parent. After all, not all dimensions of morality are legally enforceable. Moreover, even in the realm of state policy, the best way to secure the protection of some important rights and interests of persons can be through non-coercive strategies. For the most part, we see our argument as offering a challenge to widely held views about the character and foundations of the moral right to parent. This argument is, however, relevant to state policy because, if sound, it establishes that state programs that encourage parents to love and respect their children, irrespective of their of sexual orientation, are not vulnerable to the objection that they violate the moral rights of religious parents.

Liberal Rights and Child Rearing

Since we wish to develop our argument in a way that is congenial to a broadly liberal conception of justice, we begin by offering a simple characterization of a familiar variety of rights-based liberalism. We highlight four features of liberalism that frame issues about having and raising children. First, liberalism upholds strong rights of freedom of religion and conscience. Freedom of religion allows people to give expression to their religious convictions and to conduct their lives in accordance with their understanding of the values, traditions, and practices of their religion. It is only under exceptional circumstances that the state is warranted in limiting freedom of religion. Second, liberalism recognizes rights of freedom of association. Adults are entitled to

determine for themselves the nature and character of their social, political, and intimate relationships with others. Among other things freedom of association permits individuals to form families for the purpose of having and raising children. Third, these first two rights provide the basis for recognition of extensive procreative rights. Individuals have very wide latitude to make procreative decisions (e.g., whether to have children, how many children to have).⁹ Finally, there are rights of parental authority. Parents exercise a great deal of control over the rearing of their children; they are entitled make to decisions on behalf of their children in matters of health, education, culture, recreation, and religion. However, as we have already noted, parental authority is not legally or morally unlimited. In developing our argument, we emphasize some distinctive ways in which the scope and character of parental authority is constrained by the independent rights and interests of children.¹⁰

In practice, societies purporting to be liberal and democratic have frequently limited or violated these basic liberal rights in problematic ways. States have been hostile to certain religions or spiritual traditions (e.g., Indigenous religions and culture); they state have restricted marriage to heterosexual couples and curtailed the procreation of disabled persons. States have also infringed the authority of some parents over their children in ways that generated grotesque

⁹ We do not assume that procreative rights are unlimited but our characterization of liberalism does entail the rejection of strongly anti-natalist views that contend that procreation is wrong. See Benatar 2006.

¹⁰ The interests of other parties also impose limits on rights of parental authority. Some ways of parenting can generate needless social costs for society and these costs can provide an independent reason for limiting parental authority. We do not emphasize these costs in developing our critique of the rights of homophobic parents but it is worth noting that the damage done to gay youth by homophobic parents generates a need for social services to assist homeless young people who often struggle with drug and alcohol abuse.

harms. The Canadian government's policy of removing Indigenous children from their families and forcing them to attend Christian residential schools is but one appalling example of illiberal treatment of parents and children. Nonetheless, along many fronts there have been reforms in line with liberal values. For example, there has been increasing recognition of the right of gay and lesbian couples to form families through adoption and through the use of reproductive technology. Families with multiple parents (more than two) are also having some success securing legal parental rights for those adults who hold the moral status of parent. Recent political and cultural changes in liberal democracies concerning the status of sexual minorities have been quite dramatic and seem predicated, at least in part, in changes in moral attitudes concerning sexuality. Whereas homosexuality was once widely regarded as morally objectionable or as some form of psychiatric disorder, in most liberal communities there is now broad recognition that a person's sexual orientation is not properly characterized as either morally good or morally bad. Of course, the acceptance of homosexuality in liberal societies as entirely morally acceptable is far from complete. But it seems clear that moralized conceptions of sexual orientation have no place in a liberal theory of justice. So even if religious persons retain the right to hold and express homophobic views, those views are themselves in tension with the requirement of justice that respect be extended to all persons irrespective of their sexual orientation.

Liberalism and the Rights and Interests of Children

Liberal theory, until relatively recently, has given little systematic attention to how the character and content of the rights we have just identified should be influenced by recognition of children's rights and the importance of promoting their well-being and moral development.

Similarly the issue of the scope and possible limits on procreative liberty has been largely neglected until recently. The research that is now being done in these areas by moral and political philosophers is diverse and complex. But some general and fairly obvious points about which there is broad consensus are worth noting. Parents clearly have an obligation to promote their children's welfare and a duty not to infringe their children's rights. They also have a duty to protect their children and see that others do not harm them. There are many ways in which the content of these duties can be further specified but, without providing a full elaboration, the following modest considerations seem relevant to understanding how attentiveness to the claims of children shape the contours of the rights of parents. In our view, children have a justice-based entitlement to an upbringing that: (a) prepares them for responsible citizenship as adults (b) facilitates their autonomy so that they are able to deliberate reflectively on their own conception of the good (including matters of religion); (c) secures their basic physical and psychological well-being as children; and (d) provides children secure access to the social conditions of self respect. Parental authority must be exercised in ways that are compatible with respect for these claims of children. Competent would-be parents must be willing and able to play their role in securing their children's rights and promoting their welfare. Moreover, parental competency is relevant not just once people have become parents and are engaged in rearing them. It has a bearing on who can claim moral the right to parent. Voluntary procreation by adults is not sufficient to yield a right to parent because procreation itself does not guarantee that parents are willing and able to discharge their duties they owe to prospective children. The right to procreate (where this is understood as entailing a right rear one's offspring) is therefore limited.

In light of these observations, a child sensitive liberal theory arguably needs an account of *parental preparedness* that identifies the traits and capacities that would be parents must display in order to successfully claim and retain the right to parent. Different elements of an account parental preparedness can be identified. First, there is cost bearing preparedness. This concerns the degree to which would-be parents must be able to secure their children's material needs (food, clothing, shelter, healthcare, education, recreation etc.) without state or community assistance. Persons who are unable or unwilling to devote adequate resources to meeting children's needs may not be suitable parents. Second, there is a dimension of mental and physical preparedness. This element concerns how physical and mental capacities of persons may affect their ability to discharge parental responsibilities. Some persons with severe cognitive or physical impairments may, even with the assistance of others, be unable to reliably attend the claims of children. Finally, there is affective and motivational preparedness. This element concerns the ability and willingness of parents to love their children as well as the motivation they have to monitor and respond appropriately to their needs. Competent parents must be able manifest respect for dignity for children and help to cultivate their sense of self-respect.

Developing and interpreting these elements of parental preparedness must be done in a way that is sensitive to the social division of moral labor. Securing the justice-based entitlements of children does not fall only to parents. To take an obvious example the provision of basic education and health resources to children is arguably a societal responsibility. So the fact that a couple lacks the resources to fund a good education for a child need not disqualify them as suitable parents. If the project becoming a parent and raising children is especially important to a wide range of people then we have reason to ensure that social conditions are hospitable to most

people becoming parents. Given suitable background social institutions that work in concert with parents to meet the needs of children then cost-bearing and mental and physical preparedness criteria need not significantly limit accessing to parenting by those who are poor or mentally or physically disabled. However, there are limits to which clever design of the social division of labour can assist parents in meeting the claims of children. Some of the entitlements of children arguably cannot be reliably secured via institutional arrangements that distribute relevant moral labour between many people. Parents are especially, and perhaps uniquely, well-placed to secure some of the most important needs of children. This observation is particularly relevant to the affective and motivational dimension of parental preparedness. The provision of love and affection along with attentiveness to children of the sort that is integral to valuable relationships between children and adults falls and which contributes greatly to children's well-being and self-esteem can only be provided by a small group of adults with whom children have a close and ongoing relationship over the course of their childhood. Sustained affection of children of the sort that involves intimacy and close personal attention over a long period of time simply cannot be directly supplied by the state or social workers. (Of course, the state can still have a role in ensuring that background institutional arrangements are more or less hospitable to ensuring that children are loved and cherished by their parents.) This means that meeting some of the important entitlements of children will fall more or less directly to parents.¹¹ As a consequence would-be

¹¹ We allow that the role of parents can be played by more than two adults and need not be performed by the mothers and fathers of children and there need be no biological relation between parents and children and parents can be of the same sex. See Brennan and Cameron (2014) for a discussion about the number of parents a child can have. Similarly, grandparents or other family members can serve as parents in the sense we have in mind. But for ease of

parents who cannot reliably provide these entitlements will not be adequately prepared to be parents and thus may be unable to claim a right to parent.

Amongst the entitlements of children that are best secured by parents, our argument places special emphasis on the entitlement of children to what we label ‘affective caring’.

Affective caring involves manifesting love, affection and emotional support to children, being attentive to their emotions, concerns and enthusiasms, and being moved and concerned by threats to their well being in ways that are transparent to children themselves. Expressed more succinctly, children have a right to be loved¹² and valued by their parents. In what follows, we shall consider what role children’s entitlement to affective caring has in an account of parental preparedness and how this facet of parental preparedness generates limits on the moral right to parent.

Affective Care and the Right to Parent

What should an account of parental preparedness say about the capacity for affective caring and the right to parent? Our answer has three elements. First, as we have already noted, against the background of the family as the major institution for rearing children, affective caring cannot be reliably provided to children by non-parents. Second, a realized capacity for affective caring is a necessary condition to secure and retain the moral right to rear children. Those who engage in procreation with a view to becoming custodial parents must be able and willing to provide affective care to their offspring in a reliable and ongoing fashion. Third, although affective caring has core elements it is multiply realizable and hence compatible with diverse

exposition we shall generally assume that parents are usually the adults who are the legal guardians of children.

¹² See Liao (2006) for examination and defense of the claim that children have a right to be loved.

family structures and parenting styles but not all. In particular, approaches to parenting that embrace or reflect (extreme) homophobia are inconsistent with the provision of affective care to gay children. This, in turn, raises the issue of whether religious fundamentalists can meet the requirements of parental preparedness. Does the affective caring dimension of parental preparedness constrain the rights of religious fundamentalists who hold strongly homophobic beliefs and attitudes to become parents? Our answer is yes. Indeed we hold that because such would-be parents cannot reliably meet acceptable standard of affective caring they are morally disqualified as competent parents. Homophobic religious fundamentalists have no moral right to parent.

In order to defend such a striking and controversial claim, we need to consider the contribution of affective caring to children. Why does affective caring matter so much? Our answer has three components. First, affective caring contributes crucially to the current wellbeing and future well-being of children. Children are emotionally fragile and the denial of love and affection to them can create unhappiness and insecurity. Children who are loved are happier and healthier than those who are not. Second, affective caring is crucial to long-term healthy psychological and moral development. By being valued and cherished by their parents, children learn how to esteem themselves and see themselves valuable and meriting respect. Affective caring is, in effect, one of the social bases on self-respect and thereby stands as an important precondition of children forming and pursuing meaningful life plans. Third, affective caring facilitates intrinsic goods of childhood – innocence, trust, and intimacy. These are goods that children can enjoy in childhood in especially valuable forms. Standing in a relationship of love to one's parents is, we suggest, intrinsically valuable. Children who are denied intimacy with their

parents are denied access to an important good of childhood.¹³ We think the interests of children at stake here are sufficiently weighty to warrant the conclusion that children have a right to affective caring. In reaching this conclusion, we implicitly appeal to a version of the interest theory of rights according to which moral rights function to protect especially important and fundamental interests of persons. But we view that commitment as entirely commensurate with contemporary liberalism since many familiar liberal rights, including most accounts of the right to parent, are grounded in an interest theory of rights.¹¹ We argue that liberal values condemn homophobic parenting and thereby severely limit the right to parent by homophobic fundamentalists.

We acknowledge that homophobia is a complex phenomenon that can be manifested in different ways. We deplore all forms of homophobia but our argument focuses on one especially noxious variety of homophobia that we call *strong homophobia*. What are the characteristics of 'strong homophobia'? It involves more than discomfort with or misunderstanding of gay sexuality and sexual identity. Rather strong homophobia consists in belief in the moral

¹³ The invocation of the intrinsic goods of childhood is an important but dispensable part of our argument (Brennan 2014, Macleod 2010). We think there are important goods of childhood and securing children's access to these goods is relevant from the point of view of justice, at least any account of justice that is concerned with human flourishing. We also think parents are especially well placed to help realize or to frustrate children's enjoyment of the intrinsic goods of childhood. But our argument challenging the right to parent by homophobic fundamentalists does not turn on this. Less controversial considerations are sufficient to make the case. So even if one thinks that parents do not have an obligation to provide children with the intrinsic goods of childhood there is enough worry about ordinary facets of children's health, wellbeing and selfrespect that are jeopardized by homophobic parents to make our case.

¹¹ See Brighouse and Swift (2006) and Macleod (2015) for discussion of so-called 'dual-interest' accounts of the right to parent. religious doctrine.

wickedness or depravity of gay sexuality and identity. The strong moral condemnation of homosexuality associated with and gives rise to attitudes of contempt, disgust, disrespect towards gay people. For the strong homophobe, homosexuality is viewed as deeply shameful and subject to strong moral disapprobation. Although there are both secular and non-Christian examples of strong homophobia, we focus on the variety present in North American fundamentalism. Some Christian fundamentalist Churches endorse strong homophobia and represent it as a matter of church doctrine and religious belief.

They encourage their fellow Christians to accept such views and they favour public culture in which homosexuality is demonized and discrimination on the basis of sexual orientation is legitimate. Of course, most adult fundamentalists are or expect to become parents. And most would, we suspect, endorse the idea that as parents they should love their children. But such fundamentalists do not typically think that their children are or could be gay. Yet this outcome is one over which they have no control. However, given their strong homophobia there is good reason to doubt that they can provide affective care to children who are gay.

Persons in the grip of such strong homophobia cannot be reliable affective carers to children since there is a non-trivial statistical possibility that their children will be gay. However, by the time the sexual identity/orientation of child of which the parent disapproves becomes evident it will be too late for other non-homophobic adults to become parents with healthy, supportive relationships with the children the homophobic parents have rejected. Children who turn out to be gay are especially vulnerable to harm from homophobic parents because by the

time they come to terms with their sexuality they have already established close emotional and cultural ties with their parents. The withdrawal of parent love, affection, and concern and their replacement with disgust, hatred and indifference is profoundly damaging to gay youth. It involves a cruel betrayal of a relationship that can instill shame and self loathing in children. The loss of love and good relationships with parents is important as is disrespect manifested by parents to children.

It is easy to establish that gay and lesbian teens are at risk. The withdrawal of parental affection results in some very direct harms: non-completion of high school, homelessness, drug and alcohol abuse, and suicide. Here we is a brief overview of some of the evidence.. The Lesbian, Gay, Bisexual, and Transgender (LGBT) Homeless Youth Provider Survey, a webbased survey conducted from October 2011 through March 2012 assessed the experiences of homeless youth organizations in providing services to LGBT youth. The analysis finds that 46% of LGBT youth are homeless or at-risk of becoming homeless because they “Ran away because of family rejection of sexual orientation or gender identity,” and 43% were “Forced out by parents because of sexual orientation or gender identity”¹⁴. Evidence of the uncontroversial harm wrought by strongly homophobic parents is alarming. Rates of homelessness and suicide amongst gay youth are extremely high and are closely correlated parental condemnation of their children’s sexual identity. According to a recent study ¹⁵, 7 different forms of rejection toward sexual minorities in

¹⁴ Durso, Laura E. and Gates, Gary J. 2012. “Serving our Youth: Findings from a National Survey of Services Providers Working With Lesbian, Gay, Bisexual and Transgender Youth Who Are Homeless or At Risk of Becoming Homeless.”

¹⁵ Caitlin Ryan et al, Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young Adults, *Pediatrics* 2009;123;346-352

the home risk damaging their lives in various ways. Young people who reported regular, as opposed to little or no, family rejection as teens were 8.4 times more likely to attempt suicide, 5.9 times more likely to be prone to high levels of depression, 5.6 times more likely to engage in suicide ideation, 3.4 times more likely to use illegal drugs, and 3.4 times more likely to engage in unprotected sex, on the most recent occasion.⁸ The forms of rejection noted included (1) emotional distancing, (2) exclusion from family events, (3) trying to get a child to change her orientation; (4) refusing a child contact with peers of a similar orientation; (5) refusing a child access to information about her sexuality, and (6) making regular comments about the shamefulness and general undesirability of a child's life on account of her sexuality.

In recent years concern for the lives of gay teenagers has made its way into mainstream media. For example, a recent issue of Rolling Stone magazine featured the article, "The Forsaken: A Rising Number of Homeless Gay Teens Are Being Cast Out by Religious Families"¹⁶ "Research done by San Francisco State University's Family Acceptance Project, which studies and works to prevent health and mental- health risks facing LGBT youth, empirically confirms what common sense would imply to be true: Highly religious parents are significantly more likely than their less-religious counterparts to reject their children for being gay – a finding that social-

¹⁶ "The Forsaken: A Rising Number of Homeless Gay Teens Are Being Cast Out by Religious Families," Alex Morris, 2014, <http://www.rollingstone.com/culture/features/the-forsaken-a-rising-number-of-homeless-gay-teens-are-being-cast-out-by-religious-families-20140903>

service workers believe goes a long way toward explaining why LGBT people make up roughly five percent of the youth population overall, but an estimated 40 percent of the homeless-youth population. The Center for American Progress has reported that there are between 320,000 and 400,000 homeless LGBT youths in the United States.” One might claim that these statistics of bad outcomes don’t entirely establish that the fault lies with homophobic parents. Perhaps gay teens are particularly rebellious, develop drug and alcohol problems because they run with bad crowds, or have low self-esteem from living in a homophobic society.

To this we have two responses. First, the link between the withdrawal of parental affection and homelessness looks very direct. If parents have any responsibilities for children, the provision of food and shelter seems basic. Second, while the link between the withdrawal of affection from the closest of loved ones and suicide seems less direct, we believe our account of how this happens is plausible. Indeed, the very close bond between parents and children which develops in a society which has organized parenting the way that we have, namely in a way which encourages intimacy between parents and children, is only justified if parents do not abuse that intimacy.

Rights and Public Policy

What are the policy implications of recognizing limits on the rights of potential parents? While the first thought that comes to mind is parental licensing, here we intend to remain neutral on the question of the justification of parental licensing.¹⁷ However, it is worth noting that licensing is not the only way in which the state can intervene to limit who gets to become a

¹⁷ See LaFollette 1980 and 2010 for a defense of parental licensing and De Wispelaere and Weinstock 2012 for a sympathetic but critical assessment of the licensing proposal.

parent. In countries in which medically assisted reproduction is publically funded, there may be good reasons for putting limits on that assistance. Beyond procreation, adults also become parents through adoption and again, there is state involvement in deciding who gets to adopt. Should the standards be the same for adoption, access to IVF, and for the parental rights that follow from biological procreation? There are good reasons for thinking that we ought to treat all the ways of becoming a parent the same but again that's not something for which we argue here¹⁸ Our argument is not, and does not intend to be, by itself an argument for parental licensing. Instead, we think of it as an argument for paying attention to the ability of religious and strongly homophobic adults to competently parent gay children. If a scheme of licensing can be justified and feasibly implemented, then it might be reasonable to ask potential parents about is their religious beliefs regarding sexual orientation. Similarly, it would be reasonable for parent education programs to address issues concerning the sexual orientation of children and the importance that parents love their children without regard to their sexual orientation. As well, government advertising schemes which promote good parenting might highlight the importance of loving one's children for the persons they are, no matter how difficult that might be for parents. The general point here is that from a public policy point of view, the most effective strategy for ensuring that parents respect the rights of children is not always one that involves coercive interference in the family.

Consider an analogy with parental smoking in the home. Exposure to secondhand smoke in the home jeopardizes the health of children. It is plausible to maintain both that children have a

¹⁸ See Botterell and McLeod 2014.

right to smoke free home and that parents do not have a moral right to expose their children to secondhand smoke. Since the state has a legitimate interest in safeguarding the rights of children, the issue arises as to how the state should respond to parental smoking at home. One route might be to legally prohibit all smoking in homes with children. (Since *ex hypothesi* parents have no moral right to expose their children to smoke such a legal prohibition would not violate a moral right.)¹⁹ However, a different and perhaps more feasible and imaginative public policy response is to mount an advertising campaign that educates people about the dangers of secondhand smoke and praises parents for their “heroic” efforts in not smoking in the home. The province of Nova Scotia did just this in the early 2000s. The campaign, called “Everyday Heroes”, featured parents who worked long days, for example, and came home and smoked on the snowy front step rather than in their own house. We can imagine a similar campaign featuring parents who have come to love and accept their gay children despite their religious beliefs and commitments. Such a campaign could be predicated on the claim that morally competent parents provide affective care to children irrespective of the sexual orientation of their children. Yet holding that homophobic parents lack the moral right to parent because they are not fully competent parents need not yield the conclusion that they should be denied a legal right to parent. We do not mean to suggest that there is an exact parallel between parental homophobia to secondhand smoke in the home. We merely note the comparison to show that there are a range of policy measures open to governments other than parental licensing or limiting access to IVF and adoption.

¹⁹ Legal regulation of smoking in the home already has some traction: some Canadian provinces do consider smoking in home a relevant factor in the approval process for foster parenting and adoption.

Objections

We anticipate a number of objections to our analysis. First, the reliable identification of strongly homophobic parents is problematic. Belonging to a religious group that endorses strong homophobia is compatible with rejecting it or subscribing to weak homophobia. It's also true that not everyone who starts out homophobic stays that way. Becoming a parent is a frequently transformational, parents with sympathies for strong homophobia may change their attitudes etc. via the process of becoming a parent and loving their child. Love can overcome strong homophobia. Indeed, becoming aware of a gay family member is frequently cited as a reason for widespread and relatively speedy changes in public opinion in the United States on the issue of same sex marriage. There are sometimes very good outcomes when people who would have previously identified as endorsing strong homophobia come to parent and love their gay children.

We concede that prospective identification of people who are strongly homophobic and who bring their homophobia to bear on their parenting practices is imperfect. However, people who freely declare allegiances to religious doctrines and practices that are strongly homophobic or who evince sympathy for or acceptance of strong homophobia are at risk of being defective affective carers. Certainly self-declared strong homophobes – those who openly voice strongly homophobic views – are morally disqualified as adequately prepared prospective parents. Membership in a religious group that espouses strong homophobia should be considered a risk factor in assessing parental preparedness.

As well, the response that points to some examples of strongly homophobic parents changing and coming to love their gay child misses the mark. The good results that follow from this aren't enough to justify sacrificing the rights of gay children whose parents don't come

around. This isn't an exercise in maximizing utility. Instead, we're interested in seeing how taking children seriously limits or constrains the right to procreate and parent.

Second, one might object to our view on the grounds of religious freedom. Does our view unduly limit religious freedom? We think it does not. Our view does not forbid people from holding or expressing religious doctrines that are strongly homophobic. However, it does constrain the domains in which it is permissible to act on strong homophobia. In general, one cannot exercise religious liberty in a way that jeopardizes the rights or basic well-being of others. Our analysis simply draws attention to the significance of the rights of children in the interpretation of the religious liberty. (Structurally the argument is no different from a prohibition on religious indoctrination (even when well intentioned) that is grounded in children's rights to autonomy.

Third, some people object that the scope of our argument is too narrow. Why focus on strongly homophobic parents? Strongly homophobic parents aren't the only kinds of parents who fail to love their children because of the way that children turn out. If it turns out to be widely true that parents are at risk for failing to love their child, then perhaps we ought to be cautious about making this a requirement of parental preparedness. For example, consider a potential parent who is unable to love a child with a profound intellectual disability. While such a person may choose to undergo genetic testing to try to ensure that they don't end up with a disabled child, such testing is, at best, imperfect. As well, disabilities can happen later due to an accident or injury. Do we think that people who may be unable to love a disabled child shouldn't have children? To this worry, we have two responses. First, the wish not to have a child with a disability is usually described as a preference, rather than being based on the inability to love such a child. There isn't

larger world view, akin to a religious belief, that's connected to preference not to have a disabled child in the way that there is with sexual orientation. Second, suppose it were true that the potential parent was unable to love a disabled child, then it seems correct to us that such a person ought not to become a parent. Again, note that the age of the child matters. If a child is born disabled and others are able to parent and love the child, there may be no harm done. What's particularly worrying about sexual orientation is that by the time the parent becomes aware of the child's sexual orientation, the child has come to love the parent and the removal of that love is particularly devastating, especially in a culture with the strong parental rights we described early in the paper.

Conclusion

By way of conclusion, let us briefly recap the discussion. Although our argument yields a provocative conclusion, its basic structure is simple and relies on considerations internal to a liberal conception of justice.. First, children have a right to affective caring that is grounded in their interests in basic welfare and developing self-respect. Second, competent prospective parents must be able to reliably provide affective caring to children. Third, strongly homophobic parents cannot reliably provide affective caring to children who are gay. The withdrawal of affection to a gay children by homophobic parents along with the condemnation of their children's sexual orientation by parents imperils children's well-being and undermines their sense of self-respect. The evidence about the harm to gay youth caused by homophobic parents is strong and alarming. Fourth, since the moral right to parent is conditional on satisfying a threshold of competency and since strongly homophobic adults fall short of this standard, strongly homophobic adults should be be considered competent parents and do not have a moral

right to parent. To the degree that religious fundamentalists embrace strong homophobia they place their moral right to parent in jeopardy.²⁰

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