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GAY RIGHTS AND THE CONSTITUTION:

WHY GAY RIGHTS CHANGES EVERYTHING

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By

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Among other basic constitutional rights recognized or more fully recognized since World War II, gay rights came late (in the wake of the impacts on constitutional law of the civil rights and anti-Vietnam War and second-wave feminist movements). There are good historical reasons for why gay rights came late, rooted, so I believe, to the largely unquestioned role homophobia had long played in the American patriarchal conception of manhood and womanhood. Patriarchy had played a role as well, of course, in the entrenched racism and racist imperialism that both the civil rights and anti-war movements resisted, and the successes of both these movements were significant (the Civil Rights Act of 1964 and Voting Rights Act of 1965; ending the Vietnam War). And patriarchy was, of course, resisted by second-wave feminism, and its successes (decriminalizing contraception in 1965, abortion in 1973, and more strictly scrutinizing gender classifications starting in 1973) illustrate the degree to which patriarchal conceptions of manhood and womanhood were already very much contested and indeed resisted when gay rights came on the scene, first as political resistance (Stonewall in 1969), followed by ethical and political resistance in the 1970's to 1990's (including during the AIDS health crisis), culminating in the constitutional recognition of gay rights in Lawrence v. Texas (decriminalizing gay sex in 2003) and Obergefell v. Hodges (extending constitutional recognition to gay marriage in 2015). I became a law professor in the early 1970's around the time I fell in love with and lived with the man with whom I continue to share my life in New York City to this day, very happily, I might add, from that day to this. So making the case for gay rights both ethically and constitutionally has long been a force in both my personal and professional life, and my arguments were significant not only here but evidently in the reasoning to the Supreme Court of India in its pathbreaking recent decision recognizing gay rights as constitutional rights.¹ I want to reflect with you today both about not only the connections of gay rights to the earlier resistance movements already mentioned, but about what seems to me quite distinctive about gay rights and why the recognition of gay rights

¹ See NYU Law News September 21, 2018, Landmark Indian Supreme Court ruling on same-sex intimacy includes multiple citations of David Richards's Work

changes everything because, so I argue, it more profoundly exposes and resists the evil of patriarchy, an evil now quite visible in American politics under the presidency of Donald Trump. See, on this latter point, my 2018 book with Carol Gilligan, Darkness Now Visible.

I begin with the connection of gay rights to the earlier resistance movements, starting with the civil rights and anti-war movements. Both movements illustrate an emerging resistance to patriarchal conceptions of manhood and womanhood. “Patriarchy is an anthropological term denoting families or societies ruled by fathers. It sets up a hierarchy—a rule of priests—in which the priest, the *hieros*, is a father, *pater*. As an order of living, it elevates some men over other men and all men over women: within the family it separates fathers from sons (the men from the boys) and places both women and children under a father’s authority.”² We know we are within patriarchy when there is a rigid gender binary (separating the masculine from the feminine, with—contrary to fact—no permissible overlap), and the masculine is always hierarchically above the feminine (irrespective and again contrary to fact, of any overlap in competences or propensities). Both men and women under patriarchy are held to rigid honor codes keyed to men’s violence against any threat by men or women to their authority (sexual and otherwise) and the silencing of any voice (women’s or men’s) that questions such hierarchy as in the nature of things. The civil rights movement certainly had patriarchal features (authority dominated by black male ministers), but not only, as we now know, did black women play crucial roles both in leadership and in resistance, but its central strategy, nonviolence, self-consciously adapted from Gandhi’s satyagraha and brilliantly developed by Martin Luther King, Jr., itself contested the dominant gender binary of male violence as a response to injustice in the name of a strategy of nonviolent voice that was rooted in the experience of the mothers of both Gandhi and King and other nonviolent resisters, as I show in my Disarming Manhood. Martin Luther King’s father, for example, always insisted that his son had not learned nonviolence from him, but from his mother.

It was King as well who, very controversially at the time, connected his civil rights movement to anti-Vietnam War resistance both because men of color were disproportionately fighting the war and the war itself expressed a racist imperialism. Such war resistance did not begin on American campuses, but among the soldiers drafted to serve in Vietnam who, on the basis of their experience of the injustice of both the ends and means of the war at first hand, did something very unusual among young men, namely, resisted the authority of fathers who mistakenly initiated and supported the war. For the first time in American history, these young men used the more muscular speech protective doctrines developed by the Supreme Court to challenge the justice of state policies while we were at war, and successfully and democratically persuaded the American people to end the war as both unjust and unwise. The Vietnam War was one in a series of basically imperialist and racist wars into which American leaders were drawn by an unquestioned admiration for European (in particular, British) models of racist imperialism, and the Vietnam War itself—contrary to Franklin Roosevelt’s skepticism of his friend Churchill’s imperialism—illustrates how disastrously later American leaders—

² Carol Gilligan and David A.J Richards, The Deepening Darkness: Patriarchy, Resistance, and Democracy’s Future (Cambridge: Cambridge University Press, 2009), p. 22.

Republican and Democratic—uncritically inherited and enforced European imperialism after European nations abandoned them. We should not underestimate the anti-patriarchal resistance of both the civil right and anti-war movements expressed, and how much our democracy is better because of such resistance and how much we can today learn from them today.

Not all alliances among men at war are patriarchal, indeed some express a more egalitarian friendship and love among men than anything they have ever known or will ever know.³ The bonds among the soldiers who resisted the war were grounded in justice, and show how the experience of war when it serves justice can be transformative because anti-patriarchal. In this connection, the experience of the men and women who fought in World War II, a just war, evidently laid the foundation in experience for gay men and women who found in the relationships that the war made possible away from their homes and families the new forms of intimate life that would later, much later (after reactionary post-war homophobia), give rise to new forms of gay life and even resistance.⁴

Patriarchal gender stereotypes bear heavily on women, not least in silencing a voice that would resist the demands patriarchy makes on women's sexual and reproductive lives. Marriages under patriarchy are often arranged to advance the dynastic or other ends of fathers or brothers, and the patriarchs rigidly control the sexual lives of women. Adultery by women, in which they act on their own sexual and emotional interests in desirable men, is thus under patriarchy the high crime and misdemeanor, deserving under Roman patriarchy the worst imaginable punishment (the equivalent of killing one's father, parricide), namely, "the sack", adulterers to be punished by being sewn up in a leather sack with a dog, a cock, a viper, and a monkey, and cast into a river (for example, the Tiber) or the sea.⁵ And the violence of war, the subject of The Iliad, is thus rationalized by Helen's adultery with the Trojan prince, Paris. Patriarchy is largely a struggle for gaining honor among men; women may deprive men of honor (eliciting violence) when they break the honor codes that hold them captive, but they otherwise do not exist as independent moral or sexual agents. Only men under patriarchy matter.

Second wave feminism expresses women's breaking the silence that holds them captive in patriarchal conceptions of femininity as men's doormat, making ethical and constitutional claims to respect for the choices patriarchy denied them. The right to contraception was early one of their central claims (Margaret Sanger), dignifying the right of women to decide when and whether they will have children, and the right to abortion came later to be a central claim as well, both of them recognized as constitutional rights by the Supreme Court in 1965 and

³ See, on this point, Sebastian Junger. Tribe: On Homecoming and Belonging (New York: Twelve, 2016).

⁴ See Allan Berube, Coming Out Under Fire (New York: Free Press, 1990).

⁵ See for references, Carol Gilligan and David A.J. Richards, The Deepening Darkness: Patriarchy, Resistance, and Democracy's Future (New York: Cambridge University Press, 2009), p. 42.

1973 respectively. Lesbian feminism was more controversial among leading second wave feminists (Betty Friedan on “the lavender menace”), and the defeat of ERA in 1982 (after the ten-year period allowed for ratification by the states) was motored in part by a conservative woman, Phyllis Schaffly, who pointed to its implications for homosexuality and for bathrooms. The bath room issue is still very much with us, but why in the 1970’s was the issue of homosexuality so politically powerful even within second wave feminism?

Why was homosexuality so threatening to Americans? American homophobia was always, I believe, stronger than the comparable homophobias in Britain and Europe. We shared with Britain Blackstone’s condemnation of the “crime not fit to be named, *‘peccatum illud horribile, inter christianos non nominandum,’*”⁶ the unspeakable crime against nature, not to be mentioned among Christians (so unspeakable in English, evidently, that Latin is used), deserving of death by burning at the stake). And Britain had certainly, in the trial of one of its most gifted and outspoken gay artists, Oscar Wilde, shown itself cruelly and callously homophobic, but it had also given rise to the contemporary writing of Edward Carpenter that reasonably contested British homophobia, and the liberal freedoms of Weimar Germany had allowed the first serious empirical study of homosexuality in Berlin in the Institute of Magnus Hirschfeld, a gay and Jewish man, and France, where homosexuality had not been criminal since Napoleon, had supported the art of great gay artists like Gide and Proust. Nothing comparable was allowed in the United States: any such resisting voice in public was criminally prohibited by obscenity prosecutions (also directed against advocacy of contraception and abortion). Gay life flourished in cities like New York, but always under the cover, never publicly defended or acknowledged as the rich and satisfying way of life it was.⁷ Great American gay artists, like the lesbian Gertrude Stein and the black gay James Baldwin, thus fled to France where they could live and write as free people from their convictions and write their pathbreaking forms of art and, in Baldwin’s case, penetrating essays on American racism and homophobia.

What had happened in America was something that did not happen either in Britain or in Europe, namely, that our law did not permit any voice that resisted American homophobia. Even Walt Whitman, a gay man, was so panicked by American homophobia that he denied what was so clear to the Europeans who read and admired him, namely, that his art expressed a resisting gay voice. In effect, homosexuality was to have no voice because it was literally, as Blackstone argued, unspeakable. What made the emergence of the American voice of gay rights, when it emerged in the 1970’s (including my own voice), so remarkable is that it was precisely what American homophobia denied it could be, namely, an ethical voice, and that the view that it was not and could not be ethical made the repression of such a voice into a heresy prosecution akin to anti-Semitism.

⁶ Sir William Blackstone, *Commentaries on the Laws of England*, ed. Thomas A. Green (1765-69; facsimile ed., Chicago: University of Chicago Press, 1979), 4:216.

⁷ See George Chauncey, *Gay New York* (New York: Basic Books, 1994).

But, this shows, as I have long argued, that the case for gay rights does not—unlike the arguments for the civil rights and second wave feminist movements—turn on the constitutional revolution worked by the Reconstruction Amendments of 1865-70 but on the oldest guarantees of human rights in our constitutional tradition, namely, the First Amendment of our Bill of Rights, calling for liberty of conscience and anti-establishment, and a correlative right of free speech. Nothing could be clearer to me, when I had steeped myself in our constitutional traditions as a young law professor, than that the central inalienable human for our Founders (Jefferson and Madison, in particular) was the inalienable right to conscience (free exercise) that was not to be trimmed or limited to the measure of sectarian religious beliefs, no matter how widespread such majoritarian beliefs were (anti-establishment). But, American homophobia had uncritically persecuted the right to conscience of gays, and on the basis of arguments that were, as I came to see and argued, sectarian, not secular. So, the voice for gay rights, when we argued that it was an ethical voice, rested on the oldest American tradition of constitutional protected human rights. And, the argument would proceed from there, namely, that gay love was not unspeakable, but an ethical conviction of the good of gay love in living as valid as any other, and worthy of equal respect. Correspondingly, American homophobia was a kind of religious persecution of a form of conviction and way of life that in fact reasonably challenged dominant homophobic views, which in fact like anti-Semitism demanded that gays convert to the dominant homophobic religion. What was, from this sectarian view, so infuriating about gay rights was precisely that it claimed the dignity of an ethical voice as opposed to an abject unspeakability.

Of course, there can be no doubt that the voice of gay rights, when it found its voice, experienced a similar transformation in the sense of self that people of color experienced when through the civil rights movement they forged a sense of personal and cultural identity as not subhuman but one of dignity, or that war resisters experienced when as men they were no longer shamed by a sense of manhood that bullied them into patriarchal violence but one based on conscience, or that women experienced when they found a different, anti-patriarchal voice to resist codes of femininity that rendered them at best half-human or even barely human (Carol Gilligan's "in a different voice"). All these anti-patriarchal voices constitute a Copernican revolution in ethics which had long been dominated by one voice and perspective, the voice of white patriarchal men. But, there is, I think, a difference in kind not of degree in this Copernican revolution of gay rights as an ethical voice which makes it both so ethically important and, I believe, so threatening to so many. To live under homophobia is to live as a false self, detached as Santayana's last Puritan is, from ethical convictions that flourish only in supportive loving relationships, and thus always to be hostage to the voice of false patriarchal authority. In contrast, the black family and black churches were sources of resistance even under America's most virulent racisms, as were the Jewish family and traditions against Christian anti-Semitism, and women and the men they loved had resisted patriarchy even under the patriarchal Romans (Apuleius). But, under American homophobia, the voice of gay rights had no home and was the object often of much hate, leading sometimes to self-hate, because under homophobia morality forbade gay love itself. But, love and morality are, in fact, closely connected, and homophobia, by constructing a morality that quashed even the voice of gay love, forged a morality based, as Nietzsche implicitly and James Baldwin explicitly

saw, on hatred and irrational guilt.⁸ The voice of gay rights thus makes ethical voice for gays possible, a Copernican revolution in ethics centered on the voice of love as central to our humanity. One of the things we all learned during the AIDS health crisis was that the young gay men, afflicted by the disease, quite nakedly loved one another, in the face of dreadful deaths at an early age for which nothing had prepared them, and which American homophobia regarded as just punishment. We learned something about love, its force and its strength, its resilience and its human depth, defying transgressively the barriers and prisons of gender that held us captive. An ethics that regarded such love as unspeakable, as Satanic, had lost its vaunted connection to the root of all universalistic religions, namely, love, and we needed to reconstruct accordingly our sense of what ethics and moral community was, in which the unspeakable would speak and speak ethically as persons. That voice would tell us something we did not see about conventional ethics (how love had become hate), but it would enable others to see more clearly what had unjustly imprisoned them, as well as gays. Gay voice can have, precisely because of its long experience of the evils of patriarchy, remarkable ethical power in resisting patriarchy. It is for this reason that gay rights changes everything, which I will now undertake to explain and defend.

We may see what I mean by looking at three very great American gay male artists, and a very great lesbian British artist and an American lesbian social anthropologist, all of whom illustrate how the voice of gay rights changes not just life for gays, but for everyone. The gay male artists are Tennessee Williams, Tony Kushner, and James Baldwin, and lesbian artist is Virginia Woolf and the lesbian anthropologist is Ruth Benedict. All of them wrote from their ethical convictions as gay men or women, though only Kushner and Baldwin took a public position for gay rights, and indeed Williams was sometimes condemned for not publicly embracing gay rights when it emerged as a movement.

Certainly, Williams's greatest play, A Streetcar Named Desire, reflects the playwright's dealing with his homosexuality askance. There is no gay character in the play only the offstage deceased gay husband, Allan, of Blanche DuBois, whose homophobic insults led to his suicide. But, we know Blanche loved him: "then the searchlight which had been turned on the world was turned off again and never for one moment since has there been any light that's stronger than this—kitchen—candle..."⁹ The love of Blanche and her husband, Allan, was thus tragic, as homophobia requires, but the psychological depth of Streetcar is that Williams, writing from his experience of sexual love as a gay man, explores how the love of Stella, Blanche's sister, and her husband, Stanley Kowalski, is tragic as well. Blanche's protagonist in the play is Stanley. The play, which opened on Broadway after World War II, features Stanley, a war hero, entrepreneurial and upwardly mobile after a war America won and an America which

⁸ For James Baldwin's argument to this effect, see James Baldwin, "Letter From a Region in My Mind," originally published, November 17, 1962, reprinted *The New Yorker*, December 3, 2018, pp. 30-39. For fuller discussion of Baldwin's evolving views and their background, see David A.J. Richards, *Why Love Leads to Justice: Love Across the Boundaries* (New York: Cambridge University Press, 2016), pp. 150-181.

⁹ Tennessee Williams, A Streetcar Named Desire (New York: New Directions, 1947), p. 115.

now finally put the depression behind it in a thriving economy after the economies of much of Europe and Asia were destroyed, and now, despite its former isolationism, a world power. Stanley embodies this new American man, who has taken Stella down from her Southern idealized pedestal and introduced her to his understanding of sexual love between a man and woman. Blanche, in contrast, stayed at home on her pedestal but fell from it, exhausted by caretaking of family who bankrupted its resources and traumatized by the death of her husband, a gay man who committed suicide after Blanche homophobically insulted him. Blanche is herself no longer on a pedestal, now a sexual woman having affairs with younger men, including her students. “The streetcar named desire” is women’s sexuality when released from its patriarchal captivity and both Blanche and Stella, sisters, illustrate its perils under a culture still highly patriarchal.

The 1947 play was written before the civil rights and anti-war movements, as well as second wave feminism and gay rights, and yet prophetically shows precisely the injustices these movements were to explore, and how and why these movements resisted them. Stanley is racialized by Blanche, and her insults elicit violence. Stanley may himself be a trauma victim from fighting in World War II. And Stanley not only beats his wife, but rapes Blanche, and Stella and everyone else refuse to believe her story, and she is institutionalized for insanity. Sexuality under patriarchy—whether straight or gay—is tragic, and patriarchal scripts of masculinity and femininity are at the root of the problem.

The play gives brilliant voice to all these issues, showing how far Americans even at this brilliant post-World War II moment of prosperity and victory had yet to go. Williams could go so far and so deeply into anatomizing the flaws in the American psyche because he wrote from his convictions as a gay man who had experienced sexual love, its power and pitfalls. Williams had thus experienced, as a gay man, what straight women like Blanche and Stella had experienced: the problem of loving patriarchal men like Stanley, any threat to their control as men eliciting violence (one of Williams’ lovers, Paco, was in fact violent). It is precisely because gay men are under patriarchy invisible and unspeakable that, when they find their voice, they see more clearly than those within patriarchy the harms patriarchy inflicts both on men and women. Gay rights changes everything because that gay voice, rooted in the experience of the search for loving sexual relationship in a patriarchally homophobic world, turns what Blanche calls “the searchlight” of such love on the harms patriarchy inflicted on everyone—men and women, straight and gay.

Tony Kushner’s Angels in America is, in contrast, very much about gay men, who are its central characters, and may thus be regarded as not having the broader resonance that Streetcar had for all Americans. In fact, it was the most important play about America of the late twentieth and early twenty-first centuries. The play was first performed in 1991 in the midst of the AIDS health crisis, and its expressive power and resonance may be supposed as limited to that period and that cast of characters—a gay ethical voice not only breaking the homophobic codes of unspeakability but revealing its consequences, as American politicians evaded any sense of ethical or political responsibility for the crisis, let alone addressing it as the health crisis it was. The play certainly had that power and resonance, but it is striking surely

that the recent 2018 revival of the play on Broadway, probably the best performance that two-part play has ever had (people usually see its two parts over two days), had such power and resonance for American now long after the AIDS health crisis had been brought under control and long after the constitutional recognition of gay rights in the Supreme Court opinions earlier discussed. No doubt, some of its contemporary power derived from the prominent role in the play of one of its gay characters, Roy Cohn, who played a prominent role as father figure-lawyer for Donald Trump, whose sense of ruthless and often deceptive public self promotion, Cohn clearly influenced, so the world Kushner shows us is now no longer the gay America of 1991, but contemporary America itself in 2018. How can a play now well over twenty years old still speak to Americans—all Americans—so powerfully? And what does the play tell us about why the AIDS health crisis did not end gay rights?

Kushner, an out gay man now married to another man, writes more directly from his loving gay experience than Tennessee Williams ever did, but that experience of the homophobic era of the AIDS health crisis is painfully analytical of the tragic impact of American homophobia on gay men. Every gay relationship in the play—whether the mentor-mentee relationship of Roy Cohn to the Mormon Joseph Pitt, or the sexual relationships of Louis Ironson to Prior Walter, or Ironson later to Joseph Pitt—is broken by betrayal, the refusal of love of Cohn, a sexually active but closeted gay man, for Pitt when he Pitt, unhappily married, tells his mentor he is now sexually active as a gay man, or Louis for Prior when he learns Prior has AIDS, or Ironson's infuriated rejection of Pitt when he learns of the role Pitt played, as a then closeted and sexually inactive gay man, as the clerk for a Republican conservative judge. The center of this horror is Roy Cohn, dying of AIDS, who denies to his doctor that, though he has sex with men, he is homosexual:

Homosexual are men who in fifteen years of trying cannot pass a pissant antidiscrimination bill through City Council. Homosexuals are men who know nobody and who nobody knows. Who have zero clout. Does that sound like me, Henry?¹⁰

Cohn, like Trump, erupts in violence at any threat to his conception of patriarchal American manhood. And, since homosexuality is unspeakable under American patriarchy, Cohn, a man always ruthlessly at the top of the American gender hierarchy, cannot be homosexual, and indeed war on any supposed threat to that hierarchy, thus callously rejecting Pitt's pitiable plea for love and understanding one gay man to another.

When love comes from one gay man to another, it does not come from these men, but from a flamboyantly effeminate, gay black nurse, Belize, a former drag queen, and the Mormon, possibly lesbian mother of Pitt, Hannah. It is Belize who cares for Prior, and even for Roy Cohn, and yet is not in love with either of them. He has a lover, but the lover is off stage. The lovers on stage in Angels are all the tragic victims of American homophobia. And Hannah, Pitt's distraught Mormon mother, though from a loveless marriage and perhaps a

¹⁰ Tony Kushner, Angels in America: A Gay Fantasia on National Themes 2013 rev. ed. (New York: Theatre Communications Group, 2013), p. 46.

repressed lesbian, extends loving care to the hallucinating Prior. There are angels in America, Kushner tells us, but not Prior's metaphysical hallucinations, but real people, like Belize and Hannah, who resist the boundaries patriarchy imposed on them, and thus love across the boundaries, one human to another. That was Kushner's despairing hope for America in 1991 and remains his despairing hope in 2018 in Trump's America.

Tennessee Williams in Streetcar studies, as we have seen, how patriarchy destroys heterosexual sexual love, showing as well the destruction of gay love. Kushner in Angels focused on how patriarchy destroys homosexual love, but shows as well the destructiveness of patriarchal marriages—Hannah's to her Mormon husband, and Pitt's comparable marriage to Harper. In the second part of Angels, Prior learns that those he thought were his metaphysical angels cannot be a guide, because their "Great Design" is "All collapsed. All dead, forever."¹¹ Resisting patriarchy expresses itself in new forms of egalitarian friendship and love across the boundaries that divide us, and thus Belize and Hannah, both of whom resist these boundaries, show us the way. It is the voice of gay rights, a voice arising from the search for gay love that patriarchy regards as unspeakable, that makes such insights possible and resonant. The play prophetically shows us why the AIDS health crisis which revealed gay love as the powerful force it is in human lives did not end gay rights, but inspired it, as not only gays but the wider culture saw that the search for love and human connection was what inspired men to attack the homophobia that so blighted their lives and the lives of all Americans.

No such search by a gay man for love is more revelatory of how gay rights changes everything than the life and art of James Baldwin, a black gay man, and no gay man indicted the homophobic Christianity of his youth (like Nietzsche before him) more intimately nor more powerfully for transmogrifying a religion of love into one of hatred and guilt. Baldwin, born and raised in Harlem, was a flamboyantly effeminate gay black man, and thus experienced at first hand not only the homophobic insults and violence of his stepfather, a fundamentalist preacher, but his racism (regarding all whites as "devils"). Baldwin knew that his white teachers and friends in the New York City public schools he attended were not "devils," but nurtured his emerging literary gifts. And both his effeminacy and lack of conventionally understood male beauty made him vulnerable, in his gay sexual life in New York City, to exploitative and sometimes violent sexual relationships (homophobia rationalizing violence in sex). Friends advised him to leave New York City before such violence from others and himself (suicide) destroyed him, and it was only when he left New York City and lived in Paris that he experienced for the first time in his life a loving relationship with a white man, the love of his life, Lucien. It was this experience of gay love across the boundaries of race and gender that gave rise to the astonishing ethical voice of Baldwin's art, essays, and indeed life as a supporter of the American civil rights movement. Why?

What makes Baldwin's voice so remarkable, among all the other voices of gay men and women of his time and our time, is that his experience of love released a voice that resisted all the boundaries patriarchy had established to not only destroy but render unspeakable such

¹¹ Kushner, Angels, p. 277.

love—the boundaries of race and gender, religion and sexual orientation, the touchable and the untouchable. At the heart of the American dilemma for Baldwin was, as he put in his late essay, Freaks and the American Ideal of Manhood: “the American ideal of masculinity. This ideal has created cowboys and Indians, good boys and bad guys, punks and studs, tough guys and softies, butch and faggot, black and white. It is an ideal so paralytically infantile that it is virtually forbidden—as an unpatriotic act—that the American boy evolve into the complexity of manhood.”¹² Baldwin saw blacks as well as whites infantilized by their uncritical acceptance of this ideal, thus not seeing how the degree to which patriarchal conceptions of masculinity and femininity inflicted harms on both men and women, straight and gay. Racism for Baldwin was as much an injury to black and whites, just as sexism was to men and women, and homophobia to heterosexuals as homosexuals. Baldwin brought to his novels, plays, and essays a human voice that debunked the stereotypes of race, gender, religion, sexual orientation, and the like because he saw these stereotypes as silencing a human voice that defied the terms of the patriarchal gender binary and hierarchy. What this late essay shows us, in terms starker and more personal than Baldwin had ever used before, is the violence he personally endured, which he saw from the beginning to be rooted in his gender-bending gay life style, or, even before he had a sex life, in his gender-bending “strangeness.” It is his great achievement to give voice to the roots of this violence in a conception of American manhood and womanhood that, in demanding compliance with the Love Laws that held people in their racist or sexist or homophobic captivity, destroyed the possibility of love and real relationship, indeed gave rise to violence to any love that challenged the rigid gender binary and hierarchy. What makes Baldwin’s achievement so remarkable is that he saw the central issue, patriarchy, in such complex and nuanced ways, interconnecting evils (racism, sexism, and homophobia), not usually seen whole but in compartments. Is it perhaps because, as a black man who was gay and loved white men and black and gender-bending, he saw and experienced all these evils as one and found nonetheless a love that resisted all of them, giving him both life and voice to tell his terrible and terrifying story with such emotional force and yet intellectual precision? If there is any example of how challenging the gender binary and hierarchy makes life and love and ethical voice possible, it is James Baldwin. And his voice of gay rights is the heart of the matter.

My argument so far has drawn on the voices of three gay men and artists, but, long before any of them, the path to their voices was prefigured by the life and work of Virginia Woolf, whose novels and essays brilliantly give voice to the harms patriarchy inflicts on women as well as men. Woolf was married to Leonard Woolf, a loving relationship that nurtured and supported her talent. But, her sexuality was lesbian, and one source of her remarkable insights into patriarchal violence (including the connections between patriarchy both in personal and public life (fascism) is that her voice was rooted in her loves for women and, as an outsider to patriarchy, she gave voice to how compulsory heterosexuality deforms the lives of both men and women, straight and gay. The brilliance of Woolf’s analysis culminated in

¹² James Baldwin, “Freaks and the American Ideal of Manhood,” in James Baldwin, Collected Essays, pp. 814-29, p. 816.

her great last essay, Three Guineas, in which she linked patriarchy to propensities to unjust wars and argued that feminism, suitably understood, could play a pivotal role in resistance to such wars.

There is another lesbian voice, that of the social anthropologist Ruth Benedict, that powerfully illustrates what I mean when I say gay voice changes everything. Like Woolf, Benedict had been married, but, unlike Woolf, not in a marriage that nurtured her talents and ambitions. In fact, her husband had been a patriarchally controlling man, and Benedict not only studied patriarchy at first hand in her own personal life, but found her anti-patriarchal voice in her lesbian relationships to Margaret Mead and, after Mead, to at least two other women in long-term loving relationships. What fascinates me about Benedict is how, like Woolf, she investigates in her works the impact of patriarchy not only in personal life but beyond it in politics. If Woolf offered one of the most penetrating analysis of the psychological roots of fascism in patriarchy, Benedict offers a comparably revelatory psychological analysis of the roots of fascism, namely, the fascism that led to Japanese aggression in World War II. Americans were puzzled by the suicidal levels of aggressive violence that Japanese soldiers evinced in that war, and Benedict, who had never been to Japan and did not read or write Japanese, had been asked to bring her cultural anthropology to bear on understanding Japanese aggressive violence. In response, she wrote her remarkable 1946 book, The Chrysanthemum and the Sword: Patterns of Japanese Culture. Benedict had studied the evils of patriarchy in her marriage, and now, living outside patriarchy in loving lesbian relationships based on freedom and equality, developed on that basis her account of Japanese fascism as rooted in the patriarchal shame culture of Japan in which men and women were rigidly defined by the gender binary and hierarchy, and any threat to that hierarchy elicited shameful humiliation and violence. The Japanese emperor cult was thus rigidly patriarchal with the emperor as a god-king, and the young men initiated into that system modelled themselves as men on allegiance to his commands or supposed commands, leading to a psychology acutely sensitive to any threat to such manhood, a shaming of manhood eliciting violence not only against others but against oneself.

Strikingly, Benedict was to bring a similarly perceptive analysis to bear on her brilliant study of the irrationalism of American racism in her 1942 Race and Racism, arguing that the violence of American racism should be understood in terms of a similar patriarchal shame culture still alive in America (in violation of its guilt culture of reciprocity among equals). Benedict thus gave a psychological dimension to the cultural analysis of Gunnar Myrdal's later pathbreaking 1944 American Dilemma, which was prominently cited by the Supreme Court in its unanimous opinion in Brown v. Board of Education, striking down state-supported racial segregation in the United States.

I have set out and discussed all these gay men and women—Tennessee Williams, Tony Kushner, James Baldwin, Virginia Woolf, Ruth Benedict—to make my case for why gay rights change everything. Gay rights shares with the other resistance movements which inspired it as a cultural and political movements the central importance to victims of profound structural injustice of coming to see themselves as bearers of inalienable human rights and thus finding a

voice that comes to see and resist their unjust dehumanization. That is why both liberty of conscience and speech, connected to nonviolence, have played such pivotal roles in all these resistance movements. But there is, I have argued, a qualitative difference in the voice of gay rights, namely, that it finds its voice resisting the long cultural tradition of unspeakability, a voice arising from loves outside of patriarchy and thus acutely sensitive to the evils of patriarchy. It is for this reason that the gay writers I have studied illuminate for the wider culture, living more within patriarchy as defining the nature of things, the harms patriarchy inflicts on all men and women, straight and gay. As I earlier observed, to live under homophobia is to live as a false self, detached as Santayana's last Puritan is, from ethical convictions that flourish only in supportive loving relationships, and thus always to be hostage to the voice of false patriarchal authority. Gays were cut off from these relationships in a particularly traumatic and desolating ways, often finding no home even in their families of origin for love and support. But, this gives gay rights an ethical depth and power in showing all of us how central personal love is to everything that gives enduring value to living and how unjustly sectarian and indeed corrupt (the priest abuse scandal) has been the culture we have allowed uncritically to quash its voice as unspeakable. Gay rights is thus central to the most profound rethinking of what ethics is and should be in our time. It changes everything.

Could there be any time in recent American history that the voice of gay rights is more important as one of the several movements of resistance that now confront the stark visibility of patriarchy in the politics of Donald Trump? I recognize that some gay men, some of them now married to other men, regard Trump as less a threat to them than to women (gay marriage may be less at threat from Trump's judicial appointees than abortion). But that for me raises the question once again of the gender binary and hierarchy: is it because gay men are men that they should be less vulnerable or feel less vulnerable because of Trump's rather blatant misogyny? The voice of gay rights changes everything precisely because, as I have shown, its voice arises in resistance to the patriarchal unspeakability of homosexuality. It is an ethical voice which profoundly interrogates the codes of masculinity and femininity that have rendered so many structural injustices invisible, including the harms patriarchy inflicts on both men and women. No group has suffered more from such harms than gay men, and yet the best of them (James Baldwin, for example) have resisted not only homophobia, but racism and sexism and anti-Semitism, on the basis of a love that could see love unblinkered by the blinding and distorting patriarchal lens long unquestionably dominant in American culture and religion. That is the voice of gay rights which must remain resolutely aware of how outside patriarchy it remains, and how much work remains to be done not only securing our own rights but the rights of people of color, the straight women, liberals of religious conscience opposing the intolerance of anti-Semitism, and others to whom we owe so much. We share with them a history of the traumatic repression of love and connection that we forget at our common peril, and our struggle for love is their struggle.

END OF TEXT.

