

February 19, 2004

Senator Marian Walsh
Room 405
State House
Boston, MA 02133

Dear Senator Walsh:

I am a Jesuit priest and professor of late modern European History at Boston College. Several of my colleagues have asked me to write you, thank you, and affirm your course of action during recent weeks in resisting calls to change the Massachusetts constitution. From what I have heard from others, you—like me—are a practicing Roman Catholic; understandably, you have felt faced with a serious dilemma and difficult decision: on the one hand, the Church's institutional stance, made all the more forceful by a \$1 million lobbying effort on the part of the Massachusetts Catholic Conference; on the other, a sense that issues of human/civil rights and equality are at stake. I admire you for the seriousness with which you have taken both commitments which so often seem incompatible these days—your religious faith and your belief in certain principles of justice—and attempted to square the circle.

I know that certainly you must be experiencing, before the recommencement of the convention in March, renewed efforts at lobbying by various parties. Some of my colleagues have asked me to share some of my own thoughts with you about how I think through these seemingly incompatible commitments. I'm motivated, moreover, by a radio broadcast which, *uncannily* I heard four different times during the past week as I drove many hours across the plains of my native Minnesota-Wisconsin. In this broadcast, dedicated largely to Mary Magdalene, whose celebrity has been renewed by the *Da Vinci Code*, a Biblical scholar laid out what was, to anyone who has studied the Bible within the last couple decades, pretty uncontroversial stuff—about the Gnostic gospels, about the way the Biblical canon was formed, and about contradictory passages in the epistles regarding women, etc. When the show came to an end, the host said something to her guest that has really stuck with me. She said: "I'm angry that I have been a churchgoer for years and that I have never heard any of this more complex vision about women in the New Testament." Her scholarly guest politely responded: "Well, unfortunately, I don't think we've come up with a good way of transferring the kind of information that it takes hours to acquire in a graduate program to fifteen-minute sermons every week." (These were Protestants; for a Catholic that sermon would come in under seven minutes!) And the host was not satisfied: "I don't see why I should need to get a graduate degree in a divinity school in order to get the truth about the scriptures."

Hearing this exchange—*four times in one week!*—came as something of a personal call, and it made me think about my own life as both a preacher and a teacher. I sympathize with both the host and the guest: on the one hand, I too feel Catholics shouldn't need to get degrees in church history in order to be made aware of the complexity of the faith; on the other hand, it really is hard to convey any complexity whatsoever in fifteen or twenty minutes, let alone seven. So what I thought I would do here in response to my colleagues' request to encourage you is simply sketch out some of the ways in which I try and think through some of the complexity that the luxury of graduate studies has given me, and offer it to you if any of it should strike you as being helpful. As for the rest, feel free to disregard!

“3,000 years of History”: Maybe the most frustrating thing I have heard in the recent debate is this claim that has become a mantra: that we are in the process of changing some allegedly unchanging 3,000-year-old institution called “marriage.” Of course, the decision to grant marriage licenses would be a “change” in marriage practice— but “marriage,” whatever that is, is always in the process of being changed. To pretend that its alteration is somehow a rupture in what is otherwise a three-thousand year continuity is just silly.

It seems helpful to me to recall what traditional marriage is: it is a community's legal arrangement in order to pass on property. In it, a male acquires (in the sense of owning and having sovereignty over) a female for the sake of reproducing other males who will then inherit property.

Not surprisingly, there has been a long tradition of thinking about slavery and marriage as companion institutions. In Roman law, the authority of the *paterfamilias* over his wife and children was absolute, even to the point of death. In European societies derived from Roman law, this absolute right may not have extended to the point of death, but it was fairly extensive: if you read Darrin McMahon's recent *Enemies of the Enlightenment*, you see how much the Catholic reactionaries opposed the idea of women and children having independent rights and insisted that *puissance paternelle* (the absolute power of the father) was rooted in nature. Curiously, if you read David Kertzer's marvelous account of the *Kidnapping of Edgardo Mortara*—i.e., the 19th-c. kidnaping by the Vatican authorities of a little Jewish boy surreptitiously baptized by his parents' vengeful gentile servant—you see the tables turned: the same liberal republicans now insist that, in fact, a father *does* have absolute authority over his child; hence the Church can't keep him. (These are not as contradictory as they seem on the surface: free-market liberals are often not liberal.)

In any case, the idea of marriage as “one man and one woman” is a true rupture and innovation in the tradition. The tradition in nearly every major ancient culture —at least, for those players who had power and thus for those whose marriages we have written records of— has been polygyny: one male who owns several (or many) females. The Jesuits in China found that they had difficulty reconciling two major cultural differences with their European Christianity: ancestor worship and polygyny. [It endured into the very recent period. My personal favorite image of this is in the movie “Raise the Red Lantern”: here, First Wife warns Third Wife about Second Wife: “She has the face of a Buddha but the heart of a scorpion.”] In India, Hinduism's long-time association with polygyny was blamed by modernizers for India's alleged decrepitude. In Persia (as all Western Civ students know from being forced to read the *Persian Letters* or listen to Mozart's *Escape from the Seraglio*), they had harems. Montesquieu used the institution as a metaphor for the lack of human liberty

during the absolutist monarchy at Versailles: in the end, the heroine performs the only genuinely free action she is capable of, i.e., suicide.

In Judaism, polygyny is found throughout the Old Testament until the inter-testamental period: among the many examples that could be cited are Abraham, David, Elkanah, Esau, Gideon, Jacob, Lamech, and, of course, “Solomon and his many wives.” I’ve always felt the most poignant story is Jacob’s: after Jacob serves seven years thinking he has now earned Rachel, Laban gives him his daughter Leah in the dark of night; Jacob doesn’t know the difference or that he has been deceived until the morning. Laban acquiesces and agrees to give him his second daughter as well for another seven years’ wages: “Complete the week of this one, and we will give you the other also in return for serving me another seven years.” Understandably, Leah and Rachel develop angry feelings in this arrangement, just as Sarah and Hagar did two generations earlier: whose son, Isaac or Ishmael (later, symbolically, the Jews or the Muslims) will be Abraham’s true descendent? In an act of enormous injustice, the founding patriarch exiles his first-born for the sake of marital harmony— and this original injustice begins the genealogical bloodline of Jesus. As for poor Onan, saddled with the dubious honor of being the prime example of “onanism”: “Onan’s sin” has been traditionally taken as *coitus interruptus*, later simplified to any act of masturbation. However, it was Onan’s refusal to follow the law and have intercourse with brother’s widow’s wife; his not wanting to produce a son who would carry his brother’s name and not his own was seen as selfish. For this God smote him. In general, a survey of traditional Old Testament marriage makes the reader very grateful that we are not bound to follow its precedents or precepts.

For the New Testament /Christian period, I have attached with this letter the handout I use in class which I admit is very quick and sketchy. Still, I do think there are very valuable things worth noting. The first is that early Christianity was really not into marriage, and it takes quite a leap of the imagination to spin biblical Christianity as somehow being the party of “family values.” St. Paul thought the world was ending the day after tomorrow; understandably, since there were perhaps only weeks, days, hours or minutes to live, he counseled his followers: “It is better not to marry.” (Martin Luther, with the retrospective advantage of sixteen centuries, did not follow Paul in this matter.) On the other hand, if sexual desire meant that one would face the rapture in a state of sin, then it was better to marry in order to fulfill sexual desire legitimately and avoid damnation.

For various reasons, as Peter Brown’s marvelous *Body and Society: Men, Women, and Sexual Renunciation in Early Christianity* shows, other early Christians (influenced by Stoicism, Gnosticism, and Manicheanism) also thought it better not to marry— largely because to marry meant to reproduce, and to reproduce meant to mess oneself up in and perpetuate the endless cycle of the polluted world of matter. When Christianity was transformed overnight from being an outlaw sect to being the Empire’s religion, several shifts took place: one was that Christians went from being anti-imperialist pacifists to serving as infantrymen and officers in the Christian Emperor’s military; another was St. Augustine’s many ways of transforming Christianity into a religion that no longer looked for the rapture but had rather faced the fact that they were in the world for the long haul. Although he himself fairly ruthlessly exiled his own concubine after his conversion, Augustine did (following St. Paul) counsel marriage for others as a remedy for concupiscence—i.e., satisfying male sexual desire in a non-sinful way—even though it was the means of transmitting the Original Sin.

In general, during the early medieval Church, all sex is a problem, and all sex is equally a problem. In the sixth-century penitentials, the penalties imposed on monks for having sex with a man and a woman are equal: three years of penitential activities. On the other hand, the penalties imposed on monks for having sex with an animal was a third of this! In the seventh-century life of St. Samson, we are told that his sanctity was obvious to everyone because no one ever saw him drunk, and he never gave into his lust for either man or woman!

Marriage, both in the Roman and the early medieval periods, was the moment that marked the passing of the rights over a woman from her father to her husband; not just rights over her property, but her *mund* (protection / brideprice), that is, both the obligations to protect her and, if something bad happened, rights to any fines that accrued from her death or injury. In other words, she wasn't a person under the law: instead, she was first her father in law, and then her husband. Thus, when a man and a woman committed adultery, the woman was executed (for committing a sin) and the man paid a fine to the husband for violating his property rights.

It should also be noted that serial polygyny was regularly practiced by early medieval kings famous for their Christian piety. Their marital practices—Charlemagne, for example, and Cnut the Great (whose polygyny wasn't even serial)—did not trouble the Church. Concubinage was also widely practiced among the European elite, and this practice was unproblematic, even in the eleventh century. Divorce was also completely unproblematic until the twelfth century.

In the twelfth century and beyond, rights over aristocratic heiresses (that is, women without fathers, inheriting brothers, or husbands) belonged to their fathers' lords, usually the king. The king, in turn, who was often strapped for cash, sold the rights to heiresses to followers he wished to patronize. They, then, got rights to the profits of her lands. Under King John, that practice is so damaging to male family members of heiresses that a number of clauses in Magna Carta try to address this issue.

In the twelfth century, the idea of marriage as a “sacrament”—i.e., as something fundamentally regulated by the Church—was established along with priestly celibacy and primogeniture. The simultaneous appearance of these practices shows the way in which the preservation of property suddenly became an issue of great anxiety: celibacy prevented church property from passing on to priests' wives and children; primogeniture insured that property remain intact as it passed on to only the eldest son; and Church surveillance of marriages made sure that an authority larger than, say, the most powerful warrior / aristocratic families on the block, was overseeing the passing on of dowries—e.g., Eleanor's region of the Aquitaine. Women became the means of medieval corporate mergers: families consolidated power and property, both by means of dowries as well as by being the producers of male heirs. (This could prove a dangerous gamble, as Henry VIII's wives discovered. It could also prove enormously depressing, as Catherine d'Medici was dragged up from sunny Italy to dreary France in order to make a political alliance, only to have her husband die on her and leave her to govern a fragmented foreign people. With help from a Cardinal and his terrorist practice of assassinations, she managed fairly well.) Small wonder that women in the Middle Ages might have found more freedom to develop their talents and personalities in nunneries rather than in marriage, an institution that made them fundamentally the vessels of male property.

Marriage as an “emotional unit” as opposed to an “economic unit” was largely an invention of the

early nineteenth century — not coincidentally, along with the idea of a warm safe “family” or private sphere, the invention of “childhood,” “birthdays,” Victoria and Albert’s Christmas toys, trees, and cards, and everything else Charles Dickens. In this new arrangement, bourgeois women stayed at home in the “private sphere” and made it a cozy refuge for their husbands to return to after a long day in the cold-hearted public sphere of risk, finance and politics. Bourgeois marriage was a class-bound arrangement: as I tell the students, please note that it is not Hedda Gabbler’s maid who puts the gun to her head. The maid has no time to be bored out of her mind; on the contrary, she would probably be grateful for a day off of cooking, cleaning, and washing. Nor, in Dickens and Zola, are the wives and children of the proletarian class bored out of their minds— they are working 12-16 hours a day in coal mines. It is rather the newly-invented middle-class idea of “marriage” as an emotional refuge for the male that gives rise to the kinds of boredom and infantilization of women that provokes Hedda Gabbler, Madame Bovary, and Shakespeare’s fictional sister (in Virginia Woolf’s *Room of One’s Own*) to see suicide as the only escape.

Conversely, for the males, prostitution is seen as an integral part of the new arrangement of marriage. Prostitutes are seen as the necessary “sewers” which serve as the outlets for male sexual desires that are incompatible with the safe harbor at home. Since the end-game must be the safe transfer of bourgeois property on to a new generation, the state takes over the task of regulation. Alain Corbin’s *Women for Hire* shows the state regularly screening prostitutes for STD’s — the 19th-c. bourgeois terror being the inheritance of property by mentally or physically “degenerate” children, especially those damaged by syphilis (nicely portrayed in the movie “From Hell” about Jack the Ripper) — and licenses them as we would today regulate the safety of elevators or ground beef. (Along with prostitution, sibling incest also seems to have been a common component of 19th-c. family life; Freud wasn’t so far off as once thought.) Divorce, finally legalized again in France in the 1880s, emancipated men but perhaps not women unless they had reserved some independent means. It too was part of the new emotional understanding of marriage, i.e., as something not arranged by parents but rather entered into partly because of emotional desires. When those desires waned, divorce provided males with an out. Bourgeois women—without social security, unemployment benefits, alimony, or gainful means of employment—were not quite so lucky.

It is hardly coincidental: this is also the period during which the idea of “homosexuality”— and then, later, “heterosexuality”— was invented. It is also the moment in which bestiality appears to decline. One country curate’s mid-century report to his bishop on the state of his parish records with excitement that confessions of bestiality had begun to drop. Anti-gay activists like to predict with apocalyptic fervor that gay-rights legislation will somehow spike an explosion in humans seeking out animals for sex. But I like to remind my students that the opposite is the case: humans have already been there and done the barnyard animal thing, and historically speaking, bestiality declined in popularity as industrialization and urbanization (and later, automobiles) provided people with opportunities for sex with other persons.

Today’s concept of marriage, in which a conservative figure of a 40% divorce rate is part of the package, would have been unthinkable a century ago. On the other hand, statistics seem to show that the average longevity of today’s marriage is identical to those a century ago. The difference is that a century ago people (mostly women) died — i.e., often died from childbirth, too many pregnancies, or dangerous deliveries. Thus, whereas the people of the mid-19th century could not have imagined

21st-c. marriage/divorce rates, likewise, we cannot really imagine the marriage/death rates of the mid-19th century. Antibiotics have fundamentally altered our expectations of reality.

The Catholic Church lobbied strenuously in every country—as it is doing at the present moment in Latin America—against the legalization of divorce. Moreover, the Church only came to allow for state authority over marriage after a century. The Rev. Peter Gomes' article in the *Globe* recently told about the case of the first “civil marriage” in New England, necessity having been the mother of invention. In France, before the Revolution, the idea of there being a marriage that was not a church marriage would have made no sense— after the Revolution, the Church continued to rail against what Pius XI called (as late as 1930) “civil matrimony, as it is called.”

In fact, it seems more correct to say that the idea of a “civil marriage”—between anyone whomsoever—was the genuine modern innovation in marriage practice, and that its transformation from a Christian sacrament (or at least a church ceremony, since many Protestants recognize only Baptism and Eucharist as “sacraments”) to a civil union has been incomplete, messy, and perhaps incoherent. (Cf. all the talk about the “sanctity of marriage” in the civic sphere.) American practice blurs these boundaries between Church and State: a Catholic priest simultaneously serve as the State's “marriage” authority. Generally speaking, European practice separates these functions and maintains clearer boundaries between Church and State.

Catholic canon law is complicated and fuzzy about these distinctions, and Catholic politicians who know almost nothing about Catholicism (like Rick Santorum and Bill Frist) do not help matters by pretending that they do understand it. In canon law, a marriage is a “sacrament” if it was contracted by two baptized persons: e.g., a Catholic and a Lutheran, or two Lutherans, or two Baptists; it is not sacramental but rather “natural” if one of the parties is not baptized: e.g., two non-baptized persons, or a Catholic and a non-baptized person (even in a Catholic ceremony). The matter is more complicated for Catholics: the Church does not recognize as valid the marriage of a Catholic who attempts to marry without the proper form (in a Catholic church, before a priest, with the proper preparation) or, in the absence of that, without having obtained the proper dispensations, e.g., a Catholic who marries a Lutheran in a Lutheran ceremony and has obtained the proper dispensations has contracted a valid marriage; without the dispensation, it is not. These distinctions come into play mostly in cases of annulments and (re-)marriage: a “natural” marriage can more easily be declared null than a “sacramental” one if, in favor of the faith, the marriage of a newly-converted Catholic requires the nullity of an earlier marriage (i.e., the Pauline and Petrine privileges).

In addition to all of this, a longer history of modern marriage would have to trace the ways in which marriage came to be deregulated between societal estates — e.g., once forbidden between aristocracy and peasantry; once demanded between members of the same artisan guild (a butcher's son marries a butcher's daughter and they produce a number of little future butchers belonging to the same guild and living within the same quartier) — and between races, i.e., anti-miscegenation laws done away without only very recently.

In short: this mantra of “3,000 years of unchanging history” can and ought to be summarily dismissed.

As a postscript: since, if I am right, gay marriage has already been legalized in both Belgium and the Netherlands, the idea that Massachusetts would be “changing 3,000 years of history” is plausible only to those who believe that Boston truly is the “Hub of the Universe.”

Catholic ideas about marriage / sexuality: As the examples of early Christianity show, Catholic ideas about marriage and sexuality are in constant conversation with the wider society/culture’s evolving values and needs. The 12th-c. institutions of priestly celibacy and sacramental marriage are good examples. So are the demands after the Council of Trent that became increasingly stringent about announcing weddings long in advance and having witnesses present so that the *free consent* of the marriage partners be guaranteed from all coercion (and also to avoid the “Romeo and Juliet” scenario in which Friar Laurence surreptitiously end-runs the families, “marries” the couple in secret, and everyone on stage ends up dead).

Throughout the 20th century as well, Catholic ideas about marriage/sexuality have been rapidly changing in subtle but important ways. As late as the *Code of Canon Law* of 1917, the official position continued to be depressingly materialist: the purpose of marriage was considered to be “procreation,” while a secondary end was a “remedy for concupiscence.”

This genuinely two-millennia-old view changed on New Year’s Eve, 1930: on that day, responding to the 1930 Anglican Lambeth Conference’s decision to allow the use of the newly-emerging means of contraception, the papal encyclical *Casti Connubii* introduced a fairly shocking innovation: one of marriage’s “second ends” was the “unity” between the spouses. In other words: the 19th-c. invention of marriage as an “emotional unit” in which two persons came together not merely to procreate but in order to form a sphere of emotional support—a thoroughly modern meaning of marriage—was accepted by the papacy. This has often been overlooked because readers concentrate on the main aim of the encyclical which was, indeed, to state in the strongest terms possible a condemnation of newly-invented contraceptive technologies and, implicitly, of the Anglicans’ shift in position.

This particular encyclical has had a mixed reception: it was retrograde in the extreme in its unqualified condemnation of women working outside the home—ironically, this at the beginning of the Great Depression during which many families were about to survive solely on the wages earned by the female partner. On the other hand, the encyclical now seems prophetic in its condemnation of two other practices: it condemned anti-miscegenation laws, increasingly popular in the USA after World War I, especially against both African-Americans and Japanese-Americans (and about to be imitated in Hitler’s Germany); and it condemned forced sterilization, recently ruled constitutional by the USA Supreme Court. Both practices were seen as violating the “integrity” or the body or soul.

On October 29, 1951 came a second important innovation in Catholic views. In one of the most insignificant settings possible—i.e., not an encyclical or synod but rather an address to Italian midwives—Pius XII suggested that couples, as long as they did not use “artificial” contraception, could arrive at a moral decision to be sexually active in a way that did not lead to procreation. As the debates on the floor of the Vatican Council a decade later show (recorded, for example, in Xavier Rynne, *Vatican Council II*), true conservatives (like Cardinal Ottaviani) realized that the distinction

between “artificial and natural means” was relatively minor when compared to the one that Pius XII had in fact permitted: i.e., the distinction between sexual activity and procreation. In conjunction with his predecessor’s 1931 teaching that marriage had a “unitive” (i.e., emotionally supportive) function as well as a procreative one, this 1951 speech shows the way in which Catholicism was coming to accept the modern invention of marriage as an emotional unit.

Between the years of approximately 1948 to 1963, the Catholic bishops of New England lobbied furiously against the legalization of contraception. This story is told in John McGreevy’s brilliant new *Catholicism and American Freedom*, and if I could recommend one book to every Massachusetts Catholic senator / representative, this would be it. McGreevy’s survey of the archives has found letters and memos in which the bishops acknowledged that they had to throw in the towel; they simply couldn’t find Catholic legislators willing to go back into the ring and fight anymore. John Ford, a Jesuit moral theologian who was the most aggressive proponent of the anti-contraception stance (and taught in Weston, Mass.) admitted letter that the “natural law” argument had failed; if the point of “natural law” arguments was to convince any “rational person” (unlike, e.g., Scripture, which would convince only a religious believer), and if all these rational persons were rejecting the Catholic position, then what did that say about the law’s “natural” aspect?

Eventually, the bishops abandoned this fight and made a distinction between public policy and personal religious practice. While Catholics themselves might be forbidden to use contraception, it was not necessary that this be imposed on public policy in a democracy. The implications for current events of this distinction made by the New England bishops in the early 1960s are instructive.

In the end, *Griswold v. Connecticut* (1965) rendered the point moot and established the principle of a “right to privacy.” As McGreevy points out, the New England bishops’ intransigence on the contraception issue led, unexpectedly, to the establishment of the principle by which *Roe v. Wade* would legalize abortion. Once again, the episode proves that there is only one law of history: the law of unintended consequences.

At the Second Vatican Council, the *Pastoral Constitution on the Church in the Modern World* (*Gaudium et Spes*) led many Catholics in 1965 to expect that contraception would be permitted for Catholics. In its emphases on both the urgency of population control and also on the freedom of conscience — as well as some poignant passages on marriage as a unit of emotional support, acknowledging the value of marriage even when procreation was not a physical possibility for the couple — the document seemed to point in the direction of a reversal. As is now well-known, the Papal Birth Control Commission did in fact arrive at its decision that contraception was morally permissible; but that Paul VI in the end did not accept its findings and, in his encyclical *Humanae Vitae* re-stated the prohibition against contraception as “intrinsically disordered.” (The “order” refers to the Catholic metaphysical idea that every act is “ordered” to its intrinsically given end — here, the act is ordered toward the union of egg and sperm.)

What is most interesting about the 1968 encyclical, at least to my mind, is that Paul VI rejected the admonitions of both the conservatives and the progressives: on the one hand, against the progressives, he did reaffirm Pius XI’s prohibition of contraception; on the other hand, against the conservatives, he also reaffirmed Pius XI’s idea that the “unitive” end of marriage is a constitutive

element, and Pius XII's idea that couples can limit the number of children. In addition, he wiped out the distinction between "primary" and "secondary" ends, so that for the first time in two millennia of Catholic teaching, the modern idea of marriage as an emotional unit was not made "secondary" to the "procreative." Of course, this opened up an unprecedented can of worms: if the two ends conflicted, how could one now reconcile them? This unsettled quandary has been the lingering legacy of that decision.

Like other forms of law, Catholic canon law is produced incrementally by decisions and precedents. In 1969, a very important decision set a precedent for Catholic marriages: the Rota ruled that when two people consent to a lifelong union in marriage, what they are consenting to is not merely the "right to the body" (*ius in corpus*) for sexual acts, but rather "**the right to the community of the whole life.**" It was not unprecedented but rather flowed out of statements in *Gaudium et Spes* like this from paragraph 50: *Marriage to be sure is not instituted solely for procreation; rather, its very nature as an unbreakable compact between persons, and the welfare of the children, both demand that the mutual love grow and ripen. Therefore, marriage persists as a whole manner and communion of life, and maintains its value and indissolubility, even when despite the often intense desire of the couple, offspring are lacking.*

Language defining marriage as something made "between persons" reflected the strong influence of the philosophy of "Personalism" at the Council, especially in one of its major thinkers, Karol Wojtyla, now the present Pope John Paul II. As in Pius XI's condemnation of anti-miscegenation laws, the emphasis was not on the bodily traits— e.g., race — but rather on the fact that the person was, first and foremost, a "person" endowed with dignity.



Chronicle / Paul Chinn

I do think this emphasis deserves a pause: one of the photographs coming out of the *San Francisco Chronicle* this past week — one in which an anti-gay marriage protestor carries a sign saying "I Want to Marry This Tree" — shows a fundamental problem in the thinking of anti-gay marriage arguments. The protestor obviously thought he was visually making an argument *reductio ad absurdum* —that to include in the idea of marriage the union of a person with another person of the same gender is as arbitrary as the idea of uniting a person and a plant— but obviously, the absurdity is his category confusion, not the idea of gay marriage. A tree is not a person— it is the idea that marriage is a contract between two persons, not primarily between two biological entities (plant or animal) capable of reproduction, that has led to the present debate in marriage legislation. The overall narrative has been an evolution from a traditional notion of marriage as a male's possession of rights over a female—a biological view—to a contract between two persons, equal in dignity by virtue of their humanity—a personalist view— for the purpose of a common life. The absurdity is not in the idea of legalizing

the union of two persons for the purpose of a communion of life — it is with those who equate such a union with pursuing sexual activity with animals, California redwoods, and Robert Frost’s beloved birches.

Returning to the Catholic Rota ruling: when it decided that Catholic marital consent is not merely the right to engage in intercourse but rather the “right to the community of the whole life,” it was quoting the Church’s highest authority as a precedent, an ecumenical Council: marriage is *a whole manner and communion of life — even when offspring are lacking*.

The practical implications of this were many and immediate: whereas before the Council and the 1969 ruling the grounds for ruling a marriage “null and void” had been narrowly limited, they now became many. What could impede one’s free consent to an unbreakable lifelong union in a whole manner and communion of life? Obviously, we can all think of many such impediments, ranging from schizophrenia to chemical addiction to emotional immaturity and extreme narcissism. And in fact, this is what happened: the 1970s and 1980s saw an explosion in the processing of Catholic annulment cases based on this new understanding of what marriage was and what a truly free consent to it required. (Every time I read this list of possible impediments in class to students it makes me extremely uneasy — uncomfortably aware of the impediments in myself!) As one of my non-Catholics students said to me last semester after one class, “I don’t know if you’re aware of this, but your religion really has a lot of loopholes.”

To summarize: when one compares the 1917 Catholic view of marriage — “procreation” as a primary end, “a remedy for concupiscence” as a secondary end — with the 1969 view expressed in both the Vatican Council and encoded in canon law — “the community of the whole life” that includes both the “*unbreakable compact between persons*” as well as the “*welfare of the children*,” one can see that the change in Catholic doctrine and law has been nothing short of astonishing.

It has also resulted in what, to me at least, is a very appealing (if perhaps sometimes unattainable) Catholic ideal of marriage: the creation of a lifelong communion which allows the flourishing of the two persons who have made their compact as well as of their children, biological and/or adopted. Certainly, legalized divorce tempers the (explicitly stated) “lifelong” aspect; and legalized marriage between two persons of the same gender would temper the (implicit but not stated) assumption that the children have been reproduced by the couple themselves. Still, the actual words of the Catholic documents themselves are instructive in what they emphasize as being essential: human flourishing. In this, they echo St. Thomas Aquinas: “Whatever is a means of preserving human life, and of warding off its obstacles, belongs to the natural law.” (*S.T.*, I-II 94, 3)

Catholicism and Homosexuality: As with all aspects of Catholic teaching, Catholic views on homosexuality have been in dialogue with the evolving culture of the late 19th, 20th, and now 21st centuries. The idea of “homosexuality” as a condition, orientation, or state of being — however one approaches it — was unknown before the 1880s. “Sodomy” was a form of sexual intercourse; those who engaged in it were “sodomites.” The works of Mark Jordan (*The Invention of Sodomy*) and John Boswell (*Christianity, Homosexuality and Social Tolerance*) are now-standard accounts of multiple transitions in Christianity’s thinking about the catch-all “sodomy.” Historically speaking, there is relatively little said throughout the ages about sexual activity between females. The principle

anxiety throughout the ages seems to have been the transmission of male fluids. (This may be due to the fact, told with a flair in Thomas Laqueur's *Making Sex*, that the discovery that women made a contribution to reproduction over-and-above their warm body-as-incubator —i.e., an egg— was extremely recent.) In Britain, sodomy (as Oscar Wilde discovered) was a capital crime and remained so until its decriminalization in the 1960s. In E.M. Forster's 1913-1914 novel *Maurice*, published only posthumously in 1971, the psycho-hypnotist encourages the protagonist to move to a Mediterranean country that would be more forgiving of his homosexual tendencies. "England," says the doctor, "has always been disinclined to accept human nature."

The first Vatican document ever devoted to the question of "homosexuality" — i.e., homosexuality as the condition / orientation / being of a person and not as the act of sodomy — in 1975. The language used to condemn a non-procreative sexual act between members of the same sex (the implication is that they are males) is identical to that in the 1968 *Humanae Vitae*— i.e., both contraception and same-sexual activity are "intrinsically disordered."

The condemnation of the sexual act is, at least to a historian, not of much interest here or in any other Catholic documents. What is more interesting is the way in which the Church, in a fairly undramatic way, came to accept the modern notion of "homosexuality" (as being and not action) practically overnight. In each of its documents, from the 1975 Vatican document through the U.S. Catholic Bishops' Conference pastoral letter ("Always Our Children") through the June 3rd, 2003 Vatican letter against gay civil unions/marriage, people tend to miss the fundamental (and fundamentally amazing) innovation: namely, that the Church accepted the wider culture's evolving presupposition that there is such a thing as a "sexual orientation" — a condition, preference, or "being." This fundamental leap from action to being was made, perhaps too quickly — because it seems to be incompatible with the other half of the Church's stance: namely, that a person might be constitutionally "homosexual," and yet that person is forbidden to act in accordance with his/her being. This is not logically coherent, and my sense is that the incoherence comes from having accepted the modern leap (from action to being) —which was an enormous admission from which the Church cannot now retreat— without really having thought through the consequences of this paradigm shift. When the U.S. Bishops in their letter encouraged young people to "accept their sexual orientation" and encouraged their parents to accept this orientation as a constituent part of their children, they did something analogous to Pius XII's 1951 allocution when he said that parents could morally and legitimately regulate the number of children they bear. They opened doors to another chapter of ongoing reflection and theological synthesis. It is still going on.

To summarize: Catholic thought is not dead and lifeless; it is neither a museum nor a mausoleum. It is a vibrant, living, and extremely creative thing, always in dialogue with the culture surrounding it, sometimes challenging it, sometimes adapting it, always in a dialectical process of change.

How to be both Catholic and Modern: Last semester, I taught a course entitled "Catholicism Confronts Modernity, 1789-1968." I have to say that I myself learned a great deal in the process of having to read and re-read, sort things through, and try to present them in a logical manner. A couple lessons from that experience stand out for me as I consider the position of conflict in which a Catholic who is deeply involved in the American democratic process stands today.

It struck me, as I reflected on things at the end of the course, that the best elements of Catholic teaching in Vatican II probably owed themselves to Voltaire and Marx — both rabidly condemned as bitter enemies of Catholicism in their day — and perhaps Abraham Lincoln. To Voltaire we owe the concept of “tolerance” (to Locke too, perhaps, but his notion of “toleration” was meant to delegitimize Catholicism as being irrational and hence not to be tolerated) and, along with the other Enlightenment thinkers, everything once condemned as anathema: freedom of the press, freedom of speech, democratic suffrage, and so on. To Marx we owe the most trenchant advocacy of workers’ dignity — liberalism was shown to be thoroughly il-liberal in its mistreatment of the masses, and progressivist socialism became a profoundly ethical force against both economic liberals and religious conservatives. As for Abraham Lincoln: just as the Holy Office of the Inquisition (today’s Congregation for the Doctrine of the Faith, the author of similar documents on homosexuality) was ruling about 1865 that slavery was not incompatible with either the “natural” nor the “revealed” law (i.e., Scripture), Lincoln’s second inaugural address took the opposite stand: perhaps the bloody catastrophe of the Civil War should be seen as God’s just punishment for the enslavement of Africans. (The Catholic Church definitively reversed its position and condemned slavery as an abomination before the Creator in 1965.) The first thing that struck me in this course, then, is that Catholicism owes a great deal, perhaps even its best, to its one-time enemies: they have often been its best and most moral teachers. At least in modern times, the Church has tended to be the slow one in the class on issues of human rights and dignity.

The second thing I came away with: a great admiration for the “little people” who are, when all is said and done, the true Catholic heroes. After the nationalist dissolution of the Papal States and the invention of “Italy,” Pius IX forbade Catholics to participate in the national government. The result? There were no Catholics in the Italian government... Similarly, in 1905, Pius X excommunicated every French member of parliament who voted for the Act of Separation of Church and State. The result? There were no Catholics in the French government... Today, the same thing is being tried in Wisconsin — and perhaps (subtly) Massachusetts. The result? To be announced... In the words of the eminent old Belgian church historian, Msgr. Roger Aubert, it was precisely this ecclesiastical “bungling” that led to the catastrophe of 20th-c. French Catholicism. Hopefully, American bishops will see the value in lay people being *both Catholic and* a player in the democratic process. But if they cannot see this, others shouldn’t wait for them to catch up.

I was also able to read Owen Chadwick’s *Secularization of the European Mind in the 19th Century* for about the fifteenth time, and I came to see the great historian/philosopher Lord Acton as something of a hero. Fiercely 19th-c., Liberal, and Roman Catholic, Acton vehemently resented the Roman Pope’s presumption in condemning modern democratic civilization, e.g., the freedom of the press as a “pestilence” and universal suffrage as “the horrible plague which afflicts human society.” Of course, there was a bit of Victorian chauvinism here: if the Pope wanted to do that in his own minuscule territory, that was just fine; but to presume that his judgments applied to those in the land of Magna Carta — this Acton could not abide.

After Acton visited Rome in 1867, he had harsh words for the continuance of papal monarchical power over the Papal States. “I pray to God that I may live to see the whole of this Fabric destroyed,” he said, “and the Tiber flow with the blood of the massacred priests.” Asked for clarification, Acton replied: “I want the liberty of the press to destroy the Inquisition and to control

the morals of priests...”

No doubt, today Acton would be dismissed by some Catholics as a “dissenter,” i.e., not truly Catholic. However, history is not on their side. In 1965, the Church vehemently affirmed all the human rights that it had condemned a hundred years earlier, and, following Pope John XXIII’s megalist in *Pacem in Terris*, added so many more progressive demands that a free-market capitalist must blush with shame: the right to full employment, to universal health care, etc. Acton was the quick kid in class; it took awhile for his clerical superiors to catch up.

Another hero from last semester came through the reading of reading Michael Phayer’s *The Catholic Church and the Holocaust, 1933-1965* for the first time this past semester, I found another hero: Gertrud Luckner. Luckner had herself narrowly escaped death in a concentration camp. After the war, she and her Freiburg Circle worked heroically to try and bring the German bishops around to seeing that Catholic anti-Semitism had contributed to the Holocaust and that it needed to be officially condemned. A Jesuit (eventually Cardinal) Augustin Bea was sent by Pius XII to investigate this outspoken group and see whether they didn’t need an official admonishment for their flirtations with heresy. Bea went to visit them and, on the contrary, was converted to their view — and he almost single-handedly was later responsible for Vatican II’s document that apologized for centuries of anti-Semitism and condemned it in absolute terms. This woman, whose name has been practically lost to us later in history, was the true driving (and obstinate) force behind what has now become official Catholic doctrine. She refused to be sidelined by even a Vatican inquisitor.

Reading her story, and the story of so many 20th-c. figures first condemned or silenced as heterodox, only later to be rehabilitated and then rewrite Catholic doctrine, I came to understand that this is the way a human Church walks the path of history. These are crooked, not straight lines... and yet, eventually, truth wins out — but sometimes at enormous cost to the little people who face the condemnation of powerful magisterial authorities.

A final thing I got from last semester that I had never sufficiently grasped: I had to re-read for about the eighth time in my life John Stuart Mill’s essay *On Liberty*. The first time I read it was in 1978 as a college sophomore: I remember telling my professor (himself a huge fan of Leo Strauss) that it was the most important thing I had ever read. My professor replied that he could see if might have a certain adolescent appeal... Regardless, even at the tender age of 20, the terror of the “tyranny of the majority” was already in me. And yet, reading it last semester yet once again in review for class, it struck me as never before: Mill’s enormous effort to protect democracy from itself — i.e., majority suffrage from becoming the majority’s tyranny over minority populations — was a modern reading of all that is best in the Judaeo-Christian tradition. That’s to say: the idea, over and over, that “You were once yourselves in an alien land” and that the duty is now to “treat the alien with dignity.” Or the prophets: that it is always to the orphan, the widow, and the alien that one should be defending since they are the ones who need it.

In light of Mill (and James Madison before him), the recent rhetoric about how “four justices” are “activists” and somehow contravening the “separation of powers” seems to me absolute nonsense, and a fundamental misunderstanding of the genius of the Founding Fathers. For some time now, there has been, in the field of French history, an ongoing debate about the merits of the crystalline

and centralized politics engendered by Jean-Jacques Rousseau's "general will," and the clunky gridlock system of checks and balances gridlock built in by Alexander Hamilton. I'll take Hamilton. The fact that the executive branch can, with the flourish of a pen, desegregate the armed forces as Harry Truman and check the majority will; or that the judiciary in *Brown v. Board of Education* could recognize the equal rights of minority citizens over and against the will of the majority; this ability of the separation of powers to unilaterally, when necessary, make sure that majority rule does not impose a tyranny on the minority — this is what is best about the American system.

It is also what is best about our religious tradition. When all is said and done, and all the details of this and that have been shaken out, what is truly valuable about Judaeo-Christianity is this conscious decision— preferential option — to take the side of those who need it, the weak, the insignificant, the numerically inferior, in imitation of God's own conscious decision. And what seems most valuable to me about Roman Catholic social teaching, at least as it has finally been articulated in this late modern period, is precisely the way in which it takes the side of those whom the great forces of the world grind down and leave behind. As Bishop Riley said in remarks to the press, if the issue is one of "distributive justice," then of course Catholics must engage the question of rights for all.

Or to quote the passionate words of Pius XI's *Quadragesimo Anno*, in 1931 just as the Great Depression began, on the fortieth anniversary of the first great encyclical on the rights of workers (*Rerum Novarum*): *To each, therefore, must be given his own share of goods, and the distribution of created goods, which, as every discerning person knows, is laboring today under the gravest evils due to the huge disparity between the few exceedingly rich and the unnumbered propertyless, must be effectively called back to and brought into conformity with the norms of the common good, that is, social justice.* [¶ 58]

In Catholic church history, as in all history, who is heroic and what is the right thing to do often diverges significantly from the stories told by authorities. That's why it's important to keep telling those stories from another point of view.

In conclusion, I would just observe something about the radical innovation that was Enlightenment thought and the French Revolution: it inverted time-honored values. The idea of "generations" came into vogue, reversing the basic idea of traditional societies in which age and wisdom go together. The idea of a "generation," as the French historian Pierre Nora writes, inverted the "prestige pyramid" of age, and suggested that perhaps the young have it together more than their elders — i.e., that a new "generation" might be seeing in advance what an older "generation" might never come to see. Thus, in his text of the 1793 *Declaration of the Rights of Man*, Condorcet inserted the line that "a generation has no right to subject any future generation to its laws" (Article 30). Saint-Just used the same language in summarizing the revolutionary measures, "You have therefore decided that one generation cannot place another in chains."

In a very different setting, during my own studies (which are about the traumatic effects of the First World War on the 1920s in France), I came across this marvelous book title: *De la gérontocratie ou abus de la sagesse des vieillards dans le gouvernement de la France* (Paris, 1928) — *On Gerontocracy, or, On the Abuse of the Wisdom of the Old Men in the Government of France*. It was written out of the rage that one sees throughout this period. The poetry of Wilfred Owen, the

surrealism of André Breton, *All Quiet on the Western Front* of Remarque: they are all expressions of rage at a gerontocracy that had ruined the lives of a younger generation.

Looking at the polls on the issue of gay marriage, one can't escape noticing the generational divides. Those 60 years and older have a difficult time coming to terms with gay marriage; those 35-60 seem fairly evenly divided; for those 35 and under, it is barely an issue. To those who would add an amendment to the constitution—a genuinely radical act—Condorcet's line is worth recalling: "A generation has no right to subject any future generation to its laws."

Senator Walsh, I respect enormously the efforts you have made to wrestle with the details in this debate. It cannot have been easy for you, and I know that you will have to continue to do so as the second round approaches in March—a round for which both sides not doubt will arrive doubly-prepared since they have had time to rally forces. I know that you will be subjected to many more claims "X has always held this" and "Y has always taught that" and "Z has always been this way."

Historians—well, certain types of historians—are profoundly skeptical of the word always. One of my teachers was fond of this aphorism: "We study history—not in order to render what is unfamiliar familiar—but to render what is familiar unfamiliar." Another one liked to say: "You show me what you think is the most stable thing imaginable, and I will show you how horribly contingent it really is." And a colleague of mine quotes her own teacher as having described herself as a "historian of hope," showing that things haven't always been "this way" and won't always continue to be "this way." One of the great delights and intellectual pleasures of studying history is precisely the experience of seeing that word always quietly and subtly (yet surely) subverted. I've come to think that this is a matter of temperament: some people tend to like to see continuity and stability in things; others (like historians) enjoy the bumpy ride.

Beyond personal temperament and intellectual delight, however, I do think of history as an enterprise that eventually has profoundly ethical implications. When people employ the word *always*—as when they use the word *natural, intrinsically, unchanging, traditional*—or any other word whose use is meant to seal all the exits, close out the options, and imprison people, then deconstruction becomes, at least speaking for myself, a moral activity as well as intellectual. I was prodded by colleagues to write you and encourage you to continue being suspicious of the forces that like to say always. I hope that some of this will be helpful in the coming days.

Thank you very much for all the work you do for the Commonwealth, and especially those who most need your voice and representation.

Very sincerely yours,

Stephen Schloesser, S.J.
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HS473: Christian / Catholic Attitudes towards Marriage/Procreation

1. Jesus sayings: no divorce permissible — among the few sayings of Jesus scholars agree are his own.
2. Letters of St. Paul: the end-time is near. Christians should not marry.
If, however, you need a remedy for concupiscence, then you should marry.
3. Primitive Church [Evangelists / Paul / Peter]: introduce exceptions to divorce prohibition:
porneia [“lewd conduct”? “adultery”?]; “Pauline privilege”; “Petrine privilege”
4. Pre-325 Church: Christianity illegal / period of martyrdoms: virginity is best:
— do not add to the pollution of this world by procreating
5. Post-325: Christianity official imperial religion: Augustine: sexual intercourse passes on Original Sin
Marriage is important as a remedy for concupiscence [effect of Original Sin]
6. Post- 400s: Frankish / Germanic periods: marriage is an economic unit
i.e., arranged marriage is primarily a contract about property —
wife exchanged for dowry; she is the property of her husband
7. 12th century [1100s]: Gregorian Reform [1075]; End of Viking invasions [ca.1100]; Crusades
Church concern over property inheritance
 - a) Introduction of priestly celibacy; priests must expel wives from household
 - b) Practice of primogeniture: eldest son receives property; second son into monastery/clergy;
other sons: warriors/ knights
 - c) “Marriage” codified as one of the “seven sacraments” [Peter Lombard]:
Church surveillance of property / inheritance of “Second Estate” [Nobility/ Aristocrats]
— Women who wish an independent life go into nunneries: scholars; health workers
 - d) Scholastics (incl. Thomas): the preservation of the species is an absolute natural law
Being is good; human being is good; therefore neither the preservation of
individual being nor of the species can be alienated
8. Council of Trent [mid-1500s]: legislation makes marriage contract less clandestine / more “free”
— must publish three weeks of banns; must have witnesses; still “arranged” but must be “free”
[against Romeo and Juliet: end of clandestine marriages; emphasis on free contract]
9. 1680s onward: anti-miscegenation laws in British colonies — prohibition of marriage between races
10. 1700s: plummeting birthrates in France — why??? Roger Chartier:
Hypothesis #1: Jansenism: the body is evil; don’t have sex
Hypothesis #2: Birth control by means of coitus interruptus / early condoms [sheep-stomach]
Effect: marriage not necessarily about procreation
11. 1789: Divorce legislation in France: first stirrings of recognition of woman as independent person?
Or yet more privilege of bourgeois males?
NB: Even after transition from Republic to Empire, Napoleon keeps in his Code of Law

12. 1800s: industrialization/urbanization
- a) divorce debates in western Europe / USA — legislation back-and-forth
 - b) Bourgeois values: marriage shifts *from an economic unit to an emotional unit*
— private sphere = “safe” refuge from public
 - c) Public regulation of prostitution — seen as necessary part of bourgeois marriage
 - d) Romantic literature: the adulterous woman — people in search of “love”
— moving from “arranged” marriages to free ones
 - e) Recorded declines of sacramental confessions of bestiality
— i.e., more available human sexual partners in urban settings
13. 1880s-1910s:
- a) Mass-production / sales of condoms [colonial rubber trees]
 - b) Connecticut law prohibits use of contraception or aiding contraception [overturned in 1965]
 - c) Divorce legal in most western countries
 - d) Obsession with avoiding “degenerate” genes: masturbation; hygiene; syphilis; prostitution regulation
 - e) Abortion: a correlative of urbanization [rural solution: shotgun marriages]
 - f) Invention of “homosexuality”; ten years later, “heterosexuality”
 - g) 1917 Catholic Code of Canon Law: still holds to the “traditional” teaching of marriage:
 - a) primary end is procreation
 - b) secondary end is “remedy for concupiscence”
13. 1920s-1930s:
- a) Margaret Sanger: population control / eugenics movement
 - b) Feminism: women’s suffrage movements
 - c) Anti-miscegenation laws in USA: 1924 Virginia “Racial Integrity Act”;
Supreme Court: Asians have no right to property / to marry “whites”;
forced sterilization ruled constitutional
Nuremberg Laws: anti-miscegenation extended to Jews
 - d) 1930: Lambeth Conference: permits contraception for Anglicans / Episcopalians
 - e) 1931: *Casti Connubii*: no to contraception, abortion, forced sterilization, anti-miscegenation
Innovation: among marriage’s “second ends” is interpersonal unity
What is key about this? Recognizes marriage as an “emotional unit”: i.e., “love”
14. 1950s: Invention of the suburban “white” nuclear family — end of traditional family [cf. June, Ward, the Beave]
— Contraception among Protestants: around 70%; among Catholics: 40%
— Reversal of divorce trends of 1920s-1930s: a desire for economic stability / property
— Women: forced out of workplace
— 1951: Oct. 29: Pius XII: Allocution to Italian Midwives: Innovation: **Couples may regulate birth.**
— 1954: Brown v. Board of Education
— 1955: Virginia anti-miscegenation laws ruled as legal: "to preserve the racial integrity of its citizens,"
to prevent "the corruption of blood," "a mongrel breed of citizens," "obliteration of racial pride."
— 1957: Dwight Eisenhower sends federal troops to Little Rock, Arkansas
15. 1965:
- *Griswold v. Connecticut*: anti-contraception law (1879) ruled unconstitutional: “**right of privacy**”
 - *Gaudium et Spes*: two special emphases: a) population control; b) liberty of conscience
— cites 1931 [emotional end of marriage] and 1951 [permits “natural” birth control]
 - France survey: 30% of women had one or more abortions; half of women surveyed Roman Catholic
 - Voting Rights Act [USA] follows 1964 Civil Rights Act; passed due to 1963 JFK assassination
 - LBJ: Escalation of war in Vietnam

16. 1967: *Loving v. Virginia*: Supreme Court rules anti-miscegenation laws unconstitutional
 — sodomy laws decriminalized in United Kingdom
17. 1968:
 — March: LBJ announces decision; April 4: Assassination of MLK;
 May: European-wide riots; June 6: Assassination of RFK
 — Paul VI: July 25: *Humanae Vitae*:
 — against “progressives”: prohibits “artificial” birth control [allows “natural” birth control]
 — against “conservatives”:
 a) ends 1931/1951 distinctions between “primary” and “secondary” ends
 b) sexual intercourse cannot be “forced” [the husband does not have “right”]
 New teaching: the “procreative” and “unitive” [emotional] ends of marriage are equal
 Note new problem: what if these two equal ends are in conflict? How to decide?
 — August: Chicago Convention Riots
 — “2001: A Space Odyssey” released
18. 1969:
 — Feb. 25: C. Anné, Rotal decision: the formal object of marital consent is not merely the “right to the body for heterosexual acts” (*ius in corpus*); but rather: “the right to the community of the whole life.”
 — July 6: Stonewall raid: beginning of gay rights movement
 — July 20: Apollo 11 first man on the moon
- 1973: January 22: Roe v. Wade — decriminalization of abortion; invokes ***Griswold*: a right to privacy**
 1975: First Vatican document in history on “homosexuality”
 — “Veil Act”: legalizes abortion in France
 — April: Evacuation of Saigon / end of Vietnam War
- 1979: Nov. 4: *Iranian Hostage Crisis begins*
 Dec. 25: *Beginning of USSR occupation of Afghanistan*
- 1981: January: *Hostages released after Reagan inauguration*
 1983: April 18: *U.S. Embassy in Beirut bombed*
- 1989: End of the Cold War: Democracy v. Communism**
1990-1991: Persian Gulf War
1992: Clinton decade / Dotcom years begin
- 2000: July 1: gay civil unions recognized in Vermont
 2000: Sept. 12: gay marriage legalized in Netherlands
 2000: Dec. 01: gay marriage legalized in Germany
- 2001: World Trade Center Bombings**
USA attacks Afghanistan
- 2003: France: gay civil unions *pacte civil de solidarité* (PACS): economic rights recognized across EU
 2003: March 26: US Supreme Court strikes down anti-sodomy laws; invokes ***Griswold*: right to privacy**
 2003: June 3: Vatican letter against gay civil union / marriage
 — Aug. 28: Poland introduces gay civil union bill
 2003: Nov. 18: Mass. Supreme Court rules anti-gay marriage legislation unconstitutional