

# TO MARKET, TO MARKET: CONSIDERING CLASS IN THE CONTEXT OF LESBIAN LEGAL THEORIES AND REFORMS

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Considering "class" in any context requires an interrogation of both status and relations. In the first instance, economic status is a social marker which engenders bias or privilege in ways similar to other identity categories. In other words, "class" operates to mark certain persons as "classed," the usual inference being that such persons are "lower-classed" in the same manner that marking someone as "racialized" means that such persons are "non-white."<sup>1</sup> In the second and equally important instance, economic relations are the structures of participation in the market economy, including not only monetary exchanges for goods, but also the "market for symbolic goods,"<sup>2</sup> which would include artistic and legal production. In the context of lesbian legal theories and reforms, both class status and market relations must be addressed in a specific and explicit manner.

Nevertheless, I continue to struggle with the degree of specificity and explicitness required because I (too often) conflate a lesbian political with an anti-classist one. For example, in *Lesbian (Out)Law*,<sup>3</sup> I made certain choices regarding language, publisher, price and content which implicated both class status and market relations. I conceptualized the book as an accessible one in terms of the symbolic (language which could be understood by non-university educated lesbians) and the material (priced relatively affordably), as well as including content

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1. The comparison between race and class is a comparison of the manner in which such categories operate within a world of privilege; it is not an absolute confluence. For further discussion of the relations between class and race, see *infra* notes 19-22 and accompanying text.

2. Pierre Bourdieu, *The Market for Symbolic Goods*, 14 *POETICS* 13 (1985).

3. RUTHANN ROBSON, *LESBIAN (OUT)LAW: SURVIVAL UNDER THE RULE OF LAW* (1992).

which addressed issues such as prison and crime which disproportionately impact lesbians with less privileged class status. Yet I articulated these choices, to myself and to others, as lesbian choices grounded in lesbian theories. Thus, despite an educational background in traditional class theory derived from Karl Marx, I conflated lesbianism and class-consciousness.

This conflation began to unravel as many lesbians, those embodiments of lesbian theories, began to advise me against the "lesbian" choices I was making. This advice included recommendations to pursue a hardcover university press book which would concentrate on issues relevant to the "majority" of lesbians. Such advice was based not only upon class biases, but also upon an assessment of the market economy, the relevant commodities being the book itself, especially in terms of the symbolic prestige, as well as my academic "career."

While I do not believe that such advice is malicious or unrealistic, I have long been interested in the ways in which we police each other with the best of intentions. Often these intentions reinforce certain class norms and standards, yet we rarely, if ever, articulate these norms and standards in class identity or economic terms.

This policing also occurs in my teaching. For example, in the context of discussing discrimination in a feminist legal theory class, I pose a hypothetical which places the students in the role of attorneys on a hiring committee with a legal services office. This role will become a reality for many of these students in less than a year, assuming that legal services continues to exist. The hypothetical provides that the committee members conducted initial interviews in pairs and now the entire committee is meeting to decide which applicants to call back for a second interview. On the interview notes for one applicant, the interviewer noted "dressed inappropriately." The issue to be discussed is, of course, whether an assessment of the appropriateness of dress constitutes "discrimination" in either a legal or ethical sense.<sup>4</sup>

As in most law school classroom discussions, we freely revise facts to uncover differences between analytic structures and results. If, under a particular set of facts, the applicant's dress can be interpreted as cultural, ethnic or religious in some manner — a kente cloth, a yarmulke, a veil, a sari — the students have absolutely no

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4. We are not only considering extant doctrine, but also the ways in which a person who believes in nondiscrimination would act even if not required to do so by law. For lack of a better term, I have labeled this latter situation "ethical."

problem concluding that the “dressed inappropriately” notation is discrimination. If the applicant’s dress can be construed within a gendered context — a man wearing a dress, a woman in a man’s suit, hair too short or too long — the students discuss the situation for a longer time, but ultimately conclude that discrimination is occurring, although opinions differ concerning whether the discrimination is based upon sex/gender or sexual orientation. However, if the applicant’s dress is attributable to a lower-class status — my favorite example is a woman wearing a dress made by her mother; it is pink and satiny and has rickrack stitched on its borders — the students are not troubled by the specter of discrimination. No matter how much I try to make my hypothetical applicant in the pink satiny dress sympathetic (describing how she had to save to buy the fabric for the dress, how she picked out the pattern in a McCall’s book), the students raise all the arguments which could have been raised in the ethnic and gender contexts but were not: arguments about the potential of her attire to be perceived negatively by judges, opposing counsel and clients. The word “professional” dominates the discussion.

It may be important that while the racial, religious and gender identities of the students are diverse, their economic status is less variable. These students are predominantly from working class or impoverished backgrounds. Yet they roundly condemn this hypothetical applicant: “She should know better than to dress like that.” They irrevocably link the *display* of class status to knowledge, yet another commodity. While they do not advocate legal redress, they do offer solutions: she should borrow a suit from a classmate; she should go to a thrift store; she should get *Dress for Success*<sup>5</sup> from the library or pick a different pattern and other material.

When interrogated as to the distinctions between a woman applicant wearing a veil, a man’s suit or a rickrack bordered dress, one student explains the differences not only in terms of knowledge, but also in terms of choice. The veil is a viable cultural choice; the man’s suit is a viable gendered or sexualized choice; but no one would *choose* to wear the attire of the lower classes, at least until such attire had been appropriated and stylized by the higher classes. Furthermore, many students consider appearing as a member of the lower-classes as inconsistent with their avocation as public interest attorneys, specifically attorneys for impoverished populations. As cultural critic John Guillory expresses it:

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5. JOHN T. MOLLOY, *DRESS FOR SUCCESS* (1975).

For while it is easy enough to conceive of a self-affirmative racial or sexual identity, it makes very little sense to posit an affirmative lower-class identity, as such an identity would have to be grounded in the experience of deprivation per se. Acknowledging the existence of admirable and even heroic elements of working-class culture, the *affirmation* of lower-class identity is hardly compatible with a program for the abolition of want.<sup>6</sup>

Thus, it is not simply that "lower class" or "poor" is a rhetorical category or identity that allows prosperity to be normalized and other economic conditions to be pathologized, creating a group of "others" who are deviant.<sup>7</sup> The same process of categorization occurs in racial, ethnic, religious and sexualized identities, and may serve liberatory as well as repressive interests.<sup>8</sup> Although many identities which have been politicized may debate the relative merits of separatism and assimilation, such debates have little currency with regard to class. One explanation may be the inability to recognize class as an identity at all: "classlessness is congruent with the basic tenet of the American creed, namely civic equality, and with the defining values of American society, notably equality of opportunity and individual success."<sup>9</sup> This relates to our individual inability to definitely denominate our own class identities,<sup>10</sup> yet John Guillory's insight is perhaps most basic to

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6. JOHN GUILLORY, *CULTURAL CAPITAL: THE PROBLEM OF LITERARY CANON FORMATION* 13 (1993).

7. See, e.g., Thomas Ross, *The Rhetoric of Poverty: Their Immorality, Our Helplessness*, 79 *GEO. L.J.* 1499, 1499-1501 (1991) (noting that the creation of the abstract category of the "poor" is a rhetorical device employed by the courts to abnormalize the poor).

8. The category of homosexuality is paradigmatic in this regard. As Foucault argues: There is no question that the appearance in nineteenth-century psychiatry, jurisprudence, and literature of a whole series of discourses on the species and subspecies of homosexuality, inversion, pederasty, and "psychic hermaphroditism" made possible a strong advance of social controls into this area of "perversity"; but it also made possible the formation of a "reverse" discourse: homosexuality began to speak in its own behalf, to demand that its legitimacy or "naturalness" be acknowledged, often in the same vocabulary, using the same categories by which it was medically disqualified.

MICHEL FOUCAULT, *THE HISTORY OF SEXUALITY* 101 (Robert Hurley, trans., Vintage Books 1980) (1976).

9. STEPHEN EDGELL, *CLASS* 121 (1993). As Edgell notes, however, the notions of classlessness and equal opportunity have long been recognized as inherently contradictory because "if everybody is equal, there can be no superior or inferior positions to move into." *Id.*

10. Although as Julia Penelope notes, in the introduction to her excellent anthology on lesbians and class:

We may have an unclear sense of our "class identity," but each of us surely learns our "place" and that of others. These lessons are taught to us by our parents, guardians, whoever takes on the job of raising us. And they tell us explicitly, almost every day of our lives, "who we are" with respect to the family next door, the family upstairs, the family down the street. We are taught to compare, contrast, and gauge our differences. Oh yes — we have some ideas about where we stand socially and economically with respect to other people we come in contact with.

the failure of lower-classed persons to entertain separatism as a viable option. While the condemnation of materialism, affluence and consumerism is often part of progressive and humanist agendas, the maintenance of an insular and impoverished underclass is incompatible with the goal of economic justice. In other words, almost all of us — whether postmodern, liberal or even conservative — at least theoretically advocate the abolition of poverty, the condition by which poor people are defined.<sup>11</sup>

After the discussion about “inappropriate dress” and the limits of discrimination, my office hours are especially busy. Students come to discuss the readings, to request recommendations and, if they are female, they almost always manage to broach the subject of the interview outfit. They describe their outfits in detail. The unasked question hangs in the air: is this outfit the equivalent of the pink satiny dress with the rickrack border from McCalls Pattern #24457, even though I borrowed it from my roommate/bought it at a thrift shop/borrowed *Dress for Success* from the library? Even a blue suit is not automatically safe because there is fabric, skirt length, blouse, shoes and “legs” to consider.

For lesbian students, sexual orientation issues complicate the discussion, but do not change its fundamental nature. Because we are in New York and the students are applying with progressive legal employers, students do not consider sexual orientation itself to be a problem. The problem is not that one is a lesbian, so long as one is “the right kind” of lesbian. This “rightness” is expressed through appearance and style. As Danae Clark, in her excellent essay *Commodity Lesbianism*,<sup>12</sup> might phrase it, the students are not so much concerned with being “out” as with seeming “in.” Seeming “in” requires both knowledge and money.

My role in this exchange is to impart knowledge (although I have also on occasion loaned out clothes). In doing so, whether or not I

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Julia Penelope, *Class and Consciousness*, in *OUT OF THE CLASS CLOSET: LESBIANS SPEAK* 13, 22 (Julia Penelope ed., 1994). For an excellent interrogation of the meaning of class boundaries, see Victoria Brownworth, *Life in the Passing Lane*, in *TOO QUEER: LIVING THE RADICAL LIFE* (forthcoming 1996).

11. The commitment to the eradication of poverty, however, is obviously a different matter. As Professor Thomas Ross points out, Americans commonly hold ideas that poverty is inherent, irremedial, eternal (“there have always been poor people”), the result of abstract forces (the “politics of distribution”), or a demonstration of moral weakness on the part of those people who are poor, yet “all that has ever been required to eliminate poverty is a redistribution of wealth.” Ross, *supra* note 7, at 1509-10.

12. Danae Clark, *Commodity Lesbianism*, *CAMERA OBSCURA*, Jan./May 1991, at 181.

believe I am being less than rigid or even liberatory (“the most important thing is to be comfortable”) or even subversive, I am ultimately agreeing to police them. I am agreeing that it is important to appear as if one belongs to the class of persons that one wishes to join. I am telling them what I did: how I learned to pass as a hippie student, as a member of the progressive bar and as a lesbian law professor, rather than as a poor kid in a homemade dress, perhaps not pink but definitely with rickrack. I am saying: you can do it too. I am telling them that they should do it.

Yet I am plagued by two political concerns. First, my advice to the students is an accommodation that I believe should be unnecessary. The applicant in the shiny pink homemade dress *should* have a cause of action for discrimination, just as surely as the applicant in the yarmulke and the female applicant in the man’s suit should have causes of action. This does not mean that racial, religious, gendered or sexual identities are commensurate with class identities or with each other: each is unique and has its own history and manifestations. It also does not mean that the category of “class” should trump all other categories or become the exclusive category of analysis or the exclusive identity entitled to legal redress for discrimination.<sup>13</sup> Further, the inclusion of class as a protectable identity does not “dilute” other established protectable identities such as racial and religious identities, or other seeking-to-become-established identities such as sexual minority status. Rather, I believe it is vitally important for the ultimate protection of all “minoritized” identities — be they racial, ethnic, religious, gendered or sexual — that economic status be equally protectable. Otherwise, economics becomes the acceptable explanation for discrimination and other forms of legalized violence.<sup>14</sup>

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13. For example, one suggestion has been to eliminate affirmative action based upon minority racial status and replace it with affirmative action based upon economic disadvantage. Richard Kahlenberg, *Class, Not Race*, NEW REPUBLIC, Apr. 3, 1995, at 21. Such suggestions impose a divisive either/or model of access, as well as promote false notions of scarcity.

14. By way of analogy, one form of this discrimination might actually work to set us against one another. As I have written elsewhere, the dichotomy of the good lesbian/bad lesbian is a dangerous one; it insures protection for some of us at the expense of others of us:

The discourse of discrimination measures us not only against a heterosexual norm, but against each other. If a company employs four lesbians, a new manager can fearlessly fire the one who has her nose pierced or is the most outspoken or who walks the dykiest. The remaining three lesbians insulate the company from charges of discrimination on the basis of lesbianism. Antidiscrimination is thus partial, allowing the selection of only the whitest and brightest of us, the ones with the best clothes and accents, the smoothest legs and apolitical pasts.

ROBSON, *supra* note 3, at 87.

Second, I am increasingly troubled by the rift between class and sexuality. At one point, I could comfortably express both class and sexuality concerns within the rubric of lesbianism, specifically articulating a lesbian legal theory which could address both class and sexual minority concerns. Theoretically, this should not have been possible given the disparate sociological groundings of economic class and sexual status. Nevertheless, a coincidence of interests seemed plausible. Such a coincidence of interests gradually dissipated, but the fracture is most revealed by the discovery/invention of lesbians as a "market" segment, an innovation with which lesbians and gay men have coluded. Obviously, lesbians have always been economic actors; not only do we routinely participate in the market economy, we have a long (and complicated) history as consumers and purveyors of specifically lesbian cultural items, from magazines to bars, from recordings to crafts. Yet the present situation is marked by a scale far surpassing women buying or selling handmade ceramic labyris at a lesbian festival or patronizing the bars which operated at the edge of legality.<sup>15</sup> Measured by capital's own rod, the dollar, the present lesbian and gay marketing phenomenon is a multi-million dollar enterprise involving multi-national corporations, advertising campaigns and orchestrated consumption.<sup>16</sup> While we gain a somewhat positive presence in the straight media, as well as in the allocation of advertising dollars for our own media, our place in the dominant market economy effectively commodifies lesbianism as a style (which can be purchased) rather than as a politic (which must be lived). As Clark expresses it, lesbians are invited "in as consumers" to be "part of the fashionable 'in crowd' " while negating "an identity politics [sic] based on the act of 'coming out.'"<sup>17</sup> Thus, capitalism's notorious search for additional markets creates a rift between class and sexual identities by commodifying lesbian and gay identities for the lesbian and gay consumers who can afford to purchase them. While the creation of the lesbian "market" may have lagged behind that of the gay male market, recent sources proclaim its viability.<sup>18</sup>

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15. For a discussion of the ways the law operated on "gay bars" in the 1950s, see Joan Howarth, *First and Last Chance: Looking for Lesbians in Fifties Bar Cases*, 5 S. CAL. REV. L. & WOMEN'S STUD. 153 (1995).

16. See generally GRANT LUCKENBILL, *UNTOLD MILLIONS: GAY AND LESBIAN MARKETS IN AMERICA* (forthcoming from Harper/Collins).

17. Clark, *supra* note 12, at 193.

18. See, e.g., Jeff Barge, *Moving Out and Upward, Lesbians Attract Marketers*, CRAIN'S SMALL BUS., Mar. 1995, at 9.

The commodification of lesbian and gay identities is certainly not unique. For example, bell hooks writes of the problems caused by the "commodification of blackness": it "strips away" the potential of black identity to "subvert and undermine the status quo."<sup>19</sup> The commodification of blackness makes it "possible for white supremacist culture to be perpetuated and maintained even as it appears to become inclusive."<sup>20</sup> Similarly, the commodification of lesbianism makes it possible for heterosexist and sexist culture to be perpetuated and maintained even as it appears inclusive.

Central to hooks' theory is a discussion of complicity, which she posits is rooted in the equation of "capitalism" with "self-determination."<sup>21</sup> Lesbian complicity is derived from these same roots. Or, as lesbian theorist Robyn Wiegman expresses it, "products" are equated with "political progress."<sup>22</sup> In fact, commodification may not just be the process by which products are merged with politics, but commodification may also include a specific rejection of politics. For example, as Sue O'Sullivan brilliantly argues, the present media images of how "cool it is to be a dyke" depend upon the retreat of the "boring old lesbians" who represent not only "unattractiveness," but

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19. BELL HOOKS, *OUTLAW CULTURE: RESISTING REPRESENTATIONS* 149 (1994).

20. *Id.* at 150.

21. As hooks argues,

[T]he contemporary commodification of blackness has become a dynamic part of that system of cultural repression. Opportunistic longings for fame, wealth, and power now lead many black critical thinkers, writers, academics and intellectuals to participate in the production and marketing of black culture in ways that are complicit with the existing oppressive structure. That complicity begins with the equation of black capitalism with black self-determination.

*Id.* at 148.

22. Robyn Wiegman, *Introduction: Mapping the Lesbian Postmodern*, in *THE LESBIAN POSTMODERN* 1, 3 (Laura Doan, ed., 1994). Wiegman's insight is especially important because she describes lesbian complicity in this equation:

Music, clothing, vacation cruises, festivals, artwork, publishing — in all these areas, lesbian identity functions as the means for defining the specificities of both production and consumption. While this relation — of lesbian-made, -sold, and -owned materials — approximates in the 1990s a tamed separatism, it is more than disturbing that the commodification of the lesbian as a category of identity is often what passes, inside and outside the lesbian community, for evidence of political progress. At a recent women's music festival, for instance, the growth of the merchant area — in terms of both the number of products available and their diversity — was lauded by one performer as a sign of growing lesbian political power. . . . Can we unproblematically herald the consolidation of the lesbian as a category of being when this being is increasingly signified by our saturation in commodity production, both countercultural and, to a limited but growing extent, "mainstream" as well? Must we, in other words, embrace a liberation contingent on producing, marketing, and then vampiristically consuming "us"?

*Id.* at 3-4 (footnote omitted).



also “politics.”<sup>23</sup> To collude with the denunciation of the stereotyped image of the outdated political lesbian is to reject the “radical political agenda of feminism, including its analyses of the social, cultural and economic.”<sup>24</sup>

Nevertheless, it is difficult to resist the temptations and treats of being trendy, especially after having been ignored, or despised, for so long. It is even more difficult to believe one *should* resist. The participation (even if it is negatively termed complicity or collusion) by other lesbians makes difficult any resistance to an enterprise on the basis that it is not truly “lesbian.” Such resistance would rest upon the positing of an authentic lesbian existence, a ground no longer available in the postmodern world. Yet the alternative — whatever a lesbian does must be good for lesbian survival — is at least as problematic. Indeed, it is the alternative that might be even more essentialist than the positing of authenticity, because the alternative fails to consider the differences — including economic ones — between lesbians. The alternative denies the reality that the ability to derive benefits from commodification presupposes a degree of class privilege.<sup>25</sup> Although it may be that none of us can escape participation in this commodification,<sup>26</sup> such participation has disparate rewards and disadvantages depending upon one’s class status.

Not only does the dissipation of class analysis in lesbian and “queer” legal theory result in a lack of resistance to commodification and the maintenance of heterosexist structures, it also results in our failure to adequately respond to those who advocate our demise. Relying on statistical evidence derived from “marketing surveys” designed to convince advertisers that lesbians and gay men could be a profitable market, the New Right utilizes rhetoric with shocking similarities to pre-World War II anti-Semitism to portray the lesbian and gay community as economically privileged. The portrait of lesbians

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23. Sue O’Sullivan, *Girls Who Kiss Girls and Who Cares?*, in *THE GOOD, THE BAD AND THE GORGEOUS: POPULAR CULTURE’S ROMANCE WITH LESBIANISM* 78, 90 (Diane Hamer & Belinda Budge, eds., 1994).

24. *Id.* at 91. O’Sullivan notes, however, that just as the strident lesbian politico is a stereotype, so too is the lesbian who is young and “provocatively attractive and fashionable.” Thus, O’Sullivan concludes, “Both images are fantastical; neither image corresponds any more to the multilayered realities of lesbians’ lives than any other media caricatures of women do.” *Id.* at 92.

25. bell hooks writes, “[W]hen the chips are down it is usually the black folks who already have some degree of class privilege who are most able to exploit for individual gain the market in blackness as commodity.” hooks, *supra* note 19, at 147.

26. According to Robyn Wiegman, “[W]e have little alternative action but to participate. After all, the commodification of the lesbian . . . is not a check we deposit by choosing to sign our name on the back. *That* signature will always precede us.” Wiegman, *supra* note 22, at 4-5.

and gay men as economically privileged serves New Right rhetoric in at least two ways. First, the depiction taps into class resentments and anxieties. Second, economic advantage counters any claim that lesbians and gay men are discriminated against.<sup>27</sup> Yet our own rhetoric has often not effectively countered these falsehoods;<sup>28</sup> instead we have employed class-biased stereotypes to deride the New Right's adherents, ranging from polite implications concerning a lack of education, to more explicit insults such as "trailer-trash" and "shitkicker."

The dissipation of class analysis means not only that we cannot respond, but that our own positive legal reform movement is problematic because it fails to take into account both the economic disparities among lesbians and the operation of the market economy upon lesbianism. The present emphasis on marriage is one example.<sup>29</sup> Marriage is widely touted as an advantage which will provide economic benefits for lesbians and gay men. However, marriage will not be an advantage for lesbians in all classes. The very availability of marriage could economically disadvantage lesbians receiving public entitlements because the state imputes the income of one "partner" to the other, thus disqualifying a partner who might otherwise be eligible for "welfare" benefits. Notwithstanding the concrete harm sure to fall on economically disadvantaged lesbians, marriage as an economic arrangement which supports the market economy is delegitimized, as

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27. As Suzanne Goldberg notes,

Take Back Cincinnati, a group organized to promote a voter initiative to amend Cincinnati's charter to exclude lesbians, gay men and bisexuals from protection against discrimination, explained in its literature that a "group wanting true minority rights must show that it is discriminated against to the point that its members cannot earn average income, get an adequate education or enjoy a fulfilling cultural life."

SUZANNE GOLDBERG, LESSONS FROM THE CULTURAL WARS: LESBIANS AND THE RELIGIOUS RIGHT 13 n.21 (forthcoming) (on file with the *Southern California Review of Law & Women's Studies*).

28. M.V. Lee Badgett's work demonstrates that gay or lesbian status (defined by sexual behavior) results in a negative economic impact at a rate of 11-27% for men and 11-14% for women. M.V. Lee Badgett, *Economic Evidence of Sexual Orientation Discrimination*, in *HOMO/ECONOMICS: CAPITALISM, COMMUNITY AND LESBIAN AND GAY LIFE IN THE UNITED STATES* 19 (Amy Gluckman & Betsy Reed eds., forthcoming 1995) (on file with the *Southern California Review of Law & Women's Studies*).

The Lesbian/Gay/Bisexual Policy Network (c/o Professor Badgett, School of Public Affairs, University of Maryland, College Park, MD 20742) is one of the few groups attempting to research and disseminate accurate economic information regarding sexual minorities in the United States.

29. For a discussion of specific cases in which a failure to adequately consider class requires a rethinking of the litigation's positive outcome, see Darren Rosenblum's excellent article, *Queer Intersectionality and the Failure of Recent Lesbian and Gay "Victories"*, 4 *LAW & SEXUALITY* 83 (1994).

if the feminist-marxist critiques of marriage are inapplicable to lesbians and gay men. Even more fundamentally, the notion of the marital relation as a propertized one, including the theoretical basis of monogamy in private property, is irrelevant.<sup>30</sup> What is relevant, although often expressed in a joking manner, is that lesbian and gay attorneys will profit economically if marriage and its corollary, divorce, are legalized. Our communities are converted into client bases; the professional status of some of us is secured.

A serious consideration of economic structures might yield a different emphasis in the lesbian and gay legal reform movement. Additionally, lesbian survival — both in the sense of the survival of many individual lesbians and the survival of lesbian as an identity — depends upon an agenda of economic empowerment and redistribution of wealth. Economic deprivation constricts choices, including the opportunity to create a life in which one's lesbianism can flourish. The work of the gay and lesbian community's historians and theorists demonstrates the link between economic conditions and the ability of lesbians and gay men to survive, as individuals and as communities.<sup>31</sup> The theorizing and historicizing of the economic realities for lesbians and gay men, the homo/economy, has only just begun.<sup>32</sup> We need to

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30. For further discussion see, Ruthann Robson, *Resisting the Family: Repositioning Lesbians in Legal Theory*, 19 *SIGNS* 975 (1994).

31. As John D'Emilio argues, by the beginning of the twentieth century,

[G]ay men and lesbians began to invent ways of meeting each other and sustaining a group life. . . . Lesbians formed literary societies and private social clubs. Some working-class women "passed" as men to obtain better-paying jobs and lived with other women — forming lesbian couples who appeared to the world as husband and wife. Among the faculties of women's colleges, in the settlement houses, and in the professional associations and clubs that women formed, one could find lifelong intimate relationships supported by a web of lesbian friends. By the 1920s and 1930s, large cities such as New York and Chicago contained lesbian bars. *These patterns of living could evolve because capitalism allowed individuals to survive beyond the confines of the family.*

John D'Emilio, *Capitalism and Gay Identity*, in *MAKING TROUBLE: ESSAYS ON GAY HISTORY, POLITICS, AND THE UNIVERSITY* 3, 8 (1992) (emphasis added). For further discussion of the relationship between economics and the formation of lesbian or gay identities and communities, see ALLAN BÉRUBÉ, *COMING OUT UNDER FIRE: THE HISTORY OF GAY MEN AND WOMEN IN WORLD WAR TWO* (1990); LILLIAN FADERMAN, *ODD GIRLS AND TWILIGHT LOVERS: A HISTORY OF LESBIAN LIFE IN TWENTIETH-CENTURY AMERICA* (1991); ELIZABETH LAPOVSKY KENNEDY & MADELINE D. DAVIS, *BOOTS OF LEATHER, SLIPPERS OF GOLD: THE HISTORY OF A LESBIAN COMMUNITY* (1993); ESTHER NEWTON, *CHERRY GROVE, FIRE ISLAND: SIXTY YEARS IN AMERICA'S FIRST GAY AND LESBIAN TOWN* (1993).

32. Jeffrey Escoffier notes, we "have only the barest sense of the economic history of the lesbian and gay communities." Jeffrey Escoffier, *The Political Economy of the Closet: Notes Toward an Economic History of Gay and Lesbian Life Before Stonewall*, in *HOMO/ECONOMICS*, *supra* note 28, at 1 (on file with the *Southern California Review of Law & Women's Studies*).

apply the historical and economic insights to our own time and work toward realizing those conditions which promote lesbian existence.

It is not enough to have a policy, or even a statute, which prohibits discrimination on the basis of sexual orientation in a world in which so many lesbians cannot find any work at all, many more cannot find work which they find meaningful or rewarding, and many must work hard and long for very little. Justice for only those lesbians who can afford to purchase it is not enough.

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I owe much of my own thinking about the relationships between economics and lesbian/gay community to discussions with Jeffrey Escoffier and other members of the Thompson Square Queer Theory Discussion Group, 1993-94, and the conference, *HOMO/ECONOMICS*, sponsored by CLAGS in November 1993.

**THE INTERSECTION OF RACE,  
GENDER AND SEXUAL  
ORIENTATION: COMMENT**

