

“SOME OF MY BEST FRIENDS TEACH AT CALVIN COLLEGE”

RELIGIOUS IDENTITY AND SEXUAL-ORIENTATION DISCRIMINATION

Society for Lesbian and Gay Philosophy
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It might help to begin by saying a few words about what I’m doing here. Prof. Corvino made considerable efforts to include on this panel someone who would defend the policies of certain Christian institutions that occasioned the petitions and counter-petitions and all the discussion of the APA’s stance against sexual-orientation discrimination. For a variety of reasons, no defender of those policies was able to accept Prof. Corvino’s invitation. So I was brought in as the next best thing. I acknowledge that what I’m about to say is going to sound suspiciously like the tired old excuse “Some of my best friends . . .” – so I’ve decided to entitle these remarks “Some of my best friends teach at Calvin College.” Anyway, I am gay and partnered, but I’m also a Christian of a fairly conventional sort, orthodox by the standards of Nicea and Chalcedon, and there’s a lot that I would find really appealing about teaching at a place like Calvin or Wheaton College with a clear Christian identity and a strong sense of its distinctive mission. So although I think that these places are mistaken in holding that Scripture condemns same-sex sexual relations, and in supposing that their Christian identity requires them to have no faculty who engage in such relations, I don’t find that it takes a great effort of philosophical imagination to put myself in the place of fellow Christians who disagree with me about the permissibility of same-sex activity and who are concerned, as I too would be in their place, about preserving their distinctive religious mission. Moreover, I am, to use an expression attributed to Peter van Inwagen in a story in *Inside Higher Ed*, “an extreme conservative in

matters pertaining to what a religious institution can require of its faculty members.” As I have said, I think the folks at Wheaton and Calvin are wrong about the sinfulness of same-sex relations, but given that they think what they do think – and what, until very, very recently, practically *all* Christians thought about this issue – they have, I should think, every right not merely to defend but to enforce their ban on partnered gay faculty.

The original petition, as I understand it, asked the APA to do one of two things: either to enforce its anti-discrimination policy against the institutions in question – hereafter, simply “the institutions” – by forbidding them to advertise faculty positions in *Jobs for Philosophers* or – if so comparatively harsh a penalty was found to be unacceptable – at least to mark the institutions as non-compliant in their faculty ads. Call the first option “prohibition” and the second “stigmatization.” Though I did not pay terribly close attention to the debate over this petition and the counterpetition it inspired, I saw two main lines of argument put forward by those who argued in favor of the contested policies and/or in favor of the rightfulness of institutions’ enforcing such policies. (One thing I’d throw out in passing: unless I missed a good deal of the debate, it was noteworthy that the most effective voices raised in defense of the institutions were faculty at universities that do not themselves discriminate against those in same-sex partnerships. These philosophers were thus not defending the practices of their own institutions, but merely arguing for the claim that other institutions were so much within their rights to enforce their policies that they should be subjected neither to prohibition nor to stigmatization. This fact has to be significant, though significant of *what* is another question, which I will leave to anyone who might be interested in it.) In any event, the two main lines of argument were the “it’s not really discrimination” gambit and the “don’t stigmatize me, bro” rejoinder. According to the “it’s not

really discrimination” gambit, the policies don’t really discriminate on the basis of *orientation*, in violation of APA policy, but on the basis of *behavior*, about which the APA policy is (or was) silent. This argument was widely found to be a non-starter, for reasons that Keith de Rose expressed well in the following words:

These policies block the hiring and the continued employment of those of one orientation, but not another, for not giving up the type of sexual activity they are oriented toward. To be sure, the policies place limits – from various points of view, quite severe limits – on heterosexual sexual activity, too. But this is a case of limits, however severe, compared with an outright ban on the sexual activity one is oriented toward. That is a form of discrimination on the basis of sexual orientation. And since sex is a very important part of human life, at least for many, this is far from trivial discrimination.

As an alternative or supplement to the “it’s not really discrimination” gambit, the “don’t stigmatize me, bro” rejoinder argued that flagging ads from these institutions would be tantamount to the APA’s declaring each of those institution bigoted in their hiring practices. That argument too was understandably of limited force, since it could be plausibly said that the “flag” or “asterisk” expressed a purely descriptive proposition – that the institution in question is in violation of the APA’s non-discrimination policy – and not any moral condemnation beyond the one that already underlies that policy itself.

What strikes me about both of these approaches, however, is not how unlikely they were to commend themselves to the broader philosophical community, but rather how little confidence they show in the institutions’ policies, and in the claims about Christian morality and about what is necessary for a Christian institution to preserve its identity on which those policies are explicitly based. Suppose I am indeed convinced that the traditional Christian claims about the impermissibility of same-sex relations are correct, and that a robust and distinctive Christian mission for my institution requires that those claims be enshrined in a policy that prohibits

partnered gay faculty. Am I really going to get all weak-kneed and try to convince the broader philosophical community that, oh, don't worry, it's not really *discrimination*-discrimination, and you don't want to call me a bigot, do you? Not at all – to do that is already to concede your opponent's premises, in spirit if not quite yet according to the letter. It seems to me that a bit of Christian boldness is called for – see Acts, chapter 4 – not this namby-pamby time-serving business. Yes, I would say, my institution discriminates against those with a same-sex orientation by insisting that they, unlike those with an opposite-sex orientation, cannot serve on our faculty without giving up the sexual activity they are oriented toward. And we base this discrimination on the clear testimony of Holy Scripture, obedience to which is a necessary condition for our retaining a clear Reformed (or evangelical, or whatever) identity. The APA already recognizes the distinctive mission of religious institutions, and allows us to discriminate on religious grounds in hiring (something that would otherwise be forbidden): well, this is discrimination on religious grounds. That it is also discrimination on the basis of sexual orientation means that the APA non-discrimination policy as it stands is incoherent; it can easily be made coherent by either dropping “sexual orientation” from the policy or explicitly exempting religious institutions from the prohibition of sexual-orientation discrimination.

That, it seems to me, is more the sort of thing we ought to have seen from the defenders of the contested policies. If they really think that those policies are identity-determining – practically creedal or confessional – then one would expect them to react in much the way one would expect them to react if the APA told them they were not allowed to discriminate against adoptionists or Nestorians. That, so far as I know, no one did react in that way is quite puzzling to me.

In any event, the proposal that I have suggested on behalf of the defenders of the policies – namely, arguing that the APA should either drop “sexual orientation” from its non-discrimination policy or else explicitly exempt religious institutions from the prohibition against sexual-orientation discrimination – would of course have failed. So then what? Then, I think, these institutions should have voluntarily withdrawn their advertising from JFP, as an expression of their refusal to acknowledge the competence of the APA to impose secular standards of morality on religious institutions. Or, at least, they should have been *prepared* to do this – for, as any good casuist will tell you, no one is bound in conscience to enforce penalties against him- or herself.¹

In the event, no such response was necessary, since the policy ultimately adopted calls not for prohibiting ads from the institutions, but merely for “flagging” them. And here I must say that if I were a supporter of the contested policies, I would feel that I had won, and at very little cost. After all, the institutions can incorporate in their ads some sort of explanation of the “flag” – say, a link to their statement of faith or behavioral expectations – that will make it clear why the ad is flagged. Otherwise, things go on exactly as they did before, with the added benefit (as they should see it) that they have clarified their identity and mission in the face of the broader philosophical community *and* enabled better-informed self-screening on the part of potential job applicants. Their pool of potentially hireable candidates is exactly as large as it was before, and their ability to make those candidates aware that they are hiring is completely unimpaired. So if I were a supporter of these policies, I would think that I had won, and at very little cost. And I

¹See, for instance, Kenneth Kirk, *Conscience and Its Problems: An Introduction to Casuistry* (Louisville: Westminster John Knox Press, 2004), 231.

would also feel that the larger philosophical community had shown singularly little stomach for defending the purported rights of gay and lesbian philosophers. The fierce moral urgency of change turned very quickly into a purely gestural policy adjustment. So, despite the hope expressed in different ways by other panelists that the new policy will encourage some rethinking on the part of the Calvins and Wheatons of the world, I would say that it is much more likely that those institutions will conclude that the spirit of the age is blustery but impotent.