

*A national organizing initiative that brings
together activists in the LGBT Liberation
and Reproductive Justice Movements
to work toward shared goals*

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causesincommon

REPRODUCTIVE JUSTICE & LGBT LIBERATION



A national program of

**The Lesbian, Gay,
Bisexual & Transgender
Community Center**

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To Our Allies

We are pleased to share Causes in Common: Reproductive Rights & Lesbian, Gay, Bisexual and Transgender Liberation with you. Causes in Common makes the connections between these two social justice movements and identifies ways we can work together toward shared goals. We hope you find it helpful in your work.

The Lesbian, Gay, Bisexual & Transgender Community Center has officially been a pro-choice organization since the 1980s. A victory in the struggle for LGBT sexual freedom, as rooted in the *Roe v. Wade* decision, makes reproductive freedom (and the autonomy of the body it implies) a natural extension of the Center's mission.

The Center's family program, Center Kids, was founded in January 1989 to offer social support, information and referrals, education and advocacy efforts on behalf of LGBT parents, their children and those contemplating parenthood. Over the years, thousands of LGBT parents and prospective parents have come into the Center Kids program, bringing with them their accounts of obstacles and challenges along the pathway to parenthood, in addition to their triumphs. Grappling with homophobic medical providers, unfriendly insurance policies, inadequate sex education and culturally insensitive and ill-informed reproductive counseling — and an oftentimes outright hostile parenting and family institutions — gave the general "pro-choice" policy of the Center a very specific focus. We are indebted to the voices of our courageous families for inspiring this work.

We believe that an essential step toward the success of the Causes in Common effort is securing the commitment of LGBT and reproductive rights organizations to making both concerns central to their liberation vision. We hope that, once you've read this booklet, your organization will join the others that have signed on to the commitment form in the back of the book. We look forward to adding your agency's name to this list of allies.

It is our ongoing intention that this publication and the Causes in Common project as a whole continue to absorb the instructive voices of the community. In this spirit, we welcome your comments.

With deep appreciation,

Richard Burns, *Executive Director*

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Acknowledgements

Causes in Common is the product of the cumulative thinking of dozens of lesbian, gay, bisexual and transgender (LGBT) liberationists and reproductive justice advocates. We are grateful to them all, including the participants at the first Causes in Common roundtable held at the Center on May 16, 2003, and Center law interns Mary Beth Collins, John Nachlinger, Kimberly Westcott and Jeanette Robertson. Thank you also to Richard Burns, the Center's executive director, for his support and vision, and to Carmen Vazquez, the Center's former director of Public Policy, for her guiding hand and inspired leadership. Finally, we would like to express our gratitude to the Ford Foundation, the Overbrook Foundation, and the Mary Wohlford Foundation for their generous support of this project.

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I. INTRODUCTION

Causes in Common is an organizing initiative of the Lesbian, Gay, Bisexual & Transgender Community Center (“The Center”) in New York City, which is creating a working alliance of lesbian, gay, bisexual and transgender (LGBT) liberation activists and reproductive rights activists. We agree on these principles:

Statement of Principles

- We affirm the right to individual autonomy in all matters related to consensual sexuality and reproduction.
- We affirm the rights of individuals to control over their own bodies and to intimate engagement with members of their own sex as fundamental to the liberation of LGBT people.
- We are dedicated to effecting positive social change for the purpose of eradicating all forms of homophobia in our society and for the full attainment of the right to choose to reproduce.
- Governmental intervention in the reproductive lives of women and men limits not only their ability to make a choice about abortion; it also limits their access to safe and affordable reproductive assistance. We affirm the right of all women to safe and affordable abortions and the right of all people to safe and affordable reproductive technologies and assistance.
- The conflation of immorality and sex engaged in for purposes of pleasure or outside heterosexual civil marriage lead to the creation of policies that serve to undermine our democracy, our right to privacy and our freedom to choose the direction of our reproductive and sexual lives. It also serves to weaken what should be an unbridgeable divide between church and state as mandated by the Constitution. We affirm the necessity of a secular state to the preservation of democratic principles.
- We acknowledge the detrimental impact that U.S. policy has had on the reproductive and sexual freedoms of peoples throughout the world and we situate our alliance in a global context.

II. OVERVIEW

Center Kids, the Center's family program, has offered support, education and advocacy for the formation of LGBT families, in all their creative and revolutionary manifestations, since 1989. Much of that work has consisted of listening to the struggles of LGBT people as they rose to the challenge of managing their own reproductive destinies without the protections or encouragement of the medical, legal, and social institutions that support married heterosexuals who choose to create families with children. Among those struggles are a host of issues that intersect reproductive rights, broadly defined as the right to choose, or choose not, to have children.

Since the 1980s, the Center has openly identified as a pro-choice organization. We believe the time is ripe to develop that identification into a policy statement and organizing project that brings together both the reproductive rights and LGBT liberation movements to identify our commonalties and build stronger alliances.

The United States Supreme Court landmark decision in *Lawrence v. Texas* in 2003 will have a profound impact on our movements. For the first time in United States history, the highest court of the land legally recognized that all persons who identify as lesbian, gay and bisexual are entitled to the right to privacy. The court's reliance upon two of the most influential reproductive rights cases — *Roe v. Wade* and *Planned Parenthood v. Casey* — in its decision on *Lawrence* emphasizes that our struggles can no longer be separated.

This paper lays out some of the conceptual, political and policy intersections of our two movements. A roundtable discussion among activists from leading LGBT and reproductive rights organizations held at the Center on May 16, 2003, provided some of the strategies and practical action steps needed to implement the vision outlined here. We hope this paper will serve as a useful roadmap and organizing tool for bringing reproductive rights and LGBT activists into closer working alliance on the challenges we both face under the current legal and political climate.

Brief History of Our Intersecting Movements

The ideological, social and political connections between reproductive freedom and sexual freedom are not concepts new to this century. Elizabeth Cady Stanton, Margaret Sanger, Emma Goldman and many more contemporary feminists have repeatedly made these connections.

Reproductive freedom was a lynchpin of the modern feminist movement of the 1960s and 1970s. The advent and easier availability of more advanced reproductive technologies such as intrauterine devices and birth control pills liberated women from unwanted pregnancy as a consequence of heterosexual sex.

When women could take control of their reproductive destinies, they also had more control over their own sexual pleasure. The lesbian feminist movement has consistently made the connection between gay liberation and reproductive freedom, insisting that one is impossible without the other.

The Combahee River Collective of the 1970s, for example, well understood from their experiences with the mainstream, predominantly white feminist movement that limiting the scope of the issues worth fighting for only served a select group of women. In their statement, this African-American lesbian feminist organization wrote, “...our particular task [is] the development of integrated analysis and practice based upon the fact that the *major systems of oppression are interlocking.*” (emphasis added.)¹

The common ground for our movements has a long and rich history even though we have often been strategically divided. Contraception, medically safe abortion and reproductive technologies have resulted in the relative freedom of heterosexual men and women to engage in sex for pleasure, entirely separate from reproduction. The freedom and legitimacy of sexual activity without reproduction as an outcome is as fundamental to the liberation of LGBT people as it is to heterosexual women and their male partners.

Birth of Privacy Rights

The decision in *Griswold v. Connecticut* (1965), which held that criminal prohibition of contraceptive devices for married couples violated the right to privacy, had a broad impact on the LGBT and reproductive rights movements.² It began to define the limits of governmental intrusion into the private sex lives of citizens. This impact would extend far beyond those married couples in Connecticut to benefit LGBT partners across the country and across the decades. By 1972, one year before *Roe*, the decision in *Eisenstadt v. Baird* extended the right to contraception beyond the marital relationship by declaring, “If the right to privacy means anything, it is the right of the individual, married or single, to be free from unwarranted government intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child.”³ These decisions recognized that the choice whether or not to procreate falls under a fundamental right of privacy guaranteed by the U.S. Constitution under the Liberty Clause of the 14th Amendment. More broadly, these decisions laid the groundwork for an argument that the indi-

¹ From *Femme Noir Online*: Herstory (2003)

² *Griswold v. Connecticut*, 381 U.S. 479 (1965)

³ *Eisenstadt v. Baird*, 405 U.S. 438 at 456 (1972)

vidual has a right to decide how and when to engage in consensual sexual activity.

The Center's Commitment to Reproductive Rights: A Brief History

The Center's mission, in part, is to "care for our individuals and groups in need and educate the public and our communities." The link between our communities' needs and the reproductive rights agenda, especially as they both concern themselves with sexual freedom, drives our mutual struggles for the basic autonomy of the body. In a country that has acknowledged (however reluctantly and tenuously) women's rights to reproductive self-determination only within the past 30 years, and has very recently recognized the right to sexual autonomy, it is important to proclaim commitment to our shared principles.

In the late 1980s, the Center's board of directors unanimously elected to take a public stance as a pro-choice organization. This decision recognized the debt the LGBT liberation movement owed to the feminist movement of the 1970s. The modern wave of the feminist movement involved greater numbers of women in the refusal to comply with a system that imposed oppressive gender restrictions upon them and barred them from full participation in greater society. Inspired by them and the civil rights movement for an end to racial discrimination, LGBT people moved to make a political claim of our own on nondiscrimination and sexual freedom. As a pro-choice organization, the Center recognizes that the term "pro-choice" is not limited to a position on abortion access, but encompasses a much broader advocacy of sexual life liberated from reproductive function. It includes the right to choose whether or not to have children as well as the right to a life free from governmental scrutiny and intrusion in our sexual and reproductive lives.

The right of LGBT people to privacy in our sexual lives was most soundly and profoundly denied in *Bowers v. Hardwick*. In that decision reviewing a Georgia statute, the United States Supreme Court upheld the criminalization of consensual homosexual relations, determining that the Constitution does not protect such activity. The court refused to recognize the right of privacy as something that extended to homosexual acts, placing such behaviors in a category separate from family matters, procreation, or marriage, where privacy rights are generally granted.⁴ Although we rejoice in the fact that *Bowers* was overturned by the Supreme Court in the *Lawrence v. Texas* decision, we cannot forget the 17-year life span of the *Bowers* decision and the far-reaching discriminatory effect it had on countless lives. Neither can we assume that the *Lawrence* decision serves as a panacea for the homophobia that continues to plague our society or as a legal basis for thwarting the conservative assault on a woman's right to

⁴*Bowers v. Hardwick*, 48 U.S. 186 (1986)

choose and her ability to access medically safe and affordable abortion services.

The Role of Identity

The LGBT movement — like the civil rights and feminist movements — has deep roots in identity-based politics. Civil rights movements in the United States have a history of utilizing racial, ethnic, gender and sexual orientation identities as a community-organizing tool. People who work in identity-based movements do so because they are provided a sense of cohesion and community, of safety and perhaps faith. Despite the extremely powerful lure of identity as an organizing tool for social change, movements based on identity run the risk of creating barriers to coalition-building. They can become focused narrowly on the interests of “me and mine” rather than on the systemic political changes and cultural evolution necessary to creating enduring social change. They run the risk of limiting, rather than expanding, our vision of what is possible.

The Center’s longstanding commitment to the needs of the LGBT community and its steadfast pro-choice position led to the formation of the Center Kids program. Center Kids’ work has broadened our understanding of the core issues that connect our movements. We value and work to protect our right to privacy; our right to engage in same-sex consensual activity; our right to choose how, when and whether to have a family; our right to our own bodies; and our right to freely associate. Hence, our vision of what is possible moves far beyond what the mainstream media calls a “gay agenda” or a “women’s issue.”

The Impact of *Lawrence*

We are at a critical juncture in the history of sexual and reproductive freedom. President George W. Bush has put forth U.S. Supreme Court Justice Antonin Scalia as his “judicial role model.”⁵ He has made it clear that if given the opportunity, he will appoint judges who will overturn *Roe v. Wade*. Nonetheless, a politically conservative United States Supreme Court exceeded our wildest hopes in 2003 by declaring that same-sex relations between consenting adults shall no longer be criminalized and that government interference in our private sexual lives is no longer constitutional (*Lawrence v. Texas*). For centuries, LGBT people have survived negative religious, legal and medical incursion on the dignity of our persons and our love. As such, *Lawrence v. Texas* is an enormous victory worthy of celebration.

But the legal victory does not eliminate our vulnerability. Significantly, transgender people are not cited in the decision and it is unclear what impact, if any, the decision will have on transgender rights to privacy or reproductive choice. We all remain vulnerable to an administration with a right-wing agenda. We are vulner-

⁵David S. Broder, “The Scalia Model,” Washington Post, 7/29/2003

able to the storm now brewing in conservative circles in response to the *Lawrence* case, the Canadian Supreme Court decisions in Ontario, Quebec and British Columbia legalizing same-sex civil marriages, and the shifting cultural embrace of things queer in the American populace.

That backlash will target the LGBT community and our allies in the reproductive rights movement. It will include a stronger emphasis on conservative judicial appointments and administrative policies making condoms and other forms of contraception, abortion and modern reproductive technologies more and more difficult to access.

We will see legal and administrative moves to block same-sex civil marriage and other efforts that protect and recognize LGBT relationships and families. We will continue to see a deluge of morality-based health policies that ignore scientific evidence of the effectiveness of harm reduction and safer-sex practices in preventing unwanted pregnancies and sexually transmitted disease.

III. POLICY INTERSECTIONS

INTERNATIONAL ISSUES

Nowhere is the Bush administration's interest in controlling women's bodies more evident than in its policy objectives and decisions in the international arena. Upon entering the White House in January 2001, George W. Bush's first official presidential act was to reinstate the Global Gag Rule, also known as the "Mexico City Policy." Originally introduced by the Reagan administration in 1984, the Global Gag Rule effectively disqualifies foreign nongovernmental organizations (NGOs) from receiving U.S. family planning funds if they use their own funds to provide legal abortion services or provide counseling or referrals for abortion. They are also disqualified from receiving U.S. government funding if they advocate for making abortion legal, safer, or more available in their own countries.⁶

At the United Nations Population Conference in December 2002, Assistant Secretary of State Arthur E. Dewey asserted, "The United States supports the sanctity of life from conception to natural death."⁷ According to the Center for Reproductive Rights, however, "78,000 women die every year from unsafe abortion, a statistic that could be virtually eliminated by the provision of appropriate health information and services and law reform efforts."⁸

⁶Center for Reproductive Rights, "The Bush Global Gag Rule: Endangering Women's Health, Free Speech and Democracy," January 2003

⁷Asst. Sec. of State Arthur E. Dewey, UN Population Conference, Bangkok, December, 2002

⁸Center for Reproductive Rights, "The Bush Global Gag Rule: Endangering Women's Health, Free Speech and Democracy," January 2003

The U.S.-led efforts to block passage of international family planning policy permitting abortion or promoting contraception for adolescents constitute an unabashed assault on reproductive rights. Among their arguments before the United Nations was the assertion that “reproductive rights” and “consistent condom use” are euphemisms for abortion and the approval of “underage” sex. The U.S. demanded that even the phrase “reproductive health” be struck from the proposal, stating, “We support the ABC approach ... Abstinence, Be faithful, Condom use,”⁹ with condom use a distant, distasteful and grudging third choice.

Under President Bush, the United States ceased its funding of the United Nations Fund for Population Activities (UNFPA), which provides voluntary family planning services to developing countries.

As a direct result of the ultra-conservative lobbying group, Population Research International, which falsely charged the UNFPA with complicity in coercive abortion and sterilization in China, the UNFPA lost \$34 million in U.S. funding.

President Bush made the cut despite an independent investigation led by Secretary of State Colin Powell disproving this claim. To put this in perspective, \$34 million dollars is enough to prevent two million unwanted pregnancies, nearly 800,000 induced abortions, 4,700 maternal deaths and 77,000 infant and child deaths. In effect, Bush “stopped contraceptive services to the poorest women in the greatest need,” said Amy Coen, president of Population Access International (PAI).¹⁰

“We’ve had these rights for so long that it is extremely difficult for an American to grasp that we have an administration that doesn’t support contraception. We can’t believe it. We think that can’t possibly be right. But [this administration] is out to dismantle the reproductive rights women have had for years. They’re doing it methodically and they’re doing it below the radar screen. They know that middle-class Americans who vote don’t pay attention to international issues, but they can make sure (the news of the U.N. vote) shows up in the newsletters of the far right.”¹¹

International Adoptions

While the scope of this paper did not originally include adoption as a topic for discussion, we think it is important to recognize the growing global adoption

⁹Asst. Sec. of State Arthur E. Dewey, UN Population Conference, Bangkok, December, 2002

¹⁰Amy Coen, President, Population Action International. PAI is an independent, non-profit policy advocacy group working to strengthen public awareness and political and financial support world-wide for population programs grounded in individual rights. It accepts no government funds.

¹¹Id.

market which U.S.-based couples (both heterosexual and LGBT) increasingly access in order to adopt children.

The cost of international adoptions places this option for creating families with children out of the reach of poor people. Because most of those children come from poor and developing countries, it also underscores the class and race tensions inherent in the international adoption business.

Children from countries whose people are considered “racial minorities” in the United States (e.g., China, Korea and countries in Central and South America) become targets of racism in this country. An entire generation of children of color growing up in predominantly white households and the potential discrimination they will face is a concern we must not ignore in our advocacy of LGBT families or reproductive rights more broadly.

We need to look at the policies and politics surrounding the circumstances of women’s reproductive lives in countries where we go to adopt (as well as the circumstances of birthmothers here), and think about how race, economic oppression, and female subservience conspire to create available babies.

This is painful, but we are responsible for our choices, and they should be conscious ones. Such consciousness means that our joy at creating families and giving children more comfortable lives not overshadow the necessity of challenging the oppressive systems operating against the women who bring us those babies.

ACCESS LIMITATIONS TO REPRODUCTIVE SERVICES

The Marriage Imperative

The Bush administration is reshaping service provision for poor families by requiring disproportionate sacrifice on their parts by strengthening welfare reform policies that provide less child care and greater work requirements for working mothers, and by financial enticement toward marriage as a way to “strengthen” families.

The pressure to marry in order to access benefits is of dubious social worth for straight couples, and makes no practical sense for lesbian and gay parents who cannot legally marry.

Policies that financially compel couples into marriage with the promise of sustenance and shelter for children is social engineering at its most primitive, and does violence to young lives. Further, to make public assistance yet another entitlement of heterosexuals (those who are permitted to marry under the law) is clear and overt discrimination against LGBT people.

Welfare Reform

Contemporary welfare laws and regulations dictate that any male who is the biological father of a child in the Aid to Families with Dependent Children/Temporary Assistance to Needy Families (AFDC/TANF) program is obliged to pay support for that child.

This is required regardless of the custodial mother's views on the matter, the nature of the father's relationship with the child and the custodial mother, his income, or his employment status. While poverty assistance might be treated as a responsibility that ought to be borne collectively by society as a whole, these laws perpetuate the notion that child care is a private familial obligation rooted strictly in biology.

The dominant bipartisan approach to welfare policy treats child support payments not as one element in a comprehensive ensemble of anti-poverty policies that would bring about structural economic transformation, job creation, and the redistribution of wealth, but as a "silver bullet" that would, by itself, clear up the welfare conundrum. Paternity identification and child support enforcement measures are widely regarded by conservative policymakers as the single most important tactic in their alleged efforts to address poverty.

Under current policy, mothers are required to identify their children's biological fathers before they are deemed eligible for welfare, a requirement that does not work for lesbians and all women who have chosen to construct their families without the involvement of the sperm donor.

This means that men who may have been approached for their help in conception and given assurances that their responsibilities for offspring would end with their donation of sperm can be pursued for child support. Although the fundamental fairness in requiring both biological parents to provide support for the children they create is generally considered good for mothers who are often left alone to raise their children, this sweeping requirement overlooks lesbian mothers who choose to create families with sperm donors who will not have — nor want to have — parental responsibility. In essence, mothers (and in some cases, fathers, particularly gay fathers) who wish to freely determine the method and process of becoming parents and the structure of their households, must not only secure the cooperation of the other sex; they must also be wealthy enough to not require or request public assistance.

The Impact of Racism

The race and class barriers to reproductive services outlined in this paper are

masked by the strategic “diversity” tactics of the politically conservative right wing, which seeks to create the appearance of a racially diverse “pro-life” movement. *“We are doing a major outreach effort to the African-American community to educate African-Americans on the reality of abortion and the not-so-subtle targeting of their people by the abortion movement. The rate of abortion in the black community is much higher than in the general population. Traditionally, the black community has been very God fearing and family oriented. Of course, many remain so and we hope to work with that community to save children.”*¹²

On our part, it is difficult to counter the transparent hypocrisy of the right wing’s incursions into communities of color because our own movements have evolved as largely white-led, white-identified and white-empowered. As a result, autonomous organizing efforts have been created to address the needs of people of color.

While those organizing efforts must be supported, we risk failure in the attainment of our stated goals without meaningful and sustained leadership from people of color and the embrace of multi-issue agendas relevant to communities of color in the LGBT and reproductive rights struggles. Seeking coalition with other social justice movements and incorporating a comprehensive human rights agenda into the vision of our own work are crucial to the ongoing advancement of our shared goals.

Private Health Insurance

When poverty and race do not present overt barriers to services, government and insurance policy regulations do. For example, emergency contraception (the “morning after pill”) reduces a woman’s chance of becoming pregnant up to 89 percent when taken within 72–120 hours after unprotected sex. Unfortunately, this drug protocol (essentially a large dose of oral contraceptive) is often called ‘the nation’s best kept secret’ because so few women are made aware of it. The combined impact of a government that frowns upon its use (considering it early abortion, although, in fact, it prohibits uterine implantation altogether) and insurance plans that exclude it from drug coverage results in limited access. In New York City, for example, only 55 percent of pharmacies in the five boroughs stock the pill, making it difficult to access when time is of the essence. Heterosexuals with private health insurance have access to most reproductive health services, but poor people often do not. They are constrained by Medicaid provisions (the 1976 Hyde Amendment excluded abortion from the list of health-care services covered by Medicaid, except in cases of rape, incest or the risk of maternal death) and private, religious-based clinics that offer limited

(if any) abortion, contraception, infertility or other reproductive assistance for heterosexuals, let alone LGBT patients.

¹²Lori Hougens, spokesperson, NY State Right to Life Committee, “The Pro-Life Agenda,” Gotham Gazette, 1/27/03

Barriers to Reproductive Services Specific to LGBT Communities

In addition to the access limitations LGBT people share with heterosexuals, there are limitations specific to LGBT communities. The issue of choice presents itself in a multitude of policies that limit access to reproductive services for LGBT people seeking to have children.

For example, Center Kids constituents have been repeatedly thwarted when seeking insemination services by overtly discriminatory government policies and practices. Working guidelines adopted by the Food and Drug Administration (FDA) and the Center for Disease Control (CDC) prohibit sperm banks from accepting sperm donations from men who have sex with men regardless of their HIV status or the informed consent of the woman receiving the sperm.

Health insurance policies that are written to cover advanced reproductive assistance (when they do so at all) are invoked in the event of infertility, a condition generally defined as an inability to conceive through normal sexual intercourse.

Obviously, this is not a condition that would include lesbians who do not partner sexually with men. In other words, a variety of safe reproductive services become inaccessible even to insured women, and unaffordable and completely inaccessible to low income and uninsured women.

Lesbians and bisexual women in this instance are left with the “option” of sexual intercourse with men or other unprotected forms of insemination in order to become pregnant. Hence, the notion of “choice” loses practical meaning for poor women, whatever their sexual orientation. Lesbians and bisexual women of transgender experience have even less agency in their reproductive choices, as outlined below.

Despite some popular misconceptions that all lesbian pregnancies are carefully planned, lesbians are not immune to the possibility of unwanted pregnancy. Some lesbians have sex with men. Rape, incest and sex work can all result in an unwanted pregnancy.

Young lesbians and gay men and questioning youth often engage in heterosexual relations in order to “prove” to themselves and to suspicious parents that they are not homosexual, or as part of their developmental exploration and quest for sexual self-definition. Limitations on safer-sex education and contraceptives for young people can and do turn these moments of exploration into unwanted pregnancies or cases of sexually-transmitted disease as easily among LGBT youth as they can among their heterosexual peers.

People of transgender experience also face social stigma, policies and actions that limit their access to reproductive services. Transgender people who seek surgical transition in particular face enormous obstacles to choice. Almost all jurisdictions in the U.S. require that trans men have radical hysterectomies and that women of transgender experience consent to having their genitalia removed as a pre-requisite for a legal change of sex. This serves to impose permanent sterility as a condition of transition.

Transgender women and men seldom receive counseling and assistance regarding the banking of sperm or eggs prior to medical/surgical transition, and therefore come to the realization of this possibility for biological offspring only when it's too late. Even transgender people who have planned ahead have been refused service by cryopreservation labs.¹³ Transgender people who want surgical transition and have the economic means to undergo surgery face tremendous social and legal challenges to their right to parent or to retain custody of their children. The reproductive needs and concerns of transgender people who choose not to or cannot afford to undergo surgery are rarely, if ever, addressed by either of our movements. For all these reasons, a broader discussion of the social, medical and legal barriers to choice particular to transgender people is essential.

THE PUSH TOWARD PRIVATIZATION MARKS THE END OF GOVERNMENT RESPONSIBILITY

A deep ideological divide exists between progressive and neo-conservative approaches to social welfare programs. Under the Bush administration, the bottom line for conservatives is to get government out of the social welfare business.

The push to cut spending on much needed social services programs erases a system of checks and balances that prevents abuses of power and discriminatory practices against the poor and against those whose religious or political views and sexual practices are different from those of the provider.

Private institutions are not accountable to citizens in the same way federally funded programs are held accountable. In a representative democracy, government must hold some responsibility to care for its vulnerable citizens. The privatization of social welfare programs is a grossly cynical and ineffective response to poverty that affects us all.

An example of a privately funded organization not bound by the same rules as

¹³Cryopreservation is the freezing process routinely used to store semen, embryos and all types of cells and tissue from animals and humans.

public institutions is the non-profit organization called Children Requiring a Caring Kommunity (CRACK).

CRACK gained momentum as a new sterilization movement that targeted poor women with substance abuse problems. It solicited clients by placing large billboards in African-American and Latino communities in Los Angeles that read “Don’t Let a Pregnancy Ruin Your Drug Habit.” Others read, “If You Are Addicted to Drugs, Get Birth Control — Get \$200 Cash.” The \$200 cash incentive, however, was available only if women with substance abuse problems agreed to be sterilized. An extra \$50 was offered for referrals of other substance-abusing women.

As George Annas, chairman of the health law department at Boston University School of Public Health, has stated, “If the state of California was doing this, then people would be beside themselves, but because a private nonprofit organization is doing this, then it doesn’t seem quite as scary.”¹⁴

The ballooning federal deficit coupled with the move toward privatization of what are now public services is a direct attack on the poor. It is an assault on our ability to provide critically needed safer-sex information necessary to the prevention of unwanted pregnancies and of sexually-transmitted diseases, including HIV/AIDS and hepatitis.

The care of the poor and indigent among us is a fundamental ethical obligation of any democratic society. Undermining that ethical obligation by placing it in private hands is, like many of this administration’s actions and policies, an affront to internationally recognized human rights and humane social policies.

Youth and Sex Education

In addition to court rulings on abortion for minors, federal regulatory policy now rejects comprehensive sex education in favor of an abstinence-only approach. “As the HIV/AIDS epidemic continues to disproportionately affect young people, especially women of color, educational programs that adhere to a doctrine of abstinence are not only shortsighted but also dangerously neglectful.”¹⁵ In fact, the federal abstinence statute (42 U.S.C § 710) — which implements a quid pro quo approach for states to receive federal funding — is arguably the most insidious regulation, affecting the greatest number of young people in this country.

...states that receive funding for education and certain welfare programs must, as

¹⁴Judith Scully, “Cracking Open CRACK: Unethical sterilization movement gains momentum,” from *Different Takes*, a publication of the Population and Development Program at Hampshire College, No. 2—Spring 2000

¹⁵Mia Herndon, outreach coordinator, “Attack on Reproductive Freedom,” Third Wave Foundation Newsletter, Spring 2001.

a condition for receipt of that funding, implement a program of “abstinence education,” which the statute defines as meaning an educational or motivational program that...

- (A) Has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;
- (B) Teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;
- (C) Teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;
- (D) Teaches that a mutually faithful monogamous relationship in the context of marriage is the expected standard of human sexual activity;
- (E) Teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;
- (F) Teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child’s parents, and society;
- (G) Teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and
- (H) Teaches the importance of attaining self-sufficiency before engaging in sexual activity.

Every state (except California) has accepted this funding and thus includes “abstinence-only” sex education as a part of its mandated curriculum.

This statute has a profoundly negative impact on society as a whole. The abstinence-only agenda is a social movement disguised as safe-sex instruction, and the coercive nature of the regulation serves as indoctrination, not education.

Are the possible harmful psychological and physical effects of sex out of wedlock all we want to teach our children about sex? How is that helpful to their development in a cultural environment that constantly entices them to engage in sexual activity through free market advertising? There is no evidence that teaching abstinence-only practice has ever helped prevent unwanted pregnancies.

In fact, it accomplishes quite the opposite by delaying the dissemination of information about safer sex to the most vulnerable communities.¹⁶

¹⁶The Alan Guttmacher Institute, Facts in Brief: Sexuality Education 8/02

Because this statute controls funding for public schools and some welfare programs, it disproportionately affects poor people, young people and people in prison, exposing them to unwanted pregnancy and sexually-transmitted diseases such as HIV/AIDS and hepatitis C.

Finally, the language of the statute is onerous to the LGBT community for whom marriage is not a legal option. What does “abstinence until marriage” mean to a population that cannot legally get married? The Bush administration’s “sex education” program admonishing people of childbearing age to decline sex until marriage sends a clear message to same-sex partners that they ought never to have sex at all.

Erosion of *Roe v. Wade*

The core of *Roe v. Wade* still stands today — a woman’s choice to have or not have an abortion is a right protected by the Constitution. Several U.S. Supreme Court decisions, however, have severely limited the scope of that right. The standard by which a woman may exercise her fundamental right to choose has shifted dramatically over the years and has become increasingly restrictive.

The trimester system that was originally implemented in *Roe* was effective because it limited the government’s ability to intrude upon this guaranteed right. This system was abandoned in 1992, however, in *Planned Parenthood v. Casey*.¹⁷ In its place came the “undue burden” test. This was a balancing test that weighed government interest against that of the pregnant woman’s interest in obtaining an abortion.

The most recent doctrine on abortion for adult women implements a pre- and post-viability scheme, an even more conditional approach that limits the constitutional right to choose even further.

Stenberg v. Carhart (2000) held that before viability, a woman has a right to choose, which takes precedence over state interest in fetal life. After viability, however, state regulation of abortion is constitutional unless the life or health of the mother is in jeopardy. The definition of viability is, of course, contested by religious leaders and medical experts. The outcome of that debate is critical to the survival of the rights protected by *Roe v. Wade*.

Besides the shifting standards, a host of other limitations have compromised the *Roe* decision.

For example, many jurisdictions now require 24-hour waiting periods from the moment a woman enters a doctor’s office or clinic until she is permitted to

¹⁷*Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992)

undergo the procedure. In government-funded hospitals, the ability of doctors to educate their patients is severely curtailed as health-care workers are prohibited from providing information about abortions.

Furthermore, since abortion is deemed a “negative right,” the federal government is not obligated to fund abortion services. Although the state cannot interfere in a woman’s right to decide to have an abortion (under the limitations described above), it does not have to provide financial support, making abortion technically legal but financially inaccessible.

Finally, perhaps the most unsettling limitation to *Roe* is the most recent doctrine on abortion for minors. Currently, a minor must have consent or notify one parent or petition for judicial bypass in order to obtain an abortion. If she uses judicial bypass, the judge then plays the role of the parent and has absolute discretion to determine her fate based on two subjective criteria. The judge must decide (1) whether or not the minor is mature enough to have an abortion; or (2) whether or not granting permission for an abortion procedure is in the minor’s best interests.

This doctrine is injurious to the lives of young women and to the spirit under which *Roe* was decided for several reasons. One, the issue of choice is all but absent in these cases since the ultimate decision whether or not to have an abortion rests in the hands of the presiding judge rather than the young woman. Two, the paternalistic nature of such a legal standard is an approach that harms and penalizes young women since it replaces an effort that offers guidance and information necessary for her to make her own informed decision. Three, the legal process itself delays a necessarily time-bound procedure. This means that even if the judge decides to grant permission for an abortion procedure, it may be too late for the young woman to obtain one. Finally, it may be argued that the purely subjective nature of the legal criteria itself serves no higher purpose than as a smokescreen device since it replaces any objective legal standard in favor of allowing judges to impose their own morality and personal beliefs upon the minor’s decision-making process.

It is not difficult for many of us in the LGBT community to empathize with a young woman who becomes pregnant and feels she has nowhere to turn. Facing the condemnation of our loved ones and society at large is an experience that many of us share. We have a historic relationship to a lack of choice, and our efforts throughout the decades to pursue and demand information, education, resources and guidance have shaped our collective understanding of the nature of sexual repression. Policies that curtail a woman’s right to choose or prevent access to information about safer sex and the prevention of pregnancies foster a culture of shame around her sexual choices. Many of us understand all too well how perpetuating and internalizing that shame can destroy any hope for freedom and a life of dignity.

IV. CONCLUSION

“Across the political spectrum, sexuality politics are generally conceived in terms of two major issues: women’s reproductive rights and lesbian and gay rights. Conservatives, liberals, and progressives alike tend to think about the politics of sexuality as a terrain that consists solely of struggles concerning abortion and homosexuality.”¹⁸

While the terrain of sexual politics may be more varied than “reproductive rights and lesbian and gay rights” we believe the core of what constitutes a right wing agenda for political control of our government does indeed focus on our two movements and the intersections in matters of family and privacy which they represent. To survive and preserve fundamental and hard won rights to liberty and privacy we must work together.

Politically conservative individuals and organizations purport to protect “innocent life,” but the policies we must now live under have nothing to do with protection and much more to do with controlling sexuality, gender conformity, reproductive choice and the legal definitions of family. They impose a moral code on public policy at the expense of constitutional rights. They attack the right to privacy and sexuality of LGBT people — and all women. The intersections and convergence of the reproductive rights and LGBT movements — those causes in common that comprise our political and policy agendas — are clear:

- Reproduction and sexuality are profoundly and intimately related aspects of human experience. Reproduction is a choice that evolves out of sexuality, not an unavoidable consequence of sexuality. Individual human autonomy in the conduct of our sexual lives is integral to our liberty.
- The pro-choice and LGBT liberation movements refer most fundamentally to the freedom to manage the affairs of our bodies without the interference of government.

V. RECOMMENDATIONS FOR ACTION

We recognize the value in ongoing dialogue based on shared values and goals of the reproductive rights and LGBT liberation movements. Therefore, we will work with our organizations to include issues of LGBT equality and liberation and issues of reproductive choice in their missions and programs. We will also:

- Distribute the Causes in Common position paper as broadly as possible.

¹⁸Anne Marie Smith, *The Sexual Regulation Dimension of Contemporary Welfare Law: A Fifty State Overview*, Michigan Journal of Gender and the Law, 2002.

- Organize for formal representation of LGBT organizations in the programs and platforms for national, regional and local gatherings and for explicit representation of reproductive rights organizations in LGBT national, regional and local events.
- Participate in joint lobbying efforts to block appointment of conservative nominees to federal and Supreme Court vacancies that are hostile to reproductive rights and LGBT civil rights.
- Participate in joint lobbying efforts to address abstinence-only and other morality-based and unscientific policies affecting contraception, safer sex practices and other forms of HIV/AIDS prevention, and the prevention of other sexually-transmitted diseases and unwanted pregnancies.
- Publicly oppose the continuing privatization of health and welfare services.

Causes in Common PLEDGE OF COMMITMENT

We, the undersigned, believe that reproduction and sexuality are profoundly and intimately related aspects of human experience. Reproduction is a choice that evolves out of sexuality, not an unavoidable consequence of sexuality. We affirm that individual human autonomy in the conduct of our sexual lives is integral to our liberty.

Therefore, we are committed to the following principles:

- The right to individual autonomy in all matters related to adult consensual sexuality, gender expression and reproduction.
- The right of individuals to have control over their own bodies and the right to engage in intimate behavior with members of one's own sex are fundamental to the liberation of LGBT people.
- The right of all women to safe and affordable abortions and the right of all people to access safe and affordable reproductive technologies and assistance.
- Social change for the purpose of eradicating all forms of homophobia and transphobia, and for the full attainment of the right to choose to reproduce.

Therefore, _____ (name of organization)
endorses freedom of choice for women and reproductive freedom for *all*, including lesbian, gay, bisexual and transgender people. We commit to incorporating the principles of reproductive choice and LGBT equality and liberation into our organizational values and programs.

(Organization Director, Title and Signature)

(Contact Person and Title)

(Address)

(Telephone)

(E-mail address)

(Date)



**THE DIVERSITY DEPARTMENT AT PLANNED
PARENTHOOD FEDERATION OF AMERICA
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