



# Humanum

Issues in Family, Culture & Science

BOOK REVIEW

Issue Three / 2012

## The Moral Argument

MICHAEL CAMACHO

**Gordon A., Gill Babst**, *Moral Argument, Religion, and Same-Sex Marriage: Advancing the Public Good* (Lexington, 2009).

Is it good or bad to be gay? Much if not all of the legislation in the United States today touching on same-sex discrimination or same-sex unions purports to prescind from this question. But should it? *Can* it? Can and should the government bracket morality in deciding about issues such as same-sex “marriage”?

The ten contributing authors of the collection of essays entitled *Moral Argument, Religion, and Same-Sex Marriage*, all of whom are advocates of same-sex equality and rights, argue that we cannot and should not set aside the question of morality in debates about same-sex unions. According to these authors, we must not set aside the question of the goodness or badness of homosexuality as irrelevant to the matter but must instead face it head-on. This is indeed a new stance for supporters of gay rights, who in the past have tended to cede explicitly moral arguments to their opponents, arguing for their part that morality is a private matter without a place in public discourse. The authors of these essays argue instead that same-sex advocates must in fact advance their position precisely on moral grounds.

In doing so, however, the contributors “consciously do not engage the old, arguably tired questions of the past, such as whether gays are normal, whether homosexuality is natural or sinful, whether the traditional husband-wife family is best for children, and so on” (p. vii). One might legitimately ask whether this means that they are consciously not engaging the most important questions. The focus of the book is instead on moral arguments largely grounded in the idea of substantive equality (as opposed to simply formal or procedural equality) that the authors believe is at the heart of the American political project: “The new territory we stake is not predicated on any other assumption than that the Constitution, properly understood, offers nothing less than full and equal citizenship before the law, and after, and that its protections are sincere, not facetious” (p. viii).

As is to be expected, the different contributors approach the issue of same-sex unions from different, sometimes even diverging perspectives. While all agree most basically on the need for moral argument in these matters, there is difference of opinion on how such moral arguments stand vis-à-vis liberal-democratic theory. On the one hand, many of the authors, represented especially by R. Claire Snyder-Hall, hold that the dominant strand of liberalism operative in the United States is *not* itself simply “neutral” or “amoral,” but rather ultimately has its ground in fundamental moral values such as equality and human dignity. Proponents of this thesis argue that there has been a progressive deepening of the liberal tradition, from a “humanist liberalism” that is more negative in cast, focused on freedom from government intrusion and the right to be left alone, to a “reform liberalism” that is more positive, recognizing the role government should play in helping persons achieve their full dignity, and seeking respect and affirmative recognition for personal acts of self-definition. This shift in liberalism is also described in terms of a move from a *formal* or *procedural* understanding of equality (i.e., non-discrimination, or the law treating everyone the same) to *substantive* equality, meaning all people are the same, or are “equally” good, even if in different, ultimately incompatible and irreconcilable ways. This first group of authors highlights the moral values of equality, human dignity, autonomy, pluralism, and tolerance.

On the other hand, there are a few authors in this collection, represented especially by Carlos Ball and Chai Feldblum, who question the presuppositions of liberalism at a deeper level. In particular, they question the principle of state neutrality or impartiality. Can the state really remain neutral in decisions regarding relationships, without making judgments on the validity or goodness of such relationships? Ball insightfully argues that the principle of formal or procedural equality, according to which those who are similarly situated should be similarly treated, in fact presupposes an “antecedent question” about whether or not the groups involved are in fact “similarly situated.” Are same-sex couples similarly situated in regards to the institution of marriage as opposite-sex couples? Advocates of same-sex unions would argue yes, while opponents would argue no. This indicates that “something more is needed than the mere call on the government not to discriminate against same-sex couples.... [We] must to some extent tackle the question of whether same-sex couples are as worthy of the rights and benefits that accompany legal recognition as are different-sex couples” (p. 85). And this in turn involves some sort of moral evaluation.

Like Ball, Feldblum argues that liberalism’s purported neutrality or tolerance is neither possible nor desirable. Such “moral bracketing” may *seem* beneficial on the surface, as a useful political strategy, insofar as it doesn’t require people to rethink all of their moral assumptions in order to extend rights to homosexuals: “Moral bracketing... allows people to say both that homosexuality is wrong *and* that antigay discrimination is wrong. How bad can that be?” (p. 210). Yet, in the first place, the ultimate effect is to leave negative judgments about homosexuals or homosexual activities in place and untouched. How much respect for the other, Feldblum rightfully asks, is really gained by such “tolerance”? This kind of neutrality in public discourse is thus not really desirable. Moreover, in the second place, such neutrality is not even possible, insofar as we are always operating with and cannot help but operate with some “vision of the good,” or “normative beliefs, assumptions, and presumptions about what is right and what is wrong,” even in the public sphere of legislation and law (p. 213).

It is certainly a step in the right direction to bring moral or substantive questions about the good into public discourse about same-sex unions, rather than hiding them behind a purported neutrality that hiddenly enforces its own normative notions. Similarly, it is helpful that the authors of this collection recognize that public institutions, such as marriage, both directly and indirectly impart to us some conception of the good, even if in their view this particular institution serves only to enforce the “hegemony of heteronormativity.” If the

equality sought by advocates of gay rights is not simply formal but “substantive,” as they claim, then we can now ask what it is that they mean by such equality, or by human dignity. Based upon the essays in this collection, such dignity would seem ultimately to be grounded in a quite radical autonomy, indeed the most radical freedom. In the infamous words of *Planned Parenthood vs. Casey*, “At the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life;” we might add: of the body, of sexuality, and of human love. As problematic a notion as this is, if the work of the authors of this collection is any indication, we are hopefully at a point today where such moral underpinnings or “vision of the good” of liberalism are out in the open, and so perhaps can really be engaged for the first time.

