

*THE WRONGFUL REJECTION OF BIG THEORY (MARXISM) BY FEMINISM AND QUEER THEORY: A BRIEF DEBATE**

INTRODUCTION

A specter is haunting America's Left, the specter of fear: the fear of being perceived as "mediocrely petty-bourgeois and vaguely social-democratic,"¹ the fear of participating in "any enterprise aimed at building against all forms of particularism."² This is the fear of "essentialist" meta-narratives; it is a fear of Marxism.

The Left avoided this damaging perception by embracing post-modernist thought. Like any theory born toward the end of a century, post-modernism nurtured a *fin de siècle* atmosphere, based on derision, disillusion, and parody style. Reason became a metaphor, which ridiculed "the man who wishes to be taken seriously as a philosopher."³ Thus, the Left embraced post-modern and post-structural French thought as its theoretical foundation to explain "the other" and such universal social problems as those posed by gender and sexual discrimination.

It is common knowledge that despite their universality Marx did not address them separately in his theory of capitalism. Marx focused on the public sphere where the worker's alienation and self-alienation took place, and famously explained how the

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¹ Pierre Bourdieu, "L'assassinat de Maurice Halbwachs," in 16 *LA LIBERTE DE L'ESPRIT, VISAGES DE LA RESISTANCE* 161, 166-67 (1987), reprinted in PIERRE BOURDIEU & LOÏC J.D. WACQUANT, *AN INVITATION TO REFLEXIVE SOCIOLOGY* 58 (1992).

² *Id.*

³ ANTHONY CARTY, *POST-MODERN LAW. ENLIGHTENMENT, REVOLUTION AND THE DEATH OF MAN*. 3 (1990)

worker felt at home only in his leisure time, while at work he felt homeless.⁴ While Marx's observations are about workers generally, women, men, and children, he was aware of the inhuman plight women and children were exposed to both at home and in the public sphere. Marx described their predicament across Europe from the Danube to the Atlantic Ocean. For example, he poignantly illustrated how, in the second half of the 19th century, in the former "Danubian Principalities (now Roumania),"⁵ as part of the *corvée* system, entire peasant families -- which included of course, women and children-- had to work had to work three days a week "gratis" for the "capitalist"--the owner of the land. Similarly, in England, the "cotton-spinning" industry occupied children, as young as "7 years" from 6 o'clock in the morning to 9 o'clock at night six days a week.⁶ Implicitly, women, of course, must have known a worse treatment.

Nevertheless Marx was not a feminist. While critical of the *status quo*, he was not concerned only with the women's subordination.⁷ Marx was concerned with commodification, with the never-ending process of creation of new wants that were, by their nature, impossible for the working class to satisfy, and which thus caused alienation that begged for wages and thus for exploitation.⁸ He did notice gender discrimination, but

⁴ See excerpt from *The Economic and Philosophical Manuscripts*, in KARL MARX: EARLY WRITINGS, at 121-31 (T.B. Bottomore ed. and trans., 1963), *republished in* SOCIAL STRATIFICATION. CLASS, RACE, AND GENDER IN SOCIOLOGICAL PERSPECTIVE 87, 88 (David Grusky, ed., 2001).

⁵ KARL MARX, CAPITAL. A CRITICAL ANALYSIS OF CAPITALIST PRODUCTION 220 et seq. (Translated for the 3d German ed. by Samuel Moore & Edward Aveling) (London : S. Sonnenschein, 1903).

⁶ Id at 228.

⁷ A feminist, according to Martha Chamallas is someone who is critical of the *status quo* and the root "of the criticism is the belief that women are currently in a subordinate position in society and that the law often reflects and reinforces this subordination." INTRODUCTION TO FEMINIST LEGAL THEORY 1 (2d ed. 2003).

⁸ Karl Marx, CAPITAL. A CRITICAL ANALYSIS OF CAPITALIST PRODUCTION, *supra note v.*

The wealth of those societies in which the capitalist mode of production prevails, presents itself as 'an immense accumulation of commodities,' its unit being a single commodity. Our investigation must therefore begin with the analysis of a commodity.

Id. at 1

he thought it a result of capitalist exploitation. Of course, perhaps capitalist exploitation may well be the result of the exercise of power in a patriarchally structured society, but he ignored such an analysis. Marx believed that the most meaningful group identity was economic, not cultural. The difference in degree between a child-worker's exploitation and that of his parents, Marx left for liberals, often identified as "liberal crétins,"⁹ to minimize. Similarly, Marx was not a queer theorist. To my knowledge, he ignored sexual orientation discrimination.

In the United States, to the extent there had been a Marxist left, eventually, gender and sexual orientation discrimination replaced the Marxist "essentialist" discourse. Currently, identity politics – that is, politics focused on non-economic "identity" features -- are dominating the Left-leaning public discourse.

However, despite their opposing stance, identity politics rely on "essentialist" points of view. On one hand, they tend to reduce their members' identity to any non-economic given trait, as determining their individual members' point of view.¹⁰ On the other hand, post-modern thought, despite its aspirations, is strikingly modernist. It assumes a grand narrative to make sense of it all. MacKinnon--who acknowledged that "[f]eminism has no theory of the state"¹¹--also recognized that feminist literature relies on either a liberal or a Marxist understanding of society.¹² Thus, to the extent identity politics do not use "redemptive human projects" as Fredric Jameson noted in 1984,¹³ and do not care about the world around them, they may even be perceived as socially

⁹ *Id.* at 221.

¹⁰ *See, e.g.,* MARTHA MINOW, NOT ONLY FOR MYSELF. IDENTITY POLITICS AND THE LAW 36 (1997).

¹¹ Catherine Mackinnon, *Feminism, Marxism, Method, and the State: Toward feminist Jurisprudence, in* FEMINIST LEGAL THEORY. FOUNDATIONS 427 (D. Kelly Weisberg ed.,1993).

¹² *Id.* at 430.

reactionary. They endorse the existing order, which epistemologically relies on essentialist assumptions that Huxley's *Brave New World* describes so well.

Of course, "if you lick my nipple," as Michael Warner remarked, "the world suddenly seems insignificant."¹⁴ Then, identity becomes more than a cultural trait. It becomes "the performance of desire." It becomes a place of "ideological contestation over need," or, in other words, an ideology that demands "legitimacy for its desire."

Marx too talked about desire, the result of the never-ending production of commodities. Thus, if, at first sight, it may seem that identity politics and Marxism have very little in common, that may not be necessarily true. My thesis is that, furthermore, they need each other. On one hand, feminist and queer symbolism need a grand social theory to attract popular support for their demands. On the other hand, Marxism needs to be rediscovered.

Ontologically, Marxism is useful to go beyond the regressive nature of post-modern politics that stresses micro-politics to the detriment of mass politics. While "identity politics seem to breed more identity politics,"¹⁵ Marxism can provide the grounds to unify the disparate political movements. It can provide values and ideals that "might unite specific movements for specific goals."¹⁶ Of course, this would be a bold move for identity politics, which have distanced themselves from the masses in an almost desire to be beyond Left and Right. However, such distancing is hard to achieve, and

¹³ See discussion by Bruce Norton, *Late Capitalism and Postmodernism: Jameson/Mandel*, in *MARXISM IN THE POSTMODERN AGE. CONFRONTING THE NEW WORLD ORDER* 59-60 (Antonio Callari, Stephen Cullenberg & Carole Biewener eds., 1995).

¹⁴ See quote in *THE MATERIAL QUEER. A LESBIAN CULTURAL STUDIES READER* 35 (Donald Morton ed., (1996).

¹⁵ MARTHA MINOW, *NOT ONLY FOR MYSELF. IDENTITY POLITICS AND THE LAW* 56 (1997).

¹⁶ Douglas Kellner, *The End of Orthodox Marxism*, in *MARXISM IN THE POSTMODERN AGE. CONFRONTING THE NEW WORLD ORDER* 33, 40 (Antonio Callari, Stephen Cullenberg & Carole Biewener, eds., 1995).

often it is perceived as undemocratic. For example, gay and feminist activism in the countries of the former Soviet bloc arrived with right-wing neo-liberal ideology.¹⁷

Empirically, it might just be shown that all major achievements of identity politics took place at a time when the Marxist concepts of "exploitation" and "alienation" were more commonly used than today, because the academe had not repudiated Marxism and its system of ethical values, and Marxist concepts were explained in schools without the teacher's disparagement. For instance, requesting women's rights met with success at the beginning of the 1970s, because, perhaps, the existing Left-leaning public discourse caused the Supreme Court to accept their existence among the other fundamental individual rights. Moreover, it is well known that "the greatest gains for affirmative action for Blacks and other oppressed people and women were made under Republican Richard Nixon's presidency in the early 1970s" (internal quotes omitted).¹⁸ It is common knowledge that all democratic achievements under the Nixon administration were the result of public pressure.

By contrast, today, when a Marxist constructivist critique of capitalism is taken derisively by so-called progressive lawyers and politicians, then even more modest demands--by Marxist standards--are and can easily be viewed as extreme by both courts and legislators. Absent the Marxist ethical foundation of social justice, identity theories seem to have lost their social edge as well as their goals of resistance and insurgency.

¹⁷ BORIS KAGARLITSKY, *THE RETURN OF RADICALISM. RESHAPING THE LEFT INSTITUTIONS* 48 (Renfrey Clark trans., 2000).

¹⁸ *Id.* at 79.

Today, feminism is not about socialism--that is too silly¹⁹--it is about “progressive corporate law.”²⁰

Usually scholars talk about two modes of post-modernism: one reactionary and the other “resistant.” The “reactionary” mode, according to Hal Foster, would seem to be an example of pure commodification and involves “an instrumental pastiche of pop- or pseudo-historical forms.”²¹ The “resistant” mode is concerned “with a critical deconstruction of tradition . . . with a critique of origins, not a return to them.” It is my understanding that feminist as well as queer theories belong to the latter form of post-modern theories. However, by rejecting the Marxist theoretical framework, as stated below, they may end up focusing too much on the individual and thus sharing the conservative’s reactionary social politics that individuals (unlike corporations) do not deserve government subsidies. Marxism and its propensity for human rights, which include social and economic rights for all, cannot but help feminist and queer theories reconnect with “the others” that are not part of their culturally identified groups, but nevertheless understand the discourse of human rights, for example, and thus empathize with the demands made on behalf of these minorities.

MARXISM AS THE BIG BAD WOLF

¹⁹ *Id* at 96.

²⁰ Kellye Y. Testy, *Capitalism and Freedom--for Whom?: Feminist Legal Theory and Progressive Corporate Law*, in 67 *LAW & CONTEMP. PROBS.* 87 (2004).

²¹ HAL FOSTER, *THE ANTI-AESTHETIC: ESSAYS OF POSTMODERN CULTURE* xii (1983). *See also* Marcia Landy & Lucy Fischer, *Dead Again or A-Live Again: Postmodern or Postmortem?*, 33 *CINEMA J.* 21 (1994).

Marxism²²--which I explain in much more depth somewhere else²³--is usually described as a comprehensive theory that articulates the principal lines of historical human development as a whole.²⁴ Jon Elster refused to define it *per se* but let us understand that Marxism could be viewed as theoretical developments of Marx's writings.²⁵ Thus, at a minimum, Marxism is Marx's writings. Marxism is an essential theoretical foundation to any progressive (mass) movement because it "includes both a specific conception of the good life, and a specific notion of distributive justice."²⁶

Instead of being ignored,²⁷ Marxism can be used as the theoretical base of any progressive identity theory as well. It usefully highlights socio-economic distinctions among the members of all different minority groups, such as "paupers, vagrants, criminals, prostitutes, etc."²⁸ who do not belong to either the "genteel" or middle-class.²⁹

Socio-economic identity is more than a cultural ornament³⁰ or an innocuous quaint parallel reality.³¹ Marxism is the only theory that demystifies the fashionable non-

²² Defining Marxism is not an easy task. Sometimes even so-called Marxist writers refuse to define it. See G.A. Cohen, *KARL MARX'S THEORY OF HISTORY. A DEFENSE*. xvii (2000).

²³ Dana Neacsu, *The Political Value of Knowledge and the Elite Schools' Curricula: To Ignore or Not to Ignore Marxism?*, 82 *UNIV. DETROIT MERCY L. REV.* (forthcoming 2005).

²⁴ Perry Anderson, *Radical History Review*, in Margaret C. Jacob, Ira Katznelson et al., *AGENDAS FOR RADICAL HISTORY* 36 (1986).

²⁵ JON ELSTER, *AN INTRODUCTION TO KARL MARX* 1 et seq. (1986).

²⁶ *Id.* at 4.

²⁷ One main reason for ignoring Marxism may be general academic misunderstanding regarding its merits, and not an overweening academic position that theories are dead (supported by luminaries such as Terry Eagleton and Henry Louis Gates Jr.) See, e.g., Dinitia Smith, *Cultural Theorists, Start Your Epitaphs*, *N.Y. TIMES*, Jan. 3, 2004, B7; and Emily Eakin, *The Latest Theory Is That Theory Doesn't Matter*, *N.Y. TIMES*, Apr. 19, 2003, D9.

²⁸ *KARL MARX, CAPITAL. A CRITICAL ANALYSIS OF CAPITALIST PRODUCTION* 180.

²⁹ *Id.*

³⁰ See the MTV show *Rich Girls* whose online add states:

Meet Ally Hilfiger and Jaime Gleicher: normal teenagers who enjoy doing normal teenage things like shopping, talking on the phone, and going to the prom. But there's one important difference between them and the rest of us--they're rich. Really, really, really rich. Get a first-hand look at their super-fabulous life when MTV follows two of the wealthiest teens on the planet to see how they spend their mountains of money.

class divisions of today, and helps us understand that “cultural divisions,” as Jon Elster demonstrated, “are never class neutral.” Additionally, Elster noted that “[i]t is invariably the case that classes are distributed non-randomly over cultural groups”³² and, one may add, over minority groups as well. Marxism offers an identity to the millions of have-nots,³³ the many more that struggle “to pay their mortgages and get their children off to college,”³⁴ and also to the few that do not understand either poverty or struggle.

It can be argued that there are “more complex” theoretical perspectives than Marxism that explain social phenomena. There are theories aware of a variety of distinctions that include race, sex, and sexual orientations that offer a laced-like approach to society. However, Marxism remains a valid social theory, because as Lewis Feuer mentioned, often “[its] bold vision does grasp more of historical reality than the more complex”³⁵ ones.

Rich Girls Premieres Tuesday, October 28 at 10:30 p.m. ET/PT, 9:30 CT.. at http://www.mtv.com/onair/rich_girls/.

³¹ See, e.g., the much hyped HBO docu-drama *Born Rich*.

Director Jamie Johnson [. . .] is tormented by the idea that people with money refuse to talk about money. "It's like this big taboo always lurking under the surface," he says. [. . .]

"Born Rich" is Johnson's revenge on the conspiracy of silence of his childhood. [. . .] Also, it has turned Johnson into a pariah, ousted from his rarefied circles for breaking the code. And after seeing "Born Rich," you can understand the reasoning behind the taboo: The crazy rich really can't talk about the trials of being crazy rich and still evoke much sympathy.

Matthew Gilbert, “*Born Rich*” Reveals Privileged Information, BOSTON GLOBE, Oct 27, 2003.

³² ELSTER, *supra* note 25, at 392.

³³ “The poverty roll rose to 34.6 million people,” which can also be translated as 12 out of 100 Americans are currently impoverished. Boom Times on the Poverty Roll., N.Y. TIMES, Sept. 30, 2003, A28.

³⁴ Bob Herbert *There’s a Catch: Jobs*, N.Y. TIMES, Oct. 27, 2003, A21.

³⁵ Lewis S. Feuer, *Introduction*, in KARL MARX & FRIEDRICH ENGELS, BASIC WRITINGS ON POLITICS AND PHILOSOPHY XVII, 43 (Lewis S. Feuer ed., 1959).

Furthermore, not only the “lowest class” (the poor) is economically identifiable. Even the rich are part of the class structure,³⁶ and thus describable in terms of their economic prowess. In fact, Marxist discourse transcends the interests of a specific group. As Raymond Williams observed, it helps us understand how the economic component of our lives sets limits and exerts pressures on our daily choices.³⁷ Extrapolated to law, as shown here, we enjoy only the rights we can afford.

Marxism prides itself on exfoliating social appearances and finding the common denominator among social realities.³⁸ Marx reduced society--the space of human interaction--to its raw essence: to an economic and a non-economic component.³⁹ Its detractors found this “essentialism” to be its major fault. Disagreeing, I suggest that “essentialism” may prove necessary to progressive politics today. If indeed we are witnessing a return to mass politics, then even progressive incremental reforms need a larger intellectual goal. Those who are not direct beneficiaries of those reforms need to be able to identify with the larger – human rights goal, for example – to support them

³⁶ See also the now hip and famous HBO-coined-pop- discourse about “traitor to your class.” Julia Chaplin, *Biting the Silver Spoon the Feeds Him, on Film*, N.Y. TIMES, Oct. 12, 2003, sec. 9-1.

³⁷ *Marxist Cultural Theory*, in RETHINKING POPULAR CULTURE, 407, 408 (Mukerji & Schudson eds., 1991). For a more convoluted discussion on this issue, see, e.g., HERBERT J. GANS, POPULAR CULTURE AND HIGH CULTURE (1974). The author shows how people’s choices are related, and infers their economic common thread.

[C]hoices are not made randomly. Research into consumer behavior and leisure indicates that choices are related; people who read *Harper’s* or *The New Yorker* are also likely to prefer foreign movies and public television, to listen to classical (but not chamber) music, play tennis, choose contemporary furniture and eat gourmet foods.

Id. at 92.

³⁸ Such an attitude has also been viewed as its liability. However, Marxism has had “a crucial impact not only on the development of the social and historical sciences since [Marx’s] day, but also on the way in which most people perceive modern society.” It demystifies social realities, and as Jon Elster also noted, at a minimum, its alienation and distributive justice theories remain useful in our post-modern society. Stephen Wilson, *Marxism in Higher Education*, TIMES, Nov. 19, 1977, F15. For a detailed account of post-modernism, see e.g., EDGEWORTH. LAW, MODERNITY, POSTMODERNITY: LEGAL CHANGE IN THE CONTRACTING STATE (2003).

³⁹ See also Mark Neocleous, *Staging Power: Marx, Hobbes and the Personification of Capital*, 14 LAW & CRITIQUE 147, 147 (2003). (analyzing the Marxist view of social interaction in capitalist societies).

with their vote, or to pressure the Supreme Court Justices to refrain from emptying of meaning individual rights previously gained.

FEMINIST & QUEER THEORIES

As identity theories, feminist and queer theories problematize the “connection of identity and politics.”⁴⁰ They distance themselves from Marxism in every conceivable way. Methodologically, they focus on introducing non-economic “identity as a factor in any political analysis” rather than identifying a set of objective needs that had been ignored by previous theories and then trying to address them politically. Feminist theories describe themselves as “middle range theories” that mediate “between the material circumstances of women’s lives and the grand realization that law is gendered, that law is a manifestation of power, that law is detrimental to women.”⁴¹

Undeniably, our laws are mainly the work of men, whether they are assembled in legislatures or members of the judiciary. This fact could pose grave danger for the wellbeing of women, but it does not necessarily prove a causal relation between the laws that are perceived as nefarious and the composition of the legislative and the judiciary body.⁴² Furthermore, if law is detrimental to women it does not necessarily mean that law is detrimental to all women. That being said, law remains a manifestation of power, which is detrimental to all who are economically in a position of subordination.

⁴⁰ Linda Alcoff, Cultural Feminism versus Post-Structuralism. The Identity Crisis in Feminist Theory, *in* THE SECOND WAVE. A READER IN FEMINIST THEORY 330, 348 (Linda Nicholson ed., 1997).

⁴¹ Martha Alberston Fineman, *Introduction*, *in* AT THE BOUNDARIES OF LAW. FEMINISM AND LEGAL THEORY xii (M.A. Fineman & N.S. Thomadsen eds., 1991).

⁴² For a similar position, see e.g., PHILOSOPHY OF LAW 264 (7th ed) (Joel Feinberg & Jules Coleman, eds. 2004).

Feminist theories represent a first wave of fragmentation of general theories. Feminist theories follow the current of “left thought that runs away from political economy”⁴³ toward issues of identity.

Queer theories go a step further, beyond identity. Queer theories tend to avoid any type of characterization, even a cultural one. If feminist theories famously emphasize that “the personal is political”⁴⁴ and discuss identity politics, queer theories go further, and point out that any type of collective identity needs to be re-examined because identity “can be deployed to harm its own subjects.”⁴⁵

In fact, the signifier queer can be viewed both as a term that defines a desire to be representative of both "lesbian" and "gay" groups and as a term used to replace identity as a monolithic characteristic with one that is multi-layered, which rests on the ways other types of cultural identity such as race, gender, and ethnicity influenced sexuality.⁴⁶ A defiant refusal to use terms of the dominant discourse may also be interpreted as a desire to bring, under one conceptual umbrella, as many fragmented discussions as possible. So, more than anti-assimilationist and anti-separatist, it is, perhaps, an acknowledgment that coalitions can be made. Moreover, perhaps it is an opening for recognizing that very little can be achieved within the self-imposed and maybe even artificial walls of the category itself.

⁴³ William H. Simon, *The Dark Secret of Progressive Lawyering: A Comment on Poverty Law Scholarship in the Post-Modern, Post-Reagan Era*, 48 U. MIAMI L. REV. 1099, 1112 (1993-1994).

⁴⁴ Read for example, Patricia Williams’s obsessive writings about her family history, e.g. *On Being the Object of Property*, in *AT THE BOUNDARIES OF LAW. FEMINISM AND LEGAL THEORY* 22 et seq. (M.A. Fineman & N.S. Thomadsen eds., 1991).

⁴⁵ Janet E. Halley, *Gay Rights and Identity Imitation: Issues in the Ethics of Representation*, in *THE POLITICS OF LAW. A PROGRESSIVE CRITIQUE* 115, 140 (David Kairys ed., (3d ed. 1998).

⁴⁶ Rosemary Hennessy, *Incorporating Queer Theory on the Left*, in *MARXISM IN THE POSTMODERN AGE. CONFRONTING THE NEW WORLD ORDER* (Antonio Callari, Stephen Cullenberg & Carole Biewener eds., 1995).

Feminist legal theory dates from early 1970s, and corresponds to the “second wave” of American feminism, the wave ignited by Betty Friedan’s *The Feminine Mystique*. The “first wave” of feminism is thought to have started in the 19th century with the fight for the vote and to have ended in 1920 with the enfranchisement of women.⁴⁷ The current third wave of feminism challenges single-trait analysis in law as unrealistic.⁴⁸ If feminism always focused on an “anti-essentialist” critique of society, especially power relations, to reveal that sex influenced both the development of societal structures and thus, of legal norms, the third wave of feminism further rejects the unitary “woman” category from the legal discourse. The third wave of feminism, having developed contemporaneously with queer theory, has successfully incorporated queer theory ideals, which defy, for example, the “traditional dyad of spouse and child as the primary, if not exclusive, objects of women’s hedonic lives,”⁴⁹ into its literature.

Despite their differences, it can also be said that feminist legal theories are unified by their multiple perspective approach and their lack of ideological unity. However, if the ambition of any social theoretical construct is to have some practical impact, which can mean changing the general view about the social phenomenon or nurturing some form of social action, then this ambition can be described as unifying feminist theories as well.

Social change is obtained through social action. Arguably, the most advanced form of social action is collective political action. However, it will require, at a minimum,

⁴⁷ D. Kelly Weisberg, *Introduction*, in *FEMINIST LEGAL THEORY. FOUNDATIONS* xv (D. Kelly Weisberg ed., 1993).

⁴⁸ Berta E. Hernandez-Truyol, *Querying Lawrence*, 65 *OHIO ST. L.J.* 1151, 1233 et seq. (2004).

⁴⁹ Katherine Franke, *Women Imagining Justice*, 14 *YALE J. L. & FEMINISM* 307, 312 (2002).

“a sense of shared identity and purpose.”⁵⁰ Marxism could offer that sense of shared purpose.

Nevertheless, both feminist and queer theories have been successful, because they brought social change, both when it required popular legislative support and today, when the Supreme Court’s changes require only elite support.

There are statutes and court decisions that recognize the social issues underlined in those theories. Either by name or through their proposed theoretical strategies, some of the most significant theoreticians have also been publicly acknowledged. For example, in the unanimous opinion of the first Supreme Court decision, which favorably decided a claim of sexual harassment, *Meritor Savings Bank v. Vinson*,⁵¹ the archconservative Justice Rehnquist incorporated the radical views of Professor Catharine MacKinnon on sexual policing.⁵²

Queer theories met with success too. A recent one is the Supreme Court's decision in *Lawrence v. Texas*,⁵³ where Justice Kennedy focused on "the liberty of all" rather than curtailing it under the Court's "own moral code,"⁵⁴ as the Court did, two decades earlier, in *Bowers v. Hardwick*,⁵⁵ when it denied constitutional protection to adult same sex partners engaged consensual sexual acts.⁵⁶ However, as commentators have mentioned, *Lawrence v. Texas* may not be quite what it seems, because what it exalts may be viewed

⁵⁰ William H. Simon, *The Dark Secret of Progressive Lawyering: A Comment on Poverty Law Scholarship in the Post-Modern, Post-Reagan Era*, 48 U. MIAMI L. REV. 1099, 1110.

⁵¹ 477 U.S. 57 (1986).

⁵² Catharine MacKinnon, *Sexual Harassment: Its First Decade in Court-1986*, in 3 GENDER AND AMERICAN LAW: THE IMPACT OF THE LAW ON THE LIVES OF WOMEN--THE EMPLOYMENT CONTEXT 53 (Karen J. Maschke ed., 1997). For a more detailed analysis of the tangled relationship between radicalism and conservatism in American jurisprudence focused on sexuality, see Dana Neacșu, *Tempest in a Teacup or the Mystique of Sexual Legal Discourse*, 38 GONZ. L. REV. 601 (2002/03).

⁵³ 123 S. Ct. 2472 (2003).

⁵⁴ *Id.* at 2480 (quoting *Casey*, 505 U.S. at 850).

⁵⁵ 478 U.S. 186 (1986).

as nothing more than the equivalent of marital sex.⁵⁷ However, the nature of identity politics success is incremental,⁵⁸ so more sexual freedom is tomorrow's fight. That said, what can be achieved tomorrow depends on the political climate of that day, and on what is then considered reasonable.

IDENTITY POLITICS V. MARXISM

The problems raised by feminist and queer theories *vis-à-vis* Marxism could be described using Janet Halley's paradigm of minoritizing and universalizing understandings.⁵⁹ Minoritizing understandings are about politics-of-recognition, particularity, while universalizing understandings are about social constructivist models.

And as Pierre Bourdieu put it

I know too well that [...] it is all too easy to deride the mediocresly petty-bourgeois and vaguely social-democratic inspiration of any enterprise aimed at building, against all forms of particularism [...]⁶⁰

⁵⁶ For a more detailed analysis, *see*, Neacșu *supra* note li, at 625 et seq.

⁵⁷ Katherine M. Franke, *The Domesticated Liberty of Lawrence v. Texas*, 104 COLUM. L. REV. 1399, 1408 (2004):

In two paragraphs, Justice Kennedy does a thorough job of domesticating John Lawrence and Tyron Garner--Lawrence an older white man, Garner a younger black man, who for all we know from the opinion, might have just been tricking with each other. Did they even know each other's name at the point police entered Lawrence's apartment? Did they plan on seeing each other again? None of these facts is in the record, none of the briefing in the case indicated that they were in a relationship. Nevertheless, the Court took it as given that Lawrence and Garner were in a relationship, and the fact of that relationship does important normative work in the opinion.

⁵⁸ Neacșu.*supra* note 51, at 653.

⁵⁹ Halley, *supra* note 44, at 115, 136 et seq.

⁶⁰ Bourdieu, *supra* note 1, at 161, 166-67.

Marxism belongs to that universalist school of thought. It assumes a general consensus of ethical values that seems to be the very reason for the derision current politics shows it to be. I deplore the derision. It cannot be but a doctrinal façade: achieving a decent lifestyle for all must be a value respected by all progressive movements, whether their acknowledged preoccupation rests with the “night thoughts of a tired surgeon” and not with Hiroshima, as the legend goes for Sylvia Plath’s choice, for example.⁶¹

From a feminist point of view, the main deficiency of Marxism is its focus on the economy. Marx has been viewed as eliminating those activities identified by feminists as “reproductive” (childcare, nursing) as well as those concerned with kinship regulation. Marx was accused of using a narrow meaning of “production,” and not including in his meaning of “mode of production of material life” all social interaction “conducive to the creation and re-creation of a society’s physical existence.”⁶²

Catharine MacKinnon dislikes Marx’s writings for ignoring women.⁶³ However, the best articulated criticism of Marxism is that its construction of “class” is essentialist and ignores the oppression of social groups not constituted economically.⁶⁴ It is well known that together with post-modernism, post-structuralism feminism “engendered” the orthodox interpretation of “reproduction” of class relations. If issues, such as

⁶¹ Deborah Solomon. *Pretty in Paint*, N.Y. TIMES MAGAZINE: Feb. 27, 2005 at 25.

⁶² Linda Nicholson, *Feminism and Marx. Integrating Kinship with the Economic*, in THE SECOND WAVE. A READER IN FEMINIST THEORY 131, 133 (Linda Nicholson ed., 1997).

⁶³ MacKinnon, *supra* note 11, at 427, 430.

⁶⁴ *See, e.g.*, ERNESTO LACLAU, POLITICS AND IDEOLOGY IN MARXIST THEORY (1977).

reproductive rights and unpaid household labor were marginal to Marxist discourse, to its credit, feminism brought them to center stage.⁶⁵

However, Marxism remains relevant today. In addition to what has already been mentioned, Marxism can also help explain how the oppression of gays and lesbians,⁶⁶ as Stabile aptly noted, is expressed economically through "denial of employment, housing, health care."⁶⁷ Any comprehensive demand for human rights, which would include social and economic rights in addition to civil and political ones, would have such discrimination addressed. Moreover, Marxism can help feminists to focus on issues that are meaningful to those who do not enjoy what Spivak defined as "the institutional privileges of power."⁶⁸

Marxism is able to unite feminists from different parts of the world whose interests otherwise may not intersect. For example, Marxism offers the tools to criticize the spurge of globalization⁶⁹ and the end of garment trade quotas, who caused women in many regions of the globe to face the bleak choice of either working in "real sweat-shops"⁷⁰ and earn "30 cents and hour"⁷¹ instead of "\$3.05"⁷² or becoming prostitutes.⁷³ Recently, this choice was faced by Chinese women, who were previously employed in

⁶⁵ Antonio Callari, Stephen Cullenberg & Carole Biewener, *Introduction. Marxism in the New World Order: Crises and Possibilities*, in *MARXISM IN THE POSTMODERN AGE. CONFRONTING THE NEW WORLD ORDER* 7 (Antonio Callari, Stephen Cullenberg & Carole Biewener eds., 1995).

⁶⁶ Regarding problems raised by trying to define "gays" and "lesbians," see, e.g., MARTHA C. NUSSBAUM, *SEX AND SOCIAL JUSTICE* 186 et seq. (1999).

⁶⁷ Carol A. Stabile, *Feminism Without Guarantees: The Misalliances and Missed Alliances of Postmodernist Social Theory*, in *MARXISM IN THE POSTMODERN AGE. CONFRONTING THE NEW WORLD ORDER* 283, 284 (Antonio Callari, Stephen Cullenberg & Carole Biewener eds., 1995).

⁶⁸ Spivak, *Can the Subaltern Speak?*, in *MARXISM AND THE INTERPRETATION OF CULTURE*, at 271, 280 (C. Nelson & L. Grossberg eds., 1988).

⁶⁹ For a more in-depth discussion on the nefarious effects of globalization, see, Michael Davis & Dana Neacșu, *Legitimacy Globally: The Incoherence of Free Trade Practice, Global Economics and Their Governing Principles of Political Economy* 69 *UMKC L. REV.* 733 (2001).

⁷⁰ James Brooke, *Made Elsewhere. An Island's Quandary* in *THE NEW YORK TIMES*: C1 (April 9, 2005).

⁷¹ *Id.* at C-3.

⁷² *Id.*

the American garment companies of Saipan, Northern Mariana Islands, which is also known as a “quiet little American territory.”⁷⁴

Marxism is able to provide insights into a world divided into classes whose members form further alliances according to a wide set of interest and identities, including gender and sexuality. With its focus on class struggle, Marxism can provide theoretical guidance to those who want to organize social movements along other lines of social interest. For example,

Marxists have contributed to struggles over reproductive rights by showing the links between feminist concerns about gender subordination and the rights of women and class issues about who does the work of child care and under what conditions or about who has access to reproductive technology and medical services and for what reasons.⁷⁵

Marxism can also help explain the spread of HIV in economically deprived areas of the globe, or in riddled with prostitution. It can help, again, because it explains how the virus was brought in to a large extent by poverty and ignorance--often a result of poverty.

However, as queer theorists have noted, there are "privileged forms of sexuality" such as "heterosexuality, marriage, and procreation--that are protected and awarded by the state and subsidized through social and economic incentives."⁷⁶ They need to be addressed separately, and Marx did ignore them. Nevertheless, if making distinctions is intellectually necessary, similarly necessary is seeing commonality among differences.

⁷³ *Id.*

⁷⁴ *Id.* at C-1.

⁷⁵ Spivak, *Can the Subaltern Speak?*, in *MARXISM AND THE INTERPRETATION OF CULTURE*, at 280.

⁷⁶ Rosalyn Baxandall, *Marxism and Sexuality: The Body as Battleground*, in *MARXISM IN THE POSTMODERN AGE. CONFRONTING THE NEW WORLD ORDER* 235, 241-42 (Antonio Callari, Stephen Cullenberg & Carole Biewener eds., 1995).

Especially if mass politics are to be involved, a singular focus on sexuality and gender may be ill-advised.

For the last few decades, the Left and the Right have played good cop/bad cop when it comes to regulating sexuality. Sexuality has been a "field of power, a category of identity" for the Left, but, equally so, the Right and the Left address it successfully as a "site of critique." Queer theory has been a critique of heterosexuality as a regulatory social practice. For the Right, sexuality is a place to criticize liberals, and we fear today that we was gained yesterday may be lost tomorrow.

An answer to those uncertainties is Marxism, whose materialism remains useful both for feminist and for queer theories. A materialist queer critique, for example, explains how human capacities for reproduction and pleasure are "always historicized and organized under certain specific conditions across a complex ensemble of social relations--economic, political, ideological."⁷⁷ Furthermore, it explains how sexuality mediates and traverses "other facets of social reproduction."

Understanding sexuality from a systemic social perspective has several implications.

First of all, while it acknowledges that sexuality is always discursively constructed, it simultaneously insists that the materiality of sexuality is not *just* discursive. This perspective shift encourages us to address how the normative discursive construction of sexuality as heterosexuality has been imbricated in divisions of wealth and has helped organize state relations and formations or citizenship. But such a systemic materialist analysis also exerts critical pressure on lesbian, gay, and queer politics as well, raising questions about the relationship between the view of social life in most queer theory as so thoroughly and exclusively stylized, textual, and performative, and the increasing commodification of homosexuality as a new

⁷⁷ Hennessy, *supra* note xlv, at 273.

market niche, (life)style, or fashion statement. It questions as well the loosening of heterosexual gender codes among the professional/consumer class in "postindustrial" economies and the invisible laborers elsewhere on which they depend. [...] materialist queer theory can both provoke the left to confront its blindness to heterosexuality and further develop a radical oppositional politics that speaks out not only for urban middle-class queers but also to those lesbians, gays, and queers in prisons and shelters, in factories and migrant camps, for whom the playful subversion of sexual identities is a much more limited option.⁷⁸

Additionally, if the radical discourse today is about more detailed issues, such as eradication of HIV, expansion of reproductive rights, elimination of child abuse, and the battering of women, that does not negate the value of Marxism. On a different, but related note, the academe, as the creator of radical discourse, need to be wary of its proliferation.

Boris Kagarlitsky called such discourse explosion "a projection onto social and political life of the market situation of redundant diversity."⁷⁹ If "redundant diversity" is a characteristic feature of the capitalist market, which adds to the choice of goods, a choice between advertising symbols, which changes the discourse from one of a competent choice to one of manipulated choice by advertisers, in politics, something similar has happened. Kagarlitsky explained the process as the result of the "commercial propaganda," which demands that new goods constantly appear on the market.⁸⁰ There are even rumors of the decline of women's studies in the academy, replaced by a more contemporary consideration of sexuality.⁸¹

The simple old formula of "class struggle," "social transformation," "solidarity" and "popular power" are becoming "old fashioned" not because they are remote

⁷⁸ *Id.* at 273-74.

⁷⁹ KAGARLITSKY, *supra* note 17, at 42

⁸⁰ *Id.* at 41

⁸¹ COMING OUT OF FEMINISM 3 (Mandy Merck, Naomi Segal & Elizabeth Wright eds., 1998).

from the needs of present-day humanity, but because they are forced onto a subordinate level by new ideas formulated so as to accord exactly with the principles of modern advertising.⁸²

IS THIS THE END/MY FRIEND?

Where are we in terms of progressive legal theory and social movements? Clearly, we are not near any theory that relies on any deep social consensus or on any strategy of change commanded from the centers of power.

Our society continues to further “splinter”⁸³ every day into finer divisions, and those divisions are translated into legal theories that do not dare to speak for the many. As Robert W. Gordon noted, almost a decade ago, America had known an amazing large array of progressive legal theories supporting similarly progressive social movements: “civil rights, women’s rights, welfare rights, children’s rights, gay and lesbian rights, international human rights, immigrants’ and farm workers’ rights, environmentalism and community development.”⁸⁴ And correspondingly, by some standards, America has known extraordinary changes in “racial relations and perceptions, in the roles and relations of men and women, and in beliefs about the appropriate relation of humans to their natural environment.”⁸⁵

Identity politics seem to be running away from the basic institutions of civil democracy, such as civic equality, toward “medieval concepts of specific rights, liberties

⁸²KAGARLITSKY *supra* note xvii, at 41.

⁸³ Robert W. Gordon, *Some Critical Theories of Law and Their Critics*, in *THE POLITICS OF LAW. A PROGRESSIVE CRITIQUE* 641, 643 (David Kairys ed. 3d ed. 1998).

⁸⁴ *Id.* at 641.

and privileges possessed by each particular social group."⁸⁶ They have given rise to their own political practice, and their main achievement has been affirmative action.⁸⁷

Affirmative action aims at improving the career prospects of members of oppressed groups within the society.⁸⁸ But what if such affirmative plans are not related to general measures to create jobs and democratize society--for example by improving the national education system, including the inner city schools, and by fighting for job creation for all,⁸⁹--and instead are just a ploy to strengthen the elite? In fact, it is interesting to note that the position of women also improved in the countries where there still is a strong labor movement, and the lives of the poor also improved.⁹⁰ In fact the data show that in the United States, middle- and upper-class white women benefited the most from the program.⁹¹ Thus, it may be said that identity politics do not seem to find fault with participating in the reproduction of injustices and imbalances. Instead, they seem to be happy to participate in infusing "new blood" in the elite itself.⁹²

So where are we now, both theoretically and practically in terms of progressive and transformative politics? In 1998, in the middle of a Democratic administration, it

⁸⁵ *Id.* at 643.

⁸⁶ KAGARLITSKY *supra* note xvii, at 83.

⁸⁷ *Id.* at 72.

⁸⁸ Duncan Kennedy, *The Political and Cultural Arguments for Affirmative Action*, in AFTER IDENTITY. A READER IN LAW AND CULTURE 83 (Dan Danielsen & Karen Engle eds., 1995)

⁸⁹ William Julius Wilson, *Jobless Poverty: A New Form of Social Dislocation in the Inner-City Ghetto*, in SOCIAL STRATIFICATION. CLASS, RACE, AND GENDER IN SOCIOLOGICAL PERSPECTIVE 651 (David Grusky ed., 2001).

The jobless poverty of today stands in sharp contrast to previous periods. In 1950, a substantial position of the urban black population was poor but they were working. Urban poverty was quite extensive but people held jobs. However, as we entered the 1990s most adults in many inner-city ghetto neighborhoods were not working. (651)

[. . .] the absence of regular employment [brings a lack of] regular income [but also a lack of] a coherent organization of the present -- that is, a system of concrete expectations and goals. (653)

⁹⁰ *Id.* at 80.

⁹¹ *Id.* at 79.b.

became apparent that even the “smallest victories of the reformers mobilized ferocious right-wing movements determined to roll them back.”⁹³

Conservatives have managed to replace liberal state and federal judges with conservatives; to defund and cripple legal services; to invalidate employment and education policies aimed at overcoming structural barriers to racial equality; to demolish welfare entitlements without putting in their place realistic means of caring for children and getting work at a living wage; to defeat [what was presented as] universal access to medical care; and to weaken enforcement of the labor laws against employers who illegally fire union organizers [; through crusades for “family values”] to limit the growing power of women to control the terms on which they will bear children and remain in marriages and to reverse the increasing recognition of the legitimacy of gays and lesbians.⁹⁴

The same is true today. We are further witnessing a “conservative restoration”⁹⁵ when few acknowledge the specific class interests on which their political discourse is structured.⁹⁶ Feminist and queer theories, for the most part, ignore the context of multinational capitalism, how capitalism affects the lives of billions of women, children, and queer from the less developed countries. In fact, since the collapse of the USSR, the free market has been credited with economic prosperity and human freedom. Do we want to let free market ideologies define our ideal of human freedom?

Marxism offers the tools to understand the limits of such freedom because it emphasizes the incredible suffering unrestrained capitalism produced all over the world. Globalized capitalism indeed freed small elite – which includes members of the gender

⁹² *Id.* at 85.

⁹³ *Id.* at 644.

⁹⁴ *Id.*

⁹⁵ Stabile, *supra* note 66, at 283.

⁹⁶ *See, e.g.,* Hennessy, *supra* note xlv, at. 37. For a more detailed discussion on materialist feminism, *see* FEMINISM/POSTMODERNISM/DEVELOPMENT (Marianne H. Marchand & Jane L. Parpart eds., 1995).

and sexual minorities as well -- and brought human freedom to some very few everywhere. Furthermore, as mentioned above, the need for regulations that both feminists and queer theorists demand on the domestic front are more easily to obtain within a Marxist frame.⁹⁷

So where are we today? The only change between then and now is that both liberal and conservative politics use the anti-establishment symbols. The liberals promote the “hawkish” Hillary, who reviews our troops stationed in Iraq and has “warm words to opponents of legalized abortion,” whose religious message champions “teenage celibacy.”⁹⁸ The conservatives promote the “dominatrix” Condi who also reviews our troops but is stylishly dressed in stiletto boots.⁹⁹ Both the democrats and the conservatives use Mary Cheney, whom the Right puts “sometimes onstage, sometimes not, depending on the stage and the target audience.”¹⁰⁰

So what is the state of progressive politics for both feminists and queer theorists in 2005? Presently, using the words of Chastity Bono, it seems that the only thing to matter is advancing one’s individual agendas of “power and career, and that completely takes over anything else.”¹⁰¹ So identity theories may support individual achievement,

⁹⁷ Kellner, *supra* note 16, at 33, 38.

⁹⁸ See Patrick D. Healy, ,N.Y. TIMES,Jan. 25, 2005, sec. A.

⁹⁹ See. e.g., Maureen Dowd, in *NBC News' Meet the Press*. Transcript for Feb. 27, 2005: Guests: Sen. Rick Santorum, Sen. Joseph Biden, Maureen Dowd, Tom Friedman and William Safire, *available at* <http://www.newsletters.newsweek.msnbc.com/ID/7041426/>.

Tim, I know you're salivating for a Hillary-Condi 2008 race, and it's interesting, because Hillary's nickname is "The Warrior" with her staff. And Condi obviously is the warrior, as she showed when she reviewed the troops in Wiesbaden this week in a "Matrix" dominatrix outfit that is going to put the Oscar women to shame in the high black stiletto boots.

¹⁰⁰ Hank Stuever, *What Everybody Doesn't Know About Mary Cheney*, WASH. POST, Oct. 19, 2004, C01.

¹⁰¹ *Id.*

with little benefit for the masses. Is that good? Is that bad? Is there anything else possible?

SUGGESTION: DIVERSIFY THE DISCOURSE & INTRODUCE MARXIST VALUES

My suggestion is that perhaps progressive politicians, based on non-economic identity issues, which, by definition, have a minimalist approach to social change, lost something when they distanced themselves from Marxism, whose focus is on essential economical features, on the exploitation of the others--the impoverished masses. The gap between the rich and the poor is deepening each day. There are more people who become poor than rich today, and the gap is greater than it was a decade ago. So even if there are more women in the work force and in places of social importance today than a few decades ago, are they representative of their group? Or is that only a shift in the composition of the privileged?

Clearly there are limits in the positions that those, who are now part of the elite, can take. It is worth noting that if being white, male, and middle-class had been viewed as an impediment in representing accurately the position of those who identified themselves as females, as belonging to a racial minority group, or other similarly subordinate group, those women who reach the levels of power previously held by white middle-class males ought to lose their representative legitimacy as well, for reasons of theoretical coherence. They may not be white or males, but becoming middle-class or even upper-middle-class must have the same negative impact on them as well. Or maybe we should forget about such identity legitimizing issues, because, as Kim Lane Scheppele

once said “it is simply not true that people can’t understand those whose experiences and values are very different from their own,”¹⁰² and similarly, people can fruitfully represent and be represented by others with whom they may not share the skin color, gender, or sexual orientation as long they share the same political goals.

Perhaps the problems rest with the current Left symbolism, which has been so easily cannibalized by the Right. Maybe we should try to find ways to make it impossible for the Right to do it.¹⁰³ Perhaps, as I tried to explain somewhere else,¹⁰⁴ gender and sexual discourse is just too slippery, in the way it is constructed today, to be the sole representative of progressive politics.

Perhaps, as other commentators have noticed, it is time to return to a discourse based on political economy.¹⁰⁵ Perhaps it is time to reassess the tactics employed by progressive politics, and see the limits of what can be and has been achieved using the existing methods. One major way to change tactics is through education.¹⁰⁶ Through education we can conserve or attempt to change “the culture inherited from the past.”¹⁰⁷ What are the legal theories offered to students today? Have the students’ legal imaginations been shuttered by the theories they have been exposed to recently? Are they able to imagine alternative distributive justice systems?

¹⁰² Kim Lane Scheppele, *The Reasonable Woman* in PHILOSOPHY OF LAW 457 (7th ed) (Joel Feinberg & Jules Coleman, eds. 2004).

¹⁰³ Moreover, the fact that queer symbolism can become part of cultural mainstream but Marxist symbolisms do not, also tells us something about each one’s insurgent qualities about their aspirations and demands. It tells us that the social imagination is able to accept only “minority deviations.” Hennessy, *supra* note 45, at 267.

¹⁰⁴ Neacșu, “Tempest in a Teacup” *supra* note 51.

¹⁰⁵ See generally William H. Simon, *The Dark Secret of Progressive Lawyering: A Comment on Poverty Law Scholarship in the Post-Modern, Post-Reagan Era*, 48 U. MIAMI L. REV. 1099, 1099 et seq. ([Year]).

¹⁰⁶ On the role of education to enlarge our legal imagination, see also, Neacșu “The Political Value of Knowledge and the Elite Schools’ Curricula: To Ignore or Not to Ignore Marxism?,” 82 Univ. of Detroit Mercy L. Rev. (forthcoming 2005).

Despite attacks from the Right, from conservative and free-market ideologies, as well as from the post-modern left theories, such as feminism and queer theories, Marxism "retains formidable critical powers"¹⁰⁸ that derive from its "profound allegiance to struggle for social justice."¹⁰⁹ To the extent feminism and queer theories are struggles for social justice, then the Marxist symbolism cannot but help, especially because continuing to rely on the epistemological stances of post-modernist "relativity," which ignores social justice for all, threatens to be perceived as reactionary.

CONCLUSION

The mass organizations have been replaced by "non-government organizations" (NGOs). Radicalism does not entice poverty and self-sacrifice anymore.¹¹⁰ Despite this bourgeois radicalism, there are signs that mass politics have come back. If true, then progressive theories need the foundational knowledge to deal with mass politics. Marxism offers it. Religion offers it, too.

The successes of the Reagan conservatism and, now, the Bush Right Wing policies, rest, to a large degree, on their "ability to provide society with a unifying

¹⁰⁷ Pierre Bourdieu, *Cultural Reproduction and Social Reproduction* (citing Durkheim), in KNOWLEDGE, EDUCATION, AND CULTURAL CHANGE. 2 PAPERS IN THE SOCIOLOGY OF EDUCATION 71, 72. (Richard Brown ed. 1973).

¹⁰⁸ Antonio Callari, Stephen Cullenberg & Carole Biewener, *Introduction. Marxism in the New World Order: Crises and Possibilities*, in MARXISM IN THE POSTMODERN AGE. CONFRONTING THE NEW WORLD ORDER 3 (Antonio Callari, Stephen Cullenberg & Carole Biewener eds. 1995).

¹⁰⁹ *Id.*

¹¹⁰ Boris Kagarlitsky, *supra* note xvii, at 89.

mythology, capable of mobilizing a massive social base of conservatives."¹¹¹ They resuscitated God.

In contrast, Democrats, then and now, were unable to "put forward anything that might have unified their heterogeneous social base." They lacked a vocabulary for the common good.¹¹² Gitlin and the others who decried the Left's rejection of a universalist approach were then criticized as being angry white men. During the latest presidential elections, and since then, the Left seems more inclined to invoke religious morals rather than a secular morality of social justice. The Left has replaced anger with piousness in public discourse only to achieve failure.

However, if the Left concentrate on human rights, and include in that discourse also economic social rights in addition to political rights, and tell the masses that it understands their alienation, their fears, their anxieties regarding lack of jobs, lack proper education, and lack of health care, maybe progressive politics can be resuscitated. Voting alone does not establish a democracy. However, through the vote, people come together and small revolutions happen. Because, the 21st century may not necessarily become the new obscurantist Middle Ages, but it clearly defines itself as a century that rests on mega-narratives that are meant to compensate for a life more and dissatisfied in a global capitalist society that creates wants that can never be mass satisfied.

¹¹¹ *Id.* at 93.

¹¹² TODD GITLIN, *THE TWILIGHT OF COMMON DREAMS: WHY AMERICA IS WRACKED BY CULTURE WARS* 82 (1995).