“Love the sinner and hate the sin” is an inadequate formulation for dealing with the politics of sexuality. The line between whom we are supposed to love (the sinner) and what we are supposed to hate (the sin) is impossibly movable and contradictory. Just as problematic, this love-hate relation produces tolerance, rather than freedom and justice, as the major way of understanding a range of differences in the United States. This is not just a question of sexuality. Tolerance is supposed to be a sign of openness and a wedge against hate; but in practice it is exclusionary, hierarchical, and ultimately nondemocratic. Tolerance is certainly an improvement over hate, but it is not the same thing as freedom. Paradoxically, tolerance is at once un-American and the most American thing of all.

The history of tolerance in the United States, like the history of sexual regulation, is inseparable from the history of religion. Concepts of religious tolerance—or toleration—were developed in Europe in response to the “wars of religion” that were sparked by the Protestant Reformation. European Christianity was
no longer dominated by one "holy, catholic, and apostolic" church, but by several different religions laying claim, sometimes violently, to the title of "true religion." This was also the period of state formation, in which various forms of social amalgamation—fiefdoms, princely estates, and commonweals—gradually became what we know of today as nation-states. The shifts in social configuration from the sixteenth through the nineteenth centuries that made modern nation-states were themselves often violent.

Most conventional histories of the Reformation and its aftermath understand the "wars of religion" to have been resolved through the development of religious tolerance. But this tolerance, from its inception, was quite limited. For example, in England, the Established Church was (and remains) a Protestant church, the Church of England. The "Toleration Act" of 1689 removed certain legal penalties against those Protestants who dissent from the Church of England, and it ended the requirement that all British subjects subscribe to the articles of faith of the Church of England. Crucially, however, the Act did not protect non-Protestant dissenters from persecution. Catholics and Jews, Muslims and atheists, were all outside the bounds of official tolerance. Although the boundaries of toleration have been expanded over time, the Church of England remains the established and official faith of England.

The limits of the Toleration Act were not just its narrow boundaries, but the social hierarchy it established and reaffirmed. As historian Justin Champion points out, "[the Toleration Act] did not break the link between civic liberties and religious identity. So, for example, while Quakers were no longer in danger of eradication by persecution (as long as they registered as non-conformists), they were still exempt from holding local, civic or national offices which were still protected by statutory tests of conscience." In other words, the civic peace that religious tolerance was supposed to achieve institutes a hierarchy. After all, being allowed to live in peace (being "no longer in danger of eradication"), and being a free and equal member of society are two different things. The Toleration Act allowed people who practiced other faiths (or no faith at all) to "exist," but they could not claim the same rights and privileges as members of the Church of England. Toleration, then, falls well short of democratic equality.

The American principles of religious freedom were supposed to overcome these limits of toleration. In principle, religious freedom provides for the equal treatment of different faiths—there is no established church, and all religions are free to practice as they please. But this ideal of religious freedom has never really been enacted in the United States. On matters of religion, the United States has two conflicting self-understandings: that this is a nation of religious freedom and equality, and that this is a basically Christian nation. Thus, in practice, life in the United States has proven to be much more like the situation in Britain than our national mythology implies. If tolerance marks a space of well-defined hierarchy like that between the Church of England and other religious faiths in Britain, what is the place of toleration in a society that is supposedly based on the free and equal participation of all citizens?

These tensions between religious difference and the claims of tolerance were foundational to the emergence of the United States. Not only did colonists like William Penn come to the Americas seeking sanctuary for religious differences, but they also imposed a particular understanding of religious difference on those around them. Despite the fact that Penn established Pennsylvania on the basis of religious tolerance in 1682, seven years before the British Act of Toleration, he too offered only a narrow version of tolerance—one in which only Christian men could vote. In the American colonies as well, religious toleration was only offered to various versions of Christianity (sometimes failing to include Catholics); toleration did not apply to those who were not Christian, most notably American Indians and non-Christian Africans.

Thus, in America as well as in Britain, the initial boundaries of toleration were narrow and offered only to differences within Christianity. Those who were Christian in a nondominant way (who were, for example, Catholic) might be tolerated,
if marginalized, but at least they were no longer, as Champion so succinctly put it, "in danger of eradication." But there were others who were not Christian and, hence, remained outside the bounds of tolerance. These "others" could be eradicated, as was so often the case in Christian interactions with American Indians, or enslaved, as was the case with Africans.

In fact, as a number of historians have noted, the original distinction that determined who could be enslaved in the colonies and who could not was not a racial distinction, but a distinction between "Christians and strangers." In her research, religious studies scholar Emilie Townes has discovered that as late as 1753 the law codes of the colony of Virginia relied upon the language of religious identity, not race, to define slavery, even though slavery had for some time been "based on racial, not religious difference." Indentured servants who were "Christian" might work off their indenture over some fixed period of time and become free. Slaves, on the other hand, could never work their way to freedom; it could only be granted by their "masters."

In all this, the category of "Christian" anticipates future categories of race and national identity. Before the nationalist distinction between British and American citizens that was forged in the American Revolution, the white British colonists were simply "Christians." To put the point more strongly, the category "white" was not yet fully operative.

As we can see from these few examples, identity categories that seem so self-evident and so natural to us today are and have been contingent, changeable, and confused. In U.S. history this confusion was intensified by the fact that Christianity is a missionary religion, and thus many Native Americans and some Africans were converted to Christianity. Historian John Sweet has argued that this complication, which resulted when "strangers" became "Christians," was one of the driving forces behind the institutionalization of racial categories in the colonies and, later, the United States. Eventually, a (secularized) racial distinction, rather than a religious one, came to define those who were outside the community—those who could be eradicated or enslaved.

This history teaches us that in the United States religious understandings of difference have served as the basis upon which secular social differences (for example, race and ethnicity) have been constructed. It is not that religious distinctions have disappeared or are inoperative in American life, but that they have sometimes been absorbed into other social differences, such as those that define racial, national, and ethnic identity. Contemporary conflations of Arabs with Muslims, for example, show how confusion between religious and ethnic or national identities persists. Similarly, "tolerance" emerges out of a specifically religious history that may not be directly named, but that remains powerful. Thus, as we argued in the first chapter, Protestantism is expressed in American secular sexual regulation, and so too have Protestant understandings of religious tolerance influenced areas of our social life that now seem fully secular.

To be sure, the boundaries of tolerance have expanded; Jews, Muslims, and even atheists are included within the circle of those who are to be tolerated in America. Nonetheless, the basic structures of difference and hierarchy established by religious tolerance continue powerfully to affect American social relations. There are still those in America who are central and those who are marginal, but tolerated. One can technically be a citizen and yet not be treated as a full member of American society, and the dangers are redoubled for those who are not citizens but are placed in categories like "resident alien" and "illegal alien." After the terrible events of September 11, 2001, we saw how quickly those who are the objects of tolerance can be singled out, as Muslims or those who were perceived to be Muslims were questioned, detained, and surveilled by the government (whether or not they were U.S. citizens). In the immediate aftermath of September 11, some men were even killed in acts of vigilante violence directed at Muslims. The perpetrators of these vigilante acts understood themselves to be acting as patriots, in defense of the nation.
It can be quite dangerous to be offered tolerance rather than full membership in American public life.

As was the case with the “wars of religion,” tolerance is often advocated as the response to this type of harmful, eradicating violence. However, in our view, contemporary secularized tolerance is as inadequate a response to hatred and violence as was (and is) religious tolerance. Freedom and equality, rather than tolerance and hierarchy, are the appropriate response to social differences in a democratic society.

It is sometimes difficult to see what’s wrong with tolerance because tolerance is so often invoked as the best response to discrimination and hatred. Even groups like the Southern Poverty Law Center, the organization perhaps most responsible for bringing hate groups to justice, advocate that we “teach tolerance” in order to battle hatred.

However, tolerance doesn’t really fight the problem of hatred; it maintains the very structures of hierarchy and discrimination on which hatred is based. This is a highly counterintuitive claim. As we have just suggested in our discussion of religious toleration, tolerance establishes a hierarchical relation between a dominant center and its margins. Another way to put this is to say that tolerance sets up an us-them relation in which “we” tolerate “them.”

How different is this from hate? Not unlike tolerance, hate crimes also take the form of an us-them relation—an “us” who must violently eradicate a “them.” The perpetrator often understands this violent eradication as an act of defense, not aggression. He (and less frequently, she) is only acting to protect himself or his community or his values from those “outsiders” who threaten all that he holds dear.

Let us return for a moment to our discussion of Supreme Court Justice Antonin Scalia’s dissent in Romer v. Evans. In his dissent Scalia refers repeatedly to a “public at large.” In a country based on freedom and equality, this “public at large” should refer to all Americans. However, when Scalia refers to “all Americans,” he effectively excludes some people from this category: homosexuals and the “cultural elite,” whose views, he asserts, were articulated by the six Supreme Court Justices who held Colorado’s Amendment 2 to be unconstitutional. Scalia’s “public at large” is exclusionary, not expansive; it constructs an “us” that specifically leaves out a particular “them”—in this instance, homosexuals and their allies.

This is not just a question of conservative Supreme Court Justices. The rhetorical practices through which a narrow segment of the American public is represented as “all” of it are repeated, often unthinkingly, across a wide range of contexts. For example, when the mainstream media reported on AIDS in the early years of the pandemic, they would ask questions like, “Is AIDS a threat to the general public?” Now, if the “general public” includes everyone, this question would be meaningless; that some people in the United States—some members of the public—already had AIDS was not in dispute. AIDS was (and remains) a threat to Americans, and hence the question, is AIDS a threat to the general public, is effectively tautological. However, the reason this could be a meaningful question was because the “general public” did not really include everybody; it did not include those persons who had been identified as members of “at-risk” groups, such as homosexuals, hemophiliacs, and intravenous drug users.

One of the ways that widespread empathy for people with AIDS developed was through images of “innocent victims,” hemophiliacs such as Ryan White, who could simultaneously be one of us (a representative American) and one of them (a member of an “at-risk” group). But unlike hemophiliacs, homosexuals and intravenous drug users were not so easily moved from the category of “them” to “us.” These Americans were not considered part of the general American public; indeed, they, rather than HIV, were sometimes even seen as a threat to “us.”

Whenever “we” are asked to tolerate those “others,” this same center-margins relationship comes into play. If “Americans” are asked to tolerate “homosexuals,” it means that at some level homosexuals are not fully Americans. Being
the object of tolerance does not represent full inclusion in American life, but rather a grudging form of acceptance in which the boundary between “us” and “them” remains clear, sometimes dangerously so. This boundary is also elevated to a mark of moral virtue. The tolerant are generous and open-minded even as they are exclusionary. How can a tolerance that depends on defining someone as an outsider be the opposite of hate? To teach tolerance is to teach precisely the type of us-them relationship upon which hate thrives. Teaching tolerance, then, cannot be the answer to hate and excessive violence, nor can tolerance adequately address other forms of social division.

To get a better sense of the mechanisms through which tolerance creates an exclusionary, rather than democratic, public, we want to analyze the media coverage of a series of murders committed in recent years. We turn first to the tragic murder of gay college student Matthew Shepard, who was beaten, tied to a fence, and left for dead in Laramie, Wyoming, in October 1998. Next, we look at the case of Dr. Barnett Slepian, who was shot to death later that same fall, in November 1998. James Kopp, the man charged with murdering Slepian, is affiliated with the Army of God, a radical antiabortion group. Evidently, Slepian was killed because he provided abortions as part of his medical practice in Buffalo, New York. We go on to consider two police shootings that involved excessive violence: the December 28, 1998 shooting of Tyisha Miller, a young African American woman in California, and the killing in early February 1999 of Amadou Diallo, an immigrant to New York City from Guinea, West Africa. Only one of these deaths was named a “hate crime” (Shepard’s). Yet the killings of Slepian, Miller, and Diallo also reflect basic social divisions in America. In examining the media coverage of all four of these killings, we seek to explore how public understandings of difference and belonging in America are framed and organized.

The media—both print and television—occupy an especially privileged place in American public life. The way they represent new or apparently new phenom-
consider on which side of the fence they stood: with the objects of hate or with its agents.

However, in the end *Time* could not name the type of violence faced by gays and lesbians in the United States as a “war on gays.” Instead middle America was rhetorically excused from having to take a stand. Even more strongly, we could say that the caption “The War Over Gays” exempts “ordinary” Americans from any responsibility for hatred or violence. The implied participants in the “war” over gays are, on one “side,” those who refuse to tolerate homosexuals, who would deny gay persons basic American rights (including the right to life), and on the other “side,” homosexuals themselves, particularly those who are perceived as activists for gay rights.

As presented by *Time*, the combatants in the “war” are those who hate and fight against gays and those who fight back against this hatred. Notably absent or at least removed to a safe distance from this opposition between those who hate and those who are hated is *Time*’s idealized average, ordinary, and tolerant American. Strikingly, then, to be hated can place you in the same position as those who hate. If you fight back against that hate (particularly if you organize with others against hatred) you too become a combatant in the “war.” You are no longer “innocent,” you are an agitator, a crusader, a fighter, and, as such, you fall outside the boundaries of the American “general public.” In this “war,” the only innocents are those who stand to the side—outside, above, or “over” the fray. If the problem of murderous violence is not taken to be injustice (that we as a society subordinate entire groups of people), but in instead categorized as extremism (that our social relations have turned into all-out combat), then within the terms of this formulation those who are the objects of violence are located at one of the extremes, a position distinct from the middle.

In the same year that Matthew Shepard was killed, there were 2,574 antigay assaults. In the face of this we must ask why this particular murder touched a chord in American public life. Like Ryan White before him, Matthew Shephard
could be assimilated into the dream of “normal” America. News reports referred to him as “anyone’s son.” He was a blond middle- to upper-middle-class young man, he was reportedly shy and somewhat reserved, and, although he attended meetings of the gay student group at the University of Wyoming, he was not particularly politically active on behalf of gay rights. He was in many respects an ordinary college student. Of course, not just “anyone’s son” goes to college. Attending college is both a benchmark of economic arrival and a signature of middle-class identity in America; many people were able to identify with Shepard and with his parents because he so closely matched this profile. But this picture of Matthew Shepard as an ordinary American allowed him to be seen as an innocent bystander in the polarized “war” over gays. He could become part of the tolerant middle. Although many Americans were apparently willing to bring Matthew Shepard into this middle, *Time* could not allow “gays” as a group to reside there.

This dynamic is a three-part interaction in which a pair of opposites, those who hate and those who are hated, flank a third party, the tolerant middle. The tolerant middle is rarely named directly; it doesn’t have to be. This phantom called “middle America” is both the assumed audience and the assumed subject of public address.

We can see these assumptions at work in the media coverage of Dr. Barnett Slepian’s 1998 murder. On November 15, 1998, the *New York Times* published an article about the killing entitled “Stubborn Belief in Duty Guided Slain Doctor, Friends Say He Performed Abortions from Principle, Not as a Crusader.” The article opened as follows:

To his tormentors, he was simply an abortion doctor. To members of the abortion rights movement, he was a martyr for the cause. But Dr. Slepian was far from either. He was killed because he performed a medical procedure that has become emotional and politicized. Yet there is nothing in his life to suggest he was a crusader in either politics or medicine.

Unlike the murder of Matthew Shepard, Dr. Slepian’s murder was not called a “hate crime.” But what does the *Times*’s coverage of Slepian’s murder tell us about American understandings of violence and social division?

On one level the *Times* is simply saying that Dr. Slepian was providing a medical procedure that the Supreme Court has said is available on the basis of a constitutionally protected right to privacy. Certainly, medical service provision should not require risking one’s life. And yet, we must ask, why did Dr. Slepian’s medical practice lead to his murder? It is not just because the practice had become “emotional and politicized,” but because this particular procedure—abortion—has to do with women and with women’s rights specifically. Once again, what is at issue is a basic social division and hierarchy in our society: that of gender. But the *Times* does not mention gender hierarchy or women’s rights at all. Rather, the problem as presented by the *Times* is one of emotion and politicization—in short, of extremism.

Dr. Slepian is represented as an innocent bystander in this particular “war,” and those who fight to protect women’s rights are implicitly set up on one extreme, with those who use murderous violence positioned on the other. The *Times* is at great pains to extract Slepian from the politics of abortion. Unlike abortion rights’ advocates or opponents of abortion rights, Slepian was neither overly emotional nor political about what he was doing. No crusader, he was just a man doing his job. *Times*’s characterization of the way these two “sides” mistakenly viewed Slepian (“simply an abortion doctor” versus “a martyr for the cause”) ultimately suggests there is nothing really to distinguish the two extremes (opponents and advocates of abortion rights) from each other.

What does this imply about members of the abortion rights movement? Are those who work politically to protect women’s rights different from Slepian and from the general public? Interestingly, the *Times*’s characterization puts women, or at least women’s rights, in a minority position, despite the fact that women themselves are statistically in the majority. One of the effects of this structure in
American politics is the consistent construction of "minorities." Those on either side of this political conflict are implicitly understood to be taking minority viewpoints through which abortion becomes "emotional" or "politicized." In contrast, those involved in the medical provision of abortion services are positioned as outside this debate—as long as they are not crusaders. Here the Times is participating in the construction of the general public. What does it mean for a democratic society that this general public is delineated in such a way that it does not include anyone who can be identified as a "crusader," whether for or against abortion rights? Are we thus left without analytic tools for distinguishing between political advocacy ("politicization") and murderous violence?

Not only does tolerance reinforce structural inequality, but it also sets up a political culture in which extremism, rather than injustice, is the major problem to be addressed in public life. In a public organized around tolerance, the question is not whether we as a society have created unjust (and violent) social hierarchies, but whether we as individuals hate anyone. This disabling structure of tolerance has important implications for participatory democracy because it puts those who take up political activism in any form at risk for charges of extremism.

Because the tolerant middle must be distinguished from both sides of any political conflict, the "violence" of our social life can be projected onto either side of a political debate regardless of the specifics of the situation. A very clear example is provided by historian Karen Anderson's study of school integration in Little Rock, Arkansas. The Little Rock schools were the first of the segregated schools to be integrated through court order on the basis of Brown v. Board of Education (1954). As Anderson documents, the self-proclaimed "moderates" in Little Rock saw the problem as one of extremism on "both sides," meaning the white majority that defended segregation and the predominantly African American minority that advocated for integration. Note how this "two sides to every story" approach makes each side appear to be equally problematic whatever their differences. The moderates' vision of extremism was one with which President Eisenhower agreed, and there was significant police and military presence surrounding the high school on the first day of classes. This show of state force was brought out to prevent "violence"—violence directed against the nine black students who were the first African Americans to attend Little Rock High School, yes, but also violence that the "white community" feared from the black students and their supporters.

These students were assumed to be potentially violent because they were violating the long-standing codes of conduct under segregation and because they were opposed by violent forces. There was no indication from the students or the African American community of Little Rock that they would be the source of violence. In fact, given how greatly they were outnumbered, it would have been foolhardy (if not suicidal) for any of the students to have incited violence. Yet the government treated "both sides" as if they were equally likely to become violent.

In a situation framed by the rhetoric of tolerance, it becomes impossible to distinguish between the perpetrators of racism or homophobia or misogyny (this list is hardly exhaustive) and the objects of various forms of discrimination. Rather, when the situation is characterized by tolerance, the public is not expected to take a stand against injustice, but merely to tolerate both sides of a conflict. In fact, the public can become paralyzed in its ability to address injustice, because it cannot distinguish between competing claims and groups that it is supposed to tolerate.

More seriously, this paralysis can lead to other category confusions. In the debates over "hate crimes" laws in Wyoming that followed Matthew Shepard's murder, there were those who claimed that, as one woman stated directly, Wyoming was the "real victim of bias crime." Here is a typical reversal, which can only make sense if we buy into the assumption that both sides of a social conflict are extremists. If each side is as bad as the other, it is impossible to distinguish between them. The woman who made this comment is at one level simply saying that the media coverage of Wyoming in the wake of the Matthew Shepard killing had been biased.
This is true, in part, given the northeastern and urban biases of much of the mainstream media.9

But on another level this claim is given its rhetorical punch by equating media coverage of a crime with that crime and, specifically, with the crime of murder. While we take media representations seriously, they are not the same thing as physical violence, nor is biased reporting a crime like murder. If the “real” hate crime is committed against Wyoming because the state is characterized as harboring a homophobia that produces murderous violence, then, as in the Little Rock example, it becomes impossible to distinguish between the perpetrators of murderous violence and those who are its victims. The idea that any bias is as extreme and as bad as any other makes it impossible to distinguish between perpetrators and victims of injustice.

Framing our public discussions in terms of tolerance versus hate makes it seem as though the major problem we confront as a nation is one of misplaced feelings rather than problematic social relations. Tolerance is supposed to remedy a specific feeling (hate) or disposition (bias). This form of response personalizes and decontextualizes a larger issue, disconnecting feelings or biases from both structures of power and the everyday enactments of those power relations.

If hate crimes seem so inexplicable, this is in part because the vast majority of people in the United States do not experience themselves as hating anyone. They are not openly racist or sexist or homophobic, but neither do they embrace the victims of hate. Here is the crucial point. We are not suggesting that there is no difference between the majority of tolerant Americans and those few who commit murderous violence. That difference is utterly important. However, we are suggesting that a tolerant stance does not allow Americans to act effectively against hatred and murderous violence. If the “war” is “over” gays, rather than “on” gays, and both “sides” are placed on the extremes and apart from the “general public,” then we cannot make an effective distinction between those who hate and those who are the victims of hate. Tolerance does not allow us to address the injustices that make some persons the likely objects of murderous violence.

To embrace the victims of hate does not mean, however, that all Americans must agree about the moral status of homosexuality. If we were to move outside the framework of tolerance to a framework of freedom, we would be able to stand up for the victims of homophobic violence whether or not we thought homosexuality was a sin. It would be possible for those who believed that homosexuality is a sin to embrace the religious freedom of those who thought otherwise. This stance is not the tolerance of loving the sinner and hating the sin. It is the democracy of religious freedom in which one group’s idea of sin does not limit the freedom of those who believe and practice differently, in which laws are based on democratic processes, not on particular religious beliefs. The majority of Americans do not hate anyone, but neither do they grant the same democratic freedoms to everyone.

Surprisingly, even those who commit hate crimes do not experience themselves as hateful people. A recent study by forensic psychologist Karen Franklin of youths who admit to harassing or bashing gay men found that the youths understand themselves to be enforcing moral values.10 Similarly, historian Kathleen Blee has interviewed women who participate in organizations that would commonly be called “hate groups.”11 These women understand their groups not to be about hate, but to be concerned with positive values that maintain tradition and culture. Focusing on “hate,” therefore, will not tell us very much about those who are generally perceived to be hateful.

What leads to violence, then, is not some simple expression of hatred. More often it is a sense of threat, the feeling, for example, of the women interviewed by Blee that their traditions were being threatened. This sense of threat is a crucially important factor in many of the crimes that have now been labeled “hate.” In the murder of Matthew Shepard, for example, representatives of the perpetrators repeatedly denied that it was a hate crime. There were certainly concrete reasons for
making this claim. The two young men were initially charged with a capital
crime and faced the death penalty. Thus, the defendants had an interest in avoiding
any appearance of extreme malice and forethought that might make a jury
more likely to impose the death sentence.

But we can also learn something if we take seriously the claim that the two per-
petutors were not simply motivated by hate. For example, in an October 14, 1998
interview for the television news program "20/20," reporter John Quiñones asked
Kristen Price, the girlfriend of one of the perpetrators, Aaron McKinney, whether
the killing was a hate crime. She denied it, saying that this interpretation was being
imposed on the situation. Quiñones followed up by asking why McKinney and the
other perpetrator, Russell Henderson, had beaten Matthew Shepard so brutally if
robbery were the only motive. Price’s response in the end came down to a single
word, "Humiliation." She explained that there were people at the bar where Shep-
ard, McKinney, and Henderson had first encountered each other who knew the
perpetrators; for McKinney and Henderson to be seen "talking to a gay man and
leaving with a gay guy" was potentially humiliating. Here we can see that even a
crime of brutality linked to identity and motivated by strong feelings in the at-
tackers is not equivalent to "hate." Rather, this crime was based on a need to exer-
cise the threat of humiliation that contact with Matthew Shepard might entail.

We could just say that Kristen Price was lying or was wrong in her under-
standing of the situation, but it is informative to take her at her word and think
of what it might mean that hate was not the motive for this crime. What if
McKinney and Henderson were more like the youths Franklin surveyed or the
women Kathleen Blee interviewed? What if McKinney and Henderson were not
hateful, but felt threatened? They felt threatened with loss of their privileged po-
sition in a (male) dominant public simply by being associated with someone in
a minoritized position, in this case a gay man. This possibility gives us a dif-
ferent analytic purchase on a phenomenon—a "hate crime"—that so often seems
to elude understanding. If hate crimes occur with such frightening regularity in
a country where no one claims to hate anyone, then clearly an explanation
other than "hate" is needed to account for such acts of extreme violence. The
alternative we are proposing—that we use the frameworks of social division and
justice, rather than hate and tolerance—also helps us to connect extreme forms
of violence to more mundane social interactions and even to political debates.
For example, the politicians who supported the Defense of Marriage Act (DOMA)
in 1996 disclaimed homophobia. DOMA, which President Clinton signed into
law, forbids federal recognition of same-sex marriage, and support for this law
was framed in congressional debates as a matter of defending traditional Amer-
ican values. To its supporters, DOMA was not about discrimination against
same-sex couples, it was about defense—of "the" American family. (Evidently,
this American family does not or cannot recognize the gay men and lesbians in
its midst.)

This is why the broad and rather abstract issue of who belongs to the "Ameri-
can public" has such important and practical implications, from who has the right
to marry and who doesn’t, to who can move safely through the streets of his or her
own neighborhood and who cannot. Notions of who belongs and who does not
are enforced in all sorts of ways, both apparently innocuous and lethally violent,
and a focus on hate doesn’t allow us to see connections between the everyday en-
forcement of these norms and deadly force. The mainstream values that mark some
people and whole groups as "outsiders" can be the very same values that motivate
and even justify violence; and again, this is not about hate.

Much of the press coverage of the police shooting of Amadou Diallo focused
on the question of "hate." Diallo was fired upon forty-one times in the doorway of
his Bronx apartment building by four police officers—despite the fact that he was
unarmed and not involved in any violence. The police who shot him initially
claimed that he looked like a rapist that they had been searching for; Diallo, how-
ever, bore little physical resemblance to the description of the suspect. News shows
and talk shows posed the question over and over: "Were the officers driven to fire
forty-one times by ‘racial animus’?" We think this question is misplaced. Even if
the officers did not personally hold racial animus, even if they were racially toler-
ant, they still may have been driven by the discriminatory set of assumptions that
structure American public life. Since the time of the shooting there has been a re-
view of the aggressive tactics and implicit racial profiling used by the New York Po-
lice Department’s “street crime unit” of which these officers were a part, and many of
these practices have been changed. These officers operated in a racist atmos-
phere where they would stop and frisk persons on the street; in other words, they
would treat them as criminal suspects based on their racial profile rather than on
their behavior. It was this racist atmosphere, rather than any particular “animus”
on the part of the officers, that made it all too likely that a tragedy like this shoot-
ing would occur. Diallo was treated as a threatening suspect, even though he had
done nothing wrong.

A few weeks before New York City police fired forty-one shots at Amadou Di-
allo, four police officers in Riverside, California, fired nineteen times on Tyisha
Miller as she sat in her car where she had passed out. According to the New York
Times, Miller’s cousin Anthonette Joiner and a friend called the police for help when
they were unable to rouse Miller. Joiner reported that she told the police (three of
whom were white and one Latino) that there was something wrong with Miller and
that Miller had a gun on her lap. The police initially said that Miller had fired at
the officers first, but later they admitted that they could find no evidence that
Miller had fired the gun at all and changed their account to say that Miller had
reached for the gun when one officer tried to wake her. According to her cousin,
however, Tyisha Miller never woke up: “A couple of minutes later, they were shoot-
ing at her! She was just lying there the whole time.” Once again, we must ask, why
did these officers fear an unconscious woman so much that they had to shoot her?

Unlike the police beating of Rodney King in 1991, the shootings of Miller and
Diallo were not overtly racist events. There were no racial slurs shouted, no epi-
thets used. The problem in both these cases was not hatred, but misperceptions
about the level of threat that each of these people represented to the police. Nei-
ther Miller nor Diallo represented an actual threat to the lives of the police, and
they certainly did not represent a threat equal to the level of force that was used
against them. Nevertheless, in both cases the police felt threatened and used ex-
treme force to quell that threat. The police believed that these shootings were
about defense—their own. Why did these officers fear for their lives? What was so
threatening about the unconscious Miller and the unarmed Diallo?

If we take seriously the officers’ claim that they were acting out of self-defense,
it means that Miller and Diallo weren’t killed because the police believe that
African Americans or Africans or people of color in general are so horrible they
must die, but because they are seen as particularly threatening types of people.
Egregious acts of violence are thus connected to the everyday violence of discrim-
ination and oppression, to perceptions of who is and is not “one of us,” who is and
is not dangerous or a threat.

Instead of demonizing the particular police officers who killed Miller and Di-
allo or demonizing the police in general, we have to reckon with this disturbing
possibility: the police were just acting on everyday perceptions. As such, the police
shootings are not “exceptions to the rule” as much as they are extreme exemplifi-
cations of the rule itself. This analysis suggests that the structures that produce ex-
cessive violence are woven into the fabric of American values and self-under-
standing.

Tolerance is unfortunately implicated in this context of everyday violence—a
context that is supposedly punctuated by and disconnected from moments of hate.
Tolerance disavows violence and those who commit heinous crimes, but along
the way it offers no exit from the us-them logic that structures hate and toler-
ance in our society. It also gives us no logical exit from the mandate to tolerate
those who hate.

A correlative problem is that those who are placed in the category of “minor-
ity” have few options for responding publicly to their marginalization. They can
appeal to the paternalistic protection of those who represent the general public and the state. But this paternalism does not transform the us-them relation. (Think again of “The War Over Gays” and what’s in a preposition.)

This us-them dynamic also establishes the “general public” as that with which “minorities” should identify and toward which they should aspire. Another term for this is “assimilation,” a highly valorized concept in the story of “America, the melting pot.” Only by acceding to the expectations of the “general public” can minorities expect any protections (such as they are) from the state. (And we have just

seen something of the ambivalence of this protection in the cases of Miller, Diallo, and Michael Hardwick.)

What does it mean for those who have been minoritized that they must either identify with the “general public” (by whom they are only tolerated) or risk various forms of violence if they persist in their difference? The choices are rather stark: (1) assimilation to dominant norms, which may or may not provide protection and which certainly does not offer the freedom to be different; or (2) activism to change the structure of the general public—an activism that puts one at risk of being labeled an “extremist.” What’s so scary about difference? And what’s so scary about activism? Isn’t it part of democracy?

America is supposed to be a country that is open to all and in which everyone can participate in politics, but it is also the country in which the majority rules. It is no surprise, therefore, that there has been an ongoing tension between a majority that rules and various minorities whose rights have been (variously) denied and questioned. Thus there are two contrasting visions of the American public: one that includes everyone in America and another that encompasses only the majority. Various “others” are excluded from—if tolerated by—the second, more narrow, definition of the public.

This exclusionary public is seen in two early 1990s cover stories, both on the topic of lesbian and gay life. Newsweek’s June 21, 1993 cover jumps from “LESBIANS Coming Out Strong” to the anxious question, “What Are the Limits of Tolerance?” (Figure 2) Inside the cover, in the table of contents, Newsweek informs readers that, “On sitcoms and in Senate hearing rooms, Americans are finally getting a glimpse behind the old stereotypes and seeing the diversity of lesbian culture.” Repeating the worry of its cover, Newsweek wonders, “But what are the limits of tolerance? Will the new visibility trigger a backlash?” (3) These questions frame lesbians and lesbianism as a problem that a larger American public has to negotiate and figure out. Although Newsweek goes on, in the accompanying article, to offer what it calls “stereotype-defying scene[s]” of lesbian life (54), up to and
including lesbian couples with children, this larger “family” called America does not really include lesbians. If Newsweek’s assumed public did include lesbians, then lesbians would be more than worrisome objects of curiosity and tolerance. (Certainly, if lesbians were part of the America imagined and called up by Newsweek’s rhetorical frame, Newsweek could not then make the ridiculous claim that “Americans are finally getting a glimpse” of this previously invisible group. Presumably, some Americans, lesbian Americans, for example, had seen a lesbian before.)

Just two weeks after Newsweek worried over lesbians, another weekly newsmagazine jumped into the fray. The July 5, 1993 issue of U.S. News and World Report promised both “Straight Talk About Gays” and an “Exclusive Poll: Where A Concerned America Draws The Line” (Figure 3). Clearly, gay men and lesbians are not part of this “concerned” and generalized America; instead, they are the objects of concern, objects who may (or may not?) merit tolerance.

Being the object of tolerance does not represent full inclusion in American life, but rather a form of acceptance in which the boundary between us and them remains clear. We see this us-them boundary drawn and redrawn in so many different contexts. To take another example, part of the shock of the Columbine High School shootings in Littleton, Colorado, seemed to be that the shootings had occurred in a site—the suburbs, now the residence of 60 percent of the U.S. population—that is often identified with the general public, at least in its majoritarian form. As one letter to the editor in the New York Times bluntly put it: “Past homicide statistics were inflated by turf battles among gangs, which is violence in the service of a particular social subculture,” while the Littleton shootings were an attack on “the social order as a whole.” Here, because neither the shooters nor the majority of the victims were members of identifiable “minority groups,” because Eric Harris and Dylan Klebold were members of a “clique” (as the Times so often put it) and not a gang, because they shot at members of the dominant culture rather than members of a rival gang or subculture, the meaning of the shootings was different. These shootings were a cause for national concern in a way that other school shootings were not.

Unlike the Times’s letter writer, we do not take for granted the categories “sub-cultural” and “the social,” or, to underscore the issue, “minority” and “majority.” The category of “minorities” appears to be self-evident, but is actually politically constructed. We certainly saw this in the case of Dr. Slepian when the New York...
Times constructed women's right to abortion as a factional or minority issue, when in fact it is a constitutionally protected right in the United States.

This process of creating minorities does not just apply to women's issues or gay and lesbian issues. Earlier in this chapter, we pointed out how categories of religious and racial difference interacted in the early formation of U.S. national identity. This interaction has been part of the social construction of racial and ethnic categories, including the category “white.” The history of whiteness has recently drawn a lot of attention from historians. Scholars of U.S. history have shown, for example, that who counts as “white” in America changed over the nineteenth and twentieth centuries, as the category “white” came to include many immigrant groups that were not initially considered “white.” The title of Noel Ignatiev's history, How the Irish Became White, succinctly sums up this process, and similar stories can be told about Italians, Jews, and, in some cases, Germans. These shifts in racial categorization have allowed white Americans to maintain a sense that people of color are always in the minority; as members of a minority group, people of color might be recipients of tolerance but can never be part of the tolerant majority. When minorities can't be so produced, there are problems for political discourse, as demonstrated by the frequently expressed public anxieties about what will happen over the next few decades when “caucasians” may no longer be in the statistical majority.

Yet even these anxieties hide the basic facts of our social relations. The very language about diversity—for example, references to “women and minorities”—erases the complexities of groups, hiding the fact that women are also members of various racial groups. When we consider “women and minorities” together we see that the only people not named by this combined category—white men—are certainly in the minority. The danger of recognizing what should be so glaringly obvious—namely, that those in our society with the most power, straight white Christian men, are in the minority—is that then we could no longer simply discount power imbalances as the necessary inequalities of a country in which “ma-

majority rules.” Nor could we pass off “hate crimes” as isolated incidents enacted by a few extremists who have not learned the lesson of tolerance.

Because we’re so confused about the majority-minority relation in the United States, we’re unable to see how certain forms of violence are not just expressions of hatred and extremism, but rather are part of our everyday world. Let us attend for a moment to the ways in which violence against women—unfortunately an everyday occurrence in U.S. society—does and does not feature in political debates about “hate crimes.” The 1990 Federal Hate Crimes Statistics Act, signed into law by President George H. W. Bush, directs the Justice Department to collect annual data on crimes motivated by the victim’s race, religion, ethnicity, or sexual orientation. Sex or gender is not among the categories of analysis for this law. In practice, this means that the law in no way directs the Justice Department to collect data on crimes against women as women.

The omission of gender from that Act was not accidental. The National Organization for Women had lobby[d] strenuously—but ultimately unsuccessfully—for its inclusion. Why was gender left out of the 1990 Federal Hate Crimes Statistics Act? A variety of reasons was supplied at the time. Some opponents of collecting data on hate crimes against women argued that it would only duplicate other documentation on crimes against women. The Justice Department already keeps statistics on the number of male-female rapes reported annually, as do most state and local jurisdictions. However, when male-female rapes are reported and counted, they are not analyzed and interpreted for the possibility that gender bias may have animated the attack. If gender bias does get admitted as a motive, it is either particularized as hatred against this woman and this woman only, or particularized in another way as this particular man's hatred against women in general. In either instance, gender bias is framed as a problem of individual deviance rather than a general cultural phenomenon.

This inability or refusal to reckon with the general problem of violence against women has hardly gone away. One decade after the first President Bush signed the
Federal Hate Crimes Statistics Act, there is still much congressional opposition to including gender in the new Federal Hate Crimes Prevention Act. To call crimes based on gender “hate crimes” would imply that every time a woman was raped and every time a woman was beaten was a “hate crime.” To do so would undercut the entire structure of cordonning off and containing those who hate and those who are hated from the “general public.” Both the perpetrators and the victims of violence against women are too generalized to allow for recognition of this violence as tied to the hatred that Americans so often attribute only to extremists.

Our proposed solution to this dilemma would not be simply to add gender-based violence to the category of “hate crimes.” There may be good practical reasons to do so, such as increased funding for domestic violence shelters. Conceptually, however, “hate crimes” as a category perpetuates an understanding of American public life as divided between a clear majority and distinct minorities. The possibility that gender bias could motivate violence against women is so confounding because “hate crimes” are assumed to be perpetrated by an intolerant and extremist “minority” against members of “minority” groups, and yet women are not, statistically speaking, a minority.

As we’ve suggested above, the category of tolerance, which is supposed to combat “hate crimes,” depends upon these very same “minoritizing” assumptions. If we could recognize the complicated relations between gender and sexuality and among gender, sexuality, race, class, and physical ability, we would recognize that the majority of Americans are in some way the potential, if not already actual, objects of discrimination. This recognition would change our basic approach to hatred and to the discrimination on which hatred is based. We would need to look not toward tolerating “minorities,” but toward reconstructing our public life so that everyone is included in categories like “the general public,” “the public at large,” or “all Americans.”

At one level this claim to inclusion is a basic liberal claim, but it will remain a radical demand as long as dominant American conceptions of “the public” can so easily slip into “majority rules.” In the end there are two sets of American public values—the values of freedom and justice for all, and the values in which the general public dominates minorities. These two distinct ways of looking at the world are akin to the distinction between religious tolerance and religious freedom. We advocate the value of freedom rather than tolerance, because freedom opens up the possibility that an expansive, rather than a narrowly majoritarian, public might be built in America.