

It's not a gay issue

How does taking a position on abortion advance the cause of gay rights?

By JAMES KIRCHICK
Friday, May 04, 2007

LAST MONTH, THE National Gay & Lesbian Task Force sent out a press release decrying the Supreme Court's decision in the consolidated cases of *Gonzales v. Planned Parenthood* and *Gonzales v. Carhart*. The Task Force said that the decision, which bans a particularly grisly form of terminating a fetus whose head is mostly outside the womb, was "draconian" and that the court had made itself the "tool of the anti-choice movement."

That was hardly the first time the Task Force had spoken out on issues at best tangential to the gay community. In addition to stating policy positions on abortion, the Task Force has decried the war in Iraq, supported racial preferences and opposed social security privatization and welfare reform.

In other words, it has again demonstrated that it is a garden-variety leftist organization masquerading as a gay civil rights group; it only represents the interests of gay people who also happen to be ideologically committed members of the furthest reaches of the political left.

I believe abortion should be, as President Clinton said, "safe, legal and rare." But just because one supports the right of women to have the control over their bodies that abortion laws seek to protect does not mean that gay people, ipso facto, believe that the gay rights movement — which has plenty of significant legal battles of its own to win — ought to take a position on abortion.

The strongest case that the Task Force has is that the legal reasoning used to erode abortion laws is the same as that used to harm gays; that is, a "strict constructionist" view of the Constitution that does not recognize any constitutional right to privacy.

IN TERMS OF choosing judges, this may be the rule in practice, but it is hardly a principle that opposition to abortion laws translates into opposition to gay rights; there are, after all, plenty of gays who oppose abortion. Moreover, there is a much stronger constitutional basis for the protection of the rights of consenting adults (in gay rights cases) than the right to take a potential life.

Lawrence v. Texas, the 2003 Supreme Court case that overturned state sodomy laws, rarely mentioned the 1973 *Roe v. Wade* ruling and did so only in passing. In that case, Justice Kennedy, writing for the majority, found that "the Texas statute furthers no legitimate state interest which can justify its intrusion into the personal and private life of the individual."

Abortion, reasonable people ought to be able to agree, raises more complicated questions regarding "intrusions" in the "personal and private" lives of individuals, namely, the potentiality of human life. It is for this reason that Kennedy himself, no slouch when it comes to the Constitution and hardly a right-wing reactionary, was able to write the majority opinions in both the pro-gay *Lawrence* and pro-life *Gonzales v. Carhart* cases without sounding intellectually inconsistent.

And as if it merited mentioning: abortion is biologically a heterosexual issue. Noting this fact does not make gays who oppose abortion selfish, it merely emphasizes further that abortion is, in its essence, something with which heterosexual women and their partners struggle. The only

way in which abortion could ever be tied to gay political concerns is in the rare case when a surrogate or lesbian mother decides, for whatever reason, to abort the fetus that she agreed to carry prior to insemination.

BUT THESE INSTANCES are morally incomparable with the cases of most heterosexual women who choose to undergo abortions because of an unplanned pregnancy. As the gay columnist and law professor Dale Carpenter has written, “Oops babies’ are simply not a phenomenon common to gay life.”

New pre-natal technology will pose interesting questions for gay activists who believe that abortion rights ought to be hewn to the fight for gay equality. For years, gay activists — backed by scientific discoveries — have claimed the existence of a gay gene. In the near future, if this gene is to be found and isolated, what will the Task Force say about those potential parents who wish to abort their gay gene-carrying fetus, just as a woman bearing a fetus with a cleft palate or Down’s Syndrome is able to do?

Because of legal abortion, in the not-too-distant future, there may be a vast culling of potential gay lives simply because of the fact that those lives will be gay.