An issue of international contemporary political and popular concern involves the struggle between civil rights and prejudicial actions toward people either claiming or assumed to have a nonheterosexual orientation. Whether individuals are targeted and victimized by neoconservative youth gangs in Europe, by military personnel stationed in Asia, by police of Middle Eastern theocratic governments, or by proposed legislation barring civil rights protections in the United States, the conflicts over both sexual orientation and practice are deeply embedded within complex layers of so-

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cioeconomic, religious, philosophical, political, and cultural concerns that complicate how solutions are negotiated. At the most basic level, the strife juxtaposes those committed to maintaining heterosexist tradition, whereby homosexual or bisexual behavior are regarded as morally illegitimate, and those committed to expanding, formalizing, and clarifying human rights through ensuring civil rights protections against discrimination based on sexual orientation. This essay is a theoretical exploration of central philosophical and religious presuppositions that must inform empirical work on moral conflict related to sexual orientation issues. The implications for social justice research extend beyond the issue of sexual orientation to the ideological struggle over the construction, development, and validation of other empirical categories such as gender, race, or ethnicity.

Sexual orientation is an important case study for justice analysis because it manifests the precise dilemma that empirical research as well as sociolegal philosophy faces: movement into postmodern understandings and definitions that relativize or nuance categories that have been taken as a priori by both researchers and human rights litigants. Where contemporary understandings and appropriations of rights and categories are based upon Enlightenment foundations, how adequate are these concepts in an era where substantial shift has occurred toward postmodern perspectives embracing contextualism and social constructionism?

The following discussion of sexual orientation utilizes a 1996 defining decision by the U.S. Supreme Court regarding an amendment to the State of Colorado's constitution prohibiting protected civil rights status on the basis of sexual orientation to raise three important issues for social justice research in a social milieu where backlash against affirmative action and strides toward human equality have resulted in various legislative proposals to make illegal the preferential treatment of any distinct constituency. This case represents a landmark decision that is likely to be utilized in various other legal debates around the world. The issues consist of (i) what constitutes a civil right in a postmodern era, (ii) how useful do the categories continue to be which have been utilized to determine protected civil rights status, and (iii) how might religious views shape and delimit our presuppositions and resultant understanding of this debate in a secular context? Taken together, these three concerns are critical to examining changing interpretations in civil rights from fixed categories which define and delimit oppressed status groups to more permeable constructs that can decompose from group to individual as the unit of justice analysis.

Over the past 5 years, political and legislative battles over sexual orientation have grown substantially in North and South America, and in Europe. In the U.S. alone, over 45 attempts have been made to pass Amendment Two type legislation since 1992 ("Almost Home Free But Not Quite," 1996).