

2004

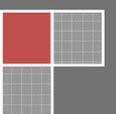
The Universality of LGBT Rights

Université d'Été Euro-Méditerranéenne des Homosexualités, Marseille,
France, 18 July.

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My main point will be that rights regarding sexual orientation issues are end-of-the-line products of the modern concern with citizenship, human rights and identities, as well as universal in both scope and interest.

We all know the story: on the aftermath of the Modern revolutions (the English, the U.S. American, and French Revolutions), the pre-modern political philosophy based on inherited status and privilege was over. The social structure and social mechanisms that allow for the reproduction of such a status quo were not – and they are not – quite over; nevertheless, their legitimacy was over, as well as a good deal of the legal basis. To put it in rather simple terms, what the Modern world invented was the Citizen, as opposed to the Subject. Now, we all know that some very important characteristics had to be met in order to define who, how, why, someone could be a citizen.

Let us start with the ‘who’: the early Modern citizen was undoubtedly a male. Women’s place in the new social and political contract was certainly debated and a matter of polemic – not only many political philosophers of the time (e.g. Condorcet), but mostly many women whose testimony has only recently been recovered (e.g. Wolstencraft and many others) fought for the inclusion of women in citizenship. Not surprisingly, the first major feminist struggles were to happen, some decades later, around issues of labor / employment and the right to vote.

Coincidentally – or not – the political philosophy (as well as the early sociological, anthropological, medical, legal, and many other thinking apparatuses of the late eighteenth century and nineteenth century) was preoccupied with the need to define differences seen as fundamental and irreconcilable between men and women, in order to justify their exclusion (although also the other way around: looking for ‘explanation’ for a taken for granted submission and inferiority of women in the political and social spheres). Since the major Modern epistemological device was the distinction between Nature and Society (the former replacing Divinity, and established as a field of scientific inquiry), differences between the genders were sought in the

realm of Nature. This reading was exactly that – a reading – in the sense that the grid for interpretation was taken from the concrete social experience of the asymmetry between men and women (seen as complementary, but with a real hierarchy between the two halves). We now have excellent documentation and research on the scientific effort to define the specificity of women as the mystery that had to be solved, dissected and explained by the male agents of scientific production. The new social contract was built upon the legitimation of ‘natural law’, a clumsy substitute for theological... natural law.

The apparent contradiction between ideals of individual freedom from status (and gender *is* a statutory attribute) becomes less mysterious once one lists the other parameters for the definition of ‘who’ could be a citizen. The early Modern period was the period of the birth of what has come to be known as the Nation-state. The Nation-state replaced other forms of State that were not based on notions of the Nation, but rather on the political and economic power play of aristocratic houses, churches, forms of fiefdom and chiefdom, and so on. The Nation was the extension into the political / state realm of a previous and much more ingrained form of social structure and collective identity – the ethnic group. The ethnic group, as classical anthropology was to define (and to elect as main object of study) is characterized by a few structural and dynamic elements: it is a reproductive group, in the sense that the basic criterion for belonging is being born of members of the ethnic group (in that sense it is an extension of kinship); it is a cultural group, in the sense that it shares meanings, practices and worldviews that are seen as distinctive from other ethnic groups (the paramount factor being language, as an impediment to communication before translation); and it is, for those reasons, a major social network of interaction and mutual dependence, often translated into the occupation of a specific territory.

In very simple terms, one can say that the Nation-state was a twofold process. On the one hand it expanded the localized ethnic group into a much more inclusive sphere, that of the imagined community (Anderson), where people could see themselves as belonging to the same group even in the absence of face to face interaction; what allowed for this was the other aspect, that accounts for the ‘how’ of citizenship: the Modern State and its mechanisms of control, accumulation, collection, and distribution – the schooling system, the armed forces and conscription, the definition of national standardized languages, tax collection, voting, and social services. Paramount in this was yet another factor, the creation of economic forms dependant on the borders of the Nation-state, i.e., *national* economies. So, to be a Citizen, in the Modern Nation-state,

was to be a member of this organization and to not be able to be a member of another, similar, organization (and the international organization of geography became a major factor in the reproduction of the system – one could no longer, as in pre-modern times, ‘choose’ whom to pay tribute to).

The national system exclude other people from citizenship. Not only nationals of other states, but also people who were considered as merchandise. Slavery was one of the major debates about the consistency and coherence of the citizenship notion, much more so than women. Abolitionism, for instance, was in many European and American countries the major emancipatory movement. The difficulty in pushing slavery to an end – as well as the difficulty in abolishing slavery in practice, if not in law – was due to the importance of the other structural element that came about once the Nation-state economies were established: colonialism. Colonialism was the outcome of previous forms of European (and, later, American, also known as ‘internal colonialism’) expansion and early economic globalization. When administrative, military (and even demographic) settlement by European nations in large parts of the world increased, racist and culturalist notions of the Other were enhanced, even where and when slavery was abolished.

Racism can be seen as a social process of classification and categorization that precedes the concept of race itself – in the sense that it has common roots with ethnocentrism. But racism becomes ‘scientific’, as an elaboration of the concept and social value of ‘race’, inasmuch as ‘sex’ becomes a scientifically laden term to describe the classificatory and categorical hierarchy between men and women. The colonial system was to help define the Nation-state, by setting clear frontiers: on one side, the totally Other (the blacks, the Arabs, the Oriental, the colonized, the savages, the primitives, and so on) and, on the other, Us, the nationals, the white, the Christians, the civilized, the evolved, regardless of the immense social differences and inequalities within the nation-state, in terms of gender, class, region and local culture, and so on.

All this melts down to a very simple statement: sex, race and culture are the guidelines for the definition of belonging and exclusion in the Modern nation-state. The control over the reproduction of women; the need to establish lineages that guaranteed the connection between kinship group and national group; the juxtaposition of the kinship ideologies of ‘blood’ with the national and racial ideologies of ‘blood purity’; the horror with miscegenation and hybridization; the metonym of The State in The Family – these were processes that simultaneously defined different and unequal races,

different and unequal national ethnic cultures, different and unequal sexes. Both the national endeavour and the colonial endeavour – and the material link between the two, the market economy as the realm of competition and value appropriation and as metaphor of species competition and selection in the natural world – were discoursed as male endeavours and as sharing the moral and physical attributes of Masculinity. Failure in demonstrating this was failure in Masculinity. The social character of the Homosexual, as Foucault has so brilliantly demonstrated, emerged in the Modern period as the synthesis of all the flaws. That is why it was (and, unfortunately, is) so easy to use metaphors of homosexuality to talk about anything considered impure, taboo, inferior, wrong, sterile, deviant or illegal: ‘feminine’ as an insult; the construction of the Oriental as ‘passive’; fears of Blacks raping white women in Africa concomitant with fantasies of colonial homosexuality with Blacks; homosexuality as a degeneracy of masculinity and a threat to military cohesion; promiscuity between classes, and so on and so forth.

As we all know, the main development – indeed revolution – in the Modern concept of the Citizen and the Human Rights that came out of the Revolutions, was the labour movement and the issue of Class, as capitalism entered its modern industrial phase with the settling of national economies connected with the globalized form of colonial exploitation and world trade. First came the Socialist utopian ideals; then the labour, trade-union and Communist movements and, later, the Russian Revolution and the creation of welfare states as a European capitalist reaction to it. This second phase of our modern history was to last roughly until the closure of WWII.

The main ‘actor’ in this development was Marxism. I will not get into an exploration of its virtues and defects. But its definition of the contradiction between labour and capital as the central problem in capitalism – and, as a matter of fact, the definition of capitalism as an economic and social system that was surmountable – decentred the Nation-state and established a framework with which we still live today: that people are the products of their social circumstances; that these social circumstances are uneven distributions of power. In sum, as we would say today, that difference is not the only issue: it is intertwined with inequality; and that difference is not simply a matter of identity, it is a matter of material conditions too. Not surprisingly, this view of the world was a stimulus for the struggles of two identities that we have talked about so far: women and the racially subjugated. Women’s

struggles for emancipation happened not only at the level of civil rights, such as the right to vote, but also at the level of work conditions, the right to work and equality at the work place, the separation between the public and the private, and reproduction (i.e., another set of 'hows' in the question 'how to be a citizen?'); colonized peoples were to understand their colonial situation as simultaneously a 'national' problem, a 'racial' problem, and a problem of the economic organization of the world under increasingly globalized capitalism.

The labour movement was, to an extent, the first identity movement. This is a bold statement, of course. But we have to see it also with today's, 'genealogical', eyes: the working classes in industrial Europe were seen as exotic and uncivilized Others by the authorized glance of bourgeois male scientists and policy makers. The working class quarters in big cities were seen as the fantasmagoric places of promiscuity, disease, degeneration of the national 'blood', locales of sexual perversion (to which, by the way, homosexuals were seen to accede with exotic lust). Their counterpart was the romanticized rural folk, where 'traditions' and 'roots' were maintained. The problem lay with their sons and daughters who had migrated into the big towns and industries, constituting an underclass that was outside any religious and national allegiance. The allegiance was there, however: it was increasingly the allegiance to an utopia of equality and redistribution, based on a Humanist notion of the right to be a Citizen as something else other than being a National: economic and social rights became almost more important than civil and political rights of participation in the democracy.

The growing pressure of the contradictions of industrial capitalism – and the influence of the Russian Revolution – were to boost a major change in European capitalism and democracies: the setting of welfare states, thus establishing the notion of social justice and redistribution as a central element in the organization of society. In a sense, the upheaval of WWII, as a consequence of Nazism and Fascism, was to show the great contradictions of the accelerated transformations of Modernity: the forces of racism, anti-Semitism, nationalism, sexism and homophobia, were alive and well, as refuges for the angst generated by fast capitalist and urban growth, and the demands of the workers' movement. Eventually the workers' movement and Marxist thought were to incorporate an anti-colonial and anti-racist stance, although they did so slowly. They were to incorporate ideals of equality between men and women and to criticise the nation-state by means of internationalism. But they did not consider sexual orientation for the simple reason that sexual orientation did not 'exist'. It was still in the realm of

sin, crime or disease. Indeed, it was seen as a major setback in the also masculinized project of communist revolutions.

The reconstitution of Europe after WWII is marked most of all by the on-going attempt at constituting a European Union as opposed to the Soviet Block. Post-WWII world is marked by the rise of the US to the status of main world power, with the Soviet Union as opponent. The WWII period is also marked by the end of official colonialism and the constitution of a post-colonial world of increasing migration and uneven development. At the level of class, this was certainly the period of social-democracy, i.e., of the attempt to introduce elements of social justice into the capitalist form of economic organization. With the product of colonial accumulation, redistribution was possible in Europe, and both consumption and welfare were the markers of the golden years.

At the level of gender, women's experiences with the work place during the wars had boosted a major change. Attempts at pushing women back into the home – as in 1950s America – did not last long. The family was increasingly replaced by the market and the media as the site for social reproduction and sexual and intimate relationships went through major changes, very well identified by Giddens in *Transformations of Intimacy*. Feminism as both a social movement and a critical theory allowed for the politicization of the body, private life and gender, at the same time that women's control over their reproduction changed the gender balance of power.

Racism, on the other hand, became a social taboo after the experiments of scientific racism in the Nazi period and the Holocaust. Anti-colonial struggles around the world and the establishment of international organizations such as the UN, helped set the agenda of Human Rights, recovered from the initial French Revolution declaration and slowly expanded to areas other than political citizenship. The old concept, first introduced after the French Revolution, became the subject of debates about inclusion and exclusion. Basically, race and gender became major issues in the definition of human rights. But the welfare and well being of the West in post WWII allowed for the burst of what has become known as identity movements or the politics of identity. Life-style, special interests, and identity, characterized mainly by the youth revolts in Europe and the US, the women's movement and the civil rights movement of Blacks, opened an era where the labour movement ceased to be the only factor in social change. It is in this environment that the Gay movement started, as part and parcel of a

movement for the contestation of social processes that were by then under the scrutiny of the social sciences: classification, categorization, stigmatization, identity, and power.

My focus in History here has a pedagogical purpose: to show how sexual orientation is the cherry on the cake, but a big cherry on a stale cake. Because it is the Gay and Lesbian movement that characterises the present disputes around power and identity at the local and global levels. Why: because it is the key-symbol that simultaneously invokes all the other movements and struggles before it and at the same time disrupts the apparent balance of the contract of citizenship, of the definition of population/identities/interest groups, and of the architecture of human rights [more on this later].

The world we live in today seems to us to be in a state of explosion or maximization of all these trends. The major event that marks the transition from the post WWII period to “the present” is the fall of the Berlin Wall, of the Soviet Block and of Marxism as an organized political movement. The major trend that marks the present is, on the other hand, globalization, characterized by the acceleration and encompassing extension of a process that has been going on for quite some time: de-localization of production, de-industrialization, increasing importance of financial and capital flows, virtualization, the information age, the importance of the media.

On the side of social and cultural processes, a debate has been going on about homogenization (as Americanization) or not. It is consensual now that globalization creates reactive localizations, but also that globalization needs the creation of comparable and interchangeable localizations. Access to information, the flow and flux of populations in unprecedented scale and the creation of global markets, are establishing a truly new sort of society, the counters of which are not yet clear. The agenda of Citizenship, the agenda of Human Rights, and the agenda of the Politics of Identity are the major issues we are facing now and sexual orientation plays a decisive role in them and in showing the difficulties in their overlapping, even contradictions.

Citizenship remains, at the formal level, national citizenship. The nation-state is still the main form of organization of the polity, although we should pay attention to the experiments that are being made, namely the construction of the EU. And not all in the polity is convertible into the national level. The main trend that has unsettled the equation is immigration. Immigration is part of the process of post-industrial capitalism,

where labour needs are fulfilled by those coming from the poorer parts of the world. The class division is no longer established within the confines of the nation, but rather at a global level. And a significant part of the migratory labour force comes from ex-colonized countries in to the ex-colonizer country. This creates a situation in which class contradictions are replicated as racial contradictions and as contradictions that highlight issues of culture, and religion, more often than not focusing on differential treatment of women, on notions of the person and individual versus collective rights. In this sense, immigration accentuates the issues of the politics of identity already present in post industrial society, and also repatriates these issues to the countries of emigration. With the social taboo on racism, forms of new and subtle racism emerged, using old rhetorics of exclusion based on ethnocentric understandings of the incommensurability of cultures.

The ‘how’ of citizenship has also expanded. Not only political rights and, as later on in the last century, social and economic rights: now rights of identity and culture, as well as rights of the environment, have to enter into the equation of citizenship, not only in terms of who has the right to belong to what, but also in terms of what is political power accountable for and whether the only power that needs to be checked is political. Human Rights have become a major tenet of the world social contract, via international organizations and globalized social movements. Human rights’ agendas have become more and more inclusive and now include statements about non-discrimination for reasons of sexual orientation. We have come a long way since the first declaration of the rights of ‘Man’.

The Politics of identity have also upset the organization of the nation-state as the place of citizenship. The debate between the American and French models is well know, as exemplified by American affirmative action and the debates on the Muslim scarf in France, thus stressing the divide between ‘communitarianism’ and ‘citoyeneté’. Multiculturalism, presented as the solution for the coexistence of different levels of inclusion and belonging, has been denounced as excessively based on prior definitions of cultures as bounded, definable ‘things’, carried by people who are most and foremost ‘members’ (not women, gays, black, white, poor and rich and so on) or on the privileging of one identity over others, whereas the notion of plural identities in flux has become acknowledged. Cultural relativism is also at stake, since it seems too often to be confounded with moral relativism and to be in conflict with notions of universal human rights. Several attempts however (e.g. Sousa Santos) are being made, that attempt to

find areas of translation between different cultural discourses and common denominators, in search for universal forms of human rights that are not seen as specifically Western.

Let me finish by focusing on sexual orientation in the light of these issues. Sexual orientation is directly engaged in several factors at stake: sexual orientation, from a formal point of view, is not yet seen by international institutions as a universal human right, since it is not part of the Universal Declaration of the Rights of Man. However it has been increasingly included in several bills of rights and constitutions, including the present Draft Treaty for a European Constitution. For many people and collectives, sexual orientation remains a sin, a disease or crime, as much as notions of the inferiority of women, or racist beliefs, remain. However, beyond these ideological differences, there seems to be another more encompassing conflict between defining sexual orientation as part of the private domain of sexual activity with no further consequences in society. This is the basic liberal attitude and a major hindrance to LGBT rights recognition. Also, the emergence of LGBT communities of meaning, people, action, etc., seems to bother many who react against so-called communitarianism, without full understanding of the specifics of sexual orientation: its constitution as an invisibility. LGBT movements and communities have learned a lot from other social and identity movements and live in the same contradiction between the tactical need to assert some sort of 'essentialism' or even 'ethnicization', and the awareness that the category of exclusion (the divide heterosexual/homosexual) needs to be superseded. In this dynamic field, Queer Theory came out as the major deconstructivist worldview, but certainly presents a problem to people living in circumstances – such as many southern European and circum-Mediterranean societies – where deconstruction, flux and fuzziness may be the very basis for the reproduction of patriarchy and homophobia. Sexual orientation is, very much like the women's issue, a question of acknowledging the political dimension of the personal. But as a matter of fact, it is much more so, since identification of sexual orientation is impossible on the basis of physical, phenotypic or other outward criteria. The remittance of sexual orientation to sheer sexual practice without collective meaning is a major ideological hindrance to emancipation. Even in contexts where there is no identity, as for instance was the case in pre-Modern Europe, there is a social code of punishment of homosexual acts that in and of itself constitutes a negative identity. Let me ask, without any sort of evolutionism: can't the same be said of several social

formations today, especially in the Mediterranean? It is, in a way, like the case of genital mutilation: as long as one woman does not like it, or is exposed to other values in cultural transactions, genital mutilation ceases to be a “value of the culture”. Issues of circulation of people, borders, supra national citizenship and the like are being experimented with in Europe. When it comes to the recognition of love ties between people of different EU countries – or between a EU national and a non EU one – we become aware of the need to define social rules and ties for LGBT people. And in order to do that, a definition of an LGBT person needs to be available. Not, of course, as an essentialist, species-like definition, but as a definition of rights and relations that can be deduced from already acquired rights of citizenship.

My main point was that rights regarding sexual orientation issues are end-of-the-line products of the modern concern with citizenship, human rights and identities, as well as universal in both scope and interest. This is so because sexual orientation is the logical outcome category of sex and gender, and it shares the same symbolic classification system as class, gender, race or ethnicity. It does not, however, constitute either a physical attribute prone to classification, nor is based on a population that reproduces itself *qua* gay, lesbian, bisexual or transgender. In this sense, sexual orientation constitutes a category that is simultaneously the end-of-the-line of the process of collective identities and something entirely different. That is why it challenges so much the concept of citizenship, the concept of human rights, and the concept of identity – and the social contracts we want to build upon the three of them.

In the European supranational context, all three arenas need to be dealt with, if we are to be an example of human civilization that has learned with its huge mistakes and conceit at thinking of itself as the best. In citizenship, Europe needs to give access to all contractual rights, starting with the basic social contract between two human, that of partnership or marriage; at the level of human rights, it needs to consider the specifics of the homosexual experience (primordial insult – see Eribon –, non-physicality, non-ethnicity, invisibility) in order to broaden the scope of attitudes that fall under the category of discrimination and persecution and to be pro-active in harbouring those persecuted by it; at the level of identity, it needs to promote representations, visibility and enlightenment of the LGBT experience as part and parcel of the variety and

richness of human experience – be it in the media, in education (and particularly sexual education), or in public discourse.