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**THE POLITICS OF SPEAKING FOR:  
THEORIZING THE LIMITS OF LIBERATION AND EQUALITY  
IN GAY AND LESBIAN POLITICAL DISCOURSE**

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**A Thesis  
in  
the Department  
of  
Communication Studies**

**Presented in Partial Fulfillment of the Requirements  
for the Degree of Doctor of Philosophy at  
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## **ABSTRACT**

### **The Politics Speaking For: Theorizing the Limits of Liberation and Equality in Gay and Lesbian Political Discourse**

Kyle William Mechar, Ph.D.  
Concordia University, 2000

This thesis offers a critical examination of discourses of liberation and equality in contemporary North American gay and lesbian politics. Informed by work in cultural studies and political theory, it has as its principal theoretical objective a desire to refuse an oppositional political framework, one which looks only or primarily to the impediments to liberation and equality for gays and lesbians. As such, the thesis develops the notion of speaking for (as opposed to against) to analyze how these discourses inadvertently reproduce what they are said to oppose, redress, or resolve. Drawing on both theoretical and popular texts, including the media, for its analyses, the thesis aims to open up debates in gay and lesbian studies and politics through a detailed investigation of a number of recent and on-going sites and struggles.

To this end, a central focus in the project is the prevalence of rights in these debates. Arguing neither for nor against specific rights but for a deeper understanding of the culture they produce, the thesis situates rights within the framework of two dimensions of representation: as state formation and the law, on the one hand, and as subject formation, on the other. This framework serves to underscore the implications of waging political demands on the basis of that from which gays and lesbians have been excluded, something the thesis calls into question.

## RÉSUMÉ

### The Politics of Speaking For: Theorizing the Limits of Liberation and Equality in Gay and Lesbian Political Discourse

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Cette thèse propose un examen critique des discours libérationnistes et égalitaires au coeur des débats politiques et représentatifs gays et lesbiens dans l'Amérique du Nord contemporaine. Puisant dans le champs des "cultural studies" et de la théorie politique, cette thèse réfute une approche purement oppositionnelle de cet univers politique; une approche qui ne considérerait que les obstacles à la libération et à l'égalité des gays et lesbiennes. La thèse développe plutôt la notion de représentativité (parler "au nom de", et non "contre"), analysant comment, et à quel point, ces discours dits représentatifs reproduisent subrepticement ce qu'ils dénoncent, ce qu'ils tentent de corriger et de résoudre. À l'aide de documents théoriques et provenant de la culture populaire, incluant certains textes médiatiques, cette thèse vise ultimement la création de débats et de réflexions au sein des communautés académiques et politiques gays et lesbiennes, en proposant une analyse détaillée de thèmes contemporains et de débats récurrents.

Afin d'y parvenir, ce projet examine la prépondérance de la notion de "droits" au sein de ces débats politiques. Sans prendre position en faveur ou en défaveur de droits spécifiques, l'analyse s'attache toutefois à développer une plus grande compréhension de la culture que ces derniers engendrent. Cette thèse situe donc la notion de "droits" au coeur même de deux dimensions de la représentation soit d'un côté, l'État et la loi et de l'autre, la construction du sujet. La thèse vise ainsi à tracer les implications que les demandes politiques fondées sur l'exclusion des gays et lesbiennes signifient, et cela au-delà du principe d'égalité et de libération pour un sujet.

## ACKNOWLEDGMENTS

Though the writing of this thesis was accomplished in isolation, I benefited from the intellectual guidance and emotional support of a number of people, some of whom were there from the beginning. First and foremost, I would like to extend my appreciation, admiration, and respect for my supervisor and friend Chantal “Maman” Nadeau. Chantal possessed that rare gift of guiding me through the hoops of doctoral work while allowing me to find my own critical and intellectual voice in the process. Though she might disagree with many of my positions, she never insisted that I change them but only that I was able to defend them. A better mentor cannot be found.

I would also like to thank my defense committee members, Line Grenier, Maurice Charland, Marcie Frank, and Bonnie Honig, for taking the time and care to respond to my work, for navigating their way through some dense and convoluted prose, and for the all-important job of making me feel like my work mattered. In various ways, all of you have been there from the start, and I have been shaped immeasurably because of it.

My friends Arabella Bowen and Frédéric Morin are also deserving of my gratitude. Arabella for indulging me in discussions about the thesis, especially our morning conversations about Hannah Arendt. Through these encounters we came to the realization that reading Arendt was one of life’s necessities. And Frédéric for providing the wildest and wackiest social outlets during the lonely process of writing, keeping a steady flow of alcohol in my system when both my energy and my money had run out. This much fun should be illegal.

Thanks also to the Social Sciences and Humanities Research Council of Canada (SSHRC), the Fonds pour la Formation de Chercheurs et à l’Aide à la

Recherche (FCAR), and Concordia University School of Graduate Studies, for their financial support during the course of my doctoral studies.

Finally, I would like to dedicate this project to my mother Karan, without whom its completion would not have been possible. When I graduated from high school, it was my mother who encouraged me to go to university. Eleven years later, Ph.D. in hand, she continues to be my greatest support. She has always had more confidence in me than I will ever have in myself, and I owe her more than words could ever express. Thanks for believing in me, and for showing me the way.

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## INTRODUCTION

### "Dancing the Gay Lib Blues"? <sup>1</sup>

*The real question to ask is, what will we lose if we win?*

--Hannah Arendt <sup>2</sup>

#### 0.1 The Politics of Speaking For

THIS THESIS DEVELOPS a sustained engagement with what I call the politics of speaking for in the context of liberation and equality in contemporary gay and lesbian political discourse in North America. The term serves a number of functions, both practical and methodological. Practically speaking, it is meant to signal and to limit the parameters of the project's inquiries; namely, it examines only those discourses spoken "on behalf of," or "in favour of," gays and lesbians, as opposed to those spoken "against" them. Though this automatically includes discourses by those who self-identify as gay or lesbian, it is not restricted to such identifications. In fact, the question of positioning tendential to contemporary critical studies -- that the social identities of the author of the text are fundamental to an understanding of it -- is not even addressed here. Nor is this delineation motivated by a desire to give voice to those who have not always had one.

Rather, in resisting these kinds of distinctions all together, the practical aspect of speaking for is tied to a larger theoretical concern: how those discourses that speak for gays and lesbians inadvertently reproduce that which they are said to oppose, redress, or overcome. By refusing to see the politics of speaking for within a

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<sup>1</sup> This phrase is taken from a 1971 book by Arthur Bell entitled Dancing the Gay Lib Blues: A Year in the Homosexual Liberation Movement.

<sup>2</sup> Arendt made these comments in reference to a discussion of women's liberation. Quoted in Hanna Pitkin (1998: 156).

predetermined emancipatory or progressive political framework, the projects of liberation and equality that come under its microscope are examined for their contradictory effects in terms of the very ideals, principles, and values they are about.<sup>3</sup> The entire thesis is concerned, then, with what questions cannot get asked when we speak only for or against, on behalf of or in contestation with, the political demands gays and lesbians are making at this particular moment in history.

Of course, when a group is spoken for, it is also spoken about, and it does not automatically mean that what gets spoken is on behalf or in favour of. One can, after all, be spoken for in the most pejorative and unattractive of ways. For the purposes of this thesis, however, "for" is meant to underscore this more positive, traditional conception. But it is also meant to imply the idea of "in place of." In countering certain discourses that are seen as being against homosexuals, or, in their extreme form, homophobic or anti-gay, very little attention has been paid to the politics of speaking for as proxy. In demanding political change at the level of what homosexuals are said to want and to need, the producers of these discourses tend to assume a rather coherent community of gay and lesbian subjects. They leave little room, in other words, to invite dissent by the very members of the community for whom they speak.

The titles of two magazine articles illustrate what I am trying to capture here. The first one, from the gay and lesbian publication The Advocate, addresses the tension between the existence of laws in the United States that still prohibit forms of gay sex and the increasing extension of rights to those same individuals. It suggests that these laws stand in the way of the achievement of "everything we want: marriage, adoption, and equal rights" (Chris Bull 1998: 36). The second article,

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<sup>3</sup> I draw on Wendy Brown's work for this formulation, especially States of Injury (1995), discussed in Chapter One.



entitled "Wedded to an Illusion: Do Gays and Lesbians Really Want the Right to Marry?" (Fenton Johnson 1996), appears in Harper's magazine and makes a case for the legalization of same sex marriage. What is significant in this title is that the question it poses is unanswerable, because of the obvious fact that there is no consensus on this matter: some do; some do not. The taken-for-grantedness of the claims made in both articles, the pervasiveness and certainty with which it is expressed that this-is-what-we-want-and-this-is-what-we-need, is what I want to call into question. Moreover, I argue that such expressions are in part a result of the fact that both articles, like many of the discourses examined herein, wage political demands on the basis of including gays and lesbians in the institutions and social practices we have been excluded from. This is another practice the thesis aims to unsettle. Though these moments are small, to be sure, they speak to some of the central debates the concept of speaking for addresses.

## **0.2 The Culture of Rights**

More significant than these gestures, the thesis investigates the pervasive language of rights within the larger projects of liberation and equality by considering the cultural politics of rights generally and several gay rights cases specifically. Again, at issue here is an examination of how the discourse of rights potentially reproduces what it is said to overcome, or how it does not always accomplish the goals it sets out to achieve. Understanding rights not simply as political tools but as "protean and irresolute signifiers" (Wendy Brown 1995: 97), my engagement with them is not in the interest of constructing a case for or against specific rights, but for an understanding of what rights are capable of producing and what they foreclose. I am interested in the kind of political culture rights discourse creates, and its effects on the constitution of the gay or lesbian subject. Some of the questions that animate

these inquiries are: What gets lost when political discourse merges seamlessly with juridical ones? What are the limits of rights at the level of a cultural and political movement? How far do we take gays rights? And how far can they take "us"?<sup>4</sup>

The timely nature of these studies is indicated by the fact that several of the rights cases examined here are still unfolding as I write. They are negotiated and contested sites, and their implications will reverberate down the road for quite some time. For example, same sex partnership rights, and "gay marriage," the linchpin at this particular moment for liberation and equality in North America and in the West more generally, is an issue that will not go away anytime soon. In fact, in Canada at this very moment, the redefinition of common law spouse to include same sex partners is being hotly debated from all sides of the political spectrum, within the courts, the media, and the arena of public opinion. The final outcome of the debates around such rights in the various jurisdictions in which they surface -- and that is by now most jurisdictions in the case of gay marriage -- is less relevant to the thesis than the assumptions and implications of the claims made for them, and their larger effects on the political culture. Examining specific rights cases that are still in progress does not preclude questions about how rights operate politically. Moreover, as part of the larger goal of resisting a politics of closure, the questions rights engender do not end simply because certain rights have been achieved.

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<sup>4</sup> Though I draw on legal and historical discourse, these are not the primary focus. For contemporary historical studies in legal theory, see: Odeana R. Neal, "The Limits of Legal Discourse: Learning From the Civil Rights Movement in the Quest For Gay and Lesbian Civil Rights" (1996); Mary Anne Case, "Couples and Coupling in the Public Sphere: A Comment on the Legal History of Litigating For Lesbian and Gay Rights" (1993); Janet E. Halley, "The Politics of the Closet: Legal Articulation of Sexual Orientation Identity" (1995); and Patricia Cain, "Litigating For Lesbian and Gay Rights: A Legal History" (1993). For larger historical works, see especially Margaret Cruikshank, The Gay and Lesbian Liberation Movement (1992); Eric Marcus, Making History: The Struggle For Gay and Lesbian Equal Rights, 1945-1990 (1992); and John D'Emilio, Sexual Politics, Sexual Communities: The Making of A Homosexual Minority in the United States, 1940-1970 (1983).

How pervasive is the language of rights in public discourse? To what extent have gay rights become the cultural touchstone for many of the conversations about citizenship, democracy, and equality? Consider the following: the U.S.-based Press Pass Q, a biweekly electronic newsletter sent to gay and lesbian journalists worldwide, conducted a poll of its subscribers (over eighty respondents were consulted, including publishers, reporters, and editors) to determine the top ten gay and lesbian stories for 1999. Of the ten items on the list, seven are directly related to rights and the law. For example, one was the conviction of the killers of Matthew Shepard, a gay university student (discussed here in Chapter Five); another, the third on the list, was the Supreme Court of Canada ruling that the term "spouse" was discriminatory because it did not include same sex couples (discussed here in my Conclusion).<sup>5</sup> Not restricted to debates in gay and lesbian politics, this emphasis on rights is part of a larger cultural pattern of turning many of the important social issues and controversies into a "clash of rights" (Glendon 1991). Rights are simply there for the taking now, and have in many instances taken the place of a more sustained conversation about issues of difference, identity, privilege, responsibility, and inclusion/exclusion.

In relationship to rights, political affiliation, and the constitution of subjects, the thesis is informed by contemporary political thought that sees the work of politics as indeterminate, fortuitous, even surprising. It provides concrete discussion to illustrate how politics does not always line up in the neat, categorical fashion we have become accustomed to thinking exists in these debates. More than a refusal to see rights within a predetermined emancipatory framework (Wendy Brown 1995), this has the larger aim of addressing how liberal or even more "radical" political discourse often risks closing down the diversity it champions.

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<sup>5</sup> See Richard Burnett 1999a: 10, which I draw on here for this information.

To this end, the first theoretical source drawn on is Gayatri Chakravorty Spivak's (1988) discussion of the two dimensions of representation -- within the state, on the one hand, and within theories of the subject, on the other. Since this thesis investigates rights above and beyond arguments for or against them, this distinction provides an alternative framework for these debates. In the popular discourse of gay rights, the focus is almost exclusively on representation in the sense of the state. Equality is positioned as greater access to government representation, the law, and rights. This logic -- the political equation of more (representation) equals better (equality) -- is tendential in gay and lesbian politics and elsewhere, and completely excludes questions of subject formation. This thesis attempts to address this oversight by asking the following: What are the stakes involved in seeking representation in this way? What kind of subject do rights make possible? What kind of citizen is "useful" in the present political climate?

In the larger projects of cultural studies, gender studies, and queer theory, a good deal of work has been devoted to theorizing and critiquing philosophies of the subject, with the aim of providing a certain openness toward political subjectivity and identity. This work has, in many ways, precipitated a "transformational energy" (Judith Butler 1997a) in the academy and in the larger arenas of the social and the cultural. Their effects are the legacies we have inherited, and are what allow me to offer the critiques that follow. The very question of subject formation emerges out of these on-going projects. But in our attention to these matters, in opening up the forms of identity available to the modern subject, we have paid much less attention to the kind of political culture these projects are creating. In undermining opposition to difference by forging alternative subject formations, we have not sufficiently examined the political formations these oppositions are constructing along the way.

### **0.3 The Cyclical Nature of Politics: Contextualizing Discourse**

With that aim in mind, one of the underlying themes that emerges in the studies that follow is the extent to which political discourse is characterized by its cyclical nature. I mean to suggest that current political discourse is not only structured by prior discourses but has traces of them deeply embedded.<sup>6</sup> Though not historical in the proper sense of the word, these traces indicate the obvious: that the present political climate emerged from earlier and important political movements. But these traces serve as well as a challenge to the assumption that these more contemporary moments stand in stark contrast to them. It is for this reason that the thesis offers comparative analyses of the discourses of "gay liberation" with more recent ones. Implicit in the comparison are the questions, What can these traces tell us about the politics of speaking for that a focus on historical changes cannot? To what extent is contemporary discourse producing some of the limitations of the past? And to what ends?

Of course, there have been dramatic changes as a result of gay liberation and extensions of it, in the form of rights, identity politics, and a general increase in the legitimacy of homosexuality in the eyes of the public. As Craig Calhoun and John McGowan (see Calhoun1997) suggest in a collection on Hannah Arendt and "the meaning of politics," "[p]olitics itself has been opened up in a variety of ways in recent years," and gay liberation, among other things, is partly responsible for this opening. It has "called forth remarkably powerful and creative politics of identity."

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<sup>6</sup> To offer an example, consider the following articles. In a 1975 Time magazine article on "The Gay Drive For Acceptance," the cultural changes occurring during that period are linked to the prosperity of the gay bar: "once seedy, dark and dangerous, many gay bars are now bright and booming" (45). More than twenty five years later, a similar trend is observed, in almost the exact same language. In February 1998, an article in The Globe and Mail entitled "Gay Bars Come Out of the Closet," reports that: "As gays grow more confident, the traditional dark and dingy bar is giving way to clearer, airier, more creatively designed spaces" (Colman 1998). As Time reported, that supposedly already happened in the mid-1970s.

While “[o]ne may argue about whether this is a good or a bad thing, . . . it is clearly transformative” (2; emphasis added). According to Margaret Cruikshank, author of The Gay and Lesbian Liberation Movement (1992), “when a formerly taboo subject becomes so openly discussed that a college text can be written about it, some great change in attitudes has evidently occurred” (1).<sup>7</sup> Without refuting these claims, the studies that follow are motivated less by an understanding of the clearly transformative nature of gay liberation and the politics of identity than by a desire to see what can be learned by attending to the discursive regularities and continuities in the discourses of gay and lesbian politics.

Specifically, this is concretized in the projects addressed here in relationship to gay liberation or other identity-based projects and the broader, deconstructive goals of queer theory and politics. It is customary to see these moments as distinct responses to social and political realities, with distinct political agendas.<sup>8</sup> As Michael Warner points out, queer politics “go[es] beyond calling for tolerance of lesbians and gays” -- the strategy associated with gay liberation and identity politics -- to “assert the necessarily and desirably queer nature of the world” (Warner 1993). Though this thesis is indelibly indebted to both gay liberation and queer theory, it is not informed by a differentiation between the two. While there are important distinctions, to be

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<sup>7</sup> Or, as a number of newspaper articles put it: “It’s Great to be Gay” (Margaret Wente 1997); “Now That Gay Is Good and Glamorous” (1997); “We’re Here. We’re Queer. You Love It” (Johanna Schneller 1997); and, “Ah, The Lucky Lesbian Life” (Ricki Heller 1997). Interestingly, these articles all appeared the same year that Ellen deGeneres came out on her ABC sit-com Ellen (see my Chapter Six).

<sup>8</sup> Nancy Fraser offers an excellent analysis of this tension. Though she points out that there are some clear similarities -- she argues for example that the “queer recognition strategy . . . contains an internal tension: in order to destabilize the homo-hetero dichotomy, it must first mobilize ‘queers’” (1997: 37) -- ultimately she sees queer theory and gay liberation as distinct political moments (Fraser 1997: 37). See also the more popular treatment of this in Daniel Mendelsohn, “When Did Gays Get So Straight? How Queer Culture Lost Its Edge”(1996); and Sky Gilbert, “A Dark Victory For Queer Culture” (1997).

sure, I am more interested in the parallels, or traces, which offer a framework for the larger examination of how such projects inadvertently reproduce what they are said to oppose or overcome. To work in and through these discourses, then, is to acknowledge the important contributions they make while simultaneously refusing them any predetermined emancipatory place in the context of gay and lesbian politics.

#### **0.4 Liberation and Equality: A Democratic Tension**

The categories liberation and equality serve as broad parametres for the inquires that follow. They are terms that are pervasive in the discourses under analysis, a result of several historical developments, including the coining of the term gay liberation in the early 1970s and the primacy of rights in late twentieth century North American culture. Though liberty has a longer and more concrete history in political thought than the term liberation, I use them as synonyms, appropriate given the context of my critiques. In its most basic sense, liberty (and liberation) is often defined as freedom from arbitrary or excessive government rule, or more broadly, as freedom from control, interference, obligations, and restrictions in both personal and social arenas of life. Moreover, liberty is often seen as the tangible result of increasing equality, usually by way of rights. As the studies that follow demonstrate, however, these definitions do not even come close to articulating the complexities the terms encompass. In using them, then, I do not attempt to define concretely what they mean. Nor do I offer "better" or alternative frameworks for what a politics of liberation and equality might entail. I simply try to understand how they are employed when they occur, and how their operations set out and condition the limitations they entail.

In addition to helping define the parameters of the thesis, the terms are appropriate on a theoretical level because they highlight one of the central strategies for my critiques. Politically, philosophically, and practically, liberty and equality have always been in tension, a fundamental paradox between the rights of the individual versus the goal of social egalitarianism.<sup>9</sup> This classic political paradox is instructive, for it sets out a larger approach in the thesis, one that draws on political thought that does not attempt to solve such paradoxes but works in and through them. Taking the position that such tensions are the very stuff of politics, my own critiques are informed by a desire to learn from these tensions, to see them not as matters to be overcome but as moments for theorizing. They look, in short, to the limitations of liberation and equality in terms of what they aspire to.

### **0.5 Why Hannah Arendt?**

One of the major intellectual figures in the pages that follow is the political theorist Hannah Arendt. Arendt provides the thesis with a theoretical and political vocabulary for posing some of the debates that follow, and the specific theoretical and political import of her work will be discussed more fully in Chapter Two. At first blush, Arendt would seem a rather unlikely source for work on liberation and equality in gay and lesbian political discourse. Her rigid and unyielding distinctions between

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<sup>9</sup> For example, in order to champion freedom of expression, as a form of individual liberty, social equality, defined, say, as the right of certain groups to be free from discriminatory or even hateful speech, will have to be ceded. See especially, Isaiah Berlin, "Two Concepts of Liberty;" (1969); Ronald J. Pennock, "Liberty and Equality: A Democratic Tension," in his Democratic Political Theory (1979); Wendy Brown, States of Injury (1995: 67); and de Tocqueville, Democracy in America. Tocqueville argues that, when confronted with this tension, Americans prize equality over liberty every time: "liberty is not the chief and constant object of their [Anglo-Americans] desires; they make rapid and sudden efforts to obtain liberty and, if they miss their aim, resign themselves to the disappointment; but nothing can satisfy them without equality, and they would rather perish than lose it" (53-54).



the public and the private, or the social and the political, to name but one of the more limiting parameters of her political thought, would seem to suggest that Arendt would be less than useful for work in the domain of what many see as the properly private -- sexuality, sexual identity, and sexual politics. While acknowledging these limitations, Arendt's work is appropriate for fleshing out the twin concerns of the sexual and the political in ways that have hitherto not been addressed in gay and lesbian work. For example, What is the place of sexuality in a culture overwhelming concerned with rights? This requires attention not simply to the query, How does sexuality intersect politics, but conversely, how does politics intersect sexuality? If we can ask how sexuality is politicized, we must also apply the same epistemological task and ask how politics is sexualized. It is for this reason that the thesis draws more heavily on political theory for its critiques than on work in sexuality.

On a more personal note, I became intrigued by Arendt's writings not simply because of the challenge they offer to the current conversation, but because of Arendt's own relationship to her work and the political and cultural affiliations she had as a result of being a German-Jewish, female intellectual émigré, badges she wore with some discomfort. "I don't fit," Arendt once remarked of herself, a comment that, as Larry May and Jerome Kohn suggest, was meant to imply that Arendt was neither left nor right, liberal nor conservative, progressive nor reactionary (May and Kohn 1996: 1). Of course, Arendt was all of these things, often in great measure. But this can also imply, given the context of her life and work, that she did not easily accept or slide into the roles that were assigned to her, by birth or otherwise. Most famously, Arendt, one of the few prominent political intellectuals of her time who was also a woman, refused to take up the causes of the nascent women's liberation movement. To the dismay of some in her own time and to many in later years, being a woman was, for her, not a site for politicization.

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I was drawn to Arendt in part because the questions the thesis addresses emerge out of my own increasing discomfort -- both personal and political -- with the politics of speaking for across a variety of cultural, political, and theoretical formations. To put this in the current parlance, I could not find myself in the texts the thesis engages. For example, though conscious of the significance of the term queer in recent critical theory and the larger domain of the social in general, the forms of subjectivity being bandied about under its name were not attractive alternatives to the more mundane problems of identity associated with rights. I do not fit, I thought, in many of queer theory's versions of the subject. This is to suggest that I am both within and outside the discourses the thesis addresses; and more importantly, that to find oneself in such a position is not something that needs to be overcome but is itself the space for theorizing.<sup>10</sup> It is in many instances this sense of ambiguity is the impetus behind the choices made here, why certain issues are foregrounded and others are not.

Here we return to Arendt and the questions of identity, community, and theory her work forces us to confront. In a sense, Arendt positions herself in relation to her political interests as a kind of pariah, a term that is important in informing her political theory.<sup>11</sup> Though the term is multifaceted here and elsewhere, and though it is not one I take up for my own analyses, the notion of pariah in the sense of "not being at home in the world" is a useful critical tool when dealing with political issues

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<sup>10</sup> See, for example, Elspeth Probyn, who argues the opposite of what I am arguing when she claims in a critique of feminist autobiographical writing that "her text cannot reach into my context" (1993: 145).

<sup>11</sup> See especially: Arendt, "Between Pariah and Parvenu," Chapter 12 in her Rahel Varnhagen: The Life of a Jewess (1957); and Arendt, "The Jew as Pariah: A Hidden Tradition" (1944). See also: Ron Feldman, The Jew as Pariah: Jewish Identity and Politics in the Modern Age (1978); Richard Bernstein, Hannah Arendt and the Jewish Question (1996); and Hanna Pitkin, "Jewish Assimilation: The Pariah and Parvenu," Chapter 2 in her The Attack of the Blob (1998).

that are intimately connected with “what” we are. This understanding of pariah in Arendt’s own work arose in part as a consequence of her historical position as a German Jew living -- and thinking politically -- in the first half of the twentieth century. In the 1930s, with the rise of Hitler, Arendt, an intellectual who did not want to remain silent about what was happening around her, was caught between the choice of assimilation to German Nationalism or Zionism, love of the Jewish people and the state of Israel. Arendt chose ambiguity. That is, she refused to align herself with either cause. As she wrote in her first book, Rahel Varnhagen: The Life of a Jewess (trans. 1957), which predates Arendt’s confrontation with this decision, “only ambiguity points a permanent way out” (116).<sup>12</sup> Though she is speaking in this critical biography of the eighteenth century parvenu Rahel and not herself, it could be argued that Arendt adopted ambiguity in matters of political affiliation as an important theoretical and philosophical position. Refusing to be asked to be embraced and accepted by the very communities to which she belonged -- a community of women, of Germans, of Jews -- enabled Arendt to articulate some highly controversial positions on the very struggles being waged in their name.

In what can perhaps be seen as a less than ambiguous statement about her feelings toward being a Jew and her community of fellow Jews, Arendt sums this up explicitly in the following passage:

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<sup>12</sup> Arendt is referring here to Rahel Varnhagen, the Jewess in question, being caught in the “comically hopeless game” of assimilation to Gentile society. Arendt encourages the parvenu to “learn[...] history” so as to accept her Jewish identity. Arendt does not, in other words, suggest here that “ambiguity” might be something Arendt herself would later adopt when faced with a much more perilous situation than that which Rahel faced. And, as Arendt scholar Hanna Pitkin observes, Arendt never really explores what alternatives might have been available to becoming a parvenu. On one of two occasions, Pitkin points out, Arendt suggests that Varnhagen’s struggle for recognition might have been replaced by the “political” struggle for equal rights for Jews (see Pitkin 30). See also Young-Bruehl, Hannah Arendt: For Love of the World (1996: 89).

I am not moved by any "love" [of the Jewish people] . . . for two reasons: I have never in my life "loved" any people or collective, neither the German people, nor the French, nor the Americans, nor the working class. . . . Secondly, this "love of the Jews" would appear rather suspect. I cannot love myself or anything which I know is part and parcel of my own person (qtd. by Joanna V. Scott and Judith C. Stark, in Arendt 1996).

The ambiguity is the sense that, though Arendt was committed to many of the causes and concerns of Jewish life and identity in her political theory and her activism, she was cautious about having that commitment grounded in a love for "what" she is. In Arendt's political theory, this will manifest itself in her fear of the potential deworlding of public life that is for her the result of a too intimate association with identity-based political action (these terms are discussed in Chapter Two).

When applied to the topic at hand, this stance would most certainly be a thorn in the side of such notions as, say, gay pride, a love for that which is part and parcel of oneself. As I will discuss in Chapter Four, gay pride is not only seen as a personal slogan but has now been deemed a political right, not only by some gays and lesbians but by various human rights tribunals. Arendt's complete refusal of identity and politics in this contemporary sense, while short-sighted, is a useful reminder of the limitations that can result when the political conversation is deeply embedded in a love for one's community. What are the consequences for political debate when "pride" becomes tethered to the language of rights? My desire to remain within the context of speaking for, within those discourses spoken by or on behalf of gay and lesbian subjects, emerges as a result of wanting to bring closer attention to the problematic formations of community in gay and lesbian politics that are produced.

Consider, for example, the ways in which the physical and public spaces of urban neighbourhoods, that is, gay ghettos and their commercial establishments,

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continue to be discussed. In Great Gay in the Morning! One Group's Approach to Communal Living and Sexual Politics (1972), a sort of manifesto by a group calling itself the 25 to 6 Baking and Trucking Society, <sup>13</sup> we are told unequivocally that "[t]he aim of the gay male liberation movement . . . is to establish and maintain liberated zones for ourselves and our brothers . . . places where there is nothing to fear from loving men, where loving men, in all ways . . . is encouraged and supported. It's where you're at when you've really gotten into your homosexuality and dug it" (52). This is obviously an important sentiment at a moment in time when legal forces were intent upon keeping gays and lesbians from socializing in public with each other. But this tendency to see "commercial establishments, social institutions, neighbourhoods, resorts" (Blasius 1992: 647) as a "liberated zone . . . where lesbian and gay men can feel at home in and at peace with world" (Blasius 647) is still in evidence today. As one prominent American activist and author writes, "[t]he subculture is our refuge" (Vaid 1995: 230). <sup>14</sup> Or, as another writer recently put it: "[t]he subsequent fact of gay life render[s] it remarkably democratic: in gay bars, there was less socio-economic stratification than in heterosexual bars. The shared experience of same-sex desire cut through class and race" (Andrew Sullivan 1995: 203). This is because "[g]ay and lesbian communities bind us in a common humanity -- whether we come together to solve problems like AIDS, or to share support or to celebrate" (Vaid 381).

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<sup>13</sup> The name of the group, as the back of the book indicates, arose because "Somebody said 'Time is oppressive!' and stopped the clock at 25 to 6 -- and so the commune's name was registered in the phone book." The references to "Trucking and Baking" are left to the imagination.

<sup>14</sup> Vaid suggests, however, that the ghetto is part of the problem, and that "[t]he goal of a liberation movement must be to eliminate the need for gay and lesbian ghettos" (34).

Though much could be made of the mythologizing of gay culture in these passages, all share a certain attachment to community and belonging that could potentially foreclose a critical investigation of their politics. These manifestations of speaking for make it difficult for those of us already constituted as community members who feel neither the need nor the desire to belong in such ways to opt out of such attachments to our communities. I wonder what might be gained if we attempted to do so, if we insisted, in short, that perhaps a little ambiguity in matters of identity and belonging can point a way out. Or possibly even a way in.

## **0.6 Trajectories**

The thesis is divided into seven chapters plus a conclusion. The first two chapters offer a review of the theoretical commitments and disciplinary parameters informing it. Specifically, Chapter One, "Culture, Politics, and the Problem of Representation: Toward a Politics of Speaking For," focuses mostly on work in cultural studies and political theory in order to develop more thoroughly the concept of speaking for. It argues that cultural studies provides a limited framework for the questions that animate my critiques. As such, Chapter Two, "Liberation, Equality, and Uncertainty: Theorizing an Agonistic Politics," is devoted exclusively to work in political theory. Specifically, it draws on the work of Hannah Arendt and contemporary theorists who use her work to engage an agonistic politics. I argue that such an approach, with its emphasis on uncertainty, dissonance, and struggle as fundamental aspects of the political, might help circumvent some of the snags and pitfalls in gay and lesbian political discourse identified in the chapters that follow.

Chapters Three to Seven offer direct confrontation with various manifestations of speaking for. All of the issues and cases addressed therein are related either to liberation or equality, defined broadly. Chapter Three, "Community and Identity:

Critiquing Liberation's Reminders in Queer Theory and Politics," confronts the concepts of gay liberation and a liberatory politics by comparing some late 1960s and 1970s discourses with a number of more recent texts in queer theory and politics. In keeping with one of the central theoretical objectives of the thesis, this chapter demonstrates how recent queer critiques of the social, which aim to provide a certain openness toward identity and subjectivity, are paradoxically establishing very disciplinary and prescriptive protocols for politics.

Chapter Four, "Eroticizing Democracy, Democratizing Erotics: Homoeroticism and Citizenship," examines the relationship between erotics and citizenship, desire and democracy, and between beliefs and rights. It asks if these pairings are always and necessarily fruitful ones for gays and lesbians, and it does so by looking to a number of theoretical texts and specific cases of gay rights in Canada and the United States. The chapter argues that erotics and desire might not need the kind of politicization they are given in the context of a "radical democratic politics." It concludes with an examination of Gay Pride in the context of recent human rights rulings in Canada.

Chapter Five, "The Infantilized Citizen: Matthew Shepard and the Discourse of Hate Crimes," serves as a companion piece to the preceding chapter, offering an extensive analysis of the media coverage of the brutal murder of this young, gay American university student in the Fall of 1998. More specifically, it examines the ensuing calls to expand the notion of hate crimes to include sexual orientation. In posing the general questions, How far do we take gay rights, and how far can they take us?, the chapter looks to the contradictory effects of rights in this case by way of an understanding of the infantilizing processes that occurred in the media discourses surrounding Shepard's death. The chapter extends this analysis by arguing that a similar process is at work in relation to the type of citizen such rights produce.

Chapter Six, "What Are Homosexuals For? The Discourse of Utility in Gay and Lesbian Politics," considers two very disparate texts ("manifestos") written by two very different public figures in the American gay and lesbian movement, one who is considered liberal, the other conservative. The objective here in looking at these two specific texts, and in the question in the chapter's title, is to develop what I call the discourse of homosexual utility in gay and lesbian politics. That is, the belief that homosexuals have some larger function to serve in the social. Such a position has a long history in gay and lesbian politics, and the chapter aims to understand the implications of continuing to frame debates in this way. The chapter poses the question, What kind of subject is useful in the present political climate, and raises the possibility that homosexuals might not be for anything.

Chapter Seven, "Coming Out' in the Public Sphere: Or, What Does it Cost To Tell The 'Truth'?", returns to a very specific site of a liberatory politics by taking on a critique of the coming out narrative in gay, lesbian, and queer political discourse. In this chapter I locate the construction of the good homosexual and bad gayness in and through these discourses in order to make the claim that the gay subject is inadvertently being disciplined by the very project that is supposed to set it free. The chapter argues that we need to reconsider the whole notion of coming out as a holdover of a previous generation of political agitators, a notion that no longer automatically serves the political intentions it originally had.

The Conclusion, "Courting the Courts: Same Sex Marriage and Its Narratives of Exclusion," opens up onto another specific case of equality, same sex spousal rights and the drive to achieve gay marriage. Starting with the Supreme Court of Canada ruling on same sex spousal rights in May, 1999, and the adoption of the ruling in the province of Quebec, known as Bill 32, I return to some of the tensions and contradictions addressed earlier. I am not interested in arguing for or against such things as same sex marriage, but what the discourse surrounding it filters out



and excludes. It asks, for example, what is at stake in seeing the extension of such rights to gays and lesbians, rights which are primarily economic in nature, as coextensive with the murky category of human dignity on which it is based.

## CHAPTER ONE

### Culture, Politics, and The Problem of Representation: Toward a Politics of "Speaking For"

*We need to be able to insist that the rights of citizenship and the incommensurabilities of cultural difference are respected and that the one is not made a condition of the other.*

--Stuart Hall, "Culture, Community, Nation" (1993)

*[T]he shifting distinctions between representation within state and political economy, on the one hand, and within the theory of the Subject, on the other, must not be obliterated.*

--Gayatri Chakravorty Spivak, "Can the Subaltern Speak?" (1988)

#### 1.1 Let's Have a "Faggoty Dressup Party"

ON MARCH 12, 1998, in a speech given to a group of initiates into a legal fraternity at a large dinner party at Osgoode Hall Law School in Toronto, a newly-appointed judge to the Supreme Court of Canada said that he thought he might have been invited to a "faggoty dressup party." This comment came, Judge Ian Binnie responded later, as a result of reading a fraternity initiation manual that referred to "a fraternity flag, wigs, candles, and dramatic lighting" -- hence, the image of a faggoty dressup. The remark was front page news in The Globe and Mail, and was the lead story on the evening's CBC's The National.<sup>1</sup>

The expected responses to this volatile and infelicitous remark immediately ensued, including and most notably the assumption that Judge Binnie's remark "betrayed a hidden bias against gays" and that "[i]t may be an indication that he doesn't really perceive gays and lesbians to be a disadvantaged group in Canada"

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<sup>1</sup> See Kirk Makin, "Supreme Court's Binnie Apologizes For Gay Slur" (1998); and The National, CBC, 13 March 1998. See also Kirk Makin, "Binnie Draws Fire From Activists For Antigay Remark" (1998).

(qtd. in Makin 1998d); or: "If a member of the Supreme Court of Canada believes it okay in an after-dinner speech to make a derogatory comment about gays, it means he doesn't think it is wrong to discriminate against people on grounds of sexual orientation." New Democratic Party (NDP) Member of Parliament Svend Robinson, referred to in an newspaper article as a "leading gay-rights activist," commented that "he was very upset when he heard of Judge Binnie's remark" and that "the words are deeply offensive." He also noted that the judge had quickly apologized and Robinson thought the matter closed (qtd. in Makin 1998d).

In the course of twenty four hours, this remark went from being labeled a gay slur to an antigay remark, and raised questions about the judge's fitness to hear equality-rights cases. John Fisher, Director of the Ottawa-based group Equality for Gays and Lesbians Everywhere (EGALE), argued, for example, that "Judge Binnie ought to search his soul to determine whether he has an underlying anti-gay bias before he takes his place in the court."<sup>2</sup> He goes on to add that: "If a judge of the Supreme Court of Canada can use a hateful, derogatory word like 'faggot' [sic] without thinking twice about it, what hope is there for gays and lesbians in our struggle for equality?" (qtd. in Makin 1998b). An Osgoode Hall law professor specializing in equality and rights litigation argued as well that "I don't think his apology will prove sufficient for the gay community because he has raised concerns about his ability to treat gay and lesbian people with dignity and respect, which are precisely the issues before the court next week" (qtd. in Makin 1998b). Michael Leshner, an Ontario prosecutor active in the gay rights movement, filed a complaint

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<sup>2</sup> Judge Binnie was at the time of the remark involved in the case known as M. v H. involving a section of Ontario's Family Law Act which excludes gays and lesbians from provisions governing support payments in the break up of common law unions. See Kirk Makin, "Gay Rights at Crossroads as Case Opens" (1998). In May 1999, The Supreme Court of Canada ruled, based on this case, that the current definition of spouse was indeed unconstitutional because it excludes same sex couples. This ruling will be discussed in my Conclusion.

to the Canadian Judicial Council. In his letter, he writes: "Please, on behalf of all Canadians who love the institution of a Supreme Court of Canada free of slurs associated with schoolyard bullies, conduct an immediate investigation" (qtd. in Makin 1998b). The Canadian Judicial Council rejected the complaint in what was called the "swiftest decision the council had ever made" (Makin 1998a). In response to Judge Binnie's subsequent attempt to explain how this term just "popped out," Leshner opines that the explanation about the initiation manual is too easy: "How does that, in 1998, conjure up an image of 'faggoty dressups'? . . . We know what that [image] is -- a bunch of dancing, preening queens. It is the worst stereotypical image in our society. It is an image that used to cause straights to throw eggs at gays and lesbians on Hallowe'en" (qtd. in Makin 1998b).

Adding yet another level to this rich moment, Judge Binnie later suggested that the term was recalled in his mind from an old Globe and Mail review of Macbeth. The Globe and Mail saw it prudent to conduct a search of their archives to see if, indeed, this phrase had been used in their pages. Congratulating Binnie for his admirable memory, The Globe and Mail revealed that the reference was made in a 1967 column by television critic Dennis Braithwaite, although it was a review of The Taming of the Shrew and not Macbeth. In the review, Braithwaite criticized the CTV television network for not showing enough hockey fights by offering a scathing review of a televised program of the Shakespeare play: "Shakespeare didn't believe in stage directions or those bracketed character descriptions which means that directors can give the play any shape they want to. The prevailing convention among CBC directors seems to be: play it fey, fellows. It's nothing but a faggoty dressup

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party, really, so let's have fun, fun, fun" ("Source of Binnie Remark Traced to Globe Archives").<sup>3</sup>

In reference to the paradox of liberation and equality mentioned in the introduction, and which serves as a framework for some of the inquiries that follow, these comments illustrate the difficulty of championing and upholding both ideals in a democratic culture. On the one hand, if we are a culture that values individual liberty, defined in this instance as freedom of speech, we must be willing to accommodate Judge Binnie's remark -- however much we may dislike it or find it offensive. On the other hand, if we are a culture that values social equality, defined in this instance as the rights of gays and lesbians not to be subjected to such forms of speech, then Judge Binnie's individual liberty must be ceded or held in check.

Broadly speaking, this example illustrates an argument central to the thesis as a whole: that a conceptualization of politics and the political that purports either in theory or in practice to resolve the paradox of inequality is one that engenders remainders that have serious stakes for gay and lesbian representation and subjectivity. I start with this example to suggest that, rather than seeking to resolve this paradox, a number of questions cannot get addressed within the terms of the debate as outlined in the passages above. It is this understanding of that which cannot get spoken as the site for critical investigation that animates many of the critiques that follow. First of all, what is going on in the assumption that such speech acts like faggoty dressup party constitute a hidden bias against all gays and lesbians and an indication of the perilous state of our equality in Canada? Moreover, why is such a remark automatically taken up as deeply offensive, derogatory, or hateful? With the privilege of hindsight, that such a term might indicate a hidden bias against

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<sup>3</sup> The references to CTV and CBC are not an error on my part. It is not clear from the article why CTV is being criticized with a reference to CBC dramas.

gays or an inability to treat us as equal before the law does not seem to be the case thus far in Judge Binnie's subsequent actions on the bench. More than a year later, the Supreme Court of Canada ruled in what is considered a landmark decision that the exclusion of same-sex couples from the definition of common law spouse is unconstitutional and discriminates against gays and lesbians. Only one of nine judges dissented in this ruling -- and it was not Judge Ian Binnie. As one article reports, "[t]he old minority of the court -- those already prepared to see homosexual couples placed on equal footing with heterosexuals -- has won over the newcomers" (qtd. in Elena Cherney).<sup>4</sup>

Secondly, what kind of politics is premised on the elimination of such speech acts from the public discourse as a necessary component of the struggle for equality? And for whom do these responses speak? Keeping in mind that it was not the judge who brought these comments into the public discourse in the first place -- it was the media, who jumped on this phrase with unprecedented alacrity -- can we, and do we really want to, make the leap that this remark reveals an underlying bias toward gays and lesbians, or that this speaks of a perilous state of equality for gays and lesbians everywhere? If equality in the public sphere is premised on inclusion to access to the means of democratic participation, might it conceivably be argued that such a statement invites inclusion and participation, rather than simply promoting inequality?<sup>5</sup>

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<sup>4</sup> For coverage of this landmark ruling, see Elena Cherney, "Dissenting Judge Shies Away From Spotlight" (1999); Kirk Makin "Gay Couples Win Rights" (1999); and Jonathan Gatehouse, "Landmark Gay Ruling Could Affect 1,000 Laws" (1999). The American publication The Nation referred to the ruling as a "breathtaking leap forward in lesbian and gay rights" in Canada, leaving our neighbour south of the border "in the dust" (E.J. Graff, "Same-Sex Spouses in Canada" 1999).

<sup>5</sup> Indeed, comparing the original 1967 use of the term with reactions to Judge Binnie's recuperation of it would seem to suggest that there is little tolerance for such comments, that such terms are no longer acceptable to many people -- as they might have been in 1967.

Moreover, what these responses to the term faggoty dressup party assume is a gay or lesbian subject in need of protection from such bullying remarks, a subject so fragile and vulnerable that it can find nothing in these words but offense and degradation. This is what I will refer to throughout as evidence of our wounded attachments (a term I take from Wendy Brown, 1995), an unfettered devotion to suffering as the site for the negotiation of identities and political contestation. It is one of the remainders of a political discourse that assumes it can speak for all, that it can represent an entity called gays and lesbians: that is, it assumes that we are all equally offended by such remarks, a universalizing of identity which is accomplished in this instance by the epistemological certainty "we know what that is."

This response misses a number of crucial points: Do we really know what this means? And who is the we to which these responses refer? It was the gay-rights activist, and not the Supreme Court Judge, who conjured up for me an image of dancing, preening queens. I was content to entertain the possibility that what he meant was a group of well-dressed, well-coiffed, well-perfumed career men -- another stereotype indeed, but one which questions the force of the "we know what that is" relied upon in the response. What I am suggesting here is the need to open up the space of critique to accommodate the possibility that, rather than simply being offended, at least some of us might have derived some pleasure from hearing and reading the phrase faggoty dressup party repeatedly in such a dominant public as our usually staid national news outlets. In examining what such a politics forecloses and precludes, this thesis aims to provide a critical interrogation of the kind of political culture created by such manifestations of speaking for. It investigates, in short, what kind of politics might be possible if we refuse these linear arguments, if we could see something more than simply offensive conduct in such actions and our responses to them.

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## **1. 2 Interdisciplinarity: Cultural Studies, Political Theory, and "Two Dimensions of Representation"**

This chapter serves to address the disciplinary parameters and commitments informing my critiques of gay and lesbian political discourse. It does so by exploring a number of different theories of representation in cultural studies and political theory, as well as by examining how they have been employed in various works on sexual politics and difference. Taking as a point of departure Gayatri Chakravorty Spivak's comments on the two dimensions of representation -- within politics, on the one hand, and theories of the subject, on the other -- the chapter navigates the notion of representation in the theoretical terrain of cultural studies in order to problematize the reliance on the concepts of difference endemic in its projects.<sup>6</sup> In other words, cultural studies, while necessarily informing many of the debates that ensue, provides an insufficient and limited framework for the analysis of the cultural politics of gay and lesbian liberation and equality. The overarching embrace of difference in cultural studies means that a number of key concepts do not fall within the purview of its analyses. This necessitates an auxiliary theoretical framework, which has led me to see political theory as an equally important avenue for investigation. I do not suggest here that political theory can respond unproblematically to the questions of representation (which will be addressed), but attempt instead to integrate a number of diverse and intersecting perspectives. The political theory drawn on in later chapters of this thesis helps inform an understanding of the political stakes of liberation and equality, not simply as aspects

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<sup>6</sup> A small little industry has developed in response to Spivak's work in this and other pieces. I will limit myself to Spivak's comments in this article and not reopen the debate.



of cultural difference but as aspects of representation within the state and democratic politics.

The link between cultural studies and political theory is further framed in this chapter in terms of the concept of community. In thinking through some of the discursive modalities of community, this thesis argues for a giving up of appeals to community mapped out as relations of solidarity among its members. It argues further for a thinking through of community and its relation to politics, to bring representational politics back into what cultural studies refers to as "the cultural politics of community," which tends to foreground the cultural. This is not to argue, as some have, that cultural issues like difference get in the way of "real politics" (see Willis 66). Rather, I argue that we need a more sustained engagement with what kind of political culture this cultural politics of community creates. For whom does it speak, and what avenues of critique are foreclosed in the embrace of the communal in the context of cultural difference? The chapter concludes with a discussion of Nancy Fraser and Iris Marion Young, political theorists with a vested interest in resolving the paradoxes of democracy.

In "Can the Subaltern Speak?" (1988), Gayatri Spivak offers an important critique of Deleuze and Foucault,<sup>7</sup> in which she suggests that, despite the much-celebrated critique of the sovereign subject that Deleuze's and Foucault's work and postmodernism generally exemplifies, the sovereign subject is inaugurated and called upon on several occasions throughout this conversation. In reference to Foucault's well-known rejection of theories of ideology,<sup>8</sup> Spivak argues that Foucault

<sup>7</sup> Specifically, the interview "Intellectuals and Power" (see Foucault 1989).

<sup>8</sup> Spivak's point in the article is to question precisely this evacuation of ideology in Foucault and Deleuze, a term I do not engage with in this project. See also Michèle Barrett, The Politics of Truth: From Marx to Foucault (1991), which discusses the place of ideology in Foucault's work.

simply substitutes this with another corollary, namely: "an unquestioned valorization of the oppressed subject." As Deleuze remarks, the objective is "to establish conditions where the prisoners themselves would be able to speak." To which Foucault adds that "the masses know perfectly well -- clearly. . . they know far better than [the intellectual] and they certainly say it very well" (qtd. in Spivak 274). In other words, Foucault seems to be suggesting that the oppressed subject, the subaltern, can fully know, act, and speak, what Spivak refers to as a paradoxical subject-privileging (275). Spivak's response to these surprising moments in Deleuze and Foucault is significant for a number of intellectual and disciplinary endeavors, specifically her pointed question: "What happens to the critique of the sovereign subject in these pronouncements?" (274).

In a rather different context, but with a similar tone and similar end, Rosemary Hennessy (1995) puts Foucault's critique of the sovereign subject under the lens of critical scrutiny. Within the context of Foucault's elevation to near god-like status in queer theory and gender studies, Hennessy comes up on the side of Spivak's critique (though she does not look to Spivak), locating in one of Foucault's much-quoted pronouncements a similar return of the sovereign subject. In one of his last interviews, Foucault pleads: "But couldn't everyone's life become a work of art? Why should the lamp or the house be an object, but not our life? . . . From the idea that the self is not given to us, I think that there is only one practical consequence: we have to create ourselves as a work of art" (qtd. in Hennessy 166).

Hennessy's argument is that much of queer theory and queer reading practices, inspired in part by Foucault, share many affinities with the history of the avant-garde in the West -- specifically, a reverence for all things aesthetic -- and

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that they are, to their detriment, in the process of repeating them.<sup>9</sup> Through an analysis of three authors of the new queer canon," or the new cultural elite of academics<sup>10</sup> [Judith Butler, Gender Trouble (1990), and Bodies That Matter (1993); Teresa de Lauretis, "Film and the Visible;" and "Sexual Indifference and Lesbian Representation;" and Eve Kosofsky Sedgwick, Epistemology of the Closet (1990)], Hennessy suggests that "[q]ueer theory and activism's conception of identities as performative significations anchored in individual psychic histories is not very far from . . . [Foucault's] notion of identity as self-fashioning" (166). In other words, what happens to the critique of the sovereign subject in queer theory's pronouncements? Supported by postmodern philosophies of the subject and revisions of psychoanalytic interpretations of the self, this notion of identity "poses art -- not social change -- as the goal of a new ethics" (166).<sup>11</sup>

The importance of Hennessy's argument in the present context of my discussion of Spivak and representation is her insistence that the "reigning Foucauldian materialism that reduces the social to the cultural or discourse" (143-144) needs to be critiqued, a remark which, in its theoretical implications, bears a striking similarity to that of Spivak. As Spivak suggests, a consequence of the troubled relationship with representation in Foucault and Deleuze is a reinscription of a sovereign subject in subaltern studies; Hennessy suggests too that a Foucauldian-

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<sup>9</sup> On the status of Foucault in queer theory, see Robyn Wiegman (1997), who has gone as far as to call for "a certain Foucauldian function for the university," defined as a view of education that functions not to "liberate the individual into enlightened citizenship," but one in which the "individual is tied to the economic and political forms of the nation-state." By doing so, she insists, we can and should "queer the academy" ("Queering the Academy" 1997: 5).

<sup>10</sup> This term is Steven Seidman's, not Hennessy's. See his "Deconstructing Queer Theory or the Under-Theorization of the Social and the Ethical" (1995: 123).

<sup>11</sup> For a critical reading of Hennessy's critiques, see Dennis Allen, "Lesbian and Gay Studies: A Consumer's Guide" (1997).

based social critique of sexuality (a.k.a. queer theory) runs "the risk of promoting an updated, postmodern, reinscription of the bourgeois subject's fetishized identity" (153), or what she calls in reference to Fuss, Butler, and de Lauretis the "postmodern fetishizing of sexual identity" (155).<sup>12</sup> Though Hennessy does not really provide a "solution" or an alternative -- except to argue that if theorists are interested in social change they must challenge more than discourse -- her critiques need to be taken seriously, especially the claims about identity as a form of art and that the social is often reduced to an arena of cultural representation.

In addition to those cited here by Hennessy, a number of other contemporary texts reveal this reverence for the aesthetic as a profoundly political project. Eve Kosofsky Sedgwick, one of the most important figures in the institutionalization of gay and lesbian studies, refers to "lesbian and gay worldly spaces" like "butch abjection, femitude, leather, pride, SM, drag, musicality, zines" (1995: 13). Lauren Berlant, one of the more prominent queer theorists at the moment, uses the trope of "diva citizenship" throughout her engaging collection of essays The Queen of America Goes To Washington City (1997). Most strikingly of all, Elspeth Probyn, in a text that moves between gender studies and gay and lesbian studies, calls for the necessity of "feminisms with attitude" (1993: 139), looking for inspiration to "the virile girl, the butch baby, full of attitude but not of scorn, lots of street smarts and a bit of muscle" (Sue Golding, qtd. in Probyn 1993: 138). "This attitude must," Probyn maintains, "be grounded in the profound recognition of difference" (1993: 143). It is clear from such

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<sup>12</sup> Hennessy writes that, "because it is consistently framed in terms of the individual psyche and its history, the subject for Fuss is ultimately an updated version of the bourgeois individual" (155). Of Butler, Hennessy suggests that her "approach to the problem of identity begins with the premise that identity is only a matter of representation, of the discourses by which subjects come to be established. . . . Butler effectively conflates the materiality of the social into the cultural" (148-149). For de Lauretis, she maintains, "lesbian excess is fundamentally and exclusively a matter of cultural representation" (157).

quotations that a reverence for the aestheticization of the self as a political gesture profoundly marks the contemporary politics of sexuality. That is, representation is configured as a type of self fashioning, a tendency in queer theory generally to theorize representation as theories of the subject. <sup>13</sup>

My point in drawing attention to the arguments above in these two seemingly disparate texts by Spivak and Hennessy is this: one of the reasons the sovereign subject resurfaces where we might least anticipate or desire it, one of the reasons decidedly anti-postmodern strains appear in postmodern critiques, has to do, in Spivak's argument, with an incommensurability between two dimensions of representation. In reference to Deleuze's comment in the above article that "there is no representation; there's nothing but action," and that "[r]eality is what actually happens in a factory, in a school, in barracks, in a prison, in a police station" (qtd. in Spivak 275), Spivak argues that, if this is the case, Deleuze's point is problematic on a number of fronts:

two dimensions of representation are being run together: representation as "speaking for," as in politics, and "re-presentation," as in art or philosophy. Since theory is only "action," the theoretician does not represent (speak for) the oppressed group. Indeed, the subject is not seen as representative consciousness (one re-presenting reality adequately). These two senses of representation -- within state formation and the law, on the one hand, and in subject-predication, on the other -- are related but irreducibly discontinuous (275; emphasis added).

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<sup>13</sup> As I will argue more extensively in Chapter Three and elsewhere, this structuring of attitude as a type of identity or self-fashioning in sexual politics can be seen as akin not only to the history of the avant-garde but as a direct holdover of 1970s gay liberation. As Carl Wittman writes in "A Gay Manifesto" (originally published in 1968), "a major dynamic of rising gay liberation is the hip revolution within the gay community. Emphasis on . . . expressing yourself through hair and clothes are all attributes of this . . . the hip street culture" (341). There is something quite perilous in announcing a social and political movement that is still in process within these terms. As I will demonstrate later, many contemporary political and cultural practices share this tendency to declare their actions as revolutionary or emancipatory from the outset, something I want to caution against.

Against these postmodern pronouncements that there is no representation, Spivak reminds us that the subject, for her, does not exist *en soi* but only through representation, which is what makes the theoreticians' actions highly political. Spivak goes on to suggest that if we are not yet willing to give up the critique of the sovereign subject, then the distinction between representation as state and political economy, on the one hand, and as theories of the Subject, on the other, must be maintained (275-6).

I refer to Spivak's argument here because it sets out an important debate I want to pursue on my own terms.<sup>14</sup> If Spivak is onto something, then the implications of these two dimensions of representation and the tendency to elide them have far-reaching implications and consequences for a number of areas. There are two items in Spivak's comments that I want to underscore. First, in theorizing representation primarily as theories of the subject and subject formation, the majority of discourses that speak for gay and lesbian subjects do so in the interests of upsetting the prevailing definitions of the subject being constructed, usually as a form of resistance to dominant representational practices. What is most often left out of these discourses is an engagement with the politics involved in attempting to speak for such subjects in the first place. This can be put more clearly if we return to my example of the faggoty dressup party from the beginning of the chapter. In part, these responses to Judge Ian Binnie's comment attempted to repudiate it, and discipline Binnie in the process, by suggesting that it rearticulates a stereotypical (always in the negative and therefore homophobic and unacceptable) image of the

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<sup>14</sup> Clearly, the article referred to in Spivak and the interview in Hennessy can not be taken as exhaustive of Foucault's vast body of intellectual work. Furthermore, it could be argued that, while Spivak chastises postmodern critiques for not attending enough to representation in the sense of speaking for, her own project in "Can the Subaltern Speak?" is as extreme in the other direction, ignoring the aesthetic or cultural dimension of representation almost entirely.

gay male as a dancing, preening queen. Whether or not that is the image Binnie desired to conjure up, or whether that was how the comment was interpreted by his audience, can never be ascertained with certainty. Nor is that what interests me. More important is the fact that such respondents never stop to ask if this representation (recall the phrases "we know what that is;" or "I don't think his apology will prove sufficient for the gay community . . .") adequately speaks for all gays and lesbians. Like so much of the discourse of liberation and equality, it is assumed as a given that our responses to such moments will be the same, conditioned as they are by our identities. In other words, such representations of gays and lesbians by gays and lesbians themselves do not get questioned within the terms of this discourse. It is the prevalence of this practice that I want to begin to question here in the notion of the politics of speaking for.

Secondly, Spivak's comments are useful here for outlining a predominant treatment of representation across a variety of theoretical and political practices. Cultural studies, gay and lesbian studies, and queer theory and politics all share this troubled and conflictual relationship with these two dimensions of representation. Though much of the work in the following chapters deals with certain themes and concepts derived from cultural studies, cultural studies' emphasis on representation as theories of the subject (most notable in the centrality of the concept of difference in much of its literature) over and above that of representation as state formation and the law offers only one framework for analysis. Of course, I am not suggesting that these two dimensions of representation do not make their way into the literature. Indeed, questions of rights, the nation-state, citizenship, and the postmodern subject have been and continue to be important sites for theoretical and political work in this field. As I will demonstrate, however, the overriding concern in these projects with cultural difference means that theories of the state and the law

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are severely attenuated at best. This has led me to see political theory as an auxiliary theoretical framework for my critiques. Not abandoning theories of the subject, some of the debates that follow emphasize the need for a more sustained engagement with representation as state formation and the law, if only to ask, What kind of subject is possible in and through the state? In other words, I want to question the prevalence in theoretical and popular discourse of the state and the law as the means of our liberation, to understand more thoroughly what is at stake in seeking representation in this way.

Additionally, throughout the chapters that follow, and in keeping with my argument that the distinction between these two dimensions of representation are often collapsed in theories of sexuality and sexual politics, I locate another tension: on the one hand, a politics of speaking for, the articulation of "our" needs and demands in democratic culture, necessitates a constituted and consolidated "we" of political agency; on the other hand, much progressive political work in the area of sexuality demands that we question how this "we" constitutes and consolidates its subjects. It is a tension then between political representation and amorphous subjectivity, one that can be found in the coinage of terms such as "queer civil rights" or "queer citizens." Though we might concur, say, with Butler's important contention that the "we" of feminism is "tenuous . . . illusory . . . and phantasmatic," and though we may agree that this is cause for celebration, since it opens up the possibilities for bodies, genders, and politics itself (Butler 1990: 142), this "we" can be more readily and efficaciously valorized when questions of subjectivity and the cultural subject are at stake. It is another matter when this phantasmatic we occupies the space of state representation, which requires a certain formation of community that is consolidated, constituted, and coherent -- indeed, constituted as coherent. The "subversion of identity" (à la Butler) possible in and through this deconstructed we has little to say to the projects of representing



communities as political constituencies, with their needs, demands, rights, desires, and options in democratic participation. "Obviously," Butler argues, "the political task is not to refuse representational politics -- as if we could" (1990: 5), but it rests there in many of the projects that have taken up Butler's work. If nothing else, this tension further supports the claim that the distinctions between representation as state formation and the law, on the one hand, and as theories of the subject, on the other, remain distinct. Or, as Stuart Hall (1993) puts it, rights of citizenship and cultural difference must not be made dependent upon one another.

### **1.3 Rights of Citizenship and the Incommensurabilities of Cultural Difference**

In response to my suggestion above that cultural studies generally privileges the cultural and tends therefore to ignore or absent representation in the sense of state representation or the law, or at least does not maintain the distinction, there are a number of important exceptions that attend to these two dimensions of representation, and should be addressed here. In "Culture, Community, Nation" (1993), Stuart Hall provides an important framework for thinking about representation within the field of cultural studies that articulates precisely the conflictual and problematic relationship with the two dimensions of representation to which I have been referring. Though Hall employs a slightly different vocabulary than Spivak, he advances a similar claim. Hall writes that:

In the matter of citizenship, of course, there are minimal responsibilities to those others with whom one shares a political community, just as there are "rights." But, far from collapsing the complex questions of cultural identity and issues of social and political rights, what we need now is greater distance between them. (360-361; emphasis in original).

Hall goes on to suggest that, though both the rights of individuals as citizens and issues of cultural difference need to be respected equally, one must not be made a condition of the other; they must remain separate entities (361). Hall's intervention into the complex questions of cultural identity and social and political rights could easily be framed in the vocabulary of Spivak: he is arguing that the shifting distinctions between representation within the state and political economy (that is, social and political rights) and within theories of the subject (that is, cultural identity, or cultural difference) must be seen as incommensurable and irreducibly discontinuous.

One can easily discern in Hall's words here the motivation behind such a claim: namely, a certain desire to rid the politics of identity of its recourse to foundational truths, to extricate from questions of cultural difference the universalism that claims to rights, with their liberal heritage, enunciate. Indeed, only by doing so can Hall's political community embrace the cultural differences that are so central to his argument and the work of cultural studies more generally.

While Hall's thesis that we need greater distance between social and political rights and cultural identity is an important one, we are presented with a rather difficult problem in the present context of my discussion of the two dimensions of representation when Hall concludes his article with the following point: "The capacity to live with difference is, in my view, the coming question of the twenty-first century" (361; emphasis in original).<sup>15</sup>

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<sup>15</sup> This embrace of difference and the communal is not restricted to cultural studies theorists. It is also found in Iris Marion Young's Justice and the Politics of Difference (1990), and in Cornel West's "The New Cultural Politics of Difference" (1990). West "affirms the perpetual quest for the precious ideals of individuality and democracy by digging deep in the depths of human particularities and social specificities in order to construct new kinds of connections, affinities and communities across empire, nation, race, gender, age and sexual orientation" (34-35).

Hall makes similar overtures to difference as the term of cultural inquiry in "Race, Culture, and Communications: Looking Backward and Forward at Cultural Studies" (1992). He writes for example that "the work that cultural studies has to do is to mobilize everything that it can find in terms of intellectual resources in order to understand what keeps making the lives we live, and the societies we live in, profoundly and deeply anti-humane in the capacity to live with difference" (17). In the context of race in cultural studies, Hall suggests unequivocally that "[i]f you go to analyze racism today in its complex structures and dynamics, one question, one principle above all, emerges as a lesson for us. It is the fear -- the terrifying, internal fear -- of living with difference" (17-18; emphasis in original).

If difference is the central category of cultural inquiry and critique in the twenty-first century, what then do we do with social and political rights, or the rights of citizenship, which Hall suggests are incommensurable with questions of cultural difference? Though Hall addresses explicitly the two dimensions of representation, the overall focus on difference means that representation is first and foremost a matter of subjectivity, at the expense of questions of the state.

In an earlier article, "Citizens and Citizenship" (1989), written with David Held, Hall and Held argue less insistently that rights of citizenship and cultural difference be kept separate, paying closer attention to rights than Hall does in the article above. Taking a positive approach to the questions of rights -- positive in the sense of being generally supportive of them -- Hall and Held argue that contemporary social movements have upset the "universalizing thrust" of citizenship by their insistence on their cultural and ethnic differences. "A contemporary 'politics of citizenship' must take into account the role the social movements have played in expanding the claims to rights and entitlements to new areas" (176; emphasis in original). In other words, the positive aspects of difference have meant an increase

in state representation, which is framed here as an inevitably positive transformation of the social.

Some strains of Hall's later argument in the article quoted above can be found here, especially Hall and Held's intriguing question: "Is there now an irreconcilable tension between the thrust of equality and universality entailed in the very idea of the 'citizen' and the variety of particular and specific needs of diverse sets of practices which constitute the modern political subject?" (177). Or, "[i]s this the right moment, historically, to be trying to define claims and entitlements in terms of membership of the nation-state?" (183-184). These caveats notwithstanding, Hall and Held celebrate citizenship and the nation-state as fundamental aspects of minority representation. Quite surprisingly, Hall and Held argue that: "It appears that a plausible resolution of some of the dilemmas of contemporary politics can only be provided if enhanced participation is embedded in a legal and constitutional framework that protects and nurtures individuals and other social categories as 'free and equal citizens'" (184; emphasis added). Though Hall and Held do address representation in terms of the state, or rights of citizenship, they offer here a highly problematic, and rather orthodox, vision of the state and the subject: they argue that, though the state guarantees citizenship rights to its citizens, these citizens also have the guarantee that the state will not arbitrarily exercise its power against them (177). Articulating a predominant sentiment in the literature on rights and cultural difference, these passages portray the state as the neutral or even benevolent vending-machine of social equality, and suggest that only through increased participation via the apparatus of the state can disenfranchised groups secure the protection and the nurturing they are said to need. This is the political equivalent of: more (representation) equals better (equality).

This is surprising not only because it upsets the logic of his later (1993) article, but also and more importantly because it develops little critical engagement

with the consequences and implications of appeals to the state for the distribution of cultural, economic, and individual equality, as well as for nurturing and protection. It is precisely the machinery of citizenship that in part constitutes the modern political subject, an apparatus that cannot and should not be taken as automatically driven by the interests of an emancipatory, egalitarian politics. As I will mention later in reference to Wendy Brown, Hall and Held's resolution here to the problems of contemporary citizenship casts political subjects in need of protection and nurturing by the state, which perpetuates rather than disrupts the identities on which such claims are founded: the constitution of the modern political subject as wounded, injured, and suffering (Wendy Brown's terms). What is left out of these equations is the possibility that, as Brown argues, the state actually grants itself a good deal of its right to govern, to exercise power, by offering its citizens the protection and nurturing both the state and many of its citizens (including Hall and Held) assume political subjects require and demand (Brown 1995: 109).

What is interesting to note here is the way rights are framed only as entitlements (extensions of the privileges accorded to dominant groups), to the exclusion of the responsibilities and duties that rights also entail. In other words, seeing the positive achievement of rights as the inclusion of previously disenfranchised groups, we forget how rights may also produce the subjects they are said to emancipate.

#### **1.4 The Cultural Politics of Difference and Community**

Though the contemporary cultural politics of citizenship endemic to Anglo-American cultural studies necessarily foregrounds questions of rights and state representation, the stakes involved here are rarely explored far enough. How do we account for this absence of critical engagement with rights and subject formation via

the state? I think it has something to do with the inherent political motivations of cultural studies, what I would refer to as a desire to promote and celebrate difference, to value the qualities and characteristics of community, over and above most other themes. To be sure, Hall and Held maintain that the politics of citizenship begins with issues around membership, with "who does and who does not belong" (175). They approach the issue of rights of citizenship with the goal of creating a sense of community as inclusive as possible, one that allows its individual members to share the benefits of a community of citizens, with its universalizing thrust of social and political equality, while still maintaining their individual cultural traits and characteristics -- their differences. They write, for example, that "permanent residents in the society, whatever their difference of origin, history, and culture, must be able to claim common rights and entitlements, as full members of the political community, without giving up their cultural identities" (187). Hall and Held refer to this as a "key entitlement" in any modern conception of citizenship.

For Hall and Held, and many others writing under the rubric of cultural studies, the other, the subaltern, is presented as a challenging and disrupting force against the universalizing thrust of citizenship by its insistence on its differences. While not rejecting or refuting these claims, or the necessary and important interventions they make, a politics of speaking for looks less to advance a politics of inclusion as disruption in the community of citizens than to question whether or not disruption of the universality of citizenship is the necessary end result of subaltern inclusion. It asks instead whether inclusion is always a desirable or politically efficacious project for such groups.

Bringing together this understanding of inclusion as disruption, Lisa Duggan, in her appropriately titled article "Queering the State" (1994), offers a compelling and timely account of the impasse, or the language gap, that exists between the constructionist nature of queer theory and public political discourse. Duggan poses

the poignant question, "How do we [that is, queer theorists] represent our political concerns in public discourse?" (5). Her response to reconciling this tension is to "queer[...] the state." Differentiating between queer politics, which lays claim to public cultural spaces, and lesbian and gay civil rights strategists, who have been the ones most preoccupied with the politics of the state, Duggan believes it is time for queer theory to take a more active interest in the state and articulate our political concerns "within a widely understood and accepted liberal discourse" (9), namely: we should borrow from the liberal language of the separation of the church and state in order to underscore that the state has no more right to establish a "state religion" than it does a "state sexuality." This state sexuality is, in Duggan's words, "the religion of heterosexuality" (9), and by adopting this new language "[w]e might become the new disestablishmentarians" (9). In this way we can reverse the terms of "antigay propaganda" and articulate the many ways the state promotes and produces special rights for heterosexuality (9). While compelling, Duggan's proposal presents a number of conundrums.

I want to address these by referring to a hypothetical theoretical perspective that might, at first glance, appear to be useful for informing my own critiques. As many have argued, queer theory is interested not simply in sexuality but the social - - which means that many contemporary institutions must come under its analysis. As such, it would seem appropriate in this context to analyze the place of rights by calling for a queering of rights (along the lines of the calls for queering the state [Lisa Duggan] or queering the academy [Robyn Wiegman 1997]). This would, perhaps, underscore the power relations embedded in them, as well as the normative institutions on which they are based. But it is not the course I chart, not only because to do so would be to conflate the two dimensions of representation that need to be accentuated as conflictual and incommensurable, but because the project of queering rights (or anything related to state representation) is nonsensical. Rights

require a consolidated group identity, a coherent we, which goes against much of what the amorphous connotations queer is said to stand for. As Butler writes: "the assertion of 'queer' will be necessary as a term of affiliation, but it will not fully describe those it purports to represent" (1993: 230). The nomination of some cultural process or form as queer actively seeks to defy the logic of representation that rights require, which throws into question the efficacy or even the very possibility of queering the state. To put this another way, Duggan collapses the distinction between the two dimensions of representation, constructing queer (which has always been first and foremost about theories of the subject) as a radical site of difference for negotiation with state formation. There can, in short, be no such thing as queer rights.

Similarly, the concept of a queer community brings us up against the impossibilities of community at the level of the two dimensions of representation.<sup>16</sup> If queer is not meant to designate a constellation of identities or practices but a mode of existence, as well as a tool for analyzing the dissonances and excesses of the social itself, whom precisely does a queer community represent? For whom does it speak? The notion of a queer community (or a queer citizen) as a means of political (that is, state) representation is an oxymoron. There is a tension here between attempts, on the one hand, not to own the term queer, to wrench it away from specific sites of identity -- to keep it, in short, that which is always indeterminate -- and on the other hand, to render queer as the constantly reiterated site for specific struggles and identities: most commonly, "gay," "lesbian," "transgender," "AIDS," and now "citizen." This tension points up the very

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<sup>16</sup> See, for example John Erni, "Eternal Excesses: Toward a Queer Mode of Articulation in Social Theory" (1996: 574). This terms appears as a matter of course in both theoretical and popular writings; references to it are too numerous and ubiquitous to mention here.



impossibility of the concept of a queer community within the terms of representation at the level of the state: a community cannot represent itself if it is simply a term of affiliation that does not stand for a specific group.

### 1.5 The Community in Question

In Justice Interruptus (1997), Nancy Fraser offers an instructive footnote on the difference between the concepts community and the public, and her comments anticipate the agonistic reading of community and the political that I want to valorize for re-figuring some of the debates on gay and lesbian politics. Fraser writes that:

the concept of public differs from that of a community. "Community" suggests a bounded and fairly homogeneous group, and it often connotes consensus. "Public," in contrast, emphasizes discursive interaction that is in principle unbounded and open-ended, and this in turn implies a plurality of perspectives. Thus, the idea of a public, better than that of a community, can accommodate internal differences, antagonisms, and debates (1997: 97).

Fraser's juxtaposition of community and the public is a problematic one to the extent that it assumes that the term public is better because it is potentially unbounded and open-ended. This is of course questionable. There are many publics that are very closed indeed, as Fraser's own work demonstrates (see Fraser 1997; see also Habermas 1989). Her suggestion, however, that some modalities of community have difficulty accommodating internal differences and antagonisms points up some of the problems of community across a range of disciplines, discourses, and political practices, especially those that advocate feelings of belonging or solidarity among its various members. Such a vision of community will not be able to question its internal operations, to ask whether or not this really speaks for the community members in question.

This appeal to community can be found in a good deal of contemporary sexual politics, from the early days of gay liberation to the present. Gay historian and theorist John D'Emilio argues, for example, in his 1979 essay "Capitalism and Gay Identity" that "[t]he building of an 'affectional community' must be as much a part of our political movement as our campaigns for civil rights" (D'Emilio 1993: 475). More recently, Urvashi Vaid, former director of the National Gay and Lesbian Task Force in the United States, writes that the "shared gay and lesbian commitment to the creation of community. . . bind[s] us in a common humanity . . . [makes us] feel whole . . . [and] nurtures authentic relationships" (1995: 381). In "Love in A Cold Climate": Queer Belongings in Québec, Eslpeth Probyn (1994) begins with the question of what to with belonging, or, quoting Walter Benjamin, "the perplexity of living" (1). In other words, belonging is equated with living, which implies that belonging is the essence of existence, the fundamental aspect of identity. All of these discourses share a deep desire to embrace the communal and the affectional that community is said to permit; they are often articulations of communal practices against a hostile, external world. In this way, an oppositional politics is created whereby the community in question is defined in part against that which it is not -- a comforting, nurturing, and protective zone structured not by relations of dominance and subordination but by the celebration of members' own difference(s).

In "Communities, Environments, and Cultural Studies" (1994), Laurie Anne Whitt and Jennifer Daryl Slack articulate precisely the problems inherent in the concept of community in the projects of cultural studies.<sup>17</sup> Drawing on Iris Marion Young's distinction between unity in sameness versus unity in difference,<sup>18</sup> Whitt

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<sup>17</sup> Slack and Whitt provide a good overview of the term community in cultural studies and political science.

<sup>18</sup> See Iris Marion Young, "The Ideal of Community and the Politics of Difference" (1990).

and Slack reject a politics of unity in sameness (as does Young) because of its potential to eradicate the concept of difference all together. They develop instead a politics of unity in difference, defined as a "politically activated conceptualization of community" that yearns for "an understanding of social relations without domination in which persons living together in relations of mediation among strangers with whom they are not in community" (Young 303; qtd. in Whitt and Slack 13). That is to say, their community is established against a world of domination, where diverse members of many communities can come together in the formation of something new. While the critique of unity in sameness is an important, timely and promising one, Whitt and Slack are disabled by a limiting cultural perspective which potentially leads to a utopian vision of politics. If nothing else, Whitt and Slack's community in difference seems like a rather dull place to live. More importantly, however, as a political project for cultural studies, it presents a somewhat limiting notion of politics, to the extent that it evacuates the agon, the internal differences and antagonisms, in favour of solidarity. Like Michael Walzer's suggestion that "the denial of membership is always the first of a long train of abuses" (Walzer 62), or Hall and Held's claim that citizenship is about "who does and who does not belong," Whitt and Slack are primarily concerned with embracing the other in the comforting, protective bosom of the community. Despite their attempt to create something that is certainly more than an homogeneous group (Fraser), their unity in difference requires a great deal of consensus on the part of its members:

To value the communal as non-assimilative "unity in difference" is to embrace a "plural" conception of community . . . .Having insisted on "difference," we need to focus more attentively now on "unity" in the communal. Part of the effectivity of appeals to community, of what [Raymond] Williams described as the "warmly persuasive" quality of that term, is the connectedness which it connotes. It is these relationships among individual constituents of the community which are central to community; they are what constitute, and

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enable, a unity in difference within particular communities . . . Our suggestion will be that relations of solidarity and significance are the articulating principles of the communal (15-16).

Marking an ostensible transition from cultural studies' preoccupation with difference to unity and the communal, this focus on solidarity and significance as the principles of community nonetheless privileges a politics of consensus that ironically limits the plurality of perspectives such a community could accommodate. Surely politics must be about more than solidarity and community. Certainly community must be about more than solidarity. What kind of politics is warmly persuasive? What kind of politics promotes connectedness, solidarity, significance -- and nothing more? It is this warmly persuasive quality (persuasive of what?) in appeals to community that offers little space for critique of certain communities and community practices by those already constituted as community members. Though this may provide a plural notion of community (an embrace of cultural differences) it does not provide a plural notion of politics, plural in the sense that politics is an arena of discursive interaction and contestation in perpetuity.

This nostalgic yearning for the communal and solidarity cannot accommodate the internal contradictions of community within complex democratic systems -- it simply brackets contradictions altogether. This is a rather dubious embrace of difference, since it requires -- indeed, demands -- a level of consensus where all community members would want to live in relations of solidarity. What about members who do not want to live in relations of mediations among strangers? What about members who do not want to live in relations of mediations among other members of their community? What I am suggesting is that this embrace of the communal offers little space for already constituted community members to speak critically of such forms of community representation, and of what its members are said to want, to need, to deserve.

This valuation of the communal aspects of community has some serious ramifications in the political landscape. When applied to specific cultural and political practices, it asks that we pledge allegiance to a phantasmatic we whose collective interests promote a form of consensus about what it means to belong. In Outing: Shattering the Conspiracy of Silence (1994), Warren Johansson and William A. Percy congratulate the efforts of journalist Michelangelo Signorile for his vigilance in his outings (publicly announcing the homosexuality of prominent figures in the U.S.) in the pages of his Outweek and The Advocate columns. Outlining the polarization this debate has caused, between identification with nationhood or simply with the gay community, between the right of individual privacy versus group interest (articulated as "patriotic loyalty to the Queer Nation" [1]), the authors make the rather broad argument that, in matters of outing, principles of individual right need to be overridden in favour of loyalty to the collective Queer Nation as a superior good. In support of outing, they write:

The new practice [of outing] . . . signals the abandonment of a long-standing principle that participants in the homosexual subculture or the gay community do not reveal one another's orientation to a hostile and vindictive world. In the new concept of the Queer Nation, however, disloyalty through hypocritical perjury of one's identity seems to merit outing, even if the closeted are in no way harming fellow queer nationals. The need for collective visibility overrides the right of privacy (3).

In order to support this position, the authors purposefully reiterate the Christian discourse on deviancy and guilt to make the claim that the right to privacy is not absolute, that "such an absolute cannot be relied upon to protect the closeted hypocrite from public exposure." They continue: "Christian morality effectively vitiates and abrogated the privacy of those discovered to belong to the pariah community. Hence the queer nation, in its struggle against the burden of infamy, is not obliged to respect privacy if this serves to perpetuate its own defamation and

outlawry" (256). As one manifestation of an attempt to speak for and not against homosexuals, this is not only an unsettling form of jingoism (to the Queer Nation) but of the articulating principles of the communal.<sup>19</sup> Though I will argue similarly in the next chapter and elsewhere that we need to hold onto the understanding that rights are not absolutes, this is what we can expect when we insist on championing relations of solidarity and the connectedness community is said to promote.

Less problematic but equally limiting, Elspeth Probyn, who like Slack and Whitt draws on the work of Raymond Williams, urges us to recognize the "necessity for caring and tenderness within cultural criticism" (1993: 20), to "articulate, respect, and use our differences" (6). Probyn yearns for a technique of the self fully expressed in its relationship to the "care of others, in our communities" (6), a "political project of care and hope" (173). Though Probyn does not share Whitt and Slack's vocabulary of the communal and relations of solidarity, her project in Sexing the Self (1993) is driven by a desire to embrace the difference of otherness, to "extend the reach of questions about my identity so that they can touch and embrace those about hers" (2).

But what happens to the cultural studies theorist as a consequence of this desire to structure care and tenderness into cultural theory? Can the cultural studies theorist live up to this potential and still maintain a position of critique? In her final chapter "Without her I'm Nothing," Probyn takes a great deal of time and care in situating her "voice" in relation to the critique she offers of comedian Sandra Bernhard's film Without You I'm Nothing. Probyn's inquiries, however, do not live up to her own call for care and tenderness in cultural criticism. Probyn refers to Bernhard (definitely a "feminist with attitude") as "at times obnoxious," and charges

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<sup>19</sup> For a discussion of the political tactics of Queer Nation, see Lauren Berlant and Elizabeth Freeman, "Queer Nationality," in Berlant's The Queen of America.

her with pandering to “outrageous bad taste” (151) or a “distasteful politics” (156). She assures us that, in Bernhard’s film, we “can all find something to attack here” (151). Moreover, “Sandra’s appropriation of black culture” (158), or “Sandra’s desire to be black” (158) are “offensive” (158), and “Sandra comes off as inept . . . inescapably white” (159).

Probyn’s intervention here into Bernhard’s problematic and under-theorized articulation of her desire to be black is spoken against the contemporary tendency to declare oneself Other, which is why it is important. It is a question of positionality central to feminist critique. Against Gayatri Spivak’s claim that “what we are asking for is that hegemonic discourses, the holders of hegemonic discourses should de-hegemonize their positions and ask themselves to occupy the subject position of the other” (qtd. in Probyn 1993: 139), Probyn usefully refers to this in reference to Bernhard as “the postmodern ploy where ‘I’ can decide to be ‘other’” (139). It becomes clear, however, that care and tenderness in cultural theory is directed only at other cultural theorists. What are we to make, for example, of the fact that, though “Sandra’s appropriation of black culture . . . [is] offensive,” Probyn’s own analysis of Bernhard’s film makes a move similar to the one she opposes: “My reading,” Probyn writes, “borrows from some aspects of black feminist cultural criticism and attempts to look through their theorizing to use the film in order to see difference differently” (150). In other words, as long as one can guarantee that one sees difference differently and not reproduce power relations one can borrow as one sees fit. The problem is that, such a guarantee will be difficult to secure, regardless of who speaks and for whom.

### **1.6 Homosexuality: The “Unruly” Subject of Citizenship?**

I want to return now to the previous discussion of the two dimensions of representation. I will do so in order to underscore more directly how problematic their conflation can be in the area of the sexualized body and citizenship. In The Well-Tempered Self (1993), Toby Miller investigates the limitations and the possibilities "for political action under the rubric of citizenship" (218) in contemporary culture. Drawing on Foucault's work on technologies of the self and governmentality, he examines the ways in which what he calls well-tempered, manageable cultural subjects are produced and governed through discourses and institutions, which function by way of a shifting perspective of the subject as "singular, private person . . . [and as] collective, public citizen" (ix).<sup>20</sup> Miller articulates how this shifting process produces "loyal citizens who learn to govern themselves in the interests of the cultural-capitalist polity" through the "technology" known as policy (ix) -- in other words, how discourse encourages us to produce ourselves in relation to a regime of the good, civic-minded subject.<sup>21</sup>

When Miller turns to look at the ways in which this process is not "inevitable or unidirectional," arguing instead for "unruly subjects seeking to reform themselves" (ix), he presents the other as an antagonizing force to dominant social relations. Though not problematic in and of itself, Miller's treatment of gay and lesbian subjects and politics poses some difficulties with respect to the problems outlined above in relation to Hall and cultural studies, especially an inability to accommodate the

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<sup>20</sup> On technologies of the self, see: Michel Foucault, The Care of the Self: The History of Sexuality, Volume 3 (trans. 1986). See also Elspeth Probyn, "Technologies of the Self: Foucault and 'Le Souci De Soi'," chapter five in her Sexing the Self. On "governmentality," see: Foucault "La gouvernementalité" (trans. 1994; originally published in 1978) in Dits et écrits III; "Governmentality" (first Eng. trans. 1979). See also the essays in The Foucault Effect: Studies in Governmentality (1991), esp. Colin Gordon, "Governmentality: An Introduction;" and Graham Burchell, "Liberal Government and Techniques of the Self."

<sup>21</sup> See also, Anna Marie Smith, "A Symptomology of an Authoritarian Discourse" (1995).



conflictual relationship inherent in the two dimensions of representation. Indeed, Miller accentuates it.

Miller confronts, for example, what he terms the “resistive gay as a misbehaving public cultural subject working to form the means toward a technology of the self” (216), and suggests that “[t]his new form of politics is a politics of hypallage, a reversal of terms.” He continues: “But it is more than an inversion. It can also be understood as the need for freedom, not merely from the state or capital, but from the doxa of what it is to be a person, from a particular and limiting ‘type of individuation.’ The new freedom serves to ‘promote new forms of subjectivity’ distinct from the notions of individuality that currently obtain. This is the freedom to speak différends de soi” (217).

The terms of Miller’s inquiry are telling for my purposes: representation is understood and employed in terms of the cultural subject in order to develop new forms of subjectivity, new techniques de soi, that, though challenging current forms of individuality, champion individuality nonetheless. In addition to providing another framework in which to pose Spivak’s question about the disappearance of the critique of the sovereign subject in postmodernism, and supporting Hennessy’s comments about identity (à la Foucault) as a project of self-fashioning, Miller seems to be suggesting here, along with Hall, that the incommensurabilities of cultural difference (new forms of subjectivity) and the rights of citizenship (state or capital) be respected and not made a condition of one another. Upon closer inspection, however, the ways in which representation is employed in Miller’s project become more problematic than Hall’s formulation can address. For, while Miller advocates new forms of subjectivity as freedom from the state, he simultaneously argues that representation within and through the state is essential for subcultural groups,

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demonstrating just how conflictual representation in the new cultural politics of citizenship can be. Miller argues that:

Action inside the apparatus of the state is essential for subcultural groups if they are to achieve wide-ranging reform in a variety of important areas. But the means of self-definition, the politics of identity, will tend to serve an unsatisfactory set of protocols if they are thought through and practiced within these terms. For the civic cultural subject -- the citizen -- is produced as a polite and obedient servant of etiquette, within limited definitions of acceptable behavior (223).

Offering a specific example of the unruly cultural subject in action, the subject who resists the demands of polite and obedient etiquette, Miller gives an analysis of queer cultural practices. He tells the following tale of cultural difference and unruly subjectivity, of *différends de soi*: On November 26, 1986, when Pope John Paul II addressed an audience of invited guests at Sydney University in Australia, he was shouted down by "two men who stood up from their seats holding pink triangle flags and chanted: ANTI-WOMAN, ANTI-GAY, FASCIST POPE, GO AWAY. They were immediately dragged by security men or police . . . to the covered area of the quadrangle and beaten against a red-brick wall. The men, identified as members of an order of gay male nuns known as The Sisters of Perpetual Indulgence, were later charged with offensive behavior" (180-181). "This was," Miller states in no uncertain terms, "clearly, a case of incivility" (181), an instance of the performance of the unruly subject in action against the state, or of a "parodic politics, the playful satire of symbolic irreverency that sends messages of subversion" (203). This is a celebratory conjunctural moment for Miller's project of incivility and the production of new technologies of the self not subordinated to the logic of the well-tempered self, or, importantly, to the polite and obedient demands of the state.

Miller argues further that "[t]o speak in a collective way that problematizes the categories of taste . . . and methodological individualism ('behavior' as per the

terms of the charge against the Sisters) is to work toward a communal definition of homosexuality that begins to form a new account of the self" (208). Miller goes on to suggest that "[t]he Sisters are using categories of outrage from the margins and blending them with categories of decency from the centre to break up the logic of a unified subject" (211). This presents a number of problems. Can we really speak in a collective way, or do we really want to? How precisely does one produce new technologies of the self and a communal politics of homosexuality simultaneously? A rather linear notion of power (as margin/centre, outrage/decency), Miller seems to be making the assumption many theorists made in the wake of Butler's Gender Trouble, that parodic performances like that of the Sisters are automatically subversive. 22

Most importantly, Miller combines the two central issues that are the focus of this chapter -- the queer antics of the Sisters as cultural production and subject formation, and the need for action inside the apparatus of the state, that is, political representation -- by arguing that: "It will remain the task of subcultural groups both to form their identities through technologies of the self and then to articulate those sensibilities, or their material policy corollaries, to the state" (225). While much pleasure may be derived from the activities presented here, what Miller's project does not address is how exactly the queer antics of The Sisters of Perpetual Indulgence, among other parodic performances, can achieve "wide-ranging reform" "inside the apparatus of the state" that we are told is "essential for subcultural groups." One begins to wonder seriously about the efficacy or even the possibility of The Sisters of Perpetual Indulgence articulating their sensibilities to the state. What would that look like? And what would the material policy corollaries of a group of

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22 For a discussion of this "misreading," see Butler's own response to her Gender Trouble in "Critically Queer," Chapter 8 in her Bodies that Matter (1993).

men dressed as nuns chanting down the Pope entail? In other words, is Miller simply eliding two dimensions of representation here, and to what ends? Contra Hall, Miller seems to be suggesting that cultural identity should be used as a leverage for negotiations with the state, that one must necessarily be made a condition of the other. This is precisely what Hennessy means, I think, in her suggestion that queer reading practices, inspired by Foucault, partake of a certain reverence for the aesthetic, for posing art -- conceived as the politics of identity as self-fashioning, of techniques de soi -- as the goal of a new ethics.

From the standpoint of cultural politics, Miller work is useful for opening up the possibilities for the relationship between citizenship and behavior, questioning the extent to which citizenship and the state offer limiting models for action, subjectivity, and identity. From the standpoint of political theory, this is hugely problematic: Miller does little to challenge the notion that rights of citizenship need to be articulated through manifestations of behavior. While he wants to break away from the limited understandings of acceptable behavior that currently prevail, he reinstalls the equation that rights and entitlements of citizenship have something to do with individual and collective conduct. Why is this problematic? It brings the issue of morality back into the fold of political action, which is something both liberalism and postmodernism have most certainly attempted to get away from.

As political philosopher Michael Sandel argues in "Moral Argument and Liberal Toleration: Abortion and Homosexuality" (1989), there are at least two ways to defend laws against abortion and homosexual sodomy: (1) by arguing that these practices are "morally reprehensible" and should therefore be subject to prohibition; or (2) by avoiding moral judgments and arguing instead that, "in a democracy, political majorities have the right to embody in the law their moral convictions" (521). Similarly, he suggests that there are at least two different ways to argue against anti-abortion and antisodomy laws: (1) by arguing that such laws are unjust

because the practices they prohibit are morally permissible or even at times desirable; and (2) by arguing that the morality of such practices is irrelevant because individuals have a right to choose for themselves whether to engage in such practices. Sandel calls these two views the naive and the sophisticated. The former says that "the justice of laws depends on the moral worth of the conduct they prohibit or protect," while the latter says that "the justice of such laws depends not on a substantive moral judgement about the conduct at stake, but instead on a more general theory about the representative claims of majority rule and individual rights, of democracy on the one hand, and liberty on the other" (521). In short, the naive view holds that the justice or injustice of laws depend on the morality or immorality of the practice, which the sophisticated view rejects.

I neither support nor refute Sandel's arguments here. The point is that Miller's conflation of rights and behaviour, of new technologies of the self and the apparatus of the state, is naive in the sense that it does little to upset the equation that the injustice or justice of the law (as exemplified in the example of the Sisters being charged with "offensive behavior") depends on the morality or immorality of the practice. Miller's response is, on a theoretical level, no different than the justification for the actions he condemns: both assume that the justice of such actions depend not on principles of individual rights and liberties but on a substantive moral judgement about the conduct in question. To counter the charges made by the state against the Sisters' actions, Miller tells these subjects that they need to conduct themselves through incivility or unruly subjectivity. Hence, the justice of the action depends on the moral worth of the conduct it protects. Miller has not removed sexuality and civic conduct from issues of morality. He has just reinvented what morality means in these contexts, and who gets to decide.

What I am trying to suggest in reference to Miller's account of the resistive, misbehaving gay as an unruly cultural subject seeking to transform itself is a

tendency in cultural theory to see the cultural other in ways that are at times romanticized and idealized, an understanding of the power of the other solely in terms of disruption or resistance. The unfortunate side-effect of this is reintroducing moral arguments into the political debate. This tendency can also be located, for example, in Homi K. Bhabha, who, in his much-quoted essay "DissemiNation: Time, Narrative, and the Margins of the Modern Nation" (1990), writes about what he terms the "uncanny moment of cultural difference." "The minority," Bhabha insists, "does not simply confront the pedagogical, or powerful master-discourse with a contradictory or negating referent. It does not turn contradiction into a dialectical process. It interrogates its object by initially withholding its objective. Insinuating itself into the terms of reference of the dominant discourse, the supplementary antagonizes the implicit power to generalize, to produce sociological solidity" (306) or "the homogeneity of cultural experience" (308). Bhabha continues by arguing that "[m]y interest lies only in that movement of meaning that occurs in the writing of cultures articulated in difference" (312). This movement of meaning is framed as follows:

The aim of cultural difference is to re-articulate the sum of knowledge from the perspective of the signifying singularity of the other that resists totalization -- the repetition that will not return as the same, the minus-in-origin that results in political and discursive strategies where adding-to does not add-up but serves to disturb the calculation of power and knowledge, producing other spaces of subaltern signification (312; emphasis in original).

In addition to mounting what is undeniably a metanarrative ("the sum of knowledge"), Bhabha presents the subaltern as a singular force against totalizing knowledge claims. The unruly other, the minority, in Bhabha here is seen, to use Miller's words, as a reversal of terms, a politics of hypallage.

What I am trying to suggest is that the project of redefining the culture of citizenship in Hall, or of developing new techniques de soi in Miller's case, or of

community in solidarity in Slack and Whitt, or finally of the antagonizing force of the subaltern, in Bhabha -- all of these interventions foreground first and foremost representation in the sense of theories of the subject. By privileging the cultural and the aesthetic, they construct a hierarchy of subjectivity that sets the cultural Other outside of -- or at least antagonistic to -- dominant social relations. What if we were to ask instead: What if the other, the supplementary, or the subaltern, does not simply function as antagonist, as disruption? How are we to reconcile this, and how do we theorize it?

Another way to frame this problematic is to locate "a tendency to externalize political disappointment by blaming failures on the character of power 'out there'" (Wendy Brown 1995: xii). As Wendy Brown argues, the liberal subjects' claims to its exclusions from power and entitlements are often premised on finding failure within the subject itself or turned outward in order to avenge the suffering (1995: 67). Not limited to the liberal subject, this assumption of power as something out there can be seen in Miller, whose project of a new cultural politics of citizenship and subjectivity attempts to disrupt the externalizing powers of institutions, discourses, the cultural-capitalist polity, by calling for a production of new subjects who are not polite and obedient servants of the state.

Nor is this restricted to cultural studies. This tendency to construe power as something out there is equally as pervasive in contemporary theories and politics of sexuality. In her highly influential essay "Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality" (1984), Gayle S. Rubin writes that: "A radical theory of sex must identify, describe, explain, and denounce erotic injustice and sexual oppression. . . . it requires a convincing critical language that can convey the barbarity of sexual persecution" (9). Given that Rubin elsewhere argues in this lengthy piece for what she calls the limits of feminism, rejecting the tendency of most progressives to turn to feminism for guidance as a consequence of the absence of a more articulated

radical theory of sex, one wonders where precisely the radicalism of this radical theory of sex lies, since it reiterates and entrenches an outdated feminist politics content with the identification, description, explanation, and denunciation of the conditions of power that produce wounded and injured subjects. Though this appeared in 1984, the assumption that this cataloguing of sexual persecution constitutes a radical theory of sex remains with us today. <sup>23</sup>

What we might refer to here as the discourse of resistance has of course been taken up as leitmotif in gay and lesbian politics, its theoretical variety no doubt informed by Foucault. Refiguring the work of her ground-breaking Gender Trouble (1990), Judith Butler positions her later project in Bodies that Matter (1993) as follows: "the question," Butler proposes, "is no longer, How is gender constituted as and through a certain interpretation of sex? . . . but rather, Through what regulatory norms is sex itself materialized?" (10). Not restricted to issues of gender and sexuality, this framework includes race in its analysis of regulatory norms. Butler looks, for example, to Nella Larsen's Passing, which "rallies both racial and sexual anxieties, and compels a reading which asks how sexual regulation operates through the regulation of racial boundaries, and how racial distinctions operate to defend against certain socially endangering sexual transgressions" (20). "This text accepts

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<sup>23</sup> The article first appeared in Pleasure and Danger, ed. Carole S. Vance. See also: The Lesbian and Gay Studies Reader, eds. Henry Abelove et al. (1993); and American Feminist Thought, ed. Linda S. Kauffman (1993). Page references here are from the version that appears in The Lesbian and Gay Studies Reader. Rubin has written responses to this essay, calling her earlier appeals to increased theorizing of sexuality and its politics "quaintly anachronistic in 1992" (56), the date of her "Afterword," given the proliferation of work in this area (see her "Afterword," American Feminist Thought 56-64). Nonetheless, this response retains the tendency to externalize political failure on the character of power "out there." In a section of her "Afterword," entitled "We Told You So," Rubin suggests that all her predictions in 1984 have been realized in the 1990s, that we are now worse off than we were before: "It is a pretty grim picture. Those of us who warned of the dangers of antiporn and other antisex politics may get some faint pleasure from vindication. But on the whole, I would rather have been wrong" (62).



as a point of departure Foucault's notion that regulatory power produces the subjects it controls, that power is not only imposed externally, but works as the regulatory and normative means by which subjects are formed" (Butler 22). More recently, Butler articulates this in the context of hate speech and injurious discourse in the U.S., including antihomophobic formulations of identity in military culture, in order to demonstrate how we can use the words that wound as an "instrument of resistance in the redeployment that destroys the prior territory of its operation" (Butler 1997a: 163). This is exemplary of something that has been persistent all along: how the performative can work in "counter-hegemonic ways" (Butler 1997a: 160).

Without rejecting these critiques, this thesis starts from the premise that this point of departure is only part of the picture, and aims to question its centrality in gay and lesbian politics by looking at the regulatory norms inadvertently produced in those discourses that speak not against certain socially endangering social transgressions but for them. What I have in mind in this politics of speaking for takes the cue from Wendy Brown, who, in critiquing this tendency toward the externalization of power in progressive politics, looks to the "more sober practice of searching for political disappointment's 'cause' in our own psychic and social ranks" (1995: xii). Though this creates other problems -- including how to define "our own," for example -- there is a promise in Brown's reminder that "the viability of a radical democratic alternative to various political discourses of domination in the present is not determined only by the organization of institutional forces opposing that alternative but is shaped as well by political subjects' desire for such an alternative" (xi). In other words, in developing a critique of the politics of speaking for, a whole set of different questions might ensue if we ask instead what is mobilized not by those who would oppose us but by the very proponents of gay and lesbian liberation and equality.

The limitations of resistance as a political tool is summed up best as follows: Resistance, Brown argues, "is an effect of the regime it opposes. . . Resistance stands against, not for; it is reaction to domination, rarely willing to admit a desire for it, and it is neutral with regard to possible political direction" (1995: 22). In questioning the centrality of this Foucauldian-inspired theory of resistance in gay and lesbian/queer politics, I want to ask what might be gained, at this historic juncture, by attending to the ways our politics is itself very much conditioned by the regime it opposes. As I hope to demonstrate, it is not simply at risk of being an effect of that regime but of reproducing its strategies.

### **1.7 Representation and the Politics of the State**

As these comments suggest, of significant importance for my thinking on these matters is Wendy Brown's States of Injury: Power and Freedom in Late Modernity (1995), which offers an auxiliary theoretical framework for thinking through the complex questions of representation. Implied in the word "states" in the title is a dual meaning, at once a critique of rights-based political struggles (the State) and a critique of the pleasure seemingly derived from our culture's tendency to find comfort in maintaining one's individual and group identity as a "state of injury" or tethered to certain "wounded attachments." In brief, states of injury articulates a double movement between state representation and representation as theories of the subject, and is therefore of tremendous use to the inquiries that follow.

In a critique of political theory, feminism, and contemporary politicized identity practices, Brown's engaging text "consider[s] how certain well-intentioned contemporary political projects and theoretical postures inadvertently redraw the very configurations and effects of power they seek to vanquish. . ." (ix). Drawing on

the work of Marx, Nietzsche, Weber, Foucault, and "selected feminist and cultural theorists" (3), Brown looks to the paradoxes involved in contemporary emancipatory projects that turn to the state to administer justice, cautioning against assuming representation in any simply sense. Brown underscores, for example, the contradictions involved when women's struggles for justice against patriarchy are grounded in the same institutions that are founded on and constitute that very structure: the state, Brown argues, "achieves a good deal of its power through its devious claims to resolve the very inequalities that it actually entrenches by depoliticizing. Achieving its 'universality' and reinstating the 'particularity' of civil society through this depoliticization, by this ruse it also acquires its 'right' to govern - - to legislate and adjudicate, to mobilize and deploy force" (109). In a sense, this is to ask how much it costs the subject to insist that its identity, and its liberation, will be located in unfettered access to the apparatus of the state. Upsetting decades of work in liberal and even more radical forms of feminism, where "[t]he project of representing women has been a condition of possibility for feminism and continues to provide the underlying epistemological basis for [its] articulations" (Probyn 1993: 7), Brown suggests that representation as state formation and the law tends to depoliticize politics by producing identity founded on resentment. Defined, following Nietzsche, as "a righteous critique of power from the perspective of the injured" (27), resentment is "the source and consequence of a contemporary tendency to moralize in the place of political argument" (27). Brown suggests that we need to "understand the codification of injury and powerlessness . . . that this kind of moralizing politics entails," (27), pointing out that this tendency "is perhaps nowhere more evident than in the contemporary proliferation of efforts to pursue legal redress for injures related to social subordination" (27). As mention in the previous section, Toby Miller's attempts to alleviate powerlessness on the part of the socially

subordinate do not replace moralizing in political debate; they simply add a new chorus of morality to it.

Though I will return to Brown throughout, I want to address here the importance of her political theory for questions of public representation by focusing on the implications of representation within the dimension of state formation and the law. Brown offers a response to what I have identified as cultural studies' troubled and conflictual relationship with representation not by replacing cultural studies and its embrace of difference tout court, but by enhancing its theoretical trajectories by posing the questions of representation from a different frame of inquiry. Brown speaks directly to representation in the sense of law, state formation, and political economy -- speaking for, as defined by Spivak -- but her framework intersects as well with cultural studies, to the extent that her theoretical posturings on representation explicitly engage the limitations and the stakes of political representation for questions of the subject and subject formation.

This intersection of the two dimensions of representation is most acutely articulated in Brown's postulation that seeking representation through the state often produces and perpetuates, rather than alleviates, the injury on which subjectivity is founded.<sup>24</sup> In a sense, she is suspending Hall's claim that the rights of citizenship and the incommensurabilities of cultural difference be respected; she is rejecting too the position that difference is the question of the coming century. Though Brown's work might be sympathetic to such projects, it seems unwilling at this historic moment to accept or take for granted that difference is the singular most important

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<sup>24</sup> See also, Judith Butler, *Excitable Speech* (1997), which is decidedly invested in Brown's polemics, particularly Butler's discussion of the discursive ways in which injurious words wound subjects. Particularly striking in relation to Brown is Butler's query about what gets lost when political discourse is merged with juridical ones, which has as a result that political opposition is simply reduced to an act of prosecution (see Butler 1997a: 50).

frame of reference for posing questions of cultural representation. In effect, she takes this further by implying that, in fact, it is too late: cultural difference is already profoundly negotiated through the apparatus of the state. It is the consequences of this historical and cultural shift that needs to be brought into sharper focus.

Citing separate but similar arguments by Stuart Hall (1988) and Sheldon Wolin (1989), specifically, that the contemporary political scene has witnessed a dramatic rise in recent years in state powers and the jeopardizing of the rights of citizenship through foreign and domestic policy,<sup>25</sup> Brown argues that if Hall and Wolin are right, a troubling phenomenon can be located: a "progressive theoretical and political indifference to . . . appeals to expand state benefits, and the ever-increasing reliance on the state for the adjudication of social injury" (18). Ironically, since Brown quotes Hall here, this is precisely what Hall and Held argue in the article I quoted earlier. Perhaps indifference is too strong of a word here; but certainly the valorization of the state as the instrument to redress subordination is evidenced in a great deal of cultural and political work. Though the specific focus in Brown is contemporary feminism, she claims that critical theory generally has turned its attention away from questions of the state at the moment when a "distinctly late modern form of state domination was being consolidated" (18), especially in the mid-to late 1980s. Though I am not interested in positing anything as overarching as state domination, an inquiry into the politics of representation requires that we turn our attention back to questions of the state, viewed most broadly as an engagement with the proliferation of rights claims among their proponents in a variety of different political persuasions in gay and lesbian political discourse. It must respond as well to the claim that the "progressive political agenda in recent years has become more

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<sup>25</sup> See Brown 198; the reference to Hall is his The Hard Road to Renewal (1988), chapter 4; the reference to Wolin is "Democracy in the Welfare State," in his The Presence of the Past (1989), 171-174.

concerned not with democratizing power but with the distribution of goods," which includes "pressuring the state to buttress rights and increase the entitlements of the socially vulnerable and disadvantaged" (5), what Brown refers to as an economic formulation of equality by the Left and by liberals.<sup>26</sup>

Brown's interventions into feminism and critical theory have inspired me to think through how the inclusion of gay and lesbian subjects into the projects of rights and democratic citizenship has not only not exhausted the possibility of politics, but, more importantly, given its current configuration, might actually circumscribe and counteract what a liberatory politics is said to advocate and overcome. Whereas Hall and Held (as well as theorists like Nancy Fraser and Iris Young, addressed at the end of this chapter) assert that a viable resolution to the conundrums of contemporary politics is enhanced participation in a legal and constitutional framework that protects and nurtures its citizens, Brown does not rest content with the axiom in liberal feminism that women always already need to be included in state representation. Brown claims in no uncertain terms that the convergence of gender and the state in the project of a feminist theory of the state does not exhaust the questions, complexities, contradictions and problems this convergence demands. Indeed, it may very well be the case that this convergence engenders more problems than it can solve.

While feminist interventions mapped out important ways radical democrats might enable forms of contemporary democratic participation that do not follow regimes of "regulation, discipline, exploitation, and domination" (Brown x-xi) -- which is also part of the important intervention in much of the work of cultural studies -- they left "uninterrogated the question of the subject doing the negotiating"

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<sup>26</sup> See Eric O. Clarke, *Virtuous Vice* (2000), on the economic formulation of equality in gay and lesbian visibility politics.

(xi). Brown argues that to map power in this way -- as merely oppositional and therefore progressive or radical -- "was to assume that the politically motivated subject sufficiently cognizant of the map of power would plot appropriate strategies and tactics given its aim of democratizing political life," as well as, we might add, assuming unfettered access to that knowledge. What gets left out of this equation is an understanding of the subject that is formed through the very discourses that are being denounced. (xi) In other words, representation via the state has profound and not always automatically liberating or democratic effects on subject formation. Despite the call for queering the state (Duggan), gay, lesbian, and queer academics have a rather ambivalent relationship to state representation. Most (but not all) reject such calls for inclusion as part of the assimilationist agenda of liberal politics, and therefore shun questions of the state altogether (though they certainly rally behind it when their rights seem threatened).<sup>27</sup>

There is ample evidence to support the belief that current debates in gay and lesbian politics, especially those informed by rights, are in the process of making some of the same assumptions that Brown charts here in feminism. Most important is an inattention to the problem of subject formation by and through the very discourses and projects that are supposed to "set us free," or at least to open up democratic life and participation. Vaid maintains, for example, that "[t]he courtroom is the stage on which marginal ideas and groups assert themselves in the mainstream. Litigation on behalf of gay rights has radically changed the expectations under which all gay people live today; we no longer put up with discrimination" (1995: 131). Articulating the dearly-held belief that litigious representation and visibility for gays and lesbians is a fundamental condition of possibility for our

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<sup>27</sup> See especially my discussion of Michael Warner and Lauren Berlant's "Sex in Public" (1998) in Chapter Three.

liberation, we ignore at our peril what kind of subject is possible in and through such discourses and projects. By seeking forms of representation that more often than not rely on claims to injured and wounded identity, or an oppositional politics that articulates what we want on the basis of that which we are excluded from, a critical politics of speaking for does not privilege rights but attends instead to their remainders, those aspects of politics that emerge in the space of the conflictual terrain of representation. That is to say, it asks, What kind of subject do rights make possible, and what kind of subject do they foreclose?

A number of recent Canadian cases illustrate the insightful and timely nature of Brown's claims, what we might refer to as "the therapeutic effects of jurisprudence" (Lauren Berlant 1998: 282).<sup>28</sup> In two unrelated but not dissimilar claims filed by the Canadian Human Rights Commission against the federal government, testimonials by those seeking compensation are premised on the grounds of recrimination against individual material and psychic suffering. To paraphrase Judith Butler, political opposition is reduced to an act of prosecution (1997a: 50). In one case, an employee of the federal government who said she was not promoted because of a learning disability (which is grounds for discrimination procedures under the Canadian Charter of Rights and Freedoms) was granted her promotion by order of the rights tribunal and was compensated for lost wages. The

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<sup>28</sup> See also Mary Ann Glendon (1991), who argues that it is now a conditioned response to turn every controversy into a rights issue, where rights talk becomes a parody of itself.

Much of the theoretical material informing my critiques is American, which in turn draw on European political philosophy. I use Canadian examples when possible to point to the increasing relevance of this litigious politics in the Canadian context. See also Erin Anderssen, "Government a Lawsuit Target" (1998), which argues that, as more Canadian individuals and groups are bringing the state to account for inflicting harm, we are witnessing what he calls a "US-style culture change." See also Paul M. Sniderman et al., The Clash of Rights: Liberty, Equality and Legitimacy in Pluralist Democracy (1997), which challenges the perceived truth that Canadian political culture is markedly different from that of the U.S.



tribunal ruled that the employee "should be promoted immediately to the level she was seeking and then moved on to the executive level -- without competition -- as soon as a position is available and she has completed the necessary training." In addition, and most significantly, the tribunal ordered that special compensation be given for "hurt feelings," which is a compensatory category in Canadian human rights legislation. What are hurt feelings worth? About \$5,000, the amount awarded in this case ("Woman Wins Promotion" 1998).

A second case involves a gay male couple who fought the Canadian federal government against the future of the definition of common law or married spouse. A federal employment and immigration department employee argued that his long-time partner should not be excluded from his health and dental plans. "We constantly fight this kind of imposed invisibility. There is some movement now to recognize gay people as individuals, but that doesn't go far enough. You have to recognize the relationships we have and the commitments we make," he says. In addition to asking the government for \$2,000 to cover medical expenses for his partner, \$5,000 in compensation for hurt feelings was also sought (qtd. in Karen Patrick 1995). With the luxury of hindsight, we now know that there has indeed been such a move: the Canadian federal government is now recognizing same sex partners as spouses (see Conclusion). It is significant that visibility and affirmation are premised on that which we are excluded from, something that informs many of the arguments for rights generally. In insisting that the federal government recognize the commitments we make, we assume that the state should liberate us from our condition of invisibility, and that the state has a role to play in strengthening our commitments.

Another case, a court ruling hailed as a "stunning victory" and a "landmark case against Toronto police," an Ontario court judge ruled that police had failed to

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warn women that a serial rapist was stalking their neighborhood and awarded Jane Doe, the "fifth and final victim" of said rapist, the amount of \$220, 000. In her ruling, the judge concluded that:

It is no answer for the police to say women are always at risk and as an urban adult living in downtown Toronto they have an obligation to look out for themselves . . . The conduct of this investigation and the failure to warn, in particular, was motivated and informed by the adherence to rape myths as well as sexist stereotypical reasoning about rape, about women and about women who are raped (qtd. in Kim Honey 1998).

The case is said to break new ground because it demonstrates a breach of the Charter of Rights and Freedoms by the police force (specifically, equality rights and the rights to security of person); it also "expands the responsibility of the police to give people the information they need to protect themselves against harm," a legal specialist argues.

Not surprisingly, the implications of the case are extended beyond Jane Doe and even beyond women's rights. Jane Doe's lawyers argue that: "It establishes a very important precedent, not only for women, but for other communities as well, whether it be people of colour or lesbian and gay community or any other community that might be subject to discrimination by police forces and police officers." The President of the National Action Committee on the Status of Women agrees that the ruling will benefit other "minority-rights organizations that feel police have discriminated against them." "It clearly opens the door for other oppressed groups to utilize the justice system to seek recourse in terms of other human-rights violations by police, such as racist acts, ableist acts, ageist acts, homophobic acts, etc." (qtd. in Kim Honey 1998).<sup>29</sup>

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<sup>29</sup> See also, Henry Hess, "Jane Doe Ruling Tricky for Police" (1998).

This third case reveals Brown's insight about the paradoxes of women's struggles for equality through the state when the state is already invested in that very inequality. The executive director of a Rape Crisis Line celebrates Jane Doe's lawsuit for "validat[ing] the experiences of many survivors of sexual assault:" "it felt incredible for a few minutes to hear the reality of our lives confirmed by the courts." She goes on to point out that "sadly, in spite of all the changes, the justice system remains male-driven, offender-focused and patriarchal in structure."<sup>30</sup> Indeed, this is hailed as a victory precisely because it puts the flaws and the limitations of such a system onto the agenda of public debate; it reveals the values that permit these cases to come forth in the first place; and it ostensibly helps us move toward the eradication of them. This is, however, a form of political representation ("the reality of our lives") that is, ironically, content to perpetuate the status quo, since it merely "confirms" rather than works to destabilize that reality. Destabilization of that representation might come in time through such cases, but it is not their *raison d'être*.

It is, then, a question of which political agenda gains dominance: the politics of suffering or the politics of equality? As such a case demonstrates, these two are dramatically intertwined in public discourse. An alternative reading of this case, from the perspective of subject formation in and through representation by the courts, might also suggest that such a ruling merely validates one's identity as wounded or suffering, while leaving the identity, and the social apparatus that helps produce it, wholly intact. It recodifies social injury as a site for regulation through the very discourse that hails such a ruling a victory for women and all oppressed groups. That is to say, it asks that equality be vetted out by an institution that has never been

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<sup>30</sup> Quoted in "Jane Doe's Victory," Letters to the Editor, *Globe and Mail* 7 July 1998: A20. Interestingly, right beside this letter is the editorial "There's No Victory in Being a Victim."

fully interested in or committed to such groups. In this way, such victories are merely expansionist: they are premised on the inclusion of that which has previously been excluded. While having one's life confirmed by the courts in this way may seem like the expedient thing to do, a series of questions that cannot be addressed in the terms of the debate needs to be raised. I mention these examples here because a similar logic permeates a number of gay rights cases explored in more depth in Chapter Four and elsewhere.

### **1.8 Refusing the Agon: Solving the Paradox of Democracy**

As suggested in the opening of this chapter in reference to the term faggoty dressup party, contemporary democratic debate is often premised on the belief that not only is inequality illicit in democracy but that its very eradication is required of the work of politics. In this particular case, this was defined in part as the elimination of pejorative terms like faggoty from the public discourse. In the final section of this chapter, I want to explore this further under the heading refusing the agon, and look to the contradictions and limitations a politics that seeks to eradicate inequality engenders. This will set the ground for the chapter that follows, which discusses an agonistic politics as one which can help open up the debates in gay and lesbian political discourse.

In her important and widely-quoted essay "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy," reprinted in her Justice Interruptus (1997), Nancy Fraser offers a critique and reworking of Habermas's model of the public sphere. In contrast to Habermas, Fraser suggests that what democratic theory requires today is not a monolithic construction of a public defined by a "common good," but rather, a multiplicity of competing publics as a necessary

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condition for the move toward a more democratic and egalitarian society. Whereas Habermas believes it possible and desirable to bracket or neutralize difference in the interests of deliberation of the common good, Fraser is cautious about such attempts, raising "serious doubts about a conception of the public sphere that purports to bracket, rather than to eliminate, structural social inequalities. We should question," she adds, "whether it is possible even in principle for interlocutors to deliberate as if they were social peers" given the larger societal pattern of dominance and subordination (79; first emphasis added; second in original).

Fraser's insightful thesis at the beginning of Justice Interruptus is that our present political climate is a postsocialist one, defined as a split between the politics of recognition and the politics of redistribution. Fraser makes the interesting observation that "[c]laims for the recognition of group difference have become intensely salient in the recent period, at times eclipsing claims for social equality." Fraser argues that we are moving away from a "socialist political imaginary" (2), where the central problem of justice is redistribution (of wealth, of material goods, of access to them), toward a conception of justice as recognition of difference (cultural questions like race, gender, sexuality, nationalism), what Fraser refers to as the "decoupling of cultural politics from social politics" (2). In a sense, this is a variation on the two dimensions of representation, as Fraser, it could be argued, is suggesting that representation as theories of the subject has now gained supremacy, at the expense of state-aided redistribution. Her project of justice is premised on bringing both elements back into the political fold, such that our "new intellectual and political task" would be that of formulating a "critical theory of recognition, one that identifies and defends only those versions of the cultural politics of difference that can be coherently combined with social politics of equality" (12; emphasis added).

Though Fraser says that "the proliferation of subaltern counterpublics means a widening of discursive contestation, and [that] that is a good thing in stratified

societies" (82), she assumes with Habermas that subordinated groups can fully articulate their needs and wants, that they can reach a kind of communal consensus about what will best further their social equality. While an undeniably important project for social justice, it is limiting for the kinds of questions I want to ask. Can subaltern groups really achieve the goal of the elimination of inequality by offering themselves as discursive contestations? And can they really represent themselves as such?

Iris Marion Young takes up these questions in "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship" (1989). She seeks to resolve what she calls the "paradox of democracy" -- defined as how social power makes some citizens more equal than others -- by "providing institutionalized means for the explicit recognition and representation of oppressed groups" (259). Drawing on Habermas's concept of communicative action, Young argues that "[g]roup representation is the best means to promote just outcomes to democratic decision-making processes" (263). A rationalist account of the public sphere and democratic deliberation, Young assumes that "[i]f oppressed and disadvantaged groups are able to discuss among themselves what procedures and policies they judge best further their social and political equality, and have mechanisms to make the judgments known to the larger public, the politics that attend to difference are less likely to be used against than for them" (273).

But that is a huge "if." Young's formulation would require, at minimum, that we eradicate the fundamental tension between liberty and equality at the heart of democratic politics. For, in order for all citizens to have equal social power, some people's liberty is going to have to be forfeited.<sup>31</sup> If that is seen as tantamount to

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<sup>31</sup> For example, if we champion freedom of expression as a fundamental component of liberty, then we have to make room for the possibility that some individuals and groups might be offended by what this component of liberty allows for. The equality of these individuals and groups -- defined as the right not to be subjected to

justice, then that is a price we must be willing to pay. But it certainly does not solve the paradox of democracy. It simply takes one definition of that term and says, under these circumstances, and in the interests of said group, this is a tension we are willing to live with.

One glance at the debates raging around same sex marriage within gay communities certainly throws into doubt the possibility that oppressed groups can discuss among themselves what policies will best further their equality. For example, same sex marriage runs the gamut from "why gay people should seek the right to marry" (Thomas B. Stoddard 1992) to "since when is marriage a path to liberation?" (Paula A. Ettelbrick 1992). Part of the problem here is the oppositional politics (for or against in Young's own words) that informs this position, for in focusing on how to combat structures of dominance and subordination, an oppositional politics cannot attend to the actions of the groups being defended. It does not accommodate, in other words, the internal antagonisms of counterpublics. In a community as diverse and multifaceted as one defined by sexuality, what procedures and policies best further our equality is going to be a difficult matter, to say the least.

Similarly, Fraser understands the work of politics as something that can eliminate social inequality, not simply through the extension of civil rights to those individuals and groups who have thus far been denied them but through the larger project of insisting that all human beings be treated with justice in all aspects of their lives. Equality is, then, not just about access to inclusion but the eradication of relations of dominance and subordination in the social and the political. Fraser underscores this understanding of representation in the public sphere when she argues that, "in stratified societies, like it or not, subaltern counterpublics stand in a

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offensive speech -- will then take a secondary position to the principle of freedom of speech. For a critique of equality in democratic politics, see Chantal Mouffe, "Hegemony and New Political Subjects: Toward A New Concept of Democracy" (1988).

contestatory relationship to dominant publics" (85). Though she qualifies this in her earlier assertion that "I do not mean to suggest that subaltern counterpublics are always necessarily virtuous," since some of them are "explicitly anti-democratic and antiegalitarian" (82), Fraser is, like Bhabha and Miller, interested in how counterpublics function as antagonist to dominant publics, referring to them as dialectical in nature; that is, they are capable of moving between "withdrawal and regroupment" and of penetrating into "wider publics" (82). This, says Fraser, "enables subaltern counterpublics partially to offset, although not wholly eradicate, the unjust participatory privileges enjoyed by members of dominant social groups in stratified societies" (82).

I agree with Fraser's premise that "political democracy requires substantive social equality" (82). It would be naïve to argue that substantial gains can be made in democratic politics without the notion of equality for all citizens. I take issue here, however, with the presumption that counterpublics offset dominant publics, and the belief that this is the work that counterpublics set out to do. This belief is, I would argue, informed by the framework of dominance and subordination, by the desire to eliminate social inequality in all of its manifestations. As Fraser points out, her theory of democratic justice and equality is premised on "defending subaltern counterpublics formed under conditions of dominance and subordination" (85), an important and on-going intervention. But a politics that seeks (only) to defend (to speak for) such groups must necessarily exclude a number of other considerations. In seeing only how disadvantaged groups can be included in the privileges of dominant public, what cannot be accommodated is the possibility that the political impetus of counterpublics might be something else entirely. Simply including counterpublics in the structures enjoyed by members of dominant social groups does not mean the unjust is overcome.

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Though it would be difficult to disagree with Fraser's observation that "the struggle for recognition . . . is fast becoming the paradigmatic form of political conflict in the late twentieth century" (11), her position that contemporary justice politics requires both recognition and redistribution, and that this is the new intellectual and political task, poses a number of problems when applied to the issue of gay and lesbian justice. I say this is a problem because, by Fraser's own account, gay and lesbian struggles for justice by their very nature exclude questions of redistribution, of political economy. <sup>32</sup>

For example, in contrast to what she calls the bivalent identities of race and gender, that is, identities that combine both recognition and distribution, Fraser identifies the category "despised sexuality" as a mode of collectivity (18) exemplary of one of the extreme ends of her social-political coupling, one example where only half the equation is relevant to questions of justice. In other words, gays and lesbians approximate something like an "ideal type" of collectivity defined solely by the conditions of cultural recognition, one in which justice can only be fought on those terms. This is because, as Fraser argues, the category sexuality, whose subjects are dispersed throughout the class structure and who therefore do not constitute a class, is a form of difference based not in the political economy but in a cultural-valuational structure (18). For these reasons, displacing or eradicating homophobia and heterosexism "requires changing the cultural valuations (as well as

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<sup>32</sup> This is most certainly not Fraser's intention, but it is an unintentional effect of her arguments. Later in Justice Interruptus Fraser makes it clear where her political allegiances lie with respect to gays and lesbians. She writes: "we [that is, feminists] should ally with other social movements with analogous deconstructive aims . . . for example . . . with queer theorists working to deconstruct the homo/hetero difference but not, in contrast, with . . . proponents of gay and lesbian identity" (183; emphasis added). Given the centrality, rightly so, of rights in gay and lesbian justice politics, and queer theory's rather ambivalent relation to them, this allegiance to the deconstructive, to the exclusion of other political formations, is rather surprising on Fraser's part. Queer theory has never really been interested in questions of justice and equality, which are so central to Fraser's politics.

legal and practical expressions) that privilege heterosexuality, deny equal respect to gays and lesbians, and refuse to recognize homosexuality as a legitimate way of being sexual" (19). This means that, when it comes to gay and lesbian justice, "[m]atters are thus fairly straightforward at the two extremes of our conceptual spectrum [of recognition-distribution]" (19).

Of course, gays and lesbians are dispersed throughout the economic structure. We are not a class of people, though to what end of the economic scale we fall is a matter of considerable dispute. And recognition is indeed one of the dominant motifs many gays and lesbians draw on for claims to social justice, evidenced most explicitly but not exclusively in the discourse of gay rights. Many argue, for example, that the full extension of legal marriage to same sex partners will help to overcome the persistence of seeing us as a despised sexuality. In this sense, recognition is indeed a very strong cultural valuation system. But to say that our recognition is also not deeply rooted in the economic structure as well would be terribly misleading and limited.

If this is the case, if gays and lesbians represent only one end of the extreme of recognition-redistribution, then Fraser is suggesting quite problematically that economic dimensions do not, or should not, structure such demands. This is ironic because later in Justice Interruptus she argues that "subordinated social groups usually lack equal access to the material means of equal participation. Thus, political economy enforces structurally what culture accomplishes informally" (79). In other words, political economy and cultural valuation cannot so easily be separated when matters of social subordination are at stake. This ellipsis is quite surprising, especially given that her whole project in Justice Interruptus is dedicated to dismantling the "false antithesis" (3) between social politics and cultural politics, rejecting responses that posit an either/or choice (3).

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More importantly, this diminishes the complexity and richness of her own recognition-distribution model. If social justice for gays and lesbians requires only recognition, what are we to do with the pervasiveness of a recognition politics that is also invested in economic questions? So much of the debates circulating around gay rights, as we will see, have to do with recognition through not only cultural but economic vectors. To suggest that things are thus fairly straightforward in the case of despised sexuality is to ignore how recognition is not distinct from issues of distribution but informed by them as well. <sup>33</sup>

Why, for example, are legal and practical expressions (Fraser's term) decoupled, so to speak, from the realm of the economic and framed solely in terms of the cultural? Certainly struggles for the redefinition of the term spouse to include same sex partners are economic struggles that simultaneously have culturally symbolic resonance or valuations. In fact, the fight for gay marriage (see my Conclusion), as a symbolic cultural valuational system, is I would argue first and foremost about redistribution, not recognition. Conversely, legal and practical expressions are part of a cultural valuation system. Moreover, the cultural valuations that privilege heterosexuality and that Fraser wants homosexuals to be included in as part of social justice are rooted not only in the cultural but the economic as well. To decouple all of these factors, to separate legal and practical expressions from questions of culture, and issues of (sexual) difference from the economic, would be to lose a great deal of their political significance for issues of recognition and distribution.

I think these oversights can be accounted for by the use of terms like despised sexuality, injustice, suffer, which posit homosexuality only within the

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<sup>33</sup> See especially Eric O. Clarke, *Virtuous Vice: Homoeroticism and the Public Sphere* (2000); John D'Emilio, "Capitalism and Gay Identity" (1993); Danae Clark, "Commodity Lesbianism" (1993).

register of wounded subjectivity, and which see our need for justice only as a persecuted and subordinated minority. They are in part a consequence of seeing justice for homosexuals solely on the basis of that from which we have been excluded. In wanting to defend and celebrate counterpublics for their ability to offset dominant privileges, we assume from the outset that such relations are clearly discernible, and that the solution is to recognize homosexuality on the same terms with which straight sexuality has been privileged. In the studies that follow, I ask instead: What if we were to move beyond seeing gays and lesbians as simply wounded subjects and acknowledge that, for some, our sexuality is no longer the problem? What if we were to see our mode of collectivity from outside the register of despised sexuality? And what if justice and equality are more than an add-gays-and-stir formula?

It is to these questions that I turn in the next chapter, a discussion of an agonistic politics and its import for gay and lesbian liberation and equality.

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## **CHAPTER TWO**

### **Liberation, Equality, and Uncertainty:**

#### **Theorizing an Agonistic Politics**

*. . . in the moral world everything is classified, systematized, foreseen, and decided beforehand; in the political world everything is agitated, disputed, and uncertain.*  
--Alexis de Tocqueville, Democracy in America

THE PURPOSE OF this chapter is to address some of the literature in political theory that outlines or advocates an agonistic reading of politics in order to offset some of the problems identified in the previous chapter, especially those relating to communal notions of community, those resulting from attempts to solve the paradox of democracy, or those that stem from privileging rights in democratic debate. My purpose is to demonstrate how attending to such a reading might be useful for better understanding some of the pitfalls and limitations of our struggles for gay and lesbian liberation and equality in the contemporary context. I will do so by finessing a number of key concepts in the work of Hannah Arendt with several contemporary theorists -- in particular, Bonnie Honig, Wendy Brown, Judith Butler, and Jürgen Habermas. Through this reading I hope to work toward not simply an understanding of Arendt's relevance to debates in gay and lesbian politics but a critique of the concepts of identity, community, the self, and belonging that inform them. My primary goal is to suggest that, in these areas, you don't always get what you bargained for, and that such contingency and uncertainty in the political realm is a matter to be celebrated.

### **2.1 You Don't Always Get What You Bargained For**

On April 18, 1998, a full-page advertisement in what was at the time Canada's only national newspaper, The Globe and Mail, hailed the claims of a group calling itself "Canada's Civilized Majority." Their motto: "'Standing on Guard' for Civility over Barbarism and Democracy over Mobocracy in the Spirit of Confederation."<sup>1</sup> Motivated in part as a response to the ruling by the Supreme Court of Canada in the spring of 1998 that the Alberta government must "read-in" sexual orientation into the province's human rights legislation,<sup>2</sup> this ad offered the bold

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<sup>1</sup> See Globe and Mail 18 April 1998: A9. One of the ads more colourful claims is that both Marx ("atheistic principles") and Madonna ("wanton permissiveness") "destroyed the Soviet Empire in this century." Similar ads by other groups appeared in 1998 across the country. An ad in the Regina Leader-Post (25 July 1998) opposing gay pride weekend referred to homosexuality as a mortal sin. The Saskatchewan Human Rights Commission investigated and ruled that the ad did not constitute discrimination. A similar ad from the same group appeared earlier in the Saskatoon Star-Phoenix (30 June 1997). It included a drawing of two men holding hands with a red circle and slash over it, the universal signifier of interdiction. This ad is currently under investigation by the Human Rights Commission. Thanks to Anthony Keller (personal e-mail correspondence) for bringing these cases to my attention and supplying me with the dates of the ads. See his "Sorry, Your Ideas Will Have to Satisfy the Commission" (1999), a critique of such human rights cases based on the potential threat to freedom of expression they illuminate.

<sup>2</sup> The case involved a gay school teacher named Delwin Vriend who was fired from his job at a Christian college simply because he is gay. Though the Canadian Charter of Rights and Freedoms does not include sexual orientation as grounds for discrimination (see below), the Supreme Court ruled that the Alberta government has not been able to demonstrate why it is reasonable to discriminate against homosexuals and not other protected groups. The case caused considerable controversy. Opponents of the ruling feared that (a) this would open the floodgates for other gay rights like adoption and (b) that it was a threat to democracy because Supreme Court judges are not elected officials; such matters should, it was argued, be decided by Alberta's elected representatives or subject to a provincial referendum. In 1998, the right not to be fired from your job because of sexual orientation is still not a matter of agreement and consent. For discussion of this case, see: Brian Laghi, "Debate on Gay Rights Polarizes Albertans" (1998); "Gay Rights Fight Gets Ugly" (1998); and "Rage Finds Its Voice in Alberta" (1998).

Section 15(1) of the Canadian Charter of Rights and Freedoms reads as follows: "Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national origin, colour, religion, sex, age, or physical disability." In the case of Vriend, some religious groups argued that firing Vriend was within the college's constitutional right because the Charter enshrines freedom of religion, and the school's religion says homosexuality is wrong. If nothing

heading that "Canada's Supreme Court Has No Business Imposing 'Bathroom Morality' on the Churches and in the Nation's Living Rooms!," and proclaimed a number of rather disconcerting positions, including "A Manifesto of Hope" by a group calling itself "Homosexuals Opposed to Pride Extremism" (HOPE). Among some of their principles:

HOPE is a non-partisan, non-sectarian homosexual lobby representing the **civilized majority** of homosexuals who conduct our lives with **dignity and discretion** . . . . We completely disassociate ourselves from the nihilistic agenda of the **radical, militant homosexual fringe** and strongly renounce their undemocratic and destructive tactics. . . . we believe that the legal definition of marriage and spouse must remain in the context of opposite sex. . . . we urge that every individual infected with **HIV, Hepatitis-C and AIDS** [sic], be registered, treated and monitored by the government health and welfare agencies (emphasis in original).

The ad also invites us to "Listen to 'Liberation'," via the voice of Canada's Civilized Majority's National Director Ken Campbell, broadcast daily on CJMR AM radio.

Illustrating the extent to which redress for such wounding words is sought through the machinery of rights, several weeks after the appearance of the ad, which "condemned same sex rights," "[a] gay man . . . launched a human rights complaint against the Globe and Mail, an evangelist and several other organizations." "In a release . . . announcing his complaint to the Ontario Human Rights Commission, Philip Shea called the advertisement a 'hateful full-page diatribe aimed at lesbian and gay men'" (qtd. in "Human Rights Complaint Launched Over Globe Ad" 1998).

Though it is quite hard for me to imagine that self-identified homosexuals would speak for homosexuality in this manner, I open the chapter with this example not to condemn or repudiate the sentiments expressed here but to underscore one of

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else, this highlights the interpretive nature of human rights discourse, which will be addressed later in relation to my argument that we should resist seeing rights as self-evident absolutes but instead as discursive acts that stand in need of disagreement and contestation.

the central theoretical principles operative in my analyses: the possibility that, in matters of politics, you don't always get what you bargained for. It is this sense of contingency that I want to celebrate here as the space for critical intervention, one which does not seek to shut down what might be seen by many as the bad or wrong ideas expressed in this advertisement, to see equality as only and inevitably about the elimination of such hateful diatribe. Against such an injunction to silence, I want to stress here that discourse does not always have its desired effects, and that this contingency might actually work for and not simply against the goals of liberation and equality.

It could be persuasively argued that the impetus behind this advertisement was a certain backlash to the Supreme Court ruling and its advancement of gay rights -- because it was. A close look at the letters sent to The Globe and Mail in response to the ad, however, yields another reading. It suggests that Ken Campbell and "Canada's [so-called] Civilized Majority" might not always get what they bargained for. Among the numerous responses: <sup>3</sup> a married couple who have been readers of The Globe and Mail for 40 years wrote to say that they have "canceled our subscription in response to the offensive full-page advertisement accepted by your paper and placed by Ken Campbell, who claims to represent Canada's 'civilized majority.'" This couple shared the belief with others that, "were it directed at any other minority, [it] would at least be considered offensive and at worst as hate literature. What shameful bad judgement to print such garbage." Another reader suggests that if the sentiments of the "civilized majority" are those expressed in the ad, "I can only say that I am happy to be called a barbarian!" More than one reader, the above included, remarked that the ad "looked as if it came from the tabloids, but

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<sup>3</sup> The following quotations are from "Letters to the Editor," Globe and Mail 22 April 1998: A27.



the content revealed something infinitely worse: horrifying viciousness and bigotry. I cannot imagine how such people call themselves Christians.” “I thought I’d mistakenly picked up a copy of The Inquirer,” another reader observes, “when I picked up the full-page spate of thinly disguised gay-bashing calling itself an advertisement.” Another respondent suggested that his support of free speech “goads me to accept the foul stench emanating from [the ad],” and remarked that a “similar advertisement from a white-supremacy group promoting their views would never find its way into The Globe and Mail. Yet here in black and white are fascist doctrines about gays.”

Others were thankful The Globe decided to print the advertisement, and not because they agreed with its content but for the reason that, as the saying goes, if you give someone enough rope he is likely to hang himself. “Thank you, Globe and Mail, for deciding to print that sensational and morally smug . . . ad by the good churchman Ken Campbell. . . . I believe the hysterical and sensational tone of the ad says more about the willingness of the ad’s sponsors to engage in outright fear-mongering and exploitation than their willingness to engage in a more reasoned debate surrounding the implications from the Vriend ruling [the Supreme Court decision in Alberta mentioned above].”

What I find particularly interesting about these letters is that, on the day they appeared, only one of them was written by someone who self-identified as gay, and only one letter was written in support of the ad, “for telling the truth” that “self-indulgent special-interest groups have acquired frightening power and influence disproportionate to their tiny numbers.” Of course, this could be accounted for by a number of factors, including the lack of motivation or desire on the part of gays and lesbians to even legitimize this by way of a response; the lack of desire on the part of gays and lesbians to identify as such in their response; as well as the selection criteria of the letters editor. What interests me here more is the fact that, to my

mind, the response offered by this self-identified lesbian was one of the more problematic ones, because it assumes an automatic correlation between discourse and action, between the ad and violence against gays and lesbians: "This misinformed and hateful rhetoric has been all too familiar in Alberta in the last few weeks, and it informs very ugly actions against homosexuals. The day before your ad was printed, my girlfriend and I were verbally abused and spat upon by a complete stranger . . . this kind of action is promulgated by groups such as the one you allowed, probably for a nice price, to advertise in your paper." What is being offered here is a crude example of a stimulus-response model of social behavior and of communication. It is an example of "the presumption that hate speech always works" (Butler 1997a: 19), or that the subject is not only constituted by discourse but determined by it as well, "where determination forecloses the possibility of agency" (Butler 1990: 143).

Like the responses to the term faggoty dressup party which opened Chapter One, there is an implicit assumption in this response that the rhetoric and the beliefs espoused in this ad are illicit in a democratic culture. It is also implied in this response that we can ascertain with certainty what constitutes a good versus a bad image of homosexuality, and that only positive representations, however defined, should be accommodated in the public discourse. In addition to underscoring once more the tension between liberty and equality (between the right of Ken Campbell to express such views and the right of homosexuals to be protected from such hatred), what gets lost in this polarization is the very real possibility that, by allowing such discourses into the public realm, we might actually be seeing a move toward more substantive equality for gays and lesbians, and not less. This is at least one alternative interpretation that might be gleaned from the responses to the advertisement. Though we may never eradicate such sentiments in our lifetime, it appears there is a good deal of dissent in the face of such remarks. Rather than

attempting to halt or circumscribe these discourses, we might look instead to the responses they generate as an important space for theorizing both the gains and the stakes involved in the struggles for gay and lesbian equality. By analyzing these possibilities, I hope to offer a different set of questions than a politics that seeks to shut down the agon can allow for.

## **2.2 Political Theory and The Politics of Virtue**

In Political Theory and the Displacement of Politics (1993), Bonnie Honig develops the concept of a virtue theory of politics to locate what she identifies as the curious displacement of politics in political theory. This displacement can be broadly defined as the attempt to eradicate the agon in favour of what she calls the consolidation and closure of political instabilities through administrative, institutional and juridical means. Offering a cautionary note that has echoes of Wendy Brown's arguments, this displacement of the political through appeals to the state, law, and administration cannot resolve the problems politics addresses but instead "engenders remainders that could disempower and perhaps even undermine democratic institutions and citizens" (14). Looking specifically to the writings of Immanuel Kant, John Rawls (A Theory of Justice [1971]), and Michael Sandel (Liberalism and the Limits of Justice [1982]), Honig develops the notion of a virtue theory of politics by arguing that, for political writers from positions as diverse as republican, liberal, and communitarian, political "success" often means the eradication of "dissonance, resistance, conflict, and struggle" (2). Virtue politics restricts political action to the juridical and administrative, and is primarily interested in "stabilizing moral and political subjects, building consensus, maintaining agreements, or consolidating communities and identities" (2). When applied to the operations of political institutions and communities, virtue politics maintains that feelings like

"disenchantment, alienation, pain, and cruelty" can be substantially weakened if we acceded to ". . . principles of right, established just institutions whose fairness is ascertainable from a particular (rational) perspective," or, importantly "yielded to the truth of membership in a wider community of meaning and value" (2-3). In short, virtue politics yearns for a theory that can do away with the dissonances other theories and realities create; and it assumes that a certain closure of the political is the best way to guarantee these results (3).

Honig counterposes virtue politics with *virtù*, a theory of the political developed by way of Friedrich Nietzsche and Hannah Arendt. In contradistinction to the displacement of the agon in virtue, *virtù* "see[s] politics as a disruptive practice that resists the consolidations and closures of juridical and administrative settlement for the sake of the perpetuity of political contest" (2). Particularly significant in the present context is the agonistic reading of Arendt that *virtù* promotes.<sup>4</sup> Honig argues, for example, that Arendt "banishes rational, foundational truths from the public realm for fear that their irresistible compulsion will shut down the agon whose

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<sup>4</sup> See Craig Calhoun and John McGowan, who cite the importance of Honig's book and her agonistic reading of Arendt in recent interpretations of Arendt (Calhoun and McGowan 1997: 4). See also Calhoun and McGowan, eds., Hannah Arendt and the Meaning of Politics (1997); Larry May and Jerome Kohn, eds., Hannah Arendt: Twenty Years Later (1996); Honig's "Toward an Agonistic Feminism: Hannah Arendt and the Politics of Identity" (1992), and "Arendt, Identity, and Difference" (1988).

To read Arendt as simply agonistic is, of course, limited, and a matter of considerable debate. This is not a debate I want to engage. For a discussion of the debate over this contested reading of Arendt, see: Lisa J. Disch, Hannah Arendt and the Limits of Philosophy (1994), esp. 73-90, "The Agonistic Versus Associational Arendt;" Kimberley F. Curtis, "Aesthetic Foundations of Democratic Politics in the Work of Hannah Arendt" (1997); Seyla Benhabib, "Models of Public Space: Hannah Arendt, the Liberal Tradition, and Jürgen Habermas," in her Situating the Self (1992); and Dana R. Villa, "Hannah Arendt: Modernity, Alienation, and Critique" (1997), and his "Postmodernism and the Public Sphere" (1992). For a more general reading of politics as agonistic, see the essays by Sheldon Wolin, Jenny Mansbridge, Chantal Mouffe, Bonnie Honig, and Benjamin Barber in Democracy and Difference: Contesting the Boundaries of the Political, ed. Seyla Benhabib (1996); Susan Bickford, The Dissonance of Democracy (1996); and Homi K. Bhabha, "Freedom's Basis in the Indeterminate" (1992).

security, maintenance and perpetuity she seeks" (Honig 1993: 9). In other words, a virtù reading of Arendt warns against any theory that attempts to displace conflict in the public sphere, arguing that disagreement and contestation are the very hallmarks of political thought and action. It is this agonistic reading of Arendt that has inspired me to read sexual politics through the lens of some of Arendt's work. <sup>5</sup>

Though the analyses that follow do not use virtue and virtù directly, it is the idea of the remainders that are produced when politics attempts to eradicate the agon that is of significant importance. <sup>6</sup> As a way to accommodate the reality that certain political demands require stable, institutionalized settings, procedures, and practices, Honig suggests that the desire "[t]o affirm the perpetuity of contest," which is part of a virtù politics, is not to affirm "a world without points of stabilization;" rather, "[i]t is to see that the always imperfect closure of political space tends to engender remainders and that, if those remainders are not engaged, they may return to haunt and destabilize the very closures that deny their existence" (1993: 15). For example, in the landmark ruling in the U.S. that enshrined a woman's right to abort a fetus, known as Roe v. Wade (1973), Honig suggests that many of the pro-abortion proponents "assumed that, once juridically recognized, the

<sup>5</sup> Of course, an agonistic reading of Arendt or of politics is but a partial one. The other major reading of Arendt is associational. As Lisa J. Disch writes, the agonistic reading alone tends to "feed the perception that the Arendtian hero is more concerned with self-aggrandizement than with public 'interest' . . . interpreting [agonistic politics] to mean that Arendt's actors are all prima donnas who strive for celebrity" (1994: 86-87). Disch says that such an interpretation "puts competition over and above association and plurality at the expense of publicity" (72). In reference to this reading, Benhabib suggests that the agonistic view valorizes the public space as competitive, where moral and political greatness, heroism, and preeminence are revealed. The associational space, by contrast, is where "men act together in concert" and emphasize consensus-building (1992: 93).

<sup>6</sup> Honig takes the term remainders from Bernard Williams's The Problems of the Self (1973), though she uses the term to draw attention to the institutional processes of remainders in a way that Williams does not (Honig 1993: 213, footnote 1).

right to abort a pregnancy would never be returned to the space of political contest”(14). She continues: “there is a lesson to be learned from the experience of those who misread Roe as the end of a battle and later found themselves ill equipped and unprepared to stabilize and secure their still unstable rights when they were repoliticized and contested by their opponents” (15).

What is this lesson? From a general theoretical perspective, it is the lesson of not assuming that the achievement of certain rights will stabilize without remainders the arena of political contest. Attempts to shut down the agon of politics will not only invariably fail; they will displace questions of identity and difference onto other sites and issues, where their struggles will be repeated (Honig 15-16). Rather than a backlash against such rights (a rather bifurcated understanding of power), this is a concrete interpretation of why Arendt suggested that we not mistake the attainment of rights as equivalent to freedom (Arendt 1990: 218). Instead, we need to understand rights as imperfect and irresolute solutions to political contestation. It does not mean that rights are not materially, culturally, socially, and symbolically important; nor that they should not be extended to those who are lacking them; but that they are only part of the story, often just a beginning. Their achievement does not necessarily resolve, without remainders, the problems they address.

This understanding of the political and the interpretation of rights it promotes proves useful for analyses of the operations of discourses of liberation and equality in gay and lesbian politics. The reminder that political work is “always imperfect, fissured, or incomplete and that these imperfections are the spaces of politics, the spaces from which to resist and engage the would-be perfect closures of god, self-evidence, law, identity, or community” (Honig 9) can help attend to the remainders liberation and equality engender.

### **2.3 Hannah Arendt and the Revival of An Agonistic Politics**

I realize from the outset that Arendt poses a number of problems for this project, problems that will not be fully engaged. Specifically, it seems difficult to reconcile Arendt with contemporary political and social needs and realities, since Arendt is not all that helpful in terms of questions of social equality, at least to the extent that she banishes the social altogether.<sup>7</sup> Her notorious dualisms, especially her troubling, nonnegotiable, and ultimately untenable dichotomy of the public and the private, the political and the social; her controversial and highly contested comments that discrimination is a dimension of the social and is therefore legitimate within that sphere; her famous political elitism, and its attendant rejection of "mass" society; her refusal to engage with issues of gender; not to mention her controversial views on race and class -- these seem to suggest that Arendt would be less than sympathetic or even useful to the politics of gay and lesbian liberation and equality.<sup>8</sup> A cursory glance over Arendt's work might certainly indicate that, for her,

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<sup>7</sup> For an excellent treatment of Arendt's concept of the social, see Hanna Pitkin, The Attack of the Blob: Hannah Arendt's Concept of the Social (1998).

<sup>8</sup> For a discussion of Arendt's public-private dualism, see especially "The Public Realm and the Private Realm," Chapter II in her The Human Condition. In "What is Freedom?," Arendt articulates this dualism explicitly: "Obviously not every form of human intercourse and not every kind of community is characterized by freedom. Where men live together but do not form a body politic -- as, for example, in tribal societies or in the privacy of the household -- the factors ruling the actions and conduct are not freedom but the necessities of life and concern its preservation" (1977: 148). In other words, Arendt is arguing that the realm of the household is properly the realm of the private, governed by necessity, and is therefore not political. For a critical yet affirmative account of Arendt's elitism, see Jeffrey C. Issac, "Oases in the Desert: Hannah Arendt on Democratic Politics" (1994). On Arendt's most contentious social issues, see especially her Eichmann in Jerusalem: A Report on the Banality of Evil, in which she argues that Eichmann's "crime" was not that he possessed evil -- for "everybody could see that this man was not a 'monster'" (54) -- but that he lacked the possession of an imagination, "this horrible gift for consoling himself with clichés" (1994: 55), his penchant "to deck himself in borrowed plumes" (44), and "his inability to think . . . from the standpoint of somebody else" (49). Though Arendt does not use the term here, Pitkin likens Arendt's assessment of Eichmann's character to that of a parvenu, "deferential to his social betters, and eager for their approval" (Pitkin 206). On Arendt's concept of the banality of evil, see

sexuality and sexual identity are properly defined as elements of the social or the private and hence not deserving of political treatment.

On the other hand, a good case could be made that Arendt would support constitutional rights and struggles for equality for gay and lesbian subjects. I do not however attempt here to reconcile Arendt with these difficult and contradictory realities in her work; nor do I care to surmise whether Arendt would approve of or support current battles being fought. Rather, I put Arendt and some of her key concepts into the service of opening up the spaces of politics in gay and lesbian debates. As many Arendtian theorists argue, it is precisely these difficulties, especially the controversial work on identity and community, that make Arendt's politics so useful and vital in these contexts.

One can trace Arendt's distaste for the social, and for identity politics, in her first book, Rahel Varnhagen: The Life of A Jewess (1957). Quoting the subject of this critical biography of a Jewish parvenu, Arendt writes that "[c]ertainly one is not free when one has to represent something in respectable society" (173). Given the fact that freedom for Arendt is one of the hallmarks of politics, this simple statement demonstrates a number of important maxims: freedom and identity are potentially in conflict; freedom cannot be achieved at the level of the social ("respectable society"); identity ("representing something") is often a pitfall in matters that are properly political in nature. In reference to Varnhagen, the man Rahel marries to "escape" her Jewishness and attempt to leave behind her pariah status, Arendt

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Richard J. Bernstein, "'The Banality of Evil' Reconsidered" (1997). See also Arendt's controversial "Reflections on Little Rock" (1959), where she argues that segregation in the public school system in the American south was not only defensible but a legitimate aspect of the social. The "crucial point" to remember, Arendt insists, is that it is not segregation that is unconstitutional but its legal enforcement (49). Though hugely misguided, this essay is important because it articulates the crucial distinction between politics and morality that is one of the more promising aspects of Arendt's politics. On her "Reflections," see Kirstie McClure, "The Odor of Judgment" (1997); James Bohman, "The Moral Costs of Political Pluralism: The Dilemmas of Difference and Equality in Arendt's 'Reflections on Little Rock'" (1996).



suggests that Varnhagen's "impulse" "to honor myself in my superiors" "satisfied him completely, which is to say, socially. He had no true political ambitions; both politics and literature were instruments for social advancement" (1957: 163). Like Varnhagen, Rahel was caught by the desire to assimilate with the Gentile classes: "The world and reality had, for Rahel, always been represented by society. 'Real' meant to her the world of those who were her socially acknowledged superiors, the parvenus as well as the people of rank and name who represent something lasting and legitimate" (144).<sup>9</sup> In both of the above passages, the extent to which the social is seen as the arena for personal advancement is evidenced, something Arendt rejects as not properly political ambitions and aspirations.

In her account of Arendt's public space, Seyla Benhabib suggests that the distinction between the social and the political is nonsensical in contemporary politics because "the struggle to make something public is a struggle for justice" (1992: 94). Moreover, on Arendt's own terms, Benhabib maintains that Arendt's recognition that the struggle to define what gets put on the public agenda for discussion (which arise from issues that are social in nature) is itself a political endeavor, since it calls for justice. "The effect of collective action in concert," a favourite Arendtian conception, "will be put to ever newer and unexpected items on the agenda of public debate" (Benhabib 95). In other words, it appears to most observers that Arendt's private/public, social/political dualism is untenable not only in accordance with the realities of political life itself but by Arendt's own accounts. Though Benhabib favours

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<sup>9</sup> Though Arendt does not elaborate on this in terms of its relevance for her political theory, which will come in later works, her comment that Rahel Varnhagen "never saw the possibility of joining those who had not arrived" (144) is the inception of her concept of the conscious pariah and the rejection of the parvenu. Also interesting here is Arendt's assertion that Rahel never recognized that "[a] political struggle for equal rights [for Jews] might have taken the place of the personal struggle" (4) for parvenu status, an indication that politics for Arendt has little or nothing to do with the self, or with social acceptance.

a Habermasian model of public space (rational, consensus-building deliberation) over Arendt's agonistic, virtuosic model of performance, even Arendt's most ardent supporters refuse this split in her work: "any reading of Arendt that takes seriously the agonistic, virtuosic, and performative impulses of her politics must, for the sake of that politics, resist the a priori determination of a public-private distinction that is beyond contestation and amendment" (Honig 1993: 118-119). This is especially accentuated in work on the politics of sexuality, which must not simply resist this split but see it as completely anathema in these debates. Though I am in agreement with this refusal of Arendt's rigid dichotomy, I want to argue that there is room to read Arendt's understanding of the social and the private, the political and the public, in ways that can suspend this dualism without losing some of the insights it yields about public life, identity, and politics.

In terms of questions of identity, Arendt has a great deal to offer contemporary politics.<sup>10</sup> Again, in reference to Rahel Varnhagen, Arendt quotes a passage indicating Rahel's frustration and despair over her inability to assimilate, to be, forever and permanently, a parvenu. In never being able to escape her Jewishness, Rahel pontificated for most of her life on "[h]ow loathsome it is always having to establish one's identity first" (1957: 178). Though Arendt responds to this as Rahel's futile attempt to escape her Jewishness (the final chapter of Rahel Varnhagen is "One Does Not Escape Jewishness"), Arendt retains a certain amount of despondency toward the individual in worldly (that is, political) matters. Arendt writes for example in a much later work that "this world of ours . . . simply cannot afford to give primary concern to individual lives and the interests connected with them; as such the public realm stands in the sharpest possible contrast to our

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<sup>10</sup> On identity disclosure, see John McGowan, Chapter Two in his Hannah Arendt: An Introduction 34-95.

private domain" (1977: 156 ). It is such comments, the assertion that private concerns are only individual in nature and hence apolitical, that troubles Arendt's detractors, as well they should.

Taking a closer look at the source of such comments in Arendt, however, yields some insightful observations that speak powerfully to the present conditions of speaking for. In her Men In Dark Times, Arendt defends her self-identification "as a Jew" as the "only adequate reply to the question, Who are you?" Arendt attempts to justify why she divorced herself from "The Woman Question" -- that is to say, why her gender never made its way into her political theory. Seeing Jewish identity not as some "special kind of human being" but "only acknowledging a political fact through which being a member of this group [German Jews] outweighed all other questions of personal identity or rather had decided them in favor of anonymity, of namelessness" (18), Arendt is suggesting that, given the historical situation she was confronted with in the first half of the twentieth century in Europe, she had little choice but to speak as a Jew, to the exclusion of all other identities. As she writes: "the basically simple principle in question here is particularly hard to understand in times of defamation and persecution: the principle that one can resist only in terms of the identity that is under attack" (18). This would "[n]owadays . . . seem like a pose" (18). To put this succinctly: "When one is attacked as a Jew, one must defend oneself as a Jew" (qtd. in Pitkin 47; emphasis in original).

What I want to suggest here is that, these claims notwithstanding, the identity corollaries do not hold: this does not mean that when one is attacked as a woman one must defend oneself "as a woman;" it does not mean that when one is attacked as a homosexual, one must defend oneself "as a homosexual." Rather than asserting that one can speak "as a . . . ," these comments question the very burden that is identity, the ways in which certain members of one's community insist that

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one must speak through such identifiatory practices. The important point to remember here is that, far from celebrating an uncomplicated understanding of the necessity or ability to speak as a Jew, these positions are partly a response to the increasing pressure made upon her by others to speak as more than just a Jew but also "as a woman," a political stance she tacitly refused most of her life.

Arendt's elision in such passages of the connections between race/ethnicity and gender, and her tacit refusal to associate with anything having to do with "women's cultures," means that such work has often been dismissed for partaking of the masculine (that is, worldly) milieu of political philosophy that, as a woman, Arendt was well-positioned to contest. As disappointing or short-sighted as many find this stance, there is a lesson to be learned in this. In the contemporary context, it would seem quaint, if not highly problematic, to suggest that one's political interest must automatically flow from one's identity. As Arendt puts it in reference to the Danish author Isak Dinesen: "the chief trap in life is one's own identity" (96). It is against the trappings of identity which serve as a useful reminder in our own context not only of the pressure to speak as a gay man, a lesbian, a queer, but also the extent to which our political interests, allegiances and viewpoints are assumed to be conditioned unproblematically by these identities, that they are not simply tied up in "who we are" but that they naturally flow from such an ontology.

I concur, then, with Honig's suggestion that there is a promise in this refusal of identity (1993: 124), a promise that has been instrumental in the revival of Arendt in contemporary critical theory. Despite (or perhaps because of) the contradictory, disturbing, or even perverse elements of Arendt's politics, recent Anglo-American scholarship has found in Arendt a source for, among other things, a powerful engagement with questions of politicized identity and for opening up "the meaning of politics" (Calhoun and McGowan 1997). Particularly elucidating in this context are feminist interpretations that see in Arendt the possibility for trenchant

critiques of identity politics before identity politics -- not to mention critiques of it -- was fashionable. <sup>11</sup> Despite this revival, Arendt remains all but peripheral if not absent from theoretical debates in gay and lesbian politics. <sup>12</sup>

Why this revival of interest in Arendt at the curtain call of the twentieth-century? In addition to this powerful critique of identity, I would suggest that it might have something to do with a turning away from the overarching projects of poststructuralism, which evacuate any kind of meaning to representation in the political public realm, and see only the playful irreverency of signs and signification. As Jean Baudrillard famously puts it in In the Shadows of the Silent Majorities (trans. 1993), the death of the social is the death of the very possibility of representation

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<sup>11</sup> For a discussion of the revival of Arendt in feminism, see: Bonnie Honig, "Toward an Agonistic Feminism: Hannah Arendt and the Politics of Identity" (1992); and Honig (ed.), Feminist Interpretations of Hannah Arendt (1995), esp. Mary G. Dietz, "Feminist Receptions of Hannah Arendt;" Nancy Fraser, "Communication, Transformation, and Consciousness-Raising" (1997); Lisa J. Disch, "'Please Sit Down, but Don't Make Yourself at Home:' Arendtian 'Visiting' and the Prefigurative Politics of Consciousness-Raising" (1997); Elisabeth Young-Bruehl, "Hannah Arendt Among Feminists" (1996). See also Wendy Brown, "Arendt: The Fragility of Politics," in her Manhood and Politics: A Feminist Reading in Political Theory, 23-31. For an authoritative and generous account of why Arendt might have absented gender from her political theory, see Hanna Pitkin, "Abstraction, Authority, and Gender," Chapter Eight in her The Attack of the Blob (1998). For a lucid account of this revival generally, see John McGowan's "Arendt Now," Chapter Four in his Hannah Arendt: An Introduction.

A number of recent publications bear the sign of this trend to locate something "beyond" or "after" "identity politics." See for example: Linda Nicholson and Steven Seidman, Eds., Social Postmodernism: Beyond Identity Politics (1995); Dan Danielsen and Karen Engle, After Identity: A Reader in Law and Culture (1995); and Jodi Dean, Solidarity of Strangers: Feminism After Identity Politics (1996).

<sup>12</sup> One exception to this absence is Morris B. Kaplan, Sexual Justice: Democratic Citizenship and the Politics of Desire, which devotes an entire chapter to Arendt and which uses her extensively throughout. I address Kaplan again in Chapter Four in the context of the eroticizing of democracy, and in Chapter Seven, on coming out. My use of Arendt differs markedly from Kaplan's to the extent that he puts Arendt into the service of legitimating the projects of gay and lesbian rights and equality within the context of queer citizenship, whereas I employ Arendt to open up a critique of such projects. See also Paul-André Perron, "Eros et la pensée" (1997), which makes reference to Arendt in the context of a politics of sexuality.

itself. Or, as Deleuze remarks, "there is no representation; there's nothing but action" (qtd. in Spivak 279). Spivak writes that, in reference to Deleuze and Foucault, the issue seems to be that there is no representation, no signifier" (Spivak 279). This is what Hennessy refers to in her critique of the parodic play of performativity in queer and gender studies, what she calls the "postmodern fetishizing of sexual identity." The endless play of signification that marks, for example, Lyotard's description of the postmodern condition is somewhat limited and problematic when an engagement with political representation is required. In addition to Spivak's insistence, contra the postmoderns, that the subject exists only through representation, this postmodern condition is inadequate in terms of theorizing representation in the sense of state formation and the law, where the death of representation would mean that politics at that level would cease to exist. In other words, many of the critiques here cannot proceed with the assumption that "there is no representation."

These claims notwithstanding, I think one of the other reasons for this Arendtian revival has to do with the fact that certain postmodern sensibilities, for lack of a better term, inform Arendt's work and marks her in many ways in contrast to the rationalist account of political deliberation exemplified most dramatically by Habermas. Against Habermas's concept of legitimation crisis, Lyotard says that the postmodern condition asks: "where, after the metanarratives, can legitimacy reside?" (1984: xxiv-xxv). In other words, for the postmoderns it is not the loss of legitimacy that constitutes a crisis; such a loss is to be celebrated. Sharing with Arendt "incredulity toward metanarratives, " which Lyotard says is the definition of the postmodern (Lyotard xxiv), Lyotard argues that knowledge is not about consensus [Habermas] but "our ability to tolerate the incommensurable" (xxv). This reverence for the incommensurable echoes Arendt's axiom that the public realm is defined inescapably by its contingency and its artificiality, which is for her something to be

celebrated (we will return to this later). Moreover, Lyotard writes that "to speak is to fight, in the sense of playing, and speech acts fall within the domain of a general agonistics. This does not," he says, "necessarily mean that one plays in order to win" (10). In other words, action in the public realm is conditioned by play; it is a type of game in which the outcome is less important than the process.

This is a hallmark of a *virtù* politics (Honig): for Arendt, speech acts (which are part of the performative dimension of action in the public realm) are an agonistic endeavor, and one plays or participates in the public realm not to win but as an end in itself.<sup>13</sup> Echoing an agonistic reading of Arendt, Lyotard suggests that "[w]hat is needed is not only a theory of communication, but a theory of games which accepts agonistics as a founding principle" (16). Where Arendt and Lyotard might conflict is in Lyotard's statement that "the boundaries only stabilize when they cease to be stakes in the game" (17), since Arendt would not share this reverence for the instabilities of political boundaries.

What I am suggesting then is that, while Arendt valorizes agonistic politics in ways that echo postmodern sensibilities, she serves as a useful reminder that the near wholesale evacuation of questions of representational politics that characterizes many versions of postmodernism can only take us so far. Arendt writes, albeit rather naively, that "[p]olitical thought is representative. I form an opinion by considering a given issue from different viewpoints, by making present to my mind the standpoints of those who are absent; that is, I represent them" (1997: 241). This is what Arendt means by "going visiting," or "[p]utting oneself in another's shoes," a "hallmark of

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<sup>13</sup> The idea that action in the public realm is important as a process more than the means toward an end should not be taken to mean that there are no legitimate goal-oriented strategies for something like gay and lesbian equality. Simply put, I am not interested in positing in this thesis what those goals should be.

political thinking" (Pitkin 270). <sup>14</sup> This seems to resist the Foucauldian-Deleuzian moment (as interpreted by Spivak) that "the theoretician does not represent (speak for) the oppressed group" (Spivak 275). By foregrounding politics as a public endeavor, that it cannot exist without some conception of a public space or with a public representative, an agonistic reading of Arendt acknowledges that politics is representative while simultaneously advocating an acceptance of the incommensurable as an inevitable aspect of it.

Drawing on a discussion of Arendt, Habermas, Foucault, Lyotard, and others, Dana R. Villa makes the convincing case that Arendt's public realm theory does indeed share or is motivated by concerns similar to that of the postmoderns, especially an emphasis on action as performative, as an end in itself, as opposed to a means toward an end; the centrality of narrative or story-telling in place of truth in politics; and the evacuation of foundationalism. <sup>15</sup> "Against Habermas," Villa argues, "Arendt's public realm theory is less concerned with the questions of legitimation than with the theorization of an agonistic political subjectivity" (1992b: 712):

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<sup>14</sup> I return to the concept of visiting (in the context of storytelling) in Chapter Seven. Caution must be taken here too, for Arendt similarly can only take us so far. Arendt never questions which individuals get to represent, get to go visiting. She takes this as a given, and in this her famous political elitism rears its head. In the closing pages of On Revolution, for example Arendt argues that "only those" who can demonstrate concern for more than "personal happiness" and care instead for "the state of the world" "would have the right to be heard in the conduct of the business of the republic" (279) -- which is fine if you have been able to secure the necessities of life in order to attain a level of personal happiness, but rather short-sighted in a country with such huge economic, racial, and gender disparities.

<sup>15</sup> For a discussion of the similarities and differences between Arendt and Foucault, see Vikki Bell, "The Problem of Liberalism and the Performance of Freedom." For a comparison of Habermas and Arendt, see Benhabib, Situating the Self, esp. Chapter Three, "Models of Public Space."



Arendt mourns what the postmodern celebrates, the loss of certain ontological dimensions of human existence (action, the shared public world, the self as performance). The postmodern blurring of boundaries, the effacement of any meaningful distinction between the authentic and the inauthentic -- reality and its simulacra -- renders the Arendtian idea of the phenomenal integrity of a distinctly political realm simply nostalgic. Arendt chooses, if not to recover the public realm, at least to preserve its memory. The "affirmative nihilists" of postmodernity wish to have done with such guilty nostalgia, viewing it as one more symptom of essentialism. There is a choice here, but it is not the one offered by Habermas. It is the choice between a politics of mourning and politics of parody, a politics that remembers the res publica and politics engaged in the endless subversion of codes (719).

Though I agree with Villa's claim that Arendt shares some affinities with postmodernism, perhaps as much as she does with Habermas (for one cannot deny those links either), I take exception with this insistence that there is a choice to be made, between the res publica (Arendt) and a politics of subversion (postmodernism). A cursory understanding of queer theory and practice, for example, as well as Judith Butler's work on gender and performance, would suggest that the public sphere is central for the actualization of these politically "subversive" practices. As Honig remarks in reference to virtue and virtù, it is not about making an either/or choice but accommodating these coexisting and conflicting impulses on the scene of politics. While resisting this nostalgic and essentialist vision of the public sphere, as well the limitations of a postmodern politics of parody, Arendt enables instead a refusal of just such tidy categorizing of political vocabularies.

As Craig Calhoun and John McGowan more convincingly argue, it is precisely the unsettling of this kind of categorical purity that readings of Arendt can promote. Specifically, they argue that Arendt can help bridge the divide in political theory between liberalism and communitarianism, sharing with the communitarians a "strong commitment to an intersubjective and noninstrumentalist view of politics," but also advancing an account of the public sphere that is "not an account of community, and certainly not of community constituted by preestablished similarity among members" (Calhoun and McGowan 10).

Lisa Disch concurs that, through her use of the term inter-est (between them or in-between), Arendt departs from both communitarian and liberal conceptualizations: "Arendt introduces the term inter-est to mediate between the extremes of pluralist fragmentation [the postmodern] and communitarian fusion" (Disch 1997: 142).<sup>16</sup> Thus, Arendt is not a choice to be made over and above the "affirmative nihilists" of postmodernity, but offers instead a framework for thinking through that which gets lost in what the postmodern celebrates, as well as the implications of community mapped out by preestablished similarity among its members.

There are, of course, many detractors to this recent revival of Arendt in contemporary politics and political theory. In his "Afterword" to the essays in the volume Hannah Arendt and the Meaning of Politics (Calhoun and McGowan, eds.), Martin Jay chastises those authors who argue that Arendt's positions should be "celebrated and protected" against a "Habermasian infusion of rational argumentation or universal normativity" (348). Cautioning against a "zealous" interpretation of Arendt's relevance in the 1990s, the view of her as an "antifoundational, postmodernist celebrant of politics as aesthetic performance," Jay reminds us that, if we give Arendt a certain spin, a neo-conservative Arendt emerges.<sup>17</sup> Turning Arendt's own positions against her, Jay offers his own exemplar in the contemporary political and cultural context, whom he suggests could be accounted for by the postmodern, agonistic readings of Arendt's politics, and whom Jay implicitly suggests we should rightly despise:

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<sup>16</sup> For a discussion of inter-est, see Arendt's The Human Condition, 181.

<sup>17</sup> For a generous yet critical account of Arendt's conservatism, see Margaret Canovan, "Hannah Arendt as a Conservative Thinker" (1996).

for who today embodies a performative notion of politics, scornfully rejects universal principles, loudly prefers agonistic option to consensus-building reason, cynically assumes that truth telling is an antipolitical intrusion, and truculently denies the power of government to bring about social justice and economic equality -- who does all these things better than the paragon of the non-Habermasian public sphere, that sublime resister of the docile subjectivity called political correctness, Rush Limbaugh? (349).

Jay is arguing that Rush Limbaugh is the price you pay "when you privilege initiatory, agonistic action and spontaneous, independent judgment above principles, norms, logical arguments, and substance" (349), a price Jay seems to be unwilling to pay. He concludes his cautionary tale with the adage: "you don't always get what you bargained for" (349).

To argue against the revival of an agonistic Arendtian politics in this way is to misunderstand it, since the fact that you don't always get what you bargained for is precisely the point, the "it could have been otherwise," which is for Arendt the price of freedom (Arendt 1977: 243). Jay seems to be suggesting quite dangerously that a public sphere that permits (perhaps creates?) the likes of a Rush Limbaugh (or a Howard Stern?) is one that needs to be curtailed and controlled by universal norms and principles. But precisely whose norms and principles will gain ascendancy? While I do not disagree with Jay that certain neo-conservative strains can be located in Arendt (which says as much about the processes of interpretation as it does about Arendt herself), this turn away from an agonistic politics towards a politics of norms and principles implicitly suggests that there are and should be conditions on who can speak, for whom, and how. This is what I tried to demonstrate in my discussion of the responses to the term faggoty dressup party at the opening of Chapter One, which, read in the context of what Jay identifies as those characteristics of the public sphere we should try to control, assume a certain amount of consensus that "we" should find such discourses distasteful and illicit in a democratic public. But according to whose norms and principles is such a term offensive? And what does it foreclose?

I do not wish to charge Jay with advocating censorship here, but the assumption that in the interests of norms and principles we should despise the likes of Rush Limbaugh is not a price I am willing to pay. That we don't always get what we bargained for is precisely the principle I want to hold onto, one that need not necessarily and automatically be seen as a cause for alarm, for the red-flag marking anti-democratic impulses. Contra Jay, I hope to demonstrate that agonistic option over consensus-building reason, the critique of truth-telling in political debate, and an understanding of the limitations of government to bring about social justice, are important debates to underscore at this historic moment in gay and lesbian liberation and equality. Related to these issues is the place of morality in political discourse. As misguided as such a rigid distinction between the social and the political is in Arendt (especially when put into practice in arguments like her "Reflections on Little Rock"), it is motivated by a concern that is useful in the present debates: the desire to separate politics not only from the social but the moral as well, which accounts for "the very high moral price that Arendt is willing to pay for plurality" (Bohman 1996: 59).

Though Jay calls Limbaugh a non-Habermasian paragon and advocates a return to Habermasian principles, I suggest as well that a Habermasian conception of politics and political deliberation is a limited one in the present context. Despite Nancy Fraser's bold claim that "no attempt to understand the limits of actually existing late-capitalist democracy can succeed without in some way making use of [Habermas's concept of the public sphere]" (Fraser 1997), it is precisely the primacy of Habermasian principles I want to call into question.<sup>18</sup> To return to a virtue politics, I think a good case could be made that Habermas conforms to many of virtue's

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<sup>18</sup> For a critical yet generous discussion of Habermas's relevance to debates in gay and lesbian politics, see Eric O. Clarke's Virtuous Vice: Homoeroticism and the Public Sphere (2000).

principle foundations. Quite striking in this regard is Habermas's emphasis on consensus-building, rational discourse, and the belief that contestation, disagreement, and difference (the very stuff of virtù politics) should be bracketed or neutralized in the interests of democratic deliberation. In The Philosophical Discourse of Modernity (trans. 1987), Habermas affirms, for example, "noncoercively unifying consensus-building" (315) discussion as a central function of an effective public sphere. Similarly, in his conclusion to The Structural Transformation (trans. 1989), he outlines what he considers to be one of the conditions necessary for a public sphere to be effective in the political realm: a "relativizing of structural conflicts of interest according to a standard of universal interest everyone can acknowledge." This latter condition, he states, "can no longer be disqualified as simply utopian" (235). In his work on communicative action, the ideal speech situation, and legitimation crisis, Habermas calls for a certain displacement of politics, the shutting down of the agon. In Legitimation Crisis (trans. 1975), he argues for a rationalist account of communicational processes defined as "the communication community of those affected, who as participants in practical discourse test the validity claims of norms and, to the extent that they accept them with reason, arrive at the conviction that the proposed norm are 'right'" (105). This is precisely what both Fraser and Young find attractive in Habermas's work, and what I will be working against.

What I want to question here in valorizing an agonistic approach is the extent to which community members can actually communicate with each other with the achievement of consensus. If the rightness of the proposed norms is ascertained from rational discussion among those affected, how do we account for such volatile issues like same sex marriage within gay and lesbian communities? When the community affected cannot even agree on what it wants and needs, it will be difficult to say the least to arrive at the conclusion that the proposed norm (marriage) is right.

## 2.4 Freedom and Its Relationship to Politics and the Self

One of the central and defining features of gay liberation both past and present is the desire for something like personal freedom: freedom of association; freedom to live one's life as one chooses, and with whom one chooses; freedom from institutional harassment, discrimination, and violence; freedom to do with one's body what one wishes, whenever one wishes and with whom one wishes; freedom to live openly and truthfully with one's sexuality; freedom to come out and to stay out.

In "What is Freedom" (1977), Arendt addresses the centrality of freedom in politics, and suggests that in modern political matters, freedom is the sine qua non of politics, the measuring stick by which all laws and human actions are judged. "In all practical and especially in political matters," Arendt writes, "we hold human freedom to be a self-evident truth, and it is upon this axiomatic assumption that laws are laid down in human communities, that decisions are made, that judgments are passed" (1977: 143). The understanding of freedom described above is, Arendt suggests, the opposite of "scientific and theoretical endeavors" -- she means political philosophy -- where the reigning self-evident truth is not freedom but nihil ex nihilo, of nihil sine causa. In other words:

the assumption that even "our own lives are, in the last analysis, subject to causation" and that if there should be an ultimately free ego in ourselves, it certainly never makes its unequivocal appearance in the phenomenal world, and therefore can never become the subject of theoretical ascertainment. Hence freedom turns out to be a mirage the moment psychology looks into what is supposedly its innermost domain (1977: 143-144).

Arendt is suggesting that traditions in political philosophy have been responsible for the equation of freedom with free will, the assumption that men can only be free when they have left the realm of the many (Nietzsche's herd) for the realm of the

self, "the innermost domain." It is to the question of freedom, and the assumption that freedom requires a certain attainment of psychological well-being in the equation of freedom with free will in political philosophy, that Arendt advances her most heated critique of the principle of the sovereign subject. Arendt writes, for example, that:

To the question of politics, the problem of freedom is crucial, and no political theory can afford to remain unconcerned with the fact that this problem has led into "the obscure woods wherein philosophy has lost its way". . . . neither freedom nor its opposite is experienced in the dialogues between me and myself in the course of which the great philosophical and metaphysical questions arise, and that philosophical position . . . has distorted, instead of clarifying, the very idea of freedom such as it is given in human experience by transposing it from its original field, the realm of politics, to an inward domain, the will, where it would be open to self-inspection (1977: 145).

Arendt's conception of politics rejects outright this equation of freedom with free will, with the inward domain, arguing that it is really no politics at all. In other words, "freedom as related to politics is not a phenomenon of the will" (1977: 151), of the interior, psychological realm of the self, but can only be experienced in the performative action with others in the public realm. Calling into question the assumption that the Platonic dialogue between me and myself is the space of freedom, and arguing instead that it actually closes down the possibilities of politics, Arendt offers a way into a critique of the privileging of the private (the inward domain of the self) as an aspect of the public, without having to accept her axiom that the private has no place in the public realm.<sup>19</sup> This refusal of freedom as

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<sup>19</sup> See also her Men in Dark Times, where Arendt argues that "Stoicism represents not so much a retreat from action to thinking as an escape from the world into the self which, it is hoped, will be able to sustain itself in sovereign independence of the outside world" (9). In reference to the work of Lessing, Arendt writes that "Lessing's thought is not the (Platonic) silent dialogue between me and myself, but an anticipated dialogue with others, and this is the reason that it is essentially polemical" (10).

something coterminous with the dialogue between me and myself is a promising one, and will be put to use in my critiques of coming out in Chapter Seven.

Arendt argues that these political notions of freedom as free will are to be found in the political writings of the eighteenth century. She cites Thomas Paine's insistence that "to be free it is sufficient [for man] that he wills it," and Rousseau's "extreme individualism," calling him "the most consistent representative of the theory of sovereignty" (163).<sup>20</sup> A similar "extreme individualism" can of course be located in the writings of John Stuart Mill, who, in On Liberty, writes that, "over himself, over his own body and mind, the individual is sovereign" (69), and that "individuality . . . [is] one of the elements of well-being" (119). Explicit in Mill here is the equation of freedom or liberty as free will, for he argues that "the appropriate region of human liberty" is the "inward domain of consciousness" (71). In reference to Mill's On Liberty, Brown suggests too that it "marks self-direction as an ethical imperative" (1995: 146).

Arendt articulates her alternative to the philosophical equation of freedom with free will with the concept of action. While underscoring the centrality of freedom (it is politics' *raison d'être*), freedom is to be found not within the self but through action in the political realm (1977: 146). Though Arendt develops her theory of action more fully in The Human Condition, she marks an important and instructive distinction here. For Arendt, freedom can only be freedom in politics, in the space of appearances that permits virtuous action to be realized (I will return to Arendt's troubling notions of virtuosity). What is important to point out here is that saying

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<sup>20</sup> On Arendt's disagreements with Rousseau, see Vikki Bell, "The Promise of Liberalism and the Performance of Freedom," 87-95. This is also in marked contrast to Tocqueville's position in Democracy in America (first Eng. trans. 1835). Tocqueville has also been referred to as a "prophet" of individualism. As Daniel J. Boorstin points out, the term individualism entered our political vocabulary through the first English translation of Democracy (see Daniel J. Boorstin, "Introduction to Vintage Classics Edition," in Tocqueville 1990: x).



that freedom is the *raison d'être* of politics is not the same thing as saying that freedom is freedom from politics:

We are inclined to believe that freedom begins where politics ends, because we have seen that freedom disappears when so-called political considerations overrided everything else. Was not the liberal credo, "the less politics, the more freedom," right after all? Is it not true that the smaller the space occupied by the political, the larger the domain left to freedom. . . . is it not true, as we all somehow believe, that politics is incompatible with freedom only because and insofar as it guarantees a possible freedom from politics? (Arendt 1977: 150).

Arguing against the traditional liberal assumption that we would all enjoy increased freedom as private individuals if there were less politics, less requirements of us as citizens, Arendt is not simply suggesting along with liberalism that less state intervention into the private lives of citizens is a desirable maneuver, though she certainly argues that as well. Arendt is at once more ambitious and more circumscribed than these formulations. Offering what might be satisfactory or even compelling to queer theorists, Arendt is arguing that politics does not end when freedom -- however defined -- begins. Her desire to politicize the public space *ad infinitum* suggests as well that she is not interested in increasing the bureaucratizing of politics through what queer theorists might call the assimilationist project of gay rights.

On the other hand, this does not evacuate rights from the terrain of political struggle, but suggests simply that freedom is not the same thing as the attainment of civil rights. As Lisa J. Disch writes, "the public spaces Arendt cites as exemplary of politics were opened up by demonstrations like the civil rights movement and antiwar protests. Such protests were certainly not coterminous with the institutions

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of liberal government and society but protests against them" (Disch 1994: 41).<sup>21</sup> In other words, Arendt strives to open up the space of politics by bringing into focus a wider lens for viewing rights generally, for seeing the claims made for them and those they speak on behalf of as political in and of themselves and not simply as means toward the end of renewed negotiations and interaction with the state.

This refusal of freedom as free will, which can be located in the discourses of gay liberation and its legacies (see next chapter), as well as the understanding of politics as something that does not simply end with the achievement of certain human and political goods, provides a rich framework to theorize gay and lesbian equality. It is for these reasons that Arendt's work might help bridge the gulf that had developed between queer theorists, who mostly reject the assimilationist impulse of rights, and advocates of rights, who tend to place supreme power in them.

## **2.5 Negotiating the Present: Arendt, Rights, and "States Of Injury"**

Looking to "the absolute as an invitation for intervention" (Honig 1993: 115), as well as the assumption that politics end when antipolitical absolutes enter the scene, I want to engage here more specifically the questions of rights and equality. Against a tendency in much gay and lesbian political discourse to see rights as absolutes, as both inevitable and natural conditions of simply being born, I stress the importance of seeing gay rights not as ontological dimensions of personhood, and hence self-evident, but discursive entities that stand in need of disagreement and contestation. In other words, rights are things that need to be fought for and

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<sup>21</sup> These comments are made in reference to Margaret Canovan's Hannah Arendt: A Reinterpretation of Her Political Thought (1992).

struggled over. This will be addressed in relationship to a reading of Arendt and Wendy Brown.

One of the defining characteristics of Arendt's public realm is its inherent artificiality. Arendt refers, for example, to the polis as an artificial institution (1990: 30), which is for Arendt a matter to be celebrated. This does not mean that the polis or the public space doesn't exist, nor that the artificial is counterposed to something like the authentic or the real, but simply and importantly that questions of freedom and equality are discursive enterprises and not self-evident truths. This goes against the grain of much of eighteenth-century political philosophy (where these assumptions were born), which argues instead that equality of the citizen is a "natural human attribute" that every individual is endowed with upon birth. "The very idea of equality," Arendt argues, "as we understand it, namely that every person is born as an equal by the very fact of being born and that equality is a birthright, was utterly unknown prior to the modern age" (1990: 40). More important than Arendt's reinscription of a classical ideal of the polis, this sense of the artificiality of the public sphere vis-à-vis questions of equality invites an agonistic reading of her work, to the extent that, if equality is to have any political relevance, it cannot be taken as a given, as self-evident, pre-discursive, assumed from the outset of political participation. Rather, equality "stands in need of agreement and consent . . . and not 'the truth'" (Arendt 1977: 246-247).<sup>22</sup>

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<sup>22</sup> Arendt made these comments in an eloquent and powerful interpretation of the performative speech act in the American Declaration of Independence: "by saying that 'We hold these truths to be self-evident,' he [Thomas Jefferson] conceded . . . that the statement 'All men are created equal' is not self-evident but stands in need of agreement and consent -- that equality, if it is to be politically relevant, is a matter of opinion, and not 'the truth' . . . That men are created equal is not self-evident nor can it be proved" (1977: 246-247). See also Arendt, On Revolution (1990: 193).

Though Wendy Brown refers to Arendt only in passing, many of Brown's comments echo this perspective, especially in terms of the discursive nature of rights central to Brown's work and their mutual belief that the attainment of rights is not automatically the same thing as freedom. This is despite the fact that Brown makes only fleeting reference to Arendt in States of Injury and is quite critical of her in other writings. In Manhood and Politics (1988), for example, Brown takes issue with Arendt's "repudiation of the body" that Brown sees as tendential in much of Western political philosophy, charging Arendt's work with the qualities of "anxiety, exaggeration, and underlying panic" (28): "There is something perilously close to pathology in Arendt's attempts to avoid touching and contamination" (28). A good case could be made here for Arendt's refusal of the body,<sup>23</sup> but, as I argue later, this pathology might also be seen in Arendt as a repudiation of the "cult of intimacy," "the axiom that warmth is our god" that has pervaded much of the contemporary politics of identity in the last few decades, from early feminism and consciousness-raising to the appeal to solidarity and/as community in identity politics. Given the kinds of critiques Brown herself offers of feminism and identity-based politics, there is ample support to finesse a reading of Arendt here with Brown.

In a way that anticipates postmodern developments, Arendt refuses something called truth as coterminous with politics. Arendt valorizes instead the central concept forgiving, which bears interesting resonance with Brown and her project of Nietzschean forgetting.<sup>24</sup> In The Human Condition, for example, Arendt

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<sup>23</sup> Brown does not elaborate on these comments here in her brief chapter on "Arendt: The Fragility of Politics," in her Manhood and Politics.

<sup>24</sup> In place of truth, Arendt's politics advocates "forgiving," "promising," and "visiting." See Arendt, The Human Condition 236-247; and On Revolution, where she discusses "promising" as "the human faculty" "in the realm of politics" (175). For discussion of this in Arendt, see Honig, Political Theory and The Displacement of Politics, esp. 84-87. See also Benhabib, The Reluctant Modernism of Hannah Arendt; and Disch, Hannah Arendt and the Limits of Philosophy.

argues that forgiving "serves to undo the deeds of the past . . . without being forgiven, released from the consequences of what we have done, our capacity to act would, as it were, be confined to one single deed from which we could never recover; we would remain the victims of its consequences forever" (237). This is a remarkable comment on Arendt's part, given that her intellectual and personal histories are informed by the persecution of the Jewish people and set against the backdrop of the Holocaust.

Similarly, Brown advocates a partial Nietzschean forgetting in contemporary identity politics to work against the recriminations of hurt and suffering at the heart of the politics of resentment (74), particularly feminism's wounded attachments -- an equally remarkable comment given Brown's investments in those very projects. Brown queries: "where do the historically and culturally specific elements of politicized identity's investment in itself, and especially in its own history of suffering, come into conflict with the need to give up these investments, to engage in a Nietzschean 'forgetting' of this history?" (55). Brown, however, quite wisely takes a step back from this position, cautioning against a wholesale acceptance and celebration of the "counsel of forgetting," since this would, she observes, be "inappropriate" in a political arena premised on the visibility and recognition of historically subjugated groups and identities.

Though the ends to which these terms are put might differ in Arendt and Brown, the theoretical source for both is similar: a desire to displace "reaction" (which is what characterizes Brown's Nietzschean resentment) with "action" (the *raison d'être* of politics for Arendt). Echoing Arendt's vocabulary, Brown, taking her cue from Nietzsche, suggests that reaction is an "effect of domination that reiterates impotence, a substitute for action" (69). In other words, both authors highlight that

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a certain forgetting of past recriminations is what can enable politics in the present and in the future.

Some of the reasons for Brown's suspicions and reservations about constitutional rights as the grounds for identity-based politics echo Arendt's remarks on the civil rights movement in her adopted country the United States, as well as in Arendt's reflections on the American and French Revolutions. Most notable is the assumption on the part of both authors that constitutional rights are premised from the outset on a negative, repressive conception of power. "The liberties which the laws of constitutional government guarantee are," Arendt suggests, entirely of a "negative character" in that they are "not powers of themselves, but merely an exemption from the abuses of power" (1990: 143). Arendt argues further that the laws of constitutional government (citizens rights) "claim not a share in government but a safeguard against them." Arendt insists that the idea of liberty articulated in the term liberation can only be seen as negative and that the "intention of liberating" is not the same as the desire for freedom (1990: 29). Distinguishing these two concepts, Arendt continues by suggesting that political freedom is often construed as the "much more vehement, but politically essentially sterile, passionate hatred of masters, the longing of the oppressed for liberation" (1990: 125), an oppositional politics that resonates with many of the discussions of Brown in the previous chapter.

Quite strikingly, this is reiterated in Brown's query that "the realization of substantive democracy . . . [might] continue to require a desire for political freedom, a longing to share in power rather than be protected from its excesses, to generate futures together rather than navigate or survive them" (1995: 4). She continues: "How might democratic discourse itself be invigorated by such a shift from ontological claims [the 'I am' of identity politics] to these kind of expressly political ones, claims that, rather than dispensing blame for an unlivable present, inhabited a necessary agonistic theatre forging an alternative future?" (Brown 1995: 76).

Echoing Arendt's refusal of ontological dimensions of identity and celebrating the agonistic dimension of politics, Brown poses as a central question framing her book what seems to have been anticipated by Arendt: "have we, at the close of the twentieth century, lost our way in pursuing this desire?" (Brown 1995: 4). Though it is not explicit here, both authors share an understanding of how rights, and the desire for them, are often simply about asking to be included in that which subordinated groups have been historically excluded from, a framework which has difficulty overcoming the negative aspect of identity claims -- the resentment associated with exclusion. This is something we will see throughout the studies that follow.

In addition, both Arendt and Brown seem perplexed or deeply ambivalent about the prevalence of the market and economics in our political formulations of freedom and equality. In reference to Marx, whom she is highly critical of, Arendt suggests that the idea of revolution came to be seen no longer as liberating man from the oppression of his fellow man "but . . . to liberat[ing] the life process of society from the fetters of scarcity so that it could swell into a stream of abundance. Not freedom but abundance became now the aim of revolution" (1990: 65). Against the market place as a realm for politics and hence the realization of freedom, Arendt is critical of such economic formulations of equality, since for her questions of economics are about the necessities of life and hence properly social in nature. This is one of the glaring oversights in Arendt's work, of course, conditioned as it is by a humanist and not a materialist account. What is significant here is that Brown refers to the "economic formulation of equality" by the left and by liberals, and she suggests that a reinvigorated politics of freedom requires not simply the increase of market-based goods (often in the form of rights) but the acknowledgment of a desire to share in power -- hence the coupling of power and freedom in the title of Brown's book.

These themes are picked up again in Arendt's comments on the American Declaration of Independence and the French Declaration of the Rights of Man and the Citizen. As Arendt interprets it, "[t]he consequences of th[e] shifted emphasis" from the former to the latter, namely, that the American document declared nothing more than the need for "civilized government for all mankind" while the French version asserted that every individual, by virtue of being born, "had become the owner of certain rights," "are enormous" in both theory and practice (1990: 149). In other words, the French Declaration, which, according to Arendt, conforms to the present political climate, equates rights with something "independent and outside of the body politic" -- that is, with man qua man (1990: 149). The rights of citizenship started to take on certain ontological dimensions -- rights as an extension of personhood -- rather than simply constitutional rights that are solely political in nature and are therefore not just a given.

Arendt seems to have lost out in this quest to underscore the political, as opposed to ontological, understanding of rights. This is attested, for example, in the Universal Declaration of Human Rights, adopted by the United Nations in 1948, which states that: "All human beings are born free and equal in dignity and rights" (see "Universal Declaration" Article 1).<sup>25</sup> Moreover, it can be discerned in the discourses of rights in the contemporary context, especially but not exclusively in the context of gay rights. In Created Equal: Why Gay Rights Matter to America, Michael

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<sup>25</sup> The year 1998 marked the fiftieth anniversary of the Universal Declaration of Human Rights. A number of celebrations ensued, including: Vision TV's "Voices of Vision" series (9 October to 10 December, 1998; broadcast nationally March 1, 1999), co-sponsored by the Canadian Human Rights Commission. The series featured ten world leaders in human rights across Canada. See also, "Fundamental Freedoms: The Artist and Human Rights," an exhibit at The National Gallery of Canada, Ottawa (until January 3, 1999). What struck me as I made my way through this exhibit was that all the works, without exception, commemorated what we might call "wounded subjects," images of suffering and exploitation, as opposed to any celebration of the positive impact the Universal Declaration might have had thus far in its history.



Nava and Robert Dawidoff (1994) imply in the very title of their book that our equality is a birthright -- we are created equal. Similarly, Urvashi Vaid argues for gay rights on the basis that "equality, dignity, and justice are human birthrights" (1995: 191), and "genuine equality ... is our birthright as moral human beings" (34). I will return to the specific implications of these sentiments in later chapters.

For now, I simply raise the questions, Why this resistance to ontological understandings of civil rights in Arendt? What are the theoretical and political implications of this understanding of them? By seeing rights as ontological, prior to political deliberation, there is no space for contestation or dissent: the need for them in almost all manifestations is taken as a given, and what rights cannot achieve is rarely accommodated by such a framework. Rights, and by extension, the political and social values of equality, dignity, and justice, are, in this sense, "moral norms." As Lisa J. Disch asserts, moral norms have no place in politics because "they are not matters for judgment but 'matters of cognition' that are 'compelled' by foundational truths and consequently invite no disagreement" (Disch 1997: 148). It is for this reason that I want to insist that rights are not simply aspects of being born, that they are not simply our birthright, as moral beings or otherwise.

How would the subsequent civil rights movement of our time, gay and lesbian rights, sit with Arendt's politics? To an extent, Morris B. Kaplan has a good case before him when he claims that Arendt's "insistence that rights can be secured only through equal membership within a political society suggests she would support the claims of lesbian and gay citizens to protection against social retaliation for the exercise of political rights" (152). He goes as far as arguing that her claim that freedom to participate in the public realm, which necessitate "a capacity to establish a private household," would support arguments about the need for gay marriage legislation as a condition of equal citizenship (152). As good as a case can be made

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for Arendt's approval of rights like gay marriage, one should keep in mind the following: though Arendt refers to the right to marry whomever one wishes "an elementary human right" (Arendt 1959: 49); though she calls laws in the American south making mixed racial marriages a criminal offense the "most outrageous law" (49); though she refers to "the right to home and marriage" as an "inalienable human right" linked to "life, liberty, and the pursuit of happiness"(49) -- despite these comments Arendt quite problematically privileges marriage over and above what she calls minor rights, like the right to attend integrated schools; the right to sit anywhere on a bus; the right to enter public spaces free from restriction and regardless of race. In one of her more troubling statements, Arendt argues that the right to vote and other constitutional rights are secondary to "marriage rights." (49). According to whom is the right to marry more fundamental than being able to sit anywhere on a bus? At stake here is a general heterosexualizing of rights that is, if nothing else, somewhat troubling in the context of Kaplan's discussion of Arendt and gay marriage, one that he does not address.

In response to the question about the status of the gay civil rights movement in our own period, Kaplan's general approach to gay rights is exemplary of a tendency in these discourses more generally: seeking the approval of thinkers like Arendt (or Plato, for that matter) is beside the point. Deciding whether or not Arendt would support such claims does little to tell us about the specificity of such claims in the present context.<sup>26</sup> Nor does it help to understand what kind of political culture rights create. More importantly, I think a good deal might be gained from the

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<sup>26</sup> Kaplan suggests further that "[t]hat queer old citizen-soldier [Socrates] would surely object to the legitimacy of any such policy as 'Don't Ask, Don't Tell'" (231). Similarly, in *Democracy on Trial*, Elshtain says that Plato "would not be pleased" (99) with the state of contemporary democracy, to the extent that, in Elshtain's words, the *agora* is now overwhelmingly the space of private interests. She goes as far as to speak in Plato's voice, constructing a dialogue between him and Abraham Lincoln.

position that rights are not a condition of ontology, of simply being born, since it helps open up the spaces for critique when gays and lesbian subjects are spoken for, often by gays and lesbians themselves, in these arenas. Rather than seeking the approval of some prominent political theorists, I want to argue that we hold onto the possibility of disagreement as an important element of political participation. We can accomplish this by refusing to see rights as self-evident, foundational truths and instead as political entities that need to be fought for and struggled over.<sup>27</sup>

## **2.6 The “What-ness of Being” and the “Who-ness of Action:” Arendt, Judith Butler, and the Performative**

For Arendt, the public space is defined first and foremost as a space of appearances, which draws attention to the performative dimension of the self in the public realm as a vital aspect of the political (Arendt 1958: 199-297). Action, not truth, characterizes the activity of the public realm, and this action is always contingent, the “it might have been otherwise,” which Arendt argues is “the price of freedom” (1977: 243). Though Arendt assumes that subjects can act, speak, and know (that they can be represented), they can never do so fully and completely; they can never do so as individual, sovereign subjects, and they are never fully in control of the results of their actions, their performances. They are, in other words, always already subject to the contingency of the public realm that Arendt celebrates: “nobody is the author or producer of his own life story . . . stories, the results of

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<sup>27</sup> Let me clarify: This strategy might be seen as speaking against gay rights, or one that might be used to speak against them. It will become apparent in Chapter Five why I think we need an agonistic reading of rights in the context of gay equality. As my discussion of the death of Matthew Shepard will reveal, I am trying to work against the construction of a consensus on the part of gay communities that rights are always and necessarily the solution to our political and social woes.

action and speech, reveal an agent, but this agent is not an author or producer" (Arendt 1958: 184). This vision of the performative means that "action never achieves its purpose" (Arendt 1958: 184), or, as Judith Butler puts it, the performative (she refers to the speech act "coming out") "does not fully constitute the referent to which it refers" (1997a: 125).

As Butler's use of the performative reveals, many of the projects of gay and lesbian politics operate by way of a conception of the public that privileges the self and its performative political dimensions. Performativity, for example, is a central concept in queer theory. As a necessary consequence of sexuality's lack of a "corporeal logic," that is, the logic "through which the body is cast as the definitive site of difference" (Robyn Wiegman 1997) which characterizes racial and gender based identities, queer theory must inevitably privilege the performative as the public acting-out-of that which does not display itself.

Without referring at all to Arendt, Butler, in her final chapter from Gender Trouble, entitled "From Parody to Politics," puts forth one of the principle claims in her book, one that has become commonplace in a good deal of queer theory and gender studies: "The foundationalist reasoning of identity politics tends to assume that an identity must first be in place in order for political interests to be elaborated and, subsequently, political action to be taken. My argument is that there need not be a 'doer behind the deed,' but that the 'doer' is invariably constructed in and through the deed" (142). Butler sums up this position in her more recent book Excitable Speech (1997) by arguing that her on-going project of the politics of the performative is "opening up the possibility of agency" (15).

Similarly, in her comment that shame can be a politically potent tool for theorizing, Eve Sedgwick argues that "[s]hame interests me politically . . . because it generates and legitimates the place of identity -- the question of identity -- at the origin of the impulse of the performative, but does so without giving that identity-

space the standing of an essence" (1993: 14; emphasis in original). Like Butler, Sedgwick articulates a predominant sentiment in queer theory: that identity is not a matter of ontology but a condition that is socially, politically, and historically constructed.

What is interesting to note here is that Arendt argued the exact same thing, though Arendt did not of course do so in the context of gender trouble or the sign of queer. This similarity, at least in Arendt and Butler, is not surprising, since the source of this statement in both is the same: Nietzsche's On the Genealogy of Morals, from which this statement the "doer behind the deed" comes (see Butler 1990: 25). Both Arendt and Butler provide, then, two rather different sources for questioning the notion of an authentic subject and for facilitating openness toward questions of political agency. Butler writes for example that "[t]here is no self that is prior to the convergence or who maintains 'integrity' prior to its entrance into this conflictual cultural field" (1990: 145). In other words, the impetus for this Nietzschean-inspired understanding of the subject, of agency, and identity in Butler is to suggest that the subject is constructed in and through the performative and not by the mere fact of identity itself. As we have seen, Arendt offers a similar narrative of the self in the public realm.

To this end, Arendt distinguishes between the self as a "who" and a "what" (Arendt 1958: ), privileging in her political theory the public disclosure of the "whoness of action" in contradistinction to the "what-ness of being." The former is defined as the citizen's capacity for "virtuosity" or "excellence" (his gifts, talents, qualities, shortcomings, his capacities for glory and courage), while the latter represents those elements that Arendt sees as properly private, which would ostensibly include gender, race, sexuality, the categories on which the politics of identity are based. Disparaging the contemporary political scene and bringing to the fore her desire for a return to the classical Greek conception of the polis based on virtuosity, Arendt

laments the fact that “[t]he moment we want to say who somebody is, our very vocabulary leads us astray into saying what he is; we get entangled in descriptions of qualities he shares with others like him; we begin to describe a type or ‘character’” (1958: 181; emphasis in original).<sup>28</sup> Implicit in this phrase “the qualities he shares with others like him” is Arendt’s critique of identity based politics. Though the performative theories of gender and sexuality in Butler and other queer theory texts would most certainly not advocate the qualities of excellence and virtuosity, we might say that the refusal of the what-ness of being in the public realm is akin to the refusal of identity-as-essence that informs these projects as well.

Though Arendt’s account of virtuosity is not all that helpful and quite troubling, which necessitates a rejection of the privileging of the who somebody is as a better place for thinking about political agency, I concur with Honig that there is a promise in Arendt’s “unwillingness to allow political action to be the site of representation of ‘what’ we are” (1993: 124). This unwillingness resonates quite directly with recent and promising interventions in feminist scholarship, and flows from two sources that will be of use in the critiques that follow: (1) how to have a politics of the subject (that is, politicized identities) that does not constitute subjects

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<sup>28</sup> Bringing the issue of virtuosity -- the who-ness of action -- into the context of freedom discussed earlier, and locating in part the source of Honig’s reading of Arendt’s virtù politics, Arendt writes in “What is Freedom?” that the freedom inherent in action is best captured by Machiavelli’s concept of virtù, defined as “the excellence with which man answers the opportunities the world opens up before him in the guise of fortuna,” and which is best described by the term virtuosity, a type of “excellence” associated with the performing arts, “where the accomplishment lies in the performance itself and not in an end product which outlasts the activity that brought it into existence and becomes independent of it” (Arendt 1977: 153). The centrality of virtuosity as excellence in Arendt is, for me, both troubling and unpalatable, not only because of the elitism charged against Arendt as a result, but also because I think Arendt falls into the trap of assuming that excellence, as an aspect of the public space, is not subject to contingency and variability. In other words, Arendt is no more capable of defining what constitutes excellence in a public sphere that is historically shifting, in a state of flux and negotiation. There is a transcendent quality to excellence and virtuosity that, at the very least, goes against the grain of an agonistic reading of her work.

as authentic individuals or as the source of political interests; and (2) a resistance to a communal conceptualization of community, which is what is implied in the comment that the what tends to slide into descriptions of qualities shared with others, where identity becomes a type or character.

Again, in more current terms, Dana R. Villa, in "Hannah Arendt: Modernity, Alienation, and Critique" (1997), addresses Arendt's model of the self in terms of the distinction between an "expressivist" versus "performative" conception, the former defined as one that assumes a "core self, a basic or essential unity of innate capacities that are expressed, actualized, or concretized in the world of appearances;" the latter, which characterizes Arendt, is based on "the rejection of anything like an expressivist conception of the self," for the unity or coherence of identity is not a given but "is an achievement, the product of action" (190). Though the assumption that identity is anything like an achievement is as potentially problematic as the notion of a core self, Arendt's performative model of political action shares some important affinities with contemporary political analysis.

Recognizing the import of this distinction between the who and the what for contemporary feminist analysis, Mary G. Dietz suggests that Arendt's privileging of the former allows feminism to formulate an account of agency that is not tethered to the "gendered telos of the human condition" (1995: 32). Drawing on Honig's deconstructive, agonistic reading of Arendt, Dietz maintains that Arendt can offer "a powerful theoretical starting place for the articulation of an action-coordinating feminism that maintains the category 'women' as the critical focus of its politics, but does not assert it as the political identity of its agents" (36; emphasis in original). In this way, the possibilities for feminist politics (rather than Arendt's "approval") is read back into Arendt, even though she was notoriously resistant to identification with feminism.

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Moreover, this refusal to conceive the political subject as a what, of identity-as-essence where the individual is tethered to "others like him," is spoken as a critique against the possibility that political interest is seen as properly emerging from such identities, from belonging (by birth or otherwise) to a particular community. For, as Honig suggests, political action does not automatically flow from the self but often comes to us. In this sense, action is contingent, even fortuitous:

Action is self-surprising . . . in the sense that it happens to us; we do not decide to perform, then enter the public realm, and submit our performance to the contingency that characterizes that realm: often, political action comes to us, it involves us in ways that are not deliberate, willful, or intended, in ways that cannot be fully captured or captivated by agent-centred accounts. Action produces its actors; episodically, temporarily, we are its performative productions (Honig 1993: 120).<sup>29</sup>

There is a tendency in the projects of liberation and equality addressed in the chapters that follow to start from this position of what somebody is, which assumes a self fully constituted prior to its engagement in public participation, and that through this disclosing self we can contain and control the effects or the results of the stories we tell about ourselves. As Andrew Sullivan, a prominent author and spokesperson for gay rights, puts it, developing a "politics of homosexuality" "allows homosexuals to define their own future and their own identity and does not place it in the hands of the other" (Sullivan 1995: 186). In addition to underscoring one of the characteristics of virtue politics -- the assumption in Sullivan "that his own theory soothes or resolves the dissonances other theories cause" (Honig 3) -- Sullivan is suggesting that we first decide to perform and then enter the public realm, and that

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<sup>29</sup> Interestingly, this passage is repeated from Honig's earlier piece "Toward An Agonistic Feminism" (1992), except here Honig changes the former suggestion that we are action's "agonistic achievement" (1992: 223) with the term "performative productions." I think we need to call into question the assumption in Arendt that subjects qua political agents are achievements, since it implies a finality to political agency that would be anathema to an agonistic reading of Arendt.



in doing so the action that takes place there is fully and totally under homosexuals' control. This leaves no room for the possibility of contingency. As Honig puts it, these assumptions about the stability of political agents and the action they perform may return to haunt and destabilize the very foundation on which they rest.

## **2.7 Arendt's Account of Community, Identity, and Love**

The consequences of a politics that privileges the what-ness of being at the expense of other identity formations is readily apparent in the centrality of community in identity politics, an understanding of belonging that is often "constituted by preestablished similarities among its members" (Calhoun and McGowan 10). Arendt's account of community offsets these ideas. It refuses the "warmly persuasive" quality of community, the connectedness it is said to promote (Whitt and Slack). It is this suspicion of the warmth of solidarity and/as community that might account for what appear to be in Arendt some rather surprising and shocking pronouncements about what should properly constitute the political, the public, and the private. But it is these very pronouncements that offer an opening for critiques of community in the present.

Specifically, I am referring to Arendt's extreme claims that compassion, love, and the affairs of the human heart are not only to be looked upon with trepidation in the realm of politics but are actually "anti-political" enterprises. She calls love, for example, "perhaps the most powerful of all anti-political forces" (1958: 242).<sup>30</sup> She

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<sup>30</sup> See also Arendt's recently published doctoral dissertation, Love and St. Augustine (eds. Joanna Vecchiarelli Scott and Judith Chelius Stark 1996). For a synopsis, see Appendix 3 in Young-Bruehl's biography, Hannah Arendt: For Love of the World (1982: 490-500).

refers to the human heart as "the filing cabinet for human vices," which is what accounts, she argues, for Robespierre and his followers propensity to "see intrigue and calumny, treachery and hypocrisy everywhere" (1990: 96). Or that: "The qualities of the heart need darkness and protection against the light of the public to grow and remain what they are meant to be, innermost motives which are not for public display" (1990: 96). Despairing of the fact that the heart has become an instrument of "political virtue" -- "la coeur, une âme droite, un caractère moral" (1990: 96) -- Arendt suggests quite dramatically that compassion for individuals is an admirable enterprise but is unpolitical. In contrast to the warmly persuasive quality of communal politics, Arendt advocates what Margaret Canovan terms a "'cool solidarity' with all mankind" (Canovan 1985: 633). This might account for Wendy Brown's comment that Arendt's fear of touching and contamination is bordering on the pathological. I read this quite differently, and see in these comments a powerful resistance to the politics of love and belonging that is so much a part of queer politics and the politics of community (see especially Probyn 1994).

Arendt takes these positions further in The Human Condition, where she argues that love is so characterized by its inherent worldlessness that it can only "become false and perverted when it is used for political purposes such as the change or salvation of the world" (52). In keeping with her axiom that politics can only take place in the light of the space of appearances (and not the "darkness and protection" of the private realm), love is not only unpolitical but "is killed, or rather extinguished, the moment it is displayed in public" (51).

The seeming absurdity of Arendt's comments for theorizing the projects of liberation and equality in gay and lesbian politics could not be more accentuated here in this context of love, since many of these projects advocate the need to "justify our love," "our right to love," or the public celebration of our private commitments

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(which includes our ability to love) as instrumental in the change if not the salvation of the world. <sup>31</sup> Indeed, as Canovan observes, the implications of Arendt's views are radical, since they would seem to suggest that "any attempt to use politics to serve private interests is corrupt" (Canovan 1985: 637). Moreover, Arendt's assertion that love and the affairs of the human heart need darkness if they are to thrive most certainly could be -- and has -- been put into the service of some rather homophobic practices, or at least for strengthening heterosexual privileges. <sup>32</sup> It is of course precisely because the affairs of the human heart have remained hidden by the darkness of history that struggles for gay and lesbian liberation and equality persist. What, then, could Arendt possibly have to say to the projects of liberation and equality, which can only see this assumption that politics is corrupt when it serves so-called private interests like the affairs of love and the human heart as anathema in the context of the requirements of contemporary democracy?

If we can suspend the extremism of Arendt's language, her wholesale conceptual evacuation of love, compassion, and the human heart as matters that are purely private in nature, and look to the source of Arendt's distaste for these principles we might locate the place for a powerful critique of identity politics and the politics of community. As Canovan points out, Arendt goes to great lengths to distance herself from what Canovan identifies as the "participationist literature" of the 1960s and 1970s, much of which is inspired by a "romantic desire for

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<sup>31</sup> See Donna Dennis, "Justify Our Love," a discussion of Colorado's Amendment 2 and the "landmark decision" of the U.S. Supreme Court's against it; and Ginny Vaid, ed., Our Right to Love (1978), which Vaid refers to as a pioneering book on lesbian visibility (Vaid 200).

<sup>32</sup> On this, see my discussion of political theorist Jean Elshtain in Chapter Four. Elshtain advocates a position similar to Arendt, and she does so in order to dismantle the projects of gay liberation (see especially 1993: 55) in what is a poorly disguised attempt, in the name of democracy, at denouncing the increasing equality of gays and lesbians in the United States.

community, for warmth, authenticity and naturalness" (1985: 632). Quoting Richard Sennett's The Fall of Public Man, Canovan argues that Arendt's "non-communal concept of citizenship" (Canovan 631) goes against the grain of what Sennett identifies as the "modern ideology of intimacy," the axiom that "warmth is our god" (qtd. in Canovan 632). Arendt's outrageous comments on love are deployed precisely in the interests of combating the "warmly persuasive" quality of community that has come to define some versions of identity politics.<sup>33</sup> Linking up the anti-political potential of love with the what/who distinction mentioned above, Arendt suggests that an unfettered devotion to one's identity (the what) is an unworldly enterprise because it cannot reach beyond the realm of the self:

For love, although it is one of the rarest occurrences in human lives, indeed possesses an unequal power of self-revelation and an unequal clarity of vision for the disclosure of who, precisely because it is unconcerned to the point of total unworldliness with the what the lived person may be, with his qualities and shortcomings no less than with his achievements, failings and transgression. Love, by reason of its passion, destroys the in-between which relates us to and separates us from others (1958: 242; emphasis in original).

In a sense, this is to argue for a larger embrace of difference than devotion to one's community can accommodate, which is what some critical theorists call for: the wish that we do away with a partisan politics of difference and embrace otherness in all of its various manifestations (see Probyn; Slack and Whitt; Cornel West; Stuart Hall; to name only those mentioned here). Though this might be a rather broad interpretation and application of Arendt, the import of such comments lies in the

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<sup>33</sup> I call these comments outrageous because: (a) in the context in which they were written, post-war America, the suggestion that love is apolitical or corrupt would seem incredible for a transplanted European intellectual to make; and (b) the uses to which this might be put can be extremely dangerous. See my discussion of Jean Elshtain in Chapter Four.

suggestion that love for one's identity and community threatens to eradicate the possibilities for internal antagonisms and dissent.

The belief that love destroys the in-between, which is what is captured in her concept of inter-est, provides again an implicit critique of identity-based politics. Arendt is suspicious of love as a foundation for politics because of the potential that one's interests (one's love and compassion for others) naturally and ontologically flows from one's identity, from the who someone is. "I cannot love myself or anything that I know is part and parcel of my own person," Arendt suggests. That doing so would be "suspect" does not require the eradication of love and compassion outright from politics. It does mean the necessity of providing a critique of what kind of politics ensues when love and compassion for one's self and hence one's community are the initiatory and foundational principles of debate. To put this slightly differently: perhaps a little ambiguity in matters of identity and community can point a way out, or at least open up a space for critique.

It is this sense of ambiguity I want to adhere to in the following chapter, which offers a critique of identity and community in queer theory and politics.

## CHAPTER THREE

### Community and Identity:

#### Critiquing Liberation's Reminders in Queer Theory and Politics

*A name tends to fix, to freeze, to delimit . . .*

--Judith Butler, *Excitable Speech* (1997)

*Movements need myths. Activists can make up new myths or they can take those already in existence and recycle them.*

--Bonnie Honig, "Immigrant America?" (1998)

### 3.1 Liberation and Postmodernism

IN THE FIRST volume of *The History of Sexuality* (1976; trans. 1978), Michel Foucault argues quite persuasively that the modern propensity to construe the "truth-telling" of our sexuality as our salvation against regimes of repression is in fact a ruse that serves to increase the regulation and disciplining of that very sexuality that is supposed to be liberated. From this observation he develops the repressive hypothesis:

We are informed that if repression has indeed been the fundamental link between power, knowledge, and sexuality since the classical age, it stands to reason that we will not be able to free ourselves from it except at a considerable cost: nothing less than a transgression of laws, a lifting of prohibitions, an irruption of speech, and a whole new economy in the mechanism of power will be required (5).

Against the repressive hypothesis, against the assumption that more discourses about sexuality will liberate it, Foucault articulates his famous maxim that power and discourse produce the subjects they seek to emancipate, and that the history of sexuality demonstrates not a movement from repression to liberation but the substitution of one form of power for another. This has spawned an enormous amount of critical reflection, a small little industry of research, on how the liberatory

and emancipatory discourses of sexuality have actually worked against freeing modern subjects from the regimes of truth, confession, and repression. It is, in part, the source of both Wendy Brown's and Judith Butler's engaging critiques of feminism; as well as the modus operandi of Toby Miller's interventions into the discourses and institutions that produce well-tempered selves.<sup>1</sup>

To be sure, in reference to Foucault's "passionate . . . [and] ambivalen[t]" denunciation of the "rhetoric of liberation" implied in the repressive hypothesis, Frederic Jameson, in his "Forward" to Lyotard's The Postmodern Condition (trans. 1984), contends that Foucault's stance here is indicative of the fact that such "master-narratives . . . have become particularly repugnant or embarrassing to First World intellectuals today" (see Lyotard xix). Referring to the two great myths that Lyotard attempts to dismantle in order to announce the advent of the postmodern age -- "the liberation of humanity and that of the speculative unity of all knowledge" (ix) -- Jameson implicitly suggests that Foucault's resistance to the rhetoric of liberation must necessarily be seen as one of the conditions of the postmodern. This assumes in turn that liberation has no place in progressive, postmodern politics, and that any progressive political critique must refuse such totalizing epistemological gestures.

Foucault and his disciples notwithstanding, this chapter demonstrates that, on the contrary, liberation has not only not been renounced, but occupies a central and prominent position in the work on the politics of sexuality, from liberal based discourses of gay and lesbian rights, critiques of ("heteronormative") sexuality and desire in queer theory, to postmodern articulations of a "radical sexual democratic

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<sup>1</sup> See Brown, States of Injury, especially 41-42; Butler, Bodies that Matter, and her The Psychic Life of Power: Theories of Subjection (1997); Toby Miller, The Well-Tempered Self, especially "Introduction." See also, Elizabeth Grosz, "The Body as Inscriptive Surface," in her Volatile Bodies (1994), especially 145-159; Probyn, Sexing the Self (1993), especially Chapter 5, "Technologizing the Self."

politics." In those projects that do not proceed by way of the term liberation directly, like the projects of queer theory addressed in this chapter, I argue that what I call liberation's remainders inform these projects in some overt and covert ways. The chapter also examines some of the potentially totalizing gestures that structure and inform queer social and political practices. Rather than attempting to denounce those projects and discourses for not refusing the rhetoric of liberation (à la Jameson's interpretation of Foucault), this convergence of liberation, gay, lesbian, queer politics, and postmodernism suggests that, where the questions of liberation, equality, and rights are concerned, there are "only paradoxes to offer."<sup>2</sup> That is to say that, rather than attempting to resolve the tensions embedded in these discourse and practices, I want to critique them on their own terms, to understand the ways they are complicit in reproducing what they are said to oppose, and to value the place of ambiguity in matters of community and identity.

Moreover, this chapter aims to contextualize and historicize the term liberation within some earlier political movements, histories, and projects in order to situate more specifically how it functions in contemporary gay and lesbian politics, including queer theory. Specifically, it offers a comparative analysis of the "voices of gay liberation" and articulations of identity and subjectivity in queer theory and politics. My purpose in exploring these traces is to suggest that we have a great deal to learn from attending to these earlier projects, that we can help avoid some of

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<sup>2</sup> See Joan W. Scott, Only Paradoxes to Offer: French Feminists and the Rights of Man (1996). For a discussion of paradox as a tool for critical inquiry, see Jessica Benjamin, Like Subjects, Love Objects (1995). Benjamin affirms theorizing "in ways that allow competing ideas to be entertained simultaneously . . . accepting the paradox that can arise from an ability to identify with more than one perspective. To accept paradox is to contain rather than resolve contradictions, to sustain elements heretofore defined as antithetical" (qtd. in Hanna Pitkin 274). In this way Benjamin echoes Honig's development of a virtù theory of politics. See also William E. Connolly, Identity/Difference: Democratic Negotiations of Political Paradox (1991).



their pitfalls, which are sedimenting into these later projects, and to insist on refusing an oppositional politics, which is one of their legacies.

### **3.2 Gay Liberation and Homosexual Desire: (In)Compatible Partners?**

Gay liberation is, without a doubt, a sign of multivalent and contradictory signification. It draws on discourses as diverse as the black civil rights movement in the United States in the 1950s and 1960s; women's liberation in the 1970s; anti-war movements; and psychoanalytic models of desire. Bringing together two of these impulses of gay liberation, civil rights and psychoanalytic models of desire, the work of French philosopher and gay civil rights activist Guy Hocquenghem offers a useful starting point for thinking through the resonances and implications of the convergence of rights, identity, subjectivity, and desire in the context of modern liberationist politics.<sup>3</sup> It also provides a point of departure for tracing some of the continuities of gay liberation in contemporary discourse, and for posing the questions: Is homosexual desire in need of liberation? Are desire and liberation compatible partners?

Hocquenghem was one of the founding members of the Front Homosexuel d'Action Révolutionnaire (founded 1971) in France, "the most visible and most militant of the French gay liberation groups" (Schehr 1996: 140). His intellectual work draws heavily on Deleuze and Guattari's Anti-Oedipus: Capitalism and Schizophrenia (1972; trans. 1977); Lacan's work on desire and the phallus; Althusser's Ideological State Apparatus thesis (ISA) and the interpellation of subjects; and Foucault's theories of discourse and power. In short, a tripartite

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<sup>3</sup> For a biography and critical analysis of Hocquenghem's theoretical work, see Bill Marshall, Guy Hocquenghem: Beyond Gay Identity (1997).

interest in language, psychoanalysis, and Marxism (see Jeffrey Weeks 1993: 24). Hocquenghem's work also situates the liberation of the homosexual within the larger context of the revolutionary movement of May '68 in France; second-wave feminism in Europe and North America; and international struggles against racism and colonialism in the nineteen sixties (Weeks 1993; Michael Moon 1993). That is to say, within the framework of civil rights. As Lawrence Schehr (1996) remarks, this convergence of revolution and the emancipation of the homosexual is "part of a founding moment in the development of discourses of gay liberation" (142), an opportunity for what Hocquenghem himself refers to as a "revolution of desire" (Weeks 1993: 23). Similarly, Michael Moon refers to Hocquenghem's Homosexual Desire (1972)<sup>4</sup> as "our first working example of theoretical discourse strongly inflected by gay activism" (Moon 1993: 9).

The important contributions Hocquenghem makes to the politics of homosexual liberation and the anti-psychiatry accounts of desire is his insistence in Homosexual Desire that, his title to the contrary, desire is neither homosexual nor heterosexual; it is, instead, following Deleuze and Guattari, "emergent," in "polyvocal flux" (49). Drawing on Deleuze and Guattari's "schizoanalysis," Hocquenghem suggests importantly that there is no right or wrong desire, working to offset the prevailing assumptions of his day that homosexuality is misplaced heterosexuality. Though he argues that the expression homosexual desire is "meaningless" (49), illusory, or imaginary, Hocquenghem underscores nonetheless the implications of "deconstructing" its "manifest imagery" (50). Echoing Foucault, he writes that "[t]he establishment of homosexuality as a separate category goes hand in hand with its

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<sup>4</sup> Homosexual Desire was originally published in French in 1972; the first English translation was published in 1978; it was reissued in 1993 with a "New Introduction" by Michael Moon. References are from the 1993 edition.

repression" (55).<sup>5</sup> In other words, he wants to understand desire not only as an aspect of the individual psyche, but as part of a larger field of the social and the cultural, what he calls the "anti-homosexual paranoia" at the heart of many systems of domination in Western culture, including capitalism, patriarchy, and the family.<sup>6</sup>

On his own terms, Hocquenghem points up one of the central paradoxes of gay liberation: if desire is neither homosexual nor heterosexual, the notion of the liberation of homosexual desire is at best an oxymoron and at worst nonsensical. More specifically, one of the theoretical and political legacies of this "founding moment" of gay liberation can be traced in his maxim from *La dérive homosexuelle* (1977)<sup>7</sup> that: "notre trou-du-cul n'est ni honteux, ni personnel, il est public et révolutionnaire" (Hocquenghem 1977: 44) ["our assholes are neither shameful nor personal; they are public and revolutionary;" trans. Schehr 148]. When Hocquenghem says "notre," he is referring to the male anus, since, as several commentators point out, he almost all but evacuates lesbians and lesbianism from his revolution (Moon 1993; Weeks 1993: 15, 37). Nonetheless, he articulates a

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<sup>5</sup> This is ironic, since elsewhere Hocquenghem argues that "homosexual love is immensely superior" -- which certainly posits homosexuality as a separate category (Hocquenghem 1993: 131). The above passage is reminiscent of Foucault's famous claim in *The History of Sexuality: An Introduction* that the homosexual became in the nineteenth century a species, which was part of the disciplining of what was considered prior to this period merely an aberrant form of being: "Homosexuality appeared as one of the forms of sexuality when it was transposed from the practices of sodomy onto a kind of interior androgyny, a hermaphroditism of the soul. The sodomite had been a temporary aberration; the homosexual was now a species" (43).

<sup>6</sup> More than twenty years later, Urvashi Vaid writes that "gay paranoia about our visibility is healthy and based on history" (79). Similarly, an article responding to the brutal beating of a gay man in Wyoming in October 1998 suggests in its first line that "Murray Billet [a gay activist in Alberta] has no problem with paranoia. He's all in favour of it" (see Eleanor Brown, "Queer Fear"). I return to this in Chapter Five.

<sup>7</sup> This might be translated as "the drift of homosexuality" or "the homosexual drift." The text has not been translated into English.

number of positions that continue to inform contemporary discourses of sexuality, not the least of which is the assertion that the asshole is a model for public space and hence a "revolutionary organ" (Schehr 147).

In a lengthy passage from Homosexual Desire, Hocquenghem refers to "scattering" or "the pick-up machine," what we might call "cruising." Appropriating the language of Deleuze and Guattari's "desiring machine," he writes that "[t]he cruising homosexual, on the outlook for anything that might come and plug into his own desire, is reminiscent of the 'voyaging schizophrenic' described in L'Anti-Oedipe" (Hocquenghem 131):

It is generally assumed that what we may call homosexual "scattering" -- the fact that homosexuals have a multitude of love affairs, each of which may last only a moment -- expresses the fundamental instability of the homosexual condition, the search for a dream partner through a series of brief, unsatisfactory affairs. . . . instead of translating this scattering of love-energy as the inability to find a centre, we could see it as a system in action, the system in which polyvocal desire is plugged in on a non-exclusive basis. . . . The homosexual condition is experienced as unhappy because its mechanical scattering is translated as absence and substitution. We could say on the contrary homosexual love is immensely superior, precisely because everything is possible at any moment . . . homosexual encounters do not take place in the seclusion of a domestic setting, but outside, in the open air, in the forests and on beaches (131).

Not restricted to the liberationist movement in France, a similar celebration of the transgressive nature of the homosexual social role informs arguments made on this side of the Atlantic. In "A Gay Manifesto," originally published in 1968, Carl Wittman, one of the "voices of gay liberation," urges us to "break away from roles which enslave us." And he suggests that, in this area, "[w]e [that is, homosexuals] already do better than straights" (338).<sup>8</sup> The assumption here in both

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<sup>8</sup> Wittman also contends, in one of his more outrageous comments, that sex with animals is a potentially liberating and spiritual phenomenon because it "may be the beginning of inter-species communication," on par with "dolphin-human breakthroughs" but on the "sexual level" (338).

Hocquenghem and Wittman of the inherent superiority of homosexuality over and above that of heterosexuality stems from the distance we ostensibly occupy vis-à-vis traditional sex roles, a central argument in the discourses of liberation that will have a number of repercussions down the road.

### 3.3 Liberation's Reminders in Queer Theory and Politics

What kind of politics advocates such a system of desire? What kind of politics celebrates scattering as a principle of liberation? A rather queer one, it would seem. Isn't this precisely what queer theory has argued all along: that what "counts" as queer sex practices refuses relations to domesticity, the couple form, the family, the nation (see below), as well as the sense of indeterminacy or openness toward identity the sign of queer can permit? In what follows, I want to link up some of the traces of Hocquenghem's celebratory tale of scattering and homosexual love with some more recent articulations of desire and sexual practices in queer theory and politics.

One author defines queer as "the frame of mind that lets us take vegetable oil out of the kitchen and into the bedroom, with style" (Peter Dubé 175; emphasis in original). As perfunctory as this may seem, it encapsulates some of the dominant themes of queer theory generally, some of its reigning orthodoxies: the movement of bodies and practices across imposed boundaries; the emphasis on style or attitude as elements of the performative of queer political practices; the political as structured within and yet beyond the intensely private -- to name but a few. Comparing this definition of queer with certain liberationist discourses reveals a number of interesting ways in which the sign of queer implicitly announces itself as a revolutionary project. In a passage strikingly similar to the above definition, Great

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Gay in the Morning! One Group's Approach to Communal Living and Sexual Politics

(1972) asserts that "[a] revolution which doesn't enter the bedroom, and the kitchen, for that matter, can hardly be taken seriously" (53). Queer theory doesn't enter the bedroom, but begins there, and moves outward (beyond the kitchen), only to return to the scene of desire as something decidedly more than the private. In this way queer straddles the public/private divide in a way that upsets what constitutes both.

Though Hocquenghem writes specifically in the context of revolutionary movements in France in the late 1960s and 1970s, and though many of his works have not been translated into English, a similar call for the revolutionary potential of the homosexual body, a call that one literally lie down for one's rights, can be located in a variety of discourses in the contemporary landscape. In Leo Bersani's famous essay "Is the Rectum A Grave?" (1988), Hocquenghem's "focalization of the process on the asshole as a revolutionary organ" (Schehr 147) is brought into sharp relief. In a response to the pathologizing and demonic representations of gay men and gay male sex in the early years of the AIDS epidemic, Bersani provocatively suggests that the terror AIDS wrought was not the fear of death but the "seductive and intolerable image of a grown man, legs high in the air, unable to refuse the suicidal ecstasy of being a woman" (1988: 212) -- a kind of orgasmic liberation that threatens the dominant order of the day. It is precisely the disruption of sex roles, and the equation of this disruption as the source or cause of AIDS, that proves so threatening to the heterosexual imaginary. In order to prevent gay men from cathecting these responses, Bersani urges us to see the liberatory potential of the anus as a source of personal resistance. The anus serves as a type of reverse-discourse, taking that which has been used against us for renewed activism and personal liberation. Bersani concludes that "it may, finally, be in the gay man's rectum that he demolishes his own perhaps otherwise uncontrollable identification

with a murderous judgement against him" (222). In other words, rather than feed into these homophobic assertions, we should insist on the revolutionary potential of the anus.

These reflections are reiterated more recently in Bersani's *Homos* (1995), where he suggests that the act of one man penetrating another "is certainly not without subversive potential" because it upsets culturally imposed boundaries of what men can do with and to each other. Again, this image is referred to as the "jouissance of real or fantasmatic female sexuality" (122). Bersani takes this gender fucking further here in *Homos* in his development of the "gay outlaw," looking to the writings of André Gide as a model that "eliminates from 'sex' the necessity of any relation [with sociality] whatsoever" (122). What Bersani is suggesting then is that, like Hocquenghem's narrative of scattering or homosexual love, the construction of the gay outlaw figure is a potential site for thinking about a politics of sexuality where liberation means the outright refusal of any relation with sociality at all.

Moreover, the assumption that homosexual desire is, to paraphrase Schehr's interpretation of Hocquenghem, the motivation for self-liberation and the liberation of homosexuals generally is one of the defining characteristics of Vaid's (1995) exhaustive project of "beyond mainstreaming" in gay and lesbian politics (discussed in Chapter Six). Speaking relentlessly on behalf of her constituency -- her "people" -- Vaid believes that "we are threatening because our movement represents the liberation of the most powerful and untamed motivating force in human life: desire" (193). Vaid goes on to suggest that "[w]e are, with our bodies, engaged in an act of civil disobedience against the moral and legal authority of the church and state. Every time we make love, we challenge the power of government and religious authority to stop us" (194). The conflation of liberation and desire is what permits this statement, which is tantamount to claiming that men loving men and women loving women is the revolution, or, as one gay liberation mantra puts it: "The

personal is the political, the economic, and the cultural. Gay is the Revolution" (qtd. in Jay and Young 1972: 259). Hocquenghem seems to anticipate, then, not only how liberation and desire would play themselves out as coequal entities, but also the ways in which fucking and revolution would coincide. This is captured, for example, in the statement from Marlon Riggs's film Tongues Untied that "Black Men Loving Black Men is the Revolutionary Act" (qtd. in Champagne 100).<sup>9</sup>

There is nothing very remarkable, of course, in noting that 1970s gay liberation opened the door for queer theory and politics to lay claim to the convergence of sexuality and public spaces as a site of contestation and radicalization of what can properly count as the sexual, the public, and the private. It is not very remarkable either that, in a time when gay male sexuality was being blamed for the spread of a worldwide epidemic (where, outside the West, 90% of those affected are heterosexual), many would see the need to reaffirm the sexuality and sexual practices being demonized. What is notable however is the extent to which queer theory itself is not only indebted to, but actually reiterates, many of the strategies and positions of gay liberation. Though we may flinch in the face of Hocquenghem's assertion that "homosexual love is immensely superior" (131), or Wittman's similar entreaty that "we" do better than straights in resisting roles which enslave us, there are some lingering traces of these sentiments in the work of some of our most prominent spokespersons.

What I want to question here is the utopian promise in queer theory that assumes from the outset that it is a "challenge to conventional sexual imaginaries of feminist and gay politics" (Berlant 1995: 301), or "a refusal to conform to a totalizing

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<sup>9</sup> In reference to this phrase, John Champagne argues, and I agree with him, that we should insist on maintaining some kind of distinction between revolutionary and sexual practices: "I want to argue against statements that fucking someone is a revolutionary act" (165). For an interesting critique of the concept of revolution in queer politics, see Lauren Berlant, "'68, Or the Revolution of Little Queers" (1995).



culture" (Dubé 175). In her most recent book, Excitable Speech (1997), Butler takes it as a given, for example, that the sign queer is a sign of "transformational energy." She writes: "The revaluation of terms such as 'queer' suggest [sic] that speech can be 'returned' to its speaker in a different form, that it can be cited against its ordinary purposes and perform a reversal of effects" (1997: 14), or a "resignification." But simply nominating, as John Erni calls it, a "queer mode of articulation" as a "self-consciously slippery entity" (Erni 1996: 567) does not necessarily make it so. In other words, despite its stated intentions of refusing a totalizing culture, some totalizing gestures are nonetheless being produced in queer theory.

If, as Butler argues in Excitable Speech, hate or injurious discourse does not always work, that is, it does not always have the desired effect of wounding the subjects it is aimed at, like gays, lesbians, or queers, why, then do we assume that queer speech always works, that it is, most of the time, a redeployment and resignification of the dominant terms, or a "complex dialectical language for describing not what lesbian/queer practices are but all the things they make possible" (Berlant 1995: 301)? There is a sense in Butler and Berlant that we have not yet reached the point where queer theory can be called to task for the ways in which it might reproduce some of the problems it is said to oppose, because queer theory is still only seen as that which makes new things possible. In what follows, I question this practice, as well as the assertion that queer is not interested in delineating what constitutes queer practices.

In Tendencies (1993), Eve Sedgwick writes that "that's one of the things 'queer' can refer to: the open mesh of possibilities, gaps, overlaps, dissonances" (8-9). "Sexuality in this sense, perhaps, can only mean queer sexuality: so many of us have the need for spaces of thought and work where everything doesn't mean the

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same thing!" (20; emphasis in original). Sedgwick's observation here is an important and enabling one for the development of queer theory as a social, political, and intellectual practice. She points out the ways in which queer must be defined and determined by its very indeterminacy, its refusals to fix social and political identities according to some narrow set of descriptors. Though this might be to stretch the comparison a bit too much here, there is certainly a sense in which the provisional nature of queer politics, the unpredictable and indeterminate, can be discerned in the earlier liberation texts. Sedgwick's comments here echo, for example, Hocquenghem's claims about "polyvocal desire" and the way that homosexual love precipitates that "everything is possible at any moment." This sense of openness toward the sexual is one of the more affirmative structural narratives of both liberation and queer politics. As I will suggest, however, in many ways both politics belie from the outset their very own sense of openness and indeterminacy.

Another similar structuring narrative in these politics is the place of shame. In "Queer Performativity," Sedgwick ruminates on the phrase "shame on you" as an important moment for queer theory, arguing that, "if queer is a politically potent term, which it is, that's because, far from being capable of being detached from the childhood sense of shame, it cleaves to that scene as a near-inexhaustible source of transformational energy" (1995: 4), and that the usefulness of thinking about shame in queer theory comes from its distance from "guilt and repression" (6).<sup>10</sup> Similarly, Judith Butler writes that "[q]ueer' derives its force precisely through the repeated invocation by which it has become linked to accusation, pathologizing, insult" (1993: 226). As Schehr remarks, for Hocquenghem "the act of liberation for the homosexual begins with this gesture of vulnerability, this appeal to all that society tells us to shun" (140). And just as Hocquenghem takes that which is traditionally thought of as

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<sup>10</sup> See also Eve Sedgwick and Adam Frank, "Shame in the Cybernetic Fold" (1995).

contributing to our oppression, the “unhappy homosexual condition,” both Sedgwick and Butler underscore one of the central strategies of queer theory: to take that which is part of homophobic culture and turn it on its head by claiming it as our own. This is the strategy behind the deployment of the term queer itself, the subversive potential of the resignification of the dominant terms that it is said to permit (it is evidenced as well the appropriation of the pink triangle by AIDS activism). Though queer theory attempts something more complex than the liberation of the self from the register of shame, it is one of the starting points for its politics.

Referring to André Gide’s The Immoralist in order to advance an anticomunitarian politics of homosexuality, Leo Bersani rehearses the rhetoric of Hocquenghem’s scattering. Bersani writes: “Michel’s [the main character in Gide’s novel] pederasty is the model for intimacies devoid of intimacies. It proposes that we move irresponsibly among other bodies, somewhat indifferent to them, demanding nothing more than that they be as available to contact as we are, and that, no longer owned by others, they also renounce self-ownership” (Bersani 1995: 128). Michel celebrates, then, “a community in which the other, no longer respected or violated as a person, would merely be cruised as another opportunity, at once insignificant and precious, for narcissistic pleasure” (129). Though it is difficult to ascertain whether this is something Bersani advocates as a political strategy for homosexuals or whether it is simply a description of a particular post-war French novel, there is nonetheless the implication that this refusal of social relationality is a response or alternative to the demands of citizenship Bersani discusses. And it is, without doubt, indebted to the language of Hocquenghem’s account of homosexual love.

Resonating more explicitly with Hocquenghem and Wittman, Lauren Berlant and Michael Warner, in “Sex in Public” (1998), argue that “[m]aking a queer world has required the development of kinds of intimacy that bear no necessary

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relationship to domestic space, to kinship, to the couple form, to property, or to the nation" (558). "[Q]ueer culture building," we are told, is about refusing the "hierarchies of property and propriety," which are attributed to something called the "heteronormative" (548). Or, as Wittman's "A Gay Manifesto" articulates it: one of the "things we want to get away from" is "exclusiveness, propertied attitudes toward each other" (Wittman 334). This is precisely what Hocquenghem celebrates in his account of scattering, homosexual relations that bear no relationship to domestic settings. For Hocquenghem and Wittman, as for Berlant and Warner here, "[l]iberation then means freedom from Oedipal morality, heterosexual repression, and capitalist shame" (Schehr 149).

This repudiation of domesticity and familialism is also found in "Is the Rectum A Grave?" (1988), where Leo Bersani famously argues that:

Far from apologizing for promiscuity as a failure to maintain a loving relationship, far from welcoming the return to monogamy as a beneficent consequence of the horrors of AIDS, gay men should ceaselessly lament the practical necessity, now, of such relationships, should resist being drawn into mimicking the unrelenting warfare between men and women, which nothing has ever changed (1988: 218; emphasis added).

In other words, gay men should resist roles which enslave us. What Bersani offers here must be considered in the context in which it was written, for it provides an important, timely, and provocative intervention into the pathologizing images of gay men that were quite persistent in the early years of the AIDS epidemic. When presented as a contrast to such mediated messages like the image of a vicar holding a gun to his son's head and proclaiming "I'd shoot my son if he had AIDS" (qtd. in Bersani 200), such interventions are indeed necessary and justified. Clearly, Bersani's attempt to speak for gay men here is motivated by an entirely different political agenda than what he opposes in this article. But, in seeing only these oppositions, what doesn't get asked here? The fact that Bersani should speak in the

language of "gay men should" suggests a program for sexual behaviour that is potentially no less prescriptive than that which is being opposed. Furthermore, though such queer articulations have always been deployed, in the best postmodern sense, to break down dichotomies and oppositions, a number of other oppositions are inevitably constructed in the process of this dismantling: between gay men who "ceaselessly lament" monogamy and those who celebrate promiscuity, between those who refuse the "practical necessity" of a "loving relationship" and those who aspire to something different than homosexual scattering. To put this somewhat differently: the construction of identity in these politically motivated oppositions is informed by the return of binarisms.

Bersani also points to another interesting intersection between Hocquenghem and queer politics: the structuring of that which is ostensibly one of the most private things imaginable (the anus) as the locus or site for a public, revolutionary politics. Toby Miller, quoting Hocquenghem's distinction between the signification of the phallus and the anus, suggests that "[w]here the phallus is a public, symbolic display of penile power (and vice versa) the anus has no such representative. It is precisely and indefatigably individual, private" (208-209). Miller goes on to add that the privacy accorded to the anus and the popular identification of gay male sex with that orifice is what accounts for the invisibility and hence the stigmatization of male homosexuality. We can, Miller says, either deny this fact or play it up and "expose its workings and their overlapping with definitions of legitimate public activity. This is," he writes, "to realize Hannah Arendt's maxim, '[o]ne can resist only in terms of the identity that is under attack'" (209). <sup>11</sup>

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<sup>11</sup> See Arendt, Men In Dark Times (1968: 18). Thanks to Arabella Bowen for bringing this rich use of Arendt to my attention. There is also a gendering of the anus here (as male, similar to Hocquenghem's work) that, if nothing else, certainly puts into doubt the efficacy of a "communal politics of homosexuality."

In other words, in order to counter the externally imposed invisibility of gay men, we should emphasize the anus as a focal point of gay male identity to work toward more public recognition of our sexuality. Miller insists that we take that which is subordinate in the hierarchizing of sexual organs -- the indefatigably private nature of the anus -- and turn it into a viable and legitimate site for public politics. His rather rich use of Arendt suggests that, since gay male sex is paradoxically publicly identified tout court by the clandestine activities around the anus and anal penetration, which accounts for gay male identity being under attack, gay men can resist only in terms of a public identification with our assholes, that which is most private and most repudiated, and yet most central. To an extent, Miller knows of what he speaks, since such a strategy has often been employed, to varying effects, by a number of gay men, both within and outside the academy (it is what Bersani argues). But what precisely would it mean for gay men and gay male identity to be defined in these ways?

The quote from Hannah Arendt that Miller uses here on behalf of gay men comes from a comment Arendt made in response to the question, Who are you? As a German Jew in the face of the persecution of the Jewish people, Arendt's response was that the "only adequate reply" was to self-identify as a Jew. This outweighed for her all other matters of personal identity. It is in this context that Arendt makes the claim that the "the basically simple principle in question here is one that is particularly hard to understand in times of defamation and persecution: the principle that one can resist only in terms of the identity that is under attack," which Arendt argues would "[n]owadays . . . seem like a pose" (Arendt 1968:18). In a sense, Miller's interpretation of Arendt's claim is well founded, since Arendt also maintained that "[w]hen one is attacked as a Jew, one must defend oneself as a Jew" (qtd. in Pitkin 47; emphasis in original). By this logic, Miller argues similarly that when one's identity is founded on and attacked by the orifice of the anus, one must defend

oneself as an asshole. Since we are, in Miller's mind, living in a time of defamation and persecution, it makes good sense politically to structure identity in this way. Like his take on the Sisters of Perpetual Indulgence, however, Miller never addresses the specifics of how precisely one could make something so private a site for public politics. Is the "private" here really the means toward more public legitimacy for gay male identity?

This dismantling of the public-private is a foundational tenet of queer theory. As Berlant and Warner (1998) write, affirmatively, "there is nothing more public than privacy" (547). In underscoring how intimacy (the private) structures the public in surprising and potentially political ways, they offer the following account of "erotic vomiting," which they witnessed in a New York sex club. The tale bears repeating here in full, not only because to attempt to describe it in my own words would be an impossibility but because it underscores the extent to which the redefinitions of privacy and public space so central to queer theory generally are structured within the same logics of the liberationists:

A boy, twentyish, very skateboard, comes on the low stage at one end of the bar, wearing lycra shorts and a dog collar. He sits loosely in a restraining chair. His partner comes out and tilts the bottom's head up to the ceiling, stretching out his throat. Behind them is an array of foods. The top begins pouring milk down the boy's throat, then food, then more milk. It spills over, down his chest and onto the floor. A dynamic is established between them in which they carefully keep at the threshold of gagging. The bottom struggles to keep taking in more than he really can. The top is careful to give him just enough to stretch his capacities. From time to time a baby bottle is offered as respite, but soon the rhythm intensifies. The boy's stomach is beginning to rise and pulse, almost convulsively . . . . Finally, as the top inserts two, then three fingers in the bottom's throat, insistently offering his own stomach for the repeated climaxes, we realize that we have never seen such a display of trust and violation (565).

As Hocquenghem's celebratory tale of scattering reveals, Berlant and Warner's attempts to deconstruct what counts as both intimacy and public space in this is not new, nor is it restricted to one isolated text by, say, Hocquenghem: The

celebration of public sex is central to the gay liberationists agenda of the early 1970s more generally. As the 1970s publication Fag Rag reveals: "Public sex, promiscuity, prostitution, pornography, pederasty, piss/shit, and general horniness: These playful activities frighten man . . . because they are in fact revolutionary" (Fag Rag; qtd. in Elshtain 1982-83: 269). In Coming Out in the Seventies (1979), Dennis Altman similarly outlines a "strong demand for impersonal sex in public places" (36) as part of the goals of gay liberation. And, as cultural critic Michael Bronski more recently puts it: "gay liberation means sexual freedom. And sexual freedom means more sex, better sex, sex in the bushes, in the toilets, in the baths, sex without love, sex without harassment, sex at home and sex in the streets" (1994; qtd. in Rotello 204).

Interestingly, one of the initiatory call-to-arms for Berlant and Warner's "Sex in Public" piece is an argument against zoning bylaws in New York City that will make it difficult if not impossible for men to continue having sex with each other in public places:

Gay men have come to take for granted the availability of explicit sexual materials, theatres, and clubs. That is how they have learned to find each other; to map a commonly accessible world; to construct the architecture of queer space in a homophobic environment; and, for the last fifteen years, to cultivate a collective ethos of safer sex. All that is about to change. Now, gay men who want sexual materials or who want to meet other men for sex will have two choices: they can cathect the privatized virtual public of phone sex and the internet; or they can travel to small, inaccessible, little-trafficked, badly lit areas . . . where the risk of violence will consequently be higher (551; emphasis added).

In the most revealing statement of all, Berlant and Warner argue that, in both scenarios, "the result will be a sense of isolation and diminished expectations for queer life, as well as an attenuated capacity for political community" (552). This is an example of what John Ralston Saul (1997) identifies as a "myth being deformed into a negative force which breeds -- among other things -- a victim psychosis" (67). The assumption that men having sex with men in public places constitutes the formation



of something like a political community is a bit of a stretch. If, as many have argued, men who engage in public sex (in the toilets, in the parks) are men who already feel a sense of isolation, that is, feel that they are not part of a political community, can we simultaneously argue that the lack of anonymous public sex and spaces for it constitutes a threat to political community? <sup>12</sup> This is a bit like putting the proverbial cart before the horse, since the capacity for political community is already attenuated in the first place, or possibly non-existent, prior to Berlant and Warner's desire to place blame on the conditions of its further demise. Moreover, it contradicts queer theory's premise that "sex, erotic experience, and identity formation are not coextensive" (Eric Clarke 5). It seems that, in this context, that only applies to heteronormative sexual practices, and not the practices of these gay men having sex in public. One of the structuring dualisms in these arguments, then, is this: something is seen as either repressive, a threat to self and community, as in the punitive measures in the form of zoning by laws, or it is liberating, a strengthening of self and community, as in the possibility for sex in public places. Between the axis of repression and liberation exists a huge chasm in which a number of things get lost.

To what extent, for example, are these options also "diminished expectations for queer life"? Why is it argued that gay men who wish to have sex with other men now only have two choices, phone sex or public sex far from home? Are these really the only choices? In New York City? In 1998? Presumably, Berlant and Warner are talking here about closeted gay men, those who have little or no contact with a

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<sup>12</sup> I am not interested in debating here whether or not men who participate in public sex see themselves as part of a community, since there are numerous and conflictual interpretations of this. However, a study called "Cottaging and Cruising in Barnes, Brent and Harrow" (municipalities in London, England) claims that more than 80% of men who participate in "cottaging" (the British term for sex in public bathrooms) identify as gay or bisexual. As Richard Burnett writes, this "clearly destroy[s] the myth that most men . . . aren't gay and only search for sex in these places out of despair" (Burnett 1998a: 6).

community, which might go a long way to support their concerns -- for, even though I question the extent to which such activities constitute a political community, anonymous public sex is often the first taste for many men of their sexuality and sexual identities. Surprisingly, they never make that distinction. Indeed, they actually identify them as gay men, which makes me question further why they insist on such a limited framework for identity formations. In their celebration of public sex, they recodify the secrecy that accompanies anonymous public sex in the first place. They simply repudiate anything that works against the possibility for such spaces without questioning why such spaces are needed to begin with (and, by their own admission, there is, as a consequence of homophobia, a need for them).

The problems here have nothing to do with the morality or immorality of these practices and Berlant and Warner's defense of them. They have little to do with the structures that exist that permit the need for such practices in the first place. The problem has everything to do with a theoretical tension inherent in the arguments circulating around them, which threatens to dissolve into incoherence. If queer is defined, as Warner insists it is, as "a . . . thorough resistance to regimes of the normal," or if "queer politics opposes society itself" (Warner 1993: xxvi; xxvii), it behooves queer theorists to reconsider, and to mark the irony, why they are so mystified or enraged when the normal or the social opposes, shuns or rejects them. This is one of the central tensions at the heart of queer theory, one that can never be overcome if we insist on talking in terms of "the normal" and regimes of resistance to it.<sup>13</sup> It is not only the normal we need to resist but statements like the following: "The insistence on 'queer' has the effect of pointing out a wide field of normalization, rather than simple tolerance, as the site of violence" (Warner 1993: xxvi). But this insistence on normalization and its opposite (queer) is itself a site of

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<sup>13</sup> See also Warner's The Trouble With Normal: Sex, Politics, and the Ethics of Queer Life.

"violence." As Jacqueline Rose poignantly asserts in "Where Does the Misery Come From?" (1989), "violence is not something that can be located on the inside or the outside, in the psychic or the social . . . but rather something that appears as the effect of the dichotomy itself" (28). In posing queer as a threat to some nebulous category like the normal, the dichotomy that is produced can never overcome the resentment that it creates.

One of the dangers of seeking villains in this way to keep the myth of community alive is that what gets blamed is the punitive measures or anti-sex initiatives, while what gets ignored is why what Warner and Berlant themselves have identified as limited options for queer life continue to be the basis on which to stake a politics. In speaking for gay men, they take it as a given ("gay men have come to take for granted . . .") that sexual liberation is and should be equivalent to this kind of sexual freedom, sex outside, in the open air, in the forests and on the beaches. What they do not question is why this axiom continues to have such a hold on our politics, and with what effects?

Several months following Berlant and Warner's essay, an article entitled "The Great Outdoors: Public Sex as Cultural Touchstone and Taboo" (Richard Burnett 1998) appeared in one of the local weekly newspapers in Montreal commemorating the celebration of Divers/Cité.<sup>14</sup> Quoting "widely respected Montreal sexuality sociologist" Michel Dorais, the article argues that public sex is both a response to thousands of years of homosexuality being viewed as a mental illness or an abomination "throughout Western history," and something decidedly less politically motivated: it is something gay men do simply because they can. The article points out, for example, that even gay men who don't have sex in public know why it

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<sup>14</sup> Montreal's Gay Pride Weekend, held every year in August.

exists, and that some gay men do it "just for kicks" -- in other words, gay men who possibly already feel part of a community through formations other than public sex. As Burnett points out elsewhere, the "fact is, for many, public sex is just plain fun" (1998a: 6), an assertion that does a great deal of mischief to the politicization of public sex or to the understanding of it as a formation of political community.<sup>15</sup>

I agree that public sex can, and probably always will, be seen as political, especially since the enforcement against it is often only directed at men who have sex with men. But to say that having sex in public politicizes the private, the public, and sex is to attribute a certain political intentionality to acts that do not always warrant it. The suggestion that men have been having sex with men in public for thousands of years as a response to the less than tolerant attitude toward gay male sex in the history of Western culture means that these actions are determined less by the men themselves than by eternally imposed forces of power working against them. This is the same thing that is implied in Berlant and Warner's statement about public sex as an "architecture of queer space in a homophobic environment." Stripped of agency, these arguments construct gay men as acted upon rather than as simply acting. Our actions are a response to something; they are not seen as self-motivated.

This is evidenced in the following example. Referring to police investigations of public complaints of Ottawa cruising spots, Keith Griffith, "cruisemaster" for the Cruising for Sex Website ([www.cruisingforsex.com](http://www.cruisingforsex.com)) is quoted in the above article as arguing that: "The fact of the matter is that if those neighbours could figure out ways to complain about those men having sex in their bedrooms, they would. They are uncomfortable with men having sex together anywhere on the planet. It's not just in

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<sup>15</sup> See also the essays collected in William L. Leap (ed.), Public Sex/Gay Space (1999).

a park or a shopping mall. It's everywhere" (qtd. in Burnett 1998b). This uncomfortable and total merging of the public and the private facilitates the identification of a villain -- a (heterosexual) public completely repelled by (male) homosexuality in all its manifestations -- to the complete exclusion of any differentiation between acts and identities. It paints sex in public as an inherent right against regimes of repression. And it does little to foster a forum in which gay men themselves can discuss the politics involved in public sex. Everything is spoken here in favour of allowing gay men to continue to do the things we have been doing, which is sufficient as far as the argument for public sex goes. But it limits the conversation for the very members of the community in question.

In the case of sex in public (and in the debates about monogamy as well), all too often we hear it being defended because of its non-conformity with a heterosexual norm. This is part of the larger agenda of queer politics, "the radical aspirations of queer culture building" that are about the "changed possibilities of identity, intelligibility, publics, culture, and sex that appear when the heterosexual couple is no longer the referent or the privileged example of sexual culture" (Berlant and Warner 1998: 548). In resisting the economy of the heterosexual couple, Berlant and Warner argue that heterosexuality is conditioned by an number of "confusions," especially what they see as the problematic understanding of "community . . . through scenes of intimacy, coupling, and kinship" and erotic and sexual practices. In the version of queer articulated here, and in opposition to this, community has nothing to do with these heterosexual values; in other words, to belong to the queer community is to reject intimacy, coupling, and kinship.

If this is what it means to be queer, one wonders seriously about what exactly can transpire in what Berlant and Warner have themselves described as the "commonly accessible world" (551) of public spaces gay men create to have sex, spaces, we should remember, that are a formation of community. This definition of

queer cultural spaces assumes, indeed, demands, that what goes on is about nothing more than fucking, scattering, or social relations totally devoid of any relationship to sociality whatsoever. This is of course a myth that falters the moment it is put under the smallest amount of scrutiny. Just ask any gay man who has had sex in public if these encounters are not often about intimacy and coupling. That sex in public cannot and does not subscribe to this linear notion of queer as decoupled from intimacy is not really as important here as the contradiction it underscores: how the desire to structure forms of identity under the sign queer as an opposition to regimes of the normal reproduces its own tensions. Specifically, it can never adequately speak for the subjects it represents. What queer theory has tried to teach seems to be misplaced in its own narratives: that subjects will always spill out of these boundaries and categorizations. And this means that some queers might want to identify not only with queer but with some aspects of "the normal" (like intimacy, the couple). In seeing queer as opposition or resistance, the ways in which subjects might straddle these identities is effectively foreclosed. Why does being queer preclude certain forms of sexual practice? Have sexuality and politics become so entwined that queer theory must dictate which sexual practices are queer, and which are not? These raise as well the accompanying questions: How long do we hold onto such an oppositional strategy? What is to be gained, politically, by insisting on advocating or justifying certain practices and identities on the basis of their opposition to the heterosexual imaginary? And at what point do queers' investment in their own history of exclusion and non-privilege need to be given up in order to chart new territories?

This dichotomy is not restricted to a queer/heterosexual model. According to Warner, there is a clear and important distinction to be made between such acts like the "counterpublic" nature of queer sex practices and the action of those gay men who no longer define their lives in terms of "struggle." The latter, Warner maintains,

are content to be at home cooking dinner for their boyfriends. He is saddened by what he sees as the consequence of this, namely, that there is little left today to animate gay people to political action (Warner 1998).

This variation on the repudiation of domesticity is, perhaps, spoken against those representations of gay male life that structure questions of identity within the coziness of the homestead and the security of economic prosperity, images that have become dominant in the media in recent years. For example, in posing the question "Why gays decorate better than moral, unstylish majority," former Globe and Mail columnist Kelvin Browne (1998) surmises that: "gays feel the world is a hostile place and put a great deal of effort into creating a happy nest for themselves. The comforting environment they create is an affirmation of their lives when the outside world may not be as supportive." Fortunately, Browne rejects this response to his question, but only because of the apparent dichotomy of those who live in "prissy, tasseled environments . . . but who have a taste for the rougher side of life outside the home." He concludes by arguing that "[m]y favourite theory is that gays are simply smarter than most people. They've made a startling discovery. Marriages fail, jobs will come and go, but a comfortable home is something you can always count on when you need it." Or, as Hanna Pitkin puts it: "Despairing of the human ability to arrange our affairs deliberately, we cleave to the market, hoping it will produce impersonally what we cannot achieve directly" (254).

As perfunctory as Browne's claims may seem, the creation of a happy nest through the accumulation of material goods is but one absurd example of a larger "economic formulation of equality" (Wendy Brown) in gay and lesbian cultural life. <sup>16</sup>

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<sup>16</sup> It is of course absurd to the extreme to locate this as a distinctly gay phenomenon, since the pursuit of happiness through the accumulation of material goods runs across sexualities, and is one of the defining features of our age. See Mark Kingwell, Better Living: In Pursuit of Happiness From Plato to Prozac (1998). A self-professed heterosexual, Kingwell makes a point similar to Browne, though with

It is against such constructs of the political and the sexual that Warner is most certainly rallying when he says that gay men are now content to stay at home cooking dinners for their boyfriends. But in repudiating the action (or lack thereof) of these gay men as apolitical, Warner fails to ask specifically how the concept of struggle as part of gay identity gets defined, and by whom? It is quite ironic that questions of the everyday, so central to academic cultural politics, are not seen as possible sites for struggle and politicization.<sup>17</sup> Who is to assume, for example, that, for many, cooking dinner for one's boyfriend is part of a struggle, especially if it means that one has had to abandon one's biological family, or endure their rejection, in order to be in such a place? Such a dichotomy on Warner's part obscures the possibility that struggle is acted out in a myriad of subtle and often indiscernible ways.

### 3.4 Heteronormativity: Or, the Totalizing Gestures of Queer Theory?

Part of the problem in these dualisms here lies in the concept of heteronormativity at the heart of queer theory. Berlant and Warner assert that "[h]eteronormativity is more than ideology, or prejudice, or phobia against gays and lesbians; it is produced in almost every aspect of the forms and arrangements of social life: nationality, the state, and the law; commerce; medicine; and education" (554; emphasis added). The concept heteronormativity is an important and useful

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much more irony: "A display of home furnishings or garden equipment might provide me with just the amount of inspiration I need to order my domestic world for comfort and safety, making it a haven from a hostile urban world" (29). See also Eric O. Clarke, Virtuous Vice (2000), on these types of market-driven representations of contemporary gay and lesbian urban life.

<sup>17</sup> On the everyday, see especially Michel de Certeau, The Practice of Everyday Life (1984).



improvement over Adrienne Rich's famous term "compulsory heterosexuality,"<sup>18</sup> simply because it articulates a critique of normative conditions of sexuality not restricted exclusively to the sexual. In an earlier co-authored piece, Berlant and Warner suggest, for example, that queer theory underscores that "intimate sex practices" are tied not only to questions of romance, friendship, family, but to the "public world governing both policy and everyday life" (Berlant and Warner 1995: 346-347), thereby upsetting the conditions of what constitutes privacy in the realm of the social, and what can constitute sexuality in the realm of the public (568). In other words, part of the project of locating and analyzing the operations of heteronormativity is precisely to decipher those moments when even normative sexuality (read: heterosexual) exceeds the boundaries of its own conditions, when that which is ostensibly straight turns out to be not so straight after all.<sup>19</sup> As Erni (1996) queries in relation to a review of Warner's introduction to Fear of a Queer Planet (1993) (and Michelangelo Signorile's Queer in America [1993] and Alexander Doty's Making Things Perfectly Queer [1993]), the question queer theory poses in its critique of the social is: "Does heteronormativity always speak with amazing clarity?" (568). This means very explicitly that queer theory is not the nomination of certain practices and identities that can properly be described as queer, but an investigation of the ways in which even normative structures like heterosexuality are

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<sup>18</sup> This term is originally found in Rich's "Compulsory Heterosexuality and Lesbian Existence" (1980), and continues to be quoted, often uncritically, with surprising regularity. See, for example, Mark Blasius, "An Ethos of Lesbian and Gay Existence" 643; and Kaplan 6; Vaid also uses Rich's concept of the "dream of a common movement," discussed later in Chapter Six.

<sup>19</sup> This is captured in the titles of a number of texts from variety of disciplines, like Jonathan Goldberg, Queering the Renaissance (1994); Queering the Pitch; Lisa Duggan's "Queering the State" (1994); and Robyn Wiegman's "Queering the Academy" (1997).

conditioned by their own failures, their inability to articulate the clarity they seem to assume as natural.

Even this definition of heteronormativity, however, is implicitly brought into question when we look a little closer at some more recent ruminations by queer theorists. Butler (1997), in a passage that is ostensibly a critique of queer activists who see the "self-appellation" known as coming out as a sexual act in a too broadly interpreted sense of the word, says that "there is a certain comic value that emerges when 'queer' becomes so utterly disjoined from sexual practice that every well-meaning heterosexual begins to take on the term" (124). In other words, though queer is meant to point to the excesses of straight culture itself, that it is not simply a list of new identities (see Erni), not all straights should lay claim to the term. In a sense, this is fair enough, to the extent that no political term can do its work effectively if it is too broad in its reach. All political categories must necessarily operate by certain exclusionary practices, or, at the very least, by negotiating the tension between inclusion and exclusion.

What I question here, however, is the tendency to attribute this comic value simply to well-meaning heterosexuals. Is there not the possibility that queers might themselves be producing certain comic moments in their discourses, a result of the overarching embrace of the term? Despite the suggestion that heteronormativity might not speak with amazing clarity, Berlant and Warner have come to suggest that, indeed, it does. Comparing this with some recent debates in feminism illuminates a tension that puts the concept of heteronormativity into the service of a rather antipostmodern project. On the one hand, contemporary feminist theory and politics that see the possibility of patriarchy and sexism imbricated and embedded in "almost every aspect" of Western culture and social life have been denounced as a problematic leftover of a previous generation of feminists. As Elspeth Probyn suggests, assumptions like "the oppression of women as an obvious and uniform

truth," or "sovereign signifiers like 'woman' or 'oppression'" "get in the way" of feminist critique (Probyn 1993: 114). This is what Butler herself refers to as "the totalizing gestures of feminism" (Butler 1990), which Butler strives to undo.

On the other hand, queer theory insists that heteronormativity, or "the heterocentric regime" (Erni 577), is produced in every aspect of Western culture, that it is "a constellation of practices that everywhere disperses heterosexual privilege; as a tacit but central organizing index of social membership," from "paying taxes" to "owning anything with 'His' or 'Her's'" (Berlant and Warner 1998: 555; emphasis added). They assure us that, lest anything be left out, "[t]he elaboration of this list is a project for further study" (555). This is what was referred to earlier as the cataloguing of sexual persecution that continues to inform the politics of identity, as well as evidence of the totalizing gestures inherent in the notion of heteronormativity which are supposed to be anathema in queer politics. <sup>20</sup>

My comments here notwithstanding, Berlant and Warner are onto something. By chance, I happened to notice that the tag on my bed linens (made in the USA) describes the size as "Full Double Matrimonial," which certainly gave me pause. What does a bed sheet made for a full double have to do with matrimony, I wondered? While this was certainly a tad jarring, not to mention an amusing anecdote for dinner parties, to suggest that this disperses "heterosexual privilege" and is part of the structure of heteronormativity is a claim that needs to be made with extreme caution and foresight as to its ramifications. While not denying these possibilities, which are nonetheless real, looking for heterosexual privilege in my bed sheets would not only make the scope and reach of queer theory highly problematic; it would threaten to perpetuate an unhealthy paranoia that could never escape the logics of oppression

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<sup>20</sup> See my references to Gayle S. Rubin and Judith Butler in Chapter One.

and victimization. Certainly there are more pressing issues than deciding how my bed sheets might contribute to the disenfranchisement of my sexuality.

How did queer theory come to the point of being able to make such overarching claims? In part, they might simply be a holdover of gay liberation, an important and necessary moment that will eventually be dispensed with, just as feminism has done in recent years. If we accept this position, that queer theory and politics need to move through these bumps and hurdles in order to get to a different place, the questions still remain, Why are we not learning from feminism's totalizing gestures?; why are we reproducing some of them anew in a different context? Moreover, how can these claims to heteronormativity be reconciled with the following statement made by a prominent gay journalist, a journalist queer theorists often dismiss or repudiate? In Queer in America, Michelangelo Signorile argues, for example, that "[t]here exists in America what appears to be a brilliantly orchestrated, massive conspiracy to keep all homosexuals locked in the closet . . . . The conspiracy is a relatively unconscious one, ingrained as it in our culture" (xiii). As Erni rightly points out, Signorile's political stance on outing in Queer in America and elsewhere as a way to combat this conspiracy is premised on a rather unsophisticated understanding of truth and power, as well as an unyielding faith in the objectivity of the journalistic enterprise. Though Erni gives credit to Signorile's political savvy, he says that it ultimately comes off as "most unqueer" (568). 21

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21 This is ironic, since in the very next paragraph Erni suggests that contemporary social theory under the rubric of identity politics is "pointing toward a more expansive and inclusive stage of social development" (568). Interestingly, Erni suggests that Warner's attempts to place queer experience and politics into social theory does so by way of reintroducing a binary paradigm. Erni's critique is that "heteropower" is reinscribed in these so-called queer modes of articulation, "potentially further marginalizing the voices" that are working to upset it (569). Here again, the ability to critique Warner's binary paradigm is accomplished by way of another paradigm: the insistence that something like heteropower can be clearly marked off from marginalized voices.

Though there are important differences, to be sure, between such texts and projects like Signorile's and Warner's, the concept of heteronormativity as employed above is no less problematic than Signorile's conspiracy theory: both presume that entities working against our liberation are embedded in all the structures of Western culture, so pervasively that we are not even fully aware of them. This is why Berlant and Warner nominate anything with "His" or "Hers" stamped on it as one manifestation of heteronormativity's power.

In Epistemology of the Closet, Eve Sedgwick argues that: "an understanding of virtually any aspect of modern Western culture must be not merely incomplete, but damaged in its central substance to the degree that it does not incorporate a critical analysis of modern homo/heterosexual definition" (1; emphasis added). Though Sedgwick's project as a whole is motivated by factors quite different from "Sex in Public" (the former is epistemological; the latter is direct political intervention), Berlant and Warner take up Sedgwick's position here when they write that "heteronormativity is a fundamental motor of social organization in the U.S. . . . Any theory that miscomprehends this participates in their reproduction" (564). What these similar arguments seem to be suggesting is that there is no way out. These tautological qualifiers mean that to critique this version of theory (queer or otherwise) is to participate in the very structure that it rallies against. If miscomprehending the totality of heteronormativity or the homo/hetero definition is to reproduce it, there is no space to move outside of these traps. <sup>22</sup>

Epistemology of the Closet was to become a central and seminal text for gay and lesbian studies. Moreover, in 1990, when the book was published, it marked an

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<sup>22</sup> I would submit that Sedgwick's account in Epistemology of the Closet is far more sophisticated and nuanced than my comparison here might suggest. Nonetheless, Sedgwick's unfortunate choice of the word damaged here speaks to the possibility of a very antipostmodern project.

important and necessary moment in the legitimation of gay and lesbian studies as a discipline within the academy. Its theoretical trajectories continue to have important implications for readings of cultural texts and phenomena. But with the luxury and privilege of distance, and a slightly more secure status for the discipline of gay and lesbian studies,<sup>23</sup> we can more easily claim that there is at least the seeds of a metanarrative here, a project which strikes a note similar to Bhabha's "the sum of knowledge," or Lyotard's definition of metanarrative as "the speculative unity of all knowledge." Why would we want something like a complete or undamaged understanding of virtually any aspect of Western culture? And why do we assume that the homo/hetero definition could possibly achieve that which no other concept in social and cultural theory has been able to do?

Against the totalizing power of heteronormativity, queer theory has constructed in its place a no less totalizing regime. This is evidenced in the prevalence of terms like the following: the "queerness of all forms of life," the "full queerness involved in . . . living," or "the "deep queerness of life" (Probyn 1994: 1, 19, 19-20.); "queer way of thinking," or "uniquely queer responses" (Erni 581); the "necessarily and desirably queer nature of the world" (Warner 1993: xvi). These are, if nothing else, ironic and contradictory moments in a theory that strives to be postmodern. It is difficult, in other words, to reconcile these terms with queer theory's aspiration to recognize and theorize the incompleteness of any totality.

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<sup>23</sup> I realize this is a controversial claim, especially in relation to queer theory. See for example Robert Fulford, "Queer Theory: An Academic Oddity" (1999). Fulford, a professor and a journalist, attacks queer theory in literature departments (he quotes Eve Sedgwick) for using literary texts as mere platforms for queer theorists' political agendas. Things like gay marriage, the right to serve in the military, and sexual identity -- "[t]hese, and not literary matters, are what excite queer theorists." Fulford fails to acknowledge that literature is being used increasingly in this way in education generally, and is not a tactic used only by queer theorists. See especially Francine Prose, "I Know Why The Caged Bird Cannot Read: How American High Students Learn to Loathe Literature" (1999).

I would suggest that this overarching embrace of heteronormativity is indicative of the ways in which queer theory is reproducing many of the pitfalls of earlier feminist work. In his writings on camp from the 1980s, Richard Dyer maintains, for example, that there exists "a characteristically gay way of handling the values, images and products of the dominant culture" (1986: 178). Referring to Craig Owens's "Outlaws: Gay Men in Feminism" (1987), Probyn writes, affirmatively, that Owens "quite rightly points out that the social position of a gay man cannot be read, nor will it engender the same reading, as a straight man's (Probyn 1993: 42). These authors remind us, says Probyn, that "gay men read differently" (1993: 41). To be fair to Probyn, it should be pointed out that these quotations are used to upset certain presumptions in feminism and cultural studies that assume that something like a "woman's way" of reading texts exists, and to highlight "the deep necessity for female feminists not to perpetuate homophobia and racism by lumping all men's experiences into one" (1993: 42). In looking for ways not to reproduce homophobia and racism -- in looking, in short, only for oppositions -- what Probyn does not challenge is whether all gay men's experiences can be lumped into one, which is what is implied in her use of Dyer and Owens here. It is this sense that there is a characteristically "gay way" of reading cultural texts, or a "gay sensibility" (Bronski 1984), that maintains and limits questions of representation to issues of essentialist experience, and which is carried over into terms like queer way of thinking, or uniquely queer responses. These are surprising moments, given that many of these authors are highly cognizant of such similar and problematic assertions in the context of feminism and feminist politics. To put it bluntly: why would many queer theorists likely reject the possibility of a women's way of reading, but few stop to consider the possibility of a queer way of seeing the world? <sup>24</sup>

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<sup>24</sup> Of course, a major difference here is that, in contrast to the category woman or

This lack of critical attention in queer theory to the pitfalls of the politics that proceeded it (gay liberation, second-wave feminism) lead to some unsettling presumptions about what can and cannot count as queer. In order to illustrate the implications of this, I want to return to some comparisons with gay liberation discourse. In the "Gay Revolution Party Manifesto" (1972), gay is described as "a process of attaining mutual and equal social and sexual relationships," while "straight is the systematic channeling of human expressions into various basically static social institutions and roles" (qtd. in Jay and Young 1972: 342). Expressing the extent to which liberation is premised on the concept of social and sexual equality, this dualism implies that gay is transformational while straight is defined by the roles which have been assigned, or, imposed, externally.

A similar binary can be detected in certain cultural critiques that use the analytic tool queer. In a passage from "Sex in Public," Berlant and Warner tell the following tale of heteronormativity and its opposite, queer sex practices. There is a sense here that heteronormativity does indeed speak with amazing clarity, and that queer theorists are, claims to the contrary, very much interested in describing what counts as queer sex practices, and what does not.

One afternoon, we were riding with a young straight couple we know, in their station wagon. Gingerly, after much circumlocution, they brought the conversation around to vibrators. These are people whose reproductivity governs their lives, their aspirations, and their relations to money and entailment [*sic*], mediating their relations to everyone and everything else. But the woman in this couple had recently read an article in a women's magazine about sex toys and other forms of nonreproductive eroticism. She and her husband did some mail-order shopping and have become increasingly involved in what from most points of view would count as queer sex

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gay man, the term queer is said not to flow from identity but upsets instead the very possibility of identity altogether. While it is dangerous to talk about a woman's way a reading because it both legitimizes woman's experience beyond contestation and effectively essentializes all women's experiences (thereby erasing other differences), perhaps queer can make these overtures precisely because of its ostensible refusal to speak for clearly identified groups (though this is debatable as well).



practices; their bodies had become disorganized and exciting to them. They said to us: you're the only people we can talk to about this; to all of our straight friends this would make us perverts. In order not to feel like perverts, they had to make us into a kind of sex public (564; first and second emphasis added; last emphasis in original).

This is of course a tale ostensibly indicating exactly how heteronormativity refuses the conditions of its own production, how queerness may have already been there on the scene of desire all along. Even this couple's bodies, despite the unyielding pressures of reproduction, are capable of becoming disorganized, exciting -- in a word, queer. To this extent, such a revelation on the part of this straight couple is indeed cause for the celebration of the increasing queerness of the sexual and the social world. Let us compare, however, this passage with the following passage from a voice of gay liberation from 1972. Under the heading "Gay is Good," a similar narrative of the constricting nature of heterosexual sex roles is offered:

It's difficult for me to understand how you can dig each other as human beings -- in a man-woman relationship -- how you can relate to each other in spite of your sex roles. It must be awfully difficult to talk to each other, when the woman is trained to repress what the man is trained to express, and vice-versa. Do straight men and women talk to each other? Or does the man talk and the woman nod approvingly? Is love possible between heterosexuals, or is it all a case of women posing as nymphs, earth-mothers, sex objects, what-have-you; and men writing the poetry of romantic illusions to these walking stereotypes? (qtd. in Jay and Young 1972: 34).

This vitriolic rumination is summed up by this voice of gay liberation as follows: "A complex cluster of sexual practices gets confused in heterosexual culture, with the love plot of intimacy and familialism that signifies belonging in a deep and normal way."

In actual fact, this last statement about the confusions of heterosexual culture is taken not from "Gay is Good" but from Berlant and Warner's "Sex in Public" (see 554). "[T]he love plot of intimacy" exactly mimics 1970s versions of gay liberation. As one gay historian puts it: ". . . the 70s would see the separation of sex from

intimacy as an evolution" (Sadownick 1996: 50). Or, as a "voice of gay liberation" tells us, "Two, Four, Six, Eight, Gay is twice as good as straight!", " a popular 1970s political slogan, "reflects our understanding of homosexuality as a superior way of life to heterosexuality as we understand it." This sense of superiority is a result of the fact that "[h]eterosexual relationships are encumbered by notions of how men and women are supposed to behave" (qtd. in Jay and Young 1972: 29). This is exactly what Berlant and Warner seem to be saying: that heterosexuality is encumbered by the condition of reproductivity -- it governs their lives, their aspirations -- and that this role dictates how they are supposed to (and apparently do) behave (see 564).

Like the responses to Hocquenghem's work, we must acknowledge the important theoretical and political contributions Berlant and Warner make; specifically, it must be recognized that it is this very work that allows me to offer such critiques in the first place. <sup>25</sup> In light of this passage above, however, we also need to be reminded of Berlant and Warner's earlier and important claim that they are not interested in "looking to fix our seal of approval or disapproval on anybody's claim to queerness" (Berlant and Warner 1995: 344). And Warner's similarly important statement in an interview that "[i]n order to be for a sexual culture you don't have to be against intimacy or against commitment. It's a false choice" (qtd. in Caleb Crain). It is ironic that, while so much of queer theory is governed by an openness to sexuality, they repudiate a couple whose lives are governed by

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<sup>25</sup> See especially Berlant's wonderful collection of essays, The Queen of America Goes to Washington City (1997). I question whether it was this straight couple who turned Berlant and Warner into a kind of sex public or if they are not the one responsible for doing so. I wonder too if all this couple's straight friends would really see a discussion of that ancient and pedestrian form of non-reproductive eroticism, the vibrator, as tantamount to perversion. Furthermore, the only indication they give in the article of this couple's relentless devotion to reproduction is their metaphorical use of the station wagon, a rather weak indication of their heteronormativity.

reproduction, which is one form of sexuality, but one that does not appear to measure up. In looking to legitimate non-reproductive forms of eroticism, or queer sex practices, they simultaneously delegitimize other sexual practices. This is a politics that privileges one's position over and above that of others, precisely what queer theory was supposed to get away from. It was supposed to be about the "open mesh of possibilities" where everything doesn't mean the same thing. In this instance queer theory is less about a disruption of the social than the affirmation of a queer group identity. In their narrative of the couple whose lives are governed by reproduction, Berlant and Warner construct (perhaps unwittingly) the straight couple as lesser than "them" only to recuperate them again as one of "us."

This is one of the inevitable remainders of a political discourse that strives to break down the stifling definitions of what counts as sexuality in regimes of heteronormativity: a new opposition takes its place. As Out of the Closets puts it, "[w]e have a separate movement of gay people because we are fighting for survival, and because that is the only way we can establish an identity and advance our struggle" (qtd. in Jay and Young 1972: 29). For this reason, the liberationists suggest, "in a free society everyone will be gay" (29). In this way, the sign of queer also cannot help but begin to take on the presumption of a shared, coherent identity, a consolidate we or community. One cannot have a politics, of course, without some form of group and group identity, and it was only a matter of time that, like the liberationists before it, queer politics, in its embrace of difference, non-conformity, and plurality, began to conform to conditions of membership. The belief that we can live in a world without binaries, or without inclusion and exclusion, turns out to be an illusion the very moment such a belief is put into practice.

One of the original purposes of queer theory, drawn in part from Warner's own work, is not to assert a litany of identities that can properly be called queer, not to see how queer can "lead[ ] to a more multidirectional and, therefore, less

'straight,' pathway" (Erni 569), but to understand that the social itself is conditioned by its own contradictions, dissonances, and excesses, which is part of the promise of queer theory as an agonistic critique of the social. What this tale of heteronormativity points to, however, is one of the major tensions that is increasingly found in queer texts: how does a theory of sexuality premised on the "open mesh of possibilities" (Sedgwick 1993) simultaneously circumscribe the conditions of possibility by detailing "what from most points of view would count" as queer sex practices" (Berlant and Warner) and what would not? This naming of what constitutes queer is not an isolated moment in Berlant and Warner. Eve Sedgwick posits unequivocally that "[e]veryone knows that there are some lesbians and gay men who could never count as queer, and other people who vibrate to the chord of queer without much same-sex eroticism" (1995: 13; emphasis added).<sup>26</sup>

As Butler challenges, "[i]f the term 'queer' is to be a site of collective contestation, the point of departure for a set of historical reflections and futural imaginings, it will have to remain that which is . . . never fully owned" (1993: 228). When the term queer starts to take on a sense of ownership, "[t]his also means that it will doubtless have to be yielded in favour of terms that do that political work more effectively" (1993: 228). Contra Butler's plea to keep queer as that which is never fully owned, there is a sense here that queer is taking on a sense of ownership. Indeed, ownership is a trope that has never been very far below the surface of queer discourse. This is not to suggest that queer should be more inclusive in its embrace;

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<sup>26</sup> Butler and Warner offer a similar epistemological wager in their off-the-cuff phrase "you know" (564). Though a minor moment in the article, it speaks volumes about the politics of belonging in the "queer community." At the end of the article Berlant and Warner explain, as a prelude to the recounting of the erotic vomiting scene, that when they first showed up in this "garden-variety leather bar" they assumed what they would see was "shows [which] typically include spanking, flagellation, shaving, branding, laceration, bondage, humiliation -- you know, the usual: amateur, everyday practitioners strutting for everyone else's gratification, not unlike an academic conference" (564).

rather, the overarching embrace in the term queer is part of the problem, not because it could never accomplish such a task but because it has always pretended to be able to do so while simultaneously refusing so much at the outset as a consequence of its exclusionary practices. We do not need to pose queer as that which could include everything. We simply need to be acknowledged that queer politics has never really been about doing so; it has never been as open as its practitioners purport to be. The impossibility of complete openness is not a political liability. Maintaining the myth that queer has unfettered access to this possibility is.

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## CHAPTER FOUR

### **Eroticizing Democracy, Democratizing Erotics:**

#### **Homoeroticism and Citizenship**

*Our forefathers were free in politics, and stoically stern in morals; they respected the Decalogue, and defied the State. But we deify the State. . .*  
--Will Durant, "In Praise of Freedom" (1927)

IN A CULTURE like ours, accustomed to declaring everything in need of democratization, it comes as no surprise that erotic and sexual practices and identities are now being added to the list. In a critical commentary on queer theory, Judith Butler argues for instance that "[t]he critique of the queer subject is crucial to the continuing democratization of queer politics" (1993: 227; emphasis in original). Butler is suggesting that terms like "outness" -- what constitutes it, how it can be achieved, who can achieve it -- must be deployed and affirmed with a clear understanding of its history and its power: "For whom is outness a historically available and affordable option?" (227). Though not an explicit manifestation of an erotic or sexual practice, Butler's call for queers to constantly challenge the very terms they lay claim to merges queer identity with certain democratic principles -- namely, social equality.

This chapter explores what it might mean, and what might be at stake, when democracy and desire (so central to the projects of gay and lesbian politics and queer theory) are spoken in the same breath. Whereas the previous chapter examined the connection between gay liberation and homosexual desire as a way to critique the tensions in queer theory and politics, suggesting the incompatibility of these discourses, this chapter locates a similar and rather peculiar phenomenon in the contemporary politics of sexuality: the assumption that democracy, premised most exclusively on the concepts of individual equality and freedom of association,

must be part of the realm of human sexual desire. Referring to this as the dual gesture of eroticizing democracy and democratizing erotics, the analyses which follow examine this tendency in contemporary discourses by suggesting that recourse to the ideal of democracy seems quaintly out of synch with the stated intentions of something aspiring to a radical or queer sexual politics.<sup>1</sup>

Like the suggestion in the previous chapter that the term queer community contains a number of internal contradictions, we need only consider here terms like queer civil rights or the more common queer citizens to understand the ways in which democracy and erotics are employed in some problematic ways.<sup>2</sup> These terms are contradictory because the very notion queer precludes the coherent and constituted constituency rights require. Like Butler's unusual comment about the democratic dreams of queer politics, such a term takes up the fashionable interest in democracy without fully thinking through the efficacy or the (im)possibility of such juxtapositions. We take it as a given that democratic principles must be operative in any theory of sexuality. While the ideals of democracy and equality are important for negotiating gay and lesbian rights, this chapter calls for a more circumscribed view of the place of democracy in sexual politics more generally. It offers a reversal, then, of the usual framing of these debates, insisting that, if we can trace how sexuality is politicized, then we must also apply the same epistemological parameters and ask

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<sup>1</sup> On democratic politics and homosexuality, see: Eric O. Clarke, Virtuous Vice (2000), especially Chapter Three, "The Citizen's Sexual Shadow;" Christopher Newfield, "Democracy and Male Homoeroticism" (1993); Henry Abelove, "From Thoreau To Queer Politics" (1993); Michael Warner, "Walden's Erotic Economy" (1991); and David T. Evans, Sexual Citizenship: The Material Construction of Sexualities (1993). For a discussion of democracy and difference more generally, see the essays in Democracy and Difference: Contesting the Boundaries of the Political (1996), ed. Seyla Benhabib.

<sup>2</sup> The terms have made their way into academic and popular discourse. See for example Richard Burnett, "Scarecrow" (1998); Morris B. Kaplan; John Erni -- to name but a few.

how politics is sexualized. The chapter does so by examining a number of theoretical texts and specific cases of rights in sexual politics.

#### 4.1 Democracy is Hot

The conflation of democracy and erotics can be traced back at least as far as the early gay liberation movement, where the importance of the democratic principles of sovereignty of the self, of individual autonomy and self-worth, are articulated as a form of sexual self-liberation.<sup>3</sup> As gay historian Jeffrey Weeks notes, the gay liberation movement of the early 1970s “stressed the necessity for a new, open, homosexual politics, a revolutionary politics (in rhetoric if not in form) which has as its underlying thrust the goal of personal and sexual self-determination” (qtd. in Hocquenghem 1993: 23). Though not necessarily couched in the language of revolution, sexual liberation as self-determination is pivotal in more contemporary debates. Butler insists, for example, that “it is necessary to assert political demands through recourse to identity categories and to lay claim to the power to name oneself and determine the conditions under which that name is used . . .” (1993: 227; emphasis added). Of course, Butler goes on to suggest in a way that the liberationists do not that we can never have mastery over such practices, since they are always subject to the contingency of action or the performative, always within our reach but never fully and completely under our control. Nonetheless, there is a distinct sense in Butler’s deconstructive theory that the democratizing impulse of queer politics is to be found precisely in one’s ability at self-naming or self-making, a

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<sup>3</sup> We can of course go back as far as ancient Greece, where “[p]ederasty prepared males for the rights and duties of citizenship in the world’s first democracy” (Daynes 1992: x).



return of the sovereign subject that marks some versions of queer politics within the democratic ideal of individual autonomy.<sup>4</sup>

In Sexual Justice: Democratic Citizenship and the Politics of Desire (1997), Morris B. Kaplan recognizes that the conflation of democracy and erotics as a form of self-making in both theory and practice is not exactly new. He traces this phenomenon back further than the 1970s all the way to ancient Greece: "Political philosophy in the West began with sustained critical reflection on both democracy and desire in the dialogues of Plato" (4). Though much could be made of these historical traces, what is of interest here is Kaplan's reference to the contemporary context of the politics of gay and lesbian rights and equality. Articulating an eroticization of democracy and a democratization of erotics, Kaplan calls the struggles for equality for gay and lesbian citizens in the U.S. the "unfinished business of modern democracy," stressing the "centrality of sexual desire in human flourishing" (3) as part of that incomplete project. In other words, Kaplan looks to democratic endeavors like the extension of civil rights laws to enable and complete the human flourishing of sexual desire. As he writes:

Such a conception of lesbian and gay rights depends on a strong reading of the demands of democratic citizenship and the exigencies of desire in individual self-making. The importance of personal liberty in shaping one's desires to determine the course of a life must be articulated in relation to the political freedom of citizens collectively to decide the forms of their common life (3-4).

In this way, we can see how the privileging of rights and equality as fundamental aspects of democracy enables a certain eroticizing of democratic principles, as well as a kind of democratizing of sexuality. In seeing rights as coequal

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<sup>4</sup> In Chapter Seven, I return to Butler's use of the speech act coming out, what she calls an "explicit self-declaration" central to gay and lesbian politics and the politics of the performative (Butler 1997a: 22).

with human sexual development, despite the fact that sexuality has been flourishing quite nicely without them, a number of questions go unexamined. This is an explicit manifestation of the assumption that the subject's liberation can best be served through recourse to the state, a contradictory moment in democratic sexual politics that downplays the fact that the state has not always been invested in promoting sexual freedom. What needs to be questioned here is not the importance of individual desire within the politics of sexuality or the significance of self-naming but why and at what cost to subjects one's individual desire must be articulated in the collective language of citizenship. What does individual desire have to do with democracy and equality? And what remainders might be engendered if we insist on speaking in this way?

On the surface, the conflation of the disparate and conflicting discourses of democracy and desire seems to make a great deal of sense in the contemporary political context. The mere mention of anti-sodomy laws, differing ages of consent for different sexual practices, and impediments to litigiously and socially sanctioned same-sex activities, seems proof enough of the need for the implementation or safeguarding of individual rights and liberties in sexual matters. Indeed, the argument that one should be free to practice the sexual activities one wants and with whom one wants as aspects of determining the course of one's life is a legitimate one. And it is necessary to defend the proposition that the law should treat all individuals equally when it concerns such matters. As Kaplan puts it, what seems to be required in these areas is a thorough understanding of what he calls the "right relationships between queer citizens and the state" (7) in modern democracies.

There is, however, a great deal more going on in the conflation of these discourses than the simple assertion that individual liberty is an essential component of sexual politics. To suggest that civil rights laws, as part of the projects of

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democracy, equality, and citizenship, can and should shape individual human sexual desire is altogether a different matter, one that is fraught with difficulties, limitations, and risks. As Lauren Berlant nicely articulates it: "why [are] acts that are not civic acts, like sex, . . . having to bear the burden of defining proper citizenship?" (Berlant 1997: 5).<sup>5</sup> Or, as Eric Clarke states, "what exactly are the connections between erotic propriety and the proper citizen?" (2000: 101).

In the passages above, Kaplan merely appropriates the discourse of liberty, freedom, and equality for theorizing questions of sexual desire simply because it seems like the appropriate thing to do; because to do otherwise in the name of gay and lesbian citizens would be anathema in a milieu that declares all aspects of our lives subject to equality. In this sense, Kaplan's project, and that of many others, is restorative and not transformational: it simply calls for the addition of gays and lesbians into the political fray without questioning the stakes such a strategy might have.

Realizing the taken-for-grantedness of these claims is to pose the possibility that desire need not have a place in the arena of democratic citizenship, that it is neither in need of equality nor necessarily the appropriate vehicle for articulating the important demands for gay and lesbian rights. This is not to say, of course, that desire has no place in the politics of sexuality per se, nor that it is apolitical, but that a disinvestment with issues of desire in the politics of rights, equality, democracy and citizenship might be a necessary move at this historic moment. To highlight the stakes involved in the taken-for-granted merging of democracy and desire, the

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<sup>5</sup> In *The Queen of America Goes to Washington City*, Berlant uses this question to analyze the contemporary discourses of American citizenship, most specifically the privatization of sexual life by a right-wing agenda in the wake of the Reagan revolution. In contrast to Berlant, I focus here on those discourses of citizenship in the context of sexual acts that propose to be radical or at least alternative versions of this right-wing or conservative agenda. In other words, I resist locating the phenomenon Berlant isolates in her rich question exclusively on the Right.

following two sections offer critiques of two articles, one by R.W. Connell and one by Shane Phelan, both of whom propose what they call a "radical democratic sexual politics."

In what follows, especially in relation to my discussion of conservative democratic theorist Jean Bethke Elshtain, it might seem as though a very traditional political position is being advocated. This position is the classical liberal argument that the state should not be seen as a vehicle to promote one form of life over another. It should, instead, merely be in the service of protection of an individual's right to pursue without harm or recrimination that form of life that he or she chooses, so long as, and in such a way, that that choice does not impinge upon another's right to pursue the same goal.<sup>6</sup> In part, this chapter does outline a more circumscribed view of rights and the state than is usually articulated in contemporary debates. It does insist that a great deal is at stake if gays and lesbians insist on structuring rights as forms of validation and legitimation of "ways of life." Though certain rights will have such effects, we have reasons to be cautious about advancing such effects as the *raison d'être* of rights.

The position proposed here differs, however, from the liberal paradigm in two respects: firstly, the liberal assumption that the state should simply be in the service of the protection of its individuals citizens is one that is resisted, since it casts subjects as wounded and in need of protection, thereby reiterating what it is at pains to overcome. Secondly, it is precisely the extreme individualism of such claims to rights that need to be questioned. The democratic ideals of individual autonomy and

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<sup>6</sup> For this reading of liberalism, or variations on the theme, see especially, John Stuart Mill, On Liberty (1978); Bruce Ackerman, Social Justice in the Liberal State (1980); Alexis de Tocqueville, Democracy in America (esp. 64-65; 71). Tocqueville, for example, refers to this as the maxim that "everyone is the best and sole judge of his own private interests" (64-65), and that no interference can be justified unless those private interests threaten the "common weal."

self-worth, Butler and Kaplan both remind us, are alive and well in contemporary politics of sexuality, manifested in the notion of a performative self-naming or self-making.

Another way to put this is to suggest that eroticizing democracy and democratizing erotics risks collapsing the distinction between sexual acts and sexual identity. In seeing rights and the entitlements of citizenship as aspects of human sexual desire (acts), as opposed to litigious, material, and political elements that need to be expanded to include previously excluded groups (identities), we run the risk of recuperating a form of politics, often morally-based, that these emancipatory projects have been renouncing. This is a politics whereby politics' effects are assessed on the basis of subjects' civic conduct. Though the suggestion that human flourishing requires goods like rights is motivated by concerns quite different than the discourse of unnaturalness and immorality employed by "our enemies," a similar logic persists in both: the belief that rights and the state should promote certain forms of life. While many see homophobic discourse as part and parcel of this argument, in the form of asserting that the state should secure the sanctity of the family and of heterosexual bonds, calling on the state to push along human sexual development is simply a counter-claim or a reverse-discourse to this narrative. It does not upset the foundation on which that narrative is built.

What are the consequences of this conflation of erotics and democracy? Leo Bersani sums this up nicely in his question: "Should a homosexual be a good citizen?" (1995: 13). For Bersani, this means questioning the compatibility of homosexuality and "civic service" (113). His answer, as mentioned in the previous chapter, is the "gay outlaw," who celebrates the "project of declining to participate in any sociality at all" (168; emphasis in original). Drawing on André Gide's The Immoralist, Bersani suggests that Michel's [the homosexual character in Gide's

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novel] eroticism "rejects personhood, a status that the law needs in order to discipline us and, it must be added, to protect us" (129). This is part of what Bersani terms the anticomunitarian impulses of homosexual desire, a call that gays see themselves outside the register of the communal demands of citizenry (something Bersani says is absent in most gay and lesbian theory). "How can a man like Michel serve the state?" (114), Bersani queries, a question that seems to indicate that Bersani is interested in pursuing the relations between the individual, sexual subject and citizenship. Bersani eclipses the question of the state altogether and goes on to illustrate how Michel serves the sexual needs of the men he encounters. In other words, while Bersani seems to be indicating a certain similar reservation about the conflation of democracy and erotics in the context of homosexuality, his response to this is wholly unsatisfactory for theorizing the place of homosexuality within the discourse of citizenship: he simply removes the homosexual citizen from this context altogether.

The debate between good and bad citizenship and the place of the homosexual citizen within these terms is the axis on which many of the arguments about democracy, citizenship, and desire in contemporary critical theory have been based. This is problematic because it runs the risk of asserting that subjects' worthiness of or entitlements to rights are dependent on how they behave. This question informs, for instance, Toby Miller's Foucauldian elaboration of the unruly gay subject of citizenship, the subject who longs for state-proffered rights but who must simultaneously remove him or herself from the codes, procedures and practices of civic subjectivity -- must become, in other words, a kind of gay outlaw figure. Recall Miller's comment about the "resistive, misbehaving gay," who, as an unruly cultural subject, will need to find new ways of articulating his or her interests through the apparatus of the state, since the prevailing logic of the civic subject is to be found "with[in] limited definitions of acceptable behavior" (223).

While Bersani eclipses the state altogether by removing the homosexual citizen from it, Miller attempts to open up what constitutes acceptable behaviour within the purview of the state, all the while maintaining the assumption that rights (certainly part of the “[a]ction inside the apparatus of the state” Miller champions) need to be articulated alongside questions of behaviour. In fact, Miller reinstalls this pairing, which perpetuates the notion that individuals must act in certain ways (however unruly or subversive) in order to be deserving of rights, or at least to articulate the demands for them. These are the kinds of problems that a focus on the Foucauldian disciplinary subject, the subject desirous of freedom yet always subject to power, gets us into. In the area of sexuality and sexual politics, the answer to these disciplinary forms of power exerted on the subject is invariably to construct oneself as an unruly subject, the self as a reverse-discourse. A whole constellation of behaviour-based identity practices gets construed as important sites for democratic demands, which runs counter to the principle that all citizens are equally deserving of equality regardless of their behaviour.

Perhaps the question, should a homosexual be a good or bad citizen, is a bit misplaced (as Bersani seems to imply). Is it simply about being a good or bad citizen, a civic or unruly subject? Or do we need to flesh out more adequately whether or not the wholesale identification of homosexuality with citizenship is a desirable and efficacious political maneuver? Are there aspects of the sexual that might actually be counter-served if couched in the language of entitlements of citizenship? It remains to be seen in what specific contexts and in what specific ways the celebration of a multivalent sexuality tout court as a strategy for redefining the realm of proper citizenship, and the celebration of citizenship for redefining what constitutes the sexual, could usefully intersect with the demands to share in the power citizenship bestows upon its citizens, queer or otherwise.

#### 4.2 The Public Versus the Private: What is a "Gay Right"?

It is just such questions that democratic theorist Jean Bethke Elshtain poses in Democracy on Trial (1993) and "Homosexual Politics: The Paradox of Gay Liberation" (1982-3). At times perfunctory, infuriating, and provocative, Elshtain raises the stakes in the politics of representation by questioning the criteria for something to be defined as public and hence deserving of civil rights. In the process, however, she severely limits what can constitute the political. Taking what might seem in the eyes of many to be a rather orthodox and conservative vision of politics, and paying little homage to Hannah Arendt, Elshtain urges us to recognize the importance of some distinctions between public and private activities and identities as a necessary condition of democracy (1993; 1982-83: 253). Her central thesis, under the heading "the politics of displacement,"<sup>7</sup> is this: in contemporary political culture, everything "private," including "sexual practices," "[a]nger at one's parents" and "insufficient self-assertiveness," has become material for the public discourse, "grist for the mill." Conversely, everything that is "public," including the judgment of politicians, health policy and gun regulations, has become privatized (1993: 38). "This merging of public and private is anathema to democratic thinking" (38), Elshtain contends, and is "dangerous" to the "integrity" of both public and private (40).<sup>8</sup>

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<sup>7</sup> Though Elshtain and Honig use the same term here, they advance very different positions: While Elshtain is interested in preserving the public/private distinction, no such call is found in Honig.

<sup>8</sup> This is an on-going and timely debate. In addition to John Dewey's inquiries in The Public and Its Problems (1927), see Richard Sennett, The Fall of Public Man (1974); Barry Sanders, The Private Death of Public Discourse (1998); Garry Wills, "Washington's Not Where It's At" (1998) in an issue of The New York Times Magazine devoted to the question "Whatever Happened to Politics?" (25 Jan. 1998).



Though there is much that provokes in Elshtain's work, these comments present a number of problems. Can we really discuss something as fundamental as sexuality on par with anger at one's parents? Would it even be possible to have something like women's liberation or gay liberation if that which has historically been seen as the private was not brought into the fold of public discourse? In other words, Elshtain adheres to a rather nostalgic if not imaginary view of democracy that is simply out of touch with contemporary needs and realities. Though she offers an intriguing counter-narrative to Seyla Benhabib's assertion that the struggle to make something public is a struggle for justice (1992: 94), since it is not always the case that the private is in need of publicity and hence justice, we are still left with the question, Why does increasing what counts as public discourse, and hence politics, put "democracy on trial"?

In a passage from "Homosexual Politics," reproduced verbatim ten years later in Democracy on Trial, Elshtain outlines what she calls one of the major paradoxes of gay liberation:

Remember that gays have been proclaiming simultaneously that the private sexual preferences are nobody else's business, including governments, but that government must intrude in the area of private identity when an oppressed class of persons requires a unique sort of public protection. Of course, gays can, in a constitutional system, press the issue of civil rights against those who discriminate. But no one has the civil right, whether as a gay, a devotee of an exotic religion . . . or a political dissident, to public acceptance or sanction of his activities, preferences, values, or habits that goes beyond tolerance and protection from violation of his constitutional guarantees. To be publicly legitimated in one's activities, preferences, values may be a political aim but it is not a civic right (1982-83: 225; emphasis in original).

Advancing the classic liberal argument mentioned earlier, that individuals have a right to seek public protection against those that discriminate but that the state should not promote one form of life over another, Elshtain offers some intriguing comments. She challenges for instance the reigning truth of our litigious culture

whereby some activities, preferences, and beliefs have been construed as civic rights, that certain wants have become rights in contemporary politics (see my section below on Gay Pride). Echoing some of Arendt's controversial comments in "Reflections on Little Rock" (Arendt 1959), Elshtain believes that constitutional rights should not be used for furthering anything but principles of tolerance and protection.

Unfortunately, Elshtain's words trip her up and leave her so open to criticism that these ideas need to be formulated in a different way. In critiquing the so-called paradox of gay liberation, Elshtain writes, for example, that "[m]y option articulates a politics of limits which creates and respects a zone of privacy where what goes on between people is nobody's business but their own or that of those who love them" (1982-83: 279). An attempt to solve the paradox of gay liberation as well as the paradox of democracy, Elshtain does a tremendous disservice to her argument, gay rights, and the perilous state of equality in the U.S., by not acknowledging the blatant fact that such a zone of privacy does not exist in America not because of gay rights activists or gay liberation but because of state intervention. She seems to imply that, in the struggles for public visibility, it is solely gay liberationists who have constructed the need to publicize and politicize the private. In addition to offering a rather short-sighted perspective on contemporary politics, this is a rather narrow account of gay liberation: it ignores the possibility that a zone of privacy or a politics of limits is precisely what some gay activists (past and present) have always called for.<sup>9</sup> Moreover, Elshtain's claim that "the right for gays to practice their sexual preference without fear of harassment has been widely acknowledged as part of a protected right to privacy in American society" (1982-83: 256-257) seems somewhat naive and misplaced, especially with the case of Bowers v. Hardwick behind us,

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<sup>9</sup> See my discussion of Andrew Sullivan's Virtually Normal in Chapter Six and in the Conclusion.

which upheld the state of Georgia's anti-sodomy laws. <sup>10</sup> It is precisely the monitoring of sexuality that many gay rights activists would like to see eradicated, in the interests of a renewal of the value of privacy and getting on with more pressing, public matters. <sup>11</sup>

Elshtain glosses over a number of other contradictions that would give more weight to her arguments had they been addressed. She does not confront the fact that, contrary to her view of democracy and legitimacy, certain "fundamental" civil rights like, say, marriage, do confer acceptance or sanction of preferences, activities, values, habits, even if that is not what they are intended to do. To argue that the purpose of civil rights is not to advance social acceptance of group behaviour or identity is not the same thing as saying that civil rights do not have these effects. <sup>12</sup> In her desire to see the social as a realm separate from the political, she ignores the more likely probability that democracy has been accommodating this paradox all along. This is precisely why same sex marriage has become one of the central and

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<sup>10</sup> For a discussion of this famous case, see Kapian, esp. 25-28.

<sup>11</sup> For example, the AIDS activist movement has always noted the irony of pressing the state for funding for safer-sex education and prevention when some states still see homosexual sex as criminal. See also Chris Bull, "Scene of the Crime: Laws Against Gay Sex Can Block Everything We Want: Marriage, Adoption, and Equal Rights" (1998). In other words, gays themselves are arguing what Elshtain advocates: in order to achieve public entitlements like marriage and other civil rights, we need to see gay sex as a private matter, stop policing it, and stop subjecting it to state intervention.

<sup>12</sup> It is easy for Elshtain to argue, moreover, for the importance of "concealment . . . [for] a rich personal life and to human dignity" (1993: 55), since the personal life she represents has been under the spotlight of the public eye for a very long time. Without acknowledging this, her argument that gays have no right to demand such visibility through the acceptance of their activities via civil rights is a bit unpalatable. As mentioned in Chapter Two, Arendt argues in The Human Condition that the affairs of the heart need darkness and not the lightness of the public if they are to flourish, calling these matters "innermost motives which are not for public display" (1990: 96). Elshtain directly echoes Arendt's position here, though she does not cite Arendt in doing so. It is just such limited frameworks that get these writers into so much trouble, and perhaps rightfully so.

defining features of gay and lesbian legitimation politics in the United States and Canada and in the West more generally, and why it is such a bone of contention in public debate: its achievement is seen, for better or for worse, as the most symbolic and efficacious way to sanction acceptance of same sex relationships. Many of those who advocate same sex marriage have little patience for the fact that the private (gay sex) is being politicized and is getting in the way of public issues, like equality of citizenship. This is precisely why they promote same sex marriage. And many of those who denounce it understand as well that marriage confers acceptance of social values, like heterosexual unions. This is precisely why they fear same sex marriage.

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Nonetheless, there is something to Elshtain's observation in Democracy on Trial that the politics of displacement has as a consequence that "everything I 'want' gets defined politically as a 'right'" (41). Though she certainly overstates the case here, the assertion that "one's private identity becomes who and what one is in public and what public life is about is confirming that identity" (52) has certainly played itself out in a myriad of ways.<sup>14</sup> It is precisely these equations of identity and public mediation, of political wants versus political rights, that account for Elshtain's sometimes bold and sometimes naive assessments of gay liberation and gay rights. Especially important is the reminder that not everything be subject to politicization, that not all acts, activities, and identities are political or in need of equality.

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<sup>13</sup> See especially, David Frum's contribution to "How Far Do We Take Gay Rights?" (1995; listed under Andrew Coyne).

<sup>14</sup> Nor is it restricted to America. When Canadian Olympic gold-medal swimmer Mark Tewksbury voluntarily outed himself in the media, he was quoted as saying: "I just realized that I had to open up and share all the parts of my life, not just the Olympics" (quoted in Patricia Young 1998). We are not told why he needs to do this, or why he feels the public would be interested in all his parts.

Unfortunately, Elshtain's definitions of public and private are so rigid that "gay" could only ever be political under very few circumstances, seemingly only those moments when we need protection as citizens against discrimination. Elshtain presents us, then, with a conundrum: while civil rights should not be used to actively promote or perpetuate acceptance and tolerance of activities and identities, promoting civil rights as a means of protection from discrimination (and nothing else) simply casts us in the role of wounded subjects that we need to work against. Though much might be gained, say, from same sex spousal rights, it is not self-evident that such gains will automatically contribute to the flourishing of human sexual desire. It certainly might contribute to a more level playing field in the political arena, making us equal before the law; but it will also have unforeseen and perhaps counterproductive effects in terms of the self-making and self-flourishing Kaplan and other theorists predict. To see rights in this way is to understand how they may return to haunt and destabilize what a politics of liberation and equality promotes.

Similar to Elshtain, a 1975 Time magazine article on the gay liberation movement in the U.S. concludes with the suggestion that, on civil rights grounds, "the argument of homosexual militants is persuasive: no one should be harassed by the law, evicted from his apartment, or prevented from earning a living because of the private sex acts he happens to perform with, as the famous phrase goes, consenting adults" ("I am a Homosexual" 50). While advocating tolerance for homosexuals, the article stops short of promoting "the gay drive for acceptance" (the subtitle of the article) we apparently yearn for, stating that there is a difference between advocating the removal of legal discrimination and mandating approval of homosexuality (50). As with Elshtain's arguments, one might initially discount this piece of journalism as a quaint reminder of how far gay and lesbian politics has come

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at the turn of a new century. But there is a difference between the erasure of legal discrimination and mandating approval, and there is good reason to insist on this difference. Mandating approval for homosexuality risks not only being an anti-democratic impulse; it threatens to erase the entire history of subjection on which the struggles for gay rights and equality are based. This does not mean that we embrace that history (which is contrary to my comments about our attachments to wounded identities), but simply that dissent -- the agon of politics -- here in the form of opposition to homosexual rights, does not always and simply work against the achievement of a movement's goals.

Instead of looking exclusively to those discourses that oppose gay rights in order to support the need for them, I want to look to particular instances of the politics of speaking for to underscore precisely why the conflation of rights and desire, democracy and erotics, is one we might want to question.

#### **4.3 Sexual Politics and "Radical Democracy:" Is Sex in Need of Equality?**

Nancy Fraser offers a definition of radical democracy, as distinct from other forms of democracy, as follows: "to be a radical democrat today is to appreciate -- and to seek to eliminate -- two different kinds of impediments to democratic participation:" (1) social inequality; and (2) the misrecognition of difference (1997: 173). In other words, for Fraser, that which is radical about a radical conception of democracy requires attention to both poles of her political realm, economic redistribution and multi-cultural recognition (174). Fraser argues that, today, radical democracy is being proposed as a way of mediating various struggles over "multiple intersecting differences" and for linking various social movements, at the expense of questions of economic redistribution. As she writes: "Functioning chiefly as a counterweight to identity politics, it [radical democracy] remains largely confined to

the cultural-political plane" and brackets political economy (181). In this way Fraser says that radical democracy "remains underdeveloped" (181), motivated as it is by issues of cultural representation.

For her part, Wendy Brown defends the need to develop a "radically democratic political culture" (which includes the politics of sexuality) by refiguring identity politics such that socially injured or subordinated groups and identities can still be heard, can still have a central place in the public discourse, but without being overburdened by suffering or wounding as their *raison d'être*, avoiding political discourse slipping into "therapeutic discourse" (75). Along with this is the acknowledgment that politics is about more than simply being protected from the excesses of power but a desire to share in it. As we have seen elsewhere, these two definitions of radical democracy are informed by two very different perspectives on identity politics. Brown differs from Fraser here to the extent that for Brown the radicalism lies not solely in the theorizing of the cultural and the economic but in a certain giving up of the history of suffering on which radical democratic claims are made. If nothing else, these two different definitions of radicalism simply indicate that we cannot assume from the outset that there is consensus about what constitutes it.

In the following discussion of "Democracies of Pleasure: Thoughts on the Goals of Radical Sexual Politics," by R.W. Connell, it is apparent that an understanding of radical democracy conforms implicitly to Fraser's hypothesis, for it focuses exclusively on the intersection of multiple articulations of difference as a fundamental aspect of social equality. In other words, as Fraser puts it, radical democracy in this instance remains underdeveloped. This is explored here not in relationship to the absence of economic issues but to the costs involved in the merging of erotics and democracy hinted at in Connell's title and developed substantially in his notion of democracies of pleasure.

Connell begins with a critique of “performative dimension of theories of sexuality and politics,” those that define sexual politics as a “kind of play.” Sharing with Seidman and Hennessy (also in this volume) an understanding of the limitations of deconstructive models concerned primarily with semiotics, discourse, subject position and the subversion of meanings and representations as an aspect of the performative, it would seem that Connell might be useful for my critiques. He argues, for example, that seeing sexual identity as the performative play of signification can only take us so far, and that “transgressive” sexuality is not inherently subversive. Connell suggests, however, that the performative approach might be “stimulating for the players,” but does not involve much more, and it certainly does not, in his words, “get[...] rid of the homophobia” (385). Keeping in mind that the elimination of homophobia is probably not the telos of performative theories of sexuality, Connell seems to be suggesting that the pleasure of democracy is precisely its refusal of the agon of politics. These other politics fail, he says, because they cannot resolve the problems sexual bodies present. Drawing on a pragmatic political vocabulary similar to that of Nancy Fraser (theory is about solving the problems of democracy), Connell seems to side-step the point of the performative altogether: that bodies, like gender, sexuality, and difference, are always going to be a source of trouble.<sup>15</sup> He argues instead that a truly radical politics of sexuality must from the outset be premised on the mutual equality of bodies generally, part of what he defines as a classical conception of democracy based on “shared decision making” (391).

Connell argues further against the primacy of individual rights in sexual politics, because they will only be “defensive in the long run” (392). This is because,

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<sup>15</sup> I am thinking of course of Butler’s Gender Trouble (1990); see also Seidman, Difference Troubles: Queering Social Theory and Sexual Politics (1997).



though certain protections have been achieved this way in law and political discourse, the basis of the discourse of individual sexual rights assumes that one's body is one's "private possession" (392) and therefore above questions of inequality. He gives the examples of prostitution, economic pressures on women to marry, and sex tourism, to name but a few, to support his claim about the limitations of individual rights for propelling sexual politics into the realm of social equality. In other words, sexual pleasure on one's own terms can, according to Connell, only thwart rather than advance a truly egalitarian playing field.

In an attempt to move beyond the essentialism-constructionism debate, Connell's alternative to these inquiries is his notion of democracies of pleasure, which proposes that we see sexuality "neither as nature nor discourse, but as a sphere of social practices that constitute social relations [and] help clarify the goals of sexual politics" (390). Echoing in part Foucault's denunciation of the rhetoric of liberation (see my Chapter Three), Connell suggests that the goal "cannot be the liberation of sexuality from social constraint." He parts with Foucauldian critique, however, when he follows this suggestion with the claim that "the only thing that can be liberated is people. It is meaningful to speak of 'sexual liberation' where oppression is accomplished in the sexual social relations between groups of people. What 'liberation' means then is that the oppressed gain power over their own lives, power that was formerly exercised by other groups" (390). As he puts it succinctly in the conclusion to the essay: "social equality . . . defines the radicalism of sexual politics" (395).

In addition to the problematic implication here that discourse bears no relationship to social relations and practices, and the under-theorized categories oppression, power, and liberation, democracies of pleasure present a number of conundrums: if sexual liberation means liberation between and among groups of people relating socially and sexually, what kind of sexual activities are we talking

about? If sexual activities are seen as private acts between consenting adults, who does Connell envision will be the regulators and the gatekeepers of this democratic standard, which is usually a matter for public deliberation? It seems that, in the traditional sense of democracy, Connell is calling for the government of sexuality "by the people." Under the claim "truth matters," he suggests that "[m]aking decisions about someone else's life by fucking them is a process that has to be under their control, through disclosure and negotiation." He continues: "Everything Habermas has said about power producing systematically distorted communication . . . becomes relevant here. Truth matters; and truthfulness can only be tested in a process under democratic control" (391).<sup>16</sup> Obviously, AIDS is lurking in the background here, and it is for this reason that Connell stresses the urgency of structuring democracy and equality into our sexual practices.

Drawing implicitly on a Habermasian conception of the ideal speech situation, Connell is suggesting that communication about sexual practices between partners, especially with the threat of HIV, can be wiped clean of its distortions if we view sexuality from the point of view of democracy, based on shared decision making and equality of partners. What this absents, however, is the inherent epistemological ambiguity and messiness of power, which questions how exactly disclosure can act as a prophylactic barrier against making decisions about an other's life (a euphemism for infecting them with HIV, no doubt). In this way discourse itself becomes the prophylactic screen against HIV infection par excellence. Safe-sex becomes a kind of speech act, which, history has proven, is not necessarily the most efficacious prevention technique. This seems to be working against almost two

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<sup>16</sup> This statement seems to contradict his earlier claim that the emphasis on discourse in performative theories of sexuality is not sufficient to eliminate homophobia, since here he is arguing that discourse (communication) is central if we are to achieve a truly democratic and equal sexual politics.

decades of safe(r) sex education promoting the condom as the most efficacious way to prevent HIV infection. Much could be made here of the politics of AIDS implicit in what Connell espouses. Notable perhaps is the importance of the argument for the simple reason that it implicitly acknowledges that the "condom code" might now be one among a number of other safe(r) sex options.<sup>17</sup> More importantly, in taking the concept of democracy, most usually associated with the political realm, and applying it to the realm of pleasure, or sex, this merging illustrates some of the concrete limitations and pitfalls of structuring questions of erotics in this way. Can a radical politics of the sexual really be premised on the concept of democracy? To what extent would doing so risk promoting that which a radical politics is usually said to work against?

Paraphrasing Abraham Lincoln, who famously argued that the strength of the American Republic was incumbent upon equal citizenship for both blacks and whites, Connell attempts to convince us that "we cannot settle for a sexual world half-slave, half-free" (390). It is in this assertion that he intertwines a number of discourses, and underscores the importance of stressing that not all practices are subject to, or in need of, this kind of politicization. If this were restricted to arguments for civil rights for sexually disenfranchised groups, Connell might have a good case before him to make this comparison. But he collapses the distinction between sexual acts and sexual identity. In the name of a radical politics of sex, principles of democracy are extended to embrace more than the rights of disenfranchised groups but their erotic practices more generally.

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<sup>17</sup> Connell might be advocating, for example, the possibility of negotiated safety, whereby partners agree to seek testing together, and, if both are HIV-negative, agree to be monogamous and forgo condoms. In this context one can understand why disclosure and negotiation would be important. Unfortunately, he does not make this explicit. On negotiated safety, see Michelangelo Signorile, *Life Outside* 323.

Denouncing what he calls the leather folk, or SM practitioners, those “who go beyond fantasy to practice,” Connell warns us of the dangers of these practices because “there is not much democracy in view:” “sexual subcultures are not hermetically sealed; playing games with slavery and swastikas, for instance, is not an innocent pursuit in terms of race. Nor is the circulation free and equal, either in SM fantasies or in practice” (393). Though he insists that “transgressive sexuality” is not necessarily “subversive,” he is making the opposite yet no less singular argument that these sexual practices are not under the rule of equal and democratic control. Even a rudimentary knowledge of SM suggests that these practices are often subject to extremely rigid and reciprocal relations, negotiations and disclosures, precisely those principles Connell admires but cannot find here.

The comparison between equal citizenship rights for blacks as central to a strong American Republic and SM practice is a troubling one. Surely there is an important distinction to be made between civil rights for blacks and sexual practices that play with both real and symbolic forms like slavery and swastikas. Is it not precisely the point of much of sexual politics in America to underscore the freedom of choice of individuals to pursue such sexual practices, which differs quite dramatically from questions of equal citizenship for blacks in the time of slavery? Equal citizenship is about eradicating certain impediments to democratic participation. “A democratic culture is one in which the public possibilities for equal participation in collective processes and action are multiplied” (McGowan 163). In order to make this comparison valid, one would need to demonstrate that SM practices somehow thwart democratic participation, which of course would be very difficult to do.

The obvious questions are: Why should sexuality be innocent? Why should it be free and equal? And why should democracy and equality be in view on the scene of desire? The categories of democracy and equality are deployed here as tropes that aim to mask a seemingly less legitimate (because less fashionable) possibility:

personal distaste, moral repugnance, for such erotic practices. In denouncing moralism as a proper term of critique in postmodern politics, moralism creeps in again through the back door of democracy. This is one of the remainders that surface when we structure desire into the political apparatus of democratic citizenship.

Connell himself acknowledges what I am trying to get at: "to treat sexuality as a realm of democratic social politics feels awkward" (394). On his own terms, this might seem like a less than radical proposition. Interestingly, Connell rejects the sexual practices of the leather folk as a hold over of 1970s liberation, calling the "demand for pleasure and expression on one's own terms" part of the "impulse towards sexual liberation" (393) that is out of touch with contemporary democratic culture. Ironically, this portrays only half the equation of this impulse, since democracies of pleasure and the political value of social equality are similarly informed by the earlier discourse of liberation. Though sexuality is articulated in gay liberation as a form of self-determination, equally as prominent is the democratic ideal of equality of participants and individual self-worth. In the 1972 collection Out of the Closets, for example, gay is defined in the following way:

Gay, in its most far-reaching sense, means not homosexual, but sexually free. This includes a long-ranged vision of sensuality as a basis for sexual relationships. This sexual freedom is not some kind of groovy lifestyle with lots of sex, doing what feels good irrespective of others. It is sexual freedom premised upon the notion of pleasure through equality, no pleasure where there is inequality" (qtd. in Jay and Young 28; emphasis added).

Similarly, as "A Gay Manifesto" (1968) proclaims: "Learning how to be good and open with each other is part of our liberation" (Wittman 337), which means the following:

[the] use of human bodies as objects is legitimate (not harmful) only when it is reciprocal. If one person is always object and the other subject, it stifles the human being in both of them. Objectification must also be open and frank. By

silence we often assume or let the other person assume that sex means commitments; if it does, OK; but if not, say it (Wittman 337).

Gay means both “sexually free” and the articulation of a political identity that bears responsibility to others. Echoing the suggestion that objectification is a valid form of sexual expression as long as it is open and frank, Connell is actually more cautious and circumspect than the liberationists: he precludes “objectification” completely. Questioning on yet another level the extent to which democracies of pleasure offer a radical democratic sexual politics, these traces of liberation in postmodern theory suggest that democracy has been taken up in the interest of eroticizing it, which leads to some often troubling assertions that might be seen as a disciplinary form of sexual desire, dictated by the self’s ethical commitments to democracy as well as his responsibilities to his community. It was precisely this kind of regulation that a radical sexual politics was supposed to get away from.

#### **4.4 HIV and the Courts: Safe Sex as Speech Act**

Not restricted to theoretical texts, this move to democratize erotics is played out in the language and rulings of the courts, and has serious implications for the regulation of sexuality implicit in Connell’s democracies of pleasure. Sharing with Connell the assumption that “safe(r) sex” can be most effective when implemented as a kind of speech act, that is, that disclosure and negotiation are the best means of protection in a democratic age, the Supreme Court of Canada ruled in September 1998 that it is now a criminal offense to have “unprotected sex” if you have a “dangerous sexually transmitted disease,” especially (and because of) HIV, without fully disclosing your condition to every single sexual partner you have subsequent to knowledge of infection. Though there are good reasons to denounce this ruling as a dangerous precedent in criminal law and sexual behaviour, it should be pointed out

that "we" and "our rights" participate in the creation of a political culture ripe for such rulings. We cannot denounce such a ruling without investigating the political culture that has spawned it. Taking a closer look at the language that informs the apparent need for such criminal legislation in a world conditioned by the presence of a deadly sexually transmitted virus, as well as the beneficial effects it is assumed to have, this democratization of erotic practices by the courts shares a certain reverence for some of the things that inform a good deal of the debates about gay rights: the rights of the disenfranchised individual in the community of citizens, as well as for the state's role in proffering individual liberty, equality, protection and nurturing.

Community and national AIDS activists and organizations were troubled or outraged by the ruling. <sup>18</sup> Though the ruling stopped short of requiring full disclosure of sero-positive status regardless of whether or not "safe sex" -- however that is defined -- is implemented, it is not unthinkable that such a step may come in the near future. It also means that HIV testing is at risk of losing the luxury of anonymity, since prosecution of criminal activity will depend upon the courts knowing that the defendant in such cases had been tested. This ruling could have counter-productive effects in terms of future prevention efforts, potentially forestalling individuals from being tested. After all, in the eyes of the law, and under the logic of this ruling, if you do not know your sero-status you cannot be held criminally liable for producing injury. <sup>19</sup> Moreover, safe(r) sex -- what constitutes it and how it

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<sup>18</sup> See especially, Sean Fine, "HIV Carriers Must Tell Partners," which declares in a sub-heading that "Decision Attacked by AIDS Community" (1998); Celia Sankar, "Tough HIV Stance Popular on Street" (1998), which argues that "AIDS activists wary forced accountability will backfire."

<sup>19</sup> Responding to this problem, Justice Peter Cory argues that: "I cannot accept this argument. It is unlikely that individuals would be deterred from seeking testing because of the possibility of criminal sanctions arising later. Those who seek testing basically seek treatment" ("Sex, Criminal Law and the Reckless HIV-Positive

should be carried out -- is now partly in the hands of the courts. Through the logic of this ruling, safe sex is not simply the implementation of prophylactic barriers against the exchange of bodily fluids; safe sex is in this instance a type of speech act, where the full disclosure of sero-positive identity constitutes the supremely safe sexual act. In a time when a great number of HIV positive individuals in Canada do not even know they are infected, the ruling absents the epistemological ambiguity that accompanies this virus. Assuming disclosure as a safeguard against infection ignores the very real danger that not everyone is in a position to have the luxury of disclosure in the first place.<sup>20</sup>

The ruling was the result of a case involving a man from Squamish, British Columbia who knew he was HIV-positive and had unprotected sex (defined in this instance as vaginal intercourse without a condom) with two women from 1992 to 1994 without telling them his sero-status. The case is important and unprecedented on a number of levels. Initially tried on charges of aggravated assault, the defendant was acquitted because, although he "endangered the lives of his partners, assault had not occurred because the women had consented to having sex . . . [and the

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Partner"). He has a point. But this serves to reinforce the idea that individuals need some form of court-imposed motivation against infecting others, since, if the only reason to get tested is treatment (which is simply not the case), it is assumed that sexual partners have no interest in protecting others, thereby implicitly and inadvertently justifying the Court's intervention.

<sup>20</sup> Responding to this suggestion that criminalizing non-disclosure of HIV will undermine the message that everyone has a responsibility to protect him or herself against infection, Justice Cory argues dismissively that "this argument can have little weight. Surely those who know they are HIV-positive have a fundamental responsibility to advise their partners of their condition and to ensure that their sex is as safe as possible. . . the primary responsibility for making the disclosure must rest upon those who are aware they are infected" ("Sex, Criminal Law, and the Reckless HIV-positive Partner"). But this is tortured logic and avoids the problem altogether: of course disclosure must be the responsibility of those infected. How could it be otherwise? It completely skirts away from the very real need to continue to inform individuals of the risks and the importance of taking responsibility to protect oneself, since disclosure is not always a luxury everyone can afford or has available to them.



defendant] did not pass the virus to either woman, and the courts ruled they did not suffer injury" (qtd. in Tibbetts 1998). Prior to this case, sexual assault in Canada was narrowly defined as sexual advances without consent, and the transmission of a communicable disease or virus like HIV was not seen as constituting lack of consent to sexual activity. The Supreme Court ruling has changed all that, including the willful (that is, informed) transmission of a dangerous sexually transmitted disease as grounds for sexual assault: "The Crown, which appealed to the Supreme Court, argued that the women did not give informed consent because it was obtained through fraud." Using the quaint example of a tea party gone awry, the Crown argued that: "If a man invites a woman to tea and she consents, does he not exceed the scope of her consent when he knowingly serves her tea in a cup containing traces of arsenic?" (qtd. in Tibbetts 1993: A3).

In the majority ruling, Justice Peter Cory argued, in response to objections that the criminal law was not the most effective way to deal with HIV transmission, that "the criminal law does have a role to play in deterring those infected with HIV from putting the lives of others at risk and in protecting the public from irresponsible individuals who refuse to comply with public-health orders to abstain from high-risk activities." He goes on to argue that:

Where public-health endeavors fail to provide adequate protection to individuals like the complainants, the criminal law can be effective. It provides a needed measure of protection in the form of deterrence and reflects society's abhorrence of the self-centred recklessness and callous insensitivity of the actions of the respondent and those who have acted in a similar manner. . . . Through deterrence it [the Criminal Code] will protect and serve to encourage honesty, frankness and safer sexual practices ("Sex, Criminal Law and The Reckless HIV-Positive Partner").

Justice Cory could easily be seen as promoting here one of the principles of democracies of pleasure, that "[m]aking decisions about someone else's life by

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fucking them is a process that has to be under their control, through disclosure and negotiation" (Connell 391). The difference here is of course that whereas democracies of pleasure call for the regulation of sexuality by sexual subjects themselves the Crown is arguing that it is the courts and criminal law that should be called upon to regulate sexual behaviour. Both share, however, the assumption that communication ("disclosure and negotiation") is a self-evident and unequivocally effective as a prevention technique. It is, to say the least, quite a stretch to suggest that criminal law will act as a deterrence for non-disclosure of sero-status. Just as Justice Cory argues that "it is unlikely that individuals would be deterred from seeking testing because of the possibility of criminal sanctions arising later on," it is equally unlikely, or at the very least, not a given, that individuals who would act in this manner would think twice about their actions because of future criminal sanctions. This would require that all individuals concerned first be aware of the law, that they be fully cognizant of the map of power, which is of course not always the case (this is explored further in the next chapter on Matthew Shepard and hate crimes).

Though the ruling fails to address what exactly constitutes safe(r) sexual practices, a notoriously slippery concept that varies according to individual, community, and even national and international standards, it articulates safe(r) sex and disclosure within very circumscribed notions of sexuality and sexual expression. It legitimizes, in other words, certain types of sex while absencing a number of others. It is never acknowledged, for example, that sex might take place in the context of anonymity, making prosecution based on lack of disclosure both impossible and ridiculous. As Justice Cory writes: "Absolutely safe sex may be impossible. Yet the careful use of condoms might be found to so reduce the risk of harm that it could no longer be considered significant" (qtd. in Sean Fine). The risk for whom? Articulating sex within the prophylactic language of the condom means

that sex is confined to the penetrative. This absents, among other things, female-to-female transmission, which perpetuates the notion that it is only heterosexual women who are most at risk and in need of protection.<sup>21</sup> It also absents forms of sexual interaction like oral sex, at least if we accept the inherited wisdom that oral sex is a low risk activity. Does allowing someone to perform oral sex on you without a condom or dental dam if you are HIV positive count as sexual assault? Have these questions been addressed? And has the public been informed of the criteria necessary to avoid criminal sanctions arising because of this slippery slope? The answer to the last two questions is, no.

What discomfort ensues from the assumption that the law can protect an individual from HIV infection? What disservice do we do to those at risk in propagating such a myth? This mythologizing of the efficacy of the law as the talisman of all our woes -- or at least a last punitive resort in the face of undemocratic practices -- is not surprising from a Supreme Court judge. But this litigious approach to social control typifies many of the rights-based projects that gays and lesbians actively seek out as part of the move toward greater equality. As we will see in the following chapter, which addresses calls to increase hate crimes legislation to include sexual orientation following a highly publicized gay murder, this ruling is evidence of the ways in which certain political projects merely recodify social injury rather than working against that which produces it in the first place. In contrast to public-health and educational approaches, which attempt to prevent HIV infection in the future by encouraging the modification of behaviour in the present, the litigious approach offers punitive measures for past behaviours (by simply "reflect[ing] society's abhorrence") while doing little to prevent the conditions in the

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<sup>21</sup> On this see especially Linda Singer, *Erotic Welfare: Sexual Theory and Politics in the Age of Epidemic* (1993).

present that facilitate HIV infection. The subjects for whom the law speaks (heterosexual women in this instance) are stripped of agency, fully acted upon rather than acting individuals. The law steps in where these subjects fail to act, simply reinforcing this position of powerlessness and victimization.

In addition to the resonances with the democratizing forces on erotics in democracies of pleasure, the claims to the cultural and political necessity of including gay and lesbian citizens in the projects of democracy and equality are often premised on the same discourse that permits the Supreme Court to rule that certain kinds of sex are now criminal acts: the discourse of the rights of the disenfranchised individual in the community of citizenship. If we take a closer look at the language that informs this ruling, especially terms like "the criminal law as a needed measure of protection," "reflects society's abhorrence," "will protect and serve to encourage honesty, frankness," we will notice that it is a rather familiar one: it is the same language that informs arguments that the state has a fundamental role to play in providing protection from injury for its gay and lesbian citizens; it is the same language that asserts the need for "special" laws to protect the socially vulnerable; it is the same language that informs arguments that the state has a fundamental role to play in fostering and encouraging the elimination of values and beliefs like hate, prejudice, and discrimination against homosexuals (again, see the discussion of Matthew Shepard and hate crimes in the next chapter).

Though we cling tenaciously and perhaps quite rightly to the belief that, as Pierre Trudeau famously put it, the state has no business in the bedrooms of the nation, for a certain zone of privacy (Elshtain) in matters sexual, certain projects for gay and lesbian equality paradoxically participate in opening the doors for sexuality to be regulated by the courts in such ways. Thinking of rights, then, as protean and irresolute signifiers, inadvertently reproducing that which they are said to oppose, (Wendy Brown 1995), this ruling is a potent example of how the remainders of rights

return to haunt and destabilize the political agenda of liberation and equality that gays and lesbians have been fighting for. At the very least, it certainly indicates the need to query the assumption that our equality can be advanced simply and unproblematically through the courts, as well as the belief that rights bring closure to the political. For, the achievement of one battle may reproduce other sites of struggle in need of contestation.

#### **4.5 Sexuality and Civic Acts: The "Lesbian Citizen"**

In "The Space of Justice: Lesbians and Democratic Politics" (1995), activist and theorist Shane Phelan draws on the vocabulary of radical democracy similar to R.W. Connell, seeking to open up the politics of identity by putting into question what can properly count as a lesbian issue in matters of social justice. She does so by prying loose the meaning of a "lesbian issue" from the circumscribed identity lesbian to include that which would be of interest to non-lesbians as well. As she argues, "decent housing for all" is a lesbian issue because it potentially involves lesbians; but it is also of interest to non-lesbians, and is therefore something lesbians and non-lesbians alike should care about (1995: 341). In an attempt to get "beyond identity politics" -- the subtitle of the volume in which this essay appears and one of the stated intentions of the essay -- Phelan rejects any automatic correlation between identity and politics in favour of what she terms "the space of citizenship itself" (340). For Phelan, "getting specific"<sup>22</sup> means, in contrast to Miller and Bersani, the possibility of thinking about lesbians not as "outlaws" or "solid citizens" but as "lesbian citizens." This politics means that the larger polity must

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<sup>22</sup> This phrase appears both in the essay quoted here and in the title of Phelan's book, Getting Specific: Postmodern Lesbian Politics (1994). For discussion of lesbian identity in the rhetoric of rights, see Diane Helene Miller, Freedom To Differ (1998).

acknowledge lesbians as "equal citizens, with equal participation and recognition not 'in spite' of our lesbianism, but with and through it" (343). As the title of her article suggests, this is an example of why lesbians should be concerned with democratic principles: because it effects lesbians as lesbians, but also because lesbianism itself is a form of identity for negotiating the possibilities for increased democratizing of the social and the political.

In a sense, the centrality of citizenship in Phelan's conceptualization of justice could be framed in ways akin to Arendt's understanding that identity can only be realized in and through the practices of citizenship. For Arendt, as well as for Phelan, it would seem, it is only as a citizen that the subject can truly experience freedom. Though Phelan does not use the term (justice is her goal), her lesbian citizen is framed as deserving of equality not simply because she is a lesbian or a citizen but as a "lesbian citizen." Though this shares as well with Arendt a valorization of identity practices that are "protests against invisibility and being denied participation" (McGowan 164), Arendt of course means something altogether different by the notion of identity in the political realm, which would preclude the identity lesbianism. Without denying the fact that lesbianism is an important identity site in the political world, I want to argue here that we be cautious about framing issues of democracy and justice in this way. As John McGowan writes, "[i]dentity . . . is not the source of my demands on the polity" (164), which is what is implied in Phelan's assertion that justice must be articulated not in spite of but with and through lesbianism; "[r]ather, my demand on the polity is that I get to have an identity, that I get to be an individual among others" (McGowan 164), which simply means that identity is created through negotiation and interaction in the public sphere.

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The reversal of this has a number of consequences. It is a question of what is at stake in merging erotics and citizenship, in hinging political interests or alliances with identity. In the above example of decent housing for all as a lesbian issue, Phelan articulates political interest (social justice) with and through the identity lesbian, highlighting the limits of this kind of politics by underscoring how lesbianism need not be seen as the necessary and inevitable place for politicizing. If decent housing for all is of interest to both lesbians and non-lesbians, such identity-based claims cancel out the identities that are said to provoke them and reestablish instead that which they were to begin with: not matters of sexual identity (whether lesbian or otherwise) but rights and entitlements of citizenship. It remains to be seen precisely how decent housing, though perhaps of interest to lesbians, constitutes a lesbian right. It is only a lesbian right in so far as the lesbian is also a citizen. Again, the demand that lesbian subjects be treated as equal citizens is quite different from arguing that participation and recognition must be acknowledged with and through one's sexual identity.

As I will demonstrate, Phelan's lesbian citizen has her identity firmly in place prior to the articulation of her political interests, which promotes, among other things, a rather rigid form of political subjectivity. It is a politics that assumes that to be a lesbian, to have sexual desires for another woman if you are a woman, is tantamount to being political. This is not an argument in Phelan that the identity lesbian is not political, because it is, but an unsettling form of identity politics where the mere existence of same-sex desire (in this case, lesbianism) means that one automatically constructs one's identity as a political subject, someone who would automatically care, for example, about issues like decent housing for all. Though such willful thinking might be a nice model to strive for, it cannot escape the essentialism it tries to overcome. It leaves no room to consider the possibility that some lesbians are not politically oriented. This point might seem moot, but it speaks

to the larger tendency in the politics of speaking for that we will see over and over again: the need for gays and lesbians to fit other gays and lesbians into some the package of identity and/as political interest

To be sure, Phelan maintains that radical democracy requires that legislation and adjudication -- that is, representation via the state -- be framed in particular cases "from the standpoint of a lesbian:" "The revolutionary potential of lesbian citizens lies . . . in forcing the political and legal systems to stretch and reform to do justice to our lives . . . it requires that they [legislators and judges] learn to frame legislation and adjudication from the standpoint of a lesbian in a given case" (1995: 344). Phelan seems to concur here with a Habermasian conception of legitimation, asserting that the validity of claims for justice are arrived at by assessing whether the proposed claims are right in a given case -- in Phelan's case, the assumption that justice can be determined and distributed in a given case from the standpoint of a lesbian. In addition to the myriad issues this raises in terms of the highly problematic proposition that there can exist something like the standpoint of a lesbian, with all of its essentialist baggage, and confirming Brown's claim that appeals for sexual justice often turn to the state, Phelan's radical, democratic, postmodern project provides the context for an investigation of a number of intersecting questions: what is the place or the status of the "who" and the "what" in this so-called radical democratic politics of justice? What kind of "interest" does it promote? What kind of political agent does it require?

At this point it will be useful to recall Arendt's distinction between the what-ness of being and the who-ness of action. The former is defined as those elements that Arendt sees as the properly private, which would include gender and sexuality. The latter is defined as the citizen's capacity for excellence and virtuosity, his qualities and characteristics that make him an effective public citizen. Arendt rejects the what as a distasteful form of identity politics, and, as Honig reminds us, there is



a promise in this refusal to see politics as the performance of what we are. But promoting what we are is precisely the point of Phelan's politics. In fact, she advocates neither the what nor the who exclusively but combines both: for her the lesbian identity of the lesbian citizen is what will make her a virtuous actor in the public realm. Phelan's project might usefully be framed as one which starts from the position of a what someone is -- her ultimate goal in the essay is "the option to live 'lesbian-centred lives'" (340) -- privileging "the being behind the doing." However, her lesbian subject is constantly caught up in this tension between the what-ness of being and the who-ness of action.

Bringing together the two central concerns of citizenship and sexual identity, Phelan maintains that:

claiming an interest as a lesbian . . . is a civic act. It embeds the lesbian in her political communit(ies), implicates her in responsibilities as well as rights and demands. This point is often missed, both in mainstream political science treatments of interest and in discussions of lesbian politics. Claims made on a community are inseparable from recognition of that community (340; emphasis added).

To be sure, Phelan has a good case before her in arguing that most political theorists miss (or do they refuse?) this understanding of political interest. It goes against Berlant's query about the stakes involved in making acts which are not civic acts the means for redefining proper citizenship. It contradicts Arendt's refusal to make political action the site for the articulation and elaboration of identity, of "what we are" (see Honig 1993: 124). It is a direct reversal of democratic theorist Chantal Mouffe's assertion that "interests never exist prior to the discourses in which they are articulated and constituted" (1988: 90). Against all these claims, Phelan argues that the mere possibility of claiming a political interest qua lesbian means that one's identity must first be in place before deliberation can take place, that there is, to quote Nietzsche, a "doer behind the deed." Phelan writes: "If common action is not

(or not exclusively) jostling for one's (pre-given) interests, what is it?" (348). The term pre-given is telling: it assumes one's political interests naturally and ontologically flow from one's prior (sexual) identity as a what (in this case, a lesbian). As Dana Villa suggests in reference to Arendt, if interest is pre-given, then there is no grounds for contestation and hence no politics (see Villa 1992b). Though I am not suggesting that Phelan's politics is "no politics at all," to see interest in this way cannot overcome the contradiction of aspiring to a postmodern politics that resists ontological assumptions about identity and at the same time reinstates those ontological assumptions by simply claiming that interest as a lesbian is a civic act.<sup>23</sup>

This radical politics of sexuality unwittingly returns to its liberal foundations, reinserting the liberal universalities of the subject. As Wendy Brown writes: "liberal discourse itself . . . continually recolonizes political identity as political interest -- a conversion that recasts politicized identity's substantive (and often deconstructive) cultural aims and critiques as generic claims of particularism endemic to universalist political culture" (1995: 59). Though Phelan wants to get specific, to move beyond identity politics, it is difficult to see how claiming interest as a lesbian and as a civic act can overcome a certain universalizing of lesbianism. Framing political identity as political interest reproduces what it is at pains to avoid: identity (that is, lesbianism) sediments as the foundational truth of politics.

As Honig writes in reference to Arendt:

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<sup>23</sup> In *Essentially Speaking* (1989), Diana Fuss charges that, in much of identity-based lesbian theory, "[a] certain pressure is applied to the lesbian subject . . . either to 'claim' or 'discover' her true identity before she can elaborate a 'personal politics'" (99). I think Phelan's work here confirms Fuss's observation. For a theoretical critique of the concept of "revolution" as a political tool in queer theory, see Lauren Berlant, "'68: Or, the Revolution of Little Queers." Berlant argues that we give up this quaint word.

the attribution to the self of a deep identity or nature, ontologically grounded or given, allows the meaning of its performative utterance to be derived not from the performative but from the identity of the performer, not from the doing but the being behind the doing. The being behind the doing of the act of foundation would, in turn, become the absolute, the external justification and source of authority of that act of foundation (Honig 1993: 117).

What this analysis suggests is that when the political subject is seen as ontologically grounded in her identity prior to public deliberation, the meaning of the performative, which we might take to mean the articulation of political interest, derives its legitimacy not from the act but from the subject itself. The subject in turn is the absolute that becomes the authoritative source. If we take this reading to finesse a critique of Phelan's project, it is difficult to see how such a politics can aspire to be beyond identity politics. Though it might be beyond in the sense of not limited to lesbianism, identity, "the being behind the doing," is what gets constituted. When one attempts, however difficult it may be, to speak from the standpoint of a lesbian, what gets legitimized -- as authentic -- is lesbian and not necessarily her interests, since these interests will depend upon the contingent and fluctuating identity lesbian, a contingency that social postmodernism celebrates but which Phelan's politics shuts down.

Beginning from the position of the what someone is (the identity lesbian), Phelan's politics quickly unravels the binary logic of the what/who distinction. For Phelan's critique of identity politics articulates and affirms identity as both a what and a who. That is to say, for her citizenship and identity must be articulated not only from the standpoint of a lesbian (the what) but also in the language of "character" or personhood (the who): "While identity politics has sometimes been framed in terms of identity checklists, a larger identity politics will ask instead about character" (352). Like Kaplan, Phelan's politics asserts the relevance and importance of an "aesthetics of the self." She writes:

Ethics, treated not as simple rules but as guidelines and starting points for choice, as the conscious fashioning of character, are required if politics is to change and produce anything of lasting value. If we fail to address questions of character, formulations of identity will never produce the changes we (any of us) seek. Character is not a static entity on which we will be judged by some distant god; character is one name for processes of the self. These processes are inescapable from the processes of politics (353).<sup>24</sup>

For Phelan, political commitment (to oneself, to one's community, to democracy) "is a form of love" (353). "As we increasingly open our eyes and hearts, we will help to create those fences against oppression by modeling decency. Without decency and love, bringing us toward one another without requiring sameness, our rhetorical and heartfelt commitments to others will continually be frustrated in the face of ineluctable difference" (353). These commitments, Phelan continues, require "not only theoretical elegance and acuity, but profound interrogation and transformation of oneself" (353).

Though this interest in character as an important aspect of identity politics upsets the what/who dualism, there is one important and fundamental difference between Arendt and Phelan: Arendt would reject the suggestion that claiming an interest as a lesbian is a civic act. Such would be anathema to her politics, and not simply because she rejects outright the possibility that something "private" like sexuality has no place in the public realm. If we look beyond this dualism to the source of Arendt's suspicions, we might better frame what remainders emerge in Phelan's project. An example of the celebration of the citizen's capacity for virtuosity and excellence that marks for me a problematic element in Arendtian politics, this reverence for the "conscious fashioning of character" brings the question of

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<sup>24</sup> Phelan echoes Foucault's project in The Use of Pleasure and The Care of the Self - the conscious fashioning of character or an "ethics of the self." As Probyn writes: "Foucault's project in The Pleasures of the Self [sic] and The Care of the Self is to specify the ways in which a new sexual ethics arose through a particular conception of the self" (Probyn 1993: 125).

behaviour back into the fold of citizenship. How exactly this focus on character, love, and decency sees the citizen beyond the axis outlaw or solid citizen (that is, the framework of good versus bad citizens that I mentioned) is not clear.

#### **4.6 Beliefs Versus Rights: Do We Have a "Right" to Gay Pride?**

The concluding sections of this chapter investigate the relationship between beliefs and rights, and poses as an initial question whether or not gay pride is or should be properly defined as a right. In March 2000, the B.C. Human Rights Tribunal answered this question. Pride, the tribunal ruled, is indeed a right, and anything that stands in the way of gays and lesbians claiming this right is discriminatory. When Walter Gray, the mayor of Kelowna, B.C., eliminated the word pride from Gay and Lesbian Pride Day in that city, the tribunal quickly stepped in and ruled that such an action discriminated against gays and lesbians. A mayor must, it claimed, sign any and all proclamations despite personal beliefs. Indeed, an elected official has certain protocols to which he must adhere, and which mark him different from an ordinary citizen. He can not, for example, claim protection of free speech under the Canadian Charter of Rights and Freedoms, since such a document was designed not to protect elected officials but groups and individuals who might be discriminated against by the very people that are elected to serve them. In response to this ruling, however, the mayor did exercise some authority. He resolved the political dilemma of rights versus beliefs by deciding to eliminate any and all future proclamations by the city. The basis for equality is now defined such that no group has the right to such forms of public recognition.

Gay and lesbian groups were quick to call this a victory. A lawyer representing the Okanagan Rainbow Coalition, which initiated the complaint, said that it is "a very important decision because one of the big ways that homophobia

has operated is that it was deemed inappropriate to celebrate lesbian and gay pride days" (qtd. in Daniel Sieberg 2000). A commissioner for the Tribunal suggested that its decision is important because it means that "our publicly elected officials cannot let their personal views exclude and marginalize people on the basis of their sexual orientation" (qtd. in Sieberg). Given that this was a matter of semantics and in no way prevents gays and lesbians from carrying out gay pride celebrations, in what sense is this ruling a victory?

The same question is raised by another ruling on gay pride, this one more contentious than the one cited above. In September 1998, the New Brunswick Human Rights Commission ordered Brad Woodside, the long-serving mayor of Fredericton, to officially proclaim Gay Pride Weekend in that city. The ruling came as a result of a complaint launched by a Fredericton association called FLAG (Fredericton Lesbians and Gays), which had tried in vain for three years to obtain a mayoral proclamation. Clearly, there is significant evidence of bias and discrimination on the part of Mayor Woodside, since from 1991 to 1996, he endorsed 161 requests from various groups. In fact, he proclaimed every single one that came across his desk, including "Tartan Day," "World Breast Feeding Week," "Ride for Sight Week," "Mahatma Ghandi Month," "Menopause Awareness Month," with the exception of the request by FLAG. <sup>25</sup>

Woodside's lawyers argued that this case was a matter of individual choice in a liberal society, and that it is entirely within the mayor's right to act (or not to act, as the case may be) in this way. The lawyers for the rights commission disagreed,

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<sup>25</sup> See "Mayor Must Declare Gay Pride" (1998); "Gay Pride's Day In Court" (1998); and Pichette, "Gay Pride and Mayor Woodside" (1998). Similar cases have occurred in Hamilton, Ont., and London, Ont. In 1995, Diane Haskett, the mayor of London, Ont., was fined \$10,000 by the Ontario Human Rights Commission for failing to proclaim Gay Pride Week. The City of London no longer issues proclamations of any kind.

arguing instead that proclamations were a public service, and that no city has the right to discriminate against those who request them. The commission ruled that Woodside had indeed violated the province's Human Rights Act, which prohibits discrimination on the grounds of sexual orientation. Woodside's subsequent acceptance of the proclamation, by order of the tribunal and made "under protest," has as well been celebrated by many as a victory for gay and lesbian rights, equality, and recognition. In the eyes of the law, gays and lesbians are deemed as deserving of equal treatment as those who have a penchant for plaid or are active in raising breast-feeding awareness worldwide. But as with the case in B.C., gays and lesbians in Fredericton already receive civil rights protection: like breast feeding women or tartan wearing individuals, gays and lesbians in Fredericton are free to march -- and have been doing so -- in public spaces with or without the approval of the city's mayor. What kind of victory, then, is this ruling and the proclamation? Why was such recognition desired in the first place, when no rights were being violated here? It is the political culture such victories create, rather than simply the extension of rights and recognition to gays and lesbians, that needs to be addressed.

At issue in these cases is more than simply equality before the law, for what they reveal is the potential elision of beliefs versus rights tential in both the discourses of rights and the media discourse of gay and lesbian equality. In a sense, these rulings could be reduced to Elshtain's thesis that "what I want" is increasingly becoming defined as a right, and that, under the tenets of a liberal, democratic society, gays, like any other group, have no right to have their wants validated through such forms of public recognition. This is precisely the position taken in a Globe and Mail editorial responding to the case in New Brunswick (see below). The responses against this ruling echo Arendt's controversial comments that it is not social discrimination that is unconstitutional but the legal enforcement against it. "Discrimination," Arendt writes, "is as indispensable a social right as equality is a

political right" (1959: 49, 51). In other words, since Fredericton's gays and lesbians were not stripped of their rights (they were free to march regardless of a mayoral proclamation), Mayor Woodside has the social right to discriminate against them, as long as their equality is not threatened. It is also an example of the ways in which the law serves not only as the arbiter of liberal tolerance but also the machinery for the cultural affirmation of difference, which is for many anathema to the liberal ideas about the function of government. We should nonetheless be vigilant in understanding the potential remainders such rulings engender, and resist framing them within the discourse of victory for gay and lesbian equality.

The desire on the part of FLAG to have gay pride recognized and publicly sanctioned by a proclamation by the highest elected official of the city, while logical under the circumstances in our litigious culture of difference, is an example of how (human) rights potentially shut down the agon of politics, which may resurface in ways we cannot anticipate. This is not to argue against this ruling but to caution against seeing political success as tantamount to the elimination of dissonance, conflict, and struggle. It would have been preferable, of course, for Mayor Woodside to come to the decision to proclaim Gay Pride Weekend of his own accord, rather than having his hand forced by the machinery of human rights. For many, this is the positive impact of human rights, their ability to force dissenting individuals into conformity with the prevailing norm. Though this case is rife with issues of discrimination, and though it sends out a strong message about the legitimacy of gay pride, the depoliticizing thrust of human rights masks the underlying structures that permit Woodside's views to be seen not only as legitimate but stridently defended in the media.

In an interesting if at times convoluted editorial, "Gay Pride's Day In Court," the Globe and Mail seems to concur with Elshtain that, as far as this case is concerned, liberal democracy has been put on trial, is under threat:



Mr. Woodside's lawyers argued, correctly, that freedom of speech and thought were at stake in this case. By forcing him to proclaim gay pride weekend, something he clearly doesn't believe in, the human rights tribunal was forcing him to speak where he preferred to remain silent. He was not merely being asked to tolerate a Gay Pride festival but to actively support it. The two are very different. Liberal society is not based on the idea that you have to embrace everything your neighbour does, only that, when you disagree, you let him do as he will. . . . The mayor of Fredericton, however wrongheaded his beliefs, was trying to draw a crucial distinction, one the law should recognize. No mayor should be permitted to block or impede Gay Pride Weekend just because he doesn't appreciate the lifestyle of the participants. But neither should the law force him to say he supports Gay Pride Weekend, that he agrees with it, that he likes it. He doesn't. In a liberal society, he shouldn't have to (emphasis in original).

At first blush, this sounds like a reasoned response to an unreasonable situation. There is a certain discomfort that ensues when the law forces an individual to support something he does not. Moreover, this stance seems to rely on a "tried and true" understanding of democracy. As one political theorist puts it: "when a particular procedural definition [of democracy] runs afoul of some more general and substantive aspect of the democratic ideal, it is the former that tends to give way. Whatever may have historically come first, if we search our usage and our feeling, we shall find that it is to the democratic ideals of individual worth, autonomy, and equality that we appeal in case of doubt as to whether or not a particular practice is democratic" (Pennock 9). Similarly, as another theorist argues, "we need to . . . participate in the practices of democracy that seem to us to approach the ideal, while protesting vigorously against practices that violate that ideal" (McGowan 79). Which definition of democracy is championed is evidenced in at least one media response to this case: "it is to be hoped that FLAG may be less self-righteous in its claims, since a large number of people within the province who are not in the least homophobic are uncomfortable with the 'pride' in Gay Pride Week. Tolerant, sympathetic even, these people are like Queen Victoria: They don't care what people do as long as they don't scare the horses, and pride is a mite too provocative." The author of this piece

goes on to state that, “[f]ortunately, the members of Fredericton’s Lesbians and Gays do not appear to be the type of people who would stage a rowdy and vulgar march with the usual paraphernalia up and down Queen Street” (Pichette A19). In other words, the right to gay pride is premised on subscription to a code of proper civic conduct. It is the rights of Fredericton’s majority, not its gay and lesbian citizens, that are being championed here.

While attempting to approach an ideal and contesting that which violates it is certainly a nice proposition, this will be very difficult if we ask, Who constitutes the “we,” and, What is the ideal that is being championed? The Globe and Mail editorial argues for instance that Woodside’s right to individual equality and autonomy is the ideal, the particular procedural definition of democracy that takes precedence. The we in this case would then exclude Fredericton’s gays and lesbians, who can, as the ruling on behalf of FLAG indicates, equally and vigorously contest this ideal for their own interests.

We will never get very far in understanding such cases if we persist with these polarized views, if we insist that they are either about the rights of individuals or the rights of disenfranchised groups, about threats to democratic ideals or victories for gay and lesbian equality. The issues are more complex than articulated here, since democratic debate almost always refuses such tidy categorizations. First of all, to suggest that this is a threat to liberal democracy is to offer a rather limited notion of political representation, as well as a lack of contextualization within contemporary political reality. The editorial fails to distinguish for example between an ordinary individual and an elected official: certainly Mayor Woodside differs in a number of respects from neighbours in the community in which one lives. As the highest elected official in that city, Woodside speaks for all the members of his constituency, which includes Fredericton’s gays and lesbians. It should go without

saying that Woodside's "right" to dislike gays and lesbians or their "lifestyle" is more complicated than simply his right to individual worth, autonomy and equality.

It is a bit disingenuous for Woodside's lawyers and the Globe and Mail to argue that freedom of speech and thought are at stake, when in fact Woodside chose not to speak at all but to remain silent, another crucial distinction. Though it is entirely within his purview to hold the belief that the lifestyle represented by the participants of FLAG is unacceptable, it is not within the purview of an elected official to remain completely silent when asked to speak on behalf of a segment of the constituency he represents.<sup>26</sup> If such were the case, such a public figure would be highly ineffectual on the scene of politics. This does not mean that he needs to speak what FLAG wants to hear, but simply that his preference to remain silent is equally as problematic as the editorialists' concern with the threat to individual liberty this case ostensibly illuminates. It would, of course, be more than politically volatile and naive for Woodside to verbalize his personal distaste for such causes. He likely would look rather foolish in the face of the fact that, in other major Canadian cities, not only do the mayors proclaim gay pride celebrations, they also participate in them.<sup>27</sup>

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<sup>26</sup> As the case of Delwin Vriend in Alberta makes clear, the highest elected official in that province was in the position of putting his personal opinion secondary or at least not the top priority when the Supreme Court "read-in" sexual orientation into the province's human rights code: "because the Progressive Conservative caucus has a large rural contingent, Premier Ralph Klein is forced to bow to demands for actions he personally might not favour" (qtd. in Brian Laghi 1998a). I think it is quite likely that it is this adherence to the belief that homosexuality constitutes a "lifestyle" that makes it possible that the proclamation of Gay Pride is even an issue. If we were to play the discourse of equivalents for a moment, could we imagine this being the case for "Black Pride" or "Woman Pride," identity categories that, because of their presumed "naturalness" and hence lack of choice would likely not be treated in the same manner as Woodside treats homosexuality?

<sup>27</sup> This has been the case now for several years in Toronto and Montreal. At Montreal's 1999 Divers/Cité parade, Mayor Pierre Bourque led the procession of go-go boys, drags queens, and diesel dykes. There is possibly a certain economic cosmopolitanism going on here. Unlike Fredericton, Gay Pride in Toronto, and Divers/Cité in Montreal, are quickly becoming large sources of tourist revenue, as well as platforms for corporate visibility. In such cases, it makes good political sense

Until Woodside speaks, however, until he articulates publicly his beliefs rather than remaining silent and clinging to his rights, his freedom of speech and individual liberty and autonomy are not really threatened in the way the editorial implies. It is not apparent that, speaking as the city's highest elected official, proclaiming gay pride weekend is the same thing as saying that as an individual he appreciates, agrees with, or even likes it. Clearly, Woodside has been able to accomplish both simultaneously, giving into the tribunal's ruling while still maintaining his personal distance from it. Indeed, as has been reported, "Mr. Woodside bowed to the order . . . but showed little grace in defeat and refused to have anything to do with the actual wording of the proclamation that must be read within one year."<sup>28</sup> When Woodside read the proclamation, he actually turned off the microphone so that it could not be recorded in the minutes.

Moreover, and perhaps quite centrally, the editorial ignores the fact that, in this case, human rights legislation is doing precisely what it is designed to do: ensure that the power of the state does not supersede the rights of individuals like Fredericton's gays and lesbians. Under the logic of human rights, which the Globe and Mail has often supported in its pages, the personal preferences of elected officials need to be kept in check against the interests of disenfranchised individuals.<sup>29</sup> Since Woodside has demonstrated discriminatory behaviour in his refusal to proclaim gay pride, his personal preferences (as a legal, political subject) are

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for these mayors to be present. See esp. John Allemang, "Toronto's Gay Pride Week Starts to Get Commercial" (1996); Janice Armstrong, "Corporate Cash Reigns Down on Gay Pride" (1998); John Barber, "Gay Pride Gains Mainstream Acceptance" (1999).

<sup>28</sup> Quoted in "Mayor Must Proclaim Gay Pride" (1998).

<sup>29</sup> An example is the Globe and Mail's editorial stance in support of the ruling by the Supreme Court of Canada that the government of Alberta must "read-in" sexual orientation into the province's Human Rights Acts. See "Supreme Court [The], Equal To the Task" (1998).

precisely what human rights are designed to counter. The Canadian Human Rights Tribunal states, for example, that: "it was created by Parliament to inquire into complaints of discrimination within federally-regulated employers and service providers and to decide if particular cases have contravened the Canadian Human Rights Act." "The Tribunal inquiries into complaints of discrimination through public hearings. Based on evidence and the law, it determines whether discrimination has occurred. If the answer is 'yes,' it decides on the appropriate remedy to stop future discrimination and to compensate the victim of the discriminatory practice."<sup>30</sup> Since discrimination is not in question in the editorial, the logics of human rights suggest that this ruling is a "just" one. In order to contest this ruling, we cannot simply talk about threats to Woodside's freedom of speech, liberty or autonomy or threats democracy at the hands of Gay Pride or FLAG. We would need to unravel the politics of human rights altogether.

The responses to the case also demonstrate how quickly we eclipse or ignore the fundamental tension at the heart of anti-discrimination legislation: that, in order to promote social equality, some freedom has to be ceded. In a culture that champions social equality, why does this case provoke such responses? The editorial posits the principle of individual liberty as the universal and transcendent truth of democracy, which ignores the reality that struggles for rights and the recognition of cultural difference have become increasingly blurred in late twentieth century life. As Nancy Fraser (1997) usefully points out, identity politics is precisely about unmasking the particularisms behind the facade of the universal, and any serious reflection cannot forget that gays and lesbians have played a large role in these

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<sup>30</sup> See the Canadian Human Rights Tribunal at [www.chrt-tcdp.gc.ca/tribunal\\_origin.htm](http://www.chrt-tcdp.gc.ca/tribunal_origin.htm).

processes.<sup>31</sup> The editorial against the rights ruling is part of what Fraser identifies as the wholesale rejection of identity politics, for it seems to imply, by its very absence, that the recognition of difference has nothing to do with claims to justice in a liberal democracy. Like Elshtain's work, the Globe and Mail yearns for a nostalgic vision of democracy that is out paced at every turn by the vicissitudes of democracy itself.

While Fraser is relevant here, she also highlights a problem crucial to the debate in question: Fraser's purpose in Justice Interruptus is to begin to resolve some of the "central political dilemmas of our age" (13). By Fraser's reasoning, we must whole-heartedly accept the rights tribunal's ruling as a victory for gay and lesbian equality, since, as she puts it, "varieties of recognition politics that fail to respect human rights are unacceptable, even if they promote social equality" (12). What this case demonstrates instead is the very real tensions and contradictions that exist in attempting to negotiate what constitutes democracy in the first place. For this reason it will be very difficult indeed to resolve these fundamental political dilemmas. There is no concrete or practical solution to this tension: one can simply support or refute one or the other ideal. As I have been suggesting, a response to this problem is not necessarily found in looking for solutions. We might simply return instead to Arendt's timely observation that legislation is an important precursor to politics but is not part of it. Certainly, Arendt overstates the distinction here --since it might imply that legislation is not political -- but it is a useful reminder of resisting the language of political victory when certain rights are achieved. Though this ruling means that, symbolically, gay pride in Fredericton is now a right among many, such struggles for recognition do not resolve the problem of inequality.

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<sup>31</sup> On this, see also Ernesto Laclau, "Universalism, Particularism, and the Question of Identity" (1992).

While no solution, simply recognizing this as a fundamental and inevitable aspect of politics points a way out of some of the conceptual traps our political discourse gets us into. It serves to remind us that such rights simply reverse the terms of power while leaving the structure that necessitated such rights intact.

It is with this reading of rights in mind that I turn to the next chapter, an extensive analysis of the media responses to the death of Matthew Shepard.

## CHAPTER FIVE

### The Infantilized Citizen:

#### Matthew Shepard and the Discourse of Hate Crimes

*freedom . . . depends upon a formulation of the political that is richer, more complicated, and also perhaps more fragile than that circumscribed by institutions, procedures, and political representation.*

--Wendy Brown, States of Injury (1995)

#### 5.1 An Icon Is Born

ON AN EPISODE of the NBC drama The West Wing, which aired in December 1999, one of the story-lines involved the issue of hate crimes legislation following the brutal attack on a seventeen year old high school student from an unnamed American state. The student, we are told during a White House press conference, is in critical condition, with a severely fractured skull, massive internal hemorrhaging, and various broken bones and lacerations. When asked by a reporter if she thinks this will revisit the debate on hate crimes legislation, C.J., the Presidential Press Secretary, offers the following response: "Yes, I do, though I suppose the best time to do that would have been the day before Lowell Lydell [the victim] had his brains beaten out and not after." <sup>1</sup>

Though it is not mentioned in this episode what the nature of the alleged hate crime was -- C.J. refers to it later in the episode as a "manifestation of racism, or sexism, or anti-Semitism, or homophobia that are only the tip of the iceberg of a pathology troubling this country" -- the case is obviously a loosely-veiled reference to the brutal, real-life murder of the young, gay University of Wyoming student

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<sup>1</sup> The West Wing (episode: "In Excelsis Deo"), NBC, 14 December, 1999. It was later revealed, on the 25 January 2000 episode, that the boy and his family were from St. Paul's, Minnesota.



Matthew Shepard, in October 1998 -- more than a year and two months prior to this fictionalized account.<sup>2</sup> If there is any doubt about the connection with Shepard, one need only mention the fact that, later in this same episode of The West Wing, we learn that the victim's attackers tied him to a tree, threw rocks at his head, and "made him say Hail Marys as they beat him to death."<sup>3</sup> As anyone who has followed the case of Matthew Shepard knows, Matthew was tied to a fence post while he was beaten, and it quickly became common (though erroneous) knowledge that it appeared as though he were on a crucifix -- a religious symbolism not unlike the one referred to in this televised account. The allusion to Shepard in this prime-time drama, and the treatment of it here and elsewhere, reveals the extent to which Shepard has become a symbol for hate crimes legislation for gays and lesbian as well as a cultural touchstone for the spiraling "pathology" of violence troubling the American nation.<sup>4</sup>

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<sup>2</sup> That he was gay is made clear in a subsequent episode of the show, on 25 January 2000 (episode: "Take Out the Trash Day"). The plot took an interesting twist in this episode. When the victim's parents were invited to the White House as part of the Presidential signing of a hate crimes bill following their son's murder -- things move quickly on television -- there was speculation by top White House staff that the father was a bit of a homophobe and did not support this Democratic President.

<sup>3</sup> This is an obvious slip up in the dialogue surrounding the story, since we are first told that he was in critical condition; then in the next segment in which the case is discussed, he is said to have been beaten to death (it is only revealed later in the episode that he has died). I don't want to make much of this faux pas, but given the historical context of this episode, it is interesting in the sense that it just reinforces the connection to the real-life case that is obviously being alluded to in this fictional account.

<sup>4</sup> It is worth noting here that the similarly brutal and horrific murder of a black man, James Bryd Jr., who was tied by his feet to the back of a pick up truck and dragged for three miles along a road in rural Texas, approximately a year earlier than Shepard, never reached the iconic status that Shepard's death did. For a brief discussion of this death and others, see Andrew Sullivan (1999). Moreover, there have been a number of very vicious murders in Laramie, Wyoming that have received little or no national or international media attention. In 1998, a pregnant 15 year old girl was stabbed seventeen times and abandoned in the foothills near Laramie by her 38 year old boyfriend, who was upset because she was pregnant.

This chapter, which offers a lengthy critical analysis of the media accounts surrounding Shepard's death, examines the merging of political and juridical discourse in public debate, and the correlation of values (like hate and prejudice) with rights and the law. Without downplaying the severity of this death, the chapter side-steps a denunciation and condemnation of Matthew Shepard's assailants. In thinking about the representation of the gay male subject (how do we speak for him?) in and through the machinery of rights, as well as the representation of rights (as liberty, equality, freedom), I question instead the seemingly self-evident assumptions about what rights are capable of achieving when values like hate and prejudice are at stake. A specific example of how action in the political realm does not always achieve its purpose, I suggest that hate-crimes legislation will not only fail to produce the desired effects (presumably the end of not only political but social discrimination against gays and lesbians), but that the struggles for identity and difference they engage will be displaced onto other sites. Though I have argued that rights need to be seen as something that should be fought for and struggled over, which is clearly the case with hate crimes following this significant event, the impulse behind that argument was to underscore that what rights can achieve is never predetermined and absolute.

Suggesting that a refocusing of our energies and commitments might be in order, I am inclined to argue that the death of Matthew Shepard has little or nothing to do with rights. The discourses surrounding his death, however, are so invested in them that they cannot be dismissed outright. This case illustrates the extreme limitations of rights at the level of a cultural and political movement: the function of rights relative to questions of homosexuality is to ensure that gay and lesbian

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Later that same year an eight year old girl was raped and killed and found in a dump (see "Hardly an Epidemic" 2000). In other words, the case of Matthew Shepard is not the first violent murder in Laramie, though it is the first that has been labeled a hate crime, and the first to gain international media attention.

citizens receive the same privileges, responsibilities, and protections as their non-homosexual counterparts. The brutal murder of a gay man, in 1998, would seem to indicate that such citizens are still not enjoying full enfranchisement. But the case of Matthew Shepard raises for me the questions, How far do we take gay rights? How far can they take us? And how long do we hang on to them?

## 5.2 The Fantastic and the Horrific

On October 6, 1998, Matthew Shepard was "beaten, burned, and tied to a wooden fence like a scarecrow" by two straight "toughs" named Russell Henderson and Aaron McKinney, whom he met at the Fireside Lounge in Laramie, Wyoming. Matthew Shepard died several days later (on October 12) of injuries suffered to the head, having been "pistol-whipped" into a coma and left for more than eighteen hours in near-freezing temperatures by his attackers.<sup>5</sup> Though there is some inconsistency surrounding the motivation for the attack, the beating and subsequent death instantly galvanized many in the United States and Canada to call for the inclusion of sexual orientation in federal hate crime laws, as well as including hate crime laws more generally in the state of Wyoming.<sup>6</sup>

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<sup>5</sup> See "Gay Wyoming Man Near Death After Being Beaten, Tied to a Fence" (1998); "Gay Student's Condition Deteriorates From Beating" (1998).

<sup>6</sup> In the U.S., federal hate crimes laws include race, religion, and national origin. A bill is currently before Congress that would extend this to include sex, disability, and sexual orientation. It is this bill that President Clinton urged Congress to pass in the wake of Matthew Shepard's death. Currently, only nine states have no such hate-crime laws. In Canada, federal hates crime sentencing regulations were adopted in 1994. They require that a more severe sentence be imposed if it can be proven that the crime was motivated by race, religion, or nationality. In 1996, sexual orientation, age, and language were added. For a theoretical discussion of hate crimes, identity politics, and new social movements, see: James B. Jacobs and Kimberly Potter, Hate Crimes: Criminal Law and Identity Politics; and Valerie Jenness, Hate Crimes: New Social Movements and

From disparate points of view on the political spectrum, there ensued a number of fantastic and horrific responses to what was undoubtedly a fantastic and horrific event. While Matthew Shepard lay comatose in a hospital bed, a Colorado State University fraternity float carried a "straw-haired scarecrow" -- in mocking imitation of the fact that Shepard had the appearance of a scarecrow when he was found tied to a fence post by a passer-by -- with the phrase "I'm Gay" on the front of it, and "Up My Ass" on the back (no daily press items acknowledged this latter inscription).<sup>7</sup> At least two gay organizations reported receiving a letter applauding the murder of Shepard, ending with the sentence "I hope it happens again" (qtd. in "'Gay' Scarecrow"). Most startlingly of all, antigay protesters, led by the now notorious Kansas minister Fred Phelps, showed up at Matthew's funeral, along with the grieving, with the by now commonplace banners of antigay advocacy: "God Hates Fags;" "No Fags In Heaven;" "No Tears For Queers;" and "Matt in Hell." It was also reported that Phelps, who has a website called [www.godhatesfags.com](http://www.godhatesfags.com), "made plans to do a grave dance at the funeral" (qtd. in Lopez).<sup>8</sup>

No discussion of this murder and such events in the wake of it could gloss over these disturbing moments. Neither can we ignore the responses on the other

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the Politics of Violence (1997); Gregory M. Herek and Kevin T. Berrill (eds.), Hate Crimes: Confronting Violence Against Lesbians and Gay Men (1992). See also Andrew Sullivan, "What's So Bad About Hate?" (1999), a provocative piece critical not only of hate crimes laws but America's "fight against hate."

<sup>7</sup> Reported in Burnett 1998c. Even Vanity Fair reported only that the "scarecrow" displayed "anti-homosexual obscenities" (Thernstorm 272).

<sup>8</sup> Antigay protesters also showed up at the courthouse during the sentencing of Russell Henderson, one of Shepard's killers, in early April 1999. A group of people dressed as angels to block them from view. See Sandy Shore, "Man Gets Two Life Sentences" (1999).

side of the political spectrum.<sup>9</sup> In a flash, Shepard was turned into a kind of gay martyr figure, exacerbated by the mythologizing that Shepard was crucified by his attackers:<sup>10</sup> Time writes: "He wanted to find love. But as he lay near death, Matthew Shepard, through no choice of his own, had found martyrdom" (qtd. in Richard Lacayo 1998). "I see his name going down in gay history as a catalyst for renewed activism," says the director of New York's Empire State Pride Agenda (qtd. in Burnett 1998c). In reference to an article by Tony Kushner (Pulitzer Prize and Tony Award winning author of Angels in America), Genre magazine writes: "If ever there was an angel in America, it was clearly the late Matthew Shepard."<sup>11</sup>

At a candlelight vigil in Washington D.C., Hollywood star Ellen "Yep, I'm Gay" DeGeneres is quoted as saying: "I'm so pissed off -- I can't stop crying. This is what I was trying to stop -- this is why I did what I did [presumably, coming out on her ABC sit com Ellen]" (qtd. in Burnett 1998c). In other words, for spokespersons like Ellen, Shepard's death is a reminder of how little progress has been made. In part because of such national grief, a memorial website devoted to Matthew Shepard was

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<sup>9</sup> In an uncharacteristic moment of reasoned argumentation, Newsweek offers the only media coverage I have read that points out that "[b]oth sides, for their own purposes, stereotyped Matthew Shepard. The facts, however, are far more complicated. He was not a flamboyant, desperately needy caricature of antigay agitprop. Though he never denied his sexual orientation -- he joined the gay and lesbian university group upon his arrival -- he never sported the movement regalia of liberation T Shirts and rainbow-hued 'freedom rings'" (Fineman 42-43). It is perhaps because of this fact that Newsweek is even reporting his death: Matthew is quite palatable for the press precisely because he did not bear the iconography of gay activism.

<sup>10</sup> See for example, Melanie Thernstorm, "The Crucifixion of Matthew Shepard" (1999). It took ten months before someone dispelled this myth: "What is known, though somehow elided, is that in the most literal definition of the word, Matthew Shepard was not crucified. His hands were not outstretched, as has been suggested by all manner of media since October 7, 1998" (Wypijewski 61).

<sup>11</sup> Quoted in Genre February 1999: 4. Harper's magazine saw it fitting to reproduce part of this essay in their "Readings" section (see "Necessary Incivilities," Harper's, Jan. 99: 24-27). The article originally appeared in The Nation, Nov. 9, 1998.

quickly established, designed as a "central source of information . . . to allow you to find a way of expressing your grief and condolences . . . [and] to find a way to get involved in human rights efforts." <sup>12</sup> The gay bi-weekly The Advocate referred to Shepard on its cover as "The Ultimate Ex-Gay," and proclaimed that "[h]is murder leaves blood on the hands of the Far Right." Included in the special report is an article entitled "From Soft Words to Hard Fists," which argues that "when antigay rhetoric fills the air, attacks on gay men and lesbians are not far behind" (Kirby 40). In response to the question "Does rhetoric spark violence?," the article claims that "[m]ost gay men and lesbians would answer with a resounding yes." <sup>13</sup>

Another article in The Advocate, called "The Good Shepard," says that the reactions following Shepard's death turned out exactly how Matthew would have wanted it. This is because his "dream was to work for human rights." "If he had to die a tragic death, he would have wanted it to make the country a better place for all of us, and maybe it will," says the President of the Lesbian, Gay, Bisexual, and Transgendered Alliance at the University of Wyoming (qtd. in "The Good Shepard") -- as if individuals spend their idle moments contemplating the end results of

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<sup>12</sup> See [www.mattshepard.org](http://www.mattshepard.org).

<sup>13</sup> See The Advocate, 24 Nov. 1998. The term "ex-gay" is a reference to a newspaper advertising campaign in the U.S. in the summer of 1998 by the Center for Reclaiming America, a coalition of religious right groups. The campaign urged homosexuals to seek therapy to cure them of their affliction. The campaign was re-launched on television the day after Shepard died. In using this term to describe Shepard, The Advocate argues in no uncertain terms that such rhetoric led directly to Shepard's death: "Many activists believe a right-wing, antigay campaign launched earlier this year fanned the flames of intolerance that ultimately killed Matthew Shepard" (40). When asked "Do you believe that the ex-gay ad campaigns create an atmosphere that allows people to act out violently against gays?," 76% of respondents to a poll answered "yes" (see Barrett 30). This is what Butler refers to as the problematic assumption that hate speech always works. See especially her Introduction, "On Linguistic Vulnerability," in Excitable Speech (1997).

unanticipated tragic death. In the article by Tony Kushner referred to above, Kushner makes the following plea to heterosexuals in the wake of Matthew's death:

If you are a heterosexual person, and you are reading this . . . if you have not called your Congressperson to demand passage of a hate crimes bill that includes sexual orientation, and e-mailed every Congressperson, if you have not gotten up out of your comfortable chair to campaign for homosexual and all civil rights -- campaign, not just passively support -- may you think about this crucified man, and may you mourn, and may you burn with a moral citizen's shame (Kushner 53).<sup>14</sup>

The ensuing media frenzy that inevitably comes on the heels of such violence focuses on the extent to which this incident, a murder of almost unimaginable brutality, is apparently only one extreme version of the hatred and persecution we endure everywhere, everyday: "Student's death just extreme version of what happens daily on campus, rights proponents say" (qtd. in "'Gay' Scarecrow"). Such incidents spark, for better or for worse, a renewed but fleeting interest in gay-bashing. "Gay-Bashing Incidents On the Rise In Toronto;" "'Gay' Scarecrow Highlights Hostilities;" "In the Tolerant 1990s, Attacks on Gays Persist;" "Queer Fear;" and "Firsthand Hate" -- all of these articles underscore how the murder of Matthew Shepard arouses a certain amount of fear among homosexuals that crosses national boundaries.<sup>15</sup> As one Canadian journalist puts it: this murder is an "umbilical cord [that] connects gays; it explains the emotional reaction to an event that happened south of the border, where the culture is different yet that same" (Eleanor Brown). Complete with the requisite statistics, charts, and graphs, a culture of paranoia is momentarily produced, one that not only reinforces what one

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<sup>14</sup> In fairness to Kushner, he also calls upon queers, though his tone is less harsh.

<sup>15</sup> See Lila Sarick, "Gay-Bashing Incidents on Rise in Toronto;" "'Gay' Scarecrow Highlights Hostilities;" Timothy Appleby, "In The Tolerant 1990s, Attacks on Gays Persist;" Eleanor Brown, "Queer Fear," a full-page cover article in the "Focus and Books" section of the Globe and Mail; Victoria Stefanakos, "Firsthand Hate."

newspaper article calls "queer fear" (presumably that queers are afraid but also that people are afraid of queers) but that makes paranoia an inevitable aspect of gay identity. As this feature-length article, which appeared in the Globe and Mail several days after Shepard's death, says: "Murray Billet ["one of Alberta's few gay activists"] has no problem with paranoia. He's all in favour of it. Whenever a gay person is attacked, he says, homosexuals must assume that a hate crime has been committed. 'It's open season'" (qtd. in Eleanor Brown). The complexities of this case are quickly elided in favour of the repeated assertion that this was simply and unequivocally an incident of gay-bashing, and that all crimes against homosexuals are motivated by hatred of that very identity. <sup>16</sup>

As such, it is quite predictable in our litigious political climate how such crimes will be addressed in the public discourse. As some of the above quotations hint at, the solution to the problem of violence against homosexuals is to legislate against it. Calls on the part of politicians, gay leaders, and editorial boards for increasing hate-crimes legislation, either to include gays and lesbians and/or increase the punishment vetted out to perpetrators of hate crimes, abound. <sup>17</sup> Immediately following the beating of Matthew Shepard, gay rights proponents held a news conference urging legislators to remove the state of Wyoming -- whose motto is "The Equality State" -- from the list of the few remaining states without hate crime laws. "Police have said robbery was the primary motive for the attack. But gay rights groups and others condemned the attack, calling on Wyoming legislators to deter

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<sup>16</sup> This is something that persists well after the initial event. More than eight months later, on August 31, 1999, I received an e-mail petition from an individual named Leslie Palmer, of Jacksonville Florida, that will be forward to the President of the United States -- to "keep the cause alive." The petition states: "Matthew Shepard was murdered because he was gay and because he was a prominent member of the gay and lesbian student group on campus."

<sup>17</sup> See "Antihate Law Urged After Gay Man Dies" (1998).



crimes against homosexuals" (qtd. in "Antihate Law Urged"). The calls came right from the top of the political echelon, prompting U.S. President Bill Clinton to call on Congress to pass legislation making it easier for federal prosecution of hate crimes.

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I suggest that these are fantastic responses because from the very beginning there was speculation about the motivation for the attack. It has never been confirmed that Matthew Shepard was attacked only because he was gay. Early reports suggest that highway robbery was the chief motive. Two days later, it is reported that Shepard was attacked because of his sexual orientation and because he made passes at his attackers inside the Fireside Lounge. Several months after the death it was revealed that Shepard's killers were possibly at the end of a five day methamphetamine (crank, speed, crystal meth) binge, which, along with homophobia, might account for the severity of the beating.<sup>19</sup> In other words, it might have been a whole series of events that lead to his death, not just a "visceral disgust at the thought of any sexual contact with an effeminate homosexual" (Sullivan 1999: 56).

Why, then, does the attack on a gay man automatically get taken up not only as a hate crime but a crime against all homosexuals? Why do proponents of hate crime laws resort to the powerful and overarching narrative that "it's open season"? And what spaces of critique might be opened up if we acknowledge that not all of us

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<sup>18</sup> The announcement of the sentencing of Russell Henderson six months later prompted renewed calls for Clinton to add sexual orientation to federal hate crimes legislation, which did not make front page news across the board. See New York Times 7 April 1999.

<sup>19</sup> See "Gay Wyoming Man Near Death After Being Beaten;" "Gay Student's Condition Deteriorates;" "Anti Hate Law Urged;" Howard Fineman, "Echoes of a Murder in Wyoming," 43; and JoAnn Wypijewski, "A Boy's Life," 62.

feel so threatened by this death that we see only the need for increased protection by means of legislation?

Moreover, I call these fantastic responses because of the equation suggested in them that the law could be a deterrent to beliefs like hate and prejudice, the insistence that our liberty and equality will best be served by the apparatus of rights and the state. What is most interesting in this respect is the relationship between rights and violence against homosexuals in a so-called culture of "tolerance." In a poll conducted after Matthew Shepard's death, fifty nine percent of those polled responded "yes" to the question, "Do you think that hate-crimes laws can be effective in fighting antigay violence?" (Jon Barrett 30). Less interesting is the accuracy or the legitimacy of the poll or polling generally but the very question itself, which articulates a predominant sentiment: "the only fitting tribute [to Shepard's death] is passing laws to prevent these kinds of crimes" (qtd. in Bill Ghent 54), or that the death of Matthew Shepard "reminds us that we must achieve hate-crimes legislation."<sup>20</sup> We must "demand passage of a hate crimes bill," and we must "campaign for homosexual and all civil rights" (Kushner 53). The connection between prevention and legislation is taken as a given; though, as we will see, it is far more complex than such well-intentioned responses can possibly address.

### **5.3 Hate, Prejudice, and the Law: A Political Paradox?**

In a front-page article in The Globe and Mail, one writer offers the following observation: "If Mr. Shepard's death has touched a nerve, perhaps it's because of a troubling question: In an era when minority rights are better entrenched than before, what kind of person hates homosexuals enough to threaten, attack and occasionally

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<sup>20</sup> Quoted in "Reader Forum," The Advocate 22 Dec. 1998: 4.

kill them?" (Appleby 1998: A1). Herein lies a significant problem: the assumption that increased equality through the apparatus of rights will have a direct correlation in terms of a decrease in violence or persecution against homosexuals. It is the old problem with questions of visibility, the belief that more (rights, legislation) equals better (equality). What rarely gets questioned is, How precisely is the inclusion of gays and lesbians in hate crimes legislation going to achieve the goal of more tolerance for and acceptance of homosexuality on the part of those inclined to attack, beat, or kill us? Symbolically, it does put the issue of anti-gay prejudice and violence on the agenda of public debate -- if only momentarily -- but it does not guarantee change at the level of behavior, beliefs, and actions on the part of those it needs to reach the most.

As others have observed, a political paradox arises when questions of visibility and social equality are at stake. Arendt noted for example that "when inequalities of economic and educational condition have been ironed out" we reach what she calls a danger point whereby "the more equal people become in every respect, and the more equality permeates the whole texture of society, the more will differences be resented, the more conspicuous will those become who are visibly and by nature unlike the others" (1959: 48). Arendt is referring here to "equality for the Negro" in the U.S. civil rights movement, of which she argues that the achievement of civil equality for black Americans "may sharpen the color problem in this country instead of assuaging it" (48).<sup>21</sup> Pointing out a concrete instance of the stakes involved in the mistaken (Arendt's word) belief that the achievement of constitutional and civil

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<sup>21</sup> Arendt's controversial solution to this paradox is that interventions into the inequality of blacks be "restricted to the few instances in which the law of the land and the principle of the Republic are at stake" (48). In a sense it is a certain *laissez-faire* attitude to the social, assuming that the problems of the social will naturally take care of themselves -- which is really no solution at all, especially from the point of view of black Americans.

rights is the same thing as freedom, this paradox provides at least one way to understand the seemingly perplexing situation that, as the title of the article cited above puts it, in "the tolerant 1990s, attacks on gays persist" (Appleby). More than simply a critique of the idea that increasing rights leads to more social acceptance, this paradox is an important one for the politics of gay and lesbian rights and equality, though it is certainly cold comfort for those who want to see some fundamental social and legal changes implemented as a result of Matthew's death -- to ensure, no doubt, that he "did not die in vain." This is not to suggest the dangers of a backlash against such legislation. We need to resist this concept because it posits a rather unnuanced understanding of power, as either repression or resistance. Rather, the agony of his death notwithstanding, it is to resist jumping on the political bandwagon and seeing the law as the "machinery of representation as the guarantor of freedom" (Vikki Bell 82), and a call for a refocusing of our energies and our commitments for projects more productive than the law.

It might be competently argued that such rights, though severely attenuated when matters of violence, hate, and prejudice are concerned, are an important historical and symbolic beginning toward the achievement of something better. Many argue for example that increasing punishments for crimes motivated by hate sends a strong message against intolerance. Or, as John McGowan more broadly points out, we need to emphasize "the positive goods that political action can secure, rather than the negative goals of protection from tyranny. As first steps toward positive goods, rights are absolutely crucial, but they are the beginning, not the end, of the story" (McGowan 25). In seeing the representation of rights as the visible manifestation of the abstract principle of equality for homosexuals, hate crimes laws might certainly be seen as a beginning, as one more step in the full entrenchment of gay and lesbian citizens within the project of American democracy. I suspend this

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plausible argument here and insist that, at least as far as the case of Matthew Shepard and anti-gay violence is concerned, hate crimes laws are hardly going to be the beginning of anything. They are a dead end that cannot overcome their constitutive histories of suffering.

At issue here in seeing hate-crimes laws as the solution to hate and anti-gay violence is whether or not legal sanctions have a direct impact on behaviour. One study, discussed in detail in Mary Ann Glendon's Rights Talk (1991), indicates that there is indeed a positive correlation between the two.<sup>22</sup> In reference to the "no-duty-to act" provision in the U.S. legal system -- that is, that one is not legally obliged to come to the aid of a stranger in time of need, like a drowning victim, for example -- the study found that an "awareness of a legal duty to rescue does affect the way people perceive the legitimacy of the behavior in question" (Glendon 88). When asked to evaluate the morality of the action of an individual who watched and did nothing as a stranger drowned, the study reports that a group of subjects who were told that the law required some form of assistance viewed this behaviour more severely than a group of subjects who were told there was no legal obligation. The conclusion here was that, for many, there was a "disposition to support legitimate authority" (88) and to believe that the law represents the majority opinion (88). The point of this tale seems to be that the law is effective in promoting moral action, which would potentially support claims that increasing potential victims of hate crimes to include gays and lesbians can serve as a deterrent to anti-gay violence.

The issue of hate is, however, far more complex than the "no-duty-to act" provision in the case of a drowning man. For starters, majority opinion already seems to confirm that hate is a blemish on the face of American democracy, yet it

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<sup>22</sup> For original study, see Henry Kaufmann, "Legality and Harmfulness of a Bystander's Failure to Intervene as Determinants of Moral Judgment" (1970).

continues to thrive in all of its various manifestations. Though legal reform is indeed a "touchstone for legitimacy" (Glendon 3), to assume that the law could counter hate is to deny the deep psychological, social, and cultural apparatus that permit it in the first place. To be sure, the value of hate, as opposed to simply the action of anti-gay violence, cannot be alleviated simply by underscoring through legal sanctions that the majority sees it as illegitimate in democratic culture. If this were true, then hate-motivated crimes would not be taking place today.

Another way to put this is to suggest that there is a tension here between preventative and punitive models of justice, models that are not always compatible and easily reconcilable. Many argue that such legislation will be influential for both; that is to say, that punishment for past crimes will not only remedy the act in question ("justice will be served") but will act as a deterrent for future perpetrators. This belief is an old tradition in political thought, one that sees the state as an artificial institution that can effectively curb the natural tendencies in the social: "obedience to the law comes through social transmission and individual learning rather than through impulses native to mankind" (Will Durant 1927: 80). It is as if to suggest that, upon contemplating the act of gay-bashing, the perpetrator might think twice about carrying out his actions if he knows that his sentence will carry a more severe penalty. And therein lies a crucial distinction: we act as if this were the case; but we do not follow through with the full logic of this scenario. If this were true, it would require that the perpetrator be cognizant of the law to make such a rational judgment. Moreover, since such actions are not rational to begin with, such individuals would likely be unaffected by the existence of such knowledge in the first place.

What I am suggesting is that this case and hate crimes generally require a more direct engagement with questions of action, behaviour, and beliefs rather than simply with questions of political equality, an engagement which brings us up against

the limitations of such legislation more effectively than the rhetoric of rights, rights, rights. As Brown points out, one of the contradictory effects of rights founded on injury -- which is certainly the case with hate crimes -- is that they produce "revenge as a 'reaction,' a substitute for the capacity to act." Brown's debt to Nietzschean resentment takes her too far here, since revenge and the rights that are called for to enact it are not simply reaction but are forms of action. Those who seek revenge are actors acting in the political realm. Nonetheless, what is important here is the extent to which this form of action rearticulates identity such that it is forever linked to the history of suffering that produced it and "a reproach to the present which embodies that history" (Brown 1995: 73). This is to say that such forms of political action like hate crimes legislation continue the culture of the victim rather than upsetting or serving to dismantle the social belief system that permits such victimization. They stand in opposition to something, but they rarely address the more important and therefore more difficult realities of implementing lasting and effective social change.

In a response to the quotation above from The Globe and Mail article ("In the Tolerant 1990s"), specifically the sense of disbelief that, in a culture of tolerance, someone could hate homosexuals enough to beat them or even kill them, Richard Burnett offers the following rebuttal: "Now, I admit that . . . [The Globe and Mail's] coverage of queer issues has outclassed every other daily in this country two years running . . . but are heterosexuals really that stupid?" (Richard Burnett 1998c; emphasis in original).<sup>23</sup> What is being taken to task here is the sense of disbelief on the part of this Globe and Mail journalist that such violence against gays still persists,

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<sup>23</sup> This quotation seems to have really annoyed Burnett, since he quotes it verbatim -- as well as his question "Are heterosexuals really this fucking stupid?" -- in his column five months later. He has also had a change in attitude, writing that "[h]ate-crimes legislation will not prevent gay-bashing. It will not prevent hate crimes" (see his "The Politics of Hate" 1999; emphasis in original).

since Burnett writes that "it's taken the mainstream media 50 years to figure out queers endure this kind of stuff [the brutal beating and death of Shepard] every bloody day." Interestingly, Burnett goes on to argue that hate and prejudice "won't change until the law enshrines queer civil rights and the religious establishment embraces gays and lesbians." In other words, not only is Burnett as disturbed by the prevalence of hatred towards gays and lesbians as the journalist he condemns; he advances the very same argument: that the elimination of hate and prejudice against gays and lesbians can be achieved through recourse to civil rights and the protective bosom of the state. In seeing equality as part and parcel of the elimination not only of certain actions and behaviours but of particular values as well -- hate and prejudice -- Burnett reproduces the pervasive and problematic argument that civil rights automatically have that kind of effect.

What needs to be questioned here as well is, to what extent would gay activists like Burnett be comfortable with the assertion that values and beliefs should be held in check if those for whom they speak -- gays, lesbians, and queers -- were the ones being asked or forced to give up their personal liberties in the form of freedom of thought? In other words, it is a bit perplexing to hear the argument that hate and prejudice must be eliminated by the state from a segment of the population that has been so very interested in divesting the state from dictating what we can and cannot think and do. I am not suggesting, as many have, that such claims are antidemocratic, but pointing out that what gets lost in this discourse is the fact that beating someone up is already a punishable crime. And, unlike crimes, hate and prejudice are beliefs and opinions. However misguided they may be, it is gays and lesbians themselves who should have a vested interest in protecting them from interventions by the state. Burnett's comments, and others like them, play into the forces that would work against this.

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Referring to the "aftermath of this nightmare" -- the calls for increased hate crime laws in the U.S. -- a Globe and Mail editorial, provocatively entitled "Hate Makes a Poor Counsellor," argues that the murder of Matthew Shepard has sparked a "misplaced" call for "special" legislation. Working to debunk the dearly-held assumption that no one is his or her right mind would be against laws making it a crime to beat up a gay person, or that the penalty should be increased when a violent crime is motivated by hatred of a specific target group, like homosexuals, the editorial confronts, and embraces, the liberal value that all individuals should be treated equally before the law. In other words, it argues against special laws for hate crimes, treating all crimes, and hence all victims, as equal. Though echoing Brown's stance that wounded attachments make a poor and contradictory basis for legal redress, this editorial advances some imprecise argumentation in order to highlight the dangers of these special laws. In the process it provides evidence of the ways in which gay rights issues often spawn a certain paranoia on the part of those who wish to keep the values of universal equality and liberty of individuals alive, just as The Globe and Mail did in the debate about gay pride. It argues, in brief, that special treatment for homosexuals (or other groups) is antidemocratic.

The editorial offers the following hypothetical scenario:

Imagine that someone assaults you and takes your purse. Under U.S. federal sentencing guidelines, this might warrant, say, three years in prison. Now let's say you just happen to be a Jehovah's Witness, assaulted and robbed by a man wearing an "I hate Jehovah's Witnesses" T-shirt. Under current hate laws, the sentence would be "enhanced" by pushing it three steps up the federal sentencing ladder -- making the prison term a year or two longer.

In their effort to outline the potential harm hate crime laws might have on the principle of freedom of speech (taking the T-shirt slogan as a form of speech), the editorial fails to recognize that prosecution of hate crimes requires proving motivation. In the above scenario, wearing an "I hate Jehovah's Witnesses" T-shirt

does not constitute anti-religious motivation, since we can assume that the assailant did not even know that his victim was a Jehovah's Witness. <sup>24</sup> The editorial ends by arguing that "[w]e're simply not comfortable with the idea that beating up someone because you don't like their religion or race or sexual orientation is 'worse' than beating up someone because you don't like them. An assault is an assault and murder is murder. All violent crimes are about hate, and should be punished as such." <sup>25</sup>

In the letters to the editor responding to this Globe and Mail editorial, one respondent supports this position by acknowledging that "[i]t is not appropriate . . . to use Mr. Shepard's death to introduce fundamentally misguided hate-crimes legislation," and that doing so would set up a "two-tiered justice system, with crimes against certain protected groups (such as homosexuals) being punished more severely than crimes against members of the general population." The respondent goes on to argue that the murder of Mr. Shepard should also not be used, as this writer believes it was, "to suppress the truth about the homosexual lifestyle . . . the fact that homosexuality is a fundamentally unnatural, immoral and destructive lifestyle." <sup>26</sup> It is more than unfortunate that this respondent relied on such rhetoric, since it tends to have the effect of blinding us to what might otherwise be some

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<sup>24</sup> This is one of the thornier issues involved in hate crimes, since proving motivation is often extremely difficult. Also problematic in prosecuting such crimes is the fact that the perpetrators of hate crimes are rarely found, because, unlike spousal abuse, the perpetrators usually do not know the victim. See Lila Sarick, "Gay Bashing Incidents On Rise in Toronto" (1998).

<sup>25</sup> Russell Henderson pleaded guilty on April 5 1999, avoiding a trial and possible death sentence. He was sentenced to two consecutive life terms with no chance for parole. This in a state that currently has no existing hate crimes legislation. See Sandy Shore, "Man Gets Two Life Sentences For Murder of Gay Student" (1999). Aaron McKinney, was also tried and convicted of charges of first degree murder. He faced a possible death sentence, but was not given one.

<sup>26</sup> Quoted in "Letters to the Editor," Globe and Mail 21 Oct. 1998: A33.

important insights about this case, particularly the caution against setting up a double standard of justice whereby crimes against homosexuals are somehow worse or more destructive than crimes against others, a position that does not necessarily flow from an anti-homosexual stance, though that is most often the case. Ironically, the discourse of unnaturalness and immorality employed here merely serves the argument that is being opposed: because such rhetoric and beliefs like this continue to exist, we can only see the suggestion that homosexuals do not need nor deserve "special" protection and treatment as flawed, since it appears, in this guise, as an extension of the homophobic rhetoric of unnaturalness and immorality.

But the editorial stance and this response to it are important, not because they claim that all violent crimes are equally reprehensible regardless of who they are directed at, or that arguments to the contrary are antidemocratic, but rather because, they argue that we are in dangerous territory when we demand that the law treat some of its citizens as "special." Why? Many might argue that the dangers involved in treating any group as special is a form of reverse discrimination, giving more power to the injured than the injuring and thereby serving to upset the balance of power once again rather than truly leveling it out. This argument ignores a more pressing matter, for the idea of special laws for homosexuals, and the understanding of the role and function of the law and of the homosexual subject that ensue, can never get us beyond what Brown identifies as one of the contradictory effects of emancipatory identity politics: the ways in which "certain well-intentioned contemporary projects . . . inadvertently redraw the very configurations and effects of power they seek to vanquish" (1995: ix). This is to say that demands for including gays and lesbians as potential victims of hate crimes do little to challenge the notion that we are from the outset always already unequal. Though we might be -- and are -- in some particular ways not always treated as equal citizens, there are reasons to

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be wary of demanding to be equal on the terms of this debate. While placating the victims (and those touched by their suffering) of such a structure, such appeals to the state simply reproduce that identity as unequal, "fix[ing] the identities of the injured and the injuring as social positions, and codif[ing] as well the meanings of the actions against all possibilities of indeterminacy, ambiguity, and struggle for resignification or repositioning" (Brown 1995: 27). From the point of view of rights and equality, calls for expanding who can be considered deserving of inclusion in hate crimes laws is an unsettling and perverse twist of identity politics whereby the right to equality is in part premised on being counted, and hence reconstituted politically, as a victim. Like the Supreme Court ruling on HIV and safe(r) sex, hate crime laws reproach past behaviour without challenging the conditions that permit such behaviours in the present. They are merely punitive and not transformational at the level of the social. And they return to the subject all the powerlessness rights are supposed to assuage.

What results, then, from this present political climate, from our deep investment in the state as the primary means of our salvation, is a certain "infantalization of the citizen" (McGowan 161),<sup>27</sup> an ironic disinvestment with political agency by the very subjects whose call to action underscores the need for agency in the first place. This is evidenced in a letter refuting the Globe and Mail's editorial stance against hate crimes legislation, referring to this position as "reprehensible" and a "simplistic understanding of the law and the challenges faced by homosexual groups." Positioned as an attempt to speak for us, it supports the apparently self-evident need for special consideration by suggesting that the purpose of hate crimes legislation is not only to increase the penalty for crimes motivated by

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<sup>27</sup> On infantile citizenship, see Lauren Berlant, "The Theory of Infantile Citizenship," Chapter One in her The Queen of America.

group hatred but also to "register societal disapproval of the crimes and societal support for the victims" (emphasis added). <sup>28</sup> Echoing the language of the Supreme Court in the HIV ruling, this proponent of hate crimes laws underscores precisely the problem they entail: "register[ing] societal disapproval" is not the same thing as implementing fundamental social changes.

If such legislation merely registers (values like disapproval, shock, anger), then the conversation cannot stop there. We need to seriously question the effects on the subjects on whose behalf such legislation speaks. This is a perfect example of what Brown refers to as the tendency of rights to redress and recodify social injury, merely reflecting disapproval while circumscribing the subjects it addresses within the framework of wounded subjectivity. Indeed, this advocate of hate crimes laws calls homosexuals "a group clearly in need of special protection," and points the accusatory finger at the usual suspect: the Religious Right, for trying to bury this self-evident fact. To be sure, the respondent referred to above concludes by condemning "hyper-religious pseudo Christians" who "deep down . . . approve and encourage such monstrosities as happened in Wyoming, and happen everyday in our streets."

This is one of the consequences of adhering to a wounded identity: it breeds a politics of resentment, "the righteous critique of power from the perspective of the injured," which is accompanied by "a tendency to moralize in place of political argument" (Brown 27). This resentment can be directed against political modalities and regimes as well as certain groups, for what Brown refers to as "the paradox of liberalism" means that the socially subordinated turn their failures into recrimination against the successful, which produces stasis in each. Rather than blaming the unsuccessful for their failures, their lack of rights, for gay bashing, or any other

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<sup>28</sup> Quoted in "Letters to the Editor," Globe and Mail 21 Oct. 1998: A33.

manifestation of what we want, what we need, what we dislike, resentment calls attention to a secondary effect of such an oppositional political framework: there is little space in which other gays and lesbians can speak in critical ways of such legal reforms. The critique of resentment, that which develops from the condition of being excluded, is not to blame those without rights or those who do not want to extend them but to invite disagreement into the conversation, to ensure that we do not get so overwhelmed with wounding and with suffering that we can longer question and assess the practices we as a community are said to champion. An oppositional politics assumes not only that we are all in agreement not only with the nature and identity of what stands in our way but that what we need to combat it is self-evident.

#### **5.4 The Infantilized Citizen**

All of this is to say that most of the responses to the death of Matthew Shepard focus on representation as the law and state formation, to the exclusion of subject formation. In thinking through not only rights as a form of visibility and legitimacy but the representation of rights, this chapter redress this absence by looking specifically at the construction of the gay male subject in these accounts. Taking as a point of departure the premise that rights when infused with politicized identities recodify identity as a site of suffering, I suggest that Matthew Shepard has been both infantilized (in part through a desexualization) and gendered "feminine" to the extreme, which is part of the infantilizing process -- the construction of the passive, helpless homosexual subject. This image occurs across both the mainstream

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and gay press.<sup>29</sup> Against the possibilities of resignification and repositioning, this has the counter-productive effect of taking responsibility for political agency out of the hands of gays and lesbians themselves and portraying us instead as fully acted upon. As a consequence of this infantilizing process, the powerlessness that hate crimes laws are said to redistribute is returned to the very subjects for whom powerlessness was the problem in the first place. The infantilizing of Shepard and the infantilizing of the citizen are of a piece.

In the subheading of a Newsweek article, Matthew Shepard is referred to as a "slight, unassuming young homosexual." In the opening paragraph we are told that: "From his first breath, life was a struggle for Matthew Shepard. He was a preemie at birth -- a tiny slip of a kid who would grow up to be barely five feet tall. He was shy and gentle in a place where it wasn't common for a young man to be either" (Fineman 42). Newsweek picks up on the language of a press release from Shepard's parents, which states that Matthew "came into this world prematurely and left prematurely." His "life has often been a struggle in one way or another" (qtd. in Thernstorm 267). In this vein, Matthew's willowy and fragile stature marks his difference, a difference universally acknowledged in the media coverage of his death. Though less histrionic, Time writes, for example: "Short and slight, he knew he fit a gay stereotype" (see Steven Lopez 28); he was "a slight Wyoming freshman" (Jan Wong 1998). The Advocate says that "Shepard was a gentle, fun-loving person

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<sup>29</sup> This is despite the fact that Matthew Shepard was 21 years old when he died, sexually active, and, as Vanity Fair later revealed, HIV positive. It is not known whether Shepard knew of his HIV positive status, nor does the article state why this information was obtained from his autopsy. It would no doubt have added some disturbing twists to the coverage and responses to his death had it been revealed earlier. Vanity Fair reports, for example, that "[f]or some of those close to Aaron and Russell the news about the risk of infection helped them persuade themselves that Matthew was actually the dangerous one" (qtd. in Thernstorm 274). A friend of one of the assailant's grandmother is quoted as saying: "I am not familiar with people like that [that is, HIV positive]. Sometimes I've heard when people have [AIDS] they want to take as many people with them as possible" (qtd. in Thernstorm 274).

whose slight build (5 feet 2 inches, 105 pounds) and ebullient disposition made people feel protective toward him, not threatened by him" (Barrett 28).<sup>30</sup> Even at his funeral, "Matthew Shepard was remembered as a meek young man" (Fineman 43). The groups of mourners are told that "[h]e was not always a winner according to the world's standards. . . He struggled to fit into a world not always kind to gentle spirits. What was important to Matt was to care, to help nurture, to bring joy to others in his quiet, gentle way" (qtd. in Appleby 1998). A friend of Matthew is quoted as saying: "He was a perpetual victim. That's how he became the person that he was." Even his own mother insists that "[h]e had the posture of a victim. He was the kind of person whom you just look at and know if you hurt him he's going to take it - - that there's nothing he can do verbally or physically. When he walked down the street he had that victim walk" (all qtd. in Thernstorm 267). After seeing the movie Saving Private Ryan, Vanity Fair reports that "[h]e was so sensitive to see the violence and the bloodshed he broke down and cried -- afterwards he had to go home and take a nap and take a shower" (Thernstorm 268).

The infantilization of Matthew Shepard reaches its apotheosis in the descriptions of how he was brought to his fate. What is most striking in this regard is the repeated and haunting invocation that Matthew was "lured" to his own death. Almost as a matter of course, this term is used both casually and extensively in the media reports. At the Fire Side Lounge, we are told, Matthew Shepard "met two young toughs who pretended to be gay so they could lure the fastidiously dressed young man into their pickup" (Fineman 42). Or, "posing as homosexuals, they lured

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<sup>30</sup> The irony of this statement is chilling, since it displaces the very real possibility that Matthew Shepard's killers were indeed threatened by him.

**slight.** 1. small in amount, degree, etc. 2. Of little importance, influence, etc. 3. slender or slim; not heavily built. 4. frail; flimsy; delicate. 5. Of little substance or strength (Random House Webster's)



him outside to the pickup truck" (Jan Wong 1998). "Russell Henderson and Aaron McKinney pretended they were gay, [and] lured Matthew Shepard outside the honkytonk bar" (Richard Burnett 1998c). The Advocate reiterates this sentiment by suggesting that the assailants "lured Shepard out of the bar by telling him they too were gay" (Barrett 29). When the sentence of one of Matthew's killers was reported six months later, this motif of being preyed upon, as well as Matthew's slight build, is repeated: "Authorities said Mr. Henderson and another man posed as homosexuals and lured the 5-foot-2, 105-pound Mr. Shepard out of a bar in October" (qtd. in Sandy Shore). In a follow-up story ten months later, Harper's reports that Shepard was "lured out of a bar by two 'rednecks'" (Wypijewski 61).

Like the narratives of the gay male body with AIDS in the early years of the epidemic, <sup>31</sup> Matthew is turned into the epitome of the passive and helpless homosexual victim, ostensibly marking the need for more protection in the most poignant way imaginable. The fact that Matthew appeared as a non-threatening homosexual -- he was not a "desperately needy caricature of gay agitprop" (Fineman 42) -- with his fragile and angel-like qualities, his soft, educated demeanor, in contrast to the working-class toughs (who drive a pickup truck; one who works as a roofer) ensured that he would become the icon for gay rights and equality and for a renewed call to arms to end this pathology of violence in America in a way that few individuals have been able to achieve. <sup>32</sup> But these often heart-felt responses to his death are utterly counterproductive in terms of what they aspire to overcome. The

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<sup>31</sup> On this, see especially Simon Watney, Policing Desire: Pornography, AIDS, and the Media (1987); Douglas Crimp (ed.), AIDS: Cultural Analysis, Cultural Activism (1988).

<sup>32</sup> It is interesting to note that, even in the title of an article reporting Russell Henderson's conviction, "Man Gets Two Life Sentences For Murder of Gay Student" (see Sandy Shore 1999), it is still emphasized that Matthew Shepard was "gay" and a "student," not simply a "man," a description reserved for one of his murderers. Class and sexual orientation are underscored in the most subtle of ways.

refusal to see Matthew Shepard as an adult, as a sexually active gay male adult, completely displaces if not outright erases the gay social subject. His (gay) sexuality is denied in the very act of stating that he was killed because he was a homosexual. Moreover, against the possibilities of repositioning and resignification, he is completely stripped of any capacity to act and is instead fully acted upon. This is clear in the use of the word "lured," which is a telling inversion of the usual assumption that it is the gay man who, by trickery, preys upon the straight man.

This image of the gay male subject as innocently lured by his attackers is a perfect portrait of the contradictory nature of the calls for increasing hate crimes legislation to include gays and lesbians in the wake of Matthew's death. Just as Matthew is portrayed as fully acted upon rather than acting, such rights in this particular case put all the power for our liberation in the hands of a body that has never fully been interested or invested in us. A desire simply to be protected from the excesses of power rather than a reconfiguration of it (Wendy Brown), we prostrate ourselves before the state, hoping it will achieve juridically what we have not been able to completely secure socially. Putting all the power in the state, we simultaneously return the powerlessness to the subjects that state is called upon to protect.

Moreover, the issues of identity and difference this case raises are displaced onto other sites in need of contestation. Just as Shepard's sexuality has been highly politicized (and ironically erased at the same time), we need to ask how politics is sexualized in this case. Specifically, I am referring to the feminine gendering of Matthew in the media accounts, which is linked to his infantilization and which tells us a great deal about other struggles for difference and identity. Contrary to the descriptions of the gay man (I use the noun loosely in reference to the descriptions of Matthew Shepard), women in our culture are still accorded a certain amount of

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individual responsibility when they enter into the public sphere, and are said to bear the consequences of their actions when they suffer for doing so. We are all too familiar with the reprehensible reasoning that when a woman is attacked or raped, she somehow “asked for it” -- as if female sexuality and not male aggression were to blame. <sup>33</sup> What is interesting to note is the ellipsis of this sentiment in the discourses surrounding Matthew Shepard. Though he is gendered feminine to the extreme, no one has raised an eyebrow when such a fragile and meek young man gets into a pick up truck with two strangers. Nor, let me be clear, am I suggesting they should. Moreover, as Vanity Fair points out, it is not unusual in Laramie, Wyoming to get rides with strangers; nor is it considered dangerous (see Thernstorm 271). My point is that the article in Vanity Fair is the only one I have read that even makes reference to this. If nothing else, this tells us about the limits of gendering the gay male “feminine” in a culture still intent on blaming women for their suffering.

### 5.5 The Lessons of History

In addition to this infantilizing of the subject as citizen, there was a lesson to be learned in the case, a lesson about the state’s commitment to equality that was unfortunately rarely if ever learned. In the episode of The West Wing with which I opened this chapter, C.J., the character most supportive of such legislation, is reprimanded by her superior and told to “dial down the rhetoric on hate crimes,” to “float a test pool on it . . . but don’t shove it down people’s throats.” Why? Because,

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<sup>33</sup> An example of this sentiment can be found in a reference made in Chapter One involving a ruling against Metro Toronto police in a rape case, which states: “It is no answer for the police to say women are always at risk and as an urban adult living in downtown Toronto they have an obligation to look out for themselves.” Though the court rejects this as “sexist stereotypical reasoning about rape [and] about women” it is evidence of the existence of such sentiments (qtd. in Kim Honey).

as Leo, the President's Chief of Staff, says, "I don't know which way we are going to come down on this." In other words, he is not sure where the American people stand on the issue, and until the proper opinion polls are conducted, the appropriate spin doctors consulted, action on the matter would be politically dangerous. Though this can also be interpreted as the show's acknowledgment of the complexities of the issue -- which it is -- there is something telling for my purposes going on in this fictional account. For, it underscores what I have been trying to suggest here all along: that the calls for hate crimes laws following the murder of Matthew Shepard was a missed opportunity to question the political purchase of such cases by those bodies we have no control over and who may or may not be invested in the welfare of gays and lesbians. As the contentious issue of hate crimes and legislation against it illustrates, political action on such volatile, sexual matters can only be considered politically viable if (a) there exists the political will for it among the public and (b) if, from a public relations standpoint, it makes good politics for the government of the day.

In light of recent events in the United States, like the military fiasco, where a liberal, innocuously gay positive President back-tracked on his commitments and settled for the equally troubling "Don't Ask, Don't Tell" policy; or Clinton's signing of the Defense of Marriage Act (DOMA) in late 1996 (an election year in the U.S.); <sup>34</sup> there are clear and strong examples of the state's lack of genuine political will to act in a manner consistent with what gays and lesbians are said to want and need. Why, then, do political demands continue to be waged on the basis of inclusion to an

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<sup>34</sup> The DOMA followed on the heels of the Supreme Court of Hawaii's ruling in 1993 that the state's marriage statute discriminates on the basis of sex. It was meant to assert the state's "presumed constitutional authority over these questions" (Kersch 118) and declared that no state is obliged to recognize same sex marriage should another state decide to do so. See also my Conclusion, which discusses a similar Bill tabled in Canada in response to recent same sex rulings.

institution that seemingly has more to gain -- or lose, as the case may be -- from us than gays and lesbians have in recent history gained from it?

Throughout this chapter we have had the opportunity to see that similar beliefs in the efficacy or the danger of hate crimes legislation for identity-based groups inform both the Canadian and American responses to this tragedy. By way of conclusion, I want to mention here a few of the differences between American and Canadian political value systems vis-à-vis issues like hate crimes, and to see what this comparison reveals in terms of the construction of the gay subject in and through the law.

Hate crimes laws prove so volatile in the United States not because they are seen by their detractors as a slippery slope toward legislating thought. As one character on The West Wing puts it, "punishing people for their beliefs is the beginning of the end." And more centrally because the United States is, for many, a country whose political value system is still struggling with the legacy that, in theory, places individual liberty above all else.<sup>35</sup> To make one individual or group special is, on the surface, antidemocratic at best, and certainly "un-American." However successful or problematic, the Canadian political value system is informed by a multicultural heritage, not the melting pot of America, but the mosaic of cultural diversity. This is an insistence that individuals and groups be allowed to maintain some distinct cultural identity while simultaneously participating in the nation as citizens of Canada and hence as Canadians. It would seem, under this system, that hate crimes would prove less volatile than in the American context. Whether or not this is the case is difficult to say, and not what I am interested in.

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<sup>35</sup> See my Chapter Four, especially the references to Tocqueville, Pennock, and McGowan, all of whom address this view. A similar argument is made by Daniel Lazare in the context of gun control and the U.S. Constitution. See his "Your Constitution is Killing You: A Reconsideration of the Right to Bear Arms" (1999).

When applied to the role of the law in social and cultural life in Canada and the United States, these differences might be yet another reason why increasing hate crimes legislation is seen as such a necessary move at this historic moment for the American nation. As Mary Ann Glendon (1991) argues, the reverence for the individual in American political discourse, and its attendant legal and moral principle that one has the right to be left alone, means that there is not a corresponding "language of responsibility" in American "rights talk."<sup>36</sup> Since, under this system, all are equal before and under the law, one can rest content with the fact that the law does not attempt to enshrine a moral obligation to look out for one's fellow man, even if it means one more fag will be beaten up on the street. From this perspective, hate crimes legislation can be seen as a humane reminder that a commitment to the security and well being of one's fellow man is a necessary component of a healthy democracy, a positive step toward a more caring and tolerant society, and one that America's sovereign individualism has thwarted. Against a certain conservative strain in American political discourse that insists the individual be left to fend for himself, a greater sense of responsibility (both moral and legal) to one's fellow citizens is certainly an appropriate response at a moment in history when diversity, tolerance and social equality are political buzzwords.

Indeed, as Glendon argues, Canada and other countries should serve as a model for America, since the component of responsibility to others that is absent in American rights discourse is, she argues, in evidence in countries like our own.

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<sup>36</sup> An example of this in another context is the case of the Supreme Court of Canada and the issue of possession of child pornography. In January 2000, the Supreme Court held hearings on a case in which the Supreme Court of B.C. struck down possession laws as unconstitutional because they restricted freedom of speech. In the hearings, it was argued that freedom of expression is not an absolute in this country and should not be upheld at any cost. As Justice Claire L'Heureux-Dubé states: "You are relying on the Americans, but as you know on freedom of speech we have been diverging from the Americans" (qtd. in Tibbets 2000).

Under this logic, it would make sense that a Canadian political value system would be more welcoming and accepting of hate crimes laws than the Americans south of the border, and perhaps we are. But we have jumped on the bandwagon of individual rights perhaps as vehemently as has the United States -- in fact, we are following its lead -- and the assumptions we make when they are contested draw on the same logic. As we have seen, when considering the case of Matthew Shepard, there is very little difference in the American and Canadian responses to his death, including the calls for and criticisms of legislation that ensued. Indeed, on the terms addressed above, some of the criticism on this side of the border could be summarized by the Globe and Mail editorial. Though not indicative of any national sentiment, it certainly stands as testament to the fact that some are worried about threats to the principle of an individual's sovereignty in the face of such "special" laws. At least as is evidenced in the discourses drawn on here, when hate crimes legislation for homosexuals are contested, it is done on the grounds that the rights of the individual (to harbour values like hate and prejudice) are in jeopardy; similarly, when homosexuals are spoken for in the argument that we need such legislation, it is on the same basis, that is, that the rights of the individual (to achieve social equality) are in jeopardy.

What I am suggesting by this comparison of two ostensibly different political value systems is that it is a no-win situation when the individual and his rights are the primus mobiler for political discussion, because what those rights entail and which individual's rights trump the others are matters forever in dispute and depend in part on the position from which one speaks. Though it starts the conversation, "rights talk" needs to spiral out of its cloistered realm of the legal and the moral to engage questions of subject formation. We need to ask what rights make possible from a perspective more encompassing than state representation. And we need to

recognize that the picture that emerges is not always going to be the one we hoped for or expected.



## CHAPTER SIX

### "What Are Homosexuals For?:"

#### The Discourse of Utility in Gay and Lesbian Politics

*The Right acts as if the many groups thrown off by plenitude harbour an anarchic tendency, that people have become gays, feminists, line dancers, or Deadheads in order to escape morality. This is not the logic of plenitude. These people have reinvented themselves merely to escape a morality, not all morality. New communities set to work immediately in the creation of new moralities. Chaos does not ensue; convention, even orthodoxy, returns.*

--Grant McCracken, Plenitude (1997)

#### 6. 1 A Lingering Question

DURING THE DISCUSSION period following a public lecture I attended at my university by the literary and queer theorist Lee Edelman (1999), an audience member raised the question about what could or should be done about the problem this speaker was identifying; namely, what Edelman described as the unrelenting presence of images and narratives in our culture of the "happy heterosexual economy," or the ideology of heterosexual reproduction as the assurance not only of futurity but of meaning itself. <sup>1</sup> Edelman's response: rather than countering these images and narratives by adopting similar representational strategies, we -- that is, queers -- need to embrace an alternative paradigm as a concrete political strategy. Instead of dismissing homophobic claims like "queers are out to destroy the family . . . or the world . . . or civilization as we know it," or countering them with a different valuational system of representations, we need to insist that, yes indeed, this is precisely what we are trying to achieve.

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<sup>1</sup> Lee Edelman, "The Birds is Coming: Hitchcock, Futurity, and Queer Theory," talk delivered at Concordia University, Montreal, 22 October, 1999.

This is of course nothing new; it is, in fact, queer theory's *raison d'être*, founded on the assumption that queer sexuality and identity are not simply a new response to the diversity filling up our cultural cup but that it is a threat to old regimes of subjectivity and normativity. As mentioned in Chapter Three, for example, the term queer, and what it is meant to signify, is a tool for understanding how even things like heterosexuality, or the "happy heterosexual economy," do not always subscribe to its normative criteria. While important to the debates, what this comment during this lecture raised for me was the persistence of a troubling and limited argument in gay and lesbian political discourse more generally, what I refer to in this chapter as the discourse of homosexual utility. That is to say, the belief that we serve some function, that homosexuals and homosexuality are for some larger social purpose.

This narrative of utility runs throughout queer theory and gay and lesbian political discourse equally. It can be seen in the guise of the belief in the socially transformative potential of the contemporary homosexual subject. As a manifestation of speaking for, these narratives are invariably given a positive spin, in the sense that transformation is seen within a progressive, emancipatory politics.<sup>2</sup> It is this practice that needs to be called into question, and to do so we might begin by examining how this notion of utility is defined in the discourses in question. What, for example, constitutes a useful citizen? Through what social, political, or economic vectors are homosexuals considered to be of some use in the present milieu? And what is not interrogated by this framework? I suggest, in short, that the very notion that homosexuals are for something needs to be rethought altogether, perhaps even retired once and for all. This poses the possibility that homosexuals need not be "for"

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<sup>2</sup> See for example my discussion of the change from "gay" to "queer" as a "resistance to regimes of the normal" in relation to Michael Warner and Lauren Berlant in Chapter Three.

anything. This is not a de-politicization of homosexuality, but a re-politicization in the interests of opening up the possibilities for agency and subjectivity. For, if the homosexual is said to have social function, how can that subject at the same time be freed from the structures that contain and control it? The possibility that we are for something actually risks limiting the kinds of diversity terms like gay, lesbian, and queer are said to accommodate.<sup>3</sup>

In querying the query "what are homosexuals for," this chapter addresses what is at stake in claiming legitimacy in this way. Rather than the positive or negative results that are said to come from the homosexual's transformative role -- both the Left and the Right frame the debate in this way -- the question is meant to address the essentializing, disciplinary, and moralizing tendencies that result from such an approach to politics and political action. As we will see, when articulated in the context of rights and other political demands, this question often gets subsumed by the larger assumption that, in order to achieve them, gays and lesbians need to prove their worthiness of rights. This is one of the unintentional effects of the discourses examined here, discourses that speak not against but on behalf of gays and lesbians.

Without offering a concrete alternative here to this question -- simply raising the difficulties and limitations it entails is, for me, a starting point -- a move away from this tendency to understand what we are for, to insist less on what homosexuals can do for the social and the political, would accommodate a more focused engagement with what the social and the political can -- and cannot -- do for homosexuals. We need not assume that homosexuality has something to contribute to the world in order to make claims for things like same sex spousal rights. We only need to decide if, given the current circumstances, these are things that we want

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<sup>3</sup> I revisit similar question in Chapter Seven, a critique of the coming out narrative.

and need, that they will or will not contribute to the well-being of our lives. This shift might help bring the conversation to a level where we are more equipped to understand how so much of the political demands being waged now are simply about being included in that from which we are excluded; and, more importantly, to ask not only why we have been excluded but if inclusion is always and necessarily the solution to social and political disenfranchisement. <sup>4</sup>

## 6. 2 "What Are Homosexuals For?"

In the "Epilogue" to his widely-reviewed and widely-praised book Virtually Normal: An Argument About Homosexuality (1995), Andrew Sullivan poses the question from which I derive the title of this chapter. <sup>5</sup> In "What Are Homosexuals For?," Sullivan discusses what it means, for him, to grow up homosexual in America today. He argues, for example, that to live as an adult homosexual is to experience something different: "I think it's true certain necessary features of homosexual life lead to certain unavoidable features of the homosexual character" (197), he tell us, generalizations that have "the ring of truth" (198). "By the simple fact of one's increasing cultural separation, the human personality begins to develop differently" (193), what he calls the "universal experience of self-conscious difference" (200).

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<sup>4</sup> I return to this in the Conclusion in the specific context of same sex spousal rights and gay marriage.

<sup>5</sup> Sullivan is the former editor of The New Republic (from 1991-1996) and a regular contributor to many American publications, including The New York Times. He is also currently Editor at Large for The Advocate. In a moment of reality merging with fiction, Sullivan was quoted as an authority on gay relationships in an episode of the television drama The Practice. For reviews of the book, see: Richard Bernstein, "A Stand on Homosexuality For Both Left and Right;" Richard Goldstein, "Virtual Equality;" Daniel Mendelsohn, "Virtual Reading;" "Conservative, Catholic, and Gay;" Alan Ryan, "No Easy Way Out;" and "Fighting Words."

This experience of difference can, Sullivan urges, be put to good use: "one of the goods that homosexuals bring to society is undoubtedly a more highly developed sense of form, of style" (200). This is of course a rehashing of a very old sentiment, one that persists in a variety of cultural forms. It is evident, for example, in the suggestion that "[c]ults of beauty have been persistently homosexual from antiquity to today's hair salons and houses of couture," what is referred to as the "[p]rofessional beautification of women by homosexual men" (Camille Paglia 1990: 117). It is as well the very basis on which a good deal of contemporary cultural products (films and television programs) derive their story lines and their humour. Moreover, Sullivan's notion of the "universal experience of self-conscious difference" that one is said to experience as a result of being homosexual is problematic on a number of levels. It is not, however, these relatively innocuous sentiments I want to challenge here.

Why? Because Sullivan takes this notion of utility even further than this in his suggestion that homosexual relationships "may contain features that could nourish the broader society . . . something of the gay relationship's necessary honesty, its flexibility, and its equality could undoubtedly help strengthen and inform many heterosexual bonds" (202-203). In other words, we are for something. How exactly can homosexuals achieve this? It has to do with the "unavoidable features" of the "homosexual character" mentioned above, especially and most strikingly the inherent childlessness of our relationships, our inability to procreate. These character traits are part of what we are for, what Sullivan celebrates as the social good of homosexuality. For this childlessness has two related outcomes: "the relative freedom to procreate in a broader, structural sense, and to experiment with human relationships that can be instructive for society as a whole" (200). This is not dissimilar to the idea put forth by Lauren Berlant and Michael Warner in "Sex in Public" (1998; discussed in Chapter Three), which details how these queer academics

were turned into a kind of sex public by their straight friends so that a conversation about vibrators could be engaged. Berlant and Warner were suggesting that queer sexuality -- as they defined it -- had something to offer this couple, who were so stifled by the pressures of reproduction.

Echoing these passages, Sullivan argues that homosexual relationships "contain features that could nourish the broader society as well. Precisely because there is no institutional model, gay relationships are often sustained more powerfully by genuine commitment" (Sullivan 202). "[M]utual nurturing," "sexual expressiveness," "solidity" -- these are the qualities gays and lesbians are said to possess in their relationships and that are "sometimes lacking in more rote, heterosexual couplings" (202). Sullivan goes on to suggest that:

Same sex unions often incorporate the virtues of friendship more effectively than traditional marriages; and at times, among gay male relationships, the openness of the contract makes it more likely to survive than many heterosexual bonds. Some of this is unavailable to the male-female union: there is more likely to be greater understanding of the need for extramarital outlets between two men than between a man and a woman (202-203).<sup>6</sup>

As I will address more explicitly in the Conclusion, these comments are made in the context of Sullivan's case for same sex marriage. Ironically, he argues that gays and lesbians need marriage even though we seem to do a better job than straights at forging real relationships, without the luxury of that institution. And of course, it would be easy to dismantle any one of these suggestions: one could equally make the argument that no such thing as genuine commitment exists in the contemporary gay male relationship. But whether or not these are factual or even

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<sup>6</sup> Sullivan makes it clear in his "Afterward" that this should not be interpreted to mean that he endorses adultery. "[N]othing could be further from the truth," he writes, because what he meant was not sexual practices but a "state of mind which sustains many gay relationships" (221).

close approximations of what goes on between gays, between straights, between men and women, is irrelevant. I simply point out the moralizing tendencies that seem to be taking place alongside political arguments, not only evidenced in the suggestion that homosexuals surpass their heterosexual counterparts, but in the structuring of the case for rights in a way that frames the gay subject as deserving of them not in spite of but because of his or her subscription to certain standards of conduct and behaviour.

Explicit in Sullivan's response to the question "what are homosexuals for?" is the construction of what I would call the philanthropic gay subject. As a response to the general query, What constitutes a useful citizen?, consider the following passage from Sullivan:

Childless men and women [he means homosexuals exclusively] have many things to offer a society. They can transfer their absent parental instincts into broader parental roles; they can be extraordinary teachers and mentors, nurses and doctors, priests, rabbis, and nuns; they can throw themselves into charity work, helping the needy and the lonely; they can care for the young who have been abandoned by others, through adoption. Or they can use all their spare time to forge an excellence in their field of work that is sometimes unavailable to the harried mother or burdened father. They can stay late in the office, be the most loyal staffer in an election campaign, work around the clock in a journalistic production, be the lawyer most able and willing to meet the emerging deadline. . . . The displacement of family affection onto a broader community also makes the homosexual an ideal person to devote him- or herself to a social institution: the university, the school, the little league, the Boy Scouts, the church, the sports team. Scratch most of these institutions and you'll find a homosexual or two sustaining many of its vital functions (201).

In other words, homosexual utility is defined through social and economic factors like work, labour, and the family. Sullivan takes it as a given that the inability to procreate in the physical sense means that gay couples are defined by "absent parental instincts," something that is quite different from the mere fact that two men or two women cannot make a child. This kind of slippage in his argument is revealing

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on a number of levels. He is so determined to prove that we are for something that he completely ignores the reality that many, many gays and lesbians are parents prior to entering into gay relationships, or become parents either as individuals or as couples through adoption. Indeed, the parental instinct is alive and well in many homosexuals. This reality gets lost in the overly economic and social aspects of Sullivan's culture of homosexual utility.

Such sentiments are not restricted to Sullivan. In "Wedded To An Illusion: Do Gays and Lesbians Really Want the Right To Marry?," Fenton Johnson (1996) cautions against an exclusive focus on civil rights in the debates about same sex marriage because it "minimizes the positive implications of the social transformation lesbians and gays are helping to bring about" (45). Explicit here is the narrative of the transformative nature of the homosexual I mentioned above. And like Sullivan, this is more than simply a case for such rights but an example of basing claims to rights on what homosexuals have to contribute. In a passage strikingly reminiscent of Sullivan's above, Johnson argues that "I think gays and lesbians might revitalize and recontextualize marriage by popularizing the concept of rich, whole, productive couplings based less on regulation of sexual behaviors and gender rules than on the formation of mutually respectful partnerships" (50). Less important here is whether or not this would be the case, whether gay and lesbian couples always and truly construct "mutually respectful partnerships," but what gets constructed in the process of speaking for them in this way. Johnson is suggesting that it is not enough to simply argue that gays and lesbians should be entitled to access to the institution of marriage because they are also citizens with equal rights. He is arguing that society should extend such rights because we will offer something in return if it does so.

A similar narrative informs another widely-reviewed and widely-praised book, Urvashi Vaid's Virtual Equality: The Mainstreaming of Gay and Lesbian Liberation



(1995).<sup>7</sup> In her passages on what she calls "queer moral vision" (379) -- "our view of what is right and wrong" (379) -- Vaid poses the same question about the role of homosexuality in the realm of the social. "Theoretically," she posits, "our moral project lies in the postulation of principles that help us define the queer role in the human community. In a sense, it is the old Mattachine question of what queer people are 'for' -- what we stand for and represent. . . . 'What we are for' is the central question facing the queer movement as we approach the next century (378)." What Vaid means by this question is clear, and perhaps distinct from Sullivan's similar question: she is arguing that we need to decide as a community what values we believe in, what ideals we want to champion. In other words, the question is linked here less with utility than with the principles of community and activism.

With this said, Vaid nonetheless goes on to structure the question within the same framework as Sullivan; that is to say, within homosexual utility. Quoting Harry Hay, founder of the Mattachine Society and the modern North American gay liberation movement,<sup>8</sup> Vaid suggests that "we" can "move humankind to another level of social development" (378). In other words, the question of what we are for is informed as well by its other dimension, that of social utility. Vaid writes:

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<sup>7</sup> Vaid is the former director of the National Gay and Lesbian Task Force in the United States (from 1986-1992). She is currently a regular contributor to the gay magazine The Advocate. In 1994, a year before the publication of Virtual Equality, Time magazine nominated Vaid as one of the "50 for the Future," their "roster of America's most promising leaders age forty and under" (Time Dec. 4, 1994). Virtual Equality was the winner of the 1996 Gay, Lesbian, and Bisexual Book Award from the American Library Association. For reviews of the book, see: Richard Goldstein, "Virtual Equality;" and Daniel Mendelsohn, "Virtual Reading."

<sup>8</sup> The Mattachine Society, the first modern gay rights organization, was founded in Los Angeles in 1951 by Harry Hay. For a discussion of the work and legacy of Harry Hay, see Stuart Timmon, The Trouble With Harry Hay: Founder of the Modern Gay Movement (1990).

[Harry] Hay theorizes that gay and lesbian folk represent nothing less than a separate species, a conclusion similar to the one drawn by Michel Foucault when he distinguished between sodomy as a behavior and the homosexual as a state of being -- or, as he explicitly put it, "a species." Hay states that queer people differ from straights in their consciousness. Ours is a subject-subject consciousness, what Leo Bersani calls the pursuit of sameness, while the hetero model is subject-object, the requirement of difference. . . . Hay claims that gay and lesbian consciousness offers straights a "window" through which their own patriarchal order can be seen. We represent another way to behave, another moral code by which to live, and we can, in Hay's mind, move humankind to another level of social development. He terms this new consciousness one of "supplementarity," not "complementarity," of equal and mutual respect, not dominance and subordination, of love and support, not opposition and competition (378-379).

Vaid goes on to suggest that, while she does not view queers as a species -- nor, for that matter, does Michel Foucault <sup>9</sup> -- she nonetheless finds Hay's words on queer consciousness "provocative and brave" (379):

[Hay's] arguments against assimilation ask us to question the morality of the status quo. Queer moral vision . . . necessarily arises from our particular experiences of injustice. We are outcasts of the dominant society, outsiders to the mainstream. Does this outsider consciousness afford gay people some insight into prejudice, discrimination, violence, hatred, and evil as it has granted such insight to women and people of color? I think it does. Our experience of marginalization is central to our capacity to be moral as individuals and as a political movement. . . . I believe our outsider experience can make us conscious of the hypocrisy in what we are taught is moral. It offers us a chance to question and interpret anew the concepts of virtue, morality, and faith (379-380).

So, we are right back to Guy Hocquenghem's (1972) claim that "homosexual love is immensely superior" (131), or Carl Wittman's (1968) statement that "we already do better than straights" (338) in breaking away from traditional roles. As a passage

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<sup>9</sup> Vaid seems to suggest here that Foucault himself approvingly refers to queers as a species, when, in fact, his point in this much-quoted passage is that, by turning the homosexual into a species, nineteenth-century discourses of sexuality effectively regulated and disciplined what was previously seen as simply an aberrant form of being. See Foucault, The History of Sexuality: An Introduction. The reference to Bersani is his Homos, which is also misappropriated in this context; see esp. his "Prologue" 1-10.

from Great Gay in the Morning! (1972) indicates, Vaid is drawing on one of the structuring myths in gay politics: as these authors suggest, "[t]he power structure in a homosexual relationship is different than in a heterosexual relationship. When two men or two women begin a relationship they begin as equals, not as dominant and submissive (male-female)" (67).<sup>10</sup> In addition to these remainders from 1970s gay liberation, a great deal of criticism could be made here of the highly problematic assertions about outsider consciousness, experience, and relations of power.<sup>11</sup>

More interesting, because on her own terms, one wonders how to reconcile this with Vaid's earlier claim that the "ranking of oppression" is an "obstacle" for any movement (189), what she refers to as "[t]his tedious tendency toward 'victim' politics" (189), or her frustration with "wasting our energies proving to each other how victimized we are" (190). How do such comments like the ones above stand up in the face of her insistence that we need to overcome "the calcifying dualism of

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<sup>10</sup> An extensive comparison of Vaid's text (1995) could be made with some of these earlier liberation texts. In Out of the Closets (1972; Karla Jay and Allen Young, eds.), one author writes that: "The extent to which a gay liberationist is unaware of sexism in society -- or in gay liberation -- is the extent to which he or she is ineffective as a gay liberationist . . . he or she cannot be a revolutionary gay liberationist -- merely an advocate of gay rights who is incidentally pro-revolution" (257-258). Recounting the experiences and philosophies of "radical lesbians and homosexuals," Out of the Closets suggests that "our struggle reflects the struggles of other revolutionary groups and other oppressed people such as the blacks, the Chicanos, the American Indians, and women" (1), and that "[w]e share their goals and aspirations, but we are often rejected by straight groups who have not combated their own sexism and who have not extended the concepts of freedom to all people, especially to us" (1). Similarly, Vaid suggests, "gay liberation stands for a broader set of values -- like political freedom for all, social justice, and the rebuilding of human community among gay, straight, and bisexual people of all colors, religions, and ethnicities" (180).

<sup>11</sup> See especially Joan W. Scott, "The Evidence of Experience" (1993); and Wendy Brown (1995), who argues that this particular version of feminism implies that "powerlessness is implicitly invested in Truth while power inherently distorts. Truth is always on the side of the damned or the excluded; hence Truth is always clean of power, but therefore also always positioned to reproach power" (46). In other words, Brown cautions against the assumption that "while women are socially constructed to the core, women's words about their experiences, because they issue from an interior space and against an injunction to silence, are anointed as truth, and constitute the foundations for feminist knowledge" (42).

seeing politics as an either-or game -- outside or inside, margin or center" (206), or the more general observation that, "[b]y definition, homosexuals are different from heterosexuals, but difference connotes no greater insight, moral integrity, or superiority" (296)?<sup>12</sup> As with Sullivan's take on the question, what we are for is framed here in terms of what we need to be in order for Vaid to stake a claim to the legitimacy of our difference.

Like Sullivan's comments on the beneficial side-effects of (homosexual) childlessness, Vaid turns that which is most often seen as a negative or cause for despair -- the rejection by our families -- into a positive social good. In a passage strikingly reminiscent of the above quotation from Sullivan, Vaid writes that:

The ambivalence many of our families feel toward our sexuality produces one beneficial side effect: it leads us to deeper friendships and a reliance on one another. As a result, for most gay people friends function as family and gay community has special meaning to all of us. We take care of each other when we are sick, show up in a crisis, lend each other money, help each other raise children, run small businesses, and do the hundreds of things that heterosexuals rely on their families to perform (381; emphasis added).

Like Sullivan's statement about "the displacement of family affection onto a broader community," homosexual utility is operative here in Vaid through the categories of labour, work, and the family. The intention is of course to underscore that "we are family," but its effect is to reinforce that "we" have some larger function to fulfill that

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<sup>12</sup> In Chapter Nine, "Divided We Stand: The Racial and Gender Status Quo," Vaid acknowledges what is apparent in the above passages: that she often expresses romanticized and idealized notions of how our difference, our otherness, or our outsidersness render gays and lesbians "potentially subversive or more compassionate" (296). "Because I would like to believe this," she writes, "it pains me to admit the dangers of these views" (296). Though this might appear to take a step back from her position on "queer moral vision," the dangers to which she refers have little to do with the problems of subordinated identity per se and are instead simply about the need to point out instances in her own political career of attacks, viciousness, pettiness, and "bullying behavior" (365). She refers for example to being called a traitor (366) or "practically a nigger" (275) after having been appointed the director of the National Gay and Lesbian Task Force.

the social has taken away from us. What results in both Vaid and Sullivan is a sense that homosexuals are highly moral and industrious individuals not in spite of but because of their homosexuality.

In After Virtue: A Study In Moral Theory (1981), Alasdair MacIntyre argues that "the modern radical is as confident in the moral expression of his stances and consequently in the assertive uses of the rhetoric of morality as any conservative has ever been. Whatever else he denounces in our culture he is certain that it still possesses the moral resources which he requires in order to denounce. Everything else may be, in his eyes, in disorder; but the language of morality is in order, just as it is" (4). Significantly, though both Sullivan and Vaid are viewed as representative of opposite ends of the political spectrum -- Vaid is considered liberal, Sullivan conservative -- in the plethora of reviews I have read of these two books, only one reviewer comes to the poignant realization that these books share more in common than one might initially think: "the result is that Sullivan has constructed a politics as perverse in its way as Vaid's -- one in which gay people presumably need to be superior in order to merit basic rights" (Mendelsohn 1995: 39<sup>13</sup>). This is, in part, the myth of the "revolutionary potential of the marginal" that we have seen in the discourse of gay liberation.<sup>14</sup>

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<sup>13</sup> In the review of both books in Out magazine, Vaid is criticized for pandering to the political tactics she condemns in her "enemies:" "This constantly reiterated impatience with rights, rights, rights, gets you thinking about . . . The Right. The only system that ensures nice, efficient, ideologically pure contact, after all, is totalitarianism: it's what you end up with whenever you try to build attitudes ('respect, acceptance, and support') into the political structure. . . . It's ironic that Vaid's dream of a queer utopia forces her, in the end, to act like her enemies -- the ones who are, even now, trying to go beyond the constitutional framework of rights to legislate 'respect' and 'values.' Her idealistic visions of a rainbow coalition may remind you of Jesse Jackson, but her strategies make you think of Jesse Helms" (Mendelsohn 1995).

<sup>14</sup> This term is taken from Jeffrey Weeks' discussion of Guy Hocquenghem's work, discussed here in Chapter Three. See Weeks, "Preface" (1993).

### 6.3 Rights and Cultural Difference

More than simply a similar rhetoric of morality, this sense that homosexuals need to be superior in order to be deserving of basic rights results as a consequence of a fundamental tension in the treatment of rights and identity in both texts. On the one hand, both Vaid and Sullivan make claims to gay and lesbian rights by drawing on the trope of the humanity of homosexuals. That is to say, both see rights as extensions of personhood, and since gays and lesbians are unequivocally part of humanity, our rights are or should be self-evident. As Vaid writes, for example, "we are just like heterosexuals in the fact of our humanity" (Vaid 46). "[Y]ou do not need to recognize the fundamental humanity of gay people in order to agree that they should be treated equally and fairly under the law" (Vaid 179). Even more explicit are Vaid's comments: "The gay rights agenda is just" (376); "genuine equality . . . is our birthright as moral human beings" (34); and "equality, dignity, and justice are human birthrights" (191). Sullivan similarly argues that "[t]he humanity of homosexuals is everywhere" (Sullivan 192), which is why we should be granted basic rights.

On the other hand, as a consequence of the question of utility, both Vaid and Sullivan offer arguments about the need for rights for gays and lesbians as well as their positive impact on the social by suggesting that we are useful citizens. This raises a contradiction irresolvable by the terms of the debate, for, if rights are extensions of personhood, granted to every individual simply as a matter of being born, not only is difference cancelled out, but statements about our social utility are completely irrelevant or anathema. Why do these authors insist, then, that we have some function to serve? Why should gays and lesbians need to "prove" their worthiness of rights? Both Sullivan and Vaid are unwittingly playing into a dangerous

game, the reasons for which are not terribly surprising: because they believe that we have been excluded on the basis of our character, behaviour, and morality, the appropriate solution to achieving gay rights and social acceptance is to demonstrate that our character, behaviour, and morality are in order. But these are standards that are pre-established not by them but for them, and an exclusive focus on exclusion tends to obscure how such discourses spoken for gays and lesbians reproduce rather than challenge these established norms.

Making universalizing claims to rights while also wanting to maintain the right to difference, this tension draws attention to the contradictory nature of rights claims in identity politics. As Wendy Brown suggests in a reading of Marx's essay "On the Jewish Question," "[t]he abstract character of liberal political membership and the ideologically naturalized character of liberal individualism together work against politicized identity formation" (1995: 56). This is a formulation of the state and citizenship that actually precludes "recognition or articulation of differences as political" (Brown 1995: 56; emphasis in original).<sup>15</sup> In that essay, Marx asks what kind of emancipation German Jews are striving to achieve in the late nineteenth century:

If you Jews want to be politically emancipated without emancipating yourselves humanly, the incompleteness and contradiction lies not only in you but in the essence and category of political emancipation. If you are engrossed in this category, you share a general bias. Just as the state evangelizes when, in spite of being a state, it behaves toward the Jew in a Christian way, the Jew acts politically when, in spite of being a Jew, he demands civil rights (Marx 232; emphasis in original).

In the next paragraph he states: "But if man can be emancipated politically and acquire civil rights even though he is a Jew, can he claim and acquire the so-called

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<sup>15</sup> See also Ernesto Laclau, "Universalism, Particularism, and the Question of Identity" (1992).

rights of man?" (232; emphasis in original). Though considered by many Marxist scholars as evidence of Marx's anti-Semitism -- the last sentence of the essay is "the social emancipation of the Jew is the emancipation of society from Judaism" (248) -- this passage is relevant to the discussion of rights and identity addressed here. What Marx is raising is whether or not a group who lays claim to a particular identity can ask the state to legitimate that identity through civil rights and still have conferred upon it the universalizing "rights of man," which negates identities' particulars in favour of universalisms, as citizens of the world.

Applying this to the texts in question here, we might say with some certainty that a gay subject acts politically when, in spite (or because) of being gay, he demands civil rights. But can gays be emancipated politically by acquiring more and more civil rights and still insist that the state recognize and legitimize the identity "gay"? And if so, for how long? Vaid and Sullivan are not very helpful on this tension. In fact, the failure to attend to it accounts, in part, for the problematic assumptions about what rights are capable of achieving and what effect they have or can have on formations of identity.

Sullivan has a more complicated relationship with liberal political membership than Vaid. Like Jean Elshtain, he rallies against a type of liberalism that has redefined the law as the means to solve issues of cultural identity, arguing that "[i]t has come . . . to resemble the problems it was originally designed to fix" (145). Disillusioned with the state of liberalism because its primary concern has become to "create a society which holds certain values dear, to transform the culture to make it more open and inclusive, and to use the laws to educate people in this fashion" (137), rather than simply making all citizens equal, Sullivan's understanding of the overemphasis on identity politics in liberalism is informed by what he sees as the confusion of the public and the private in our political culture. He wants to return to some golden era when the law and the state did not dictate cultural values or



embrace diversity but simply protected its citizens from the abuses of power. In short, he champions what he calls "public neutrality" with respect to how homosexuality should be viewed socially and "private difference" with respect to how homosexuals should view themselves politically. As he puts it succinctly, his "politics of homosexuality" offers the simple principle that all public discrimination against homosexuals be ended and that every right and responsibility accorded to heterosexuals be extended to include homosexuals (1995: 171).

One wonders, then, how a politics that sees homosexuality as a private matter and demands public indifference of that sexuality can insist that homosexuality and homosexual couples could actually nurture the broader society. This would mean that homosexuality is anything but neutral and private. Sullivan, in fact, simply reverses the terms. While he wants the heterosexual world to leave homosexuals alone, he encourages homosexuals to act as if we have some larger function in the social, as if our private difference can be put into the service of a decidedly public project: the strengthening of heterosexual bonds.

A similar tension is found in Vaid's text, though it is informed not by a desire for public neutrality and private difference but by what she calls "the dream of a common movement," political action aligned along multiple and disenfranchised identities. In a way that resonates with Sullivan's depoliticization -- that is, his assumption that politics ends once certain fundamental rights have been achieved (see Sullivan 186-187) -- Vaid offers her own overarching and "basic political agenda on which the vast majority of gay, lesbian, bisexual, and supportive straight people can agree" (376). She feels confident enough to assert that this "embraces the aspirations of virtually every American" and which constitutes the work of "nearly all" gay and lesbian organizations -- the goal of genuine "civic equality." How exactly this moves beyond mainstreaming -- defined as an overemphasis on rights -- is unclear. As Vaid deftly explains, though, "gay political history illustrates that a rights-

oriented movement can co-exist with prejudice against lesbian and gay men. It can even advance while leaving homophobia in tact" (179). As she puts it, "virtual equality . . . simulates genuine civic equality but cannot transcend the simulation" (4). This is the case because civil rights, even when they are achieved, do not displace "the moral and sexual hierarchy that enforces anti-gay stigmatization" (179). "Tolerance," which is for her what is achieved through a "mainstream civil rights strategy" (3), is not the same thing as "liberation."

Vaid's solution in Virtual Equality is to attempt to open up the rights debate in gay politics not by rejecting rights outright, since legal and political rights are "essential to gay and lesbian civic equality," but by urging expansion: "gay civil rights must be seen as part of a broader focus on human rights, sexual and gender equality, social and economic justice, and faith in a multiracial society" (179-180). This is a classic articulation of the ostensibly radically democratic potential of multiculturalism. Nancy Fraser defines multiculturalism, and warns us of its limitations, as the potential alliance of diverse social movements against a common enemy, "a culturally imperialist form of public life that treats the straight, white-Anglo, middle class male as the human norm, in relation to which everyone else appears deviant" (Fraser 1997: 184). Under the tenets of multiculturalism, "[a]ll citizens would enjoy the same formal legal rights in virtue of their common humanity," while not losing their particularities, their right to their differences (Fraser 184). For Vaid, the common enemy is this human norm, against whom all disenfranchised groups should rally. Moreover, her politics insists on the recognition of legal rights as a condition of our humanity, while still requiring that the law and other political and institutional structures recognize and legitimize our differences.

While Fraser feels that multiculturalism is limited because it forecloses the possibility of questions of redistribution (economic questions as opposed to cultural questions, in Fraser's formulation), this tension in Vaid, between seeing rights as

dimensions of personhood while simultaneously insisting that rights can promote difference, speaks to the larger problem in liberal political discourse: if rights are a fundamental aspect of being born, difference is canceled out, or at least irrelevant in that context. Vaid's critique of mainstreaming, her call to question the primacy of rights in gay and lesbian politics, and her desire for a reinvigorated politics of liberation, are not equipped to accommodate the remainders that liberal rights discourse engenders. In fact, her critique reproduces them anew.

This can be seen, for example, in relationship to Vaid's question, "Does identity-based politics work?" (285), to which she responds ambiguously yes and no. On the one hand, she argues that a social movement like gay and lesbian liberation cannot be founded on the sole criteria of sexual difference or sexual orientation, arguing that "we must question our reliance on identity as our political tool for organizing ourselves," (279) and that "identity-based politics is not sufficiently encompassing enough to serve as a unifying theory or practice" (286). Terms like "queer moral vision" notwithstanding, Vaid insists that there does not exist something like a "singular and universal" gay or lesbian identity, and that we do not constitute a single, unified community, calling such claims a "fiction and a prayer" (286).

It is not entirely clear, however, how such an understanding of sexual identity, how her distrust and suspicions about the efficacy of identity-based politics, sits with such statements like "[q]ueerness gives me a base from which I enter the world" (388). In her comment that gayness is more than a "lifestyle, a status, or a sexual act," but "our identity, our life, our family, our being," (137), we are reminded why Foucault had become disillusioned with the construction of sexuality as the essence of identity, the ways in which "[t]he most discreet event in one's behavior . . . was deemed capable of entailing the most varied consequences throughout one's existence" (1978: 65). As he writes:

It is through sex . . . that each individual has to pass in order to have access to his own intelligibility, . . . to the whole of his body . . . to his identity . . . . we have arrived at the point where we expect our intelligibility to come from what was for many centuries thought of as madness; the plenitude of our own body from what was long considered its stigma and likened to a wound; our identity from what was perceived as an obscure and nameless urge (Foucault 1978: 155-156).

Vaid concretizes this logic of sexual identity with comments like the following: "I suggest that we embrace the very threatening principle of joy . . . Gay people are by definition, and in my experience, joyous people. . . . we should consider the gay impulse toward pleasure to be a central part of the gay and lesbian character" (Vaid 383).<sup>16</sup> As a response to the question of homosexual utility, Vaid rehearses a very traditional (that is, 1970s gay liberation) understanding of what homosexuals have to contribute to the social: a more attuned relationship with our sexual bodies, our sexual selves. In doing so she constructs that which used to be only one part of homosexual being as the very fabric of our existence, reproducing the same strategies of our detractors.

More significant than these questions is the fact that Vaid structures gay identity in the same way as those whom she denounces. "To many heterosexuals, gay people are defined by what they do, rather than the human beings that they are" (191). Drawing on the universalizing language of the humanity of homosexuals to critique those who would speak for us simply in terms of "what we do," Vaid fails to realize that terms like the gay and lesbian character produce precisely what she is at pains to overcome: that it is through sex that we come to an understanding of our own intelligibility. And here again we see the similarities between Vaid and Sullivan. As Sullivan points out, "the homosexual experience . . . reaches into the core of what

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<sup>16</sup> See also Michael Bronski, The Pleasure Principle (1998), which argues that freedom without pleasure is no freedom at all.

makes a human being who he or she is" (17). In seeing gayness not as sexual acts but as an intrinsic emotional identity, sexuality is returned to the arena of the natural.<sup>17</sup> This is one of the results of seeing rights as ontological aspects of personhood: Gay rights and gayness are naturalized by the same humanistic processes.

#### **6.4 The Pariah and The Parvenu: Assimilation and the Politics of Exclusion**

Though Sullivan calls for public neutrality with respect to homosexuality, and though Vaid is committed to a multicultural political agenda, which demands something more than neutrality, both have an equally problematic relationship with the question of assimilation, this fact of homosexuality and homosexuals in our midst. Assimilation is most explicit in Sullivan, epitomized in the very title of his text, "virtually normal." On the surface, Vaid is opposed to any assimilationist agenda, seeing it as the cause of many of our woes. Upon closer inspection, however, her treatment of it is far more clouded than this suggests. I want to focus on the notion of assimilation here in relationship to the terms pariah and parvenu in order to underscore the limitations of the political basis for rights that structure both texts. The desire to assimilate, the dream of the parvenu, is caught up with narratives of exclusion, and it is this, rather than the notion of assimilation, that I want to call into question here.

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<sup>17</sup> This statement by Sullivan is ironic, because elsewhere in the text he realizes that it is just such a configuration of (homo)sexuality that is used by the Church to denounce it: "The Church has located homosexual desire in the character of personhood . . . and the nature of the homosexual disorder is at a deeper level [the comparison is with bestiality], involved not in some extrinsic activity but in an intrinsic emotional identity" (1995: 42).

In one of the many contradictory moments in the text, Vaid oscillates between seeing homosexuality (and, variably, queerness) as sameness and as difference, demonstrating a remarkable inability to decide what we are for. First, Vaid defines gay and lesbian liberation as "nothing less than affirmation, represented in the acknowledgment that queer sexuality is morally equivalent to straight sexuality" (37). Then we are told that arguments about "our essential similarity to heterosexuals" is a strategy that "actually holds us back" because it "may not be true: we are just like heterosexuals in the fact of our humanity. But I believe we differ markedly in our view of gender, power, and morality . . . they are values that are uniquely our own, arising out of our experiences as outsiders" (46). Later she insists, contrarily, that we need to "create a society in which homosexuality is regarded as morally and fundamentally equal to heterosexuality" (240). These are the difficulties we get into when trying to structure identity within the universalizing language of humanity and simultaneously offering responses to the notion that what we are for something, that we serve some larger social function. On a theoretical level, we might say that Vaid attempts to weave a constructionist understanding of identity into the fabric of an essentialist, humanistic cloth. The result is, no doubt, a multi-coloured tapestry -- one with many, many threads threatening to unravel.

Since Vaid is not, however, attempting to produce a theory of homosexuality and identity, but an outline for political action, these contradictions can be critiqued on their own terms by asking, What are their political effects in relationship to the construction of the homosexual subject? As this oscillation between homosexuality as sameness and homosexuality as difference indicates, "we" are what we need to be in order for Vaid to advance her arguments: if it suits the argument in question, we are like straights; if it doesn't, we are not. When she wants to demonstrate that rights and equality need to be fought on moral grounds, then we are indeed a highly moral people and therefore deserving of these rights, on the same terms as straights.

When she wants to drive home the point that our enemies persist with an immoral agenda, we are not only pillars of moral virtue in our own right but can actually help our oppressors see the errors of their ways, not just for us but for the benefit of all those who stake a claim to their right to difference.

Additionally, throughout this call to action, Vaid repeatedly criticizes individuals and groups for doing precisely what she herself does extensively. She chastises, for example, both the "gay left," who, she says, have a "persistent tendency to apply universalities to the messy reality of gay and lesbian behavior" (288), and "conservative gays," for arguing exactly what she has already suggested is necessary for the achievement of "our" political goals. "Conservative gay writers often assert," she writes, "that 'most' gays are just like their straight counterparts but for their sexual desire. By doing so, these conservative writers, the majority of whom are white and male, universalize their own identities, their desire for upward mobility, and the pursuit of admission into the status quo as the aspirations of 'all' gay people" (288-289). It is quite ironic that Vaid disparages the gay left and these conservative gay writers for speaking for all gay people, for universalizing their own identities, when in fact her own recourse to queers as "a people" does precisely that. Critiquing upwardly mobile white gay males for universalizing their identities and aspirations certainly loses its rhetorical and political force in the face of terms like "queer moral vision," "our view of what is right and wrong" (Vaid 379), or the constant reiteration that this is what we want, this is who we are, and this is what we need.<sup>18</sup> It is difficult, in short, to see how statements like "[w]e want to be

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<sup>18</sup> Examples of this abound, and have already been mentioned in other contexts. To offer another example: "Gay and lesbian people embrace the most welcoming and pluralistic notions of American democracy" (Vaid 26-27). But which gay and lesbian people? Would Andrew Sullivan, for example, be included in this description? These moments are as universalizing as any Vaid critiques.

accepted and loved" (Vaid 5) resist not only "the pursuit of admission into the status quo" but the strategies of speaking for she condemns.

This comes to the fore in an explicit discussion of the politics of representation (as proxy), where Vaid recognizes the pressure imposed on individuals who have come out to speak on behalf of a movement that they are not familiar with and have little contact with (see my Chapter Seven). "I think we must question this practice" (354), she insists. What Vaid does not question is whether or not her substantial contact with the movement means that she can speak on behalf of our or her people, or, more importantly, whether or not we really constitute a people in the first place. She never elaborates, for example, on the intriguing quotation she gives from Maxine Wolfe, co-founder of the Lesbian Avengers: "I'm perfectly willing to speak from my experience and about my experience and about my point of view. But I will never, ever say that I speak for a community. I think that's nonsensical. I think that is a false kind of leadership" (qtd. in Vaid 355-356). Of course, speaking for a community is not a false kind of leadership; it is essential in order to have a politics at all. But there is something refreshing in this statement that is completely absent from Vaid's exhaustive text. If nothing else, it implicitly acknowledges that we are not a people, nor a family, and attempts to speak for us in this way obscure a great deal more than they can elucidate.

To return more directly now to the question of assimilation, I want to consider the terms pariah and parvenu as a useful framework for a reading of these texts, one that can get us beyond the distinction between "left" versus "right," liberal versus conservative, that has structured not only the responses to these texts but the larger debates about gay equality. The terms offer a way to understand the construction of the homosexual subject in and through these texts, and, more importantly, the narrative of exclusion on which the demands made on his behalf are being waged. For this I return to Arendt.



In her biography of the early nineteenth-century Jewish salon hostess and socialite Rahel Varnhagen, the parvenu par excellence, Arendt details Rahel's relentless desire to shed her pariah identity and join the ranks of the Gentile classes. Arendt's assessment of Rahel's understanding of herself as a Jew suggests that Rahel's major source of pain, and that which she was most apologetic for, was that "[b]eing a Jewess was only a situation for her, an unfortunate situation in the world" (Arendt 1957: 159). Rahel never saw "her fate as a Jew as anything more than a wholly personal misfortune" (144). "Nineteenth century Jews, if they wanted to play a part in society, had no choice but to become parvenus. . . All that was now left for Rahel to do was to play this part to the full" (163). From these observations, Arendt concludes that assimilation, the goal of the parvenu, is a "comically hopeless game" (1957: 116), because the "the price demanded of the pariah if he wishes to become a parvenu is too high" (1957: ).

In a sense, the homosexual subject in Sullivan's *Virtually Normal* is positioned socially and politically like the parvenu. Sullivan's text is replete with statements like the following: "Like many homosexuals, I have spent some time looking back and trying to decipher what might have caused my apparent aberration" (1995: 9). Coming to this full realization, he says, "was like getting on a plane for the first time, being exhilarated by its ascent, gazing with wonder out the window, seeing the clouds bob beneath you, but then suddenly realizing that you are on the wrong plane, going to a destination which terrifies you, surrounded by people who inwardly appall you. And you cannot get off. You are filled with a lurching panic. You are one of them" (11). Sullivan defines a homosexual throughout the book as "someone who, practically speaking, has no fundamental choice in the matter" (18); he calls homosexuality basically an "involuntary condition." The very idea that we are "virtually normal" is the dream of the parvenu, the desire to shed the skin of difference and gain acceptance by and access to the institutions of the dominant

culture. The parvenu is, in short, first and foremost eager for societal approval. Given that Sullivan's entire point in the book is to placate heterosexuals in terms of this "unfortunate situation in the world" that is homosexuality, it is not at all surprising that Sullivan has been turned into the ultimate pariah within the gay and lesbian community in the United States (see below).

Though Vaid is also eager for a certain amount of acceptance and approval -- "We want to be accepted and loved" (5), remember -- her politics is more complicated than simply the pariah or the parvenu. On the one hand, she does not see homosexuality as a personal misfortune. In fact, she struggles to embrace a pariah identity for herself (as a woman, as a child of Indian immigrants, as a lesbian) and for her community. It is a celebration of difference that is referred to throughout the text by calling these identifications authentic, which includes the categories queer and queerness" among these wholly natural identities. Her "dream of a common movement," inspired by the fact that "racial and gender issues . . . are fused in my body with my lesbianism" (376), is motivated by seeing the possibility "of joining those who ha[ve] not arrived" (Arendt 1957: 144).<sup>19</sup> On the other hand, this conscious pariah embraces the pariah status for ambitions that are akin to those of the parvenu, epitomized in her thesis that we are still only experiencing virtual equality, "a state of conditional equality based more on the appearance of acceptance by straight America than on genuine civic parity" (xvi).

These tensions in relationship to the issue of assimilation in Vaid stem in part from an inability to decide just who should be responsible for our representation and how and where it should be carried out. Vaid points out, for example, that, "[d]espite progress, homosexuality is not in the culturally mainstream; we are not openly integrated into the fabric of the life of the community, family, workplace, or culture"

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<sup>19</sup> See also, Arendt, "The Jew as Pariah: A Hidden Tradition" (1944).

(363), and that "the daily newspapers, local television, and radio shows rarely cover news about gay and lesbian lives" (364). "[N]o matter how straight-acting, patriotic, normal-looking, accessible, and heroic we are, the straight world resists our open integration into society," what she calls a compromise epitomizing virtual equality (148). Elsewhere, she applauds and affirms an anti-assimilationist agenda for the queer movement; that is to say, progress within the terms of the culturally mainstream is for her no progress at all. Echoing some of the language of queer theory, she argues that "[m]any of us reproduce hetero ways of being in our lives, and we least live up to our queer potential when we pursue assimilation as our goal" (379). As these contradictions point out, assimilation is a comically hopeless game, though one that neither Vaid nor Sullivan seem willing to give up.

Why is this game hopeless? Because the impulse of the parvenu is to be accepted by a society or class that is "not theirs by birthright" (Arendt 163). Quoting Rahel's diary, on which Rahel Varnhagen is based, Arendt records that "[t]he 'great poison of all insight and outlook' which the parvenu could never admit to himself in any circumstance was this: that he was gnawed by a multitude of things which he did not even really want, but which he could not bear to be refused" (166). Arendt continues: "The pariah who wants to reach the parvenu status strives to attain everything . . . to the very degree that he is excluded from everything. . . . The parvenu will always discover that what he has become is something he basically did not want to become, for he could not have wished it" (170).

There is an important lesson implicit here, a lesson that is instructive for the politics and goals set out in these texts: once achieved, the pariah discovers that what was formerly excluded is no longer desirable. Neither the pariah nor the parvenu offer satisfactory or compelling positions on which to make claims to politicized identities, not because we can never decide with certainty who is a pariah

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and who a parvenu but because they can never get us beyond the practice of constructing political wants and demands solely on the basis of that from which we are excluded. We need to understand more clearly how what we might become is founded on something already in existence, and not something we could have wished for. We need to resist the impulse of the parvenu lest the parvenu's demands return and haunt us when we discover that perhaps what he wanted was in the end not what "we" needed after all.

It is this framework for politics that breeds a certain amount of resentment on the part of those who have been excluded. It is what produces the moralizing construction of the gay subject that occurs in both Vaid and Sullivan. But more important than this, I think it accounts as well for the troubling narratives of utility that inform both Vaid's and Sullivan's responses to the question, What are Homosexuals For? The extremes of exclusion they see all around them, the desire to attain everything to the degree that we are excluded from everything, can only result in corresponding extremes in terms of the homosexual subject. Resentment produces the need to see gays and lesbians within a moral framework that we should not and need not live up to in order to make basic claims to rights and equalities. To point out these tendencies is not to suggest that the useful citizen they construct is not a valid response to the myriad ways in which gays and lesbians can and do live their lives, but to question the foundation of the politics that permits -- in fact, produces -- it.

### **6.5 Inside/Outside: Who Can Speak, How, and For Whom?**

I want to conclude this chapter with a brief rumination on the reception of these texts and their authors within gay and lesbian communities, an examination not of the texts or authors per se but of the larger production of discourse circulating

around them. Addressing the question of reception can tell us a great deal about the thorny politics involved in speaking for. Having demonstrated many of the similarities in terms of the representation of the homosexual subject and the politics that informs it in Virtual Equality and Virtually Normal, these texts and their authors have nonetheless been treated in profoundly different ways by the members of the communities for whom they speak. Rather than feeding into this polarization, we might ask instead what this can tell us about who gets to speak, for whom, how, and with what effects?

The price demanded of the pariah if he wishes to be a parvenu is very high indeed. Sullivan, in attempting to convince us that we are really virtually normal -- the foundation not just of this text but his very public political agenda -- has been turned into the ultimate pariah by the very community he (supposedly) belongs to and writes about. Sullivan has enraged more than a few with public statements like the following. He has argued that Stonewall, that sacred shibboleth of liberation, "was a diversion from our capacity to integrate into society" (qtd. in Sarah Schulman 1999: ). And that more recent political successes are a result of the fact that "I think we've done a great deal of persuading people that we are not a countercultural force" (qtd. in Richard Lacayo 1998: 24) -- the epitome of his thesis that homosexuals are virtually normal. <sup>20</sup>

As Caleb Crain details in an article addressing the conflicts between gay journalists and queer academics in the United States, one would be hard pressed to find a self-identified queer academic who would acknowledge even the slightest

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<sup>20</sup> See especially Sullivan's New York Times piece "Gay Values, Truly Conservative" (1993). Of course, Sullivan is not alone in this position. See also Surian Khan, "Gay Conservatives: Pulling the Movement to the Right" (1996); Matthew Hays, "Gays March on the Right: Are Conservative Gays a Growing Political Force?" (1997); Rachel Giese, "Gay Conservatives Come Out With a Vengeance" (1997), a review of Bruce Bawer's (ed.) Beyond Queer: Challenging Gay Left Orthodoxy (1996).

positive contribution Sullivan might be making to the debates. A New York city-based political action group called "Sex Panic!," founded in the summer of 1997 by, among others, queer academics Michael Warner and Lisa Duggan, referred to Sullivan (along with well-known gay journalists/authors/public figures Gabriel Rotello, Larry Kramer, and Michelangelo Signorile) in a flyer for one of their meetings as one of the gay anti-sex "turdz." After attending this meeting, Crain reports that "[t]he men and women here tonight feel sure of their enemies, and as the evening advances, these enemies condense into one creature, a hyphenated neoconservative monster bogeyman named Rotello-Signorile-Kramer-Sullivan" (Crain).<sup>21</sup>

Though often dismissed for pandering to the worst instincts of gay politics, at least one author suggests that Sullivan is "perhaps the most interesting and certainly the most visible among the new gay conservatives" (Kaplan 41). Vaid herself acknowledges Sullivan's contributions to debates in gay politics; though she refers to him in *Virtual Equality* as a legitimatist (37), which means for her that he is part of what Vaid describes as the "mainstreaming" of gay and lesbian equality, and stands, therefore, in marked contrast to her stated intentions of a renewed politics of

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<sup>21</sup> To be fair to Vaid, she does cite Sullivan for bringing "great eloquence and urgency to the effort" in ending the ban on gays and lesbians in the military in his editorials and commentaries in *The New Republic* (see Vaid 173), as well as Sullivan's important work on homosexuality and religion, especially Catholicism (see Vaid 377). On the tension between Sex Panic! and gay journalists, see Caleb Crain's "Queer Theorists and Gay Journalists Wrestle Over the Politics of Sex." The reference to "turdz" is quoted in this article. Rotello has been in the hot seat for his book *Sexual Ecology: AIDS and the Destiny of Gay Men* (1997), which broke the code of AIDS politics by daring to surmise that the sexual culture of gay men helped create a microbial climate ripe for HIV, and that promiscuity needs to be curtailed if gay men are to survive this epidemic. Signorile has been in the hot seat for his book *Life Outside* (1997), which is critical of the circuit party culture among gay men in the 1990s, what he problematically calls a cult. For an understanding of how Sullivan is pilloried in the gay press, see also the interview with Andrew Sullivan by Sarah Schulman in *The Advocate* (Schulman, "Man in the Hot Seat"). Sullivan's more recent book, *Love Undetectable* (1998), a personal memoir on "friendship, sex, and survival," is at times a very moving account of his struggle with HIV, gay culture, and a philosophical reflection on the importance of friendship over the fleeting nature of love.

liberation. Vaid cites Sullivan here along with other legitimatizationists like Hunter Madsen, Marshal Kirk, and Bruce Bawer. A glimpse of the titles of these authors' books tells us that Sullivan is not, by Vaid's liberation standards, in good company: Madsen and Kirk are infamous for their After the Ball: How America Will Conquer Its Fear and Hatred of Gays in the 90s (1989), which argued that it is time for queers to give up the "flamboyant" and "excessive" representations of their sexuality and model themselves as good, civic subjects.<sup>22</sup> Bawer is known for works such as A Place at the Table: The Gay Individual in American Society (1993), and Beyond Queer: Challenging Gay Left Orthodoxy (ed., 1996).

It is interesting to note that, though one reviewer argues that "Vaid's positions end up being as oppressive as the injustices they seek to redress" (Mendelsohn 1995), Vaid's book has for the most part not received the negative commentary within the gay community that Sullivan's has. She is, in other words, embraced, or at the very least not excoriated, by the movement and (many of) the people for whom she speaks. This could be accounted for by the fact that she chooses her words more carefully, suggesting in a public interview that, after completing Virtual Equality, she wants to return to her goal of "freeing people to move beyond the roles assigned them."<sup>23</sup> If this is evidence not only of a greater sense of political savvy on Vaid's part, as well as the very different political agendas of each author, then my comments here might seem moot.

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<sup>22</sup> An example of their arguments: "when we are finally allowed to rally and march, to lay our case before the cameras of the straight American public, what do we do? We call out of the woodwork as our ambassadors of bad will all the screamers, stompers, gender-benders, sadomasochists, and pederasts, and confirm America's worst fears and hates."

<sup>23</sup> Quoted in Time 13 Nov. 1995: 27.

I would surmise, however, that one of the reasons these authors have been treated so differently has to do with the ways in which “speaking for” manifests itself. Sullivan has been called, among other things, “an apologist for homosexuality” (Mendelsohn 39), which stems, I think, from the criticism that, as Sarah Schulman puts it in an interview with Sullivan in The Advocate, “I think you’re not a leader who has emerged from the community. I think you’ve been selected by the dominant group” (Schulman 89). Vaid, former director of the National Gay and Lesbian Task Force, is seen not only as emerging from the community but part and parcel of it. It is not without significance, then, that Virtual Equality is replete with references to lesbians and gays as “a people,” “my people,” or “our people.” Vaid’s text and her criticisms of the gay and lesbian community emerge, in other words, from a profound love of the community for whom she speaks. She assumes, to paraphrase Bonnie Honig, that principles of right are necessarily and automatically yielded when we place our emphasis on “the truth of membership in a wider community of meaning and value” (Honig 1993). She wants to embrace all the differences she sees teeming around her. Sullivan, on the other hand, is not only placed outside of the community by the community itself, but by his own refusal to position himself as being motivated politically by a love for his people, for the community and identity that is part and parcel of himself.

I am not at all suggesting that Sullivan is better or worse because of this; or that Vaid should be subjected to the kinds of criticisms that have been made against Sullivan. I am suggesting that, despite some similarities, these differences underscore the pitfalls and limitations of speaking for one’s community when one is propelled by either a profound love of that community or by the desire to step outside of it and criticize. The former position does not invite disagreement into the conversation; the latter virtually guarantees it. We need a way of speaking for that



refuses this inside-outside game. The question, *What Are Homosexuals For?*, will never be adequate for this task.

A similar politics, what we might refer to as the political use-value of the non-closeted homosexual and which is framed by the condition of being in or out, is pervasive in the discourses and narratives of coming out, to which I turn in the next chapter.

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## CHAPTER SEVEN

### **"Coming Out" in the Public Sphere: Or, What Does It Cost To Tell the "Truth"?**

*. . . the stress of coming out will never be as hard on you as the stress of staying in was.*

--Michelangelo Signorile, Outing Yourself: How To Come Out As Lesbian Or Gay To Your Family, Friends, and Co-Workers (1995)

*How can the subject tell the truth about itself as a subject of sexual gratification, and at what cost?*

--Michel Foucault, "How Much Does it Cost to Tell the Truth?" (1989)

#### **7.1 "The Good Homosexual" and "Bad Gayness"**

IN HER ANALYSIS of the British Parliamentary debates on the "prohibition of the promotion of homosexuality," Anna Marie Smith (1995) argues that the discourses in which these debates were carried out were premised on a qualitative and ontological distinction between what she calls "the good homosexual" and "bad gayness." According to Smith, in an effort to circumscribe what was seen as the rampant promotion of a homosexual agenda by the Left in Britain, the proponents of the prohibition of the promotion of homosexuality constructed the following logic: "The good subject is closeted in every sense of the term, hidden and contained within closed frontiers; while the bad element comes out of the closet, shows itself and refuses to be contained" (312; emphasis in original). In posing the question in the subtitle of this chapter, How much does it cost the subject to be able to tell the "truth" about itself?, I suggest that a reversal of the terms and conditions of Smith's claims has taken place in the discourses and narratives of the public self-disclosure

of homosexual desire known as "coming out."<sup>1</sup> Though they still operate by way of a distinction between the good homosexual and bad gayness, it is now the good homosexual who comes out, shows itself in every sense of the term, while bad gayness has come to be defined by the subject who remains closeted.

A number of recent and disparate texts, from popular political memoirs and manifestos, to more theoretical work, illustrate this reversal in some surprising and disconcerting ways. In Virtual Equality, Urvashi Vaid offers the following account of coming out (and, by extension, staying "in"):

Because it is about truth, coming out is an act of goodness, integrity, and is a precondition for any gay person wishing to live a moral life. . . I suggest that being out of the closet may best be defined as a moral act because it moves us closer toward truth and away from falsehood, toward virtue, away from hypocrisy. Being in the closet, then, ought to be viewed as immoral behavior. . . . I urge the movement to adopt a new ethic toward the closet, characterizing it as intrinsically evil (380).

In her chapter "Leadership Conundrums," Vaid links self-disclosure and morality with the issue of responsibility, marking individual self-declaration as an "ethical imperative" for gays and lesbians. Vaid writes that:

I believe we must nurture in ourselves, and praise in each other, the notion of a duty to act in accordance with a set of moral principles. In this sense, leadership is returned to its individual sources as a responsibility and an opportunity in which each of us can participate. Our lives bear the truth of

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<sup>1</sup> I focus exclusively in this chapter on coming out, as opposed to the dicey issue of outing (the public declaration of the homosexuality of prominent individuals). Though an interesting analysis could be made of these intersecting and potentially conflictual practices, I do not take this on, simply because outing has been debated at length from all positions and points of view, while relatively few critiques have taken on the sacred cow of coming out. On the politics of outing, see: Michelangelo Signorile, Queer in America (1993); Larry Gross, Contested Closets: The Politics and Ethics of Outing (1993); Warren Johansson and William A Percy, Outing: Shattering the Conspiracy of Silence (1994); Timothy Murphy (ed.), Gay Ethics: Controversies in Outing, Civil Rights, and Sexual Science (1994); Richard D. Mohr, Gay Ideas: Outing and Other Controversies (1992).

this simple definition: leadership, defined in this sense of individual responsibility, is exercised by each person who comes out of the closet (361).

What are we to make of the fact that one so devoted to our liberation disciplines us because of our failure -- or strategic refusal? -- to participate in the truth-telling of our souls, or for failing to eradicate the inherent messiness and ambiguity of our public-private selves? <sup>2</sup> To characterize the closet as evil is one thing; to characterize people who remain closeted, for whatever reasons, as "immoral" is another matter entirely.

What is interesting to note here as well is the way in which homosexuality is not accorded the same degree of autonomy and self-determination as other identities. This feminist and gay liberationist does not support, for example, "the coercive aspect of outing" (32) -- it is "ethically and morally indefensible" (381) -- because she believes in the principle of "sexual autonomy" (32): "As a woman," she writes, "I fight for the principle that control of my sexual and reproductive life should rest with me" and "certainly not with the censorious 'general public' or the community I come from" (32; emphasis added). Advocating choice as a fundamental principle of a gender and sexual politics, defined as individual autonomy from one's community in matters of sexual and reproductive life, it is difficult to see where choice comes in in the politics of homosexuality in the face of such statements like "the refusal to be public about homosexuality is a refusal to take responsibility for

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<sup>2</sup> As Vaid herself indicates throughout the book, being "in" or "out" is more complex and ambiguous than this formulation of individual responsibility recognizes. She writes for example of how some gay organizations send mailings to their members in envelopes that do not identify them as a gay organization. In other words, an either/or model (in or out) is not, by Vaid's own admission, always tenable, even for the most gay-identified individuals. As Eve Sedgwick has more eloquently written: "for many gay people it [the closet] is still the fundamental feature of social life, and there can be few gay people, however courageous and forthright by habit, however fortunate in the support of their immediate communities, in whose lives the closet is not a shaping presence" (1990: 68).

our political movement" (Vaid 198). Contrary to principles of sexual autonomy, the only "choice" here seems to be to come out (which is the condition of being public about one's homosexuality) at the demand of another and on another's terms or remain closeted and risk being turned into the ultimate pariah by one's own community.

In fact, in the construction of coming out as both public and political, the possibilities for choice, so central to the politics of liberation, are effectively foreclosed, or at least subsumed to the "greater good" -- political visibility and commitment to one's community. "Homosexuality always involves choice -- indeed, it involves a series of four major choices: admitting, acting, telling, and living," according to Vaid. She goes on to state that "[t]he final choice each gay person makes is how to live a queer life" (Vaid 30). In schematizing a teleology of living -- the penultimate goal of admitting, acting, and telling -- this actually shuts down the possibilities for choice altogether, insisting instead upon a trajectory of action the gay subject should follow, which is very much against the grain of a liberatory politics. What I am suggesting is that, if we are going to champion choice as a fundamental principle of sexual politics, we must allow for the possibility that some are going to choose either to not politicize their sexuality or to not come out. Not to allow for this possibility would be to reproduce all the power games we are supposed to be working against in the name of a liberatory politics. What we get instead is socially mandated forms of behaviour from the very individuals who are speaking on our behalf.

The refusal of choice on these terms might be expected within the terrain of popular discourse, inflected as it is with a self-help mentality that aims to provide guideposts for liberating oneself from the shackles of the closet or regimes of oppression or normativity. Indeed, this has been the intention of a good deal of literature, from Dennis Altman's Homosexual: Oppression and Liberation (1971) and

his Coming Out In the Seventies (1979), to Michelangelo Signorile's more recent Outing Yourself (1995), which offers a fourteen-step program of "exercises, meditations, and anger checks." As I have suggested in previous chapters, however, and as this chapter explores, an unwitting disciplinary impulse is pervasive in the discourses of coming out and in a good deal of sexual theory and politics generally. This is an impulse that is contrary to the goals of a liberatory politics.

Indeed, this triumvirate of truth, silence, and disclosure in the context of coming out is not restricted to such popular political manifestos like Vaid's Virtual Equality. A similar narrative informs Morris B. Kaplan's dense and highly learned text Sexual Justice: Democratic Citizenship and the Politics of Desire. Drawing on a host of American and Continental political theorists and philosophers, from Socrates, Plato, Henry David Thoreau, John Stuart Mill, and Hannah Arendt, Kaplan insists on coming out as an "ethical imperative . . . for lesbians and gays in heterosexist regimes" (229). Using Thoreau's notion of civil disobedience, which is a profoundly individual act, he writes that: "In liberal societies, the claims of community depend on individual choices to create and sustain common institutions . . . In a democracy, silence results in complicity; integrity requires that one actively dissociate oneself from injustice or bear some responsibility. . ." (229). Note the slippage here from silence to injustice.<sup>3</sup> Why is being in the closet (the condition of silence) tantamount to injustice? Again, the notion of individual choice articulated here is a limited one, since it implies that it must give way to the greater common good, the "claims of community." This is ironic in a text so profoundly championing individual self-making. Like Vaid, Kaplan links coming out as self disclosure with silence and its opposite, "truth:" "Socrates' insistence on the importance of seeking truth by publicly

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<sup>3</sup> A similar slippage is made in Kaplan's comments on same sex marriage, discussed in my Conclusion. The language of the law and of democracy can be turned against the very subjects it is supposed to help.

examining one's own opinions and those of others suggests that the silence of the closet would be anathema to him" (231).<sup>4</sup> Echoing Vaid's assertion that the refusal to publicize and hence politicize one's homosexuality is a refusal to take responsibility for "our political movement," Kaplan stresses the primacy of individual responsibility and integrity as ethical aspects of community belonging or membership.

In "An Ethos of Gay and Lesbian Existence" (1992), political theorist Mark Blasius replaces the terms "lifestyle" and "sexual preference" with the term "ethos" in order to open up the meaning of gay and lesbian sexuality beyond the parameters of sexual acts.<sup>5</sup> In doing so, he constructs coming out as an ethical imperative for gay and lesbian individuals in a way that is quite similar to Vaid and Kaplan. The key to understanding ethos, he suggests, is through lesbian and gay conceptualizations of coming out, "understood as a process of becoming in which the individual enters into a field of relationships that constitutes the lesbian and gay community. Through this process, the individual participates in a collective problematization of self, of types of normativity, and of what counts as truth" (642-643; emphasis in original). Though Blasius recognizes the ambiguous nature of this process, that identity is never achieved "once and for all" (655) but is instead a "lifelong process of becoming lesbian or gay" (654-5), he takes these comments even further than Vaid and Kaplan in his suggestion that coming out is "the condition of existence of community," or the "quintessentially political act" (655) or "experience" (660). "Coming out," he says, is

<sup>4</sup> It should be noted here that the notion that the silence of the closet would be anathema to Socrates is not necessarily because of the importance accorded to truth and individual conscience, but perhaps because Socrates would have lacked the vocabulary to speak in such terms as being "in" or "out" of the closet, since sexual identity did not operate the way it does today.

<sup>5</sup> This article appears in the journal *Political Theory* and is reproduced in his *Gay and Lesbian Politics: Sexuality and the Emergence of a New Ethic* (1994).

"truly a cultivation of the self through which the self appears and becomes." Its penultimate goal is what he calls "living a lesbian or gay way of life, or ethos." This is, then, a celebration of the self to the extent that the self is ultimately enfolded into a common form of existence. In addition to echoing the rhetoric of some of the previous authors ("shared ways of life of lesbian and gay citizens"), Blasius directly mimics the arguments above when he states that, "[c]onsidering our historical context of heterosexism and homophobia, one has an ethical responsibility to come out" (661; emphasis added).<sup>6</sup> Again, at issue here is less a concern for the closeted individual but the results of her or his silence on our communities, on our ability to construct a shared way of life or ethos against regimes of heterosexism and homophobia.

Similar narratives of the self's ethical obligations to "our political movement" can be found in the alternative press. In reference to the outing of Canadian Olympic figure skater Brian Orser when he was issued a palimony suit by a former lover (we are truly "equal"), Richard Burnett, a nationally-syndicated gay columnist, uses this occasion to ruminate on the hypocrisies of being closeted.<sup>7</sup> "Now, I've said it before, and it bears repeating, but I believe we only really take charge of our lives when we finally come out. This is why I've lost so much respect for Orser -- the faggot did everything possible to preserve his closet so he could maintain the intoxicating illusion of order in his life" (Burnett 1998a: 6). That Burnett might be saddened that Orser could not come out on his own is a matter of some importance, since changes, often for the better, do ensue when one "takes charge" of one's life in this way. But

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<sup>6</sup> He also argues that "all closeted lesbians and gays should be outed" (661).

<sup>7</sup> The etymology of hypocrisy is interesting in this context: **hypocrisy**, from the Greek *hypókrisis*, play acting, to play a part. **hypocrite**, a stage actor, hence one who plays a part (Random House Webster's)



what is interesting here is that, what is initially framed as concern for the closeted gay man quickly slides into a denunciation not of the closet and the conditions that kept him there but of "the faggot" himself. Burnett no longer respects Orser -- will not count him as one of "us," perhaps? -- because Orser failed to understand and appreciate the results of "preserv[ing] his closet." Moreover, Burnett is complicit in reducing Orser's life to the purely sexual, since one could only argue that he has not taken control of his life if we absent all of the other information we know about him.

<sup>8</sup> He is nothing but a faggot.

Burnett sums up all of these sentiments succinctly in a column on gay youth and suicide that appeared many, many months after the above: "That's why I despise closeted dykes and faggots. We owe our youth a better life" (Burnett 2000; emphasis in original).

We can see then how the good homosexual is constructed as the one who comes out, who refuses to be contained, while bad gayness is defined by the subject who remains closeted, hidden and contained within the walls of his self-oppression. What I want to question by looking at these textual references is this: if, as these authors maintain, the performative disclosure of the self is an inherently political act, what kind of political culture does it create? What is at stake in a politics premised on individual self-declaration as an ethical imperative for community? And against what political backdrop has the desire on the part of some gays and lesbians for increased privacy and less public exposure of their sexual lives become a renewed force in our culture? In short, the chapter examines how much it costs to insist that the gay or lesbian subject has an ethical imperative to come out.

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<sup>8</sup> As the coverage of this event indicates, Orser has most certainly taken charge of many aspects of his life: an Olympic medal-winning figure skater; a successful and wealthy entrepreneur; a successful (if not permanent) relationship with another man; and enough financial security to ensure that his partner could even bring forth a palimony suit against him.

## 7.2 Visibility, Self-Declaration, and Community

Though the concept of visibility has been championed and critiqued across a range of theoretical and political practices, the visibility and self-definition that is assumed in the context of the practice of coming out has rarely been scrutinized. As one author puts it, “[i]f knowledge is the best antidote for the poison of hate, then closet doors will need to open. The last twenty-five years of gay advocacy speak powerfully to the imperative of visibility” (Schacter 313). To put this succinctly: “Silence, if it does not equal death, equals the living equivalent” (Sullivan 1995: 186).<sup>9</sup> In Excitable Speech, Judith Butler calls the practice of coming out an “explicit self-declaration” (22; emphasis in original). She goes on to argue that the construal of the statement “I am a homosexual” as a homosexual act and hence as “offensive conduct” in U.S. military culture (Clinton’s “Don’t Ask, Don’t Tell!” policy) is one of the “greatest threats to the discursive operation of lesbian and gay politics” (1997a: 22).<sup>10</sup> In other words, it is against such normative regimes that one must insist on this practice. It is simply taken as a given, then, that being “in” is always negative, destructive to the self, while being “out” is always positive, a completion of the self. I

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<sup>9</sup> Sullivan is playing on the early AIDS activist slogan SILENCE = DEATH, but his comment is made in the context of coming out and visibility. On this, see Douglas Crimp (ed.), AIDS: Cultural Analysis, Cultural Activism (1987).

<sup>10</sup> This phrase “I am a homosexual,” which Butler praises as an important act of self-definition, can be traced back to gay liberation discourse. It was used, for example, as the title of a 1975 Time magazine article on the nascent gay liberation movement, which featured an Air Force Sergeant on its cover. See “‘I am a homosexual;’ The Gay Drive For Acceptance” (1975). See also Diane Helene Miller, Freedom to Differ (1998): “Declarations of identity serve several functions: they are at once powerful individual expressions, reinforcing one’s sense of belonging to a particular group; communicative messages, conveying that identification to others; and representations, offering portrayals of the individual and his or her group to the public” (4).

am not suggesting, of course, that there are not very really beneficial aspects to coming out; nor that individuals should not continue to do so. On the contrary, I simply want to argue that we have reached the point culturally and politically not only where we can dare to question visibility as an ethical imperative for gays and lesbians, but where we must question it, lest sexual politics slides into a disciplinary mode of collectivity, undoing at the same time what it strives to overcome.

In thinking of coming out as a deliberate and public act of private identities, this chapter poses anew the question of the status of the subject in the politics of homosexuality, and locates a profound tension between a commitment to the self and a commitment to community, between the ideals of individual liberty and communal belonging. Coming out serves as a useful and instructive example of the intersection of a politics of the self, of the individuated subject or psyche, and a politics of community, coming out as proxy, where the voice of the individual subject acts as metonym representing the goal of gay and lesbian liberation more generally. The chapter seeks not to resolve this tension but to highlight instead the potentially prescriptive protocols for identity that ensue as a result of it.

As historian Dennis Altman suggests in Homosexual: Oppression and Liberation (1971), coming out is "the essence of liberation" (216), a process "whereby homosexuals seek to come to terms with themselves and through self-affirmation commence on the path toward liberation" (216). Altman brings into sharper relief a definition of liberation within the context of the individuated subject, where coming out is the telos of the liberation of a gay or lesbian self. Taking this to the next level, in Great Gay in the Morning! (1972) we are told that "coming out is a beautiful emergence . . . an assertion of one's individuality," and that "coming out and coming together" (77) are one and the same. More recently, one political and legal theorist writes that: "political protest and personal coming out have been

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reinterpreted in terms of the assertion of individual and communal pride as both an intrinsic good and an instrument for transforming social attitudes" (Kaplan 217). As all of these passages reveal, coming out is a double operation of individual liberty and communal belonging, something that has persisted from the time the term was coined to the present day.

What we might call liberation's remainders in the contemporary discourses of coming out can be found in a comparison of Carl Wittman's "outline of imperatives" for gay liberation (1968), which includes the mantra "Free Ourselves: Come Out Everywhere" (341) and the maxim that "[b]eing open is the foundation of freedom" (335), with the authors quoted above, especially but not exceptionally Vaid. Vaid writes that "[t]he urgency of transforming virtual equality to genuine freedom urges us to develop a moral ethic about being open" (33). As this chapter demonstrates, the emphasis on coming out as an individual act of self-definition or creation actually serves to mask the more troubling ways in which the self's responsibilities and obligations to a community already in existence are articulated as "the common good."

This can be usefully framed here in reference to Honig's (1993) discussion of the grass counter, someone who finds pleasure in doing nothing but counting blades of grass, in John Rawls' theory of justice as fairness (see Rawls 1971). Though the grass counter "expects a civic and civil indifference of his fellow citizens," though he expects to be left to do as he pleases, this is not what he gets from a community that values the common good. Rather, his fellow citizens are confident that "they know best" and "they assume that the burden is on those who are different to prove otherwise . . ." (Honig 1993: 154). In other words, it will be the responsibility of the grass counter and not the community to justify why he should be left alone. "In a society such as this, composed of people such as these, there tends to be a fair amount of pressure on everyone to develop and pursue conceptions of the good that

will win the approbation of their neighbours" (Honig 1993: 154). Focusing exclusively on Rawls' theory of justice, Honig highlights how the "normalizing components of this imagined situation" (154) do not fully address the political dimension of this kind of intervention into the grass counter's actions. Rather than returning the moralism by denouncing the actions of the participants in this situation, Honig argues that the "gap between the grass counter's expectation (of indifference) and experience (of intervention) is a site of politics" (154). While Rawls sees no "imposition" on the part of the citizens who want to make the grass counter "more like them," but "only nurturance and aid," Honig suggests that this is a form of consolidation and closure that serves to depoliticize these citizens' practices.

To apply this to the present context: it is the gap between the expectation of personal liberty (choice) in the politics of sexuality and the intervention that is a necessary component in structuring coming out as an ethical imperative that is a site for politics. To argue against the practices of coming out as structured here is not a depoliticization; it is a repoliticization of the tension that has gone unremarked. In politicizing the act of coming out as a beneficial practice for community -- something I am not arguing against -- what actually gets de-politicized are the very practices, these normalizing components, by those community members. It is assumed that "they know best," and that the burden is on the closeted homosexual to prove otherwise. In seeking to combat the power of homophobia and invisibility, what we forget is that constructing coming out as an ethical imperative is not stripped of power but is itself "an exercise of power for the purposes of identity formation" (Honig 154).

As mentioned earlier, a politics of the individual is alive and well in the contemporary politics of sexuality, from rights-based projects of equality to the performative speech-act or self-declaration in the practice of coming out (see Butler). These moments notwithstanding, the return of individualism in late twentieth

century political life is often located on the Right. Elspeth Probyn argues, for example, that “[a]s the individual again resumes its ascendancy in the programs of the new Right, it becomes all the more necessary to struggle over more emancipatory uses of the self” (1993: 30). Refusing to locate this phenomenon on the Right, and emancipatory uses of the self as simply an intervention against it, I want to argue less against a politics of the self than against this tendency, explicit in Probyn and implicit in sexual-cultural politics more generally, to assume that we can guarantee that our uses of the self will be emancipatory. The contingency of action in the public realm means that we cannot be certain what results they will have, that they will never be fully under our control. This is not to say that such practices may be turned against us, but more importantly that there is a risk involved in any political project or movement that announces itself as emancipatory or transformational from the outset. Like Michael Warner’s assertion that the movement from gay to queer means that queer politics is a “resistance to regimes of the normal”(1993), the discourses investigated in this chapter highlight how well-intentioned political projects that announce themselves as emancipatory from the outset can inadvertently lead to the construction of prescriptive protocols for identity.

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<sup>11</sup> This is the case, I would argue, in some work in cultural studies -- with its emancipatory or leftist political agenda -- where critiques of structures like capitalism, however well-intentioned, are often accompanied by implicit assumptions about how to be a good consumer in late-capitalist culture. As one cultural studies theorist puts it, “. . . isn’t that precisely what we are supposed to be doing, we meaning cultural studies scholars who want to do more than just study mass-produced culture, but change it” (Constance Penley 496). This is one of the legacies of cultural studies’ leftist beginnings that I think needs to be critiqued. Is cultural theory really changing mass culture? And why do we assume this is its ultimate goal? There is an implied value judgment in this kind of formulation, the assumption that the current state of mass culture is bad. It could be argued as well that this is the case for new social movements like women’s liberation or early forms of feminist critique, where the strategies for the achievement of its goals are accompanied by pressure exerted on women to conform to a certain way of living, either through

Before turning to this, I want to investigate a specific cultural moment that brings us up against the very limitations of the concept in question here, an example of the ways in which the idea of coming out betrays itself in so many instances that its efficacy as a political tool is called into question.

### 7.3 "Yep, I'm Gay:" Ellen DeGeneres and the Limits of "Coming Out"

In a 1975 Time magazine article on the nascent gay liberation movement in the United States, entitled "'I am a Homosexual:' The Gay Drive For Acceptance," the project of coming out (explicit in the article's title) is articulated as a double gesture: declaration as a project for the self and also a public project, a proxy for homosexuals and "the gay drive for acceptance." If these sentiments, the embarrassing singularity and banality of the statement "I am a homosexual" and the foundation of a politics based on the "drive for acceptance," seem quaintly anachronistic in the present context, how might they hold up against the more recent coming out declarations of, say, Ellen DeGeneres, whose infamous Time magazine cover, twenty-two years later, similarly declared "Yep, I'm Gay"? <sup>12</sup>

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dress, style, demeanor, or ways to construct one's domestic world, how to have sex in ways that are not oppressive.

Linking up coming out with gay rights more generally, coming out is said to make people more aware of the need for gay rights. "One of the basic tenets of faith for gay activists has been that coming out helps convince people of the need for gay rights." A new poll "suggests that knowing people who are gay makes little difference in whether one supports gay rights" (David Kirby, "Does Coming Out Matter?" 1998). It is precisely this predetermined "emancipatory" stance toward political practices that I argue against in this chapter. We can never know for certain that coming out will give us what "we" want.

<sup>12</sup> See Time, April 14, 1997. Adding another twist to this declaration, a Globe and Mail editorial stated: "Yep, She's Gay. Nope, It Ain't News." In this convoluted editorial, it is argued that Ellen's coming out is as newsworthy as "Who Shot J.R.?" in other words, it's not news, because being gay has lost its shock value and is no longer controversial. The contradictions here are legion, especially the admission on

Though this declaration did not hinge itself explicitly to the project of the drive for acceptance, anyone who has followed the trials and tribulations of Ellen (the show) and Ellen (the lesbian) knows that acceptance was the *primus mobilis* of this petite scandale in the history of television, sexual representation, and gay liberation.

Ellen's coming out, as the telos of her own liberation, the liberation of television culture, and the liberation of gays and lesbians in late twentieth century cultural life, is articulated beautifully in "Yep, She's Too Gay" (Jess Cagle), an article about ABC's decision to cancel DeGeneres's show. In a revealing portrayal, Ellen DeGeneres is caricatured as "Liberty Leading the People," from Eugène Delacroix's 1830 painting of the same name. The original painting depicts the struggle for freedom in the Parisian Revolution of 1830, a rich moment articulating Ellen's coming out within the iconography of revolution.

In Liberty Leading the People . . . Delacroix makes no attempt to represent a specific incident seen in actuality. Instead, he gives us an allegory of revolution itself. Liberty -- a partly nude, majestic woman, whose beautiful features wear an expression of noble dignity -- waves the people forward to the barricades, the familiar revolutionary apparatus of Paris streets. She carries the tricolor banner of the republic and a musket with a bayonet and wears the cap of liberty. She advances over the dead and dying of both parties -- the people, and the royal troops (Horst de la Croix and Richard G. Tansey 822).

With such a description of the original image in mind, the rendition of Ellen as Liberty Leading the People could only been done as caricature. Gone, of course, is the tricolor banner of the Republic, replaced with the multicolor banner of the Queer Republic, the Rainbow Coalition flag. Gone is the cap of Liberty, and the exposed breast of Liberty's personification; but the bayonet remains, as do the bodies of the dead and dying of both the people and the troops. As Ellen waves her people forward

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the part of a reputable newspaper that in order for something to be newsworthy it must be shocking and controversial. Social change does not seem to be enough in this case.



in the grand march of cultural and sexual visibility, she has indeed become an allegory of gay revolution itself. Her plaintive cry "I'm Gay" in the hilarious and much-hyped "coming out" episode (ABC, April 30, 1997) might be seen as "help[ing] to free the generation that comes after it from the dreadful agony of secrecy, the constant need to hide," a description which comes not from the Ellen narratives but from the 1975 Time article.

In a rather stunning photo set of DeGeneres (in heels, bustier, black fish-net stockings) by Annie Leibovitz for Vanity Fair's 1997 "Hall of Fame" issue ("because she cleaned out her closet"), the text accompanying the photos acknowledges the possibility that this "dreadful agony of secrecy, the constant need to hide," was actually the source of much of the show's humour and appeal:

Now we know the source of her comic stammer (a verbal vapor lock that made Bob Newhart sound bold and dynamic) -- she had a tricky secret to share. "Coming out" on her ABC show after months of contrived tease . . . DeGeneres not only converted a so-so sit com into a national fishbowl but looked replenished as a performer -- years of tension were released from her face (266).

Like the 1975 Time magazine article, this observation shares with previous and current discourses a tendency to link clandestine behaviour and coming out with the physical inscription of tension and release onto the face of the homosexual. Time writes: "Sometimes the most ardent antigays are actually closet homosexuals. They early learn the tricks of controlling facial reactions" ("I am a homosexual" 45). Recounting a coming out tale in the 1972 collection Great Gay in the Morning!, one out member of this collective says that "[t]elling them [parents] was one of the more liberating moments of my life. I felt as if the weight of years of guilt and anguish had been lifted from my head" (86). Finally, in reference to the idea of gaydar, the uncanny gift homosexuals are said to have for identifying visually other

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homosexuals, Andrew Sullivan suggests, affirmatively, that as a consequence of growing up "profoundly different," homosexuals "develop skills early on that help them notice the inflections of a voice, the quirks of a particular movement and the ways in which meaning can be conveyed in code" (1995: 198-199).<sup>13</sup>

These sentiments all have in common what Lee Edelman (1994) refers to as homographesis, the graphic inscription or legibility (often bodily) of homosexuality, the "cultural enterprise of reading homosexuality" as a double movement that marks homosexuals as legible and recognizes this legibility as "unremarked and unremarkable" (7). Not only is Ellen's comic stammer attributed to her being in the closet; the very situation of being in the closet, the stress that produces, and the liberating act of coming out as a lesbian -- all of these are inscribed on her visage, where years of tension can be seen built up and then released. Whereas Edelman puts the concept of homographesis to use in sophisticated analyses of homophobic representational practices, I am interested in this suggestion that gays possess this uncanny gift of gaydar for the kinds of questions it might enable us to ask about coming out that have not been asked within the terms of this case.

In "Homosexual Politics," Jean Elshtain identifies one of the major "paradoxes" of gay liberation as follows: if the goals of gay liberation (defined as acceptance and visibility) are achieved, "the homosexual, as he presently defines himself, will disappear" (252). This is because, in the words of Elshtain, the full visibility of homosexuality means that homosexuality as a shared subculture will break down. In other words, in keeping with her rigid distinction between public and

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<sup>13</sup> The term gaydar has made its way into the pages of such popular magazines as *Vanity Fair*. In its report on Matthew Shepard, *Vanity Fair* defines gaydar as "the mysterious way in which sexuality is sometimes successfully communicated and understood" (Thermsorm 268) -- without ever pausing to ask if gays really possess this gift. Moreover, what is mysterious about it if we understand it as a form of homographesis?

private, Elshtain advances the traditional argument that secrecy and clandestine behaviour are necessary for the existence of a subculture. Of course, it is against the idea of continuing to see homosexuality as a form of subcultural life that was the motivating force behind Ellen's coming out; but there is something to the suggestion that the kind of acceptance and visibility Ellen sought and achieved might account in part for the loss of popularity and the cancellation of the show. As the title "Yep, She's Too Gay" implies, it was precisely Ellen's disclosure (and the repetition of it in all subsequent shows) that is seen as the beginning of the end.

What I want to question here in the case of Ellen is not, as Elshtain might argue, that the "over-exposure" of lesbianism and hence the destruction of "the secret" is what accounts for the less than funny final season of the show. Rather, in looking at the narratives above about the graphic inscription of homosexuality -- this legibility that is both unremarked and unremarkable -- I want to suggest that the very idea of coming out betrays itself in this and so many other instances. This in turn tells us a great deal about the politics of homosexual representation in the public sphere. For, if homosexuals are so adept at reading the cultural codes of homosexuality (as the above comments imply), what needs to be asked is: for whom was Ellen (Morgan and DeGeneres) "in" the closet? And for whom did she come out? Were there not many of us who "knew" already that Ellen was a lesbian? <sup>14</sup> A holdover of 1970s liberation whose time may soon be up, coming out retains a certain nostalgia for a legitimizationist agenda. It assumes in other words that representation (of the self) depends upon the acknowledgment by a dominant public,

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<sup>14</sup> A similar point could be made in the case of Canadian Olympic gold-medal swimmer Mark Tewksbury, who outed himself in December 1998. While the media reported that "A sports hero declares he's gay" (see Patricia Young), many of us took some pleasure in the fact that we already "knew" this. Tewksbury was quite "out" in many aspects of his life, something those of us who have seen him in Montreal gay bars were cognizant of before the press announced it. This raises again the question, for whom was he "in"?

which ironically absents the fact that gays and lesbians form a kind of public of their own, however fractured and multifarious. My point is that the concept of coming out, at least in this case, risks perpetuating what it is at pains to avoid: the erasure of gays and lesbians as social subjects constituting a viable and legitimate public.

This has some far-reaching implications. To be sure, it typifies a great deal of gay and lesbian political discourse. One author and activist argues that “[u]ntil each gay and lesbian person tells the truth about his or her life -- by coming out everyday, everywhere, and in every situation -- the heterosexual world will be able to deny the existence of homosexuality” (Vaid 30). This is a politics premised on having our visibility legitimized by a dominant public, which is fair enough as far as a political strategy of visibility goes; but it puts an enormous and absurd amount of pressure and responsibility onto all gay and lesbian subjects, as if every single person with same sex desire needs to participate in such self-declarations, “everyday, everywhere.” Certainly there are enough of us already doing so, in explicit and implicit ways, that we can insist on querying the hyperbole of such calls. We need to think about ways of being out in more productive ways than these linear formulations allow.

#### **7.4 Coming Out and the Performative Disclosure of the Self**

To return to the questions raised at the beginning of this chapter in relation to the double operation of coming out, as a process of the self and of community, what I want to ask here is, What precisely is the political component of this decidedly political act of self-declaration? And what are the consequences for sexual politics of the conflation of the individual and the communal in these debates?

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Within the framework outlined by Arendt, one of the principles of action in politics is that action does "not operate from within the self as motives do" (1977: 152). Referring to this maxim, Lisa J. Disch writes that "[t]he 'disclosing' self . . . is uniquely political in that it is defined exclusively by the various and potentially conflicting interpretations of its inspiring principle, to which it gives rise. The appropriate mode of knowing is not self-discovery" (78). What these comments suggest is that, where the self is to be a political agent, it must give up a certain solipsistic tendency; its motivations for action must not proceed from an interior space.

Of course, such comments could be interpreted as a rejection of such feminist slogans as "the personal is political," which would be a valid contextualization of this position and which presents Arendt's work as rather short-sighted or even useless in the context of sexual politics. Indeed, as we saw previously, the use of politics for private or personal interest is in Arendt a "corrupt" enterprise (see Canovan 1985: 637). These "perversities" in Arendt notwithstanding, we might also interpret this to mean that the self is neither the origin nor the telos of politics, which does a great deal of mischief to the assumptions that the performative disclosure of the self is the preeminently political act or experience for gay and lesbian subjects. Mapped out in these terms, we might say that coming out, which starts from the interior place of the self and whose goal is self-knowledge or self-discovery, is an inherently unpolitical enterprise.

I do not want to argue that coming out and the narratives that surround it are not important sites for politics, because they are. I do want to start with the premise, however, that political action does not or should not have self-discovery as its principle of action, in order to understand the limitations of coming out as a political act. Though we can still see coming out in decidedly political terms, to the extent that it moves out beyond the self to the interests of the group or the collective, in

framing individual acts like coming out as moral and ethical imperatives for gay and lesbian subjects, such practices engender a number of remainders that need to be engaged. In order to tease these out, I draw on Arendt's notion of civil disobedience, as well as her concepts of storytelling and visiting.

Arendt suggests that civil disobedience is something that cannot be accomplished simply by defending "individual conscience" or "individuals acts" (1972:56), what are referred to as "moral imperatives," in a way that is quite striking in comparison with the implicit assumptions in the discourse of coming out. Here I am less interested in what might or could constitute an act of civil disobedience than the assertion that, when it is conceived in these terms, it will be not only "difficult" but impossible "to keep civil disobedience from being a philosophy of subjectivity . . . intensely and exclusively personal, so that any individual, for whatever reason, can disobey" (1972: 56-57).

Against this decidedly Thoreauvian notion of civil disobedience and much of late-nineteenth and early twentieth century political philosophy, what is important for my purposes here is that, when acts like civil disobedience are defined as singular and individual moral imperatives, an intensely personal philosophy of the subject will not be far behind. Though coming out cannot properly be defined as an act of civil disobedience -- which would require that a law be contravened <sup>15</sup> -- the primacy of individual acts and/as moral imperatives in the arguments for the practices of coming out ensures that it will be a philosophy of subjectivity, intensely -- though not exclusively -- personal. As I suggested at the beginning of this chapter, a remarkable reversal takes place as a result: the disobedience in this form of political action is not in the coming out but in staying in.

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<sup>15</sup> In Sexual Justice, Morris B. Kaplan argues that same sex marriage and sexual acts between members of the same sex can be framed as acts of civil disobedience.

Arendt proves useful because, as we have seen, for her the self is structured by a certain openness toward agency and subjectivity that anticipates later developments in gender studies and queer theory. For Arendt, the self is never a "given," never "settled in advance," but only created in the performative disclosure that the public realm permits. Though she absents questions of identity in this performative in the sense we think of the term today, a similar openness toward political agency and subjectivity is found in the work of theorists of identity like Judith Butler. Butler argues for example that coming out is a type of performative speech act but one that "does not fully constitute the referent to which it refers" (1997a: 125) -- that is, the subject who comes out is always subject to the contingency of the public space and the contingency of identity. Coming out is an on-going, endless, in-complete and (mis)taken affair.

In "Plurality, Promises, and Public Spaces," Craig Calhoun offers a passage that underscores the relevance of Arendt in these debates:

We commonly think of politics as impersonal and of private life as the realm in which at least potentially we can be true to ourselves as individual persons. But Arendt is concerned to show us that this is not so; it is in public that we come fully into ourselves, that we achieve a fullness of personality, that we disclose our personal identities. On her account, we must not equate the personal with the psychological. . . . Consider the term "identity politics," currently used to refer at once to public performances that create or disclose identity and to political struggles based on claims to identities settled in advance. The former fit with Arendt's vision, and the latter are sharply contrary to it (237).

One can see here in Calhoun's comments about the equation of the personal with the psychological a potential space for critiques of coming out. While it would be naive of me to believe that we could give up completely a politics mapped out by the rhetoric of "fullness of personality" or "coming into self" -- as much as this would be desirable -- the importance accorded to self-disclosure in public space as conceptualized here provides another opportunity (in addition to Butler, for example) for theorizing

performatives that either create identity or simply articulate already constituted ones. Coming out is constituted as political precisely because of the performative disclosure of the self in public that it enables and calls forth. Many theorists and activists argue for the importance of coming out because of this sense that it is only in public that we come fully into ourselves.

Butler's interventions notwithstanding, the narratives of coming out described here assume instead that the subject who comes out is fully constituted as a sexual subject prior to the appearance of his actions, prior to stepping into the public sphere. In other words, sexual identity is purely a matter of the linguistic moment, the public speech act "I am a homosexual," as the identifiatory act par excellence. How else do we account for the fact that closeted gays and lesbians are still defined by these authors as "gay" or "lesbian"? As Blasius writes: "all closeted gays and lesbians should be outed" (1992: 661). Or, as a passage quoted earlier from Vaid underscores: "Until each gay and lesbian person tells the truth about his or her life -- by coming out everyday, everywhere . . ." (30). I am not suggesting that "closeted" individuals cannot stake a claim to being lesbian or gay; but the slippage between identifying individuals who are not out simultaneously as gay or lesbian reveals that these identities are seen by many of these authors as firmly in place prior to the act of coming out. In keeping with some of the theoretical work drawn on here, what might be gained if we were to see the coming out process as something that could not possibly be settled in advance? What other narratives might emerge that would actually open up the possibilities for subject formation?

Arendt was wary of conceiving of the self as something prior to its actions because of "the development of the moral, responsible subject" (Honig 1993: 78) that results. "A subject that is chronologically and ontologically prior to the appearance of his actions [is] symptomatic of the moralists' destructive and ultimately nihilistic need to control behavior" (Honig 78). In the passages on coming



out that open this chapter, I detect traces of the ways in which the political demands placed on those subjects constituted by homosexual desire to perform such public self disclosures speaks to a political climate in which sexuality and sexual identity have increasingly become a program for sex, where the construction of prescriptive protocols for action (moral and ethical imperatives) accompanies the calls for individual and collective liberation. These socially mandated forms of behaviour are so at odds with a liberatory agenda of sexual politics that it behooves these theorists and activists to explain how such calls promote the principle of choice that has always been a foundation of liberal or even a radical sexual politics.

### **7.5 Storytelling and Visiting: Beyond the Testimonial "I am a Homosexual"**

I want to start this section with a little story-telling about a coming out encounter I had in academia. During a round-table seminar I participated in on the politics of teaching sexuality in the classroom, I got into a very heated debate with a well-known gay male academic about whether or not gay and lesbian academics have an obligation (ethical?) to "come out" to their students and in their classrooms. I vehemently opposed this stance, and was subsequently told in this public forum by this particular academic that he no longer considered me a role model to my students.

My opposition to this position is twofold. First of all, coming out is not an option for me -- I am not "in" when I step into the classroom, or many other public spaces. A holdover of a previous generation of political agitators, we need to resist such a linear and singular form of self-declaration because it forecloses a whole host of other possibilities for being out that do not subscribe to the simple testimonial. It forecloses, in other words, other identity practices. All matters of sexual identity are

reduced to the linguistic moment, to the speech act "I am a homosexual" as the *conditio sine qua non* for the gay subject.

Secondly, and more importantly, this type of performative in the pedagogical environment of the classroom (and perhaps in other public and private spaces as well) partakes of the dangerous practice of assuming that we can speak "as a . . ." (fill in the blank). If one declares "I am a homosexual" in the classroom, the context for this declaration most certainly must be a discussion of sexuality or sexual politics, or some topic that would elicit this response. This being the case, declaring oneself through such identity practices, through such speech acts in the classroom, risks being not only a moment of self-legitimation (as if our classrooms are the arena to work out of our private issues <sup>16</sup>) but of constructing our words about the subjects that identify and define us (sexuality) as the truth. One of the pitfalls of earlier feminist work, premised on the belief that one can -- indeed, must -- speak "as a woman," was that such a stance conditioned all utterances about women (and the structures working against them) as truth claims based on experience and hence not subject to critique. Insisting that one must come out in the classroom risks reproducing the power games recent feminism has taught us to be wary of (see Brown 1995).

As one way to address these limitations in the narratives of coming out, I develop the concepts of visiting and storytelling as potential alternatives to the

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<sup>16</sup> On this trend, especially prevalent in gay, lesbian, queer and transgendered studies, see Robin Wilson, "To Sir -- Uh, Madam -- With Love" (1998), about transgendered studies in North American Universities. In reference to York University philosophy professor Michael A. Gilbert, who is also transsexual, we are told that "[w]hen he appears in drag [sic] this semester, it will be the second time that he has introduced students in his 'Gender and Sexuality' course to a side of himself that he had kept hidden for nearly 50 years. 'Having tenure is a two-edged sword,' he says. 'It means I can't be fired. But when it's appropriate, it's also incumbent upon me to take a risk and stick my neck out. My main goal is to provide an openness for transgendered people.'" For a discussion of identity in the classroom, see Joan W. Scott, "The Rhetoric of Crisis in Higher Education" (1995), esp. pp. 299-300.

simple self-declaration. In Hannah Arendt and the Limits of Philosophy, Lisa J. Disch begins with a discussion of the concept "storytelling," which she argues is one of the most overlooked and yet one of the most promising categories in Arendt's work.<sup>17</sup> Arendt's critique of the formations of the self and community in and through the practices of storytelling offers a powerful moment for the politics of coming out. In place of truth, which we have seen is central to the coming out narrative, storytelling allows us to valorize the contingency of action while simultaneously insisting on action's political dimensions. It allows a space in which to valorize experience but one that is not conditioned by the limiting parameters of moral imperatives.

Arendtian storytelling is propelled against a traditional understanding of the term; that is, it is distinct from the simple testimonial. As testimonial, this traditional conceptualization of storytelling contains a disciplinary element that sets out and conditions the "communal norms in a way that insulates them from questioning" (Disch 1994: 5). In reference to Alisdair MacIntyre's After Virtue, Disch suggests that storytelling in this form is simply and only a means to situate the self in the world (Disch 1994: 4). And in reference to Lyotard's The Postmodern Condition, she argues that the traditional function of storytelling is as an act of self-legitimation, and that these narratives of the self "define what has the right to be said and done in the culture in question, and since they are themselves part of that culture, they are legitimated by the simple fact that they do what they do" (see Lyotard 20).

As a form of storytelling, coming out shares in many respects the more traditional aspect of this concept -- that is, those associated with the testimonial. According to Disch, "[a] testimonial is self-expressive: it asserts 'this is the way I see the world.' The testifier wants to be heard and to be responded to with emphatic

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<sup>17</sup> See especially Arendt's Lectures on Kant's Political Philosophy (1982) 43.

affirmation.” (Disch 1994: 13). All of the elements are there in the coming out narrative: it is self-expressive; it asserts that this is the way I see the world; and it demands nothing if not affirmation by others. In contrast to the simple testimonial, “a story exhorts its auditor to ‘go visiting,’ asking ‘how could you see the world if you saw it from my position” (Disch 1994: 13).<sup>18</sup> In other words, storytelling refuses to see the self as the origin and the telos of politics. It demands that we leave the self behind momentarily, and that we understand that the action it can promote is about something more than demands for self-affirmation. This is a promising enterprise for the politics of coming out.

Asserting storytelling as a strategy for theorizing, Disch argues for the importance of Arendt’s concept because of its ability to bring important insights to bear on the relationship between critical understanding and the question of experience, which is central to a cultural movement based on sexuality generally and the question of coming out specifically. Suggesting that storytelling can bridge the gap between poststructuralist critiques that discredit experience altogether and early feminist positions that seek to speak from the position of marginality, from the voice of the subaltern’s experience, Disch asks: “[i]s it possible to account for storytelling as a practice of critical understanding without recourse to the kind of Archimedean pronouncements that stories claim to unmask or to essentialist claims about the sincerity and authenticity of the marginal scholar?” (Disch 1994: 11). Anticipating early feminist projects as well as later poststructuralist interventions, Disch argues that Arendt identified a way out of this conceptual trap through her use of

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<sup>18</sup> For this understanding of storytelling, Disch draws on Alisdair MacIntyre’s After Virtue and Jean-François Lyotard’s The Postmodern Condition. On the distinction between testimony and confession in the context of HIV/AIDS, see Gregg Bordowitz, “Dense Moments” (1994), where Bordowitz advocates testimony in his autobiographical account. See also the essays in the volume from which this essay comes, Uncontrollable Bodies: Testimonies of Identity and Culture (1994; eds. Rodney Sappington and Tyler Stallings).

storytelling, which is "neither as a vehicle for the authentic critical voice of the oppressed nor as a means by which endlessly to postpone the authoritative moment that is necessary to criticism and to action" (Disch 1994: 2).

This is useful for the politics of coming out because, while it is incumbent upon us to critique reliance on experience as a strategy for theorizing and for political action, coming out cannot be conceived as political without to some extent relying on some notion of experience. Simply put, there could be no coming out if we evacuate experience altogether. A partial experientially-based politics is necessary for a movement that lacks a corporeal logic (to use Wiegman's [1997] phrase) -- hence the emphasis on the performative in queer theory, as well as the imperative to come out. On the other hand, while necessarily relying on experience, coming out often reinstates the problematic presumption that "the voices of margins" offer the most advantageous position from which to speak and effect social change, that visibility (and its positive correlates) necessarily arises from the possibility that we tell the truth about ourselves through the testimonial "I am a homosexual." In this way, storytelling can help bridge the gap between already constituted, authentic identities -- homosexual -- and the need for some form of public assertion about alternative narratives of the sexual in a culture that is finally moving away from previously limiting identities.

Echoing Disch's discussion of the consequences of the testimonial -- particularly the disciplinary element that conditions communal norms -- Margaret Canovan suggests that, in her nostalgia for the Greek polis, Arendt "regretted the loss not of communal warmth but of the fierce light of the agora" (Canovan 1996: 13); her disdain for "the social" in the modern era was conditioned by "the collective life process of a herd of human animals suffering too much togetherness rather than too little" (13). This desire for "[r]omantic communal ideals (right or left) . . . for

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communal warmth . . . generated a stultifying conformity that made it impossible for individuals to take up different points of view" (13).

As we saw in Chapter One, romantic communal ideals inform a good deal of the discourse of cultural studies, and it is this ideal that informs as well part of the political impetus of the coming out narrative. Though she does not address coming out directly, Elspeth Probyn, in Sexing the Self (1993), offers critiques of the self and questions of experience that are motivated by similar concerns mentioned above in relation to Disch. Specifically, Probyn is interested in articulating a politics that can hold onto experiences of the self without slipping back into definitions of the self as authenticity. Despite these similarities, storytelling and its concerns with communal belonging differs quite markedly from Probyn's account, and can actually circumvent some of the problems found here. Like Disch's interpretations of Arendt, Probyn wants neither to evacuate experience altogether nor to keep the experiences of the self within the registers of "authenticity, truth, and individuality." She articulates instead a self that privileges the "experience of the self as a double movement between ontology and epistemology:" "As one way of placing the self, I argue that it should be seen as a mode of holding together the epistemological and the ontological. I want to emphasize the importance of ontological moments of recognition -- moments when I realize my gendered being. Consequently, I argue that the ontological must be met with an epistemological analysis" (4).

Drawing heavily on Foucault's technologies of the self ("le souci de soi"), Probyn reiterates many of the problems Rosemary Hennessy identifies with this aspect of Foucauldian-based work in queer and gender theory (discussed in Chapter One). Specifically, the return of the sovereign subject in Foucault's understanding of the self as a work of art and in its correlate, identities as performative signification anchored in individual psychic histories (Hennessy). For Probyn, the self is an "art of living" (128); the importance of "stylizing oneself" as "an act of existence" (125) is

emphasized. The self is seen as "a substance to be stylized" for the "possibility of a creative life" (117). In reference to an article by Dick Hebdige ("Some Sons and Their Fathers" 1985), Probyn extends this art of the self so that "we can stand up and say this is who I am and where I come from" (Hebdige; qtd. in Probyn 133). From these struggles emerge the possibility that "we want to own ourselves at last. To own our own voices." "What counts now as always is collective action" (Hebdige; qtd. in Probyn 133). Probyn adds that the way to articulate this collective action is through "the construction of different modalities of the self" (133-134). "This self can provide a place to speak from" (135).

This double movement between ontology and epistemology stems from Probyn's desire to hold onto the self and the other in the communal embrace of difference. This is made clear in her discussion of feminist work that fails to bring the self and the other together. In a reference to the feminist autobiographical writing of Nancy K. Miller (1991), Probyn bemoans the fact that this form of intervention is insufficient for feminist projects because "her text cannot reach into my context" (145). In other words, a truly emancipatory use of the self is its ability to recognize and voice its own ontology without being so solipsistic that it cannot move beyond the self and speak in collective ways. It can, in short, embrace the other in and through a stylization of the self. As a traditional form of storytelling -- the testimonial "this is who I am and where I come from" -- Probyn's use of the self is to situate the self in the world and to have one's voice heard such that collective action can be enabled. Though she does not make reference to it, this is precisely the logic of the coming out narrative: a double movement of owning oneself and collective action. Her celebration of those "moments when I recognize my gendered being" is the gender equivalent of coming out, the penultimate moment of realization of one's sexual self. In this sense coming out is the testimonial par excellence.

What this comparison suggests is that, in both cases, one of the more problematic aspects of these conceptualizations of the self is its indebtedness to ideas of communal warmth, which, at least in Probyn, is a legacy of the early formations in cultural studies (it is significant that Probyn draws on Raymond Williams and Dick Hebdige). By conceiving of these practices of the self as a form of testimonial we can begin to see more clearly some of the stakes involved in the desire for a politics motivated in part by feelings of belonging, solidarity, and community building: it sets out and conditions the behaviours and possibilities for already constituted subjects.

In the desire to construct homosexuality as one viable and valid option among many, Vaid, Kaplan, and Blasius, to name only the authors I have referenced, simultaneously argue that we have an ethical obligation to our community to come out. Framed from the perspective of the testimonial, this severely limits how subjects can and do construct themselves politically in ways that are more ambiguous and perhaps more productive than the coming out narrative; it absents the inherent messiness of our public-private selves and returns all the responsibility for failures and disappointments back onto the subjects it seeks to help.

In a sense, this embrace of the self and the other in Probyn resonates with the concept of visiting, part of the philosophy of storytelling that can be defined as “[p]utting oneself in another’s shoes,” which is for Arendt a “hallmark of political thinking” (Pitkin 270). As early as Rahel Varnhagen, Arendt recognized that “[u]nderstanding is rationality which takes account of others and nevertheless retains its independence as an aspect of humanity” (1957:124). A similar call is found in her highly controversial Eichmann in Jerusalem, where she recognizes the importance of the ability to “think from the standpoint of somebody else” (49), for Eichmann’s fatal “flaw” was “his almost total inability to ever look at anything from the other fellow’s point of view” (47-48). Is this different or similar to what is implied



in Probyn's comment that "her text cannot reach into my context," which seems to suggest the need to put oneself in the shoes of another?

Recalling Probyn's critique of Spivak, what Probyn usefully refers to as the "postmodern ploy" of asking subjects to de-hegemonize their positions and take up the position of the other, we might see visiting as a rather naive understanding of power.<sup>19</sup> There is nonetheless an important and fundamental difference between the concept of visiting and the politics of the self that Probyn and practices like coming out call for. In contrast to these latter examples, the act of visiting demands that we momentarily leave the self behind and training one's imagination to "go visiting." In fact, it rejects altogether identities anchored in individual psychic histories. It has little or nothing to do with self-legitimation, and can circumvent some of the problems inherent in the ontological-epistemological claims about standing up and saying "this is who I am" and "where I come from."

There is, in other words, a certain unwillingness to let go of our right to such speech acts. Motivated in part by romantic communal ideals, coming out has always had certain well-intentioned aspects to it, to be sure. But in asserting coming out as a form of testimonial, which asserts that this is the way I see the world, it is simply an act of self-legitimation that defines what has the right to be said and done. To paraphrase some comments made earlier, political action is "self-surprising," in the sense that it is not always something we do but something that is done to us; it is not always something we simply decide to perform, as if it flows only from the self; it also "comes to us . . . in ways that are not deliberate, willful, or intended [and] . . . in ways that cannot be fully captured or captivated by agent-centred accounts"

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<sup>19</sup> It should be noted that Arendt does not conceptualize visiting through an understanding of power. It is motivated instead by her reverence for the plurality of the human condition. Though Arendt could be charged with failing to engage questions of power in this concept of visiting, her perspective does offer a refreshing alternative to the hegemonic/subordinate, oppressor/oppressed formula.

(Honig 1993: 120). Contrary to Butler, I would argue that holding onto the singular, agent-centred self-declaration involved in coming out is not an external threat to the operations of gay and lesbian politics but to the existence of a community that can accommodate internal antagonisms and dissent. Perhaps it is for this reason that few have taken on this sacred cow in any meaningfully critical ways. Though sexual identity does not have the luxury of non-disclosure that characterizes racial and gender based identities, we need to understand how being out is articulated in more subtle -- and more meaningful -- ways than simple self-testimonials "I am a homosexual" or "Yep, I'm Gay."

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## CONCLUSION

### Courting the Courts:

#### Same Sex Marriage and Its Narratives of Exclusion

*The people, well acquainted with their own true interests, would understand that, in order to profit from the advantages of the state, it is necessary to satisfy its requirements.*

--Alexis de Tocqueville, Democracy in America

*The state has no business in the bedrooms of the nation.*

--Pierre Elliot Trudeau, former Prime Minister of Canada

### 8.1 Same Sex Marriage: The Litmus Test For Gay Equality in the West

AS A CONCLUSION to the thesis, this chapter addresses a final and specific example of speaking for -- perhaps the quintessential one at this particular historical juncture -- within the context of rights and equality in North American gay and lesbian politics. Though it focuses on the discourse of same sex marriage within the confines of both Canada and the United States, this issue is significant beyond these geographic parametres. In many ways, Canada, and to a lesser extent, the United States, is following along trends that have been occurring in Europe, parts of Australia, and South Africa for quite some time.<sup>1</sup> Canada stands apart from the United States in this regard, since the American political system and a strong religious bloc are likely to produce more vehement opposition to gay marriage than anything we have or will see here. One might surmise that full gay marriage will be achieved in Canada long before it finds its way to our neighbours south of the

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<sup>1</sup> See E.J. Graff, "Same Sex Spouses in Canada." (1999). Graff points out that many Scandinavian countries have a special status for same sex couples called "registered partnerships," and that most citizens refer to these partnerships as "gay marriage."

border.<sup>2</sup> Though this chapter will not address these historical transformations, it is within this context that same sex marriage is a fitting and final example for this thesis as a whole. More significant than the fact that several European countries (especially Scandinavian countries like Denmark and the Netherlands) already permit something approximating gay marriage, and the fact that this is likely to increase there and elsewhere under the new European Union, is that, in the West more generally, same sex marriage seems to be the litmus test for how far our various societies are willing to go in the full recognition of gay and lesbian equality.

Examining the discourse of same sex marriage, and its narratives of exclusion, this chapter returns to some of the larger theoretical and political debates from the preceding chapters. Same sex marriage underscores not only the primacy of rights in gay and lesbian political discourse but perhaps more readily than any other topic the implications of a politics based on that from which we are excluded. As is evidenced in the passages dealt with here, an extreme version of resentment manifests itself around this highly charged personal, political, and symbolic site. As with the other cases of rights throughout, I argue neither for nor against same sex marriage, but for a richer understanding of what does not get asked within the present terms of the debate. To this end, I offer an analysis of the case for same sex marriage in terms of the limitations of rights for the constitution of the gay and lesbian subject. Though the extension of such rights to gays and lesbians is said to be about the universal virtues of human worth and dignity, they are also about utility, about what kind of homosexual subject is considered useful in the present social and cultural milieu.

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<sup>2</sup> On this, see E.J. Graff. Of course, there is still a good deal of opposition to same sex spousal rights in Canada. See for example, "Is Marriage Passé?" (2000), which argues that gay and lesbian people are inherently promiscuous and therefore unworthy of legally recognized marriage. The current government, however, believes it is speaking for the majority in arguing that Canada wants same sex rights to be increased.

## 8.2 Same Sex Spousal Rights in Canada: A Victory For Gays and Lesbians?

On 20 May, 1999, the Supreme Court of Canada ruled in an unprecedented and far-reaching case that the term "spouse" is discriminatory in Canadian family law because it excludes same sex couples. For the purposes of such law, same sex partners are now considered common law spouses, equal in all respects to their heterosexual counterparts. It is up to the discretion of individual provinces how this ruling will be interpreted in the legislation and which laws will be affected, but it was hailed as a landmark victory for gay and lesbian rights not only in Canada but in the West more generally, catching the attention of human rights observers and gay rights activists worldwide.<sup>3</sup> As the Globe and Mail reports, "[t]he struggle for gay rights took a historic leap . . . with the landmark . . . decision" (Makin 1999). With a touch of national envy, one American similarly suggests that "Canada took a breathtaking leap forward in lesbian and gay rights . . . leaving its southern neighbor in the dust" (Graff).

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<sup>3</sup> On the specifics of this case, see my footnote 2 in Chapter One. See also Jonathan Gatehouse, "Landmark Gay Ruling Could Affect 1,000 Laws" (1999), and Kirk Makin, "Gay Couples Win Rights" (1999). A similarly significant case in the United States, known as Baehr v. Lewin, was handed down in Hawaii on May 5, 1993. The Hawaii Supreme Court ruled that the state's marriage statute discriminates on the basis of sex because it restricts the benefits of marriage to male-female couples. Under the conditions of Hawaii's state constitution, such discrimination can be deemed acceptable only if it can be proven that it serves a vital state interest. This is the furthest the U.S. has gone in terms of same sex marriage. The Defense of Marriage Act (DOMA), passed by Congress in late 1996, ensured that no state is obliged to recognize same sex marriage if any other state does so. See Ken I. Kersch, "Full Faith and Credit for Same Sex Marriages?" (1997); Donna Dennis, "Justify Our Love" (1996); John Gallagher, "What Hawaii's Marriage Decision Really Means" (1997); and Shauna Maile O'Donnell, "A New Choreography of Sexual Difference; Or Just the Same Old Song and Dance?" (1995), which argues that the ruling in Baehr "can be viewed as a different sort of adherence to a 'Don't Ask, Don't Tell' policy. Gay men and women may indeed have the right to marry, as long as they don't insist on having their homosexuality and its practice recognized" (103).

Theoretically, I start with this case to open up once again the language of rights in order to better articulate not only what we have to gain but what might be lost in the process of their achievement. Drawing on Mary Ann Glendon's comment that "[r]ights language not only seems to filter out other discourses; it simultaneously infiltrates them" (177), this case is a springboard for considering the narratives of exclusion within the discourses for same sex marriage. Though certainly a highly significant ruling both materially and symbolically, it is important to point out here that this historic leap does not mean that gay and lesbian couples can now marry. The ruling simply applies to the legal rights and responsibilities of those couples who live in common law relationships; on this front, gays and lesbians are now considered fully equal in the eyes of the law.

In fact, the Canadian federal government has ensured that same sex couples will be banned from the institution of marriage, at least for now. In other words, what the debates around same sex spousal rights filter out is the very notion of marriage itself. Many months following this ruling, the federal government tabled and passed legislation not only to enact these legal protections but to restrict provision for lesbian or gay marriage and to restrict the term "spouse" to heterosexual married couples. It is only through opposition to the initial ruling that this has come to be about marriage at all. In its original form, the ruling only stipulated the distinction between unmarried and married couples. Now, with the amendment, it is about defining marriage as "the lawful union of one man and one woman to the exclusion of all others." <sup>4</sup> This is ironic, given that, in the context of

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<sup>4</sup> The legislation, known as Bill C-23, was passed on 11 February, 2000. Justice Minister Anne McLellan has been quoted as saying that this measure is to "reassure the public" that "this does not change the definition of marriage" (qtd. in Juliet O'Neil). In other words, gays and lesbians are once again excluded from this definition of the public even in the context in which their rights are being championed. See also Chwialkowska, "Liberals Poised to Entrench Same-Sex Rights" (2000); "Wave of Same-Sex Court Decisions Left Ottawa Little Choice" (2000);

the Supreme Court of Canada ruling, this victory was achieved in part because, as one commentator says, Canadian activists and legal experts "avoid[ed] the veil-trailing, hymen-breaking, hysteria-inducing M-word" (Graff). "We argued throughout the case that this had nothing to do with marriage," says legal counsel Martha McCarthy, representing "M" in M. v. H. (qtd. in Graff). It is only through the promotion of the idea that same sex rights are not the same thing as access to the legitimizing institution of marriage that we are inching toward marriage in the first place. The initial absence of the M-word, and its introduction through opposition to the ruling, is more than simply an ironic exclusionary narrative; it tells us a great deal about what exactly the nature of this victory is. As I hope to demonstrate, it is as much a victory for gay and lesbian equality as it is for the cultural politics of rights.

As has been the case historically in Canada, the Government of Quebec was the first to act on this ruling, quickly setting in motion amendments to hundreds of laws and regulations concerning the status of same sex partners in the province of Quebec. Known as Bill 32, which was passed on June 10, 1999, Quebec became the first province in Canada to confer "the same rights, the same privileges, and the same obligations" to same sex partners, now considered common law spouses under the new law, as those already conferred on heterosexual common law partners.<sup>5</sup>

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Mitchel Raphael, "Who Needs A Spouse in the House?" (2000); Juliet O'Neil, "Amendment To Same-Sex Benefits Law Sparks Ruckus" (2000); and Ron Chaplin, "Bill C-53 [sic] Gives Marriage Short Shrift" (2000).

<sup>5</sup> Quebec was the first jurisdiction not only in Canada but in North America to enshrine gay rights when it included sexual orientation protection in its Charter of Human Rights in 1977. The inclusion came as a result of protests following a number of raids on bars and clubs in Quebec and Ontario in the mid 1970s. Ontario passed sexual orientation protection in late 1986. See Gary Kinsman, The Regulation of Desire: Sexuality In Canada (1987: 206; 213).

In order to inform gay and lesbian citizens in Quebec of this new law, the provincial government launched, in the summer of 1999, a media campaign coinciding with Gay Pride week in Montreal. The campaign, which included posters, pamphlets, and newspaper advertisements, offered the slogan "Gender is no longer an issue."<sup>6</sup> In other words, the government of Quebec will no longer discriminate on the basis of the categories male or female, reminding us that, in la belle province, male-male or female-female couples are now equivalent to male-female common law couples. As if to underscore this, the image accompanying the slogan features the depiction of a face, split down the middle, with one side that of a young woman, the other side that of a young man -- though both sides of the image are highly androgynous in terms of depictions of masculinity and femininity.

Whether or not the Supreme Court ruling and its enactment in various provincial jurisdictions is in the long run beneficial or detrimental to gays and lesbians in Canada is not what interests me here. This is not an argument for or against same sex spousal rights or even gay marriage. Nor do I want to suggest that the achievements of such rights are not liberating enterprises.<sup>7</sup> Rather, what concerns me is the treatment of this case and all that it implies when hailed unequivocally as a victory for gays and lesbians. Just as the very notion of marriage

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<sup>6</sup> This campaign was launched in both English and French. The French slogan, "Le sexe n'a plus d'importance," similarly connotes gender. The ads appeared in the English and French alternative news weeklies *Voir*, *Hour*, *Ici*, and the *Mirror*, in their special Gay Pride Issues (see for example *Mirror*, 29 July 1999: 31; and *Ici*, 29 July 1999: 25). It also appeared on posters in the gay region of downtown Montreal known as The Village, and on flyers distributed during Gay Pride. Information is also available on the Government of Quebec website at [www.justice.gouv.qc.ca](http://www.justice.gouv.qc.ca).

<sup>7</sup> For this type of argument, see Thomas B. Stoddard, "Why Gay People Should Seek the Right to Marry" (1992), and its companion piece by Paula A. Ettlebrick, "Since When is Marriage a Path to Liberation?" (1992) in the collection *Lesbian and Gay Marriage: Private Commitments, Public Ceremonies*. See also Andrew Coyne and David Frum, "How Far Do We Take Gay Rights? (1995), one arguing for and one against same sex marriage. For a discussion of the fact that marriage in general is in decline, see Jane Gadd, "All Alone? You've Got Company" (1998).



is filtered out of the discourse of same sex marriage, this media campaign filters out another important element, that of sexuality.

In saying that "Gender is no longer an issue" in the advertisements for Bill 32, what rights talk filters out is obvious: it will likely come as a surprise to many feminists that gender no longer matters. But this case filters out another discourse, more ironic than the erasure of gender. For, in declaring that gender is no longer an issue, the government of Quebec does not need to say that sexuality is.<sup>8</sup> Of course both gender and sexuality matter, because the irony of the debates about same sex spousal rights and their apex, gay marriage, is that gay and lesbians do have the right to marry. What we don't have in our culture is the right for two people of the same sex to marry each other, something that is not limited to gays and lesbians. It is also about more than sexuality and gender. For what is at stake here is not the extension of human dignity to gays and lesbians, but the extension of rights, duties and obligations to a new kind of couple, the committed, legally recognized, homosexual couple.<sup>9</sup>

Moreover, though this ruling is declared a victory for gays and lesbians in Canada, it is rarely acknowledged in the media discourse surrounding it that this means not only that we are considered equal to common law heterosexual couples in the eyes of the law, but that along with such victory come not only rights and

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<sup>8</sup> I am grateful to Chantal Nadeau for her reading of the campaign slogan and for allowing me to use it here. See Nadeau "Citizen Beaver" (1999).

<sup>9</sup> The next logical step following gay marriage is the extension of these rights, responsibilities and obligations to "couples" who cohabit but are not sexually involved. If we sanction male-male, female-female, and male-female relationships that are sexual, why not extend this to include two women or two men who share a household but are not sexual? If gender is no longer an issue, then why should sexual intercourse be? I think the answer has to do with the fact that our culture still privileges sexual subjects who in theory decided to live in pairs, as opposed to other possibilities. Indeed, the case is already being made that same sex spouse discriminates on the grounds of having sex (see below).

privileges but obligations and responsibilities as well. The Quebec media campaign is exceptional in this regard, pointing out what is absent in many if not most responses to this issue. The mission statement of the Partner's Task Force for Gay & Lesbian Couples, based in Seattle, Wa., states for example that "[g]ay and lesbian couples are families who need and deserve the same rights and privileges accorded opposite sex married couples." <sup>10</sup> From the perspective of legitimation, the impulse for the legalization of gay marriage can be summed up as follows: "Ultimately what is at stake . . . is the acceptance of the moral legitimacy of the shared ways of life of lesbian and gay citizens" (Kaplan 209). In basing claims for same sex marriage on inclusion to an institution that has been denied to gays and lesbians, questions of the obligations and responsibilities that come with this form acceptance get filtered out. In other words, the primary focus tends to be on rights and privileges at the expense of other considerations.

A similar sentiment was expressed in an e-mail petition regarding a gay rights ruling in the United States. Like the ruling by the Supreme Court of Canada, the Supreme Court of Vermont has also ruled that same sex partners should be treated in the eyes of the law as equal to different sex partners. In response to opposition to this ruling, an email petition was circulated, which I want to quote in full here because it is so revealing on a number of levels. The following is the statement accompanying the petition:

As you may know, the Supreme Court of Vermont recently ruled that committed homosexual relationships should have the same rights and privileges afforded to married straight couples. There are over 1,000 rights

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<sup>10</sup> See their website at [www.buddybuddy.com](http://www.buddybuddy.com). When I phoned them to request a copy of their video "The Right to Marry" for research, I said, I was doing on same sex marriage, I was told by the person on the other end of the phone that they prefer to call it simply "marriage" so as not to accentuate the difference.

that come with marriage which are currently denied to gay couples, including hospital visitations/medical decisions, rights of survivorship, filing joint tax returns, etc., etc., etc. This is a VERY important first step toward equality in America. However, the Governor's Office of Vermont has been BOMBARDED with phone calls by anti-gay individuals opposing the recent decision (caps in original).

The petition being sent to the Office of the Governor offers the following statement:

"We the undersigned deeply support your move to have equal rights for same sex partners. You have taken an historical step towards mending the many fractures that divide our society."<sup>11</sup>

Though by now commonplace, this filtering out of the language of responsibility reveals a number of other things. First of all, the slippage from "committed homosexual couples" to "marriage" in the next line of the statement seems to suggest that with these rights comes the symbolic legitimacy of the institution of marriage. As is the case with the Supreme Court of Canada ruling, this decision in Vermont has nothing to do with marriage. Additionally, the very term "committed homosexual couples" underscores the exclusionary practices that such rulings entail, making this questionable in terms of an historical step toward mending the fractures in society. In fact, the fractures being mended have less to do with those between gays and straights than between committed couples -- gay or straight -- and their opposite, whatever that may be. Again, this is as much about extending rights, privileges, and responsibilities to homosexuals as it is about extending the privileges of the culture of the couple.<sup>12</sup> If that is seen as a good thing, then so be

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<sup>11</sup> Received via e-mail, 2 February 2000. [URL address]

<sup>12</sup> A quote in his obituary in The Globe and Mail from long-time same sex spousal rights activist James Egan underscores the operations of this. Egan is quoted from an previous 1994 Globe interview as saying: "There's very little difference between us [Egan and long-time partner John Nesbit] and a married couple. We vacuum the rugs and cut the lawn and go shopping and pay our taxes just like real people" (qtd. in Donn Downey 2000). To paraphrase Elizabeth Grosz (1994), mentioned later, the married couple is the pivot and frame of reference for these other sexualities. What goes unquestioned is why "real" is constituted in these ways.

it; it is not, however, simply and unequivocally about equality for gays and lesbians in America.

Most importantly, there is one more thing going on here that has serious implications in terms of the politics of speaking for. We are told in the above statement that the Office of the Governor is being inundated with phone calls by "anti-gay individuals opposing the recent decision." Evidence not only of what Glendon identifies as the tendency of every social conflict to get framed as a "clash of rights," the corollary of this is that, if you are gay, it is already assumed you will be supportive of such rulings. This is why such petitions are sent to the individuals that they are, and why similar petitions have been sent in the past: you are gay; therefore, you have the profile of someone likely to support same sex partner rights.

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What I am suggesting is that, though it is customary now to make the argument in both academic and popular discourses that "the New Right" has worked toward the "organization of consent among gays and lesbians" and that this "pretend [or pseudo] consensus is . . . necessary rather than accidental to New Right discourse" (Anna Marie Smith), the same logic enacted by gays and lesbians themselves is seldom considered.<sup>14</sup> In other words, a form of pseudo consensus is produced in the context of gay rights that seldom invites disagreement on the part of those whom such rights represent. To open up the conversation to that level would require that we resist the exclusionary foundation of the politics of rights, one based

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<sup>13</sup> A similar e-mail petition was circulating following the death of Mathew Shepard, asking to lend support in demanding that gays and lesbians be included in federal hate crimes protection legislation in the U.S.

<sup>14</sup> Smith is referring specifically here to the promotion of the prohibition of homosexuality in Britain and the production, by the Right, of presumed consent on the part of gays and lesbians about what constitutes the "good homosexual." See my introduction to Chapter Seven.

on a gay-straight continuum. It would require that we consider some of the other exclusionary practices these debates engender, particularly the reinforcement of the culture of the couple at the expense of other kinds of relationships.

### **8.3 From Negative to Positive Liberty?**

The limitation of this case as a victory for gays and lesbians can be illustrated if we consider it in light of the idea of negative versus positive liberty. Traditionally, the former is defined as the right to be left alone by the state; the latter is defined by a belief in the need to be helped by the state.<sup>15</sup> Gay liberation, at least since its inception in the 1950s and certainly since the pivotal moment of the Stonewall riots in New York City in June, 1969, could be considered as arising from and supporting a distinct version of negative liberty. The aim of those early agitations was to keep the state generally and the police specifically out of the sexual and personal lives of gay men and women. The state, the era declared, has no business in the bedrooms, bars, and discotheques of the nation. Liberation conceived in these terms meant an insistence that sexuality was a private matter, that the courts should be less involved with the actions of consenting adults, and that individuals and groups need and deserve places to congregate without harassment. From anti-sodomy laws to discrimination in housing and employment, what was desired was getting the government off the backs of gays and lesbians.<sup>16</sup>

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<sup>15</sup> On this, see Isaiah Berlin, Four Essays on Liberty (1969).

<sup>16</sup> Gay rights in the United States in the 1950s was primarily about public spaces, the right to liquor licenses and the right to be free from police harassment in these spaces. It was not about individuals in private. See Vaid 131. "We appear to endorse the very ideas of more government, federalism, and civil rights that many people are today rejecting" (Vaid 1995: 186).

Increasingly, gay rights have moved toward a more positive conception of liberty, in the sense that they are now about actively seeking the help of the state not only to push along the legitimacy of gay and lesbian sexuality -- and their couplings -- but to intervene in the areas of our lives that were formerly considered private, beyond the purview of government. Moreover, such invitations are invariably being referred to in the popular discourse as victories for gays and lesbians. These successes are victories for gay and lesbian equality to the extent that "we" are now considered in many ways equal to straights in the eyes of the law. To be sure, the conferring of legitimacy will resonate beyond the realm of law. But these successes do little to challenge the kinds of subjects that are being produced, and what kind of relationships such subjects are forming with these institutions. The goal of legalized marriage for same sex couples is the most obvious and extreme example of this turn in gay politics to a positive conception of liberty, and it is not without consequences.

Considering same sex spousal rights and gay marriage as symptomatic of larger developments in gay and lesbian politics, where state-proffered rights are intimately linked with emotional, sexual, and personal associations, we could say, historically speaking, that there is now a courting of the courts afoot, where equality -- and presumably more freedom -- is being sought through two institutions (marriage and the state) that are not necessarily and automatically about the extension of more freedom to citizens. Though a logical step in the broader political culture in which such rights exist, this is about more than simply inviting the courts into the bedrooms and the households of the nation. It is about equating the social and personal effects of rights with aspects of personhood, in ways that so many rights cases illustrate is a tenuous relationship at best. As I will mention, the idea that same sex spousal rights are about issues of human dignity, one example of the intimate being linked with rights, denies some other important considerations.

To paraphrase Tocqueville, in order to share in the benefits of the state, we must also satisfy its requirements. In the case of same sex spousal rights, along with things like shared tax benefits come some fuzzy parameters about personal and sexual conduct. What gets filtered out here is that, if marriage were achieved, we would also be subject to the state dictating what constitutes proper conjugal relations -- that is, what kind of behaviour is considered unacceptable and grounds for the breakup of the union. Generally speaking, the only thing we can be certain gay marriage would achieve is, as one commentator puts it, "a bonanza for attorneys specializing in gay divorce" (Fenton Johnson 1996: 45). Or, in light of the pervasive culture of rights on which such claims are staked, that "[t]he road to freedom for gays and lesbians [will be] paved with lawsuits" (spokesperson for the National Center for Lesbian Rights in the U.S.; qtd. in Wendy Brown 1995: 3).

It has been argued that the extension of such rights to include gays and lesbians is less about matters of human dignity than about individual choice. Gays and lesbians, like other citizens, should be free to choose if they want to have their relationships officially sanctioned through marriage, and all that comes with such a decision. As Morris B. Kaplan suggests in the context of a discussion of gay marriage and "intimate associations," "[f]reedom of choice is a necessary component in legitimizing institutions within democratic societies, but decisions require embodiments in social practices and institutions if individuals are to flourish. . . . a society that truly values individual freedom must eventually recognize a diversity of shared forms of life" (223). He is referring here of course to the increased choice the extension of marriage to gays and lesbians would provide. And it should be pointed out that gays and lesbians (as well as straights) always have the option to opt out of the institution of marriage, should it be fully extended. Few are insisting that we have to take advantage of such offers.

But this misses an important point, and is where the abstract notions of choice and democratic freedom get tangled up with litigious realities. Once two men or two women who are sexually involved with each other have lived together for a certain amount of time (twelve months in some jurisdictions), they are automatically considered common law spouses, and all the rights and obligations that come with this new victory of inclusion are applied not by way of individual choice but by the provincial government. In Quebec for example, gays and lesbians no longer have the "choice" of deciding how things like pensions and support payments will be dealt with. When we shift emphasis from "intimate associations" to the institutions of government, the notion of choice is problematized, and is given a different valuation than what Kaplan implies by the term.

Lillian Faderman (1997), gay historian and columnist for The Advocate, illustrates this invitation to the courts in an argument for same sex marriage.<sup>17</sup> She does so not by arguing that we need marriage because it is simply part of the unfinished business of American democracy but because of the trials and tribulations of love: we can be just as nasty in our relationships and our breakups as straights, and Faderman welcomes the hand of the law to intervene when our unions go awry. "It is not surprising," she writes, "that when passions grow cold, rancor often takes over. Though our better, more dispassionate selves may wholeheartedly support decency and justice, it's just not human nature to want to be nice to someone who has reminded us that romantic love can be as finite as mortal life." Drawing on a narrative of exclusion, she concludes that, unlike heterosexuals, who have the luxury, privilege, and protection of divorce, gays and lesbians can be "as nasty to each other as we damn well please" when our unions end (80). For this reason, Faderman encourages us to invent ways for ourselves to deal ethically with each

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<sup>17</sup> Faderman is best known for her history of lesbianism in contemporary American culture. See her Odd Girls and Twilight Lovers (1991).



other, until, that is, our unions are legal recognized, when we can avail ourselves of the same protections as heterosexuals (80).

Rather than a cautionary comment on the disciplinary implications of legalized marriage, Faderman is suggesting not only that gays and lesbians deserve the privilege of protection from the state when love turns to rancor -- she wants the law to stop us -- but that the firm hand of the law should eventually step in to do what human nature seems to indicate we (that is, human beings) are incapable of doing anyhow: being civil with each other when we fall out of love. Now the basis for exclusion is being extended further, not simply that gays and lesbians cannot take advantage of marriage but that they also cannot avail themselves of divorce.

#### **8.4 Rights and/as Human Dignity**

The political implications of the Supreme Court of Canada ruling can be seen in relationship to the category of "human dignity" on which it is based and which is assumed to result from it. Though this ruling has little to do with human dignity, the very notion reveals that, if this is a victory for gays and lesbians, it is also a triumph for the cultural politics of rights: human dignity is less about "our right to love" than it is about the privileges and responsibilities that come with rights. The Supreme Court ruling was based in part on a section of the Canadian Charter of Rights and Freedoms, which, though it does not include sexual orientation in any of its clauses, guarantees the right to human dignity. In the ruling, the court stated that the provincial statute of Ontario which bars same sex couples from common law rights gives the impression that gays and lesbians are "less worthy of recognition and protection" than other citizens and "therefore demeans their human dignity" (qtd. in Makin 1999). In other words, though "Gay Couples Win Rights" -- the front-page,

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above-the-fold headline in The Globe and Mail the day after the ruling (Makin 1999) - the basis of human dignity is not the right to walk down the aisle and signal to the world the love you have for your partner, and have the state recognize it as such, but the right to have support payments made to you by your more financially successful mate should he/she decide to leave you without a penny -- which is precisely what got this case rolling in the first place.

Considering that we are still not allowed the right to marry members of the same sex, and that we actually need to distance ourselves from the revered institution of marriage in order to be considered for basic common law rights, human dignity comes to be defined not in terms of legitimizing our unions through this highly symbolic site but in terms of the more mundane rights dealing with shared taxes, shared pensions, alimony, child support, immigration, wrongful-death benefits, and many other legal and economic issues facing cohabitation. Such rulings will not change the fact that gays and lesbians have for centuries been cohabiting with each other and building committed relationships; they will not change the fact that we have been dealing with the messy affairs of the human heart without assistance; they simply change the fact that there are now a lot more things -- mostly economic -- to be considered when deciding to shack up, or when deciding to end an already established relationship.<sup>18</sup>

The implications of assuming that marriage is automatically about human dignity is strikingly in evidence in a passage from Andrew Sullivan's Virtually Normal. Playing with the discourse of equivalents, the pitting of one group against another in order to make claims for basic civil rights (see Jane Schacter 1994, from whom I

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<sup>18</sup> It should be pointed out as well here that many heterosexuals decide to marry not simply for reasons of love and commitment but for the economic benefits. We need to remind ourselves of this when we base access to marriage solely on the issues of bonding. See for example William Watson, "Just Wed? Tax Rules Caused Winter Weddings" (1996).

borrow the term) Sullivan produces an extreme version of resentment. Drawing an equivalence between race and sexuality, he argues that homosexuality represents a more complex social identity than race, and that homosexuals are in many ways more oppressed in the United States than blacks are or ever were:

So the history of homosexuals is perhaps more complicated than that of many groups. This is not to say that it is less intense than that against, say, heterosexual blacks. But it is different. There was no slavery for homosexuals, for example; but even slaves, if they were heterosexual, were occasionally allowed the right to marry the person they loved. That right was often peremptorily taken away, but when it was, the hideousness of the injustice was clear. But that injustice is unavailable to homosexuals, because they haven't been deemed eligible for the institution of marriage in the first place; they have always been, from one particular perspective, beneath slaves. And they still are (Sullivan1995: 154; emphasis added).

Though Sullivan recognizes that it is "perhaps foolish" to question whether it is "worse . . . to be brutalized by the color of one's skin, but be allowed the basic bonds of human affection and commitment that make life worth living; or to be born into equality, but to be denied the emotional integrity that can lead to the most happiness" (154), it is not foolish, he says, but "crucial . . . to make distinctions among predicaments, so that our political and social responses can be appropriate" (154). That lack of access to marriage for certain individuals and the history of slavery in the United States can be referred to in the same breath as predicaments is telling. And, like the passage from Faderman above, it is significant that injustice is now framed as another form of discrimination.

There are a number of distinctions that need to be made here in response to Sullivan's arguments. He is right to claim that "we" (that is, Caucasian homosexuals -- he never entertains the possibility that "we" are not all white) are "born into equality" -- but not for the reasons that he cites. In the context of marriage, homosexuals already have the same rights as straights. We have never been denied access to the institution of marriage, and are in this sense equal. A gay man can

marry, as long as he marries a woman. A lesbian can also marry, as long as it is a man. This oversight is significant because it accounts for the absence of some other important distinctions. This narrative of exclusion is extended here to encompass a whole range of human experience we are said to be denied because of the lack of legalized marriage. But why, for example, is the blocking of access to this institution tantamount to the denial of emotional integrity or the basic bonds of human affection and commitment? To assume that marriage will achieve what has already been taking place is to accord it more influence than it actually has. And it erases in the process the fact that marriage is about so much more than these personal and emotional aspects.

### **8.5 From "Sexual Liberty" to "Civilized Commitment"?**

Though I have suggested above that the discourse of responsibility is often filtered out of the debates on same sex rights and gay marriage, there is at least one example that structures the argument in favour of same sex marriage within the explicit context of responsibility. In The Case For Same-Sex Marriage (1996),<sup>19</sup> a fitting final text for the politics of speaking for, William Eskridge, employing an explicit narrative of utility, makes the case for same sex marriage not simply because he sees it as a step toward greater equality for gays and lesbians, but because, as he states, "same sex marriage is good for gay people and good for America, and for the same reason: it civilizes gays and it civilizes America" (8).

The origins of this sentiment, expressed succinctly in the subtitle of his book, "from sexual liberty to civilized commitment," are not hard to predict, coming as they do on the heels of the unprecedented and devastating effects of AIDS on the

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<sup>19</sup> For a critique of Eskridge's book, see Fenton Johnson, "Wedded to an Illusion: Do Gays and Lesbians Really Want the Right to Marry?" (1996).

gay male community since the early years of the 1980s. I want to conclude this chapter with a discussion of the need to underscore the motif of responsibility in the discourse of same sex marriage specifically and rights more generally. The chapter returns to the theoretical premise that rights can inadvertently reproduce that which they are said to overcome. Though same sex marriage seems to indicate a proliferation of sexualities and identities, a wider spectrum of choice for individuals to construct themselves, the drive for gay marriage not only puts the homosexual on display, makes him subject to more scrutiny, but grants, in the process, the heterosexual couple more privacy, ensuring it is subject to less and less public scrutiny (see Elizabeth Grosz, 1994: 153).<sup>20</sup> For these reasons, it is necessary to draw attention to the origins of sentiments like those of Eskridge within the context of AIDS.

In August 1983, Newsweek's first cover-story on the AIDS epidemic in North America, entitled "Gay America in Transition: A Turning Point Has Been Reached, and AIDS May Mean the Party is Over," (Tom Morganthau et al.<sup>21</sup>), begins with an elaborate description of the sexual activities transpiring in the "Hothouse," the so-

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<sup>20</sup> Adopting Foucault's work for a discussion of the politics of the body in the age of AIDS, the passage I draw on here from Grosz reads as follows: "Foucault outlines a number of lines of proliferation and specification of sexuality which emerged gradually during the eighteenth century, in particular the twofold movement centrifugally circling the heterosexual, monogamous couple. On the one hand, there is a proliferation and dispersion of sexuality and of sexual 'types,' which are defined in terms of their deviation or departure from the heterosexual, marital norm. In this movement there is an increasing specification and focus on the sexuality of children, the mad, the criminal, homosexuals, perverts, etc. On the other hand, there is an increasing discretion granted to the heterosexual couple, who, while remaining the pivot and frame of reference for the specification of these other sexualities, are less subject to scrutiny and intervention, are granted a form of discursive privacy" (153). This is similar to the argument Wendy Brown makes when she says that without the "white masculine middle-class ideal" homosexuals would have little basis for their claims to exclusion (Brown1995: 61).

<sup>21</sup> I would like to thank Randal Rogers for bringing this article to my attention.

called "legendary pleasure palace" in San Francisco that serves in the article as an emblem for pre-AIDS sexual liberation. Charting the impact of AIDS on this culture of sexual liberty, the article informs us that the Hothouse went out of business, "a victim of the gay community's rising fears about the connection between promiscuous, anonymous sex and the AIDS epidemic." "This is depressing," said one young man, picking his way through the remnants of the Hothouse's once abundant supply of exotic sexual appliances. 'Not only is this over -- it's all over:'" This declaration elicits the following observation:

For Gay America, a decade of carefree sexual adventure, a headlong gambol on the far side of the human libido, has all but come to a close . . . The flag of sexual liberation that had flown as the symbol of the gay movement has been lowered. Caution and responsibility -- to oneself, to one's friends, to the larger and still pressing concerns of gay life in America -- are now the watchwords of gay liberation, and many homosexuals do not regret it (30).

In contrast to the representation of the Hothouse, and the images of "Mardi Gras flamboyancy" and "pansexual excess" of the gay liberation movement, the article paints the emergence, at the same time as the epidemic begins to take its devastating toll, of a quite different sexual ethic: "If the homosexual demimonde that is so visible on Castro Street has given San Francisco a lurid image to the rest of the nation, the prim neighbourhoods of gay-owned Victorians suggests another reality: a solid, hard-working and civic-minded gay middle-class that has little in common with the gaudy campiness of the street people" (34). As we have seen elsewhere, what constitutes a useful citizen in this comparison of two different sexual ethics is grounded in the economic categories of work and labour, and here, property.

It is within this historical and political context that statements like Eskridge's on marriage's "civilizing effects" must be considered. Eskridge claims, for example, that: "Human history repeatedly testifies to the attractiveness of domestication born of interpersonal commitment, a signature of married life. It should not have required

the AIDS epidemic to alert us to the problems of sexual promiscuity and to the advantages of committed relations." (9). To make this case, he offers a comparative analysis of gay male and lesbian sexuality, arguing that "their greater tendency toward bonding in committed pairs" is the reason why lesbians have been the group least affected by AIDS. For this reason, he argues that "[s]ame sex marriage could be a particularly useful commitment device for gay and bisexual men" (9), because it "invites the conclusion that same sex marriage civilizes gay men by making them more like lesbians (83-84).

It would seem that these are the most extreme and most inflammatory passages to choose to make the point. They are not, however, unique to this text, but part of a larger discourse pervasive in debates around this issue. In a passage that also asserts the importance of marriage for its stabilizing effects, Sullivan makes the case for same sex marriage. In the process, he also makes the case for the continued legitimacy and social good of the monogamous, heterosexual couple. As we saw in Chapter Six in my discussion of the question, *What Are Homosexuals For?*, Sullivan constructs a narrative of utility by arguing that "[s]ociety . . . has good reasons to extend legal advantages to heterosexuals who choose the formal sanction of marriage over simply living together" (1995: 182). Legally married heterosexual couples "make a deeper commitment to one and other and to society," and in return "society extends certain benefits to them" (182). He calls marriage an "anchor. . . in the maelstrom of sex and relationships," suggesting that it "provides a mechanism of emotional stability and economic security:" "We rig the law in its favor not because we disparage all forms of relationship other than the nuclear family, but because we recognize that not to promote marriage would be to ask too much of human virtue" (1995: 182).

This is despite that fact that, as Sullivan himself acknowledges, "[e]ven in our society as it is, many lesbian and gay male relationships are virtual textbooks of

monogamous commitment; and for many 'in sickness and in health' has become a vocation rather than a vow" (183).<sup>22</sup> It is ironic, and disconcerting, that the case for same sex marriage is made on the very same grounds as the case against it. As an editorial in The National Post following government legislation to implement the ruling on same sex spouse argues, gay and lesbian people are inherently promiscuous and unstable, and therefore not worthy of legally recognized partnerships ("Is Marriage Passé?" 2000).

These contradictions in Sullivan notwithstanding, such arguments do more than make a case for same sex marriage: they put the gay male body back on display -- where it has not been since the early years of AIDS -- by comparing it to the straight married couple, while simultaneously increasing the amount of privacy accorded that type of sexual formation. This is, then, less a case for gays and lesbians than it is for giving the straight married couple more of what it has already had. By turning it into the pivot and frame of reference for these other sexualities (Grosz), a certain amount of privacy is established that puts this form of coupling beyond reproach.<sup>23</sup>

Eskridge's and Sullivan's accounts are, then, apt metaphors for the discourse of same sex rights more generally; they are only extreme versions of the logic that

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<sup>22</sup> The slippage between marriage and/as monogamy or emotional stability is troubling and limited on many levels, especially the suggestion that marriage could be an effective prophylactic device against HIV infection. Ignore for a moment the fact that this perpetuates a long-standing cliché about the sexual proclivities of gay men versus lesbians. Ignore as well the fact that it offers an ill-informed account of the transmission of HIV -- the fact that lesbians have been the group "least infected" might have as much to do with "committed couples" as it does with the nature of the virus itself. On lesbianism and HIV, see Robin Gorna's "Dam Those Dykes."

<sup>23</sup> For example, in reference to his belief that "somewhere between two and five percent of the population have involuntarily strong emotional and sexual attractions to the same sex" "the pool of partners [for gay men] starts at one in twenty to one in fifty. It's no wonder, perhaps, that male homosexual culture has developed an ethic more of anonymous or promiscuous sex than of committed relationships. It's as if the hard lessons of adolescence lower permanently -- by sheer dint of the odds -- the aspirations for anything more" (13).



informs, for example, the ruling by the Supreme Court of Canada and the definition of common law spouse. Couched not only in the language of recognition but respect and human dignity, including gay and lesbian couples as common law spouses, and the accompanying belief that this a victory for gays and lesbians, the ruling is modeled on a framework that reinforces the belief that respect and human dignity comes from belonging to a committed, monogamous couple. It can never question why these values are framed in this way in the first place.

These tensions in the case for same sex marriage arise as a result of a defining contradiction: seeing marriage as both a natural extension of deeply human attributes like intimacy and commitment and as a social, historic, and political construction. On the one hand, Eskridge ascribes to marriage in general a certain naturalizing function, arguing that the extension of legalized marriage for gay men will curb what is in gay men's nature, our proclivity to promiscuity and multiple partners.<sup>24</sup> He argues, for example, that "same sex marriage will civilize both gays and straights, teaching each something about the unitive features of marriage." (104). This assumes that there is something intrinsic about marriage that promotes monogamy. Rather than being an effect of marriage's parameters, monogamy is considered an extension of what is already perceived to be a social good.

On the other hand, Eskridge is constantly pointing out along the way that marriage is a construction, that what the institution means is based on certain perceived social, political, and juridical needs. The entire premise of his case, that marriage will tame the beast that is the sexually active gay man, is that "[t]he lesson

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<sup>24</sup> This cliché about gay male relationships versus lesbian relationships is captured in the widely-circulated joke, What do lesbians bring on their second date? A U-Haul Van. Or, as the Newsweek article quoted here states: "lesbian lifestyle, to the extent that it can be generalized, has always been less ostentatious than that of gay men" (Tom Morganthau 1983). For a specific discussion of this polarization, see Gillian Swanson, "Goodtime Girls, Men of Truth, and Truth, and a Thoroughly Filthy Fellow: Sexual Pathology and National Character in the Profumo Affair" (1994).

of history is not that marriage must be between husband and wife, but, rather, that marriage is a socially and politically created institution that serves social and political functions" (92), or more explicitly, that "[m]arriage is an important social and legal construction, and it is what we make of it" (160). As Fenton Johnson writes, "for same-gender relationships to endure, the partners have to figure out that we are required to make them up as we go along" (Johnson 1996: ). As have those before us, gays and lesbians will simply define what this kind of commitment means, as individuals, and as couples, and that might not always include the kinds of relations Eskridge assumes will naturally flow from nuptial bliss.

Significantly, this contradiction leads to the filtering out of some other important discourses. Eskridge argues, for example, that "[i]t is fanciful to think that the state's issuance of a marriage license is a signal of anything beyond the couple's ability to fill out a form" (105). "You can get a marriage license," he suggests "without any demonstrated or actual skill at social or sexual intercourse, without knowledge about or concern for the rules of sex or companionship, without good vision or a well-functioning body, and without a scintilla of moral scruple (you can even be in jail!)" (107). "However evil, perverted, or incompetent you might be, the clerk will still give you the marriage license, because the clerk and the state do not care about your character, morality or competence" (106-107). In a moment of extreme resentment, he compares gay people with "convicted murderers, drug dealers, spouse abusers, and the like," the latter all having the right to marry while the former are still excluded. To drive the comparison home, he points out that the denial of marriage to gays and lesbians is despite the fact that, contrary to these other groups, "we fulfill our personal and social responsibilities" (107).

What he is suggesting is that the state is neutral with respect to matters of character and behaviour. Though it might not care to inquire about them when

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signing a marriage license, it most certainly cares about them after the connubial knot has been tied. As Eskridge himself makes clear in a passage set against the backdrop of AIDS, "[s]tate-recognized same sex marriage would encourage committed monogamous relationships within a group at risk . . . the state encourages committed heterosexual relationships by its anti-adultery rules and its barriers to exit . . ." (120).<sup>25</sup> Like the responses to recent rulings relating to same sex rights that filter out any discussion of the responsibilities and obligations that come with them, the institution of marriage is de-institutionalized here in Eskridge's claim that the state does not care about your character, morality, or competence, for, the fact that "anti-adultery rules" and "barriers to exit" are part and parcel of the victories we have been achieving underscores, if nothing else, that individuals must fulfill the requirements of the state if they are going to benefit from it.<sup>26</sup>

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<sup>25</sup> Eskridge continues this paragraph by arguing that "legalizing same sex marriage might also encourage more open and informative discussions of sexuality and homosexuality, discussions that are important in slowing the spread of AIDS. State-recognition of same sex partnerships and prohibitions of sexual orientation discrimination are key components in Sweden's successful anti-AIDS campaign" (120). Eskridge includes a footnote here to reference an article by Benny Henriksson and Hasse Ytterburg, entitled "Sweden: The Power of the Moral(istic) Left," in order to support his argument. Nowhere in this article do the authors advance the claim that same sex marriage has had any impact on Sweden's AIDS prevention work; the article is actually quite critical of the state's response to the epidemic, and the positive impact of community based AIDS initiatives within Sweden's gay political communities.

<sup>26</sup> That marriage serves these functions is made explicit in an argument against same sex marriage by Canadian journalist David Frum. In "How Far Do We Take Gay Rights?," he argues that "we have formed the bad habit of thinking of marriage as a private relationship between two people. In fact, marriage endows husbands and wives with special rights and claims against the rest of society" (70). His comments would be easier to take had he stopped there. But he continues: "We do it because they [husbands and wives] do something crucially important for the rest of us: they create and raise the next generation of humanity. . . . Gay marriage will look to much of the rest of society as a joke upon them, a campy parody of the central institution in their lives. The harm inflicted on the prestige of marriage is likely to prove very great; the last thing an already troubled institution needs" (72). But much of the rest of society has decided that the intent of procreation is not a precondition for access to marriage.

Sullivan addresses this as well, and puts this contradiction in perspective when he writes: "I believe strongly that marriage should be made available to everyone, in a politics of strict public neutrality" (Sullivan 203). What he means by this is that the state should be neutral with respect to who can and cannot marry each other. There should be no restrictions, barring issues of competence and legal age.<sup>27</sup> Elsewhere, however, he claims that "[s]ociety has . . . good reasons to extend legal advantages to heterosexuals who choose the formal sanction of marriage over simply living together" (182). In other words, by his own admission, the institution of marriage is not and never has been neutral. What needs to be questioned here is the discourse of utility that informs this case for same sex marriage, the way in which this not only reproduces the privileges of heterosexual marriage by arguing that it serves a social function, but the argument that gays and lesbian should be included because doing so will not only aid those very subjects by the social more generally.

More troubling is Eskridge's comment about social responsibility. The discourse of equivalents is paired here with that of utility, for Eskridge is making his case on the basis of a comparison with other groups but also on the basis that "we" fulfill our public functions, our personal and social responsibilities. His point, of course, is obvious: even the most "debased" in our society have the right to marry, except, of course, gays and lesbians. But this demand to be included not in spite of but because of the fulfillment of social responsibilities permits the very imprecise and misleading argument that restriction is based on issues of character, when in fact the real restriction here is that a man cannot marry a man and a woman cannot marry a

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<sup>27</sup> This is related to his larger position, his "politics of homosexuality," which "affirms a simple and limited principle . . . that all public (as opposed to private) discrimination against homosexuals be ended and that every right and responsibility that heterosexuals enjoy as public citizens be extended to those who grow up and find themselves different. And that is all" (171).

woman. Not only does Eskridge advance the belief that, as we saw in Chapter Six, homosexuals have to be superior in order to merit basic rights, he perpetuates the myth that marriage was designed with the intention of discriminating against gays and lesbians.

I want to insist on this distinction, the argument that the real basis for discrimination is gender and not sexuality, because it serves as an important reminder that, contrary to the sentiments expressed here and in so much of the language surrounding rights, marriage, and more precisely, the extension of spousal rights to unmarried, cohabitating, opposite sex couples, marriage was designed in part on a perceived social need. Not the willful exclusion of other groups, but because such relationships often have a dynamic of dependence, especially if the couple has a child and the mother is the primary care-giver. It was meant, first and foremost, to protect heterosexual women economically. Though it might in the process privilege that which our culture already sanctions, privilege is different than discrimination.

Our culture has simply become accustomed to talking about marriage as if it were automatically about discrimination against gays and lesbians, a consequence of both the exclusionary foundation for much political agitation, our wounded dis-attachments, as the case may be, and of the cultural politics of rights more generally. In fact, marriage can only be framed as a case of discrimination after gays and lesbians have demanded to be included, and not before. We can see this most clearly in the fact that, following the Supreme Court of Canada ruling on the term same sex spouse, even this is now being framed as an exclusionary practice. Opposition to this ruling by some Members of Parliament, for example, is being waged on the grounds that extending the term "spouse" to include only gay and

lesbian couples discriminates against couples who cohabit but don't have sex. By this logic, having sex is a new basis for discriminatory practices.<sup>28</sup>

Sullivan concludes his case for marriage with the bold argument that "[i]f nothing else were done at all, and gay marriage were legalized, ninety percent of the political work necessary to achieve gay and lesbian equality would have been achieved. It is ultimately the only reform that truly matters" (185). This is an example of the politics of virtue, defined in part as the closure of the political (Bonnie Honig 1993). As Sullivan makes clear several paragraphs later, "[o]ur battle, after all, is not for political victory but personal integrity. . . . as citizens, we have to embrace politics if only ultimately to be free of it" (186-187). Obviously, we can never be free from politics. And, it should go without saying, there are things other than marriage that truly matter.

More significant than this is the reminder of the importance of not seeing rights as self-evident, absolutes, as tantamount to something like human freedom. As Mary Ann Glendon puts it, we need to be cautious about giving certain rights "undue prominence" (15), what she similarly calls "our predilection" for seeing rights as absolutes (25), because it "promotes unrealistic expectations" (14). As Glendon argues, and as Arendt did before her, developments in rights are often called a revolution yet rarely have they eliminated the social ills they are aimed at. The unrealistic expectation in the case of marriage is not the dream for many that marriage will someday be fully extend to gays and lesbians in due time -- its occurrence is, I believe, inevitable -- but that its achievement will solve the dilemmas of identity and difference. To paraphrase Honig, it will simply displace struggles for identity and difference onto other sites. This is evidenced in the

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<sup>28</sup> In response to the legislation to adopt the Supreme Court ruling, one MP is quoted as saying: "[a]nyone who cohabits should be covered by the same legislation . . . I will not vote for a law that discriminates" (qtd. in Chwialkowska 2000a: A6).

argument that the achievement of same sex spousal rights for gay and lesbian couples is now itself a site of exclusion, where the basis for discrimination is now being waged around the category "having sex." If and when full gay and lesbian marriage is extended, it will not mean of course the end of struggles for gay and lesbian equality. These battles will simply resurface anew in hitherto unforeseen areas, where they will need to be negotiated again.

### **8.6 Same Sex Marriage, Gay Sex Marriage?**

The theoretical intent of this thesis has been to work in and through the discourses of speaking for in the context of liberation and equality in gay and lesbian political discourse, in order to demonstrate how many of them inadvertently reproduce that which they are said to oppose or overcome. It has, in the process, made few attempts to offer concrete or practical alternatives or solutions to the debates and issues addressed. It was the intention of this project both methodologically and theoretically to suggest implicitly how to bring the conversation to a different place by resisting some of the legacies we have inherited and are still grappling with. By working through the contradictory impulses of these political discourses and cultural narratives, it was my desire to offer what should be seen as the beginning of that more arduous task of concretizing the implications of these primarily theoretical debates, a setting out of the terrain on which some future debates might be waged. With this said, however, this chapter concludes with one concrete suggestion for consideration, one that I have been hinting at in these final pages and that brings us back to where this thesis began.

The simple point is this: same sex marriage does not necessarily and automatically have to mean gay sex marriage. It is simply the way we have decided to talk about it, informed as it is by certain narratives of exclusion that are part of

the general project of including gays and lesbians in all the rights of citizenship. Perhaps those who champion same sex marriage as a very real, strategic political tool -- for gays and lesbian, for society, for the nation, and for all its implications with notions of the public and the private -- should deploy a shift away from sexual activity. Contra the government of Quebec's Bill 32 media campaign, gender should be an issue. By focusing on the real basis of discrimination -- gender, not sex -- the resentment that is produced when we cling tenaciously to exclusion based solely on sexual orientation would be minimized.

This does not mean that we must filter out the discourse of sexuality; nor do we need to appease those uncomfortable with difference by the erasure of difference itself. This shift would simply reduce the chances that such debates would be framed around the question, What are homosexuals for?, seen here in the guise that extending marriage to include gay and lesbian couples would not only be beneficial for them but would bring something to the social more generally. By shifting the emphasis away from sex and hence away from homosexual utility, we would refocus this particular debate around a more thorough engagement not with what we can do for politics but what politics can -- and cannot -- do for us. This would redress as well another problem that arises when we base political demands on what "we" don't have: we would be better positioned to recognize the possibility that we have been excluded from might not be what "we" wanted and needed after all. Whatever the outcome of the debate is -- and it will be multifaceted and irresolvable, to be sure -- at least the consequences at stake would be more readily addressed.

In the end, it would mostly be gay and lesbian couples who would likely take advantage of same sex marriage. And indeed, they should have the choice to do so. But by forcing an exclusive focus on sex, we are not necessarily breaking down the barriers that confront our society. We are, in fact, reinforcing an existing one. To divorce the notion of same sex marriage from its automatic correlation with gay sex



marriage would be to invite a little ambiguity into politics. And perhaps a little ambiguity can point a way out of the resentment that has structured this and so many other debates in gay and lesbian political discourse.

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