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## Location, Location, Location: Same-Sex Marriage as a Moving Target

I find myself writing this commentary in the wake of an historic development in the ongoing drama surrounding the legal status of same-sex couples in the USA: the 15 May 2008 decision by the California Supreme Court that limiting marriage to heterosexuals is unconstitutional. This ruling specifically addressed the matter of terminology:

In light of the fundamental nature of the substantive rights embodied in the right to marry – and their central importance to an individual's opportunity to live a happy, meaningful, and satisfying life as a full member of society – the California Constitution properly must be interpreted to guarantee this basic civil right to all individuals and couples, without regard to their sexual orientation.

Civil unions or other formulations calculated to bypass use of the word 'marriage' do not meet the court's standards for equity. This decision is only the opening salvo in a battle that will be waged now that a ballot initiative banning lesbian and gay couples from marrying has gathered enough signatures to qualify for the November ballot.

When I started studying lesbian and gay ceremonies of commitment in the early 1990s, I never suspected that legal marriage might become a reality anywhere, or that the kind of debate it has generated would move to the center of discussions of LGBT rights so rapidly. My interest largely surrounded the question of why people would bother having ceremonies – often at considerable expense and effort – when they didn't get any concrete benefits from doing so. That is a circumstance that has obviously changed, as this very compelling set of articles amply demonstrates.

What these articles make absolutely clear, when viewed as a group, is that 'same-sex marriage' is a moving target in a way that is analogous to the instability of terms like 'gay', 'lesbian' or 'queer'. If the study of sexualities has shown us anything at all, it is certainly that definitions and

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meanings have shifted over the course of history and across the boundaries of cultures and nations to the extent that there simply are no stable objects of study we can confidently call by any of the usual labels. Many of us can remember the efforts of early partisans of lesbian and gay rights to list the names of all the great people of history who were 'gay' (Michelangelo, Tchaikovsky, Sappho, Walt Whitman, and so on) as a demonstration that we were more than just perverts, but could be smart and accomplished as well – and thus perhaps deserving of some level of human dignity. In those days, no one really wanted to consider what these designations meant, and whether a person who had sex with someone of the same sex (or gender) in another historical period could be 'gay' in the sense that we newly liberated lesbians and gays were. Similarly, early anthropological studies of homosexuality engaged in what Kath Weston aptly has called 'ethno-cartography', an enumeration of all the cultures that tolerate or permit or even laud some form of same-sex behavior (Weston, 1993). The lists of practices that might be called 'homosexuality' was potentially enormous, even in the absence of evidence that these activities shared any meanings with the sorts of behavior that earned that designation in the present or in the West. In a similar vein, Deborah Elliston's (1995) important critique of claims that 'semen-exchange' practices in Melanesia constituted ritualized homosexuality made clear that such designations rode roughshod over the indigenous meanings of these activities.

Something similar seems to be afoot in efforts to understand the different manifestations of same-sex marriage, PACS, civil unions, civil partnerships, or other legal formations that offer some form of recognition to same-sex relationships. What strikes me in surveying these articles is how embedded these forms – and the desires of the people who adopt them – are in the cultures, economies, and politics of their specific locations. The comparative essay by Nancy Nicol and Miriam Smith, for example, shows that the legal strategies, and by extension the way activists imagine their goals, have been quite different in the USA and Canada, even though activists in both settings have depended on the courts to extend marriage rights. They say this with particular eloquence at the end of their article when they conclude:

The understandings and interpretations of social actors as they construct their own meanings in legal claims-making must form part of our analysis of same-sex marriage, lest the voices of theorists completely drown out the voices of diverse and differently-situated same-sex couples who are creating and claiming new legal orders in everyday social movement activism.

The key here is that the voices involved in these debates are of necessity diverse, and that the aims of their actions are neither self-evident nor reducible to the aims that emerge in other locations.

This insight guided my reading of the other contributions. Cristina Johnston's suggestion that the rights of same-sex couples have come to represent minority status as a larger category is fascinating, but probably only a circumstance that could arise in the context of France's long-standing way of understanding itself as a republic of equals. I was glad that she did not hesitate to bring up the existence of persons who are both lesbian or gay and members of minority ethnicities, as their visibility may help push the French toward acknowledging the multiplicity of identities that have come to constitute Frenchness.

The French concern with 'filiation' rather than sexuality itself contrasts dramatically with the current situation in the USA, where despite active resistance to same-sex marriage, family formation by lesbians and gay men is far less regulated than in Europe and arguably less stigmatized. Priya Kandaswamy's article, which locates the struggle over same-sex marriage in the context of the hostility toward impoverished single-mother families that is at the heart of 'welfare reform' speaks to the ways in which 'stratified reproduction', in Shellee Colen's (1995) inspired usage, in the USA entitles some to form families while undermining the families of others. Kandaswamy's attention to the temporal overlap between the intensification of same-sex marriage activism and the activities of the marriage promotion movement suggests some intriguing connections, particularly as the forces touting marriage offer it as a panacea for a wide range of social ills (Waite and Gallagher, 2001). At the same time, however, I worry about her equation of historical contiguity with ideological agreement. While many same-sex couples who seek marriage rights do adopt the nationalist discourse she laments, they likely do so because these values are, in fact, their own, that is, not all lesbians and gay men are social progressives. She neglects to consider the concerns of lesbians and gays of color and those with low incomes, for whom the rights that attach to marriage may be more critical than they are for those who are affluent, since alternative arrangements require expensive legal fees. She is absolutely right, of course, that legal obstacles to racial segregation, for example, have not done away with its *de facto* existence, but at the same time, there is no doubt that some legal changes (such as the decision in *Loving v. Virginia* that made interracial marriage legal) have had a dramatic impact on public mores. Finally, her account of the marriage equality movement as a 'top down' phenomenon is at odds with the fact that same-sex couples began to demand the right to marry in the 1970s, long before gay and lesbian rights organizations were willing to adopt this cause (Lewin, 1998: 7–11).

Elsje Bonthuys' article on South Africa taught me a lot about the multi-layered legal situation in her country, but left me wondering about the substance of her objection to the current system. The fact that various

kinds of same-sex marital arrangements have been documented in the ethnographic literature about African cultures, along with a range of sexual behaviors that may or may not be 'homosexual', does not suggest to me that marriage – in the sense that the South African state understands it – can be leveraged into African customary marriage practices. It seems that same-sex identified Africans may have cause to approach tribal authorities if they wish to make their status 'legal', but insofar as customary law has an uneven connection to the South African state, it's hard to know what such action would mean. What her article shows very lucidly is that African cultures are as diverse as those introduced by the colonial powers in their understandings of sexual differences.

Rosie Harding's interviews with a small set of gay and lesbian Britons about civil partnership demonstrated two points that I think are essential in the kind of comparative discussion these essays bring forward. First, she showed quite eloquently that the meanings attached to these legal statuses can fluctuate wildly, even in the accounts of single individuals. And perhaps even more importantly, the concerns that appear in these narratives mirror issues of central importance in the wider society. The fear expressed by one narrator that she might lose her eligibility for government benefits if it were known that she lived with her partner only makes sense in a society that figures entitlements in a particular way. In some instances, living with a partner might open up sources of assistance not accessible to a 'single' person; in either case, such stories assume importance when specific resources are embattled. In my own situation in the USA, my employer's contributions to health insurance for my partner are figured as 'income' for tax purposes, considerably reducing my net income compared to that of my legally married colleagues. This is a source of constant irritation for me, though I would be hard pressed to reduce my hope that our Canadian marriage will one day be recognized to this particular affront.

As might be expected of an anthropologist who went to so many same-sex weddings that I was able to declare formal wear as a professional expense, I took special pleasure in Carol Smart's account of the ceremonial options same-sex couples have devised now that civil partnership is available to them. Her narrators speak to something that is true of weddings everywhere: that they are complex ritual occasions that offer meanings that go far beyond the event itself. Participants declare the legitimacy of their relationship, but they often also make statements about their place in a family constellation, their social class, their values, their good taste, their politics, or their religiosity (or lack thereof). In crafting these events (even for the minimalists) they also mirror – or sometimes resist – the preoccupations of the surrounding culture, or some portion of it. The actors in these performances are not only the couple, but the

spectators, and in some cases, God or other spiritual forces. It is in the discussion of these ritual occasions that we see most clearly how the issue of same-sex marriage is enfolded in very specific cultural and social contexts, situated in distinct historical moments, and not infrequently manifesting ambivalence about the very event being solemnized. Location, location, location – same-sex marriage is all about location.

### References

- Colen, Shellee (1995) ‘“Like a Mother to Them”: Stratified Reproduction and West Indian Childcare Workers and Employers in New York’, in Faye D. Ginsburg and Rayna Rapp (eds) *Conceiving the New World Order: The Global Politics of Reproduction*, pp. 78–102. Berkeley: University of California Press.
- Elliston, Deborah A. (1995) ‘Erotic Anthropology: “Ritualized Homosexuality” in Melanesia and Beyond’, *American Ethnologist* 22(4): 848–67.
- Lewin, Ellen (1998) *Recognizing Ourselves: Ceremonies of Lesbian and Gay Commitment*. New York: Columbia University Press.
- Waite, Linda and Gallagher, Maggie (2001) *The Case for Marriage: Why Married People Are Happier, Healthier, and Better Off Financially*. New York: Broadway Books.
- Weston, Kath (1993) ‘Lesbian/Gay Studies in the House of Anthropology’, *Annual Review of Anthropology* 22: 339–67.

### Biographical Note

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