

“Unthinkable” parenthoods: homosexual, transvestite, and transsexual mothers and fathers

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ABSTRACT

The growing number of families formed by homosexual, transvestite, and transsexual fathers/mothers has not only become a social, but also socio-anthropological fact, requiring traditional convictions to be rethought. This paper aims at demonstrating how a traditional model of family – that is, a "normal" family - has been able to influence the construction of parenthoods considered, until recently, unthinkable, whether social or legally. I therefore believe that it is time to face new demands and deconstruct former certainties of Anthropology, Psychology and Psychoanalysis, and Law, so that these new families may find their place in society.

Keywords: family, homosexuality, parenthood, sexuality.

Introduction

The emergence of families composed of homosexual, transvestite, and transsexual mothers and fathers within the social field has created new obligations for confronting new demands and deconstructing old certainties, for the anthropologist as well as for the psychologist and psychoanalyst, not to mention Law.

The questions these kinds of parenthood place for Anthropology touches on one of the most traditional fields of study for this discipline; family and kinship. Psychoanalysis also needs to deal with this problem and incorporate it as part of its theoretical repertoire, relativizing the idea that subjectifying and constructing the symbolic depend on distinctions between sexes. In the same way, Law has found itself compelled to accompany these configurations creating new legal possibilities

of conjugality and affiliation so as not to leave these parenthoods on the margins of State protection.

The general condemnation of homosexuality persists in contemporary societies, which continue to be influenced by religious law, the main resistance in giving visibility to these families, perceived as “threatening” to the “sacred” character acquired by the family in modern societies, as Danièle Hervieu-Léger (2003) has noted.

This "sacred" character, which seeks support in the natural order of relationships between the sexes makes any other sort of family configuration, i.e., not composed of a father-man and a mother-woman and their children, "unthinkable". The author alerts, however, that this "divine" imposition isn't only present in religion, but in other fields of knowledge as well.

The religious influence is expressed in the three aforementioned fields. In the field of Law, the Napoleonic code, after the Church, maintains the “sacred” character established by “nature” between alliance and affiliation, affirming that the father is the husband of the mother. For psychoanalysis, subjectifying the subject and this subject’s humanization necessarily mean elaborating the so-called Oedipus Complex, a psychological process that demands the presence of both sexes and obedience to the "Name of the Father".¹ This is the symbolic order of sexual distinction also found in Anthropology with the idea of prohibiting incest and "exchanging women" responsible for humanity’s passage from nature to culture, according to the structural thought of Lévi-Strauss and Françoise Héritier.

The human family is transformed into this "holy family", as the single and exclusive place for legitimate sexuality and procreation, without taking into consideration that this same family is merely a historical construction recently imposed on the West (Hervieu-Léger, 2003).

With this problematic in mind, in this paper we will analyze the relationships between these three dominions, making it evident how this conception of family is capable of influencing and constructing parenthoods previously considered unthinkable, socially as well as legally, for being established by persons of the same sex. Empirical data supporting these reflections has come from the project “The right to Homo-parenthood”, held in Porto Alegre between 2004 and 2005, under my coordination (Zambrano, 2006).

Considerations on the contemporary Western Family

In our contemporary western society the family is perceived as the most "natural" of institutions, the organizing nucleus from which the values of our culture are structured and transmitted. This "naturalness" consequently remits to the idea of universality. However, defining family as universality isn't consensual among specialized scholars (Cadoret, 2002; Stephens, 2003). Most anthropologists agree that an institution called "family" is found in practically every society, but its configuration is so varied that its universality would be conditioned to the way in which it is defined. According to Nadaud (2002) placing the family as a single and constant entity in time might be yet another prejudgment based on our own personal experience rather than reality.

In the West, the most common family model is the "nuclear family", composed of a father, mother, and their children, supported to this day by an irreducible biological reality: the necessity of a man and a woman to produce a child. As a consequence, the procreating nuclear family seems to impose

itself as an uncontested reality, precisely for being socially in agreement with biological fact. This is why it's so easy for us to imagine the nuclear family taking root since the beginning of time, being considered a founding unit of society, the germinating cell of civilization and crutch for society's evolution (Freud, 1973).

However, in considering the different ways in which a family is expressed, we may observe temporal and spatial variations within a same era and a same place, thus resulting that one must be clear on differences existing between a general notion of family, on the one hand, and its different manifestations, on the other. Historical and anthropological studies (Ariés, 1981; Donzelot, 1986, among others) show that the "family" institution has been suffering a series of changes in time, before turning into the privileged place for affection, one of the characteristics of a nuclear family, which, however, only gained preeminence in the Nineteenth Century.

Naturalizing this model of family makes it difficult to question and leads us to think, which is common in our culture, that a child can only have a father and a mother, joining within the same person the biological fact of creation, kinship, affiliation, and nurturing. This happens since by perceiving "father" and "mother" merely as those who give life to a child, we conceive this relationship so "naturally" as to not even imagine that it is submitted to social laws.

However, family ties connecting an adult and a child may be broken down into four elements not always concomitant: 1) the biological tie, by way of conception and genetic origin; 2) kinship, united two individuals in a genealogical relationship, determining their belonging to a group; 3) legally recognized affiliation of this belonging in agreement with the social laws of the group in question; 4) parenthood, exercising the parental function, implying being responsible for the child's nutrition, clothing, education, health, etc., joined together in daily life through kinship. These elements may be combined in different ways depending on the weight each receives in relation to the others, making evident a relativity of choices made by a determined culture in a determined time.

The diversity of family configurations present in other societies permits us to affirm that kinship and affiliation are always social in nature (Héritier, 2000), not being merely derived from procreation, since the rules adopted in these configurations aren't always replicas of "nature". One must remember that "even though it is correct to affirm that rules relating to affiliation aim at institutionalizing and reproducing the human species, this institutionalization is made effective according to criteria which vary from one society and one era to the next " (Gross et al., 2005, p. 31, my translation).

Because of this variation in social parenting roles played in different cultures and historical periods, we may also understand that parenthood isn't synonymous with kinship and affiliation and may be exercised by one single person with no legal or consanguineous relationship with the child, as is the case with recomposed families in which the father or mother's spouse participates daily in the child's upbringing.

In our culture, owing to the great value given to biological aspects of kinship, it is these aspects which are considered to constitute "true" family ties. However, with the advent of new reproductive technologies and the possibility of artificially separating the natural indivisible moments of fabricating a human being: fertilization, pregnancy, and birth, even the biological "truth" of maternity may now be questioned (Godelier, 2005). These are socially established rules determining in each place kinship "truth", in agreement with many different anthropologists, who affirm that kinship is fundamentally a universe of genealogical ties, simultaneously biological and

social (Cadoret, 2002; Godelier, 2005; Héritier, 2000). Without an *a priori* "real mother" or "real father", it's only a moral and social decision that will determine which elements composing the notion of family become priorities in a given society (Parseval, 1998).

Lévi-Strauss (1976) also signalizes a family not being an entity in itself, nor a fixed entity, but rather the place where norms of affiliation and kinship are developed, constructing elementary systems whose finality is to unite individuals among each other and to society, creating ties among individuals who create families and the possible variations of interfamily ties characterizing the possible forms a family may take.

Even though the nuclear, monogamic, and heterosexual family, whose finality is reproduction, is more common among us, this is not the only family present in Western society. With the advent of divorce, new family arrangements multiplied permitting individuals to construct new forms of alliances, such as taking a strange child into the home and recomposed and mono-parental families.

Families whose mother/fathers are homosexual, transvestites, or transsexual

It's within these new arrangements that the "homo-parental family"² comes onto the scene, proposing an alternative model, in which ties of affection occur between persons of the same sex, also including cases of parenting among transvestites and transsexuals. These unions may not procreate (in the biological sense), although each of its components might be able to do so individually.

Using the term "homo-parental family" is usually questioned since it places an accent on the "sexual orientation" (homoerotic) of parents in association with raising children (parenthood). This association (parent homosexuality and raising children) is precisely what studies on homo-parenthood propose undoing, demonstrating that homosexual men and women may or may not be good parents just as occurs with heterosexual parents.³ Studies show that both the capacity to raise children and quality relationships between parents and children are what determine good parenting and not parents' sexual orientation.

However, using this term is strategic and justified by the necessity of calling into evidence a situation more and more visible in today's society. By nominating a previously nameless kind of family permits its attaining a discursive existence indispensable for indicating a reality and making this reality's examination possible as a fact and a problem (De Singly, 2000). At the same time, a specific terminology favors the emergence of political struggle in which demands for (homo) parenting are strengthened.

On the other hand, the concept of "homo-parenting" is insufficient to deal with parenting exercised by transvestites and transsexuals. This is because, as it was conceived, the term "homo-parenting" only refers to sexual orientation, alluding to those whose sexual desire is driven towards those of the same sex, leaving out others who've changed their sex (transsexuals) and gender (transvestites). Although these individuals are commonly perceived as taking part in the same homosexual universe, transvestites and transsexuals present specific constructions of their own identities and consequently in their relationship to parenting.⁴ Transsexuals and some transvestites feel and consider themselves to be "women", even though they were born biologically as men. For them, what counts is a transformed sex/gender for their classification as "women". As such, transvestites and transsexuals consider themselves to be "women" and consequently have sex with men, who are

seen as hetero and not homosexual. Similarly, when constructing a relationship to parenting, they do so most of the time by occupying the "maternal" and not the "paternal" function, as we shall soon see. In these cases, the insufficiencies of binary categories for classifying identities as well as the specific sexuality of transvestites and transsexuals is called into question.

However, even though recognizing the singularity of such situations, in keeping to the aims of this article, "homo-parenting" will be used to encompass all of these parents' "identities", considering that, for transvestites, the identitary accent will be given to gender, for transsexuals, to sex, and, for homosexuals, to sexual orientation.

Even so, this family configuration still seems to fall on the margins of the concept of family used by some law operators, as elastic as this configuration may actually be. An example of this are the decisions made in courts in cases referring to homosexual couples' rights, with certain judges recognizing and others not, homosexual unions as family entities. In Rio Grande do Sul, judge José Carlos Teixeira Giorgis proffered a pioneer decision by recognizing this relationship as a family entity (TJRS, 2001).⁵ Also in Rio Grande do Sul, judge Maria Berenice Dias (2001) took up this question emphasizing that homosexual unions are based on ties of affection, thus integrating family laws, while Roger Rios (2001, 2002) argued from a human rights point of view, locating the question as a constitutional right, under the principle of equality and non-discrimination.

Refusing to call these arrangements "family" denies the existence of an interfamily tie among its members (even if these ties may have an extremely polymorphous and varied aspect) and prevent giving these arrangements a legal statute, thus "fixing" the family within a single format that doesn't correspond to the diversity of expressions it takes on contemporary society.

This happens in large part due to the influence of psychoanalysis as a legitimate field of knowledge in dealing with questions involving sexuality.

Psychoanalysis' influence

Most of the considerations used by such different professionals (as jurists, law operators, psychiatrists, psychologists, and social workers) on homo-parenting is supported in theoretical principals of psychoanalysis, within which may be found conflicting opinions since there is no empirical evidence supporting any of these opinions, none of which are, in any case, connected to a specific psychoanalytical current that would give them theoretical depth. Besides, many psychoanalysts prefer not even going into this problem since their role concerns exclusively individuals, not enjoying sufficient clinical or theoretical legitimacy to emit technical judgments on social questions. However, psychoanalysis is one of the disciplines most publicly solicited for debating new family configurations, thus interfering in the field of political action. Invoking psychoanalysis, in this respect, is a call to order, more explicitly to a "symbolic order", the grounds on which psychoanalytical theory was constructed.

The influence of psychoanalytical theories is evident in the debates taking place in France during the years which preceded creating the Pacs.⁶ Besides discussing questions referring to conjugal issues, homosexual adoption and new reproductive technologies were also considered, turning into the central focus of the discussions. Among "psy" professionals (psychology, psychiatry, psychoanalysis) publicly manifesting their opinions (which continues to this day), principally in France, Mehl (2003) identifies three different currents of thought.

The first of these currents is against recognizing homosexual couples publicly and legally and permitting them to adopt. Mixing religion and psychoanalysis, this current considers homosexuality a private question and a perversion, thus unworthy of legal status. This more conservative line of thought argues in favor of defending the traditional family based on religious traditions and beliefs, despite being dressed up in a psychoanalytical or psychological vocabulary.⁷

The second current doesn't have a specific opinion on homosexuality, but is against homo-parenting, arguing that sex difference is at the base of representing identity and affirming the impossibility of children being conceived outside of this difference. Consequently, children being raised by parents of the same sex would destroy the anthropological foundations constituting kinship, family, and procreation. This current parts from the idea that homosexuals deny sex differences and don't permit adequate contact with members of the opposite sex, yet this supposition has no empirical fundaments.⁸

The third current opposes using psychology and psychoanalysis against new forms of family experimentation, understanding that psychoanalysis shouldn't morally judge kinds of family already in existence in our society, and that these professionals need to recognize new family formations, favoring a plurality of contemporary organizations. The theoretical argument used by this current to refute the importance of parental sex differences for the benefit of children is that identity isn't only sexual and that perceiving an other isn't only based on sex differences. They also argue that norms change, have their own histories and content, varying in space and time and can't be fixed by ideological positions in vogue in a given era, which would be plain disrespect for research results, democratic norms, and human rights.⁹

From these positions given above, the main arguments in discussion become evident: the threat against society and probable damage done to children of homo-parent families, thus pointing towards the necessity of sex differences.

Despite these fears and opinions, it should be emphasized that homo-parent families have already been in existence for some time as a social reality, as research carried out 30 years ago has shown.¹⁰ What's missing is legal recognition of this reality. Currently, homo-parent families are becoming more visible in the media, in large part because of militant groups who fight for human and homosexual rights.

How homosexuals, transvestites, and transsexuals may exercise parenthood

The literature describes four principal accesses to homo-parenting. The first of them is children born of a previous heterosexual relationship. After the union is broken, the father or mother (or both) may establish relationships with a same-sex partner thus constituting a new family. The new configuration is considered as a kind of recomposed family, specifically in a homo-parental context.

The second way is through adoption, whether done legally or informally. Currently, homosexuals generally adopt legally on an individual basis. The couple generally fears having its request rejected when its homosexuality becomes explicated. Legal adoption implies establishing irrevocable ties of affiliation, uniting the adopting adult and the child adopted in a series of rights and responsibilities arising out of the adoption. When adoption is informal it doesn't establish any legal, but only ties of affection between partners, with no technical rights to affiliation. We may also take into

consideration the so-called “Brazilian adoption”, when an adult registers another person’s biological child as his or her own.

A third way is trying to have children using new reproductive technologies, making biological children possible. The method most used by lesbian women is artificial insemination or medically assisted fertilization. The donator might be known, generally a gay friend, but usually an unknown donator, taken from a sperm bank. Gay men who wish to have children without having sexual relations with women have to use a “rented mother”, which is illegal in Brazil. In these cases, if all goes well with the arrangements made, the “rented mother” will hand the recently born child over to the father and abdicate her legal ties to the child.

Finally, a fourth possibility is the so-called co-parenting in which daily nurturing is carried out conjointly in an equalitarian manner by both partners, possibly intertwined with one of the accesses mentioned above. The partnership might come about through joint planning by the homosexual couple, with both partners deciding to adopt a child using new reproductive technologies in order to form a family, parenting being thus equally carried out by both partners from the very start, even if only one of them is the biological or legal parent. In other cases, parenting may be carried out conjointly between a companion and a legal parent of a child born of a previous partnership as occurred in the widely publicized case of Eugênia, pop-singer Cássia Eller’s companion. Joint planning may also include two homosexual couples, one male and the other female, who decide to have a child by way of homemade artificial insemination (gathering the father’s semen and introducing it in the mother’s vagina with a syringe, without a doctor’s presence) or medically assisted insemination (done in a specialized clinic). In this case, the child will have two fathers and mothers, two of them being biological parents.

In anthropological research I coordinated in Porto Alegre exploring representations of parenthood made by biologically born men (homosexual and transvestite men and transsexuals who became women), all of the interviewees preferred adopting. None of them used or planned on using new reproductive technologies showing that social parenthood is more important to them than biological ties. The fact that our interviewees are biological men gives them little corporal autonomy to accomplish parenthood without a female body to carry through the pregnancy. For women this autonomy is greater since they may use sperm banks and become pregnant without a man’s help. Consequently, biological paternity for gay men usually doesn’t end up as a priority. This tendency, as seen among our interviewees, is in agreement with data obtained in the rest of Brazil concerning homo-parenting, indicating that biological parenthood is given greater value by women.¹¹

In transvestite and transsexual families, access to parenthood is usually gained by informally adopting children from family members, friends, neighbors, or simply taking in any abandoned child. This informal way of circulating children is characteristic of lower classes in Brazil, as Fonseca (2002) has shown. This kind of parenthood often comes about by chance, with informal adoption resulting from a conjugation of the desire to have a child and empathy for abandoned children. More than pity, an abandoned child invokes identification with the adopter’s own trajectory of prejudice and abandon.

When these groups were asked about their preferences for the child’s sex or race they tended not to care.¹² Some informants went as far as to replying that they don’t care if the child is “perfect” and would accept and raise the child with plenty of love even if it’s “missing a piece”. As such, they generally recur to judicial power only to request legal tutelage of a child already in their care.

The social class framing is necessary in order to understand how transvestites and transsexuals become parents. Besides low schooling (only one in eight informants completed primary school), interviewees' professions also weigh negatively, since, except for one of them, the rest are sex professionals. Low schooling and an unfavorable profession – objects of restriction on the part of public institutions – make it difficult not only to adopt or be granted tutelage, but also to gain access to means of fighting for these kinds of rights.

Changing identity documents is of enormous importance for transsexuals in order to have access to parenthood since they feel that it's through the use of documents adequate to their social identity that they will be able to legally adopt a child. As such, some plan on adopting legally even knowing the risks of not succeeding because of the variety of different ways in which judicial powers treat the question.

Transvestites, however, rarely contemplate invoking the courts in order to adopt because of the prejudice they suffer. Since they don't go through transgenital surgery it's not likely that they would be able to change their identity cards which, together with their social class background (popular), schooling (low) and profession (prostitution), give them little chance of having an adoption request deferred. As one informant said: "If it's already difficult for heterosexuals to adopt, imagine for transvestites like us, who suffer so much prejudice."

The most recent sociological analyses underline the role stigma plays in producing and reproducing power relations and controlling social systems, making some groups feel devaluated and others superior. Foucault (1988) has demonstrated that elite forms of knowledge, among them psychoanalysis and psychiatry help construct differences in modern societies, using these differences as signs to create different categories of people. Power/knowledge is used to legitimate these differences. As such, stigmatized and discriminated people accept and internalize the stigma since they are subjected to an oppressive symbolic apparatus whose function is legitimizing this inequality. According to Parker and Aggleton (2002), stigmatized individuals have little capacity to react. This disposition is evident in the testimony quoted above, in an argument common to many other interviews as well.

How gender roles are experienced

Frequent questioning on who will be the father and who will be the mother in a homo-parental family is an artificiality that ignores the fact that a gay man doesn't become a woman because his sexual desire is oriented towards another man in the same way a lesbian woman doesn't become a man for the same reason. If we think in terms of "parental functions", we may say that the "maternal" or "paternal" function may be held by either partner even when exercised more markedly by one or the other members of the couple, without transforming either one into a man or a woman.

From a psychoanalytical point of view, the presence of a third party is considered necessary for psychically separating mother and child, one of the attributes of the so-called paternal function. However, in discussions on families in which both parents are of the same sex, there's some confusion about what is meant by this third-party function and its nomination as "paternal". In gay as well as lesbian couples, the "third-party function" may be carried out by the mother or father's partner, he or she being the object of desire of the mother or father and being introduced into the initial mother and child fusion, showing the child a desired "other", thus inaugurating alterity. As

far as the child is concerned, the sex of he or she to whom the mother or father's desire is driven isn't important. What's important is discovering the existence of another person besides him or herself whom the father or mother desires. Maintaining the idea that the third party would have to be the man-father promotes a symbolic landslide towards the real, making evident a connection to what psychoanalysis understands the maintenance of a patriarchal "family order".

Among our informants it's usual for maternal and paternal functions to be carried out in agreement with each spouse's own preferences and characteristics, not necessarily existing a rigid division of "gender roles" in homosexual couples: feminine for those fulfilling a so-called maternal and masculine for a so-called paternal function. One of the spouses may play a greater authority role, normally that considered as the "real" father, whether biological or adoptive, i.e., the only one recognized by the law. The second father or father's companion generally occupies a more "maternal" role, not for having a more feminine identity but for carrying out tasks in which the legal or "authentic" recognition isn't solicited, generally domestic tasks. In families in which one of the components is transvestite or transsexual, the division of parental roles is better defined and seems to follow the sex/gender role "chosen" by each spouse: transsexual women and transvestites are considered mothers and their companions, fathers.

Each family group we researched reinvented their own denominations for making it possible to include other kinds of parental care besides the traditional denominations "mother" and "father". We've found such names as "uncle", "little dad" - "little mom" and feminine equivalents for transvestites and transsexuals and a few diminutives of proper names used by the child to denominate the second caretaker, all of which indicate a more affective than significant tie. There not being a social or legal definition for these other caretakers still makes other kinship terms possible for naming these caretakers. Even so, it's important to emphasize that children aren't at all confused about the parents' gender (the men are called father or something similar just like the women, mother or something similar) and are not at risk of prejudicing an apprehension of sexual differences just because they are raised in homo-parenting families.

It should also be taken into account that male couples raising children don't easily escape from female presence in daily life since infant care and services are highly feminine. We've confirmed this with our homosexual informants who, although generally justifying not recurring to new reproductive technologies for not wanting to be dependent on a woman, recognize needing a member of the female sex in daily life in order to help take care of the child. This necessity alludes to fulfilling domestic tasks and valuating a woman who serves as a "feminine" model for the child. This is why they usually have a housemaid, mother, sisters and even female friends to help take care of the kids.

In the same way, many of the homosexuals interviewed intend on adopting an older child so as not to demand "special care", understood as more befitting for women. Interviewees expressed wanting their children to maintain contact with both genders, thus, even being raised by men doesn't mean that their children would be raised in an atmosphere devoid of feminine references in their daily family life.

Despite incorporating spaces for other kinds of caretakers within this configuration of family, the representations made of principal parental figures are still "maternal" and "paternal", each being attributed different kinds of parental care as part of traditional gender models. Even male couples who adopt and raise a child together seek feminine figures (their own mothers or housemaids) for daily concerns such as food, clothing, and health.

Transvestites and transsexuals who plan on being mothers also hope to find a man to help them raise the child. He continues playing the traditional role of father while they are in charge of maternal nurturing, representing a family according to traditional gender and parenting roles.

Transvestite and transsexual maternity

Despite being perceived as part of the same "homosexual universe", transvestites and transsexuals demonstrate specific characteristics in constructing gender and sexual identities and these need to be understood in order to clearly perceive the consequences on the kind of parenting they may come to realize.

Common sense views consider transvestites as well as transsexuals to be part of a wider group, also encompassing homosexuals. This sort of categorization creates confusion between that known as the "orientation" of sexual desire (and its corresponding "sexual practices": homosexuality, heterosexuality, bisexuality) and "gender identities" (perceiving oneself as a man, woman, transvestite or transsexual). Both categories (transvestites and transsexuals) identify themselves as women, victims of a "natural error", having been born in the wrong body: a woman's soul in a man's body. The difference between them is that, in medical terms, transsexuals would precociously develop sentiments of belonging to the other sex, thus longing to change their sex surgically.

However, there also exist other differences that transvestites and transsexuals invoke to construct their identities. Transsexuals permanently need to prove that their "feminine souls" go back to birth, a characteristic permitting a diagnostic as a "real transsexual" legitimizing their demands when facing medical and legal institutions (transgenital surgery and changing identity cards). This diagnostic also lightens the load of social accusations of deviant behavior. The differentiation that transsexuals claim in relation to transvestites comes from the necessity of distancing the former from images of violence, marginality, and prostitution commonly connected with the latter. This conduct is a strategy for confronting social stigma and prejudice against their difference. The desire for social legitimacy finds support in the idea that, being a victim of nature, their behavior doesn't imply in any kind of moral deviance such as that socially attributed to homosexuality and transvestitism (Zambrano, 2003).

Transvestites also consider themselves to be "women in men's bodies", even though they don't fit into the same medical framework as transsexuals. They also present feminine codes, yet their excessive representation of themselves is precisely what gives them a transvestite identity, their *glamour* having a sense of fantasy as well as artifice (Cornwall, 1994).

Since they feel themselves to be "women", transvestites as well as transsexuals believe that sexual relationships with male partners are hetero and not homosexual. This is why they perceive that couples constituted this way are heterosexual, contemplating expectations of more traditional inter-familiar gender roles. For this same reason, the parenting they wish to practice in relation to children is maternal and not paternal. Their position as "mother" is complemented by their partners' position as "father".

However, since judicial powers, supported by medical considerations, only consider it possible for transsexuals to change their sex and identity cards after surgery, courts construct different expectations regarding transvestites adopting children.¹³ The traits which differentiate and

approximate them determine how both groups intend on constituting a family and raising their children.

Transvestites and transsexuals speech regarding their parenting capacities is the same, developing as to show that they possess a “maternal instinct”. They give much emphasis to their previous experiences with maternal care, legitimizing this maternal parenting capacity which they perceive as "instinctual", narrating situations in which, as early as childhood and adolescence, they "raised" children in their family such as younger brothers, nephews, children of other family members, and neighbors and friends' children.

Chodorow (1990) arguments that learning how to “raise children" is a fundamental part of women's socialization in our society. It's also important to highlight classic studies, such Elisabeth Badinter's (1985), contradicting theories that postulate an innate and universal "maternal instinct", shared by all women. The author defends that maternal love is actually a myth assuming an incalculable social value exercised under immense coercion on our desires. This, however, neither implies its universality nor presence in all women as an instinct.

Our data corroborates these ideas demonstrating that it isn't necessary to be a biological woman to feel a "maternal instinct". It seems that, just like most women, transvestites and transsexuals interviewed don't only incorporate, through socialization, this "instinct" which they qualify as occurring "naturally" apt for maternity, but also, through this instinct, corroborate socially affirming their psychological “womanlyness”.

This is perhaps why the totality of transvestites and transsexuals interviewed declared their disinterest in using insemination and new reproductive technologies in order to have a biological child. Many became upset at the suggestion of this possibility, remitting to a “paternal” representation connected to semen. They affirmed that this would be an unthinkable alternative because collecting semen as men do while their desire to have children is related to their wanting to be "mothers" and not "fathers". This way of facing the problem reminds us of the importance these informants give to representing maternity so as to confirm their feminine gender. This fact, however, can't be generalized since the fieldwork related to this segment of the empirical universe is still in an initial stage. It's possible that in places where maternity and paternity are related to other representations, new technological possibilities might be used.

We only interviewed one transvestite and one transsexual whose children originated in previous heterosexual relationships. Both made evident that the parental representation tied to these children continues to be paternal, even after the corporal transformation. In these cases, one may perceive the coexistence of a masculine parental representation, constructed previously, and a feminine parental representation, constructed in recently. It's interesting to point out that the paternal representation comes from the body, being connected to fluids (semen, hormones) previously produced by the male body, while the maternal representation is social, related to a subjective perception of possessing a feminine “essence” within a body also made feminine.

We've noticed the presence of different investments that informants have made regarding children originating in and planned within hetero and homo-parenting contexts. In this sense, Eugênio (2003, p. 11) suggests analyzing this difference from the categories of "memory children" and "projected children", centered in perceiving different temporalities of parenthood, manifesting distinct experiences. The "memory children" would be the materializing of a memory of homosexuals having been heterosexuals and transvestites and transsexuals, men. As such, relationships with "memory children" are marked by tension in constructing new identities which

might even mean breaking parental ties. On the other hand, the "projected children" are subjected to differentiated investments because they conjugate the desire for children with the consolidation of a present sexual or gendered identity.

We suggest that given the great weight of "family" as a value in our society, parenting may be an element used to give positive qualities to homosexuality, transvestitism, and transsexualism, carrying out an important role in the social process of distancing stigmas, consequently amplifying citizenship rights.¹⁴ This possibility of relativizing stigma appears in the testimony of a law operator when he says that "... an infected child [with HIV], the best cared for in the emergency unit, the most loved, with no rashes whatsoever, was cared for by a transvestite... as far as transvestites and transsexuals go, I think we need to rethink, study, deconstruct something...or reconstruct something, no?"

As has previously been mentioned, data gathered demonstrates that, even being born with male sex organs, transvestites and transsexuals may manifest female and maternal parenting representations, more related to effective or projected children after corporal transformations, indicating greater importance for gender identity than biological sex in constituting this representation. In this way, maternal parenting enforces transvestite and transsexual feminine identity.

Repercussions on the legal field

Brazilian legislation doesn't coincide with the different possibilities of homo-parent families in the same way. Co-parenting, for example, is one of the possible forms of homo-parent families on whose establishment the law does not interfere. Yet, at the same time, the country's Civil Code doesn't take into consideration the complexity of alliances and affiliations stemming from homosexual co-parenthood. As such, a child is neither guaranteed stability nor memories of his or her parental ties, since, by legally recognizing only one father or mother, State protection for other participants in this new configuration is left out together with resulting rights and obligations accompanying this recognition.

In cases of co-parenting, raising the child is done jointly by way of a contract between two people (or two couples) of the opposite sex, who don't maintain any relationship of conjugality between them. This modality is inscribed in a heterosexual context of conception and a deliberately homosexual context of upbringing. As such, the co parents, at least theoretically, guarantee that the child will know his or her biological and affective origins, but doesn't guarantee legal protection of any relationship deriving from these origins. Recurring to new reproductive technologies also hasn't been regulated by the Brazilian Civil Code. According to Brauner (2003), the only existing norm is a resolution of the Federal Medical Counsel which leaves the decision to grant access or not to homosexuals to these new technologies to doctors' own personal and ideological positions.

In these two situations legal problems occur after the child is born and are related to partners and biological parents' rights and obligations, which still haven't been socially or legally recognized.

In the case of the homosexual family context taking place after an undone heterosexual relationship, the legal problem which may arise relates to using one of the parent's homosexuality as a justification for impeding his or her right to parenthood in terms of custody, visits, sleeping over, vacations, etc. In other cases, the heterosexual parent might demand that the child not live with the new partner of the homosexual parent by claiming the necessity to protect the child from awareness

of this kind of relationship. In these situations, the constitutional impediment towards discrimination, in any circumstance, should be sufficient to avoid that parental rights of homosexuals be disrespected. However, research shows that one of lesbian mothers' great concerns is precisely the possibility of losing custody of their children because of homosexual partnerships. When this happens, the justification presented in the sentence is usually defending the child's best interests by considering the parent's homosexuality as a factor that would prejudice his or her child's development (Julien; Dubé; Gagnon, 1994).

When choosing to adopt, different legal obstacles to constituting a homo-parental adoptive family rise from, on the one hand, the impossibility of disentangling biological, social, and legal aspects of affiliation and, on the other, "sex differentiation" norms. Legal adoption is that situation on which courts are called on to manifest their judgments and whose finality is awarding a family with a child, in which the child's affiliation is preferably as close as possible to biological fact, even though adoption is an action typically instituted by right and not by nature (Gross, 2003). Since this legal fiction can't be preserved in the case of homosexual parenting by way of adoption, homosexual couples thus encounter difficulties in adopting children.

Even though the law doesn't impede homosexual couples from adopting, all of our informants who wished to adopt legally, even as a couple, ended up doing so on an individual basis.¹⁵ In our opinion the reigning representation in our society of a nuclear family, often shared by our informants, may bring about fears of adoption papers not being deferred because of their homosexuality, which would explain the consequent option of not demanding joint adoption. As such, the majority of homosexuals we interviewed who plan or planned on having access to parenthood opt for legal adoption on the part of only one spouse.

Choosing adoption as the principal access to parenthood can't be considered without also taking into consideration the peculiarities of four homosexual informants, middle and high class with good schooling and militancy, or friendship with militants engaged in gay-rights struggles. These characteristics gain greater meaning when taking into account that adoption possibilities are sought through the court system, even admitting that this implies the possibility of confronting discrimination. It should be remembered that these informants not only possess greater awareness of their citizenship rights but also financial resources to fight for them. For transvestites and transsexuals the situation is quite different as we've already seen here.

In data gathered among law operators, we observed greater concern is always expressed in relation to the child's wellbeing. If the adopting couple is homosexual there will be more apprehension than with heterosexual couples. In regards to this situation, Uziel (2002) analyzes that the allegation law operators use to justify a more rigorous evaluation of homosexual couples who are candidates for adopting children is centered on the possibility that the parents' homosexuality interfere in the child's well being. This is why operators tend to interpret homosexual adoption as less favorable for the child. In Porto Alegre, legal discourse is very cautious in not seeming discriminatory and often evaluations of homosexual couples' demands result favorably. Despite this, questioning sexuality and parental capacity is always taken more seriously when the claimant is perceived as lesbian or gay.

Final Considerations

The necessity of distinguishing between the two sexes is common to all fields of knowledge that, in some ways, influence and decide questions regarding homosexual, transvestite, and transsexual parenthood. This necessity is used as a basis for constructing ideas that question the survival of societies and children's mental health. This discourse, historically and culturally constructed, reaches each of the groups considered here differently, however.

As regards homosexuals, the lack of each different sex justifies reserves in terms of parenting. The argument runs that the children will grow up without references of both masculine and feminine and, as such, will become psychotic, suffer discrimination and, in the end, turn into homosexuals themselves, placing civilization's own survival at risk.

The paradox is that the argument used to impede homosexual parenthood – lack of sexual distinction – is the same that should theoretically authorize transsexual parenthood; a “sex change” was performed in order to correct nature's “error”, the new woman (or man) being judicially recognized as such, thus (at least theoretically) being able to adopt children. What's more, should the parenthood be shared with a man, the heterosexual statute of the relationship is maintained. The problem of sexual distinction, being confirmed by new civil documents, is solved, with the name and sex registries corrected. How can we explain the reserves against this parenthood then?

The problem with transvestites is different. If homosexuals threaten the “established order” with their behavior, having sex with same-sex partners, transvestites threaten corporally, since it's the body itself that subverts the norm. Half man, half woman, it's a lack of definition and concomitance, corporal ambiguity related to sexual difference that makes this possible parenthood “unthinkable”.

All of these situations raise questions for Anthropology, Psychoanalysis, and Law, as have been analyzed here. The challenge being placed is how, even if “unthinkable”, are these parenthoods experienced, however, which obliges social institutions and fields of knowledge to urgently adequate themselves so as to be more conducive to current reality.

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1 The expression "Name of the Father" was established by Lacan and is a double-entendre in French, suggesting that the "law" has been inserted in the psyche simultaneously through the "name of the father" and the "father's no", making prohibition necessary in order to humanize an individual and make his or her entrance into the "symbolic order" possible.

2 Homo-parenthood is a neologism, created in 1997 by the Association of parents and future gay and lesbian parents (APGL), in Paris, nominating a situation in which at least one adult refers to him or herself as homosexual who is or wishes to be a father or mother of at least one child.

3 The terms "homosexual - homosexuality", created by Psychiatry as a clinical entity used to refer to "people who have sex with other people of the same sex", yet considering that their existence isn't tied to a single identity "essence".

4 In an anthropological perspective, identity is a conceptual tool which is relational and that establishes connections and separations between individuals. This identity is constructed from the subject as well as from the observer's viewpoint and doesn't possess essential stability, being more of a trajectory and a series of dislocations, thus constructing a subject in constantly in the process of becoming (being formed). According to Lévi-Strauss (1995, p. 344), identity can be considered as a virtual focus, called into action at different times and indispensable as a reference and to explain a number of different things without actually being endowed with a real existence. As such, these different identities aren't seen as having a concrete existence, thus reducing them to their innumerable possibilities.

5 Also see Giorgis (2002).

6 Pacs means Pact of civil solidarity, approved in November of 1999 in France in order to regulate same-sex unions.

7 Whose key representatives are Tony Anatrella (priest and psychoanalyst) and Pierre Legendre (jurist and psychoanalyst).

8 The psychoanalyst, Jean Pierre Winter, is their key spokesperson.

9 Whose spokespersons are Michel Tort (psychoanalyst), Sabine Prokhoris (philosopher and psychoanalyst), Geneviève Delaisi de Parseval (psychoanalyst and anthropologist) and, later on, Elizabeth Roudinesco (psychoanalyst and historian of psychoanalysis).

10 A survey of this research may be found in Zambrano (2006).

11 Tarnovski (2003), in research carried out among men who identified themselves as gay in Florianopolis, reports that these men make few demands for new reproductive technologies and that adoption, whether formal or not, is the most sought after kind of parenthood for them. Uziel (2002) shows that most adoption papers, in Rio de Janeiro, are filed by men. Of the eight cases she analyzed, only one was presented by a woman. Eugenio's data (2003) shows that lesbian women make greater demands for artificial insemination in their parenting projects. Sousa (2005) explains that, in Canada, most lesbian women search for new technology while in Brazil most lesbian families studied by this author compose families by incorporating children from previous heterosexual relationships.

12 Using the feminine gender in Portuguese language grammar aims to accompany the gender demanded by transvestites and transsexuals.

13 Recently on April 5, 2006, the Seventh Civil Chamber of the TJRS approved a name-changing request on a non-operated transsexual woman's identity card, yet denied awarding her a sex-change operation.

14 Tarnovski's work (2003) confirms this data regarding homosexual parents.

15 For more information, see Lorea (2005).

Translated by Michele Andréa Markowitz

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