

## **A(Anti)homosexual familism and regulation of citizenship in Brazil**

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### **ABSTRACT**

Ten years after the presentation of proposed legislation that institutes the civil partnership between same-sex people, this article is a collection of reflections about the theoretical and political debate regarding relationships between homosexuals as an expression of diversity of the social institution of family. The lack of legal rights for gay and lesbian partners and parents is an explicit denial of their citizenship. It will be shown that romantic and sexual relationships, which make us intrinsically human, is in legal terms, a heterocentric possibility. This is an expression of the erotic injustice and sexual oppression that affect gays and lesbians in Brazil and most of the world.

**Key Words:** Homosexuality; Family; Citizenship; Civil Partnership; Marriage.

### **1. 10 years without the PCR and the legal void**

More than ten years have passed since congresswoman Marta Suplicy presented proposed legislation in the lower house of the federal Congress concerning the civil union between people of the same sex, known as the Civil Partnership Registration law (PCR).<sup>1</sup> Since that time, Brazilian society has undergone significant transformations, debates about homosexuality have become more visible and coverage in the media has been ostensive, particularly of judicial decisions favorable to civil rights for gays and lesbians. Concretely, however, there is no indication that the federal Congress is close to recognizing the legal effects of conjugal ties between people of the same sex and much less of assuring a right to adopt

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<sup>1</sup> For a detailed analysis of the progress and discussion of Proposed Law n° 1.151/95, which institutes civil union between people of the same sex, in the Congress see MELLO, 2005a and 2005b.

children for gay and lesbian couples. To the contrary, the corruption scandals in Congress and the current party alliances leave a strong sensation that the coming years will be very conservative ones in the legislative branch and that it will be up to the Judiciary to continue to offer legal support to the demands for homosexuals in the field of parental and conjugal rights, as it has been doing in recent years, in face of the legal void existing in the country.

On a global level, 2005 will be marked as the year in which the Vatican radicalized its moral ultraconservatism with the election of Pope Joseph Ratzinger (Bento XVI). But it was also a year in which Spain, a country in which 92% of the population declares itself to be Catholic, legalized with broad popular support marriage between same-sex people and the adoption of children by homosexual couples. Spain was the world's third country, after Holland and Belgium, to exclude sexual difference as a pre-requisite for the right to marriage.<sup>2</sup> In addition, it joined Holland as one of the two only countries to assure gay and lesbian couples the right to adopt children. This legislative advance can only be understood considering the surprising victory of the Spanish Socialist Workers Party in the 2004 elections, soon after the tragic terrorist bombing of March 11 in Madrid that killed 191 people. Upon taking power, Spanish Prime Minister José Luis Rodríguez Zapatero declared that he would legalize homosexual marriage, one of the basic promises of his campaign, together with other liberal and polemical measures, with the expansion of legislation about divorce and the authorization of research with embryos.

The distinct legal solutions found in Brazil and in Spain to deal with social demands related to the civil rights of gay and lesbian couples are a concrete expression of the understanding consecrated in academic circles that the family is a social institution, resulting from an agreement between different political actors about which conjugal and parental groupings should have the protection of the State and be considered legitimate by society. Specifically in Brazil, however, in light of the legal void, we have confronted contradictory situations, in which the family dimension of emotional-sexual ties among gays and lesbians is either affirmed or denied, as we will see below.

In January 2005, in Taubaté, São Paulo, a federal attorney general filed a Public Civil suit to request an injunction to allow marriage between homosexuals in all Brazilian states and the Federal District, under the principal argument that the Brazilian Civil Code does not prohibit the union between same-sex people. One week later, the request for an injunction was denied by a Federal Court, based on the understanding that, given the consequences that the state of marriage has on the moral order and the very legal relations of citizens, it would not be appropriate to

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<sup>2</sup> Canada and South Africa, in 2005 and 2006 respectively, also approved legal recognition for marriage between same-sex couples, including the right to adopt children.

realize marriages based on the precariousness of a judicial injunction. But the full merits of the suit have yet to be ruled on. At the time when the public civil suit was filed, then Minister Nilmário Miranda, of the Special Secretariat for Human Rights, issued an official note supporting the initiative, defining it as “an important measure for the implementation of the rights and citizenship of homosexuals in Brazil”.

On the other hand, a case that gained international notoriety, also in January of 2005, was the impugment by the Superior Electoral Court of the candidacy of Eulina Rabelo as a mayoral candidate in the municipality of Viseu, in Pará, by six votes to none, under the argument that she had a stable relationship with the current (female) mayor, which made her ineligible. Minister Gilmar Mendes of the TSE ruled: “The subjects of a stable homosexual relationship, similar to what occurs with those of a stable relationship, with concubinage and marriage, are submitted to the rule of ineligibility foreseen in art. 14, § 7º, of the Federal Constitution”. In an interview with the national magazine *Veja* (edition 1878, of Nov. 11, 2004), the candidate declared ineligible expressed the paradox of the situation: “I feel abandoned by the laws of my country (sic!). The Constitution does not recognize a stable union between homosexuals when the issue is their rights, but by chance recognizes it in terms of their responsibilities”.

Previous to this electoral court decision, in late 2003, the National Immigration Council, an entity linked to the Ministry of Labor and Employment, decided in an administrative resolution, to allow issuance of temporary or permanent visas, or definitive residence, to foreigners who are partners of Brazilians, with no distinction according to sex. In other words, homosexual couples come to be recognized for the effect of concession of a visa to a foreigner, as long as they can prove they have a stable union. Independent from this administrative resolution, there are other legal precedents in Santa Catarina, Paraná and the Federal District, which for example, assure the permanence in the country of foreigners who are partners of Brazilian homosexuals. Meanwhile, homosexual couples composed of Brazilians confront a series of difficulties due to the absence of legal regulation of their emotional-sexual ties. In the absence of a law, they are at the whim of judicial interpretations.

## **2. Erotic injustice, sexual oppression and family diversity**

No sociologist currently defines the conjugal family (formed by a father, mother and their children) as “normal” in contrast to a supposed “abnormality” of homosexual families.<sup>3</sup> Nevertheless, resistance to the acceptance of families formed by homosexuals is related to the fact that the gay and lesbian movement – and moreover, their simple existence – challenges millenary structures based on which human societies were constructed, such as sexual repression and compulsory heterosexuality. In general, the demands of gays and lesbians for recognition of their emotional-sexual ties as constituting a family do not deny sexual difference, between the masculine and the feminine, but its consideration as the only basis for desire, sexuality and the family.<sup>4</sup>

Carrie Gorgon Earll, spokesperson for the U.S.-based group *Focus on Family*, expressed the logic subjacent to the attempt to legitimate the interdiction of homosexual marriage:

No one is denied the right to marry, given that the person meets the following criteria: one must be single, have the minimum age established by law, and marry someone of the opposite sex. Those who do not meet these criteria are not qualified, but this is not discrimination<sup>5</sup>.

Another element of the same argument against the legitimacy of homosexual marriage is that in which is asked: why do gays and lesbians request the right to the conservative and alienating institution of marriage? This questioning, avoids the risk of appearing homophobic,<sup>6</sup> but does not escape a clear prejudice: that homosexual conjugality is a synonym with a certain sexual liberty and of an atypical romantic life.<sup>7</sup> Both arguments deny the legitimacy of the principal request: equality in the public sphere between heterosexual and homosexual relationships. This

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<sup>3</sup> Alain TOURAINE, 2004.

<sup>4</sup> Anne CADORET, 2003.

<sup>5</sup> See article “Prejudice is basis for laws against gay marriage”, published in *The Denver Post*, available at <http://www.convida.org.br/noticias.asp?fazer=exibirPub&codigo=195>, accessed March 10, 2005.

<sup>6</sup> Contardo Calligaris, upon reflecting on the same theme in the Brazilian scene, highlights: “I hear, these days, in Brazil, presumably liberal voices against gay marriage. They comment: ‘They want to get married? But nothing could be straighter! We expected that they would be voices of the sexual revolution’. It is a veiled way to say: they already have more pleasure than we do, now they are also going to enjoy the modest pleasures of the home, the only ones ‘left for us?’” See the article “O casamento gay e a volta da intolerância”, published in the *Folha de S. Paulo*, available at <http://www1.folha.uol.com.br/fsp/ilustrad/fq2108200322.htm>, accessed on August 21, 2003.

<sup>7</sup> See article “Gays support conservative institution by insisting on marriage”, published in *Le Monde*, available at <http://noticias.uol.com.br/midiaglobal/lemonde/ult580ul1136.jhtm>, accessed on June 9, 2004. For a provocative reflection on the desire of homosexuals to be inserted in the family order see Elisabeth ROUDINESCO, 2003.

hierarchization of distinct forms of conjugality can be considered as an expression of erotic injustice and sexual oppression.<sup>8</sup>

Confirming this final perspective, Gayle Rubin noted that modern Western societies evaluate sexual acts based on an hierarchical system, which has at the top of the erotic pyramid married heterosexual reproducers, and just below them monogamous heterosexuals who are not married but who form couples, followed by the majority of heterosexuals. Stable lesbian and gay couples are at the limit of respectability, while promiscuous homosexual men and women are only a bit above the most devalued sexual castes, which generally include transsexuals, transvestites, fetichists, sado-masochists, sex workers and pornography industry workers, with the lowest of all the castes formed by those who transgress generation boundaries. The closer to the top is the group to which an individual belongs, the greater the compensation in terms of recognition of mental health, respectability, legality, physical and social mobility, institutional support and material benefits.

As an indication that an hierarchical system of sexual oppression has strong influence on the definition of those sexual practices seen as legitimate, the proliferation of groups organized against sexual dissidents has been witnessed in all continents.<sup>9</sup> This recalls the classic reflections of Norbert Elias,<sup>10</sup> which emphasize that members of dominant groups think and represent themselves as humanly superior. The stigmatization of outsiders is a powerful arm in the process of identity construction of the oppressors. In this same direction, specifically in relation to the civil rights related to conjugality, it is seen that “the sphere of the legitimate intimate alliance is established thanks to the production and intensification of zones of illegitimacy”.<sup>11</sup>

In addition, in the current scenario of political struggles related to sexuality, fundamentalist religious groups argue that institutional support to homosexual conjugality must be terminally denied, because it contradicts a concept of the family founded on monogamous heterosexuality open to reproduction<sup>12</sup> with universal and absolute pretensions, which places homosexuals at the level of a “sexual-lumpen” to paraphrase Karl Marx, constituted by the dregs of humanity. As Eliane Gonçalves reveals, “the heterosexual family model is very strong and is thus rooted to our social imaginary in such a way that the invention of new forms of living become practically impossible”<sup>13</sup> because they presume a deep redefinition in gender relations and the depletion of the centrality of the heterocentric norm. What is observed is that, in a search

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<sup>8</sup> Gayle RUBIN, 1989.

<sup>9</sup> Sônia CORRÊA and Maria Betânia ÁVILA, 2003.

<sup>10</sup> ELIAS, 2000.

<sup>11</sup> Judith BUTLER, 2003b, p. 226.

<sup>12</sup> Miriam ADELMAN, 2000.

for respectability and due to the absence of alternative models of family organization, gays and lesbians often tend to reproduce the binary logic of heterocentricism that rejects them. It is not by chance, therefore, that attempts to transform society as well as “find a place at the table” are at times simultaneous and paradoxical objectives of feminist and gay movements.<sup>14</sup>

In this situation, a permanent challenge of theory construction is to question the naturalization and the essentialism that characterize the social representations related to sexuality. Thinking from a constructivist perspective, “sexuality is as much a human product as are diets, means of transportation, systems of etiquette, forms of labor, leisure past-times, production processes and forms of oppression”.<sup>15</sup> Upon reflecting on a pluralist sexual ethic, it is essential to incorporate a concept of benign sexual variety, which would contradict the idea, prevailing in most systems of thought about sex, that an ideal and single sexuality exists and structures a social organization marked by sexual apartheid, which defines as non-humans those who do not fit into the limits of the norm. Nevertheless, the sexual system is not a monolithic structure. To the contrary, it contains intense struggles related to values, agreements, privileges and costs stemming from sexual conduct. In extreme cases, sexual conflict takes the form of moral panic<sup>16</sup> and a “fear of pollution” or “anomic infection”<sup>17</sup> that can supposedly be contagious and lead to social disorganization, especially when heterosexual men see their monopoly of sexual rights questioned in the public sphere by women (homo or heterosexual) and homosexual men.

The political activity of the gay and lesbian movement raises “a certain number of questions that are among the most important to the social sciences”,<sup>18</sup> threatening the bases of the ruling symbolic order. While the majority of earlier studies about homosexuality tended to focus on the orgiastic and transgressive aspect of the homoerotic experience, since the 1990’s the understanding of the meanings of loving and family relations came to compose a growing number of studies, including those that emphasized the ties between gays-lesbians and their biological or adopted children. A characteristic that is special to homosexual conjugality is that couples have fewer possibilities to make a social commitment that is capable of giving stability to the bond such as the purchase of a home, common property, children and ties of fidelity, in the later case in particular for men. In face of this reality, conjugal ties would perhaps be more vulnerable to instability typical of romantic ties.

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<sup>13</sup> GONÇALVES, 2001, p. 14.

<sup>14</sup> Rosalind PETCHESKY, 1999.

<sup>15</sup> RUBIN, 1989, p. 133.

<sup>16</sup> RUBIN, 1989.

<sup>17</sup> ELIAS, 2000.

<sup>18</sup> Pierre BOURDIEU, 1999, p. 143.

Beyond the sphere of legislation, sexuality – and add to this conjugality – also has been regulated by representations created in the realm of religion, family, medicine and media.<sup>19</sup> Lacking autonomy in these representations, women and homosexuals (gays and lesbians) are indicated as the builders of these sexual rights, because they have been seeking to transform transgression into socially accepted conduct, based on the understanding that “equality does not mean identical, but that which has the same value”.<sup>20</sup> On the other hand, an encompassing concept of reproductive rights cannot be restricted to the universe of the heterocentric norm, particularly considering that the right to non-reproduction applies to everyone and that the right to reproduce must also be applied to everyone, particularly in the cases of adoption and assisted reproduction. Sexuality and reproduction, in these terms, should be considered as dimensions of citizenship and of democratic life, although it is essential to treat them as two distinct fields in order to assure autonomy for each of these spheres of life.

Since the International Conference on Population and Development (Cairo, 1994) and the IV World Women’s Conference (Beijing, 1995), indicators began to appear that sexual and reproductive rights have come to integrate the international political agenda, despite a very strong resistance stemming from religious intolerance in some countries. As important themes at this time, a need has emerged to guarantee reproductive rights. In this first moment, there is a need to guarantee reproductive rights for all individuals, (in particular women, and not only couples) and to recognize the plurality in the forms of family, with emphasis on monoparental families headed by women, in different social, cultural and political contexts.<sup>21</sup> In the perspective of the international feminist movement, four principles are non-negotiable components of sexual and reproductive rights: guarantee of corporal integrity (the right to safety and to control of one’s own body), respect for personal autonomy, promotion of equality between men and women and respect for diversity of practices and beliefs in the realm of sexuality and reproduction.<sup>22</sup> In turn, a positive vision of sexual rights is based on the following ethical principles: the right to sexual diversity, habitational diversity (or of forms of families), healthcare, autonomy in decision making and gender equality.<sup>23</sup> On the international political plane, however, there is still enormous resistance in countries where there are religious fundamentalisms of any kind (Catholic, Protestant and Muslim among others) to the inclusion of reproductive rights and, particularly sexual ones, on the human rights agenda. Concerning women, it is possible to

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<sup>19</sup> Maria Betânia ÁVILA and Taciana GOUVEIA, 1996.

<sup>20</sup> ÁVILA and GOUVEIA, 1996, p. 169.

<sup>21</sup> Adriana VIANNA, 2004.

<sup>22</sup> CORRÊA and PETCHESKY, 1996.

<sup>23</sup> PETCHESKY, 1999.

envision some tenuous advances. But in terms of respect for gays, lesbians and transgender individuals, intolerance assumes the form of taboo and reaches the extent that it appears inconceivable at this time for liberty of sexual orientation and of gender identity to be recognized as human rights.

In this context, it is noted that the transformations in the family in recent decades are expressed on at least three levels: the elimination of its role as the productive unit; the increased fragility of the patriarchal power structure in light of growing individuation and autonomy of women and youths; and a separation between sexuality, conjugality and procreation.<sup>24</sup> On the other hand, five global trends can be identified in the formation and function of the family in recent decades: 1) the elevation of the average age of women at their first marriage and childbirth, delaying the formation of new families; 2) a decrease in the size of families and lars; 3) an increase in the financial responsibilities of parents, who come to have younger and also older dependents; 4) a rise in the number of households led by women; and 5) greater participation of women in the labor market and modification in the division of economic responsibility in families.<sup>25</sup>

In addition to these trends, a social policy for families should basically consider the heterogeneity and the dynamics of the conjugal and parental arrangements, which is expressed in the finding that marriage is a fragile institution and that many children do not pass their childhood in a house with both parents. There is thus registered a strong growth of “families without couples”, which have become an important reference in the analysis of the role of conjugality and formation of domestic groups. There is also growing visibility of “special conjugal conditions” such as teen pregnancy, marriage of the elderly and homosexual couples.<sup>26</sup> It appears, therefore, that the family’s role as the fundamental institution of social life is not threatened, but what is now at issue is the need to recognize its diversity, based on distinct systems of power. Confirming this understanding, it is observed that studies about gay and lesbian families come to integrate the bibliography about the family and kinship in the social sciences. Meanwhile, in homoerotic contexts, studies are also being realized about important issues in the field such as adoption, single-parenting and reproductive technologies.<sup>27</sup>

On the other hand it is known that every society establishes norms and sanctions that allow a minimum social accord about the meaning of conjugal sexuality and pre- and extra-

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<sup>24</sup> Elizabeth JELIN, 1995.

<sup>25</sup> Cynthia LLOYD and Niev DUFFY, 1998.

<sup>26</sup> Parry SCOTT, 2001.

<sup>27</sup> Miriam GROSSI, 2003.



conjugal sexuality, expressed in multiple arrangements and variations.<sup>28</sup> It cannot be denied, particularly in Western societies, that emotional-sexual relationships between same-sex people have remained in the realm of extra-conjuality, although a new plasticity is identified in familiar structures, which is materialized, even in the varied individual possibilities of adhesion to one of the available kinship networks, presented as a question of choice.<sup>29</sup>

In this scenario, Robin Fox, in the classic *Parentesco e casamento*,<sup>30</sup> as early as 1967, affirmed that to a large degree humanity had lived in societies in which kinship groups were the fundamental social units. According to Fox, kinship and marriage are related to the basic facts of life, birth, death and copulation, which is the basis for marriage and parental relationship. There is a practically universal trend for these societies to regulate the transfer of property and social position, in case of death, to a relative. Nevertheless, it is known that kinship is not synonymous with marriage, although the debate about “gay marriage” is often confused with that of “homosexual kinship” and many academic studies about family relations have emphasized human procreation as the ultimate kinship relationship.<sup>31</sup>

There is no doubt that the demand for civil rights by gays and lesbians, in the realm of conjuality and parentability, subverts the heterocentric character of marriage and kinship, and requires new perspectives to allow understanding the social relations that regulate the dependence between human beings, motivated by blood and or emotional ties:

“variations of kinships that distance themselves from dyadic forms of the heterosexual family guaranteed by the oath of marriage ... place at risk the laws considered natural and cultural that supposedly support human intelligibility” .<sup>32</sup>

It can also not be forgotten, that the basic family unit, at any historic moment and societal context, is not that of the conjugal couple and their children, but that formed by the mother and her children, and it is not important how they were fertilized.<sup>33</sup> In various societies and times, however, marriage, filiation and residence have been combined in various forms, which implies systematic transformation in the social definitions of the family.<sup>34</sup>

On the other hand, in the past twenty years, it has been observed that studies about sexuality in the realm of the social sciences are strongly influenced by feminist thinking, lesbian-

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<sup>28</sup> Maria Andréa LOYOLA, 1998.

<sup>29</sup> Zygmunt BAUMAN, 2004.

<sup>30</sup> FOX, 1986.

<sup>31</sup> Kath WESTON, 2003.

<sup>32</sup> BUTLER, 2003b, p. 224.

<sup>33</sup> FOX, 1986.

<sup>34</sup> CADORET, 2003.

gay studies, symbolic interactionism, the sociology of knowledge, post-structuralist theory, anticolonialist criticism, Marxist criticism and psychoanalysis.<sup>35</sup> In this context, sexuality, as a plurivocal category, comes to be seen in its historical and cultural dimension, as strongly marked by attributes of gender, class, ethnicity, race, age and religious filiation. One recently conducted and broad survey<sup>36</sup> shows that within the social sciences there has been a significant growth in studies about sexuality, accompanying the trend in Brazilian society to publically discuss issues related to sexual and reproductive rights, particularly based on the activity of feminist, lesbian/gay and HIV-AIDS prevention and combat movements. In the realm of gay and lesbian studies, a panorama of research undertaken in the country can be observed in the congressional annals of the Associação Brasileira de Estudos da Homocultura (ABEH) [Brazilian Association of Homo-cultural Studies], some of which has been published.<sup>37</sup>

### **3. The denial of citizenship**

Reflections about the aesthetics of existence, based on a policy of friendship and on the intensification of pleasures,<sup>38</sup> leads us to think about the multiple possibilities in emotional-sexual relationships that are not limited to the modern heterosexual model of marriage, and to perceive in the experience of homosexuality an anti-assimilationist alternative for a reinvention of the self and the world. As Foucault said in 1982 - long before any meaningful legal debate about homosexuality in Brazil and other countries –that we live in a legal institutional and social world in which the possible relations between human beings are very limited, schematized and not numerous. Foucault questioned how many relationships, in addition to marriage and family ties, could exist, if society did not create so many impediments to the administration of a more diverse world of relations?

In the foucaultian perspective, “the problem of homosexuality is transformed into a problem of friendship”,<sup>39</sup> with the most substantial political project the creation of new forms of existence, beyond the demand for equality of rights with heterosexuals. To recognize marriage as the only form of legitimizing emotional and or sexual ties would imply a conservative intolerance, which denies the legitimacy of other modalities of non-matrimonial relationships. In this sense, the strong engagement of gays and lesbians in the struggle for recognition of legal

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<sup>35</sup> Ivonne SZASZ, 2004.

<sup>36</sup> See Maria Teresa CITELI, 2005.

<sup>37</sup> See Rick SANTOS and Wilton GARCIA, 2002; and Denilson LOPES, Berenice BENTO, Sérgio ABOUD and Wilton GARCIA, 2004.

<sup>38</sup> Michel FOUCAULT, 2004.

support for emotional-sexual relationships among homosexuals points in the direction of a domestication of erotic insubordination traditionally associated to homosexuality. To turn to the State for the recognition of legitimacy of homosexual ties, implies a reduction of the lexicon of social legitimation of erotic diversity,<sup>40</sup> by means of a pre-definition of which individuals and groups can be incorporated into a broader sense of normality.

Upon criticizing the hypervalorization of the institution of marriage, it is often observed that it is easier to go to court to defend the legitimacy of homosexual marriage than to struggle for the legal recognition of a family of friends, whose ties do not go beyond sexual activity, given that families can incorporate friends, lovers and children in various combinations.<sup>41</sup> In addition, Judith Butler, also inspired by Foucault, radicalizes the debate and asks: “Why is there no way to organize rights to healthcare so that everyone, regardless of civil status, has access?”<sup>42</sup> She adds: “How can we give the power of recognition to the State, while we insist that we are unreal and illegitimate without it?”<sup>43</sup> Outside of marriage, does citizenship take another form?

Perhaps it would not be an exaggeration to think that gays and lesbians are facing a new version of that which Wanderley Guilherme dos Santos, called in the late 1970’s “regulated citizenship”. At that time, Santos called attention to the fact that in post 1930 Brazil, citizenship came to be based on a system of occupational stratification defined by legal norms, while citizens were “those members of the community who are located in any one of the occupations recognized and defined by law”.<sup>44</sup> In other words, to be a citizen, it was necessary to insert oneself into the formal labor market, which materializes by means of a professional position that would assure the condition of worker with signed working papers.

The modifications of Brazilian labor laws and the federal Constitution of 1988 have changed that form of regulation of citizenship. Yet an analysis of the social place of gays and lesbians in Brazil reveals the construction of a new form of regulation of citizenship which establishes a legal definition concerning which individuals can be subject to conjugal and matrimonial contracts that are socially recognized as legitimate. The extension of citizenship no longer takes place through the regulation of new professions or the broadening of associated rights, as Santos indicated, but instead, by the broadening of the range of individuals who are

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<sup>39</sup> Francisco ORTEGA, 2000, p. 87.

<sup>40</sup> Richard MISKOLCI, 2005.

<sup>41</sup> WESTON, 2003.

<sup>42</sup> BUTLER, 2003a, p. 231.

<sup>43</sup> BUTLER, 2003a, p. 239.

<sup>44</sup> SANTOS, 1998, p. 103.

socially authorized to constitute a couple, the dyad, the pair, based on values associated to a certain concept of the family, which renounces the imperative of sexual difference, but reaffirms the parameters of a sexuality that domesticates its transgressive potential. Instead of working papers, is a marriage license or civil partnership contract the new legal document that substantiates the civic birth of gays and lesbians in Brazil?

In the little more than 10 years since the presentation of the Civil Partnership Registration law, Brazilian homosexuals have still not entered the arena of individuals who are socially recognized as citizens in the realm of conjugal and parental rights. Without the opportunity for marriage, to establish a civil union, or to adopt children as a couple, gays and lesbians demand recognition of the State and of society for their emotional-sexual ties and their very civil status. To maintain loving relationships, something that makes us intrinsically human, is a heterocentric prerogative – even in legal terms. This is a mark of erotic injustice and of sexual oppression that afflicts gays and lesbians in Brazil and throughout most of the world.

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