

THE QUEER JOYS OF SEXLESS MARRIAGE: COUPLED CITIZENSHIP'S HOT BED!

Abstract

A “sexless marriage” seems a most joyless and banal union to many, old as matrimony itself. Yet the new sexless marriage championed in this paper does not concern cold-bedded companionships, but the legal union of two citizens whose sexed bodies remain unspecified, unsignified and unimportant ... in legislation (their importance in bed is left to participating citizens to determine). This article considers the recent changes to marriage legislation in European countries through the frame of Queer Theory. It particularly reflects on the introduction of the sexless marriage in Norway and Sweden, in the context of other models. It applies Judith Butler’s notions of gender performativity to the policisation of partnerships, applying her concepts of Overplay, Transference and Erasure in the disruption of the heterosexual matrix within coupled citizenship. It considers the varying value of marriage models to Queer projects in “opening up” citizenship, offering new perspectives on “gay marriage” debates.

Keywords: marriage, policy, legislation, queer, sex, sexual citizenship

Citizenship has not been among the most popular objects of social and political theory in Europe during recent decades, although it has been a central concept historically (Anttonen, 1998). While there has been an assumption that welfare models succeeded in solving some of the struggles around citizenship based on class and gender conflicts, new understandings of sexuality and sexual citizenship have shaped contemporary debates. New partnership laws have placed citizenship firmly back on European, and global, agendas. The field of marriage legislation is shifting globally. The greatest repositioning of the continental plates has been across European terrain. While some American states grant marriage unions to gay and lesbian couples with the left hand and remove them with the right, it is countries such as Denmark, Norway and Sweden that lead the way with the most early, stable and clear changes to partnership law. It is also in Europe that the scenery is perhaps at its most diverse. Currently, the landscape ranges from heterosexual-only marriage (e.g. in countries such as Armenia, Belarus, Slovakia), unregistered cohabitation for same sex and different sex partners (e.g. Austria, Croatia, Portugal), registered cohabitation for same- and/ or different- sex couples at either national or state and regional levels (e.g. Andorra, Italy), same-sex registered partnerships (e.g. Czech Republic, Denmark, Finland, Germany) through to same- and different- sexed and gender/ sex neutral marriage (e.g. Belgium, The Netherlands, Sweden) (ILGA

Europe, 2009). There are also countries where more than one model of civil union is offered to same- and different- sex couples (e.g. France, Hungary, the UK).

However, European marriage has not always been a site where so many citizens could become “engaged” in any permeation of the word. Even now and certainly historically, many European citizens have felt excluded from the full benefits of citizenship through being disqualified from the particular coupled citizenships they desire (Binnie, 1997; D. Richardson, 2000; Sears, 2005; Weeks, 1985). Issues range from concerns over relationship visibility or exclusion through to adoption rights and child support, taxation, inheritance concerns, divorce and transnational citizenship difficulties. Some theorists even see marriage as civilising in itself (Rauch, 1997, p. 177). Herdt and Kertzner (2006) argue that “marriage denial” negatively impacts the health and wellbeing of gay men and lesbians, disenfranchising them in the sociocultural, legal, economic, and political aspects of their lives. Other theorists and activists have reservations about how antithetical marriage might be to queer principles and the relief of oppression for alternative relationship structures, and range from being somewhat suspicious to strongly opposed to the concept of state involvement in any of their sexual and romantic unions (Brandzel, 2005; McCaffrey, 2005; Saalfeld, 1993; Warner, 1999; Yep, Lovaas, & Elia, 2003). An understanding of the many sides of the debate can be reached through a brief look at the histories of marriages in Europe, and the frames with which these histories are viewed.

But first, a note on terms: there is no precise shared definition of “sexual citizenship”. It is activated in several disciplines; sociology (Giddens, 1992; Plummer, 2003; D. Richardson, 1998; Weeks, 1998), legal theory (Herman, 1994; Robson, 1992; Seto, 2008), political theory (Josephson, 2005; Phelan, 1994; Wilson, 1995), geography (Bell, 1995; Binnie & Valentine, 1999; Hubbard, 2001) and social policy (Brandzel, 2005; Herdt & Kertzner, 2006; D. Richardson, 2000). Some theorists across disciplines negate sexual citizenship (Brandzel, 2005; Eskridge Jr & Spedale, 2006; Evans, 1993), repudiating it a “partial, private, and primarily leisure and lifestyle membership” commodified in exchange for limited capitalist social rights (Evans, 1993, p. 64), or causing disjunction between “gay and lesbian (...) and heterosexual citizenship” (Brandzel, 2005, p. 196). They conceive sexual citizenship in terms of access to rights to sexual expression and consumption. Other theorists are cautiously optimistic; seeing it as an opportunity to rethink relations between private and public, personal and political, democracy and citizenship (Attwood, 2006; Giddens, 1992; Plummer, 2003; D. Richardson, 2000; Weeks, 1998). Richardson defines sexual citizenship as “a status entailing a number of different rights claims, some of which are recognized as legitimate by the state and are sanctioned” (D.

Richardson, 2000, p. 107). She outlines three sub-streams to these sexual rights: conduct-based, identity-based and relationship-based rights claims. Weeks seminally defined it as a hybrid “harbinger of a new politics of intimacy and everyday life”, arising from the “intermingling of the personal and public” feasible *because of* modern social moves towards detraditionalization, egalitarianism and autonomy (Weeks, 1998, pp. 36-40). Both Richardson and Weeks see sexual citizenship as having worthy limits, particularly in relation to paedophilia. Yet they do not consider how rights invoke responsibilities (E. Richardson & Turner, 2001). However, their rethinking occasions the development of new forms of citizenship and democracy. Attwood goes furthest in arguing for new models of sexual citizenship that are open and temporal: “There is a tightrope to be walked here, between the models we can make and (...) what we cannot yet envisage but need to remain open to” (Attwood, 2006, p. 17).

This paper thus expands “sexual citizenship” as a culturally and temporally specific construct, mobilised and performed in interstitial sites and cites, involving sexual/ gendered/ sexed identity, behaviour, relationship dynamics and rights claims and responsibilities. It is understood concomitantly as arbitrary theoretical concept, communal political tool and as policing and enabling the “lived real”. “Coupled citizenship” is used as a sub-type specifying *united* sexual citizens and their relationship dynamics, rights claims and responsibilities, and hegemonic policed and enabled “experience”. Both are constructed as potentially Queer contrivances. This is unusual – generally only conservative and critical movements in sexual citizenship seek to affect the social order by visibly (re)organising and asserting sexual citizenships and hierarchies. In response, both liberal and (most) Queer concerns aim to defend the private realm from the state and public sphere (Brandzel, 2005; Hubbard, 2001; D. Richardson, 2000; Seidman, 2001). Queer privacy concerns are most radical, including “an expansive concept of sexual intimate choice and variation” (Seidman, 2001, p. 327). This article’s use of coupled citizenship does not see state apparatus as *inexorably* ordering sexual citizenships or attacking privacy, uncovering this potential but also envisioning alternatives.

Of marriages and matrixes

Historically, marriage has been a site where all kinds of citizenships have emerged, struggled for power and recognition, shifted and been shaped. Access to marriage has a significant place in our understanding of engagement in responsible, full citizenship in a democratic polity, and is seen as a prerequisite to the provision of

certain rights and material benefits (Eskridge Jr & Spedale, 2006; Herdt & Kertzner, 2006; Josephson, 2005; Kitzinger & Wilkinson, 2004; Sears, 2005). A concise look at the diverse histories researchers have constructed of marriage legislation across Europe and globally show concern for the citizenship status of various racial/ cultural groups, women, indigenous groups, same-sex couples, transsexual, transgender and intersex people and so on. As this paper's key focus is the role of sex and gender in marriage legislation, paradigms of interest include feminist, gay liberationist and Queer perspectives.

Feminist perspectives highlight the social and economic position and role of women, and their power dynamic in various relations and institutions (Cott, 1977; Gautier, 2005; Josephson, 2005; Tong, 1998). From these perspectives the legal regulations of sexed and gendered citizenship within marriage have evolved over time in different countries. In a comprehensive (albeit heterosexist) study of legal codes, case studies and 40 reports to the Commission to Eliminate Discrimination against Women, analysis uncovered that marriage codes traditionally obliged the wife to obey the husband (Gautier, 2005). Legislation during the age of Atlantic revolutions generally made this obedience more binding initially. However, constraints were relaxed to give more freedom to wives at the beginning of the twentieth century, where females were able to explore such citizenship aspects as property ownership and other rights in some countries, and even complete equality in a few countries by 1920. In 2003, 83 countries had egalitarian marriage rights, 38 admitted the husband as the head of the family and 57 maintained the obligatory obedience of the wife. In the parameters of the study, legal equality within heterosexual marriage has progressed in Europe and America, but is still an objective in half the other countries (Gautier, 2005). Some feminists would go further in campaigning for a new marriage framework that would require acknowledgment of rights and obligations of family members toward one another regardless of gender and without reinforcing stereotypes and inequalities (Josephson, 2005, p. 271).

In gay and lesbian studies, the focus is on the social and economic position of same-sex attracted people, as individuals, couples and sometimes as a form of interstitial "community" (Brandzel, 2005; Cloud, 2005; Eskridge Jr & Spedale, 2006; Josephson, 2005; Lewellen, 2009; Sears, 2005). From this perspective, the legislative timeline is relatively blank until the past decade or so. During this period there has been a global movement for official acknowledgment of long-term, committed same-sex relationships (Brandzel, 2005; Cloud, 2005; Eskridge Jr & Spedale, 2006; Josephson, 2005; Lewellen, 2009; Sears, 2005). These relationships – while a long recognized practice in lesbian and gay cultures – have historically

been rendered relatively invisible within expressions of citizenship. Same-sex couples have faced employment, housing, taxation, welfare, inheritance and other forms of discrimination, as well as threats of violence, exclusion and criminalization (Foucault, 1976; Herdt & Kertzner, 2006; Lewellen, 2009; Sauerteig & Davidson, 2009; Sears, 2005). With the advent of the homophile movement and the push for “assimilation”, and later gay liberation and lesbian feminism, same-sex couples were more likely to come forward and identify themselves in censuses and demonstrations in the later part of the Twentieth Century. Visibility and support for gay, lesbian and bisexual unions increased. The changing social and political climate, combined with the call for comprehensive healthcare coverage, parenting rights and rights of power of attorney have fueled a legislative process and social movement that seeks to officially sanction same-sex relationships. The world's first legal civil union in modern history was in Copenhagen, Denmark in 1989, between gay rights activists and businessmen Axel and Eigil Axcil, (whose coupled last name marks the creative amalgamation of their first names). Norway followed the lead of the Danish Parliament's Registered Partnership Act in 1993, followed by Sweden in 1995, and Iceland in 1996 (Eskridge Jr & Spedale, 2006). Since then there has been continual revising of laws and acts throughout Europe and the world as the movement gathers momentum.

Within a Queer frame, there are other historical focal points. While the aforementioned perspectives promote and investigate the political and social positions of particular identities/ subjects, Queer is part of a wider theoretical and cultural shift over the last thirty years that is critical of the notion of identity and its use by minority groups as the key political signifier in citizenship struggles. It may be understood as “promoting a non-identity- or even anti-identity – politics” (Jagose, 1996, p. 130), describing a horizon of possibility whose precise extent and heterogenous scope “cannot in principle be delimited in advance” (Halperin, 1995, p.62). Furthermore, the question of “whether or not queers can or should be citizens” is central to debate between queer theorists and those associated with gay and lesbian politics (Brandzel, 2005, p. 172). Thus, in the context of citizenship and marriage law, Queer explores accountability to the particularly radicalised and gendered histories deployed by various sides on the issue of same-sex marriage. It is concerned with exposing the historic policing of what Butler (1990) termed the “heterosexual matrix”; the (re)production of heterosexuality through (re)presentation of bipolarised oppositions of sex, gender and sexuality as “the norm” (namely, feminine female heterosexuality and masculine male heterosexuality). It also dramatises incoherencies in these (re) productions. Thus, Queer Theorists

“...investigate the historical developments of such categories as (...) woman and man, stressing (their) socially constructed character” (Leitch, Cain, Finke, Johnson, McGowan, & Williams, 2001, p. 25). Legislation and policy can be sites for this Queer analysis. Some Queer research cites the “opening up” of marriage to same-sex couples as an unravelling of both traditionally gendered coupled citizenships and the matrixes/ networks of gendered relational identities (father-in-law, sister-in-law) that traditionally accompany them (Oswald, 2002). Yet other accounts reject all the various historic permeations of marriage as a coupled citizenship that is necessarily exclusive, privileged and (hetero)normative (Brandzel, 2005; Warner, 1999). Throughout Queer considerations there has also been an analysis of the “othering” and citizenship incoherencies of transgender, transsexual, intersex, genderqueer and other sexual subjectivities outside the “heterosexual matrix” by both different- and same- sex marriage policies (Brandzel, 2005; Lannutti, 2005). In such analyses, marriage becomes yet another site for the citing of impossibly limited gendered and sexed identities.

Two dogs and a site for citation

A more homophobic version of my father once argued that two people of the same sex marrying is “like two dogs marrying” – he contended that you could dress them up in bride and groom outfits and lead them down the aisle and call them “married”, but it “wouldn’t make it real”. However, the “reality” of marriage has always been in question. At a physical level, modern European marriages still need to be witnessed, signed and certified – and then often repeatedly proven by citizens for travel documents, welfare payments and other civil matters, as if there is a perpetual disbelief surrounding marriage-status. In some weddings, doors need to be kept open to prove that the service is “public”, and could be observed by anyone. More invasive witnessing of the marriage bed (and its coverings and linings) litter European marriage history and non-consummation has been grounds for divorce; reformations led to witnessing processes by religious institutions and the state (Chisholm, 1972; Fudge, 2003; Haeberle, 1983; Oakley & Sinos, 2002; Witthoft, 1982). Further, on a legislative level, there has always been confusion caused by the understanding that marriage is a public institution that creates a right to private sexual relations, and yet defined by public policy (Josephson, 2005, p. 270). Within this confusion is a paradoxical feature of marriage – it is at once both constructed by state law and policy, and thus perpetually being redefined by these discourses (which define and redefine matters of access and obligations) and yet seen as pre-political,

heralding a pre-existing emotional, natural and sometimes spiritual union. It is both discursively constructed and symbolic of states that are supposedly more stable and permanent. One need only consider the innumerable ways in which marriages can and have been dissolved, and the ways in which marriages can and have strengthened, to realise that this symbolic nature might be representing and interacting with a state that is far more fluctuating, changeable and dynamic. Kitzinger and Wilkinson (2004) argue that it is this symbolic nature that makes marriage so important:

In the meantime, the history of oppression – in Nazi Germany, in the segregationist states of the USA, under the South African apartheid regime – shows how powerfully the exclusion of certain groups from marriage both reflects and perpetuates that oppression, and it does so, in part, precisely because of the huge symbolic importance cultures attach to ‘marriage’ as an institution. As long as marriage exists, we need radical critiques and creative efforts to construct alternatives; and we need equal rights of access to it everywhere in the world (p.145).

Marriage, then, is a changeable and historio-culturally specific construct, lived out in different ways in different social contexts, and recognised or negated within social discourses. It is symbolic, enacted and constantly performed against assumptions about its (in)authenticity to promote a sense of pre-existing authenticity. It is both a speech act in which an “I” and an other are cited and defined in relation to each other and the state/ marrying institution and society, and a site in which while language and the corporeal are changed together, their status as words or deeds are rendered necessarily ambiguous... there are couples who are married in all but name, couples married in name only, couples whose marriage is recognised in one country or state or community or within their own relationship but seen as “unreal” elsewhere. There is a sense of the need for social, state and politic agreement and acknowledgement of a private reality, contract or state. At the same time, marriage is a site through which power is at play: in relation to the citizens excluded from accessing it, the citizens refusing its access to them and their relationships, in the dynamics it ascribes between citizens who access it and between these citizens and the state, and in the ways various relationships, citizens, sexes, genders and desires are hierarchised by it.

But this is no reason to deny marriage, or be denied by it. As Butler argues in her 1999 preface to the Queer classic *Gender Trouble* (Butler, 1990):

There is no political position purified of power, and perhaps that impurity is what produces agency as the potential interruption and reversal of regulatory regimes. Those who are deemed “unreal” nevertheless lay hold of the real, a laying hold that happens in concert, and a vital instability is produced by that performative surprise (p.xxviii).

A Queer interest in marriage policy as a site for citation and performativity is long overdue. There are two main facets to this interest as I construe it: the exposure of the performative nature of the sexed and gendered citizenship citation norms within marriage which maintain and enforce heteronormativity, and the project of unravelling these norms at a legislative level through employing strategic de-stablisng techniques/ Queering devices. I will explore these concurrently in an analysis of different marriage types and their normalising and Queer potentiality. The three marriage types under exploration are the gendered, different-sexed marriage; the same-sexed marriage and the sexless marriage. First, the Queer analysis projects drawn upon are elaborated below.

Performative policy projects

Queer reading strategies sprung from the Queer social reform movement in the '90s, and reclaim the insult "Queer", as a positive alternative to "normal" (Tierney & Dilley, 1998, p. 60). They apply post-structuralism to identity (Sears, 2005, p. xviii) - most notably the work of Lacan, Foucault, Derrida and Butler - revealing Queerness in things labeled "*normal*", and normality in things labeled "*Queer*". Thus, in creating a queer reading of a text or a construct, one can consider how it promotes *OR* subverts heteronormative discourse – the normalization of the heterosexual matrix. Accordingly, one considers such questions as:

1. How does the text/ construct support *OR* disrupt the idea we have stable identities based on oppositions (*only two sexes/ genders/ sexualities/ desires*)?
2. Does the text allow readings in which non-heteronormative desire exists (*beyond traditional masculine male desire for females/ feminine female desire for males*)?
3. Are the desires represented ever inconsistent?
4. What gender performances are represented, and how are they overlapping/ contradictory?
5. How does the text reveal the constructed nature of gender?

Judith Butler's notion of "performativity" enables a more complex analysis of such questions. Butler's concept draws on citationality and language theories, psychoanalysis and post-structural feminist understandings to posit that gender is not entirely essential or a performance. Instead, she sees gender as a phenomenon produced by the anticipation of gendered essence:

Gender is always a doing, though not a doing by a subject who might be said to preexist the deed... There is no gender identity behind the expressions of gender; that identity is performatively constituted by the very "expressions" that are said to be its results (Butler, 1990, p. 33).

This production is continual – a (re)productive process citing an unknown and unknowable original (citing a social history of gender constructions and our own prior performances). Her 1999 preface to *Gender Trouble* clarifies earlier descriptions:

...performativity is not a singular act, but a repetition and a ritual, which achieves its effects through its naturalization in the context of a body, understood, in part, as a culturally sustained temporal duration (p.xv).

Gender is therefore linked to citationality and "...those speech acts that bring into being that which they name" (Butler, 1990, p. 33). When the performative nature of gender is uncovered, the field of bodies disrupts the regulatory fiction of the heterosexual matrix. Butler argues that this expressive model loses its descriptive force, revealing its more prescriptive character – revealing it as a normative fiction regulating the sexual field that it purports to describe.

Queer is often mistaken as purely deconstructive, but it offers co-constructive projects that are useful for policy and legislation. While a specific utopia or ideal is not illustrated, the aim is to disrupt "heteronormative discourse" and any binaries that stabilise heterosexuality, patriarchy and identity. This is meant to extend legitimacy – in all its tenuous and troubled "reality" – to bodies and relationships that have been deemed false, unreal and unintelligible. Butler's specific aim was not to entirely overthrow gender or abandon all conceptions of desire – her understanding of political agency is "that it cannot be isolated from the dynamics of power from which it was wrought: The iterability of performativity is a theory of agency, one that can disavow power as the condition of its own possibility" (Butler, 1999 preface, 1990, p.xxv). Butler offers three key Queer projects, reappropriated from psychoanalytic and language theory, which can be useful in understanding policy and legislation: Overplay, Transference and Erasure.

Overplay

Butler points out that overplay of gendered and sexed identities highlights their performative nature:

Tyler observes that: [Greta] Garbo "got in drag" whenever she took some heavy glamour part, whenever she melted in or out of a man's arms, whenever she simply let that heavenly-flexed neck... bear the weight of her thrown back head...It is all *impersonation*, whether the sex underneath is true or not (Butler, 1990, p.163).

Overplaying the gendered and sexed norms of the heterosexual matrix to the point of ridiculousness reveals how constructed, fake or forced they are. This strategy offers fun possibilities to the artist - writers may create male characters as ridiculously butch and unfeeling supermen and females as completely unable to open doors for themselves etc. The film Pleasantville humorously overplayed the gender norms of 1950s America. A text might overplay anything that is inconsistent with stable identities, such as an incident in which a female character admires another woman's body. All cultures offer physical examples of overplay in their body beautification strategies and clothing – ranging from breast implants and body building to foot-binding or neck elongation. This article will consider marriage polity and weddings as sites for overplay.

Transference

Judith Butler argues that transferring the production of femininity or masculinity onto untraditional bodies disrupts the sense that gender is "natural"/ innate. She argues that transference reveals the performative nature of gender in general, stating:

In imitating gender, drag implicitly reveals the imitative structure of gender itself (...). The notion of parody defended here does not assume that there is an original which such parodic identities imitate. Indeed, the parody is *of* the very notion of an original... (Butler in Leitch et al., 2001, p.2498).

Queer uncovers moments where gender is "constructed":

Of particular interest are transgressive phenomena such as drag, camp, cross-dressing, and transsexuality, all of which highlight the nonbiological, performative aspects of gender construction. To be "masculine" or "feminine" requires practicing an array of rituals (which cross-dressers faithfully mimic and parody in the production of gender identity) (Leitch et. al, 2001, p.25).

Transference of gendered and sexed norms of the heterosexual matrix to other bodies and citizens can highlight their performative nature and also suggest

alternative claims to relative “naturalisation”. Transference has perhaps wrongly been overly-associated with drag, transgender and transsexuality. While it is useful in conceptualising such phenomena, it could as easily and accurately apply to more banal manifestations of “masculinities” and “femininities” on less sensational bodies. Consider the nurturing stay-at-home father, the football-playing girl, the woman who acts as financial provider to her partner. Any individual can offer a time when they disrupted the generic script ascribed to their body in their culture – or by another culture (one need only travel to discover that a carefully constructed feminine gesture, opinion or item of clothing in one country can read as masculine in another). It is similarly easy to think of historic and literary examples who famously subverted norms of sex, gender and sexuality; Joan of Arc, the English Tudor Queen Elizabeth, Sweden’s Catherine the Great, indeed a range of members of various royal family lineages. It can be a useful exercise for writers to transfer feminine and masculine descriptions in texts onto untraditional characters – challenging the square jaw-lined gruff males and milky-white bosomed swooning females of romantic literary traditions. This article will consider marriage polity and weddings as sites for transference.

Erasure

Butler proposes that if the gender sequences of man and woman are fictive constructs – that is, socially instituted and maintained norms of intelligibility – then the substance of gender and the very viability of “man” and “woman” as nouns is problematised by the “dissonant play of attributes that fail to conform to sequential or causal models of intelligibility” (Butler, 1990, pp.23-32). Accepting this unintelligibility, according meaninglessness to such terminology outside of its interrelatedness, can offer the project of the erasure of gendered inferences and limitations. Rendering the body, a gender performance, a speech act, a social interaction, a literary text or artwork, a policy document or piece of legislation “gender neutral” offers many possibilities for many different citizens. The exclusivity of meaning or application can be unraveled through such strategies. Some trans-theorists and genderqueer activists have used this seemingly subtractive device in a different manner – adding vocabulary and possibility rather than deducting it. For example, there are those who replace third person singular personal pronouns (she/ he/ his/ her) with new terms (“heesh”, “shis”). Either way, this device does not endeavor to reduce the conceivable “real”, but to broaden it by removing limitations and specifications.

In reflecting on the performative nature of the sexed and gendered citizenship citation norms within the three marriage structures that follow, I will consider the value of overplay, transference and erasure in destabilising them.

The gendered, different-sexed marriage

There are many European countries where only different-sexed marriages are offered to citizens: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Georgia, Greece, Lithuania, Malta, Moldova, Monaco, Poland, Romania, Russia, San Marino, Serbia, Montenegro, Slovakia, FYR Macedonia, Turkey, Ukraine and the Vatican City. They offer no legal recognition for same-sex partners (ILGA Europe, 2009).

On the one hand, many theorists and researchers criticise marriage legislation that specifies the requirement that the uniting parties be of the “opposite sex” or a “man” and a “woman” for leaving those who identify as gay, lesbian bisexual, same-sex attracted or queer in a precarious position with regard to inheritance, right of attorney, division of assets in the event of relationship dissolution, reproductive rights, next of kinship recognition in regards to hospitalisation and incarceration, and a range of other issues affected by marital status (Binnie, 1997; Herdt & Kertzner, 2006; Rauch, 1997; D. Richardson, 2000; Sears, 2005; Weeks, 1985). On the other, there are those who see unfair benefits for non-heterosexual couples in such an arrangement. For example, Seto (2008) argues that in not recognising gay marriage – or, one could extrapolate, unions between two people who don't fit the heterosexual assumptions in American tax legislations – the American Internal Revenue Code treats heterosexual married couples differently to such couples in committed long-term relationships. Seto posits that as gay couples are not married for tax purposes, nor are they spouses within the meaning of the Code, gay marriage does not invoke any related-party rules. None of the relevant anti-abuse rules in the context of married and extended families apply to gay spouses. Thus, they "should be able to arrange their affairs so as to pay federal income tax at significantly lower effective rates, on average, than identically situated heterosexual couples" (p.1529). Seto's particular partialities, or interests in pointing this out are unclear – suffice to say that a gay libertarian agenda does not appear to manifest in this article's proposal that gay couples register for tax domestic partnership status regardless of whether it entitles them to any rights under state law, its lack of discussion of the many ways in which gay couples suffer without state recognition of their relationships and its silence on the possibility of other types of non-heterosexual partnering. Thus,

even analysis with a complete disinterest in gay rights can see the (if only economic) inequalities that exist in aspects of sexed couple citizenships.

From a Queer perspective, such different treatment of heterosexual and “other” relationships binarises them in a hierarchy in which heterosexual relationships are necessarily privileged and, officially, cast as the “ideal”. This dichotomy forgets the significant overlap in experience for citizens within relationships – the possibilities of deep affection, sexual desire and expression, life-long companionship, creation of families, heartbreak and disruptive divorcing beyond male-female pairings. Without official recognition, such relationships are cast as “unreal”, sometimes even “impossible” or “abominable” in the social psyche. They may be perceived as misguided performances or humorous parodies that do not reflect the “original”/ sanctioned model, in the way that my father had once cast same-sex relationships as a type of canine theatre. But more disquieting than this, such marriage structures pre-suppose the existence of an essentialist “two sexes” model, wherein one is either a masculine male or a feminine female, inherently supporting the heterosexual matrix. In such a model, one is cast in their life role from birth (or even, with use of modern technologies that interpret the fetus’s composition, before birth); as future wife/ mother or future husband/ father, and not “realising” these roles will be consequently interpreted as a form of “failure”. Physical disruptions to the model (intersexuality, various forms of transsexuality and transgender identity) may be interpreted as medical problems to be “fixed” by extreme measures to bring bodies in accordance with the model. Gendered disruptions (where the expected gender codes are not performed) are understood as rebellions to be actively discouraged and sometimes legislated against. Sexual disruptions (such as alternate desires) have been variously criminalized, pathologised and spiritually demonized. Not participating in gender performance, partnering, procreation and the production of heirs in the expected way results in social and civic problems for individuals who are either single or engaged in alternative relationships, ranging from familial nagging, broader exclusion and vilification, through to lack of sufficient social provision and confusion over kinship or the distribution of assets upon death.

The performative nature of this citizenship is particularly visible in the engagement and wedding rituals traditionally preceding different-sexed marriages. The male initiation of engagements and in some cases the way in which fathers of brides and future husbands negotiate the passing of the female from the jurisdiction of one family to another are examples of the inherently gendered and patriarchal nature of this form of marriage. Such male initiation and female submission is seen as “natural”; yet it is taught to children in storytelling, media representations and other

instructive discourse. It is sometimes even written into the wedding vows and contracts themselves, along with other gendered roles that must be played out to suggest their unaffectedness. Traditions preceding the ritual (e.g. the dressing up and pampering at hens' nights and the wild, alcohol-fuelled sexual voyeurism of bucks' nights) and the clothes worn during the wedding ritual (e.g. the ornamental and "purity" declaring white dress or the less visible but serious tuxedo) highlight the constructions of the female's femininity and the male's masculinity in highly symbolic and culturally specific ways and often involve sexed groups in the family or broader social network getting involved in group gender-affirming activities. The presumption of heterosexual desire and the marriage's procreative project underlies post-wedding rituals surrounding honeymoon periods, marriage beds and general expectation of the couple's production of children. Kinship laws may presuppose male paternity according to marriage status rather than actual paternity; husbands may be positioned as financial providers for children regardless of the state of the marriage. Alternately, single mothers on low incomes may suffer financially and socially from the presumption that their children's father(s) would necessarily, or should be, their husband. The practice of transferring a woman's property to her husband at the time of marriage, where it occurs, enhances a woman's (apparently preceding state of) dependence on her husband, making her "the epitome of the anticitizen or noncitizen" (Brandzel, 2005, p. 178). Her citizenship becomes subsumed in the coupled citizenship, and ultimately, her husband's.

Queering strategies for this kind of marriage will have mixed results. Firstly, the value of overplay in destabilising the heteronormative aspects of this union is problematic. On the one hand, weddings and marriage legislation in and of themselves have historically been sites of exceptionally overplayed sex and gender. However, the exaggerated clothing, gestures and symbols that have defined weddings and marriage polity in the past no longer remain unquestioned. Many couples are choosing to eliminate these aspects from their ceremonies and from married life, and where such codes are adhered to, they are more readily recognised as cultural codes due to multiculturalism, the ease of travel and greater access to information about alternatives. Examining instances of overplay in legislation and practice can bring the constructed nature of gender to the fore. But there is always the risk that overplay will be understood as a quaint harkening back to traditions in celebration of a symbolised "reality".

Secondly, the transference of this marriage onto untraditional bodies has been a dubious point of Queer interest. There is some incidence of same-sex access to this form of marriage, both in rumours about Western couples and in accepted tribal

histories. For example, in pre-Christian times childless Nigerian widows were traditionally allowed to act as “husband” and take a “wife”, performing masculine roles (with sperm supplied by a married village donor) of provider and father (Igwe, 2009). Such cases illustrate how a “male” identity can be effectively played out on a “female” body, disrupting essentialist notions of behaviour. They also show how a heterosexual coupled citizenship can be performed by same sex couples. However, these cases are still problematic as they only allow a few females to access benefits of fuller citizenship (conditional on an assumed performance of “male” identity), but not others. Further, male identity, while exposed as performative, is still privileged above (even performative) female identity within the dynamics of the coupled citizenship, in the case of the woman-husband’s symbolic ownership of the woman-wife (through dowry payment, surname inheritance, subsuming citizenship status etc). While disruptive to notions of the heterosexual matrix as the only possible physical reality or method to accessing coupled citizenship, the incidence of same-sex access to heterosexual marriage does nothing to *officially* unravel the gendered hierarchy or heterosexist norms inherent in this marriage model more broadly. The incidence of transsexuals, transgender and intersex people who have “successfully” accessed this form of marriage, overtly or otherwise, is shadowed by those whose coupled citizenships have failed, before or after being “realised” at the altar. Queer analysis regardless finds disruptive potential in how such failed attempts bring the terms “woman” and “man” into question. For example, the case of Christie Lee Littleton, a male-to-female transsexual, who was unable to sue her husband’s physician for wrongful death and received insurance benefits due to her sexed status despite changes to her birth certificate, was the catalyst for much overt discussion of sexed identity at various public courts (Brandzel, 2005, pp. 184-185). However valuable such discussion may be, its immediate result for Littleton was a negation of the aspects of her that did not concur with the heterosexual matrix... while her feminine desire for a male object was treated sensitively as an aspect of a “real” marriage; her subversive bodily status was seen as nullifying such “reality”. Thus, she was acceptably married in desire but not in body.

Thirdly, there is some value in the use of erasure in destabilising the norms of this marriage type. Again, couples are already attempting to “erase”, in an adhoc fashion, aspects of marriage and wedding ceremonies that appear overly gendered and personally distasteful. Likewise, there have been various legislative changes to marriage laws aiming to erase the differences in the sexed citizenship and gendered roles they shape (Gautier, 2005; Josephson, 2005; Sears, 2005). Such erasure can contribute to demystification of the apparent “innateness” of sexed power dynamics

and gendered roles, revealing their changeability and a sense of arbitrariness. However, without erasure of the model at the core of this marriage, the sense of its emanation from a natural sexual opposition is hard to combat.

The Same-Sexed Marriage as a Challenge to Gender

There is now a considerable list of European countries where legal recognition of both different-sexed marriage and same-sexed unions (ranging from marriages through to unregistered partnerships) are offered to citizens. It includes Andorra, Austria, Belgium, Croatia, Czech Republic, Denmark, Finland, France, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Luxembourg, Netherlands, Portugal, Slovakia, Spain, Switzerland and the United Kingdom. These legally recognised unions can be categorised in four main ways (ILGA Europe, 2009):

- **Marriage**
Where the rights, responsibilities and legal recognition given to same-sex couples who marry is the same as those for married different-sex couples.
- **Registered partnership** (Where same-sex couples have the possibility to enter formal registration that provides them with a virtually equivalent status, rights, responsibilities and legal recognition to that of married couples (with some possible exceptions). This form of registration is often exclusively open to same-sex partners; however some countries have also made it available to different-sex partners.)
- **Registered cohabitation** (Where a number of enumerated rights, responsibilities and legal recognition are given to couples who register their cohabitation. This form of registration is oftentimes available to both same-sex and different-sex couples and requires that the couples prove that they have lived together to a determined period of time before they can accede to their registration.)
- **Unregistered cohabitation** (Where very limited rights and responsibilities are automatically accrued after a specified period of cohabitation. These rights are almost always available to unmarried different-sex couples as well.)

There is often disparity in the particular unions offered to same-sex couples and different-sex couples. Belgium, for instance, is unusual in providing comparable marriages. Originally, its 2003 marriage law contained an exception regarding same-

sex couples' adoptive rights; a key aspect of coupled and individual citizenship. However, in 2005, the Chamber of Representatives of the Belgian Parliament passed a law permitting adoption by married same-sex couples, equating their legal status to that of married different-sex couples. Other countries place more limitations on the options available to either homosexual or heterosexual pairs. For example, the Czech Republic offers different-sex couples exclusive access to marriage, yet has offered same-sex couples exclusive access to registered partnerships since July 1st, 2006. This dramatises a sense of "difference" and hierarchical notion of the couplings – particularly due to the limitations on the latter's rights regarding adoption, joint property, acquisition of work permits and survivor's pensions. A curious limit also exists here in regard to the couple's use of a shared last name; in being barred from this symbolic act/ nomenclature the couple is linguistically and grammatically divided. This highlights a sense that the citizens are partaking in a union that is not as "real" or as potentially generative as the "original" it parodies, again placing homosexuality and heterosexuality in a binary wherein heterosexuality is the privileged and primary form.

Similarly, in Italy different-sex couples may get married while no national legislative protections are offered to same-sex couples. The regional cohabitation registries offered to both same- and different- sex couples offer very few civil liberties, thus relegating same-sex couples to a lesser status overall. In another example, The Netherlands provides three options that (to varying degrees) afford legal recognition to coupled citizens. Dutch legislation allows marriage (available to different-sex couples, and same-sex couples as of 2001), registered partnerships (introduced to both different-sex couples and same-sex couples in separate Acts in 1998) and informal cohabitation agreements (where there is no specific legislative content required). There are two major differences between different- and same-sex marriages: homosexual couples may not participate in inter-country adoptions, and in the case of heterosexual spouses, Dutch law presumes that the husband is the father of any child(ren) born to his wife (Smith and Robinson, 2008, pp.374-379). Even in this relatively radical re-working of marriage legislation, there is visible privileging of heterosexual generative power, traditional conceptions of paternity rights (that privilege that married heterosexual man over other men) and the gendering of heterosexual men as the ultimate provider.

On the other hand, there are systems wherein homosexual unions may be (uncertainly) argued as having benefits, such as Germany's Life partnerships, introduced in 2000. In this partnership, taxation still conceives of the partners as individuals. In some cases Seto (2008)'s argument of tax benefits may apply, and in

others tax benefits may be seen as denied these citizens (ILGA Europe, 2009). Smith and Robinson (2008) decry problematic South African legislation for being sex specific. However, their concern is, contrary to most complaints against sexed legislation, regarding the legislation's same-sex specification. While the legislation stems from what they consider to be a ground-breaking judgment handed down by the Constitutional Court on 1 December 2005 (which gave parliament one year within which to promulgate legislation that making same-sex marriage possible), they question the terms of the subsequent Civil Union Act 17 which came into operation on 30 November 2006. This Act – which provides for the solemnization and registration of a civil union in the form of either a marriage or a civil partnership – allows persons of the same sex to conclude a civil union, but does not offer the same citizenship site for people they term “heterosexuals” and “cohabitants who have not formalized their relationships” (p.374). Specifically, heterosexual unions in which one partner is providing financially for the other outside of the marriage construct, suffer from inheritance issues in the event of deaths and other economic disparities upon other changes. Smith and Robinson consider the act a “badly-drafted piece of legislation that has only served to further fragment an already disjointed legal landscape” (p.356). Their (detailed) attack on the inconsistency of this Act appears to be a converse example of the problematic ways in which heterosexual and homosexual unions are ultimately binarised in any sexed marriage legislation, to the detriment of one or the other construct in the opposition, and any other subjectivities beyond it.

Beyond the frequent privileging of heterosexual unions over homosexual ones in the small print of this marriage polity, and some residual reinforcing of gender norms, Queer concern over these coupled citizenships centres on the sexed wording in related marriage legislation. Specifically, there are issues with the requirement that union participants be of either the “same” or “opposite” sex. In such cases, legal rights and protections assume a sex system in which similarity or opposition is possible; in which all people are either one OR the other of two options; presumed male OR female. Thus, transsexuals, transgender and genderqueer people and intersexed individuals, and their partners problematise notions of relationships as having either two members of the same or two members of opposing sex. Marriage based on binaries or even trinarities will not suffice in catering for such possibilities. Such relationships and subjects are still excluded conceptually and sometimes in actuality, and are again relegated to the “unreal” or “aberrant” status. Consequently, other discriminations are likely to follow. Critics of the “same-sex marriage” model

worry that such alternative Queer concerns will be overlooked in what they consider an assimilationist effort:

... for many advocates of same-sex marriage, it is the availability of marriage, not its exercise, that is important. (...) once this symbolic victory is achieved, those in the community who have the most power because they are the most mainstream may see little reason to engage in further activism to achieve rights for less mainstream community members (Josephson, 2005, p.277).

This assessment again negatively emphasises same-sex legal unions as copies of heterosexual conventions, and as furthering a sense that some relationships and families are generally “better” than or morally superior to others.

However, considering these unions in light of Queering strategies reveals some positives along with the negatives. First, overplay of their heteronormative aspects has a curious merit. Media representations of a same sex couple in a white lace dress and a tux, sharing the toothpaste or dropping the kids off at school reveals the illusion of the exclusively heterosexual experience, and denies heterosexuality as a prerequisite for such pleasures. In exaggerating cliché aspects of marriages in street theatre and public weddings, Lambda propounds that hyperbolic performance generates dialogue about Queer interests:

Same-sex couples, arm-in-arm in bridal gowns or tuxedos, accompanied by their wedding party or entourage—especially in winter—will turn heads. Take it from those of us who have donned the dresses, the suits, the gowns, the winter gloves and scarves, carried the signs, rung the bells, blown the celebratory wedding bubbles, and tossed handfuls of birdseed at our brides and grooms: street theater is effective in capturing attention and opening dialogue about lesbian, gay, bisexual, and transgender lives and relationships (Lambda Legal Defense and Education Fund, 2002).

Furthermore, it brings the meaning and worth of these aspects, symbols, structures and details into question, stimulating (re)consideration of the citizenship and gendered aspects of coupled life. Additionally, overplay at a legislative level, which can be understood as a proliferation of legalese enumerating rights and privileges in same-sex marriages traditionally accorded to different-sex marriages, acts as a kind of disruptive and detailed transference in itself; Queering the “normal” and “normalising” the Queer.

Second, the transference device operates in a powerful fashion on individual and cultural psyches through a disruption of expectations. The ways in which traditional aspects of legal unions don’t seem to “work” on the new bodies – two brides or two grooms disrupt the associated sexed relation networks and gendered organization of activity and roles surrounding the wedding and within the marriage – force a creative cogitation. Where there are two males in a union, it seems strange to automatically

accord one greater power over the other's possessions, citizenship status or children. Where two females cohabit, an automatic sexual subordination of one to the other seems illogical. Kitzinger and Wilkenson discuss the disruption of gendered analysis and expectations of the marriage construct their wedding occasioned from feminist, lesbian and gay and generic perspectives:

In reconsidering our feminist analysis of marriage, we have needed to ask ourselves what is meant by 'marriage' itself. (...) There have been enquiries, some serious, others less so, about the hen night, the matron of honour, the confetti, the cake and the speeches at the reception. The jokes (a question about who would be 'giving us away'; a father's humorous complaint that he had not been 'asked for (his) daughter's hand in marriage'; objections from several lesbian and gay friends that we hadn't invited them to be bridesmaids) depend, of course, on precisely this contrast between the conventionalized image of the traditional wedding (which is thereby invoked) and what we were assumed to be doing (Kitzinger & Wilkinson, 2004, pp. 136-137).

The breakdown of gendered expectations, in the conception of matrixes where performativity is so closely tied to expectation, certainly presents a significant destabilising influence. Some subversion from within the universal (created by institutions) is possible and even desirable (McCaffrey, 2005).

Finally, erasure functions in a limited way in the context of these unions. There can be an erasing of sexed symbology and gender roles, and a more political and pragmatic understanding of marriage, in cases like Kitzinger and Wilson's. Erasure also occurs at this juncture with regard to the heterosexual requirement for the procreation process, both explicitly and inadvertently. For example, Iceland's same-sex only registered partnerships (introduced in 1996) permitted joint custody of children, where one partner already has custody, erasing the previously primary notion of the heterosexual origins of the child. Through a law enacted on June 27th, 2006, full adoption rights were accorded for this type of couple, and with legal access to fertility treatment for lesbian couples, a further explicit erasure of the primacy of "the father" as a determinant of a child's citizenship status, identity and rearing occurs. Inadvertently, the French refusal of joint custody, second parent adoption or joint adoption of unrelated children for same-sex registered partnerships affects an erasure (based on the civil pacts of solidarity, known as PaCS, introduced in 1999). Here the erasure is of the heterogenous couple as parenting device, with the emphasis on a solitary, homogenised parent. This particular erasure is of greater value in Queer analyses than in lesbian and gay rights analyses.

The sexless marriage

Norway and Sweden offer principal European examples of the sexless marriage. This is a marriage polity that may be described as open to any couple, regardless of their sex. It may alternatively be understood as marriage acts, legislation or policy framed in “sexless” or “gender neutral” language. The Norwegian parliament adopted new gender-neutral marriage legislation on June 11th, 2008, coming into force in 2009. The text of the law was adopted by a vote of 84 to 41 (ILGA Europe, 2009). This new legislation replaces the 1993 partnership law allowing same-sex registered partnerships, broadening the availability of marriage. It also widens the provision of rights to various couple types regarding adoption and fertility access. Under the previous model, same-sex couples specifically were excluded from adoption. It permits same-sex couples to marry and adopt children, as well as artificial insemination for lesbians. Similarly, the Swedish parliament agreed upon gender-neutral marriage laws on April 1st, 2009. Couples of any sex can marry in Sweden as of May 1st, 2009, and citizens in registered partnerships may convert their union to a marriage if they chose, through a formal ceremony or a written application. Established same-sex and non-Swede resident registered partnerships, based on Swedish law changes in 1994 and 2000 respectively, will continue to be recognised. Further, the unregistered cohabitation model of 1988, revised in 2003, which provides limited rights to same- and different- sex couples, will remain in force where relevant. However, the registered partnerships model will be phased-out, and with no new registered partnerships all couples desiring official recognition are now required to marry.

Queer perspectives on this new conceptualisation of marriage will diverge. On the one hand, there are those who will theorise any form of marriage regardless of its treatment of sexed bodies as assimilationist, a necessarily redundant reworking of a negatively traditional original, a means of exclusionary participation in citizenships that are problematic by virtue of their relation to normalising institutions of power (Brandzel, 2005; Eskridge Jr & Spedale, 2006; Warner, 1999). Yet this forgets that these new marriages might not be framed in the same terms of expected female virginity, mutual monogamy or procreative intent. Also, some feminist and lesbian and gay perspectives may question how specific female and same-sex issues could possibly be dealt with in a neutral landscape where marginalised political identities are not cited. However, the specific inclusion of lesbian and fertility considerations could answer some of these apprehensions. On the other hand, the Queer joys of this model are potentially unlimited. The heterosexual matrix can be seen as attacked

on every level. On the level of desire, the removal of the requirement of compulsory heterosexuality breaks down the notion that males ideally desire females and vice versa, and the abandonment of specific same-sex union options (with comparably fewer privileges) prevents notions of a desire hierarchy, at least on paper. Restraints on more multi-directional or unique desires are released. On the level of gender, sexless marriage legislation provides a site where performative power dynamics and gendered roles are not assumed to be natural or pre-existing, or a condition of coupled citizenship. Nor can notions of gender be supported by relations to sexed bodies, such that traditional conceptions implode. Wider social relations are not bound by gendered expectation: iterations of sexless marriages over time may not necessitate the fulfilment of such roles and associations as “father of the bride”, a “husband”, “mother-in-law”. On the level of sex, the dichotomy supported by “same-sex” and “different-sex” and “opposite-sex” notions is no longer privileged. More fluid and alternative conceptions of sex, in body and in performative and agentic experience, can be validated. Therefore, all levels and ramifications of the heterosexual matrix are opened up and destabilised, so that the structure itself cannot stand.

This marriage can be seen as the result of, and resulting in, complex interactions of the combined effects of overplay, transference and erasure. Overplay of heteronormative aspects of marriage in this site only reveal them to be one of many possible performativities, juxtaposed with unions emphasising erased gender codes, transferred gender roles and the decimation of sexed privileges. The transference of coupled citizenships onto intersex, trans and genderqueer bodies broadens access to a plethora of civil liberties, pleasures, social acknowledgements and legal responsibilities. But most of all, the sexless marriage is a site created by, and creating, a multifarious erasure. It challenges and contextually erases the civil need for a legitimised body, a definable sexuality, a stable desire, a gendered identity. In this way, Queer concerns over privacy can be satisfied, and sexual citizenship need not be asserted into a field which maintains a traditionally exclusive or ordered hierarchy. This does not mean that the possibility of intelligible sex, gender and sexuality is reduced, however. It means that it is expanded, opened up and delimited in exciting and joyful ways.

Why let sex ruin a good thing?

To conclude this discussion is difficult, as there is a sense that it has only just begun. The sexless marriage is still a very new phenomenon, yet to be considered by many

philosophers and researchers in theory or practice. The pragmatic and polemic value of such legislation and partnerships on paper are still uncertain. Couples experiencing this new aspect of citizenship are yet to be heard, the rippling discursive effects of their partnerships are yet to be felt. Indeed, same-sex unions and marriage theories are still an area of growth. However, I predict that these will eventually be replaced with sexless/ gender-neutral marriage in Queer, feminist and gay and lesbian activisms. This article has shown how the specification of sex – whether “opposite”, “same” or otherwise dichotomised – can ruin an otherwise promising piece of marriage legislation. While such legislation heralds Queer possibilities, it is the sexless marriage that best embodies and promotes Queer projects of overplay, transference and most of all erasure. It is the sexless marriage that offers the greatest chance of undoing the heterosexual matrix, to the benefit of a vast array of citizens and anti-citizens.

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