

Elisabeth Holzeithner

Engaging Queerness: "Us" and "Them" in "Politics and the Law"¹

Intro: Queer Politics

In the year 2000, the term "queer" entered the Austrian political scene. More precisely, it entered a very selective segment of that scene: during the campaign for the Vienna municipal election, the Green Party produced a postcard featuring the slogan, "We're here, we're queer, get used to it." Looking at the picture, one does not see much to fear from queers: they might be four students, two women and two men, one guy holding a baby, a dog in front of them, and all of them with very friendly smiles. They look – yes! – completely "normal." Besides, hardly anybody except some "queers" would stumble over the postcard anyway: it was disseminated in lesbian and gay bars and sent to queer folk and friends (the so-called "community"). These postcards hardly elicit memories of the rebellion that was first connected with "queerness," when young urban lesbians and gays broke with the gay and lesbian establishment by embracing the term. "Queer Nation", a newly founded group with chapters spreading through the USA and Canada at breakneck pace in the early 1990s, disseminated its manifesto during queer pride parades in June 1990. This manifesto abandoned the concept of "the happy gay" and claims "when a lot of lesbians and gay men wake up in the morning we feel angry and

*We're here, we're queer,
get used to it*



¹ Wholehearted thanks go to the equally kind and critical readers who made an invaluable contribution to my thinking and writing about "queerness" as it has materialized in this text: Nikolaus Benke, Hanna Hacker, Karin Lukas, Alexander Somek, Justin Snider, and Andrea Steiner.

disgusted, not gay."² Calling themselves "queer," then, was a way of coping with the shaming intended by homophobic discourses referring to lesbians and gays as "queer" – the idea was to arrogate the term and thus, to divest it of its power to wound. "QUEER can be a rough word but it is also a sly and ironic weapon we can steal from the homophobe's hand and use against him."³

Queers came out to resist the gay and lesbian mainstream as much as the homophobic moral majority as inadequate and unbearable. They attacked the mainstream organizations' (e. g. the "National Gay and Lesbian Taskforce"⁴ or the "Human Rights Campaign") politics of civil rights and assimilation, its focus on the respectability of gays and lesbians and their right to inclusion in a decent society.

Too little seemed to be getting done, and the strategies adopted against the homophobia of "straight society" with all its too material consequences seemed patently false. Included among the shortcomings cited were: an inadequate political response to the AIDS-crisis, continuing – even exacerbating – "queer bashing"; violence against gender nonconformists, as well as the police's ignorance of and the political majority's reluctance to recognize lesbians and gays as victims of hate crimes in formulating hate crime laws.

Years of arguing and fighting for the full rights of citizenship only seemed to result in new and more sophisticated counterstrategies of the New Right: any queer expression, and, especially, any queer sexual expression was (and is) attacked as a promotion of immoral behavior, putting the healthy body politic at risk of being infected with a deadly disease – AIDS in particular, and homosexuality in general – as destroyers of the American family. The call for same sex marriage was (and is, with the exception of Belgium, the Netherlands, and recently Canada) answered by the "othering" of gays and lesbians, i.e., their construction as strangers in the straight world. The quest for inclusion of sexual orientation in anti-discrimination laws has been denounced as a call for "special rights." Some have condemned gay leaders' reference to civil rights discourse as a "cannibalization" of the African-American emancipation movement. An illustrative example of the "moral majority's" homophobic attitude – and its endeavor to force apart diverse social movements by referring to the "immorality" of gen-

2 Queer Nation Manifesto, in: Mark Blasius/Shane Phelan (eds.), *We Are Everywhere. A Historical Sourcebook of Gay and Lesbian Politics*, New York/London 1997, 773-780, 778.

3 Queer Nation Manifesto, 779.

4 <http://www.nglftf.org>.

5 <http://www.hrc.org>.

der nonconformity – can be found in the following press release of a (neo)conservative group called "The Concerned Women for America:"

To compare rich, privileged homosexual lobby groups allied with transsexuals and sadomasochists to brave civil rights crusaders – who risked their lives to advance freedom – insults every black American who overcame real injustice and poverty [...]. The [...] agenda of promoting perversion [...] offend[s] the vast majority of African-Americans who understand the difference between God-designed racial distinctions and changeable, immoral behavior.⁶

Queers didn't see a point in being polite when faced with such criticism. "Queer Nation's" politics consisted, then, in a decisive and aggressive "outness." Queers refused to remain quiet and to allow straight people to be comfortable in their clean little world, surrounded by idealized images of heterosexual privilege and illusion: "Gone [was] the assimilationist patience of some gay liberation identity politics; gone [was] the assertive rationality of the 'homosexual' subject who seeks legitimacy by signifying, through 'straight' protocols, that 'civilization' has been sighted on the cultural margin."⁷

"Queer" was designed as, and meant to be, a revolt against the image of the "good homosexual," the pale and lifeless creature generated by homophobia. The "good homosexual" consists of a "status" he or she does not "tell" or express in "conduct." Queers, on the contrary, were "out," which allowed them the space to emphasize sexual and gender dissidence. "Queer Nation" became famous for its media politics, shamelessly "queering" commodities and commercials and acting on the desirability and desire of *buying* identity. "Queer" Nation organized "Kiss-Ins" and "Queer Nights Out" with dozens of gay and lesbian couples invading straight bars. The "Queer Shopping Network of New York" and the "Suburban Homosexual Outreach Program" (SHOP) chose shopping malls as their playing field. "Stepping into malls in hair-gelled splendor, holding hands and handing out fliers, the queer auxiliaries produce[d] an 'inva-

6 http://www.cwfa.org/library/family/2002-09-09_pr_miami.shtml. This quote is rather recent but certainly and unfortunately timeless.

7 Lauren Berlant / Elizabeth Freeman, *Queer Nationality*, in: Michael Warner (ed.), *Fear of a Queer Planet. Queer Politics and Social Theory*, Minneapolis/London 1993, 193-229, 200.

8 The "good homosexual" found its paradigmatic incorporation by the closeted homosexual in the military under the regime of "Don't ask, don't tell." See Anna Maria Smith, *The Centering of Right-Wing Extremism Through the Construction of an 'Inclusionary' Homophobia and Racism*, in: Shane Phelan (ed.), *Playing With Fire. Queer Politics, Queer Theories*, New York/London 1997, 113-138, 121-122. See also the contrasting of the "healthy homo" with the "sick gender nonconformist" in Shane Phelan, *Sexual Strangers. Gays, Lesbians and Dilemmas of Citizenship*, Philadelphia 2001, 123.

sion' that convey[ed] a different message: 'We're here, we're queer, *you're* going shopping.'" The Pink Panthers went out to take back the night. Fighting terror and aggression against queers, they patrolled the streets, warning they would "bash back."⁹

Queers spit in the face of the homophobic moral majority: "Tremble, Hetero Swine," for example, by gay poet Michael Swift, is a hyperbolic revenge fantasy that was published in the "Gay Community News" in 1987, soon making its way to the Congressional Records as an example of the homosexuality's dangers:

We will unmask the powerful homosexuals who masquerade as heterosexuals. You will be shocked and frightened when you find that your presidents and their sons, your industrialists, your senators, your mayors, your generals, your athletes, your film stars, your television personalities, your civic leaders, your priests are not the safe, familiar, bourgeois, heterosexual figures you assumed them to be. We are everywhere; we have infiltrated your ranks. Be careful when you speak of homosexuals because we are always among you; we may be sitting across the desk from you; we may be sleeping in the same bed with you.¹¹

And Queers, as suggested, were not nice to their "own" folk. Johnny Noxzema, one of the editors of BIMBOX, a queer 'Zine, wrote in a letter to the "Advocate", the most prominent gay and lesbian national magazine:

[Y]our generation of misogynist capitalist swine clones and half-baked numbskull granola feminists over 30 are directly responsible for [...] segregated bars, sexism, racism, classism, separatism, mass complacency, and a complex network of selfish, over-educated, self-appointed rich people overseeing a vast fake-democratic lesbian and gay multinational bureaucracy that dictates how we think, dress, act, and fuck.¹²

Letters like this provoked equally ardent responses, like that of Arnie Kantrowitz in his "Letter to the Queer Generation." Kantrowitz sarcastically commented on the elitist rhetoric and narcissistic contentiousness of "Queer Nation":

9 Berlant/ Freeman, *Queer Nationality*, 210.

10 Lisa Duggan brings it to the point: Queer politics were in violent opposition to "business as usual, talking not about domestic partnership and family diversity, but about Asian fags, Chicana butches, butt-fucking, dental dams and bashing back." – Lisa Duggan, *Scholars and Sense* (1992), in: Lisa Duggan/Nan Hunter, *Sex Wars: Sexual Dissent and Political Culture*. New York/London 1995, 173-178, 174.

11 <http://www.dadi.org/homagnda.htm>; To be found on an several antigay homepages, in this case: "Dads against the Divorce Industry". On the fate of Swift's text, especially its reception in new-right antigay discourses, see Cindy Patton, Tremble, Hetero Swine!, in: Warner, *Fear of a Queer Planet*, 143-177.

12 Quoted in Phelan, *Sexual Strangers*, 108

When they're not busy calling each other names like "pseudo-bourgeois left-liberal neo-determinist anti-constructionist het-imitating sons of clones," the "pomo-homo" (Newspeak for postmodern homosexuals) are busy labeling the gay generation "racist," "sexist," and god knows what else.¹³

Queer Theory

The tensions between different generations of queers (or "lesbians and gays") and their attitudes towards life, law, politics and the role of legal reform lie in the background of what would progressively be called "Queer Theory." Queer Theory is in part a response to and a reflection of "Queer Nation's" political innovations, like the adoption of the derogatory term "queer."¹⁴ Steven Seidman suggests that "poststructuralists seem to be positioned as a sort of theoretical wing of *Queer Nation*, with its insistent opposition to normalizing, disciplining social forces; with its disruptive politics of subversion; and with its opposition to both the straight and gay mainstream."¹⁵ Addressing "Queer Nation's" politics of flamboyant, playful and sometimes rough public "outness," one central focus of Queer Theory has been the role of public performance as political intervention and of "performance" in the construction of identity.

But Queer Theory also came into being in its own right as a meta-theoretical, self-reflective discourse of gay and lesbian theory. Unaware of "Queer Nation" and its appropriation of the term "queer," Teresa de Lauretis designated a collection of articles published in the journal "differences" as "Queer Theory" in order to signalize a new approach to the questions facing gay and lesbian thinking.¹⁶ "Inside/Out," edited by Diana Fuss, was the first anthology containing "the new theoretical work in lesbian and gay studies" that would become known as "Queer Theory,"¹⁷ featuring authors like Judith Butler, who was to become Queer Theory's pop star.

13 Arnie Kantrowitz, *Letter to the Queer Generation* (1992), in: Blasius/Phelan, *We Are Everywhere*, 812-817, 813-814.

14 On "rhetorical reversal" as "one of the fundamental principles of the identity discourses of the post-World War II movements", see Patton, Tremble, 146.

15 Steven Seidman, *Identity and Politics in a "Postmodern" Gay Culture: Some Historical and Conceptual Notes*, in: Warner, *Fear of a Queer Planet*, 105-142, 131-132.

16 Teresa de Lauretis, *Queer Theory: Lesbian and Gay Sexualities. An Introduction*. In: *differences. A Journal of Feminist Cultural Studies* 3/2 (1991), iii-xviii.

17 Diana Fuss (ed.), *Inside/Out. Lesbian Theories, Gay Theories*, New York/London 1991.

Old and new dichotomies were to be interrogated, most importantly the hetero/homo binary. Open and under-theorized questions were to be placed at the center of reflection: the intersection of multiple power vectors in individual and such group identities as gender, race, class, and sexuality. Identity itself was to be questioned as an exclusionary concept. "The movement" was, theorists discovered, not one but many, deeply divided along lines of gender, race, class and other vectors of power and pleasure – and necessarily so.

Queer Theory stands for a new way of thinking about power, finding inspiration in the work of Michel Foucault and his focus on the *microphysics* of power. What *are* the foundations of power and how do they manifest themselves in the formation of identity? Do identities have a "natural" basis, such as "the body" and its "pleasures"?¹⁸ Can "identity" be the foundation of politics? The deconstruction of nature and the natural – and thereby also the sexed body as naturally given – is one of the main concerns of Judith Butler. Nature, Butler maintains, is not "natural," but is constituted by a set of cultural norms. The norms of nature, like all other norms, work by being cited, implying that they have a foundation, which in fact they do not. This is how authority is constituted. Butler vigorously insists on the normativity of sex and gender, on the performative character of the natural and on the natural coming into existence through "performance." This does not make the "performers" of sex, gender, gender identity and sexual orientation willful agents who autonomously choose. On the contrary, Butler wants to clarify conceptually how our sexed and gendered bodies are at once not natural and not at our disposal.

From the moment of our birth, we are forced to embody the gender we are assigned. Accordingly, the uttering of the words "She is a girl" is not simply an empirical observation, a statement of anatomical fact. These words constitute an imperative, a threat: "You are a girl" can be translated into "Be a girl." If you want to be recognized as a real and intelligible subject, "Act as a girl" or, as it were, "Act *like* a girl."¹⁹ Inadequate performance of gender norms, not to mention their transgression, results in punishment, or is at least suspiciously observed and becomes an object of permanent commentary.²⁰

18 Cf. Michel Foucault, *Der Wille zum Wissen. Sexualität und Wahrheit I*, Frankfurt am Main 1983, 187.

19 Sarah E. Chinn, *Gender Performativity*, in: Andy Medhurst/Sally R. Munt (eds.), *Lesbian and Gay Studies. A Critical Introduction*, London/Washington 1997, 294-308, 299-300.

20 If you want to know what in/adequate gender performance means, just have a look at the Diagnostic and Statistical Manual of Mental Disorders DSM-IV-TR (Text Revision) published by the American Psychiatric Association, Washington D.C. 2000, 302.85, "gender identity disorder in children"; "marked aversion toward normative feminine clothing" is among the clinically relevant symptoms for girls.

In response to this process of gender normalization, Queer Theory insists on queering identity by contesting the normal and natural and showing how it is performed, rather than given. Now, "queering this" and "queering that" may sound compelling, but can Queer Theory and practice really *change* academia and "real life"? And what, if any, is the intention or political aim of Queer Theory? Queer theorists such as Butler have preferred to remain rather vague about any political aspirations. "New subject positions" are what is desired.²¹ So if Queer Theory has any ideal, it is the pluralization of culturally intelligible subjects, of "bodies that matter."²² In a basic sense, this phrase refers to the necessity of establishing personhood by having, for example, "one's experience of pain counted."²³

Queers should be among the "bodies that matter." Queers are defined – and define themselves – in relation to their bodies, practices and identities. "Queer" is both an umbrella term and a practice of identification that refers to sexualized bodies. Under the queer umbrella one finds sexual and gender minorities of all kinds; the newest, and somewhat ironic, invention is the "straight queer."²⁴

But typically there are limits to the subjects and practices that are, or can be, included. Although the ethical foundations of Queer Theory remain troubled, uncertain, and hardly ever rendered explicit, most queer theorists would only include "harmless" queers and struggle with the exclusion of those who are not considered harmless – e.g., sexual "predators," to use a crude term.

Accepted queers would include gays, lesbians, bisexuals, transgenders, intersexuals, sex workers and gender-benders of any self-designation. Unaccepted queers would include sexual power players who refuse to accept the sexual integrity of others. So, lurking behind the still somewhat hip idea of "queerness," one might find old Immanuel Kant's formula of the categorical imperative that outlaws as immoral – and ultimately legally impermissible – treatment of others that shows disrespect for their autonomy.²⁵ What that means exactly is a contested question.

21 In that, Butler stays true to the original intentions of "Queer Nation" that fought for revolution, not assimilation to, nor integration into the fabric of the conventional nation state.

22 Judith Butler, *Bodies That Matter. On the Discursive Limits of Sex*, New York/London 1993.

23 Patton, Tremble, 171.

24 Calvin Thomas (ed.), *Straight With a Twist: Queer Theory and the Subject of Heterosexuality*, Chicago 2000.

25 The approvable content of sexual acts would, however, be quite different from that of Kantian times. Kant himself showed a strong disapproval of homosexuality and masturbation, to name only two of the acts he outlawed by referring to natural law. See Immanuel Kant, *Eine Vorlesung über Ethik*, hg. von Gerd Gerhardt, Frankfurt / Main 1990, 182-185.

So far, I have presented a rather rough sketch of the context and the issues of Queer Theory, its subjects and objects of desire. In what follows I want to use the tools of Queer Theory to highlight some elements of queerness in legal discourse when it comes to "homosexuality." I hope thereby to render more graphic some ideas of Queer Theory that are often presented in a highly abstract way.

"Working the Weakness in the Norm"

The status of same sex relationships is one of the most discussed areas in gay and lesbian politics and queer (legal) theory. Should lesbians and gays *want* to marry? This question is highly charged and will certainly remain undecided as an ideological problem.²⁶ Marriage is, after all, an institution steeped in meanings that cannot simply be embraced from a queer standpoint concerned with the privilege resulting from living a respectable, "decent" life. If Queer Theory opts for a promising future of "new subject positions," there is no point in trying to reform the legal system and enter positions as they currently are.

On the other hand, however, many queer theorists work on both levels. Even if "another," more open future is to be imagined where being "decent" does not lead to the allocation of privileges, nevertheless the presence of discrimination is criticized yet the call for a change in the legal system is not completely denounced. Theorists in the legal profession, in particular, are trying to develop arguments to make clear that discrimination against "queers" rests on illegitimate and inadequate foundations. The exclusion of institutional support for their relationships can be seen as "the refusal to afford satisfying access to a social practice that is widely seen as part of adult fulfillment."²⁷

The question if gays, lesbians and transgenders should legally be entitled to marry -or at least to register a partnership regardless of the partner's gender - must be dealt with in the political arena.²⁸ Another question emerges from the center of legal discourse, however. Should same-sex partners be treated like their heterosexual counterparts? This issue is assuming increasing importance since a

26 See Michael Warner, *The Trouble With Normal: Sex, Politics, and the Ethics of Queer Life*, New York 1999.

27 Phelan, *Sexual Strangers*, 25.

28 Another question in this context is, if (postoperative) transsexuals should have the right to marry in the assumed gender. The European Court of Human Rights has just decided, in overruling previous case law, that the right to privacy and the right to equality demand this kind of recognition. By invoking medical wisdom constituting that postoperative transsexuals were really members of their assumed sex, the specter of same-sex marriage was banished.

"domestic partner" is recognized by law in allocating duties as well as privileges (and it is privileges in which people of any sex are decidedly interested). More often than not, the "domestic partner" is legally defined as being a member of the opposite sex. However, sometimes the question is left open. Consider the following case:

One of the aforementioned privileges in Austrian law is the right of the "life's companion" [*Lebensgefährte*] to succeed to the tenancy agreement of the deceased partner. The legal definition of *Lebensgefährte* does not make any reference to gender. Its elements are: cohabitation for three years in the apartment in a household community that *economically* equals a marriage. There is no reference to sex in this definition.

Two lower courts decided that gender is not to play a legal role in these considerations. The Austrian Supreme Court, however, did not agree. The question of the gender of a *Lebensgefährte*, it held, is not a legal but a *political* question that has to be decided by the legislature. The framework within which the Court reasoned is one of sameness and difference. The Court diminished its range of power - its jurisdiction - by the "othering" of same-sex cohabitation. Because same-sex cohabitation is constructed as fundamentally "different" from opposite-sex cohabitation, the legal question is not conceptualized as one of equality and analogy.²⁹

The Court's argumentation did not rely simply on a fresh interpretation of the norm's wording. It was based instead on the citation of *additional authorities*. These rested on a nonexistent argumentative basis, however; some precedent did not pertain, and an author who was cited had not actually written on what the Court was deciding. In this case, the manipulation was revealed because the rather annoyed author commented on the decision, stating that he was an inappropriate authority to be cited and that he would have been sympathetic to recognizing same-sex partners as addressees of the legal rule in question.³⁰

The abysmal character of this decision is a very drastic illustration of Queer Theory's thesis that the power of authority rests on highly tenuous foundations. But this is only one side of the coin and does not really help us here; tenuous though the foundations might appear, they actually turn out to be very stable. Authority relies on continuous citation, and on having - as in this case - the last

29 This is yet another example of Ronald Dworkin's thesis that the "process of making an abstract right successively more concrete is not simply a process of deduction or interpretation of the abstract statement but a fresh step in political theory." - *A Matter of Principle*, Cambridge, Massachusetts 1985, 357.

30 Johannes Stabentheiner, Glosse zu OGH 6 Ob 2325/96x, in: *Wohnrechtliche Blätter* 1997/39.

word, the power to define. The fact that the authorities invoked in this decision led into a black hole of legal void can be revealed in commentary, but no avenue of appeal remains. The decision of the Supreme Court is binding.

Hate Speech, Libel and the Non/existence of a Homosexual Group

In October 1997 the Austrian Lesbian, Gay and TransGender Forum (ASLF) organized a congress in the city of Sankt Pölten. During the course of the congress, a small queer event took place. Some 15 people gathered before the Sankt Pölten cathedral and joined in a "stand in": a performance whose existence was only recognizable as such because the people of Sankt Pölten knew that something of the sort had been planned. State Police outnumbered demonstrators and the whole event was a bit boring – for the activists at least.

Two members of the right-wing fundamentalist Catholic magazine "der dreizehnte" (literally "the thirteenth") were not content simply to watch, but instead took photographs. Later on, Kurt Diemann, a well-known right-wing activist, published an article on the event. In this piece he compared lesbians and gays to "rats coming out of their holes"; alleged that lesbian-gay activists were using "Nazi-methods" by standing in front of the church. For Diemann, these "Nazi-methods" required a response with Nazi-methods. Civilian armies were to be formed to eliminate gays and lesbians, and they were to be "chastized" in a gender-appropriate way using "whip and cudgel."

After reading the article, Diana Voigt and Hannes Sulzenbacher, then chairs of the ALSF, decided to go to court. They mobilized 44 lesbians, gays, and transgenders to allege a violation of their right to be free from insult. The plaintiffs wanted to find out if these groups of people were entitled to any protection by the state; the trial was based on protection against hate speech [*Verhetzung*] and the allegation that the *entire group* of lesbians, gays and transsexuals had been insulted by the article in question.

The written judgment contained some unexpected results. As one might expect, the hate speech claim was dismissed because "sexual orientation" is not listed as a category of scrutiny in the relevant norm. As to the other claim, the judge – basing his argumentation on Austrian case law concerning libel – held that the groups of lesbians, gays and transgenders were too large to form an "insultable" collective. The judge could have stopped at this point. His reflections were grounded firmly in case law and juridical teaching. However, he proceeded to explain why the respective group is too large to be a recipient of insult:

In fact, homosexuality also includes the world of lesbian women and, as a matter of course, also that of animals. Homosexuality is such a widespread phenomenon among animals, especially among higher mammals, that it is impossible to regard the phenomenon as a matter of civilization. Members of every higher animal species during mating time draw to members of their own sex if no partners of the opposite sex are available. Cows ride on one another, stomp with their forelegs and roar like bulls. Mares turn up their vulvas, produce their clitoris, drain off slime, blink with their vulvas, bend their hind quarters inward when another mare touches the flank, ride on one another and lick one another's genitals. Similar things can be observed watching the stallions of camels, lions and hyenas. All over poultry-yards lesbian relations among chickens, goose, ducks and pheasants can be observed, if no male animals are available.³¹

Queer activists were surprised by this variation on the theme that "we are everywhere." As was later revealed, the judge had simply copied a passage from Ernest Bornemann's book "Encyclopedia of Love and Sexuality",³² without citing it – and *without* quoting the passages on male homosexuality that follow those on lesbianism in the animal kingdom.

Not surprisingly, the subsequent uproar and indignation were enormous. All the same, the judge had unwittingly done the plaintiffs an invaluable favor: suddenly queers had hit the media, and – in a completely new experience – most Austrians seemed to be on their side. The public seemed to think that queers may be immoral, but they do not deserve to be humiliated in such fashion.

So the "queerest" intervention in Austrian queer politics came from legal discourse itself. In turn, a queering was considered necessary and planned by some activists who were familiar with Queer Theory. The idea was to expose the legal shaming of queers in a public reading.³³ According to the introductory statement, this reading was to "use the words that wound, expose them, render them ridiculous. This will not eliminate their power to hurt. In this sense, tonight's reading is a tightrope walk. But we want to risk it, because the legal texts you will be presented tonight constitute our history and present."³⁴

³¹ My translation.

³² München 1969, 454ff.

³³ Inspiration arose from a passage of Judith Butler, *Excitable Speech. A Politics of the Performative*, London/New York 1997, 99: "An aesthetic enactment of an injurious word may both *use* the word and *mention* it, that is, make use of it to produce certain effects but also at the same time making reference to that very use, calling attention to it as a citation, situating that use within a citational legacy, making that use into an explicit discursive item to be reflected on rather than a taken for granted operation of ordinary language. Or, it may be that an aesthetic reenactment *uses* that word, but also *displays* it, points to it, outlines it as the arbitrary material instance of language that is exploited to produce certain kinds of effects."

³⁴ Introduction to *Der Richter und das liebe Vieh. Eine Lesung über die Schwierigkeiten der österreichischen Justiz und Politik, sich die Homosexualität zu erklären*, Wien, 11.09.1998.

Dealing with this history and the present is (still) a painful job. It demands close reading, political vision and distance to stand the pain of being unwanted "deviant subjects" in the first place.³⁵ How can this distance be achieved? Shared laughter might be one approach. Laughter was, in fact, one of the main effects the organizers of the event hoped to produce. When the reading exposed 300 years of homophobic shaming and construction of sexual strangers in a language that – struggling to pin down society's abhorred dirty secret in legal rhetoric's own queerness, might just be called ridiculous – a crowded room of queers roared with laughter. This response rang true to what Emily Saliers of the Indigo Girls said before performing a live version of "Least Complicated," one of the band's song about the pains and shames of growing up: "Sometimes you have to laugh off yourself, because you'd cry your eyes out, if you didn't."³⁶

Conclusion

The wisdom that *Queer Theory* spreads is not so new: namely, that community is better built not on identity, but on a sharing of concern and honest, serious and cheerful collaboration that does not sweep under the rug differences in opinion, lifestyle and social position. Dealing with conflict in a productive manner is necessary in this context. To borrow a phrase from Sabine Hark, the challenge is "to make speech transparent by thematizing the conditions of speech, and by constantly interrogating one's own organizing principles."³⁷

Essentially, "queers" are united politically to the extent that inequality and disrespect matter to "them" and that "they" want to do something against it. Moreover, *Queer Theory* teaches us never to be so sure of who is "us" and who is "them." The stranger is always close to home.

35 Sabine Hark, *deviante subjekte. Die paradoxe Politik der Identität*, Opladen 1996.

36 From "1200 Curfews", sony music 1995.

37 Sabine Hark, *Disputed Territory: Feminist Studies in Germany and Its Queer Discontents*, *Amerikastudien*, in: *American Studies* 2001/46, 87-103.

Paul Reynolds

Some Thoughts on Marxism and the Social Construction of Sexuality¹

Marxism's focus on the structural analysis of social (class) relations, the material conditions of relations of production, processes of commodification and capitalist exploitation of labour value and the politics of ideological and repressive power as the basis for class oppression and alienation, can claim to have shaped the contours for radical theorising in the twentieth century. Yet when discussion focuses on pathologies, discrimination, oppression and alienation on the basis of sexuality, sexual identity and sexual diversity, Marxist analyses have been discounted or received a hostile reception. This brief meditation argues that Marxist categories and ideas have a critical part to play in analysing the social construction of sexuality and developing a progressive sexual politics – a politics of sexual diversity and citizenship rights that aspires to be more than the limited possibilities arising from liberal rights, minority identity politics or queer rhetoric. Whilst any argument for a Marxist politics of sexuality is stretching the argument, Marxist concepts and ideas have a crucial part to play in conceiving sexual rights, emancipation and justice.

I

Three factors account for the estrangement of Marxism and the subject – theoretical and political – of sexuality. First, the study of sexuality as a social subject has its roots in three intellectual traditions that have developed antagonistically to Marxist thought: gendered theory, post-structuralist philosophy and post-

¹ Previous versions of this paper were given to the Political Studies Association Marxism Specialist Group Conference at the University of Sussex, UK in 1999 and the Sexuality, the Working Classes and Labour Conference at the University of Linz, Austria, in 2002 – thanks to participants at both conferences for their comments.

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