M.A. Research Essay
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Constructing Closets:

Sexual Orientation and the State in Brazil

by

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"Difference" presents tremendous challenges to the functioning any polity. As made clear by the emergence of "new social movements" and the violence of many ethnic-nationalistic movements, the rise of identity politics and the assertion of difference are all highly political issues. The negotiation and struggle around difference involve both the state and society, and are central elements in the relationship between the two. This is true in both "open" and "closed" political systems. In the case of more authoritarian regimes, for example, a great deal of the discussion may revolve around the patterns and axes of exclusion or, in some cases, attempts at homogenization. In more democratic regimes, the focus shifts to the management of difference while maintaining democratic norms and procedures. Common to both cases, however, is the view of difference as a key element in the functioning of the political system. Many issues related to the politics of difference involve "boundary setting". These boundaries define those *inside* and those *outside*, *i.e.*, those included and those excluded from the political process, or from citizenship. Similarly, such a dichotomy is often imbued with moralistic overtones of normality and abnormality, acceptability and deviance. Class, race, gender and ethnicity are some of the strong axes of differentiation in societies, and can all be framed in inclusionary/exclusionary terms and manipulated for political reasons. So can sexual orientation.

Counternormative sexualities, such as those expressed by gay men, lesbians, transvestites and transsexual people can be actively controlled and repressed by society and the state. It is to this control and repression that the term "closet," as it is used here, refers to. Being in the "closet," then, points to a condition of exclusion, of being dominated. "Contesting the closet" means going against that unequal power relation, questioning it, politicizing it and trying to change it. The usage of the term in this paper comes from the expression "coming out of the

closet" used in North America, which emphasizes the resistance to the oppression and persecution suffered by many sexual minorities all over the world and their liberation.[1]

In this research essay I will focus on the role of the state in the politics around sexual orientation in Brazil. A central argument being presented here is that the state is a key actor in the politics of difference and exclusion/inclusion. It is active in the processes of construction of sexual identities, with the adjoining values of normality and abnormality. Following Weber, since the state holds the monopoly of the legitimate use of coercion within a given territory, it follows that it can act coercively, if necessary, to protect what is determined to be desirable, and coerce and control the unacceptable, the "Other." While the state will be the focus of the essay, it may not be the sole, or even main, actor in these processes. Society in general and more specific social forces and groups (classes, religion, political groups, social movements, etc.) are also extremely important in understanding cultural (and sexual) politics.[2] What I wish to highlight in this analysis, however, is the role of the state.

As mentioned, difference in relation to sexual orientation can be politicized. This type of difference will be the focus of attention of this essay. Partly due to the availability of material for research, partly due to manageability of the focus of analysis, more attention will be given to

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[1] Previous versions of this essay have been presented at the Social and Political Thought Annual Student Conference at York University, Toronto, Ontario, Canada in March 2000, and as part of the Fellows' Presentations Series at the Centre for Developing Area Studies in Montréal, Québéc in April 2000. I thank all participants for their insightful comments and help in refining this work. In relation to the specific way the "closet" is being used here, it should be noted that one is "forced" into it rather than freely deciding to remain or go into the "closet." Moreover, by using this terminology, I do not intend to defend the "gay liberation" discourse that emerged in North America in the 1970s. Instead, the above is simply a clarification of the title of the essay.

[2] It should be mentioned that the distinction between state and society should not be over-emphasized. As will be seen later, state and society are not mutually exclusive in their functioning, but rather overlapping and inter-penetrating.

male homosexuality. Consequently, much of the theoretical generalizations and hypotheses proposed in this paper may apply better to gay men. The different political, cultural, social and economic situation of lesbians, because of their gender, should warn us against easy generalizations based solely on their sexual orientation.[3] Despite this important caveat, in the body of the following discussion, the terminology will be general, with interchangeable references to "gays and lesbians," "homosexuals" and/or "sexual minorities" as catch-all terms that include gay men, lesbians, transgendered and transsexual people.[4] The reason for this is that, despite differences, a fundamental logic of oppression and struggle is, in my opinion, common to all of these groups. Also, I believe the multiple sexual identities linked to differences in sexual orientation and sexual behaviour are socially constructed. This constructivist standpoint should be mentioned, since it is at the heart of the ideas stressed in the title and subtitles of this essay: the meanings and acceptability, and consequently the inclusion of diverse sexual groups and identities are the product of a *construction* by and *contestation* between the state and social actors.

In order to analyse the role of the state in the construction of sexuality, the essay will be

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[3]In some cases, the interests of gay men and lesbians may be in direct opposition, stemming from their interests as, respectively, men and women. See, for example, Gluckman and Reed (1997). Focussing less on lesbianism is also due to the lack of material. This problem is not restricted to the study of homosexuality in Latin America, but is also found in North America. In their history of the lesbian community in Buffalo, for example, Elizabeth Kennedy and Madeleine Davis write: "We are forced to start in the 1930s because that is as far back as our narrator's memories reach." (quoted in Higgs 1999: 3)

[4]Another way of grouping these groups together may be to refer to "non-heterosexuals." This term, however, seems awkward. Using the term "queer" as a general referent is, in my opinion, inadequate. First, it is specific to a recent development in gay and lesbian politics in North America and Western Europe; thus applying it to the Brazilian context would not be appropriate. Second, I do not interpret it as a loose general term, but instead one linked to a specific "deconstructionist" and "post-modern" agenda. Since the gay and lesbian movement in Brazil has not, as of yet, shown signs of acceptance of the "queer" rhetoric, nor has it moved in directions similar to the queer movement in North America, using the term "queer" would be a misnomer or, at worst, would confuse the analysis.

organized in the following manner. First, a general introduction will outline the spatial and time

focus of the study, namely twentieth century Brazil. In addition, I will outline the general

hypothesis the current investigation will help develop.[5] Finally, a very brief discussion of the

"new social movement literature" will be given to further highlight the usefulness of the

approach being taken here. In the second section, I will present a conceptualisation of the state

that I find useful in discussing its role in cultural politics more generally, and in sexual politics

more specifically. This discussion of a fluid, multilevel, and diffuse state draws on the work of

Joel Migdal (1994) and Davina Cooper (1995). In the third and fourth sections, I will move on to

an analysis of the direct ways in which the state controls and constructs sexual identities, and the

indirect ways in which the state conditions the resistance and struggle of social groups, namely

gay and lesbian movements. In other words, these sections look at the direct and indirect ways

the state affects and conditions the construction and contestation of "closets." The fifth section

presents a discussion of the "democratizing state." This process is not specific to Brazil, but is

also found in many other developing countries. In addition to being of central importance to the

general argument being presented here, it helps clarify the conditions under which the Brazilian

state has participated in sexual politics in the last two decades. Moreover, democratization is

crucial to understanding the emergence of gay and lesbian movements, thus creating a bridge to

the concluding section.

In the conclusion to this essay, I will return to the general hypothesis presented in the

introduction, evaluating it based on the discussion presented in the other sections. Furthermore,

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[5]I refrain from saying that a hypothesis will be "tested" since, for that to be done, more data and quantitative material would need to be available. The current analysis, however, helps clarify the directions in which one should focus to refine the understanding of the role of the state in "constructing closets."

this section will highlight the important implications the study of the role of the state in the

control of counternormative sexualities has on the examination of the politics of struggle and

resistance put forward by gay and lesbian movements. The state, being a key actor in the main

processes of construction of sexual identities and "closets," as well as a vehicle for change,

should be taken into account in crafting transformative agendas and strategy frameworks. This

concluding discussion will also briefly point to important questions that need further research in

this exciting emerging field of study, still full of gaps to be explored and filled.

Introduction

The literature on the politics of sexual orientation in developing countries is somewhat

scarce. Anthropologists, historians and sociologists have started to become more interested in

issues related to homosexuality in the South only in the past 15 to 20 years. A lot of this research

focuses on Latin America.[6] Their approach, however, is mostly anthropological or historical,

focussing on the cultural meanings of homosexuality, patterns of same-sex sexual behaviour, and

the characteristics and evolution of homosexual communities and networks. Few works

emphasize the social, economic and, especially, political elements of these groups and

communities.[7] Following arguments made by Australian political scientist Dennis Altman, it is

important to move, "particularly within the context of lesbian and gay studies, from the current

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[6]A few examples are Murray (1995a), Green (1994, 1999a, 1999b, 1999c), MacRae (1992), Mendès-Leite (1993), Parker (1989, 1991, 1999), Kulick (1998), Carrier (1995), Balderston and Guy (1997), Schifter (1998, 1999), Robles (1998). See also excellent reviews of the literature and more extensive bibliographies regarding Brazil and Latin America in Parker (1999:16-17) and Green (1999b: 291, fn. 37; 346-347, fn. 130).

[7]Important recent examples include Adam, Duyvendak and Krouwel (1999); Drucker (1996); Adam (1995: 165-176). In relation to Brazil, the politics of homosexuality are stressed more in Green (1999a; 1999c) and Parker (1999).

preoccupation with literary theory and cultural studies (as crucial as their contributions have been) to a renewed emphasis on social and political theory" (quoted in Parker 1999: 10). It is in this vein of inquiry that this essay is couched. By looking at the role of the state in the control of homosexuality, I seek to shed light on the political processes shaping the social and political construction of sexual identities. This approach places the current research in the wider sphere of cultural politics as well, thus placing it within a wider body of intellectual production. According to Glenn Jordan and Chris Weedon (1995: 5-6),

> The legitimation of social relations of inequality, and the struggle to transform them, are central concerns of CULTURAL POLITICS. Cultural politics fundamentally determine the meanings of social practices and, moreover, which groups and individuals have the power to define these meanings. Cultural politics are also concerned with subjectivity and identity since culture plays a central role in constituting a sense of ourselves.... The forms of subjectivity that we inhabit play a crucial part in determining whether we accept or contest existing power relations. Moreover, for marginalized and oppressed groups, the construction of new and resistant identities is a key dimension of a wider political struggle to transform society.

The construction and contestation of closets being emphasized in the present essay, and the complex processes of formation and politicization of identities based on sexual orientation clearly fall within the domain of cultural politics as defined above.

The present study focuses mainly on twentieth-century Brazil. Most examples and illustrations will come from different periods in that larger span of time: the early years of the Republic in the first three decades of the century, Getúlio Vargas' rule and the *Estado Novo* in the 1930s and 1940s, the democratic period of 1945-1964, the bureaucratic-authoritarian military regime (1964-1985), and finally the return to civilian rule since 1985.

Some of the examples of the direct ways in which the state affects the construction of sexual identities will be drawn from earlier periods. While some specific types of actions are

more specific to one time period, my objective is not a rigid periodization of the different ways in which the state controls homosexuality. First, the available material would lead to an unsatisfactory result. Second, despite some variation, continuity and overlap are strong. Therefore, I will seek to present a general typology, drawing from a wider time frame. The discussions regarding the democratization of the state and the construction and expansion of citizenship rights, however, will concentrate on the last three decades, *i.e.*, since the *abertura* ("opening") of the military regime, started in 1974. The main reasons for this unbalanced attention have partly to do with availability of material, but also with research interests. The importance of democratization to the contestation of repression by groups in civil society and the historic emergence of gay and lesbian movements in Brazil at the end of the 1970s make the last three decades of the twentieth century a very important period for the present study.[8]

Beyond the main objective of clarifying the ways in which the state participates in the (trans)formation of sexual identities, a general hypothesis to be considered in this study has to do with the degree of opening of the state, *i.e.*, the ways in which the state is shaped by different regime types, "authoritarian" and "democratic" being the "ends of the spectrum." This is relevant to the Brazilian case (and others as well), since, as mentioned above, it has been experiencing a process of democratization in the last couple of decades. It should be made clear at this point that I do not intend to rigorously test this hypothesis, since doing so with be fruitless with the available material. It is derived intuitively, and the analysis will seek to shed light on this intuitive assumption. Confirmation or refutation of this hypothesis will be useful in

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[8]Even though these issues, namely struggle of gay and lesbian movements, are not the main focus of the present essay, they are closely linked to it.

(re)directing us to interesting and useful areas of study related to the wider topic of gay and lesbian politics (in both developing and developed areas).

My intuitive hypothesis is that *the more authoritarian a state, the greater will be the repression, control and exclusion from the public and political spheres of gays and lesbians because of their sexual orientation,* or, similarly, *the more democratic a state, the lesser the repression and control due to their sexual orientation, and the greater the inclusion in the public and political spheres of gays and lesbians.*

To reiterate, what is emphasized here is the degree of openness of a state. Hence, according to this hypothesis, in an authoritarian regime, the state structure would seek to exclude important sectors of the population from the political process, insulating the elite of decision-makers from pressures emanating from civil society groups. An authoritarian state will (at least seek to) be a closed state, one that keeps a tight control over the polity and society. This type of state will restrict the political opportunities available to most societal groups, diminishing their political weight and voice. More generally, such a closed state narrows the public sphere, decreasing thus the amount of participation and contestation from civil society. As will be explored further, the state creates and maintains a certain order, of a bureaucratic, coercive, legal and normative nature. Following the logic of the above hypothesis, the more authoritarian a state, the more will it attempt to achieve some sort of "monopolistic" or hegemonic role in maintaining this order, excluding other groups in society. Included in this general order is a normative sexual one, namely a heteronormative order. Consequently, the more authoritarian a state, the greater will be the exclusion and repression of counternormative sexualities (*e.g.,* homosexuality) by this state. In the case of Brazil and numerous other countries, the military is

closely linked to authoritarian regimes, in establishing and/or presiding over them. Linking the hypothesis logic more closely to sexual orientation, one can argue that militaristic ideology and values, being strongly heteronormative,[9] would be a strong motivation behind the exclusion of homosexuals from the political and public sphere in (military) authoritarian regimes. Other ideologies could also buttress this exclusion, however. "Organic" visions of the state and society, which were characteristic of numerous authoritarian and totalitarian regimes in Latin America and Europe in the first half of the century, can be easily coupled with the maintenance of a heteronormative order, framing homosexuals and other "deviants" as a disease or cancer that endangers the health of the nation. So, due to these characteristics of an authoritarian regime, the logic underlying my intuitive hypothesis points to a positive relationship between authoritarianism and exclusion of gays and lesbians.

In a democratic regime, on the other hand, the state will have a structure that enables various groups to participate in the political process, providing the mechanisms and institutions for that. The construction of the cultural and sexual order that gives meaning and assigns values to homosexuality is, in this case, a "joint venture" between the state and civil society. Importantly, gays and lesbians themselves are included in this construction, thus incorporating the voice of those directly interested in a more egalitarian and less discriminatory reality. Through democratic mechanisms and practices, an oppressive hegemony can be destroyed and replaced by a more balanced and equal (but not necessarily conflict-free) polity. It becomes clear, then, that participation and contestation (Dahl 1971) are key intervening variables in this

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[9]The heteronormative nature of militaristic ideology and values is made clear by the heated debate regarding the acceptance of gays in the army, in Brazil and numerous other countries (see, *e.g.*, ILGA 1999a).

hypothesis. Following Robert Dahl, in a democratic regime the government is responsive to the preferences of its citizens (1971: 1-2). In order for this to happen, one would need a high degree of participation, *i.e.*, most, if not all of the numerous and diverse groups in society should be included in the political process. Moreover, effective contestation is needed, *i.e.*, citizens have to be able to express their preferences to other citizens and to the government, as well as oppose other initiatives that affect them negatively, individually and/or collectively. In other words, the greatest number of people has to be included in the political process as citizens, and their voices have to be heard. It is clear that, as a precondition, a number of rights, mechanisms and institutions have to be in place for the above to be possible. But since the mere existence of democratic mechanisms and institutions does not automatically mean the emergence and activity of gay and lesbian movements, it is actual participation and contestation that should be emphasized in this logic. So, in a democracy, since gays and lesbians would participate and contest, and the state would listen to and act on their demands, repression and exclusion would be lower, and they could thus be effectively included in the political and public spheres. Finally, as already made clear, rigorous testing of this hypothesis and measurement of all the variables (dependent, independent and intervening) is beyond the scope of this paper.[10]

For clarity purposes, it should be mentioned that the two main "authoritarian" periods to be treated in the following analysis are the years under Getúlio Vargas, especially the *Estado Novo* from 1937 to 1945, and the bureaucratic-authoritarian military regime in place from 1964 to 1985. The 1945-1964 period and the post-1985 one are the "nominally democratic" periods. In relation to the authoritarian periods, it should be noted that, despite significant differences

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[10] I thank Mark Brawley for his comments regarding clarification of variables in this paper.

between the two in terms of patterns of inclusion/exclusion, organization of the state, repression, relation with the popular sectors, etc., they will both be considered to be closer to the authoritarian end of the spectrum in this study. Both regimes and their processes of interest mediation[11] are characterised by a closure of the state to full participation of the diverse societal voices, concentration of economic and political power resources, and insulation of decision-making, all of which are supported by a weak civil society.

Finally, the approach and focus being presented here help establish a dialogue with "new social movements" (NSM) theory. Reacting to the emergence of certain kinds of movements in post-material, post-industrial societies in the 1970s and 1980s, such as the peace, feminist, ecological and gay and lesbian movements, scholars started to theorize about these "new" forms of collective action.[12] These movements put a lot of emphasis on an autonomous definition and development of alternative identities, which, in many cases, was part of the development of an alternative life-style. In some cases, the organizations had a strong anti-political and anti-state stance.

Many of these NSM theorists emphasized the fact that these new movements transited mainly in the cultural arena, overlooking the fact (or at least underestimating it) that the state was an important actor to study. The rejection of the state by some of these movements is only

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[11]Phil Oxhorn (1995b) characterizes these as "controlled inclusion" for the populist and clientelistic Vargas regime, and "coerced marginalization" for the military regime.

[12]The quotation marks in "new" are meant to be a questioning of the newness of the importance of identity to social movements. If, according to some theorists, the main factor that distinguishes these "new" movements from "old" ones is the stress on "post-material" issues, that difference is open to a great deal of criticism. Some examples of "old", or "material" movements for which identity formation is also important include class-based movements (Bergquist 1986), popular sector urban movements (Oxhorn 1995a: 106-145), and peasant revolts (Scott 1977). I concur with similar points made by Sonia Alvarez, Evelina Dagnino, and Arturo Escobar (1998: 6).

one strategy among many.[13] It is one of disengagement, and it highlights the importance of

including the state in the analysis. It may point to the fact that, for example, because of a specific

set of state actions (or *in*actions), such as repression or inability/unwillingness to protect a

certain minority, the social movement may decide to distance itself from the state. In this

situation, the group may see distance from the state and its agencies as a more fruitful way of

bringing about change. For the researcher, it is important to understand what the state *does or*

does not do, and how that affects social movements. In other cases, this kind of movement sees

in the state a powerful site for contestation, where significant victories can be won. In addition,

the rejection of the "political" by some of these movements may be only a reaction and rejection

of a specific government or group of politicians, or of the current form of doing politics, not a

rejection of the state itself.[14] In other words, the goal of state reform may be high in the agenda

of many of these movements and groups. Moreover, it is not useful to understand the activities

of these movements as simply "cultural", rather than political. First, as mentioned in the quote

by Jordan and Weedon (1995), the cultural arena is also political, so by engaging in it these

movements are being political. Second, most of these movements actively engage in

negotiations and struggles with the state and other actors in the political arena. Therefore, NSM

theory is not wrong in pointing out the fact that many of these movements give a lot of attention

to identity building and development of alternative life-styles; it is, in some cases, *incomplete*,

or, in others, simply *unbalanced*. The important contribution the present analysis wishes to make

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[13]See, for example, the differences between lesbian movements in Costa Rica and Nicaragua highlighted by Millie Thayer (1997).

[14]I thank Philip Oxhorn for bringing this to my attention.

involves issues dealt with by theorists in the resource mobilization and political process traditions of analysis of social movements. By "bringing the state into" sexual orientation politics, I wish to shed light onto areas such as the effects of political structure, state institutions and regime change on the construction of sexual identities. Situating sexual orientation movements in their political, social and economic contexts is an essential addition to the attention paid to the cultural context stressed by NSM theory. The state, due to its strong and important presence in all of these arenas is a key element in any fruitful descriptive, explanatory and/or normative analysis of social movements and, more broadly, of the politics of difference.[15]

Conceptualising the State

The state has been conceptualised in numerous ways by different schools of thought. Some approaches emphasize the institutions that form the state machine, and present it as monolithic and ubiquitous. Conversely, others see the state as a simple decision-making apparatus, an arbitrator of the diverse societal interests it is confronted with (Charlton, Everett and Staudt 1989: 3). As will become clearer in this section, I believe neither of the two "simplified" approaches is very useful to the study of the role of the state in the construction of sexual identities, or, more generally, in cultural (trans)formation. To begin with, it is more helpful if the state "is viewed simultaneously as a bureaucratic, coercive, legal and normative order" (Charlton, Everett and Staudt 1989: 4). Relations of domination along the numerous axes of difference mentioned in the introduction (*e.g.*, class, race, ethnicity, gender or sexual orientation) permeate and are (re)produced (in) by the state. Moreover, the emphasis on the

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[15]A multidimensional approach is also argued for in Eckstein (1989) and Escobar (1992).

simultaneity of the bureaucratic, coercive, legal and normative *order* starts to frame the

motivations behind state actions to preserve the polity under a certain norm. Viewing the state in

this light underscores seeing it as an important actor in attempts to homogenize the population,

or clean it of "undesirable" groups.[16] In the case where this order is oppressive towards one or

various groups, it is not, however, unchangeable and frozen. This view would prevent the proper

understanding of contestation and struggle by movements in civil society, who seek to change

that order.

The relations of domination mentioned above become more concrete through state

activities and through the attitudes and actions of individuals that staff the state agencies and

institutions. It should not be forgotten that these individuals, being themselves part of society

and of different groups in society, are "positioned" somewhere along the many axes of

domination (Charlton, Everett and Staudt 1989: 177-190). For example, white male domination

of state institutions and decision-making positions is an important factor in the (re)production of

structures that generate a systematic oppression of non-white individuals and women. At best,

the interests of those that are not included somehow in the system are not easily or automatically

taken into account. At worst, those in positions of power will define themselves as the

"acceptable," the "normal," blatantly repressing or discriminating against those groups that do

not conform to that standard. Moreover, the state helps shape the meaning of politics (Charlton,

Everett and Staudt 1989: 177-190; Skocpol 1985: 20-21). According to Theda Skocpol (1985:

21), "[states] matter because their organizational configurations, along with their overall patterns

of activity, affect political culture, encourage some kinds of group formation and collective

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[16]One of the clearest examples of which is the state under the Nazi (or any other totalitarian) regime.

political actions (but not others), and make possible the rising of certain political issues (but not others)." This points not only to the intellectual attention the state should be given, but also to the fact that the state helps shape the political arena of any given polity. When the reality is one of difference and relations of domination, the encouragement or "prohibition" of certain groups and issues to be raised or politicized is, not surprisingly, often affected by race, class, gender, or sexual orientation. If a group or issue is deemed "undesirable", the state, through its (in)actions, helps balance the possibilities and the greater or lesser likelihood that the exclusion can be reverted. A similar point is made by many scholars in the resource mobilization and political process schools of study of social movements (see, for example, Tarrow 1996; McAdam, McCarthy and Zald 1996).

While the relations of domination along difference axes permeates the state and affects its functioning, thus perpetuating the various systems of oppression and inequality in society, they do not define the state. In other words, while the state may take part in establishing and maintaining unequal relations, it is neither accurate nor useful to define it *as* domination. To help clarify this point, it is useful to take a step back and present a brief discussion on power, drawing on Davina Cooper's book entitled *Power in Struggle: Feminism, Sexuality and the State* (1995). The state itself, and the many relations it has with society are imbued with power; this is what makes it *political*. As highlighted by Cooper, a Foucaultian feminist interpretation of power is very useful for the analysis of the role of the state in the construction of sexual identities. One should be careful, however, not to take this interpretation too far; a call for some nuance is in place. Power, according to a more radical view, is purely relational, and emerges out of the dominating relationship between two groups in society; it can only be exercised by

creating relations of domination. Sexism, racism, homophobia, as *unequal relations*, are sources

of production and sites of power. These hierarchical systems of domination remain even if

specific individuals do not explicitly exercise them, *i.e.*, even if a specific person does not

engage in oppressive behaviour one can talk about an oppressive system (Cooper 1995: 10).

Notice the implication this may have to points made earlier. Even if an individual that staffs a

state agency does not share a certain dominating attitude or position, the problem of exclusion

and oppression of difference may remain. This poses tremendous challenges for those interested

in bringing about change. One begins to see that the obstacles at hand may extend far beyond a

simple state reform.[17]

Following this radical view, power permeates everything, and hence the state, those in it,

and its actions will be dominating and oppressive *by definition*. Consequently, this creates a

static and unchangeable pessimism. The necessity of according some agency to the powerless

makes this rigid interpretation of power problematic. The relational definition of power creates

two camps: the powerful and the powerless. The relationship between the two is the definition of

power. Resistance, through counter-discourses and numerous other strategies becomes the

antithesis of power. While important, if not crucial for the survival of oppressed groups, this

view of power and resistance freezes subaltern groups in that position. If ever the situation

changes, a new arrangement is achieved, but again it will be hierarchical, characterised by

domination. In a brief commentary on multiculturalism and postmodernism, Charles Taylor

(1998) warns against the dangers of falling into such a dichotomous perception of social and

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[17]As will be touched upon in the conclusion, it comes as no surprise that a two-pronged strategy, addressing both the state and the rest of society is more effective in dealing with issues such as homophobia. The state, while an important piece of the puzzle, is not the only one.

political relations. He states that "casting oneself as the victim of one's interlocutor can only be destructive to the effort to forge a common political enterprise that can generate mutual trust and commitment" (Taylor 1998: 155). Bringing about change that would help lead the polity to a more harmonious and inclusionary functioning, and not a simple "reshuffling" of exclusions and dominations, one should steer away from this more static view.

The conception of the state being argued for here draws on, but nuances that radical interpretation of power. Power's ubiquity and relational nature still hold. The powerful and powerless, however, are not absolutely so. Rather, they are more or less so, but not completely. Domination and inequality are important in understanding state-society relations, but do not define them. I, following Cooper, stress the positive, productive elements of power and attempt to "give power" to the subjugated. This approach "identifies power as the facilitation of particular outcomes, processes and practices. These may include the maintenance and reproduction of the status quo or, alternatively, its dismantling or transformation" (Cooper 1995: 18). In the politics of sexual orientation, both the state and the gay and lesbian movement deploy power, making liberation and the creation of a non-oppressive, non-heterosexist and non-homophobic sexuality system a possible outcome, something almost ruled out by the radical definition of power outlined above. Thus, this understanding of power does not predetermine the outcome of the complex process of construction of sexual identities. If homophobic domination wins out, a strong "closet" is established; but the destruction of that "closet" as a result of the political game around it is also a possibility.

Returning to the conception of the state, the resulting balance of power in society and the nature of the political space delineated by the actions of the individuals in state institutions and

bureaucracies, *i.e.*, out of state-society interactions, can be negative (oppressive and dominating) or positive (liberating and egalitarian).[18] Starting from a *status quo* of oppression and domination, one can say that, in fact, in their interaction with the state, social movements attempt to make it change from a *negative power source* to a *positive power source*. Therefore, state-society relations can fall somewhere between two ends of a spectrum: conflictive or cooperative. In the first case, the state would present rigidities and resistance to a change in its elements of negative power. A conflict would emerge with the social movements pushing for inclusion, greater equality, and exerting positive power. Relations can be cooperative (see, for example, Wang 1999) if elements in the state structure also push for, or at least are more open to a more egalitarian balance. This may not guarantee a final positive and egalitarian balance, but it opens the possibility of (semi-)cooperative relations between the state and social groups and forces. This conception of power and its applicability to my conceptualisation of the state also allows for a dynamic and flexible analysis of state action. It is not static, it can be changed. Only in this way an argument for a positive strategy for social movements that envisages progressive results, while at the same time not rejecting the state completely, will make sense. In other words, only if the state *can* change, will it make sense for collective action to try to transform it.[19] This discussion was necessary to establish the possibility of change. As mentioned above,

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[18]This distinction is not meant to be a hard dichotomy, but rather a spectrum ranging from "oppressive" to "egalitarian".

[19]Even though this statement and part of the above discussion seem obvious, I consider it to be highly valuable. Social sciences are rife with static models that present real challenges to explaining change. In my opinion, dynamic, open and flexible models, despite being more complex and losing in parsimony, are better suited to explaining the complex and multidimensional issues and problems related to human social and political behaviour. This is specially true when culture is involved in the explanation. Ironically, cultural explanations of politics is one of the areas where this problem of static models is most present (for a criticism see Anderson 1995).

however, the *status quo* (in analyses of contestatory social mobilizations) is oppressive and dominating. While criticizing a more radical view of power, it would be careless to deny the presence, if not ubiquity, of domination and inequality, especially in so hierarchical and stratified a society as Brazil. At some points in the following discussion it may seem perfectly valid to apply, at least descriptively, the more rigid notion of "eternal" victims and oppressors, but the problems with this approach explored above still hold. Oppression and domination exist, but, stressing the normative element of my analysis, they must and can be changed.

The state, then, is best seen as a set of institutions and bureaucracies, penetrated by societal cultural values, systems of domination, but also shaping society and the social and political behaviour of collectivities. Through this interaction, the cultural, moralistic, symbolic and sexual orders are established and maintained. It is clear by this short statement that the relation between state and society is complex and very close. Joel Migdal's (1994) notion of the "state-in-society" is very relevant. This approach deconstructs the state and looks at the complex patterns of state-society relation by exploring the multiple arenas of domination and opposition between the state and society in the multiple junctures between the two. In its relations with society, the state attempts to establish its domination, but does not necessarily manage to do so completely, in a broad and coherent fashion (integrated domination); most of the time it only manages to do so partially, achieving a situation where neither the state nor any other social force manages to establish a broad domination over the whole territory (dispersed domination) (Migdal 1994: 9).

The institutions and bureaucracies of the state should be deconstructed and broken down into many levels. The maintenance of the coercive, legal and normative orders is not sought by

the state as a unitary actor, but is rather an open ended, undetermined process. It emerges not

only out of the interaction between state and society, as touched upon above, but also from the

internal functioning of this multilevel, "deconstructed" state structure. The state's coherence,

monolithic nature, power and autonomy are fundamentally questioned in this model. The many

levels of the state, and consequently the numerous junctures between the state and society make

an integrated domination very difficult to achieve. Each level, ranging from the "local" to the

"national,"[20] receives multiple pressures from other parts of the state and from the many social

forces and actors it interacts with. At each juncture and level, a struggle between state and

society takes place, continually. In these arenas of domination and opposition, power is deployed

by state and social forces, and the outcome of this power struggle is biassed towards the more

powerful, dominating force, but not necessarily perfectly predictable by the hierarchical relation

between the actors. From the multiple arenas of domination and contestation emerges a complex

and often contradictory overall picture, characteristic of the situation of dispersed domination

mentioned above.

It is relevant to this analysis to mention how discussions of regime type may fit into this

complex conceptualisation of the state. In a democratic regime,[21] at least theoretically, the rules

of the game should lead to the creation of multiple sites of contestation within the state itself, at

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[20]Migdal presents one way of breaking down the state: 1) the trenches; 2) the dispersed field offices; 3) the agency's central offices; 4) the commanding heights (1994: 16).

[21]This is of special relevance not only to the present discussion of Brazil, but of other Latin American states as well, especially those in the Southern Cone which have, in the 1980s, gone through processes of democratization. The degree to which these transitions have in fact led to new configurations of the state (showing clear breaks with elements from the preceding authoritarian period) is, however, highly questionable (see Karl 1990). Formal democracies, with the semblance of free participation and inclusion through regular elections and other democratic institutions can hide serious shortcomings of a deeper, more meaningful democracy.

many levels (local to national). In a democratic regime that goes beyond the plebiscitarian emphasis on periodic elections, and includes more opportunities for groups in society to debate and influence policy making, state-society relations at its numerous sites can become less violently conflictual, since debate and deliberation are emphasized. "Rules of the game," among which are clear and manageable constitutions and enforceable citizenship rights help defuse this more extreme kind of conflict. Returning to a point made earlier in the introduction, in this ideal situation, inclusion through participation and contestation has the potential of reducing the oppression and exclusion of minorities such as gays and lesbians. If anything else, such a democratic state allows for an increased flow of information (Maravall 1994; Sen 1999) (*e.g.*, denunciation of violation of rights), and for certain guarantees to groups that allow them to engage in collective action to contest and transform the *status quo*. However far this may be from reality, especially in places like Latin America (Oxhorn and Ducatenzeiler 1998), it is useful to include it in the discussion, since substantive democratization is part of a broader agenda for change which is also relevant for sexual orientation movements. In the case of Brazil, as will become clearer in the following pages, this less-than-desired reality seems to hold.

This multilevel, diffuse state is also inserted in a particular way in an international state system and in the international economy. Borrowing from the dependency literature (Cardoso and Faletto 1979), it is important to remember that the state is constrained by international forces, particularly international economic forces, in its attempts at establishing domination over society.[22] In the case of developing countries, a supportive outside power can be a factor in the

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[22]In saying this I would like to avoid the more deterministic approach of some of the *dependencistas*, such as Theotônio dos Santos (1970). International factors, both political and economic, may affect the national balance of power among diverse social forces, but do not determine it. As with other elements of this conceptualisation of the

establishment of integral domination.[23] Generally speaking, however, the subordinate position in the international economy is a strong element in limiting the state to a dispersed domination. External economic forces can be a factor in creating serious resource constraints, undermining state capability to dominate other social forces.

The influence of these international factors are not restricted to the state, but can also affect other social forces as well. Economic factors can strengthen business interests *vis-à-vis* the state and other social actors, for example. International non-governmental organizations (NGOs) are also part of these international factors. In the realm of sexual orientation movements, important actors in the international arena have started to emerge in the past few decades. The International Lesbian and Gay Association (ILGA), the International Gay and Lesbian Human Rights Commission (IGLHRC), and, since the early 1990s, after substantial internal debate, Amnesty International (AI) are active in pressing governments and aiding local movements in their struggles for rights and acceptance. Another good example is the European Union and its Human Rights Commission which, in order to accept new members from Eastern Europe, pushes for these potential new members to pass anti-discrimination laws to protect sexual minorities (Long 1999; Sanders 1996).[24]

A good example of the activity of these organizations can be seen in the work Amnesty

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state, this standpoint emerges out of the desire to avoid a static, "frozen" analysis.

[23] Arguably, the support received by some East Asian states from the United States during the Cold War, especially South Korea, allowed for an approximation of this kind of domination. The strengthening and militarization of the state *vis-à-vis* (civil) society allowed for the state to diminish the contradictions among its levels, and arrive at a concerted, integral control of society, at the multiple junctures of domination and opposition. See Koo (1987: 172-173); Evans (1987: 210).

[24] For a more legal discussion of the use of the European Convention on Human Rights in regards to sexual orientation issues, see Wintemute (1995: ch. 4 and 5).

International has done in Brazil. In 1993, it launched an action regarding the case of Renildo

José dos Santos, a bisexual member of the town council in Coqueiro Seco, in the Northeastern

state of Alagoas, who, after having assumed his sexuality in public was abducted and brutally

killed (Amnesty International 1997: 17-19). AI's campaign helped bring international attention

to the situation of homosexuals in Brazil, increasing pressure on the Brazilian state for

something to be done. Another example is the important joint work of reporting human rights

violations of sexual minorities by the *Grupo Gay da Bahia* and the IGLHRC (Mott 1996a). The

production of information regarding oppression, exclusion and discrimination not only increases

the direct pressure exerted by these international actors on the state, but it also provides crucial

material for the oppressed minority to contest the normative order being imposed on it. In other

words, making clear the linkage between power and knowledge, international actors help create

power among the "powerless." The existence of strong democratic mechanisms, such as a

functioning and reliable judicial system can further maximise that power, by leading to a more

concrete implementation and defence of citizenship and human rights. However, this last

element, once again, is not characteristic of Brazilian reality.

So it is this state, with its diffuse nature, sitting in the juncture of internal (national) and

external (international) spheres,[25] that constantly participates in cultural (trans)formation and

politics. One useful way to understand cultural production and the politics around it (and

consequently the politics of the construction of sexual identities) is to create a spectrum with

state monopoly at one end and societal monopoly at the other. On the "state monopoly" end of

the spectrum, over-domineering states try to "go beyond establishing people's identities; they

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[25]This point is also stressed by Theda Skocpol (1985: 3-37).

aim to shape people's entire moral orders – the contents of the symbols and codes determining

what matters most to them" (Migdal 1994: 13). Almost inevitably, sharp "boundaries" will be

created in such a process, forcing those that do not fit in out of the collectivity, effectively

excluding them. The virtually all-powerful role of the state in forming the nation and the

discourses and cultural politics around it as presented by Ashis Nandy (1992) provides a good

example. At the other end of the spectrum, cultural formation is seen as taking place in society.

These cultural values and attitudes go through the state and in the process may permeate it and

impregnate it with the dominant vision; the state is a sounding-board for socially constructed

cultural values. In this point of view, the state is virtually "swallowed" by society. I take a

position between the two ends of the spectrum.[26] Both the state and society participate in cultural

politics and it is out of the multiple sites of domination and opposition between the two that

cultural values and attitudes emerge and (constantly) change. Let us now move to the discussion

of the ways in which the state affects the construction of the many types of counternormative

sexualitities, prominent among which is homosexuality.

Direct State Actions

As mentioned earlier, the state affects the (trans)formation of sexual identities in

multiple ways, some of which are "direct" and others "indirect."[27] In this and the next sections,

these categories will be further explained and illustrated with actions taken by the Brazilian state

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[26]For an example of the application of this middle-ground approach see Marsiaj (1998), where I explore the ways state and society interact in determining the way soccer helps shape national identity in Brazil.

[27]Neither the typology nor the examples given for direct and indirect actions is exhaustive. I intend to highlight what I see as the main, or most relevant ways in which the role of the state in these processes is played out.

throughout the twentieth-century that has affected the way homosexuality is perceived, and the patterns of political and social exclusion of gays and lesbians in that country.

"Direct actions" refer to the ways the state helps position homosexuality and the issues around it in the cultural space. The definition of this position is charged with the assignment of cultural values to certain sexual behaviours that range from acceptance to rejection and discrimination and, in some cases, "nonexistence."[28] In the following analysis, direct actions will be subdivided into three main categories: legislation, discrimination and violent repression, and symbolic exclusion.[29]

Legislation can be used by states in multifarious ways to control and repress deviant sexualities. In order to better handle the numerous ways legislation is used by the state for these ends, it is useful to subdivide this category into "legal norms" and "public policy". Both involve the enactment of laws in one way or another, but the former subcategory stresses criminal laws and other legal tools that are used to repress homosexuals, while the latter refers to general state policies that have a direct effect on gays and lesbians, the most significant of which, as will be seen, are public health policies that are central to the process of medicalisation of homosexuality. It should be mentioned prior to the more detailed discussion that, even though

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[28] A couple of these more extreme cases of "denial" and even public demonizing of homosexuals can be found in the recent experience of Zimbabwe and Namibia (Phillips 1997; Palmberg 1999).

[29] It is interesting to note that Amnesty International, in its report *Breaking the Silence: Human Rights Violations Based on Sexual Orientation* (1997), has a list of 13 different patterns of violation of human rights targeting gays and lesbians. These are: extrajudicial executions and "disappearances," arbitrary killings by armed opposition groups, torture and ill-treatment, rape and sexual abuse, forced "medical treatment" to change sexual orientation, asylum-seekers, laws criminalizing homosexuality, prisoners of conscience detained for the advocacy of homosexual rights, prisoners of conscience detained for their homosexual identity or homosexual acts, other criminal legislation used to imprison gays and lesbians, the death penalty, unfair capital trials, and abuses based on real or perceived HIV status. As will be explored in this section, many of these categories will be put together in the typology being presented here. I believe it more manageable and useful for future attempts at comparative studies to use broader categories when analysing abusive practices against gays and lesbians.

the majority of examples refer to the use of legislation to repress and control homosexuality, reference will be made to areas in which there have been a few advancements. This is important for two reasons. First, it points to an elements of the analysis emphasized earlier, namely the possibility and desirability of change. Second, the construction of sexual identities is the product of a complex "power game" between state and societal forces, of which both repressive and progressive legislation and actions are part.

Numerous countries in the world criminalize homosexuality, making it punishable by imprisonment or, in some extreme cases, by the death penalty.[30] It should be noted that, even in cases where homosexuality is illegal, such legislation may in reality not be applied, or only applied selectively, usually with ulterior motives, such as repression of political opposition. In Brazil, homosexual acts among either two men or two women are not criminalized (Mott 1995, Amnesty International 1997: 79; ILGA 1999a). During the Colonial Period, from the XVI to the early years of the XIX century, sodomy (both homo- and heterosexual) was considered criminal, being at points aggressively persecuted by the Office of the Holy Inquisition, set up in Portugal Green 1999b: 21). After independence was declared by D. Pedro I in 1822, he signed into law the Imperial Penal Code in 1830. In this new piece of legislation, references to sodomy were absent. The new Republican government established in 1889, maintained sodomy off the list of criminal offences in its new Penal Code of 1890 (Green 1999b: 21-22). Attempts were made by members of the São Paulo Society of Legal Medicine and Criminology in the late 1930s to criminalize homosexual acts in the new Penal Code being drafted. In the end, however, this

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[30]See Amnesty International (1997: 77-90) for a listing of the legal status of homosexual acts throughout the world.

proposition failed (Green 1999b: 129-130). Therefore, sodomy per se has been decriminalized in Brazil for almost two centuries.

Nevertheless, numerous other criminal legal tools have been put in place that allow the state to repress homosexuality. In the Penal Code of 1890, at least four different articles allowed for homosexual behaviour to be controlled (Green 1999b: 22-23). "[Assaults] on decency of a person of one or another sex through violence or threat with the goal of satiating lascivious passions or for moral depravation" (Green 1999b: 22) was usually applied in cases where the accused was also charged of molesting minors. "Public Affront to Decency" gave the police and the courts the chance to arrest and judge homosexuals for engaging in "indecent" intimate behaviour in public areas. An article "On the Use of False Names, Fake Titles, or Other Disguises" provided the law enforcers with a legal tool to effectively repress cross-dressing of any kind, opening the door for the harassment of transvestites. Finally, people could be arrested for vagrancy. Since many (male) homosexuals used public areas, such as parks and plazas in their search for sexual partners and companionship, police raids allowed them to arrest anyone not carrying work papers, or, in some cases, engaging in male prostitution. In the final draft of the Code of 1940, while homosexual acts *per se* remained decriminalized, as mentioned above, codes prohibiting obscene acts in public and other measures intended to protect public morality and decency remained in place, thus maintaining many legal tools for repression and control of homosexuality in the hands of the state (Green 1999b: 130). These tools have been used since the end of the XIX century, and throughout the XX century they continue to be widely applied by law enforcement agents in the form of arrests, censorship, closure of commercial establishments and other practices in the name of protection of public decency (Green 1999b;

Mott 1995, 1996b).

What makes the use of these legal tools for the control of homosexuality possible is their ambiguity and the room they leave open for their interpretation by law enforcement agents and the judiciary. Returning to points made earlier, the characteristics of individuals that staff state agencies, and their "positioning" in the various axes of domination (and the accompanying attitudes) come into play when applying these various laws. The subjectivity in the definition of "lasciviousness," "licentiousness," "corruption," "decency," and "morality" opens the door for the use of such legislation to maintain a certain moralistic order from which homosexuals and other "deviants" are excluded. One more example is useful. While there is no difference in the wording of the law between homo- and heterosexual acts, courts could consider a homosexual life-style as corrupt and promiscuous, opening thus the door for prosecution on the basis of "corruption" of minors (under 18), when the legal age of consent for homosexual (and heterosexual) acts is 14 (ILGA 1999a).

Not only the presence of "active" legislation should be included in this discussion, but also the lack of "protective" laws is part of the overall characteristics of "legal norms" that affect the construction of sexual identities. Two examples are relevant: anti-discrimination legislation and partnership laws. Some advancements and victories have been achieved in these areas by the gay and lesbian movement, but the overall picture still leaves a lot to be desired. Anti-discrimination legislation that includes references to sexual orientation make it a punishable offence to discriminate a person based on his or her real or perceived sexual orientation. It is a direct and explicit way of preventing overt exclusion of certain groups based on a specific axis of difference. In Brazil, specific sexual orientation anti-discrimination

legislation exists at the city and state level. São Paulo, Rio de Janeiro, Brasília, as well as more than 70 other municipalities, and the states of Bahia, Sergipe and Mato Grosso (ILGA 1999a; Green 1999a) have passed such laws. One important caveat, however, should be mentioned, especially in relation to the large number of municipalities that have passed this type of legislation. According to an activist from the Worker's Party (PT), many of these municipalities simply copied the entire civil code from the city of São Paulo, thus including the anti-discrimination statutes (Green 1999a). In this case, the protective law is almost accidental, making likely that its observance and application be, consequently, low. Anti-discrimination legislation has not reached the national level. In 1987, when the Constitution was being drafted after the return to civilian rule, proposals to include prohibition of discrimination on grounds of sexual orientation were struck down. Similarly, in 1993, when the same Constitution came under revision, such changes were left aside. In May 1996, gay and lesbian groups showed frustration at the silence of the National Human Rights Program in regards to issues relating to sexual orientation. In late 1998 a glint of hope emerged when the President of the Brazilian Supreme Court expressed support to amending the Constitution to include references to sexual orientation in legislation regarding protection against discrimination (ILGA 1999a). At the time of writing, however, such changes had not materialised.

Partnership laws that recognise same-sex unions are a way of granting some civil, social and economic rights to homosexual couples. Tax, public pension and social security benefits, inheritance rights and succession of tenancy are some examples of areas touched by legal

recognition of same-sex partnerships.[31] Being pushed forward by gay and lesbian organizations

and a PT deputy, Marta Suplicy, the *Lei da Parceria Civil para Pessoas do Mesmo Sexo* (Civil

Partnership Law for Same-Sex Persons) was first presented at the 1995 ILGA World Conference

held in Rio de Janeiro. After congressional analysis through 1996, and parliamentary vote in

1997 and 1999, the bill was defeated with staunch opposition from deputies linked to

conservative religious interests from the Catholic Church and the increasingly strong Pentecostal

denominations (Santa Cruz and Vieira 1999; ILGA 1999a; Suplicy n/a).

Another way in which legislation can be used to control homosexuality involves the

implementation of public policies, especially those involved in the process of medicalisation of

homosexuality. Medical writings on homosexuality can be traced back to the end of the 1800s in

Brazil (Green 1999b). However, an increase in this intellectual production and, more directly

related to the present discussion, the cooperation between the medicolegal establishment and the

Brazilian state was intensified from the 1920s into the 1940s. This phenomenon can be linked to

the emergence of the "technical" state, which emphasized modern elements of its functioning,

namely science and reason. This "positivist" ideology was strong in Brazil during the 1920s and

1930s and serves as the background for the then popular discourses about eugenics, race,

sexuality and gender roles (Green 1999b: 109-110). In this environment, physicians, criminal

anthropologists, lawyers and psychiatrists worked together with the state in a multi-purpose

enterprise of studying and "understanding" sexual deviance, modernising the state and building a

healthier nation (Larvie 1999). It comes as no surprise that many of the physicians and

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[31]Rights regarding adoption are also among the delicate issues regarding this type of legislation in Brazil, as in numerous other countries (*Correio Braziliense* 24/12/99).

psychiatrists writing on homosexuality were also in charge of important government agencies. Two prominent examples are Lenídio Ribeiro and Edmur de Aguiar Whitaker. Ribeiro taught at different law and medicine schools in Rio de Janeiro and was simultaneously the director of the Institute of Identification of the Federal District Civil Police. de Aguiar Whitaker taught judicial psychology at the São Paulo Police Academy and was a psychiatric physician linked to the São Paulo Police Identification Service. The "medical" approach to homosexuality, in this manner, influenced state institutions, and these could be used by researchers, in some cases, to gather "samples" for their study of homosexuality. While this was not done explicitly, the not-uncommon use of individuals arrested in police raids of homosexual meeting areas in downtown Rio de Janeiro and São Paulo for the study of sexual deviants, for example, hints at this "convenient" link between the medical and state institutions (Green 1999b).

This "symbiotic" relationship between the medical and state institutions, with the underlying positivist and modernising ideologies, congealed into a vision requiring vigorous state intervention in Brazil's largest cities based on "scientific principles of sexual and social hygiene" (Larvie 1999: 533). The intellectual production by people like Ribeiro and de Aguiar Whitaker was the scientific basis of state intervention in the sexual health of the nation.

> Noteworthy programs meant to create a public sphere conducive to proper forms of heterosexuality included the importation and control of female prostitutes, police roundups of sexual "inverts" for the purpose of documenting their "anthropomorphic abnormalities," and a ban on men's participation in soccer matches without shirts. Presumably, these measures were taken for a variety of reasons, ranging from the control and treatment of venereal disease to the development of a scientific approach to police work. But they shared a concern with restoring heteronormativity to Brazilian society. (Larvie 1999: 533)

It can be seen, thus, that public policy nominally aimed at improving hygiene and health in urban

centres becomes part of a wider process of controlling deviant sexualities and constructing a certain sexual order. Interestingly, however, the increasing centralization of state power with the inception of the *Estado Novo* in 1937 was accompanied by a decrease in the intellectual production on homosexuality by these physicians and psychiatrists (Green 1999b: 142-146).

As was the case with the use of legal norms, sometimes public policies aimed at improving the nation's health can be used progressively. In the 1990s, almost a decade after the arrival of AIDS in Brazil, state HIV/AIDS prevention campaigns had a very different effect on the gay and lesbian community (Larvie 1999). In the context of a resource-strapped neoliberal state, sexual minorities were conceived of as active citizens. The homosexual community was to have a key role in the prevention and control of the AIDS epidemic, receiving substantial resources from the state and international organizations such as the World Bank. While emphasizing decentralization and increased societal control and input, this program was heavily linked to the state. It is also an important illustration of how the state plays an important role in affirming and constructing identities (in this case a positive one, of active and responsible homosexual citizens), strengthening organizations and, more generally, building civil society.[32]

The second category of direct actions involve overt discrimination and violent repression of gays, lesbians and transvestites. Overt discrimination of homosexuals is pervasive in Brazilian society, as numerous statements by politicians, clergy, as well as popular proverbs indicate (ILGA 1999a; Mott 1996b: 104-115). Within the state agencies, such discrimination is also present. In the renowned diplomatic school *Insituto Rio Branco*, for example, some examples of discrimination exist (Mott 1996b: 108). Even though discrimination and intolerance in such

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[32]This point was brought to my attention by Philip Oxhorn.

circles may be much less than in society in general, the fact that it exists indicates its

pervasiveness. Some cases of employment discrimination in the judiciary can also be found

(Mott 1996b: 108-109). In the military, rampant discrimination is also the rule (Mott 1996b: 109-110; ILGA 1999a).

More serious than discrimination, physical violence against gays and lesbians is an

endemic problem in Brazil. Some staggering statistics of the violence faced by homosexuals in

Brazil give an indication of the seriousness of the situation. Luiz Mott and the organization

which he presides, the *Grupo Gay da Bahia* (GGB), have compiled extensive data on

homophobic violence in Brazil (Mott 1996a, 1996b). Policemen are known for practices such as

extortion, harassment, torture and other inhuman behaviour towards homosexuals, and extreme

right-wing groups and death squads exist in various cities across the country (Mott 1996b: 116-125).[33] In many cases, off-duty policemen are active members of these groups, especially the

vigilante-style death squads (Mott 1996b). The figures for the murder of homosexuals are indeed

alarming. Between 1963 and 1994, there are 1260 recorded murders of homosexuals. It should

be noted that this number is most likely to be an underestimation, given the omission to

references to sexual orientation in many reports, lack of investigation or media coverage and

limited resources of gay and lesbian organizations to engage in more thorough research (Mott

1996b: 125). Of this total, 51% of the crimes were committed in the 1980s, and 44% in the first

few years of the 1990s (Mott 1996b: 126). More recent statistics indicate the same perilous

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[33]Some examples include the *Grupo de Caça aos Homossexuais* ("Group for Hunting Homosexuals") in the northern city of Belém (Mott 1996b: 123; Lind 1997). Other groups, such as the *Juventude Nacional Brasileira* may not overtly espouse violence, but nevertheless strongly represent homophobic sentiments found in Brazilian society (Stycer 1995). A recent example of homophobic violence involved the killing of a gay man in São Paulo by a group self-entitled *"Carecas do ABC,"* an extreme right-wing group from the suburbs of this Brazilian metropolis (*Diário de Pernambuco* 14/02/2000; Pinheiro 2000; Teixeira 2000).

trend. In 1998 alone, 116 murders have been recorded by the GGB. The increase in the

frequency of such crimes is startling: the annual average of homophobic murders during the

1980s was 80; in the 1990s it rose to 120 (ILGA 1999b). The total average for the past 20 years

amounts to the killing of a gay men, transvestite or lesbian every three days.

The role of the state in this *bilan macabre* ranges from direct action by state agents,

namely the police force, through para-state participation, to state acquiescence and disregard.

According to Luiz Mott, the socioprofessional categories most involved in the murder of

homosexuals were the police and the military. Despite difficulties regarding the nature of

collected data, his statistics show that a quarter of known assassins were soldiers, civilian and

military police, sargents, sailors, and even a military police colonel (Mott 1996b: 133). If one

includes sons and relatives of these individuals, the numbers are likely to increase. Some of

these violent crimes are committed while these officials are on-duty, but many tend to occur

when they are off-duty. Finally, investigation by police and prosecution in the courts is dismal,

showing a strong disregard and acquiescence of the state to this kind of violence. Of the

recorded crimes committed, only 10% of those responsible were brought to justice, and a mere

4% were sentenced (ILGA 1999b).

It is useful to situate this problem in a wider context. Homophobic violence, the

participation of the police and military, and the low levels of investigation and prosecution are

all part of a wider problem, afflicting not simply Brazil, but many countries in Latin America.

The participation of police agents in death squads, on-duty police violence, and state disregard to

paramilitary and parapolice violence are present in many Latin American countries (Huggins

1991).[34] Police forces in Brazil are notoriously undertrained, underpaid and thus prone to harassment and extortion. In a cultural context of strong discrimination, homosexuals are targeted, being forced to pay policemen to avoid having their names, and sexual orientation, publicly revealed. In addition, "the judicial system has been widely discredited for its venality, inefficiency and lack of autonomy. It is deficient in every respect [...] In most countries of the region, the investigative capacity of the police is very limited" (Pinheiro 1996: 21). All these problems combine to create an unequal burden on certain groups. Returning to the various axes of difference mentioned in the introduction, class, race and sexual orientation, for example, become strong axes of exclusion and repression, as poor, darker and non-heterosexual individuals bear the brunt of a violent police force and inefficient judiciary.[35] These problems have not gotten any better with the fiscal and budgetary pressures put on governments, in Brazil and elsewhere in Latin America, by neoliberal economic reforms. The lack of resources leads to a continued (or increasing) underfunding of these branches of the state apparatus.

Finally, the last category of direct state actions in the construction of sexual identities involves what can be termed "symbolic exclusion." This is a more abstract category, but that is nevertheless important. One key element of symbolic exclusion is silence. Silence is crucial in solidifying homosexuals as the excluded "Other." In addition to the many "active" and "loud"

[34]Some of these activities could be easily characterised as "vigilantism," *i.e.*, "conservative violence [...] designed to create, maintain or recreate an established socio-political order" (John Rosenbaum and Peter Sederberg quoted in Huggins 1991: 3). One of the motivations for this type of activity is the control of a certain social group (Huggins 1991: 6). Consequently, both the definition of vigilantism and this motivation fit in nicely with the argument being presented here. The state, through, in this case, extralegal means, acts on establishing and maintaining a certain socio-political and sexual order, by controlling a certain social group, namely homosexuals.

[35]For good discussions of these issues, especially in relation to class, see Pinheiro (1999) and Chevigny (1999).

actions covered in the preceding discussion, the "non-said" is also important. Some indication of this has already been given, in the lack of investigation and judicial disinterest in the violence against homosexuals. It is very hard to document and analyse what is hidden by this silence, but the general disregard and obliviousness of the state toward many of the issues regarding inclusion of sexual minorities is and indication of this symbolic silence and exclusion.

A second element of the process of symbolic exclusion involves "othering" processes. One example is the exclusion which takes place in the construction of national identity. In other countries, including developed ones, counternormative sexualities are left out of the national collectivity in discourses that help build that identity. As explored by Carl Stychin (1998), the building of national identity is not simply gendered, as many feminist studies have highlighted, but it is also sexualised. The modern state has consistently excluded homosexuals from the "nation," even depicting them as "enemies" or "threats" to the essence and security of the nation. In Brazil, many of the public policies used in the 1930s to repress homosexuality were coupled with this type of action: the "sickness" of homosexuality was seen as a threat to the "health" of the nation (Larvie 1999). This illustration makes even more sense in a period where organic views of the nation prevailed. During the 1964-1985 military regime, a strong symbolic clash took place between the militarised and authoritarian view of the nation and homosexuality. This became crystallised in the elements stressed in the formation of a gay identity in the movement that emerged in the late 1970s. In contrast to the authoritarian and militarised *status quo*, the gay organizations and, more significantly, the gay identity they helped build emphasized elements of equality and "democratic" pleasure (MacRae 1992). Gays and lesbians, in this case, reinforced their exclusion from a regime they opposed, as part of a strategy to combat it. Finally,

for many Brazilian homosexuals, the problems and contradictions found in a broad "Brazilian identity" are associated with an ill-fitting and usually strong exclusion of gays from the nation (Trevisan 1986: 7-18).

Indirect State Actions

"Indirect actions" refer to the ways in which the state conditions the contestation of sexual identities by civil society (or more precisely, the gay and lesbian movement). As mentioned earlier, the construction of sexual identities is the result of the power interplay between the state and other social forces. Moreover, when conceptualising the state, I mentioned the important function it had of shaping the political sphere and issues that can be politicized. Indirect effects emphasize this state function, since they point to the opportunities the state opens and closes for the emergence of social movements (McAdam, McCarthy and Zald 1996: 17-18). The state, in conjunction with civil society, are key in understanding the formation of the public sphere (Oxhorn 1999). This is the space where the struggles and demands made by groups in society are played out. State institutions "create both opportunities and incentives for different groups to organize and attempt to influence politics" (Oxhorn 1999: 5). In addition, they participate, in conjunction with civil society, in the construction of citizenship rights, which are key for the democratic functioning of the public sphere (Oxhorn forthcoming; 1999). Decisions about how open the state will be to groups in society, about the manner in which new contesting groups will (or will not) be included and integrated into the state, as well as the state's ability to control these processes (which should not be assumed), are a set of factors that help determine

the degree of openness and inclusiveness of the public sphere.[36] Even though this category of "indirect effects" is close to the tentative hypothesis mentioned earlier, its focus is different. This category refers to the degree of openness and closure of the state structure to civil society in general, while our hypothesis refers to state repression of gays and lesbians *because of* their sexual orientation. Gay and lesbian movements may face obstacles and be repressed due to the state's "indirect actions," but this will be due to the general contraction of the public sphere more than to anything particular to a gay and lesbian organization or movement.

During a more authoritarian regime, such as the bureaucratic-authoritarian regime started in 1964 in Brazil, political opportunities are restricted. It should be noted that these opportunities and the public sphere were reduced for many groups that opposed the regime. It was not particular to gay and lesbian movements, but included labour and the popular sectors in general (O'Donnell 1978: 6). Therefore, it could be argued that the repression of gays and lesbians and the obstacles put in place to the emergence of their organizations and movements had less to do with their sexual orientation, and more with their opposition to the regime's program in general. In order to clarify this point, one would need to examine carefully how important heteronormativity was to the order imposed by the military. Despite the fact that, arguably, the conservative and militaristic nature of the regime had a significant stake at maintaining heteronormativity, the available data seems to indicate that the contraction of the public space available to gay and lesbian organizing simply followed the tightening of the dictatorship's grip on society, especially in the 1969-1973 period (Green 1999b: 147-198, 242-278). Increased

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[36]For an account of the changes in the manner of inclusion of emerging social groups in Latin America see Oxhorn (1995b).

repression of homosexuals did not happen immediately after the implementation of the military regime in 1964 (Green 1999b).

During the transition to more democratic rule starting in 1974, opportunities widened, and civil society "resurrected" (O'Donnell and Schmitter 1986). Gay and lesbian organizations emerged out of this wider decompression, during the last years of the 1970s (Green 1994, 1999c; MacRae 1992; Trevisan 1986). This reinforces the argument that a more democratic regime will lead to a more open state, or at least a less repressive one, permitting the existence and activity of civil society organizations. According to this logic, the public sphere will be widened, providing more space and opportunities for these groups to participate in the (more democratic and equal) construction of sexual identities. In many cases, however, immediately following the downfall of the authoritarian regime, one does not find a continued vibrancy in civil society activity. Following a pattern observed in other Latin American countries such as Chile (Oxhorn 1995a), many organizations in civil society were demobilized with the return to democracy. In the case of gay and lesbian organizations in Brazil, after their emergence in the late 1970s, their number and force dwindled to extremely low levels in the early 1980s. Only in the 1990s, fuelled by the campaigns against HIV/AIDS did the movement regain its strength (GGB 1993; Parker 1999: 115-123; Mott 1995). Other factors seem to be at play, but the general openness or closure of the state structure and the changes it suffers (the "indirect political effect") is nevertheless a key element in the overall picture. While not determining the emergence of social movements, it can be said that the degree of state openness or closure (*i.e.*, of political opportunities) contributes strongly to the *likelihood of* and *favourable conditions to* the emergence of such movements.

Finally, a second area where "indirect effects" come into play should be mentioned: the economic arena. The modern state is, to a great extent, a developmental state. This is especially true of "developing" states, as the term itself makes clear. And a significant, if not major, part of development involves economic development. More specifically, the effect economic development has on social stratification and the development of classes in society are of central importance in understanding and predicting the capacity of organizations and groups in civil society to effectively make demands and resist subordination to the state (Oxhorn forthcoming; 1998). Groups that are negatively affected by economic development (marginal groups, lower classes) will lack the resources (in terms of autonomy and capacity (Bratton 1994)) to organize. This leads to power biases and imbalances in society, helping us thus understand the notions of domination and resistance explored in the earlier discussion of power. Playing a central role in (economic) development, then, state actions "indirectly" have important effects on society by shaping the material and economic conditions of the emergence of social movements or, more generally, contestation and participation.

The type of economic development experienced by Brazil can be characterised as "dependent development." The country has experienced substantial economic development, especially during the Economic Miracle between 1968 and 1973. High levels of industrialization and urbanization have been achieved (Parker 1999: 104-106). The skewed and unstable characteristic of this development, however, differentiates it from that of developed countries. Following the *dependencista* literature, economic development in Brazil, as in the rest of Latin America and other "peripheral" areas, is highly influenced by changes in the "core" economies

of the international system.[37] As mentioned earlier, the state sits at the juncture of the national

and international spheres, the economy being a especially relevant arena where international

forces affect the national scene. In this manner, from the demise of the primary goods-exporting

economies of the end of the nineteenth century to the struggling neoliberal economies of the end

of the twentieth century, development in these countries is an unstable succession of ups and

downs, booms and busts, strongly shaped by the patterns of demand from developed (and more

economically powerful) countries. These economic swings can have strong effects on the

formation of gay and lesbian (and many other) movements. Even though it was a somewhat

unique case, the economic recession experienced by Brazil and other Latin American countries

during the "lost decade" of the 1980s had a strong impact on the gay and lesbian movement.

Similarly to what happened in Argentina (Brown 1999), the middle and lower classes suffered

tremendously from this economic downturn. Lack of resources and more urgent preoccupations

forced their attention away from mobilization around sexual orientation and towards more

pressing material issues. Many of these organizations were mostly middle- or lower-middle class

(Green 1999c: 97; Parker 1999: 119-121), and a few, such as *Atobá* in Rio de Janeiro, addressed

the interests of popular-sector homosexuals (Parker 1999: 119-121). The strong decline in the

gay and lesbian movement in Brazil in the 1980s coincides with this strong economic recession

which hit the middle and lower classes especially hard, hinting at the link between the two.

Functioning in and being influenced by this general economic context, the Brazilian state

has directed economic development with varying degrees of success. One aspect, however, in

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[37]Some would argue that economic development in the "periphery" is *determined by* the core. I prefer to
avoid such determinism, and argue that peripheral development is highly influenced by the core.

which it has been consistently unsuccessful is the issue of distribution of wealth. The market economy inherently leads to the creation of inequality. The controls and regulations the state implements have a function of, among others, preventing that inequality from becoming too large. The Brazilian track record on this issue, however, is dismal: according to a recent World Bank report, the richest 10% of the population retains 48% of national income, making it one of countries with the worst income distributions in the world (Fernandes 1999). Although this is an extreme case, dependent development in general is associated with a highly skewed class structure, with a very small elite and a vast majority of lower, poorer classes. Between the two are the middle sectors which, due to the different type of development, have not evolved in the same manner and to the same extent as those in the developed countries.

State involvement in the economic arena, then, has helped create a context of high levels of industrialization and urbanization, but at the same time a highly unequal class structure. Let us now briefly point at the main ways this may affect gays and lesbians, and the construction of their communities and identities. First, the emergence of a highly urbanized society makes possible the development of sexual minority communities. John D'Emilio (1983) explains well the relationship between the development of capitalism and the emergence of gay and lesbian communities. The disruptions of traditional rural life brought about by industrialization and urbanization, and emphasized in the modernization literature of the 1950s and 1960s (see, for example, Deutsch 1961), are linked to the decline of the importance of the family made possible by the emphasis on individual labour power that accompanies industrialization. Once the family ceased to be the central unit of production, new generations could migrate to the cities and lead lives where homosexual desire could be explored and be the basis of a full relationship. The

necessity of having a family decreased. Moreover, the increase in the size of the urban population allows for the emergence of a "critical mass"[38] that makes it easier for these individuals to resist societal, cultural and state pressures, *i.e.*, that allows them to organize, resist and try to control the construction of their identity. In Brazil, especially in the larger urban areas of Rio de Janeiro and São Paulo, these conditions have been clearly met.

The skewed class structure has deep impacts in the way in which homosexual communities, identities and movements emerge. Class may create obstacles to the creation of homosexual affectionate relationships and networks for lower class individuals by increasing one's dependence on the family (Murray 1995b). Popular sector homosexuals may have to resort to meeting spaces such as public parks and beaches that are more dangerous and vulnerable to police and societal repression and violence than higher-class commercial establishments (Mott 1996b; ILGA 1999b). The development of a homosexual identity (and consequently interests) may also be influenced by class. One interesting example can be found in Brazil (Parker 1999: 118). For some lower class men, a *gay* identity[39] is strongly associated with status. Being gay reflects not only one's sexual orientation, but also one's middle-class gay life-style. In the case of lower-class homosexuals, two different axes of difference, sexual orientation and class, may merge, forming an identity (and interests) that involve both the desire to freely explore

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[38] I would like to thank Philip Oxhorn for bringing this point to my attention.

[39] The word "gay" is emphasized here to distinguish it from other, Brazilian terms and identities, such as *bicha*, or *entendido*. The English spelling of the word is also important, since it stresses the associations with the international and especially the North American gay movement and life-style. It is also interesting to note the fact that in the early years of the Brazilian gay movement, many activists opposed the use of the term "gay" in the name of their organization since doing so would indicate an imitation of the American movement. There was general agreement that a unique national, Brazilian movement should be forged (Green 1999b: 275). Later on this attitude changed.

homoerotic attraction and relationships, and to improve one's socioeconomic standard. Finally, important material resources may be available to middle- or upper-class gays and lesbians that make it easier for them to establish and fund organizations, as stressed by many scholars in the resource mobilization approach to the study of social movements (Jenkins 1983: 532-539).

Therefore, state indirect actions in the economic arena can have both positive and negative effects on the emergence of a gay and lesbian movement that will in turn participate in the contestation of "closets." Broadly speaking, two elements are unfavourable to such movements: the instability of economic development and socioeconomic inequality. State action that perpetuates these help create or maintain unfavourable conditions for greater participation of civil society in the construction of sexual identities. Relating regime type of the economic arena, it is interesting to draw a parallel and point to the fact that the vast literature on regime type and success in economic reforms is inconclusive. As stated by Philip Oxhorn and Graciela Ducatenzeiler in relation to the literature focussing on the implementation of liberalizing economic reforms: "This literature is still far from conclusive [...], at least in part because there is no single agreed upon gauge for measuring "success" [...], but it does seem to be unanimous in supporting one rather counterintuitive and paradoxical conclusion: regime type does not seem to play a central role in explaining the success of economic reforms" (Oxhorn and Ducatenzeiler 1998: 4). Similarly, the state's ability to address economic instability and inequality, the two elements stressed here, as well as the relation between liberalizing policies and these two elements, is unclear. Consequently, attempting to strongly support or counter the hypothesis presented earlier with this discussion of indirect state actions in the economic arena is futile. What this section has tried to make clear, however, is that, regardless of regime type, the state,

through indirect actions in the political and economic arena, affect the conditions for the emergence of civil society actors that will participate in the contestation and construction of sexual identities.

After having presented this lengthier outline of the direct and indirect effects the state has on (trans)formation of sexuality in Brazil, let us now shift the focus to a phenomenon that is at the heart of the recent political development in Brazil: democratization. The following discussion is closely related to the above analysis of the indirect actions in the political arena, but its importance, especially in relation to the more normative elements of this paper and to the concluding remarks on the development of a gay and lesbian movement assign special attention to it.

The "Democratizing" State

As mentioned since the beginning of the essay, the concern about how to deal with difference in a democracy, as well as the issues of exclusion/inclusion and participation are at the heart of this analysis. Also, as a starting point, greater levels of democracy are associated with greater openness of the state structure, greater participation and contestation. More specific to the topic of sexual orientation, some of the central preoccupations driving this study are the level of inclusion, toleration and participation of sexual minorities in the social and political life of society in general, the level of power in their hands *vis-à-vis* the state in determining their position in society, and consequently, their ability to autonomously define and defend their interests; *i.e.*, the strength of "closets" and the ability of gays and lesbians to get rid of them.

A discussion of democracy and democratization, consequently, is central to

understanding the politics around sexual orientation in Brazil, as well as stressing the democratic

normative standpoint I take. As mentioned earlier, I will concentrate on the democratization

process that has been taking place for the past two decades in Brazil. Before proceeding, the

elements of democracy considered most important should be outlined. I wish to avoid

minimalist definitions of democracy, which simply stress the presence of "free and fair"

elections and certain formal institutions.[40] A deeper, more "meaningful" democracy would

assure certain basic elements, leaving the possibility open for variation in other aspects which do

not interfere with these fundamental elements (Schmitter and Karl 1993: 47-49). Philippe

Schmitter has pointed out five core values of democracy: participation, accessibility,

accountability, responsiveness and competitiveness (Schmitter 1983). In such a context,

demands from groups in society can be formulated, defended and negotiated with the state. The

final product of this negotiation, which ideally is fair, inclusive and as balanced as possible (in

terms of the balance of power between actors), is then implemented in the form of laws, policies

and other actions. It is interesting to note that, in reference to the earlier discussion on positive

power, a stronger democracy seems to benefit from a more cooperative relation between civil

society and the state. Among other things, the state can help control the divisive and fragmenting

elements of civil society (Walzer 1999). As an example, in the specific case of gay and lesbian

organizations, the state could help control the social and cultural homophobia existent in many

organizations in civil society.[41] A cooperative relation also makes it easier for society to explore

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[40]Even though, some would argue, this "minimalist" definition entails the respect of a whole array of rights in order to function properly, making it less minimalist than it may seem at first (see O'Donnell 1999).

[41]One example in Brazil is the strong tension between early gay and lesbian organizations and leftist groups (Green 1994; MacRae 1992; Trevisan 1986). One could go further and mention that homosexual groups themselves are not free from discriminatory behaviour, as illustrated by the splits between lesbian and gay groups, many based on

and use the state and its institutions as an engine of change. Given all this, democracy becomes a central concern for a more egalitarian and less oppressive construction of sexual identities.

Even a brief look at the situation in Brazil raises important questions and doubts about that country's level of democraticness. The current Brazilian regime and state are characterised by serious democratic deficits, making its democracy an "incomplete" one. Despite the presence of formal democratic institutions, numerous factors indicate that the democratic values stated above are from being fully achieved. Drawing from the previous discussion of the ways in which the state controls and influences the construction of "closets," many areas of concern are evident. Importantly, however, it should be kept in mind that these shortcoming are far from being an exclusivity of the situation lived by homosexuals. Numerous other groups, following the many axes of difference mentioned earlier, such as class, race and gender, also suffer disproportionately from the many "faults" of Brazilian democracy.

First, the use of legal norms to repress, or the lack of certain civil, social and economic rights to protect homosexuals and their partners, for example, indicate an exclusion of these people from full citizenship.[42] Second, the high level of discrimination (towards many groups), and the lack of state legislation or actions to try to correct this problem points to an inability or unwillingness to establish a stronger democracy. Third, the increasing level of violence (state, para-state and societal) and state acquiescence or inability to address it, represent a serious blow to the credibility of Brazilian democracy. As mentioned earlier, not only homosexuals are

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allegations of sexism on the part of gay men in the running of joint organizations (MacRae 1992: 190).

[42]Following Schmitter and Karl (1993: 41), citizens "are one of the most distinctive features in democracies. All regimes have rulers and a public realm, but only to the extent that they are democratic do they have citizens."

targeted by the increasing violence. In Brazil, as in other Latin American countries, violence affects the popular sectors disproportionately (Méndez, O'Donnell and Pinheiro 1999), leading to a marketization of the rule of law and of security (Oxhorn 1999), whereby the well-off are able to "afford" basic human rights, whereas others lead a perilous and unstable life. Guarantee of democratic values in such conditions is virtually impossible. Fourth, the discouraging state of the judiciary system is an important element in the democratic deficit in Brazil. A working and effective judiciary is essential for the protection and implementation of citizenship rights, for recourse to be sought by people when their rights have being violated, *i.e.*, for the rule of law to function. In a situation of an "un-rule" of law, democracy crumbles. Finally, the tremendous levels of socioeconomic inequality present in Brazil make democracy unfeasible. As outlined earlier, this inequality has effects on the emergence of gay and lesbian movements and on the strength of these groups in their struggle for inclusion. The problem goes far beyond that, however. A veritable "social apartheid" (Weffort 1998) exists, creating distortions and conditions that make a deepening of democracy impossible.

In addition to the above non-exhaustive list, the situation is complicated by the politicized nature of the state (Chalmers 1977). The state is swallowed by strong social forces, making political power a prize to be won, which can be then used to further private interests. Having gained control of the state resources, the governing group uses them in a clientelistic manner, until they lose their place to another clique. The strength and pervasiveness of clientelistic relations in the politicized Brazilian state has survived transitions between regimes (Hagopian 1994). In such a situation, the state's cohesiveness is eroded. For example, local patron-client relations can remain strong despite measures taken at the top levels of the state

aimed at stopping them. In the longer run, this undermines attempts by the higher levels of the state to "clean itself." Consequently, in such a context, changes aimed at a greater democratization of the state may remain hollow, since many agencies and levels of the state may not respect them.

The current process of democratization needs to tackle these issues if a stronger and more substantive democracy is to be achieved. One useful approach is to concentrate on citizenship and citizenship rights. Citizenship provides a good common basis for diverse societies. Modern societies, Brazil being no exception, are characterised by multiple divisions, by a complex diversity. Diversity and difference, however, have to have a limit if one is to arrive at a functioning and manageable society; otherwise, centrifugal and fragmenting forces of difference can tear the social fabric apart. As clearly stated by Charles Taylor, "a modern democratic state demands a "people" with a strong collective identity" (1998: 144). A minimum level of trust and cohesion are essential for the legitimate functioning of a democratic regime; there must be a commonality that unites all the differences. One such common ground may be citizenship (Mouffe 1992). Such an approach would be consistent with the inclusion of diverse groups, among them gays and lesbians, and would simultaneously stress a larger collectivity, the well-being of which matters to all. Following Chantal Mouffe's position (1992), and the "constructivist" approach to sexual identities taken here, the diverse identities in society are fluid, and their boundaries are not fixed. Rather, these boundaries are being constantly negotiated, (re)interpreted, (re)constructed. Similarly, the "pan"-identity, citizenship, has fluid and dynamic boundaries. It does not mean, however, a free-for-all, since there are limits to diversity and pluralism (Mouffe 1992: 13).

The politics of conflict inherent in these differences and pluralism should also be recognized and incorporated into this vision. As stated by Bonnie Honig: "To take difference – and not just identity – seriously in democratic theory is to affirm the inescapability of conflict and the ineradicability of resistance to the political and moral projects of ordering subjects, institutions and values ..." (quoted in Benhabib 1996: 8). A concrete way of mediating, containing and institutionalizing this inevitable conflict is through the implementation of strong, effective and applicable citizenship rights. These would include civil, political and social rights.[43] Civil rights refer to rights necessary for individual freedom (T.H. Marshall, quoted in Walby 1994: 380), therein included, obviously, basic human rights that aim to protect bodily integrity. Political rights include those rights involved with the exercise of political power, to elect representatives and be elected into office (see Walby 1994: 380). Social rights address, among other things, the necessity of a minimum acceptable economic welfare, a certain level of security, and basic education, all of which are necessary for an individual to live a decent life in society (see Walby 1994: 380). Stressing these three elements of citizenship rights is central to the strengthening of democracy: it would allow for a dispersion of power to other actors (a clearly anti-authoritarian measure), and is consistent with the radical plural program mentioned earlier since it respects differences and provides tools (rights) for protection once these differences are used as a basis for abuse. Many of the issues pointed out in the earlier discussion of state control of homosexuality and the democratic deficits in Brazil are covered by these citizenship rights as well, such as including groups by extending rights to them, protecting them against state, para-state and societal violence, creating the conditions for the greater

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[43]This division follows the classic work of T.H. Marshall on citizenship (see Walby 1994: 380).

participation of gays and lesbians in the public sphere, and pressing for greater socioeconomic equality. Moreover, as stressed by Carl Stychin in his book *A Nation By Rights* (1998), by pressing for the extension of rights to sexual minorities, these groups managed to be integrated into the nation, countering the symbolic exclusion they previously suffered.

In addition to the above, pushing for these rights emphasizes an important point alluded to earlier. Demanding that the state create and implement citizenship rights protecting gays and lesbians would be equivalent to using the state as a source of positive power. These rights are potentially empowering to the minority that suffers discrimination and exclusion, *i.e.*, citizenship can be empowering to those that do not possess it fully. Socially, these rights can be an important element in the legitimation of alternative sexualities, and politically, they give recourse to those whose rights have been violated.[44]

Finally, as implied above, these citizenship rights are socially constructed. T.H. Marshall links the creation and expansion of citizenship rights to the development of capitalism. There is, in my opinion, more to this process than the simple evolution of an economic system. The multiple and complex struggles of groups in civil society or, in other words, the struggle between state and society in, among others, the cultural and sexual arenas, also plays a key role in the historical process of creation and expansion of citizenship rights to different groups in society. Certain axes of difference, such as class and gender, for example, have been surmounted by extending political rights to groups previously denied them. The importance of this observation is similar to the discussion about power presented earlier. Change is possible, the fight for the extension of rights to excluded groups makes sense, since these rights are flexible

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[44]I would like to thank Philip Oxhorn for bringing this to my attention.

and adaptable. And in the context of a democratizing Brazilian state, this is one more reason to put democracy as one of the central concerns in this study of the gay and lesbian movement in that country.

Conclusion: Contesting the Closets

The state plays a very important role in the construction of sexual identities, by repressing, controlling and helping establish a certain order and normativity that exclude certain types of sexualities; in other words, it participates in the construction of "closets." Even though this process also involves the rest of society, the intention of this analysis was to highlight the role of the state. As a means to change the oppressive heteronormative *status quo*, the issue of democratization was highlighted. This was also reflected in the main hypothesis being analysed, which emphasizes the impact regime type (and the consequent degree of openness of the state) has on the control, repression and exclusion of gays and lesbians. To reiterate, this intuitive hypothesis says that the more authoritarian a state, the greater will be the repression, control and exclusion from the public and political spheres of gays and lesbians, or, similarly, the more democratic a state, the lesser the repression and control, and the greater the inclusion in the public and political spheres of gays and lesbians.

In reference to this hypothesis, a superficial impression of the data regarding the use of legislation for the control of homosexuality would seem to confirm it. The advancements mentioned have taken place after the return to civilian rule in 1985, indicating attempts at some kind of inclusion and possibly reduced oppression. However, these victories have been highly limited, and, more importantly to the exploration of the hypothesis, the other ways in which

legal norms have been used to control and repress homosexuality have held somewhat constantly throughout the XX century and its cycles of authoritarianism and democracy. Moreover, during the corporatist and authoritarian rule of Vargas in the 1930s and 1940s, attempts at criminalizing homosexuality failed (Penal Code of 1940), going against the logic of the tentative hypothesis.

Regarding state actions in the process of medicalisation of homosexuality, it is interesting to reiterate that the increasing centralization of state power with the inception of the *Estado Novo* in 1937 was accompanied by a decrease in the intellectual production on homosexuality by the physicians, psychiatrists and criminologists that worked with the state (Green 1999b: 142-146). This goes against the logic of our tentative hypothesis, since greater centralization and a more "closed" state structure associated with a more authoritarian regime would supposedly lead to an increase in this type of activity. The available data seems to indicate that the repressive medical control of homosexuality has indeed benefited from the consolidation, centralization and modernisation of the Brazilian state in the earlier part of the century; at the same time, the example of AIDS prevention programs indicate that state intervention in public health can have a positive effect on the homosexual community. In both periods, the regimes were not fully authoritarian, even though the first (early-1920s to mid-1930s, preceding the inception of the *Estado Novo*) could be characterised as "increasingly authoritarian," while the second (1980s and 1990s) could be termed "democratizing." The attitude of the medical institutions towards homosexuality is very different in each period (negative in the first, positive in the second); in both cases, however, the state participates in or mediates the relations between medicine and homosexuality, be they positive or negative. So, while the importance of the role of the state is confirmed by the empirical data, regime type is

not fully supported as a clearly relevant variable in understanding the way public policy is used in constructing sexuality.

The earlier discussion of discrimination and violent repression of homosexuals in Brazil also casts doubt on our intuitive hypothesis. One aspect is especially significant. After the so-called democratic transition started in the mid- to late-1970s and accelerated in the 1980s, with the return to civilian rule in 1985 and direct presidential elections in 1989, homophobic violence and the participation/acquiescence of the state (in the different ways enumerated) have increased. The statistics for the 1990s make this trend clear. In my opinion, this casts serious doubt not necessarily on the logic of our hypothesis, but rather on the "democraticness" of the Brazilian state. Despite the formal change of regime, and creation of certain democratic institutions, the actual functioning of the state structure is characterised by the continuity of numerous authoritarian elements. The multilevel nature of the state, and its lack of cohesiveness, as stressed earlier, are evident: a nominally democratic state is, in fact, characterised in some of its levels (especially at the more local ones) by very authoritarian practices.

The last category of direct action, namely "symbolic exclusion," seems to support our tentative hypothesis. During the *Estado Novo* and the 1964-1985 bureaucratic-authoritarian regime, symbolic exclusion seems to have been strong. It cannot be stated with greater certainty how much stronger, or indeed if it was stronger than in other, more democratic periods, given the penury of data and clearer examples. A possible alternative explanation is that symbolic exclusion, especially of the kind relating to national identity, increases in the presence of a nationalistic ideology, which both authoritarian regimes possessed, to different extents. The evidence is somewhat inconclusive on this topic.

In relation to the indirect state actions, mixed conclusions emerge. The indirect actions in the political arena are closely related to and seem to support the hypothesis. The actions in the economic arena, however, as mentioned earlier, do not provide any kind of significant material that may support or counter our hypothesis.

In general, therefore, the evidence presented does not sustain the hypothesis. It is inconclusive, and seems to indicate that regime type has little to do with the repression and exclusion of sexual minorities.[45] Despite some changes and variation in type and degree, no clear pattern stood out. There was no clear indication that an authoritarian regime, which is associated with a more closed state structure, closing off participation of certain groups and concentrating power in the hands of a small number of people, is also associated with greater levels of repression, control and exclusion of homosexuals. In some cases, the opposite seems to be the case. The most serious case is related to the increase of violence against gays and lesbians and the continued acquiescence and silence of the state with the return to "democratic" rule in the mid-1980s. But at other times, the logic of the hypothesis seems to apply, with the greater opportunities for participation of sexual minorities brought about by democratization leading to some important victories for the gay and lesbian movement. In the end, however, the analysis does not support the hypothesis.

Alternative interpretations of the analysis can, however, say something about the issues raised by this hypothesis. A first interpretation would say that the hypothesis may in fact be true, but its dependent variable (regime type) is highly problematic. This interpretation makes sense.

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[45]Similarly to what was said regarding the relation between regime type and the implementation of liberalising economic reforms (Oxhorn and Ducatenzeiler 1998: 4).

The previous section on democratization of the state reinforces the logic of the hypothesis, by indicating that a deeper, stronger democracy would lead to greater inclusion and participation of gays and lesbians and, consequently, a more egalitarian construction of sexual identities. This egalitarian situation, in turn, would be characterised by lower levels of control and repression. Why, then, would this not have been observed with the return to democracy in the mid-1980s, especially when a few years earlier, Brazil witnessed the emergence of an organized gay and lesbian movement? The simple answer is that the democratic deficit in Brazil may be large enough that it does not qualify as a democracy in the sense being defended here. Throughout the twentieth-century, Brazil may have simply oscillated from authoritarian to "not-so-authoritarian" regimes. Further democratization, with the establishment of strong and inclusionary citizenship rights, as well as a strengthening of civil society may well prove the tentative hypothesis right.

A second alternative interpretation would say that the picture is more complicated than what the hypothesis focusses on, namely, the construction of sexual identities involves much more than the state and regime type. In other words, a hypothesis that looks at regime type only may not be enough. It has been mentioned throughout the essay that society and other societal forces participate actively in this complex process, but what this alternative interpretation points to is that the state may be, while one factor among many, not the most important, or at least only as important as others. Societal and cultural factors beyond the direct influence and purview of the state may be strong in this type of cultural/identity politics. Returning to an earlier comment regarding NSM theory, this approach and its anti-political stance may be simply incomplete, but not wrong. Theoretically, this would send a warning against too state-centric an approach to the study of identity politics. This was implicit in my own approach, which borrowed from Migdal's

concept of the "state-in-society". State and society may be equally important, but this paper was concerned with only the first part of the equation.

A third possible (and probable) contributing factor to the inconclusiveness regarding the influence regime type may have on the exclusion of homosexuals is the relatively small amount of material on the topic. Recently more studies have been published, but a lot remains to be done.

In my opinion, a combination of the three alternative interpretations of the analysis are behind the confusion regarding the hypothesis. As mentioned in the introduction, I did not intend to rigorously test the hypothesis, but rather to, by searching for an overall confirmation or rejection of its logic, find important areas to be further explored. Therefore, two aspects stand out. First, in the study of the politics of sexual orientation, and identity politics in general, in developing countries, one should be weary of the real level of substantive democraticness of states. Labelling a regime or state as democratic may cloud one's interpretation of the available data. Second, in addition to a study of the role of the state, attention should be given to other cultural and social variables, such as: meanings of homosexuality; organization of sexual "systems;" patterns of homosexual behaviour; urban geography of homosexual desire; intersections of class, race, gender and sexual orientation; role of religion and religious institutions in the control of homosexuality; etc. Importantly, this type of approach highlights the importance of greater interdisciplinary work in this area. I believe an intense cross-pollination across the social sciences, involving, for example, anthropology, sociology, history and cultural studies would produce fruitful results.

Therefore, since the hypothesis could not be strongly supported, but the logic that a

democracy is better for gays and lesbians (and other disadvantaged groups) still seems to hold, as one of the alternative interpretations makes clear, perhaps one should shift the focus of attention. A first possibility is to try to better understand the link between the nature of the public sphere, instead of regime type, and the emergence of gay and lesbian movements, instead of the exclusion and repression of gays and lesbians. Secondly, one could focus on a separate but related issue, namely the effectiveness of these movements in terms of reduction of exclusion and repression. In this two-step alternative approach, the state would not be disregarded, but would cease to be the main focus of attention to become a (important) factor in the explanatory framework. Surely, comparative analysis, moving beyond the single case-study, would be more fruitful.

The study of the role of the state in the construction of "closets" also has interesting implications for the study of sexual orientation movements in Brazil (and other areas). Since the state is an important actor in these processes, a "two-pronged" approach to social movements would be useful. Sexual orientation movements deal with both the state and society in their strategies. In their *horizontal* strategies towards society, these movements aim at changing social and cultural attitudes towards sexual minorities. A number of strategies could be included in this category, with varying degrees of "aggressiveness" and "effectiveness." Increased visibility through the use of the media, or the establishment of "communitarian spaces," the formation of a gay subculture and contestation of the cultural space more generally are among some of the tools used in changing societal attitudes towards gays and lesbians. This change would affect their relationship with other groups in society and also with the state since it is staffed by individuals with specific social prejudices and attitudes. The other level of the "two-pronged"

approach emphasizes the *vertical* relations with the state. In this category, one would look at how movements try to gain greater participation and inclusion in the state structure, and fight against the numerous ways the state participates in the control and repression of homosexuality outlined in this essay. One crucial area in cases such as Brazil is the pressure for greater democratization and citizenship; an analysis of the movement could then assess the extent to which these elements are stressed in its engagement with the state. With further research, such an approach could be used not only to analyse and categorize movements and their actions; with empirical support of one or another strategy, attempts at prescriptions could be made.

The "two-pronged" approach emerging out of the analysis of the role of the state in the (trans)formation of sexual identities raises a number of interesting questions that could guide further research on the topic. How, in greater detail, would gay and lesbian movements engage with the state in developing countries? How would they engage with the rest of society? What level of the state would be most fruitful to engage with? Would it make a difference? Since we are dealing with minorities, alliances seems to be extremely important for more successful results. Would one need, however, societal and cultural changes towards greater acceptance of gays and lesbians prior to the establishment of such alliances? Which groups would be likely to engage in these alliances? Finally, what is the role of political society, namely political parties, in furthering the interests of sexual minorities?

As can be seen, a plethora of questions remains unanswered. And another direction in which these questions push us regards attempts to understand which approaches and strategies are more or less useful depending on the general context in which these movements emerge. To return to our regime type variable, one could look at the differences in the functioning of

movements and attempt to determine more clearly which strategies would be more successful in an incomplete democratic context, in an authoritarian one, or in a truly democratic one. Finally, this also points to the usefulness of cross-country comparative work on sexual orientation politics, not only along the North-North or South-South axis, but also North-South comparisons. And thus, only by understanding how closets are constructed, can we hope to one day destroy them.

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