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What Kind of Field is 'Law, Gender and Sexuality'? Achievements, Concerns and Possible Futures

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Reflecting upon a rather different moment in sexual politics (the 1970s) in a very different context (the Castro district in San Francisco, California), Castells and Murphy (1982) and Castells (1983) offer an insight, that for me, has particular resonance for a reflection on the achievements of the AHRC Centre for Law, Gender and Sexuality and on the significance of a field of scholarship in that area. Spatial concentration, they suggest, can play a significant role in the advancement of social justice. CentreLGS is a spatial and intellectual concentration that is not only dedicated to, but has also made a distinctive contribution towards, promoting an agenda of social justice. One of its key effects and crowning achievements is the generation of a distinctive location, physical and virtual, as well as an intellectual place within the academy for work on LGS. It provides a home for this work.

I use the word 'home' to capture some important characteristics and qualities of CentreLGS as a spatial and intellectual formation. 'Home' is a spatial metaphor particularly associated with the experience of belonging (of ontological security). In its academic context, to be at home in the academy is to be located and to be in a location that enables the subject to identify with and to be identified, to be nurtured, to be fashioned. It gives the subject a visibility, a credibility, legitimacy and authority. One of the most immediate, important and seductive qualities of home is experienced and expressed in feelings of comfort. As Beverley Skeggs and I noted in *Sexuality and the politics of violence and safety* (Moran and Skeggs 2004, ch. 6), the spatial and emotional politics of home and comfort are intimately associated with important and positive perceptions and experiences of self worth and strength: of "confidence", "pride" and "feeling good" about oneself and the intellectual endeavours being engaged in, the project of social justice being strived for.

But various commentators and scholars have noted some other, more problematic and disturbing characteristics of home and, I would add, comfort. Home is a

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location that not only offers the most positive and sustaining experiences of self worth but is also a place associated with the most intimate and devastating dangers. Many feminists have noted that home is the primary location of the most intimate and corrosive violence devastating individual lives and destroying the good order and security that is home. Likewise, the comfort that strengthens and enriches may at the same time be experienced as crushing, claustrophobic, oppressive and exclusionary (Moran and Skeggs 2004, ch. 6). Freud in his essay on 'The Uncanny' captures the nature and overarching effect of these juxtapositions. To paraphrase, home is a word, "the meaning of which develops in the direction of ambivalence, until it finally coincides with its opposite": the unhomely (Freud 1985, p. 346).

So what of some of the dangers associated with institutional and intellectual homes in this context? Joanne Conaghan, in her comments at the roundtable identified one: the violence associated with the practices of selecting, ordering, classifying, fixing, that are a part of fashioning and making coherent a field of inquiry, in building a home (see also Conaghan 2009, pp. 3–4). This is a violence that works more at the level of symbol and discourse than physical violence; working on the subject from the inside rather than the outside. It is a violence intimately associated not with dis-order but with good order and with aspirations to achieve that state of being. Ruthann Robson has described this violence for good as "violence able to justify, to legitimate, or to transform…relations of law, and so…to present itself as having a right to law" (1998, pp. 34–35) As Joanne Conaghan rightly suggests, many feminists, and I would add early queer scholarship influenced by the deconstructive aspects of queer theory (Davies 1999; Moran 1997), have challenged and problematised the practices and investments made in the violence attached to progressive political projects and demanded critical reflection upon them and called for resistance to them. For me, Wendy Brown captures the issue when she warns of the "perils of pursuing emancipatory political aims" (1995, p. ix). Progressive and emancipatory political projects may, contrary to expectations, generate reactionary and conservative political effects and affects, producing unfreedom in the name of freedom (Moran and Skeggs 2004, ch. 1).

To draw attention to the many acts of violence that are a part of home building and home maintenance in relation to the field of LGS studies is not to single out that field of scholarship or CentreLGS as exceptional or problematic. Scholars writing about other domains and approaches to legal scholarship have noted similar dynamics (e.g. Sugarman 1991). The assumptions of and investments in the possibility of order and the institutional demands for order (and with it hierarchy and exclusion) are pervasive, informing the full range of scholarly practice. They are as much embedded in what might appear to be the benign cultural institution of the edited collection as well as being more obviously displayed for all to see and publicly celebrated in the activities of scholars producing violent hierarchies of excellence in state-imposed, peer-managed research assessment exercises.

Having outlined some key achievements and concerns I want to turn to the question of possible futures. Perhaps in sharp contrast to others, I do not propose the abandonment of home or advocate the rejection of home building, both are important in subject formation and with the formal end of the CentreLGS project there are new challenges for the future of the field of LGS as our home. Nor do I

propose or aspire to a politics of scholarship or a practice of home building that is or can be free from the tendency to violence I have outlined above. The following quotation offers a useful statement on this position. "I don't think", Foucault argues:

> that a society can exist without power relations, if by that one means strategies by which individuals try to direct and control the conduct of others. The problem, then is not to try to dissolve them in the utopia of completely transparent communication, but to acquire the rules of law and the management techniques, and so the morality, the ethos, the practice of the self, that will allow us to play these games of power with as little domination as possible. (1997, p. 298)

This, I suggest, captures some of the key dimensions of the challenges and possibilities facing scholars working in LGS.

One point of departure might be a more explicit acceptance and recognition of the all too tempting investments scholars make in the violence and hierarchy of progressive political projects, not only in grand institutional projects but also in the everyday practices of scholarship and in scholarly relations. Another is the generation and institutionalisation of the virtue of openness, and the development of what Foucault describes as a set of managerial techniques, a morality and an ethos to resist and refuse the temptations to swiftly denounce, shun or shy away from challenges, to fear contingency, incoherence, contradiction, multiplicity and permeability.

One scholarly intervention that has highlighted the complex landscape of intellectual and political seductions of attachments to contemporary social hierarchies once associated with progressive politics in the field of sexual and gender justice is work on homonormativity and more generally work that examines the interface between recognition politics and neo-liberalism (Duggan 2003; Eng et al. 2005; Puar 2007). The price of legally recognised sexual respectability and thereby access to citizenship in Western democracies (such as gay marriage, out lesbians and gays in the military, hate crime reforms and so on), is, this work suggests, founded upon attachments to a bleak, reactionary politics of security, of empire building, of a politics of race and social class that is tending towards the exclusion of the most vulnerable and mass incarceration. Let me give one example from an area I have some familiarity with: hate crime. Recognition of homophobic or transphobic violence as hate crime is in many respects a welcome development as it potentially offers access to security and safety (fundamental to citizenship in western liberal democracies) previously denied. At the same time it is a law reform that is invested with some more troubling and problematic dimensions of western liberal democracies; a criminal justice movement that is producing what some scholars describe as mass incarceration, renewed commitments to social exclusion (of economic migrants, young people, especially working class and racial minorities), the erasure of legal protection for those accused of wrongdoing.

I share the urgent concerns raised by contemporary gender sexual political activists and scholars about the investments and alignments that have been made between progressive political projects and the neo-liberal agenda. But I also have concerns about the critiques they offer, in particular of their investment in the

simplistic violent hierarchies of politics as either progressive or reactionary, of the analysis offered as truth in contrast to the stark errors of the past. While there may be some comfort in absolutes, my concern is the way they tend to promote sweeping generalisations, crude totalisations, new hierarchies, new political elites.

In contrast to that I want to propose a rather different approach to the present and the future. First, there is an urgent need for what Rabinow and Rose describe as "a modest empiricism". This, they explain, requires that scholarship be "attentive to the peculiarities, to small differences, to the moments when shifts in truth, authority, spatiality or ethics make a difference for today as compared to yesterday" (Rabinow and Rose 2006, p. 205). Following on from that, Pat O'Malley's argument, made in a slightly different but related context (of contemporary scholarship on securitisation and risk society) is also apposite. He suggests that rather than scholarship and political critique that focuses only on the evils of contemporary society, scholars also need to identify and consider the promise and the different future that is in those schemes of intelligibility and social formations (O'Malley 2008, p. 453). This requires sensitivity to and a focus upon the contradictions, the paradoxes, the inconsistencies etc. of contemporary social formations. Rather than an investment in the violent hierarchy of either/or, O'Malley's argument suggests that more attention should be paid to connections and intimacies, no matter how strange or unexpected: of progressive and reactionary formations and trajectories intimately entwined rather than necessarily violently separated and opposed. Last but by no means least, I will finish with a quote about the ongoing importance of critical reflection from an activist Mattilda aka Matt Bernstein Sycamore:

> I have to be critical in order to stay alive. And being critical is what gives me hope and it's not separate from a celebratory thing. (quoted in Ruiz 2008, p. 242)

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