

## Is Kinship Always Already Heterosexual?

*T*he topic of gay marriage is not the same as that of gay kinship, but it seems that the two become confounded in U.S. popular opinion when we hear not only that marriage is and ought to remain a heterosexual institution and bond, but also that kinship does not work, or does not qualify as kinship, unless it assumes a recognizable family form. There are several ways to link these views, but one way is to claim that sexuality needs to be organized in the service of reproductive relations and that marriage, which gives the legal status to the family form or, rather, is conceived as that which *should* secure the institution through conferring that legal status, should remain the fulcrum that keeps these institutions leveraging one another.

The challenges to this link are, of course, legion, and they take various forms domestically and internationally. On the one hand, there are various sociological ways of showing that in the U.S., a number of kinship relations exist and persist that do not conform to the nuclear family model and that draw on biological and nonbiological relations, exceeding the reach of current juridical conceptions, functioning according to nonformalizable rules. If we understand kinship as a set of practices that

institutes relationships of various kinds which negotiate the reproduction of life and the demands of death, then kinship practices will be those that emerge to address fundamental forms of human dependency, which may include birth, child-rearing, relations of emotional dependency and support, generational ties, illness, dying, and death (to name a few). Kinship is neither a fully autonomous sphere, proclaimed to be distinct from community and friendship—or the regulations of the state—through some definitional fiat, nor is it “over” or “dead” just because, as David Schneider has consequentially argued, it has lost the capacity to be formalized and tracked in the conventional ways that ethnologists in the past have attempted to do.<sup>1</sup>

In recent sociology, conceptions of kinship have become disjoined from the marriage assumption, so that, for example, Carol Stack’s now classic study of urban African-American kinship, *All Our Kin*, shows how kinship functions well through a network of women, some related through biological ties, and some not. The enduring effect of the history of slavery on African-American kinship relations has become the focus of new studies by Nathaniel Mackey and Fred Moten showing how the dispossession of kin relations by slavery offers a continuing legacy of “wounded kinship” within African-American life. If, as Saidiya Hartman maintains, “slavery is the ghost in the machine of kinship,”<sup>2</sup> it is because African-American kinship has been at once the site of intense state surveillance and pathologization, which leads to the double bind of being subject to normalizing pressures within the context of a continuing social and political delegitimation. As a result, it is not possible to separate questions of kinship from property relations (and conceiving persons as property) and from the fictions of “bloodline,” as well as the national and racial interests by which these lines are sustained.

Kath Weston has supplied ethnographic descriptions of lesbian and gay nonmarital kinship relations that emerge outside of heterosexually based family ties and that only partially approximate the family form in some instances. And most recently, anthropologist Cai Hua has offered a dramatic refutation of the Lévi-Straussian view of kinship as the negotiation of a patrilineal line through marriage ties in his recent study of the Na of China, in which neither husbands nor fathers figure prominently in determinations of kinship.<sup>3</sup>

Marriage has also recently been separated from questions of kinship to the extent that gay marriage legislative proposals often exclude rights to adoption or reproductive technologies as one of the assumed

entitlements of marriage. These have not only taken place in Germany and France most recently, but in the U.S., successful “gay marriage” proposals do not always have a direct impact on family law, especially when they seek as their primary aim to establish “symbolic recognition” for dyadic relations by the state.<sup>4</sup>

The petition for marriage rights seeks to solicit state recognition for nonheterosexual unions, and so configures the state as withholding an entitlement that it really should distribute in a nondiscriminatory way, regardless of sexual orientation. That the state’s offer might result in the intensification of normalization is not widely recognized as a problem within the mainstream lesbian and gay movement, typified by the Human Rights Campaign.<sup>5</sup> The normalizing powers of the state are made especially clear, however, when we consider how continuing quandaries about kinship both condition and limit the marriage debates. In some contexts, the symbolic allocation of marriage, or marriage-like arrangements, is preferable to altering the requirements for kinship to secure individual or plural rights to bear or adopt children or, legally, to co-parent. Variations on kinship that depart from normative, dyadic heterosexually based family forms secured through the marriage vow are figured not only as dangerous for the child, but perilous to the putative natural and cultural laws said to sustain human intelligibility.

As background for this essay, it is probably important to know that the recent debates in France targeted certain U.S. views on the social construction and variability of gender relations as portending a perilous “Americanization” of kinship relations (*filiation*) in France.<sup>6</sup> In response, this essay seeks to address this critique, outlined in the third section that follows, not as an effort to defend “Americanization,” but to suggest instead that the kinship dilemmas of first-world nations often provide one another with allegories of their own worries about the disruptive effects of kinship variability on their respective national projects. In turn, I seek here to query the French debate on kinship and marriage in order to show how the argument in favor of legal alliance can work in tandem with a state normalization of recognizable kinship relations, a condition that extends rights of contract while in no way disrupting the patrilineal assumptions of kinship or the project of the unified nation that it supports.

In what follows, I will consider at least two dimensions of this contemporary predicament in which the state is sought for the recognition it might confer on same-sex couples and countered for the regulatory control on normative kinship that it continues to exercise. The state is not

the same state in each of these bids, for we ask for an intervention by the state in the one domain (marriage) only to suffer excessive regulation in another (kinship). Does the turn to marriage make it thus more difficult to argue in favor of the viability of alternative kinship arrangements and for the well-being of the “child” in any number of social forms? Moreover, what happens to the radical project of articulating and supporting the proliferation of sexual practices outside of marriage and the obligations of kinship? Does the turn to the state signal the end of a radical sexual culture? Does such a prospect become eclipsed as we become increasingly preoccupied with landing the state’s desire?

*Gay Marriage: Desiring the State’s Desire  
and the Eclipse of Sexuality*

Gay marriage obviously draws upon profound and abiding investments not only in the heterosexual couple per se, but in the question of what forms of relationship ought to be legitimated by the state.<sup>7</sup> This crisis of legitimation can be considered from a number of perspectives, but let us consider for the moment the ambivalent gift that legitimation can become. To be legitimated by the state is to enter into the terms of legitimation offered there and to find that one’s public and recognizable sense of personhood is fundamentally dependent on the lexicon of that legitimation. And it follows that the delimitation of legitimation will take place only through an exclusion of a certain sort, though not a patently dialectical one. The sphere of legitimate intimate alliance is established through producing and intensifying regions of illegitimacy. There is, however, a more fundamental occlusion at work here. We misunderstand the sexual field if we consider that the legitimate and the illegitimate appear to exhaust its immanent possibilities. There is, thus, outside the struggle between the legitimate and the illegitimate—which is one that has as its goal the conversion of the illegitimate into the legitimate—a field that is less thinkable, one not figured in light of its ultimate convertibility into legitimacy. This is a field outside the disjunction of illegitimate and legitimate; it is not yet thought as a domain, a sphere, a field, is not yet either legitimate or illegitimate, not yet been thought through in the explicit discourse of legitimacy. Indeed, this would be a sexual field that does not have legitimacy as its point of reference, its ultimate desire. The debate over gay marriage takes place through such a logic, for we see the debate break down almost immediately into the question of whether

marriage ought to be legitimately extended to homosexuals, and this means that the sexual field is circumscribed in such a way that sexuality is already thought in terms of marriage and marriage is already thought as the purchase on legitimacy.

In the case of gay marriage or of affiliative legal alliances, we see how various sexual practices and relationships that fall outside the purview of the sanctifying law become illegible or, worse, untenable, and how new hierarchies emerge within public discourse. These hierarchies not only enforce the distinction between legitimate and illegitimate queer lives, but they produce tacit distinctions among forms of illegitimacy. The stable pair who would marry if only they could are cast as currently illegitimate, but eligible for a future legitimacy, whereas the sexual agents who function outside the purview of the marriage bond and its recognized, if illegitimate, alternative form now constitute sexual possibilities that will never be eligible for a translation into legitimacy. These are possibilities that become increasingly disregarded within the sphere of politics as a consequence of the priority that the marriage debate has assumed. This is an illegitimacy whose temporal condition is to be foreclosed from any possible future transformation. It is not only *not yet* legitimate, but it is, we might say, the irrecoverable and irreversible past of legitimacy: *the never will be, the never was*.

Here a certain normative crisis ensues. On the one hand, it is important to mark how the field of intelligible and speakable sexuality is circumscribed so that we can see how options outside of marriage are becoming foreclosed as unthinkable, and how the terms of thinkability are enforced by the narrow debates over who and what will be included in the norm. On the other hand, there is always the possibility of savoring the status of unthinkability, if it is a status, as the most critical, the most radical, the most valuable. As the sexually unrepresentable, such sexual possibilities can figure the sublime within the contemporary field of sexuality, a site of pure resistance, a site uncoopted by normativity. But how does one think politics from such a site of unrepresentability? And in case I am misunderstood here, let me state an equally pressing question: how can one think politics without considering these sites of unrepresentability?

One may wish for another lexicon altogether. The history of sexual progressivism surely recurs time and again to the possibility of a new language and the promise of a new mode of being. And in the light of this quandary, one might find oneself wanting to opt out of the whole story, to operate somewhere that is neither legitimate nor illegitimate. But

here is where the critical perspective, the one that operates at the limit of the intelligible, also risks being regarded as apolitical. For politics, as it is constituted through this discourse of intelligibility, demands that we take a stand for or against gay marriage; but critical reflection, which is surely part of any seriously normative political philosophy and practice, demands that we ask why and how this has become the question, the question that defines what will and will not qualify as meaningful political discourse here. Why, under present conditions, does the very prospect of “becoming political” depend on our ability to operate within that discursively instituted binary and not to ask, and endeavor not to know, that the sexual field is forcibly constricted through accepting those terms? This dynamic of force is rendered all the more forceful because it grounds the contemporary field of the political, grounds it through the forcible exclusion of that sexual field from the political. And yet, the operation of this force of exclusion is set outside of the domain of contest, as if it were not part of power, as if it were not an object for political reflection. Thus, to become political, to act and speak in ways that are recognizably political, is to rely on a foreclosure of the very political field that is not subject to political scrutiny. Without the critical perspective, we might say, politics relies fundamentally on an unknowingness—and depoliticization—of the very relations of force by which its own field of operation is instituted.

Criticality is thus not a position per se, not a site or a place that might be located within an already delimitable field, although one must, in an obligatory catachresis, speak of sites, of fields, of domains. One critical function is to scrutinize the action of delimitation itself. By recommending that we become critical, that we risk criticality, in thinking about how the sexual field is constituted, I do not mean to suggest that we could or should occupy an atypical elsewhere, undelimited, radically free. The questioning of taken-for-granted conditions becomes possible on occasion, but one cannot get there through a thought experiment, an *epoché*, an act of will. One gets there, as it were, through suffering the dehiscence, the breakup, of the ground itself.

Even within the field of intelligible sexuality, one finds that the binaries that anchor its operations permit for middle zones and hybrid formations, suggesting that the binary relation does not exhaust the field in question. Indeed, there are middle regions—hybrid regions of legitimacy and illegitimacy that have no clear names and where nomination itself falls into a crisis produced by the variable, sometimes violent boundaries of legitimating practices that come into uneasy and sometimes conflictual

contact with one another. These are not precisely places where one can choose to hang out, subject positions one might opt to occupy. These are nonplaces in which one finds oneself in spite of oneself; indeed, these are nonplaces where recognition, including self-recognition, proves precarious if not elusive, in spite of one's best efforts to be a subject in some recognizable sense. They are not sites of enunciation, but shifts in the topography from which a questionably audible claim emerges, the claim of the not-yet-subject and the nearly recognizable.

That there are such regions, and that they are not precisely options, suggests that what troubles the distinction between legitimacy and illegitimacy are social practices, specifically sexual practices, that do not appear immediately as coherent within the available lexicon of legitimation. These are sites of uncertain ontology, difficult nomination. If it seems that I am now going to argue that we should all be pursuing and celebrating sites of uncertain ontology and difficult nomination, I actually want to pursue a slightly different point, which is to attend to the foreclosure of the possible that takes place when, from the urgency to stake a political claim, one naturalizes the options that figure most legibly within the sexual field. Attending to this foreclosure, as an act of politics that we unwittingly perform, unwittingly perform time and again, offers the possibility for a different conception of politics, one that attends to its own foreclosures as an effect of its own, conscious activism. Yet, one must maintain a double edge in relation to this difficult terrain, for neither the violence of foreclosure that stabilizes the field of activism nor the path of critical paralysis entrenched at the level of fundamental reflection will suffice. And on the topic of gay marriage, it becomes increasingly important to keep the tension alive between maintaining a critical perspective and making a politically legible claim.

My point here is not to suggest that one must, in relation to gay marriage and kinship debates, remain critical rather than political, as if such a distinction were finally possible or desirable, but only that a politics which incorporates a critical understanding is the only one that can maintain a claim to being self-reflective and nondogmatic. To be political does not merely mean to take a single and enduring "stand." For instance, to say that one is for or against gay marriage is not always easy to do, since it may be that one wants to secure the right for those who wish to make use of it even as one does not want it for oneself, or it may be that one wants to counter the homophobic discourses that have been marshaled against gay marriage, but one does not want to be, therefore, in favor of it. Or it

may be that one believes very strongly that marriage is the best way for lesbian and gay people to go, and would like to install it as a new norm, a norm for the future. Or it may be that one not only opposes it for oneself, but for everybody, and that the task at hand is to rework and revise the social organization of friendship, sexual contacts, and community to produce non-state-centered forms of support and alliance, since marriage, given its historical weight, only becomes an “option” by extending itself as a norm (and thus foreclosing options), one which also extends property relations and renders the social forms for sexuality more conservative.

For a progressive sexual movement, even one that may want to produce marriage as an option for nonheterosexuals, the proposition that marriage should become the only way to sanction or legitimate sexuality is unacceptably conservative. And even if the question is not one of marriage, but of legal contracts, of augmenting domestic partnership arrangements as legal contracts, certain questions still follow: why should it be that marriage or legal contracts become the basis on which health care benefits, for instance, are allocated? Why shouldn't there be ways of organizing health care entitlements such that everyone, regardless of marital status, has access to them? If one argues for marriage as a way of securing those entitlements, then does one not also affirm that entitlements as important as health care ought to remain allocated on the basis of marital status? What does this do to the community of the nonmarried, the single, the divorced, the uninterested, the nonmonogamous, and how does the sexual field become reduced, in its very legibility, once we extend marriage as a norm?<sup>8</sup>

Regardless of one's view on gay marriage, there is clearly a demand upon those who work in sexuality studies to respond to many of the most homophobic arguments that have been marshalled against gay marriage proposals. Many of these arguments are not only fueled by homophobic sentiment but often focus on fears about reproductive relations, whether they are natural or “artificial,” and what happens to the child, the child, the poor child, martyred figure of an ostensibly selfish or dogged social progressivism? Indeed, the debates on gay marriage and gay kinship, two issues that are often conflated, have become sites of intense displacement for other political fears, fears about technology, about new demographics, and about the very unity and transmissibility of the nation, fears that feminism, in its insistence on childcare, has effectively opened up kinship outside the family, opened it to strangers. In the French debates on the PACS (the “pacts of civil solidarity” that constitute an alternative to

marriage for any two individuals unrelated by blood, regardless of sexual orientation), the passage of the bill finally depended on proscribing the rights of nonheterosexual couples from adopting children and accessing reproductive technology. And the same provision was recently proposed and adopted in Germany as well.<sup>9</sup> In both cases, one can see that the child figures in the debate as a dense site for the transfer and reproduction of culture, where “culture” carries with it implicit norms of racial purity and domination.<sup>10</sup> Indeed, I think it may be possible to see the arguments in France that rail against the threat to “culture” posed by the prospect of legally allied gay people having children—and I will suspend for the purposes of this discussion the question of what it means to “have” in this instance—as converging with debates taking place on issues of immigration, of what Europe is, and implicitly and explicitly, of what is truly French, the basis of its culture, which becomes, through an imperial logic, the basis of culture itself, its universal and invariable conditions.

The debates center not only on the questions, what is culture? who should be admitted? how should the subjects of culture be reproduced? but also on the status of the state and, in particular, its power to confer or withdraw recognition for forms of sexual alliance. Indeed, the argument against gay marriage is always, implicitly or explicitly, an argument about what the state should do, what it should provide, but it is also an argument about what kinds of intimate relations ought to be eligible for state legitimation. What is this desire to keep the state from offering recognition to nonheterosexual partners, and what is the desire to compel the state to offer such recognition? For both sides of the debate, at issue is not only the question of which relations of desire ought to be legitimated by the state, but of who may desire the state, *who may desire the state's desire*.

Indeed, the questions are even more complicated: whose desire might qualify as a desire for state legitimation? But also: whose desire might qualify *as* the desire of the state? Who may desire the state? And whom may the state desire? Whose desire will be the state's desire? Conversely, and this is just speculation—but perhaps academic work might be regarded as a social site for such speculation—it seems that what one is wanting when one wants “state recognition” for marriage and what one is not wanting when one wants to limit the scope of that recognition for others are complex wants. The state becomes the means by which a fantasy becomes literalized: desire and sexuality are ratified, justified, known, publicly instated, imagined as permanent, durable. And, at that very moment, desire and sexuality are dispossessed and displaced, so

that what one “is,” and what one’s relationship “is” are no longer a private matter; indeed, ironically, one might say that through marriage, personal desire acquires a certain anonymity and interchangeability, becomes, as it were, publicly mediated and, in that sense, a kind of legitimated public sex. But more than that, marriage compels, at least logically, universal recognition: everyone must let you into the door of the hospital; everyone must honor your claim to grief; everyone will assume your natural rights to a child; everyone will regard your relationship as elevated into eternity. And in this way, the desire for universal recognition is a desire to become universal, to become interchangeable in one’s universality, to vacate the lonely particularity of the nonratified relation and, perhaps above all, to gain both place and sanctification in that imagined relation to the state. Place and sanctification: these are surely powerful fantasies, and they take on particular phantasmatic form when we consider the bid for gay marriage. The state can become the site for the recirculation of religious desires, for redemption, for belonging, for eternity, and we might well ask what happens to sexuality when it runs through this particular circuit of fantasy: is it alleviated of its guilt, its deviance, its discontinuity, its asociality, its spectrality? And if it is alleviated of all of that, where precisely do these negativities go? Do they not tend to be projected onto those who have not or will not enter this hallowed domain? And does the projection take the form of judging others morally, of enacting a social abjection and hence becoming the occasion to institute a new hierarchy of legitimate and illegitimate sexual arrangement?

### *The Poor Child and the Fate of the Nation*

The proposal in France to institute civil unions (pacts of civil solidarity) as an alternative to marriage sought at once to sidestep marriage and secure legal ties. It ran up against a limit, however, when questions of reproduction and adoption surfaced. Indeed, in France, concerns over reproduction work in tandem with concerns over the reproduction of an identifiably French culture. As suggested above, one can see a certain implicit identification of French culture with universalism, and this has its own consequences for the fantasy of the nation at stake. For understanding this debate, it is important to recognize how, in particular, the figure of the child of nonheterosexual parents becomes a cathected site for anxieties about cultural purity and cultural transmission. In the recent fracas over the PACS, the only way the proposal could pass was by denying rights of

joint adoption to individuals within such relations. Indeed, as Eric Fassin and others have argued, it is the alteration of rights of filiation that is most scandalous in the French context, not marriage per se. The life of the contract can be, within range, extended, but the rights of filiation cannot. In some of the cultural commentary that accompanied this decision to deny adoptive rights to openly gay people, we heard from Sylviane Agacinski, a well-known French philosopher, that it goes against the “symbolic order” to let homosexuals form families (“Questions” 23). Whatever social forms these are, they are not marriages, and they are not families; indeed, in her view, they are not properly “social” at all, but private. The struggle is in part one over words, over where and how they apply, about their plasticity and their equivocality. But it is more specifically a struggle over whether certain practices of nomination keep the presuppositions about the limits of what is humanly recognizable in place. The argument rests on a certain paradox, however, that would be hard to deny since if one does *not* want to recognize certain human relations as part of the humanly recognizable, then one has *already* recognized them, and one seeks to deny what it is one has already, in one way or another, understood. “Recognition” becomes an effort to deny what exists and, hence, becomes the instrument for the refusal of recognition. In this way, it becomes a way of shoring up a normative fantasy of the human over and against dissonant versions of itself. To defend the limits of what is recognizable against that which challenges it is to understand that the norms that govern recognizability have already been challenged. In the U.S., we are used to hearing conservative and reactionary polemics against homosexuality as unnatural, but that is not precisely the discourse through which the French polemic proceeds. Agacinski, for instance, does not assume that the family takes a natural form. The state is constrained in recognizing marriage as heterosexual, in her view, not by nature or natural law, but by something called “the symbolic order” (which corresponds to and ratifies a natural law). It is according to the dictates of this order that the state is obligated to refuse to recognize such relations.

I will lay out Agacinski’s view in a moment, not because she is the most vocal opponent to the transformations in kinship that gay marriage might imply, but because some time ago a colleague sent me an editorial she had written in *Le Monde*, a missive that in some way demanded a response. In her editorial, Agacinski identifies a certain American strain of queer and gender theory as the monstrous future for

France were these transformations to occur. So let us say, without going into details, that a certain interpellation occurred on the front page of *Le Monde* in which my name figured as a sign of the coming monstrosity. And consider that I am in a quandary here, since my own views are used to caution against a monstrous future that will come to pass if lesbian and gay people are permitted to form state-ratified kinship arrangements, and so on one hand, there is a demand, in a way, to respond and rebut these allegations. On the other hand, it seems crucial not to accept the terms in which one's opponent has framed the debate, a debate which, I fear, is no debate at all, but a highly publicized polemic and fear-mongering. My quandary is not mine alone. Will I, in opposing her, occupy a position in which I argue for state legitimation? Is this what I desire?

On the one hand, it would be easy enough to argue that she is wrong and that the family forms in question are viable social forms and that the current episteme of intelligibility might be usefully challenged and rearticulated in light of these social forms.<sup>11</sup> After all, her view matches and fortifies those that maintain that legitimate sexual relations take a heterosexual and state-sanctioned form and that work to de-realize viable and significant sexual alliances that fail to conform to that model. Of course, there are consequences to this kind of derealization that go beyond hurting someone's feelings or causing offense to a group of people. It means that when you arrive at the hospital to see your lover, you may not. It means that when your lover falls into a coma, you may not assume certain executorial rights. It means that when your lover dies, you may not be able to be the one to receive the body. It means that when the child is left with the nonbiological parent, that parent may not be able to counter the claims of biological relatives in court and that you lose custody and even access. It means you may not be able to provide health care benefits for one another. These are all very significant forms of disenfranchisement, ones that are made all the worse by the personal effacements that occur in daily life and that invariably take a toll on a relationship. If you're not real, it can be hard to sustain yourselves over time; the sense of delegitimation can make it harder to sustain a bond, a bond that is not real anyway, a bond that does not "exist," that never had a chance to exist, that was never meant to exist. Here is where the absence of state legitimation can emerge within the psyche as a pervasive, if not fatal, sense of self doubt. And if you've actually lost the lover who was never recognized to be your lover, then did you really lose that person? Is this a loss, and can it be publicly

grieved? Surely this is something that has become a pervasive problem in the queer community, given the losses from AIDS, the loss of lives and loves that are always in struggle to be recognized as such.

On the other hand, to pursue state legitimation in order to repair these injuries brings with it a host of new problems, if not new heartaches. The failure to secure state recognition for one's intimate arrangements can only be experienced as a form of derealization if the terms of state legitimation are those that maintain hegemonic control over the norms of recognition—in other words, if the state monopolizes the resources of recognition. Are there not other ways of feeling possible, intelligible, even real, apart from the sphere of state recognition? And should there not be other ways? It makes sense that the lesbian and gay movement would turn to the state, given its recent history: the current drive for gay marriage is in some ways a response to AIDS and, in particular, a shamed response, one in which a gay community seeks to disavow its so-called promiscuity, one in which we appear as healthy and normal and capable of sustaining monogamous relations over time. And this of course brings me back to the question, a question posed poignantly by Michael Warner in his recent writings, of whether the drive to become recognizable within the existing norms of legitimacy requires that we subscribe to a practice that delegitimizes those sexual lives structured outside of the bonds of marriage and the presumptions of monogamy. Is this a disavowal that the queer community is willing to make? And with what social consequence? How is it that we give the power of recognition over to the state at the moment that we insist that we are unreal and illegitimate without it? Are there other resources by which we might become recognizable or mobilize to challenge the existing regimes within which the terms of recognizability take place?

One can see the terrain of the dilemma here: on the one hand, living without norms of recognition result in significant suffering and forms of disenfranchisement that confound the very distinctions among psychic, cultural, and material consequences. On the other hand, the demand to be recognized, which is a very powerful political demand, can lead to new and invidious forms of social hierarchy, to a precipitous foreclosure of the sexual field, and to new ways of supporting and extending state power if it does not institute a critical challenge to the very norms of recognition supplied and required by state legitimation. Indeed, in making a bid to the state for recognition, we effectively restrict the domain of what will become recognizable as legitimate sexual arrangements, thus

fortifying the state as the source for norms of recognition and eclipsing other possibilities within civil society and cultural life. To demand and receive recognition according to norms that legitimate marriage and delegitimate forms of sexual alliance outside of marriage, or to norms that are articulated in a critical relation to marriage, is to displace the site of delegitimation from one part of the queer community to another or, rather, to transform a collective delegitimation into a selective one. Such a practice is difficult, if not impossible, to reconcile with a radically democratic, sexually progressive movement. What would it mean to exclude from the field of potential legitimation those who are outside of marriage, those who live nonmonogamously, those who live alone, those who are in whatever arrangements they are in that are not the marriage form?

And I would add a caveat here: we do not always know what we mean by “the state” when we are referring to the kind of “state legitimation” that occurs in marriage. The state is not a simple unity, and its parts and operations are not always coordinated with one another. The state is not reducible to law, and power is not reducible to state power. It would be wrong to understand the state as operating with a single set of interests or to gauge its effects as if they were unilaterally successful. I think the state can also be worked, exploited, and that social policy, which involves the implementation of law in local instances, can very often be the site where law is challenged, where it is thrown to a court to adjudicate, and where new kinship arrangements stand a chance of gaining new legitimacy. Of course, certain propositions remain highly controversial: interracial adoption, adoption by single men, by gay male couples, by parties who are unmarried, by kinship structures in which there are more than two adults in play. So there are reasons to worry about requesting state recognition for intimate alliances and so becoming part of an extension of state power into the socius, but do these reasons outweigh those we might have for seeking recognition and entitlement through entering legal contract? Contracts work in different ways—and surely they work differently in the U.S. and French contexts—to garner state authority and to subject to regulatory control the individuals who enter into them. But even if we argue that in France, contracts are conceived as individual entitlements and therefore as less tethered to state control, the very form of individuation is thus sustained by state legitimation, even if, or precisely when, the state appears to be relatively withdrawn from the contractual process itself.

In this way, the norms of the state work very differently in these disparate national contexts. In the U.S., the norms of recognition sup-

plied by the state not only often fail to describe or regulate existing social practice, but they become the site of articulation for a fantasy of normativity, projecting and delineating an ideological account of kinship, for instance, precisely at the moment when it is undergoing social challenge and dissemination. Thus, it seems that the appeal to the state is at once an appeal to a fantasy already institutionalized by the state and a leaving-taking from existing social complexity in the hope of becoming “socially coherent” at last. What this means as well is that there is a site to which we can turn, understood as the state, that will finally render us coherent, a turn that commits us to the fantasy of state power. Jacqueline Rose persuasively argues that “if the state has meaning only ‘partly as something existing,’ if it rests on the belief of individuals that it ‘exists or should exist,’ then it starts to look uncannily like what psychoanalysis would call an ‘as if’ phenomenon” (8–9). Its regulations do not always seek to order what exists but to figure social life in certain imaginary ways. The incommensurability between state stipulation and existing social life means that this gap must be covered over for the state to continue to exercise its authority and to exemplify the kind of coherence that it is expected to confer on its subjects. As Rose reminds us, “It is because the state has become so alien and distant from the people it is meant to represent that, according to Engels, it has to rely, more and more desperately, on the sacredness and inviolability of its own laws” (10).

So there are at least two sides to this coin, and I do not mean to resolve this dilemma in favor of one or the other, but to develop a critical practice that is mindful of both. I want to maintain that legitimation is double edged: it is crucial that, politically, we lay claim to intelligibility and recognizability; and it is crucial, politically, that we maintain a critical and transformative relation to the norms that govern what will and will not count as an intelligible and recognizable alliance and kinship. This latter would also involve a critical relation to the desire for legitimation as such. But it is also crucial that we question the assumption that the state furnish these norms, and that we come to think critically about what the state has become during these times or, indeed, how it has become a site for the articulation of a fantasy that seeks to deny or overturn what these times have brought us.

As we return to the French debate, then, it seems important to remember that the debate about laws is at once a debate about what kinds of sexual arrangements and forms of kinship can be admitted to exist or deemed to be possible, and what the limits of imaginability might

be. For many who opposed the PACS or who, minimally, voiced skeptical views about it, the very status of culture was called into question by the variability of legitimated sexual alliance. Immigration and gay parenting were figured as challenging the fundamentals of a culture that had already been transformed, but that sought to deny the transformation it had already undergone.<sup>12</sup> To understand this, we have to consider how the term “culture” operates and how, in the French context, the term “culture” became invoked in these debates to designate not the culturally variable formations of human life, but the universal conditions for human intelligibility.

### *Natural, Cultural, State Law*

Although Agacinski, the French philosopher, is not a Lacanian and, indeed, hardly a psychoanalyst, we do see in her commentary, which was prominent in the French debate, a certain anthropological belief that is shared by many Lacanian followers and other psychoanalytic practitioners in France and elsewhere.<sup>15</sup> The belief is that culture itself requires that a man and a woman produce a child and that the child have this dual point of reference for its own initiation into the symbolic order, where the symbolic order consists of a set of rules that order and support our sense of reality and cultural intelligibility.

She writes that gay parenting is both unnatural and a threat to culture in the sense that sexual difference, which is, in her view, irrefutably biological, gains its significance in the cultural sphere as the foundation of life in procreation. “This foundation (of sexual difference) is generation; this is the difference between the paternal and maternal roles. There must be the masculine and the feminine to give life” (“Questions” 23). Over and against this life-giving heterosexuality at the foundation of culture is the specter of homosexual parenting, a practice that not only departs from nature and from culture, but centers on the dangerous and artificial fabrication of the human and is figured as a kind of violence or destruction. She writes:

*It takes a certain “violence,” if one is homosexual, to want a child [Il faut une certaine “violence,” quand on est homosexuel, pour vouloir un enfant]. [ . . . ] I think that there is no absolute right to a child, since the right implies an increasingly artificial fabrication of children. In the interests of the child, one cannot efface its double origin. (23, my translation)*

The “double origin” is its invariable beginning with a man and woman, a man who occupies the place of the father and a woman who occupies the place of the mother. “This mixed origin, which is natural,” she writes, “is also a cultural and symbolic foundation” (23).

The argument that there must be a father and a mother as a double point of reference for the child’s origin rests on a set of presumptions that resonate with the Lévi-Straussian position in *The Elementary Structures of Kinship* in 1949. Although Agacinski is not a Lévi-Straussian, her framework nevertheless borrows from a set of structuralist premises about culture that have been revived and redeployed in the context of the present debate. My point is less to hold the views of Lévi-Strauss responsible for the terms of the present debate than to ask what purpose the reanimation of these views serves within the contemporary political horizon, considering that within anthropology, the Lévi-Straussian views promulgated in the late forties are generally considered surpassed, even as they are no longer owned in the same form by Lévi-Strauss himself.<sup>14</sup>

For Lévi-Strauss, the Oedipal drama is not to be construed as a developmental moment or phase. It consists instead of a prohibition that is at work in the inception of language, one that works at all times to facilitate the transition from nature to culture for all emerging subjects. Indeed, the bar that prohibits the sexual union with the mother is not arrived at in time, but is, in some sense, *there* as a precondition of individuation, a presumption and support of cultural intelligibility itself. No subject emerges without this bar or prohibition as its condition, and no cultural intelligibility can be claimed without first passing through this founding structure. Indeed, the mother is disallowed because she belongs to the father, so if this prohibition is fundamental and it is understood, then the father and the mother exist as logically necessary features of the prohibition itself. Now, psychoanalysis will explain that the father and the mother do not have to actually exist, that they can be positions or imaginary figures, but that they have to figure structurally in some way. Agacinski’s point is also ambiguous in this way, but she will insist that they must have existed, and that their existence has to be understood by the child as essential to his or her origin.

To understand how this prohibition becomes foundational to a conception of culture is to follow the way in which the Oedipal complex in Freud becomes recast as an inaugural structure of language and the subject in Lacan, something I cannot do in this context, and probably have

done too many times before.<sup>15</sup> What I want to underscore here is the use of Oedipus to establish a certain conception of culture that has rather narrow consequences for both formations of gender and sexual arrangements and that implicitly figures culture as a whole, a unity, one that has a stake in reproducing itself and its singular wholeness through the reproduction of the child. When Agacinski argues, for instance, that for every child to emerge in a nonpsychotic way, there must be a father and a mother, she appears at first not to be making the empirical point that a father and mother must be present and known through all phases of child rearing. She means something more ideal: that there must at least be a psychic point of reference for mother and father and a narrative effort to recuperate the male and female parent, even if one or the other is never present and never known. But if this were guaranteed without the social arrangement of heterosexuality, she would have no reason to oppose lesbian and gay adoption. So it would appear that social arrangements support and maintain the symbolic structure, even as the symbolic structure legitimates the social arrangement. Heterosexual coitus will be understood for her, regardless of the parent or parents who rear the child, as the origin of the child, and that origin will have a symbolic importance.

This symbolic importance of the child's origin in heterosexuality is understood to be essential to culture for the following reason. If the child enters culture through the process of assuming a symbolic position, and if these symbolic positions are differentiated by virtue of Oedipalization, then the child presumably will become gendered on the occasion that the child takes up a position in relation to parental positions that are prohibited as overt sexual objects for the child. The boy will become a boy to the extent that he recognizes that he cannot have his mother, that he must find a substitute woman for her; the girl will become a girl to the extent that she recognizes she cannot have her mother, substitutes for that loss through identification with the mother, and then recognizes she cannot have the father, and substitutes a male object for him. According to this fairly rigid schematic of Oedipalization, gender is achieved through the accomplishment of heterosexual desire. This structure, which is already much more rigidly put forward here, in the effort to reconstruct Agacinski's position, than one would find in Freud—i.e., in either *The Three Essays on the Theory of Sexuality* or *The Ego and the Id*—is then deprived of its status as a developmental phase and asserted as the very means by which an individuated subject within language is established. To become

part of culture means to have passed through the gender differentiating mechanism of this taboo and to accomplish both normative heterosexuality and discrete gender identity at once.

There are many reasons to reject this particular rendition of Oedipalization as the precondition of language and cultural intelligibility. And there are many versions of psychoanalysis that would reject this schema, allowing for various ways of rearticulating the Oedipal but also limiting its function in relation to the pre-Oedipal. Moreover, some forms of structural anthropology sought to elevate the exchange of women into a precondition of culture and to identify that mandate for exogamy with the incest taboo operating within the Oedipal drama; but other theories of culture have come to take its place and call that structuralist account into question. Indeed, the failure of structuralism to take into account kinship systems that do not conform to its model was made clear by anthropologists such as David Schneider, Sylvia Yanagisako, Sarah Franklin, Clifford Geertz, and Marilyn Strathern. These theories emphasize different modes of exchange than those presumed by structuralism, and they also call into question the universality of structuralism's claims. Sociologists of kinship such as Judith Stacey and Carol Stack, as well as anthropologist Kath Weston, have also underscored a variety of kin relations that work, and work according to rules that are not always or only traceable to the incest taboo.

So why would the structuralist account of sexual difference, conceived according to the exchange of women, make a "comeback" in the context of the present debates in France? Why would various intellectuals, some of them feminist, proclaim that sexual difference is not only fundamental to culture, but to its transmissibility, and that reproduction must remain the prerogative of heterosexual marriage and that limits must be set on viable and recognizable forms of nonheterosexual parenting arrangements?

To understand the resurgence of a largely anachronistic structuralism in this context, it is important to consider that the incest taboo functions in Lévi-Strauss not only to secure the exogamous reproduction of children but also to maintain a unity to the "clan" through compulsory exogamy as it is articulated through compulsory heterosexuality. The woman from elsewhere makes sure that the men from here will reproduce their own kind. She secures the reproduction of cultural identity in this way. The ambiguous "clan" designates a "primitive" group for Lévi-Strauss in 1949 but comes to function ideologically for the cultural unity of the

nation in 1999–2000 in the context of a Europe beset by opening borders and new immigrants. The incest taboo thus comes to function in tandem with a racialist project to reproduce culture and, in the French context, to reproduce the implicit identification of French culture with universality. It is a “law” that works in the service of the “as if,” securing a fantasy of the nation that is already, and irreversibly, under siege. In this sense, the invocation of the symbolic law defends against the threat to French cultural purity that has taken place, and is taking place, through new patterns of immigration, increased instances of miscegenation, and the blurring of national boundaries. Indeed, even in Lévi-Strauss, whose earlier theory of clan formation is redescribed in his short text, *Race and History*, we see that the reproducibility of racial identity is linked to the reproduction of culture.<sup>16</sup> Is there a link between the account of the reproduction of culture in Lévi-Strauss’s early work and his later reflections on cultural identity and the reproduction of race? Is there a connection between these texts that might help us read the cultural link that takes place in France now between fears about immigration and desires to regulate nonheterosexual kinship? The incest taboo might be seen as working in conjunction with the taboo against miscegenation, especially in the contemporary French context, insofar as the defense of culture that takes place through mandating the family as heterosexual is at once an extension of new forms of European racism. And we see something of this link prefigured in Lévi-Strauss, which explains in part why we see the resurrection of his theory in the context of the present debate. When Lévi-Strauss makes the argument that the incest taboo is the basis of culture and that it mandates exogamy, or marriage outside the clan, is “the clan” being read in terms of race or, more specifically, in terms of a racial presupposition of culture that maintains its purity through regulating its transmissibility? Marriage must take place outside the clan. There must be exogamy. But there must also be a limit to exogamy; that is, marriage must be outside the clan but not outside a certain racial self-understanding or racial commonality. So the incest taboo mandates exogamy, but the taboo against miscegenation limits the exogamy that the incest taboo mandates. Cornered, then, between a compulsory heterosexuality and a prohibited miscegenation, something called culture, saturated with the anxiety and identity of dominant European whiteness, reproduces itself in and as universality itself.

There are, of course, many other ways of contesting the Lévi-Straussian model that have emerged in recent years, and its strange resurgence in the recent political debate will no doubt strike anthropolo-

gists as the spectral appearance of an anachronism. Arguments have been made, for instance, that other kinds of kinship arrangements are possible within a culture and that there are other ways of explaining the ordering practices that kinship sometimes exemplified. These debates, however, remain internal to a study of kinship that assumes the primary place of kinship within a culture and assumes for the most part that a culture is a unitary and discrete totality. Pierre Clastres made this point most polemically several years ago in the French context, arguing that it is not possible to treat the rules of kinship as supplying the rules of intelligibility for any society and that culture is not a self-standing notion but must be regarded as fundamentally imbued by power relations, power relations that are not reducible to rules.<sup>17</sup> But if we begin to understand that cultures are not self-standing entities or unities, that the exchanges between them, their very modes of delimiting themselves in distinction, constitute their provisional ontology and are, as a result, fraught with power, then we are compelled to rethink the problem of exchange altogether, no longer as the gift of women, which assumes and produces the self-identity of the patrilineal clan, but as a set of potentially unpredictable and contested practices of self-definition that are not reducible to a primary and culture-founding heterosexuality. Indeed, if one were to elaborate on this point, the task would be to take up David Schneider's suggestion that kinship is a kind of *doing*, one that does not reflect a prior structure but which can only be understood as an enacted practice. This would help us, I believe, move away from the situation in which a hypostatized structure of relations lurks behind any actual social arrangement and permit us to consider how modes of patterned and performative doing bring kinship categories into operation and become the means by which they undergo transformation and displacement.

The hypostatized heterosexuality, construed by some to be symbolic rather than social and so to operate as a structure that founds the field of kinship itself—and that informs social arrangements no matter how they appear, no matter what they do—has been the basis of the claim that kinship is always already heterosexual. According to its precept, those who enter kinship terms as nonheterosexual will only make sense if they assume the position of Mother or Father. The social variability of kinship has little or no efficacy in rewriting the founding and pervasive symbolic law. The postulate of a founding heterosexuality must also be read as part of the operation of power—and I would add fantasy—such that we can begin to ask how the invocation of such a foundation works in the building

of a certain fantasy of state and nation. The relations of exchange that constitute culture as a series of transactions or translations are not only or primarily sexual, but they do take sexuality as their issue, as it were, when the question of cultural transmission and reproduction is at stake. And I do not mean to say that cultural reproduction takes place solely or exclusively or fundamentally through the child. I mean only to suggest that the figure of the child is one eroticized site in the reproduction of culture, one that implicitly raises the question of whether there will be a sure transmission of culture through heterosexual procreation, whether heterosexuality will serve not only the purposes of transmitting culture faithfully, but whether culture will be defined, in part, as the prerogative of heterosexuality itself.

Indeed, to call this entire theoretical apparatus into question is not only to question the founding norms of heterosexuality, but also to wonder whether “culture” can be talked about at all as a self-sufficient kind of field or terrain. And though I do it, manifesting or symptomatizing a struggle to work through this position in an act of public thinking, I am aware that I am using a term that no longer signifies in the way that it once could. It is a placeholder for a past position, one I must use to make that position and its limits clear, but one that I also suspend in the using. The relation between heterosexuality and the unity and, implicitly, the purity of culture is not a functional one. Although we may be tempted to say that heterosexuality secures the reproduction of culture and that patrilineality secures the reproduction of culture in the form of a whole that is reproducible in its identity through time, it is equally true that the conceit of a culture as a self-sustaining and self-replicating totality supports the naturalization of heterosexuality and that the entirety of the structuralist approach to sexual difference emblemizes this movement to secure heterosexuality through the thematics of culture. But is there a way to break out of this circle whereby heterosexuality institutes monolithic culture and monolithic culture reinstitutes and renaturalizes heterosexuality?

Recent efforts within anthropology no longer situate kinship as the basis of culture, but conceive it as one cultural phenomenon complexly interlinked with other phenomena, cultural, social, political, and economic. Anthropologists Franklin and McKinnon write, for instance, that kinship has in recent studies become linked to “the political formations of national and transnational identities, the economic movements of labor and capital, the cosmologies of religion, the hierarchies of race, gender, and species

taxonomies, and the epistemologies of science, medicine, and technology [. . .]” (“New Directions” 17).<sup>18</sup> As a result, they argue, the very ethnographic study of kinship has changed such that it now “include[s] topics such as diasporic cultures, the dynamics of global political economy, or changes occurring in the contexts of biotechnology and biomedicine” (17). Indeed, in the French debate, Eric Fassin argues that one must understand the invocation of the “symbolic order” that links marriage to filiation in a necessary and foundational way as a compensatory response to the historical breakup of marriage as a hegemonic institution, the name for which in French is “*démariage*” (“Same Sex”). In this sense, the opposition to the PACS is an effort to make the state sustain a certain fantasy of marriage and nation whose hegemony is already, and irreversibly, challenged at the level of social practice.

Similarly, Franklin and McKinnon understand kinship to be a site where certain displacements are already at work, where anxieties about biotechnology and transnational migrations become focused and disavowed. This seems clearly at work in Agacinski’s position in at least two ways: the fear she bespeaks about the “Americanization” of sexual and gender relations in France attests to a desire to keep those relations organized in a specifically French form, and the appeal to the universality of the symbolic order is, of course, a trope of the French effort to identify its own nationalist project with a universalist one. Similarly, her fear that lesbians and gay men will start to fabricate human beings, exaggerating the biotechnology of reproduction, suggests that these “unnatural” practices will eventuate in a wholesale social engineering of the human, linking, once again, homosexuality with the potential resurgence of fascism. One might well wonder what technological forces at work within the global economy, or indeed, what consequences of the human genome project, raise these kinds of anxieties within contemporary cultural life, but it seems a displacement, if not a hallucination, to identify the source of this social threat, if it is a threat, with lesbians who excavate sperm from dry ice on a cold winter day in Iowa when one of them is ovulating.

Franklin and McKinnon write that kinship is “no longer conceptualized as grounded in a singular and fixed idea of ‘natural’ relation, but is seen to be self-consciously assembled from a multiplicity of possible bits and pieces” (“New Directions” 14). It would seem crucial, then, to understand the assembling operation they describe in light of the thesis that kinship is itself a kind of doing, a practice that enacts that assemblage of significations as it takes place. But with such a definition in place, can

kinship be definitively separated from other communal and affiliative practices? Kinship loses its specificity as an object once it becomes characterized loosely as modes of enduring relationship. Obviously, not all kinship relations last, but whatever relations qualify for kinship enter into a norm or a convention that has some durability, and that norm acquires its durability through being reinstated time and again. Thus, a norm does not have to be static in order to last; in fact, it *cannot* be static if it is to last. These are relations that are prone to naturalization and disrupted repeatedly by the impossibility of settling the relation between nature and culture; moreover, in their terms, kinship is one way for signifying the origin of culture. I would put it this way: the story of kinship, as we have it from Lévi-Strauss, is an allegory for the origin of culture and a symptom of the process of naturalization itself, one that takes place, brilliantly, insidiously, in the name of culture itself. Thus, one might add that debates about the distinction between nature and culture, which are clearly heightened when the distinctions between animal, human, machine, hybrid, and cyborg remain unsettled, become figured at the site of kinship, for even a theory of kinship that is radically culturalist frames itself against a discredited “nature” and so remains in a constitutive and definitional relation to that which it claims to transcend.

One can see how quickly kinship loses its specificity in terms of the global economy, for instance, when one considers the politics of international adoption and donor insemination. For new “families,” in which relations of filiation are not based on biology, are sometimes conditioned by innovations in biotechnology or international commodity relations and the trade in children. And now there is the question of control over genetic resources, conceived of as a new set of property relations to be negotiated by legislation and court decisions. But there are clearly salutary consequences, as well, of the breakdown of the symbolic order, as it were, since kinship ties that bind persons to one another may well be no more or less than the intensification of community ties, may or may not be based on enduring or exclusive sexual relations, and may well consist of ex-lovers, non-lovers, friends, community members. In this sense, then, the relations of kinship arrive at boundaries that call into question the distinguishability of kinship from community, or that call for a different conception of friendship. These constitute a “breakdown” of traditional kinship that not only displaces the central place of biological and sexual relations from its definition, but gives sexuality a separate domain from that of kinship, allowing as well for the durable tie to be thought outside

of the conjugal frame, and opening kinship to a set of community ties that are irreducible to family.

*Psychoanalytic Narrative,  
Normative Discourse, and Critique*

Unfortunately, the important work in what might be called post-kinship studies in anthropology has not been matched by similarly innovative work in psychoanalysis, and the latter sometimes still relies on presumptive heterosexual kinship to theorize the sexual formation of the subject. Whereas several scholars in anthropology have not only opened up the meaning and possible forms of kinship, but have called into question whether kinship is always the defining moment of culture, this opening has not been matched by an equally well-known body of scholarship within psychoanalysis, although there is some important work there, for instance, in the work of Ken Corbett. Indeed, if we call into question the postulate by which Oedipalization, conceived in rigid terms, becomes the condition for culture itself, how do we then return to psychoanalysis once this delinkage has taken place? If Oedipus is not the sine qua non of culture, that does not mean there is no place for Oedipus. It simply means that the complex that goes by that name may take a variety of cultural forms and that it will no longer be able to function as a normative condition of culture itself. Oedipus may or may not function universally, but even those who claim that it does would have to find out in what ways it figures and would not be able to maintain that it always figures in the same way. For it to be a universal—and I confess to being agnostic on this point—in no way confirms the thesis that it is the condition of culture: that latter thesis purports to know that it always functions in the same way, namely, as a condition of culture itself. But if Oedipus is interpreted broadly, as a name for the triangularity of desire, then the salient question becomes: what forms does that triangularity take? Must it presume heterosexuality? And what happens when we begin to understand Oedipus outside of the exchange of women and the presumption of heterosexual exchange?

Psychoanalysis does not need to be associated exclusively with the reactionary moment in which culture is understood to be based on an irrefutable heterosexuality. Indeed, there are many questions that psychoanalysis might pursue in order to help understand the psychic life of those who live outside of normative kinship or in some mix of normative and “non-”: what is the fantasy of homosexual love that the child uncon-

sciously adopts in gay families? How do children who are displaced from original families or born through implantation or donor insemination understand their origins? What cultural narratives are at their disposal, and what particular interpretations do they give to these conditions? Must the story that the child tells, a story that will no doubt be subject to many retellings, about his or her origin conform to a single story about how the human comes into being? Or will we find the human emerging through narrative structures that are not reducible to one story, the story of a capitalized Culture itself? How must we revise our understanding of the need for a narrative understanding of self that a child may have which includes a consideration of how those narratives are revised and interrupted in time? And how do we begin to understand what forms of gender differentiation take place for the child when heterosexuality is not the presumption of Oedipalization?

Indeed, this is the occasion not only for psychoanalysis to rethink its own uncritically accepted notions of culture, but for new kinship and sexual arrangements to compel a rethinking of culture itself. Indeed, when the relations that bind are no longer traced to heterosexual procreation, the very homology between nature and culture that philosophers such as Agacinski support, tends to become undermined. Indeed, they do not stay static in her own work, since if it is the symbolic order that mandates heterosexual origins, and the symbolic is understood to legitimate social relations, why would she worry about putatively illegitimate social relations? She assumes that the latter have the power to undermine the symbolic, suggesting that the symbolic does not precede the social and, finally, has no independence from it.

It seems clear that when psychoanalytic practitioners make public claims about the psychotic or dangerous status of gay families, they are wielding public discourse in ways that need to be strongly countered. The Lacanians do not have a monopoly on such claims. In an interview with Jacqueline Rose, the well-known Kleinian practitioner, Hanna Segal, reiterates her view that “homosexuality is an attack on the parental couple” (210), “a developmental arrest” (211), and she expresses outrage over a situation in which two lesbians raise a boy (210). She adds that she considers “the adult homosexual structure to be pathological.”<sup>19</sup> When asked at a public presentation in October of 1998 whether she approved of two lesbians raising a boy, she answered flatly “no.” To respond directly to Segal, as many people have, with an insistence on the normalcy of lesbian and gay families is to accept that the debate should center on the distinc-

tion between normal and pathological—whether she is wrong to think of homosexuality, for instance, as pathological, whether it ought rightly be said to be normal. But whether we seek entrance to the halls of normalcy or, indeed, reverse the discourse, to applaud our “pathology”—i.e., as the only “sane” position within homophobic culture—we have not called the defining framework into question. And once we enter that framework, we are to some degree defined by its terms, which means that we are *as* defined by those terms when we seek to establish ourselves within the boundaries of normality as we are when we assume the impermeability of those boundaries and position ourselves as its permanent outside. After all, even Agacinski knows how to make use of the claim that lesbians and gays are “inherently” subversive when she claims that they should *not* be given the right to marry because homosexuality is, by definition, “outside institutions and fixed models” (“Questions” 24).

We may think that double-edged thinking will only lead us to political paralysis, but consider the more serious consequences that follow from taking a single stand within such debates. If we engage the terms that these debates supply, then we ratify the frame at the moment in which we take our stand. And this signals a certain paralysis in the face of exercising power to change the terms by which such topics are rendered thinkable. Indeed, a more radical social transformation is precisely at stake when we refuse, for instance, to allow kinship to become reducible to “family,” or when we refuse to allow the field of sexuality to become gauged against the marriage form. For as surely as rights to marriage and to adoption and, indeed, to reproductive technology ought to be secured for individuals and alliances outside the marriage frame, it would constitute a drastic curtailment of progressive sexual politics to allow marriage and family, or even kinship, to mark the exclusive parameters within which sexual life is thought. That the sexual field has become foreclosed through such debates on whether we might marry or conceive or raise children makes clear that either answer, that is, both the “yes” and the “no,” work in the service of circumscribing reality in precipitous ways. If we decide that these are the decisive issues, and know which side we are on, then we have accepted an epistemological field structured by a fundamental loss, one which we can no longer name enough even to grieve. The life of sexuality, kinship, and community that becomes unthinkable within the terms of these norms constitutes the lost horizon of radical sexual politics, and we find our way “politically” in the wake of the ungrivable.

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## Notes

- 1 See David Schneider's *A Critique of the Study of Kinship* for an important analysis of how the approach to studying kinship has been fatally undermined by inappropriate assumptions about heterosexuality and the marriage bond brought to ethnographic description. See also Schneider, *American Kinship*. For a continuation of this critique, especially as it relates to the presuppositional status of the marriage bond in kinship systems, see John Borneman's critical review of contemporary feminist kinship studies in "Until Death Do Us Part."
- 2 Conversation, spring 2001.
- 3 In a blurb for the book, *A Society Without Fathers or Husbands: The Na of China*, Lévi-Strauss notes that Cai Hua has discovered a society in which the role of fathers "is denied or belittled," thus suggesting that the role may still be at work, but disavowed by those who practice kinship there. This interpretation effectively diminishes the challenge of the text, which argues that kinship is organized along nonpaternal lines.
- 4 I gather that recent domestic partnership legislation in the U.S., as in California, does offer explicit provisions for parental rights shared equally by the couple, though many proposals, such as the one in Vermont, explicitly seek to separate the recognition of domestic partnerships from rights of joint parenting.
- 5 See Warner, *The Trouble with Normal*.
- 6 For a full consideration of Franco-American cultural relations with respect to gender and sexuality, see the following work by Eric Fassin which, in many ways, has formed a background for my own views on this subject: "Good Cop, Bad Cop': The American Model and Countermodel in French Liberal Rhetoric since the 1980s"; "Good to Think': The American Reference in French Discourses of Immigration and Ethnicity"; "Le savant, l'expert et le politique: la famille des sociologues"; "Same Sex, Different Politics: Comparing and Contrasting 'Gay Marriage' Debates in France and the United States"; "The Purloined Gender: American Feminism in a French Mirror."
- 7 In 1999, the State of California passed the Knight initiative, which mandated that marriage be a contract entered into exclusively by a man and a woman. It passed with sixty-three percent of the voting public in its favor.
- 8 See Sylviane Agacinski, "Questions autour de la filiation"; for an excellent rejoinder, see Michel Feher, "Quelques Réflexions sur 'Politiques des Sexes.'"
- 9 In Germany, the "Eingetragene Lebenspartnerschaft" legislation that recently passed (August 2001) clearly stipulates that the two individuals entering into this alliance be gay and that the law obligates them to a long-term relationship of support and responsibility. The law thus obligates two individuals, understood to be gay, to an approximation of the social form

of marriage. Whereas the French PACS simply extend the right of contract to any two individuals who wish to enter into it in order to share or bequeath property, the German arrangement requires, in neo-Hegelian fashion, that the contract reflect a specific way of life, one recognizably marital and thereby worthy of recognition by the state. See *Deutscher Bundestag*, 14. Wahlperiode, *Drucksache 14/5627*, 20 March 2001.

- 10 Lauren Berlant argues persuasively that “in the reactionary culture of imperiled privilege, the nation’s value is figured not on behalf of an actually existing and laboring adult, but of a future American, both incipient and pre-historical: especially invested with this hope are the American fetus and the American child” (5).
- 11 This argument forms the center of my objection to Lacanian arguments against the viability of same-sex marriages and in favor of heteronormative family in *Antigone’s Claim* (see especially 6–75). For a further argument against Jacques-Alain Miller’s and other forms of Lacanian skepticism toward same-sex unions, see my “Competing Universalities” in *Contingency, Hegemony, and Universality* 15–81.
- 12 See Catherine Raissiguier, “Bodily Metaphors, Material Exclusions.”
- 13 The Lévi-Straussian position has been even more adamantly defended by Françoise Héritier. For her most vehement opposition to the PACS, see “Entretien,” where she remarks that “aucune société n’admet de parenté homosexuelle.” See also *Masculin/Féminin* and *L’Exercice de la parenté*.
- 14 Lévi-Strauss made his own contribution to the debate, making clear that his views of over fifty years ago do not coincide with his present positions and suggesting that the theory of exchange does not have to be tied to sexual difference but must always have a formal and specific expression. See Claude Lévi-Strauss, “Postface.”
- 15 See my “Competing Universalities.”
- 16 See Lévi-Strauss’s discussion of “ethnocentrism” in *Race et histoire* 1–26.
- 17 See Clastres, *Society Against the State* and *Archeology of Violence*. For a consideration of anthropological approaches to kinship after Lévi-Strauss, see Carsten and Hugh-Jones *About the House: Lévi-Strauss and Beyond*.
- 18 See also Franklin and McKinnon *Relative Values*.
- 19 Segal remarks, “An analyst, worth his salt, knows about illness from the *inside*. He doesn’t feel ‘you are a pervert unlike me’—he feels: ‘I know a bit how you came to that point, I’ve been there, am partly there still.’ If he believes in God, he would say: ‘there but for the grace of God go I.’” And then a bit later: “You could argue rightly that heterosexual relationships can be as, or more, perverse or narcissistic. But it’s not inbuilt in them. Heterosexuality can be more or less narcissistic, it can be very disturbed or not so. In homosexuality it’s inbuilt” (212).

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