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Sexual Orientation, Postcolonialism, and Global Civil  
Society**



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**Globalization as Sexual Practice – Sexual Orientation, Postcolonialism, and  
Global Civil Society**

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Conventional international relations theory focuses on how states interact and conflict in an international system that is characterized by clearly delineated boundaries, interests, and power resources. In this model, the role of gender and sexual orientation is not especially relevant insofar as neither is conceived as being linked to the essentials of the power matrix.. In fact, conventional IR does not really incorporate human rights issues into its analyses. In the 1990s, the focus of IR on human rights issues generally increased due to the end of the Cold War. With communism no longer in competition with capitalism, it became difficult for an international community based on liberal economic practices and theories (though not necessarily practices) of liberal democracy to deny rights-based demands.

More recently, although both 9/11 and US responses to it clearly threaten human rights and suggest the marginalization of such issues, it is not at all given that human rights will now lose their place in international affairs. For one thing, a very important question at present is the role and status of the US, a power that both demands freedom and refuses to support the set-up of international mechanisms to create, monitor and enforce freedom. Secondly, at the time this is being written (January 2003), the US is not successfully behaving as a

hegemonic power, that is to say, it is not clearly in control the international patterns of alliances, global economic order, and the domestic politics of other countries.

In parallel with this situation, in the post-realist world, the anxieties of a variety of hegemonic masculinity called comic book masculinity are evident due to ambiguities and complexities. The current situation corresponds to “comic-book masculinity” insofar as the leadership of the US resembles

superheroes portrayed in comic books, televisions shows, and the movies . . . are white, altruistic (at least part of the time), and fight evil characters who are often non-Western (alien) and threatening. They are reluctant heroes, who would rather be doing something else.<sup>1</sup>

Talking about sexual orientation in relation to IR means conceptually leaving behind the anxieties and assertions of comic-book masculinity and embracing ambiguity. Ambiguity not only blurs feminine and masculine roles, which is in itself an advance, but also helps to integrate issues, interests and potentialities. Recognizing sexual orientation as a component of the IR matrix involves integrating individuals and groups into situations that would otherwise be dominated by states, and seeing human rights an integral to the international order. It also involves conceiving how identities, actors and issues supplement national identities, states, and the salience of high politics or strategic security issues in global

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<sup>1</sup> Alan Klein, *Little Big Men: Bodybuilding Subculture and Gender Construction*, Albany, NY: SUNY, 1993, p. 267.

politics.<sup>2</sup> Considered in this light, then, sexual orientation is a human security issue since “under the human security paradigm, global challenges have to be assessed in terms of how they affect the safety of peoples and not just states.”<sup>3</sup>

The range of issues that links sexual orientation and IR today is broad, ranging from sexual behaviour to free association and expression, anti-discrimination, employment, partnership and marriage, parenting, asylum, transgender issues, street violence and police harassment as well as the global HIV-AIDS pandemic. All of these issues are of course linked to the globalized character of contemporary world, the connections between American-generated gay and lesbian identities and the rest of the world, and specific sexual practices and identities. Exploring how sexual orientation functions in the international system can begin in a focus on some of the sources of contemporary global sexual identities, which are in part European and colonial. Acknowledging the impact of colonialism is a way to avoid the Western bias of queer theory in which “a unity or self-sameness is often projected onto identities and cultures without fully engaging the disputes and differences within a particular social group about its identity and its relationship to the wider social world”.<sup>4</sup>

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<sup>2</sup> J. P Singh, in “Introduction: Information Technologies and the Changing Scope of Global Power and Governance” (James N. Rosenau and J.P. Singh, eds.), *Information Technologies and Global Politics: The Changing Scope of Power and Governance*, Albany, NY: State University of New York, 2002, p. 2.

<sup>3</sup> Fen Osler Hampson, *Madness in the Multitude: Human Security and World Disorder*, Toronto: Oxford University Press, 2002, p. 6.

<sup>4</sup> William Spurlin, “Broadening Postcolonial Studies / Decolonizing Queer Studies: Emerging ‘Queer’ Identities and Cultures in Southern Africa”, in *post-colonial, queer: Theoretical Intersections* (John Hawley, ed.), Albany, NY: SUNY Press, 2001, p. 186.

The present discussion does not take as a point of departure or ultimate destination, the sexual, commercial, cultural and political practices of contemporary Euro-american queer identities. Instead, the discussion focuses on the varied undercurrents for sexual identity formation in Germany, France and the UK from a legal, political and human rights perspective. The point here is to examine the three cases from a comparative perspective with an eye to assessing whether they speak to contemporary experience and in what manner. To begin, the three cases emerge in very different contexts: an eighteenth-century revolutionary France; a late nineteenth-century UK that was imperialist and beginning a democratic transition; and, the failed German democratic transition that degenerated into fascist authoritarianism.

Globalization as described by David Held is a cultural, political, economic, religious, technological and sexual process that has marked the worldwide treatment of sexual orientation. In relation to sexual orientation, globalization took the form of the spread of Western norms, laws and attitudes on sexuality and sexual orientation around the globe. European "Great Powers" played distinct roles in this process in terms of generating laws, norms and responses to same-sex practices and identities. The British influence was especially strong due to its global empire during the nineteenth century. In the French case, a cycle of revolution, democracy, state formation, and legal evolution was very influential, particularly as they relate to the decriminalization of homosexuality. Germany was a different case because of the socio-political context of failed democratic reform and authoritarianism as well as the degeneration into hysterical masculinity in the 1930s.

Sexuality has, of course, long played a role in relations between states. However, sexual politics took a different form in the pre-1780 era than they do today. There were well-knowns concern over, for e.g., over the marriages of Elizabeth I of England and Marie Antoinette of France as well as the controversy over the marriage of Charles I of England to Henrietta-Marie of France.<sup>5</sup> Less well-known are the cases of James I of England's homosexuality and subsequent entanglement with George Villiers, the future Duke of Buckingham, who attempted to seduce Queen Anne of France (wife of Louis XIII) or Philippe, Duc d'Orleans, brother of Louis XIV, who was a leading general as well as a patron of the arts. These examples illustrate the place of sexual orientation in pre-1789 European settings. In this context, international relations were marked by dynastic concerns, and a pre-democratic international order in which human rights did not exist in a form that we would recognize.

In contrast to dynastic concerns, the legalization of homosexuality in 1791 in France was the first appearance of sexual orientation on the modern national and international agendas. It was the first decriminalization of homosexuality in the West and set the basis for treatment of same-sex practice as human rights issue, especially because French legal codes were subsequently exported during the Napoleonic period. The British treatment of sexual orientation in the nineteenth century, in contrast to that of France, was marked by the

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<sup>5</sup> For the latter, see Charles Carlton, *Charles I: The Personal Monarch* (2<sup>nd</sup> ed.), London: Routledge, 1995.

continued criminalization of sexual practices and persecution of individual homosexuals. The French and British cases show how sexual orientation was pathologized in two very different ways in two relatively similar societies. In the British case, homosexuality treated as an offence against “public good” that required severe state response. In France, homosexuality was decriminalized, but left to departmental prefects to deal with as an administrative issue, in other words, as a “nuisance” that could be managed at the local level. Individual homosexuality was stigmatized in both cases, but the consequences of unsanctioned sexual practices were quite different: prison as opposed to social censure and possible expulsion from the community, which led to a drift to larger centres. In spite of apparent leniency, homosexuals did not live freely in France, especially after mid-nineteenth century, public sex between same-sex and opposite-sex couples was equally repressed.

The relative liberalism of the French Penal Code of 1810 is often mistakenly attributed to Napoleon’s gay second consul and archchancellor Jean-Jacques-Regis de Cambaceres, who played a role in drafting the Napoleonic law codes. However, France’s ancient sodomy laws were in fact dropped early in the revolution, in the criminal codes of 1791. This was done in two different law codes. The Penal Code of 1791 (25 Sept.–6 Oct.) covered serious offences (felonies) that were subject to two or more years in prison and trial by jury in criminal courts. The second Code of Municipal Police and Correctional Police (Law of 19-22 July 1791) covered misdemeanours (lesser offence tried without juries). The Napoleonic Penal Code of 1810 basically combined and revised the provisions of the earlier Penal Code

of 1791 and the Law of 19-22 July 1791. The Penal Code of 1810 covered no sex crimes other than rape.<sup>6</sup> Homosexuality has been legal in France since that time although a discriminatory age of consent was in place from 1942 to 1982. Beyond the French context, the codification of French law under Napoleon influenced many European countries, was transmitted to most German territories except for Prussia, as well as other European legal cultures, and international law.

In nineteenth-century Britain, the Oscar Wilde case was of course the most notorious eruption of sexual orientation issues onto the national political scene. The case was linked to the 1885 Labouchere reform of that UK Criminal Code that set out punishments for “gross indecency”. Because the British at that time presided over a global empire, the reforms and other British legal practices had impact on countries as diverse as Canada, Jamaica, Zimbabwe, Egypt, Fiji, and Sri Lanka. Jeffrey Weeks points out that the Wilde trial was preceded by a process of legal change. For one thing, the 1861 *Offences Against the Person Act* abolished the death penalty for sodomy. Then, in the Labouchere *Criminal Law Amendment Act of 1885*, sodomy was replaced by “gross indecency”, becoming a misdemeanour between two men that was subject to two-years’ hard labour. Following this reform, instead of just sodomy, all male homosexual activity was then subject to punishment. Most critically for the development of sexual politics, the application of the

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<sup>6</sup> For a complete discussion see Michael David Sibalis, “The Regulation of Male Homosexuality in Revolutionary and Napoleonic France, 1789-1815”, *Homosexuality in Modern France* (Jeffrey Merrick and Bryant Ragan, Jr., eds.) New York: Oxford University Press, 1996, pp. 80-101.

new law in Wilde trial had a paradoxical impact because it provoked the “development of a new sense of identity amongst many homosexual individuals, and a crucial element in this would have been the new public salience of homosexuality, dramatized by the legal situation.”<sup>7</sup>

The 1885 British legal change and the Wilde trial are of course well known. What is less understood is that the colonization of bodies by British state at that time was simultaneously paralleled by colonization of one-quarter of the world’s population. Law and sexual regulation was thus another area in which the UK has had lasting global impact. Self-governing Canada, for e.g., used British models to change its own laws in the 1890s. The Canadian Criminal Code of 1886, Chap. 157 (1) stated that “everyone who commits the crime of buggery, either with a human being or with any other living creature, is guilty of felony, and liable to imprisonment for life”. In 1892, the code was reformed, adding *gross indecency* (Chap. 29, 178)

every male person is guilty of an indictable offence and liable to five years’ imprisonment and to be whipped who, in public or private, commits, or is party to the commission by any male person of, any act of gross indecency with another male person.

This colonization of legal codes was paralleled throughout the nineteenth century across the British Empire and still impacts sexual orientation issues in many areas of the world.

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<sup>7</sup> Jeffrey Weeks, *Sex, Politics and Society: The Regulation of Sexuality since 1800* (2<sup>nd</sup> ed.), London: Longman, 1989, p. 103.

India's law on homosexuality was put in place by the British in 1860. It provides up to ten-years in prison, a fine, or both for anyone found guilty of "carnal intercourse against order of nature."<sup>8</sup> Sri Lanka's 130-year old anti-sodomy law was also put in place by the British.<sup>9</sup> Similarly, Jamaica's 100-year old anti-sodomy law, which dates from the colonial period, is still in place.<sup>10</sup> Although the country now has a sodomy law that dates from the Nasser years, the "first people in Egypt to demand a law against homosexuality were the British, during the colonial period."<sup>11</sup> In Africa, in countries such as Namibia, Zimbabwe, Uganda, Kenya, and Zambia, the persecution of homosexuals as "un-African" is usually done with reference to the Christian religion that colonizers also brought to the continent. In the remaining British colonies (which include the British Virgin Islands, Bermuda, the Cayman Islands, Anguilla, St. Helena, the Pitcairn Islands, Gibraltar, the Falkland Islands, Montserrat, and Turks and Caicos Islands) sodomy laws remained in effect until 2000, when

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<sup>8</sup> "India considers abolishing sodomy law", *The Advocate*, June 27, 2002, <[http://www.advocate.com/new\\_news.asp?id=4844&sd=06/27/02](http://www.advocate.com/new_news.asp?id=4844&sd=06/27/02)>. Accessed Jan. 23, 2003.

<sup>9</sup> "Sri Lankan Gays Want Anti-Homosexual Law Scrapped", *Reuters*, August 19, 1998". Online: <[http://www.sodomylaws.org/world/sri\\_lanka/slnews04.htm](http://www.sodomylaws.org/world/sri_lanka/slnews04.htm)>. Accessed on Jan 23, 2003

<sup>10</sup> Michelle Faul, "'Paradise' Can Be an Ordeal for Gays", *St. Louis Post Dispatch*, June 13, 1999. Available online at: <<http://www.sodomylaws.org/world/jamaica/janews04.htm>> Accessed Jan. 23, 2003.

<sup>11</sup> Brian Whitaker, "Homosexuality on trial in Egypt: Same-sex relationships are as common in the Middle East as in Europe, but the difference is public perceptions", *The Guardian*, Nov. 19, 2001, Online: <<http://www.guardian.co.uk/elsewhere/journalist/story/0,7792,600791,00.html>>. Accessed Jan. 23, 2003.

they repealed over local heads by the British Labour government.<sup>12</sup> Critics of the reforms in the colonies attacked the UK for colonialism. The two French and British trends toward punishment and decriminalization today mark many cases of treatment of sexual orientation around the globe. In North America, the activist trend has been away from issues of sexual practice toward identity issues or even the articulation of sexual practice issues in identarian terms while same-sex practices remain highly controversial in many areas of the world.

Another case of the treatment of homosexuality in Europe and distinct links to international relations is Germany. In this case, sexual orientation appears quite differently because it centred on the rise of the first gay and lesbian rights movement, its social, cultural and political success, and subsequent obliteration. The German gay rights movement developed in the late-nineteenth and early-twentieth century. After the German kingdoms were unified in 1871, King William I of Prussia imposed the legal code of his kingdom on the other German states. Many of the pre-1871 German kingdoms had liberal laws that were based on the Napoleonic Code before unification, but William forced their acceptance of Prussia's conservative code.<sup>13</sup> One response to this development was the mobilization of a movement to abolish Paragraph 175, the portion of the Prussian code that criminalized sex between men. The movement also mobilized around lifestyle issues (nudism,

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<sup>12</sup> "UK Ends Territories' Sodomy Laws", *PlanetOut News*, Dec. 22, 2000. Available online: <[http://www.sodomylaws.org/world/united\\_kingdom/uknews10.htm](http://www.sodomylaws.org/world/united_kingdom/uknews10.htm)> Accessed Jan. 23, 2003.

<sup>13</sup> "1871: Germany adopts Paragraph 175", *gayhistory.com* at <<http://www.gayhistory.com/rev2/factfiles/ff1871.htm>> Accessed Jan. 23, 2003.

vegetarianism). The dual nature of this mobilization helped push gay rights close to the mainstream of political life. The resulting gay rights movement reached its peak under the Weimar regime and almost succeeded in having Paragraph 175 repealed by the *Reichstag* in 1929. From the point of that failure, Nazism steadily gained power.

The German case is a rich example for the analysis of IR and sexual orientation. For one thing, it includes a suggestive coincidence of the speak of a gay rights movement and the rise of Nazism. This coincidence suggests that sexual identity movements might inadvertently serve as lightning rods or mobilizing factors for reactionary-fascist politics. German gays were largely caught off guard by the murderous homophobia of the Nazi since parts of it had moved to a focus on identity issues before the issue of practice was definitively resolved. The failure of this gay rights movement is also instructive because it coincides with the rise of a hysterical form of masculinity in Nazism, which subsequently turned on the rest of Europe and then the international system.

As illustrated above, an analysis based on these three models – legal punishment, administrative management, political hysteria – provides a method to examine how sexual orientation functions in contemporary global politics. The transmission of contemporary gay and lesbian identities around the globe, which involves commercial images of sexual potency and attraction, is linked to the globalization process that developed from Europe in the eighteenth and nineteenth centuries. Both the UK and France, for e.g., exported not only goods, services and persons, but also law, values, and moralities that continue to

reverberate in the postcolonial world. Due to these influence, when Robert Mugabe and other African leaders in Uganda, Namibia or Kenya proclaims that “homosex is not African”, they do so from a postcolonial position that resonates with European themes. In the case of Mugabe, that position mixes post-European Marxism with romantic nostalgic nationalism that, as Benedict Anderson shows, was an intellectual import from Europe to today’s postcolonial societies. In other postcolonial intersections, the condemnations might as easily blend in an interpretation of Christianity, another European import. All cases also focus on sexual practice and conflate it with the identity of social groups.

Given the profound and lasting impact of the colonization phase of globalization, the legal and political impacts of the British, French and German cases were highly complex and bear further treatment. This would involve assessing the impact of European fascism, French decriminalization or British punishment techniques on a country-by-country, regional or global basis. In discussing sexual orientation in international relations, there are two distinct trends. One involves the exportation of Euro-American sexual practice, commercial images and products, and a globalized sexual identity around the world. A second and not-unrelated process, which involves pressure for reform of legal codes and penalties in various regions of the world, focuses on sexual practice.

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