

RE: THINKING SEX FROM THE GLOBAL SOUTH AFRICA

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There can be no question that Gayle Rubin's widely anthologized 1984 essay "Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality" has been very influential on certain strands in South African scholarship on sex.¹ By South African scholarship on sex, I mean at least two things—scholarship on sex written in South Africa and scholarship on South African sex.² To think "Thinking Sex" from South Africa over the twenty-five years of the essay's circulation must raise and beg the problem of a national frame. I think this is a problem that Rubin's essay shares with, and perhaps inherits from, Michel Foucault's equally generative *History of Sexuality*—particularly volume 1.³ What is the space-time of Rubin's essay? Epistemologically, empirically, in terms of its reception?

At first blush, the essay appears to concern itself with what it calls "Modern Western societies." The geographic designations "North America" and "Western Europe" appear on occasion. The United States is by far the most frequently mentioned nation-state, as well as its individual states, cities, and urban neighborhoods. "The law of God and the law of England" are cited in reference to a 1631 case of the execution for sodomy of the Earl of Castlehaven. In reference to this case and the work of Gil Herdt on the Sambia—"In some New Guinea societies for example—homosexual activities are obligatory for all males"—there is the following delightful sentence: "The New Guinea bachelor and the sodomite nobleman are only tangentially related to the modern gay man" (17). Rubin here implicitly acknowledges that the space-time of her essay is predominantly the United States at her moment of writing. Despite these invocations of other places and times, I think there is a certain U.S. epistemological nationalism in the essay produced by an ethical concern for the locale from which it was written—San Francisco in the early 1980s—which must not be confused with the essay's explicitly

antistatist politics. Calling the essay “Eurocentric” would be anachronistic and also cannot account for its generative influence on thinking about sex and sexuality in the shifting national frame of South Africa and other places unevenly held under the designation of Euro-America.

Instead, I argue that the reception of the essay in South African sex scholarship reveals something more like what Edward Said has termed “traveling theory.”⁴ What follows is an attempt to transpose one of the essay’s central concepts — “hierarchies of sexual value” — into a necessarily very schematically constructed reading of the politics of sexuality in South Africa in 1984, the date of the essay’s original publication and a moment in what Gayatri Spivak has termed “the vanishing present.”⁵ Sexual politics in contemporary South Africa are a moving target as they shift under the pressures of the HIV/AIDS pandemic and significant migration and immigration, to name just a few variables. My analysis of the present will require continuing updating. The graphic legibility of this concept of hierarchies of sexual value in the two famous figures of the essay — the pie chart of “the charmed circle” of figure 1 (“The Sex Hierarchy: the charmed circle versus the outer limits” [13]) and the walls on a slope of figure 2 (“The Sex Hierarchy: the struggle over where to draw the line” [14]) can be continually redrawn for other space-times. Why? Because they establish the domain of sex as a domain for political inquiry and literally render visible state (at the level of law and policy) and social (institutional and attitudinal) investments in regulating this domain. That national institutions, particularly in moments of crisis — which seem endemic to our present — get worked up over the sexual behavior of their citizen subjects seems to me a relatively obvious universal of global or transnational or neoliberal modernity. Of course, this universal will be differentially experienced, but I think only a fetishistic investment in cultural relativism or national singularity could contest the idea that sexual regulation is a feature of sovereignty — both national and transnational in the world of 2009.

In the national contexts of South Africa in 1984 and 2009, what could get written into the pie chart of the sexual hierarchy would reveal significant similarities and differences. In 1984, in what retroactively can be seen as the dying days of apartheid, the most important addition to the charmed circle would obviously be same-racial classification, with its concomitant cross-racial sex being added to the outer limits. The South African state in its colonial- and apartheid-era incarnations had overriding concerns in regulating sexual behavior in both instrumental and paranoid modes. This has a long history, which could not be captured by the stasis of the chart, but is worth mentioning in truncated chronology here. The apartheid state understood the reproduction of distinct racial groups as essential

to its survival and was thus obsessed with regulating interracial heterosexuality. Building on earlier dominion-era laws such as the 1927 Immorality Act, which criminalized sexual activity between whites and Africans, the National Party, which came to power in 1948, instituted the Prohibition of Mixed Marriages Act of 1949, which criminalized sexual conduct outside marriage as well as sex between whites and coloreds, and between whites and Asians, and the Mixed Marriages Act of 1950, which banned marriages between members of different racial classifications altogether, as key early pieces of apartheid-era legislation.⁶ The year 1984 is an interesting moment for a snapshot because in 1985 in what was called the dismantling of petty apartheid, then President P. W. Botha decriminalized interracial sex, and the shift of sexual regulation from apartheid cornerstone to petty apartheid tells a story of the changing priorities of the state as it faces its demise. As this speedy history of legislation reveals, the apartheid state was generally more concerned with sex between rather than within its classification of racial groups. This concern has a long and fascinating colonial history. Briefly and brutally, the emerging colonial apparatus in southern Africa had neither the will nor the capacity under policies of what was called Indirect Rule to implement its norms all the way through the social body of the societies it was colonizing. Interested largely in extracting surplus value from these societies first in terms of agricultural and then mine labor, matters of civil law were to be left to the customary law of these societies, and if the customary law was too difficult to ascertain—it could be invented. Either way, its codification represents an intervention. In South Africa Theophilus Shepstone's drafting of an ordinance recognizing Nguni customary law in 1849 can be imagined as a starting point. Indigenous sexual conduct was left to customary law except in instances where it was found to be repugnant to the colonizer's gaze. These repugnancy clauses generally managed to ignore heterosexual so-called offenses—pervasive premarital sex, polygamy, and male circumcision practices, and in southern Africa got worked up over what might be termed indigenous homosexual practices (particularly if a white person was involved as participant or witness) and in East Africa female excision practices. The content of the bricks of the drawing of the line walls of Rubin's figure 2 would have a very complicated history over the course of colonial interventions in sub-Saharan Africa, but the lines were drawn and redrawn, particularly over questions of interracial sex and polygamy, and are being contested again at present.

In 2009 both diagrams could hold their forms as their contents held and shifted. There are at least two major historical and perhaps epochal shifts between 1984 and 2009 that require significant historiographical rethinking: the official end of apartheid and the new democratic constitution of 1994 (ratified in 1996),

and the ongoing decimation as part of the largest HIV/AIDS pandemic the world has ever known. The famous equality clause of the South African constitution, which contains an antidiscrimination clause on the grounds of sexual orientation clause, has justly been widely celebrated. The rider that in matters of conflict the equality clause will trump customary law—corrupted as it no doubt is by its colonial- and apartheid-era legacy—is more problematic and to my mind unwittingly evokes the earlier repugnancy clauses this time not in the arbitrary language of moral repugnance but in the language of legal liberalism. I leave this potential conflict between customary and constitutional legal regimes in the impasse of cultural relativism and the difficulty of ethical judgment—even within the circumscribed realm of the legal. The on-the-ground complications of state recognition of cultural sexual practice are overwhelming, especially as the HIV/AIDS pandemic kills up to six hundred South Africans a day.

Both of Rubin's diagrams would have to find a way to represent the fact that South Africa's new president Jacob Zuma, a self-proclaimed "Zulu traditionalist," has five official wives. Where would one put monogamy in a South African sexual hierarchy? Never mind the chatter in Johannesburg and Cape Town and I suspect in the Zuma household itself over which wife will preside at various state functions.⁷

The problems with my confining of Rubin's sexual hierarchy to a national frame become apparent here. National discourses on sex in polyglot, now putatively democratic "liberal" settler colonies like South Africa and the United States, which have as many differences as similarities, are incoherent and fragmentary. In the United States, law offers some measure of determinacy, but as we well know problems of selective enforcement and access make the sphere of the legal a spectacularly uneven measure of social justice. We could consider an identitarian fracturing of the national—would we have to produce, for example, a Zulu charmed circle and how could this be done without invoking the Bantustan legacies of apartheid? The emergence of a global, transnational human rights discourse on sexual rights in which the South African constitution participates breaks the frame at the other end of the scale.

In this sense, I think the fuzziness of what I termed at the outset the essay's epistemological U.S. nationalism is more of a utility than a problem. The world has changed considerably since 1984, and not, so has the United States, so has South Africa, but "Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality" remains an essay we should be thankful for. I teach it in any introduction to sexuality studies class. I teach it in a class on the literature and culture of the sub-Saharan HIV/AIDS pandemic. In this brief essay, I moved one of its central

claims/concepts/questions—the sexual hierarchy—into a national context that the essay itself does not really imagine, and in the long temporality and strange spatialities of an idea, the political work of the idea of a sexual hierarchy held, both analytically and descriptively. In conclusion, I would like to suggest that the form our gratitude should take for those of us who work inside and outside the modern West, which given the unevenness of the political economy of global capitalism might be all of us, is to hang on to the essay's central impulses, to ask the questions of the connections between sex and politics, and to learn something perhaps about the nature of theory itself. Rubin's essay reminds us that theory is produced in and out of a space-time, with political allegiances to that space-time, and that while any theory of sexuality risks reifying and universalizing its space-time, it can be adapted, reworked, and embraced as it travels, and travel it will.

Notes

1. Gayle S. Rubin, "Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality," in *The Lesbian and Gay Studies Reader*, ed. Henry Abelove, Michèle Aina Barale, and David M. Halperin (New York: Routledge, 1993), 3–44. Hereafter cited by page number.
2. There is simply too much scholarship to cite or synthesize here. Rubin's essay is invoked by leading South African sexuality and gender scholars in diverse political, historical, and policy contexts. Highlights could include Jacklyn Cock and Alison Bernstein, *Melting Pots and Rainbow Nations: Conversations about Difference in the United States and South Africa* (Urbana: University of Illinois Press, 2002); Deborah Posel, "Sex, Death, and the Fate of the Nation: Reflections on the Politicization of Sexuality in Post-Apartheid South Africa," *Africa* 75, no. 2 (2005): 125–53; Vasu Reddy and Theo Sandfort, "Researching MSM in South Africa: Some Preliminary Notes for the Frontier of a Hidden Epidemic," *Feminist Africa* 11 (2008): 29–54. In the essay itself, Rubin implicitly and polemically invokes the South Africa of the time of the essay's writing: "At their worst, sex law and sexual regulation are simply sexual apartheid" ("Thinking Sex," 21).
3. Michel Foucault, *An Introduction*, vol. 1 of *The History of Sexuality*, trans. Robert Hurley (New York: Vintage, 1990).
4. Edward Said, "Traveling Theory," in *The World, the Text, and the Critic* (Cambridge, MA: Harvard University Press, 1983), 243–47.
5. Gayatri Chakravorty Spivak, *A Critique of Postcolonial Reason: Toward a History of the Vanishing Present* (Cambridge, MA: Harvard University Press, 1999).
6. Neville Hoad, introduction to *Sex and Politics in South Africa: The Equality Clause/Gay and Lesbian Movement/the Anti-apartheid Struggle*, ed. Neville Hoad, Karen Martin, and Graeme Reid (Cape Town: Double Storey, 2005), 15–16.

7. In a fascinating article, Judith Stacey and Tey Meadow examine a comparative history of polygamy and same-sex marriage in the legal and political contexts of the United States and South Africa. Both polygamy and same-sex marriage are legal in South Africa, though the legal regime has trouble imposing its will on social formations and public attitudes. The authors argue, however, that the inverse pertains in the United States, that “social and material conditions make it easier to practice family diversity in the U.S. than in South Africa,” and that “when it comes to the lived experience of family diversity . . . the United States has few peers. No society has generated more extensive grassroots movements to transform intimacy than the United States” (Stacey and Meadow, “New Slants on the Slippery Slope: The Politics of Polygamy and Gay Family Rights in South Africa and the United States,” *Politics and Society* 37 [2009], 167–202).