

LEGAL WOUNDS: THE MEANING OF HUMAN RIGHTS FOR LESBIANS AND GAY MEN IN RUSSIA. *Summary*

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Last autumn in St. Petersburg, local parliament adopted a law banning “gay propaganda.” Similar laws had been already enacted in Arkhangelsk and Ryazan, and some other regional governments were ready to follow their example. The discussion around this law produced some evident effects: LGBT activists became visible in their public resistance against these oppressive legal modifications. These protest actions were not as massive as the famous Stonewall rebellion in the United States: Russian lesbian and gay public marches gathered no more than a couple of dozen participants. The activists themselves have argued that an “LGBT community” does not exist in Russia; hence there is no one who could support public activism.¹ State officials’ account is that lesbians and gay men do not experience discrimination;² therefore there is no point to their struggle. Nevertheless, the experiences of the lesbians and gay men³ involved in this resistance remain unexplored.

In this text, I want to show what value is given to human rights by those who do not do “politics,” do not sue the state in the European Court for Human Rights, and do not take to the street to demand gay and lesbian rights from the government. I want to give voice to “homosexuals” rather than politicians and human rights activists. The purpose of this study is to examine how the demands of lesbians and gay men are incorporated into human rights discourse. How do they articulate their rights? What meanings do they ascribe to human rights? I approach these questions by investigating the (re)production of subjects within the discourse of human rights. I tried to step away from normative texts (laws and declarations) and to focus on narratives that I collected during organized group discussions and life history interviews.

¹ Sozaev, Valerii. 2009. “LGBT-soobshchestva v Rossii ne sushchestvuet. Pochti.” Dvizhenie: sait pro obshchestvennye dvizheniia, February 26. Retrieved July 9, 2012 (<http://dvizh.org/2009/02/26/1257>).

² See RIA Novosti. 2010. “Interv’iu Vladimira Putina Larri Kingu. Polnyi tekst.” December 2. Retrieved December 3, 2010 (<http://ria.ru/interview/20101202/303390492.html>).

³ In this article, I will use “lesbians and gay men” to refer to the subjects of discourse under study. It is necessary to say though that, while this category has certain meaning within human rights discourse as it is used to “defend” lesbian and gay rights, it may also be relatively unimportant in other contexts.

FREEDOM AND RIGHTS

The concept of human rights was born in Europe within the humanistic tradition of the Enlightenment. In a very general sense, human rights involve those rights that are given a priori to persons by nature. But the implementation of human rights remains troubled in practice. The tradition of left critique of the concept of human rights was initiated by Karl Marx in the nineteenth century. In "On the Jewish Question," he pointed out that human rights proponents placed too much emphasis on private property rights, and neo-Marxists still criticize the ways in which human rights discourse contributes to the reproduction of inequality.

Negative effects of the political and legal uses of human rights have been critiqued from different points of view. If rights are given to everyone at birth, then how has it happened that some people feel denied their rights? Theorists agree that the articulation of human rights discourse is produced from a position of power and that this may account for its uneven application. It should be acknowledged that the power position in discourse is not taken solely by the state. International nongovernmental organizations are also actively involved in shaping the discourse of human rights. Many transnational and local NGOs struggle for human rights for lesbians and gay men in Russia: this gives importance to human rights and constitutes an impression that many troubles may be resolved by appeals to human rights documents and institutions. In this way, human rights discourse is articulated so that "rights appear as that which we cannot not want" (Brown 2002:421, emphasis in the original). However, the ways in which human rights discourse is interpreted by less powerful people is not clear at all. Some suggest that people may interpret their rights in an awkward manner or challenge their priority and argue for alternative concepts of social justice.

In this work, I analyze the accounts of lesbians and gay men about human rights as a discourse. Potter and Wetherell (1994) distinguish four types of work associated with the methodology of discourse analysis: two of these ways are related to linguistic analysis and the other two are more appropriate for social research. One of the latter focuses on the (re)production of truth by powerful institutions: science, church, or the state. The other focuses on the production of subjects of discourse. I study discursive practices (namely, the production of accounts) on the part of the subjects of human rights discourse, where it is important to explain why a statement was articulated in a certain way.

PLAINTIFF IDENTITY AND "WOUNDED ATTACHMENTS"

The discourse of law is one of the most powerful as it aims to establish normative order. Its intersection with politics can be better understood when one takes a closer look at "identity politics": a state-produced system in which commodities are redistributed to subjects recognized as "plaintiffs" who demand their recognition. Arguments for recognition are supported by reference to an "essential" identity in order to claim "natural" human rights. Drawing on Judith Butler's ideas, Carol Johnson (2002) elaborates the concept of "plaintiff identity" as natural only within a legal discourse of recognition. Being a plaintiff means to claim something that

another party has in front of a powerful and just state. In this sense, it is a problematic concept, showing how discourses of human rights may reproduce oppressed subjects by inscribing them into its own system of recognition.

Some theorists claim that knowledge and respect for the law are necessary for the establishment of a just legal system. This entails the possibility that any troubles experienced by people in their everyday lives could in principle be resolved by the law. In this sense, law is regarded as a system which is always already there and which is essentially fair: if one follows it, then demands for justice will be satisfied. This understanding of justice does not address the issue of power in the formulation of legal norms and presupposes that a person subjected to law is free to use it. Wendy Brown (1993, 1995) writes that legal discourse and its political implications make people react to the forces that limit their freedom. Therefore, legal discourse both shapes the subjects of discourse and disciplines them to articulate any injuries in vocabulary of human rights which it provides. These "legal wounds" create an order of experiences which presupposes the comparison of one's life to the lives of significant others and to evaluate one's own experience as excluded in order to demand recognition.

WOUNDED NARRATIVES

My research was conducted in St. Petersburg, Russia, in 2011. The data was gathered by two different means: group discussions and life history interviews. There were four group discussions organized; each was attended by seven to nine persons (32 in overall) of differing ages, self-identified as lesbians or gay men. There was no significant correlation between the content of their accounts and age, although age difference influenced the factual side of their argumentation (those who had experiences of the Soviet era commonly referred to it).

In the next stage of the research, I collected five biographical interviews. Four persons interviewed identified themselves as gay men and another one as a bisexual. Common stories told considered biographical details, private lives, leisure activities, and troubles surrounding "sexual orientation." The issue of sexuality was articulated mostly because the respondents knew about the topic of my study. As for human rights, accounts about this topic were given when respondents explained to me the context of their lives with partners, commented on activists' actions, or told me about experiences of discrimination.

THE RIGHT TO RIGHTS

THE RIGHT TO BE ONESELF

Homosexuality may not necessarily be manifested within the limits of a "lesbian" or "gay" identity. However, demands for human rights have to be articulated in the name of this identity. Nowadays, gay and lesbian identity is one which is allowed to participate in the demand for human rights. It also presupposes a particular set of demands, which have been negotiated through the history of human rights movements. When I asked

the participants in group discussions to list their rights, the most important and commonly named rights were “the right to be myself” and “the right to recognition of my intimate relationship.”

According to the participants of organized group discussions, “the right to be myself” includes the right to a free expression of homosexuality in different settings (on the street, in the family, at work). Formulated as it was, the right has an existential character, so it is inscribed in the human rights discourse through appeals to the essential nature of one’s sexuality (“to be”). This statement corresponds to an important tenet of human rights discourse: in order to be recognized within this system, it is necessary to create the rights claiming subject. This is the plaintiff identity that shows the oppressed position of the subject as a minority subject: one who is denied the right to be.

Despite this appeal to rights, in practice many Russian gay men and lesbians choose conformism in their everyday lives. The public manifestation of anything associated with homosexuality is considered dangerous by many participants of the discussion groups. Homosexuality is understood as a characteristic of one’s person that should be hidden in public. It must not be “exaggerated” (*vypiachivat’sia*) so as not to be recognized by non-homosexuals. Internalization of guilt for being homosexual leads to the articulation of two tactics: hiding one’s homosexuality from the general public while disclosing it in private among a small circle of trusted people.

In group discussions, participants debated normative prescriptions of acceptable behavior in the context of the family, schools, or workplaces: in the participants’ opinion, these are institutions that are considered most important in upholding dominant discourses. The surrounding environment is considered dangerous. Inclusion within society is accomplished through conscious mimicry or neutral behavior (without “exaggeration”). No other means of inclusion were articulated. The social institutions that produce knowledge are considered by lesbians and gay men to be hostile to homosexuality. This same situation may become the basis for shaping a plaintiff identity, as the situation produces feelings of oppression and suffering and demands to alleviate this suffering may be articulated in terms of human rights.

THE INJURED IDENTITY

It is important to emphasize that the respondents are not divided in two groups: those who conform and those who struggle against inequality. Both positions may be paradoxically combined in one subject. The glue for this combination may be seen in the “mildness” of the form of protest, as articulated during discussion groups (“I don’t feel much oppression, just a sense of *comfortlessness*”). Respondents use rhetoric that expresses the insignificance of their oppression. They explain their conformism by downplaying the importance of the situations that threaten their comfort. This is definitely not an experience shaped by a wound ready to be realized in a plaintiff identity.

The arguments made for “the right to marriage” were expressed in terms of rational principles of shared property in common households. These arguments were built on a logic of the substantive equality of homosexual and heterosexual marital

relationships. As respondents argued, the equal recognition of marriage should resolve legal issues around the cohabitation of same-sex couples, just as it does with different-sex couples: shared property, inheritance rights, and the representation of spouses in state institutions. Participants appealed to a heterosexual model of marriage and did not articulate any other possibilities. In this context, a general feeling of dissatisfaction with an unjust situation was commonly articulated.

CONCLUSION

According to the findings of this study, the history of the struggle for human rights for Russian lesbians and gay men follows similar course as the West European scenario. The existing legal discourse, supported by international institutions and the logic of the “rule-of-law state,” problematizes the plaintiff identity and *ressentiment* of those individuals who compare themselves with a heterosexual “ideal.” The demands that lesbians and gay men express are based on the idea of rights which “heterosexual” people have: the capacity to manifest one’s sexuality and the desire to register one’s intimate relationship. Other issues may not rise for several reasons: the “underdevelopment,” in Russia, of a vocabulary of lesbian and gay rights; a general environment experienced as hostile; and the willingness to tolerate an oppressive situation is stronger than the will to demand rights as this process entails risks. In these circumstances, the dominant strategy is to pass as a heterosexual when in public and articulate demands for rights softly.

It is important to note that the respondents’ legal wound was formed due to a lack of transparency and visibility. The desire for visibility is an important step in the formation of the plaintiff identity. Attempts to formulate one’s plaintiff identity are important in constructing a subject that personifies human rights discourse in relation to lesbians and gay men. In Russia, this subject has only begun to take shape: people are claiming their experiences of oppression and articulating their feelings of inequality. The history of homosexuality in Russia provides different examples of homosexual subjects articulated through different discourses: the “sodomite” in religion, the *muzhelozhets* (“a man engaged in man-lying-with-man”) in the Imperial and Soviet law, and the *gomoseksualist* in Russian medical discourse. Particular “treatments” were prescribed for each type of subjects: confession, punishment, or therapy. Contemporary discourses on homosexuality in many senses preserve these terms, but the appearance of a new possibility—the plaintiff identity of lesbians and gay men—produces new effects as well. These effects are related to the meaning of homosexuality provided—directly or indirectly—within human rights discourse, as an alternative to pathologization. However, here the well-known “trap” appears: human rights, in providing the basis for the recognition of the subject, at the same time reproduce the special subject, whose position is necessarily depressed, unequal, and *Other*.

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