Crippling Sexual Justice

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Abstract: Exploring homosexuals’ citizenship in Denmark from a justice perspective, this article critically interrogates society’s supposed gay-friendliness by asking how far it has moved in achieving sexual justice, and inquiring into the gains and pains of the existing modes of achieving this end. The article develops a normative and analytical framework, encompassing the multiple structural conditions, the virtues of citizens, and the emotional dimension of belonging, which enable or hamper justice. It integrates theories of democratic citizenship, belonging, and social justice, and provides an updated theorization of the social-sexual regime, considering the occurrence of a normalizing logic and its implications for the achievement of justice. The article then analyzes the manifold consequences of these circumstances on the citizenship of gays by examining relations of recognition and representation within family law, civil society and in the labour market. In conclusion, I suggest the possibility of different evaluations of the level of sexual justice reached, a mainly positive, partially negative one. Additionally, I discuss the gains and pains of the existing normalizing politics.

Crippling Sexual Justice

Both at home and abroad, Denmark, like other North-Western European countries, is seen as “a land of milk and honey” for lesbians and gays (Nussbaum 1999; Petersen 2005).[[1]](#endnote-1) During the last few decades, intensified by EU policies, claims for gay rights have moved from the margins to the centre of the national imagination (Drud-Jensen & Knudsen 2005; FRA 2009).[[2]](#endnote-2) Sexual equality is articulated as a fundamental value and is incorporated into society’s production of itself as an imaginary community, as part of new meanings of belonging and modernity in Denmark. The national self assumes the mantle of gay-friendliness (Petersen 2012), inasmuch as equality of sexuality becomes a marker of civilizational progress, whereby modernity becomes redefined in sexual terms and sexual modernity in national terms. Rather than excluding lesbians and gays from public life, this new sexual politics inscribes certain gay constituencies into the body politic by creating a moral hierarchy of “good” and “bad” gays (Petersen 2012). In parallel with this, mainstream LGBT organizations pursue a politics of inclusion, while renouncing the notion of homosexual liberation associated with demands for radical change.

 These trends in the politics of sexuality spark a series of questions: to what extent does society deliver on its promise, in reality, by embodying gay-friendliness? How far has society moved in achieving sexual justice by securing full participation in social life for homosexual citizens? And, what are the gains and pains of the existing modes of achieving sexual justice?

So far, little Danish research has addressed these issues (apart from the works of Albæk 1998, Petersen 2005, and Stormhøj 2007). This article sets out to do so, aiming to outline a normative and analytical perspective with which to analyze the current citizenship position of gays in Denmark. In my effort to develop a broad framework of sexual justice, I engage with various bodies of literature. At the heart of my frame are normative reflections on sexual justice and sexual citizenship. Under the rubric of sexual justice – a term that refers to principles that can be used to organize political institutions, the common basis of which is the notion that individuals should be treated as equals regardless of sexual orientation – political thinkers have theorized the institutional conditions that are needed to foster justice for homosexual citizens (Young 1990; Kaplan 1997; Fraser 2003a; Nussbaum 1999 & 2010). In general, their theorizing supports an expansive conception of sexual justice, offering gay citizens not only equivalent rights and protections, but also dignified symbolic inclusion, an effective political voice, and redistributive interventions, along with the transformation of sexual relations themselves. This understanding combines the notion of “freedom from” with the much more demanding notion of “freedom to”, with the latter highlighting the need for radical change. Likewise, the notion of sexual citizenship has gained widespread currency (Evans 1993; Richardson 1998, 2000; Weeks 1999; Bell & Binnie 2000; Phelan 2001). Building on Marshall’s theory (1950), which sees citizenship as rights and membership of a community, some scholars have used the term to articulate varying degrees of access to rights to sexual expression among social groups. Others have deployed the term in a broader sense, referring to access to individual rights, practices of social and cultural belonging, and the exercise of power of the political community on the grounds of sexuality. Often the latter understanding is discussed under the heading of democratic citizenship, sharing with theories of justice an “egalitarian impulse” that is fleshed out in relation to gay citizens as various visions of homosexuals’ full and equal citizenship.

**Weaving theories together**

My main resource is Nancy Fraser’s (1997; 2003a; 2003b; 2005) theory of justice – the approach of the three R’s: redistribution, recognition, and representation –including economic, cultural, and political dimensions, which is analytically advantageous compared with more one-sided theories (Stormhøj 2006a & 2007). Importantly, it aims to reveal the often hidden connections between different forms of injustice. Profiting from this approach, I will argue that homosexuals suffer from cultural, political, and economic forms of injustice, though in varying degrees, implying that justice can only be achieved by simultaneously remedying all of these. Moreover, the moral-philosophical base of Fraser’s theory allows for a (quasi-)transcendental mode of social critique that complements immanent critique, with which I also engage here. The latter approaches society through its own norms and “reminds” it of them (Walzer 1987). It aims to disclose contradictions between ideals and reality, in this case exposing disparities between egalitarian norms and the fragile citizenship position of gays. Transcendental critique, in contrast, presumes the possibility of judging society on some criteria that stand independently from a given social context and yet measure its justice. Referring to a standard of the “right”, it enables the exercise of a radical social critique in the name of a desirable future. It allows an assessment of the state’s and, in a democracy, the people’s, treatment of gay citizens in a way that can be explicitly justified, a task that immanent critique cannot accomplish.

In Fraser’s (2003a) theory, “participatory parity” is the epitome of social justice. Bridging a schism between universalism and contextualism, Fraser justifies this norm, at the level of moral philosophy, by invoking the principle of equal liberty. In terms of context, she understands this as being produced by a process of interpretation that has taken place in Western societies, and which has expanded the norm, both in scope and substance. Applying this norm to present-day society’s differentiated orders, her critique aims to determine whether these institutional arrangements allow or prevent justice. In Fraser’s view, every social practice is constituted by a complex set of economic, cultural and political conditions of existence. Still, as a heuristic device, she understands the cultural, the economic, and the political to be three separate perspectives, implying that every practice must be analyzed simultaneously from all of them.

Value patterns rooted in society’s cultural order produce asymmetrical relations of recognition between groups, producing a status hierarchy. Such differences hamper justice, because they position some actors as less than full partners in social interaction. Justice requires the transformation of these value patterns so that they convey equal respect for all. The failure of recognition translates into status subordination, and this constitutes a form of oppression. Pertinent to the case at hand is Fraser’s analysis of heterosexism (Fraser 1997: 18 & 24; 2003a: 18 & 24f.). Heteronormative value patterns privilege heterosexual practices and relations, misrecognize same-sex identities and intimacies, and hence cause a systemic oppression of gay people. Such value patterns are institutionalized in laws and policies and reflected in, e.g. the denial of rights and protections. They also organize routine everyday practices that translate into stigmatization, stereotyping, and violence.

The second order is the economic one. Inequalities within this realm result in an uneven distribution of resources and burdens. Maldistribution violates justice by denying some people the means and opportunities to participate on an equal standing. To achieve justice, redistribution is needed.

Finally, unequal access to representation, not only within the distinct political order, but within all institutional settings that enable or constrain members’ actions, produces political misrepresentation (Fraser, 2003a: 68–69; 2005). Representation has two faces: it is a matter of social belonging to the nation-state community, and it concerns decision-making procedures, including the framing of laws, policies etc. and the terms by which disagreements are settled. Misrepresentation is an obstacle to justice, because it denies some people an equal opportunity to have their say regarding common affairs, and because it excludes some ways of articulating claims and resolving disputes. The remedy is democratization: changing the criteria of membership and reordering the procedures of public deliberation. Fraser argues that allowing citizens to act as subjects of justice requires that everyone whom a given social institution or practice affects has the opportunity to participate on an equal footing in decision-making. In turn, representation requires redistribution and recognition.

While capitalizing on Fraser’s theorizing, I find shortcomings and gaps that propel a series of revisions. I identify four major limitations concerned with: the conception of justice, the emotional aspect of membership, the historical adequacy of her analysis, and the model of the state, and I revise her approach with alternative political and social theory.

Dating at least from Plato, political thinkers have considered justice to concern both the institutional architecture and the virtues of citizens. Yet, justice’s duality is not elaborated in Fraser’s theory as, like other modern thinkers, she foregrounds the former aspect and ignores the latter. In contrast, theories of democratic citizenship are likely to give priority to justice as an individual virtue. To retain a two-fold theorizing of justice, then, I draw on Shane Phelan’s theory of democratic citizenship (2001).

According to Phelan, the promotion of justice as a virtue of citizenship requires a public culture that recognizes sexual difference. Developing an ethos of solidarity between the sexual minority and majority is at the heart of her vision, alongside a commitment to dialogue (Phelan 2001: 146–47). This ethos requires a reconsideration of the “we”, i.e., that the heterosexual majority allows its self-conception to be transformed in the presence of other sexual identities. Such change involves a displacement of the location of difference. Rather than locating difference on the side of the minority, it requires an understanding of difference as being of crucial importance for the identity of everyone across the spectrum of sexualities. Only such a displacement can help to dissolve the fixed division and status differences between the categories of heterosexual and homosexual. In addition, this very same process of displacement must take place within the minority to prevent what is called secondary marginalization: when some homosexuals begin to gain some access to public life, the marginalization of others is intensified, with the latter becoming the bearers of the burden of difference (Phelan 2001: Chap. 4). The minority, then, also needs to forge ties of solidarity. Moreover, by engaging in dialogue, the different groups may develop a wider sense of solidarity that allows for sexual variance (Phelan 1995: 345).

Another lacuna in Fraser’s approach concerns her handling of the emotional dimension of belonging to the nation-state community, an aspect that is crucial to the constitution of members of social groups as subjects of justice. Obviously, when theorizing heterosexism and homophobia, Fraser includes their emotional aspects; yet, she does not conceptualize the emotional realm per se when conceptualizing membership. Repairing this flaw, I bring into play Nira Yuval-Davis’ (2006a & 2006b) notion of belonging, which enables a foregrounding of the emotional domain.

Following Yuval-Davis, I see membership as performatively produced by emotions distinguishing between an “us”, charged with positive emotions, and a “them”, invested with negative feelings. Belonging is about emotional investment in one’s country, which plays a decisive role in the work of boundary maintenance.[[3]](#endnote-3) When, at a collective level, the normal naturalized sense of belonging becomes politicized, Yuval-Davis (2006a: 197) talks about the politics of belonging. Obviously, this politics is deeply sexualized. Yet, Yuval-Davis herself has not elaborated upon this aspect. I suggest that we consider homosexuals’ current politics of belonging as being generated along different axes. Before unpacking these arguments, I describe the last bricks in my revision of Fraser’s theory.

The third limitation turns on Fraser’s theorizing of the social-sexual regime which needs to be updated. Fraser assumes that the heteronormative order is enforced solely by repressing homosexuals – through strategies of contamination, criminalization, civil disenfranchisement, and violence. Therefore, she is blind to the occurrence of a new logic of normalization that rose during the mid-1990s in the USA, Denmark, and elsewhere, a logic that is associated with the rise of neo-liberalism (Duggan 2003; Richardson 2005; Eng 2010).[[4]](#endnote-4) Rather than seeing neo-liberalism as concerned only with the economic realm, as Fraser (2003: 7 & 52ff.) tends to do, one may also relate it to the cultural realm, arguing that it has its own gender and sexual politics. Echoing a Foucauldian insight, Richardson (2005: 516) argues that neo-liberal strategies of governance stress the freedom and rights of the individual, enabling self-governing subjects to become responsible citizens who voluntarily comply with the interests of the state and commercial life. In response, mainstream gay organizations have increasingly adopted a politics of equal rights, which Duggan (2003: 50) has called a new homonormativity. It is a politics that conforms to heteronormative assumptions and practices, allowing gay people to be inscribed into the institution of the family, consumption in the free market, and the national order. This agenda recodes the homosexual liberation associated with the Stonewall era as access to conventional life (Jacobsen 2005; Eng 2010: Chap. 1 & 2), and tries to change the historically dominant construction of the homosexual as “other” through processes of purification (Richardson 2005). By reducing radical demands for sexual justice into right claims, it teaches that other, more transformative modes of change are unnecessary. Notably, the logic of normalization does not replace the logic of repression. Rather, I suggest that they co-exist in various combinations within different loci of interaction, target different segments of the population, and vary in terms of national context. Importantly, the sexual politics of neo-liberalism produces new principles of differentiation. A new status hierarchy, then, emerges: the “good” heterosexual ranks above the “good” homosexual, and both (who are subjects willing to submit to the task of reproducing the nation, biologically, economically and normatively) are distinguished from different, non-normative heterosexuals and, further down the ladder, we encounter the “bad” homosexuals, dissident constituencies embodying the new “others”.[[5]](#endnote-5) In terms of this hierarchy, sexual justice may be accomplished in different ways. I propose that the contrast between the new homonormative politics of inclusion and what is commonly known as queer politics roughly corresponds to Fraser’s (2003a: 73–78) distinction between affirmative and transformative strategies. The former aims to correct the inequitable outcomes of social organization, while leaving the underlying generative structures intact. In contrast, transformative remedies, while having the same aim, also attempt to restructure the underlying framework. In line with my revision of Fraser’s analysis, we may think of affirmative remedies for heterosexism as aiming to neutralize any difference ascribed to homosexuals that render them devalued citizens, and, instead, to stress their ordinariness. Transformative remedies would deconstruct the present sexual hierarchy and destabilize all fixed identities, targeting hetero- and homonormativity alike.

A fourth flaw in Fraser’s argument is her notion of the state as a monolith that maintains only a heterosexual privilege, the source of which lies in the cultural order. Instead, to understand the governance of homosexuals’ citizenship, I suggest regarding the state as a site of power where opposing blocs struggle to institutionalize their own particular sexual values as authoritative, and enforce a particular distribution of resources, rights and power (Stormhøj 2006b; 2009 & 2014). Obviously, the result depends on the relative strength of the factions involved, electorate and coalition considerations, supra-national regulations, and so on. Certainly, one result of these conflicts is the production of status distinctions between sexual groups. Yet, the distribution of entitlements and so on is not an unmediated reflection of the status order; any explanation also has to take into account past and present struggles over sexual values within the state.

Before applying this normative framework, I need to tie up two loose ends. The first concerns homosexuals’ current politics of belonging. I suggest that in some ways this runs parallel to the logic of normalization, and the logic of repression, both of which co-exist in various combinations within different settings. At risk of simplifying, we may think of repressive strategies as performed by emotions such as hatred or fear, and translating into physical abuse, or the need for a “(homo-)sexual cleansing” of social institutions and national symbols. Normalizing strategies may find expression in dispositions and forms of interaction, such as the relaxed intermingling of straights and gays in private and public settings, or seeing gay struggles for respect with the same sort of sympathy with which one might participate in the struggles of a friend. Moreover, a paradox “sticks” to this politics: homosexuals belong to the nation just as heterosexuals do; yet, they are always constructed as different, leaving them continually prey to exclusion and scapegoating. Gays, then, are positioned both inside and outside of the collectivity.

The other loose end has to do with an acknowledgement of the national specificity of Fraser’s analysis of heterosexism, which raises the question of its applicability to the Danish case. Presuming that her analysis is based on the social-sexual regime of the USA, caution against straightforwardly transferring it into the Danish context is warranted. Compared to the USA, where normative heterosexuality has been enforced by exceptionally strong repressive practices in many states until the most recent decade or two (Seidman 2001; Adam 2003; Nussbaum 2010), the oppression of gays has been far less severe in Denmark for several decades due to a range of nation-specific factors.[[6]](#endnote-6)

**Lesbian and gay citizenship in Denmark**

To assess whether the social institutions and the conduct of citizens ensure the necessary conditions for the equal and full citizenship of gays, I weigh a series of empirical examples concerned with relations of recognition and representation against the norm of participatory parity. These examples are found in case studies conducted by other scholars and myself. Such studies themselves bear witness to the sparse and fragmentary knowledge of gays’ social conditions, indicating that the production of scientific “data” are shot through with relations of power. The examples illustrate aspects of the relations of recognition embedded in family law, civil society, and in the labour market; and relations of representation in the development of family law, work-life policies, and the combating of hate crimes. They also reveal the economic effects of these relations, and show how recognition outcomes depend on political access and vice versa. Empirical studies, my own and those of others (Hobson 2003), clearly reveal this interdependency, the importance of which Fraser downplays. Because the relations with which I engage are differently shaped within different loci of interaction, generalizations cannot be made based on these cases. Still, they should be read as indicative of tendencies, the prevalence of which is to be determined by future research.

 The first area concerns relations of recognition entrenched in family law, and the opportunity for gays to participate in law-making. Since the late 1980s, same-sex relationships have been incorporated into law through a strategy of normalization (Søland 1998; Petersen 2012). Moreover, because not only a heteronorm (as Fraser claims), but also norms around the sexual dyad and the coupled relationship inform legal constructions of marriage, parenthood, and equality (Andersson 2011), same-sex couples and kinship relations, themselves diverse, have been included without a scheme to help accommodate their particular circumstances.[[7]](#endnote-7) Either such differences – e.g. the need for a number of parents (sometimes two, but often three) to have access to parental leave – are ignored, or they are essentialized, often translating into unequal treatment and the fabrication of *lex specialis*. This pattern demonstrates the paradoxical positioning of homosexuals as both similar to and different from heterosexuals. Generally, the incorporation of homosexual families has been marked by ad hoc adjustments and technical solutions (Stormhøj 2009) and, not surprisingly, this has created and continues to create deep tensions among legislators (Albæk 1998; Søland 1998; Stormhøj 2014).

Recently, a wave of law reforms introduced in the name of equality has been passed. These reforms comprise: (i) The law on children (2013) that for the first time includes children birthed and raised by lesbian and gay parents, recognizing them as legal parents from the moment of birth, and enabling the involved adults to decide for themselves about legal parenthood. (ii) The law on gender-neutral marriage (2012), allowing same-sex marriage and replacing the former law on registered partnership. (iii) A reform of the law on transnational adoption (2010) that allows registered partners to adopt children from abroad, a right they were previously denied. (iv) An improvement of the law on stepchild adoption (2009), enabling a co-mother to adopt the child of her partner immediately after birth, and concurrently annulling an earlier rule postponing adoption until three months after birth. (v) A reform of the law on publicly funded medically assisted reproduction (2006), repealing an earlier ban on allowing access to lesbians (LGBT Denmark 2014b). Some progressive moves have also taken place regarding parental leave (2008), offering state-employed female registered partners, in particular, co-mother access to “paternity leave” (LGBT Denmark 2014a). These laws are important steps towards full equality of status between heterosexual and homosexual relations. Yet, they have faced considerable opposition and sometimes only passed with slender majorities. While it is not expedient to openly practice a politics of disgust in parliament, and even opponents have to praise same-sex families in order to mark themselves and the Danish nation as progressive and modern, a lack of due respect manifests itself in a number of ways, only a few of which can be discussed here. Claiming the exalted status of heterosexual relations as such an obvious view that it needs no further justification is indicative of heterosexual domination, as is the attempt to maintain two different legal systems, marriage for dual-gender and registered partnership for same-sex couples, inasmuch as this arrangement reproduces an inequality in dignity conferred by the state. As an index of non-recognition, we find indifference to the particular circumstances of gays, conditions that are not accommodated legally, and which translate into a lack of rights. Aversion is clearly present when gays are dehumanized, cast as a threat to the basis of all order, especially “The Family”, and incorporated into an emotional economy of fear of anomy, fuelling an atmosphere of risk and disaster (Stormhøj 2002; 2006, 2014; Petersen 2007, 2012, 2014).[[8]](#endnote-8) Perhaps the paradox of construing gays as the “same”, and yet, as (always) different, intensifies when on the one hand homosexuals figure as symbols of the nation’s progressiveness and modernity, and yet, on the other, are still burdened with “otherness”.

 Only very recently has a level of legal recognition of gays been reached that comes close to fulfilling the requirements of justice. Still, there are legal gaps, for example, in terms of access to state-guaranteed wage compensation for both parents when taking parental leave; or, when female same-sex couples arranging insemination on a private basis (a widespread practice) are met with restrictive demands concerning the duration of their relationship in order for the co-mother to adopt the child.[[9]](#endnote-9) In the first instance they have to bear the economic expenses themselves, and in the second case, a significant group of lesbians and their children is denied protection that they urgently need. Until recently, as this analysis makes clear, same-sex couples also lacked the civil right to transnational adoption, and the social rights of lesbians were circumscribed, as they did not have access to publicly funded fertility treatment (Stormhøj 2009). Seen from a redistribution perspective, the effects of the various laws, past and present, have been and still are economically disadvantageous.

In terms of routes to political access, the power of LGBT Denmark is limited. It only has a say in hearings and, while it has been successful in contesting the exclusion of gays, it has not succeeded in changing the moral grammar of law-making over the years (Stormhøj 2001; 2006b). And, as Pedersen (2005) notes, because the organization is situated at the margins of the system of institutionalized interest groups, gays are not ensured an effective voice in the framing of laws.[[10]](#endnote-10) The effects of these practices are misrepresentation; a construction of homosexuals as law-“takers” more than law-“makers”.

The second area looks into relations of recognition in the labour market, and the representation of gays in bodies responsible for workplace policies. Existing research is sparse and the representativeness of the samples on which it is based is difficult to assess. In addition, research design and measurements vary, making comparisons complicated. Recent studies have uncovered mixed results. They testify to a widespread normalization of gays in the workplace, the index of which is found in interpersonal acceptance and a relaxed intermingling of gays and straights (Voergård-Olesen 2011; FRA 2013). Yet, they do suggest that homosexuals suffer from misrecognition, such as disparagement, bullying, and ridicule. The FRA (2013) survey demonstrates a significantly low level of workplace discrimination (only 10% of both lesbians and gays have felt discriminated against or harassed during the last year). However, to make sense, these findings need to be linked with both the level of openness among gays and interpersonal normalization, with the latter implying a subtle form of social control rendering (sexual) differences invisible. According to the same survey, around 25% of homosexuals have hidden or disguised their sexual identification during employment over the last five years for fear of negative reactions from colleagues or employers. Social isolation, stress and absence from work, along with dismissal and lack of promotion on grounds of sexual orientation, are some of the consequences of misrecognition. Considered from the angle of redistribution, frequent absence from work can lead to a reduction in earnings, and in cases of dismissal translate into economic marginalization in the long run. Viewed from a representation perspective, the mutually reinforcing relations between misrecognition and a lack of sufficient economic resources can lead to gays giving up on participating in political activities, for example, at the workplace fighting to include the perspectives of homosexuals on personnel policies.

The issue of discrimination on the grounds of sexual orientation is given a very low priority both by trade unions and governmental bodies (Hansen 2004; Voergård-Olesen 2011). Because it figures as a “non-issue” – a status that is reinforced by the dominant individualizing articulation of discrimination, and the casting of the nation as an egalitarian paradise – or, as an issue that has already been legally dealt with, claims that might be raised by the LGBT organization for increasing gays’ political participation in these political settings, might be seen as “untimely”. Being located at the margin rather than at the centre of organized interest groups (Pedersen 2005), this organization also lacks a voice to influence, let alone contest, the prevailing discourses which frame the issue of misrecognition as an individual rather than as a structural problem.

The last area deals with everyday interactions in public spaces and is concerned with (dis)respect between citizens, and the power of LGBT Denmark to influence the governance of gays’ security needs. Hate crimes, practices of harassment, violence, and threats of violence motivated by disgust or hatred of gays because they are gays, are perhaps the example par excellence of non-recognition.[[11]](#endnote-11) Non-recognition also manifests as an absence of public intervention when it comes to such crimes.[[12]](#endnote-12) Recent studies paint a somewhat mixed picture. One representative survey shows that homosexuals are more concerned about violence and threats than heterosexuals are. Around 40% of gays report being very or somewhat concerned, whereas the comparable percentage of heterosexuals is 33% (Gransell & Hansen 2009). When it comes to the issue of actually having been exposed to violence or threats, 25% of homosexuals have been victimized many times, and 29% have been exposed once during the last 12 months. In comparison, 16% of straights have been exposed many times and 25% have experienced being a victim once.[[13]](#endnote-13) The FRA (2013) survey testifies to a high level of hate crimes, along with a not insignificant level of fear of being exposed to such acts.[[14]](#endnote-14) Around 95% of lesbians have been victimized between one and five times in the last year, and 3% more than ten times, whereas the comparable figures for gays are 95% (between one and five times), 3% (between 6 and ten times) and 2% (more than ten times). Around 25% of women and over 50% of men avoid showing affection in public for fear of violations; 66% of women and 83% of men report that the last incident of harassment in the year preceding the survey happened because they were perceived to be gay. In terms of psychological/sexual attack or threat of violence, the comparable numbers are 50% for lesbians, and 60% for gays. Importantly, this survey shows a considerable level of underreporting to the police, because the respondents believe that nothing would happen as a result, and because they fear that the incident would not be taken seriously. A third study, investigating the legal practices of the police and prosecutors, supports these results (The Danish Institute for Human Rights 2011). It also points to both the inaction of the police in some cases, and a lack of knowledge and resources in handling these crimes, although there have been some improvements too. Because the police often lack appropriate skills, gays choosing to report may risk being ridiculed, or blamed for the incident themselves (FRA 2013). Obviously, the negative feelings triggering hate crimes and the public marginalization of the security needs of gays position this group at the edge of the community, or even outside it. The effects of these abusive practices and the potential risk of them are a reduction in homosexuals’ physical and emotional security and their freedom of movement. Seen from the angle of recognition, such practices involve status deprivation and evoke feelings of being at risk, which, all things being equal, diminish the participation of homosexuals in social life on a par with others. Violence and other abuse can result in absence from work, permanent physical disability, a temporary interruption of education and so forth. Viewed from a redistribution perspective, these conditions can translate into economic burdens, such as a significant reduction in earnings, a delay in the completion of education, or a loss of financial independence. Finally, when looked at through the lens of representation, these practices can lead to political apathy.

While LGBT Denmark participates in public bodies responsible for combating hate crimes, its power to change existing practices is far from sufficient, even though the well-being of gay people depends on it (The Danish Institute for Human Rights 2011). This restricting and restricted political representation contributes to a vicious circle, in which the public marginalization of the security needs of gays and gays’ lack of an effective political voice reinforce each other.

**Concluding discussion**

Assessing the level of sexual justice reached and the gains and pains of the mode of achieving it, is not a straightforward matter. Based on the norm of participatory parity, we may conclude, with equal weight, that the glass is half-full or half-empty. The first version contends that lesbians and gays have been integrated into society to a considerable degree entailing (nearly) equal rights, symbolic incorporation, and active political involvement. In contrast, claiming that the glass is half-empty suggests that significant impediments to justice still exist, both institutionally and intersubjectively. These arise from a failure of legal recognition, especially of the distinct circumstances of gay relations, a lack of respect among the citizenry, and a lack of fair political representation, which, combined with their economic consequences, restrict the possibilities for gays to participate in social interactions on a par with others. Each form of injustice has a weight of its own. Still, the viciousness lies in their accumulated effects, implying that justice can only be achieved by simultaneously remedying the different wrongs. Not surprisingly, the practice of immanent critique reveals gaps between ideals and reality. The promise of Denmark as a “land of milk and honey” for gays proves to be both unreliable and hiding less flattering tendencies. The egalitarian norms of society which imply, ethically speaking, that each citizen should be regarded as an end in themselves rather than a means to the ends of others, prove unfounded when gays are turned into markers of the nation’s progressiveness and modernity. Or, in the vocabulary of Ahmed (2004), when gays are used as mere instruments to make the people feel good, and the nation proud.

 Affirmative or homonormative politics has witnessed its own failures and successes. Perhaps the greatest irony is that the quest for freedom, once associated with the idea of homosexual liberation, has today succumbed to the liberty to “shop until you drop” (Eng 2010: 30), engage in domesticity, be a successful worker, and take pride in the nation. Once the object of critique, the institutions and traditions that historically have excluded gays have been recoded as sites of desire and pleasure. And they have been inscribed in a moral economy of acceptable and unacceptable modes of inhabiting the norms of sexual citizenship. Yet, it would be wrong not to recognize the recent qualified successes, progressive legislative and symbolic changes that clearly demonstrate the value of working within the framework of an affirmative politics. Today, living as gay is less arduous and offers more possibilities due to these successes. Importantly, affirmative strategies may have transformative effects. In reality, a politics of “small steps” (law reforms), continuously relying on previous progress to be successful, has changed “the frames” by including gays. Despite the claims of the most strident queer critiques of normalizing politics (e.g. Warner 1999; see also Stormhøj 2013), this kind of politics has, in fact, changed our everyday practices and perceptions of marriage, family, parenthood and so on, combined with other social changes of course. Marriage, as an institution, an object of discourse, and a lived practice has changed because of the inclusion of gays.[[15]](#endnote-15) Affirmative strategies, then, may propel a silent socio-cultural revolution. Nevertheless, a queer critique and politics are a sine qua non. We need an ongoing critique of dominant norms around gender, sexuality, intimacy, kinship, work, consumption etc., because, by creating a moral hierarchy between acceptable and unacceptable subjects and relationships, these norms reduce the plurality of ways of conducting the good life into just a few options. There is an urgent need to develop a gay politics promoting solidarity across its own “ranks” in order to limit the malign effects of marginalization as some gays gain limited access to mainstream society while leaving others with the burden of difference. Finally, we need queer transformative elements to push back the boundaries within which we may imagine an alternative organization of the social-sexual regime, the relations of production and consumption, and so forth. Perhaps, with Fraser in mind and in the spirit of radical democracy, in order to achieve a higher level of sexual justice, we need a democratization of the norms governing social-sexual life. Such democratization requires, in turn, radical changes in the current political, economic, and cultural orders (Stormhøj 2001).

1. I use the term “lesbians and gays” (and “gay” as shorthand to include lesbians) only to refer to a social collective by invoking Young’s (1995) concept of seriality, designating a heterogeneous collectivity whose members are unified passively by social conditions and practices. Thereby, I attempt to avoid the trap of essentialism. I use the term “homosexual” when it is an appropriate differentiation from “heterosexual”, and the acronym “LGBT” (lesbian, gay, bisexual and transgender) to refer to organizational settings, of which LGBT Denmark is the main one. [↑](#endnote-ref-1)
2. FRA is the official abbreviation of the European Union Agency for Fundamental Rights. [↑](#endnote-ref-2)
3. From a different angle, Ahmed (2004) makes similar points, stressing how (national) borders are produced when emotions intensify and “get stuck”. [↑](#endnote-ref-3)
4. Vulgarly simplifying, I use the term “neo-liberalism” to refer to a political project of national and global scope that is associated with competition, a pro-corporate free-market economy, the rolling back of public responsibility, and the transfer of care and services to private households, along with expanding inequality: economically, culturally, and politically. See Duggan (2003) for further elaborations. [↑](#endnote-ref-4)
5. Agreeing with Duggan (2003: 94) that there is no parallel between hetero- and homonormativity in a moral sense, it does not make sense to rank the “good” homosexual alongside the “good” heterosexual. [↑](#endnote-ref-5)
6. For a discussion of the differences between the USA and Denmark (and the Scandinavian countries in general), see Rydström (2002) and Stormhøj (2009). See also Ryan-Flood (2009) for a much-needed pluralization of the notion of heteronormativity acknowledging national specificities. [↑](#endnote-ref-6)
7. Many heterosexuals also do not conform to these latter norms. [↑](#endnote-ref-7)
8. These examples are found in three parliamentary debates surrounding the passage of the laws on medically assisted reproduction, transnational adoption, and gender-neutral marriage. [↑](#endnote-ref-8)
9. The law on children only includes the children of lesbians approaching private or public clinics to get pregnant. [↑](#endnote-ref-9)
10. The organization also engages in political lobbying, forging alliances with political parties and “openly” gay politicians. [↑](#endnote-ref-10)
11. The dominant understanding of hate crime, construing it within an individualist, psychological and pathological framework, pointing to aversion, or a set of mistaken ideas held by prejudiced individuals, is deeply problematic. It obscures political aspects of sexual oppression, rooted in social institutions. [↑](#endnote-ref-11)
12. Hate crime is associated with Article 81, no.6, of the Criminal Code. It says that there is an aggravating sentencing clause in cases where a crime is motivated by prejudice and hatred based on the victim’s race, ethnicity, faith, sexual orientation or similar. [↑](#endnote-ref-12)
13. This survey cannot tell us whether some of this violence consists of genuine hate crimes, making the findings incomparable with the results of the others studies included here. Yet, the findings do testify that the physical security of homosexuals is more precarious than that enjoyed by heterosexuals. [↑](#endnote-ref-13)
14. The sample is biased, as the majority of respondents are gay men, young and highly educated. Generally, hate crime research finds that gay men are more exposed to violence than lesbians, and that younger people suffer more compared with older ones. [↑](#endnote-ref-14)
15. The opposite is also true: the gradual changing status of marriage is a precondition for including gays.

**References**

Adam, Barry (2003) The defence of marriage act and American exceptionalism, *Journal of the History of Sexuality*, 12(2), pp. 259–376.

Ahmed, Sara (2004) *The Cultural Politics of Emotions* (Edinburgh: Edinburgh UP).

Albæk, Erik (1998) Frisindets grænser [The limits of sexual permissiveness], *Politica*, 30(4), pp. 405–422.

Andersson, Catrine (2011) *Hundra år av tvåsamhet* [One Hundred Years of Coupledom], PhD thesis, Uppsala University.

Bell, David & Binnie, Jon (2000) *The Sexual Citizen* (Cambridge: Polity).

Drud-Jensen, Mads & Knudsen, Sune (2005) *Ondt i røven* [A Pain in the Arse] (København: Høst & Søn).

Duggan, Lisa (2003) *The Twilight of Equality* (Boston: Beacon Press).

Eng, David (2010) *The Feeling of Kinship* (Durham: Duke UP).

Evans, David (1993) *Sexual Citizenship* (London: Routledge).

FRA (European Union Agency for Fundamental Rights) (2009) *Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity in the EU Member States: Part II*. Available at <http://fra.europa.eu> (accessed 3 April 2009).

FRA (European Union Agency for Fundamental Rights) (2013) *LGBT Survey*. Available at: <http://fra.europa.eu/en/publication/2013/eu-lgbt-survey-main-results>. (accessed 2 May 2014).

Fraser, Nancy (1997) *Justus Interruptus* (New York: Routledge).

Fraser, Nancy (2003a) Social justice in the age of identity politics, in: Nancy Fraser & Axel Honneth *Redistribution or Recognition?*, pp. 7–109 (London: Verso).

Fraser, Nancy (2003b) Distorted beyond all recognition, in: Nancy Fraser & Axel Honneth *Redistribution or Recognition?*, pp. 198–236 (London: Verso).

Fraser, Nancy (2005) Reframing justice in a globalizing world, *New Left Review* 36 (Nov–Dec), pp. 1–10.

Gransell, Leyla & Henning Hansen (2009) Equal and unequal? Available at: <http://www.casa-analyse.dk> (accessed 9 August 2009).

Hansen, Lise Lotte (2004) *Ligestillingspolitiske problemer – og mulige løsninger* [Equality policy – problems and possible solutions], PhD thesis, Roskilde University.

Hobson, Barbara (Ed.) (2003) *Recognition Struggles and Social Movements* (Cambridge: Cambridge UP).

Jakobsen, Janet (2005) Sex+Freedom=Regulation Why? *Social Text* 23(3–4), pp. 285–308.

Kaplan, Morris (1997) *Sexual Justice* (New York: Routledge).

LGBT Denmark (2014a) Bidrag til arbejdet i Udvalget om øremærket barsel [Minute to the Committee on compulsory parental leave]. Available at: <http://lgbt.dk/tag/familiepolitik/> (accessed 24 February 2014).

LGBT Denmark (2014b) Høring over forslag til lov om ændring af børneloven og forskellige andre love [Considerations on the amendment to the law on children and other laws]. Available at: <http://lgbt.dk/tag/familiepolitik/> (accessed 24 February 2014).

Marshall, Thomas H. (1959) *Citizenship and Social Class* (Cambridge: Cambridge UP).

Nussbaum, Martha C. (1999) *Sex and Social Justice* (Oxford: Oxford UP).

Nussbaum, Martha C. (2010) *From Disgust to Humanity* (Oxford: Oxford UP).

Pedersen, Bodil (2005) Marginalization and power in living with and researching living with HIV, *Outlines*, 7(1), pp. 70–90.

Petersen, Michael N. (2007) Fra barnets tarv til ligestilling [From the interests of the child to equal rights], *Kvinder, Køn & Forskning*, 16(2), pp. 30–44.

Petersen, Michael N. (2012) At forandre for at bevare – biopolitiske rekonfigurationer af den homoseksuelle [Change to preserve – biopolitical reconfigurations of the homosexual], *Dansk Sociologi*, 23(2), pp. 66–87.

Petersen, Michael N. (2014) Den egnede homo: Homoseksuelles adgang til transnational adoption 1988–2010 [The appropriate homo: Homosexuals’ access to transnational adoption 1988–2010], *Social Kritik*, 25(137), pp. 42–51.

Petersen, Thomas S. (2005) Det sku’ være så godt og så er det faktisk skidt – om diskrimination af homoseksuelle i Danmark [It should be good but it turned out bad – on discrimination against homosexuals in Denmark], in: Anna P. Folker, Kirsten Larsen & Sigurd Lauridsen (Eds) *Bag den politiske retorik* [Behind the political rhetoric], pp. 97–118 (København:Tiderne Skifter).

Phelan, Shane (1995) The space of justice, in: Linda Nicholson & Steven Seidman (Eds) *Social Postmodernism*, pp.332– 356 (Cambridge: Cambridge UP).

Phelan, Shane (2001) *Sexual Strangers* (Philadelphia: Temple UP).

Richardson, Diana (1998) Sexuality and citizenship, *Sociology*, 32(1), pp. 83–100.

Richardson, Diana (2000) Claiming citizenship? *Sexualities*, 3(2), pp. 271–288.

Richardson, Diana (2005) Desiring sameness? *Antipode*, 37(3), pp. 515–535.

Ryan-Flood, Roisin (2009) *Lesbian Motherhood* (New York: Palgrave Macmillan).

Rydström, Jens (2002) Gives for undantagsmänniskor ingen undantagsställing? [Can there be no exceptional status for exceptional people?], Den Jyske Historiker, 31(98–99), pp. 189–206.

Seidman, Steven (2001) From identity to queer politics, *Citizenship Studies*, 5(3), pp. 321–328.

Stormhøj, Christel (2001) Identitets- eller postidentitetspolitik? [Identity or post-identity politics?], *lambda nordica*, 7(4), pp. 6–21.

Stormhøj, Christel (2002) Queering the family, *lambda Nordica*, 9(1–2); pp. 38–56.

Stormhøj, Christel (2006a) Citizenship beyond formal equality, keynote speech, Roskilde University, 21–22 August 2006.

Stormhøj, Christel (2006b) Kampen om familien [Disputes over the family], in: *Poststrukturalismer* [Poststructuralism], pp. 109–146 (Frederiksberg: Samfundslitteratur).

Stormhøj, Chistel (2007) Homoseksuelles medborgerskab i et retfærdighedsperspektiv [Homosexuals’ citizenship from a social justice perspective], *Kvinder, Køn & Forskning*, 16(4), pp. 33–41.

Stormhøj, Christel (2009) Perspectives on the social conditions of people engaged in same-sex relations, *Nora–Nordic Journal of Feminist and Gender Research*, 17(2), pp. 104–119.

Stormhøj, Christel (2013) Queer theories, critiques, and beyond, *Kvinder, Køn & Forskning*, 21(4), pp. 61–72.

Stormhøj, Christel (2014) A just marital law? (forthcoming).

Søland, Birgitte (1998) A queer nation? *Social Politics*, 5(1), pp. 48–69.

The Danish Institute for Human Rights (2011) Hadforbrydelser i Danmark [Hate crimes in Denmark]. Available at: <http://www.menneskeret.dk/> (accessed 10 April 1014).

Voergård-Olesen, Rikke (2011) *Seksualitet og køn i arbejdslivet* [Sexuality and gender in the workplace], Master’s Thesis, Roskilde University.

Walzer, Michael (1993) *Interpretation and Social Criticism* (Harvard, Ma: Harvard UP).

Warner, Michael (1999) *The Trouble with Normal* (Cambridge, Mass.: Harvard UP).

Weeks, Jeffrey (1999) The sexual citizen, in Mike Featherstone (Ed.) *Love and Eroticism* , pp.35-52 (London: Sage).

Young, Iris M. (1990) *Justice and the Politics of Difference* (Princeton: Princeton UP).

Young, Iris M. (1995) Gender as seriality: Thinking about women as a social collective, in: Linda Nicholson & Steven Seidman (Eds) *Social Postmodernism*, pp. 187–215 (Cambridge: Cambridge UP).

Yuval-Davis, Nira (2006a) Belonging and the politics of belonging, *Patterns of Prejudice*, 40(3), pp. 197–214.

Yuval-Davis, Nira (2006b) Intersectionality, citizenship and contemporary politics of belonging, *CRISPP*, 10(4), pp. 561–574. [↑](#endnote-ref-15)