

Old names, new meanings, or When is a Family not a Family?

GABRIELE GRIFFIN, Professor of Gender Studies, University of Hull, UK

email: g.griffin@hull.ac.uk;

from 1/9/06 University of York email: gg512@york.ac.uk

My paper is concerned with the idea of family, with gender, and with the actual and phantasmic relation between citizen and state. By 'phantasmic' I mean the way in which citizens in all their plurality imagine the state and the ways in which the state in turn images citizens - and note that I do not talk of 'its' citizens. But I want to begin by telling you the story around a specific piece of legislation and its legacy in the UK, in order then to broaden out the implications of that narrative to wider concerns around the citizen and the state. In 1988 Margaret Thatcher, the then prime minister of Britain, introduced a piece of legislation that became popularly known as Section 28 or Clause 28 (OHP), and was widely discussed in the media so you may have heard about it. In fact, it was a section retrospectively inserted into clause 28 of the local government act of 1986. The purpose of this piece of legislation was to prevent local authorities from intentionally promoting homosexuality or publishing material with the intention of promoting homosexuality - not so much in a general sense but within educational establishments or schools. There were several factors that influenced the emergence of Section 28 (OHP):

1. One was the advance of biotechnologies that contributed to more and more lesbian and gay couples having children through artificial insemination or other technologically enhanced means.
2. A second was the rise in literature aimed at children coming from divergent family backgrounds that celebrated those backgrounds with a view to providing positive role models for children from, for example, lesbian or gay households, or from single-parent households. You need only think of a film such as *Torch Song Trilogy* (1988) to understand why that cultural production was rising.

JORNADAS INTERNACIONALES DE FAMILIAS LGTB
“Diversidad Familiar en Europa”
Valencia, 16, 22, 23 y 24 de junio de 2006

3. A third factor was the phenomenal rise of HIV/AIDS and its initial association with homosexuality during the late 1980s and early 1990s (Garfield 1994).
4. A fourth factor were ongoing debates about sex education in schools, whether or not and at what age children should have sex education, what they should be told, whether or not sex education made children more likely to engage in sex, and whether or not they should be taught preventive measures not only regarding pregnancy but also in respect of sexually transmitted diseases, including of course HIV/AIDS.

Thatcher and her government, alarmed both by the sense of an increasing liberalization underlying all these issues - after all, promiscuity seemed to have brought on HIV/AIDS (Garfield 1994) - we *are* talking about the late 1980s here - and the rise of HIV/AIDS, introduced Section 28 in order to curb these ‘excesses’. And this is what the section actually said (OHP):

- (1) A local authority shall not (a) intentionally promote homosexuality or publish material with the intention of promoting homosexuality; (b) promote the teaching in any maintained school of the acceptability of homosexuality as *a pretended family relationship*. (2) Nothing in subsection (1) above shall be taken to prohibit the doing of anything for the purpose of treating or preventing the spread of disease. (Hartley-Brewer et al 2000)

I want you to take note of the connection made here between promoting homosexuality, the acceptability or otherwise of homosexuality as a pretended family relationship, and dealing with treating and spreading diseases which makes quite explicit the factors that influenced this legislation, but what interests me most for the purposes of this paper is the way in which it talks of ‘a pretended family relationship’, for that phrase which if you like proved fatal for this piece of legislation in the long run, sets up an engagement between citizen and state about how to understand not only homosexual relations but also family relations. On one level the section offers a definition of both what is and what is not a family, affirming implicitly the heteronormativity of ‘the family’ that is not ‘pretended’ and the notion that homosexuality operates outside that family. The very disavowal

JORNADAS INTERNACIONALES DE FAMILIAS LGTB
“Diversidad Familiar en Europa”
Valencia, 16, 22, 23 y 24 de junio de 2006

of homosexuality, which in narrow conceptual terms in any event lays no claim to the notion of ‘family’ but rather to a specific notion of sexuality, the very disavowal of homosexuality as a ‘pretended family relationship’ already recognizes that which it seeks to disavow because it asserts that there is a family relationship or potential family relationship that needs to be discredited in some way. As Judith Butler puts it in ‘Is Kinship Always Already Heterosexual?’, to which text I shall return later (OHP): “Recognition” becomes an effort to deny what exists and, hence, becomes the instrument for the refusal of recognition. . . . To defend the limits of what is recognizable against that which challenges it is to understand that the norms that govern recognizability have already been challenged.’ (113) And so it proved in this case: Section 28 sparked a lively public debate about discrimination. It never went away but rather remained a public bone of contention. Effectively, the conservative government had inaugurated a medium-term debate about the ‘nature’ of the family and dissonant versions thereof. Its attempt at delegitimizing relationships other than heteronormative ones through Section 28 became the catalyst for a process of legitimation and the beginning of the long march through the institutions towards the goal of legitimating homosexual relationships. A similar march has been under way in Spain where, as Nicolas Perez Canovas (2001) argues, ‘the legality of emotional and sexual relationships between persons of the same sex has made possible their visibility and the public expression of demands to equality of rights with heterosexual relationships.’ (495)

With the installation of the Labour government in Britain in 1997, the process of eliminating Section 28 accelerated, and although it took a further six years for it to happen, it did eventually occur. In 2000, when Labour made a first attempt to repeal Section 28, David Blunkett, the then Home Secretary who ironically - as you may know - was later forced to resign from government amidst a blaze of publicity around his own family affairs (OHP) and in particular paternity suits against a former lover who disavowed that a child she was expecting at the time when they split up was his - David Blunkett, in seeking to repeal Section 28, was forced to

JORNADAS INTERNACIONALES DE FAMILIAS LGTB

“Diversidad Familiar en Europa”

Valencia, 16, 22, 23 y 24 de junio de 2006

pacify both the Tories and the church leaders in the House of Lords by ‘amending the learning and skills bill’, another piece of legislation related to education from the time, ‘to provide legislative guidance for schools on the sanctity of marriage.’ (Hartley-Brewer et al 2000) Here we see the emergence of two simultaneously avowed positions, that of homosexuality no longer figuring as a pretended family relationship in tandem with the reiteration of the significance of heteronormative partnerships. The possibility of plural relationships coexisting, all recognized or at least not disavowed by the state, emerges, a notion not dissimilar to Italy’s notion of ‘pluralismo sociale’, encoded in Art. 2 of the constitution. The notion of ‘the sanctity of marriage’, however, a then still entirely heterosexual arrangement of partnership recognition in the UK, was of course itself already seriously under threat through the divorce rates of 1 in 3 in Britain (www.statistics.gov.uk) which highlighted the provisionality of that sanctity. In March 2003 Section 28 was finally repealed. Only two years later, on 21 December 2005, the civil partnerships act came into force (OHP), giving same-sex couples legal recognition akin to that of marriage, including next-of-kin rights, equitable treatment in matters of inheritance, pension provision, life assurance and maintenance where children are involved (Cascani 2005). In 18 years the British government had moved from the acknowledgment-through-disavowal of new forms of relationships, those of gays and lesbians, as ‘pretended family relationships’ to granting them legal rights akin to those of married heterosexual couples. It had also moved to allowing single people and same-sex couples to adopt children together.

These changes occurred in a context where the meaning of family, associated with notions of consanguinity, increasingly understood not as ‘blood lines’ but as ‘genetic relations’, of mutual obligations of care and support, came under multiple pressures through changing and newly emerging family formations not accounted for in traditional definitions of the family. The generational, hierarchical notion of family, for instance, has increasingly given way to flat, one might say with Deleuze and Guattari (1984), rhizomic structures where serial cohabitation or indeed serial marriages lead to what I would describe as ‘affinity structures’ that exceed the

JORNADAS INTERNACIONALES DE FAMILIAS LGTB
“Diversidad Familiar en Europa”
Valencia, 16, 22, 23 y 24 de junio de 2006

legal frameworks at our disposal and thus create an impasse in relation to that legal framework which seeks to hold accountable individuals for each other in a context of declining welfare provision. Whose responsibility, for example, is it to look after the mother of the second wife of a man who has had three marriages but where the second marriage remained childless? In the autumn of 2005 the BBC showed a documentary entitled ‘One Life: Three Sisters Make One Baby’.ⁱ (OHP) The documentary centred on three sisters, one of whom had become infertile as a consequence of cancer. Desperate to have a baby she agreed with her two other sisters, that one of these sisters would provide an egg which would be fertilized in vitro with the infertile sister’s husband’s sperm, and that the third sister would carry the fertilized egg to term. Under British law the woman who carried the egg to term - even though she had no direct genetic relation to the foetus she was carrying - was deemed to be its ‘natural’ mother and the infertile woman and her husband who was in fact directly genetically related to the child because it has been conceived with his sperm, had to apply to the courts to adopt the child from the woman who had no direct genetic relation to it. This contrasts interestingly with another case, reported in the British press in 2003, in which the wrong sperm had been utilized to fertilize the eggs of a couple seeking IVF treatment. The woman’s eggs, wrongly fertilized in the hospital with sperm from a man who was not her husband, were implanted in her and she successfully gave birth to twins. The mix-up regarding the sperm came to light when the children were born and turned out to be black - the couple to whom they were born was white. That white couple wanted to keep the black babies but the black couple in question who were also undergoing IVF treatment went to the courts to seek the ‘return’ of ‘their’ children. The judge in this case decided that the black man was the twins’ biological father, thus giving him certain rights in relation to the children, and the white woman was the biological as well as legal mother. Her husband, the white man, now stood without a recognized relation to the children and needed to apply to adopt them to become their legal father. The judge in this case in a sense utilized what Judith Butler terms ‘the genetic fiction’ (103) to re-create an order

JORNADAS INTERNACIONALES DE FAMILIAS LGTB
“Diversidad Familiar en Europa”
Valencia, 16, 22, 23 y 24 de junio de 2006

of biological and legal paternity with significant racialized dimensions. For, one has to ask, would the mix-up have come to light if there had been no racial dimension?

Thus, what the issue of the question of care - whose responsibility it is to care for whom - on the one hand, and the example of the three sisters who made the baby - which they did successfully - as well as of the mix-up of the fertilized eggs on the other shows, is that the notion of ‘family’ is in flux, not only because the state is increasingly abandoning its care responsibilities, but also because advances in biotechnology and certain forms of globalization have made possible new forms of kinship structures (Franklin and McKinnon 2002), both biological and non-biological, that, to quote Judith Butler, ‘exceed the reach of current juridical conceptions’ (*Undoing Gender* 102), or at least test them severely. It is interesting to note in this context that regarding the situation of biological versus other forms of parenthood the Spanish constitution, unlike other constitutions that define marriage and family has, as Francesc Jaurena i Salas (2001) puts it ‘systematically disconnected the concept of family from that of marriage. Both institutions are regulated by different rules . . . [and] constitutionally guaranteed but marriage is not a requirement for the formation of a family.’ (515) The upshot of this is that, and I quote, ‘The concept of family has not been constitutionally determined, and can therefore be judicially extended to non-traditional families.’ (515) Kinship, understood as blood or genetic relation, therefore does not matter in this constitutional view of the family.

I want now to turn to Butler’s essay ‘Is Kinship Always Already Heterosexual?’ to engage with the ways in which the state figures in this text in order to raise some questions about how we conceive of the state in relation to the regulation of family, and what counts and does not count as family. Butler’s concern is with what she describes as a radically democratic, sexually progressive politics and she asks to what extent the appeal to the state for recognition, in particular in relation to civil partnerships for lesbians and gays, constitutes an evacuation of a radically democratic, sexually progressive politics in favour of a resubjugation of the

JORNADAS INTERNACIONALES DE FAMILIAS LGTB
“Diversidad Familiar en Europa”
Valencia, 16, 22, 23 y 24 de junio de 2006

dissonant subject to the legal and discursive frameworks set by the heteronormative dominant. In other words, if we seek to establish marriage-like relationships for gays and lesbians that are recognized and legitimated by the state (OHP), do we not mainstream ourselves, depoliticize ourselves, and submit to the law of heteronormativity, asking for the extension of the rights of (social) contract (Pateman 1988) whilst not disrupting patrilineal assumptions of kinship? As she puts it: ‘Is this a disavowal that the queer community is willing to make?’ (Butler 2004: 115) I was interested to note that i Salas, discussing the issue of the Stable Unions Law in Catalonia, saw the need of homosexual couples to declare their stable union which is a precondition to being covered by that law very positively since, as he put it, ‘it guarantees the homosexual couple’s willingness to be subject to the Law.’ (508)

That willingness precisely is what Butler takes issue with. Butler’s text argues for the need for a critical perspective on the very norms which appeals for inclusion seek to insert their subjects into, for the need to ask questions such as why it is that marriage or civil partnerships should form the basis for other rights such as access to health care, pensions, and similar benefits. This seems to me to be an entirely reasonable argument - criticality is critical for a radical politics. But I think it is also one step on from the question of how the state figures in certain forms of legitimation. It is clear that the state, any state, adopts a line, legally encoded, in relation to the notion of ‘family’ and, it is also clear that people, gays, lesbians, heterosexuals, in turn adopt a line in relation to the state’s position *vis-à-vis* the ‘family’. Thus as the state regulates access to reproductive technologies, partnership agreements, adoption, sexual relations, care responsibilities, etc. so individuals position themselves in relation to that regulation. And here we come across the first issue. In Butler’s text the state, despite her own protestations to the contrary, figures ultimately as ‘the state’, a singular, monolithic, all-pervasive entity. This, from my perspective, is a very American view of the world - something Butler might well hate to hear me sayⁱⁱ. Butler, for example, makes the very interesting point that ‘the state is not a simple unity and its parts and operations

JORNADAS INTERNACIONALES DE FAMILIAS LGTB
“Diversidad Familiar en Europa”
Valencia, 16, 22, 23 y 24 de junio de 2006

are not always coordinated with one another.’ (116) In Britain we know this only too well from, for example, the differential provision of health care in different parts of the country which means that you may be able - as was recently widely discussed in the media - to get a particular drug such as Herceptin which has major impacts on breast cancer in one part of the country on the National Health Service but not in another (Triggle 2005). And yet we are talking of a *National* Health Service, not a regional one. Similarly, in the United States, as we all know, there are states that have the death penalty and others that do not. Some states allow civil partnerships for lesbians and gays, others do not (Wintemute and Andenaes 2001). In Italy and indeed in Spain there is the issue of whether municipalities or regional governments can determine the civil status of their citizens as some have done, in contradistinction to the state, by using the ‘regolamento anagrafico’ to allow same-sex partners to register their civil unions (Scappucchi 2001) in Italy and the laws regulating stable unions in Spain. It is indeed the case that ‘the state is not a simple unity and its parts and operations are not always coordinated with one another.’ (116) But the conception of the state proposed here is one of a single state whose internal workings are not synchronized. This leads Butler to suggest that ‘there are middle regions, hybrid regions of legitimacy and illegitimacy that have no clear names, and where nomination itself falls into a crisis produced by the variable, sometimes violent boundaries of legitimating practices that come into uneasy and sometimes conflicting contact with one another.’ (108) To some extent the stable unions laws in certain regions of Spain may fall within these regions. Butler suggests that ‘These are not precisely places where one can choose to hang out, subject positions one might opt to occupy. These are nonplaces in which one finds oneself in spite of oneself; indeed, these are nonplaces where recognition, including self-recognition, proves precarious if not elusive, in spite of one’s best efforts to be a subject in some recognizable sense.’ (108) The impression Butler gives is of a subject agentically struggling to assert herself in a place or position into which she has been put - an act of objectification rather than volition. This is a situation no doubt experienced by many who are frustrated in their attempts to gain recognition from a specific state.

JORNADAS INTERNACIONALES DE FAMILIAS LGTB
“Diversidad Familiar en Europa”
Valencia, 16, 22, 23 y 24 de junio de 2006

Nonetheless, I want to test Butler’s suppositions through the ways in which individuals and communities operate in relation to state-imposed frameworks of recognition and legitimacy to suggest, first of all, that one effect of globalization has been that people, at least people in certain regions of the world, no longer relate to a single state alone in relation to which they are positioned, recognized or unrecognized. Rather, and here I shall borrow one of the terms popularized by Rosi Braidotti (1994), people have become nomadic, mobile in their relation to the state which is, to borrow another phrase, this time from Luce Irigaray (1985), not just one, but the many, the operational grounds of possibilities to actualize one’s desires. This is a very important point because it assumes, *pace* Butler, agency and choice, even if not under optimal conditions. If you cannot find the economic basis you seek in one country, you go to another. This is a world-wide phenomenon. There are many other examples of such movements in pursuit of the actualization of one’s desire. For instance, before transsexual surgery was available in the UK and the USA, men could and some indeed did go to Morocco to have transsexual surgery (Prosser 1999). Postmenopausal women who do not qualify for fertility treatment in the UK go to Italy to have it. In Italy egg donation is on the fringes of legality but you can go to Moscow for egg donation. Women who cannot have abortions in Ireland routinely travel to the UK for such purposes. Before civil partnerships were legal in the UK, lesbian and gay couples from Britain would go to the Netherlands or to Canada, for example, to seek such partnership arrangements.ⁱⁱⁱ In pursuit of our desire we are, in fact, no longer constrained by ‘the state’ because for every state that does not recognize a desire in the area of reproduction and partnership arrangements, what we might term ‘family relations’, there is another state that does, and to which we can have recourse. Many desires that have remained unassuaged in the national countries that make up the European Union, have been instantiated through the European courts (see, for example, Windemute and Andenaes 2001). We are no longer in the position of Kafka’s K, standing before ‘the law’ whose overweening power defeats our comprehension; instead, we have, in a sense, and at least in relation to our

JORNADAS INTERNACIONALES DE FAMILIAS LGTB
“Diversidad Familiar en Europa”
Valencia, 16, 22, 23 y 24 de junio de 2006

desires, become consumers of the law, and not just of one law and one state, but of a series of inter-relating laws and states. What we are in that sense confronted with is not so much the power of the state to recognize and legitimate our desires but what in German one might describe as ‘*die Ohnmacht des Staates*’, the without-power or powerlessness of the state to fully subjugate, contain and regulate the desires of its citizens.

Such an *Ohnmacht* is particularly evident in states where legitimation operates on a range of not only different but competing levels. Take the case of a country such as Nigeria where you have three legal frameworks in operation that are in some respects in direct conflict with each other: constitutional law, sharia, and tribal custom and practice. Where constitutional law, the only codified form of law in Nigeria, may proclaim equality for all, both in the name of sharia and in the name of tribal laws and customs significant inequalities between women and men are routinely condoned and practised. Lack of codification here heightens the impact of the localness of the interpretation of the laws of sharia and of custom and practice but we should not blind ourselves to the fact that although we are talking about a state at a particular stage of development in this instance, similar contradictory mechanisms are at play in first-world countries. The routine disenfranchisement of people guaranteed equality before the law has been a very long-term complaint of feminist movements right across the first world, for example. On much more mundane levels, routine infringements of speed limits on the roads, copyright laws, tax requirements etc. form part of the everyday across the world which reveal the state as regulatory force as mobile, precarious and provisional, as in constant negotiation with citizens, and note that I do not refer here to ‘its’ citizens, regarding the issue of legitimation and recognition.

Nowhere is this more evident than in the context of the new technologies. In the age of the techno-state (Barry 2001), the state’s *Ohnmacht* becomes only too apparent both at the global level in, for example, its inability or possibly unwillingness to contain for instance porn sites proliferating on the internet, and on the other, at local or national level, in the state’s inability to control its own

JORNADAS INTERNACIONALES DE FAMILIAS LGTB
“Diversidad Familiar en Europa”
Valencia, 16, 22, 23 y 24 de junio de 2006

national technologies. One example of this issue in Britain suffice to make the point: the Child Support Agency, a body designed to make absent parents, in fact absent fathers, responsible for the maintenance of their children by collecting, on behalf of the women and children in question as much as on behalf of the state, money from those fathers. In 2003, in tandem with the Child Support Reform, the British government introduced a computerized system for dealing with child support claims. To this day, the relevant technology, databases and software, have not operated effectively so that women and children but also the state incur continuing significant financial deficits, and on 2 February 2006, three years after the computerized system was put into place, the Secretary of State John Hutton was forced to announce an *Operational Improvement Plan*, a strategy to make the now no longer new system work (www.csa.gov.uk). Here we witness the fateful enmeshing of bureaucracy and technology in which bureaucracy is ultimately defeated by technology, and hackers can disrupt entire military installations or banking systems at a whim.

Butler is quite right in my view to discuss our appeal to the state for the legitimation of our desires as an appeal to the fantasy of a state. This fantasy is of the state as having the power to recognize and legitimate us, to create belonging through that recognition. It is a fantasy that assumes, as is the case in the films *The Truman Show* and Wim Wenders' wonderful *The End of Violence* that there is someone sitting in a control room behind a large desk watching the cctv's that surveillance our every move (OHP), ready to rescue us as well as to chastise us if we become either the subjects or objects of violence and violation. The reality, however, as endlessly demonstrated in the media in the context of crime is that there is nobody watching; the control room has been vacated, and we appeal to a void that we imbue with our fantasy of authority in order to retain a sense of security that has little external correlate. Here we arrive at the other side of the coin of our relation with the state as authority, as family, as father or indeed mother figure. For it would be untrue to say that the state has simply become a vacant space of fantasmic projection. Instead, what we experience is possibilities

JORNADAS INTERNACIONALES DE FAMILIAS LGTB
“Diversidad Familiar en Europa”
Valencia, 16, 22, 23 y 24 de junio de 2006

of legitimation and recognition that sometimes, and in contingent and arbitrary fashion, occur or do not occur. Let me give you one concrete example: after four years of driving regularly on the same stretch of road to the University in Hull where I work - a stretch of road that has a speed camera which, however, was as far as I could see never in operation - and here you can see an instance of the citizen's recognition of state absence - I suddenly was caught three times in succession within a matter of days, driving just a little above the speed limit on that same stretch of road. The previous four years had habituated me into an assumption that nothing would ever happen on that stretch of road but then suddenly I got caught, had to pay fines, attend a speed seminar, and acquired points on my driving license - the first time in decades of driving. I experienced this intervention, the delegitimation of a behaviour to which I had become habituated, as entirely arbitrary, a matter of chance, not of design. The same, I would argue, is true of other kinds of state intervention. For the state does not, as becomes - sometimes painfully - obvious in the age of the techno-state, operate as an all-powerful, rational, constant force with the law acting as the guarantor of equitability in its treatment of citizens; rather, its operations are haphazard and random, driven by the changing agendas of its political parties as much as by external changes to which every state itself is also subjugated. States operate neither in accordance with a notion of sovereignty nor of rationality, nor of consistency, but instead seek to actualize diverse and competing agendas through conflicting, intermittent practices in the everyday. That is what enables them to view one woman who has carried a fertilized egg to term to which she has no direct genetic relation as the resultant child's 'mother' whilst declaring another woman who has also carried a fertilized egg to which she has no genetic relation to term not the mother of the resultant child. It also enables changes and revisions to the law, the normalization of what is outside the norm at a given point in time. States, in fact, have a very imperfect grasp on that which they seek to regulate - hence same-sex partnerships even without state sanction are possible - and regulation occurs frequently as a *post hoc* event in response to changing processes.

JORNADAS INTERNACIONALES DE FAMILIAS LGTB
“Diversidad Familiar en Europa”
Valencia, 16, 22, 23 y 24 de junio de 2006

Given the state's mobility and volatility in relation to its own practices which are not susceptible to the rationality in the name of which we appeal to states to recognize and legitimate us, we have to ask ourselves what it is that maintains citizens' desire to appeal to the state. Here I would like to invoke the concept of intermittent reinforcement which I take from psychology (Craik 1949; Jenkins and Rigby 1950; Ferster and Skinner 1957; Mackintosh 1983; Nevin and Grace 2000) and with which I am sure you are all familiar. It is a concept that explains why erratic behaviour by those in authority creates a hard-to-eradicate subjugation in those who are the objects of that erratic behaviour. The answer is that it is precisely the unpredictability of erratic behaviour that keeps its objects subjugated. It is one important aspect of the logic that keeps women in violent relationships where men will abuse them one minute and tell them they love them and are sorry for their behaviour the next. Since the violence does not usually follow a systematic pattern, although it may be associated with other behaviours such as alcohol and drug abuse, the absence of a systematic pattern in relation to which one can adopt an either/or attitude creates a space of maybe/maybe not, an *entre-deux*, to use a phrase of Helene Cixous' (1997), in which the unpredictability of the occurrence of both violence and non-violence keeps the abused person in the sway of the illusion that the abuse might not occur again. Analogously, we all have sufficient experiences of successful appeals to the state to recognize and legitimate us to continue hoping that this might happen again, even as we collect penalties for behaviour that on other occasions we have got away with. And having been successful in achieving such legitimation on one occasion makes us that much more resilient in trying again.

So, when is a family not a family? Well, in terms of my arguments in this paper there is no absolute context which determines the meaning of the word 'family'. Instead 'family' involves an act of negotiation, and not just one, possibly in relation to one state but often in relation to several as is evident in the case of economic migrants or asylum seekers who wish to bring their families into their adopted countries only to find that what counts as family is challenged by those

who represent the state (Solomos 1993). This is the case in Spain, too, where ‘family’ is not defined by the Constitution but by the legislature which can take different lines depending on the region of the country. The state itself, whilst acting as arbiter in relation to decisions such as when is a family not a family, is in effect no more than a negotiator of meaning that, in turn, remains provisional and the object of changing regulations. To appeal to the state for legitimation is therefore a precarious business that can only ever result in temporary recognition. In terms of Butler’s concern with a radically democratic, sexually progressive politics I would therefore argue that to seek that recognition is not to evacuate such a politics but to engage in negotiations that remain the objects of the pressure of change - current debates about changing the laws governing abortion in some European countries and in the United States are but one example of this - and that figure citizens at best as provisionally coherent.

References

- Barry, Andrew (2001) *Political Machines: Governing a Technological Society*. London: Continuum Press.
- Braidotti, Rosi (1994) *Nomadic Subjects*. New York: Columbia UP.
- Butler, Judith (2004) *Undoing Gender*. London: Routledge.
- Cixous, Helene (1997) *Rootprints: Memory and Lifewriting*. 1994. London: Routledge.
- Craik, K. (1948) ‘Theory of the Human Operator in Control Systems’, *British Journal of Psychology* 38: 56-61, 142-8.
- Canovas, Nicolas Perez (2001) ‘Spain: The Heterosexual State Refuses to Disappear’ in Windemute, Robert and Mads Andenaes, eds., *Legal Recognition of Same-Sex Partnerships: A Study of National, European and International Law*. Oxford: Hart Publishing.

JORNADAS INTERNACIONALES DE FAMILIAS LGTB
“Diversidad Familiar en Europa”
Valencia, 16, 22, 23 y 24 de junio de 2006

- Cascani, Dominic (2005) ‘Q&A: Civil Partnership’, *BBC News*, 5/12/2005, accessed http://newsvote.bbc.co.uk/mpapps/pgetools/print/new.bbc.co.uk/1/hi/uk_politics/44, 20/03/2006.
- Scappucchi, Gioia (2001) ‘Italy Walking a Tightrope Between Stockholm and the Vatican: Will Legal Recognition of Same-Sex Partnerships Ever Occur?’ in Windemute, Robert and Mads Andenaes, eds., *Legal Recognition of Same-Sex Partnerships: A Study of National, European and International Law*. Oxford: Hart Publishing.
- Deleuze, Gilles and Felix Guattari (1984) *Anti-Oedipus: Capitalism and Schizophrenia*. London: Athlone Press.
- The End of Violence* (1997) Dir. Wim Wenders. Metro Goldwyn Mayer Inc.
- Garfield, Simon (1994) *The End of Innocence: Britain in the Time of AIDS*. London: Faber and Faber.
- Ferster, C. B. and B.F. Skinner (1957) *Schedules of Reinforcement*. New York: Appleton-Century-Crofts.
- Franklin, Sarah and Susan McKinnon, eds. (2002) *Relative Values: Reconfiguring Kinship Studies*. Durham: Duke University Press.
- Hartley-Brewer, Julia, Barkham, Patrick, and Ros Taylor (2000) ‘Section 28’, *The Guardian*, 25 July 2000, at www.guardian.co.uk/theissues/article/0,,184654,00.html, accessed 17/3/2006.
- House of Commons Committee of Public Accounts (2006) *Returning Failed Asylum Applicants*. 34th Report of the Session 2005-6. HC 620. London: The Stationary Office Ltd.
- Irigaray, Luce (1985) *This Sex Which is Not One*. 1977. Ithaca: Cornell UP.
- Jenkins, W.O. and M.K. Rigby (1950) ‘Partial (periodic) versus continuous reinforcement in resistance to extinction’, *Journal of Comparative Physiological Psychology* 43: 30-40.
- Mackintosh, N.J. (1983) *Conditioning and Associative Learning*. Oxford: Oxford University Press.
- Nevin, J.A. and R. C. Grace (2000) ‘Behavioral Momentum and the Law of Effect’, *Behavioural and Brain Sciences* 23: 73-130.

JORNADAS INTERNACIONALES DE FAMILIAS LGTB
“Diversidad Familiar en Europa”
Valencia, 16, 22, 23 y 24 de junio de 2006

- Pateman, Carole (1988) *The Sexual Contract*. Cambridge: Polity Press.
- Prosser, Jay (1999) ‘Exceptional Locations: Transsexual Travelogues’, in Kate More and Stephen Whittle, eds. *Reclaiming Genders*. London: Cassell.
- Salas, Francesc Jaurena I (2001) ‘The Law on Stable Unions of Couples in the Catalonia Autonomous Community of Spain’, in Windemute, Robert and Mads Andenaes, eds., *Legal Recognition of Same-Sex Partnerships: A Study of National, European and International Law*. Oxford: Hart Publishing.
- Solomos, John (1993) *Race and Racism in Britain*. 2nd ed. Basingstoke: Macmillan.
- Torch Song Trilogy* (1988) Dir. Paul Bogart. New Line Cinema.
- Triggle, Nick (2005) ‘Hewit “has left NHS Toothless”’, *BBC News* 11/10/2005, at <http://news.bbc.co.uk/go/pr/fr/-/1/hi/health/4422662.stm>, accessed 20/03/2006.
- The Truman Show* (1988). Dir. Peter Weir. Paramount Pictures.
- Windemute, Robert and Mads Andenaes, eds. (2001) *Legal Recognition of Same-Sex Partnerships: A Study of National, European and International Law*. Oxford: Hart Publishing.

ⁱ *One Life: Three Sisters Make One Baby*, BBC1, 31 October 2005, 9.00pm-10.00pm. See also <http://news.bbc.co.uk/go/pr/fr/-/1/hi/health/4370804.stm>.

ⁱⁱ In her essay ‘The End of Sexual Difference?’ which is concerned with an engagement with the work of Rosi Braidotti, Butler (2004) has a section entitled ‘Anglo-European Divide’ (201-3) in which she in a sense seeks both to establish her European credentials and to deflect from what she describes as the ‘Anglo-European divide’ to ‘the feminisms that are left out of that picture’ (202).

ⁱⁱⁱ See, for example, Celia Kitzinger’s website at www.york.ac.uk where she describes her attempts to get her relationship legitimated in Canada recognized in Britain.