

Who's afraid of gay parents?

Sylvie Duverger

Symbolic order (dated): see **Sexual difference** (will never go out of fashion). ...

Sexual difference, cultural, natural, in a word anthropological. Republican value. Universal. Intellectual buffer, impossible to go beyond, like day and night. Not to be gone beyond in any event, or at least not in French culture.¹

Legislation adopted in France in 1999, after some ten years of controversy, ensures that all couples, irrespective of the sex of the partners, can sign a *Pacte civil de solidarité*. A PACS is, however, far from being an equivalent to the civil partnerships introduced in the United Kingdom in 2005. Despite amendments in 2006, the PACS does not allow same-sex couples to acquire the rights enjoyed by married couples. More specifically, it does not allow them to adopt, either as a couple or as individuals (where one partner adopts the child and the other acquires the status of co-parent). In the United Kingdom, that right was extended to same-sex couples by the provisions of the Adoption and Children Act of 2002, and same-sex couples have been granted the same right in several other Western countries. Since the end of the 1990s, a growing number of same-sex couples in France have been demanding the right to marry and to obtain parental status. Shortly before he was elected president of the French Republic, Nicolas Sarkozy undertook to introduce a civil union that would grant same-sex couples the right to inherit and all the tax and social rights that had hitherto been the prerogative of married couples, but *not* the rights to same-sex filiation and adoption. In respect to the latter, he proposed simply that a mandate to educate or an agreement to share parental authority should be granted to a 'trusted third party', 'usually the step-parent':

There is a family model, and it is organized around a father and a mother. It is a social model derived from a biological model. A child is conceived by a man and a woman, and that is how and why the family was created. Knowing that there are same-sex couples who are bringing up children in the real world is one thing ... Passing a law which states that a family can consist of a man and a woman, two men or two women, and that this makes no difference, is quite another ... One can certainly enhance the status of step-parents, by saying, among other things, that, in the event of the death of the biological parent, the step-parent has specific rights and duties with respect to the child. ... We do not need the fiction of adoption to do that. (*Têtu*, April 2007)

These issues are due to be debated again during the parliamentary session that has just opened in France.

A week before the men and women taking part in the Marche des fiertés (formerly Gay Pride) loudly and publicly demanded the right to marry and to adopt, the philosopher Sylviane Agacinski, an apologist for sexual difference and parity in political and cultural terms if ever there was one, published an article in *Le Monde* in which she summarized her arguments against the extension of marriage and adoption rights

to same-sex couples.² Whilst the ‘new French feminism’, or at least the feminism promoted by Agacinski, ‘affirm[s] sexual duality as the only *universal difference* within humanity’,

‘homosexual marriage’ would symbolically make individuals of the same sex parental couples, and that would call into question the bilateral filiation of their children (a maternal side and a paternal side). ... A homosexual parental couple would abolish the man/woman distinction in favour of a distinction between homosexuals and heterosexuals. (TPF 18)

If same-sex couples were no longer prohibited from marrying and if, therefore, they could acquire the status of a parental couple, it would destroy the ‘model that articulates generation, sexual difference and generational difference’. French family law, which restricts marriage, filiation and adoption to ‘mixed couples’, is supposedly an analogical expression of the zoological order: or the fact that we are born of one male and one female, that we can only be one sex, and that one therefore cannot be both mother and father, only one or the other.

According to Agacinski, preventing same-sex couples from marrying is not a way of guaranteeing a heterosexual hegemony. The institution of marriage does not legalize heterosexuality, it regulates filiation. The point of the prohibition is, rather, to guarantee that every man and woman is inscribed ‘within the order of a humanity that is itself sexed and to ensure that he/she accepts that he/she will never be ‘the whole human’ (PS 33). If same-sex couples were able to marry, the inevitable outcome would be the legitimation of gay parenting, and that would endanger ‘the human, social and symbolic order’. Nothing less.

One cannot but be surprised to find that Sylviane Agacinski’s arguments support Nicolas Sarkozy’s point of view. Perhaps it is less surprising when it is demonstrated that they derive from a *differentialist* and *naturalist* feminism and that, paradoxically but inevitably, they converge with the arguments of those Lacanians who support a return to a symbolic patriarchal order that supposedly protects us from, if not psychotic indifferentiation, at least ‘the absolute freedom which simply means that everything is equivalent to everything else’, to cite Michel Schneider, one of the staunchest defenders of the ‘dissymmetry of paternal and maternal functions’.³

The institutionalization of heterosexuality denied

Let us be clear. Agacinski is not opposed to gay men and women bringing up children, but to the idea that a child can have two parents of the same sex:

It is not desirable to legally attribute to a child a *parental couple* of the same sex. But I will not confuse this principle with the very different idea that homosexuals ought not to be able to have or adopt children ... One can very easily be parent *and* homosexual ... but it is not *as homosexual* nor, moreover, *as heterosexual* that one is a father or a mother; it is first of all as man or woman, and thus with a second parent of another sex or alone. (PS xiii, translation altered)

She accepts that, within a same-sex couple, the biological parent’s partner can perfectly well perform ‘the function of a step-father or -mother, with all the concomitant rights and duties’ with respect to the child for whom he/she cares, but not that the couple concerned can be recognized *as a parental couple*. Same-sex couples should not be granted all the rights conferred by marriage, because nature itself does not allow two individuals of the same sex to have children together: ‘Humanity is *naturally* heterosexual ... humans, universally sexed, are *generally* animated by desire for the other and depend on this other to procreate’ (PS 83). Refusing same-sex couples the right to marry and to be joint parents does not, however, constitute discrimination against them on the basis of their sexuality because



Carline Tedesco, *Secret*, 2002

[t]he sexuality of individuals has never been the basis of marriage or parenthood. Their basis is primarily sex, or in other words the anthropological distinction between men and women Parenthood has nothing to do with sexuality, as we can see from the case of adoption ... The rules of filiation are based upon the bilaterality of the male/female couple ... It is never love or desire as such that defines the binary nature of the genitor couple. (EDSS 129)

It therefore cannot be argued that ‘the very equality of individuals should preclude all discrimination on the basis of sexual orientation’,⁴ because it is not in so far as they are heterosexual that men and women can get married. They can do so simply because they form a couple made in the image of the genitor couple, the *heterosexual* or *mixed* couple (EDSS 129). In other words, they can marry because it is ‘likely’ that sexual relations between them will be fertile. Agacinski thus urges us to be more perspicacious:

It seems to go unnoticed that the demand for ‘gay marriage’ or ‘gay parenting’ can only be formulated on the basis of the construct or fiction of subjects-in-law that have never existed: ‘heterosexuals’.

To which one would have to reply that the anointing of mixed couples as the paradigm does not, to say the least, avoid the heterosexism famously denounced by Judith Butler. Of course, Agacinski bluntly rejects Butler’s theses. But if heterosexism’s primary vocation is to plead the case for biological reproduction, arguing that there is no imposition of the heterosexual norms in the privileging of the *genitor*, rather than the heterosexual, couple is surely a surrender to a ‘heterosexual phallogentrism’ (Derrida) designed to promote a fertile sexuality that obeys the law of the father or conforms to the ‘state’s desire’ (Butler). Should any doubt about this remain, it is removed by the staggering fact that Agacinski has no qualms about laying claim to the heritage of Roman law, despite its undeniable patriarchalism:

In a civilization such as ours, which is the heir to Roman law, marriage has always meant the legal union of one man and one woman, whom he makes the mother of his children: the French word *matrimonial* retains a trace of the Latin *matrimonium* (marriage), which is designed to make a woman a mother (*mater*).

Thus, when gay parenting is at issue, Agacinski appears to forget her own analyses of patriarchalism, analyses based on the work of the anthropologist Françoise Héritier:

The ancestral incertitude that strikes at the parental origin of a child, whereas the maternal origin is clear, constitutes an alienation of masculine fertility. This cannot help but shed light on why men wish to appropriate their offspring by appropriating one or several women. It also explains why they have tried to bestow upon themselves the true power to engender and have, almost everywhere, theorized about the pre-eminent role, even exclusive role, of the father in the transmission of life. (PS xx)

‘Fortunately’, as Agacinski reminds us, ‘we have come a long way since the time of Roman law and the sexual inequality it instituted.’ But then, rather than affirming that ‘marriage is still based upon the union of the two sexes because they play complementary roles in generation’, should we not conclude that it is time to rid ourselves completely of that heritage? Agacinski refuses that conclusion out of fear of the new civilization being outlined by new forms of parenthood. Her position is therefore potentially even more prohibitive than that of the state, which not only accepts the possibility of marriage for mixed couples who are no longer of an age to procreate, who cannot have children or who use contraception.

To assert, as Agacinski does, that heterosexuals are not subjects in law is to deny that homosexuals have been and are the victims of discrimination because they do not conform to the heterosexual norm; at the same time, she argues that the civil law should continue to enforce that norm. To be perfectly consistent, if one wants to deny that family law discriminates between heterosexual and homosexual couples, one would have to agree that homosexual marriage should be legalized on a basis equal to that of its heterosexual counterpart.

Rather than accepting – as many studies have proved – that gay families are neither more nor less pathological than any others, Agacinski prefers to wonder whether ‘the establishment of a filiation relating to individuals of the same sex might not play a part in ... complicating the child’s awareness of sexual alterity and his or her access to his or her own identity’ (EDSS 132). Drawing on Freud – though without actually referring to any specific texts – she takes the view that, ‘through its contradictions and from its outset’, the structure of the parental couple, ‘mixed in both the real and the symbolic’, ‘programmes the need for a child to choose an identity for himself and to choose objects, which are themselves sexed’ (PS 88). But if, as she also argues, ‘from a psychoanalytic point of view, the homosexual choice ... does not call into question either sexual difference or the ultimate anchoring of this difference in generation’ (PS 89), her fears for sexed subjectivation are groundless.

Agacinski’s contradictions are in fact new variations on Lacan’s ambiguous pronouncements on the relationship between sex difference and sexual positions, between the ‘real lack’ (the fact of being ‘subject to the cycle of sexed reproduction’) and lack-in-being (‘the fact that the subject depends on the signifier and that the signifier is first of all in the field of the Other’).⁵ The argument that gay parenting obliterates the difference between the sexes, making it impossible for the child to be inscribed in ‘the symbolic, social and human order’ also echoes the warnings that certain Lacanians have felt obliged to address to French public opinion about the future development of the children of parents of the same sex.

Lacanianism, patriarchy, naturalism

Children’s rights: speak on their behalf. As all the experts know, children need a father and a mother (gay parenting and adoption by single parents are delicate issues).⁶

If, according to Agacinski, individuals of the same sex cannot be legally recognized as co-parents, this is because ‘the human is necessarily masculine *or* feminine ... Neither man nor woman constitutes the “whole human”’ (PS 35). But we are obliged, further, to accept that our origins lie in a conflictual ‘sexual bilaterality (a father and a mother)’

(EDSS 131) and that there is necessarily some difference or misunderstanding between individuals who are different: 'Men and women depend on each other for the satisfaction of their desires as well as for procreation ... the game does not derive solely from a natural difference, but from conflicts of interest and mutual dependence' (PS 23–4); 'Without this ordinary discord, human relations would be deprived of their first enigma, their first doubt about the identity of the other and the problem forever posed by the coexistence with him or her. Uncertainty and misunderstanding are the motivating forces in relations between the sexes' (PS 23).

At the same time, Agacinski argues, we should recognize that we are of one – and only one – sex and can therefore fulfil only one of two interdependent reproductive functions. If we do not, our very psychosexual identity is at stake and we fall victim to hubris in denying our finitude. The mixed-sex couple bears exemplary witness to the fact that, as men and women, we are dependent on one another with respect to an undeniable difference whose enigma supposedly 'puts the paradigm of alterity at the heart of the human condition'.⁷ It is as though families that conform to the heterosexual matrix were the necessary – and sufficient – condition for the recognition of human finitude, and for our awareness of the fact that our individuality, at once distinct, other and separate, whilst also being bound up with and dependent upon others, is inscribed in the sequence of generations: that it is, in a word, human. It is also as though the only possibility offered by same-sex couples were that of non-differentiation; as though they denied the alleged difference between the sexes, and could never recognize their finitude–castration; as though neither party in a same-sex couple could fulfil the function which supposedly devolves upon the father and plays a necessary role in the child's becoming-subject, their entry into the order of signification and socialization. All this, despite the obvious fact that today the roles of father and mother are constantly being exchanged within mixed couples.

Such considerations, among others, take us to the 'heart of all homophobic phantasies ... in the incestuous world of the organic sexual magma that homosexuals supposedly never escape'.⁸ It might be objected that Agacinski recognizes that 'far from being ignorant of the difference between the sexes, homosexuality refers to the categories of same and other in precisely the same way as heterosexuality' and reminds us that 'the other is desirable only if he, like me, is sexed, is always *an other's other* and therefore *an other to himself*' (EDSS 128). But she does not, to say the least, draw the obvious conclusion from all this.

For Agacinski's position is naturalist. It suggests that the two reproductive sex functions are so different that alterity itself ultimately boils down to the difference between the sexes:

The mixity of humanity, relative to the division of sex roles in generation, is not only a given of physical anthropology but, further, from our point of view, it also structures cultural duality and value by generating singularity and diversity. In effect, it is through the union of the two parents' genes that each individual draws his singularity. (PS 109)

Here Agacinski fails to take into account – although she recognizes it elsewhere – the fluctuations in maternal and paternal roles, and in gender. The occasional assertion that gender is a construct or, for example, that 'one must not confuse reference to the natural reality of the sexes with submission to a natural order' (PS 21) is not enough to escape naturalism. We also have to ask ourselves to what extent our conception of 'sex' might be a construct, and query the value of the hypothesis that the social or symbolic order is based upon the biological order.

This naturalism explains why her comments on gay parenting are consistent with those of the Lacanians whose phallogocentrism is not in doubt. As Michel Schneider



argues, the move to recognize gay parents is an ‘assault on the symbolic order’ (*Le Figaro*, 18 May 2002), just like political parity, the feminization of job descriptions and titles (CS 88–94), allowing children to take their mother’s family name (CS 80–87) and, of course, the failure to respect roles that are supposedly prescribed *sub specie aeternitatis*: ‘It is because fathers are no longer fathers and mothers are no longer mothers that sons find it so hard to be men and that daughters find it so hard to be women’ (CS 16).

Agacinski fears that dual parentage without mixity invites ‘the danger that we will construct the institutional fiction of homosexual fertility’ (EDSS 130), as if same-sex couples are incapable of explaining to their children that it was not the stork that brought them. This also meets with the approval of Jean-Pierre Winter, who takes the view that in their structuring attempts to imagine how they came to be born, the children of same-sex parents will be faced with an impossible task (*Le Monde*, 30 June 2007). Agacinski, like Schneider and Winter, seems here to forget the plasticity of the human psyche. Acknowledging that the well-being of an individual is proportional to his or her mental plasticity and creativity, she then forgets that conformity to the heterosexual family form provides no special guarantees in that respect – far from it. This is a necessary amnesia for those who reject ‘swaying in and out of one’s sex and one’s roles’, preferring the hypostatized structure of a sexual difference in which there is no difference. On the grounds, allegedly, that they are safeguarding alterity...

Agacinski obviously does not completely overlook the constructedness of sex and gender – ‘the division of the sexes is always simultaneously natural and cultural, real and symbolic, biological *and* psychic’ (PS 12) – or that there is ‘a certain vagueness about “the genders” – in a psychological or cultural sense’ (PS xvi). But she is very careful not to investigate the basis of the biological definition of sexual difference, which is, in her view the ‘starting point’ for both femininity and masculinity (PS xvi). She does, of course, recognize here and there that nature and the natural never speak anything other than the language of power:

The simple anatomical or physiological description of male and female characteristics has always been dominated by hierarchical models borrowed from other fields (technical or political, for example). (PS ix)

Natural difference, in its essential connection with birth, says nothing to us about the way in which relations between men and women find themselves concretely regulated ... Although

very real, natural differences never directly engender social or cultural norms. This norm is always moral, political and aesthetic. (PS 22)

But, having made these perfectly valid points, she seems immediately to ignore their implications. In Agacinski's view the cultural/symbolic/psychic is no more than a translation of the natural/real/biological. Agacinski tries to avoid the differentialism that boasts of knowing what femininity would or should be were it not devalued by phallogocentrism, but still speaks of 'femininity' and 'masculinity' without questioning or clarifying their meaning, leaving open the possibility of invasion by all kinds of stereotypes.

The differences that the patriarchal system tries to establish between men and women (symbolic/cultural versus corporeal/natural, rational versus emotional, economic and political versus domestic), on a claimed basis in nature, cannot resist their deconstruction by gender theory and the ongoing redistribution of roles and tasks that result from feminist demands. But it is, perhaps, the public recognition of the existence of homosexual couples and same-sex parenting that deals the final blow to the institutionalization of rigid differences between men and women. This is why neodifferentialist thinking must refute the universalist demands of gays and lesbians. And Agacinski comes close to admitting as much:

Homosexuality does not constitute an erasure of sexual difference; it is a different way of living it But in cultural terms, that difference is probably more fluid than it was in the past. Men, and especially women, are less constrained in stereotypical roles and much more able to play on the ambiguities of the masculine and feminine in their behaviours, their roles and even their sexual roles. *That is why I had to rediscover what the hard core or basis of sexual difference is.* Its basis is generation, or the difference between paternal and maternal roles. It takes a masculine element and a feminine element to create life ... Procreation and the father/mother differential are decisive. (QAF 22–3)

The fear that the difference between the sexes might be eroded dates from the late nineteenth century, emerging just as patriarchal authority began to go into decline. But if phallogocentrist psychoanalysts will inevitably try to block the deconstruction of this difference, should not feminists see it as cause for celebration? Does Sylviane Agacinski really represent a 'new French *feminism*'?

Translated by David Macey

Notes

1. Clarisse Fabre and Eric Fassin, 'Dictionnaire des idées reçues sur le mariage gay', *Liberté, égalité, sexualités*, Belfond, Paris, 10/18, 2004, pp. 312, 308.
2. Sylviane Agacinski, 'L'Homoparentalité en question', *Le Monde*, 21 June 2007. All further un-attributed quotations refer to this article. These arguments are developed in 'Questions autour de la filiation' [QAF], *Ex Aequo* 20, July–August 1998; *Parity of the Sexes* [PS], trans. Lisa Walsh, Columbia University Press, New York, 2001, pp. xii–xvii, 90–119, 127–33; 'The Turning Point of Feminism: Against the Effacement of Women' [TPF], trans. Mary Schwartz, in R. Celstin, E. Dal-Molin and I. de Courtivron, eds, *Beyond French Feminism: Debates on Women, Politics and Culture in France, 1981–2001*, Palgrave Macmillan, New York, 2003; Engagements, 'Du sexue au sexual' [EDSS], Editions du Seuil, Paris, 2007, pp. 127–33.
3. Michel Schneider, *La Confusion des sexes* [CS], Flammarion, Paris, 2007, pp. 121, 85.
4. *Politiques des sexes*, 'Mise au point sur la mixité, préface à la deuxième édition', Seuil, Paris, Collection Points, 2001, p. 14. This passage is not translated in *Parity of the Sexes*.
5. Lacan, *The Four Fundamental Concepts of Psychoanalysis*, trans. Alan Sheridan, Penguin, Harmondsworth, 1979, pp. 205, 198 and 205.
6. Fabre and Fassin, 'Dictionnaire des idées reçues sur le mariage gay', pp. 308–9.
7. Michel Feher, 'Quelques réflexions sur *Politique des sexes*', *Ex Aequo* 20, p. 24.
8. Irène Théry, 'Différences des sexes, homosexualité et filiation', in *Homoparentalités, état des lieux*, Colloque APGL 1999, ed. Martine Gross, ESF Editeur, Paris, 2000, pp. 115–16.