
Le quint état

or

Why create a separate category for homosexual civil unions?

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This article is mainly a presentation of a research project, called "The fifth marital status." It is an interdisciplinary research project run by myself, a historian, and my sociologist colleague *Per Båvner*.¹ We will investigate the history of the partnership law in Sweden and the present day situation for registered partners in Sweden. It will also include a comparative outlook on Denmark and Norway.

The law on registered partnership for homosexuals has been successfully introduced in all five Scandinavian countries, and in two of its three autonomous areas, namely in Greenland and the Åland Islands. Over a period of ten years, beginning in Denmark in 1989, the Scandinavian countries have one by one introduced similar partnership laws. Most recently, Finland passed a law on registered partnership in 2001.

An interesting question then is: Why Scandinavia? Why were the Scandinavian countries first in the world to introduce a special law regulating homosexual relations? Why did these countries and no others create a special marital status for their homosexual citizens? An equally interesting question is: What does it mean? In what way can we interpret these laws? Are they the wedges that will destabilize the institution of marriage as we see it? Will they lead to the most radical redefinition of marriage since late antiquity? Or is it merely a way of doing away with a homosexual counter culture that was too centered on sex and filth – purify it as it were? I will return to these questions, but first I want you to consider two of the smallest countries in the Scandinavian community, Iceland and the Faroe Islands.

The Faroese standpoint

The one interesting exception to the overall pattern of acceptance in Scandinavia is the autonomous area of the Faroe Islands. Whereas Greenland passed a law similar to that in Denmark in 1996, the local parliament in the Faroe Islands



Niels Pauli Danielsen.

has to date not even discussed the matter. Once, however, and by mistake, an anti-discrimination clause was almost passed by the Faroese parliament, the Løgting. In 1988 the Løgting routinely was handling an amendment to the Criminal code, originally proposed by the Danish government. The amendment would have had the effect of prohibiting threats or insults because of a persons "race, religion, etcetera" as it said in the government proposal. Nobody in the Faroese government paid attention to the fact that the "etcetera" was hiding the words "sexual orientation", and thus the proposal went all the way to the parliament to be voted on. In the last minute, the Lutheran minister and leader of the Christian People's Party, Niels Pauli

Danielsen, discovered what they were actually voting on, and the proposal was defeated with 17 votes to one. Twelve years later, the same Niels Pauli Danielsen led a campaign to prevent representatives of the Church of Denmark from visiting his islands. His argument was that the Danish bishops had publicly endorsed homosexuality.

In order to understand the Faroese standpoint in these matters, I think we have to think about the concept of size. The Faroe Islands have less than 50 000 inhabitants altogether, and my guess is that there is simply not room for too much divergence in questions of morality in such a small community. If we compare the Faroe Islands with Iceland, which has a quarter of a million inhabitants, we see another development. Iceland in the 1980s was generally considered as the black sheep of the Scandinavian community when it came to gay and lesbian issues. (The Faroe Islands were not even mentioned in this context.) Gays and lesbians from Iceland complained bitterly of a macho society with fundamentalist Lutheran values. Moreover, the tradition of linguistic purity even denied the Icelandic gays and lesbians the right to choose their own term of designation. Instead of "lesbiur" and "hommar" as the lesbians and gays would prefer, the state's radio monopoly insisted on using the derogatory term "kynvillingar" – or sexual erratics. Then in 1994, the Icelandic government appointed a commission to investigate the social situation for gays and lesbians.

The result was a report which demonstrated that life was pretty rotten for that category of Icelanders and that many of them suffered from harassment and discrimination. And in a matter of two years, Iceland passed a law of registered partnership. Since then, gay and lesbian visibility has exploded in Iceland, with singer Páll Oskar as perhaps the most glamorous representative for a decadent lifestyle.

So, my conclusion of these two examples is that size matters tremendously, but that a small size of a country does not necessarily lead to a morally conservative climate. What it does lead to is a very strong consensus, at least in a Scandinavian environment. The Icelandic example shows, however, that this consensus can sway rather quickly from a condemning attitude to homosexuality as such to a consensus of acceptance and integration.

The strong Scandinavian traditions of consensus

In order to understand why the Scandinavian countries chose to introduce legislation regulating the marital status of homosexual couples we must see to the strong traditions of consensus and to the construction of the Scandinavian welfare states with their comprehensive and universal welfare systems. In Scandinavia, everybody should be included in society, but everybody should also adhere to quite specific norms of behavior.

If we go back to the 1930s I think we are entitled to talk about a Scandinavian *Sonderweg* in the area of gay and lesbian rights. In the 1930s and 1940s, homosexuality was persecuted in nazi Germany and decriminalized in France. And in the Soviet Union, Stalinism wiped out the last remnants of sexual liberalism. In the United States, alcohol regulations and the *Motion Picture Production Code* contributed to making homosexuality invisible, and in Britain the *Public Morality Council* targeted homosexuality as a matter of priority. Thus, as homosexuals were ruthlessly persecuted in the totalitarian states, and marginalised in the liberal democracies, same sex sexual acts were legalized in Denmark and Sweden. And as the sex reform movement died out in Britain, in Sweden the National Association for Sexual Education became a regular partner in dialogue with the social democratic government. However, the Scandinavian development is contradictory. In my dissertation I have shown how Swedish politics on homosexuality in the 1930s were characterized by both a more liberal view on the theoretical level, and an increasingly intense policing of unwanted homosexual activities.

I would argue that the partnership laws in some ways represent a continuation of that theoretical liberalism and pragmatic normatism. Nowadays, gay men and lesbians who want to legalize their union, are locked into a new category. "Registered partner" now exists as a fifth marital status, alongside the traditional

"unmarried", "married", "widow", and "divorced". In reality, the civil registration authority counts "widowed partners" and "divorced partners" as two more sub-categories, with only some dozens of people in them, compared to the millions who are counted in the neighboring columns. How come then, that the Scandinavian states, in order to integrate their homosexual citizens, creates a new and highly exclusive category for them? Is it to put them away in a category easier to handle than the amorphous gay and lesbian subcultures of which so little is known? I will return to that question shortly.

The process of integration of homosexual citizens in Sweden is the object of our project. The overall question is why Sweden and the other Scandinavian countries have chosen to construct a fifth marital status in order to integrate their homosexual citizens. To that end, we will investigate three main questions: 1) How has such a radical change of political attitudes been possible? In this context, we especially want to investigate the interaction between gay activism and central decision making bodies. 2) What are the consequences for women and to what extent have women been active in the creation of the partnership laws? The third question is about the practical significance of the partnership law: who are those who have made use of it and what consequences has it had for their relations and life situation in general?

Concretely, our investigation has two parts, one historical and one sociological. For the historical investigation we will analyze printed material, newspaper clippings and documents from the archives of the lesbian and gay movement. In addition to that, we will interview key informers, both from the political parties and from the gay and lesbian movement. The advantages to use historical method analyzing such recent events are that we can emphasize questions of historical change as well as the role of historical actors. With a sociologically inspired comparison with Denmark and Norway we hope to achieve a higher degree of generalisability than usually is the case in historical studies.

A study limited to persons who registered partnership

One separate part of the historical investigation will focus on gender, and will be more structurally oriented. Lesbians have been invisible in society at large, but how visible and how active were they in the lesbian and gay movement? For this part we will use interviews as well as archival material. Theoretically we will relate to the extensive discussion about the invisibility of lesbians in history, such as it has been discussed by Martha Vicinus, Tuula Juvonen, Eva Österberg and Jonas Liliequist.

For the sociological part of our study, we will use a postal inquiry. Persons who registered partnership will receive an inquiry with questions based on

questions from the Swedish Level of living survey (levnadsnivåundersökningen) from 2000 and the Sexuality survey of 1996 and in this respect it will resemble the Norwegian NOVA-survey from 1999. The difference lies in that our study is limited to homosexual men and women who have chosen to register partnership, while the Norwegian study aimed for a representative sample of homosexuals in general.

The usual definition of homosexuals is women and men who self-identify as such. However, because of the uncertainty both in defining and identifying homosexuals for a sociological study, it is virtually impossible to describe the underlying population that you want to say something about. That is also the reason that our knowledge of same sex relation to a large extent is based on qualitative studies. The ideal situation would be to take a random sample of the whole population, out of which a certain amount would be homosexuals. That way it would be possible to make comparisons between the homosexual and the non-homosexual population. It seems, however, that the number of homosexuals, which you could reach that way, would be too small to make such a study at a reasonable cost.

Because of what I have already said about the difficulties in defining and identifying a homosexual population, it is difficult to estimate the number of homosexuals in Sweden. Even if those who have registered partnership can only be regarded as a minor part of the "homosexual population" in Sweden, they do have the advantage of being both clearly delineated and easily identifiable. The results can only be generalized to this particular population. Interestingly enough, registered partnership was one of the variables in the Norwegian NOVA-survey. Out of the totality of the population under study, twelve percent had registered partnership. This group did not differ from the rest of the population in the survey regarding background variables as income and education. The main difference between them and the rest of the homosexual population was that they tended to be more open about their sexual orientation.

Apart from the postal inquiry we intend to collect a number of data from existing registers. Partly to get extra information – or correct information where the respondent does not remember correctly (e.g. data on income), and partly in order to analyze the group of people who do not answer the inquiry. A number of welfare components will be examined, like childhood conditions, family and social relations, education, employment, health, domestic labour, economical resources, security, leisure time, organizational activities and subjective welfare assessments. Questions regarding demographical factors (e.g. mating, parenting and child custody) will also be examined. Social relations, like the "coming out" process of the respondent and the attitudes of his or her surrounding are obviously central to our study. This includes both the immediate

surrounding as family and colleagues but also questions of threats and violence. The division of domestic labour in same-sex couples is also interesting to contrast to heterosexual couples. Gillian Dunne, for instance, claims that the rational economical division of domestic labour that supposedly is characteristic for the heterosexual family is not applicable to the lesbian family.

More gay men than lesbians

Marital status is registered in the registers of the Swedish Central Bureau of Statistics. When the law on registered partnership came in force in 1995, the Bureau of Statistics had to add the corresponding category to their data. Out of these data we can see how many that have registered, or deregistered, partnership every year, but also how many registered partners there are at a certain time. From these data we learn that on the 31st of December 2000 there were 1 164 men and 624 women who were registered partners. 134 men and 102 women were registered in the civil registration files as deregistered partners. The reason that there are more men than women in those categories can be either that gay men are more apt to register than lesbians, or that there are more gay men than lesbians in the population. The Swedish survey on sexuality from 1997 showed that homosexual experiences were slightly more common among men than among women, but it is not clear if it is this population which is under risk to register partnership.

Further, we can see that the number of registered partners was elevated during the first year of the law's existence, 1995, which probably corresponded to an accumulated demand for registration. Thereafter the frequency quickly dropped until 1999, after which it has increased steadily. This could imply that there are two trends, one trend consisting in the satisfaction of the accumulated demand, but also a second trend consisting of an increasing tendency among homosexuals to register their partnership. The share of women registering was only about 25 per cent during the first year, but has since increased to almost half during 2001. The women also have a slightly higher risk of deregistering their partnership.

Registered partnership an instrument for control or a tool for liberation?

I promised that I would come back to the question whether the registered partnership is an instrument for control or if it is a tool for liberation. I think that we must listen carefully to the critics of gay marriage who warn for the consequences of making the homosexual decent, as it was. Especially important is then the question whether the institution of gay marriage further stigmatizes those who remain outside it. Single people, promiscuous gays, lesbians at the bar, etc.

But on the other hand: the fact that the wholly matrimony now has been challenged by something which many morally conservative regard as an abomination, gives us hope. For this concerns much more than only the gay and lesbian part of the population. Perhaps the mere existence of an alternative to heterosexual marriage will open up for new ways to reflect around the civil unions that we make, around the ways that children are raised and around the ways that the clients of the welfare systems qualify for help. At the same time as the individual choice to register a partnership may reflect a rather dull wish to emulate heterosexual matrimony, the institution of registered partnership as such may destabilize the institution of marriage and challenge the stale structures of monogamous family life, thus acting as a liberating force for all of us, gays, lesbians and heterosexual men and women.

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¹ När projektet presenterades vid konferensen Farväl till heterosexualliteten hade projektet sökt men ännu inte fått finansiering. Sedan dess har den historiska delen av projektet antagits av Forskningsrådet för arbetsliv och socialvetenskap (FAS), medan den sociologiska undersökningen ännu är ofinansierad.

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