Contested Citizenship
Renewed Hope

BY ANN-M. FIELD

Quoique le principe d'une citoyenneté légale et formelle existe, il est clair que cette citoyenneté n'est pas égale pour tous, surtout pour ceux qui sont considérés "autre" à cause de leur identité sexuelle. L'accès à la citoyenneté des gais et des lesbiennes est discuté ici à la lumière des changements de politiques et des gains devant les tribunaux.

The marginalization of large segments of society is an unfortunate reality for most established liberal democracies. The exclusion of individuals perceived as "other" on the basis of gender, sexual identity, race, ethnicity, or disability is a definite concern to those of us who deeply value social justice. Despite the fact that we are granted formal-legal citizenship[1] it is clear that certain groups in society remain excluded from the benefits of citizenship or disadvantaged by public policies. My goal is to explore how, through the reconceptualization of citizenship, one can help to prevent, and even remedy, the marginalization of one segment in Canadian society. My focus is on lesbians and gays.

i[2] will propose an alternate model of citizenship: contested citizenship. The essence of contested citizenship is the redefinition of the boundaries of citizenship in order to truly realize the promise of social justice implicit in the idea of formal-legal citizenship. Looking at concrete policy changes and successful court battles, i will discuss how lesbian and gay activists have been able to contest the boundaries of citizenship, forcing citizenship to be redefined to include groups, such as lesbians and gays, who were invisible in the traditional

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national Canadian identity. It is through this reconfiguration of citizenship that the possibility of social justice will be realized. Although i will limit my focus to issues of sexual identity and gender, much of what will be discussed could be applied to race, ethnicity, or disability. A model of contested citizenship aims to contest the boundaries of citizenship on various grounds and not simply on those discussed here.

What does citizenship mean?

In the media, in politics, and even in our daily interactions with co-workers, colleagues, neighbours, friends, and family, there has been increased interest in citizenship. When thinking about citizenship, some of the first things that come to mind are the idea of a passport, a country considered home, or a national identity. However, citizenship refers to a much broader spectrum of issues that are encountered by all on

an almost daily basis. When talking about globalization, nationalism, immigration, social movement activism (gay rights, anti-discrimination issues, anti-poverty concerns, environmental problems), one is referring to the rights and responsibilities of citizenship. Widespread discontent with politicians, dismay with legislatures perceived as inaccessible or irresponsive to public opinion, and lower voter turnouts reflecting a general apathy towards the traditional mechanisms of representation, are all indicators of diminished active participation in representative democracies or of disenfranchised (or marginalized) citizens.

Moreover, the dismantling of social safety nets as a result of neo-conservative policies and push towards reducing the national debt brings into question who should benefit from the services of the state. This takes the form of establishing workfare schemes to entitle one to welfare benefits or abandoning universal programs such as family allowance and replacing it with tax credits or new programs which target select groups (poor families, single mothers). What this suggests is that, as resources have become scarcer, the need to define who "deserves" to receive the benefits that accompany citizenship in most liberal-democracies is open to debate. Together, this wide spectrum of issues highlights how citizenship in part defines who belongs where, who has obligations, who benefits from rights, and who is entitled to services.

Thus, beyond the traditional emphasis on issues of residency, nationality, and suffrage, citizenship discourse also engages us with issues of

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identity formation, rights claims, duties, and entitlements. In fact, by being part of a broader social discussion not limited to holding a passport, citizenship becomes a lens for understanding not simply who is included in the territory of the state, but also who is excluded or marginalized by the state and its policies. In sum, citizenship can be viewed as a marker of inclusion/exclusion, for the rights of citizenship determine who can access political power and how economic and social power is shaped and distributed (Taylor). It is this aspect of citizenship which is of interest here, for it is through a sociological approach to citizenship that exclusions from social justice can be understood and contested.

Citizenship as a lens for understanding marginalization

It is not surprising that the interest in citizenship for this analysis is mainly sociological. In contrast to a formal-legal understanding of citizenship, the sociology of citizenship does not simply involve a study of the rights, membership, and identity associated with citizenship. A sociological approach to citizenship also necessitates the study of the structures and processes giving way to relations of power and inequality within a given society (Roche). Citizenship is used here as a marker of inclusion/exclusion from the benefits of the political community. Central to this understanding is the recognition that citizenship is paradoxical. The formal-legal definition presents citizenship as universal. In a given-state, all citizens are granted the same rights and responsibilities

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of citizenship regardless of gender or sexual identity. Citizenship therefore fulfills a role of social integration.

Yet, if we consider citizenship in substantive terms, it becomes clear that citizenship is gendered and sexed. Access to its rights is delineated by a set of power relations which have historically favoured a specific, normative group in society. The original formal-legal definition and identity of citizenship are derived from the needs and interests of those to whom the title of citizen was initially limited (i.e. white males owning property). They have been expanded over time to apply to all, however without being reconceptualized to take into account the realities of the newcomers to citizenship.[3] This is problematic, since it allows for the continued marginalization of those who do not, for example, as a result of gender or sexual identity, correspond to this norm.

Let us look at how this happens.

Traditionally, we have referred to Marshall's definition of citizenship to understand how citizenship evolves in a linear fashion from civil rights (liberty, freedom of speech, equality before the law), to political rights (universal suffrage), to social rights (education, health and welfare). This post-war model is particularly useful to explain the citizenship of dominant males. According to Marshall, civil rights were won in the eighteenth century, political rights in the nineteenth century, while the battle for social rights remains ongoing in the twentieth century (Marshall). However, if one reconstructs Marshall's explanation of civil rights accounting for gender or sexual identity, it becomes clear "that groups other than dominant males often received legal political rights without achieving full civil rights" (Valentine and Vickers 166).[4] This is the case with women who were granted political citizenship before securing civil rights central to the exercise of their full citizenship. For women,

> civil rights guaranteeing liberty of the person are interpreted to include the right to choose when and whether to have sexual relations, bear children and/or have medical treatment. (Valentine and Vickers 166)

This indicates that women obtained the right to vote (political right) prior to securing full control over their bodies (civil right).

Similarly, lesbians and gays are often openly discriminated against by the state and individuals. They have been subject to random dismissals in the military, denied social-

welfare benefits, disadvantaged by tax and inheritance laws, and discriminated against in employment and housing. Moreover, their ability to participate in politics is mitigated by the stigma of their identity (Currah). This demonstrates that despite having been endowed with legal citizenship, the civil, political and social rights associated with citizenship are not fully enjoyed by lesbians and gays, nor women.

Rethinking Marshall's theory by including both gender and sexual identity in the analysis confirms that,

> the civil rights deemed important by dominant males do not exhaust the rights that women [or lesbians and gays ...] need in order to be considered [...] full citizens. (Valentine and Vickers 166)

It also indicates that Marshall's theory is unable to truly address issues of equality, for true equality (or social justice) depends on one's economic situation as well as on rights other than those linked directly to the legal definition of citizenship. According to Marshall, equality is understood as achieving the status of citizen and therefore refers to having the same rights and responsibilities of citizenship regardless of the differentiated realities of those who are citizens. The situation of women, lesbians, and gays proves otherwise. It is clear in all of these cases that despite formal-legal citizenship, lesbians, gays and women do not benefit fully from citizenship.

When understood in sociological terms, citizenship is viewed as a hegemonic project. It is contingent upon the subordination of specific bonds of gender, race, class (Jones) and sexual identity to support the claim of universality implied in the formal-legal model of citizenship, and to uphold a universal national identity as the main reference point. Thus, as concluded above, although we are granted formal-legal citizenship, it is clear that citizenship is experienced

in a less than equal manner by differently situated individuals. To understand this, we must conceive citizenship as a regime constructed and upheld by the state. The use of the concept of "citizenship regime" (Jenson and Phillips) implies that citizenship is a social construction which extends beyond the formal

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title of citizen. The notion of regime helps us consider how institutions and state or social practices shape the experience of citizenship. Hence apart from looking at criteria for becoming a citizen or retaining one's citizenship, we may consider how marriage or heterosexuality are inscribed in state policies and social behaviors in ways which delineate how citizenship is experienced.

In substantive terms, it is apparent that if the state favours specific groups through its policies and laws, and excludes others, this has consequences in the relations between individuals and the state, and this type of inclusion/exclusion is replicated at the societal level. Social control is exercised extra-legally through the media, religious beliefs, or other informal means and is also reinforced through the institutions of marriage, family and heterosexuality. Studying the intersection between social control, public policy and sexuality conveys the extent to which social

control happens away from the state, yet operates along the same lines as those pursued by the state (Carabine; Connell). The case of women's sexuality is a good example. Here, although laws do not explicitly prohibit lesbianism, it is made implicit by the media and through the institutions of marriage, family and heterosexuality that for women to be "good" citizens, they must comply not only to the demands of the state (which favours heterosexual relations and marriages as well as nuclear families), but also to those informal institutions which contribute to the definition of citizenship. Since being a lesbian requires defying the norms of heterosexuality and marriage, lesbians are excluded from the substantive realm of citizenship (Phelan).

In the above discussion i outlined how the shift towards formal-legal citizenship reified the dominant gendered and heterosexist discourse found in citizenship, rather than challenged it. Thus, even though equality was and is promised, citizenship is definitely experienced in a less than equal manner by differently situated individuals. Women, lesbians and gays have gained legal equality; yet they remain excluded from the benefits of social justice that full citizenship should confer. As a consequence of these contradictory strands, the ideal of formal-legal citizenship put forth by these regimes produces the conditions for initiating emancipatory politics. As Barbalet explains, "[t]he expansion of citizenship in the modern state is both the hallmark of its achievement and the basis of its limitation" (2). Citizenship becomes central to the project of a politics of contestation because of its paradoxical nature. It is through a mapping of the inclusion/exclusion in the citizenship that one can understand how certain groups have been marginalized and subsequently develop appropriate strategies to overcome such exclusion and oppression. Citizenship is the lens through which injustices are addressed and marginalization contested.

Contested citizenship

Contested citizenship consists of political actions and projects which change the boundaries of citizenship, forcing the citizenship regime to shift and expand its sphere of social justice to incorporate groups that had previously been marginalized and excluded from the benefits of citizenship. For example, in the case of lesbians and gays, the implementation of hate crime legislation which mentions sexual orientation, the inclusion of sexual orientation in human rights acts as a grounds on which discrimination is not permitted, a lift on bans of gays in the military, the elimination of sodomy laws, and immigration policies which recognize same-sex partners all consist of projects forcing a shift in the bounds of the political community, subsequently legitimizing the inclusion into citizenship of lesbians and gays who are marginalized on the basis of their identity. Thus, the essence of contested citizenship is the redefinition of the boundaries of citizenship in order to truly realize the promise of social justice implicit in the idea of formal-legal citizenship.

How does contested citizenship occur? Contested citizenship[5] takes on various forms. It happens when partial identities (such as those of lesbians or gays) are articulated as counter-hegemonic projects (Mouffe 1993; Laclau and Mouffe) resulting in the inclusion within citizenship of individuals who are encompassed in the territoriality covered by the citizenship regime, but who remain nonetheless external to the benefits of full citizenship. Partial identities are defined here as the articulation of one aspect of an individual's identity. Thus, at given times, one may choose to mobilize or favour one's identity as a woman, at others as a lesbian, recognizing that while these identities cannot be separated entirely. They may be articulated at different times, in various manners, and the articulation of these subject

positions is not a final or definitive position but one which aims to push the boundaries of citizenship to see the acknowledgment of women or lesbians within citizenship.

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grated in ways of doing politics. These diversified methods of political participation can take the form, for example, of social movement activism, grassroots politics, or court battles. The inclusion of various methods of participation are key to the renegotiation of citizenship, for prior exclusion rested in part on the fact that traditional mechanisms of political representation (i.e. voting, party politics, legislatures) worked to exclude the interests and needs of those who are "other" (such as women, lesbians and gays).

Hence, political conflict is central to the project of contested citizenship. Equality and social justice need to be understood as something "to come" (Mouffe 1993: 8). They are dependent upon the active participation in politics of the various actors who want to achieve social justice. Individuals, through the politics of contestation, define the boundaries of citizenship in ways which insure, at least momentarily, their

access to social justice. Hence, conflict is central to the dynamics of contested citizenship and is viewed in a positive light. In contrast, harmony (a situation of non-conflict) is considered as negative, for its presence signals the end of pluralism (or diversity). The condition for harmony is either assimilation of individuals considered "other" or the relegation of differences to a sphere considered non-political or private. Either way, this is considered counter to a politics which aims to accommodate diversity by denying, making invisible, or smoothing over impediments to full citizenship. Contested citizenship is a tool for the management of conflicts. It assumes that conflict is essential to move closer to the ideal of social justice. Yet, since diversity means that conflict can never be entirely eliminated, the ideal of social justice is never fully reached. In sum, contested citizenship is a continuous project which requires the constant renegotiation of the boundaries of citizenship and its sphere of social justice.

Some examples of contested citizenship

In Canada, the entrenchment of the *Charter of Rights and Freedoms* has meant that the institutions of the state and the political culture have undergone fundamental changes that affect citizenship. For example, when we accept that there is to be no discrimination on the basis of sexual identity (section 15 which is interpreted as including sexual orientation as a basis upon which discrimination will not be tolerated), citizenship can no longer be interpreted as referring uniquely to the historical Canadian national identity that informs our citizenship. As Stychin argues,

> once sexual orientation is accepted as an illegitimate basis of discrimination and recognized as a legal, political, and cultural identity worthy of protection,

then the definition of citizenship broadens and deepens along sexual lines. (103)

Recently, the Alberta legislature reluctantly added sexual orientation to its human rights act as a ground on which discrimination would not be tolerated. Following a long court battle, the Supreme Court in the *Vriend* decision declared that, since discrimination based on sexual orientation is prohibited by the *Charter, the Alberta Human Rights, Citizenship and Multiculturalism Act* must comply and prohibit discrimination on the basis of sexual orientation (Alberta Justice). Similarly, the *M* v *H* decision is leading to the recognition of same-sex relationships in various jurisdictions across Canada. The judgment clearly indicated that the exclusion of same-sex couples from the benefits and rights accorded to opposite-sex common-law relationships will no longer be tolerated for this exclusion unfairly demeans the human dignity of lesbians and gays by implying that they are less worthy of recognition and protection. Advances made from gains through the courts have had repercussions in the political arena. The federal civil-servants' pension plan has been amended to extend survivor benefits to individuals in same-sex relationships. The province of Québec passed a bill which overhauled several of its laws, making Québec law blind to the sexual orientation of common-law couples (*Globe and Mail*). Similarly, with the recent adoption of Bill C-23, the Federal government has overhauled its own legislation to comply with the *M* v *H* ruling. These are only a few of the recent changes which have taken place as a result of court battles.

Hence, the *Charter*, through its open-ended interpretation, is a tool to be used to contest various subject positions. When understood as discursive, a new vision of citizenship emerges which is not dependent upon the exclusive identification with historical national Canadian identity,

an identification which is incompatible with diversity. In fact, what the case of sexual identity demonstrates is that the articulation of partial identities, such as that of lesbians and gays, can translate into the inclusion within citizenship of individuals who were encompassed in the territory of the state, but remained nonetheless external to the concept of citizenship (Stychin 105). This is the essence of contested citizenship: the inclusion of marginalized groups through the articulation of counter-hegemonic strategies.

What remains problematic at this point is that the *Charter* alone cannot promote the adoption of contested citizenship. Legal strategies remain an important though limited tool, for they can only serve to uphold legal codes and, at times, force legislative changes to happen. Legal strategies are also limited in their success because they can as easily be used by those who oppose social justice to limit the rights of certain groups. For example, the extreme right has been successful in advancing an agenda which denies equal rights to lesbians and gays.

Citizenship extends beyond having equal rights and includes, for example, the ability of one to fully participate in the political community. Strategies to contest citizenship may be aimed at changing school curriculum to see values around diversity taught in schools or at changing the electoral system to improve the ability of women, lesbians and gays to participate. Contesting the boundaries of citizenship happens on several fronts, not simply through legal contestations. Social justice is about more than rights; it is about the practice of citizenship. Thus, it can be argued that the *Charter* is one of the terrains upon which identities can be contested and boundaries of citizenship extended to fit a model of citizenship which is no longer universal and homogenizing, but rather reflective of the complexity of social identities found in a heterogeneous population.

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Overall, contested citizenship is a pertinent model, for it is concerned with addressing issues of marginalization and oppression. It forces us to rethink citizenship, moving away from an exclusive Canadian national identity, to a more encompassing, yet contested, definition of citizenship which can be gendered and sexualized. Contested citizenship allows for a redefinition of social relations in ways which aim to expand the boundaries of social justice to recognize the "other." As the discussion on sexual identity pointed out, lesbians and gays do not benefit from full citizenship. The fact that the state condones violence and discrimination against them only confirms that lesbians and gays have diminished citizenship. Moves towards full citizenship will result from court battles, changes in public policies, as well as changes in state and social practices, all of which will happen on various fronts over long periods of time. Thus, citizenship becomes a lens for assessing the sources of oppression and marginalization, as well as suggesting strategies to remedy these situations. Finally, shifts in citizenship regimes are not easy or quick. Nevertheless, as the examples discussed above suggest, such shifts are possible and necessary if we are to move towards a society which offers social justice to all and not simply to those who were born in the traditional hegemonic "norm."

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[1]Formal legal citizenship is understood as a status which is bestowed on those who are full members of a political community and who, as a

result of this status, enjoy rights (e.g. application of laws or legal codes) and benefits (e.g. socio-economic benefits of the welfare state) as well as responsibilities (e.g. political participation such as voting). Moreover, formal legal citizenship usually corresponds to a given national identity. For example, the rights, benefits and responsibilities given to Canadians define the Canadian identity.

[2] The pronoun "i" is deliberately not capitalized to indicate that too often in our society much emphasis is put on the self, sometimes to the detriment of society. This is especially valuable when thinking about exclusions from citizenship, in which case, individual actions may reinforce the marginalization of the "other" (e.g. sexist or misogynist posters, racial slurs, hate crimes).

[3] i am aware that in several states there remain large segments of the population that are not granted citizenship and live as landed-immigrants, guest-workers or even refugees. This raises interesting and important issues around the discourse of marginalization, at both the domestic and international level. i have not extended my analysis to include an examination of these experiences or issues, although they are entirely relevant to the subject i am addressing. Rather i have chosen to limit my focus to those who are citizens. The argument is that within the segment of the population who are citizens as legally defined, citizenship is not experienced in an undifferentiated manner by those who are from a group other than "dominant males," such as lesbians and gays. Moreover, although i speak of gender and sexual identity, in this article i do not address the issue of racial and ethnic differences within these categories. It is important to mention that the discourses on sexual identity and gender often tend to reinforce the exclusion of those who are not white. For a discussion on the intersection between race and sexuality, see Eaton; Gopinath. For a discussion on the intersection between race, ethnicity,

immigration and citizenship, see Yuval-Davis; Stasiulis and Bakan.

[4] It is applied by these authors to women and persons with disabilities, rather than sexual identity as is the case for this analysis; regardless, the critique is valid.

[5] This understanding of contested citizenship is influenced by the work of Chantal Mouffe on radical democracy. The whole project of contested citizenship emerges from my desire to apply Mouffe's theoretical approach. Mouffe's work presents us with an interesting theory, the application of which has not been discussed in the literature. This paper aims to address this gap.

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