

'Gay Rights are Human Rights,' U.S. Affirms

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IN HONOR of Human Rights Day, Secretary of State Hillary Clinton gave a stunning speech in December 2011 in Geneva, committing the United States to the protection and encouragement of the rights of lesbian, gay, bisexual and transgendered people. In 1995 in Beijing, Clinton famously declared "human rights are women's rights—and women's rights are human rights." With her Geneva speech, Clinton has continued in this line of thought by boldly asserting that "gay rights are human rights, and human rights are gay rights." Paired with President Obama's simultaneous memorandum on initiatives to advance the human rights of lesbian, gay, bisexual, and transgender persons, Clinton's announcement is a welcome step for the world's most powerful nation to take. At the same time, however, it relies on specific assumptions about sexuality that in their own way limit sexual freedom.

Clinton's speech resonated with me particularly strongly, because I had just spent time with clients of the Worcester LGBT Asylum Taskforce, a scrappy grassroots organization devoted to providing financial, legal, and spiritual assistance to people seeking asylum in the U.S. because of persecution based on sexual orientation. In her speech, Clinton refers to Obama's directive to "enhance efforts to protect vulnerable LGBT refugees and asylum seekers." Anyone who spends time with clients of the Taskforce will know how important it is that the U.S. commit to providing a safe haven for gay men threatened with machetes by homophobic thugs and for lesbians forced to undergo "corrective rapes" intended to turn them into heterosexuals.

Some readers may be surprised to find out that refugees can get asylum in the U.S. if they can prove that they were persecuted for their homosexuality in their home country. After all, sodomy laws made homosexual acts illegal in almost half of the states until 2003. The policy of "Don't Ask, Don't Tell," just revoked in 2011, limited the freedom of expression of gays and lesbians in the military. The Defense of Marriage Act, still in place, restricts the rights of same-sex couples who enter into civil marriages, even in states where gay marriage is legal. Clearly, the U.S. has a history of withholding full equality from gay people.

Nevertheless, as early as 1989 a Cuban refugee received asylum because the Immigration and Naturalization Service deemed that being gay qualified him as a member of a minority group having "immutable characteristics" that they "either cannot change or should not be required to change." Secretary Clinton's speech continues this policy of recognizing gay people as a distinct minority. "Being LGBT," she declared, is "like being a woman, like being a racial, religious, tribal, or ethnic minority." With the exception of religion, all of these minority categories are generally seen as "immutable." (The U.S. has a long history of treating religion as a characteristic that is not subject to change via gov-

ernment interference.)

In addition to presuming the immutability of sexual orientation, Clinton's speech also downplayed the importance of cultural difference in the construction of sexuality, asserting that "in reality, gay people are born into and belong to every society in the world." Importantly, she also made the explicit point that "being gay is not a Western invention; it is a human reality."

All of this might sound fairly uncontroversial and reflect a growing consensus in the U.S. and much of the rest of the world that sexual orientation is analogous to gender, and that homosexuals form a discrete minority comparable to racial and ethnic groups. In fact, such a consensus cannot be said to exist even in the U.S. Many in the religious communities still insist that being gay is a "choice," while the dominant view in most "gender and sexuality" departments at universities is a form of social constructionism whereby the category of "gay" or "homosexual" is a cultural manufacture, not a universal feature of human society. Indeed the very distinction between "gay" and "straight" is taken to be an artifice that masks an array of "sexualities" that may be fluid and variable over time.

An evening with asylum seekers with whom I work makes it clear that the government's essentialist policies are the ones that get results. The asylum seekers generally believe that they were born with a strong, unchangeable sexual orientation, which they readily identify as gay. Based on these conversations, I'm quite sure that this is their heartfelt conviction, not some kind of strategic posturing to accommodate political needs. I think proponents of queer theory and social constructionism need to take into account what's at stake when they critique these people's subjective reports about their sexuality.

To be sure, any simple dichotomy between hetero- and homosexuality doesn't leave much space for possible variations of human sexual behavior and response. The U.S. government's new policy might not cover people who experiment with same-sex activity for a period in their lives, say, or someone who engages predominantly in same-sex sexual activity but doesn't identify as gay or homosexual. The logic of the governmental position would be that people would need to claim and perhaps demonstrate that their homosexuality constitutes a fixed, lifelong identity.

While the government's position as expressed by Hillary Clinton might be an over-simplification of human sexuality, it has the virtue of corresponding to the reality that immigrants seeking asylum here describe. In the final analysis, our goal should be acceptance of greater sexual freedom and diversity for all; but in the interim, the U.S. government's support for gay rights as a universal concept is a welcome development.

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