

## PACS-ing Up “Liberté, Egalité, Fraternité” Homophobic Subtext and Republican Pretence in the French “Pacte Civile de Solidarité”

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In the afternoon of January 31, 1999, anyone occupying the streets of Paris' sixteenth ar-rondissement would likely have heard heated chants of “Deux mamans ou deux papas: bonjour les degats!” and “Les pedes au bucher.”<sup>1</sup> Translated as “Two mommies or two daddies: we're heading for disaster!” and “Burn queers,” these slogans were part of a public protest against the PACS, or *Pacte Civile de Solidarité*, a proposed law offering both hetero- and homosexual couples the opportunity to enter into a legally recognized partnership halfway between informal cohabita-tion and marriage.<sup>2</sup> When the French parliament passed the law in the autumn of 1999 after in-tense public debate, as evidenced above, “paced” couples were granted the rights of filing joint tax returns and collecting their partner's inheritance and welfare and employment benefits.<sup>3</sup> How-ever, the PACS also featured restrictive clauses, denying couples the option of town hall registra-tion, adoption and residency rights and imposing a significant delay in transfer of benefits.<sup>4</sup> Though it claims to be have been devised for those who “either do not want to or cannot marry,”<sup>5</sup> the law can be considered, according to Anne F. Garreta in “Re-Enchanting the Repub-lic,” a “masterpiece

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<sup>1</sup> Catherine Raissiguier, “The Sexual and Racial Politics of Civil Unions in France,” *Radical*

<sup>2</sup> Eric Fassin, “Same Sex, Different Politics: Gay Marriage Debates in France and the United States,” *Public Culture* (2001), 218.

<sup>3</sup> Fassin, 218.

<sup>4</sup> Raissiguier, 87.

<sup>5</sup> Anne Garreta, “Re-Enchanting the Republic: Parite, PACS and Le Symbolique,” *Yale French Studies* (2001), 165.

of circumlocution.”<sup>6</sup> According to Garreta, behind the statute’s nebulous rhetoric is a clear message: PACS is intended primarily for the gay community. This established, one could argue that the limitations of the PACS reveal a troubling undercurrent of homophobia in the law. In turn, this homophobia clashes with the French republican ideals of egalitarianism and individualism and contributes to the historical tendency of such ideals to fail to materialize into reality.

In order to provide an even-handed overview of the discourse surrounding the PACS, one must outline both the arguments supporting *and* opposing the law. Beginning with examination of the PACS’ proponents, French left-wingers generally view the law as advantageous to the gay community. First of all, leftists argue, the PACS projects a more sanitized view of homosexuality, rendering it a legitimate lifestyle rather than an act of social deviance. As Catherine Raissiguier states in “The Sexual and Racial Politics of Civil Unions in France”, supporters of the new law hail the victory of the plural left and claim that the republican model of national integration has once again proven uniquely successful.<sup>7</sup> Here, Raissiguier highlights the leftist belief that the PACS helps to destigmatize homosexuality and dissuade association of homosexuality with immorality.

Another of the PACS’ merits, according to the left-wing, is that it could function as a catalyst eventually enabling the legal equality of hetero- and homosexual unions. In his article “Same Sex, Different Politics: Gay Marriage Debates in France and the United States,” Eric Fassin remarks that moderate and radical French gay rights groups, from the mild *Association des Parents et Futurs Parents Gays et Lesbiens* to the somewhat wild *Act-Up*, disregarded their traditional opposition and joined forces in support of PACS legislation – and beyond, of marriage and family rights.<sup>8</sup> Here, Fassin’s commentary reveals that the French left will not be complacent with the restricted nature of the PACS but rather will treat the law as a vehicle for attaining their ultimate goal of legal equality for gays.

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<sup>6</sup> Garreta, 156.

<sup>7</sup> Raissiguier, 73.

<sup>8</sup> Fassin, 226.

A third major leftist argument championing the PACS is that the law brings gay rights to the forefront of the international political scene and encourages other nations to redefine their sexual norms. As Garreta notes in “Re-Enchanting the Republic,” an April 2000 headline in the French newspaper *Le Monde* read “The PACS has timidly crossed the Atlantic,” in reference to Vermont’s gay marriage sanction.<sup>9</sup> Though *Le Monde* is a centrist paper,<sup>10</sup> its headline seems to have been in-spired by the leftist belief that since its institution, the PACS has influenced lawmakers in other na-tions and perhaps facilitated the recent authorization of gay marriage in several American states.

The PACS law, however, has a substantial number of opponents, stemming primarily from French religious groups and the political right-wing. Arguably the most pervasive claim denouncing the PACS is that it condones sexual perversion and moral degeneration. As quoted in Raissiguier’s article, Phillipe Houillon, a representative of France’s conservative *Democratie Liberale* party, publicly stated in 1998 that the “cycle” of gay rights “is irreversible” and “it is one that leads to decadence.”<sup>11</sup> Clearly the product of a Christian value system, Houillon’s statement suggests that homosexuality is fundamentally depraved and that legal recognition of gay unions will initiate France into an era of moral anarchy.

Furthermore, the PACS’ conservative critics claim that the law will eventually attract unwelcome immigration. Currently, the PACS refuses to grant immediate citizenship or residency rights;<sup>12</sup> however, the French right-wing fears that this ban will eventually be lifted. According to Rais-siguiuer, the nationalist French conservatives have convinced the French people that immigration fluxes must be contained due to rising unemployment rates and overall economic stress.<sup>13</sup> Thus, conservatives such as Christine Boutin, a staunch Catholic and member of the Christian right-wing *Union pour la Democratie Francais*, argue that “the

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<sup>9</sup> Garreta, 152.

<sup>10</sup> Caroline Wyatt, “France’s Jewish Stance Hailed as Attacks Fall”, <http://news.bbc.co.uk/2/hi/europe/3282335.stm>.

<sup>11</sup> Raissiguier, 81.

<sup>12</sup> Ibid., 87.

<sup>13</sup> Ibid.,84.

PACS will be considered a ‘personal reason’ to obtain the right to sojourn” and that PACS “is the equivalent to completely opening our borders to immigration.”<sup>14</sup> Here, Boutin implies that PACS will eventually give rise to socio-economic instability and jeopardize the dominance of the native-born, Caucasian majority in France.

Constituting a third major anti-PACS argument is the belief that homosexuality is necessarily anti-family and threatens the social value of the heterosexual union. A French senator and member of the conservative *Rassemblement pour la République* party, Eric Dolige has remarked “Why would [the legislative body] weaken the relationship between man and woman, the origin of society and of its renewal? Can we imagine a society composed of male and female couples? Can someone explain to me how children will be conceived then?”<sup>15</sup> In this quotation, Dolige implies that the PACS will actually encourage people to choose a gay lifestyle over heterosexuality and opt not to procreate, eventually leading to population decline and constituting a blow to France’s prominence on the international front.

Though the general discourse surrounding the PACS law has been outlined above, one must note that not all perspectives on the issue fit into neat left- and right-wing categories. While the aforementioned conservatives use homophobic rhetoric as a tool to problematize the PACS law, it is possible, as well, to problematize the law *for* its homophobic subtext. In line with this idea, one could argue that the PACS features several restrictive clauses that, upon close analysis, reveal the law’s undertone of homophobia and promote negative stereotypes of homosexuality.

Beginning with the clause concerning the pact’s registration, the law dictates that each pact must be formalized in a courtroom rather than a town or city hall.<sup>16</sup> According to Garreta, the austere “locus,” or setting, of PACS registrations reflects the fact that the pact does not adjust the civil status (*etat-civil*) of those involved, keeping them legally single.<sup>17</sup> In this commentary, Garreta suggests that the subtext of the registration clause is that

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<sup>14</sup> Ibid., 84.

<sup>15</sup> Raissiguier, 81.

<sup>16</sup> Garreta, 154.

<sup>17</sup> Ibid., 154.

homosexuality is a substandard lifestyle choice and, thus, that a homosexual union does not warrant the same degree of ostentation as heterosexual marriage proceedings. Moreover, one could argue that the courtroom venue criminalizes homosexuality. For example, soon-to-be paced couples are forced to experience a significant personal milestone in a space in which crimes are prosecuted. Not only, then, does the PACS clause bolster the stereotype of homosexuality as deviant, it also creates a situation whereby each time a homosexual couple registers for a PACS, the court setting reminds them that their way of life is still widely frowned upon.

As a second instance of the PACS' implicit homophobic sentiment, the law insists that a three year buffer period exist between PACS registration and transfer of one partner's fiscal benefits to the other.<sup>18</sup> According to Fassin, the three-year delay is imposed due to governmental speculation of PACS fraud,<sup>19</sup> or registration motivated by the prospect of reaping financial reward rather than by emotional commitment. One could contend, then, that the incorporation of this delay into the PACS law insinuates that homosexuals are by nature morally corrupt and more prone to behave dishonestly than their heterosexual counterparts, who are granted immediate shared tax benefits upon marriage. Secondly, the PACS clause presumes that homosexuals not only do not want but *should not have children* and therefore do not require immediate benefits to begin to build a stable financial foundation for a family. As noted by Judith in "Is Kinship Always Already Heterosexual?," French philosopher Sylvie Agacinski associates homosexuality with destruction of the French symbolic order, arguing that *heterosexual* couples must produce and nurture children in order to support France's sense of reality and cultural intelligibility.<sup>20</sup> Apparently underlying the PACS clause, then, is the conviction that families centering on a homosexual union are a threat, rather than merely an alternative, to the nuclear family and that homosexual families

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<sup>18</sup> Fassin, 218.

<sup>19</sup> *Ibid.*, 218.

<sup>20</sup> Judith Butler, "Is Kinship Always Already Heterosexual?" *Journal of Feminist Cultural Studies* (2002), 29.

will cause traditional French culture, based on *heterosexual* families, to lose structure and meaning.

The PACS law's prohibition of couples from adopting children or accessing means of medically assisted procreation,<sup>21</sup> hereafter MAP, is a third example of the law's subtly homophobic nature. This clause makes two homophobic insinuations, the first being that because homosexuality is a morally corrupt way of life, gays are more prone than heterosexuals to committing child-related sex crimes, such as those involving molestation or pornography. In "On a Minority Complex," Rene Scherer asserts that occidental views of sexuality and what is "natural" and "unnatural" have been largely determined by Christian categories of sin.<sup>22</sup> According to the Bible's Genesis 19, which recounts the legend of Sodom and Gomorrah,<sup>23</sup> homosexuality is unnatural and abominable. One could argue, then, that the PACS clause connects the supposedly unnatural nature of homosexuality with pedophilia, also commonly viewed as a perversion of nature. As the second homophobic implication of the adoption/MAP PACS restriction, it assumes that homosexuals, males in particular, are reckless in their sexual practices and would perhaps create an unhygienic living environment for their children. Working on the assumption that AIDS has become synonymous with homosexuality,<sup>24</sup> Lindinalva Da Silva, author of "The Evolution of the AIDS Illness and the Polarisation of Values," asserts that the social representation of the disease is that homosexuals spread it and others are victims of this propagation.<sup>25</sup> Overlooking the fact that unhealthy sexual conditions can exist in heterosexual relationships, the PACS' creators' denial of adoption and MAP rights martyrs children,<sup>26</sup> implying that they are innocent figures endangered by the supposedly polluted gay community, and

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<sup>21</sup> Garreta, 154.

<sup>22</sup> Rene Scherer, "On a Minority Complex," *Gay Studies from the French Cultures* (New York, 1993), 284.

<sup>23</sup> Committee on Bible Translation, eds., *The Holy Bible: New International Version* (Grand Rapids, 1973), 13.

<sup>24</sup> Lindinalva Laurindo Da Silva, "The Evolution of the AIDS Illness and the Polarisation of Values," *Gay Studies from the French Cultures* (New York, 1993), 295.

<sup>25</sup> Da Silva, 295.

<sup>26</sup> Butler, 21.

reveals their fear that homosexual parenthood will contaminate the physical, as well as moral and cultural, health of future French generations.

A fourth and final example of the PACS' homophobic insinuations is evident in the law's prohibition of foreign partners from attaining immediate legal residency or French national-ity.<sup>27</sup> As Raissiguier sardonically claims, the clause suggests that immigrants and homosexuals would combine efforts to generate massive fraud and represent a new blow to containment of migratory fluxes.<sup>28</sup> By including this clause, the PACS' creators seem to express a concern that after being subject to so much prior legal oppression, the gay community is bitter towards government author-ity and would wish to exact revenge by helping undocumented immigrants and repeatedly forming pacts with successive partners.<sup>29</sup> More broadly, the clause insinuates that homosexuals are morally questionable and thus inclined to behave unscrupulously. Furthermore, the interplay of homopho-bia and xenophobia in the PACS clause is problematic. Suggesting not only that foreigners are ob-jectionable but that as homosexuals they are utterly intolerable, the clause uses homosexuality as a degrading qualifying agent and, thus, conveys an antagonistic attitude towards the gay community.

Now that the homophobic undercurrent of the PACS has been elucidated, its histori-cal significance can be discussed. Not only does the anti-gay sentiment embedded in the PACS law conflict with two of the dominant ideals of French republicanism, egalitarianism and individualism, such conflict also functions as one of several prominent historical examples of the inability of French republican theory to penetrate the reality of the French people. Before the problematic rela-tionship between PACS and republicanism can be discussed, however, one must first locate the root of the tension, which can be found in the revolution of 1789. During this event, the ideologies of egalitarianism and individualism first began to grip the minds of the masses. In his book *The Gov-ernment of France*, Jean Blondel states that the National Assembly, a body of commoner politicians assuming power

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<sup>27</sup> Raissiguier, 87.

<sup>28</sup> Ibid., 84.

<sup>29</sup> Ibid., 85.

after the ousting of Louis XVI,<sup>30</sup> composed the “Declaration of the Rights of Man and the Citizen.” In this document, the Assembly declared that humble Frenchmen should be treated with equal justice before the law and be regarded as equivalent to all other Frenchmen in the exercise of their rights,<sup>31</sup> thus giving rise to the republican ideal of egalitarianism. Blondel also alludes to the revolutionary roots of individualism, or the belief that French citizens should be judged as individuals and as members of any larger group.<sup>32</sup> According to Blondel, individualism stems from the fact that the revolution was fought in part against groups, particularly those supporting upper class interests, which were viewed as instruments of selfish sectionalism against the general will.<sup>33</sup> After the revolution, according to Blondel, individualism prevailed as a dominant political and cultural ideology in France.

Though the philosophies of individualism and egalitarianism have been prevalent in the constitutions of each of the five French republics since 1789, they have not, however, always been put into practice. As was previously mentioned, the National Assembly of 1789 communi-cated, at least ostensibly, a strong anti-group sentiment in the “Declaration.” However, as David Andress asserts in “Nation, People and the Mob,” the Assembly’s respectable bourgeois revolution-aries had little sympathy for the labouring classes and excluded them from political participation, deeming them their intellectual subordinates.<sup>34</sup> This act can be seen as elitist and a breach of the in-dividualist philosophy, in that the Assembly members discriminated against the poor based on their social class. During France’s Second Republic, moreover, the actions of President Louis Napoleon III clashed with the 1848 republican constitution, which affirmed the hallowed revolutionary ideals of “Liberty, Equality and Fraternity.”<sup>35</sup> As a firm anti-socialist, Napoleon used his power

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<sup>30</sup> Jean Blondel, *The Government of France* (New York, 1974), 6.

<sup>31</sup> *Ibid.*, 6.

<sup>32</sup> Raissiguier, Footnote 1.

<sup>33</sup> Blondel, 37.

<sup>34</sup> David Andress, “Nation, People and the Mob: Political Mythology and Social Prejudice in the French Revolution,” presented at the York Conference in Cultural History, April 21-23, 1995, <http://userweb.port.ac.uk/~andressd/myth.htm>.

<sup>35</sup> James Chastain, “France: Constitution of 1848,” March 24, 2004, <http://www.ohiou.edu/~Chastain/dh/frconst.htm>.

through-out 1849 to repress democratic and socialist propaganda<sup>36</sup> that he perceived as injurious to his imperial ambitions. Like the Assembly, Napoleon flouted the revolutionary ideal of individualism, meting out punishment to left-wingers based on their political affiliations.

Despite strong anti-republican sentiment during the early stages of the Third Republic, the values of individualism and egalitarianism were upheld (albeit grudgingly) in the 1875 constitution.<sup>37</sup> However, due largely to Haussmanization, the landscape redesign of Paris that had occurred in the previous republic, the late nineteenth century working class was relegated to the outskirts of the city and experienced slum living conditions, effectively segregating them from the higher social classes.<sup>38</sup> Even though the constitution made them equal to the rest of society in theory, the working class was, in reality, treated like social vermin, rendering the principle of egalitarianism hollow. This re-republican ideal was compromised again during the Fourth Republic. In 1946, the predominantly left-ist Constituent Assembly produced a new constitution, vowing to make French society more equitable by proposing a list of social and economic rights, including healthcare and unemployment benefits, available to all French citizens.<sup>39</sup> Nevertheless, these ideas never fully materialized, while the post-war increase in availability of consumer goods benefited only the urban middle and upper classes,<sup>40</sup> creating a stark social division between the haves and the have-nots. Here, one could argue that again, the theory of egalitarianism failed to affect social reality.

The trends of egalitarianism and individualism failing to apply themselves to reality continues into the Fifth Republic. As stated in the preamble of the 1958 French constitution, France is devoted to the “liberty, equality, fraternity” slogan of the 1789

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<sup>36</sup> Jeremy Popkin, *A History of Modern France* (New Jersey, 2001), 113.

<sup>37</sup> Blondel, 11.

<sup>38</sup> Popkin, 147.

<sup>39</sup> *Ibid.*, 251.

<sup>40</sup> Ellen Furlough, “Packaging Pleasures: Club Mediterranee and French Consumer Culture, 1950-1968,” *French Historical Studies* (North Carolina, 1993), 3.

revolution,<sup>41</sup> while the document's first article declares that France "shall ensure the equality of all citizens before the law, without distinction of origin, race or religion" and that it shall "respect all beliefs."<sup>42</sup> Incompatible with such grand claims to equality and individualism, however, is the homophobic subtext of the PACS law. As Garreta asserts, the law offers both indifference to sexual orientation,<sup>43</sup> in that hetero- and homosexuals have equal access to the pact, and differentiation based on identity politics,<sup>44</sup> in that homo-sexuals have a legal status inferior to that of heterosexuals. In granting more rights to heterosexuals than to their gay counterparts, the French government breaches the constitutional vows of individualism, in treating homosexuals a certain way because of their affiliation with the gay minority, and egalitarianism, in making homosexuals legally unequal to heterosexuals. Taking all of the aforementioned examples together, one could assert that the ideals of French republicanism, spanning more than two hundred years of the nation's history, are perhaps admirable in their optimism yet ineffective in their failure to fully permeate French society.

Some PACS critics, such as Garreta, view the law as little more than a "good old-fashioned edict of toleration" that "cannot bear to name, distinguish or acknowledge what it tolerates."<sup>45</sup> However, the idea of toleration, with its implication of condescension, is incongruent with the 1789 revolutionary slogan of "liberty, equality, fraternity," which projects a genial and unified France. It would be unjust to claim that French republicanism is a complete fraud; however, perhaps the French should endeavour to successfully implement the tenets of republicanism into everyday life before they slap the revolutionary slogan on a postage stamp.

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<sup>41</sup> Blondel, 265.

<sup>42</sup> Ibid., 266.

<sup>43</sup> Garreta, 165.

<sup>44</sup> Ibid., 165.

<sup>45</sup> Ibid., 165.

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