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From Being Sexual to Having Sexual Rights

by [Leticia Sabsay](#)

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Translation as a Form of Dispossession

In the last decade, changing juridical frameworks regarding sexual and gender diversity have played a central role in the development of human rights and government planning on an international scale. A series of initiatives exemplifies this recent shift: from the Yogyakarta Principles developed in 2006, to the presentation of the 2008 UN General Assembly Statement (signed by 66 countries) that “Affirms Rights for All”; from the creation of the Human Rights Council in 2006 and the prominence it has since given to Lesbian, Gay, Bisexual and Transgender (LGBT) rights, to the United Nations “Human Rights, sexual orientation and gender identity” Resolution of 2011, and the subsequent “Free & Equal Campaign for LGBT equality” launched by the UN Human Rights Office in 2013. All of these manifest an increasing preoccupation with the expansion of key liberties. At the same time, we can see clear evidence of how gender theory as well as the claims of feminist and LGTBI social movements have been incorporated into public administrations and their new legal policies.

A growing popular consensus about the desirability of incorporating gender and sexual equity into the law, and of offering recognition for other ways of living gender and sexuality more in keeping with the reality of people’s lives and views today, has been making itself felt across different contexts. In the EU, for instance, this has been one of the most significant debates over the last decade, leading to the design of new programmes aimed at the recognition of sexual diversity, with recommendations and goals for national governments to foster the achievement of ideals of equity and non-discrimination.^[1] In light of these new programs, gendered and sexual “others” have been “included” in the parameters of human rights, leading to increasing pressure to reformulate citizenship rights and to the development of what has been called “sexual citizenship.”^[2]

In this context, the universalist humanist vision of UN and EU policies and politics regarding the recognition of gender and sexual diversity has become the leading trend and the framework within which every project concerned with these matters will arguably have to define its own terms. This new politics of gender and sexuality has clearly been shaped by the parameters established by Euro-North Atlantic paradigms, following the models of so-called advanced late-modern democracies. The question arises then as to whether (or how) the principles of the democratisation of gender and sexuality have assumed orientalist and colonial forms. As Eric Fassin, among many others, has pointed out, “sexual democracy” today has become a synonym for secularity, modernity and democratic values,^[3] and this has happened in such a way that the borders of an imagined late-modern and democratic West are being defined in renewed sexual terms, against a multiplicity of others who are marked by cultural, religious and racialised differences.^[4]

As has been amply documented, the internationalisation of sexual politics within universalist frameworks has raised the question of cultural differences and the problem of cultural translation in renewed ways. It is in this context that I aim to discuss the political implications of addressing

the struggle for sexual freedom and justice in terms of sexual citizenship—a construct produced by the hegemonic frameworks defined by the European Union, the United Nations, and international human rights organisations. I begin by outlining the difficulty that cultural translation poses for thinking about the universalisation of sexual identities and the translation of sexuality into a specific set of rights. What happens to both subjectivity and sexuality when Western hegemonic models of sexual human rights are rendered as universal principles for making sexual rights claims? In particular, how does this process over-determine the way in which sexual self-determination is considered across cultural differences? Following on from this, I analyse the process by which subjectivity and sexuality are ontologically reconstituted, so that, regardless of any particular cultural background, sexuality becomes a possession that a liberal subject is said to *have*. Finally, I pose a set of questions with the aim of exploring the extent to and ways in which a dialogue between queer and decolonial perspectives may challenge the possessive liberal “citizen subject of sexual rights”, as well as the universalising and therefore exclusionary logic that characterises it.

Cultural translations and sexual politics

The initial impulse for this essay was a question that arose from an interest in the intricate problems posed by cultural translation vis-à-vis the fact that sexual human rights and concomitant citizenship paradigms over-determine the ways in which sexual self-determination can be considered across cultural differences. In effect, these paradigms have become the point of reference according to which any project concerned with sexual matters is deemed to define its terms—as being either more or less in line with those paradigms, or taking a more radical distance from them. It is from this point of departure that I would like to pose the question about the ways in which we could consider a dialogue between a queer approach and a critical perspective on global coloniality.^[5]

Notwithstanding critical reflection on translation as ultimately constitutive of any cultural identity,^[6] when issues of cultural translation arise, they are usually addressed as a problem between two fixed points. Although it is accepted that these two points may be in a process of constant transformation within a translation process, they are still imagined as identifiable. This identification works either in terms of a “before and after” in the process of translation, or spatially, with relatively fixed points of origin and destination marking the trajectory of the translation process itself. From this point of view, translation can only be conceived precisely as *trans-lation*, given that the identity of the terms involved (cultures, imaginaries, social discourses, concepts, etc.) are taken as belonging to autonomous and more or less stable parties. Translation as a process of displacement and change requires the origin and the destination, as well as the travelling imaginary, to be fixed entities with identifiable contours.

But what happens when translation is embodied in such a way that the borders between origin, destination, and that which is to be translated (or has already been translated) are blurred? What happens when “the voice” is in a constant process of translation, so that translation becomes indistinguishable from the identity of this voice? Translation as a constant transformation, pointing towards the instability of signifiers and the confusion of terms, is associated with hybridisation, impurity, a form of indeterminacy that defies any claim to authenticity. That experience of translation is not always a comfortable or happy one; more often, it is embodied as frustration, fear, conflict, ignorance, alienation, and even bad conscience. Which allegiances should one choose? Which knowledge traditions should one betray? This is not an easy place to inhabit, nor is it

always necessarily the consciousness of a hybridised “new *mestiza*” dwelling in the borderlands, as Gloria Anzaldúa would put it, that is achieved.^[7]

The tension between purity and impurity is of primary importance in debates over universalising frameworks for sexual rights. As Butler indicates, when the universalisation and internationalisation of certain terms are at play, we cannot refer to “one culture which defines itself over and against another.”^[8] This is not just because translation is constitutive of these cultures, but also because, as Butler points out, “the very concept of universality compels an understanding of culture as a relation of exchange and task of translation.”^[9] In fact, “the problem of cross-cultural translation that the concept of universality has become,” is directly implicated in the question of the hegemony of certain languages over others.^[10] Hegemony, by definition, renders any ultimate realisation of universality impossible.^[11] Universality, then, can only appear as an unreachable horizon, where an ideal, unattainable translation takes form. As translation is always already marked by hegemonic relations, the point would be to try to understand the formation of these hegemonies. So, when sexual rights are claimed, the question to ask ourselves is: what is being translated and how does this translation work (if it does), when the sexual identities that go with these rights are universalised as well?

Within the tension between the constitutive hybridity of sexual subjectivities, and the hegemonies involved in the universalisation of sexual identities, who has access to make demands in the name of sexual rights? Arguably, the sexual rights-bearing subject points to a specifically sexual form of hegemony that takes place through the elaboration of sexual subjectivities. If we claim that the new politics of gender and sexuality is framed by parameters established by so-called advanced late-modern democracies, we can explore how different versions of this same account work.

Rather than honouring the politics of translation, the ways in which sexual democratisation has been functioning indicate a process of othering. On the one hand, the political drive for equality has been encouraged on international and regional scales, including a wide range of non-governmental organisations offering support and resources to activists in postcolonial local contexts. Such is the case of the International Gay & Lesbian Human Rights Commission (IGLHRC), or the International Lesbian and Gay Association (ILGA). Regardless of their intentions, these initiatives tend to work as a regulative force, establishing the terms in which sexual demands can be made, and even leading to paternalist logics.^[12] On the other, the sexual democratic turn that seems to define the boundaries of “the free Occident” has turned out to be a crucial rhetorical element in the implementation of neo-colonial projects and the resurgence of Islamophobia. As has been amply documented, the rescue narrative concerning “Muslim women,” and later LGBT people in Muslim-majority countries, in the aftermath of the so-called War on Terror, was extensively mobilised to justify the military interventions.^[13] In the European Union, particularly in the cases of the UK, Germany, France, and the Netherlands, sexual progressive rhetoric has been used to justify anti-immigration policies and the segregation of postcolonial populations within Europe, portraying them as intrinsically antidemocratic and backward.^[14]

This brief panorama indicates how coloniality and orientalist mentalities have influenced the shaping of the emergent “sexual rights-bearing subject,” not only at the level of political rhetoric but also in terms of the kind of politics that is generated in the name of this subject. In the first place, the respectable, democratic subject capable of acknowledging sexual diversity appears as a

particular “self” that is constituted against a multiplicity of others who are marked by cultural, religious and racialised differences. Secondly, either in benevolent and patronising ways, or in a more overtly imperialist fashion, the (occidental) sexual citizen and bearer of rights becomes the benchmark against which all other sexual subjects must be measured. For this benchmark to work, an orientalist narrative of progress must be constructed, and with it specific notions and trajectories of gender and sexual ways of being, such as Gay, Lesbian, Bisexual and Transgender, become naturalised: the benchmark represents the historical present to which “all the others” should aspire and which, sooner or later, they should reach.

It is in this context that sexual rights have widely come to be understood as a step forward in the progression towards democracy.^[15] This is especially clear when we consider that the very signs of “advanced” modernity and “abstract” citizenship shape dominant modes of sexual freedom. But what role has the *language* of rights played in the constitution of gender and sexual identities and in crystallising their constitution as political subjects? What is the narrative structure of this account of “advanced” development? What are its flaws and constitutive exclusions? In my view, many of the limitations of the juridification of gender and sexual freedom and justice claims arise precisely when this process is configured within the liberal-democratic model in which the subject of sexual rights corresponds to the abstract individual of liberalism. As long as sexual rights are conceived under the canons of liberal democracy, they remain subjected to a neo-colonialist and restrictive conception of citizenship, democracy and politics. This both determines and limits what can be understood as democratic. Indeed, the fact that liberal-democratic agencies have set the agenda of sexual democratisation implies that, to be perceived as democratic, governments and progressive sexual movements are forced to adhere to the liberal model.

I have argued elsewhere that to criticise the democratic sexual turn for its racist uses or for its use as a mechanism for (racialised) cultural segregation would be to highlight only part of the problem.^[16] The democratisation of sexuality (identity politics, politics of inclusion, rights-based discourse) is already imbued with Eurocentric assumptions which, in my view, impose the restrictions of political liberalism and of the liberal subject it presupposes. As long as it is through political liberalism that the sexual subject of rights is articulated, sexual democracy will remain liberal democracy. Therefore, if political liberalism is the form in which the colonial and orientalist views implicated in sexualised figurations and norms have been articulated, it would be neither sufficient nor accurate exclusively to address the racialisation of sexual democracy as if racialisation and liberal sexual democratisation were external to one another. I would argue instead that sexual democracy is itself inseparable from orientalist/colonial formations. This second understanding offers a different account of why and how sexual democracy has become the signifier of modernity, secularism, and democratic values. It demands that we look into the modern and then late-modern relationship between sexuality, subjectivity and citizenship that is presupposed by the figure of the sexual citizen shaped by liberal Euro-North American democratic ideals. In other words, we should explore the hegemonic contemporary understanding of what sexuality and subjectivity “are,” or should be, in order to be naturally assumed as part of citizenship.

At this point it might be useful to make an analytical distinction between politics and epistemologies, although both dimensions are logically articulated. In other words, to analyse the implications of this sexual democratic turn, we may need to differentiate between, on the one hand, the problem of how sexual politics are enacted locally and globally, and, on the other, the

underlying question concerning the onto-epistemological sexual categories that are put into play through those politics. Joseph Massad has analysed this matter in detail in *Desiring Arabs*.^[17] In that book, Massad develops the notion of “sexual epistemology” to describe those ideas and frameworks that emerged in modern Europe and made of sexuality (and all its derivatives: homosexuality, bisexuality, heterosexuality) an ontological category. According to Massad, it is this sexual epistemology that is at the basis of current global and mainstream sexual politics, which are operating under the assumption that “being gay” is a universal (and even trans-historical) experience. Although within academic circles it is widely accepted that homosexuality is indebted to the modern Western tradition—as Foucault’s seminal *History of Sexuality* highlighted—^[18] the widespread assumption is that there is an ontology of being sexual (whether hetero or homo, and to a much lesser extent bisexual), so that certain experiences and ideas about sexuality become naturalised. The orientalist progressive narrative, according to which the Western model of “the sexual rights bearing subject” becomes a benchmark, requires this in order to ensure its continuity. In the following section, I further analyse some of the characteristics of this sexual epistemology, while arguing that the conditions of intelligibility of sexual rights depend on a possessive modality that defines sexual orientation and identity together with the political subject of rights.

From sexual identities to the sexual field

The epistemological move whereby sexuality becomes the ontological foundation of every subject is at the basis of the notion of sexual rights and the humanist perspective that sustains it. This perspective necessarily forgets that sexuality is a device that came into being in the European nineteenth century as a mechanism for the standardisation of modern Western bourgeois sexual behaviours.^[19] This device is a racialised construct with a colonial legacy, which also depends on class markers.^[20] Nonetheless, within this sexual epistemology, a particular historical and cultural trajectory for experiencing, imagining, and understanding sexuality is universalised and subsequently understood as the point of reference with respect to which *any* experience associated with the sexual is to be judged. As for how this sexual epistemology impacts on notions of sexual orientation and identity, we can consider for instance how the formula “LGBT” functions as a universal descriptor in manifold reports, declarations, and campaigns organised by international organisations. These uses reinforce the oblivion of the historical character of the notion of sexuality. Further, they indicate how this sexual epistemology limits the scope of the claims related to sexual justice and freedom, requiring any rights claim to be framed within the terms of these onto-epistemological categories in order to become legible.

Yet the problem is even more complicated, because the search for more inclusive categories able to register the different ways of being gay, lesbian, bisexual or trans does not necessarily avoid the risk of reproducing this sexual epistemology.^[21] That is what happens when, in the attempt to dismantle the universal idea of what it means to be gay, this deconstructive gesture is provincialised as a particular case which confirms the universality of homosexuality, as a framework configured through ideas of sexual orientation and identity. Consider the fate of the MSM (men who have sex with men) category. As Massad points out, this category—which originated precisely to distinguish a culturally inflected socio-sexual practice from the universalist paradigm of homosexuality—has been reinscribed into the logic of sexual orientation, converted into another sexual-identity category to be added to the list of non-normative sexual identities that oppose the norm of heterosexuality.^[22]

Along these lines, Greg Thomas criticises hegemonic Western contemporary academia for not being able to address the whiteness embedded in the onto-epistemology of sexuality itself. Thomas states:

as neo-colonialism and imperialism are replaced by the language of multiculturalism and the rather liberal rhetoric of “race, gender, class and sexuality,” contemporary academia does not confront but rather consolidates the Occidentalism that universalizes sexuality both at the level of politics and epistemology.^[23]

According to the author, the problem with these frameworks is that they circumscribe their inquiry to the question of how this or that sexual identity might be racialised, while remaining unable to grasp the fact that what is understood as sexual in such a proposition is, at an epistemological level, already racialised. In Thomas’s view, “when sexuality is said to be a social construction in academia, the social constructions of Western empire are sanctified above all.” This is because, the author continues, it would be precisely through such a deconstructive move that Western “erotic schemes are naturalized by theories of denaturalization.”^[24] Thomas is pointing to the need to question the fundamental categories that ground this sexual epistemology. But how can one deconstruct the universalism of LGBT identitarian schemes without reinforcing the sexual epistemology that one is trying to dismantle? Here we are again confronted with the tension posed by hegemony and power differentials concerning the conditions that enable the production and translation of knowledge.

“We” might have witnessed this tension in international conferences and forums where these issues are at stake.^[25] “We” might have seen how different analyses of, for example, *locas*, *hijras*, *travestis* or two-spirit people, which challenge this Western sexual onto-epistemology, tend to be re-interpreted according to the grammars and standards of mainly Anglo-North American traditions.^[26] It is frustrating that cultural translation works mainly in a one-way direction, reducing such interventions to case studies which, under hegemonic eyes, supposedly limit themselves to bringing forward *other* gender and sexual identities, and therefore amount to the expansion of a universal that now includes more categories within it. Such interventions are also “minoritised” within the hegemonic understandings of sexuality in academic circles. It is important to insist that the critical analysis of this sexual epistemology requires us to distinguish between onto-epistemological categories of identity and the sexual field within which these categories make sense—in other words, the conditions of intelligibility that make such forms of identification possible in the first place. On the one hand, we are confronted with the tensions among different identity categories, or systems of identification and classification that refer to certain sexual orientations and sexual “types.” On the other, we have categories that describe a sexual field or domain, referring to the semantic fields that configure these subject formations—in other words, axes of interpretation that shape and give meaning to the fields in which these particular identities become thinkable: namely, sexuality, citizenship, politics. Only by focusing the critique on the conditions of intelligibility that allow for the emergence of the axes that define these identities, and by further linking “the sexual” to identity as a whole, would it be possible to challenge the limited Western paradigm of sexual rights. And yet if we take into account how translation works, even this might not be enough. What are the pervasive elements of this sexual field under which any person can become intelligible as a sexual subject, as much as a political subject? Is it not the case that academic hegemony somehow reconfirms the sexual subject as a political subject only if the sexual field is understood in a certain way?

When considering the central role played by sexual identity in contemporary sexual rights-claims, Foucault's analysis of how sexual practices were reinterpreted as the signs of new sexual species continues to be relevant. As mentioned earlier, this transformation by which sexual practices were refashioned as the features of sexual "types" took place under the guise of liberalism, describing a new relation of the "I" with itself. This relation was based on an inward self-reflective movement, by which the "I" became an autonomous subject in search of the realisation of the freedom of its self.^[27] Now, this movement that gave rise to the liberal subject is similarly indebted to possessive individualism, and the subsequent model of self-ownership.^[28] Embedded in this tradition, the Western paradigm of individual sexual rights based on sexual orientation and identity relies to a great extent on self-owned subjects whose relationship to their bodies, desires and sexuality becomes one of ownership.^[29] The passage from sexual practices to sexual types or species described by Foucault forms the basis for the current struggles for recognition of the sexual rights-bearing subject, wherein bodies and sexual desires, considered as possessions, become both an object of knowledge and a means of self-knowledge. This dynamic demarcates the battleground of the struggle between liberation and control. In effect, the counterpart of this sexual epistemology, which reframes sexuality as a possession, is the abstract sovereign subject defined by possessive individualism and transparent reason. Despite the long deconstructive tradition that has already killed the humanist subject a thousand times, and despite the post-identitarian mode of much current scholarship, it is still this sovereign self-owned subject—in possession of a sexuality that is potentially transparent to itself—who is at the base of the universalising impulse of sexual citizenship.

The pervasive notion of transparency that survives any post-essentialist and critical claim is here key. Within the paradigm of transparency, freedom (and for that matter sexual rights, which imply being able to exercise self-determined control over our bodies and desires) would be achievable through the acquisition of knowledge and self-knowledge still shaped by claims to truth: it would be through knowledge that we would be able to make an informed decision, or liberate ourselves from social constraints that are not immediately evident to us.^[30] The idea that freedom (either enacted in the form of autonomy of judgement, self-determination or choice) would be achievable through knowledge has been criticised by, among others, Denise Ferreira da Silva, who points out that transparency has become consolidated as "the attribute man has enjoyed since his institution as the sole self-determined being."^[31] Here, becoming the object of one's own self-knowledge—the kernel of the sexual *dispositif*—points to a broader scheme where autonomy is entirely dependent on a reasoned quest for truth. Ferreira da Silva sustains that transparency depends on reason because reason was transformed into "the sole determinant of truth and freedom," and both transparency and reason institute a subject within a racist logic. According to the author, "the philosophical statements that transformed reason ... into sovereign ruler of science and history ... situated this process entirely within the spatial and temporal borders of post-Enlightenment Europe."^[32] Hence, the argument continues, as long as the ontological presuppositions of the (modern) subject remain unquestioned, the structuring character of racial difference for conceiving modernity is obscured. That is why "the racial subaltern is always already inscribed as a historical subject who eventually comes into representation as a transparent 'I' when articulating an emancipatory project."^[33]

Brenna Bhandar also highlights the flaws of those subaltern emancipatory projects, above all perhaps the struggle for recognition, which rely on the sovereign self-owned subject for their

articulation.^[34] She argues that the ontological conditions of such a subject of recognition are ultimately ones of destitution, and cannot be contemplated outside colonial relations of property. To the extent that it is on the basis of this self-owned subjectivity that current configurations of sexual rights are taken for granted, subsequent struggles for recognition need to be reviewed and rearticulated, if one is to challenge such an exclusionary version of sovereignty. But, how can we alter, modify, or re-articulate in a critical manner these fundamental epistemological categories that revolve around the logic of possession and control? To tackle this problem, in what follows I consider the possibilities of adopting a queer perspective in conjunction with a decolonial vision for challenging these hegemonic and exclusionary frameworks.

Queer dialogues, decolonising moves

To what extent does the queer commitment to denaturalising sexual identities and norms challenge the possessive account of sexual justice and freedom? To what extent could a queer perspective, in dialogue with a decolonial approach, expand the signifiers of sexuality beyond Western hegemonies and toward more democratic transnational solidarities?

The so-called decolonial turn constituted a key epistemological intervention, highlighting the dynamics of global capitalism and obliging us to look anew at the “epistemology of the West” from the point of view of subalternised knowledge traditions.^[35] Initially, the canonical representatives of decolonial traditions criticised postcolonial studies for their alleged “culturalism” and for acting in concert with a complacent poststructuralist paradigm. However, the positions have softened over time, and in fact, both approaches share a central interest in the overlap between culture, politics and global capitalism.^[36] But there is another criticism that some contemporary decolonial scholars such as Walter Dignolo or Ramón Grosfoguel have made of postcolonial studies, which still stands today.^[37] According to these authors, postcolonial studies cannot offer a radical critique of the implications of colonialism as they are part of the poststructuralist or postmodern turn and, therefore, are understood as part of the dominant Western paradigm of the moment. This decolonial view is controversial. It surreptitiously advocates a position of exteriority from which to offer a radical and absolute counter-discourse to Western modernity, and therefore reinforces the idea that there is an ontological difference between Western modernity and its other. In more or less implicit terms, such a decolonial position reinforces untenable ideas of cultural purity.^[38] However, this brief sketch of the contemporary decolonial vision does not account for the influence of Chicana feminist theory in the development of a decolonial perspective which would, in fact, also link up with feminist and queer traditions.^[39] From this latter perspective, it is, above all, impurity and a permanent state of translation that define the decolonial approach.

Anzaldúa’s *mestiza* is also a queer figure destined to defy binaries and preconceived systems of categorisation. Along these lines, María Lugones also points to the double or fractured consciousness of the colonised subject.^[40] In part imbued by this tradition of “border thinking,” at the intersection of race, culture and sexuality, a strand of “queer of colour” theory has emerged, challenging the hegemonic queer tradition and its indifference to the postcolonial condition and the racialised dimension of queer configurations, including a specific Latino tradition of queer studies.^[41] It is within these entangled genealogies, then, that one should contextualise the question concerning the kind of critique that a queer perspective might offer to the sexual epistemology described in the previous sections. Such a practice of “border thinking” toward a decolonial vision is exemplarily put forward by Scott Morgensen in *Spaces Between Us*. In this book, Morgensen accounts for how Native queer and Two-Spirit activists “uniquely contest the

naturalisation of settler colonialism, the very formation homonationalism reinforces.”^[42] Morgensen’s analysis contests hegemonic frameworks of sexual inclusion as they depend on categories and modes of differential subjectivation proper to settler colonialism, that is to say modes of subjecthood which in such settler colonial contexts are already dependent on the material and symbolic dispossession of Native peoples.

This understanding of dispossession points to both the material dispossession of lands and resources, and the entangled dispossession implied by not being acknowledged as a “proper subject,” which forms the back and foil of the coloniser’s appropriative activity.^[43] The “proper subject” who is tied to sexual universalist identities is also tied to this two-fold modality of dispossession, to which Athena Athanasiou and Judith Butler also refer.^[44] In this regard, Alyosha Goldstein shows how the differential subjectivation by which settler colonialism is justified and continues to be mobilised corresponds to forms of “appropriation” directly linked to the opposition between the (white) capacity to possess and the incapacity to possess attributed to the colonised subject.^[45]

This possessive modality, which directs us back to the foundational entanglement between possessive individualism and the colonial enterprise, linking identity and property, as Bhandar points out,^[46] is at the core of the sexual rights-bearing subject and the concomitant hegemonic understanding of sexual identities I have been discussing in previous sections. In this sense, the possibility of a productive critical dialogue between queer and decolonial perspectives fundamentally involves, in my view, an understanding of “the queer” as a modality of being and as a mode of knowledge that disrupts the exclusionary borders connoted by the legislation of categories.

Understood in these terms, a queer critique may aim to ally itself not just with those who occupy the place of the segregated, the marginalised, and the excluded, but first and foremost with those radically antagonistic instances that signal a social vacuum where any society draws the radical boundary to give a totalising and conclusive account of itself.^[47] In other words, the queer may be identified in this sense as the locus of a key fissure wherein the recognition of a certain subject position demands the undoing of the available schemes of intelligibility that organise the system of identities as a whole. Of course, there are no straightforward or easy answers here. I would simply limit myself to a parallel between the queer commitment to challenging the epistemic limits, which I am proposing here, and the form of recognition advanced by Butler, who considers it as a form of translation in which, in a very queer fashion, one would be able to be undone, or to be dispossessed from what one knows. As Butler writes:

One can give and take recognition only on the condition that one becomes disoriented from oneself, that one undergoes a “de-centering” and fails to achieve self-identity. ... This version of recognition will be based less on knowledge than on apprehension of epistemic limits.^[48]

A queer critique of those sexual epistemologies that become universalised through one-way processes of cultural translation also takes us back to the idea of queerness as that which dismantles preconceived notions of the self and the social. I think the queer offers possibilities for disputing the epistemological assumptions of sexuality; this heavily loaded term, when we think about it as a figuration for this “constitutive outside,” is understood in Laclau’s terms as an antagonistic site that precisely marks the operative exclusions that allow the social (or the self) to imagine itself as a knowable whole. In pursuit of a permanent questioning of the epistemic limits of the paradigms within which we operate, a queer perspective might be inviting us to an ongoing

process of cultural translation that could really be open and genuine. This openness might be associated with a radical productive negativity,^[49] which, rather than posing a demand for inclusion, asks to revise, for instance, what is understood as properly sexual.

An example of such a challenge could be found on a contemporary political level in the Ecuadorian Constitution, which reconceived gender identity as an aesthetic liberty. One of the leading members of the activist collective *Proyecto Transgénero*, whose interventions are based on alternative uses of law, promoted the introduction of “Aesthetic Freedom” in the Ecuadorian Constitution of 2008. This move opened the path to further claims regarding gender justice and antidiscrimination legislation, including but not limited to preconceived ideas of gender expression.^[50] Far from being exclusively proper to “peripheral” sites, one may also find evocations of this opening gesture that troubles the self-owned “sexual I” at the centre of recent and less recent Western traditions of knowledge and politics. Such is the case of Monique Wittig’s lesbian embodiments, which challenge the unity of the sexual body.^[51] The fragmented body of Monique Wittig, in effect, is the locus where the *J/e* finds itself traversed by a bar. Wittig states that this bar “helps to imagine an excess of the ‘I’... where this I and this You are interchangeable.” Both self-ownership and the unity of the sexual body are, after all, undone when flooded by passion. The sexual epistemology implied by the sexual rights-bearing subject cannot in fact contain this passion, nor can it capture this passionate self, whose sexual experience is set at a distance from the sexuality that a self-owned subject is said to know and possess.

Conclusions

I began this essay by posing the problem of cultural translation in relation to sexual politics and cultural differences. In order to articulate the question concerning the possible modalities of a queer critical approach to the universalism of the “sexual rights-bearing subject”, I posed a series of enquiries that I consider important for situating the discussion. First, I analysed the implications of the juridification of sexual freedom and justice claims and principles, especially when they are understood almost exclusively in terms of liberal individual rights. I then discussed the colonial/orientalist vision that weighs on the sexual subject of rights and the subsequent internationalisation of the figure of sexual citizenship. My contention was that, to a great extent, the orientalist character of this figure is related to the fact that it has been configured under the canons of political liberalism, and concomitant liberal democratic ideals.

Yet the liberal character of the sexual citizen is not restricted to the political ideals that this figure embodies, but instead implicates its onto-epistemological foundations. That is why I went on to argue for the need to revise these political categories on an epistemological level, showing that they were based on a specific Western modern tradition, which accounts for their exclusionary and racially-marked character.

With the help of Massad, I contended that in order to be transmuted into a set of rights to which an abstract subject is entitled, sexuality remains tied to a sexual epistemology that turns it into a universal ontological reality based on naturalised notions of sexual orientation and identity. In this context, I proposed a distinction between identity categories and categories of field or domain, which would describe the conditions that shape this identitarian onto-epistemological framework. I argued that the sexual epistemology of the sexual rights bearing subject preconceives sexuality as a property that a self-owned subject is said to possess. This is a subject who will relate to its sexuality in a possessive modality, as the owner of its body and of the sexual properties that come

with it. The possessive character of the relationship between subjectivity and sexuality is, in effect, indebted to the liberal subject who will be defined precisely *as a subject* insofar as it is in possession of its own being. It is through this possessive modality, as one of the conditions that make possible the emergence of sexual onto-epistemological categories of identity, that sexuality is translated into a right.

In light of this account, I finally consider how a queer approach, inflected by a decolonial vision, might be able to challenge this possessive scheme of intelligibility by which one is at the same time dispossessed.^[52] Here I contended that it would be through the disruption of this second type of categories—the categories of field or domain—that it becomes possible to question the possessive ontology of sexuality defined according to a Euro-North Atlantic horizon. It is by focusing on this second level that we may find the most productive challenges to the political ontology of the sexual subject proper to the tradition of political liberalism, and the presupposed universality of the categories of domain or field (the conditions of intelligibility) in which cultural and sexual diversity are recognised and included, or in sum accommodated.

The problematisation of the field of intelligibility in which the norms of gender, sexuality, and citizenship make sense resonates with the queer commitment to deconstruct not only identities but the categories that define the field in which these identities are configured as such. Ultimately, I think this focus not only evokes one of the basic tenets of a queer perspective, understood as a critical methodology. This form of cultural translation, destined to mark the boundaries of an *épistème*, is also a call to resist hegemonic forms of categorisation—a call that could also carry the echoes of a decolonial view.

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Notes

1. See, for example, Directive 2006/54/EC, Council Directive 2004/113/EC, and Directive 2002/73/EC, all of them in relation to the implementation of the principle of gender equality, with the latter banning discrimination based on sexual orientation and/or gender identity. See also the Employment Directive (Dec./2003), and the different activities run under the "Action programme to combat discrimination 2001-2006" (Res. 750/2000). Besides these guiding frames, the multiple European Parliament resolutions on the subject should be taken into account, as well as the legal activity of the European Region of the International Lesbian and Gay Association (ILGA-Europe) and the Amnesty International EU Office (AIEU). [↑]

2. On the notion of sexual citizenship, see Jon Binnie, *The Globalization of Sexuality*, (London: Sage, 2004); Arnaldo Cruz-Malavé and Martin Manalansan, *Queer Globalizations: Citizenship and the Afterlife of Colonialism*, (New York, NY: New York University Press, 2002); Shane Phelan, *Sexual Strangers: Gays, Lesbians and Dilemmas of Citizenship*, (Philadelphia, PA: Temple University Press, 2001); Diane Richardson, "Claiming Citizenship? Sexuality, Citizenship and Lesbian/Feminist Theory," *Sexualities* 3.2 (2000): 255-272; Carl Stychin, *Governing Sexuality: The Changing Politics of Citizenship and Law*, (Oxford, OR: Hart Publishing, 2003); and Jeffrey Weeks, "The Sexual Citizen," *Theory, Culture & Society* 15.3 (1998): 35-52. [↑]

3. Éric Fassin, "A Double-edged Sword: Sexual Democracy, Gender Norms and Racialized Rhetoric," in *The Question of Gender. Joan W. Scott's Critical Feminism*, eds. Judith Butler and Elizabeth Weed, (Bloomington, IN: Indiana University Press, 2011), 143-158. [↑]

4. See Judith Butler, "Sexual Politics, Torture and Secular Time," *The British Journal of Sociology*, 59.1 (2008): 1-23; Éric Fassin, "National Identities and Transnational Intimacies: Sexual Democracy and the Politics of Immigration in

- Europe,” *Public Culture* 22.3 (2010): 507-529; Jasbir Puar, *Terrorist Assemblages: Homonationalism in Queer Times*, (Durham, NC: Duke University Press, 2007); Leticia Sabsay, “The Emergence of the Other Sexual Citizen: Orientalism and the Modernisation of Sexuality,” *Citizenship Studies* 16.5/6 (2012): 605-623; and Joan Wallace Scott, *The Politics of the Veil*, (Princeton, NJ: Princeton University Press, 2007). [↑]
5. Aníbal Quijano, “Coloniality of Power, Eurocentrism, and Latin America,” *Nepantla: Views from South* 1.3 (2000): 533-580. [↑]
6. On the question of translation, see Homi Bhabha, *The Location of Culture*, (London: Routledge, 1994); and Judith Butler, “Restaging the Universal: Hegemony and the Limits of Formalism,” in Judith Butler, Ernesto Laclau and Slavoj Žižek, *Contingency, Hegemony, Universality: Contemporary Dialogues on the Left*, (London: Verso, 2000), 11-43. [↑]
7. Gloria Anzaldúa, *Borderlands/La Frontera: The New Mestiza*, (San Francisco, CA: Aunt Lute Books, 1987). [↑]
8. Butler, “Restaging the Universal,” 25. [↑]
9. *Ibid.* 24. [↑]
10. *Ibid.* 25. [↑]
11. Ernesto Laclau, *Emancipation(s)*, (London: Verso, 1996). [↑]
12. Joseph Massad, *Desiring Arabs*, (Chicago, IL: University of Chicago Press, 2007). [↑]
13. See Lila Abu Lughod, “Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others,” *American Anthropologist* 104.3 (2002): 773-790; Sarah Bracke, Sarah, “From ‘Saving Women’ to ‘Saving Gays’: Rescue Narratives and Their Dis/continuities,” *European Journal of Women’s Studies* 19.2 (2012): 237-252; Fatima El-Tayeb, *European Others. Queering Ethnicity in Postnational Europe*, (Minneapolis, MN: University of Minnesota Press, 2011); and Charles Hirschkind and Saba Mahmood, “Feminism, the Taliban, and Politics of Counter-Insurgency,” *Anthropological Quarterly* 75.2 (2002): 339-354. [↑]
14. See Sarah Bracke and Nadia Fadil Bracke, “‘Is the Headscarf Oppressive or Emancipatory?’ Fieldnotes from the Multicultural Debate,” *Religion and Gender* 2.1 (2012): 36-56; el-Tayeb, *Op. Cit.*; and Jin Haritaworn, ed. *Women’s Rights, Gay Rights, and Anti-Muslim Racism in Europe*, Special Section on *European Journal of Women Studies* 19.1 (2012): 73-114. [↑]
15. Butler, 2008. [↑]
16. Leticia Sabsay, “Queering the Politics of Global Sexual Rights?” *Studies in Ethnicity and Nationalism* 13.1 (2013): 80-90. [↑]
17. Massad, *Desiring Arabs*. [↑]
18. Michel Foucault, *The History of Sexuality Vol. I: An Introduction*, (New York, NY: Vintage Books, 1990). The book was originally published in 1976. [↑]
19. Foucault, 1990 [1976]. [↑]
20. John D’Emilio, “Capitalism and Gay Identity,” in *The Lesbian and Gay Studies Reader*, eds. Henry Abelove, David Halperin and Michèle Aina Barale, (London: Routledge, 1993), 467-476; Michel Foucault, *Society Must Be Defended: Lectures at The Collège de France 1975-76*, (London: Penguin Books, 2003); and Ann Laura Stoler, *Race and the Education of Desire: Foucault’s “History of Sexuality” and the Colonial Order of Things*, (Durham, NC: Duke University Press, 1995). [↑]
21. I develop this argument more fully in Sabsay, 2003. [↑]
22. Joseph Massad, “Débat - L’empire de la sexualité en question 2/2,” *Revue des Livres* 10, <http://www.revedeslivres.fr/debat-%E2%80%99empire-de-%C2%AB-la-sexualite-%C2%BB-en-question-22-par-jospeh-massad/> (May 2013). [↑]
23. Greg Thomas, *The Sexual Demon of Colonial Power: Pan-African Embodiment and the Erotic Schemes of Empire*, (Bloomington, IN: University of Indiana Press, 2007), ix. [↑]
24. Thomas, 146. Greg Thomas further denounces the violence implicated in this de-naturalised notion of sexuality. In this respect, the author notes that “sexuality is never truly denaturalized by this historicist discourse of denaturalization. The white world is always renaturalized as a universal standard of human civilization and its erotic practice; and the mechanisms of race that inscribe it are erased from the category of sexuality itself. ... Such a two-fold erasure cannot be underestimated, for sexuality is academically, analytically coded to mean what colonizers do to themselves for pleasure, not what they do to the colonized for purposes of pain, pleasure, and politics.” *Ibid.* 22-23. [↑]
25. A case in point is the controversy generated by the conference “Sexual Nationalisms: Gender, Sexuality, and the Politics of Belonging in the New Europe,” organised by the Amsterdam Research Center for Gender and Sexuality, UVA, and the Institut de Recherche Interdisciplinaire sur les Enjeux Sociaux, EHESS, Paris, and held at the University of Amsterdam, 27 and 28 January 2011. [↑]

26. Some of the intricacies involved in the translation of identity categories are explored in Tara Atluri, "The prerogative of the brave: Hijras and sexual citizenship after orientalism." *Citizenship Studies* 16.5/6 (2012): 721-736; Mauro Cabral and Paula Vitorro, "(Trans)sexual Citizenship in contemporary Argentina," in *Transgender Rights*, ed. Paisley Currah, Richard Juang, and Shanon Price Minter, (Minneapolis, MN: University of Minnesota Press, 2006), 262-273; Diego Falconí Tavares, Santiago Castellanos and M. Amelia Viteri, eds. *Resentir lo Queer en America Latina: Diálogos desde-con el Sur* (Barcelona: Egales, 2013); Brian J. Gilley, *Becoming Two-Spirit: Gay Identity and Social Acceptance in Indian Country*, (Lincoln, NB: University of Nebraska Press, 2006); Scott Morgensen, *Spaces between Us: Queer Settler Colonialism and Indigenous Decolonization*, (Minneapolis, MN: University of Minnesota Press, 2011); José Estaban Muñoz, *Disidentifications: Queers of Colour and the Performance of Politics*, (Minneapolis, MN: University of Minnesota Press, 1999); Gayatri Reddy, "'Men' Who Would Be Kings: Celibacy, Emasculation, and the Re-Production of Hijras in Contemporary Indian Politics," *Social Research* 70.1 (2003): 163-200; and David Valentine, *Imagining Transgender: An Ethnography of a Category*, (Durham, NC: Duke University Press, 2007). [↑]
27. Foucault, 2003. [↑]
28. For a critical examination of the notion of self-ownership, see Brenna Bhandar, "Plasticity and Post-Colonial Recognition: 'Owning, Knowing and Being'," *Law Critique* 22 (2011): 227-249; Margaret Davies, "Queer Property, Queer Persons: Self-Ownership and Beyond." *Social & Legal Studies* 8.3 (1999): 327-352; Beverly Skeggs, "Exchange, Value and Affect: Bourdieu and 'the Self'," *The Sociological Review* 52 (2004): 75-95. [↑]
29. According to Margaret Davies, insofar as the queer is defined by its transgression of identity conceived as a property, it may challenge the possessive modality of sexual rights (Davies, "Queer Property, Queer Persons"). Complicating the idea of the possessive subject, in "Critical Legal Studies and the Politics of Property," Brenna Bhandar points out the limits of those critiques of the liberal self-owned subject that still rely on a naturalised and rather unquestioned subject-object paradigm. Bhandar exposes the plasticity of the polarity between subject and object, showing how this polarity depends on legal relations of property. Drawing on Davies, the author highlights the potential of a queer position whose challenge to identity norms and their concomitant dependence on relations of property and propriety also destabilise such polarity. Brenna Bhandar, "Critical Legal Studies and the Politics of Property," in *Researching Property Law*, ed. Susan Bright and Sarah Blandy, (London: Routledge, 2016), 60-76. [↑]
30. Even deconstructive moves or, for that matters, poststructuralist or post-foundationalist statements claiming that there is no ultimate truth, but rather historically conditioned and thus contingent truths, count as "truth claims." See Richard Rorty, *Contingency, Irony and Solidarity*, (Cambridge: Cambridge University Press, 1989). [↑]
31. Denise Ferreira da Silva, *Toward a Global Idea of Race*, (Minneapolis, MN: University of Minnesota Press, 2007), xvii. [↑]
32. Ferreira da Silva, 2007, xviii. [↑]
33. Ferreira da Silva, 2007, xxiv. [↑]
34. Bhandar, 2011. [↑]
35. See Santiago Castro-Gómez and Ramón Grosfoguel, eds. *El giro decolonial. Reflexiones para una diversidad epistémica más allá del capitalismo global*, (Bogotá: Siglo del Hombre Editores, 2007); Ramón Grosfoguel, ed. "From Postcolonial Studies to Decolonial Studies: Decolonizing Postcolonial Studies," Special Issue of *Review* XIX.2 (2006); Walter D. Mignolo and Arturo Escobar, eds. *Globalization and the De-Colonial Option*, (London: Routledge, 2010). [↑]
36. Ramón Grosfoguel, "Decolonizing Post-Colonial Studies and Paradigms of Political Economy: Transmodernity, Decolonial Thinking, and Global Coloniality," *Transmodernity* 1.1 <http://www.escholarship.org/uc/item/21k6t3fq> (2011); Quijano, "Coloniality of Power"; and María Lugones, "Toward a Decolonial Feminism," *Hypatia* 25.4 (2010): 742-759. [↑]
37. Grosfoguel, "From Postcolonial Studies to Decolonial Studies," and Walter D. Mignolo, *Local Histories/Global Designs: Coloniality, Subaltern Knowledges, and Border Thinking*, (Princeton, NJ: Princeton University Press, 2000). [↑]
38. Although the decolonial turn takes us back to the intervention of scholars focused mainly in Latin America, the term "decolonial" has been reappropriated by activists and academics working within nonclassical postcolonial approaches, making it difficult to give a precise idea of what a decolonial position may imply today. [↑]
39. See Anzaldúa, *Borderlands/La Frontera*; and Cherríe Moraga and Gloria Anzaldúa, eds. *This Bridge Called My Back: Writings by Radical Women of Colour*, (San Francisco, CA: Ism Press, 1988). [↑]
40. Lugones, 2010. [↑]
41. See David Eng, Jack Halberstam and José Esteban Muñoz, eds. "What's Queer about Queer Studies Now?" Special Issue of *Social Text* 23.3/4 (2005); Roderick Ferguson, *Aberrations in Black: Toward a Queer of Color Critique*, (Minneapolis, MN: University of Minnesota Press, 2004); Morgensen, *Spaces Between Us*; Emma Pérez, "Queering the Borderlands: The Challenges of Excavating the Invisible and Unheard," *Frontiers: A Journal of Women's*

- Studies* 24.2/3 (2003): 122-131; and specifically on the Latin tradition, see José Quiroga, *Tropics of Desire: Interventions from Queer Latino America*, (New York, NY: New York University Press, 2000); Muñoz, *Disidentifications*; Juana María Rodríguez, *Queer Latinidad: Identity Practices, Discursive Spaces*, (New York, NY: New York University Press, 2003); and M. Amelia Viteri, *Desbordes: Translating Racial, Ethnic, Sexual and Gender Identities Across the Americas*, (Albany, NY: State University of New York Press, 2013). [↑]
42. Morgensen, 2011, 195. [↑]
43. See Brenna Bhandar, “Status as Property: Identity, Land and the Dispossession of First Nations Women in Canada”; and Alyosha Goldstein, “The Jurisprudence of Domestic Dependence: Colonial Possession and Adoptive Parents v. Baby Girl,” both in this issue. [↑]
44. Athena Athanasiou and Judith Butler, *Dispossession: The Performative in the Political*, (Cambridge: Polity Press, 2013). [↑]
45. Goldstein, “The Jurisprudence of Domestic Dependence.” [↑]
46. Bhandar, “Status as Property.” [↑]
47. Laclau, 1996. [↑]
48. Judith Butler, *Giving an Account of Oneself*, (New York, NY: Fordham University Press 2005), 42-43. [↑]
49. On the question of negativity as a form of queer resistance to norms, see Lee Edelman, *No Future: Queer Theory and the Death Drive* (Durham, NC: Duke University Press, 2004). [↑]
50. See: <http://patrullalegal.blogspot.co.uk/> (14 June 2014). [↑]
51. Monique Wittig, *The Lesbian Body*, (New York, NY: Avon, 1984). Originally published in 1976. [↑]
52. Athanasiou and Butler, 2013. [↑]

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