

SEXING THE CITIZEN THE CITIZEN

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INTRODUCTION: BODY POLITIC/S

Citizenship is a classic example of a universal that sloughs off all dimensions of identity so that it becomes a neutralised abstraction. Within political and legal discourse, 'the citizen' is an individual who is de-sexed, de-raced and de-classed. The one characteristic of identity that citizenship retains is that of nationality.

My contention is that citizenship's veil of universalism is a technology that normalises and enhances the power of Benchmark Men. By 'Benchmark Men', I mean those who are white, Anglo-Celtic, able-bodied, heterosexual and middle class, and who constitute the normative standard within the social script. I am interested in dislocating Benchmark Man as the paradigmatic citizen of the social script, and in rewriting the script.

Liberal legalism has conventionally displayed very little interest in citizenship, other than in policing the boundaries. Its concern has been with whether an individual is 'in' or 'not in' the relevant national community. The polity has not sought to delineate the rights and obligations of citizens *within* the state. The meaning of citizenship has been left deliberately vague. The status of citizenship is like marriage, which the state similarly regulates in terms only of getting in or out of, while leaving the substance untouched. The absence of substance has permitted those with social power, ie, Benchmark Men, to imbue universals with a meaning that operates to their advantage, for it is clear that these universals possess gendered, raced, sexualised and classed sub-texts that the language of universality seeks to obscure. The normative predilection in favour of Benchmark Men has been written into the social script and is filtered through religious, political, legal and popular discourses. This partiality ensures that liberty and equality for those confined to the status of 'other' are unrealisable within supposedly universal terrains. Hence, I do not think that UN conventions, constitutional guarantees or Acts of Parliament have any hope of ensuring substantive equality for women or 'others', although such instruments might constitute important sites of contestation. Formal instruments can secure only formal equality, which convey an *appearance* of substantive equality. The abstract nature of equality allows it to slough off particularity, including the reality of most women's lives.

The symbolic significance of placing a ballot in a ballot box has fallen far short of substantive equality for women. Rian Voet describes the 'full citizen' as one who 'actually takes part in legislation or decisionmaking in public affairs', as opposed to 'the citizen' who

merely has the *right* to participate.¹ Whereas standing for office has been an entitlement for Benchmark Men on attaining the age of majority, women have had to fight for the right to stand.² Acceptance of the idea that women, associated with the particularity of the private and the familial, can independently represent generalised interests within the public sphere is still being contested. The residual suspicion of an ‘unmanned’ woman was recently illustrated in Victoria when Louise Asher, a Liberal Party candidate for preselection, was attacked because she was (a) unmarried, and (b) in a relationship with a National Party MP.³

Within Western, democratic liberalism, equality, like citizenship, has meaning only within the public sphere, rendering the domestic sphere invisible within the rubric of ‘private’. This bifurcation between public and private has potentially devastating consequences for equal citizenship for those women whose lives revolve around so-called private activities, such as caring for young children. The gendered incommensurability of public and private spheres is no accident. Rousseau’s metaphor of the polity as a *body politic* underscores the idea that it is the public realm, where the brain of law is located:

For Rousseau, the ‘body politic...may be taken as an organized, living body, resembling that of man.’ Law and custom are the brain, business the mouth and stomach, and ‘citizens...the body which make the machine live, move and work’ via a ‘general will.’⁴

This imagery is also startling in the notion that the body politic is depicted as possessing a man’s body. Despite the halting admission of white women into the public sphere a century ago,⁵ the imagery associated with the body politic has not undergone a sex change. Universal language denies embodiment and subjectivity altogether. Particularities are relegated to the private sphere, which encompasses the affective and the corporeal, reproduction and nurturing - notions that have all come to be associated with the feminine.⁶ The bodily

¹Rian Voet, *Feminism and Citizenship*, Sage, London, 1998, p. 137.

²For details, see Thornton, ‘Embodying the Citizen’ in *Public and Private: Feminist Legal Debates*, Oxford University Press, 1995, p 201.

³Ewan Hannan, ‘With Friends like that...’, *The Age*, 13 July 1999.

⁴Toby Miller, *The Well-Tempered Self: Citizenship, Culture, and the Postmodern Subject* (1993) 2.

⁵When some Australian States, such as South Australia and New South Wales, enacted legislation enfranchising women, they made no advertence to Aboriginal women, who were rarely informed of their rights. Entry on the electoral roll remained optional for Aboriginal people until 1984. See Ann McGrath, ‘“Beneath the Skin”: Australian Citizenship, Rights and Aboriginal Women’ (1993) 37 *J Australian Studies* 99.

⁶I have dealt with the ambiguities of the public/private dichotomy elsewhere. See ‘The Cartography of Public and Private’ in Margaret Thornton (ed), *Public and Private: Feminist Legal Debates* (1995). See also the detailed study of Katherine O’Donovan, *Sexual Divisions in Law* (1985).

characteristics associated with sexual identity are largely unseeable within citizenship discourse.

Neither the polity nor the domestic sphere are unproblematically public or private, since there is a gendered symbiosis between them. Simply expressed, the domination of the polity by Benchmark Men has been contingent on women undertaking responsibility for nurturing, housework and caring work of all kinds. Benchmark Men have made a pact to treat the domestic sphere as a sphere beyond legal regulation. Marilyn Waring has written compellingly about the way that the value of women's work is officially discounted, but it is the public sphere that is the arbiter of what is public and what is private, what is valuable and what is not. The facets of life that Benchmark Men choose to hide or discount are selectively accorded the private designation by the 'brain of law'.

The symbiosis between a masculinised public and a feminised private is writ large in the social script, despite the valiant endeavours of feminist activists to effect change over the last century or so. The idea of the feminine in the public sphere has been so unsettling that the feminine has come to be construed as a metaphor for disorder.⁷ Indeed, the image of 'public woman' is sharply counterpoised against 'public man' within the social script. The concept of a public woman means a woman who is sexually available to all comers for money - that is, a prostitute - whereas a 'public man' possesses only positive connotations, for it refers to a man who has altruistically devoted himself to the public good. Women have had to struggle against images of distrust and dangerousness emanating from the construction of them as sexed bodies, as was apparent at the time of the French Revolution, when images of disorderly and grotesque women were used to support the view that the entry of women into the public sphere could only corrupt it, despite the prevailing rhetoric of universal equality.⁸

FROM EQUALITY TO FRATERNITY EQUALITY TO FRATERNITY

Equality, like citizenship, is a fraught concept. Aristotle asked the question, 'Equal in respect of what?' After two and a half thousand years, we are still unable to provide an answer. Formal equality is a central premise of liberal legalism, which entails treating in the same way those who are similarly situated. Difference justifies different treatment, it is claimed. This is the sticking point. The notion of formal equality may make sense in the case of the application of the criminal law, for example, but the concept has little meaning when we turn our eyes to civil law, for this branch of law has nothing to say about how we get to law to resolve disputes in the first place.⁹ Formal equality is by no means synonymous with equality

⁷Carole Pateman, *The Disorder of Women: Democracy, Feminism and Political Theory* (1989).

⁸Joan B Landes, *Women and the Public Sphere in the Age of the French Revolution*, (1988); Dorinda Outram, *The Body and the French Revolution: Sex, Class and Political Culture* (1989); Lyn Hunt (ed), *Eroticism and the Body Politic* (1991).

⁹Graycar and Morgan, for example, have addressed gender disproportionality in the allocation of legal aid. See Regina Graycar and Jenny Morgan, 'Disabling Citizenship: Civil Death for Women in the 1990's' (1995) 17 *Adelaide Law Review* 49.

of outcome, as Marilyn indicates. The emptiness and the malleability of formal equality persuade me to jettison it - at least, in the short term. In view of the animus against women in the public sphere, I do not believe that women will become full citizens by waiting for equality to be bestowed upon them by Benchmark Men. For this reason, I want to shift the focus from the polity to civil society.

Civil society, like citizenship, has an old-fashioned ring to it, and is sometimes omitted altogether from political analyses.¹⁰ While occupying a shadowy space between the polity and the market, civil society is an important sphere of freedom, in which individual citizens can debate and associate, acquire property, lobby governments, practise as professionals and litigate. Civil society is a sphere through which power is garnered, no less than through the market. I want to reclaim civil society in the interests of women. Within the public sphere, citizens are generally understood to be passive bearers of rights. Civil society permits citizens to be active in ways that are becoming increasingly difficult in a contracting public sphere.

Rather than focus on equality to ameliorate the position of women and to give meaning to citizenship, I recommend that attention be directed to the role of fraternity in civil society. Within the triad, 'liberty, equality, fraternity', fraternity is usually neglected. Perhaps, this is because it does not lend itself to abstraction. Its embodied reality is a source of embarrassment within a universal space. Political discourse has sought to define fraternity in terms of community, a definition that is not altogether compelling. Fraternity signifies brotherhood, corporeality and mateship, ie, particularity, rather than universality. It encourages us to focus on the links between boys' schools, sport, militarism, club life, eating and drinking rituals, and the ways in which masculinity are constructed. Fraternity compels a focus on the particularity of caring and rearing, together with the sex, colour, sexuality and class of the bodies involved in that work. Scrutiny means that Benchmark Man can no longer hide behind the facade of universal citizenship. His sex is exposed.

The domination of civil litigation by men has legitimised and enhanced their power capital, which has been used to consolidate their status within the polity, as well as within the market and the domestic sphere. Active citizenship has to be asserted. Civil litigation, which has allowed Benchmark Men to garner power capital, is one such site.

CONCLUSION: A MUTABLE BODY POLITIC

Looking at the space behind the universal citizen reveals that citizenship for most women, whether white, Aboriginal, NESB, or lesbian, has been what Walby calls 'a transition from private to public patriarchy'.¹¹ The location of the juridical citizen within the public domain, disconnected from the realities of private life, is another clever artifice devised by the 'brain of law'. A focus on fraternity serves to dislocate Benchmark Man as universal citizen, and necessarily disrupts the masculinist identity of the body politic itself.

¹⁰Compare Drude Dahlerup, 'Learning to Live with the State: State, Market, and Civil Society: Women's Need for State Intervention in East and West' (1994) 17 *Women's Studies Int. Forum* 117.

¹¹Sylvia Walby, 'Is Citizenship Gendered?' (1994) 28 *Sociology* 379, 392.

I suggest that rather than rely on the good graces of Benchmark Men in the public sphere that we rely upon the discursive power of civil society, that we invoke its freedoms to debate, associate, contract and litigate and, the process, emphasise the importance of fraternity - mateship, if you will - in order to generate power capital in the public sphere. Through new discourses, it is possible to expose the sex of the citizen. We can reveal him to be Benchmark Man; not a neutral abstraction. In this way, I suggest, it is possible for women and others to effect a transition from passive to active citizenship.