

Rights-based reasoning in discussions about lesbian and gay issues: implications for moral educators

ELLIS, S. J.

Available from Sheffield Hallam University Research Archive (SHURA) at:

<http://shura.shu.ac.uk/116/>

This document is the author deposited version. You are advised to consult the publisher's version if you wish to cite from it.

Published version

ELLIS, S. J. (2004). Rights-based reasoning in discussions about lesbian and gay issues: implications for moral educators. *Journal of Moral Education*, 33 (1), 71-86.

Copyright and re-use policy

See <http://shura.shu.ac.uk/information.html>

**Rights-Based Reasoning in Discussions about Lesbian and Gay Issues:
Implications for Moral Educators**

Sonja J. Ellis

Lecturer in Psychology

Sheffield Hallam University

Contact Details:

Dr S. J. Ellis
School of Social Science and Law
Southbourne
Sheffield Hallam University
Collegiate Crescent Campus
Sheffield S10 2BP.

E-mail: S.J.Ellis@shu.ac.uk

Acknowledgements:

The research reported here was carried out as part of the doctoral research of the author whilst in the Department of Social Sciences at Loughborough University, and funded by an Overseas Research Studentship (ORS: CRB/97026001) and a Loughborough University Faculty Studentship. The author wishes to acknowledge, with thanks, the contribution of her supervisors Dr Celia Kitzinger (now at the University of York, where she is Professor of Conversation Analysis, Gender and Sexuality) and Dr Sue Wilkinson (Now at Simon Fraser University, Canada, where she holds the Ruth Wynn Woodward Endowed Professorship of Women's Studies).

Rights-Based Reasoning in Discussions about Lesbian and Gay Issues: Implications for Moral Educators

Abstract

Despite a paucity of psychological research exploring the interface between lesbian and gay issues and human rights, a human rights framework has been widely adopted in debates to gain equality for lesbians and gay men. Given this prominence within political discourse of human rights as a framework for the promotion of positive social change for lesbians and gay men, the aim of this study was to explore the extent to which rights-based arguments are employed when talking about lesbian and gay issues in a social context. An analysis of six focus group discussions with students showed that when lesbian and gay issues are discussed, rights-based reasoning is employed intermittently, and in relation to certain issues more so than others. The implications of these findings for moral education aimed at promoting positive social change for lesbians and gay men are discussed.

Rights-Based Reasoning in Discussions about Lesbian and Gay Issues: Implications for Moral Educators

Human rights are "the rights of all people, at all times and in all situations" (Cranston, 1962, p.49). A human rights approach to lesbian and gay issues takes as its starting point the fundamental principle that human rights are universal and inalienable comprising first and foremost the right to life and secondly any rights which maintain the existence and quality of that life (e.g. civil, social and economic rights) for all people regardless of class, race, sex, sexual orientation, religion and disability (Donnelly, 1993). Consequently, whether or not embodied in laws, treaties and declarations, human rights apply to all people, including lesbians and gay men.

Psychological theory and research on moral reasoning has engaged implicitly with human rights, with human rights occupying a small but key position in moral developmental theory. For example, within Kohlberg's stage theory of moral development, human rights are embedded at the sixth, and highest, stage of reasoning, characterised by "universal principles of justice: the equality of human rights and respect for the dignity of human beings" justified in terms of a "belief as a rational person in the validity of universal moral principles and a sense of personal commitment to them" (Kohlberg, 1984, pp. 174-6). Therefore, within a Kohlbergian framework, reasoning based on human rights is considered the most advanced, and thus most desirable, form of reasoning and the benchmark by which earlier stages of reasoning are evaluated (Carter, 1987).

Arising from Kohlberg's theory is a well established body of empirical research, but for the most part, these studies appear not to have engaged with the human rights aspect of the model. This is probably due, at least in part, to the fact that in most studies, few (if any) participants have been found to reason at

stage six (see Kohlberg, 1984; Kohlberg *et al.*, 1983). Despite neo-Kohlbergian work being well-established in the psychological literature, it has also been heavily critiqued (for a summary, see Kohlberg *et al.*, 1983). In particular, it has been considered andro- and ethno-centric (e.g. see Gilligan, 1982; Kurtines & Gewirtz, 1987; Sampson, 1988) and has been criticised for a failure in empirical research to demonstrate sequential progression through the stages (e.g. see Carter, 1987). However, these arguments primarily attend to the structure inherent to the model, rather than to the types of arguments encapsulated within it.

Leaving aside the issue of whether (human) rights based reasoning is, psychologically, the most 'developed' or 'sophisticated' moral standpoint, a human rights approach has been seen as tremendously powerful in the political arena for effecting positive social change. By locating sexual orientation within a human rights framework, lesbians and gay men (and their advocates) can link their struggle to a tradition which has transformed the oppression of other groups (e.g. women and blacks) into rights respected under domestic and international law (Helfer & Miller, 1996). Other moral frameworks, however, make it difficult to achieve equality for lesbians and gay men because they construct sexual orientation as 'private practice', rather than 'public identity' and therefore not as a social and legal issue. Furthermore, since human rights apply to all people, independent of individual differences (e.g. race, class, sex, sexual orientation, and religion) (Donnelley, 1993) and are founded on the principle of equality, they are widely supported in principle (e.g. see Ellis, 2002b; Ellis *et al.*, 2002). It therefore makes sense to focus on, and promote, this type of reasoning as an appropriate framework for thinking about lesbian and gay issues.

Furthermore, a human rights framework has been successfully used to secure equality for lesbians and gay men in recent political debates. For example, in the UK, the various campaigns (1994, 1998, 1999, 2000) for equalising the age of consent for sex between men with that for heterosexual (like the campaigns to remove the ban on lesbians and gays in the military; the removal of Section 28 of the Local Government Act [1]; and other debates) have primarily been based on the human rights argument of equality, or equal rights for all (see Ellis & Kitzinger, 2002). In these campaigns, both Civil rights organisations and MPs have been united in arguing for human rights: "the case for equality" (Stonewall, 1998); "Outrage! backs equality at 16" (Outrage!, 1999); "The debate is about equality", "it is a bill about human rights and equality under the law" (Lord Warner, House of Lords); "it is not an issue for gay men alone...but one of human rights" (Edwina Currie, House of Commons) (extracts from Hansard). It would appear then, that in a moral democratic society, a human rights framework is advantageous for promoting equality for lesbians and gay men.

Whilst a human rights approach has been employed in a number of relatively recent psychological studies around social issues such as state-sponsored violence (Lykes *et al.*, 1993), domestic violence (Perilla, 1999; Beasley & Thomas, 1995), incest (e.g. Russell, 1995), and transracial adoption (e.g. Penn & Coverdale, 1996), this approach has seldom been applied to issues of discrimination against lesbians and gay men. Likewise, studies which explore attitudes towards, understandings of, and support for human rights (Doise *et al.*, 1999; Moghaddam & Vuksanovic, 1990; Payaslyođlu & Içduygu, 1999; Ruck *et al.*, 1998); as well as those which explore willingness to extend human rights to various groups within society (e.g. Owen & Dennis, 1987; Sotelo, 2000a), with only a small number of exceptions (e.g. Ellis, 2002b; Ellis *et al.*, 2002; Sotelo,

2000b), have seldom explored attitudes towards, and willingness to extend, human rights to lesbians and gay men.

However, studies which have explored lesbian and gay issues as human rights issues have been primarily survey-based, and therefore do not explore whether people use human rights frameworks to discuss lesbian and gay issues. For example, using the support for lesbian and gay rights questionnaire, Ellis (2002b) and Ellis *et al* (2002) explored the extent to which people supported specific human rights issues as they apply to lesbians and gay men. Respondents were asked to indicate on a 5-point likert-type scale the extent to which they agreed with each of a series of human rights issues (e.g. "Lesbian and gay couples should have all the same parenting rights as heterosexuals do", "There is never a situation in which someone's homosexuality should be a cause for job discrimination"). Findings of this study showed that whilst 96% of respondents supported the notion that human rights should apply to all people, when asked about specific human rights issues, levels of support varied considerably. Whilst these studies suggested that social rights (e.g. the right to marry and found a family; the right to be fairly represented in education) were much less well supported than other rights (e.g. freedom from fear; employment rights), Sotelo (2000) found that adolescents were much less willing to extend rights relating to public activities (e.g. demonstrations).

Although several papers (e.g. Petrovic, 1999; Reiss, 1997, 1999) have discussed moral education in relation to homosexuality, to date only one study (Ellis, 2002a) has explored moral reasoning in relation to lesbian and gay rights issues. In this study, moral reasoning about homosexuality was measured using a version of the Moral Judgement Test (Lind and Wakenhut, 1985) modified so that the vignettes specifically focused on lesbian and gay issues. The findings of this

study showed that respondents favoured human rights (stage 6) arguments less than they favoured other types of reasoning (i.e. individualism, legal duty, and relativism). However, what this study does not explore is the circumstances under which people do employ human rights reasoning.

Given the prominence of human rights as a framework for the promotion of positive social change for lesbians and gay men within political discourse, the aim of this study was to explore the extent to which people (in this case students) employ human rights arguments when talking about lesbian and gay issues in a social context, and when this type of reasoning occurs. This study therefore differs from, but builds on previous work on moral reasoning in relation to lesbian and gay issues (i.e. Ellis, 2002a) in that it explores reasoning in a social context, through discussion, rather than via the more structured and formal means of psychometric testing of moral reasoning. Although small-scale, it was expected that by investigating the extent to which rights-based reasoning is employed in social discourse around lesbian and gay rights issues, we (as moral educators) might gain some insight into how best to work towards facilitating positive social change for lesbians and gay men (cf. Payaslyođlu & Içduygu, 1999).

The Study

Data Collection

Facilitated by myself, six group discussions, each lasting an hour to an hour and a half, were conducted with students at a university in the East Midlands, England. Potential participants for the study were recruited through colleagues and acquaintances of the researcher, from classes within the Social Sciences

department, and via e-mail to student organisations and societies within the university. Participation in the study was voluntary, however, I endeavoured to recruit participants from as wider range of subject areas, levels of study, and ages, as possible. Students within each group were acquainted with one another, and one group (group 6) was specifically recruited because all members identified as lesbian or gay (This group was recruited through the university's LGBT student group). Unfortunately, despite attempts to include participants from ethnic minority backgrounds the sample comprised exclusively white participants. Overall, the final sample of participants comprised 18 participants (6 male; 12 female), most of whom self-identified as heterosexual, and represented a range of subject areas (see Table I for a demographic breakdown of participants by discussion group).

[insert table I about here]

Although the present sample was one of convenience, and therefore non-representative, this was seen as relatively unproblematic in that the intent of study was to explore reasoning within a localised context (i.e. within discussion) rather than to determine generalised patterns of reasoning.

Focus groups, rather than individual interviews, were employed in this study to investigate human rights talk within a social context; which is, of course, the setting within which negotiation about rights and rhetoric around prejudice is typically developed. All discussions were carried out in a room at the university, were tape-recorded and subsequently transcribed. The discussions were semi-structured, in that they were conducted for a larger study exploring student reasoning about lesbian and gay (human) rights issues. A schedule was therefore created for the discussions which introduced a sequence of specific rights issues – freedom of expression,

same-sex marriage, lesbian and gay parenting, lesbian and gay issues in education, employment issues, age of consent, and state sanctioned violence – around which the discussions were based. The schedule focused primarily on social rights as these were identified as salient in my previous study on support for lesbian and gay human rights (Ellis, 2002b). Each topic was introduced into the discussion by a leading question, and was followed by a series of probe questions designed to explore participants' reasoning further. For example, in order to initiate discussion about the right of lesbians and gay men to marry, each group was asked "what do you think about same-sex marriage?" As the discussions developed, probe questions such as "do you think that lesbian and gay couples should be able to get married?" and "what if they want to make a public affirmation of their love for religious or other reasons?" were introduced to gain as much depth as possible on each topic. Structuring the lead questions in this way may have cued participants into taking a particular stance on the issues (most likely to conform to an anti-discrimination norm), however, I was not perturbed about this as I was primarily interested in the extent to which participants employed rights-based reasoning and *not* whether they purported to agree or disagree with the issues being raised.

Following the lead question for each issue the discussions were left to take their own direction and focus until conversation was exhausted at which point a new topic was introduced. In order to ensure that each topic was fully exhausted before moving on, the probe questions were initiated by myself at points where the discussion appeared to be waning. Since the focus of the study was on the extent to which rights-based reasoning was invoked, I deliberately ensured that none of my topic-based questions specifically mentioned rights or equality.

After discussion of the seven topic areas, I explicitly introduced the notion of human rights by asking "Have you heard of the phrase human rights?" followed by

the question “do you have any idea what it means?” When discussion of human rights appeared exhausted, I then introduced the idea of human rights being applied to lesbian and gay issues by asking “Do you think it [human rights] might be relevant to thinking about lesbian and gay issues?” and encouraged participants to elaborate on their responses.

Although a series of probe questions was prepared in advance, discussions were allowed to unfold naturally, and thus the probe questions used attended to the standpoints which emerged in the discussion, as well as potential counterarguments common in lay discourse on lesbian and gay issues. The schedule was, therefore, used as a guide rather than a definitive structure for the discussions. A copy of the schedule topics and questions (in the order they were introduced) is included as an appendix to this paper.

Data Analysis

Analyses of the focus group data presented here involved the drawing together of similar themes or discourses as is customary in qualitative social science research. The form of analysis used in this study may be characterised as content-cum-thematic analysis whereby drawing on Potter & Wetherell's (1987) guidelines (see pp. 167-171), incidences of rights-based reasoning within the discussions as a whole (i.e. across topics) were identified by reading through of each of the transcripts a number of times. As part of the analysis in its entirety, incidences of other types of reasoning (e.g. rhetoric around care and ‘protection’ of children; moral probity; majority rules) were also identified and coded into a number of themes.

In order to identify where rights-based reasoning was employed in the focus group talk, it was necessary to derive a working definition of what rights-based talk

would look like. It was initially anticipated that the Moral Judgement Interview (MJJ), an operational version of Kohlberg's stage theory of moral development might be of use here. However, despite giving numerous examples of reasoning at stages one through five, the manual for Kohlberg's MJJ (Colby & Kohlberg, 1987) does not give any working examples of stage six (human rights) reasoning. Although Kohlberg quotes some philosophical accounts of stage six reasoning (see Kohlberg, 1981, pp. 33-34 and p. 162) these, firstly, pertain to the right to life, and therefore do not give a clear indication of what stage 6 reasoning might look like in relation to other issues, and secondly, are too unwieldy to be useful as a model from which to judge everyday discourse. Similarly, the representative examples incorporated into psychometric tests of moral reasoning, such as the Defining Issues Test (DIT; see Rest, 1979) and Moral Judgement Test (MJT; see Lind & Wakenhut, 1985) were also inadequate, due to their conciseness. A new operational definition was therefore created for this study as a guide to analysis.

The definition employed for the present analysis was based on the general literature on human rights. Consistent with human rights theory, human rights were defined as "the rights of all people, at all times, and in all situations" (Cranston, 1962, p. 49), characterised as universal and egalitarian (i.e. they apply to all people equally), indivisible (they cannot be separated from one another) and inalienable (they cannot be taken away or foregone) (see Donnelly, 1993). However, lay conceptions of concepts seldom comprise formal definitions or highly structured 'official' language. In relation to lesbian and gay issues then, it was expected that if respondents were using human rights reasoning, they may be employing the language of human rights, as just described, or they may be simply drawing on human rights principles (e.g. the right to life as paramount over cultural considerations; everyone having the right to live without fear).

Consequently, a statement which drew on human rights concepts was, in the present study, deemed to be human rights talk. So, for example, where a participant referred to “equality for all people, regardless of sexual identity”, or that “all people should have the right to marry”, this was deemed to be human rights talk, in that the statement “all people” implies universality. Likewise, where a participant said, for example, “lesbians and gay men should have the same rights as heterosexuals”, or that “denying lesbians and gay men to serve in the military is the same as not allowing blacks to serve in the military”, this too was deemed to be human rights talk, in that it implicitly refers to equality. Therefore, in analysing the focus group data, passages were selected where participants explicitly mentioned human rights (i.e. “lesbians and gay men should be allowed to parent children, because *it is a basic human right* to parent children”), or when this was implied by the use of human rights language, such as universality and egalitarianism (i.e. “lesbians and gay men should be afforded partner rights as a matter of equality”).

To analyse the data then, I read through each transcript systematically coding the arguments presented by participants. Each time a statement conformed to the criteria outlined here, it was labelled ‘human rights’. Other types of reasoning were identified and labelled using a similar process, but as the focus of this paper is on human rights reasoning in relation to lesbian and gay issues, these are not discussed here (see Ellis & Kitzinger, 2002 for an analysis of non-rights-based arguments typically invoked in rhetoric around lesbian and gay issues).

Human rights in focus group talk

An analysis of the transcripts from all six focus groups showed that to some degree focus group participants did use the language of human rights when discussing

lesbian and gay issues, although the phrase ‘human rights’ itself was used infrequently. Consequently, the implicit use of human rights arguments were more common than explicit references.

Whilst the discussion of most issues invoked brief reference to human rights, a human rights perspective was most evident in relation to state sanctioned violence against lesbians and gay men (e.g. imprisonment, torture, or death, simply for being lesbian or gay), a human rights framework being employed by most participants to suggest that these actions should not occur. For example, “I don’t think they have the right as humans to kill other humans” (Katherine); “it’s human rights at the end of the day” (Rita); “we go into places like Kosovo and stuff like that for basic human rights ... why can’t we do that for gay people?” (Wendy); and it’s “human rights basically” (Tim).

Similarly, when the concept of human rights was explicitly introduced in relation to lesbian and gay issues, several participants explicitly discussed the interface between lesbian and gay issues and human rights. For example, the following excerpt shows Rita employing a human rights framework to indicate support for lesbian and gay issues as human rights issues:

Facilitator: Do you think that the concept of human rights might be relevant to thinking about lesbian and gay issues? If so, how, if not, why not?

Pam: If persecution in other countries because of their sexuality, yeah, it’s a human right issue.

Rita: And in this country I think it is as well. You know in any culture - I mean, it’s not equal now, for gay and lesbians compared to heterosexuals, and I think that is a human right really, that they should have the right of anybody else walking on this earth, they should have just as much right. So, yeah, I think it is a human rights issue.

In this excerpt, I introduce the notion of human rights in relation to lesbian and gay issues, to which Pam responds that she thinks persecution in other countries on grounds of sexuality is a human rights issue. Rita then adds “in this country... as well” and “in any culture” (human rights are universal), pointing out that lesbians and gay men do not have equality with heterosexuals (human rights are egalitarian), and that lesbians and gay men should have the same rights as “anybody else walking on this earth” (human rights apply to all people everywhere).

Likewise, in response to the same question, Bryan indicated support for the notion of lesbian and gay issues as human rights issues, as illustrated in the following excerpt:

Bryan: Right. But whether you know issues surrounding sexuality have been elevated to that of human rights, and they haven't – they certainly haven't it's usually based on religious or um ethnic persecution, human rights.

Facilitator: Do you think they should be elevated to that?

Bryan: Absolutely, absolutely. I mean it's like Adam said, you're talking about issues that are related fundamentally to you know, people have the right to be free of fear of discrimination, persecution, and for what – and for the issues that that encompasses, I mean that should be taken very seriously.

Here, Bryan first points out that lesbian and gay issues have not typically been considered human rights issues. However, when asked whether he thinks they should be, he gives his unequivocal support (“absolutely”), going on to use the central tenet of human rights – albeit his own version – to justify his stance (“[all] people have the right to be free of fear of discrimination”).

Fiona also employs a human rights perspective, but in this case when discussing lesbian and gay marches. She says

Homophobic people are, I think, worsened by that kind of behaviour, not because I think they shouldn't have freedom of speech, because I think everybody should, but just because I am not entirely sure that it's not saying "look. Here we are, and we're different, and you have to accept us".

Fiona introduces a human rights principle ("freedom of speech") attending to egalitarianism ("I think everybody should"). Although in this excerpt Fiona is actually disagreeing with the right of lesbians and gay men to freedom of expression, later in the focus group she revisits this issue during a discussion of Section 28, and retracts her previous stance in light of her newly found awareness of "these ridiculous rules that still exist".

Congruent with this, the notion of equal rights, or equality for all, was frequently invoked. For example, in connection with same-sex marriage, Fiona claimed "it's just another question of equal rights", Katherine that "it's a difference [sic] of equal rights", and Tim that "the same rules should be applied to both". Likewise, in relation to the age of consent, Diana stated "if you're making everything else equal, I can't see any argument why the age of consent shouldn't be equal as well", whilst Robert asserted "it should be equal, whatever age it is".

The concept of equality was also alluded to where some participants claimed that a lack of equality suggests that lesbians and gay men are somehow 'less worthy' of equal rights than heterosexual persons. For example, when discussing partner benefits, Diana claimed that the existing inequalities "suggests that lesbian and gay couples aren't on the same level as heterosexuals, that they're not worthy enough". Similarly, when discussing the age of consent for sex between men, Pam states "if it's a different age, it's just saying that ... it's [being lesbian or gay is] not as good as heterosexuals [sic]".

Another way in which the concept of human rights was raised, was through the notion of universality, or that the issues (or rights) in question should apply to all people, equally. For example, when discussing same-sex marriage, Adam stated “I think one of the problems is that it’s got to be all or none. I don’t know whether or not there’s any kind of justification for half measures” and that “it’s got to be either they’re equivalent, or no law”. Similarly, when discussing employment rights, Katherine suggests that rather than having universal laws, that lesbian and gay discrimination is “a case of multiple laws” or “separate laws for different groups”, and likened it to “the Jews being sent off into little ghettos” during the holocaust.

In discussing employment issues, the concept of human rights as universal and egalitarian was invoked by participants often through the drawing of parallels between discrimination against lesbians and gay men, and race discrimination. For example, when discussing the ban on lesbians and gay men in the armed forces, Imogen stated “you can’t take away somebody’s right to employment like that, because of their sexuality”, going on to add that “it used to be that black people weren’t accepted in the army”, and that “you can’t take away somebody’s right to employment ... because they’re blacks”. Likewise, when as moderator I introduced the idea of lesbians and gay men being fired for being lesbian or gay, Rita stated “it’s wrong” because “it’s just like being sacked because of your race”. Similarly, Tim stated that firing someone on grounds of their sexual orientation is “just blatant discrimination” and that “it’s like firing someone for race, you just don’t do it”.

In discussing other issues, some participants also employed rights-based talk by invoking the notion of non-discrimination on grounds of characteristics such as ethnicity and religion. For example, when discussing parenting rights, Imogen makes a strong rights-based claim for lesbian and gay parenting:

I think that anyone should – not have the right to have a child, because it isn't a right, but should have a chance to have their own children. And just because you happen to have a certain kind of sexuality, doesn't take away that you should have that chance, so anyone should be able to have a chance to have their own child, whatever colour, sexuality, whatever, they should be able to, and you shouldn't be lumped with somebody else's child, but you shouldn't have to adopt to have a child in your family.

Here, Imogen draws on the language of human rights by suggesting that the 'chance' to have a child should be afforded all people, irrespective of colour or sexuality.

Similarly, Adam suggests that the right to asylum should be extended to lesbians and gay men in the same way as is afforded on the basis of religion, creed or ethnicity, stating "if you're having a policy of offering asylum to people who are being discriminated on the basis of religion, ethnic what's it, creed, sexuality, I mean – I am sure it has to fit in under those – under the scope of those concepts".

Finally, when discussing same-sex marriage, some participants employed rights-based reasoning, referring to the benefits accrued by marriage and not available to unmarried partners. For example, Tim stated "some married couples get benefits on tax relief" and that "it would be nice to see gay couples recognised by the government", whilst Katherine said "I'm not as worried about the terminology, I think the legal rights are more important". Similarly, the following interchange between Katherine and Leanne occurred when Leanne (a self-identified lesbian) puts forward the idea of the (gay) 'commitment ceremony' as equivalent to (heterosexual) marriage:

Leanne: In this country you can - you can do a commitment ceremony, which is - isn't a marriage but it's the same level of commitment, it's performed by a priest and it can be - it can be a Christian ceremony, yeah, so it isn't - it isn't called a marriage, because you can't legally get married, but it is - it is a

ceremony of commitment which says that “I am committed to you, and I want to be with you for the rest of my life” and it is - it is a very similar statement, so it - it isn’t a marriage because that’s not legal, but it is a very similar ceremony saying very similar things, so

Katherine: It does the emotional

Leanne: It does have the same effect.

Katherine: It doesn’t cover the - It doesn’t cover if one of the couple falls ill then their family gets the rights of choosing medical

Leanne: I’m not sure how it works, but there is - I don’t think it’s covered by the same rules, because it’s not a marriage. It’s a very grey area, but it’s a

Gavin: sort of like a ()

Leanne: yeah, and it’s things like - if, if you’re working for a company which has health insurance, when it says it covers a spouse, a gay partner is not covered because they’re not a spouse unless you’re married, and things like that. So, it’s very difficult.

In response to Leanne’s suggestion that the commitment ceremony is “similar” to marriage, Katherine introduces a rights-based approach by pointing out that although a commitment ceremony does the same job in terms of the “emotional” aspect of marriage, it does not extend the rights afforded by a legal marriage. Leanne then backtracks on her claim, first claiming ignorance (“I’m not sure how it works”) going on to adopt a rights-based approach herself, highlighting that partner benefits in the workplace are only extended to a (legally defined) “spouse” and therefore are not extended to lesbian and gay couples.

Implications for the Moral Educator

This study set out to explore the extent to which human rights arguments are employed in conversation about lesbian and gay issues, with a view to establishing

how we (as moral educators) might best work towards facilitating positive social change for lesbians and gay men. The analysis presented here suggests that human rights language and concepts were employed in a number of instances to argue for positive social change for lesbians and gay men.

Overall, human rights arguments were used intermittently, interspersed with arguments employed from other frameworks (e.g. personal preference; current social frameworks). This, however, is not entirely surprising, in that a human rights perspective is not the dominant framework used in public and psychological discourse for talking about lesbian and gay issues. Until relatively recently, lesbian and gay issues were not promoted as human rights issues in political and public debate. Even though recent political debates in the UK (e.g. the Age of Consent; Section 28; gays in the military) have been promoted as human rights issues, media coverage has overwhelmingly focused on opposition to positive social change, which as illustrated in my previous work (see Ellis & Kitzinger, 2002) has almost exclusively comprised non-rights-based reasoning.

Arguing for lesbian and gay rights from within non-rights-based moral frameworks is not an effective way of initiating positive social change for lesbians and gay men, in that it evokes circular arguments. For example, to simply argue that homosexuality is not morally wrong, sinful, etc simply evokes counterarguments that it is. To do so is to adopt the agenda of those opposed to equality, an agenda in which alternative moral frameworks are used to deflect attention from the issue of equality (Dean, 1994).

Perhaps more importantly, though, it was noted that human rights arguments were more often employed in relation to some issues rather than others: Notably it occurred when issues around 'the right to life' and 'the right to asylum' were raised, and were much less apparent in discussions of social rights (e.g. lesbian and gay

parenting; same-sex marriage) and employment rights. This appears to reflect participants' limited perception of the range of issues legally and constitutionally considered human rights issues. This is perhaps because the conception of human rights as life-and-death issues (e.g. genocide; torture) is the 'commonsense' notion of human rights promoted in the media and by (some) activist groups, and therefore an easily accessible discourse of human rights. Whilst using human rights arguments in relation to these issues is not in itself problematic, it implies too narrow a perception of human rights. In teaching about human rights in moral education (at all levels) we therefore need to develop a more comprehensive understanding of human rights, and the breadth of issues that it covers.

The analysis presented here also clearly shows that when the notion of human rights was explicitly introduced into the discussion, rights-based language became more prevalent in discussions around lesbian and gay issues. It would seem then that using a human rights framework as the focal point within which to raise lesbian and gay issues might potentially encourage thought and discussion of lesbian and gay issues as human rights issues. In moral education at secondary and higher education, then, lesbian and gay issues (and potentially issues of other marginalised groups) could be used as case examples. So rather than promoting lesbian and gay issues as human rights issues, human rights education could be used to raise the profile of lesbian and gay issues.

To this point, I have taken for granted that it is an appropriate aim for the moral educator to facilitate positive social change for lesbians and gay men. As Petrovic (1999) suggests it is not a question of 'if' but rather 'how' we do this. Whether or not we as educators agree with homosexuality, from a human rights perspective we have a duty to instil recognition of lesbians and gay men as equal in

rights to all other human beings, in that moral education entails an obligation to present a moral democratic stance.

Although in the present study there was an absence of outright challenges to affording human rights to lesbians and gay men, many people do not see homosexuality as a human rights issue. For example, they may see homosexuality as morally sinful or see lesbians and gay men as ‘perverts’ and therefore less than human: Frameworks which, in a sense, conflict with a human rights agenda. Whilst those who expound these views may see them as legitimate moral arguments, from a human rights framework they are particularly problematic. Firstly, human rights are universal and therefore apply to all people; and as citizens in a moral democratic society, all people have a moral obligation to ensure that the rights of all people, including lesbians and gay men, are protected. Whilst a human rights framework simultaneously entitles individuals to freely express their views (including views against homosexuality) it often means supporting the rights of those whose actions, behaviours and identities we do not necessarily agree with. Secondly, a human rights framework clearly specifies that limitations may be put on people’s rights “for the purpose of securing due recognition and respect for the rights and freedoms of others” (United Nations, 1948). Therefore, whilst other standpoints can, and in my opinion should, be discussed in the relatively ‘safe’ arena of moral education, people are not entitled to use those views to infringe the rights of others (e.g. lesbians and gay men) through silencing views which conflict with their own. This is a key strength of a human rights framework, and a point on which we can potentially engage those morally opposed to homosexuality in constructive discussion.

Although small-scale, this study has shed some light on the extent to which students employ human rights arguments in relation to lesbian and gay issues. Despite the limitations of using a convenience sample (e.g. non-representative and

potentially biased) the analysis reported here provides some insight into how we might facilitate discussion of lesbian and gay issues as human rights issues. By helping students to develop a broader conception of the scope of human rights, and prioritising a human rights framework, we can facilitate the application of human rights theory to real life issues, including those which apply to lesbians and gay men.

Above all, if we as moral educators value a human rights framework and wish to promote it as a vehicle of social change, we need to encourage students to explore, through discussion, the benefits of a human rights framework, and the limitations of other frameworks for advancing positive social change. Prioritising a human rights framework within moral education, therefore, can only help to strengthen and promote its use in wider social discourse.

Word Count = 5985

Notes

- 1 In the UK, Section 28 of the Local Government Act 1988 (the law referred to here) stated that a local authority should not “intentionally promote homosexuality or publish material with the intention of promoting homosexuality” or “promote the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship”. It was repealed in Scotland in June 2000, and in England and Wales in September 2003.

References

- ATOLAGBE, E. O. & OTUBANJO, F. (1984) Attitudes of Nigerian college students towards fundamental human rights, *Social Behavior and Personality*, 12, pp. 91-96.
- BEASLEY, M. E., & THOMAS, D. Q. (1994) Domestic violence as a human rights issue, in: M. A. FINEMAN & R. MYKITIUK (Eds.) *The Public Nature of Private Violence: the discovery of domestic abuse*, pp. 323-346 (New York: Routledge).
- CARTER, R. E. (1987) Beyond Justice, *Journal of Moral Education*, 16 (2), pp. 83-98.
- COLBY, A., & KOHLBERG, L. (1987) *The Measurement of Moral Judgement, vol 2: standard issue scoring manual* (Cambridge: Cambridge University Press).
- CRANSTON, M. (1962) *Human Rights Today* (London: Ampersand).
- DEAN, C. R. (1994) Gay marriage: A civil right, *Journal of Homosexuality*, 27, pp. 111-115.
- DOISE, W., SPINI, D., & CLEMENCE, A. (1999) Human rights studied as social representations in a cross-national context, *European Journal of Social Psychology*, 29, pp. 1-29.
- DONNELLY, J. (1993) *International Human Rights* (Boulder, CO: Westview).
- ELLIS, S. J. (2002a) Moral Reasoning and Homosexuality: The Acceptability of Arguments about Lesbian and Gay Issues, *Journal of Moral Education*, 31 (4), pp. 455-467.
- ELLIS, S. J. (2002b). Student support for lesbian and gay human rights: Findings from a large-scale questionnaire study, in: A. COYLE & C. KITZINGER (Eds.) *Lesbian and Gay Psychology: New perspectives*, pp. 239-254 (Leicester: BPS Books/Blackwell).

- ELLIS, S. J. & KITZINGER, C. (2002) Denying equality: An analysis of arguments against lowering the age of consent for sex between men, *Journal of Community and Applied Social Psychology*, 12, pp. 167-180.
- ELLIS, S. J., KITZINGER, C. & WILKINSON, S. (2002) Attitudes towards lesbians and gay men and support for lesbian and gay human rights among psychology students, *Journal of Homosexuality*, 44, 121-138.
- GILLIGAN, C. (1982) *In a different voice: Psychological theory and women's development* (Cambridge, MA: Harvard University Press).
- HELPER, L. R. & MILLER, A. M. (1996) Sexual orientation and human rights: Toward a United States and transnational jurisprudence, *Harvard Human Rights Journal*, 9, pp. 61-103.
- KOHLBERG, L. (1984) *Essays on Moral Development v. 2: The psychology of moral development: the nature and validity of moral stages* (San Francisco: Harper & Row).
- KOHLBERG, L., LEVINE, C., & HEWER, A. (1983) *Moral stages: A current formulation and a response to critics* (New York: Karger).
- KURTINES, W. M. & GEWIRTZ, J. L. (Eds.) (1987) *Moral development through social interaction* (New York: John Wiley & Sons).
- LIND, G. & WAKENHUT, R. (1985). Testing for moral judgment competence, in: G. LIND, H. A. HARTMANN, & R. WAKENHUT (Eds.) *Moral Development and the Social Environment: Studies in the philosophy and psychology of moral judgement and education*, pp. 79-105 (Chicago, IL: Precedent Publishing).
- LYKES, M. B., BRABECK, M. M., & RADAN, A. (1993) Human rights and mental health among Latin American women in situations of state-sponsored violence, *Psychology of Women Quarterly*, 17, pp. 525-544.
- MOGHADDAM, F. M., & VUKSANOVIC, V. (1990) Attitudes and behavior toward human rights across different contexts: The role of right-wing authoritarianism,

- political ideology, and religiosity, *International Journal of Psychology*, 25, pp. 455-474.
- OUTRAGE! (1999) *Outrage! Backs equality at 16* [document] (London:Author).
Retrieved November 23, 1999 from the World Wide Web:
<http://outrage.cygnet.co.uk/consent99.htm>
- OWEN, D., & DENNIS, J. (1987) Preadult development of political tolerance, *Political Psychology*, 8, pp. 547 - 561.
- PAYASLYOĞLU, A., & İÇDUYGU, A. (1999) Awareness of and support for human rights among Turkish university students, *Human Rights Quarterly*, 21, pp. 513-534.
- PENN, M. L., & COVERDALE, C. (1996) Transracial adoption: A human rights perspective, *Journal of Black Psychology*, 22, pp. 240-245.
- PERILLA, J. L. (1999) Domestic violence as a human rights issue: The case of immigrant Latinos, *Hispanic Journal of Behavioral Sciences*, 21, pp. 107-133.
- PETROVIC, J. E. (1999) Moral democratic education and homosexuality: Censoring morality, *Journal of Moral Education*, 28, pp. 201-209.
- POTTER, J., & WETHERELL, M. (1987) *Discourse and Social Psychology* (London: Sage).
- REISS, M. J. (1997) Teaching about homosexuality and heterosexuality, *Journal of Moral Education*, 26, pp. 343-352.
- REISS, M. J. (1999) How should we teach in schools about sexual orientation? A rejoinder to Petrovic, *Journal of Moral Education*, 28, 211-214.
- REST, J. R. (1979) *Development in Judging Moral Issues* (Minneapolis, MN: University of Minnesota Press).
- RUCK, M. D., KEATING, D. P., ABRAMOVITCH, R., & KOEGL, C. J. (1998), Adolescents' and children's knowledge about rights: Some evidence for how young people view rights in their own lives, *Journal of Adolescence*, 21, pp. 275-289.

- RUSSELL, D. E. H. (1995) The prevalence, trauma, and sociocultural causes of incestuous abuse of females: A human rights issue, in: R. J. KLEBER & C. R. FIGLEY (Eds.) *Beyond Trauma: Cultural and societal dynamics. Plenum series on stress and coping*, pp. 171-186 (New York: Plenum).
- SAMPSON, E. (1988) The debate on individualism: Indigenous psychologies of the individual and their role in personal and societal functioning, *American Psychologist*, 43, pp.15-22.
- SOTELO, M. J. (2000a) Individual differences in political tolerance among adolescents, *Social Behavior and Personality*, 28, pp. 185-192.
- SOTELO, M. J. (2000b) Political tolerance among adolescents towards homosexuals in Spain, *Journal of Homosexuality*, 39, pp. 95-105.
- STONEWALL (1998) *The Case for Equality: Arguments for an equal age of consent* [pamphlet] (London: Author).
- UNITED NATIONS (1948) *All human rights for all: Fiftieth anniversary of the Universal Declaration of Human Rights* [Document] (Geneva, Switzerland: Author). Retrieved July 24, 1998 from the World Wide Web: <http://www.un.org/Overview/rights.html>

Table I: Breakdown of Focus Group Sample

	Pseudonym	Sex	Age^a	Ethnicity	Sexuality	Student Status^b	Subject Major
Group 1:	Adam	M	2	white	Heterosexual	PG	Sports Science
	Bryan	M	2	white	Heterosexual	PG	Sports Science
	Chris	M	2	white	Heterosexual	RA	Sports Science
Group 2:	Diana	F	1	white	Heterosexual	UG	Psychology
	Emma	F	1	white	Heterosexual	UG	Psychology
	Fiona	F	1	white	Heterosexual	UG	Psychology
Group 3:	Imogen	F	1	white	Heterosexual	UG	Psychology
	Jessica	F	1	white	Heterosexual	UG	Psychology
	Heather	F	2	white	Heterosexual	UG	Psychology
Group 4:	Gavin	M	1	white	Heterosexual	UG	Electronics
	Melissa	F	1	white	Heterosexual	UG	Physics
	Katherine	F	2	white	Bisexual	PG/UG	Art/Design
	Leanne	F	1	white	Lesbian	UG	Ergonomics
Group 5:	Pam	F	2	white	Heterosexual	UG	Social Policy
	Rita	F	1	white	Heterosexual	UG	Social Policy
Group 6:	Wendy	F	2	white	Lesbian	UG	Psychology
	Robert	M	1	white	Gay	UG	Art/Design
	Tim	M	1	white	Gay	UG	Physics + Maths

a: 1 = 18-21; 2 = 25+

b: UG = undergraduate; PG = postgraduate; RA = research assistant

Appendix: Focus group schedule topics and questions

Topic	Key Question & Probes
Freedom of Expression	<p>Many lesbian and gay couples are afraid of holding hands, hugging, or kissing in public through fear of reprisal. What do you think about this?</p> <ul style="list-style-type: none"> • Are there situations in which you think this is not okay? • Are there particular types of behaviours that you think are not okay?
Same-sex Marriage	<p>What do you think about same-sex marriage?</p> <ul style="list-style-type: none"> • Do you think that lesbian and gay couples should be able to get married? Why/why not? • What if they want to make a public affirmation of their love for religious or other reasons? • What if a lesbian or gay man is in a committed relationship with a partner who is not British?
Lesbian and Gay Parenting	<p>What do you think about lesbian and gay couples parenting children?</p> <ul style="list-style-type: none"> • What if they have children from a previous heterosexual relationship? • What if a lesbian couple wanted to have their own (biological) child? What if they wanted to use alternative insemination at a clinic? • What about adopting or fostering a child?
Lesbian and Gay Issues in Education	<p>What do you think about lesbian and gay issues being discussed in schools?</p> <ul style="list-style-type: none"> • Are there any situations when you would consider that this is not okay? What about in sexuality education? History or Social Studies? • What do you think about lesbian and gay guest speakers talking in schools about being lesbian or gay? • Do you think that books presenting lesbianism and male homosexuality as a positive lifestyle should be made available in school libraries?
Employment issues	<p>You may or may not know that there is currently a ban in this country on lesbians and gay men serving in the armed forces. The papers say that the government is soon to lift this ban. What do you think about this?</p> <ul style="list-style-type: none"> • Do you think that there are any jobs that should not be open to lesbians and gay men? • What do you think about people losing their jobs or being fired because they're lesbian or gay? • Did you know that a lesbian and gay employee is not entitled to work related benefits (e.g. travel, pensions) for his/her partner, but heterosexual couples usually are? What do you think about this?

Age of Consent for Sex	<p>You may have heard that the British government is currently attempting to reduce the age of consent for sex between men from 18 to 16. What do you think about this?</p> <ul style="list-style-type: none">• Are there any circumstances under which you think the age of consent for homosexual sex should not be 16?• Do you think that the age of consent for homosexual sex should be the same as that for heterosexual sex? Why/why not?
State Sanctioned Violence	<p>In some countries, lesbians and gay men are imprisoned, tortured, or even killed simply for being lesbian or gay. What do you think about this?</p> <ul style="list-style-type: none">• Are there any situations in which you think this is justified?• What do you think about lesbians and gay men seeking asylum on grounds of sexual orientation based persecution?
Human Rights	<p>Have you heard of the phrase 'human rights'? Do you have any idea what it means?</p> <ul style="list-style-type: none">• Do you think it might be relevant to thinking about lesbian and gay issues? Why/why not?