

From identity politics to a critical theory of kin: The case of Argentina

Povzetek

Od identitetnih politike do kritične teorije sorodstva.

Kritična teorija se spopada s potrebo po podpori in ustvarjanju procesa prerazporeditve bogastva in priznanja. V Argentini je slednji vidik našel pot skozi državo v vrsti zakonov, ki dodeljujejo pravice na področju spolnosti in identitete, katerih splošni delovni okvir je bil Zakon o celostni spolni vzgoji (2006). Ta proces bom skušala rekonstruirati, pri čemer bom izpostavila njegove omejitve in njegov trenutni program, da bi prebrodila kritične teorije, ki so ga podpirale. Namen tega preboja je preseči trenutno pozornost, namenjeno »identiteti«, in preiti na novo področje: »sorodstvo«.

Ključne besede: Kritika - priznanje - prerazdelitev - sorodstvo - spolnost.

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Abstract

Critical Theory is challenged by the need to support and create a process of redistribution of wealth and recognition. In Argentina, this latter aspect has found its way through the state in a series of laws granting sexuality and identity rights, on which the Comprehensive Sexual Education Law (2006) has been the general working frame. I will try to reconstruct this process, highlighting its limitations and its current agenda, in order to break through the critical theories that supported it. The breakthrough is intended to transcend the current attention paid to "identity" and move to the new domain: "kin".

Keywords: Critique – Recognition – Redistribution – Kin – Sexuality.

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We have a one-way ticket to institutionalized rainbow global misery. To prevent this scenario from unraveling, Critical Theory must re-build its conceptual bases to promote new redistribution processes without losing the frame of rights that are being developed through the struggles of recognition. With this looming on our horizon, perhaps we can overcome discussions about "primary" or "secondary" contradictions in order to support and create new emancipation processes that can support not only processes of recognition but also redistribution.

In this paper, I will attempt to produce a movement from within Critical Theory, specifically regarding sexuality and gender studies, with the intention of finding a common ground where both redistribution and recognition become non-avoidable horizons. In order to do so, I will briefly reconstruct Argentina's history regarding human and sexual rights. I will focus on "identity politics" in Argentina because I believe it is a paradigmatic case of a recognition process that is light-years away from producing any redistribution.

I will first describe Michel Foucault's concept of "critique", which will serve as a general framework. Secondly, I will apply this theoretical frame to the process regarding the recognition of "sexual citizenship" in Argentina; to do so, I will identify the two main "sediments" that, from my perspective, have made the current experience regarding "identity politics" possible. Finally, I will return to my theoretical and critical approach, where I will propose a new horizon of problems: the kin. I suggest that "kin" is a philosophical problem that could help us remerge the two types of struggles that the 21st century had detached.

Critical Theory: The Conditions of Possibility of Historical Experiences.

When referring to Critical Theory, I specifically have in mind the concept of “critique” that Michel Foucault has adopted from Immanuel Kant. Developments regarding the matter are rather broad, and there is some agreement (Alvarez Yagüez, 2015; De la Higuera, 2013; Scasserra, 2018) that the whole “Foucauldian project” (if such a thing exists) could be interpreted as an attempt to produce Critical Theory. However, here I will not detain myself for theoretical discussions. As already mentioned, my chief interest is to apply Foucault’s critical approach to the current Argentine sexual rights recognition process to extract conclusions about how Critical Theory has been produced in the past years.

Foucault builds up a new concept of critique in his text “What is enlightenment?”¹ (1984) by modifying “critique” as it was understood by Immanuel Kant’s both metaphysical² and political texts. Foucault’s intention is not to follow Kant word for word: he marks himself off from the assumption that Kant’s critique is a philosophy searching for the conditions of possibility of experience, which Kant finds in the universal and transcendental structure of the subject, by making two chief interventions:

1) The “bifrontal reading” (Cano, 2013: 243). Foucault claims that Kant offers two ways of doing philosophy. Firstly, there is an “analytic of truth”, seeking to find the universal conditions of objective knowledge; this, of course, is attributed to *Critique of Pure Reason*. Secondly, Kant’s text regarding Enlightenment (Kant, 2006) brings forth a new way of conducting philosophy based on the present times. He inaugurates a way of thinking that belongs to an era, to a specific process that cannot be comprehended from the outside. This enlightened relationship with the present times is needed for any type of Critical Thought. This first interpretation leads us to a conclusion relevant for Critical Thinking: there is no “objectivity” as a point of departure from which the process of thinking could start. Philosophy will always be influenced by time (Alvarez Yagüez, 2015: 23), by the historical contingencies of everyday.

1 Another text on the issue comes from the conference “Qu’est-ce que la critique? [Critique et Aufklärung]” (Foucault, 1990a) that took place in 1978, but I will limit myself to the above-mentioned text on the Enlightenment.

2 By calling the “critical” project a “metaphysical” one, I pledge myself to Heidegger’s reading of it, presented in *Kant and the Problem of Metaphysics* (Heidegger, 1997). This hermeneutical decision is not accidental, as Heidegger also influenced Foucault’s reading of Kant (Castro, 2009: 9-10).

2) The “axiological inversion” (Cano, 2013: 247). Reflecting on Kant’s critical project shows us that his philosophy is about limits. In Kant’s view, critique is based on respecting universal limits given by our transcendental structure. This, in Foucault’s view, is not possible because there is no “universal” or “transcendental” limit. The conditions of possibility are always historical. Our limits are inherited. There is no anthropological or metaphysical structure, only the borders of what we can see and speak of, marked by specific relations of knowledge and power.

The method of finding the limits of what we are is, from Foucault’s perspective, both archeological and genealogical. This directs our view towards the conditions of possibility of what it is: in the case of archeology, towards possible discourses, and in the case of genealogy, towards both discursive and non-discursive practices. The chief idea here is that the method does not direct us to find the progression of a speech towards objectivity (Foucault, 1972: 9), nor does it incline us to find the origin, the “truth” at the beginning of any process (Foucault, 1984: 76). It simply demonstrates how historical configurations can be sedimented and work towards the production of specific configurations.

This framework enables us to understand Foucault’s works as the basis for tracking down our historical limits. If archeology and genealogy are methods enabling us to search for the conditions of possibility of discursive formations and power devices, they also reflect how our historical limits were built upon. For instance, they would explain why this century, in which the accumulation of capital has reached unprecedented levels, has produced unique processes concerning the recognition of identities. Therefore, “How is this even possible?” is the first critical question we need to ask ourselves (Castro, 2014: 18).

However, no critique can stop there. Up to this point, we have determined only the explanatory mechanism, but for a critique to be successful, it also needs to identify the historical limits. This serves as a starting point for recognizing critique’s inner tensions, which is necessary for transgression. Only then does transforming the self and the collectivities become possible. In other words, the critique goes to “separate out, from the contingency that has made us what we are, the possibility of no longer being, doing, or thinking what we are, do, or think.” (Foucault, 1984: 46).

In conclusion, to achieve a possibility of transgression we need to first identify our inherited historical limits. The initial task of any critical project is therefore to search for the sediments that determine our experiences³. I will do so in conjunction with the process of recognition, with the aim of

3 “Experience” is perhaps one of the broadest and most volatile concepts in Michel Foucault’s works. I understand it as the articulation of the formations of knowledge, power, and subjectivity, as defined in *The Use of Pleasures*. (Foucault, 1990b: 4)

introducing some of its inherited tensions to bring back discussions over redistribution.

Sexuality and Human Rights in Argentina.

In what follows I will try to apply the theoretical perspective I have just described to “identity politics” in Argentina. As I previously stated, I consider Argentina a paradigmatic case of recognition processes that are absolutely divorced from those of redistribution. We are talking about a country whose minimum wage in 2021 is in average US\$137.80⁴ and that, in the past 35 years, was never able to achieve a Gini Index indicator lower than 40.9 %⁵. Nonetheless, it has been able to go through some extraordinary processes of recognition regarding gender identity and education. With Foucault in mind, I will ask: “How was this even possible?” There are several ways of answering this question. I will focus on the two main ‘sediments’ that, from my perspective, have shaped the current Argentine experience regarding sexuality and identity politics.

Sediment 1: Apparatus of Sexuality

Independently of the Argentinian experience, the main construction of speeches on sexuality relies on the assumption that sexuality has something to do with, or builds up, identity. Why does our culture assume, without questioning, that sexuality, or gender, are connected with identity? Why do we insist on placing the truth of what we are somewhere between our legs? (whether to culturally “agree” with it, or not). The answer, I believe, lies within a deeper story that was told by Michel Foucault in one of his critical projects.

The History of Sexuality is a paramount volume for anyone embarking on the path of sexuality or gender studies. There, among numerous other things, we can find the archeology of the way in which modern times have made us understand sexuality: as a secret that needs to be revealed. Foucault insists on showing how sexology and psychiatry, throughout the 18th and 19th centuries, were consumed by the idea that sexuality possessed the truth of what we are. According to that belief, to confess the truth about ourselves

4 See <https://www.iprofesional.com/management/334706-el-salario-minimo-vital-y-movil-en-la-argentina-en-2021>. The numbers are taken from the official report of the state of Argentina: <https://www.boletinoficial.gob.ar/detalleAviso/primera/236294/20201020?busqueda=1>. Last access to both January 25, 2022.

5 See <https://datos.bancomundial.org/indicador/SI.POV.GINI?locations=AR>. Last access January 25, 2022.

would always be to confess what our relationship with our own sexuality is.

This mechanism was conceptualized by Foucault as the “apparatus of sexuality”. It refers to a group of practices that impulse us to traduce pleasure to word, isolating it and forcing it to provide answers about ourselves. “Tell me how you have sex, and I’ll tell you who you are” is its main idea. Only by assuming this is it possible to even consider the concept of “sexual identity”—thus, it has become possible to ask, through sexuality, questions like “Who am I?”

This way of understanding sexuality landed in South America, and in Argentina, in the 19th century. The hygienic metaphor ruling over the sociological texts of the recently received positivism testifies to the necessity of distributing identities regarding sexual practices (Ciancio, 2012: 41). There, an anomaly needed to be identified and corrected (Neel, 2020). Another privileged testimony to how the apparatus of sexuality landed in the lands of Río de la Plata is literature, especially if we take into account the number of characters built around sexuality from the 19th century onwards (Melo, 2019: 181–201).

Nowadays, all over the Western civilization, we find triumphs of the apparatus of sexuality, sometimes in its scientific form (the intention to reveal the “truth” about sexuality), and sometimes as a political vindication (the understanding that, as sexuality makes identity, it becomes a value to stand for). We see “sexual identities” multiply every year, without implying any confrontation with contemporary capitalism. Renata Salecl points out that a changing and building identity is exactly what the current market needs (1994: 3). Following her, I suspect that “sexual identity” as a value is not always a result of some revolutionary individual that stands against the norm, but the triumph and a testament to the efficiency of the apparatus of sexuality that has since the time of Modernity been forcing us to state the truth of what we are through sexuality.

Sediment 2: The Struggle for Identity in Argentina.

To understand the state of human rights in Argentina, we need to revisit the restitution of democracy after the military dictatorships that had ravaged the continent. Mostly orchestrated by United States Embassies in the region, the military ranks overthrew democratic governments in order to generate their neoliberal “lab” (Anderson, 2003: 16). Nowadays, there is some consensus on deeming Augusto Pinochet’s coup against Salvador Allende to be the birthdate of Neoliberalism (Brown, 2015; Fisher, 2016; Avanesian in Reiss, 2018). From that moment on, the continent entered a spiral that kept on promoting the values of competition, individualism, and

the self-made man, destroying every thread of social cohesion that could have consolidated into meaningful bonds between members of society.

In order to do so, they had to resort to genocide. At least in Argentina, we count 30,000 citizens disappeared under a government that insisted it was “fighting socialism” (CONADEP, 2006). The aim throughout was to stop society’s growing interest in politics and to dismantle the state to create a new, individualistic type of citizen. It worked, namely by using not only state terrorism but politics of austerity as well—we can find how after 50 years of neoliberal experimentation, Latin America finds its civil society mostly destroyed, un-linked, and atomized (Boron, 2003: 43)

In this context, the struggle of Mothers of Plaza de Mayo stood out: separated from their children, without knowing where they had been taken, they started to present themselves every Thursday on Plaza de Mayo, Buenos Aires’s main square. It was only after the restitution of democracy that the main chapter of their story was unveiled: they raised the demand for justice and imprisonment for both the material and the intellectual perpetrators of crimes, and they redoubled their efforts to find their grandchildren who were born on the same concentration fields where their parents had been illegally detained, tortured, and eventually murdered. It is calculated that almost 500 babies were appropriated by military families and collaborators. The quest of the mothers and grandmothers of Plaza de Mayo remains even nowadays to reconstitute identity of every stolen child⁶.

Since 2003, Argentina has been working towards restituting this decaying society, especially by sentencing and imprisoning most of the material and intellectual actors of the massacre executed by the illegitimate government during the 70s. Using state policies, educational contents, political work, and even entertainment programs, our democracy has sealed up its fundamental slogan: “Never Again”. This second element that combines both verbal and non-verbal practices allows us to see how the Argentine state needed, during its post-dictatorship democracy, to incorporate identity as a value to stand for. In our political culture, “identity” is something one simply cannot infringe upon without consequences. It is linked with a semantic frame that involves torture, disappearance, and the destruction of the bases of a whole society. The new social pact of reborn Argentina, while leaving the Neoliberal politics untouched and promoting processes of privatization and devaluation of general life, has also made an advance on the human rights issue by denouncing genocides, and investing resources on reestablishing identities that were taken away. The paradox arises

6 For further studies regarding the matter, I suggest Regueiro, 2013: 175–185.

before us: while day after day we find ourselves amidst more politics recognizing the victims of state terrorism, many of the economical groups that benefited from the dictatorship remain with their capital untouched. Apparently, Neoliberalism abides perfectly well with human rights being recognized.

The recognition of sexual rights.

Taking into account the two elements that I raised in the discussion, it is possible to see how they work together to produce sexuality and gender recognition processes in Argentina. The apparatus of sexuality had already landed in Argentina in the XIXth century. Consequently, as most Western countries, Argentinians have created a number of practices and speeches concerning sexuality and its link with identity. In addition, since the restitution of democracy, identity has become a chief value of our political speeches and institutional politics, functioning as a predecessor for our current laws (Alcaraz, 2019). Therefore, both sediments have been working together towards a political process where sexuality as an aspect of identity needs to be recognized and defended. This is what I will address now.

Since 2006 Argentina has been a regional exponent of sexual rights, which led Argentinians to a discussion about "sexual citizenship". The "Comprehensive Sexual Education Law" implementing sexuality education from a gender and human rights perspective was approved in 2006. Other important laws regarding the matter include the Equal Marriage Law (2010), which entailed an intervention of the civil code, the Gender Identity Law (2012), which allows any person to change the gender on his or her documentation without any institutional inquiry, the "Micaela Law" (2019), which makes it mandatory for all state workers to attend courses regarding gender relations, the "Trans Share Decree" (2020) entailing that at least 1 % of all state workers need to be trans people, and the law legalizing abortion (2020).

From my point of view, the Comprehensive Sexual Education Law is the chief law in the matter. It has allowed Argentine political speeches to explore a new dimension of sexuality that had not been given much account before. In its first article, we can find the definition of sexual education from a "comprehensive" perspective as the articulation of "biological, psychological, social, affective and ethical aspects". This statement places comprehensive sexual education against the bio-medical and

theological perspectives that had, until that moment, been the hegemonical approaches through which state and the school system understood sexuality. These former perspectives were driven by ideas like “sin”, “love”, and “reproduction” as the main topics connected with sexuality. They also focused on prevention, reinforcing the conception that sexuality was something dangerous (Morgade, 2011: 142), something that needed to be controlled to avoid unpleasant consequences.

The definition of sexuality adopted by this law also aims to stop any naturalization of gender roles that could be found before on most of the materials for families and teenagers. According to the new interdisciplinary approach, arguments like “Boys take over all the space to play in their free time. Girls would rather find small places on the stairways to talk.” because of “nature” (CONSUDEC, 2011: 13) simply lose their basis because sexuality becomes a zone boarded up by an interdisciplinary perspective, where social construction simply cannot be avoided.

In this way, from kindergarten to high school, students are taught that sexual identity is diverse and multiple, and that each type of living sexuality needs to be respected. Though it has generated, and still does, resistance from many conservative sectors, comprehensive sexual education has been making headway in schools over the years. It is an open battlefield where we can always find new problems and challenges. What we cannot deny is that society has undergone numerous changes over the years. I think it would not be going too far to state that the Comprehensive Sexual Education Law had been preparing the ground for the more recent laws that I have already mentioned, sparking off multiple debates on the public agenda of the Argentine society.

Deep Geology of Ourselves

Throughout this paper, I discussed both the Western apparatus of sexuality as the way the Western civilization has understood sexuality by linking it with identity, and a wide *corpus* of laws intended to produce processes of recognition of sexual and gender minorities. The binding element of both sides of this (partial, of course) genealogy is the historical Argentine struggle against the state terrorism of the 70s. Thus, we can risk an attempt to find the deep geology of ourselves within this former historical process, which explains the possibilities we have inherited, but also reveals our limits.

I am completely convinced that all the “identity politics” regarding

sexual and gender rights that we have seen multiply over the past few years are sustained by the structure of knowledge and power produced by the apparatus of sexuality. In this scenario, the relative success Argentina has experienced is not because of its people's intense revolutionary spirit, but because Argentinians made use of (mostly without knowing) one of the most structured devices of the Western civilization: the device that pushes people to find their own truth about their sexuality and to make it a matter of identity.

Does this undervalue Argentinian people's struggle? Not at all. It just gives them a perspective of the state of affairs as it is. If we are to preserve our critical thought, we need to understand the deep geologies that direct our way of thinking. In this case, the history I propose strives to locate the point at which identity as a value to be defended by a destroyed society merged with the Western concept of sexuality as an aspect of identity, building up a political movement that was able to dispute the way we understood sexuality.

But the problem I started with is still ongoing. Recognition entered the state's logic and Argentina's cultural ways of reading and treating different types of people. What, then, of redistribution? As I said before, the Argentine society has endured almost 50 years of neoliberal politics that destroyed any type of social security system. Public healthcare service and education are constantly under attack. The salaries decrease month after month. It is striking that the possibility we inherited to produce the politics of recognition should be so limited when it comes to redistribution. Additionally, as I stated before, Critical Theory needs to introduce a tension within the inherited limits. That is my next, and final step.

Recognition and redistribution: from »identity« to »kin«

After the long road of historical recognition for Argentina, and having identified where its principal theoretical assumptions lie, it is time to go back to the theoretical point of view. Taking into account the elements that I discuss, it looks like Critical Theory will need to make a strong movement in the following years. Proceeding with our obsession with recognition could have catastrophic consequences for us all. To build up identity out of sexual practices, giving them an aura of respectability, even enacting laws based on them without creating any other mechanism to protect life from

the precarity that is forming in the current economic model, is simply not enough. I am deeply aware that a theoretical movement is also insufficient. I simply make my contribution from my area of expertise, under the assumption that multiple people may build up multiple, cultural and institutional, processes connected to the matter.

It is necessary to tread carefully. This is no motivation to cancel Argentina's recognition processes. I suspect that we need to put them to work towards new mechanisms of redistribution. In order to do so, the pursuit of recognition must be maintained but, at the same time, the idea that identity captures all our political and theoretical imagination must be dispelled. After the genealogy that I presented, we may understand the Western obsession with sexuality and identity as one of the deepest symptoms of Argentinian "identity politics". In this scenario, the truth of what we are is professed in most queer literature as something to brag about, or to be proud about, without ever considering why we need to make our sexuality a matter of identity. I am convinced that, in this way, we have articulated ourselves through the first mode of violence that the apparatus of sexuality produces over us.

In addition, the way our political speeches are captured by the grammars of "identity" tends to lead us firmly towards individual freedoms. To understand our struggles for recognition as a matter of "individual freedom" was, from my perspective, one of the biggest traps of neoliberalism⁷. By doing so, our individuality became the ultimate value to defend, which promotes the deterioration of the social bonds that we have been witnessing for the past 50 years. In this respect, we, the sexual minorities that have developed the sexual citizenship process, have contributed to what oppresses us as well⁸.

Towards a critical theory of kin

Before this becomes a real problem, my suspicion is that we need to push for a breakthrough in the problematic scenario that both sexuality and gen-

7 In view of this, Lara María Bertollini (2020) proposes, writing from the point of view of her "travestied critical theory", understanding identity sovereignty as a collective movement. There is no individual freedom to defend according to Bertollini, because individuality itself is nothing but a collective recognition. It is only by admitting this, and thus abandoning all liberal theoretical frameworks, that we can understand the recognition processes in Argentina.

8 I do not point this participation out in order to elicit "guilt", but to produce, as Jack Halberstam proposes, a "contradictory archive" (Halberstam, 2011: 149) allowing the persecuted queer character that becomes a passive victim of what oppresses him or her to transcend this position.

der studies tend to explore. For too long it has been occupied by identity. I, therefore, believe it is time to abandon identity as the fulcrum of our speculations. Our problem as sexual and gender minorities is not identity. It has never been simply identity. What sexuality and gender subtracted from Western thinking is the problem of "kin". It is clear that who we have sex with is not much of a problem in comparison with who we choose to make kin with.

Our civilization has always distributed its privileges through kin. Since Ancient Greece as well as the Roman Empire, kin would separate proper citizens from those who were not ones. In modern times, it has played a fundamental part in preserving patrimony in order to guarantee the processes of accumulation needed to turn money into capital. The genealogy of the concept is long, and it exceeds the scope of this paper. However, it is clear that "kin" is a capital problem that sexual and gender minorities face when losing the material support provided in our culture by family, and choosing to build up a new, non-recognized family.

Of course, "kin" is a problem that has been explored in both scientific anthropology as well as philosophy. In case of Critical Theory, it has been researched within gender studies (Haraway, 2015; Hester, 2018), queer theory, anarchism, and Marxism. My contribution is therefore not groundbreaking, but the pertinence of "kin" as the chief philosophical problem for gender and sexuality studies looks like an issue that still needs to be explored.

By doing so, we would be able to provide an account of how sexual minorities, women, descendants of Africans, and all other identities that do not fit within the white-hetero-cis male had been placed, through kin, into disfavored places to suffer from logics of extraction. Reproductive work has been forced into our hands (especially those of women) to produce the necessary accumulation for money to become capital. The same is true for low-paying or unpaid productive work as well.

Kin is also what designates who is allowed into the distributive circuits of heritage and patrimony. In this way, kin works as impersonal administration deciding who gets into this world with enough work accumulated to produce capital. Minorities all over the globe tend to be excluded from the basic distributive circuits of heritage and patrimony. This turns the hegemonic family's possession into privileges that tend to be enjoyed by certain individuals who consistently succeed in the competition towards value. On top of this, "kin" is typically absent in our discussions of the matter. Why is this so?

If "kin" separates a "domestic worker" from a daughter, a daughter from

a son, an expelled son from a legitimate son, a parent from a friend, and thereby assures different distributions of wealth for different types of individuals, why has it not been discussed in more depth? Why have we forgotten that “family”, as it was conceived, is the chief element of domination under which we suffer every day?

This way, we may understand “kin” as a way to distribute not only material wealth but also recognition of identities. Therefore, it looks like a common ground that may help us rejoin the problems of redistribution and recognition that the 20th century has divorced. By recognizing different types of kin and different ways of making family, we may find new ways of redistribution. In this way, the division that Nancy Fraser pointed out can be solved: not by denying one of its poles, but by assuming they are sides of the same coin.

If we proceed on this course, we need to recover the critical works on kin to promote a new critical theory of kin, by affirming it as the chief problem for philosophical speculation regarding sexuality and gender. In this way, we may progressively abandon the logic of identity in search of different questions and problems. Imagining new ways of making kin, ones that abandon the Western obsession with blood, appears to be a desirable goal. Sexual minorities have always done this when looking for survival. Therefore, discussions concerning our way of sharing and living in common, for instance, the raising of children, non-monogamous relationships, ways of caring for persons of an advanced age, or ways of re-distributing patrimony on community level, may be sparked from this perspective. On every step, we will need to be careful not to forget about our primary goal, which is to mind not only recognition process, but also those of redistribution. From this point on, we may imagine new recognition laws able to contemplate different types of “families”, and different ways of wealth distribution from that initial recognition point.

In every recognition process of sexual citizenship rights that we have witnessed in Argentina, which comprise the genealogy I presented, its opponents would always claim that “they want to destroy the family”. I think that those conservative people had no idea how right they were. Yes, the sexual and gender minorities, paupers, women, descendants of Africans, all of the people the excluded from history, want to destroy the family. They want to kill it. They want to end its privileges, to re-build them as universal rights. Only by doing so, only by murdering Family with a capital F, will hundreds, thousands of different families, diverse, strange, and mutant, be born.

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