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ORIGINAL ARTICLE

# Sexuality, health and human rights: The invention of sexual rights<sup>☆</sup>



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## KEYWORDS

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Human rights;  
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## Summary

**Objectives.** – The recent publication (March 2014) of the new declaration of sexual rights of the World Association for Sexual Health (WAS) provided a good opportunity to review the genealogy of sexual rights in order to understand the circumstances of the emergence of such rights, to identify the organisations which opened the discourse on sexual rights and the various different perspectives from which this theoretical and intellectual elaboration was engaged.

**Methods.** – A database was compiled comprising of all the main texts and declarations of sexual rights. The analyses revealed the following phases: in the first phase, we saw how the issue of family planning and the fight against the violence and discriminations against women emerged in the discourse on human rights; in the second phase, it was the human rights issues that were included in the field of sexual health, giving rise to “sexual rights”. These first two phases principally concerned the sexual health of heterosexual women and men. We are now witnessing the development of a new perspective aimed at the promotion of human rights and the fight against discrimination based on sexual orientation and gender identities.

**Conclusion.** – The combination of a “health” approach and a “human rights” approach provides the bases of the main contemporary *regimes of truth* (Foucault) for sexuality.

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Various authors (Corrêa et al., 2008; Petchesky, 2000; Cararra, 2015) consider that the fields of health and human rights constitute the main contemporary “regimes of truth”

for sexuality, according to the term coined by Foucault, 2012, which leads us to the idea based on which, at a given moment in history, statements made, whether they are true or false, have the power to command respect and to be recognised as truth-bearers, thus becoming self-evident facts within the environments concerned by such statements. In fact, in international sexology and sexual health circles, “sexual rights” are starting to creep gradually into people’s consciousness and into the debates, and possibly to a lesser extent into practice, with different themes depending on the countries and groups concerned. In

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France, this idea has just started to be heard and discussed within sexology circles (Py, 2011).

To open this up to discussion and understand the process of conceptual elaboration, we looked carefully at the different documents produced during the course of the last forty years, by non-governmental organisations (NGOs) such as WAS or IPPF and by international organisations such as the WHO and the UN, who have invented the notion of sexual rights and developed it according to their respective objectives. The issue of sexual rights has already formed the subject of a number of studies and controversies in the international community (Kismödi et al., 2014; Lottes, 2013; Parker, 2007) and this article aims to retrace, in a brief history, the emergence of the issues encountered in sexual rights, and to reveal the development of and differences between such issues based on an analysis of the documents produced by these different organisations. We would also like to show how the ties between the discourse on sexuality coming under the heading of health (sexual health), on one hand, and the discourse on human rights, on the other hand, were linked together in such a way so as to give rise to “sexual rights”. A “genealogical” approach of this kind is all the more necessary given that there are now several “declarations of sexual rights” drawn up and disseminated by various different organisations over the course of the last 15 years. In fact, one can see how the successive declarations of organisations such as the International Planned Parenthood Federation (IPPF) and the World Association for Sexual Health (WAS) developed over the years with the IPPF being more interested in reproductive health, women’s health and children’s health, civil rights and human rights in general, and the WAS developing a positive concept of sexual health centred on the non-reproductive dimensions of sexuality and aimed at the promotion of well-being and sexual freedom. In March 2014, the publication of the new version of the declaration of sexual rights of the WAS, in the context of the United Nations meeting “ICPD (Cairo + 20)”, was an event of which the full significance has not yet been appreciated in France. One is therefore confronted with different kinds of texts, which do not have the same operative status, i.e. they do not have “statutory legal force” in the same way.

Whilst contributing *de facto* to the promotion of the concept of and issues encountered in sexual rights, this article is based on a critical approach and a symmetric anthropology of scientific texts (Latour, 1991), an approach in line with the Science and Technology Studies (STS) (Giami et al., 2015) and in fine based on the works of Michel Foucault. This article aims to show that these ideas are the product of a history and of a social construction, that they are part of a process of evolution of ideas in matters of sexuality, and that they are supported by stakeholders, organisations and conceptual systems. It differs from works already produced by legal experts (Petitpas, 2008), which aim to examine the status of sexual rights with regard to the law and human rights, and by activists working towards the promotion of sexual rights. It comes from the perspective of a critical analysis aimed at clarifying what is at stake in relation to sexual rights and at understanding how and in what way “sexual rights” form part of a new representation of sexuality marked by the increasing recourse to the law (Borillo, 2009; Caballero, 2010; Py, 1999).

## Method

A database of the texts concerning sexual health and human rights produced by the various organisations involved in sexual and reproductive health such as the WHO, the Pan American Health Organization (PAHO), the United Nations, the International Conference on Population and Development (ICPD), the European Commission and non-governmental organisations such as the WAS, the IPPF or Sexuality Policy Watch (SPW), has been established (1975–2002), and progressively expanded. This database has been organised chronologically and a thematic analysis has been carried out in order to decipher the ways in which the concepts of sexual health and human rights are interwoven (Table 1).

## The prehistory of sexual rights

The development of ideas concerning the links between sexuality and human rights is associated with a historic trend towards the politicisation of sexual issues, which began during the first decades of the 20th century with the works of authors such as Wilhelm Reich (Giami and Hekma, 2015) or René Guyon. Particular attention should be paid to René Guyon who, in his work “Sexual Freedom”, developed the idea according to which all non-reproductive sexual acts are to be considered to be legitimate (Haeberle, 1983; Guyon, 1939). Similar ideas had moreover been developed as early as 1929 in the context of the work done by the International League for Sexual Reform, and a declaration had been published by this organisation. This declaration, drafted against the backdrop of decline and the threat posed by the rise of totalitarianism in Central Europe, had undergone a number of amendments up until such time as the League was dissolved following the 1932 congress held in Brno (Czechoslovakia) (Dose, 2003; Tamagne, 2005) (Table 2).

This declaration, together with the work done in the context of the League prior to its dissolution once National Socialism came to power, was an attempt to legitimise sexual relations and births outside of marriage, to ensure the provision of information on sex, to permit birth control and the prevention of STIs, to ensure the protection of the disabled (at that time these persons were labelled as “unfit”) and to medicalise homosexuality in order to protect such persons from criminal prosecution by viewing them as sick persons requiring treatment instead of criminals. Beyond these thematic approaches, the programme of the World League for Sexual Reform introduced the idea among health professionals, and chiefly among physicians and nurses, that issues related to sexuality are political issues and form an integral part of a project for social emancipation. These ideas were the base on which the sexual revolutions of the 1960s were built and the concept of sexual rights coined (Giami and Hekma, 2015).

## The inclusion of sexual issues and issues of reproduction and gender in human rights

It was through family planning and the denunciation of social discrimination and violence against women that an indirect

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