
ON DOMA: CRITICAL RHETORIC AND MARRIAGE EQUALITY¹²

Giuliana Sorce^{3*}

Abstract

In the spring of 2013, the U.S. Supreme Court ruled in *United States v. Windsor* to declare the unconstitutionality of Section 3 of the Defense of Marriage Act (DOMA) that defined the term ‘marriage’ between one man and one woman, and ‘spouse’ as a partner of the opposite sex. After nearly forty years of activity, DOMA marked the most recent culmination of success for both the Gay Rights Movement and its subset, the Marriage Equality Movement. This essay offers a critical rhetoric analysis of key messages after the DOMA ruling and argues that DOMA can only be viewed as a partial success for the Lesbian, Gay, Bisexual, and Transgender (LGBT) community. I argue that despite official lawmaking, the striking of Section 3 of DOMA has contributed to the cultural conversation only in limited ways and that LGBT discriminations will continue in local legislations. Utilizing critical rhetoric as brought forward by McKerrow (1989), this essay offers a critique of key messages employed by the Supreme Court Judges involved in the DOMA ruling, the President, and various LGBT activist groups. By employing McKerrow’s twofold taxonomy - the critique of freedom and critique of domination - I argue that critical rhetoricians must focus on these kinds of social events to contribute to ongoing conversations on the cultural and societal subordination of LGBT individuals and groups.

Keywords: Critical Rhetoric. DOMA. Marriage Equality. Gay Marriage.

Sobre a DOMA: o discurso crítico e a igualdade no casamento

Resumo

Na primavera de 2013, a Suprema Corte dos EUA decidiu em *United States vs. Windsor* declarar a inconstitucionalidade da Seção 3 da Lei de Defesa do Casamento [Defense of Marriage Act (DOMA)], que definiu o termo “casamento” como união entre um homem e uma mulher e “cônjuge” como parceiro do sexo oposto. Depois de quase quarenta anos em atividade, a DOMA demarcou o ápice de sucesso mais recente para o Gay Rights e sua subdivisão, o Marriage Equality Movement [Movimento de Igualdade no Casamento]. Este ensaio oferece uma análise retórica crítica de mensagens relevantes após a decisão da DOMA e sustenta que ela só pode ser vista como sucesso parcial para a comunidade de Lésbicas, Gays, Bissexuais e Transexuais (LGBT). O

¹ A previous version of this paper was presented at the 2014 Eastern Communication States Annual Convention in Providence, RI.

² Para citar este artigo: SORCE, Giuliana. On Doma: Critical Rhetoric and Marriage Equality. **Cadernos de Estudos Sociais**, Recife, v.28, n. 2, p. 141-158, jul/dez, 2013. Disponível em: <<http://periodicos.fundaj.gov.br/index.php/CAD>>. Acesso em: dia mês, ano. [v. em edição].

^{*} Department of Communication, Indiana University-Purdue University Fort Wayne, Fort Wayne, IN 46805, USA. Email: sorcg01@ipfw.edu

ensaio defende que, apesar da legislatura oficial, a derrubada da Seção 3 da DOMA contribuiu para a troca de ideias culturais apenas de modo limitado e que as discriminações contra a LGBT continuarão nas legislações locais. Utilizando a retórica crítica conforme apresentada por McKerrow (1989), este ensaio oferece uma crítica das principais mensagens empregadas pelos juízes da Suprema Corte que emitiram o veredito da DOMA, o Presidente e vários grupos de ativistas LGBT. Empregando a dupla taxonomia de McKerrow – a crítica da liberdade e a crítica da dominação – sustento que os retóricos críticos precisam enfocar esses tipos de eventos sociais para contribuir com o permanente intercâmbio de ideias sobre a subordinação cultural e social dos indivíduos e grupos LGBT.

Palavras-chave: Retórica crítica. DOMA. Igualdade no Casamento. Casamento Gay

En DOMA: la retórica crítica y la igualdad matrimonial

Resumen

En la primavera de 2013, la Corte Suprema de EE. UU. falló en el caso *United States v. Windsor* a favor de la inconstitucionalidad de la Sección 3 de la Ley de Defensa del Matrimonio [Defense of Marriage Act (DOMA)] que definía el término “matrimonio” como aquél entre un hombre y una mujer y “esposo/a” como la pareja del otro sexo. Tras casi 40 años de actividad, la DOMA ha supuesto el éxito más reciente de los derechos de los homosexuales y de uno de sus defensores, el Movimiento para la Igualdad Matrimonial. Este ensayo presenta un análisis retórico crítico de los principales mensajes emitidos tras el fallo de la DOMA y defiende que la DOMA solo puede ser considerada un éxito parcial de la comunidad de Lesbianas, Gais, Bisexuales y Transexuales (LGBT, por sus siglas en inglés). Este ensayo defiende que, pese a la legislación oficial, el ataque a la Sección 3 de la DOMA solo ha realizado contribuciones limitadas al diálogo cultural y que la discriminación de LGBT continuará en las legislaciones locales. Haciendo uso de la retórica crítica en línea con la propuesta de McKerrow (1989), este ensayo incluye una crítica de los principales mensajes empleados por los jueces de la Corte Suprema involucrados en el fallo de la DOMA, el Presidente y varios grupos de activistas LGBT. Empleando la doble taxonomía de McKerrow, la crítica de la libertad y la crítica de la dominación, argumento que los retóricos críticos deben centrarse en este tipo de eventos sociales para contribuir al diálogo constante sobre la subordinación cultural y social de los individuos y grupos LGBT.

Palabras clave: Retórica crítica. DOMA. Igualdad Matrimonial. Matrimonio Gay.

INTRODUCTION

Like no other movement, the Gay Rights Movement has been stimulating activists, sympathizers, and challengers for over forty years. With its rather informal beginnings at the Stonewall Inn Riot in 1969, the Gay Rights Movement has developed into a multi-faceted outlet for Lesbian, Gay, Bisexual, and Transgender (LGBT) activism for generations. Compared to just forty years ago, the movement has come a long way; it was successful in attaining some objectives for its members, and has enjoyed growing social acceptability. Shortly after its origination, reports of the 1970s predominantly framed homosexuality as “a social corruption that [could] cause the downfall of a civilization” (LEVITT & KLASSEN, 1974, p. 30). Since that time, the percentage of Americans who think homosexuality is morally ‘wrong’ has dropped significantly and receives continuous support from younger individuals (SAAD, 2010).

As of 2013, thirteen states recognize same-sex marriage, or their comparative form, civil union; however, of the remaining forty-two states, thirty-one continue to have specific anti-gay constitutional amendments (“FREEDOM TO MARRY,” 2013). With the repeal of Section 3 of the Defense on Marriage Act (DOMA) on June 26, 2013 by the U.S. Supreme Court in *United States v. Windsor*, the discrimination of state legislations that granted same-sex marriages or unions are supposedly history. Yet, despite official lawmaking, the striking of Section 3 neither carries implications for LGBT discrimination in local legislations, nor does it contribute significantly to the cultural conversation around the acceptability of same-sex marriage. Thus, it becomes clear that the struggles of the Marriage Equality Movement are not over yet -- the key issue is changing how the LGBT community is viewed culturally, not legally (KELSEY, 2009). Unfortunately, a partial ruling, such as the striking of one of DOMA’s Sections, only vaguely attributes to a societal solution and does not provide the desired equality.

Utilizing McKerrow’s (1989) critical rhetoric, this essay offers a critique of key messages employed after the DOMA ruling on June 16, 2013 by three important opinion-makers: the Supreme Court Judges involved in the trials, the President, and important LGBT organizations. In order to do so, this essay will firstly position the

movement within existing social movement scholarship, provide an overview of the history of DOMA, and explicate critical rhetoric as per McKerrow (1989). Lastly, this essay concludes by arguing that critical rhetoricians must focus on these kinds of social events to contribute to ongoing conversations on the cultural and societal subordination of LGBT individuals.

CONTEXT

1. *Marriage Equality: A Movement*

Social movement scholarship in rhetorical studies formally began with Griffin's (1952) piece on the rhetoric of social movements. Since then, rhetorical scholars have aimed to explain, dissect, and analyze social efforts of equality for various groups in a plethora of ways. Griffin (1952) conceptualized the stages of movements, Bitzer (1968) explained how rhetorical situations are called into existence, Stewart (1980) prescribed five guidelines to a successful movement, and Simons (1970) analyzed the role of persuasion with regards to social movement leaders. In response to a time of social change and resistance, much scholarship emerged post-1970 that sought to define the aims and components of social movements using rhetorical theory (GREGG, 1971; CATHCART, 1972; HAHN & GONCHAR, 1980; STEWART, 1980).

Utilizing Bitzer's conceptualization (1968), the "imperfection marked by urgency" (p. 6) in the struggle for Marriage Equality is the legal denial of LGBT individuals to marry the person they love. As this particular movement stems from the Gay Rights Movement, its "inception" (GRIFFIN, 1952, p. 184) is well in the past. Kelsey (2009) notes that the right to marry whomever one desires, is a civil rights issue that has been argued since the 1993 *Baehr v. Miike* trial in Hawaii. Darsey (1990) has been identifying such catalytic events in the Gay Rights Movement since the AIDS crisis of the 1980s and 90s. This movement requires rhetors to lend it a voice in its struggle for social change, the so-called "mediators of change" (BITZER, 1968, p.7). These are composed of different LGBT organizations and support groups, heterosexual supporters and sympathizers and those in legislative positions capable of effecting social change.

The "constraints" (BITZER, 1968, p.8) the movement is facing come in many different forms: conservatives of different ideologies (political and/or religious); anti-

gay activists groups who position the homosexual lifestyle as “sinful;” and those inactive individuals who continue to take part in heteronormative discourse that keeps the “abnormal” view of same-sex couples in place. In spite of the first true legal triumph with the repeal of Section 3 of DOMA, full legal “consummation” of the movement has yet to be achieved (GRIFFIN, 1952, p. 152). When examining the current state of the Marriage Equality Movement, it is undeniable that the DOMA ruling has marked an important victory in the legislative procedure towards social equality; however, monumental cultural changes are yet to be negotiated. Thus, the Marriage Equality Movement continues to be in its “crisis” (GRIFFIN, 1952, p.184). The following section details the history of DOMA as a catalytic event in the Marriage Equality Movement.

2. *The History of DOMA*

One prevalent issue that has grown from the Gay Rights Movement over time is the struggle for Marriage Equality for LGBT members. The Marriage Equality Movement (KELSEY, 2009) is a prime example of a cultural movement that has polarized citizens and groups. The repeal of DOMA marks one of very few instances that LGBT matters have been deemed pertinent enough to be brought before the highest court in the land (see *Bowers v. Hardwick*, 1986; *Romer v. Evans*, 1996; *Lawrence v. Texas*, 2003). In a brief on *United States v. Windsor*, the Supreme Court Justices offer a justification as to why this particular case was considered for a Supreme Court trial:

The Bipartisan Legal Advisory Group of the U.S. House of Representatives (BLAG) [viewed this case as] a conflict between the House leadership and the Executive Branch [...] It is Ms. Windsor’s equal protection claim against the U.S. that provides the source for this court’s jurisdiction (“SUPREME COURT,” 2013, p. 1)

This statement illustrates the reasoning behind the Supreme Court’s acceptance of this trial on a federal level. While other LGBT trials have caused controversies in local states (e.g., Matthew Shephard [gay hate crime, Wyoming, 1998] or ExxonMobil [LGBT workplace discrimination, Illinois, 2013]), Ms. Windsor was arguing for her right to Social Security benefits – a federal issue. DOMA, as a societal event, can be positioned within the larger context of the Marriage Equality Movement. Like any other

social movement, it has been subject to much public discourse and scrutiny and is beginning to receive scholarly attention. Since the striking of DOMA is the most recent event in the Marriage Equality Movement, no studies have been published on it thus far; however, its beginning in 1996 has triggered a wave of critical reviews.

Various scholars from across the disciplines have commented on the unconstitutionality of DOMA upon its ratification and point to the problematic of defining marriage in a strictly heterosexual manner (ADAM, 2003; BUTLER, 1998; KOPPELMAN, 1997; RUSKAY-KIDD, 1997). Ruskay-Kidd (1997) warns that DOMA imposes a federal definition of marriage that will “govern federal programs and law” in a manner that celebrates inequality while Koppelman (1997) voices similar concern about the consequences this oversimplification will hold. Butler (1998) echoed these critiques and comments on the “manipulation of narratives to justify [the] DOMA” laws (p. 844). By detailing the narrative of gays and lesbians in the U.S. up to 1996, he illustrates that the regulation of marriage on a federal level is neglecting the many conventional stories of commitment and love the LGBT community has to offer. While these critiques appear as rather conclusive reactions, it is also important to observe events that precede DOMA.

Adam (2003) calls attention to the passing of the anti gay-marriage law in Utah of 1995 as an important milestone in the development of LGBT discrimination. Adam notes that this event triggered other state legislations to follow suit in what he calls “mini-DOMAs” (p. 259). He explains that gay marriage is not an American issue but indeed a human rights issue and draws parallels to the lack of international comparability. While other industrialized parts of the world including the “European Union, Canada, Australia” and others are taking (or have taken) steps to include LGBT individuals into their legislation, the U.S. is representing a curious out-layer (ADAM, 2003, p. 261). Yet, DOMA seems to be fitting in just fine on a national level.

Adam (2003) speaks of America’s “utopian moralism” that is preventing the country from moving forward in the local and international debate on accepting diverse lifestyles (p. 267). Fueled by religious arguments (LEWIN & GOSSETT, 2008) and conservative values (Prince et al., 2005), the connection between equality and morality becomes clear. Abrajano’s (2012) study yields which populations are more likely to identify pro-gay or anti-gay and results are unsurprising: The author lists factors such as

political dispositions, media consumption, marital status, religious affiliation, rate of church attendance to be determining factors whether one identifies as pro or anti-gay.

Adam (2003) notes that for decades now, conservative Protestant political influence has been able to solidify because of “the symbiotic relation between the Republican Party and the Christian Right” (p. 264). Similarly, Drumheller & McQuay (2010) found that there is a prevalent correlation between anti-gay activists and conservative communities. It is thus unsurprising that those opposing Marriage Equality continue to appeal to religious values and morale as their primary motivation for supporting DOMA. When looking at the literature surrounding California’s Proposition 8, these similarities surface notably (ABRAJANO, 2012; DRUMHELLER & MCQUAY, 2010; PRICE, NIR, & CAPELLA, 2005; SMITH & WINDERS, 1997; WADSWORTH, 2011).

Proposition 8, also repealed in the DOMA hearings of 2013, was a ballot that overturned the California Supreme Court’s ruling granting same-sex couples the legal right to marriage. Initial motivations for Proposition 8 from conservative rows also mirror what was keeping DOMA in place for so long. As Hansen & Dionisopoulos (2010) illustrate, the LGBT community experienced a sense of disconnect after the Proposition 8 ruling in 2008; feelings that remind of the sense of defeat that surfaced after the implementation of DOMA twelve years earlier.

As these critical commentaries illustrate, the initiation of DOMA in 1996 has undermined the right to equal treatment of same-sex couples and continues to jeopardize the face of the U.S. on an international level. As the so-called land of ‘liberty,’ ‘justice,’ and ‘freedom,’ the striking of Section 3 of DOMA marks an important step to repairing what had been lost almost twenty years ago. What follows is an analysis of key messages after the striking of Section 3 of DOMA through McKerrow’s (1989) critical rhetoric.

ANALYSIS

1. Critical Rhetoric

The 1960s and 70s marked the beginning of the critical turn in rhetorical studies. Authors such as Burke, Campbell, McGee, and McKerrow call attention to the social

implications of rhetoric, allowing for a new perspective to view rhetorical situations (BITZER, 1969) and human motifs (BURKE, 1976). According to McGee (1990), the field used to be primarily “preoccupied with the pure act of criticism” (p. 274), meaning that much of the focus of rhetoricians was placed on historical studies of evaluating the orations of individual rhetors. Later echoed by McGee (1990), Campbell (1974) argues that a critic ought not only analyze, but also produce pieces that serve a social function, an important change in thinking toward the later “critical rhetoric” (MCKERROW, 1989).

McKerrow (1989) positions critical rhetoric as a tool to analyze and evaluate the discourse of power in society. Under the assumptions of the critical paradigm that social inequalities exist because of power imbalances, McKerrow tasks the critical rhetor with unmasking them to effect cultural change. Critical rhetoric thus serves to demystify social underpinnings and recognize how power-relations can create conditions of oppression and recurring moments of marginalization. According to McKerrow (1989), two styles of critique are capable to accomplish this task – the “critique of domination” and the “critique freedom” (p. 91).

The critique of domination maintains that there are sets of individuals in society that are privileged over others, hereby strongly aligning with a Marxist perspective of societal imbalance. The critique of domination denounces hegemonic forces and allows a critic to “confront a set of generalized assumptions suggesting the relative priority of collective commitments” held by the elite” (FARRELL, 1976, p. 12). By engaging in a critique of domination, the critical rhetorician can point to those moments of oppression and – in Farrell’s (1976) terms – create “social knowledge [that] assist[s] in the grand transformation of society into community” (p. 12). While the awareness of inequalities in a society does not suffice to instigate change in any time frame, the critic also needs to engage in a critique of freedom.

Similarly to Campbell’s (1974) call for an “enduring” criticism (p. 9), the critique of freedom suggests that a true critical rhetorician recognizes that normative constructs do not change instantaneously and devotes him/herself to engaging in a perpetual criticism that transcends a short-lived commentary on social inequalities. Thus, this critique is concerned with engaging and performing critical discourse in a permanent and continuous fashion; it recognizes that ideological constructs are difficult to penetrate. And while McKerrow (1991) does not prescribe a methodology per se

(NAKAYAMA & KRIZEK, 1995), he does advise that his principles provide ground for a rhetor to “enact his/her critique; [so that s/he] may take a stance” on the hegemonic milieu (MCKERROW, 1991, p. 76). McKerrow (1989) illustrates that any critique of ideology is in fact not a method but a “practice” (p. 100). Adopting McKerrow’s proposition of practice, the following is a critique of key messages employed by opinion leaders, lawmakers, and the President after the DOMA ruling on June 26, 2013.

2. *DOMA and the Critique of Domination*

Regardless of what side of the spectrum pro-gay individuals are advocating, one cannot help but note the similarities the Marriage Equality Movement holds to previous movements in U.S. society. The key arguments employed by DOMA defenders are very much analogous with the biological and theological debate of the Woman’s Suffrage Movement (KELSEY, 2009). The juxtaposition of the “equal” woman (or gay couple) as opposed to the woman (or gay couple) without rights points at the same biological conversation. Similarly, DOMA opposers have enthusiastically employed theological questions that closely align with earlier debates. For both movements, the theological key-arguments have essentially focused on whether or not women’s rights (or same-sex marriage) are “appropriate” or potentially “harming.” Thus, the posing of these biological and theological questions constitutes a recurring theme across the movements. Just as women in the early 20th century, and African Americans in the recent past, LGBT individuals are cast into incongruent stereotypes. As troubling as this appears, the comparisons made by the DOMA opposition are equally as incongruent.

Freedom to Marry, a pro-gay nonprofit organization out of New York, laid out a “Roadmap to Victory” after the DOMA ruling in June of 2013 (“FREEDOM TO MARRY,” 2013). At the center of their mission now lays the challenge to “win over more states” in order to achieve marriage equality across the United States. They draw a parallel to the Civil Rights Movement and call for local activists. Freedom to Marry indicates that we “still far short of the 34 states that had ended race-based marriage discrimination when the Supreme Court ruled in *Loving vs. Virginia* (1967)” (“FREEDOM TO MARRY,” 2013). This is an interesting comparison as it draws on sympathy of the Civil Rights Movement, a group that Marriage Equality advocates have formed little to no coalition with (CHÁVEZ, 2011). Calling the legal implementation of

nation-wide Marriage Equality a “victory” also alludes to the fact that this organization is solely concerned with the legal aspects of LGBT matters.

Since the repeal of Section 3 of DOMA, many opinion-leaders of the DOMA opposition have voiced their enthusiasm and congratulated the LGBT community on their latest victory. Among them is our current president, Mr. Barack Obama. Obama’s official statement on DOMA followed quickly upon the reading of the verdict. Obama, an open sympathizer and LGBT supporter, opens his statement by saying:

I applaud the Supreme Court’s decision to strike down the Defense of Marriage Act. This was discrimination enshrined in law. It treated loving, committed gay and lesbian couples as a separate and lesser class of people. The Supreme Court has righted that wrong, and our country is better off for it. We are a people who declared that we are all created equal – and the love we commit to one another must be equal as well (para 2).

While this reaffirms his position as a pro-gay individual, Obama fails to acknowledge that DOMA was only struck down partially. Only Section 3 that defined “marriage” as a union between one man and one woman, and “spouse” to be a member of the opposite sex, was repealed federally (U.S. GOVERNMENT PRINTING OFFICE, 1996). As such, this decision does not hold any implications for a federal implementation of same-sex marriage across the United States and does not impose a Marriage Equality law across the nation. The justices of *United States v. Windsor* did not rule whether or not same-sex marriage should be a federal law -- they purposefully left it up to the states if they wish to implement a LGBT inclusive state law. Conservative Supreme Court Justice Antonin Scalia echoes this critique. On the bench of the DOMA ruling, he says: “The court has cheated both sides, robbing the winners of an honest victory and the losers of the peace that comes from a fair defeat. We owed both of them better.” (“CNN,” 2013). In a similar statement, Justice Samuel Alito notes:

Section 3 of DOMA [...] does not encroach on the prerogatives of the states, assuming of course that the many federal statutes affected by DOMA have not already done so. Section 3 does not prevent any state from recognizing same-sex marriage or from extending to same-sex couples any right, privilege, benefit, or obligation stemming from state law. All that Section 3 does is to define a class of persons to whom federal law extends certain special benefits and upon whom federal law imposes certain special burdens (“CNN,” 2013).

Alito is right with this assertion and the unconstitutionality of Section 3 of DOMA should have been advertised as such; a repeal of a portion of this discriminatory law -- and nothing more. Obama's statement, as well as the paraphrasing of the verdict by many pro-gay organizations, is misleading and partially inaccurate. While the striking of DOMA is, indeed, a victory for LGBT couples, it is only a limited one. There is no guarantee that federal recognition of state unions or marriages provides "respect and protection" to the LGBT community as indicated by Obama (para 2) -- this is a matter of a cultural change, not a legal change. The critique of domination as envisioned by McKerrow (1989) focuses on revealing the hegemonic, ideological, and legal subjugation of a certain group. The imbalanced power-relations in the DOMA ruling become readily apparent.

During the DOMA readings, Justice Scalia makes arguments that frame the past discrimination of same-sex couples as a 'normal' process. He states:

This case is about power in several respects. It is about the power of our people to govern themselves, and the power of this Court to pronounce the law. Today's opinion aggrandizes the latter, with the predictable consequence of diminishing the former. We have no power to decide this case. And even if we did, we have no power under the Constitution to invalidate this democratically adopted legislation ("CNN," 2013).

Justice Scalia's position on the issue becomes clear when scrutinizing his reasoning. He does not agree that this is a matter that can be decided in a Supreme Court case but one that needs national deliberation and democratic voting. His statement illustrates that even the lawmakers are divided when it comes to the issue of same-sex marriage. The recent DOMA ruling is fueling this critique of domination as it continues to cast LGBT members into non-normative, 'special' roles, only advanced the Marriage Equality debate in limited ways, and reaffirms the current power-structures that continue to underprivilege the LGBT community. McKerrow (1989) calls for such critiques to unveil these hidden undertones to effect social change; however, the critical rhetorician can only achieve this when s/he also engages in a critique of freedom that challenges the status quo frequently.

3. *DOMA and the Critique of Freedom*

The first time DOMA made the headlines of national newscasts was during Bush Sr.'s administration in the early 1990s. Before President Clinton signed DOMA into law, Eskridge (1993) was one of the first scholars to reflect on the issue of same-sex marriage from a legal standpoint. He notes the religious and postmodern roots of homosexual condemnation as a key aspect of this controversy. In its centrality, the problem of equal access to marriage transcends into our societal upholding of heteronormativity (BERLANT & WARNER, 1998):

By heteronormativity we mean the institutions, structures of understanding, and practical orientations that make heterosexuality seem not only coherent [...] but also privileged. Heteronormativity is thus a concept distinct from heterosexuality. One of the most conspicuous differences is that it has no parallel, unlike heterosexuality, which organizes homosexuality as its opposite (BERLANT; WARNER, 1998, p. 548).

This concept, rooted in traditional gender perceptions, has been valorized as the “right” way of living and having the “right” sexual orientation and has been consistently utilized across most conservative arguments that sought to uphold the DOMA statutes. It is fair to assume that an unabridged repeal of DOMA is not going to change this perception overnight, and neither does the current partial repeal. It is important that LGBT activist continue to challenge these normative structures.

The continuous scrutiny of heteronormativity is vital to a critique of freedom, as it constitutes the core challenge LGBT members have to face when seeking Marriage Equality. Same-sex marriage opponents, or -- in “domination” terms -- the elite, are those individuals in power who uphold the heterosexual cultural privilege and view marriage as an institution. According to Hsu (2006), the Marriage Equality Movement has faltered pre-DOMA because of its ineffective argument structure on the concept of marriage. He notes a lack of cohesion in the rhetoric of the movement, which is responsible for the current status of “crisis” (GRIFFIN, 1952). The current, partial, repeal of DOMA is no exception.

Pro-gay organizations such as Freedom to Marry and the Human Rights Campaign (HRC) continue to employ a radical, yet normative rhetoric (see HANSEN & DIONISOPOULOS, 2012). By positioning gay and lesbian relationships as non-threatening to society, these agencies mostly rely on pointing out the normative structure these relationships possess (i.e., monogamy, commitment, child rearing)

(KELSEY, 2009). The key arguments from those agencies address readers directly and are centering around explaining how LGBT families are “normal” and “just as yours” (“HRC,” 2013; “MARRIAGE EQUALITY,” 2013). These statements, while purposeful on the surface, are merely reinforcing normative structures and do not contribute much to the cultural debate. Essentially, these arguments do not address the root of the problem of LGBT discrimination. Not only have these organizations failed to realize that these kinds of statements are counter-productive, but they have also failed to contribute to the overall conversation on diverse understandings of love, kinship, family and sexual orientation.

Pro-gay agencies should concentrate their efforts on challenging those normative constructs, as they exist within the larger struggle of re-conceptualizing perceptions of marriage. As Smith and Winders (1997) have explained, pro-gay members frame their discourse around essentialist claims that position marriage equality as a necessity to attain full citizenship. Full citizenship, a term that has already been used in the Women’s Suffrage Movement (see speeches by Susan B. Anthony or Lucy Stone) or the Civil Rights Movement (see speeches by Dr. Martin Luther King Jr.), continuously surfaces in the goals of those arguing for Marriage Equality. This need for recognition has been central in arguments preceding the striking of DOMA, as well as in celebratory speeches upon its repeal of Section 3. Having said this, now that the repeal of Section 3 of DOMA has given pro-gay activist more legal traction, stronger arguments and initiatives should follow suit.

Over the last thirteen years of DOMA discussions, much emphasis has been put on advertising the tag “same-sex marriage,” not “civil union.” Official statements from lawmakers, protest posters by various activist groups, and celebrity endorsements have scrutinized the fact that same-sex couples cannot legally access the term ‘marriage.’ According to Burke (1976) and Ono and Sloop (1995), domination surfaces most visibly through naming. Calling a lesbian, gay, bisexual, or transgender individual as such, is engaging in vernacular marginalization through naming. Calling a marriage a “union,” is denouncing the latter as inferior. The way our current symbolism is constructed, homosexual translates into “normal,” and any other sexual orientations into “abnormal.” Until we find a way to refer to an LGBT individual or a same-sex marriage in an invariant manner, heteronormativity will succeed as the benchmark against which

other sexualities will be evaluated. As McKerrow (1989) calls for a perpetual criticism, these nuances of the DOMA ruling continue to hold pertinence with regards to the Marriage Equality Movement as a whole. In his critique of freedom, McKerrow calls for a critique that persists and continuously engages. As critical rhetoricians, it is important that we keep pointing to faulty foundations, such as heteronormativity, naming, and framing in order to expose our audiences to the nuances that keep the existing power-relations in place. If we continue to engage the public with diverse discourses, our critique of freedom will eventually transcend momentary awareness on cultural inequalities and succeed in exposing persisting marginalization.

CONCLUSIONS AND IMPLICATIONS FOR FUTURE RESEARCH

Let me begin by saying that my goal is neither to undermine the success of the striking of Section 3 of DOMA for the LGBT community, nor to discourage any of the supportive statements that have been issued since. This critical reading of key statements after the DOMA ruling is designated to shed light on the normative underpinnings of the overall discourse surrounding same-sex marriage and the tendencies of oversimplification many of them carry.

A limitation of this essay is its focus on McKerrow's (1989) taxonomy of the critique of domination and critique of freedom. Other theories and developments by critical scholars such as those by McGee (1990), Ono and Sloop (1992; 1995), or Zompetti (1997) are equally suited to discuss the implications of a "catalytic event" (DARSEY, 1991) such as the DOMA ruling.

As called for by McKerrow (1989), critical rhetoric enables the rhetor to see through these structures to point out where social inequalities fester and persist. Part of the discursive struggle of the rhetoric surrounding DOMA is that it reaffirms concepts of cultural domination and freedom. By offering a partial success to LGBT individuals, their families, and sympathizers, the striking of DOMA also participates in a critique of the existing discourse of LGBT subordination and devaluation. By focusing on how marriage 'should be' defined and how LGBT families 'should be' treated it challenges its status and reaffirms it at the same time.

Perhaps a complete striking of DOMA, as sought for, would have triggered different responses; nevertheless, it is non-negotiable that an LGBT-inclusive marriage

law does not mend the cultural stigma these families continue to face. As Obama congratulates the LGBT community on their hard work in combating DOMA to persuade the nation to “change for the better” (para 2); one cannot help but notice that this change, partial in nature, will continue to alienate roughly 650,000 LGBT individuals; namely those couples living in states that either ban same-sex marriage or continue to allow LGBT discriminatory laws (U.S. CENSUS, 2013; “FREEDOM TO MARRY,” 2013).

Overall, this analysis renders that the key statements surrounding the repeal of Section 3 of DOMA do not allude to its true meaning: a ‘smaller-than-advertised’ success for Marriage Equality. The struggles of the LGBT community with regards to their social acceptability are problems of domination, culture, and ideology. Unless these layers are peeled back successfully, even a partial ruling will not re-identify the concept of marriage in the mind of the greater public. Understanding that the striking of DOMA has not achieved federal laws on LGBT inclusion, it becomes apparent that the Marriage Equality Movement continues to be in its crisis (GRIFFIN, 1952). As explained earlier, only a cultural shift in the understanding, conceptualization, and treatment of LGBT individuals will lead to true consummation (GRIFFIN, 1952).

Future researchers may wish to conduct research on the Marriage Equality from a qualitative standpoint that incorporates arguments of intersectionality such as those brought forth by Enck-Wanzer (2006) and Wadsworth (2011). It is difficult to capture the personal identifications of the LGBT community in its entirety without considering multiple aspects of identity formation, such as religion, gender, class, and race. As Eskridge (1993) notes, the majority of the existing body of cultural criticism on LGBT rights continues to be produced by openly homosexual, bisexual, or transsexual scholars who have made it their mission to advocate for their own population. While these efforts are important, they do not suffice. LGBT sympathizers and other scholars should also begin investing their critical efforts in combating the ideological and heteronormative structures of the Western culture we live in.

Additional avenues for qualitative inquiries include critical analyses of the leadership styles employed by Marriage Equality opinion leaders, or critical paradigm autoethnographies that provide thick descriptions of the personal experiences of LGBT researchers who are struggling for Marriage Equality themselves. It would also be

intriguing to study whether those LGBT activists who have devoted themselves for decades to the movement would experience a sense of loss or senselessness upon the legal consummation of same-sex marriage.

As this essay demonstrates, there are many questions to be answered about Marriage Equality and the cultural changes that need to happen for it to truly flourish. It should motivate other researchers to fill in the gaps of understandings about cultural changes brought forth by social movements and stimulate minds to expand our understandings about how Marriage Equality truly ought to work.

REFERENCES

- ABRAJANO, M. (2010). **Are Blacks and Latinos responsible for the passage of Proposition 8?** Analyzing voter attitudes on California's proposal to ban same-sex marriage in 2008. *Political Research Quarterly*, 63(4), 922-932.
- ADAM, B. D. (2003). **The Defense of Marriage Act and American exceptionalism:** The "gay marriage" panic in the United States. *Journal of the History of Sexuality*, (12)2, 259-276.
- BITZER, L. F. (1968). **The rhetorical situation.** *Philosophy & Rhetoric*, 1(1), 1-14.
- BURKE, K. (1966). **Language as symbolic action:** Essays on life, literature, and method. Berkeley, CA: University of California Press.
- CAMPBELL, K. K. (1974). **Criticism ephemeral and enduring.** *The Speech Teacher*, 23(1), 9-14.
- CATHCART, R. S. (1972). **New approaches to the study of movements:** Defining movements rhetorically. *Western Speech*, 36, 82-88.
- CHÁVEZ, K. (2011). **Counterpublic enclaves and understanding the function of rhetoric in social movement coalition building.** *Communication Quarterly*, 59(1), 1-18.
- DARSEY, J. (1991). **From 'gay is good' to the scourge of AIDS:** The evolution of gay liberation rhetoric. *Communication Studies*, 42, 43-66.
- DRUMHELLER, K.; MCQUAY, B. (2010). **Living in the buckle:** Promoting LGBT outreach services in conservative urban/rural centers. *Communication Studies*, 61(1), 70-86.
- ENCK-WANZER, D. (2006). **Trashing the system:** Social movement, intersectional rhetoric, and collective agency in the Young Lord's Organization's garbage offensive. *Quarterly Journal of Speech*, 92(2), 174-201.

ESKRIDGE Jr., W. N. (1993). **A history of same sex marriage**: Faculty scholarship series [Data file]. Retrieved from <http://digitalcommons.law.yale.edu/fss_papers/1504>.

FREEDOM TO MARRY. (2013). States [Data file]. Retrieved from <<http://www.freedomtomarry.org/states/>>.

FARRELL, T. B. (1976). **Knowledge, consensus and rhetorical theory**. The Quarterly Journal of Speech, 62, 1-14.

GREGG, R. B. (1971). **The ego-function of the rhetoric of protest**. Philosophy & Rhetoric, 4(2), 71-91.

GRIFFIN, L. M. (1952). **The rhetoric of social movements**. Quarterly Journal Of Speech, 38(2), 184.

HAHN, D. F.; GONCHAR R. M. (1980). **Social movement rhetoric**: A dead end. Communication Quarterly, 28(1), 60-69.

HANSEN, W. D.; DIONISOPOULOS, G. N. (2012). **Eulogy rhetoric as a political coping mechanism**: The aftermath of Proposition 8. Western Journal of Communication, 76(1), 24-43.

HUMAN RIGHTS CAMPAIGN. (2009). Answers to questions about marriage equality [Data file]. Retrieved from <http://www.hrc.org/files/assets/resources/HRC.Foundation_Answers_to_Questions_About_Marriage_Equality_2009.pdf>

_____. (2013). **DOMA**: Get the facts. Retrieved from <<http://www.hrc.org/resources/entry/doma-get-the-facts>>.

HSU, K. K. (2006). **Why the politics of marriage matter: Evaluating legal and strategic approaches on both sides of the debate on same-sex marriages**. BYU Journal of Public Law, 20(2), 275-312.

KELSEY, M. L. (2009). **Gendered social movements**: A critical comparison of the suffrage and gay marriage movements. Kaleidoscope, 8, 95-116.

KOPPELMAN, A. (1997). Dumb and DOMA: Why the Defense of Marriage Act is unconstitutional. Iowa Law Review, 83(1), 1-13.

LEVIT, E. E.; KLASSEN Jr., A. D. (1974). **Public attitudes toward homosexuality**: Part of the 1970 National Survey by the Institute for Sex Research. Journal Of Homosexuality, 1(1), 29-44.

MCGEE, M. C. (1990). **Text, context, and the fragmentation of contemporary culture**. The Western Journal of Speech Communication, 54, 274-289.

MCKERROW, R. E. (1989) **Critical rhetoric**: Theory and praxis. *Communication Monographs*, 56, 91-111.

_____. (1991). **Critical rhetoric in a postmodern world**. *Quarterly Journal of Speech*, 77, 75-78.

NAKAYAMA, T. K.; KRIZEK, R. L. **Whiteness**: A strategic rhetoric. *Quarterly Journal of Speech*, 81(3), 291-309.

OBAMA, B. (2012). Statement by the President on the Supreme Court ruling on the Defense of Marriage Act. Retrieved from <<http://www.whitehouse.gov/doma-statement>>.

ONO, K. A.; SLOOP, J. M. (1992). **Commitment to telos**: A sustained critical rhetoric. *Communication Monographs*, 59, 48-60.

ONO, K. A.; SLOOP, J. M. (1995). The critique of vernacular discourse. *Communication Monographs*, 62, 19-46.

PRICE, V., Nir, L.; CAPELLA, J. N. (2005). Framing public discussion of gay civil unions. *Public Opinion Quarterly*, 69(2), 179-212.

RUSKAY-KIDD, S. (1997). The Defense of Marriage Act and the overextension of congressional authority. *Columbia Law Review*, 97(5), 1435-1482.

SIMONS, H. W. (1970). Requirements, problems, and strategy: A theory of persuasion for social movements. *The Quarterly Journal of Speech*, 56(1), 1-8.

SMITH, R. R.; WINDERS, R. R. (1997). The progay and antigay issue culture: Interpretation, influence and dissent. *Quarterly Journal of Speech*, 83, 28-48.

STEWART, C. J. (1980). A functional approach to the rhetoric of social movements. *Central States Speech Journal*, 31(4), 298-305.

SUPREME COURT OF THE UNITED STATES. (2013). Reply brief on the jurisdictional questions for respondent Edith Schlain Windsor [Data file]. Retrieved from <[http://www.supremecourt.gov/docket/pdfs/12-307_bsr_b_windsor_\(jurisdiction\).pdf](http://www.supremecourt.gov/docket/pdfs/12-307_bsr_b_windsor_(jurisdiction).pdf)>

UNITED STATES GOVERNMENT PRINTING OFFICE. (1996). The Defense of Marriage Act [Data file]. Retrieved from <<http://www.gpo.gov/fdsys/pkg/PLAW-104publ199/html/PLAW-104publ199.htm>>.

WADSWORTH, N. D. (2011). Intersectionality in California's same-sex marriage battles: A complex proposition. *Political Research Quarterly*, 64(1), 200-216.