The debate surrounding same-sex marriage has taken on new importance in light of recent Supreme Court cases that have advocated a more tolerant treatment of homosexuals. The issue becomes even more cogent and heated when one considers that three states have legalized same-sex unions in the span of just ten years. While the legalization of same-sex marriages is an important step towards the goal of securing rights and recognition for homosexuals, the rhetoric and discourse surrounding the issue remains problematic from a theoretical point of view. This paper will briefly survey some of the arguments provided by both liberal and conservative thinkers in support of same-sex marriage. Some of the problematic assumptions and failings of these justifications will then be explored and a more tenable and ultimately better alternative provided.

INTRODUCTION

Thirty years after the onset of the modern Lesbian, Gay, Bisexual, and Transgender liberation movement, which began with the Stonewall riots, the discursive emphasis of “gay” equality has shed its revolutionary aims and origins in favor of a more assimilationist and “ethnic” approach when articulating the aims and goals of LGBT organizations and individuals. Nowhere is this shift in orientation and strategic implementation more obvious and problematic than in the discussion of same-sex marriage. Indeed, since many LGBT organizations have enshrined same-sex marriage as the political aim of sexual minorities, it is no surprise that this once obscure dimension of LGBT liberation doctrine has become an enchanted goose of sorts: the magical, transformative panacea that will somehow not only grant LGBT individuals legitimacy within the larger context of a hetero-centric culture, but also lay unending golden eggs of previously unconferrable benefits and cultural capital to the waiting hands of individuals whose sexual practices and identities are currently marginalized. This approach masks the systematic marginalizing effects of marriage as an institution, which while mainly affecting homosexuals, also to some extent places non-married heterosexuals in a marginalized position in relation to married heterosexuals.

An analysis and prescription of political action based solely on the concept of “let’s add a few queers and sing a cheer” is an inadequate and ultimately regressive approach. What is needed now, especially in the current cultural milieu of conservative backlash and co-optation of radical revolutionary social programs, is a wider, more critical “queer-centric” advocacy of same-sex marriage. This assertion will be demonstrated by briefly surveying some of the rhetoric arguing for same-sex marriage by both left and right-wing thinkers. The conservative subversion of what is at face, the radical notion of same-sex marriage, can be seen when we examine the underlying normative assumptions surrounding discourses of “marriage” and the construed impetus for sexual minorities to embrace the notion of same-sex marriage wholeheartedly and unquestioningly. Finally, this essay will present a more queer-centric approach to “marriage” that more critically questions the normalizing tendencies of that institution, as well as better accounts for the multiplicity of identities and sexual practices of LGBT individuals. By queer, this essay will advocate an approach that avoids the essentializing tendencies of mainstream LGBT organizations’ politics, while at the same time arguing for the importance of forming and maintaining political counterspaces and counteridentities that can contest heterosexual norms of both.

MARRIAGE AS NORMALIZING AND DE-PATHOLOGIZING

My argument is that the rationalization for the claim that same-sex marriage should be politicized by sexual minorities stems from three main avenues of rhetorical discourse: the normalization approach, the constructed symbolic importance of same-sex marriage, and the recognition/rights argument. The normalization approach argues that the non-heteronormative behavior and culture of sexual minorities is the cause of the pathological behavior. Marriage supposedly will normalize sexual minorities and depathologize same-sex sexuality.

The prominent gay right-wing author for The New Republic, Andrew Sullivan, supports this assertion. He claims that, “there’s little social or familial support, no institution to
encourage fidelity or monogamy, precious little religious or moral outreach to guide homosexuals into more virtuous living. Thus, homosexuals are doomed to a depraved existence since they are forced into this double bind, from which there is no escape" (Sullivan 1992, 149). Sullivan then goes on to suggest that, “the state and society at large needs to construct social institutions and guidelines to modify and change this depraved pathology of behavior for the better” (Sullivan 1996, 152). Sullivan’s conclusion leads him to an advocacy of same-sex marriage, on the grounds that same-sex marriage will stop homophobia and cure homosexuals of their "depraved" nature, as well as remove the need for a pathologized gay culture. Thus, gaining legitimacy in the eyes of the state and the dominant hetero-centric society, as encapsulated in the act of same-sex marriage, becomes the modus operandi for LGBT individuals to gain equality and freedom. Before placing our efforts toward gaining the rights to ring the wedding bells, we should more critically approach Mr. Sullivan’s assertions, and their underlying assumptions.

Sullivan’s enshrinement of same-sex marriage as the most viable route to securing equal rights for sexual minorities makes several normalizing claims. First, when he describes the prevailing homosexual culture as being “depraved” and “pathologized”, he is once again recognizing the hetero-centric culture as the normative standard, to which homosexuals need to compare themselves. Sullivan’s approach attempts to do a sort of rhetorical double take. Even though he never explicitly argues that same-sex sexuality, outside a married context, is depraved and pathological in his writings (specifically Virtually Normal and Same-sex Marriage: Pro and Con, a Reader), the implication of his rhetoric is clear. It constructs LGBT rights and recognition as carrots that the state will throw out to us, in exchange for us shedding our depraved “lifestyles”. These rights become a regulatory tool of state power, rather than burdens that the state needs to fulfill. Sullivan’s rhetoric makes a moral judgment upon the very people he claims to represent; a life that is less modeled after heterosexual norms (i.e. the monogamous couple living their state legitimated marriage in their suburban home) is placed in a morally inferior position, according to Sullivan. These pathological cultural practices then, since they do not conform to the normative lines set by the dominant hetero-centric culture, do not deserve recognition or legitimacy.

**Marriage as Merely Being Symbolic**

Let us put aside for the moment, however, the problematic assumptions, which are created with the normalization argument and approach same-sex marriage as merely being symbolic. If approached as such the impact and influence of such an act does not extend beyond the two people who were actually engaged in marriage. Such an argument would only be true and logical, however, if we ignore the systematic and institutional benefits conferred upon married couples, not only in the form of social/and cultural capital granted by informal means, but more importantly in the state-backed benefits granted to married individuals. These benefits include, but are not limited to, visitation rights, inheritance rights, tax benefits, as well as health coverage benefits. Sullivan, as well as most supporters of same-sex marriage, creates a contradiction with this point. If same-sex marriage is merely symbolic, how then will it cure social ills such as homophobia and confer equality to sexual minorities? How does this account also explain the whole barrage of legal benefits granted to married couples? When we take systematic and institutional factors into account, the argument for same-sex marriage as merely a symbolic gesture that affirms homosexual love falters. At this point we need to more carefully analyze the historical and normative purposes of marriage as an institution, and how these functions are intertwined with the purposes of marriage as a symbolic act. In this analysis several interesting dynamics emerge.

Pursuing same-sex marriage as a political aim, purely for its symbolic power, would be unproblematic if it were possible to separate the symbolic from the regulatory purposes of this practice. This is an impossible task, however, unless we purposely ignore the historically institutional and regulatory functions that marriage serves. Paula Ettelbeck, a lesbian writer for Out/look magazine, a LGBT political journal, offers this insightful analysis on the matter:

“Marriage will not liberate us as lesbians and gay men; in fact it will constrain us and make us more invisible. Attaining the right to marry will not transform our society from one that makes narrow, but dramatic distinctions between those who are married and those who are not married. Marriage runs contrary to the two main goals of the lesbian and gay movement; the affirmation of gay identity, and culture, and the affirmation of many different types of relationships” (Ettelbeck 1989, 119).

Ettelbeck’s comment makes strikingly clear the discriminatory and inherently marginalizing nature of marriage, regardless of who is participating in the ceremony. Marriage as an institution discriminates in a two-fold manner. First, it marginalizes non-married individuals, whether hetero or homosexual, by granting exclusive benefits to married couples. Secondly, it creates secondary marginalization by granting rights and recognition only to certain homosexuals: those who are within this regulatory institution. Marriage as a practice confers privileges, without questioning the very nature and dynamic of those privileges. To whom are these benefits granted and why? Ettelbeck, once again, offers a critical insight:

“Of course, a white man who marries another white man who has a full-time job with benefits will certainly be able to share in those benefits and overcome the only obstacle left to full societal assimilation, the goal of many in his class. In other words, gay marriage will not topple the system that allows the privileged few to obtain decent health care. Nor will it close the privileged gap between those who are married and those who are not” (Ettelbeck 1989, 122).
Since marriage already marginalizes heterosexuals who are not married, it makes sense that the privileges and recognition it will extend to some homosexuals will not be extended to all homosexuals. Hinging queer liberation upon notions of normalcy and assimilation is an ultimately defeatist approach because it argues that in order to gain rights and recognition, the other (in this case homosexuals) must be reformed and disciplined to be the same as those who can grant these rights and privileges.

Adding same-sex couples to the regulatory field overseen by marriage will not lead to liberation, but only further regulation by the state. What is presented as merely a symbolic gesture is in actuality, a subversive move by the state to once again exert its power to regulate and enforce certain normative modes of sexual practices. The privileges that marriage confers are intimately connected to its regulatory functions. Prominent queer theorist Micheal Warner offers this description:

“Marriage brings the machinery of administration to bear on the realm of pleasures and intimate relations, aiming to stifle variety among ways of living. Marriage aims to make one form of life, already privileged, even more privileged. Embracing same-sex marriage is embracing blind majoritarianism, armed not only with an impressive battery of prohibitions and punishments, but with an equally impressive battery of economic incentives and disincentives, all designed to manipulate people’s substantive and normative vision of the good life” (Warner 2001, 132).

Thus, rather than being the clearest path to liberation, same-sex marriage is in actuality another regulatory attempt to dictate and construct an individual’s conception of sexual practices and relationships. The issue is not same-sex marriage per se, but the discourse and rhetoric that constructs it. As it stands it is rhetoric of assimilation and normativity, rather than subversion and transformation.

The conservative arguments espoused by Sullivan present one side of the argument. Interestingly enough many left-wing thinkers rationalize same-sex marriage along similar rhetorical approaches. Evan Wolfson, the marriage project director of the Lambda Legal Defense Fund, proposes that, “people in love should not have to accept discrimination because of their race, religion, or sexual orientation. Real life harm is caused by the exclusion of homosexual marriages and the benefits that marriage confers” (Wolfson 1992, 131). Again the justification for same-sex marriage is based upon assimilationist lines, and the “harm” that is inflicted upon homosexual couples is caused by their exclusion from the institution of marriage, and not by the regulatory and institutionalizing functions of marriage.

Lesbian left-wing writer E.J. Graff presents same-sex marriage as a symbolic and subversive political approach. She argues that “the right-wing would much rather see flamboyant urban queers throwing drunken kisses off bar floats than have two married girls move in next door, demonstrating to every neighborhood kid that a good marriage is defined from the inside out, that sodomy is a sin only in the mind of the beholder” (Graff 1996, 137). Such rhetoric sounds promising until the underlying assumptions created by such a “subversive” point of view are examined. First, Graff assumes that queer culture is inherently depraved and pathological, lacking any sort of cultural value; it is all about promiscuous sex and flamboyant displays. While these are certainly central aspects of queer, it is not the only dimension of it, and such an analysis ignores the important contributions that queer culture can make to revolutionize the way that relationships and sexuality is constructed in our culture. Graff’s subversiveness rests upon the notion that homosexuals need an infusion of heterosexual culture and norms of relationships, and not the other way around. Such an argument deserves the label of “assimilationist” rather than “subversive”. Would sodomy even be allowed when gay men get “married”, or would they just have to settle for petting and rubbing?

Disturbingly enough, right-wing proponents of same-sex marriage endorse this same assessment. Jonathan Rauch, a contributor to the New Republic states that, “same-sex marriage is the best way to reign in gay men and their out-of-control sexual proclivities and tendencies. Indeed, marriage is the only antidote to the depraved promiscuity of the homosexual lifestyle” (Rauch 1992, 177). The queer complaints against the way that same-sex marriage is currently rationalized are not merely the rumblings of a radical minority. Rather they are clear statements of a conservative agenda, masquerading as a subversive political counter agenda.

Indeed, the very notion of same-sex marriage runs contrary to the political aims espoused by more grass roots oriented queer movements. Some of these goals include: 1) Calling attention to the mythology by which marriage is idealized. 2) Recognizing the diversity of sexual and intimate relations as worthy of respect and recognition. 3) Resisting any attempts to make the norms of straight culture the standards as to which queer individuals should be judged. 4) Questioning the notion that the state should be allowed to accord legitimacy to some kinds of consensual sex, and not to others, or to confer respectability to some people’s sexuality, and not to others (Warner 2001, 88). It is quite surprising that the current trend has reversed, and the leading LGBT organizations (the National Gay and Lesbian Task Force, Gay and Lesbians Advocacy Against Defamation, even Parents and Friends of Lesbians and Gays!) now wholeheartedly support the notion of same-sex marriage. On a recent interview with the Advocate, NGLTF director Lorri Jean laid out the main goals of her organization, “first and foremost on our agenda is the struggle for same-sex marriage, it is indeed one of the cornerstones of our project,” (Jean 2003). While many organizations still retain some of the goals outlined above, same-sex marriage takes the utmost priority in many organizations’ politics and agendas.

It is true that the realities of queer life have allowed LGBT individuals to map out new terrains and orientations on which intimate relations could be played out. The culture
created within the gay “ghettoes”, the world of the baths, the clubs, the consciousness raising groups, has allowed sexual minorities to forge new types of bonds, which endure, and are much more unrestrained than hetero-centric norms and conceptions of relationships. Same-sex marriage threatens to stifle this culture, label it as deprived, and regulate it to non-existence. Queer liberation needs to embrace its culture, and not suppress it like some sort of Mr. Hyde, lurking behind the respectable façade of Dr. Jekyll. While same-sex marriage remains a relevant political issue, allowing political counter-spaces and counter-discourses of sexuality that question hetero-centric norms remain as, if not more, important. Without an overarching cultural critique of heterosexuality power structures and cultural norms, same-sex marriage as an avenue of political equality is doomed to fail.

**SAME-SEX MARRIAGE AS AVENUE TO EQUAL RIGHTS**
The discourse of rights and equality talk of course stipulates that those claming for such recognition speak in the language of those that can confer such rights, which brings us to the third plank of same-sex marriage justification: the argument for rights and recognition. Let us assume, for the moment, that taking on a more normative identity that is recognizable to the hetero-centric institutions of state government institutions is indeed desirable, and that gaining the right to marry will confer formal equal rights on LGBT individuals. The word “formal” is emphasized because we need to make the distinction between forms of equality that are “official” and “legal”, and those rights that are actually recognized and considered legitimate in everyday life. The disjunctions between the two are wide and far ranging. Some cogent examples of this disjunction are the Jim Crow laws passed after the Civil War, and the supposed equal rights policies brought about by the early second wave feminist movement. The procedural rights granted to African-Americans to vote were blocked by more procedural regulations that effectively rendered this formal equality useless. The equal access that womyn struggled for and received to the workplace did not mean that they would be treated fairly once they got there, or that they would be equally compensated and recognized for the work that they do. Equality and recognition for sexual minorities gained through the strategies of assimilating and normalizing their sexual practices to more closely approximate hetero-centric norms threatens to become the new Jim (Jimmy, James perhaps) Crow: clothing us once again when we thought we were finally free. A few examples would help clarify this point.

The inadequacy of rights discourse can be clearly seen in its inability to tackle and properly mitigate the systematic forms of inequality that are already reinforced and perpetuated in society. Formal equality can only go so far without a simultaneous analysis and criticism of prevailing ways of thinking and already assigned labels given to homosexuals. Same-sex marriage may enable sexual minorities to obtain a marriage license and joint bank accounts, but this new found “freedom” to more fully integrate within the system does not subvert nor question already entrenched beliefs and pre-conceptions. Jimmy and Luke can go to city hall and get married, but it doesn’t mean that poor Josh and James can go to the high school prom without being harassed and possibly violently assaulted. Same-sex marriage does not alleviate the stigmatized status of homosexuals, but rather further legitimizes such stigmatization by arguing that our recognition and respect need to be based upon standards of hetero-centric behavior.

Entrenching same-sex marriage as the key to equality once again reifies already existing hierarchies that exist among different types of sexual and relational practices. The inherent social benefits conferred by marriage will grant legitimacy and recognition to a homosexual only upon certain, specified contexts, contexts that are determined and dictated by the state. Basically what emerges is a situation where one can be homosexual if you act out your relationships heterosexually, but not otherwise. Sexually promiscuous heterosexuals do not need to alter their behavior in order for all heterosexuals to get married. Promiscuous homosexuals should not have to either. Same-sex marriage, as it is being construed right now, would only permit a homosexual identity in certain contexts (a normalized, married, heterosexual context) and not within a truly queer context, one in which a wider variety of relationships and sexual practices are all valued equally.

Much as the Jim Crow laws were passed to bar actual equality for African-Americans, the same approach applies to same-sex marriage legislation. Indeed, it is happening now. Vermont and Hawaii’s same-sex marriage and civil union statutes should have settled the issue once and for all, since the full faith and credit clause of the Constitution dictates that legal proceedings that are valid in one state must be recognized by other states as well. Obviously that is not the case due to some legal “technicalities” that suddenly cropped up to block full implementation of this law. Even through the constitutionality of same-sex marriage unions was affirmed by the Hawaii Supreme Court in *Baehr V. Lewin*, Congress immediately passed the Defense of Marriage Act, which effectively rendered same-sex marriage and civil union laws in Hawaii and Vermont null and void anywhere else in the United States (*Baehr V. Lewin* 1993, 530). The notion of same-sex marriage becomes even more problematic when we consider that consensual sodomy is still considered illegal in over sixteen states! The contradiction is glaring: same-sex marriage would effectively allow same-sex couples to get married, yet not have sex in these sixteen states. This situation has been remedied with the recent Supreme Court case *Lawrence V. Texas*, which ruled sodomy statutes as unconstitutional (*Lawrence V. Texas* 2003, 02-102). Whether this ruling will be recognized and enforced by all fifty states remains to be seen. The dominant power of normative cultural standards has ways in which they can render granted formal equality powerless and empty. Equality of sexual minorities, especially
legitimizing their loves and relationships, can only come about when systems of hierarchy, power and domination are destabilized, criticized on a foundational level, and systematically deconstructed.

**SO WHAT ABOUT “RESPECTABLE” QUEERS?**

The purpose of this critique, of course, is not to assume and dictate that all sexual minorities must take on a queer label. Indeed, such an approach would be antithetical to the very notion of queer itself. The goal is also not to create yet another essentialized, universal, and de-contextualized notion of what a sexual minority should be or want. The point is that we need to take into account the fact that the dominant discourse of hetero-centricism operates on hidden domains and subversive approaches. We need to consider this reality, if we truly are to legitimize our relationships to each other, and within a larger societal context. A queer-centric approach does not discount, nor deny the validity of same-sex recognized unions as a political aim. It merely questions its justifications, and the stipulations that are created to gain such recognition, as well the myopic, single focus approach aiming to secure only formal, and not cultural and systemic equality. Queer does not stipulate, nor aim, to represent the whole entirety and wide diversity of sexual minorities. It simply asks to recognize this diversity and accord less “respectable” queers the same respect and recognition that more mainstream LGBT individuals enjoy. A more critical and questioning approach to the issue of same-sex marriage would go far in achieving this goal.

**POSSIBLE ALTERNATIVES, HOW CAN MARRIAGE BE “QUEER”?

Queer theorist Morris Kaplan, in his book *Sexual Justice*, presents one possible queer approach to the issue of same-sex marriage. Kaplan argues for the transformative potential of same-sex marriage, and its political re-conceptualization as a form of civil disobedience. He claims that:

“At bottom the demand for legal recognition of same-sex partnerships is a demand to acknowledge the validity of lesbian and gay forms of life. To the extent that gay and lesbian citizens are prepared to assert this claim, and occasionally to break the law publicly in doing so, we are challenging the moral consensus that supports compulsory heterosexuality” (Kaplan 1997, 234).

This is the kind of approach that arguments about same-sex marriage need to take. It needs to be a political agenda that seeks to transform the mainstream through engagement, but which is also sensitive enough to critically approach and question the productive and constituting powers of a normatively heterocentric culture. Kaplan claims that, “modern power generates its own sites of subversion and resistance, these forms of subjective understanding both incorporate and transform categories” (Kaplan 1997, 236). Kaplan positions same-sex marriage as one of these sites of resistance. He formulates same-sex marriage not as a site of sameness and assimilation, but rather as sites of resistance, subversion, and transformation.

If marriage is to be disentangled from its normative and regulatory purposes, which would then allow it to become a real avenue for LGBT liberation, the very foundation of this social practice must be transformed as to be more conducive to queer-centric aims and practices. First, civil union statutes must allow for a wider variety of arrangements and partnerships, which can qualify to receive the same systemic benefits that monogamous married couples receive. Obviously granting these benefits to same-sex couples is part of the argument, but we also need to extend these goods to other kinds of domestic arrangements; relationships involving three or more individuals or relationships that aren’t necessarily sexual or romantic, such as those between siblings, or children taking care of old or disabled parents. As such, marriage truly becomes a symbolic affirmation of love and affection, and not a normalizing practice, since the benefits that it confers to individuals will become available to everyone, in whatever types of relational ties that people wish to create.

Secondly, we need to remove the moralistic tones and normalizing aims when advocating same-sex marriage rights. Expanding the benefits of marriage to other types of relationships is one way to achieve such an aim. Same-sex marriage rights need to be granted to sexual minorities not because it would normalize, discipline, or make us shed our “depraved” ways. Same-sex marriage rights must not be granted to us as carrots that the state will give away when we meet certain qualifications. Promiscuous and “depraved” straight people certainly exist, and yet these individuals need not modify their behavior in order for all heterosexuals to get married. Neither should sexual minorities. Ultimately, the state should have no power to regulate people’s bodies and the sort of relationships they wish to create. Arguments that the state should have a role in this domain of social life have conspired to create racist, sexist, and heterosexist laws and regulations. Miscegenation laws, sexist marriage statutes, and the current legislative drive to amend the Constitution to strictly define marriage as being between a man and a woman are all cogent examples of some of the negative effects that such overarching state power can produce.

As the argument about same-sex marriage becoming the new Jim Crow laws shows, adopting a myopic focus on same-sex marriage as the most tenable avenue to gaining LGBT rights is problematic. While any discussion and advocacy of sexual minority rights must necessarily include discourses of same-sex marriages, such political aims must not completely overshadow or encapsulate other queer-centric aims and goals, such as criticizing and destabilizing the oppressive dominance of hetero-centric norms of relationships by giving legitimacy and recognition to a wider variety of sexual and romantic ties. A queer approach would also reveal to us the
intersectional ties of race and class oppression and how these types of marginalization intersect with the plight of sexual minorities. Finally, a more queer-centric analysis, far from denying the need of sexual minorities to affirm and legitimize their relationships, will allow us to celebrate our relationships just as we are, and not as heterosexually oriented queers.

CONCLUSION

The dynamics of power and dominance work in subtle, often invisible ways. Allowing the discourse of same-sex marriage to be carried forth within its current context will not liberate sexual minorities, but rather condemns us as regulated and determined subjects of the state. What is needed now is to negotiate within this terrain with a queerer oriented lens: remembering where we came from, seeing clearly where we are going, and gaining respect and legitimacy for ourselves as ourselves, and not as anyone or anything else.

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In an April, 2003 interview with Norma Jean, John Phillips of The Advocate outlines the Goals and aims of the National Gay and Lesbian Task Force.


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