

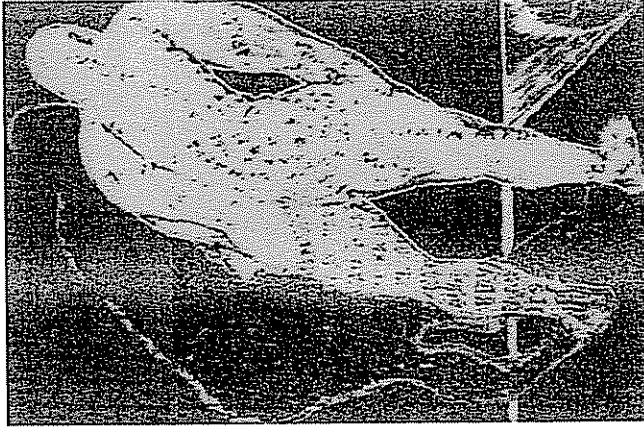
## Friday the Thirteenth— Love, Commitment, and then Catastrophe Personal Reflections on the Marriage Equality Movement

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On Friday the thirteenth, a day of ominous bad luck for the more superstitious, I got married. Personally, I had hoped that it would push my family to more fully accept my partner. Publicly, I had wishfully imagined that it would serve as a credential that would declare my same-sex love as a legitimate union. As luck would have it, neither would occur in the wake of what was supposed to be one of the most memorable events of my life. When I called my mother just moments before catching the train to City Hall, she accused me of insanity. Two months later, I took my marriage certificate and went to the Japanese embassy to file for a family visa to have my partner in Japan with me during a one-year fellowship. Perhaps predictably, authorities refused to recognize her as my spouse. To make matters worse, less than two years after our day in City Hall my partner herself would end our eight year relationship and over the phone no less. Indeed, my hope-filled marriage in February 2004 came to mean little materially and even less emotionally in a socio-cultural context that held little respect for same-sex unions.

For many others, perhaps those who did not get married on Friday the thirteenth, February 2004 evokes memories of victory and liberation as couples denied access to legal marriage descended upon a variety of city halls across the nation to petition for recognition. While San Francisco appeared at the center of the media frenzy, couples also stormed county clerk's office in cities such as Portland, Nyack, and New Paltz. And unlike the angry rioting that Governor Schwarzenegger predicted, love and joy appeared to permeate, as people kissed, embraced, whooped, and

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wept. Even flowers appeared from seemingly nowhere, bought by people in middle America from states such as Kansas and Nebraska to express their congratulations to newlywed strangers leaving San Francisco City Hall. Even I, now a Scrooge of love, would say that it was a glorious time.

Still the movement for marriage equality stirs mixed feelings for me, less so because of my personal misfortune and more for its ultimate valuation of legally recognized monogamous romantic couples over those not legally married, not romantically involved, non-monogamous, or uncoupled. As the right and left battle over who will ultimately claim the "m" word as their own, I wrestle over the debate within the left whether this fight is even an appropriate use of resources.<sup>1</sup> While same-sex unions should rightfully assert equal status as heterosexual marriage, I wonder why everyone regardless of marital status can not share in these same benefits.

The movement for same-sex marriage in the U.S. may have first begun more than thirty years earlier in parts of the U.S. less known for its gay and lesbian activism. In 1970 Jack Baker and Mike McConnell applied for a marriage license in Minneapolis. The county clerk refused the two. Two months later in Louisville, Kentucky, Marjorie Jones and Tracy Knight made a similar attempt to marry. They would later file a lawsuit claiming their constitutional right to marry with little success. In the following years additional same-sex couples, African American and white, then approached their county clerk's office in cities such as Tampa, Hartford, Chicago, and Milwaukee. State legislatures quickly responded. Within five years a total of fifteen states beginning with Maryland, Texas, and Colorado passed legislation limiting marriage to heterosexual couples.<sup>2</sup>

Yet, nearly two decades would pass before gay and lesbian activists seriously took up the cause for marriage. Historians argue that in the 1970s marriage did not appear to be an ideal personal choice for most and the political claim appeared impossible to achieve. Then in the late 1980s gay conservatives such as Andrew Sullivan began writing on the case for gay marriage. Not until 1993 would activists take up same-sex marriage as a high agenda item when the Hawaii Supreme Court addressed the question in *Baehr v. Lewin*. Judges seemed likely to order same-sex marriage, but a state constitutional amendment preemptively overruled the court. Yet, opponents of same-sex marriage, worried over the precedent that might take place in Hawaii, had already

begun pushing for federal legislation that would safeguard marriage for only heterosexual couples. Their anxious activism resulted in the 1996 passage of DOMA, the Defense of Marriage Act, defining marriage as a union between one man and one woman. The act additionally gave states the right to not recognize same-sex marriages performed in other states.<sup>3</sup>

In the midst of federal setback, some though continued to press for marriage equality. In 2000 Vermont's high court as a substitute for full-fledged marriage implemented civil unions, offering state benefits to same-sex couples. Four years later under order of its state supreme court, Massachusetts began offering marriage licenses to same-sex couples. Yet these moves may have signaled more of a defeat than a victory for gay and lesbian rights. Same-sex marriage became a key "wedge" issue in the 2004 presidential election. And in the wake of increasing awareness, thirteen states in the same year passed constitutional amendments limiting marriage to a union only between a man and a woman raising the number of states with similar marriage bans to more than forty. Indeed by 2005 what once used to be an "excellent law school hypothetical"—a problem with little purchase in the real world—had become a pressing national issue of enormous stakes.<sup>4</sup>

For supporters of marriage equality, legalized unions of same-sex partnerships would bring more stable relationships to the gay and lesbian community. A barrage of benefits would also follow around social security, health insurance, and tax and immigration laws. For families with children as well, legalized marriage would only benefit the dependents in terms of material wealth and parental care. Without the right to marry, the gays and lesbians remained "second class citizens."<sup>5</sup>

Despite the above potential gains, marriage would still leave unresolved many problems that plague the gay community. Queer and feminist critics of marriage equality note that homelessness, health care, job discrimination, and hate crimes would still reign among the most disadvantaged within the queer community. Racism, xenophobia, and poverty should be tackled, not the unequal access to marriage. Moreover, the institution of marriage, its roots in perpetuating sexism and racism, has always been a vehicle of inequality. Others argue that marriage ideologically goes against the very core of gay and lesbian identity and lifestyle, its acceptance and validation of multiple forms of relationships.<sup>6</sup>

Indeed for me, the exchange of vows took on more importance as an act of civil disobedience than a proclamation of love. While I have always believed that marriage as an institution should be abolished, I also saw it as a way to access benefits in a rigid system of inequality that proved slow to change. Since marriage could not be eradicated today or even tomorrow, I thought gay marriage might be a more realistic alternative. As more privileged academics, claiming themselves as radical queers, argued around the inherent inequalities of marriage, I found a part of me irritated with the most self-righteous among them. Did these people have partners who made just barely above minimum wage and had no health insurance? Gay marriage whether I believed in marriage or not, could be one way of protecting my partner who had little job stability. A dyke friend of mine from white working class roots who remained critical of same-sex marriage felt torn about her practical decision to register for domestic partnership to obtain healthcare for her partner. For non-citizens whose visas would expire and who also have American partners they would marry in a heartbeat, supporting federal recognition of same-sex marriage might be more viable than taking on the racist Immigration and Naturalization Service. Many of us, less privileged or supporting people less privileged may not have the wherewithal to wait for the larger revolution.

As much as I might question the at times shrill diatribe of the radical left, I have even less sympathy for the idealized romantic and material arguments from conservative gays and lesbians. While I was moved by the fervor of others who got married and the support of strangers across the nation in their passionate avowal of the power of love, marriage would ultimately not guarantee the stability of my relationship. Moreover materially, marriage in the form of domestic partnership brought more burdens than benefits when it came to dissolving the union. When my domestic partnership status gained many of the same rights as marriage in the state of California in January of 2005, I found that I had to go through Superior Court to obtain a dissolution. With all the bureaucracy that ensued, I had suddenly joined the peculiar ranks of my straight divorced friends, emotionally and financially. Personally, marriage equality had come to mean little more than a mimicry of my worst heterosexual nightmare.

Notably, same-sex unions will more likely become realized in the near future than not. Despite overwhelming recent legal success for opponents of gay marriage, the Field Poll in Califor-

nia noted that those who approve of formalized same-sex unions has risen from 28% in 1977 to 42% in 2003. A national poll by the Pew Research Center for People and Press also show increased support for same-sex marriage in the past ten years from 27% to 39% of Americans.<sup>7</sup> As countries across the world such as the Netherlands, Spain, Canada, and South Africa legalize same-sex marriage, marriage equality in the U.S. might be an inevitable reality of the future.

In the end, I would never actively oppose legalization of same-sex marriage. However, I remain most aligned with those of the more tortured radical left—individuals who are in dire need of the material gains that marriage equality would bring, but still continue to thoughtfully critique the institution of marriage itself. Ultimately, the significant shift in American consciousness might be less the political issue of marriage equality itself and more the gay and lesbian youth today who feel entitled to the right to marry unlike their queer predecessors twenty years ago.<sup>8</sup>

In the long run, homophobia both within and outside the queer community might be the more difficult hurdle to overcome. Even after marriage equality is achieved, social inequality will linger, perpetuated not just by those who hate us, but even by those who should love us the most. Institutional and social devaluation of same-sex relationships had shaped my own attitudes about my intimate commitments. In a hostile world, I blindly protected my partnership, no matter the cost. Deprived of legal equality, I had jumped at what presented themselves to be fleeting opportunities of formalized equity in my relationship before seriously evaluating whether the partnership proved worthy of formalizing. I filed for domestic partnership and later ran to get married during moments when both opportunities appeared at the risk of being taken away. Hungry for recognition, my famished mind had little space to seriously evaluate what I had hoped to protect.

Personally as well, I had built my own stone castle around the two of us, brick by brick. When an old college friend had asked me why I had not discussed with her my problems with my partner, I awkwardly responded that her latent homophobia had prevented me from revealing any cracks in the wall of my same-sex love. For me, fear of external homophobia and a refusal to submit to heteronormative suspicions over the seriousness and longevity of same-sex relationships would inhibit me from dealing with red flags in the partnership as they arose.

My conclusion is less about the liberatory nature of same-sex marriage than about the insidious nature denying marriage equality can play on our psyche. As we strive for happiness, an unfriendly environment only turns us into armored soldiers fighting with what is on the outside rather than dealing with what is within. Without the space to take off our protective gear, how can we feel comfortable in our own vulnerability, engage in deep introspection, and achieve happiness through both a practice and sincere belief in equality? Even after all the legislative battles have been won, that might be the more difficult hurdle ahead of us.

#### Notes

1. "M" here refers to marriage. For more on the struggle over who can use the word "marriage" see William R. Handley, "Belonging(s): Plural Marriage, Gay Marriage and the Subversion of 'Good Order,'" *Discourse* 26:3 (Fall 2004): 85-109.
2. William Eskridge noted that before 1969 the notion of a same-sex couple entering into a state-sanctioned marriage seemed "culturally and legally implausible" in the U.S. William N. Eskridge, Jr., "A History of Same-Sex Marriage," *Virginia Law Review*, 79, no. 7 (October 1993): 1423-1424. For the history of same-sex marriage see George Chauncey, *Why Marriage?: The History Shaping Today's Debate Over Gay Equality* (New York: Basic Books, 2004); Richard D. Mohr, *The Long Arc of Justice: Lesbian and Gay Marriage, Equality, and Rights* (New York: Columbia University Press, 2005); William M. Hohengarten, "Same-sex Marriage and the Right to Privacy," *Yale Law Journal* 103:6 (April 1994): 1495-1531.
3. Eric Fassin, "Same Sex, Different Politics," *Public Culture* 13:2 (2001): 221. For conservatives advocating gay marriage see Andrew Sullivan "Here Comes the Groom : A (Conservative) Case for Gay Marriage," *New Republic* 28 (August 1989): 20-22; Marvin Liebman, *Coming Out Conservative: An Autobiography* (San Francisco: Chronicle Books, 1992); Bruce Bawer, *A Place at the Table: The Gay Individual in American Society* (New York: Poseidon Press, 1993); Kathleen E. Hull, "The Political Limits of the Rights Frame: The Case of Same-Sex Marriage in Hawaii," *Sociological Perspectives* 44:2 (Summer 2001): 207-232; Chauncey, 125.
4. Patrick Paul Gartinger, "In All About Name': Marriage and the Meaning of Homosexuality," *Discourse* 26:3 (Fall 2003): 41-72; Thomas M. Keane, "Aloha Marriage? Constitutional and Choice of Law Arguments for Recognition of Same-Sex Marriages," *Stanford Law Review* 47:3 (February 1995): 499-532; William Meezan and Jonathan Rauch, "Gay Marriage, Same-sex Parenting, and America's Children," *The Future of Children* 15:2 (Fall 2005): 98; Amy L. Brandzel, "Queering Citizenship?: Same-Sex Marriage and the State," *Gay and Lesbian Quarterly* 11:2 (2005): 171-204; Nan D. Hunter, "The New Law of Marriage," *The Good Society* 14:1-2 (2005): 11.
5. Sullivan; Hohengarten, 1530; Thomas B. Stoddard, "Why Gay People Should Seek the Right the Marry" in *Lesbian and Gay Marriage: Private Commitments, Public Ceremonies*, Suzanne Sherman, ed. (Philadelphia: Temple University

Press, 1992); Meezan and Rauch, 108-109.

6. For the radical queer feminist critic against the marriage equality movement see Marlon M. Bailey, Priya Kandaswamy, and Mattie Udora Richardson, "Is Gay Marriage Racist?" Mattilda, aka Matt Bernstein Sycamore, ed., *That's Revolting: Queer Strategies for Resisting Assimilation* (Brooklyn, NY: Soft Skull Press, 2004), 87-96; *The Nation: State of the Union: The Marriage Issue* 279:1 (July 5, 2004); Paula Eittlebrick, "Since When Is Marriage a Path to Liberation?" Andrew Sullivan, ed., *Same-Sex Marriage: Pro and Con* (New York: Random House, 1997), 118-124; Nancy D. Poltkoff, "We Will Get What We Ask for: Why Legalizing Gay and Lesbian Marriage Will Not 'Dismantle the Legal Structure of Gender in Every Marriage,'" *Virginia Law Review* 79:7 (October 1993): 1535-1550. For an additional interesting article on the significance of race and same-sex marriage see Siobhan B. Somerville, "Queer Loving," *Gay and Lesbian Quarterly* 11: 3 (2005): 335-370. I thank Jessi Gan for directing me to the essay by Bailey, Kandaswamy, and Richardson.
7. For the field Poll of California see David Shumway, "Why Same-Sex Marriage Now?" *Discourse* 26:3 (Fall 2004), 74. For the Pew Center's poll see Wyatt Buchanan, "Polls find U.S. Warming to Gay Marriage," SFGate.com, March 23, 2006. Accessed March 23, 2006. <http://sfgate.com/cgi-bin/article.cgi?file=/c/a/2006/03/23/MNGA0HSE4H.DTL>.
8. Nan Hunter wrote of how her queer students expected to have the right to marry. Nan D. Hunter, "The New Law of Marriage," *The Good Society* 14:1-2 (2005), 12.