Queer Identities / Political Realities

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CHAPTER FOUR

QUEERING MARRIAGE AND FAMILY IN THE 2006 COLORADO ELECTION

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During the 2006 election, Colorado joined the national “gay marriage” debate. In November, Coloradans faced two ballot measures: Referendum I granting domestic partner status and benefits to “same sex” couples and Amendment 43 defining recognized marriage as a “union of one man and one woman” (Legislative Council 2006). Amendment 43 passed with 56% of the vote; Referendum I failed by garnering 47% of the vote (Simpson 2006b). Prior to the election, “gay rights” groups and “family values” groups faced off; generating media and popular discourses surrounding the issue (Simpson 2006a).

This essay employs a queer/critical theoretical lens to examine the discourses framing “both sides” of the gay marriage debate. Using critical discourse analysis (CDA), I will examine the assumptions within key texts produced by the Colorado General Assembly that summarize and analyze Referendum I and Amendment 43 and then discuss how those assumptions connect to value systems, discourses, and ideologies. While the political regulation of identities is not new, the identity politics communicated by “gay rights” opponents and proponents have become prominent issues in recent local and national elections. By taking a queer/critical lens, I move beyond reasoning based on individual or civil rights to critique marriage and family more generally. This shift in focus allows us to examine overarching ideologies that inform views on what committed relationships are and should be.

Existing scholarly research on the issue of state-recognition of gay and lesbian relationships includes various theoretical perspectives such as legal (Chambers 2001; Duclsos 1991), civil rights (Eskridge 1997; Wolfson 1996), critical (Yeo, Lovas, and Elia 2003) and performative (Dickinson 2008). For an instructive and accessible debate about gay marriage, representing various popular and political positions, see Sullivan (1997).
My interests in this debate regard differing opinions within gay, lesbian, bisexual, transgender, and queer (GLBTQ) communities on whether some form of gay marriage is desirable or not. Here, questions regarding politics and identities become especially germane. Is the diversity of opinion within the GLBTQ acronym at the table when important political decisions are made? Or are monied, white, gay men and lesbian women given the discursive space in the media and within organizations to speak for the “others”? While this debate has not received much popular press attention (since essentialized media representations present all gay people as proponents of gay marriage), there has been an ongoing scholarly debate between more assimilationist gay rights activist-scholars and more radical queer activist-scholars. Rather than reiterating the debate here, I will provide a brief representation of the most commonly espoused sentiments. For an excellent overview of theoretical contentions between gay and lesbian studies and queer studies see Lovaas, Elia, and Yep (2006).

Supporters of gay marriage, who are backed by the Human Rights Campaign (HRC), which is the largest gay rights organization in the U.S., argue mostly from a liberal equality, civil rights model that gay people are not that different from heterosexual people and should, therefore, be extended the same rights (Sullivan 1995; Sullivan 1996; Wolfson 1996). GLBTQ people against “gay marriage,” are skeptical of the institution of marriage and of a gay and lesbian desire to be incorporated into an unchanged and problematic system:

Traditional marriage is integral to the corrupt authoritarian structure of society...[and] the most important issue for gay and lesbian couples is whether or not they should “sell out” to the enemy—the patriarchal culture—that seeks to oppress and eliminate them. (Baird and Rosenbaum 1997, 11)

I join this ongoing debate at the confluence of discourses regarding identities and politics and bring my own critical-queer consciousness to bear on my analysis. My goal is to build a conceptual framework that is influenced by a queer historicization of marriage and family and put into action through critical discourse analysis of political texts that are specific to a state election by asking the following questions:

RQ1: What assumptions, regarding “gay marriage”, are embedded in discourses surrounding Referendum 1 and Amendment 43 in the 2006 Colorado election?
RQ2: To what value-systems, discourses, and ideologies do these assumptions connect?

Queering Context, Queering History

A queer critique of marriage and family is not limited to homosexual and heterosexual relationships. Instead, a queer critique asks us to reconceptualize how relationships are organized and how power operates within those organizations. Butler (2004) and Cohen (2006) critique the false binary, sometimes set up between queer and heterosexual, that prevents us from viewing family and kinship in alternative ways that are not organized solely around discrete identities, do not get caught up in a heteronormative, compulsory, conjugal view of the family, and therefore include more possibilities. They note that even within heterosexual identities, there are relationships that are marginalized and do not fit in with hegemonic definitions of marriage such as: single mothers, couples with children that are not married, committed couples who do not have children, and non-monogamous couples. In short, marriage as an institution already excludes many more people than gays and lesbians.

This queer critique extends to discuss how intersecting identities, which carry privileges and disadvantages and are often overlooked by the mainstream gay marriage movement, influence how people perceive and interact with their material world and how they organize their political priorities. Many people who have multiple intersecting marginalized identities do not have the privilege to solely focus on their sexual orientation, as their other identities carry more pressing and immediate stakes. Ferguson’s (2006) view on the complexity of identity, marriage, and politics is worth quoting at length:

Only those individuals buffered from racial, class, and gender oppression and who, but for their homosexual orientation are “virtually normal,” could reasonably expect as narrow a reform as legal marriage to bring them almost complete (“ninety percent”) equality and liberation. Women, men of color, and the economically disadvantaged (including many white gay men) need much broader and deeper social change to improve their lives. Thus, the disparate responses of white men, women, and gay men of color to the same-sex marriage movement is likely evidence that they are unequally affected by social power and, therefore, would benefit differently—if at all—from state recognition of their relationships. (61)

Here, we see the complex ways in which race, class, and gender intersect with sexual orientation and how queers of color and queers who are struggling in poverty are not often included in mainstream representations of what it means to be gay or lesbian. Cohen (2006), specifically examining the family as an assimilationist institution that has historically been used to discipline people of color as well as non-
heterosexuals, reiterates the ways in which heteronormativity affects most negatively those outside of the mainstream (non-white, poor, etc.). Citing a queer activist newsletter, Cohen illuminates the disdain that many activist queers have for the assimilationist gay rights movement:

F**k the heterosexual, nuclear family. Let’s make families which promote sexual choices and liberation rather than sexual oppression. We must learn from the legacy of resistance that is ours: a legacy which shows that empowerment comes through grassroots activism, not mainstream politics, a legacy which shows that real change occurs when we are inclusive, not exclusive. (30)

The cited newsletter clearly advocates in favor of grassroots activism to sweeping legislation. In contrast, the largest gay rights group in the country, the HRC, devotes its resources toward lobbying as opposed to grassroots organizing. Butler (2004) takes up a critique of mainstream gay rights organizations like the HRC and calls for the opening up of kinship ties to models beyond those based on heterosexist ideology, saying that marriage should not be “the exclusive way in which both sexuality and kinship are organized” (5). Queer discourses that critique marriage and family are not embedded within conversations regarding politics, identity, and gay marriage, as a mainstreamed gay agenda combine with family values rhetoric to create discursive closure. However, a brief historicization of the family through the lens of disciplining the body and a close critical look at how gay marriage was discussed in the 2006 Colorado election will continue to build my conceptual framework and expand our public discourse on marriage and family.

Regulating the Family, Sexuality, and the Body

From the 15th to the 19th century, sexuality was a moral and religious concern. In the 20th century, sexuality largely became a professional and clinical concern; however, a recent conservative backlash to sexual permissiveness has refocused attention to sexuality in moral and legal realms and drawn attention to the confluence of sexuality, identity, and politics. The homosexual body is not ahistorical or transcendent; instead, the homosexual body is a product of historically, culturally, and politically specific discourses and has emerged and changed for particular reasons over time. Sexual regulation is not just about sexual acts, it is a way for society to control “the lives of its members – for the sake of moral uniformity, economic prosperity, national security, or hygiene and health” (Weeks 1996, 374). This quote illustrates the powerful ways that sexuality intersects with larger issues of morality, economics, politics, and health.

Our sexual definitions have been shaped by power relationships, which are not neutral or ahistorical, and a brief historicization drawing upon changes in religious and economic practices in Renaissance Europe provides an interesting context for contemporary views of marriage and family. Illich (1982) connects this historicization to changes in church practices, namely pastoral care, which signaled a change in the roles of priests who were no longer church bound liturgical experts but, rather, managers of individual family units. These priests, the trained priests of Catholicism, had to leave the church and enter the household, hence pastoral care. The household also came to the church, since it was during this time that compulsory confessions began to take place. Ultimately, “the pastor [was] now represented by the image of the celibate cock on the steeple, watching over a flock that included two sexes, the bugger was the unredeemable enemy who had eventually to be burned” (153). These changes in religion and increase in surveillance led, in part, to the institution of compulsory, conjugal heterosexuality and drew clear lines between moral and immoral behavior. A side effect of this sexual compartmentalization was the creation of identity categories that did not previously exist.

Before the European Renaissance, a man who preferred to have sex with boys could not have thought of himself as a homosexual nor would his engagement in sex with men make him an intrinsic other by way of a social identity. So, while homosexual sex acts existed, they were not tied to a social or political identity but viewed as acts of intimacy, release, or copulation. Interestingly, Illich (1982) calls this section of his book “The Rise of the Heterosexual” (147) because he notes that the social category of heterosexual was reliant on the creation of a deviant counterpart, the homosexual, in order to position it as the ideal (see also Katz 1995). This sentiment is echoed by Terry and Ural (1995) who map the process through which certain bodies became marked as deviant. They speak of a large “effort to organize social relations according to categories denoting normality versus aberration [and] health versus pathology” (1). The construction of the deviant body is necessary for the privileging of the normal body, for there can be no concept of normality unless there is a point of comparison. However, the comparison is never neutral, as this labeling creates social divisions that favor the dominant group.

While changes in the Catholic Church sought to strengthen and define the family, economic changes began to weaken the typical nuclear family. While Illich directly connects the rise of the heterosexual (and
homosexual) to historical changes in the Catholic Church, D’Emilio (1996) discusses the connection between capitalism and gay identity. With industrialization and the spread of capitalism and wage labor came the slow end, over 200 years, of the family as a self-sustaining productive unit. Large numbers of children were not needed for labor on the farm and individuals could choose urban self-sustaining lives if they wanted. Instead of acknowledging that capitalism is causing instability in the family, those who do not fit the norm, those who resist being blindly pushed into traditional heterosexual family units such as “lesbians, gay men, and heterosexual feminists have become scapegoats for the instability of the system” (269). The culpability of gays and lesbians did not go away, however, as changes in religion and economics created new social identity categories for sexuality and drew clear moral lines to govern and regulate sexuality, the 1900’s brought new attention to sexuality in terms of pathology, as opposed to aberration.

The 1900s represented interesting and rapid changes in the disciplining of sexuality that Weeks (1996) outlines here:

By the 1950s, in the depth of the Cold War, there was a new searching out of sexual “degenerates,” especially homosexuals, who not only lived outside families but were also, apparently, peculiarly susceptible to treason. By the 1960s, a new liberalism (“permissiveness”) seemed torn between relaxing the old authoritarian social codes and finding new models of social regulation, based on the latest in social psychology, and a redefinition of the public/private divide. By the 1970s and 1980s there was, in effect, the beginning of a backlash against what were seen as the excesses of the earlier decade, and perhaps for the first time sexuality became a real front-line political issue as the emergence of the New Right identified the ‘decline of the family,’ feminism and the new homosexual militancy as potent symbols of national decline. (375)

This transition over the past few decades has led to a “redefinition of political battle lines associated with the rise of the New Right in the U.S. and Britain. It seems that for many people the struggle for the future of society must be fought on the terrain of contemporary sexuality” (388). Within political discourses, there has been a recent resurgence of political attention to gay bodies, as religious discourses that scapegoat gay people have recently re-emerged in the neo-conservative movement that sees gay liberation as a secular attack on the sacred institution of marriage (Turner 2006). AIDS became an especially strong mobilizing catalyst for those on the Right who viewed AIDS as having a clear enemy carrying it: gay men. Here, gay men became targets for rhetoric that defined them as hypersexual and promiscuous. When it became known that AIDS was most often transmitted sexually through unprotected anal intercourse, gay male sex acts also became spotlighted. Promiscuity and sodomy were easy munitions for those wanting to target gay men as they easily relate to “natural laws” that abet sodomy as non-procreative and religious laws that abet it as sin (Wilson 1997). This particular type of “othering” draws upon discourses of medicalization of sexual minorities who, in the wake of AIDS, were seen as pollutants, “portending a threat to the hegemonic values of modernized societies” (Weeks 1996. 392). This falls into a familiar discourse of hypersexuality and that gay men are sex fiends whose promiscuity is a threat to marriage (Prager 1997).

Even though the historical changes in Renaissance Europe seem chronologically far removed from the present day, religious and political discourses continue to order the gay body, as is evidenced in recent decades and current political debates. The political rise of the New Right and national discussions of gay issues in political discourses such as the “gay marriage” debate are important aspects of contemporary queer identity and can be examined discursively.

CDA as Perspective and Method

CDA provides a method couched within a larger perspective that primarily focuses on the way social power, dominance, and inequality are presented, reproduced, and resisted by text and talk in social and political contexts (van Dijk 2001). In this sense, CDA provides a useful framework through which to analyze political discourses. My discussion of ideology is compatible with Fairclough’s (2003), in that ideologies are viewed as representations of aspects of the world which can be shown to contribute to establishing, maintaining, and changing social relations of power, domination and exploitation (9). Language is the primary domain of ideology, or power and inequality, because “what is ‘said’ in a text always rests upon ‘unsaid’ assumptions” (11). Therefore, ideology is capable of sustaining power relations in and through discursive functions either directly or indirectly. Moreover, ideology has a persuasive function that is a significant part of political discourse. Within discourse, ideology operates persuasively, as “speakers want to change the mind of the recipients in a way that is consistent with their beliefs, intentions, and goals” (van Dijk 1998, 263).

Assumptions, as a conceptual component of CDA, help unpack the power and hegemony within texts. Whether intentional or unintentional, authors’ assumptions are embedded within their texts, which may or may not connect with the assumptions of the reader. Furthermore, analyzing the
assumptions that are implicit in a text can lead to a critical account of ideological workings with particular texts. I use Fairclough’s (2003) three types of assumptions, which are existential assumptions about what exists, propositional assumptions about what is or can be, or will be the case, and value assumptions about what is good or desirable” (55). By closely analyzing a text for these three types of assumptions, one can connect small units of communication to larger political and social discourses and ideologies.

The first step in my analysis was to search through the selected texts to identify existential assumptions (EAS), propositional assumptions (PAS), and value assumptions (VAS). While all three types of assumptions are important, I found that it could be difficult and perhaps artificial to completely separate them out, as EAS and PAS often build to or are embedded in VAS. For example, to build a logical argument about what is most desirable, one would present evidence as to what currently exists and how that can or should be amended. Fairclough states that evaluation (what is desired or not) in texts is more often assumed than explicit and that analyzing a text for assumed evaluations can help a critic determine the value system for the text that holds assumptions together. Here, we can see that VAS are an important conceptual bridge between assumptions and ideologies. In short, VAS that appear in a text dovetail with larger order discourses and assumptions that are ideological. Assumptions within texts may go unnoticed through the ideological work of hegemony and universalization, that is, the text assumes a worldview as given and seeks to universalize that worldview. Taking these important concepts into my framework, I now turn to my textual analysis.

Analysis: “For the Blue Book Tells Us So”

In an attempt to find parallel texts that are representative of the value systems of the Amendment 43 supporters and the Referendum I supporters, I have narrowed the scope of my analysis to two ballot initiative analyses included in the voter guide commonly referred to as Colorado’s Blue Book (Legislative Council 2006). The texts are parallel in that they are produced by the same legislature, which is important because both texts can be read as generic summaries and arguments for and against the two ballot initiatives that are ostensibly voiceless and authorless and supposedly representative of the average voter’s perspective. Each text contains the same five sections in the same order: the exact language of the proposed change, summary and analysis, arguments for, arguments against, and estimate of fiscal impact. The Blue

Book text regarding Amendment 43 is one page and the text regarding Referendum I is two pages. There is an interesting mix of voices within the texts as they oscillate between the legal and political voice in the summary and analysis to the voice of advocate (proponent/opponent) in the “arguments for” and “arguments against” sections. These Blue Books are made available to every voter who requests one and are also available in public places like libraries, recreation centers, and other government offices, so they have a high level of circulation. Even as the texts do not speak directly to an audience, given that these texts are meant to be generic and represent an objective voice that is presenting facts to the voter who wants to be well informed, they offer scholars and critics an entrée into broad ideological views.

Blue Book Analysis of Referendum I

Within the Blue Book analysis of Referendum I, I found a clear relationship between existential and value assumptions. Most often, existential assumptions were followed by or embedded in a value assumption, which is a logical feature of legislation, as it is typical to note the conditions that currently exist and to then evaluate those conditions as worthy of continuation (desirable) or in need of change (undesirable). The text begins:

Referendum I proposes a change to the Colorado statute that: creates a new legal relationship, called a domestic partnership, providing same-sex couples the opportunity to obtain legal protections and responsibilities granted to married couples by Colorado law.

At the most basic level, the proposed change to “Colorado statutes” assumes that statutes regarding what relationships are recognized or not already exist (EAS) and also assumes that these statutes confer legal protections on some relationships and not on others (PAS). The fact that new legislation is being proposed assumes that changing the current statutes is desirable (VAS), although certain restrictions bound how far the changes should go (VAS). Language appearing early in the analysis, the third bullet point, clearly states that “domestic partnerships are not marriage and do not change the public policy of the state, which defines marriage as only the union of one man and one woman.” Later, the first point under the “arguments for” section reiterates that Referendum I makes, “no change to the legal status of marriage, which consists of the union of one man and one woman.” So, while the proposed change in the first section clearly says that same-sex couples will have the opportunity to
obtain the rights of married couples, the remainder of the text iterates a litany of exclusions, exceptions, and qualifiers to that language.

There are further assumptions that draw on readers’ beliefs as to how relationships are and should be defined and how that compares with existing statutes. So, while same-sex couples will not be recognized under the statutes of marriage, it is left for the reader to assume that legally recognized relationships are desirable (VAS). For example, “there is no process for same-sex couples to establish a legally binding relationship” assumes that recognition is desired and that the proposed legislation will make it so (PAS). Also, the requirement that “parties to a domestic partnership...obtain a license” that is registered with the state assumes that state recognition is more desirable (VAS) than other types of recognition that are not state-sanctioned, such as by one’s family and/or community. These fundamental assumptions convey that the state’s part in recognizing relationships is central, a role that is not questioned or critiqued.

The summary included in the Blue Book lists legal benefits that will be enacted if the measure passes, which are more factive than assumptive. The continuing list of limitations and proscriptions to the legislation is richer in terms of analysis because the limitations leave unsaid, but assumed that all relationships should not be viewed as equal under the law (VAS). One such limitation is that it is not desirable (VAS) for Colorado to recognize relationships between same-sex couples that are legally recognized in other states (PAS), which also assumes that state’s rights are desirable (VAS). Furthermore, certain federal rights (and responsibilities) that are granted to heterosexual couples are not granted at the state level (PAS), showing a desirability to preserve federal jurisdiction (VAS). Examples of excluded federal rights “include the ability to jointly file federal taxes, receive Social Security survivor and disability benefits, and obtain work and residency visas for foreign spouses” (PAS). At the basic level, legislative hierarchy and state’s rights are preserved above individual rights of relational recognition.

Aside from the list of limitations and proscriptions on legal benefits, the criteria for recognition and the general framework that the domestic partnership legislation sets up is very similar to a traditional marriage. The assumption (VAS) is that conjugal, dyadic, committed relationships are the only relationships worthy of legal protection (whether gay or heterosexual), as evidenced by the large number of protections offered by the proposed legislation and the statement that only “committed same-sex couples deserve access to the legal protections, responsibilities, and benefits automatically granted to married couples.” Within this framework comes the legal recognition of what the reader is left to assume are desirable (VAS) effects of a committed relationship. Namely, that same-sex couples need to be “accountable for legal commitments made in raising children, incurring debt, and owning property” in order to “benefit individuals, their families, and the broader community.” This assumes that children, debt, and property are important parts of a committed relationship and that relationships that benefit the larger community are desirable (VAS).

After listing the legal benefits that will be received, the benefits that are restricted, and the framework that describes what the desirable effects of a committed relationship are, the summary and analysis places restrictions on what counts as a relationship.

Individuals entering into a domestic partnership must be at least eighteen years of age and of the same sex. Individuals cannot enter into a domestic partnership with an ancestor, descendant, sibling, aunt, uncle, niece, or nephew, or a person who is married or in another domestic partnership.

This statement assumes (VAS), among other things, that only those above the age of 18 have relationships worthy of recognition, assumes an incest taboo, and assumes that monogamy is most desirable. While many of these restrictions draw upon deep cultural traditions, others draw on explicitly religious tradition. For example, within the discussion of the limitations of this legislation, it states that “it permits a child placement agency to refuse to place a child with domestic partners for adoption if the agency objects on religious grounds”, which assumes that religious objections to same-sex couples caring for children exist (EAS) and that, in this case, religious values trump individual rights (VAS).

The above analysis outlines how the discourse surrounding Referendum I is laden with assumptions that both extend and protect traditional views of relationships in ways that connect to a family values value-system. Within the summary and analysis included in the Blue Book for Referendum I, there is much more explicit discussion, in terms of what types of relationships are most desired and what the referendum includes and excludes than there is in the Amendment 43 analysis. The type of relationship that is most worth protecting is a committed, monogamous, dyadic, capitalist, child-raising, and conjugal one. Furthermore, Referendum I does not seek to change traditional family values; instead, the text makes it clear that the relationships being presented for legal protection in the referendum do not change the definition of marriage and do not include all of the protections of marriage.

The value-system of family values is one of the two main value-systems to which I conclude these texts connect; the other is individual
rights. Drawing mainly on discourses of liberal equality, which values protecting individual rights of the autonomous self, and civil rights, which values assigning those rights through legal mechanisms to fix flawed discriminatory systems, the arguments for Referendum I rest on a rights gaining model of gay activism. Interestingly, within the analysis of Referendum I, the individual rights perspective is not presented as universal. Instead, the position on these rights is hedged through the insistence that Colorado not be required to recognize other state’s same-sex partnerships and through the list of limitations that would come with the newly recognized relationships. Turning our attention to Amendment 43, we will see that the groundwork laid in the text related to Referendum I is not at present. Instead, the language secedes to common sense notions of what already exists (PAS, EAS) and what course of action is desirable (VAS).

Blue Book Analysis of Amendment 43

The assumptions within the Blue Book analysis of Amendment 43 include a large number of propositional assumptions (PAS) that restate current statutes concerning marriage couched within the argument that these statutes should be instantiated in Colorado’s Bill of Rights through the passage of Amendment 43. Within the initial analysis, before the “arguments for” and “arguments against” sections, the implicit value assumption is that while the definitions of marriage and legal effects of marriage being described exist in current statutes (EAS), it is more desirable (VAS) to have them included in the state constitution. Popular objections to Amendment 43 in 2006 centered on the fact that marriage is already defined as a union between one man and one woman in Colorado law. However, supporters of 43 claim that this language needs to be preserved in the constitution to protect the public’s interests, which rests on several more assumptions. Within the arguments for the passage of Amendment 43, strong assumptions regarding the public’s interests include: “The public has an interest in preserving the commonly accepted definition of marriage.” This statement assumes that a cohesive public with common interests and a common understanding of the definition of marriage exists (EAS). The next statement assumes a historically consistent view of marriage exists (EAS) and assumes what the most desirable (VAS) outcomes of marriage are: “Marriage as an institution has historically consisted of one man and one woman, and, as such, provides the optimal environment for creating, nurturing, and protecting children and preserving families.” Here we see there are both an assumption regarding what a traditional marriage is and is supposed to be and also an assumption regarding the purpose of marriage. While both sets of assumptions are problematic for the gay marriage movement, they also produce discursive closure in terms of what marriage means for all people—closure that prohibits a queer view of marriage and family. Furthermore, these assumptions are not defended or elaborated on within the text; rather, they are presented as common sense.

The litany of propositional assumptions (PAS) in the initial part of the analysis that cites the current legal definitions and effects of marriage is supplemented by more assumptions of what could happen if particular values are not upheld.

A constitutional amendment is necessary to avoid court rulings that expand marriage beyond one man and one woman in Colorado. In Massachusetts, a statutory definition was not sufficient to prevent a court from requiring the state to recognize same-sex marriages. Any change to the definition of marriage should be determined by the voters, not judges.

Proposing a future scenario of what could be (PAS) is supported by statements about what should be (VAS). It is more desirable (VAS) to have the “voters” determine what relationships deserve legal protection than “judges.” There are some logical connections between the assumptions cited above that are not explicit in the text but support arguments for passing the amendment by connecting to unsaid ideologies. For example, if the reader agrees with the assumptions made in the first argument that “the public” has a “commonly accepted definition of marriage” that should be protected, then the “voter” referenced in the second argument would surely vote to protect marriage. This also leads the reader to assume that “judges” do not share this “commonly accepted definition of marriage” and should not be allowed to change it, which connects directly to the common political discourses regarding judicial activism as a cause for moral decline and as a source of threat to traditional family values. Whether this is reasoning by false analogy or simply a scare tactic, these assumptions seem less anchored in legislative language than those in Referendum I.

While one may not be surprised to find commonalities in the “arguments against” section of Amendment 43 and the “arguments for” section of the Referendum I analysis there is an important difference that speaks to ideological workings of the texts. The following text is from the “arguments against” section of the Amendment 43 Blue Book entry:

Language that limits marriage to opposite-sex couples does not belong in Colorado’s Bill of Rights which generally guarantees individual rights. Amendment 43 may be unconstitutional because it denies same-sex
couples and their children the legal benefits and protections that are available to married couples and their children.

This assumes that granting individual rights is desired (VAS) and is usually done through the Bill of Rights (PAS). It further assumes that the Amendment 43 legislation is not granting individual rights, but is taking rights away through potentially discriminatory and unconstitutional means (PAS). However, no language is presented that proposes that individual rights and legal benefits should not hinge on one’s relationship status and/or on whether or not that relationship has state-recognition.

The second part of the “arguments against” section states that, “adding the proposed language to the constitution is unnecessary” because existing statutes define marriage as “consisting of one man and one woman.” The propositional assumption (PAS) in this section contrasts with the value assumption in the earlier part of the analysis, which suggests that a constitutional amendment is desirable (VAS) and necessary to prevent judges, instead of voters, from changing the definition of marriage (PAS). Here, we see opponents of 43 taking on the science tactic language of 43 proponents. In essence, the fear of activist judges is put in a position to trump individual rights and re-write a state constitution to include language that excludes rights from a certain group of people.

The summary and analysis in the Blue Book for Amendment 43 seems much more restrained and relies more on propositional assumptions of what marriage is currently defined as and how that may change if the definition is not included in the State Constitution. It seems that the Referendum I language is stretching to connect to a particular ideology of what marriage is, and what domestic partnerships are not, while Amendment 43 does not have to make such arguments and relies on the common sense assumptions of voters and citizens. Amendment 43 does not have to work to connect itself to family values because it is already understood as family values. This clearly points to the ideological workings within the texts, since I see Referendum I struggling to adapt, or assimilate, into an existing ideology whereas Amendment 43 merely relies on common-sense and universal understandings of marriage that people do not have to stretch to understand because it falls into very familiar cultural models.

The value systems present in the analysis of Amendment 43 are based on tradition in terms of procedure and existing law more than religious and moral reasons. Until the “arguments for” and “arguments against” sections, most of the language is a straightforward summary of the current definitions and legal effects of marriage. Even in the “arguments for” section, there is no explicit or implicit connections to religious/moral values, since it still mostly draws upon notions of public interest and common sense. While there is a lack of direct communication regarding religion and morality in each of the analyzed texts, we can now return to a queer view of marriage and family to summarize how each text fails to extend beyond traditional views of marriage and family.

Queering Marriage and Family

Notions of marriage and family, even though they are sometimes viewed in secular terms in contemporary society, have clear connections to religious, moral, and legal codes that have “othered” non-heterosexual people throughout recent centuries. Perhaps even more importantly are the people who may identify as heterosexual, but are still left out of the rights that come with marriage. As mentioned earlier, a queer critique of the gay marriage movement would draw our attention to the people who do not have the privilege to solely fight for marriage because of their other marginalized identities—whether this is the poor, rural, white gay man, or the single, heterosexual, African-American mother. The ideology of assimilating into a relatively unchanged system seems central to the language and assumptions within the text regarding Referendum I. While there is a lack of direct language that “others” non-heterosexuals in the Amendment 43 text, does not the language within Referendum I “other” those GLBTQ people who do not desire state recognition above all else. Most telling in my analysis was the way in which the Amendment 43 discourses did not vilify or scapegoat homosexuals. Blain (2005) in his discussion, using CDA, of a state election in Idaho where voters were asked to include, in the constitution, a measure granting no special rights to homosexuals, found that the “regime of heterosexuality or traditional family values” defined homosexuals as a threat to “the survival of civilization as we know it” (34). Perhaps we should not be surprised that such polemic language was not found in the Blue Book, but I was surprised that oblique references to such discourses were more prevalent in the Referendum I language than in the Amendment 43 language. All the proscriptions and limitations listed in the text, not only hold up marriage as something sacred that is not worthy to bestow upon same-sex couples but, also, leads one to assume that without all of these limitations, same-sex relationships might take some immoral form.

Both texts preserve a family-values orientation and the privileged place of those in committed, conjugal, dyadic relationships over those who are not in such relationships. In essence, both texts rely on familiar cultural models of marriage and family. Even the detached voice present in the
text, which is meant to represent some degree of objectivity, is making its claims from the same cultural models that undergird the "debate" itself. So, instead of actually creating a "new legally recognized relationship," Referendum I only opens up a small discursive space that is an addition, rather than supplement or alternative, to the current statute on legally recognized relationships, which represents an ideology of assimilation.

So a critical question becomes, what would legislation look like that includes a queer view of marriage and family? Butler (2004) also asks this question and extends by adding, "or, equally important, to be free of the need for recognition of this kind?" (5). Perhaps instead of placing the state as the arbiter of which relationships count and whether or not same-sex relationships should be termed civil unions, marriage, or otherwise, we should revise the whole system to be more in keeping with the separation of church and state. In this view, all relationships (heterosexual and not) would be granted civil unions conferring the same rights to everyone. Beyond this step, those espousing particular religious or spiritual faiths can engage in a religious ceremony to supplement their state recognized civil unions. Beyond that, perhaps people should be able to file joint tax returns, incur debt, assign a Social Security beneficiary, and be visited in the hospital by anyone they deem necessary whether or not that person is a relative or a domestic partner. This radical change in the view and organization of relationships and rights therein would be more in keeping with a queer view of marriage and family and would be more inclusive in general.

Conclusions, Personal Reflections, and Ruminations for the Road

In this essay, I applied close critical textual analysis to public texts specifically related to two ballot measures regarding "gay marriage" in the 2006 Colorado election. By examining the existential, propositional, and value assumptions present within these texts, I was able to connect them to specific value-systems, discourses, and ideologies that are exterior to the texts. I conclude that the assumptions connect to ideologies of assimilation that seek to maintain traditional views of family, in terms of what relationships are most desirable, even if same-sex couples' relationships are legally recognized. My analysis adds to the queer critique of marriage and family as problematic institutions by illuminating the ways in which current proposed legislation remains exclusive to many groups of people (including gays, lesbians, and heterosexuals).

Limitations include focusing my analysis on two texts that represent only a small part of the popular, media, and political discourses regarding "gay marriage." Although I argue that these texts are rich for analysis, given their mixed genres of objective legal and advocate voices, the analysis could be supplemented by other texts, which is a goal for future research. Future projects could include interviews with GLBTQ people on their interpretation of the "gay marriage" debate and how they feel their personal lives and politics fit or do not fit with mainstream representations. Aside from the limitations, there are important implications for this research. Although the texts were limited to policy texts, like those found in the Blue Book, these texts are often cited by mainstream media and therefore are key in influencing popular perceptions on legislative issues. A preliminary analysis of the two main newspapers in Denver's editorials on Referendum I and Amendment 43 show that the major print media's perspective draws upon similar assumptions as those represented in the Blue Book ("Ref. I" 2006; Rocky Mountain News 2006). Furthermore, it seems that this cycle of information will continue, as nation-wide discourse on "gay marriage" is increasing in local, state, and national contexts and will undoubtedly be an ongoing part of political debate.

What I think is even more important, and is often lost in a focus on political discourse and debate, is that this issue deals with the personal, intimate lives of real people. I cannot begin to describe here the strong and conflicting emotions that I had when I walked into my voting booth in November of 2006. Standing there, I paused and thought, "At this exact moment, and all day today, people all over my state are going to be standing in their voting booths, just like I am now, reading about my identity and my personal life on the ballot in front of them and then passing judgment on it." As a queer identifying person who would like to have the benefits of marriage but is suspicious and critical of that institution, I am also left to ponder the practicalities of my personal and political life. I know that this is struggle that queer, and other marginalized, people also feel. I also know that in spite of this struggle, I have layers of privilege that insulate me from having to deal with other pressing political issues that some minorities face. While I do not have any definite answers or happy conclusions to offer at this juncture, I will continue to ask critical questions about queer identity that may seek to provide some guidance. Until then, I will close with some ruminations on this matter by one of my queer role models, Tony Slagle (2006):

I can be accused of the assimilationist strategy of which I have been so critical. I do not deny that I have benefited directly from gay rights theory
and activism, although I have opposed these approaches and will continue to do so. Instead, I will continue to think critically, and voice my concerns, about the implications of such an approach for those who continue to feel outside of the gay rights movement. I have never fought for such dubious goals as gay marriage or gays in the military which are all about assimilating seamlessly into a largely unchanged, heteronormative, mainstream; what seems to be ignored is the fact that for many of us we can’t easily fit in among such an unchanged system because the essential categories used to describe us are simply not accurate. Furthermore, many of us are simply not interested in merely being “tolerated” by the heteronormative mainstream; instead, we are interested in radical social changes in the ways that difference is perceived. For me, the real question is an ethical one: how can we continue to fight for simple inclusion and ask to be simply tolerated when the costs are so high for so many?” (325)

Author Notes

1 I put gay marriage in quotation marks for the following reasons: the issue of legislating recognition of some relationships over others is referred to in various ways by various communities and interest groups (for example, as: gay marriage, same-sex marriage, and marriage equality). Also, domestic partnership bills, like Referendum I, and civil union bills are often referred to, particularly by opponents, as pertaining to “gay marriage.” I have chosen to use gay marriage since it is often used as an umbrella term or shorthand and is most provocative.

2 I put “both sides” in quotation marks because of the ways in which this issue is often reductively represented in the media as being a two-sided debate, which essentializes the complex ways in which gay and heterosexual people understand and evaluate state-recognition of relationships.

3 Article V, Section 1 (7.5) of the Colorado requires that any statewide referenda or amendments be analyzed by non-partisan staff of the General Assembly and outlined in a booklet, commonly referred to as the “Blue Book” and available to every voter in the state (Colorado).

4 I purposely use the more inclusive acronym here while acknowledging that the gay marriage debate has largely ignored or elided the interests and concerns of bisexual, transgender, and queer people while focusing more specifically on gay men and lesbian women.

5 The historicization I provide here is cursory and meant to add to the reader’s understanding of the interconnections among historical, social, and political contexts that continue to effect contemporary views of marriage and family.

6 Family in this sense can be viewed as a nuclear, heterosexual, conjugal family that typically sustained multiple generations in one place in order to work land and care for each other. This type of family was diminished as more people transitioned from bucolic to urban environments for work and pleasure.

7 I use abbreviations in the text to help the reader easily identify to which, of the three assumptions, I am referring. In some cases, when the name is completely or partially spelled out in the text, I use the abbreviation anyway for consistency.

Another rationale for using abbreviations is that sometimes, as stated in the text, assumptions build quickly or are embedded in each other, which makes it difficult to separate them in the analysis. The abbreviations serve as a quick indicator, to the reader, of this rapid building process.

8 All of the quotations in the analysis come directly from the “Blue Book.” To maintain the flow of the analysis, I will not include a separate citation for each quote.

9 As was noted earlier, the Colorado Constitution states that the ballot analyses should be conducted by non-partisan staff members and include, “a fair and impartial analysis of each measure which shall include a summary and the major arguments both for and against the measure.” However, there has been doubt on the actual impartiality of the documents (see Denver Post 2004; Knight 2006).

References


