A Constructionist Analysis Of Same-sex Marriage

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A CONSTRUCTIONIST ANALYSIS OF SAME-SEX MARRIAGE

by

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ABSTRACT

Same-sex marriage has been heavily debated in academics and in the public sphere. During the 2004 Presidential election same-sex marriage became an issue that polarized the candidates. It has become a lightning rod for public debate. Due to the increasing attention to the controversy of legalizing same-sex marriage, it is an important topic for research. This paper seeks to contribute to the research of same-sex marriage by providing insight into claims-making efforts to define same-sex marriage as a social problem. My findings shed light on this topic from a social constructionist perspective by examining the use of rhetorical idioms of the claims made by opposing parties in the debate over same-sex marriage as it relates to the court ruling in Goodridge v. Department of Public Health.

I dedicate this to my parents, Lucille and Donald Nead. Throughout my life, they have provided me with their unconditional love, unwavering support to accomplish my goals, encouragement to follow my dreams, and have always inspired me and it has made all the difference. This is for you.

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LIST OF ACRONYMS/ABBREVIATIONS

APA   American Psychiatric Association

DSM-III   Diagnostic and Statistical Manual

CHAPTER ONE: INTRODUCTION

What is marriage? Most individuals across cultures would find this to be a simple question, for marriage is a universal institution, one of the oldest institutions known to humans. However, if prompted for more detail regarding what makes a marriage or the purpose of marriage, the response to this question would inevitably vary. Historically, marriage has been defined as the legally and socially recognized relationship between a man and a woman whose primary purpose was to raise children (Weitzman and Dixon 1994: 217-218). While this is the most common state of the institution of marriage throughout the world, there are other variations. For example, some cultures practice polygamy, the custom of having more than one spouse. The purpose of marriage has also varied. While raising children is still a large part of marriage, there are married couples who choose not to have children, unmarried couples who raise children and cohabitating couples who live as married, but are not legally recognized as married. There are also rules across different cultures and throughout historical eras that indicate which individuals can be married. These set of laws indicate that an individual could not marry an individual from a different race, different status, or from certain familial

lineages. One rule that has been universal is that a person cannot marry another person of the same sex, however that is changing.

In April 2001, the Netherlands became the first country to allow same-sex couples to marry and to recognize those marriages in the same way they recognize marriages of members of opposite sexes. Since then Belgium and certain provinces of Canada have done the same. France, Germany, Norway, Sweden, Denmark, Greenland, Iceland and Finland have all enacted laws which although not giving same-sex relationships the same status as marriage, still allow same-sex partners access to many of the same benefits that opposite-sex married couples enjoy. In the United States, same-sex marriage has become an issue of debate as well as in the courts. Currently in the United States, Vermont allows same-sex civil unions and Massachusetts has legalized same-sex marriage. However, since 1995, 33 states have passed Defense of Marriage Acts (DOMA), which ban same-sex marriages, and Senate Resolution 40 (U.S. Senate 2004) proposes an amendment to the constitution, which defines marriage as solely being between one man and one woman. On July 12, 2004, George W. Bush issued a Statement of Administration Policy encouraging Senators to pass the resolution for an amendment to the Constitution stating that:

Marriage has been the foundation of our society and of societies and cultures throughout history – and it has always been defined as the union of a man and woman. (Executive Office of the President 2004:1)

In fact, George W. Bush's reelection has been attributed to his stance on moral values, which includes his stance against same-sex marriage. Brian Burke, in his article *Same-sex Marriage Affected Election*, writes:

The president did not win re-election by virtue of superior debating skills. What drove the Republicans' electoral juggernaut? In exit poll after exit poll, the issue that apparently most concerned voters in the heartland of the country was the type of moral values their next president would possess. (Burke 2004:A9)

Burke (2004) goes on to mention that Bush was re-elected in spite of a shaky economy, low satisfaction with the handling of the hostilities in Iraq, and the Democrats equality with Republicans in terms of voter registration and campaign finance. Voters still voted based on morals and along with re-electing Bush, 11 states voted in favor of a state amendment banning same-sex marriage, demonstrating that a majority of voters in these states deemed same-sex marriage as a social problem that needed to be addressed.

Since same-sex marriage has been deemed a social problem, I have researched the topic of same-sex marriage using a social constructionist approach to social problems. Both sides of the debate recognize that in the United States, as well as other

countries, marriage bestows certain entitlements and benefits to married couples which include social status, tax breaks, inheritance entitlement, property ownership, and health insurance coverage, all of which are viewed as beneficial. In examining this issue, there are different perspectives that could be explored. It could be examined from the perspective of those who support same-sex marriage, particularly individuals who wish to be married to an individual of the same sex and those organizations established to debate on their behalf. Research could also focus on the issue as it relates to the development of public policy through legislative and judicial means. Researchers could even examine the issue as it applies to federalism and the authority of individual states. However, the purpose of my research is to examine the debate of same-sex marriage from the perspective of those organizations that oppose same-sex marriage. In particular, those organizations that have been established as a claims-maker in the topic of same-sex marriage as a result of their involvement in the case of Goodridge v. Department of Public Health, a judicial ruling that established Massachusetts as the first state in the United States to recognize same-sex marriage.

In order to examine the topic of same sex marriage, Chapter Two explores the social constructionist perspective of examining

social problems and presents a historical base for the social construction of homosexuality. In Chapter Three, I outline the methods I will use to examine the claims made regarding same-sex marriage. In Chapter Four, I present the findings of my analysis and in Chapter Five, I discuss my conclusions based on my findings as well as identify future paths for research on same-sex marriage.

CHAPTER TWO: LITERATURE REVIEW

<u>Social Construction</u>

Social construction theory developed as a branch of phenomenological theory with influences from Herbert Blumer and symbolic interaction theory. The focus of social construction theory is the "process by which any body of 'knowledge' comes to be socially accepted as 'reality' (Berger and Luckmann 1966:3). Social construction theory examines

> the process whereby people continuously create, through their actions and interactions, a shared reality that is experienced as objectively factual and subjectively meaningful. (Wallace and Wolf 1999:277)

Malcolm Spector and John Kitsuse in their book *Constructing Social Problems* (1987) set about to further develop a method to examine social problems, since they felt that the functional and normative approaches for examining social problems were lacking in explanation.

Social construction theory is the study of claims that are made regarding a social activity and how these claims define the social activity as a social problem. Malcolm Spector and John Kitsuse (1987) state that is it is important for any sociologist to view social activities from a social construction stance,

because the values that may be placed on the activity can interfere with the objective view sociologists need to accurately study the activity. They define a social problem as "the activities of individuals or groups making assertions of grievances and claims with respect to some putative conditions"(Spector and Kitsuse 1987:75). Recognizing the fact that conditions are considered "problems" due to the values that people place on these conditions, Spector and Kitsuse (1987) argue that it is important to examine the process through which these values are placed on social conditions. That is, how and by what process do people label a condition a social problem?

With their new method of examining social problems, Spector and Kitsuse (1987) needed to define their subject matter. Previous attempts to define social problems led to flaws in the definition of a social problem. One of the flaws of earlier definitions is the process of determining if a putative condition was a problem and the method for making that determination. Spector and Kitsuse (1987) assert that a social condition does not have to be a problem to be defined as a problem by society. In fact, a condition does not even have to exist to be problematic. It is the definitional process that is critical to the construction of a problem; not the condition. Since social problems are not a quality of an objective

condition but rather the result of collective efforts that transform the condition's subjective meaning, it must be defined as "the activities of individuals or groups making assertions of grievance and claims with respect to some putative condition" (Spector 1987:75).

Spector and Kitsuse (1987) argue that the social problem process involves a four-stage natural history model. Stage one is the process by which a claims-maker defines and establishes the existence of a condition as problematic, which transforms the condition into a public issue. Most important to this stage of the claims-making process are "the ways that complaints are raised and strategies used to press claims, gain publicity, and arouse controversy" (Spector and Kitsuse 1987:143). In this stage, the claims-maker may establish allies in their complaint. The success of a claim lies in the power of the claims-making group. Factors such as the size of the group, money, constituency and organization can contribute to the success of a claim. It is also important that the claims-maker identify the proper audience for their claim; failure to find the right audience could result in failure of the claim. In stage one the claim may draw objections from groups who could stand to lose something or wish to keep the existing conditions. This debate

results in the conclusion of stage one. A claim may stay in stage one or it can move on to stage two.

In stage two, the claim is recognized and deemed a legitimate condition by an official organization, institution, or agency with institutional power. At this stage, the organization that recognizes the condition will respond to the claim. The organization may respond by acknowledging the claim, examining and studying the claim or by taking action on the claim. Stage two ends when an institution is created to handle complaints regarding the claim in a routine manner. At this point in the process the original party may become less visible as the official organization takes responsibility for the claim and handling complaints, however, the group that originally made the claim may become dissatisfied with the response and move into stage three.

In stage three, dissatisfaction is expressed in the measures that are taken to handle the social problem by either the claims-makers who made the original claim in stage one, or perhaps a separate party with an interest in the claim. Participants may make complaints about how the condition is being handled and may blame the organization that has legitimized the claim. In this stage it is the established efforts to "solve" the problem that are problematic to the

claims-maker. Claims are made in this stage as in stage one; however, in stage three claims are focused on the institution and its actions rather than the condition itself. A distrust of the organization may arise which leads the claim into stage four. In stage four the official response or procedures that have been established are rejected and other options outside of the institution are pursued. Not all claims will go through each of the four stages. For instance, if the claims-maker is satisfied by the response of the organization that claimed responsibility the claim may stay in stage two. Also, there are no set time limits on the movement through the stages and in fact, many social problems languish in stage one only to be forgotten over time.

Following the emergence of Spector and Kitsuse's formulation of social constructionist's basic approach to examining social problems, social construction theory was broken down into two forms: strict constructionist and contextual constructionist. It is the position of strict constructionist theory that when researching a social problem it is only necessary to examine the claim being made; not the context of the claim nor the claims-maker.

Spector and Kitsuse (1987) approach social construction theory from the perspective of what is now defined as a strict

constructionist perspective. They do not focus on the motives of claims-makers. Rather they incorporate C. Wright Mills' (1940) analysis of motives and values, which parallels the ethnomethodological treatment of motives as contextualized accounts rather than objective causes (Wallace and Wolf 1999).

Classically, motives have been treated as deep beliefs that cause a person to take action. Mills (1940) considered personal motives to be of little relevance when examining the actions of others. Since these beliefs are deep within the person, one can never truly know the motives of another person. The person making the claim may not even realize the true nature of their motives, since motives may have been ingrained in an individual at an early age as part of the socialization process. Furthermore, motives may change over time or even from situation to situation. Trying to explain the motive of another's action takes a subjective approach to analysis relying too much on interpretation. Another problem with evaluating motives is that the sincerity of the stated motive could never be determined (Spector and Kitsuse 1987).

Rather than focusing on the motive of an action, Spector and Kitsuse (1987) suggest using values to examine a claim. Values are defined as "explanations people give in support of

their claims, complaints, or demands" (Spector 1987:75). Values

are described further in the following excerpt:

> Claims express demands within a moral universe. Values are
> those statements that express *the grounds or the basis* of
> the complaint. They are used to justify a demand, to
> explain not simply what is wrong, but why it is wrong. Like
> motives, values are a resource in the language; they are
> used to justify a line of conduct. In social problems,
> values are invoked to justify claims or demands, or express
> dissatisfaction, indignation, or outrage. (Spector and
> Kitsuse 1987:92)

Peter Ibarra and John Kitsuse (1993) outline methods for

examining claims in *Vernacular Constituents of Moral Discourse:*

An Interactionist Proposal for the Study of Social Problems.

This article defines the different types of vernacular resources

that are used when establishing a claim. Ibarra and Kitsuse

(1993) define vernacular resources as:

> the conventional means through which members realize
> claims. Thus, they can refer to forms of talk, frames of
> interpretation, and contexts for articulation inasmuch as
> these effectively organize and circumscribe members' social
> problems discourse. (1993:24)

One vernacular resource they define is rhetorical idioms.

Rhetorical idioms are vocabularies with moral reasoning that

rouse a theme. Within these vocabularies are implied values.

Ibarra and Kitsuse describe five types of rhetoric idioms: loss,

entitlement, endangerment, unreason and calamity.

The theme of the rhetoric of loss is used to show that

something is valuable, and it is up to humans to protect it or

we may lose its value in the future. The message that is to be conveyed in this type of idiom is the perception that something needs to be protected because it is unable to defend itself from degradation. It brings forth the idea of people as heroes or rescuers, to save a certain value or way of life, through altruistic means, from other people who may wish to destroy its value. Positive terms that a claims-maker may use for this type of rhetoric are innocence, beauty purity, and culture. Negative terms that may be used are sin, decadence and chaos.

The rhetoric of entitlement uses the concept of equality and freedom for all to make its claim. The negative expressions used in this form of idiom would be intolerance, oppression, and the positive expressions would be lifestyle, choice, tolerance and empowerment. Claims-makers use this idiom to expand equality in order to benefit society. Many of the well-known speeches and documents of American history invoke this type of idiom. An example of this type of rhetoric would be the Declaration of Independence.

The rhetoric of endangerment is applied to conditions of threats to health and safety to the human body. Ibarra and Kitsuse (1993) relate this to the rhetoric of entitlement because it takes for granted that individuals have a right to be safe and healthy. This type of rhetoric relies on "scientific"

claims rather than focusing on morals, because science is presumed to be unbiased and grounded in facts. Positive terms for this rhetoric include hygiene and prevention while negative terms are disease, risk, and epidemic.

The rhetoric of unreason implies that there exists an association between an individual and knowledge and that this relationship should not be interfered with by inaccurate information. This type of rhetoric relies on the assumption that knowledge leads to making proper decisions and a person's access to knowledge should not be impeded by inaccurate or misleading information. The rhetoric of unreason conveys that certain people are naïve, uneducated or uninformed and should not be manipulated by people with greater authority.

The rhetoric of calamity is used to bring forth images of catastrophe. This rhetoric is most often used in discussion of moral panic. Rhetoric of calamity calls for immediate action and failure to take action can result in generating other problems. Claims-makers who use this type of rhetoric may recognize other claims and use this rhetoric to demonstrate how other claims are linked to their claim and to create coalition among claims-makers thus attracting more attention to their claim.

When rhetorical idioms are used, it may be necessary for an opposer to counteract these claims. This can be difficult since

rhetorical idioms use values that are hard to disagree with without discrediting oneself. Using a different rhetorical idiom to counteract a claim can be successful because it may reach out to other values that the audience may hold. Blocking rhetorical idioms from opposing claims-makers can also be done with what Ibarra and Kitsuse (1993) describe as counter-rhetorical strategies. There are two categories for this counter-rhetoric. One type is sympathetic counter-rhetoric, which accepts the status of the condition but rejects the solution. The other type is unsympathetic, which does not agree with the condition or the proposed solution. Counter-rhetoric strategies require use of vernacular resources and therefore can be useful when examining claims.

Another vernacular resource that Ibarra and Kitsuse (1993) discuss is the use of motifs. Motifs are metaphors or phrases used to describe some condition with "recurrent thematic elements and figures of speech that encapsulate or highlight some aspect of a social problem" (Ibarra and Kitsuse 1993:43). Some of the examples Ibarra and Kitsuse use to demonstrate a motif are tip of the iceberg, crisis, and scandal. Thus, using these types of images can portray to the audience a message regarding the magnitude of the claim.

Claims-making can also use different styles to make a claim. The styles that Ibarra and Kitsuse name are comic, theatrical, civic, legalistic and subcultural. These styles can be used to reach different types of audiences and many claims-makers may use more than one type of style when making a claim.

The comic style may use sarcasm, irony or exaggeration in order to emphasis a claim. Political cartoons are a good example of the comic style. The theatrical style uses allegories in order to demonstrate a claim. Groups using this sort of style may stage an event in order to make their claim. Civic Style uses an unrefined style to make a claim. The style works by making an appeal to "common folk". Using this style requires claimants to avoid looking as if they are too organized, for if they look too organized they may seem as if they are part of an interest group. Rather they are looking to portray a normal citizen that is morally outraged. The legalistic style is used when the claimant is speaking for someone else and the claim of the person's case is based in law. When sections of society based on race, class, ethnicity, gender or other self-defining characteristics evolve their own ways of commenting on the world this is defined as subcultural style.

Idioms, motifs and styles are all forms of vernacular resources used by strict constructionist research. However,

contextual constructionists go beyond examining the claim alone. Contextual constructionists contend that it is impossible to study a claim without making certain assumptions about the claims-maker and their motives behind making the claims. Contextual constructionists study a claim within its context of culture and society. In Joel Best's (1993) article *But Seriously Folks: The Limitations of the Strict Constructionist Interpretation of Social Problems*, he recognizes the argument of strict constructionists and agrees that Ibarra and Kitsuse's (1993) article on language use in claims-making is helpful, but "places unreasonable constraints on sociologists who hope to understand social problems"(Best 1993:53). Focusing solely on the claims-making practice can cause the researcher to become caught up in the abstract of the theory. Thus, Best (1993) finds it important to go further than just studying the method by which the claim is made. Best (1993) thinks it is important to also study why that method is used, what other methods have been used in the past, what audience does it appeal to, and many other questions in order to remain grounded and to gain practical knowledge on the issue.

Gale Miller and James R. Holstein (1993) have also stated other challenges to strict social construction theory. In

Reconsidering Social Constructionism, Miller and Holstein
suggest that

> social constructionists might be better served by a
> constructionist framework that allows for diverse
> theoretical interests in social problems claims-making,
> interpretive practice, and condition categories. (539:1993)

Miller and Holstein (1993) suggest ways in which social
construction theory could be improved such as examining
Foucauldian studies of discourse, knowledge and power.

Social construction theory provides a framework for
examining social problems by offering an alternative to viewing
social problems as objective conditions and allows researchers
to examine the methods by which social problems develop (Loseke
and Best 2003:ix). Social construction theory has "become the
leading theoretical approach for sociologists and others
studying social problems" (Loseke and Best 2003:ix). While the
debate exists regarding strict versus contextual constructionist
perspective for this examination it is not significant. I will
apply the use of Ibarra and Kitsuse's (1993) definitions of
vernacular resources to the construction of the issue of same-
sex marriage by organizations that are opposed to legalizing
same-sex marriage.

Homosexuality

In order to examine how same-sex marriage has been socially constructed it is necessary to briefly examine homosexuality throughout history and different cultures as well as examine how homosexuality has developed in Western culture. In modern society, many view homosexuality as a permanent identity, but many theorists argue that homosexuality has been socially constructed as an identity. Leila Rupp (2001) traces the history of what she defines as same-sex sexuality throughout history in her article *Toward a History of Same-Sex Sexuality*. Rupp (2001) identifies many homosexual acts and illustrates how same-sex behaviors differ in meaning and definition across cultures and throughout time. The most familiar of same-sex acts that she describes is found in ancient Athens involving relationships between adult males and younger males. In Athens, sexual encounters between older and younger men were not considered deviant; however, sexual encounters between males of the same age or status were considered deviant. Rupp (2001) makes the argument that many same-sex sexualities throughout time were not a matter of actual sexuality as Western culture typically defines it, but rather a display of dominance. However, it is worth mentioning that feminist theorists have said the same for heterosexual relationships (Winton 1995). Other examples Rupp

uses to illustrate her point are sexual desires for boys and women were expected of older men in 17th century Japan. Within certain tribes of New Guinea, boys are expected to ingest the semen of men, not as a sexual act, but as part of a ritual to become a man. Rupp (2001) also uses an example of how some native North Americans would take on the stereotypical gender role of the opposite sex. These individuals would take on the tasks of the opposite sex and sometimes even have a family. This was not viewed as sexual, rather the tribe would define the individual as a "two spirit person"; this type of behavior was natural. Rupp (2001) uses these examples to demonstrate how sexual behavior between same-sex individuals throughout time and across cultures has not always been considered a social identity.

Michel Foucalt (1980) in his writings on *The History of Sexuality* argues that our concept of sex developed because of the discourse regarding sexuality. He argues that sexuality stemmed from the Christian custom of confession. Christians began reflecting on their erotic desires as a road to moral purity. Foucault (1980) argues that sexuality developed in the 19th century, which paralleled the development of a disciplinary society in modern times. Within a disciplinary society, citizens are led by disciplinary control. Disciplinary control takes

place by people internalizing a definition of what is normal and engaging in self-monitoring in order to govern themselves in the absence of external control. Through this process, society develops the ability to control its citizens. From the 17th to the 19th centuries, there were large population migrations in certain European nations. Due to population increases, these nations developed an increasing need for national power and economic growth became necessary (Seidman 2003:33). In order to accomplish power and economic prosperity, it was necessary to gain information on the human body. It was necessary for economic and social institutions such as government, medical institutions, and other institutions to find information regarding and be able to control migration patterns, birth rates, nutrition, and human productivity. By being able to control sex, society would be able to control individual behavior and the behavior of populations (Foucalt 1980).

Foucault believed that a sexual liberation was coming and that sexual liberation would be good for society by allowing sexual choice. However, the movement for gay rights further perpetuated the control of human bodies through sexuality by stressing the importance of choosing to be only one sexual orientation. Foucault felt that by decreasing the emphasis on sexual identity and by focusing on sex as a feeling rather than

as a manifestation of sexual identity then humans would be free of the control of social institutions regarding right and wrong (Seidman 2003).

In *The Social Construction of Sexuality*, Steven Seidman traces the rise of homosexuality as a social identity. As described previously people have participated in homosexual acts throughout time and across cultures; however it was not until the late 1800s that homosexuality was formed as a social identity in Western culture, rather than just an act that people performed. Romantic relationships were not uncommon, especially among women, in the late 19th century, however, it was not seen as an identity and was accepted by family and friends. Homosexual acts were condemned, not because they were homosexual but on the basis that the same type of acts between members of the opposite sex were condemned, as sodomy. Seidman (2003) explains that the rise of homosexuality as an identity developed with the increase of women in the workplace. As women worked outside of the workplace and men increasingly took higher paying jobs, many of which were viewed as feminine, homosexuality took on the role as an identity in order to differentiate between the genders; "the gender division between men and women, which many thought to be the basis of a stable social order, was collapsing"(Seidman 2003). Seidman further offers the following

explanation on why sexuality came to be an identity within society:

> One response to the blurring of gender identities was a new emphasis on the norm of heterosexuality as a way to reassert gender difference and the normality of dichotomous gender roles. By emphasizing the naturalness and rightness of heterosexuality, people could view the differences between men and women as natural and good. That is, if heterosexuality was natural and essential for survival and a stable social order, men and women should continue to occupy different roles. Asserting a clear heterosexual identity became a way to flag a normal gender identity.(Seidman 2003)

However, during the early 20th century homosexuality was still viewed as abnormal behavior. It was considered an individual illness. The years after World War II saw an increase in the presence of homosexual networks and an increase in settlement in homosexual communities. During World War II, many men and women found themselves overseas or in factories with members of the same sex. Due to the close confines with others of the same sex, those that may have previously had homosexual feelings were introduced to others with those same desires. After the war was over many of these individuals started settling in large cities where they could continue these relationships with greater tolerance, such as New York and San Francisco (Seidman 2003).

This series of events through history is important to this analysis because it shows how homosexuality was established as an identity and further how the gay community was developed.

However at this point, homosexuality was still viewed by the public as well as by academics as an individual disease, but it was gaining more attention through the media.

The change in views regarding homosexual behavior may have had its biggest contribution from the sex research of Alfred Kinsey(Schultz 1988). Alfred Kinsey in the 1940's and 1950's carried out research regarding human sexual behavior. Part of this research focused on homosexuality in which Kinsey determined that homosexuality was a continuum between "0" which indicated never experiencing attraction for a member of the same sex to "6" which indicated only being attracted to members of the same sex. He determined that the scale should be used in two ways: first to determine the level of awareness of attraction to members of the same sex, and second to measure acting on these feelings of attraction. Through his research Kinsey determined that 46% of the population fell somewhere in the middle of the scale meaning they did not fall exclusively into heterosexual or homosexual categories. His research further found that 37% of men and 14% of women had engaged in a sexual activity with a member of the same sex.

During this time, some activists started to join in an effort to diminish homophobia and heterosexism. One of the major changes in the view of homosexuality as a disease was brought

about by a push by gay activists on the American Psychiatric
Association (APA) during the classification of disorders for the
third edition of the *Diagnostic and Statistical Manual*(Kirk and
Kutchins 2003:62). From 1970 until 1972, gay activists protested
at APA conventions, which were determining conditions for the
DSM-III. Gay activists protested for homosexuality to be dropped
from the list of psychiatric disorders and to be listed as a
"normal variation of sexual activity"(Kirk and Kutchins 2003).

During this time, Robert Spitzer, a member of the committee
on Nomenclature and Statistics for the APA contributed to the
change in the classification of homosexuality. During a meeting
in October 1972, he stayed and spoke with the leader of one of
the protests, Ron Gold. After his conversation with Gold,
Spitzer asked the chairman of the committee, Henry Brill, to
meet with gay activist to discuss the defining of homosexuality
as a disorder. Attending a meeting of the Gay Psychiatric
Association further influenced Spitzer. This meeting confirmed
to Spitzer that "many homosexuals (among them psychiatric
colleagues) functioned at a high level" (Kirk and Kutchins
2003:61). While Spitzer did not want to label homosexuality as
normal, he also did not think it qualified as a mental disorder
since homosexuals were able to function with little anguish or
disturbance. Spitzer proposed a category of Sexual Orientation

Disturbance to apply to homosexuals who were bothered by having a homosexual identity. Though the gay activists who had pushed for a change were not happy with the new diagnosis either, the release to the media that the APA had declared that homosexuality was not abnormal had a big impact on public perception.

More important for this analysis is how the politics of same-sex marriage developed. In order to explore how same-sex marriage came to the forefront of the political arena, it is important to understand how the homosexual movement came to the mainstream within the United States. Traces of the homosexual movement can be found as far back as 1890 from newspaper articles that indicated that individuals who engaged in homosexual acts were gaining public attention in large cities (Seidman 2003). Within large cities. The homosexual movement, as a political movement geared towards change came about at relatively the same time as the civil rights movement for African Americans and women in the 1960s and 1970s. Steven Seidman (2003) argues that most important for the homosexual movement was the women's liberation movement. The increased focus on women's bodies, sexuality and the push to decrease the emphasis on gender created a political platform as well. The women's movement strived for equality by reducing the focus on

normal gender roles. Gay activists were able to use the rhetoric of the women's movement and apply aspects of feminist theory to their own movement.

One of the contributors to this movement was Judith Butler. In her book *Gender Trouble* (1990)*,* she contends that the focus on marriage and the central family leads to the emphasis on gender roles and what is normal behavior for sexuality. She states that gender roles are strongly enforced in the socialization of children by emphasizing what is proper behavior for one's sex. This focus on gender teaches individuals what are proper actions and feelings based on gender. This socialization process forces one to view himself or herself as solely man or woman creating it as part of their core identity.

During the '50s, '60s and '70s, tolerance for homosexuals was the main struggle of the homosexual movement (Seidman 2003). Though same-sex marriage emerged in debate during the '70s, the push for same-sex marriage did not emerge in debate until the mid-1980s and became a key issue in the 1990's (Seidman 2003). In large part due to personal circumstances homosexuals were dealing with due to the AIDS virus, many individuals found the need to have the same rights and legal status as married individuals for the purposes of insurance, hospital visitation rights and inheritance. The push for gay marriage has also been

contributed to by the change in what is defined as a family in modern society. With a shift from the traditional family and the shift from men being the sole income earner for the family the roles within the modern family have shifted. Many households have changed in form due to single parent households, or couples living together without being married, or partners without children as well as the rising divorce rate (Seidman 2003).

Gay marriage is being debated legally as well as in public opinion. There are many arguments for and against gay marriage. I intend to examine the use of vernacular resources in the arguments made against legalizing same-sex marriage as they relate to the rulings of the Massachusetts Supreme Judicial Court in *Hillary Goodridge and others {FN1} v. Department of Public Health and another* (2003)*.*

In March and April of 2001, seven same-sex couples were denied the issuance of a marriage license from the Department of Public Health based on the grounds that Massachusetts does not recognize same sex couples. On April 11, 2001 the seven couples that had been denied a marriage license with the assistance of Gay and Lesbian Advocates and Defenders (GLAD) brought a legal complaint to the Superior Court of Massachusetts against the Commonwealth of Massachusetts and the Department of Public

Health for refusing to issue a marriage license requesting a ruling that

> the exclusion of the [p]laintiff couples and other qualified same-sex couples from access to marriage licenses, and the legal and social status of civil marriage, as well as the protections, benefits and obligations of marriage, violates Massachusetts law. (*Goodridge v. Department of Public Health,* 440 Mass. 309 [2003])

The trial judge of the Superior Court ruled against the couples that were denied marriage licenses. GLAD requested an appeal on the ruling from the Massachusetts Supreme Court. The case was argued on March 4, 2003 to the Massachusetts Supreme Court and on November 18, 2003 the court ruled in favor of the plaintiff stating that under Massachusetts' law it was unconstitutional to "deny the protections, benefits, and obligations conferred by civil marriage to two individuals of the same sex who wish to marry." (*Goodrich v. Department of Public Health*, 440 Mass. 309 [2003])

In the Supreme Judicial Court's decision they stayed entry of their ruling for 180 days, meaning same-sex marriages could not commence until May 17, 2004, in order for the Legislature to take action on the ruling. During this time frame the Massachusetts Senate created a "civil unions" bill, S. 2175, and requested an advisory opinion from the court to determine if allowing civil unions, rather than civil marriages would meet

the Supreme Judicial Court's ruling. On February 3, 2004, the Supreme Judicial Court ruled that it did not meet their requirements stating that separate does not guarantee equality, equating their decision to the case of Brown v. Board of Education, 347 U.S 483 (1954) in which the United States Supreme Court ruled against school segregation based on race.

On February 11, 2004, the state Legislature convened for a constitutional convention for a proposed amendment to ban same-sex marriage by defining civil marriage as union of a man and a woman without prohibiting civil unions between same-sex couples, which was defeated after two days of debate. However, when presented again in March of 2004 the amendment was approved and in order to become ratified will need a second approval by majority vote in the Legislature, which is scheduled for 2005 and then ratified by the voters in Massachusetts, which would be scheduled for 2006. Despite the approval of the constitutional amendment banning same-sex marriages, marriage licenses were issued to same-sex couples beginning May 17, 2004 as ordered by the court.

In the current chapter, I have discussed social construction theory. I have explored Spector and Kitsuse's (1987) examination of the natural history stages of a claim, and further explored Ibarra and Kitsuse's (1993) definition of

rhetorical idioms in the construction of a claim. I have also examined how sexuality, in particular, homosexuality has been socially constructed through time. I have also provided an account of how same-sex marriage has become legalized in the state of Massachusetts. In the following chapter, I outline the methods I use in order to examine the issue of same-sex marriage as it relates to the court case of Goodridge v. Department of Public Health.

The current chapter discusses social construction theory with emphasis on Spector and Kitsuse's (1987) approach to examining social problems as well as presents the natural history stages of a claim. The chapter further describes how claims are constructed using Ibarra and Kitsuse's (1993) definitions of rhetoric idioms. Finally, Chapter Two provides a background on the social construction of homosexuality and how homosexuality has developed leading to the debate over same-sex marriage. In Chapter Three, I outline the methods I have used to analyze the claims made by groups that oppose same-sex marriage.

CHAPTER THREE: METHODOLOGY

Qualitative analysis is "the nonnumerical examination and interpretation of observations, for the purpose of discovering underlying meanings and patterns of relationships" (Babbie 2004). In this research, I have used a qualitative analysis with a semiotic approach to explore the topic of same-sex marriage. Using a semiotic approach relies on the use of specialized vocabularies (Coffey and Atkinson 1996). Coffey and Atkinson point out that within qualitative research "it is always important to pay close attention to how members of particular groups or communities use ordinary language in special ways" (1996:84).

I approach the data by using Ibarra and Kitsuse's (1993) framework for examining claims-making and relying on Coffey and Atkinson's (1996) suggestion that "one should be looking for patterns, themes, and regularities" (47). In particular, I will be looking for patterns and themes that indicate the types of rhetorical idioms used in constructing the debate against same-sex marriage. Idioms shape the identity of the problem and claims-makers; it also sheds light on the audience and culture. Idioms involve themes, motifs, metaphors, and language; therefore, themes, motifs, metaphors, and language can be used

as data to indicate the type of idiom used. By analyzing the data for word choice, themes, motifs and styles, I am able to reach conclusions regarding the type of rhetorical idiom that is used in constructing the claim.

For my analysis, I will use a qualitative analysis that focuses on the vernacular resources used in constructing the debate against same-sex marriage as they relate to the case of Goodridge v. Department of Public Health. This analysis focuses on the rhetorical idioms, as well as motifs and themes as defined by Ibarra and Kitsuse (1993). The data collected for this analysis come from articles published on web sites of organizations that filed amicus curiae or "friend of the court" briefs in the case of Goodridge v. Department of Public Health. The organizations were selected for their opposing stance to legalizing same-sex marriage. Individuals who filed amicus curiae briefs and were not identified as filing on the behalf of an organization were eliminated from the data set. The organizations were limited to those who openly defined their position as being against same-sex marriage. Those organizations that did not take a definitive stance on the subject were eliminated from the data set. The data were collected from articles posted on the organizations' web site that were created during the period of April 2001 to May 2004. This time frame was

selected to cover the period from when the complaint was first filed with the Superior Court of Massachusetts through when marriage licenses were first issued to same-sex couples in the state of Massachusetts. Publications and articles whose date could not be determined were eliminated from this analysis. Press releases providing information regarding the court case proceedings, without stating the organization's opinion on the proceedings, were also eliminated.

Twenty-three amicus curiae briefs were filed in the case of Goodridge v. Department of Public Health, twelve of which were filed on behalf of organizations. Of these twelve organizations, nine openly oppose same-sex marriage. While all nine organizations state their position against same-sex marriage on their web sites, only five had dated articles regarding same-sex marriage posted to their web sites. From these five organizations, fifteen articles were found to fit the criteria for this analysis. These fifteen articles will be analyzed for the number of times they use motifs or themes which indicate a particular rhetorical idiom or counter-rhetorical idiom, to define same-sex marriage. The organizations that fit these criteria are the Massachusetts Family Institute, The Catholic Action League of Massachusetts, The National Legal Foundation, Marriage Law Project, and Free Market Foundation.

Before examining the materials posted to these organizations' web sites, it is first necessary to briefly examine the purpose of each of the organizations. The Massachusetts Family Institute defines itself as a non-partisan public policy organization "dedicated to strengthening family values and affirming Judeo-Christian values in Massachusetts" (Massachusetts Family Institute, n.d.). Established in 1991, the Massachusetts Family institute conducts research and provides education on public policy issues as they relate to the family. The Catholic Action League of Massachusetts was established in 1995 by members of the Father McGivney Assembly, to "combat anti-Catholic bigotry and protect freedom of religious rights" (Catholic Action League, n.d.). The National Legal Foundation is a Christian public interest law firm founded in 1985, whose goal is to make the American public aware of the law's personal impact. Marriage Law Project is a public interest legal assistance program that is part of the Interdisciplinary Program in Law and Religion at The Catholic University of America. The Marriage Law Project participates in court cases, provides pro-bono legal assistance and sponsors research related to same-sex marriage. Their mission is "to reaffirm the legal definition of marriage as the union of one man and one woman through scholarly, legal and educational work" (Marriage Law Project,

n.d.). Free Market Foundation, founded in 1972, is a public policy council based in Plano, Texas that stands for "less government, lower taxes, free enterprise and solid family values" (Free Market Foundation, n.d.). While each may perform different functions within society, each has a focus on "family values" and "moral issues". With the exception of the Marriage Law Project, each of these organizations makes claims regarding other issues besides same-sex marriage, however, these organizations have been selected due to their involvement in Goodridge v. Department of Public Health which has established each as a claims-maker on the topic.

In this chapter, I have outlined how I will examine the topic of same-sex marriage. By applying Ibarra and Kitsuse's (1993) rhetoric idioms to the claims made by five groups that oppose same sex marriage, I will shed light on how same-sex marriage has been constructed as a social problem. The following chapter will discuss the findings of my research.

CHAPTER FOUR: FINDINGS

In *Vernacular Constituents of Moral Discourse: An Interactionist Proposal for the Study of Social Problems (1993)*, Ibarra and Kitsuse outline methods for examining the claims-making process, indicating that current social construction research studies the topic of the claim rather than "the conventional features of the claims-making process itself" (Ibarra and Kitsuse 1993:29). By focusing on the claim rather than on the process through which the claim is constructed the researcher "violates the methodological commitment to refrain from privileging or honoring certain mundane version of the condition over others" (Ibarra and Kitsuse 1993:29). Ibarra and Kitsuse seek to redefine the way in which social construction research is carried out by establishing a process through which the process of constructing a claim can be examined from a linguistic perspective.

By examining the discourse of a claim it allows a "condition" to be understood as it is located within language rather than approaching the "condition" as a concrete reality (Ibarra and Kitsuse 1993). Ibarra and Kitsuse (1993) outline four rhetorical dimensions: rhetorical idioms, counterrhetorics, motifs and claims-making styles. Rhetorical idioms are defined

as "definitional complexes, utilizing language that situates condition categories in a moral universes" (Ibarra and Kitsuse 1993:34). By placing a claim in the context of moral values that the audience may already hold gives the claim credibility and encourages participation in the "social problem language game" (Ibarra and Kitsuse 1993). What is important for the acceptance of the claim is that the intended audience holds the values that are inherent in the claim.

The idioms that Ibarra and Kitsuse (1993) define are the rhetoric of loss, endangerment, unreason, entitlement and calamity. Each of these types of rhetorical idioms provide an interpretation of the condition-category, rely on a different type of reasoning and offer a different type of response or solution to the problem. Lynxwiler and DeCorte, in *Claims-Making and the Moral Discourse of Hard Core Rap Music* (1995), show how rhetorical idioms can use the components of an argument as defined by Toulmin, Rieke and Janik (1979), as well as, Best (1990). The components of an argument that are used in rhetorical idioms are the grounds, which consists of the evidence of a claim; the conclusions, which provide the called upon action needed to solve a problem; and, the warrants, the reasoning and values which the audience must share to link the grounds and the conclusions as a valid claim. Thus, rhetorical

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idioms provide reasoning which links the grounds, or data, to the conclusion, or action needed to solve the problem. Each type of rhetorical idiom relies on different types of grounds, warrants and conclusions. The grounds, warrants and conclusions that characterize each rhetorical idiom are outlined in Table 1.

Table 1. Characteristics of Rhetorical Idioms

Rhetorical Idiom	Interpretation of Condition Category	Reasoning Idiom Embedded in Claim	Response/Solution to problem
Calamity	Event of catastrophic proportions threatens all citizens.	Mega threats to system over-shadow other social problems.	Immediate, coordinated systematic change through collective action.
Entitlement	Vulnerable group denied full participation in some aspect of society.	Progressive march of history toward democratization of society for all.	Legislation needed to protect and insure systematic rights for all members.
Endangerment	Action or condition threatens health and/or physical safety of human body.	Resources important to collective must be protected for future.	Expert intervention required to protect all members.
Loss	Desirable object or action available is threatened with extinction.	Resources important to collective must be protected for future.	Establish mechanisms of protection through systemic change or social responsibility.
Unreason	Innocent or unaware group manipulated by self seeking group or problematic segment of system.	Breakdown between extant and ideal relationship of self and state of knowing.	Enlightenment and/or education of citizens; establish vigilance through agents of system.

Source: Lynxwiler and DeCorte (1995).

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Important for the claim is the appropriate use of a rhetorical idiom according to the claim and the ability of the audience to accept the use of rhetorical idioms as logical rather than incomprehensible (Ibarra and Kitsuse 1993).

My analysis isolates those rhetorical idioms that are used in constructing same-sex marriage as a social problem. The claims-makers within this study rely on a combination of rhetorical idioms in order to assert their claim. My analysis shows that the claims-makers within this examination rely on two of the five rhetorical idioms - loss and endangerment. However, evidence of a third type - the rhetoric of calamity – appears in some claims. The remainder of this chapter will discuss these findings.

In the articles I examined, the rhetoric of loss is the most prevalent rhetoric in the construction of same-sex marriage as a social problem. The rhetoric of loss places the claim within the context that something, in this case marriage, is valuable and the loss of that value compromises its existence (Ibarra and Kitsuse 1993). Within this rhetoric, humans are viewed as custodians or guardians and it is up to humans as guardians to protect the object and preserve it for the future (Ibarra and Kitsuse 1993). The rhetoric of loss implies that someone or group is threatening to extinguish or lower the value

of the "sacred" object (Ibarra and Kitsuse 1993). An example of this use of rhetoric is seen in claims relating to the environment and the appeal to "save" the environment.

Opponents of same-sex marriage construct marriage as a vulnerable and cherished institution that is the "building block of society." According to the claim, the institution of marriage is threatened and under attack by those who wish to destroy it, homosexuals who are trying to legalize same-sex marriage. Legalizing same-sex marriage threatens to destroy marriage. To prevent this destruction the audience must protect and defend the institution of marriage by fighting against legalizing same sex marriage. Those whose reasoning and values incorporate a traditional man/woman definition of marriage are likely to accept this claim and validate the rhetoric of loss.

Examples of the use of the rhetoric of loss are evident throughout the data from my research. The most frequent use of this rhetoric is apparent in the assertion that marriage is "under attack" and that it needs to be "protected". These phrases are used in a majority of the articles within this study. In fact, proposed amendments to define marriage as the union between one man and one woman are titled Defense of Marriage amendments. Albert Mohler Jr. (2004) uses this rhetoric

when referring to the ruling of the courts with statements such as:

> Marriage will never be the same again. Humanity's most venerable and cherished institution has been redefined by a secular elite in the name of liberation – and it will ultimately be destroyed in the process (para. 11)

Mohler further uses the rhetoric of loss when stating, "Civilization itself has been attacked by forces that would redefine marriage" (para. 2), as well as

> break the contract that would receive marriage from our ancestors and pass it on intact to our children and to our children's children" (para. 16).

It is apparent that this statement demonstrates the use of the rhetoric of loss when compared to Ibarra and Kitsuse's (1993) elaboration on the rhetoric of loss, that

> the present is given an all-embracing context: situated between an 'enchanted' or quasi-divine moment in the past and a still to be realized judgment in the future. (Ibarra and Kitsuse 1993:37)

The conclusion, or action, that claims-makers call on from their audience is the call for social responsibility stating the "need to protect marriage" and "it is up to us to defend marriage." Along with demands for amendments to the Constitution, a systemic change, this solution indicates the use of the rhetoric of loss (Lynxwiler and DeCorte 1995). Use of these phrases situates the construction of marriage well within the rhetoric of loss by establishing humans to protect and

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preserve it for the future by rescuing it from being redefined by those who wish to legalize same-sex marriage.

When constructing a claim, a claims-maker may rely on more than one type of rhetorical idiom in order to reach their intended audience. This is the case in the construction of the claim against same-sex marriage. While rhetoric of loss is the most often used rhetorical idiom within the claims, the claims-makers rely on other rhetorical idioms as well.

With the levels of attention that same-sex marriage draws from the media and the call to action that was demanded of voters to ban same-sex marriage it appeared that the rhetoric of calamity would be found when examining the data. Upon first examination of the data, the link that the claims-makers drew between same-sex marriage to other social conditions such as crime and drug abuse seemed to indicate extensive use of the rhetoric of calamity.

The rhetoric of calamity is "composed of metaphors and reasoning practices that evoke the unimaginability of utter disaster" (Ibarra and Kitsuse 1993:41). When using this rhetoric, claims-makers link their condition to other activities to demonstrate how other activities are dependent on their claim. This type of rhetoric can bring allies to their claim by showing a link between their claim and other claims that may be

competing for public attention. Using the rhetoric of calamity does not require that the claims-maker use moral reasoning as other types of rhetoric do, instead it allows the claims-maker to argue that failure to act could cause, or increase, the occurrence of other problems.

However, upon closer examination, the links drawn between same-sex marriage and possible social conditions that could result do not clearly fit in the category of rhetoric of calamity, and actually indicate prevalent use of the rhetoric of endangerment. The rhetoric of endangerment is applied to activities that are seen as threats to the health and safety of the human body (Ibarra and Kitsuse 1993). Use of the rhetoric of endangerment can be found in claims such as those made regarding AIDS or biological weapons. The opponents of same-sex marriage use the rhetoric of endangerment, however, in their claims, unlike typical uses of this type of rhetoric, they are not outlining threats to the actual human body. Rather the opponents of same-sex marriage appear to focus on threats to the social body, which is composed of the human body, and thereby attempt to construct same-sex marriage as a threat to the social body.

The opponents of same-sex marriage argue that allowing same-sex marriage will provide more costs to society than benefits to same-sex couples. In the data, I find that the

claims-makers draw on social science research to make their claims and use these findings to support their argument against same-sex marriage. From social science research, the claims-makers conclude that when children are raised by their mother and father, they experience lower rates of social problems such as premarital childbearing, illicit drug use, arrest, poverty, violent crime and school failure or expulsion. Therefore, the audience should conclude that since children of same-sex couples would not be raised by their biological mother and father, they would be more likely to experience these social problems. The claims-makers in this study also go on to show the harmful effects that same-sex marriage will have on the social body because it will change heterosexual's views toward marriage, which is harmful not only because of the effects on children, but also because traditional marriage reduces welfare costs and raises government revenues. According to Albert Moher (2004), with the legalization of same-sex marriage "social and sexual anarchy are set loose, and human suffering will inevitably follow"(para. 14). The use of the word anarchy seems to point to the use of the rhetoric of calamity, however, reference to human suffering exhibits a strong use of the rhetoric of endangerment.

Further use of the rhetoric of endangerment can be found in Peter Sprigg's, "Questions and Answers: What's Wrong with

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Letting Same-Sex Couples "Marry?" (2003) in which he states that homosexual relations are harmful because homosexual men and women experience higher rates of diseases, primarily sexually transmitted diseases and also suffer more mental health problems, higher rates of domestic violence, as well such as alcohol and drug abuse, depression and suicide. Sprigg (2003) also claims that homosexuals pose a threat to children stating that homosexual men are more likely to engage in sexual child abuse. Moreover, Sprigg (2003) asserts that by "increasing the level of social support (by, for instance, allowing same-sex couples to marry) would only increase these problems" (para. 62). Sprigg (2003) further links these "risks" to same-sex marriage by stating,

> Since homosexual behavior is directly associated with higher rates of promiscuity, physical disease, mental illness, substance abuse, child sexual abuse, and domestic violence, there is no reason to reward such behavior by granting it society's ultimate affirmation—the status of civil marriage—or any of the benefits of marriage (para. 67)

By drawing attention to health "risks" of homosexual behavior, opponents of same-sex marriage use the rhetoric of endangerment to further construct their claim. The solution that is required to stop this threat to the social body is government intervention to ban same-sex marriage through legislative means.

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The rhetorical idioms that opponents of same-sex marriage use the most in order of frequency are loss, endangerment and, one could argue, calamity. The other rhetorical idioms that Ibarra and Kitsuse (1993) define, unreason and entitlement, are used infrequently, if at all within my analysis of the articles.

Using the logic of the rhetoric of unreason relies on the relationship between the self and knowledge and then shows an instance of interference with this relationship (Ibarra and Kitsuse 1993). This type of rhetoric relies on an assumption that by having full knowledge an individual will make the right choice, and it is immoral to trick, deceive or manipulate someone. This type of rhetorical idiom is used once in the articles I examined by claiming that homosexuals are trying to "trick" the audience (Fitschen 2003).

The fifth type of rhetorical idiom that Ibarra and Kitsuse (1993) define is the rhetoric of entitlement. This type of rhetoric "emphasizes the virtue of securing for all persons equal access as well as the unhampered freedom to exercise choice of self-expression" (Ibarra and Kitsuse 1993). Within this type of rhetoric positive terms as lifestyle, diversity, choice tolerance and liberation are used. It is by "freedom to choose" that "one may realize one's life" (Ibarra and Kitsuse 1993). This rhetorical idiom is not used in the claims-making

process of opponents to same-sex marriage and is apparent in the court case and briefs filed by proponents of same-sex marriage in Goodridge v. Department of Public Health. However, it has been used by proponents of same-sex marriage. Proponents of same-sex marriage argue that same-sex couples should have the freedom to marry the person of their choice regardless of sex, and that prohibiting one to marry and individual of the same sex is discriminatory, which is the basis of the lawsuit in Goodridge v. Department of Public Health.

My original purpose in examining the data was to determine the rhetorical idioms used in the claims made against same-sex marriage. Ibarra and Kitsuse (1993) when identifying the rhetorical idioms that are used in constructing a claim that a claims-maker may rely solely on one type of rhetorical idiom. However, within my examination I have found the use of two types of claims-making within the same claim.

Though my purpose in examining the data was to determine the uses of rhetorical idioms that the claims-makers use in constructing their argument against same-sex marriage. However, while examining the data, I came across uses of what Ibarra and Kitsuse (1993) define as counterrhetorical strategies that the claims-makers use to counter the claims made by those who advocate same-sex marriage. Counterrhetorical strategies are

used by claims-makers to block claims made by an opponent. Disagreeing with the rhetorical idiom used in a claim may appear to disagree with the value inherent in the rhetorical idiom, which could result in "discrediting oneself", and may marginalize the individual that disagrees with the claim (Ibarra and Kitsuse 1993). Nonetheless, my analysis found that opponents of same-sex marriage more often then not combined rhetorical idioms and counterrhetorical strategies in their claims.

There are two types of counterrhetorical strategies that one may use when attempting to block a claim. The first one is a sympathetic counterrhetorical move, which accepts the condition-category as problematic, but not the proposed solution. The second is an unsympathetic counterrhetorical move, which accepts neither the condition-category nor the proposed solution (Ibarra and Kitsuse 1993). Each of the two counterrhetorical moves, sympathetic and unsympathetic, use different types of strategies in order to block claims. I have identified two types of counterrhetoric moves used in the articles that I examined: the counterrhetoric of insincerity and hysteria. Use of the counterrhetoric of insincerity implies that the person making a claim has an underlying motive which is not being made apparent. The counterrhetoric of hysteria labels a claimant as the member

of a group and then dismisses the claim as typical of that group.

Within the articles I examined, the claims-makers rely exclusively on unsympathetic counterrhetoric strategies to block claims by those in favor of same-sex marriage. The best example of the use of an unsympathetic counterrhetorical move is shown in "Questions and Answers: What's Wrong with Letting Same-Sex Couples Marry" (Sprigg 2004). In formulating his counterrhetorical strategy, Peter Sprigg (2003) presents a series of questions that allow him to respond to some of the claims made by advocates for same-sex marriage. One of the questions he presents is "why should homosexuals be denied the right to marry like anyone else?" Sprigg's response to this question, which manipulates the rhetoric of entitlement, is:

> The fundamental "right to marry" is a right that rests with *individuals*, not with *couples*. Homosexual *individuals* already have the same "right" to marry as anyone else. Marriage license applications do not inquire as to a person's "sexual orientation." (para. 17)

Advocates for same-sex marriage state that same-sex marriage is necessary for purposes of hospital visitation rights, inheritance and social security benefits; however, the opponents counteract these claims in the articles I examined on each point. In short, they argue that the means for obtaining the

first two are already available and the third is unnecessary due to the nature of the relationship.

In formulating their counterrhetorical strategies, opponents of same-sex marriage rely on the counterrhetoric of insincerity to offset the case for same-sex marriage. Using the counterrhetoric of insincerity (Ibarra and Kitsuse 1993) reflects an effort to block a claim by suggesting that the claimant may have a hidden agenda. The hidden agenda that is suggested of same-sex couples that wish to marry is that they

> want the right to "marry" only because marriage constitutes society's ultimate stamp of approval on a sexual relationship—not because they actually want to participate in the institution of marriage as it has historically been understood. (Spriggs 2003:para. 46)

Another example of the use of the counterrhetoric of insincerity is demonstrated by the statement, "they've been pushing their anti-family agenda for thirty years" (Fitschen 2001:para. 1). By the use of the words, "anti-family agenda", Fitschen is discrediting the argument of advocates for same-sex marriage by implying that homosexuals have an ulterior motive in their desire to marry.

An additional type of counterrhetoric strategy that is used is the counterrhetoric of hysteria. Ibarra and Kitsuse describe the counterrhetoric of hysteria as an unsympathetic counterrhetoric strategy which "characterize the claimants as

members of a social category and then dismisses their claims as 'typical' expressions" (Ibarra and Kitsuse 1993:46) of the group to which they have been characterized. By using this type of counterrhetoric strategy the claims-maker writes off their opponents claim as "features of the claimants' subcultures, rather than matters of concern to the "mainstream" of society. An example of the counterrhetoric of hysteria strategy used in the articles is demonstrated by references to advocates of same-sex marriage as "radical homosexual activists" (Fitschen 2001:para. 1) and "the radical homosexuals are on the move again" (Fitschen 2002:para. 1). Using the term "radical" dismisses the claims of advocates of same-sex marriage by attributing the claims as an extremist position and not typical of mainstream society. Thus, by being classified as an extreme position, the claims should not merit the support of the audience.

The goal of my research was to identify the types of rhetorical idioms used by claims-makers who oppose same-sex marriage. My analysis of the data reveals that claims-makers in my examination use two types of rhetorical idioms, the rhetoric of loss and endangerment. I have further identified two types of unsympathetic counterrhetorical moves, insincerity and hysteria, that the claims-makers use.

The claims-makers examined in my study draw on the authority of social science in order to support their claims regarding the impact of same-sex marriage on society. However, the claims-makers in my examination illegitimately represent the findings of these studies. Findings of social science research do show that children raised by stable families with two adults tend to be less likely to experience some of the conditions that the claims-makers point out (Hetherington 1999; Hetherington & Kelly 2002). However, the claims-makers in my examination over generalize these findings. The claims-makers in my examination modify the definition of "stable family", to be a family structure that consists of a male and female biological parent, in order to use this research to support their claims against same-sex marriage.

Ibarra and Kitsuse (1993) explain that a claims-maker will use one type of rhetoric in a claim. However, my analysis shows that claims-makers can use two types of rhetorical idioms within the same claim. Furthermore, my analysis also reveals that the claims-makers use counterrhetoric strategies to block the claims made by advocates of same-sex marriage. Ibarra and Kitsuse (1993) describe rhetorical idioms and counterrhetoric strategies as being used separately as in a debate, where one party will make a claim and another party will use counterrhetoric to block

the claim. However, the articles I examined incorporate rhetorical idioms and counterrhetoric strategies within the same claim. Use of rhetorical idioms and counterrhetoric strategies in the same claim can be attributed to the context in which the claims-makers are making the claims, in response to a court case. While they are making a claim against same-sex marriage, it is also necessary for the claims-makers in my examination to rebuttal the claims made in the court case.

The use of rhetorical idioms and counterrhetoric used in the same claim can also be attributed to the media that the claims-makers use, the Internet. In modern society, with the use of the Internet as a media for claims-makers to make their claim, it is likely that more claims will be composed of rhetorical idioms and counterrhetoric strategies in the same claim. In traditional media settings where claims-making occurs, such as television and newspapers, claims-makers are able to make claims about a condition and opponents are able to counter those claims. Internet claims-making may be unique in that claims-makers will use both rhetorical idioms and counterrhetoric in the same claim.

CHAPTER FIVE: CONCLUSION

The purpose of my study was to identify how same-sex marriage has been constructed as a "social problem". To research this topic I adopted Ibarra and Kitsuse's (1993) theoretical discussion of vernacular resources to examine the arguments used by opponents of same sex marriage. I collected data from articles posted to the web sites of organizations that filed amicus curiae briefs in Goodridge v. Department of Public Health, a court ruling that legalized same-sex marriage in Massachusetts. My analysis of the articles identified the types of vernacular resources that the claims-makers use.

The rhetorical idioms that were used the most are the rhetoric of loss and endangerment. However, I found that advocates for same-sex marriage rely heavily on the rhetoric of entitlement in their vernacular resources, which is evidenced by the brief they filed in the case of Goodridge v. Department of Public Health.

In addition to the rhetorical idioms, the claims-makers that are opposed to same-sex marriage, use counterrhetorical strategies in the articles examined to address the rhetoric of entitlement used by advocates of same-sex marriage. The type of strategy used is an unsympathetic counterrhetoric strategy;

specifically, they use the counterrhetoric of insincerity and hysteria. While my examination identified the vernacular resources used in the data I collected, future research could expand on my findings by examining the claims made in other same-sex marriage cases. Research could examine how opponents of same-sex marriage shifted their claims-making strategy after the ruling in Goodridge v. Department of Public Health in order to be successful in other court cases such as the recent ruling upholding a ban on same-sex marriage in New Jersey. Future research could also examine the claims-making strategies in other countries where same-sex marriage has been legalized such as Canada and Spain, to uncover differences in claims-making strategies across cultures.

One of the limitations of this examination was the amount of data examined. Future research could benefit from examining more articles from a larger selection of organizations. In addition, my examination focused on the vernacular resources used in the social construction of same-sex marriage by those who oppose same-sex marriage. This limited the study to using a strict constructionist approach. Future research could expand by studying the context of the claims being made, as well as examine the construction of same-sex marriage by its proponents.

While the debate over same-sex marriage continues those who oppose same-sex marriage have shifted their concentration. Since the ruling in Goodrich v. Department of Public Health the shift in the construction of same-sex marriage has been redirected towards the process by which it has been legalized. A new focus has been concentrated on what is viewed as judges, rather than elected legislative officials, making public policy through their rulings. This focus has also turned toward the process by which judicial nominees are approved. With Sandra Day O'Connor retiring from the U.S. Supreme Court a large scale debate over the approval process of judges is anticipated. Future research in same-sex marriage could benefit by examining this shift.

In conclusion, the purpose of my research was to determine the vernacular resources used to construct same-sex marriage as a social problem. My research has identified the rhetorical idioms and counterrhetoric strategies used, and furthermore have illustrated how these strategies are incorporated into the same claim. With the Internet becoming a primary source for claims-makers to make claims, social construction will likely see an increase in the use of rhetorical idioms and counterrhetoric strategies within the same claims, a notable shift from previous claims-making strategies where rhetorical idioms and counterrhetoric were separate. My hope is that future research

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would examine, in more detail, the use of the Internet in the claims-making process and the ways by which same-sex marriage is socially constructed.

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