

What We Talk About When We Talk About Same-Sex
Marriage:
The Construction of Sexual Citizenship in Federal Policymaking

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Abstract

The aim of this paper is to examine the representations of gays and lesbians found in the Congressional debate on the federal marriage policy between 1996 and 2013. This study explores the reasons same-sex marriage has promulgated from the chambers of legislation all the way up to the federal judiciary. The challenges brought forth to the federal policy on marriage are at the center of this research. Using political discourse analysis via a software program, Dedoose, I coded for argumentation and rationales uncover frames in the debate as well as the way in which policymakers speak about this particular minority group. This analysis examines how marriage prohibition for gays and lesbians was instated and why it still has adherents. Proponents of a ban on gay marriage relied mostly on frames related to American democratic principles, making claims of strong judicial activism on the part of judiciaries of state and federal governments. The social constructions of gays and lesbians in the policy debate are characterized by opposing constructions of the fundamental nature of sexuality; proponents of a ban largely portray sexuality as a lifestyle or choice while those against a ban portray it as a immutable characteristic.

Keywords: U.S. Congress, political discourse, sexuality, marriage, policymaking, social identity.

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Note on Title

The title is a literary allusion to Raymond Carver's short story "What We Talk About When We Talk About Love" published in 1981.

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1. Introduction

The regulation of sexual identity through social policy in the United States has emerged alongside the development of social group identity rooted in sexual orientation, creating a new class of sexual minorities in the public sphere across many policy sectors, including employment, immigration, military, and the household. The passage of the Defense of Marriage Act (DOMA) by the 104th Congress in 1996 marked the beginning of a period that defined marriage as an institution exclusively between one man and one woman for all Federal purposes. Some of the major events that dotted its path were the Stonewall riots in New York City, the activism and assassination of Harvey Milk in San Francisco, and the *Baehr v. Miike* court case that commenced in Hawaii in 1990, of which the aptly titled Defense of Marriage was a direct reaction. It was the result of a debate imbued with emotional and value-laden appeals for and against its passage, as well as clearly formulated argumentation related to democracy and the separation of powers that is so emblematic of American government. The Congressional debate after DOMA's passage continued when a Federal Marriage Amendment (FMA) was proposed in 2003 that would codify the previous bill into the U.S. Constitution as an Amendment, a very rare procedure, to ensure marriage would remain strictly heterosexual.

The state of gay marriage has changed drastically since DOMA's establishment. Currently there are 13 states – Massachusetts, Connecticut, Vermont, Maine, New Hampshire, New York, Maryland, Washington, Iowa, Rhode Island, Minnesota, Washington – as well as the District of Columbia that have marriage policies granting same-sex couples legal recognition as spouses. These policies have been instated via various policy streams – state legislatures, courts, popular referendum. Many other states have “mini-DOMAs,” also erected by statute, referendum, state constitutional amendments, and various other legislative tools (Pierceson 2013, Chapters 6 and 7). Same-sex marriage has also seen a global surge in politicization in recent years and months, with New Zealand and Uruguay becoming the most recent of now 14 countries to pass marriage legislation inclusive of gays and lesbians (ILGA website). The phrases “gay marriage” and “same sex marriage” as terms used in Internet search engines in the U.S. has increased, peaking in March of this year, while the term “marriage equality” – one enacted by the gay rights movement – was trending over twice as many times in 2013 as it was in 2012 (Google Trends website). This gives only a vague indicator of a topic's salience and interest via Internet search engine hits for the words, but one can see the increase in its trending as indicative of a growing interest in this topic.

The most recent development in the gay marriage policy narrative in the U.S. is the Supreme Court's ruling on *United States v. Windsor* in June 2013, which struck down Section 3 of DOMA's ban on same-sex couples for Federal purposes, opening it up for gay and lesbian couples. The court's adoption of this issue and its subsequent ruling mirrors this research in the weight given to the importance and political relevance of the same-sex marriage debate. (The decision occurred when this research was already almost complete, but a brief discussion on the ruling is found in the concluding remarks.)

According to the Williams Institute, which uses U.S. Census and American Community Survey information to compile and analyze data regarding gays and lesbians, there are nearly 650,000 same-sex couples in the U.S., of which about 114,100 are legally married and 108,600 in civil unions or domestic partnerships. About one in five same-sex couples are raising children under the age of 18 (Gates 2013, p. 1). Data on same-sex couples is never accurate for the same reasons Census data on any social group is inaccurate, but the stigma and social pressure surrounding "coming out," the process of claiming a gay or lesbian identity, creates added barriers to the collection and classification of data along the lines of sexual orientation.

These obscure figures do allude that a significant portion of citizens were denied entrance to the social institution of marriage via DOMA's statute. At stake for these gay couples and families was 1,138 benefits, rights, and privileges identified by a Government Accountability Office (GAO) report; this includes social welfare benefits, tax benefits, preferential benefits, immigration and legal rights, hospital visitation rights, and other government-sponsored incentives and protections (GAO 2004, p. 1). The Federal ban on gay marriage provided for the unequal distribution of these benefits.

This research aims to understand one aspect of one of the most important social issues in the U.S. by looking at the ways in which this target group is portrayed in the policy that erects borders to the entrance into the institution of marriage. The research aim began with a rather simple question: What is the policy rationale for this bill? What can explain the policy burden endowed upon this citizen group?

The questions guiding this research:

How is the issue of marriage framed as a public policy problem?

How are gays and lesbians portrayed in the Congressional debates on marriage policy?

Hypotheses were formed from a naïve standpoint, though one that took policy constructions of groups seriously. While some were confirmed, e.g. the strong use of equality as the major characteristic of the debate by opponents of DOMA, other assumptions were not, e.g. strong images and words depicting gays and lesbians as immoral and unnatural and, therefore, unworthy of the benefits and rights granted by marital status were scarce and not at the forefront depicting this target group by DOMA supporters.

The major argument, that the U.S. policy debate surrounding same-sex marriage relies on rationales characterized by particular constructions and ideas about sexuality, was confirmed by the analysis; the results are discussed in Chapter 4 below.

The goal of this research is to better understand how policymakers talk about marriage as a public policy issue and how gays and lesbians are depicted and understood as a social group within this debate that has such consequences for the group and for the wider social meaning of marriage and sexuality. Discourse has a distinct and particularly powerful role in the marriage debate, indeed the initial debate was about defining the social understanding of the word “marriage.” More generally, language concerning the gay and lesbian community is a vital aspect of its members’ social status. The language is politically charged – “homo” versus “homosexual” versus “homosexuality” versus “gay”, “gay marriage” versus “same-sex marriage” versus “gender-neutral marriage” versus “defense of marriage.” These all have different connotations and carry different symbols and constructions in different contexts. Often we overlook how much language matters. The way we talk about same sex marriage and issues strengthen and legitimize particular discourses, while mutually excluding or negating others. It is important to understand what we talk about when we talk about same-sex marriage.

2. Conceptual Framework

This section will describe the conceptual framework adopted in the research design. It primarily consists of two elements – theories surrounding framing processes and the conceptualization of the social construction of the target population. The analysis was informed by theories surrounding sexual citizenship, which is an important part of this research’s perspective, also discussed below. Note that most of the previous policy and political research regarding the same-sex marriage debate has been about framing.

2.1 The Argumentative Turn

The first important aspect of that which informs this research is the overarching design it is settled within. Situating this research in the interpretive, post-positivist research tradition invokes theories related to a

certain type of research, what some coin the “argumentative turn” in policy analysis (Fischer and Forester, eds., 1993). Other important scholarly research in this canon is Dryzeck (1982), Yanow (1997), Stone (2002), Coburn (2006), and Shwartz-Shea and Yanow (2012).

Policy is not technocratic; it is also about politics, and politics is about language. This is one of the key concepts informing this type of research.

2.2 Frames

Framing of the policy issue has been the focus of much literature regarding social welfare policy (see Iyengar 1990 and Ross 2000). The importance of framing as a process of policy formation has its origins in more psychosocial theory. Goffman (1974) theorized frames as a cognitive concept, one about understanding and meaning, the way in which one comprehends. This was developed for the political context, and amassed ideas of persuasion and perception, and even manipulation; a natural point of entry for the discussions around oft thought Pinocchio-nosed politicians.

Cairney (2012) defines the concept of framing:

“Framing involves the definition of a policy’s image, or how issues are portrayed and categorized. Issues can be framed to make them appear ‘technical’ and relevant only to experts, or linked to wider social values to heighten participation...Framing is a mixture of empirical information and emotive appeals” (p. 175)

Framing is a concept that has a lot to do with the way policymakers—or anybody discussing the policy issue—talk about it in order to create an image of it. Frames can call for certain solutions based on the definitive image created.

Previous political research on the same-sex marriage debate has focused on the framing of the issue by both proponents and opponents, and the discourses found therein. Most of the literature on the framing of the same-sex marriage debate takes aspects and frames from the social movements and advocacy groups and relates them to Congressional or other media frames as well as public opinion (Pettinicchio, 2010). Other research identifies other frames or “narratives”, one way of saying an overarching series of compounded frames, that say traditional marriage is about procreation (Butler, 1997). These previous studies also focus on the rights frame of proponents of same-sex marriage pitted against a frame of conservative (and Christian) morality by the opposition (Lee, 2010; Mucciaroni, 2011; Smith, 2007), which stems from the theory that homosexuality is an immutable characteristic, like skin color (Mucciaroni, 2004). This previous research contributes some important things, namely Smith’s (2007) analysis of the Canadian and US court cases by identifying, in addition to the rights and morality frames, the queer culture frame which is deployed by critics of same-sex marriage in the LGB movement (p. 9).

Though these frames are built into the conceptual framework of this analysis and inform the research eye, there is the chance to uncover new ones. These previous frames are simplistic and not nuanced enough to reflect the diversity of rationales and arguments in the debate. Also the previous research and the frames uncovered are not limited by policy arena but rather are accumulated across countries, policy sectors, political actors, and policy venues, not controlling for the difference in argumentation in these different contexts.

As stated above, much of the previous literature surrounding the political debate on same-sex marriage has been about the social movement, not specifically the Congressional debate. Benford and Snow (2000) write about “collective action frames” which are generated to inspire people to action (p. 614). The authors build on previous framing literature and speak about different framing activities that can offer insight on important concepts for the more macro-level, Congressional analysis. One such concept is framing as a series of strategic processes “that are deliberative, utilitarian, and goal directed: Frames are developed and deployed to achieve a specific purpose”; in this case a policy goal (p. 624).

Some important framing processes discussed, and are evident in the Congressional debate on same-sex marriage, are also good to note, but will not be the focus of this study: “Frame bridging” is the linking of two or more ideologically congruent but structurally unconnected frames; “frame amplification” is the embellishment or clarification of an existing set of values or beliefs; “frame extension” entails the depiction of an issue as being of importance and interest to more potential adherents; and “frame transformation” refers to reforming the debate by changing old understandings and meanings to generate new ones. (ibid)

These are all very important framing processes that occur on both sides of the debate in Congress. Though this research draws on some of the previous literature to identify particular frames that parallel the policy venues and objects of those researches, it also identifies new frames as uncovered via the discourses identified. These new frames are more minute, more nuanced, and lend their discovery in part to the theories behind framing processes. For example, looking for instances of frame amplification and frame extension were easier to spot with those concepts previously in mind.

This research fills in some of the holes that wide concepts like framing can create for analysis. It is not enough to conduct a frame analysis in order to discover what types of ways gays and lesbians are being depicted in the debate, though definitions of the issue can have certain characteristics of target groups inherent in them. It is the interaction of the framing of the marriage debate and the depictions of gays and lesbians that is the aim of this research, therefore we need other conceptual tools to look at the other side of this interaction.

2.3 Social Construction of Target Populations

The central element of the theoretical framework is Schneider and Ingram's (1997) theory on the social construction of the target population in policymaking. It takes a uniquely target population perspective and adds to the importance of the framing of the marriage debate. This research will use the theory and incorporate it within the larger discourse and interpretive framework; it is important to find the construction within a specific frame of an issue, as these constructions depend on the way the issue is framed.

The central theory states that:

“[S]ome elements of design (especially the policy tools and the policy rationales) will differ depending on the social construction and political power of the target population.” (Schneider and Ingram 1997, p. 338).

They also argue for a methodological approach, stating that these social constructions can be empirically assessed: “Social constructions of target populations are measurable, empirical, phenomena. Data can be generated by the study of texts, such as legislative histories, statutes, guidelines, speeches, media coverage, and analysis of the symbols contained therein.”

Looking at different documents, namely the legislative hearings surrounding the passage and debate on marriage policies targeting gay and lesbian populations will give an idea of the sort of discursive identity is being constructed (e.g. one of deserving or undeserving; powerful to weak) as well as the rationales and their impact on policy design (benefits or burdens).

An important concept to clarify now is what the theory holds as a “social construction”. The theory states that social constructions are the result of a process, in which values and meaning become attached to people and patterns of action, and therefore, social groups, or other phenomena, like the institution of marriage or the idea of sexuality. The authors write, “These values and meanings enable interpretation and provide rationales for action” (Schneider and Ingram 1997, p. 106). The target group's construction varies along several dimension: “positive to negative, strongly constructed to hardly any construction at all, long-standing to those that are new or rapidly changing, those that are internally homogenous to those that are heterogeneous, and those that are virtually consensual throughout the society to those that are heatedly debated” (ibid, p. 107).

Schneider and Ingram (1997) create a typology for the sorts of groups there may be – advantaged, deviant, dependents, and contenders. The gay and lesbian population in the U.S. arguably fits into the “emerging contender group”: “These groups tend to be those moving toward contender status from either the deviant or dependent, due to an increase to their political power” (ibid, p. 132-133).

The categories laid out by the theory are a bit weak, as a construction and group's political prowess and power vary across policy sectors, which is central to the decision to focus on the debate of marriage.

For instance, gays and lesbians as target population for policy may be considered and have more power in a debate concerning military service than in one discussing public health issues concerning HIV/AIDS. It is crucial to ground the analysis of the social construction of a target population to its respective policy frame targeting that group, as it may change across policy and frame even if it is the same target group.

Schneider and Ingram's theory has been applied in previous research on Congress and gays and lesbians as a target population (see Donovan 1993) but has never been used in the same-sex marriage debate.

The major components of this conceptual model are these constructions of the target group and the interaction with other constructions (of marriage and sexuality) as well as the framing of the issue. The theory is a very strong tool to analyze policy discourses in relation to target communities. It becomes especially useful in political debates when aiming to uncover rationales behind policy: "Social constructions are political in the sense they are manipulated through horatory and symbolic language generally regarded as political." The political discourses espoused by policymakers are an important aspect to grasp and is discussed further in the methodology; it explains the reason behind looking at the language of policymakers.

The process of social construction of a target population in policy debate leads to a *policy identity*, one which is always subject to the same meta-processes that abet it. These policy identities have consequences for target populations in serving as or with rationales. And, in democratic policymaking, these policy identities should reflect the realities of social identity.

2.4 Sexual Citizenship

The argument set forth in this paper is that policy discourses regarding gays and lesbians as a target group in U.S. policymaking are characterized by notions of a sexualized citizenship; arguments rest on certain constructions and ideas of sexuality as related to the institution of marriage and gays and lesbians. Sexual citizenship theories have not been applied to the realm of social policy; policy research lacks an emphasis on sexuality in evaluation and analysis of the policymaking process. These different theories inform and underlie all points of this analysis, always a layer of the research eye.

Sexual citizenship literature concludes that citizens are divided by their sexuality (Johnson 2002, Richardson 2000, Cossman 2007). Citizenship theories also underpin the arguments and the discourses in the frames found in the political debate on same-sex marriage, these arguments for and against same-sex marriage can be rooted in notions and ideals of (sexual) citizenship.

Most sexual citizenship theories are grounded in gay and lesbian, queer, and gender studies that define heteronormativity in citizenship and the emergence of sexual rights (Bell and Binnie 2000; Richardson 1998; Richardson 2000; Weeks 1999; Corboz 2007; Brandzel 2005; Duggan

1994; Duggan and Kim 2005; Clarkson 2008; Johnson 2002), never drawing analysis of policy arenas and policy discourse as being underlined by sexual citizenship. The seminal work that I draw from is Cossman (2007), which sees “citizenship at its most general as invoking a set of rights and practices denoting membership and belonging in a nation state [and] frame[s] citizenship as including not only legal and political practices but also cultural practices and representations....It is about the discourses and practices of inclusion and exclusion, of belonging and other-ness, and the many shades in between.” (p. 5)

Gays and lesbians in the initial marriage policy were clearly excluded; the matter of whether this is emblematic of a citizenship based on ideas of sexuality, specifically heterosexual assumption, is what this analysis reveals. The social construction of target populations in policymaking arguably needs better understanding in terms of sexual citizenship theory, especially for gay and lesbian populations, a sexual minority whose rights have not been seen in the context of social policy until only recently. Indeed, if the social construction of gay and lesbian people in the U.S. policy on marriage is found to be deeply dividing along rationales of sexuality, citizenship is inherently sexualized and stratified.

3. Methodology

This section lays out the methodology of this analysis. The method used is political discourse analysis, a form of content analysis for objects that are political in nature, e.g. a Congressional debate. All discourse analysis has the starting point that “our ways of talking do not neutrally reflect our world, identities and social relations but, rather, play an active role in creating and changing them” (Jorgensen and Phillips 2002, p. 1). For this reason, and because the action of policy in debate is speech, this analysis looks at the different ways policymakers talk about the issue of same-sex marriage and the target population therein.

3.1 Political Discourse Analysis

Discourse analysis is a theoretically informed method. The discourse analysis I apply within my methodology, and therefore which informs my theoretical framework, is political discourse analysis. Fairclough and Fairclough (2012) lay out a new approach to analyzing political discourse by innovating critical discourse analytical tools to include the political nature of this particular type of discourse. Fairclough and Fairclough’s (2012) political discourse theory “views political discourse as primarily a form of argumentation, and as involving more specifically *practical* argumentation...for or against particular tentative lines of action” (p. 1). Hence, political discourse analysis focuses on the types of rationale for action.

This analysis focuses on discourses that are meant to aid in argumentation for or against a policy that incorporates same-sex couples into the institution of marriage. This is embodied by the analysis of the constructions of gay and lesbian couples and their relationship to the institution of marriage that help to aid in the argumentation.

One limitation and critique of the method is that when looking at the different discourses as fundamentally argumentative, which this theoretically informed method does, it may leave out other types of discourses, ones that representative of some type of other inner reality, not just argumentative. It begs the question: are politicians really the rational actors we think they are, especially when it comes to their choice of language?

But the fact that the analysis is restricted to Congressional hearings mostly guarantees that all the speakers are strategic in their speech. And even if they are not, the discourses and constructions therein still represent a way of thinking and understanding.

3.2 Policy venues

Political discourse can be found in many forms, including in the media or within communities (Van Dijk 1997, p. 17-18). This research will confine itself to one policy sector of the Federal policymaking venue, the U.S. Congress. The unit of analysis is the Congressional hearings, from the original hearing on DOMA in 1996 to those hearings on the proposed Federal Marriage Amendment (FMA) in 2004 and 2005 through more recent hearings on the repeal of DOMA, in 2011.

There is merit to confining the analysis to only Congressional hearings for a few reasons. The primary reason is that it makes it more rigorous, controlling for policy venue and all of the institutional constraints and quirks that come attached to the discourses. The analysis is contextualized. One example is that Congressional hearings are timed, as most policy is time and action-oriented, and so the discourses found in the debate are unique to this constraint and the formalities around it – a green light comes on when a testimony begins and flashes when time is almost up. So while constructions and frames occur everywhere political discourse on same-sex marriage occurs (the Internet, media, Congress, etc.), some frames may be more salient outside than inside, some constructions more likely outside than inside.

3.3 Coding

There were 11 Congressional hearings concerning the federal marriage policy, all of which were analyzed by obtaining the transcripts from the government website. The first was a hearing on the proposal of DOMA in May 1996, with subsequent debates on DOMA and the Federal Marriage Amendment (FMA) which, as mentioned above, was similar to DOMA but as a constitutional amendment.

The table below depicts the list of documents used:

Hearing Date	Title
May 15, 1996	Defense of Marriage Act
July 11, 1996	The Defense of Marriage Act*
September 4, 2003	What Is Needed to Defend the Bipartisan Defense of Marriage Act of 1996?
March 23, 2004	A Proposed Constitutional Amendment to Preserve Traditional Marriage
March 30, 2004	Defense of Marriage Act
April 22, 2004	Legal Threats to Traditional Marriage: Implications for Public Policy
May 13, 2004	Federal Marriage Amendment (The Musgrave Amendment)
June 22, 2004	Preserving Traditional Marriage: A View From the States
October 20, 2005	An Examination of the Constitutional Amendment on Marriage
April 15, 2011	Defending Marriage
July 20, 2011	The Respect for Marriage Act: Assessing the Impact of DOMA on American Families

Table 1. Hearing dates and titles of the federal debate on marriage policy

*Note: The July 1996 document was in pdf form and had 1 page that was indecipherable, as it had been scanned into the database; no alternate copy was found.

Each document was read once followed by a more careful read through during the coding process. Every time an argument was made, even if it was the same speaker, a frame was considered activated; so some speaker's only framed the issue one or two ways but had a testimony and then participated in the question and answer portion of the hearing, using the same frames and constructions. The reason these are counted is to show the quantity and weight given to particular frames and constructions. This helps give an idea of the salience of the frame, how often it is referred to or used.

Certain words served as indicators while coding – like “equality”, “rights”, and “family” – but anytime a speaker portrayed the issue in any way, it was identified. Most of these particular words and sentences that fit into the frames were based in previous literature.

Categorization was more difficult when it came to constructions, as there was no previous theoretical grounding to stand on. This may be interpreted as a limitation of this method and theory – that coding occurred based on the researcher's categorizations of different phrases. But to reduce any bias or unusual interpretation most constructions were given their own category unless a strong amount of confidence could be given to rationalizing its similarity to other constructions. For example, the images

created by the opposition to DOMA consisted often of same-sex couples with children; these constructions could be categorized under the Parents/Families construction without controversy. Also, to reduce this interpretive bias there was much effort to dissect a frame category if any doubt about its categorization relative to other frames in that category was met.

Every interpretation of the problem was coded and no claims were made to their validity. The analysis only followed the line of argumentation and coded any talk about the target population or the issue at hand.

This analysis was the first time the researcher used the software Dedoose. Coding with Dedoose makes analysis more systematic and less prone to errors. It essentially digitalizes coding documents by hand so that one has access to all excerpts at all times. Analysis can be made according to speaker, coder, and code, in this case frame and/or construction. Code co-occurrence was a very useful analysis, too, which is further explained in the results section below. Dedoose quantifies qualitative data and allows for future coding on the same project, or simultaneous coding by several users. Also, it makes the research process more transparent, as those granted access to the project are able to see all excerpts coded. The original tables exported from Dedoose, with a complete list of codes and occurrences can be found in the Appendix.

4. Results

There were many important findings in the analysis of this debate. This section discusses some of the interesting findings in the overall debate and then takes a look at both sides of the debate more closely. Findings from both camps are presented, including the most dominant frames and constructions utilized.

At the very center of this debate are depictions and understandings of the meaning of marriage and of sexuality, about social understandings of these concepts and their relation to the target group. What is interesting in the findings is that it wasn't so much purely about what kind of images are created of gays and lesbians in the policy debate, but how frames interact with constructions of the target population and understandings of what marriage means and what it is for. It was in these interactions that the answer to how this bill could have passed is alluded to.

4.1 Key findings from the overall debate

The debate was mostly argued in terms of democratic processes and principles of American democracy. The first hypothesis, that the policy rationale would rely heavily on negative constructions of a deviant subculture, was not as prominent as expected. There were indeed frames and constructions that portrayed gays and lesbians as immoral, but these were only a small portion of the argumentation.

The most activated and consistently used frame was the Judicial Activism frame by opponents of same-sex marriage. Proponents of gay marriage entailed more constructions than the pro-DOMA/FMA camp. While the pro-DOMA/FMA issue framing consistently relied heavily on ideas of democratic processes and unelected judges legislating from the bench, the anti-DOMA/FMA camp framed the issue as unnecessary, a waste of time and Congressional resources, and, ultimately, a sideshow for political gain in an election cycle.

Frames used by the anti-DOMA/FMA camp that portrayed the issue this way are referred to as “elephant stick/politics” frames. The reason comes from one of the instances it is activated:

“[An] elephant stick is the big stick someone is carrying walking around the White House, and when asked what it’s for he says, “Well, it keeps all the elephants off Pennsylvania Avenue.” And when the answer is, “There are no elephants,” they say, “See, my stick worked.” (U.S. House of Representatives May 15, 1996, p. 6)

The point of the anecdote is that the policy debate is a solution to a problem that does not exist, and can act as a diversion. Coupled with this frame is one that calls the proposed DOMA a divisive wedge issue used for political gain at the expense of gays and lesbians. Inherent in this coupling is a construction of gays and lesbians as scapegoats, or political pawns.

This sort of framing was more characteristic of the opposition in the overall debate than other, seemingly, more powerful ones. Below is a closer analysis of the anti-DOMA/FMA and pro-DOMA/FMA camps, respectively.

4.2 Proponents of gay and lesbian inclusion in marriage policy

As noted above, both camps relied more on frames that had to do with policymaking processes and principles of American democracy than any other category of frames. The table (Table 2) below shows how many times the different processual frames were used by the anti-DOMA/FMA camp; the total of which is 144.

Democratic Processes	
Frame	Total
Conservative lobbyists	2
Democratic debate	4
Federalism	4
Libertarianism	6
States' Rights	31
Will of the people	2
State issue	16
Policy innovation	4
Judiciary Rights	9
The Elephant Stick/Politics	33
Unnecessary	33
Total	144

Table 2. Democratic Processes Frames

After the Elephant Stick/Politics and Unnecessary frames – which had higher instances of co-occurrence (8 times) – the frames that were most frequent were those related to federalism, the duality between the federal government and state governments. Of these the States’ Rights frame was most prominent, occurring 31 times. The States’ Rights frame was argued in terms of the federal government imposing its definition on state citizens. At its most creative, the States’ rights frame was coupled with the Policy Innovation frame, which argued that states serve as laboratories and should be allowed to experiment with policy and be innovative. One example of this frame comes from the 2003 debate:

“Federalism is not valuable simply as a tradition; it has a practical benefit. It allows the States to experiment with public policies in order to determine whether they work” (U.S. Senate, September 4, 2003, p. 21).

The Libertarian frame differs from the others, like States’ Rights, in that the issue was not defined by the right of self-determination for state governments to define marriage according to its values but, rather, the right of individual self-determination from the federal government; the libertarian frame grounds its arguments not in state governance but in individual freedom.

Another interesting way to analyze the data generated is to look at the evolution of frames and the constructions attached to them. The Benefits frames at first was not used much but the anti-DOMA/FMA camp steadily

relied more and more on it as an issue-framing, coupling it with the Rights frame – a right to these benefits – and constructions of gays and lesbians as a deprived constituency. The table below (Table 3) illustrates that the Benefits frame is only used 3 times in the 1996 debates but becomes much more prominent as the debate progresses.

Opposition to DOMA/FMA	
Hearing date	Benefits Frame
5/15/1996	2
7/11/1996	1
9/4/2003	4
3/23/2004	3
3/30/2004	5
4/22/2004	3
5/13/2004	1
6/22/2004	0
10/20/2005	4
4/15/2011	3
7/20/2011	17
Total	43

Table 3. Evolution of Benefits frame

The primary constructions used by those vying for the inclusion of gays and lesbians in the federal marriage policy rested on language and images that depicted gays and lesbians as no different than anyone else. But the other constructions try and depict a vulnerable target population in need of legislative aid. The wide variety of constructions in this debate are due to the different speakers and the span of the debate, from 1996 until 2011. Below (Table 4) is a list of the categorizations of constructions and the number of times they occur.

Opposition to DOMA/FMA

Construction	Total
9/11 victims	5
Immutable/Born this way	7
Loving, committed partners	21
Parents/Families	12
Productive members of society	7
Common people	18
Scapegoats	2
Second class citizens	5
Students	2
Taxpayers	3
Constituents	5
Vulnerable	11
Financially vulnerable	3
Total	101

Table 4. Opposition Constructions

The constructions that relied on depicting gays and lesbians as common people were often found in the context of the rights frame. These constructions were as subtle as those that depicted gay and lesbian families, loving couples living with children. Other times the constructions seemed more politically-motivated, describing gays and lesbians as taxpayers with a long history of suffering and discrimination; constituents of the representatives present at the debate; and even appealing to the ultimate characteristic of being an American – victims of 9/11.

All these constructions have the same goal of trying to de-sexualize gays and lesbians, and are all interesting in their own rite. But it is the Immutable/Born this way frame that is the most interesting as it most explicitly refers to a particular construction of gays and lesbians in relation to sexuality. One example of this construction comes from Representative Frank, who is openly gay himself, in the March 23, 2004 hearing:

“This simply says that people of the same sex—because of the way we were born, because of the way we are, we are not attracted to people of the opposite sex and we wish to express those feelings of intimacy and emotional commitment that most of us who are human are fortunate enough to have in a way that expresses our nature. It doesn’t detract from anyone else.” (p. 13)

Here Rep. Frank is saying that gays and lesbians are attracted to intimacy with the same-sex by nature. In later debates Frank also says that his sexuality is just a “fact of life” that he lives with. This construction varies greatly with constructions on the other side of the debate concerning the sexuality of gays and lesbians.

Also, it is important to note that some of the frames carry inherent constructions, like the Children’s issue and Family frames, which contain language in its argumentation that constructed images of existing households with children of gay and lesbian couples. Below (Table 5) is a list of all frames used by the opposition and their relative appearances throughout the entire debate.

Opposition to DOMA/FMA	
Frame	Total
Benefits	43
Children's issue	13
Family	7
Scientific research	4
Conservative Lobbyists	2
Democratic debate	4
Federalism	4
Libertarianism	6
States' Rights	31
Will of the people	2
State issue	16
Policy innovation	4
Judiciary Rights	9
The Elephant Stick/Politics	33
Unnecessary and time-consuming	33
Marriage as positive value for society	8
Misinformed stereotypes	7
Morality	4
Religious institutions' freedom	5
Rights/Equality	68
Trajectory/Progress	15
Hate Crimes/Violence	3
Totals	321

Table 5. Frames used by opposition to DOMA/FMA

4.3 Opponents to gay marriage; traditional marriage argumentation

The pro-DOMA/FMA camp also relies mostly on framing the debate as one of American principles. The legislation of DOMA is framed as necessary to protect the States' and the will of the electorate from unelected judges, state officials, President Obama, and a powerful homosexual lobby. Of all the frames in the entire debate, the most used was the Judicial Activism frame, being activated 133 times. The May 13, 2004 hearing has one such framing of the issue as judges' "extra-constitutional" behavior:

“What is really disturbing, what I really am troubled by is unelected lifetime appointed judges setting public policy, who are not accountable to the people, who are not held accountable in any way, yet they can alter the established social policy of America” (p. 36)

The framing of the debate related to judicial activism draws on notions identical to those in the Presidential activism and Homo Agenda frames. They are all rooted in the argument that a small minority of powerful people (or in the case of President Obama, person) can alter and decide social policy in spite of the American people and their needs and desires; it is a bastardization of the American ideals of rule by the people, for the people. Some of the speakers that utilize these frames go as far as to call gay rights groups “extremists”.

Pro-DOMA/FMA	
Frame	Total
Federalism	10
States' Rights	29
Judicial Activism	133
Majoritarian	40
Bipartisan	3
Necessary and imminent: DOMA	3
Necessary and imminent - FMA	38
Presidential activism	13
Public Officials Activism	8
Devaluation	12
Decoupling	17
Decoupling Europe	14
Morality	12
Religion	7
Religious institutions	6
Slippery Slope/Gayteway	21
Social Meaning	47
American values	8

Social experimentation	4
State and interest	22
The Homo Agenda	21
Special Rights	4
Children's issue	37
Bedrock of society	20
Family	29
Breakdown of family	9
Societal harm	7
African-American harm	6
Procreation	24
Biology	16
Benefits	3
Budget/Treasury	9
Taxes	2
Socialist benefits	2
Bigotry Belief System	4
Total	640

Table 6. Pro-DOMA/FMA framing

Other interesting and prominent frames include the Slippery Slope/Gayteway frame, which frames the issue as one of boundaries, that depicts gays and lesbians as one step away from polygamy and bigamy. This frame is used many times and even defined in terms of benefits, arguing that if all types of close relationships are included in the marital benefits scheme then America would be closer to a socialist country.

The constructions by the pro-DOMA/FMA camp are as follows (Table 7). The most interesting construction in terms of sexual citizenship theory relates again to the understandings of sexuality. While the anti-DOMA/FMA camp argued that gay and lesbian sexual identity was an immutable characteristic, a fact of life, the pro-DOMA/FMA discourses expel an understanding of sexuality as a choice. This contrast becomes clear in several statements that go on to depict homosexuality as just one type of sexuality on the “menu of life”. One speaker frames the issue in terms of Judeo-Christian values on sexuality, as choosing heterosexuality on moral grounds:

“Homosexuality and bisexuality have been normative throughout human history. Judeo-Christian civilization alone said: channel the polymorphous sexual urge that the human nature has into marriage with someone of the opposite sex.” (U.S. House of Representatives May 15, 1996, p. 126)

The drastically differing constructions of sexuality and the target populations respective to them are at the center of the divergence in agreement. The rationale for banning gays and lesbians who can simply

choose their sexuality then becomes a matter of banning citizens for bad decisions. The opposition to DOMA considered sexuality and immutable characteristic, which could not be changed – it was not simply deliberated. The rationales stemming from this conception of sexuality differ greatly.

Pro-DOMA/FMA		
Construction of Target Population		
Name of code:	Code occurrence	Description
Lifestyle choice	10	Gays and lesbians choosing a lifestyle.
Homo agenda	6	A small minority of powerful activists seeking special rights.
Individuals	6	Individual adults seeking pleasure, not families.
Barren	4	Unable to conceive ("naturally"); barren individuals; not complementary.
Self-hating gay	3	Even gays and lesbians say it's undesirable.
Disadvantaged	2	A disadvantaged group; sympathetic.
Family Structure	2	Ideal structure of 1 man + 1 woman.
AIDS	1	Linking group to AIDS epidemic; healthcare.
Immutable/Born this way	1	Biologically different, from birth.
Need to be rescued/saved	1	Gays and lesbians need to be saved from this lifestyle.
Loud & proud	1	The stereotypical out, loud, and proud image.
Marriage constructions		
Gender duality	2	Marriage as a place where opposite genders reconcile.
God's will	3	Gays and lesbians are not in God's will of heterosexual marriage.

Table 7. Constructions of pro-DOMA/FMA

There were many results and findings in this analysis, but the major component discussed had to do with the biggest finding, that the framing and constructions were delineated from an argument based in American democratic principles. Also, the construction of sexuality in both camps was one of the more relevant findings for the theory on sexual citizenship; as the discourses found within the debate contain language that claims rationales that could be used to claim particular sexualities more deserving of marital benefits and the title of marriage. This is telling of the citizenship status of this sexual minority in the federal debate on marriage.

5. Concluding remarks

With the Supreme Court ruling striking down DOMA's most controversial section, that which defined marriage as an exclusively heterosexual institution, there is much speculation about the role that the discourses and frames of same-sex marriage proponents played in the decision. The ruling claimed there was no rational basis to deny same-sex married couples federal marital benefits.

The discourses of proponents of same-sex marriage, however, are also met with continued discourses and understandings of the social institution of marriage as a heterosexual institution. The most important finding in this analysis is that the two camps have obvious and consistently differing views about the characteristics of sexuality – one sees it as immutable, the other as a choice. The rationales that stem from this leads to a policy with strong messages to gay and lesbian citizens. Policy is not an agnostic process, it is inundated with decisions and rationales which have implications for target groups.

The ways in which identities are represented, and which citizens' actual inner lives are represented in policymaking and in the political spheres is important to analyze. And that is where the consequences lie – that realm where a citizen group's most private identities become publicized – up for debate; it is here that the representations matter, and consequently, the actions (namely, speech) in which these representations are constructed. Policy language inundates and governs private lives and dictates policy output, it is an important and overlooked ubiquitous thread underscoring the decision-making process and the representations of target groups to policymakers.

6. Executive Summary

The political discourse analysis conducted here looked at the U.S. Congressional policy on marriage, which until June 2013 barred gays and lesbians from its institutional benefits. The analysis followed the debate from its conception, in 1996, to the last hearing date, in 2011. The research aim was to uncover the different ways policymakers framed the issue on both sides of the debate, and then to collect and assess the different types of images – social constructions – of the target population, gay and lesbian citizens. Previous literature on framing in the same-sex marriage debate aided greatly with the categorization and identification of the various types of frames present in the debate.

The social constructions identified were nuanced but shared common themes. Proponents of DOMA, and of sustaining a more traditional definition of marriage, used several different appeals, including painting a picture of a strong, powerful minority – a gay lobby – acting against the interests of the majority of Americans. The constructions were very diverse in this camp. It was the framing of the issue as one of judicial activism that persisted as the frontrunner. This frame identified, too, a source of non-majoritarian views ruling against American values.

The opposition to DOMA constructed another picture, one of a historically discriminated social group consisting of hard-working and loving families with children suffering from a lack of rights and benefits, and also from the careless political whims of policymakers with an agenda during election season. The opposition constructed images of the everyday gay and lesbian, recognizable and not so different from heterosexuals.

Sexuality played the biggest role in rationalizing and underlying the arguments set forth, which gives credence to the theory of sexualized citizenship. Policies that are exclusionary can do so on the basis of a sexualized citizenship, meaning the rationale for denying a citizen their rights could very well be that citizen's sexuality and, therefore, the way they relate to the institution of marriage; the preference is clearly heterosexually.

The different frames and constructions have been quantified in this analysis and drawn in tables to make it easier to see the large variance in the debate. Though it also proves to show that there are many channels for future research. Studying only the frames and constructions of both sides across the entire debate was very useful, but looking closer at only one hearing event or at the evolution of different frames can also relay new information about the ways in which policy framing represents constituencies and then rationalizes policy benefits or burdens for those constituencies.

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