Unraveling the façade of the American meta-narrative of acceptance:

Queer Theory, Same-sex marriage, and the American Justice System

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"Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tost to me, I lift my lamp beside the golden door." ~ Emma Lazarus.

We hold these truths to be [self-evident](http://en.wikipedia.org/wiki/Self-evident), that all men are created equal, that they are endowed by their [Creator](http://en.wikipedia.org/wiki/Creator_deity) with certain [unalienable Rights](http://en.wikipedia.org/wiki/Inalienable_rights), that among these are [Life, Liberty, and the Pursuit of Happiness](http://en.wikipedia.org/wiki/Life,_liberty_and_the_pursuit_of_happiness). That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed”

~ Declaration of Independence

Both of the creeds noted above are an intrinsic part of the United States meta-narrative established during the nascent period of the country’s culture. Both statements are designed to establish the understanding that the United States is truly an open and accepting country, willing to harbor and support all variables found within the human race. Not only to welcome, but to guarantee all rights including “life, liberty, and the pursuit of happiness”. This is the story that is told over and over again to new generations of children, and yet it provides a false sense of the true meta-narrative of American acceptance.

In recent history, a battle has been waged between Americans regarding the state of same-sex marriage. In 1996, the United States Congress passed the Defense of Marriage Act (DOMA). This Act specifically defined marriage as that of a union between a man and a woman, removing an opportunity for same-sex partners to access both public admonition of their relationships as well the rights guaranteed to married couples regarding legal benefits, rights and privileges. After much litigation, in July of 2010, DOMA was held to be unconstitutional.

This battle continues in the nation as seen through current attempts to ban same sex marriage in California under Proposition 8. Although passed initially in the state, Proposition 8 has followed the same path as that of DOMA, going through civil actions and being overturned. In August, 2010 Proposition 8 too was declared unconstitutional.

In the United States, “…we engage in an identity politics that is based on a vision of racial, cultural, or political purity that sidelines all of those who deviate from the revolutionary ‘norm’” (Smith, 2010 p.61). Our meta-narrative of acceptance of others is one that is tainted with intolerance. At the most crucial of levels, the individual American citizen, over and over we see repudiation of the ideals set forth by the Declaration of Independence and those etched in the Statue of Liberty. In reality, liberty and the pursuit of happiness are part of the American “golden door” as noted in the Lazarus poem, but only for a select few that are part of the binary narrative of heteronormativity (Gameson, 2000 p. 355; Capper, 1999 p. 4 ). The continued broken record of the need for the “public” to share their outcry about these issues marginalizes an entire population of people simply because they “find themselves defined out of the collective identity” (2000 pg 353).

This continuous battle for the rights of all Americans seems to raise a few questions. How can we continue to derive a story of acceptance and tolerance in a culture that publicly upholds intolerance? And more importantly, how do we continue to move our society toward one that truly depicts the image Americans so gladly wrap around themselves in the meta-narrative of acceptance. How do we “reinvent for everyone more fluid, expansive, self-definitions…moving beyond conformity, beyond gender identifications, to molding satisfactory selfhoods” (Thurer, 2005 p. 135-136)? The discourse extends not only to the lesbian, gay, bisexual, and transgendered (LGBT) community, but to the greater American society as a whole. The system itself notes the flaw as it attempts to correct itself each time an act of proposition is upheld to be unconstitutional.

Further, the lexicon of our times in regard to marriage is in greater need of clarification. Although some states, countries, and political parties have allowed for civil unions, these unions do not allow for the same spousal rights as those received by married couples. Nor do they provide for interstate recognition of civil union, or allow for recognition at the federal level (Belge, 2010). In 2004 in opposition to the definition of marriage as it relates to heterosexual criteria, the Organization of American Historians (OAH) approved the following resolution in an attempt to provide clarity relating to the term marriage:

“Research by numerous scholars who have studied marriage, sexuality, and kinship throughout U.S. history supports the view that diverse types of families, including families built on same-sex partnerships, have existed across time, even as law and government have accorded some of those families unequal status. Laws and customs regulating marriage, as well as the U.S. Constitution, have not been static, but have tended to increase the number of people entitled to claim the benefits and responsibilities of legal marriage. Because no evidence exists that a viable democracy depends upon defining marriage as the union of one man and one woman, and because the campaign against same-sex marriage promotes discrimination, the Executive Board of the Organization of American Historians strongly opposes a federal constitutional amendment limiting marriage to heterosexual couples.” (History News Network, 2010).

This open attempt to move the discourse forward in the examination of the term marriage seemed to have little impact on the term “marriage” as seen in Proposition 8 four years later.

Prior to the OAH statement and continued political climate of strife for supporters of same-sex marriage, the coalescence of Queer Legal Theory (QLT) began (Lugg, 2003). The intent is to use legal venues to continue discourse. “Legal doctrine must be crafted more sensibly, not only to enforce existing anti-discrimination mandates regarding sex and gender, but to reflect social reality” (Valdes, 1995 p. 26). In a country that historically has taken a significant amount of time to move acceptance forward (with the women’s vote taking nearly one hundred and fifty years, the policies of desegregation taking nearly two hundred years, and continued struggles with immigration) this will be a daunting challenge. This in conjunction with the muddied definition of marriage, the constant onslaught of protests and attacks from various “hate” groups, and the ever-shifting power dynamic, continued efforts to support the true understanding of acceptance through all opportunities available will be ongoing, but will do much to continue to build truth into the currently false American meta-narrative of acceptance for all.

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