

## Hegemony in the Discourse of Justice Kennedy's Gay Marriage Ruling

My name is Craig, and I am single. I have never been married or had children. Moreover, I do not have the desire to get married or have children. By opening with that statement, I feel as if I am at a confessional or a 12-step meeting, talking about who I am, stating it as a problem to be solved. There have been a few cases in my academic career during which I have been subject to scrutiny regarding my marital status, such as "you've never even been engaged" and "do you at least have a dog?"

At the time, those comments made me feel shame. However, after educating myself on "singlism," a term coined by singles expert Bella DePaulo to describe the stigmatizing of people who are single, I realized such comments are a form of discrimination that society has not yet realized.

DePaulo defines "singlism" as the stigmatizing of adults who are single and "matrimania" as a societal obsession with marriage. These phenomena include negative stereotyping of singles and discrimination against singles ("Singlism and Matrimania"). Such stereotyping is grounded in tropes like "spinster," a label that has been used since the 19<sup>th</sup> century to refer to an unmarried woman; this term generates images of a mousy, depressed plain woman who is not attractive or socially competent enough to find a husband (Mustard). The stereotypes and tropes can be explained using system justification theory, which is defined as people's inclinations to accept the status quo as fair and just (Day, Kay, Holmes, and Napier 292). In this case, the status quo is that it is unacceptable to not be married. DePaulo also coined a term "matrimania," defined as "over-the-top

hying of marriage and coupling,” which is present in popular culture and everyday social interaction. Such hype led to the ruling by Justice Anthony Kennedy on June 26, 2015, which stated homosexuals throughout the United States have the right to marry. While I support this right, the language surrounding that ruling paints “marriage” as a superior option to being unmarried, thus giving marriage a hegemonic, officialized position. My purpose in this article is twofold: 1) to conduct a critical discourse analysis surrounding the government document; and 2) to critique the assumptions made by these discursive items, which are largely based on hegemonic perceptions of marriage as the “correct” option to choose.

Critical discourse analysis is defined as an analysis of the relationship between discourse and hegemony (Fairclough 4). Huckin, Andrus, and Clary-Lemon describe it as concerning itself with language as relates to “...issues of social justice and abuse of power” (123). This article intends to show how the discourse surrounding the gay marriage ruling is reflective of the world’s hegemonic worldview that marriage is the “correct” option. For my methodology, I will examine a series of quotes from the ruling that illustrate how the language in the document is built upon the societal presupposition that marriage is superior to singlehood.

### **Matrimaniacal Discourse**

This section examines Justice Anthony Kennedy’s delivery of the Supreme Court’s Opinion with the following questions of inquiry, which are

directly taken from the steps van Dijk uses in his analysis of how racism is reproduced through discourse:

- 1) How does the Supreme Court talk about people who are not married?
- 2) What does the discursive strategy used by Kennedy reveal about prejudices, ideologies, or other social cognitions about those who are unmarried?
- 3) What are the social, political, and cultural contexts and functions of such discourse about the unmarried? In particular, what role does this discourse play in the development, reinforcement, legitimation, and hence, reproduction of the dominance of the married? (97)

Such analysis serves a similar purpose to van Dijk in that it explores whether marital bias was inherent in a ruling designed to guarantee equal rights to a population viewed as an “other.” Much of Kennedy’s discourse utilizes presupposition, defined as a “taken-for-granted assumption found in communication” (Machin & Mayr 222).

#### *Marriage as The Equivalent of Intimacy*

A common presumption of marriage is that it signifies intimacy. The following are some examples from the data:

- 1) “Their hope is not to be condemned to live in loneliness, excluded from one of civilization’s oldest institutions”
- 2) “The nature of marriage is that, through its enduring bond, two persons together can find other freedoms, such as expression, intimacy, and spirituality”
- 3) “Same-sex couples have the same right as opposite-sex couples to enjoy intimate association, a right extending beyond mere freedom from laws making same-sex intimacy a criminal offense” (Obergefell et al.)

The first quote utilizes an honorific, describing “marriage” as “one of civilization’s oldest institutions,” implying that because marriage is an old institution, it makes it ideal. Moreover, it presupposes that marriage is a solution to “loneliness.” In

the second quote, marriage is conflated with intimacy, and it is assumed that a couple that is not married is lonely, in spite of how strong their relationship might be. It assumes that anyone who is not married “lives in loneliness” and cannot achieve “expression,” “intimacy,” or “spirituality” with another person or within themselves. The third quote metonymically reduces the word “intimacy,” substituting the word “marriage” with the phrases “intimate association” and “same-sex intimacy.”

### *Marriage as a Non-Physical Ideal*

Another conception of marriage is that it signifies a sacred bond between two people. When two people get married, it is seen as a spiritual ideal, which is grounded in the Bible<sup>1</sup>. The following quotes illustrate this idea:

- 1) “No union is more profound than marriage, for it embodies the highest ideals of love, fidelity, devotion, sacrifice, and family. In forming a marital union, two people become something greater than once they were.”
- 2) “As some of the petitioners in these cases demonstrate, marriage embodies a love that may endure even past death.”

In the first quote, Kennedy conflates marriage with Biblical ideals, presupposing that marriage is the pathway to achieving such ideals. Such a presupposition personifies system justification theory, which has grounded the gay marriage movement in that homosexuals believe that without a system of marriage on which they can depend, they are doomed to a life of loneliness. Such a justification helps to support such a view. Moreover, Kennedy’s conflation of marriage and love serves as a functionalization of marriage, in that he professes it to legitimize love that can only be “official” when it is validated by marriage. The perspective of Kennedy’s position helps to officialize the status of

“marriage” while otherizing “not being married.”<sup>ii</sup> The second sentence in the first quote presupposes that marriage makes a person “greater” than he/she is when single. In the second quote, Justice Kennedy’s lexical style is religious, invoking the afterlife in that he views marriage as going beyond an official ceremony and embodying a spiritual ideal (“endure past death”) that is presupposed to accompany marriage.

### *Overall Patterns*

In his role as elected Supreme Court Justice, Kennedy has access in this context. For such officialized singlism, access is essential, which he uses to hegemonize marriage. Kennedy is also writing in the genre of an official government document, which functionalizes the discourse by giving it legitimacy in the eyes of the American public. Kennedy’s access and choice of genre give him permission to utilize honorifics and presupposition in presuming marriage as the “correct” option for the American public.

### **The Ruling’s Reflection of Matrimaniacal Hegemony**

The language of the ruling inadvertently otherizes people who do not marry. The results are also taken from van Dijk’s steps of argumentation:

- 1) Matrimaniacal discourse is able to reproduce its hegemony through an integrated system of sustaining ideologies and other social cognitions.
- 2) Part of the discriminatory practices in the gay marriage ruling are directly and indirectly enacted by text and talk directed against the unmarried.

The language of Kennedy's ruling represents a societal reflection of a collective otherization of people who do not marry or are not currently married. A more troubling finding is that it is accepted that such language occurs take place, which is indicative of essentialism practiced by people who view marriage as mandatory for people to be deemed socially acceptable.

This essentialism is exemplified in a study conducted by DePaulo, who recruited fifty-four rental agents and 107 college students to read a scenario about three pairs of people who were interested in renting an apartment: one married couple, one couple in a domestic partnership, and a pair of platonic friends and asked to whom they were rent. The agents and the students favored the married couple because they were more likely to be stable than the other two groups.

In the second part of the study, DePaulo created a scenario in which a landlord had the option to lease an apartment to a white person or a black person. When the participants learned the landlord offered to lease to the white person, the majority of their responses indicated the landlord was prejudiced. She then presented a similar scenario in which the landlord could lease an apartment to a single person or a married person. Despite the single person's offer to pay more, the landlord chose to rent to the married person. The participants seemed to think the decision was fair and just because they felt that the single person might not be as inclined to stay nor would they care for the property as well as the married person would (*Singled Out*, 213-14).

It is this study that personifies Essed's concept of "systemic racism," which involves "day-to-day interactions within institutions" that unconsciously perpetuate racism and discrimination through microaggressions and microinequities (179). Such marital status-based inequities are evident in the following link:

<http://www.nolo.com/legal-encyclopedia/marriage-rights-benefits-30190.html> -

"Marriage Rights and Benefits"

The link lists the various financial benefits married couples can receive, such as receiving benefits through a spouse's employer, taking bereavement leave if a spouse or a spouse's close relative dies, and receiving social security benefits for a spouse. None of these benefits apply to people who are "socially single"<sup>iii</sup> or in civil unions or domestic partnerships (Guillen). Guillen does not question whether married people should have these rights or whether these rights should apply to people who are socially single or in partnerships other than marriage.

The website also cites a book entitled *Making it Legal: A Guide to Same-Sex Marriage, Domestic Partnerships & Civil Unions* in the hopes of building advocacy toward gay marriage.

However, such advocacy presupposes only married people should receive those benefits. The following people are ignored by these laws, as well as by the activism:

- Single parents
- People in domestic partnerships
- Divorcees

- People who have never married

In addition, a social stigma revolves around those who are not married, as is evident in the scenario involving the rental agent, as well as the questions singles face in social, family, and workplace settings, such as “when are you going to settle down/get married/have children?”

Moreover, stereotypes exist in media and popular culture, which reiterates the message that one must get married. For example, in the movie *Crossing Delancey*, an empowered, liberated woman played by Amy Irving enjoys her life, career, and friends, while her grandmother pesters her about marriage until she finally sets her up with someone to whom she is not attracted. Irving’s character is resistant throughout the movie until the ending in which they finally kiss, signifying their relationship and the movie’s conclusion. Similarly, in *Trainwreck*, Amy Schumer enjoys single life until she meets a man with whom she falls in love. Both films are representative of a culture that hegemonizes marriage, which grounds Kennedy’s discourse.

### **Moving Forward**

Despite these microaggressions towards singles, singlehood has begun to find a voice in mainstream culture. Thanks to DePaulo’s work, in February of 2016, *The Washington Post* published a series of articles about single life, including an article about the benefits of being single in one’s 30s and another one suggesting the abolition of marriage as a legal category. In May of 2016, a movie entitled *The Lobster*, a black comedy that critiques matrimania, was released to rave reviews. Thanks to DePaulo, there has been a small amount of

progress in the academic study of singles, such as her 2005 piece, “Singles in Society and in Science,” which she co-authored with Wendy Morris. The authors posed the idea that the study of singles should be awarded a space in social science (57). As of 2016, the article had been cited in 203 pieces, mostly in the fields of psychology and sociology. *Women’s Studies International Forum* published an article in 2013 by Kinneret Lahad of Tel-Aviv University entitled “‘Am I Asking For Too Much?’ The Selective Single Woman as a Social Problem,” which critiques the term “selectivity” as a label used to refer to women and their dating choices. As the field of Rhetoric and Writing Studies includes conversations on marginalization due to race, gender, and class, I propose that marital status become part of this conversation, since such discrimination exists through official and unofficial interactions; such interactions have been inherent in the movement surrounding gay marriage, as well as its celebration. While I concede that Justice Kennedy’s ruling was a victory for human rights, the discourse used is a microcosm of discrimination towards single people, and I propose that Rhetoric and Writing Studies begin to conduct a critical examination of such discourse.

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<sup>i</sup> Such quotes include "He who finds a wife finds what is good and receives favor from the Lord" (Proverbs 18:22) and "If a man has recently married, he must not be sent to war or have any other duty laid on him. For one year he is to be free to stay at home and bring happiness to the wife he has married" (Deuteronomy 24:5)

<sup>ii</sup> For purposes of this article, I will use the term "single" as opposed to "unmarried," as the prefix "un" has a negative tone and further serves to hegemonize marriage.

<sup>iii</sup> "Socially single" can be defined as being single and not in a relationship or partnership.