

In Sickness and In Health: Crippling and Queering Marriage Equality

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On the heels of the groundbreaking Obergefell v. Hodges ruling legalizing same-sex marriage in the United States, the lesbian, gay, bisexual, and transgender (LGBT) movement for marriage equality has received unprecedented coverage. Few people, however, have heard of the marriage equality movement for people with disabilities (PWD). In order to understand the lack of coalition between the two movements, as well as the invisibility of the PWD marriage equality movement, I provide a conceptual analysis of both marriage movement discourses. Drawing on Cathy Cohen's work on secondary marginalization in the black community, I argue that both LGBT folks and PWD actively obscure the most needy, most dependent, and most queer members of their respective communities to gain sympathy and support from a (perceived) independent, heteronormative majority. However, bringing the two movements into dialogue can help us rethink intimate relationships, marriage, and who counts as a citizen worthy of rights.

When my partner died unexpectedly my world shattered. We were deeply in love, planning a big move as soon as I finished my degree, and looking forward to our next adventures together. My devastation deepened, though, when I was suddenly thrust into the position of outsider. We had never married because he would have lost the disability benefits that provided him a modest income and health insurance that covered his medications for multiple sclerosis. Because living as a married couple was also prohibited, we also never completed a variety of documents that would have secured our legal relationship to each other, such as wills, durable power of attorney forms, or second-parent adoption of his children. He mistakenly believed his family would take care of me, and I would be treated just like a legal widow. Upon his death, however, his family did not behave in the way we had expected. Decisions he and I had made regarding his children were undermined or completely reversed. The life we had built, and the securities I expected, were whisked away.

Just as I was reeling from the impact of not being recognized as a legal partner, the lesbian, gay, bisexual, and transgender (LGBT) movement for marriage equality

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was gaining momentum. I supported that movement because I believe marriage should be open to all, but, based on my own experiences (and the volumes of queer and feminist critiques of marriage), I knew that simply opening up marriage to same-sex couples did not fix the problems endemic to the institution of marriage. Extending marriage to same-sex couples does nothing to address the systemic inequalities around healthcare, immigration, and criminalization bound up with marriage in the United States.¹

My experience with my partner also led me to the much smaller marriage equality movement for people with disabilities (PWD). Although the marriage equality movement for PWD is somewhat younger and the barriers faced are different, I was surprised by the movement's relative invisibility. I was also disturbed by its lack of LGBT diversity. Most of all, I was struck that neither movement acknowledged the other. This article examines both movements, not necessarily to advocate for marriage equality or movement coalition, but to make visible how each movement has functioned as the other's structuring absence.

Analyzing press releases, videos, and policy statements from both movements reveals that each has been highly invested in portraying their respective populations as "normal" and "just like" the heterosexual, nondisabled population. For LGBT folks, normalization is accomplished by focusing on the way marriage privatizes dependency, whereas for PWD, normalization is accomplished by a focus on heteronormative desire. Drawing on Cathy Cohen's work on secondary marginalization in the black community, I argue that both LGBT folks and PWD actively obscure the most needy, most dependent, and most queer members of their respective communities to gain sympathy and support from a (perceived) independent, heteronormative majority. Although I remain wary of the political project of marriage equality as *the* solution to legal recognition, I remain convinced it is an important component to the mix of legal supports for family relationships that should be available to all citizens. However, the institution of marriage must adapt to the people who want to take part. This will mean expanding marriage to embrace relationships with more than two people, and embedding marriage more fully into communities of care.

THE PRENUPTIAL: SETTING THE STAGE FOR MARRIAGE EQUALITY

As of June 2015, same-sex couples can now legally marry in all states of the Union. Prior to this, same-sex couples could marry only in some states, and many states did not recognize same-sex marriages performed in other states. Despite this amazing win, the fight is not entirely over. Many public officials are refusing to abide by the ruling, making it difficult and emotionally taxing for some same-sex couples to exercise their new rights. In addition, conservatives have made it clear they will fight back with new legislation.² Furthermore, hundreds of other state laws now need updating to permit adoptions by same-sex partners, second-parent adoptions, and so on. Because the Obergefell decision is so new, and there is still much work to be done, I consider the LGBT marriage equality movement an active movement.

People with disabilities, regardless of sexual orientation, face very different barriers to marriage. Their marriage equality movement has two objectives: 1) to repeal state laws that prevent people with emotional or intellectual disabilities from marrying, and 2) to remove federal and state marriage penalties PWD incur if they do marry. For example, in Pennsylvania, Tennessee, Vermont, and West Virginia, it is not legal for people with emotional or intellectual disabilities to marry, and they are often referred to as “imbeciles,” “idiots,” and “lunatics” in legal texts (DeBellis 2012). The language allows public officials to deny licenses to anyone who acts or appears “crazy” or who appears to have a low IQ. Even in states whose statutes do not contain such language, a court can rule that a person with a disability is unable to consent to marriage, turning over consent power to a court-appointed guardian.

When people with disabilities do marry, they face severe economic penalties if they receive Supplemental Security Income (SSI) and/or Medicaid. SSI is a federal program for PWD and people with very limited income and resources, and Medicaid provides health benefits to people with very low incomes. Many PWD are participants in both of these programs because of their very low labor-force-participation rate. As of December 2014, only 20.3% of the civilian, noninstitutionalized disabled population (age 16 and over) participated in the labor market, compared to 68.1% of their nondisabled peers (U.S. Department of Labor 2015). Some are unable to work because of their impairment, but 11.2% of PWD are unemployed and actively looking for work (compared to 5.1% of their nondisabled peers). SSI and Medicaid remain vital programs for PWD. As of 2015, the monthly SSI benefit for a single person was \$733 (U.S. Social Security Administration 2015).³ If the person marries another person on SSI, their combined benefit will be \$1,100, representing a 25% penalty. If the person marries someone not on SSI, their spouse’s income and resources will be factored into their benefits, reducing or eliminating them altogether. A nondisabled spouse’s income is also automatically considered in determining the disabled spouse’s Medicaid benefits as well, so a disabled spouse is also at risk of losing his or her health insurance upon marriage. These regulations make the disabled spouse dependent on the nondisabled spouse, and lower the disabled spouse’s sense of self-determination. In cases of abuse, eliminated or reduced SSI and Medicaid can have particularly detrimental effects. The disability marriage equality movement seeks to remove these marriage penalties, as well as repeal laws that limit the right of people with mental and intellectual disabilities to marry.

Although the specific barriers to marriage are different, both movements ask for access to marriage by framing their relationships as “just like” those of nondisabled heterosexuals. To understand why normalcy functions so strongly in two very different movements, I apply Cathy Cohen’s work on the political functions of marginalization. In order to make sense of the black community’s response to the AIDS crisis in the late 1990s, Cohen argued that as leaders of marginalized groups struggle for further state and social recognition, the impulse to display the most “normal” and palatable aspects of the group becomes stronger. Dominant group members start policing and suppressing the most vulnerable, most abnormal members, a process Cohen labels “secondary marginalization” (Cohen 1999, 64). I argue that in both the

LGBT and PWD movements, those who are most distant from the norms of neoliberal, heteropatriarchal ideals are marginalized in order to gain wide, public support of marriage equality. By looking closely at the appeals for marriage equality produced by each movement, I reveal how secondary marginalization happens in the LGBT and PWD communities.

Despite the reality of secondary marginalization, I am cautiously, critically supportive of state-sanctioned marriage. On a theoretical level, I agree with Claudia Card when she asserts that “we would do better not to let the State define our intimate unions and parenting would be improved if the power presently concentrated in the hands of one or two guardians were diluted and distributed through an appropriately concerned community” (Card 1996, 1). Such a focus on interdependency and community care fits nicely with *some* of my experiences with disability, relationships, and mothering. On a practical level, however, I believe a retreat from the state is unrealistic because we do not have an “appropriately concerned community.” On the contrary, I have seen biological lesbian mothers refuse to let nonbiological lesbian mothers see their children after a break-up, nonbiological lesbian mothers refuse to pay child support, friends and “chosen families” turn their backs on LGBT people who become parents (by choice or by circumstance), and an LGBT community that has remained largely silent about such shenanigans. In the disability community, I have seen people with physical disabilities argue that people with cognitive impairments should not be permitted to marry and have children, and disabled partners abandoned by their unmarried partners. And my own experience demonstrates that without legal securities, “family” responsibility can falter. “Free” from state intervention, we have not always taken such great care of each other. Although a queer/crip utopia in which we handle our affairs unrestricted by legal contracts, courts, and attorneys sounds wonderful, it is not realistic.

As will become clear in this essay, however, I am critical of the normalizing tactics both marriage equality movements have taken. I am interested in exploring the possibility of legal recognition of our families without succumbing to secondary marginalization. As Judith Butler so eloquently argued about same-sex marriage over a decade ago, “it is crucial that, politically, we lay claim to intelligibility and recognizability; and it is crucial, politically, that we maintain a critical and transformative relation to the norms that govern what will and will not count as an intelligible and recognizable alliance and kinship” (Butler 2002, 28). Keeping a critical eye on the drawing of normative boundaries, while theorizing the potential of two very different movements for marriage equality, is part of Butler’s call for “double-edged thinking” on the matter of state-sanctioned marriage (40).

Analyzing both movements, I argue that the movements’ focus on similarity to the “norm,” engendered in secondary marginalization, is at the heart of the problem. It is not necessarily marriage that is the problem, but how both movements imagine the institution and their respective claims to rights. I suggest that shifting to a radical appreciation of differences between individuals pushes productively against some of the more entrenched and problematic understandings of intimate relationships, marriage, and citizenship. Changing the institution of marriage to account for different

types of people and family relationships, marking the capacity to engage in social relationships as the basic prerequisite to citizenship, is a more radical way to pursue “marriage equality.” I now turn to a more detailed analysis of each movement, focusing on their rhetorical strategies. I look first at the LGBT marriage equality movement, followed by the parallel marriage equality struggle fought by PWD.

IN SICKNESS AND IN HEALTH: ABLEISM IN THE LGBT MARRIAGE EQUALITY MOVEMENT

In their “Talking about Marriage” guide, the LGBT rights organization Freedom to Marry warns interlocutors to avoid saying “gay marriage” or “same-sex marriage” because “we’re not creating a new kind of marriage” and “no one is trying to ‘redefine’ marriage.” The phrase “marriage equality” is preferred because it does not signal a radical overhaul of the coveted institution or its associated benefits; rather, marriage equality signals a request to be *just like* heterosexuals who choose to marry. This is a familiar assimilationist strategy. As many other scholars have noted, the media messages produced by the LGBT marriage equality movement are very normative. Lisa Duggan argues that these highly palatable images of gays and lesbians are part of a new “homonormativity,” a “new neoliberal sexual politics . . . that does not contest dominant heteronormative assumptions and institutions but upholds and sustains them while promising the possibility of a demobilized constituency and a privatized, depoliticized gay culture anchored in domesticity and consumption” (Duggan 2002, 179). The marriage equality movement has produced images and narratives of happy couples that conform to dominant ideals about heterosexual love and commitment in an effort to win the fight for marriage rights, but in doing so it has silenced the more queer forms of LGBT love such as sadomasochistic relationships, committed threesomes, communal families, and so on.

Less analyzed in queer critiques of the marriage movement are the ways disability is deployed to frame same-sex marriage as a good thing not only for the individuals involved, but the nation as a whole. Analyzing texts and images from the marriage equality movement, Robert McRuer argues, “the political unconscious of debates about normalization (including debates about marriage) is shaped, in large part, by ideas about disability” (McRuer 2006, 80). In LGBT movement literature, marriage is positioned as both protecting against disability and containing disability when and if it happens. Marriage is protective because it (supposedly) domesticates gays and lesbians who may be tempted to engage in risky sexual behaviors, exposing themselves and others to HIV/AIDS and other debilitating illnesses (85). In this sense, marriage offers protection against disease and disability. A similar rhetoric can be found in the research literature about the impact of marriage on health and wellness that suggests that (happy) marriages promote healthy behaviors, such as regular doctor visits (Parker-Pope 2010). For Americans concerned with the financial costs associated with disease management and the negative impact disability can have on capitalist economies, preventing disease and disability is a very effective argument for extending marriage rights and benefits to gays and lesbians.

One way the LGBT marriage equality movement frames marriage as preventive is by disassociating gay and lesbian couples from disability. Most materials produced by Freedom to Marry, Gay and Lesbian Advocates and Defenders (GLAD), and other organizations feature nondisabled couples. The couples are often in their 30s, visibly middle-class, and conventionally attractive. For example, the story of Major Shannon McLaughlin and her wife Casey was one of four videos featured on Freedom to Marry's homepage prior to the Obergefell win (Freedom to Marry 2013a). The high-quality video featured the pair talking about how they fell in love, sharing with viewers pictures of their twin toddlers. Casey and their twins were not covered by Shannon's health insurance from the military, and they explain that this discrimination was particularly difficult for the pair to deal with because "the military spouse is the person who holds together that military family and [who] allows the military member to go out there and do whatever mission or training is necessary." Despite the couples' sincere patriotism, they joined the lawsuit so Casey could be respected as a military wife. Shannon and Casey are both conventionally attractive and apparently well-educated women. Combined with the images of their toddlers and the patriotic overtones of the video, their appearance projects an image of health and strength. The McLaughlins are typical of the couples featured in marriage equality promotional materials. Although there are several narratives on GLAD's website that mention past illnesses (where one of the partners helped the other partner recover) and a few in which one of the partners is now deceased, it is rare for couples with a current physical disability to be featured in movement literature. I found no examples of couples with visible or apparent cognitive or emotional disabilities.

The relative absence of people with disabilities in the movement campaign materials was particularly striking on Freedom to Marry's website. Apparently attuned to the politics of intersectionality, Freedom to Marry had a long list of "communities" on its resources page, including senior citizens, youth, transgender, African Americans, and so on. Notably missing, however, were people with disabilities. Thus, by not talking about disability and not including couples with cognitive, emotional, or physical disabilities from campaign materials, same-sex marriage appears in a protective bubble, free from disability and chronic illness. This erasure, of course, is a classic form of secondary marginalization because it implicitly promises the dominant group that inclusion will not disrupt the status quo (Cohen 1999).

Of course, we know disability and illness happen, even to married people. Thus, the marriage equality movement is also careful to show how disability and illness are managed *within* the nuptial relationship. Although the literature mostly distances LGBT people from disability, it also shows how marriage can (fiscally) contain disability when and if it happens. As Freedom to Marry notes, "marriage is about committed couples who want to make a lifelong promise to take care of and be responsible for each other—that's true of same-sex couples, too" (Freedom to Marry 2013b). Likewise, the Gay and Lesbian Alliance Against Defamation (GLAAD) and the Movement Advancement Project (MAP) (GLAAD and MAP 2009) emphasize that marriage is "about caring, responsibility, and commitment." This holy trinity of values—care, responsibility, and commitment—reappears in the press releases, policy

briefs, and other materials issues by the Human Rights Campaign, GLAD, and most state-specific marriage equality organizations. There is nothing inherently wrong with these values. In fact, later in the paper I argue for a strengthened focus on care. However, it is problematic when care is deployed as a private responsibility that can save the public time and money.

GLAD's website is an excellent example of the privatizing "care, responsibility, and commitment" discourse. The site features the profiles of the couples and individuals who challenged the constitutionality of DOMA, and most of these profiles emphasize the way same-sex couples care for each other during health crises. In the profile about Raquel Ardin and Lynda DeForge (GLAD 2013), GLAD notes "Ironically, DOMA prevents them from caring for each other, as they have for their relatives and the way other married couples routinely take care of each other." Lynda is unable to take time off to care for Raquel, who has degenerative arthritis (the result of a military injury, it is noted), under the Family Medical Leave Act because of DOMA. Although it is unclear who, if anyone, cares for Raquel, paying someone to taxi Raquel to appointments or help with activities of daily living would be much more costly to the state than allowing Lynda to take time off to provide "free" care.

Similarly, the media coverage of Edie Windsor's Supreme Court case, which overturned the federal Defense of Marriage Act, consistently highlighted the fact that Edie used her early retirement option to care for her disabled partner Thea Spyer. This fact, superfluous to the actual circumstances of the case about Windsor's right to claim the federal estate-tax exemption for surviving spouses, was nevertheless crucial to the public perception of same-sex marriage.

The messages about care and commitment in the face of disability and illness implicitly rely on privatizing dependency. In other words, the messages promise that same-sex marriage will mean less dependence on the state. Instead of turning to nursing homes and government-sponsored financial aid, marriage will encourage LGBT people to take care of each other, nurse partners and extended family in times of illness, and provide long-term care for chronic disabilities. This strategy is so successful because it taps into a long policy history that frames marriage as the key to ending dependency on state aid. Since the 1990s the government has funneled billions of dollars into research and education programs to promote marriage as it has steadily reduced welfare and aid programs to families and children. Such policies maintain "marriage is in the state's interest because it preserves a model of care that reduces state expenditures" (Whitehead 2012, 37). To profit from the neoliberal desire to shrink social welfare, LGBT activists offer "to set aside their progressive desires for economic redistribution and prioritize the economizing goals of governance in exchange for a marriage license" (36). Jaye Cee Whitehead calls this the "nuptial deal." The marriage equality campaign narratives that emphasize caregiving and commitment mobilize the "state's best interest" argument by suggesting that "married-couple households might 'relieve' the state of the expense of supporting single-parent households, and subsidizing a wide range of social services, from childcare and disability services to home nursing" (Duggan 2004, 16).

As my analysis makes clear, disability is not explicitly, or frequently, featured in LGBT marriage equality campaign literature. Yet when disability and illness are visible, they are eclipsed by a focus on care and containment/management of illness. Many of the arguments made for same-sex marriage implicitly rely on ableist and neoliberal beliefs about personal care and autonomy. This rhetoric stands in stark contrast to the ways care and government aid are deployed in the marriage equality movement for PWD.

FOR RICHER, FOR POORER: SILENCES IN THE PWD MARRIAGE EQUALITY MOVEMENT

The PWD marriage equality movement's media campaign is markedly different from the LGBT movement. For one, there are only a handful of videos, petitions, policy statements, and websites that address either the marriage penalty or the laws that prevent people with cognitive impairments from getting married. There are primarily three groups working on the issue: People First of Montana; a group of self-advocates from New York (including Judy Moiseff, a very prominent activist); and the Facebook group called "Marriage Equality for People with Disabilities" started by Dominick Evans. This is a striking difference compared to the LGBT movement in which there are literally hundreds of groups and organizations rallying for marriage rights.

The politics of government assistance is the major reason for this conspicuous difference. Whereas LGBT marriage equality advocates are implicitly promising less reliance on state aid in exchange for marriage rights, the PWD marriage equality movement is essentially arguing for an increase in aid. In this age of neoliberal governance, rallying for an increase in government spending on social welfare programs like SSI is a particularly difficult position.

It would be easy to argue that the SSI marriage penalty is in place simply because combining households lowers the cost of living for each individual. However, the amount gained in shared living arrangements pales in comparison to the exorbitant costs associated with living with disability, which may include home modifications, accessible transportation, medications, and medical equipment. When a person with a disability on SSI marries a nondisabled person, the couple is sent on a financial mudslide. The nondisabled spouse's income and assets are automatically accountable to the disabled spouse, which means that their joint income and assets are part of the disabled person's determination of benefits, including SSI and Medicaid. Most of the time this means that the disabled spouse loses SSI benefits and Medicaid, which is the only way to pay for the high costs often associated with chronic illness or disability. The disabled person will not qualify again for Medicaid and SSI until the couple's assets are liquidated and savings spent, throwing a once financially viable pair into poverty.

Particularly in this era of neoliberal governance and shrinking social welfare programs, it is important to ask why the state would prefer to keep (or create) poverty and continued dependence on the state. I believe the answer lies in the motivation behind the *other* marriage penalty and how it is used to shape family life. As many

heterosexual married folks are already aware (and many more LGBT married folks are about to find out), federal income tax law contains a “marriage penalty” that rewards families that are able to follow the (male) breadwinner and (female) homemaker model, punishing those in which both partners work and have similar incomes.⁴ Many married people have to consider whether it is worth the tax penalty for both partners to work. Thus, tax law shapes family and individual decisions about work and childcare. Similarly, the SSI marriage penalty encourages people with disabilities to remain single and (presumably) childless.

By shaping the personal lives of people with disabilities, the marriage penalty continues the pattern of state intervention into the reproductive and conjugal lives of the supposedly “unfit.” In 1927, the US Supreme Court affirmed a Virginia institution’s decision to sterilize Carrie Buck, who was diagnosed as “feebleminded,” in order to prevent future generations of people who lived on state aid. Although compulsory sterilizations are often associated with the dark days of the eugenics era, it is important to note that *Buck v. Bell* has never been overturned. As the National Council on Disability notes, eleven states have retained their compulsory sterilization statutes, replete with derogatory language about preventing “imbeciles” from procreating for the good of society (National Council on Disability 2012). Involuntary sterilizations continue to be practiced even in states that have removed their archaic laws (Dhillon and Lefebvre 2011). In these cases, consent is given by the disabled person’s parent or guardian.

In addition to involuntary sterilizations, people with disabilities are often encouraged by physicians and caregivers to use long-term birth-control methods like implants, are frequently denied fertility treatments by physicians, and those with children are often subject to increased scrutiny from government agencies and frequently have their children removed from their homes (National Council on Disability 2012). According to the National Council on Disability, “the familial rights of people with disabilities appear to be declining rapidly. In 1989, 29 states restricted the rights of people with psychiatric disabilities to marry. Ten years later, this number had increased to 33. Further, in 1989, 23 states restricted the parenting rights of people with psychiatric disabilities; by 1999, 27 states had enacted restrictions” (National Council on Disability 2012, 45). Clearly, the state (and civil society in general) continues to discourage and prevent people with disabilities from forming families and reproducing. The SSI marriage penalty is simply one more way the state exerts control over the life choices of people with disabilities, encouraging them to remain single and childless.

In light of this precarious history and the current neoliberal valuation of independence, the PWD marriage equality movement has to negotiate a very difficult line to advocate for their right to marry and form families. Although many PWD do (or want to) have children, there seems to be an attempt to separate the issue of parenting from marriage rights. This is an interesting tactic because, as previously illustrated, the LGBT movement positions legal marriage as a way to better care for children. Many of the videos and narratives from the LGBT movement feature the children of same-sex couples; however, children (and the issue of children) are completely absent in the PWD marriage equality movement. Whether this decision to

exclude couples with children from the “face” of the movement is conscious or not, childless couples may be more palatable to the ableist mainstream. Thus, the absence of PWD with children perpetuates latent eugenicist ideas about who should and should not reproduce.

The couples featured in the PWD videos are also all similarly-disabled. In other words, each partner appears to have a similar level or type of impairment, marginalizing what Bethany Stevens has called “interable” relationships (Stevens 2010). As I found in previous research, nondisabled individuals who partner with people with disabilities are subject to judgmental and discriminatory attitudes (Smith Rainey 2011). The nondisabled partners are sometimes viewed as a threat to the supposedly vulnerable disabled partner. The nondisabled partner may also be viewed as somehow deficient or defective because he or she has voluntarily partnered with someone with a disability. Alternatively, the disabled partner may be viewed as a burden or even as contagious, particularly if the couple decides to have children. For example, one of my nondisabled study participants, Kay, explains that when she announced her engagement to a paraplegic man, her family’s “biggest concern was kids; [they asked] can there be children?” Kay’s family was concerned about the reproductive viability of the couple, a theme echoed by other participants in the study. Thus, it is politically astute, albeit problematic, that disabled/nondisabled couples or couples with different kinds of disabilities between them are absent from the videos and narratives.

Finally, the narratives featured in PWD marriage equality materials rely heavily on notions of traditional, *heterosexual*, and religious ideals of intimacy and marriage. For example, in a video explaining the SSI marriage penalty, Judy Moiseff discusses her relationship with her late partner, Danny. Although they never legally married, because of the loss of benefits that would follow, the pair did have a Jewish wedding with family and friends. Moiseff says, “I didn’t want to live in sin but I had no choice” (Moiseff 2013). In another video, produced by the Self-Advocacy Association of New York State, a woman explains that she wants to get married so that she can have her partner’s last name (Self-Advocacy Association of New York State 2013). In the same video a man explains that the Bible says that people should be married, but the SSI penalty makes it impossible for him to follow this biblical “rule.” Thus, throughout promotional videos, notions of tradition and religious beliefs are mobilized to garner support and sympathy for the cause.

By focusing on heterosexual, childless, similarly-disabled, and “traditionally” religious couples, the PWD marriage equality movement is following the same path of secondary marginalization that we can see so clearly in the LGBT movement. Although the PWD marriage equality movement is younger, smaller, and less funded than the LGBT movement, it employs some of the same political tactics. The less socially palatable are marginalized in order to make the case for ending marriage discrimination. Although this tactic may be politically expedient, it is very dangerous. As McRuer notes, the disability rights movement and “disability studies [do] not yet have a necessary recognition of uneven biopolitical incorporation—an awareness, translating from Puar’s theorizing, of disabled subjects who in certain times and places are made representative and ‘targeted for life’ even as others are disabled in different ways, or crippled,

or targeted for death” (McRuer 2010, 171). The marriage equality rhetoric targets the most normative for “life,” abandoning the members of the community who complicate mainstream political demands. Not only does it marginalize—target for “death” through virtual erasure—certain members of the community, it also under-prepares advocates for handling the hard issues that the PWD marriage equality movement inherently brings up. For example, the campaign literature simply glosses over the issue of our shrinking welfare system. Until the movement grapples more with these issues, it is unlikely that the campaign will gain the attention it needs.

A RADICAL UNION: RETHINKING MARRIAGE

The LGBT and PWD marriage equality movements face different hurdles, but the unpenalized ability to marry a partner in a civil ceremony has been at the center of each movement. Considering this political connection, it is notable that neither the LGBT nor the PWD marriage equality movements regularly invokes the other. In fact, prior to the Obergefell ruling, I could find only one example of cross-reference between the two movements. The petition started by Dominick Evans to remove the SSI marriage penalty begins by explicitly linking the two marriage equality movements using the familiar “just like” strategy (Evans 2013). In the wake of Obergefell there has been a small smattering of articles by disabled queer people noting that they still cannot freely marry; however, these have largely been drowned out in the celebration. In practice, the two movements operate independently. As outlined above, both movements have employed tactics that promote secondary marginalization, erasing and policing those that more dominant marginal group members perceive as threatening to the group’s liberal claims to equal rights.

This has also impeded coalition because the figures that are “targeted for death” in one movement are “targeted for life” in the other. Thus, the LGBT marriage equality movement downplays the ill and disabled among them who may require state-sponsored care and assistance, whereas the PWD marriage equality movement hides the queer and child-bearing among them who make them more different than they already are. In other words, the normalizing impulses of each movement are at cross-purposes.

Disability and sexuality do more than intersect. The LGBT marriage equality movement’s normative claims rest on ableism. Likewise, the normative claims made by PWD’s fighting for marriage equality rest on heteronormativity. This connection is not coincidental. It is symptomatic of the ways ableism and homophobia constitute each other, co-creating the “normal monogamous couple” and “ideal citizen.” In the remainder of this essay, I consider how a queer/crip critique of the two movements can help us rethink intimate relationships, marriage, and who counts as a citizen worthy of rights.

As should be clear at this point, secondary marginalization emphasizes similarity to the dominant group in order to create a sense of connection across differences, triggering empathy and appropriate concern in the dominant group. A different way that some cultural critics have attempted to generate empathy and appropriate concern has been to focus on our shared vulnerability as humans. These critics emphasize

similarity to the oppressed as a more productive route toward justice, asserting “that vulnerability and precariousness constitute a kind of ontological foundation of human subjectivity” (Kulick and Rydström 2015, 271–72). Disability theorists Don Kulick and Jens Rydström acknowledge the usefulness of this approach, but caution that it can fail to account for the fact that we are not “all *equally* vulnerable” (272). Drawing on philosopher Emmanuel Levinas, they suggest that thinking from the point of human differences is more productive. Difference, as Kulick and Rydström point out, is the key to human subjectivity. We are obliged to care about other people’s differences from us because that difference is what provides each of us a “specific singularity.” “This singularity emerges through relations with others, whose existence, whose address, and whose behavior toward me are what determine a place for me and, thus, in a fundamental sense, are what make me *me*. This relationship of susceptibility to others binds me to other people—since my existence as a subject depends on them” (272). When difference becomes the foundation of human subjectivity, what counts as justice also shifts. Rather than a focus on equal access to an institution or a right (such as marriage), which assumes similar conditions and desires among people, justice rooted in difference focuses on adapting the institutions and rights to the people. It is the institution of marriage that must change in order to accommodate all the different types of people who want to take part. From this perspective, the most queer/crippled among us deserve the full gamut of intimate expressions—including state-sanctioned relationship recognition—not because they are the same desires and values, but *because* they are different.

One way that queer/crip relationships may change marriage is by extending it to more than two people, forcing a re-vision of marriage that critiques the limitations of the monogamous-couple model of marriage. This new vision places the loving relationship in community context, resisting the ways “marriage has become more and more a means of separating a couple from broader ties and obligations” (Freeman 2002, 11). For example, people with disabilities may require one or more people to help facilitate their relationship with intimate partners. This facilitation may be sexual or intimate, but it is also practical (for example, transportation during the date). In these situations, more people than the two partners are involved in the relationship. This “queer” arrangement was recently used by a Catholic Church in North Dakota to deny marriage to Justin Neis, who is physically disabled, and Anna Bankes, who has an intellectual impairment. Although Bankes’s guardian approved the marriage, Bishop David Kagan of the Diocese of Bismarck said that the “church doctrine that marriage is ‘between one man and one woman’ cannot be a decision that includes a third party, such as a guardian” (Herzog 2013). Bankes and Neis were able to find a church that would marry them; however, the Catholic Church’s refusal to marry the couple reveals their investment in normative ideas of autonomy and neoliberal independence that PWD often disrupt.

Many LGBT relationships, especially those involving children, also exceed the dyadic and isolated structure of the normative married couple. Because same-sex couples cannot conceive children unassisted, there are now many LGBT families that involve three or more parents. In some areas, legislation has caught up to this reality,

legally recognizing more than two parents. For example, British Columbia's Family Law Act permits listing four people on a child's birth certificate. Additionally, Nancy Polikoff explains, "California, Oregon, Washington, Massachusetts, and Alaska have allowed third-parent adoption, whereby neither biological parent relinquishes parental rights but the partner of one of those parents becomes a legal parent through adoption" (Polikoff 2012). Such innovative pieces of legislation and court decisions honor a variety of family formations beyond the couple. Connecting LGBT folks and PWD on this issue helps reveal how no couple is truly independent from the affectional, fiscal, and logistical ties with individuals and groups outside the dyad. Such connection could also help make visible the concrete communities of care that sustain and are sustained by married couples. Making these caring relationships visible and valuable is integral to the fight against privatizing dependency.

Challenging the ideal of the private couple could also lead to other forms of legally recognized relationship structures beyond marriage. For example, perhaps we will one day have a name for a relationship between two people with disabilities and their long-term personal care assistant. This relationship may indeed be formed in love and commitment to care, but may not be romantic across all members in the relationship. Or, we may have a way to recognize a family comprising two gay men and two lesbian women who parent together, but who are not all sexually involved with one another. Regardless of whether we end up calling these families marriages, domestic partnerships, or some other term, I do believe celebrating and recognizing the relationships of those "targeted for death" is important. State and social recognition embraces Elizabeth Freeman's notion of "queer belonging," which "names more than the longing to be, and be connected, as in being 'at hand.' It also names the longing to 'be long,' to endure in corporeal form over time, beyond procreation" (Freeman 2007, 299). Extending legal recognition to all types of families is a socially sanctioned, recognizable method of valuing and maintaining kinship. In this sense, relationship recognition fulfills the need to demarcate kinship relationships, and to recognize them as sacred, extending beyond the minutiae and monotony of daily life. To "be long" recognizes the human need for lasting connections, and state-sanctioned relationship recognition, through marriage, makes such bonds intelligible. As argued earlier, legal recognition also protects all members involved in family commitment, adjudicating disagreements as needed.

Expanding legal and social recognition to all types of families brings me to the other domain both movements have the potential to change: our conception of citizenship. Far from openly embracing the state and its role in relationship recognition, I wish to consider how a cripp and queer critique, made possible by a more radical vision of both marriage equality movements, can push the state to reframe citizenship. Instead of marginalizing the ways people may require state aid (and bolstering the ways marriage protects people from such dependency), what if both movements reframed such support as entitlements based on their place in communities of care? How could facing those "targeted for death" within their own movements create a vision of citizenship based on care and divorced from re/production?

Citizenship is typically associated with an individual's ability to fulfill certain obligations to the state in exchange for specific rights and protections. Thus marriage is often

construed as a right granted to citizens who are able to *reproduce* future workers and *produce* goods and services for the community. In other words, marriage is a way to recognize those performing their civic duties well. In terms of reproduction, the history of eugenics makes painfully clear that only those members of society who can produce normative (for example, white, nondisabled) babies are valued. Those viewed as less than full citizens have had their reproductive rights restricted. More recently, natural-law theorists have used LGBT people's inability to procreate (without intervention) as a justification to deny the right to marry. In both cases, the production of people who can work for wages and live independently of state assistance is what is valued. Extending the rights and privileges of legal recognition of family formations to all people, regardless of whether or who they reproduce, is an important corrective to this history.

The control of reproduction, however, is bound up in the larger construction of the autonomous individual. It is particularly difficult to transform this notion because the liberal tradition is based on the idea of an autonomous, rational individual who freely enters the social contract in exchange for rights and protections. Within capitalist democracy, the ability to work for a wage that allows one to purchase most of the supplies and services to support one's life is the defining aspect of independence. Because PWD often cannot produce in the workforce in the same ways as nondisabled workers, they are frequently denied full citizenship, discouraged from marriage through the SSI marriage penalty in order to remain wards of the state. The link between citizenship and economically productive work is made even more obvious when comparing SSI with Social Security Disability Insurance (SSDI). SSI is for individuals with little or no work history. However, SSDI is for people who have "earned" work credits through a prior work history. SSDI benefits are higher, include Medicare, and have no limits on other income. Significantly, there is no marriage penalty imposed on PWD on SSDI. Thus, a very clear line is drawn between people with disabilities who were able to earn through work and those who were not.

It is imperative for the PWD marriage equality movement to make this economic marginalization visible, and this requires interrogating the way most Americans equate worth and rights with economic productivity and independence. Rather than basing citizenship claims on economic productivity, a more radical alternative would be to base citizenship claims on care for others. After all, at the heart of citizenship is the concept of contract—that in order for an individual to have the protections and liberties of citizenship, the individual must give something to society. Limiting the "giving" to one's economic production or physical reproduction casts many people, including some with disabilities and those who cannot or do not reproduce, out of the realm of citizen. However, despite radical differences among people, all people, including people with disabilities, can participate in loving and supportive communities of care. These relationships may be verbal (or not), physical (or not), sexual (or not), but they are always about care and concern.

In a care-based citizenship model, institutions and contracts are ways we can provide methods of recognition and security, protecting citizens when individuals are not "appropriately concerned" for others across difference. These institutions may need to be modified to ensure that all people who choose to participate have the capacity to do so,

but in this framework, it is the institutions that change to adjust to inevitably and beautifully diverse family forms. In this framework, elements that foster relationships among people—like healthcare, shelter, and food—would enhance citizenship rights. Rather than position care as a way to eliminate state aid, caring for each other would be considered the minimum level of work needed to earn these basic securities. Marriage could be an option for those who wanted the social recognition and the ability to tap into state-regulated mediation if needed. Investing in a caring relationship with other community members—inside or outside of marriage—would confer citizenship status and its attendant rights and responsibilities. Indeed, the fact that they love, not whom they love, would warrant civic recognition and inclusion, which is a very radical ideal.

As the LGBT marriage equality movement reassesses where to go from here, I hope the barriers faced by LGBT people with disabilities make it to the agenda. The Obergefell decision is groundbreaking, but it is not enough. I also hope the PWD marriage equality movement learns from the mistakes of the LGBT movement and pursues more radical tactics. PWD are asking for changes that are in many ways much more radical than the demands, so far, of the LGBT marriage equality movement. We should not undercut those radical demands with palatable facades. My hope is that by being in dialogue, both movements can work toward critical relationship recognition, helping us reach a more desirable state of mutual support and radical inclusion.

NOTES

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1. See Conrad 2010 for more on these points.

2. Several Republican presidential candidates promised to “overturn” the court ruling, and Alabama Supreme Court Justice Roy Moore ordered probate officers to ignore the ruling. For the ongoing round-up of conservative responses to marriage equality, please see <http://www.rightwingwatch.org/category/topics/marriage-equality> (accessed January 12, 2017).

3. Some states supplement SSI, making the monthly benefit higher.

4. For more on the marriage penalty, see Pomerleau 2015.

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