

# Religion and Gay Marriage

## *The Use of Religion in the Debate Concerning Same-Sex Marriage in the U.S.*

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Religion and Gay Marriage: The Use of Religion in the Debate Concerning Same-Sex  
Marriage in the U.S.

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# Abstract

Since the 1970s the issue of same-sex marriage has been publicly debated in the United States. This debate has lasted for several decades and gone through court cases and ballot measures to find a solution to the question. As several states legalized same-sex marriage the situation became tense and the demand to find a solution grew. In the summer of 2015, the United States Supreme Court handled the question of federal legalization of same-sex marriage and ruled in favor of it. As the proponents of same-sex marriage celebrated, their opponents began denying gay couples service or products with the reason that homosexuality or same-sex marriage violated their religious beliefs. Religion has always been a part of the debate concerning same-sex marriage and gay rights and this thesis has researched how it has been used and by who. The research found that religion has been used both directly and indirectly in the rhetoric of the debate, and both opponents and proponents of gay marriage have used it. Following the debate concerning gay marriage from its beginning in the 1970s until the ongoing cases about freedom of religion, this thesis shows how there has been three major shifts in the use of religion in the rhetoric. It began with the opponents of gay marriage focusing on homosexuality as a sin, to them presenting arguments that are indirectly based on religion, shifting to the proponents of same-sex marriage starting to focus on religion in their arguments and lastly to the opponents of gay marriage focusing on the expansion of their freedom of religion instead of banning someone from marriage.



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# 1 Introduction

Gay Rights Activism has reached a peak in its popularity and relevance these last decades in the United States. The debate about same-sex marriage has been impossible to ignore with the media coverage of court cases and demonstrations concerning this issue. Slowly, states have accepted and legalized same-sex marriage, some voluntarily and others through decisions made by state or federal judges. In February 2015 only 13 states denied same-sex couples the right to marry, but some of these allowed civil unions.<sup>1</sup> The issue of same-sex marriage was once and for all resolved on June 26, 2015 when the U.S. Supreme Court in a 5-4 ruling decided that the U.S. Constitution guarantees the right for same-sex couples to marry and consequently legalized same-sex marriages in all states in the U.S.<sup>2</sup>

The support for same-sex marriage has slowly increased as states legalized, it or court cases ruled in favor of gay marriage. Polls now show that a majority of Americans support same-sex marriage and that this tendency is likely to continue.<sup>3</sup> Even though a majority of the population supports same-sex marriage, the Supreme Court Ruling created a lot of reactions and protests. County clerks have refused to give out marriage licenses to same-sex couples, businesses have refused to offer their service to same-sex couples and politicians have expressed fear that this legalization will threaten the right to freedom of religion. The negative reactions to same sex marriage are predominantly expressed by religious groups or by actors who use religion to argue against same sex marriage, an interesting fact seeing as the U.S. is a secular state.

Religion has been part of this debate since its early beginning and arguments from activists and groups opposing same-sex marriage have throughout its course often been founded in religion. Polls show that among Catholics, White Mainline Protestants and people who are religiously unaffiliated there is a solid majority in support of same-sex marriage. Among Black Protestants and White Evangelical Protestants the support remains far lower.<sup>4</sup> These polls show that there are religious groups in support of same-sex marriage and lately there have been more examples of arguments in favor of same-sex marriage that are founded

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<sup>1</sup> Faith Karimi & Michael Pearson, "The 13 States that Still Ban Same-sex Marriage", *CNN*, February 13, 2015, accessed March 9, 2015. <http://edition.cnn.com/2015/02/13/us/states-same-sex-marriage-ban/>

<sup>2</sup> Adam Liptak, "Supreme Court Ruling Makes Same-Sex Marriage a Right Nationwide", *The New York Times*, June 26, 2015, accessed March 6, 2016. [http://www.nytimes.com/2015/06/27/us/supreme-court-same-sex-marriage.html?\\_r=0](http://www.nytimes.com/2015/06/27/us/supreme-court-same-sex-marriage.html?_r=0)

<sup>3</sup> "Changing Attitudes on Gay Marriage", *Pew Research Center*, July 29, 2015, accessed March 7, 2016. <http://www.pewforum.org/2015/07/29/graphics-slideshow-changing-attitudes-on-gay-marriage/>

<sup>4</sup> "Changing Attitudes on Gay Marriage"

in religion. This development will be interesting in the time to come when the reactions to the Supreme Court Ruling will have to be addressed.

The debate on this issue has gone through major shifts in rhetoric and argumentation as homosexuality has become more accepted. Since these polls imply that religion has had an impact on people's opinion concerning gay rights and same-sex marriage, it is interesting to look into the presence of religion in this debate. The main goal of this thesis is to look into the rhetoric used in this debate, and to analyze the presence of religion. My main questions are: how is religion used in the debate concerning same-sex marriage? Who uses it? And why is the use of religion so prevalent in this matter?

To do so I have performed a qualitative analysis of primary and secondary sources. By doing an in-depth study of the primary sources, this thesis analyzes the rhetoric that has been used in the debate concerning same-sex marriage and how religion has been present and used as arguments from the early beginning of the debate in the 1960s until today. The primary sources studied in this thesis consist of verses from the Bible as used by the opponents and proponents of same-sex marriage and sermons on these verses by ministers and reverends that broadcast radio programs and online sermons. I have also looked at court documents from different court cases concerning gay marriage. Documents, such as amicus briefs and transcripts of the oral hearings from *Obergefell v. Hodges* and *Hollingsworth v. Perry* have been especially important. News articles have been significant when looking into the cases on Religious Liberty that are going on today. Additionally, primary sources Such as TV-ads from the campaign about *Proposition 8* and polls have been examined.

### **1.3 The Historical Context**

Today the issue of same-sex marriage is one that is frequently debated and it has been the main focus of gay activists for the past decade and the area where they have achieved most progress. But for the first 30-40 years of the gay rights activism, marriage was not on the agenda for the American Gay Rights Movement because there were other issues that were seen as more necessary to focus on, such as the AIDS-epidemic and decriminalization of homosexual sex. In his book *From the Closet to the Altar: Courts, Backlash, and the Struggle for Same-Sex Marriage*, Michael J. Klarman explains the history of same-sex marriage and how the gay rights activism evolved in the U.S. from the 1950s to today. He describes how homosexuals were severely discriminated against and prosecuted in the 1960s as a consequence of anti-sodomy laws. By 1960, every state criminalized sex between same-sex

partners even if it was consensual and in the privacy of their homes. These anti-sodomy laws were further used to justify discrimination in the work place or housing situation, police raids on gay bars and even denials of child custody.<sup>5</sup>

Homosexuals also experienced a severe stigma of being sick or mentally disturbed because the American Psychiatric Association considered homosexuality to be a mental illness. Many states allowed judges to send homosexuals to asylums where they might undergo psychotherapy, castration or lobotomy and many religious communities considered homosexuality to be a sin. Being stigmatized as misfits and pedophiles, excluded from housing and employment made living as an open homosexual very difficult and rare in the 1960s. The systemic discrimination of homosexuals made it very difficult for the Gay Activist Movement to gain momentum and support.<sup>6</sup>

In the 1960s, the right to privacy was an issue that received a lot of attention. In 1965, in the case of *Griswold v. Connecticut* the U.S. Supreme Court overturned a law in Connecticut that criminalized a couple's use of contraception in their own home. The Supreme Court decided that the constitution did not explicitly protect a general right to privacy but it did protect privacy in marital relations.<sup>7</sup> This was an important step in protecting people's privacy, but it was also significant for gay activism because it opened a channel for them where they could argue their case. The American Civil Liberties Union (ACLU) released a statement in 1957 where they stated that laws punishing homosexual acts were clearly constitutional. After the *Griswold v. Connecticut* case the ACLU reconsidered their stance on this and agreed that a right to privacy was a civil rights issue and that it might affect the governmental legal restrictions on homosexuality. The Gay Activist Movement gained important support after this court case even though the ACLU still believed that government could see homosexuality as relevant in public employment.<sup>8</sup>

Homosexuality became widely discussed in the public sphere throughout the 60s and some religious groups even reconsidered their stance because it affected people in their congregations or they understood that it would. More gay people dared to be open about their sexuality, but discrimination and prosecution was still prevalent. On June 26, 1969, the New York Police raided the Stonewall Inn, a gay bar in Greenwich Village. This became a pivotal moment in gay activism. Police raids were not uncommon but in this case the guests resisted.

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<sup>5</sup> Michael J. Klarman, *From the Closet to the Altar: Courts, Backlash, and the Struggle for Same-Sex Marriage*, (Oxford University Press, 2013), 3.

<sup>6</sup> Klarman, *From the Closet to the Altar*, 6.

<sup>7</sup> *Griswold v. Connecticut*, 381 U.S. 479 (1965).

<sup>8</sup> Klarman, *From the Closet to the Altar*, 6.

The raid turned violent and that night four police officers were wounded while thirteen members of the crowd were arrested. The night after there was a large demonstration against the police raid in the streets of Greenwich Village and it spread to cities all over the U.S.<sup>9</sup>

This episode ignited a spark in the Gay Activist Movement and people demanded a more radical and progressive approach. In June 1970, several thousand gays and lesbians marched to commemorate the first anniversary of the Stonewall Riots. This became an annual parade and festival that is celebrated all over the world today and known as *Pride*. The number of gay activist groups increased and gay rights journals started to appear in the years between Stonewall and 1973.<sup>10</sup>

In 1971 Michael McConnell and Jack Baker applied for and received a marriage license in Minnesota. However, the state refused to recognize the marriage as valid. A suit was filed in state court as a protest, and the Minnesota chapter of the ACLU represented the couple, even though the national organization refused to take the case. Similar suits were filed in other states but in all these cases legal arguments for same-sex marriage were rejected. The courts intended to preserve the traditional understanding of marriage and argued that the states had interest in procreation and child rearing. Marriage was brought into the debate through these cases and in two of the cases the plaintiffs appealed to the Supreme Court who rejected the appeal in both cases. They got little media coverage since the legal claims they made seemed implausible. The American Gay Activist Movement kept their focus on discrimination and criminalization since they saw these problems as more pressing.<sup>11</sup>

In the 1970s gay activists became more visible in the public eye and they experienced important progress in gay and lesbian acceptance. In 1973 the American Psychiatric Association removed homosexuality from their list of mental disorders. Roughly half of the states removed their sodomy laws during this decade and gays and lesbians became more visible in the political life with for example Harvey Milk and Elaine Noble, who were both elected into public office.<sup>12</sup> In 1973 the right to privacy won another important victory in the case of *Roe v. Wade*. Jane Roe sought to have an abortion but Texas law prohibited her from having one. The case went to the U.S. Supreme Court who ruled that the right to have an abortion was protected by the constitution under the right to privacy. Consequently all states

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<sup>9</sup> Klarman, *From the Closet to the Altar*, 16-17.

<sup>10</sup> Klarman, *From the Closet to the Altar*, 18.

<sup>11</sup> Klarman, *From the Closet to the Altar*, 18-19.

<sup>12</sup> Klarman, *From the Closet to the Altar*, 23.

had to allow abortions.<sup>13</sup> This case strengthened the right to privacy for all individuals in the U.S., which was important for gay activists because it strengthened their arguments on why sexual orientation should be considered private. But these victories also created a backlash and in the late 1970s the Religious Right was mobilized through a coalition of conservative and religious groups in opposition to the victories of the Gay and Abortion Rights Movements.<sup>14</sup>

These conservative groups campaigned to repeal antidiscrimination legislation all over the country. In their campaigns these conservative groups focused on the stigma that described homosexuals as perverts and possible molesters. For example, in 1977, singer and runner-up for Miss America Anita Bryant was the leader of a campaign that opposed the Gay Rights ordinance enacted in Dade County, Florida. The campaign's focus was children and their right to grow up in a healthy, decent community. They claimed that gay teachers would persuade children to become homosexuals and possibly molest them. The campaign was successful and the ordinance was repealed in the county.<sup>15</sup> For gays and lesbians this meant that the levels of discrimination decreased. The Religious Right grew more powerful because they were supported by many churches and congregations, and in 1980 when the Democratic Party included gay rights in their platform, the Republican Party had a plank defending the traditional American family.<sup>16</sup>

The stigma against gays and lesbians that became more visible at the end of the 1970s became worse in the 1980s. The AIDS crisis that hit the U.S. represented a serious setback for the gay activist movement. AIDS was initially viewed as a "gay cancer" and conservative religious leaders viewed it as a judgment from God because of their immoral way of life. The fear was a result of little knowledge among the public of how the disease was transmitted and it led to actions of severe discrimination of homosexuals, such as employers firing people they suspected had AIDS. Only after the epidemic had lasted six years and killed over 20 000 people did President Reagan mention it publicly. It took years before his administration requested congressional support for AIDS research and they continued to permit employers to discharge people with AIDS from their work in fear of spreading the disease.<sup>17</sup>

Gay activism also suffered a setback on the subject of decriminalizing sex between same-sex partners. Defenders of sodomy laws used AIDS as an argument to uphold the

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<sup>13</sup> *Roe v. Wade*, 410 U.S. 113 (1973).

<sup>14</sup> Klarman, *From the Closet to the Altar*, 26.

<sup>15</sup> Klarman, *From the Closet to the Altar*, 26-29.

<sup>16</sup> Klarman, *From the Closet to the Altar*, 33.

<sup>17</sup> Klarman, *From the Closet to the Altar*, 33-35.

criminalization of homosexuality. In 1986 in the case of *Bowers v. Hardwick*, Michael Hardwick was prosecuted for having sex with another man in the privacy of his own home. The case was appealed to the U.S. Supreme Court who decided that the sodomy laws were not unconstitutional and that the right to privacy did not cover homosexuals.<sup>18</sup> The Bowers decision and the AIDS crisis forced the Gay Activist Movement to shift their focus from civil rights to AIDS related issues. Increased funding for research on AIDS and protecting victims of AIDS from discrimination became more important and urgent than civil rights. One can argue that AIDS was an important reason for the setback of the gay rights activists of the 1980s but it also made more people supportive of gay activism. The percentage of Americans who reported knowing someone who was gay doubled between 1985 and 1992. AIDS forced people “out of the closet” as they were diagnosed and this showed people that gays and lesbians were their friends, co-workers and family.<sup>19</sup>

After the setbacks in the 1980s the Gay Activist Movement actually gained more support. People had sympathy for the situation they were in, especially with such a severe threat as AIDS facing them. In the 1990s life improved in many aspects for American gays and lesbians. In 1992 Bill Clinton ran on a gay friendly platform in the presidential election. He promised that he would sign an order barring discrimination based on sexual orientation in the U.S. army if he was elected and that he would support a “Manhattan Project” on AIDS to find a cure.<sup>20</sup> During his presidency, gays and lesbians were appointed to high-ranking positions in his government and he began working to repeal the ban on homosexuals in the military. The repeal was met with opposition from Conservatives that dominated Congress. To avoid losing support for other plans that were important to the Democrats President Clinton presented the “Don’t Ask, Don’t Tell” as a compromise. “Don’t Ask, Don’t Tell” was a directive that military applicants should not be asked about their sexual orientation. As long as they kept it hidden nobody would investigate them. The purpose of the directive was to end the witch-hunt against gays in the military, but gay activists saw it as a betrayal. Instead of securing their privacy it forced them to keep part of their lives hidden.<sup>21</sup>

Marriage was still a part of the discussion within the Gay Movement in the early nineties but opinions on the subject remained divided. For some, equality meant access to the same rights as everybody else enjoyed and that included marriage. Others wanted to be

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<sup>18</sup> *Bowers v. Hardwick*, 478 U.S. 186 (1986).

<sup>19</sup> Klarman, *From the Closet to the Altar*, 40-42.

<sup>20</sup> Klarman, *From the Closet to the Altar*, 43-44.

<sup>21</sup> Klarman, *From the Closet to the Altar*, 45-47.



accepted for the way they were different and did not want to be assimilated into traditional institutions such as marriage. Without the right to marry same-sex couples missed out on important benefits and protection, such as inheritance, hospital visitation rights and joint tax filing status. The Gay Activist Movement agreed that these rights had to be obtained and this led to them focusing on marriage in their work.

In 1993, Hawaii became the first state in the U.S. to recognize same-sex marriage. In 1990 three gay couples had applied for marriage licenses and been denied them in Hawaii. They filed a lawsuit that started the modern epoch of same-sex marriage in the U.S. In *Baehr v. Lewin*, in 1993, the Hawaii state supreme court ruled that denying same-sex couples the right to marry constituted discrimination based on sex in the same way as interracial marriage bans constituted discrimination based on race. However, the couples' marriages did not last long. In 1994 Hawaii legislatures enacted a bill that defined marriage to be between a man and a woman. The case of *Baehr v. Lewin* was not appealed further because the plaintiffs feared it would go to the U.S. Supreme Court where their chances for winning were small.<sup>22</sup>

After the decision in Hawaii some states amended their laws to define marriage to be between a man and a woman or to a stronger ban on same-sex marriage. Religious leaders, such as TV-evangelist Pat Robertson, supported conservative Republican Congressional representatives. They visited Republican candidates in the presidential election in 1996 and threatened to withhold their support if they did not endorse the politics of Christian conservatives. This pressure resulted in a Congress dominated by social conservative republicans with anti-gay right positions.<sup>23</sup> In 1996, the federal Defense of Marriage Act (DOMA) was passed. This allowed states to not give full credit to any law or judicial decision of another state recognizing same-sex marriage. It also provided a federal definition of marriage and this affected federal benefits, such as immigration rights and social security survivorship benefits. The debate about this bill quickly turned from focusing mainly on same-sex marriage to a general attack on homosexuality. President Clinton decided to sign the bill without public ceremony because he saw the motives behind it as questionable.<sup>24</sup>

Even though the gay community suffered from discriminating legislatures in the 1990s, homosexuality became more accepted publicly. Movies and TV-series such as *Friends* and *Will and Grace* dealt with gay marriage issues by including gay characters and depicting the problems they faced. A dozen states expanded their hate crime laws to protect

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<sup>22</sup> *Baehr v. Lewin*, 74 Haw. 530 (Haw. 1993).

<sup>23</sup> Klarman, *From the Closet to the Altar*, 60.

<sup>24</sup> Klarman, *From the Closet to the Altar*, 61-63.

homosexuals and several states invalidated sodomy laws.<sup>25</sup> DOMA did not put an end to same-sex marriage. After the DOMA was passed lawsuits concerning gay marriage appeared in states all over America. In 1997, in the case of *Baker v. State*, three same-sex couples filed suit after being denied marriage licenses. The case went to the state Supreme Court, who ruled that the law excluded same-sex couples from marriage to be invalid.<sup>26</sup> They gave the legislators the choice between legalizing same-sex marriage or creating an additional institution that included same-sex couples and provided the same protection and benefits as a marriage. This led to the passing of a bill that established civil unions in Vermont in 2000. California and Hawaii allowed gay couples to register for domestic partnerships but these did not provide as many benefits and rights as civil unions.<sup>27</sup>

The Vermont decision polarized the political parties and most Republicans opposed civil unions and domestic partnerships because they believed it would lead to the legalization of gay marriage. In 2000, Nebraska passed a proposition to ban civil unions and domestic partnerships by a popular vote and Mississippi passed a law banning same-sex couples from adopting.<sup>28</sup> Even though opposition to gay marriage still had a strong foothold, the Gay Activist Movement saw improvement in several different areas. In 2003, the number of states criminalizing sex between same-sex partners was down to 13 and the general view on homosexuality had developed in a positive direction. In 1998, John Lawrence was arrested and prosecuted in Houston Texas for sodomy after having had consensual sex with another man in his own home. The police had entered the home on reports of a robbery that turned out to be false. Lawrence appealed the case and it eventually went to the U.S. Supreme Court in 2003. In *Lawrence v. Texas* the Supreme Court invalidated all sodomy laws in a 6 to 3 vote and ruled that discrimination against gays and lesbians was unconstitutional under the Equal Protection Clause. This made the decriminalization of homosexuality that the American Gay Activist Movement had worked for since the 1960s, a reality.<sup>29</sup>

Religious conservatives were concerned that *Lawrence v. Texas* would affect same-sex litigation, which it did five months later. In *Goodridge v. Department of Public Health* the Massachusetts Supreme Judicial Court ruled that denying someone the protection and benefits of civil marriage, because they wanted to marry someone of the same sex, violated

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<sup>25</sup> Klarman, *From the Closet to the Altar*, 71-73.

<sup>26</sup> *Baker v. State*, 170 Vt. 194 (Vt. 1999).

<sup>27</sup> Klarman, *From the Closet to the Altar*, 76-79.

<sup>28</sup> Klarman, *From the Closet to the Altar*, 83-85.

<sup>29</sup> *Lawrence v. Texas*, 539 U.S. 558 (2003).

the Massachusetts Constitution.<sup>30</sup> Mormon Massachusetts Republican Governor Mitt Romney asked to have the implementation postponed so that the people could vote on an amendment to the state constitution that would ban same-sex marriage. The Democratic attorney general refused and same-sex couples were given the right to marry. In the time it took for the amendment to be introduced to Massachusetts's legislators in 2005, thousands of same-sex couples had married and the general opinion in the state was supportive of gay marriage. The amendment to ban same-sex marriage and approve civil unions was defeated by a great majority of 157 to 39 votes. That so many supported the issue proved that same-sex marriage in Massachusetts had been a great success.<sup>31</sup>

The implementation of civil unions and legalization of same-sex marriage in Massachusetts created a wave of political backlash across the country. Polls showed that support for gay marriage had diminished after the Massachusetts decision. Those who opposed same-sex marriage felt more passionate about it than those who supported it.<sup>32</sup> Thirteen states had passed referenda barring same-sex marriage called mini-DOMAS and religious conservatives started lobbying for an amendment to the federal constitution that would reserve marriage exclusively to opposite-sex couples. President Bush, who had been reelected in 2004, warned in his State of the Union address that same year that if “activist judges” did not stop “redefining marriage by court order” a federal marriage amendment would be “the only alternative left”.<sup>33</sup>

The mayor of San Francisco, Gavin Newsom, was distraught by what many saw as the President's effort to divide the nation over the issue of same-sex marriage. California had passed a marriage amendment similar to the mini-DOMAS in 2000 but in 2004 Newsom disregarded this law and allowed for same-sex couples to marry. The California Supreme Court declared these marriages null and void after ruling that the San Francisco mayor had overstepped the boundaries of his authority. This led to several lawsuits from the same-sex couples that had already gotten married in California, and the lawsuits eventually reached the California Supreme Court in 2008. The court ruled in favor of same-sex marriage concluding that the state Constitution protected the fundamental right to marry. In the fall of 2008 a new ballot measure was passed by popular vote, *Proposition 8*. This ballot measure proposed an

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<sup>30</sup> Klarman, *From the Closet to the Altar*, 91.

<sup>31</sup> Klarman, *From the Closet to the Altar*, 95-97.

<sup>32</sup> Klarman, *From the Closet to the Altar*, 98.

<sup>33</sup> Klarman, *From the Closet to the Altar*, 98-99.

amendment to the California Constitution that would define marriage to be for opposite-sex couples only, which consequently banned same-sex marriage.<sup>34</sup>

After the ballot measure went through, an explosion of demonstration and activism for gay equality appeared. Two same-sex couples filed a suit challenging *Proposition 8* under the federal constitution, a lawsuit that the ACLU and other gay rights organizations claimed was premature.<sup>35</sup> The case of *Perry v. Schwarzenegger* was the first case concerning same-sex marriage that made it to a federal court. In the Northern District Court of California the judge struck down *Proposition 8* and ruled in favor of same-sex marriage on broader grounds. The proponents of *Proposition 8* appealed the case to the Ninth Circuit and in *Perry v. Brown* they lost again.<sup>36</sup> The case was appealed a second time and this time it went to the U.S. Supreme Court in 2013. In *Hollingsworth v. Perry*, the court ruled that the petitioners did not have standing under the Constitution to appeal the case. The result was that the ruling of the Ninth Circuit was vacated and the ruling of the Northern District Court of California became the standing ruling. *Hollingsworth v. Perry* gave same-sex couples in California the right to marry, while the U.S. Supreme Court left the question of same-sex marriage bans untouched.<sup>37</sup>

Within five years of *Goodridge v. Department of Public Health*, 25 more states banned same-sex marriage. In the 2004 presidential election the Republicans gained massive support from religious conservatives and received donations from religious communities by focusing on the gay marriage referenda. The opposition to same-sex marriage was strong between 2004 and 2007 and the Gay Activist Movement suffered many setbacks both legally and politically.<sup>38</sup> As the case of *Perry v. Schwarzenegger* unfolded in California the question of same-sex marriage was discussed all over the U.S. States and courts were more involved and had to find a solution. In 2009, several states legalized gay marriage and polls showed that the American population became more supportive of gay marriage. Politicians, both Republicans and Democrats, publicly expressed their support of same-sex marriage. This put pressure on President Obama who so far had avoided the topic.<sup>39</sup>

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<sup>34</sup> "Timeline: Proposition 8," *LA Times*, June 23, 2010, accessed April 16, 2016. <http://www.latimes.com/local/la-prop8-timeline-story.html>

<sup>35</sup> Klarman, *From the Closet to the Altar*, 137-139.

<sup>36</sup> Klarman, *From the Closet to the Altar*, 158-160.

<sup>37</sup> *Hollingsworth v. Perry*, 558 U.S. 183 (2010).

<sup>38</sup> Klarman, *From the Closet to the Altar*, 105-107.

<sup>39</sup> Klarman, *From the Closet to the Altar*, 140.

President Obama stated for many years that he opposed same-sex marriage but supported civil unions. Later he said his opinion was evolving, and in May 2012 he expressed his support of gay marriage.<sup>40</sup> The Obama administration became important for the progression of same-sex marriage and the gay rights cause. They improved gay rights by appointing gays and lesbians to prominent positions in the federal government, lifting visa restrictions on people with HIV, and extending limited benefits to same-sex partners. In December 2012 the senate passed a bill repealing “Don’t Ask, Don’t Tell”, and Obama later signed it. In 2013, the DOMA was challenged under the federal Constitution in *Windsor v. United States*. Edie Windsor and Thea Spyer were together for 44 years and married for two. They got married in Canada before Thea died two years later in 2009. Their marriage was recognized by the state of New York but not by federal law. The government taxed Edie’s inheritance as though she and Thea were strangers instead of granting her the benefits of a reduced tax that she would have gotten had she been recognized as Thea’s spouse. Windsor filed a suit seeking the DOMA to be declared unconstitutional and in June 2013 the U.S. Supreme Court in 5-4 vote agreed. The court ruled that section 3 of the DOMA defining marriage to be between a man and a woman was unconstitutional and consequently same-sex marriages had to be recognized by federal government, although states were still allowed to deny gay marriage.<sup>41</sup>

The support for same-sex marriage progressed immensely after *Hollingsworth v. Perry* and the repeal of “Don’t Ask, Don’t Tell” and DOMA. Gay marriage was legalized in several states and by November 2014, 35 states legalized same-sex marriage. This meant that more states legalized same-sex marriage than states who banned it.<sup>42</sup> In 2015, plaintiffs from different states (Ohio, Michigan, Kentucky and Tennessee) sued their state agencies to challenge the constitutionality of their bans on same-sex marriage. The plaintiffs argued that the statutes violated the Equal Protection Clause and Due Process Clause of the Fourteenth Amendment and the case went to the U.S. Supreme Court. On June 26, 2015 the Court ruled in a 5-4 vote that marriage was a fundamental right and that it included same-sex couples as well as opposite-sex couples. With this, same-sex marriage became legal in all states of the

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<sup>40</sup> Phil Gast, “Obama announces he supports same-sex marriage”, *CNN*, May 10, 2012, accessed April 20, 2016. <http://edition.cnn.com/2012/05/09/politics/obama-same-sex-marriage/>

<sup>41</sup> *United States v. Windsor*, No. 12-307 (U.S. Jun 26, 2013).

<sup>42</sup> ” State-by-State History of Banning and Legalizing Gay Marriage, 1994-2015”, *Procon.org*, Last modified February 6, 2016, accessed April 20, 2016. [http://gaymarriage.procon.org/view\\_resource.php?resourceID=004857](http://gaymarriage.procon.org/view_resource.php?resourceID=004857)

United States.<sup>43</sup> By June 2015 same-sex marriage had become the law of the land. Some important rights are still not available to gays and lesbians but with the *Obergefell v. Hodges* ruling the protection, benefits and obligations of marriage at least is.

## 1.4 Historiography

To understand the debate about same-sex marriage and the position that religion has in the debate, it is important to understand the role and definition of marriage. Marriage is by many seen as an important institution that functions as the cornerstone of western society, a place of family, safety, rights and obligations. It is an institution that has always been a part of society and one that follows long traditions and is a central part of many religions. Since this institution is so important in society there are many reasons as to why the right to marry is a significant right to have, and why gay activists have fought for it for so long.

Stephanie Coontz has studied marriage in the U.S. and how it has evolved through time. In her book *Marriage, a History: How Love Conquered Marriage*, Coontz argues that marriage has been a very important institution that has had financial, political and social functions. But this has changed in the course of centuries and today its role is different.<sup>44</sup> From its beginning the United States has put the man in the position as breadwinner of the family. This has made him superior to the woman and the laws concerning marriage have ensured this hierarchy. Under the laws of *coverture*, the woman was legally the property of either her father or her husband. This meant she could not legally own nor decide anything by herself.<sup>45</sup> This has had a major effect on how marriage has been seen and understood historically. Marriage has been a way to ensure the family financially and a way to gain a position socially.

Further Coontz argues that it is not until quite recently that marriage has been seen as a uniting of two individuals for love and intimacy. Marriage is no longer necessary to preserve a financial, political or social status since this can be achieved individually. The focus has therefore shifted to the emotional connection between two people.<sup>46</sup> It is also important to notice the change in the woman's position in the world, which consequently affected the construction of marriage as well. Marriage featured two standards of living; one for the man, and one for the woman and children. Up until the 1970s in all states in the U.S.,

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<sup>43</sup> *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015).

<sup>44</sup> Stephanie Coontz, *Marriage, a History: How Love Conquered Marriage*, (Penguin, 2005), 306.

<sup>45</sup> Coontz, *Marriage, a History*, 185-189.

<sup>46</sup> Coontz, *Marriage, a History*, 306-307.

the man had the right to abuse his wife and even rape her without being prosecuted. If a man committed adultery it was not seen as a public matter, but a woman would be scrutinized.<sup>47</sup> This was all a part of the traditional marriage and when feminism led to more equality between the sexes the role of traditional marriage changed. The woman's position became stronger and her rights in marriage were strengthened. That there has been a change in the construction of marriage shows that the idea of a traditional marriage is one that has not existed for decades. Marriage today is a more joyful concept.<sup>48</sup>

Even though marriage has evolved from its origin and the traditional sense, Coontz argues that it is still a very important institution in the U.S. because it brings something positive to the couples that live by it. Cohabiting couples are not acknowledged in the same way as married couples are by law and the people around them. Being married gives you a public image that sets a high standard for the couple's behavior and what respect they deserve.<sup>49</sup> This is why marriage is a right that has become very important for gay rights activists to fight for, and also why it might be important for some groups to deny them that right.

William N. Eskridge agrees with Coontz on some of her points, especially the view of married couples versus cohabiting couples. Marriage in the U.S. is much more than a symbol of love; it is also an institution that provides protection, benefits and obligations that are useful for any relationship. Eskridge encourages gays and lesbians to fight for their right to marry so that they can be given the same benefits as other couples, benefits they most likely will need at some time. Coontz states that marriage brings something positive to people and Eskridge argues that same-sex couples suffer from being denied that right. Not allowing someone a right or withholding protection and benefits from them based on their sexual orientation is to confirm that they are viewed as lesser people. Eskridge warns gays and lesbians that not fighting for same-sex marriage is to accept their position as second-class citizens. He argues that the fight for marriage is more about civil rights than just forming a union with someone you love.<sup>50</sup>

Eskridge sums up the main objections to same-sex marriage and argues that they are inspired by an antihomosexual emotion. He names three different types of objections to gay marriage; definitional, stamp- of approval, and pragmatic. Definitional and Stamp-of

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<sup>47</sup> Coontz, *Marriage, a History*, 309.

<sup>48</sup> Coontz, *Marriage, a History*, 306-308.

<sup>49</sup> Coontz, *Marriage, a History*, 310-11.

<sup>50</sup> William N. Eskridge, *The Case for Same-Sex Marriage, From Sexual Libert to Civilized Commitment*, (New York: The Free Press, 1996), 62-66.

Approval objections are based on the notion that marriage has a history and tradition that needs to be taken into account. Marriage has traditionally been between a man and a woman and those who support this argument believe that this is how it should stay. Eskridge explains that this is a circular argument, meaning that since something has not been done before it should not be done in the future either.<sup>51</sup> The second one is that marriage is a way to secure procreation; this is based in natural law and used by both religious and secular critics.<sup>52</sup> Lastly there is the argument of same-sex relations going against religion and personal beliefs. The support within religious groups and denominations varies widely and many religious people support gay marriage. But there is also a strong religious opposition who rely on their belief in arguing against same-sex marriage.<sup>53</sup> Pragmatic objections are less focused on in this debate. These types of arguments are based on an economic and structural concern of giving same-sex couples the same benefits and protection as opposite-sex couples. Those who use these types of arguments are often concerned about the consequences of same-sex marriage and how it will affect anyone but gays and lesbians.<sup>54</sup>

Nancy Cott also argues that the right to marry is not only about being allowed to marry. She compares it to the situation after the Civil War when ex-slaves demanded the right to marry so they would have access to basic rights.<sup>55</sup> Cott argues against those who claim that marriage has a long tradition in the U.S. She claims that an argument based on tradition cannot stand against an argument based on history. Throughout her book she shows how marriage has changed in the U.S. and how “traditional marriage” no longer is a part of today’s institution of marriage. She claims that the institution of marriage is not a static one, but one that it is able to evolve and adapt. There have been important changes such as the legalization of interracial marriage. This exemplifies how the institution of marriage has evolved over time. Cott argues that the downfall of the marital rape exemption is one of the most important changes within marriage. This was the longest lasting legal feature of *coverture* and when it was overturned a particular model of marriage was gone.<sup>56</sup> Cott claims that the institution of marriage will not suffer by providing its right to same-sex couples, it will simply adapt to a new format.

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<sup>51</sup> Eskridge, *The Case for Same-Sex Marriage*, 91-96.

<sup>52</sup> Eskridge, *The Case for Same-Sex Marriage*, 96-98.

<sup>53</sup> Eskridge, *The Case for Same-Sex Marriage*, 98-104.

<sup>54</sup> Eskridge, *The Case for Same-Sex Marriage*, 115.

<sup>55</sup> Nancy F. Cott, *Public Vows: A History of Marriage and the Nation*. (Harvard University Press, 2002), 216.

<sup>56</sup> Cott, *Public Vows*, 211.



The discussion about same-sex marriage is one that engages people from all parts of society. Activist organizations, political parties and religious groups are among some of those who participate in the public debate. Interestingly there is a discussion and disagreement concerning marriage within the gay and lesbian community as well. Not all gays and lesbians share the belief that the right to marry is imperative for homosexuals to be seen as equals in society. Eskridge looks into this discussion and what reasons people within the community gave when describing why they were pro or against same-sex marriage. Those who support activism for gay marriage do it for the marriage itself, the rights that accompany it or because they want to be seen as equal to the rest of the population.<sup>57</sup> Those who are opposed to same-sex marriage often disagree with the institution of marriage. They look at it historically and see it as a patriarchal system that is based on ownership, property and the dominance of men. They do not want to be a part of this institution and would rather have a similar solution that provides them with the same benefits and protection as marriage does.<sup>58</sup> For others it comes down to their position in society, how they are understood and seen. Many gays and lesbians focus on being treated as equals and do not want to be seen as different. They argue that they should be given the same opportunities as others and not be treated different in any way. Other gays and lesbians feel that their differentness should be celebrated and not suppressed. They argue that the society is trying to assimilate homosexuals into a way of life. They believe that being a part of marriage as it is today will only enforce this assimilation.<sup>59</sup>

In support or opposition to same-sex marriage Kathleen E. Hull has found that the institution of marriage is a part of the lives of gays and lesbians either way. Marriage affects them either through expectation from other people or aspects of how they structure their relationship. In interviews she found that many same-sex couples use language and rituals associated with marriage to express the nature of their relationship. This is because expressions and rituals associated with marriage have become cultural tools to express emotions and relations in our society.<sup>60</sup> Many of the couples she interviewed affirmed that they had performed a public commitment ritual with their friends and family present. When asked why, they explained that it allowed them to communicate the depth and nature of their commitment to the people around them. Hull argues that these rituals can be useful in the

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<sup>57</sup> Eskridge, *The Case for Same-Sex Marriage*, 62-66.

<sup>58</sup> Eskridge, *The Case for Same-Sex Marriage*, 77-79.

<sup>59</sup> Eskridge, *The Case for Same-Sex Marriage*, 80-82.

<sup>60</sup> Kathleen E. Hull, *Same-Sex Marriage: The Cultural Politics of Love and Law*, (Cambridge University Press, 2006), 30.

fight against the stigma that same-sex couples encounter and it can increase the stability of their commitment to each other.<sup>61</sup>

Civil Unions were first offered in the U.S. in Vermont in 2000 after the case of *Baker v. Vermont*. Civil Unions can provide benefits and protections, such as health benefits and access to a partner's medical information. They were offered as an option to marriage to extend the rights of same-sex couples. The issue with civil unions was that the federal government did not recognize them and DOMA made it possible for states to not acknowledge them. Because of this the rights that civil unions provided varied from state to state.<sup>62</sup>

Brook J. Sadler looks into civil unions and what the proponents and opponents of it felt about it. She found that even though the subject of the discussion was civil unions it still came down to marriage. Those who are opposed to civil unions see them as a way to keep marriage unavailable to gays and lesbian. Creating an institution that is supposed to be equal to marriage but in reality is not, is a way to degrade homosexuals as second-class citizens. The proponents of civil unions also have an interest in protecting the institution of marriage. Creating an option for gays and lesbians that would give them close to equal rights could prevent them from wanting the right to marry. This would secure the definition and tradition of marriage, which is the proponent's main goal.<sup>63</sup>

Sadler claims that civil unions might create a possibility to form a new type of marriage that is not connected to today's civil marriage. She argues that including gays and lesbians in marriage can only be positive because it will make certain rights available to them. She also argues that legalizing same-sex marriage meets so much resistance from people not wanting to change the definition of marriage or the institution that it is. It might therefore be an idea to create something new, such as a civil union or marriage that is not affiliated with any existing institution. Opening a new concept of unions for everyone might be easier than changing marriage itself.<sup>64</sup>

Same-sex marriage has evolved immensely these past decades and many believe that this was a natural development that would have happened without gay activists or litigation.

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<sup>61</sup> Hull, *Same-Sex Marriage*, 41-42.

<sup>62</sup> Remy Melina, "How doe Marriages, Civil Unions and Domestic Partnerships Differ," *Live Science*, August 17, 2010, accessed May 16, 2016. <http://www.livescience.com/32770-how-do-marriages-civil-unions-and-domestic-partnerships-differ.html>

<sup>63</sup> Brook J. Sadler, "Re-thinking Civil Unions and Same-sex Marriage," *The Monist*, Vol.91, No. ¾ (July & October 2008), 78-579.

<sup>64</sup> "Re-thinking Civil Unions and Same-sex Marriage," 581-590.

Michael J. Klarman argues that litigation has played a major role in the story of same-sex marriage and that the backlash it has created might have had an impact on the gay rights cause. His argument is that when the first court-cases concerning same-sex marriage appeared in the 1990s most gay rights activists saw it as a utopian idea, but that it is this litigation that has led to a majority of Americans supporting same-sex marriage.<sup>65</sup> These court-cases created a backlash that made same-sex marriage an issue states had to deal with. When media exposure increased it led to the issue being put on the agenda of the public debate, which in turn led to members of the LGBT-community seeing that there was an opportunity for them to marry. This opportunity created hope for people, which made them want to join the activist movement. A stronger activist movement eventually contributed to same-sex couples being allowed to marry.<sup>66</sup>

When same-sex marriage became an issue that every state in America had to take a stand on, the question of when same-sex marriage would become legal nationwide and what factors affected that became relevant. Nate Silver successfully predicted the presidential election in 2012. In 2013, he developed a statistic model that could predict when same-sex marriage could become legal nationwide through a referendum. What is interesting with this model are the factors included to predict this. Silver looked at the median age of state residents, the state's general political leaning, how many of its residents that see religion as an important part of their daily lives and the percentage of evangelicals in the state. He predicted that by 2016, 32 states would vote in favor of gay marriage, in 2020 only 6 states would oppose it and by 2024 every state in the U.S. would be in favor of same-sex marriage. Interestingly, Silver was not far from predicting the correct time that same-sex marriage would be legalized. Even though same-sex marriage was not decided through a popular vote in the U.S., he only missed by six months. Since this model proved to be quite correct the indicators that Silver used in his prediction can imply what affects people's opinion of same-sex marriage.<sup>67</sup>

Silver's model shows that religion and age are important factors concerning same-sex marriage and polls from July 2015 confirms this. These polls show that the younger generations are more likely to be supportive of gay marriage and that women are slightly

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<sup>65</sup> Klarman, *From the Closet to the Altar*, 208-210.

<sup>66</sup> Klarman, *From the Closet to the Altar*, 209-211.

<sup>67</sup> Nate Silver, "How Opinion on Same-Sex Marriage is Changing, and What It Means", *FiveThirtyEight*, March 26, 2013, accessed April 23, 2016. [http://fivethirtyeight.blogs.nytimes.com/2013/03/26/how-opinion-on-same-sex-marriage-is-changing-and-what-it-means/?\\_hstc=215845384.ec0918c403393bb6d136258fc6932fce.1363705083853.1364240144123.1364398842178.10&\\_hssc=215845384.1.1364398842178&\\_r=0](http://fivethirtyeight.blogs.nytimes.com/2013/03/26/how-opinion-on-same-sex-marriage-is-changing-and-what-it-means/?_hstc=215845384.ec0918c403393bb6d136258fc6932fce.1363705083853.1364240144123.1364398842178.10&_hssc=215845384.1.1364398842178&_r=0)

more supportive than men.<sup>68</sup> Those who are religiously unaffiliated score as much more supportive than those who are religiously affiliated and within different religions the support varies widely. Among the different religious groups in the U.S., Buddhists and Jews are the most supportive. White mainline Protestants, such as Presbyterians, Episcopalians and Baptists score highly in support from 53-69%. The Catholic Church officially opposes gay marriage but in the U.S. 61% of white Catholics and 60% of Hispanic Catholics support it. On the other side 75% of Jehovah's Witnesses, 68% of Mormons, 66% of White evangelical Protestants, 58% of Hispanic Protestants and 54 % of Black Protestants are opposed to same-sex marriage.<sup>69</sup>

These polls show that among the different religious communities in the U.S. denominations of Christianity, more specifically Protestantism are the ones who differ the most on the issue of same-sex marriage. *Gaychurch.org* completed a survey of which Christian churches in the U.S. support and endorses same-sex marriage. In 2013 over 7000 churches from different denominations affirmed gay marriage. The United Church of Christ, Episcopal, Presbyterian, Lutheran ELCA and United Methodist made up almost 70% of these churches even though only the three first have officially endorsed it. Churches that still officially ban same-sex marriage are among others the Roman Catholic Church, the American Baptist Church and the Church of Jesus Christ of Latter-day Saints.<sup>70</sup>

The debate concerning same-sex marriage has developed a lot since the early 1970s. The arguments that were used in this debate have been aimed at different issues, but one factor that has always been present is religion. Religion has been used as an argument both in support and opposition to same-sex marriage and it has been an issue that all religious communities in the U.S. have had to take a stand on. Since religion has been so present in this debate it makes it an interesting aspect to look into, which is what I will do in this thesis.

In the following chapters I will look into the rhetoric that has been used in the debate concerning same-sex marriage and look at how it has developed and important shifts that have occurred the argumentation. Since polls show that the opinion about same-sex marriage differ so much more within the Protestant denominations than other religious groups, this is the group I will focus on. This is also because it is the opinion and scripture of these

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<sup>68</sup> Robert P. Jones, "Attitudes on Same-Sex Marriage by Religious Affiliation and Denominational Family", *Public Religion Research Institute*, April 22, 2015, accessed April 23, 2016. <http://publicreligion.org/2015/04/attitudes-on-same-sex-marriage-by-religious-affiliation-and-denominational-family/>

<sup>69</sup> "Attitudes on Same-Sex Marriage by Religious Affiliation and Denominational Family"

<sup>70</sup> "2013 Affirming Church Survey," *Gaychurch.org*, January 2014, accessed May 19, 2016. <http://www.gaychurch.org/affirming-denominations/affirming-church-survey/2013-survey/>

denominations that are the most present in the debate. In chapter two I will look at the debate from when religion first started to appear in the debate in 1970s to the case of *Proposition 8* in 2008. I will look at the argumentation from both sides of the debate and see who used religion and how they used it. I will also show a shift in the rhetoric concerning the use of religion. Chapter 3 follows the debate from *Obergefell v. Hodges*, the Supreme Court ruling that legalized same-sex marriage, to the cases that are debated today concerning the right to freedom of religion. It looks into how religion has been used in these cases and analyzes two new shifts in the rhetoric of the debate.



## **2 Religion and Arguments in the Early Debate Concerning Same-Sex Marriage**

This chapter will follow the debate concerning same-sex marriage from its early beginning in the 1970s to the *Proposition 8* in California and the following court cases. It looks into how religion became a part of the debate and how the rhetoric used by the religious opposition to gay marriage shifted during these years. Their rhetoric went from being “hateful” with focus on how homosexuality was a sin, to a milder rhetoric with more focus on the definition of marriage and children. To show the shift in rhetoric this chapter analyzes how the religious opponents to same-sex marriage used and still use scripture to argue their case in the debate. And how *Proposition 8*, even though it did not focus on religion, was founded and had based its main arguments on religion.

### **2.1 The Early Debate About Gay Marriage and Homosexuality as a Sin**

The rhetoric in the debate concerning same-sex marriage has evolved over the years from an aggressive look at homosexuals as sinners and potential molesters to less focus on sin and more on the definition of marriage. In the 1970s the debate on gay rights started to get a lot of attention because of the first questions concerning same-sex marriage and the spark in gay rights activism after the Stonewall Riots. In the 1970s religion became a valid part of the discussion and campaigns and organizations started to focus on religion in their arguments. During these years the debate was characterized by having very extreme opposites with homosexuality as a sin against God on one side, and equal rights on the other.

#### **2.1.1 The Religious Right and Opponents to Same-Sex Marriage**

Florida in the late 70s was the first appearance of religion in the debate on gay rights where it actually had an important impact. In 1977 the Miami-Dade County passed an ordinance that would stop discrimination in housing and employment based on sexual orientation. This was an important step for gay activists and a progressive step for a southern county. The ordinance met strong resistance in conservative religious groups led by singer

Anita Bryant who believed that homosexuals had no legitimate place in a respectable society.<sup>71</sup>

Bryant started the campaign *Save Our Children*, which focused on the children's right to grow up in what Bryant considered a decent society. The campaign argued that since homosexuality was condemned in their faith as a sin, the ordinance would discriminate the religious rights of Christians. The ordinance of homosexuals would make it difficult for Bryant to point to others as examples of God's moral code, which she wanted to teach her children. She argued that such an ordinance would stop her from exercising her faith the way she wanted and therefore infringe on her Freedom of Religion. In Bryant's and her followers campaign to repeal the ordinance they portrayed equal rights activists as anti-Christian oppressors and claimed that Christians became victims of religious persecution. Bryant argued that since homosexuals were not able to reproduce, they could only recruit. This was their strategy for the survival of homosexuality and the reason as to why equal rights activists wanted the ordinance to be passed. Her campaign gathered a lot of support, and the ordinance was repealed, barring gays and lesbians from adopting children and certain jobs and housing in Dade-County, Florida.<sup>72</sup>

This way of campaigning and the arguments that Anita Bryant and *Save Our Children* used quickly became a national phenomenon. Bryant moved on to other states and helped voters overturn similar ordinances. Leaders such as TV-evangelist Pat Robertson and Reverend Jerry Falwell adopted Bryant's rhetoric and arguments. In 1973, after the *Roe v. Wade* ruling, conservative evangelists and Christian fundamentalists formed a coalition referred to as the Religious Right. This coalition worked against changing sexual mores such as abortion rights and gay rights because of its contradiction to their faith. The Religious Right went on to gain important impact on voters, court cases and also the Republican Party through their work opposing gay rights activism, same-sex marriage and abortion rights.<sup>73</sup>

The Republican Party showcases the impact of the Religious Right in an interesting way. Between 1912 and 1972 they had no mention of God or any religious matters in their political platforms but between 1972-2012 this increased considerably. In 1976 abortion was mentioned for the first time and by 1980 abortion had gotten an entire section in the political

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<sup>71</sup> Gary Nelson, "In Florida, Miami-Dade has been Ground Zero for Gay Rights Struggle", *CBSMiami*, January 5, 2015, accessed May 10, 2016. <http://miami.cbslocal.com/2015/01/05/in-florida-miami-dade-has-been-ground-zero-for-gay-rights-struggle/>

<sup>72</sup> Michael Wolraich, "Anita Bryant and the Myth of the Militant Homosexual", *The Daily Beast*, April 4, 2015, accessed April 29, 2016. <http://www.thedailybeast.com/articles/2015/04/04/anita-bryant-and-the-myth-of-the-militant-homosexual.html>

<sup>73</sup>"Anita Bryant and the Myth of the Militant Homosexual".



platform where they argued for the right to life for unborn children. This shows that the work the Religious Right put down trying to remove the right to have an abortion had an important impact on the Republican Party. In 1992 their political platform contained four references to God and seven to “family values”. The Republican Party opposed the inclusion of sexual preference as a protected minority in this platform, which was the first time same-sex marriage was addressed by the Republican Party. In the 2012 Republican Party platform there were as many as ten references to God and 19 to faith. It was also the first time the reference to “war on religion” appeared when claiming that the Obama administration was trying to push religious beliefs and believers out of the public. This development in the Republican Party’s Platforms shows that as the Religious Right have argued certain issues the Republican Party has eventually included them in their politics, which shows the impact the Religious Right had on the party.<sup>74</sup>

Through donations and support the Religious Right gained impact and the possibility to put pressure on the Republican Party. The reason their support was important was that behind the Religious Right there were several different congregations. If the leaders of these congregations chose to endorse a political candidate or issue that would lead to important votes. Having this influence on that many potential votes gave the Religious Right an important voice in the political landscape. The Defense of Marriage Act demonstrates how important the Religious Right became for political candidates. In 1996 when the DOMA was in question the leaders of the Religious Right threatened Republican presidential candidates to withhold support if they did not endorse the politics of Christian Conservatives. The result was a majority vote to pass the DOMA.<sup>75</sup>

The leaders of the Religious Right argued in many years with an us/them rhetoric. Focusing mostly on how homosexuality and abortion was a sin, their rhetoric became “hateful” and colored by disgust. The Religious Right claimed that equal rights activists were attacking their religion and that they experienced a religious persecution. They argued that if gays and lesbians gained rights it would have a negative effect on the rights of religious people because their Freedom of Religion would decrease. When the Religious Right and other religious opponents first began participating in the debate on same-sex marriage they relied heavily on scripture. They argued that in the Bible God has condemned homosexuality

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<sup>74</sup> Lauren Feeney, “Timeline: The Religious Right and the Republican Platform”, *Moyers & Company*, August 31, 2012, accessed April 29, 2016. <http://billmoyers.com/content/timeline-the-religious-right-and-the-republican-platform/>

<sup>75</sup> Klarman, *From the Closet to the Altar*, 60.

as an abomination and that those who “choose” that lifestyle will be punished. Some priests and reverends, such as TV-Evangelists Pat Robertson and Jerry Falwell even went so far as to claim that the AIDS epidemic was punishment from God upon the U.S. because it was a nation that chose to live immorally.<sup>76</sup>

### **2.1.2 The Bible in the Arguments Opposing Gay Marriage**

The Religious Right and other religious opponents to same-sex marriage and gay rights refer to specific books in the Bible. The most common are Genesis, Leviticus, Romans and 1 Corinthians. Genesis is the first book of the Bible and it speaks of the creation of earth and mankind and the entry of sin, death, promise and redemption. In Genesis 2 the story of Adam and Eve is told and it is important in arguing against same-sex marriage because it is seen as God’s example of how relationships should be constructed. God created man and then woman from the man. Their relationship is described like this: “That is why a man leaves his father and mother and is united to his wife, and they become one flesh”.<sup>77</sup> Religious opponents of same-sex marriage argue that this type of relationship, an opposite-sex union, is the one God created and meant for humans to live by. If God saw same-sex unions as acceptable he would have created them. They also argue that only opposite-sex couples can procreate naturally and that procreation is the purpose of mankind. Since same-sex couples cannot procreate naturally they should therefore not be allowed to marry, which makes that type of union not acceptable.<sup>78</sup>

Later, in Genesis 19 there is the story of how the cities of Sodom and Gomorra were destroyed. God had heard an outcry about the sins of the people of these cities so he sent two angels there to see if these sins were as bad as he had been told. In Sodom the two angels were welcomed by Lot, Abraham’s nephew, and stayed at his house. The important part of this verse is: “Before they had gone to bed, all the men from every part of the city of Sodom—both young and old—surrounded the house. They called to Lot, “Where are the men who came to you tonight? Bring them out to us so that we can have sex with them”.<sup>79</sup>” Lot offers his daughters to these men, but they reject them and insist on Lot giving them the

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<sup>76</sup> Klarman, *From the Closet to the Altar*, 34.

<sup>77</sup> Genesis 2:24 (New International Version).

<sup>78</sup> Kevin Deyoung, *What Does the Bible Really Teach About Homosexuality*, (Wheaton:Crossway, 2015), 29.

<sup>79</sup> Genesis 19:4-5 (NIV).

angels. This was the proof of the sins of these cities so God destroyed the cities of Sodom and Gomorra with burning Sulphur raining down and all life being obliterated.<sup>80</sup>

Religious opponents to same-sex marriage and gay rights argue that Genesis 19 shows God's stand on homosexuality because of his punishment on Sodom and Gomorra. They stress the explicit mentioning of men demanding to have sex with the foreign men in Lot's house, claiming that this is a reference to sexual relations between same-sex partners. Later in Ezekiel 16:49 this act is referred to as an abomination, and it is the only act that is singled out as one<sup>81</sup>. God's punishment on Sodom and Gomorra is based on that situation being evidence for the sins of the cities. Many argue that there were several reasons for the cities being destroyed but since Sodom had a reputation for sexual sin and homosexual sin in particular, this stands out as an abomination. Religious conservatives claim this verse to be evidence of God's condemnation of gay sex because even though homosexual sex might not have been the only sin that led to the destroying of Sodom, it was one of them and therefore it is an important sin to condemn.<sup>82</sup>

John MacArthur, an American Evangelical pastor who has an internationally known radio program called *Grace to You* claims that the book of Genesis shows the development of perversion and that Genesis 19 is an example of this kind of perversion. He says in a sermon that the acts of the men of Sodom are an example of how homosexuality is perversion because of the "passion and lust out of control" that the men show. He also stresses the importance of the name Sodom being connected with the word sodomy. MacArthur argues that sodomy becoming the word used for homosexual sex proves that homosexuality was the sin of Sodom and not lack of hospitality, which many claim.<sup>83</sup>

Leviticus is the law that God recites to Moses as his laws to the people. It touches upon many aspects of life and Leviticus 18 concerns unlawful sexual relations. In Leviticus 18:22, it says: "Do not have sexual relations with a man as one does with a woman; that is detestable."<sup>84</sup> In connection to this is Leviticus 20 where God recites punishments for the different sins. In Leviticus 20:13 it says: "if a man has sexual relations with a man as one does with a woman, both of them have done what is detestable. They are to be put to death;

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<sup>80</sup> Genesis 19 (NIV).

<sup>81</sup> DeYoung, *What Does the Bible Really Teach About Homosexuality*, 39.

<sup>82</sup> DeYoung, *What Does the Bible Really Teach About Homosexuality*, 40-41.

<sup>83</sup> "Thinking Biblically About Homosexuality (Selected Scriptures)", *Grace to You*, Youtube video, 1:06:53, June 15, 2012, accessed May 11, 2016. <https://www.youtube.com/watch?v=OVznV4O4sto>

<sup>84</sup> Leviticus 18:22 (NIV).

their blood will be on their own heads.”<sup>85</sup> Religious opponents of homosexuality and same-sex marriage refer to this law as an absolute law because it protects the union that God created. They argue that God created man and woman as a union so that they could procreate. Sexual relations such as incest and homosexuality that does not secure or lead to procreation goes against this union. It is therefore considered an abomination and something to which religious conservatives strongly object, since their wish is to secure Gods purpose for mankind.<sup>86</sup>

Romans is the first book in the Bible that contains the Letters of Paul. In Romans 1:18-32 Paul argues how the truth about God has been suppressed by unrighteousness. God’s righteousness is revealed through the message of the gospel and his wrath through his punishment of those who are unrighteous. Paul argues that one can only be saved through knowledge of the gospel and will not be punished if one does not have this knowledge because God is fair and will not punish those who do not know that what they do is wrong. But he also argues that no one can be truly ignorant of God because by knowing the world around us and the law in our hearts we know God, which makes those who don’t follow the gospel sinners.<sup>87</sup> Paul then explains three examples of human immorality that has made man ungodly, and the third one focuses on same-sex relations:

Because of this, God gave them over to shameful lusts. Even their women exchanged natural sexual relations for unnatural ones. In the same way the men also abandoned natural relations with women and were inflamed with lust for one another. Men committed shameful acts with other men, and received in themselves the due penalty for their error.<sup>88</sup>

The emphasis on sexual relations in this verse, shows that Paul is thinking of homosexual activity in general, not just the sexual act. He does not refer to some sort of prostitution or other non-consensual form of sexual relation. Some argue that the sin Paul refers to was the motivation behind the act or someone exploiting their position to achieve the act. But religious conservatives argue that Paul’s focus on the act itself being the sin, shows that it is not the people or motivations behind it that is the reason for it being a sin. The sin is that the act goes against God’s design of relationships, which is why all aspects of homosexuality are sinful, not only the sexual act.<sup>89</sup>

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<sup>85</sup> Leviticus 20:13 (NIV).

<sup>86</sup> DeYoung, *What Does the Bible Really Teach About Homosexuality*, 46.

<sup>87</sup> DeYoung, *What Does the Bible Really Teach About Homosexuality*, 55.

<sup>88</sup> Romans 1:26-27 (NIV).

<sup>89</sup> DeYoung, *What Does the Bible Really Teach About Homosexuality*, 59.

In 1 Corinthians 6, part of Paul's second letter, he urges the Corinthians to quit judging those outside of the church and look among themselves because God is the only judge and he will one day judge them all. He encourages the people to look at their own immoralities and reminds them that God will not welcome immoral people to his kingdom:

“Or do you not know that wrongdoers will not inherit the kingdom of God? Do not be deceived: neither the sexually immoral nor idolaters nor adulterers nor men who have sex with men nor thieves nor the greedy nor drunkards nor slanderers nor swindlers will inherit the kingdom of God.”<sup>90</sup>

Religious opponents to same-sex marriage have used this verse as an argument of the severity of the sin of homosexuality, they argue that since Paul explicitly mentions sex between men as a sin not accepted by God, it is a grave sin that needs to be condemned. Questions have been raised about the language in this verse and how the ancient Greek has been interpreted in “men who have sex with men”. Some interpretations say “male prostitutes” or “abusers of themselves with mankind”. Other interpretations believe that the Greek words mean “men who have sex with men”, and those who believe this interpretation argue that Paul used the same words that are used in Leviticus 18:22 and 20:13, which also speaks of homosexuality as a sin. Since Paul refers to this use of the words they should be interpreted as they were in Leviticus.<sup>91</sup>

When John MacArthur talks about this part he focuses on how it explains that homosexuality is a sin. He criticizes gay right activists for encouraging homosexuals to live out their sexuality and normalizing it because as he sees it; gay people need to profess their sins so that God can save them. The important thing is not which sin you have committed but that you abstain from committing it again and confess to it. This is why MacArthur finds openly gay people problematic because they are not admitting nor regretting their sin. He compares gays and lesbians to pedophiles and rapists because in his opinion their sin is just as grave. He stresses that God wants to save the sinners and that he, as a pastor, can help them achieve redemption.<sup>92</sup>

### **2.1.3 Supporters of Same-Sex Marriage and their Arguments**

Leading up to the AIDS crisis, the activism for gay rights and same-sex marriage struggled to gain support from the general population. Being open about ones sexual orientation could be dangerous as gay or lesbian because homosexuals were harassed and

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<sup>90</sup> 1 Corinthians 6:9-10 (NIV).

<sup>91</sup> DeYoung, *What Does the Bible Really Teach About Homosexuality*, 65-69.

<sup>92</sup> "Thinking Biblically About Homosexuality (Selected Scriptures)"

discriminated against. It did not make it easier for homosexuals that the opponents to gay rights and marriage focused on the stigma around homosexuality, which people believed to be true or did not want to be associated with. The United States is a secular state, but faith has always been important in its culture. At a time where homosexuality was seen as something rare and strange scripture became important. Finding arguments in scripture supporting the general view society had on homosexuality definitely had an impact on people's personal opinion of it.

Supporters of gay rights and same-sex marriage at this moment in the debate focused their arguments on equal rights and the right to not be discriminated against. These were the most pressing issues and also the issues where they were able to gain support from the public at large. Before they could focus their resources on convincing the public that homosexuality was not a sin, basic civil rights needed to be in place. At this time religion was not a part of their argument and no one seemed to try to find support of homosexuality in the Bible. This would come much later when basic rights had come a long way, which opened some room to focus on other issues as well.

## **2.2 Proposition 8 and the Idea of a Traditional Marriage**

In the 2000s, the rhetoric the religious opponents to same-sex marriage used, changed from being aggressive and at times "hateful" with heavy focus on religion, to a milder rhetoric focusing on the rights of families and children. *Proposition 8* is one of the best examples to illustrate this change in rhetoric. In the 2000s, laws similar to the DOMA were passed by vote in states throughout the country, the so-called mini-DOMAs. As mentioned above, California passed the *Proposition 22* in 2000. This proposition was such a law, and it reserved marriage exclusively to opposite-sex couples. In 2004 the mayor of San Francisco disregarded this law and allowed for same-sex couples to marry, but these marriages were quickly declared null and void after the California Supreme Court ruled that the San Francisco mayor had overstepped the boundaries of his authority. These couples filed suits that eventually reached the California Supreme Court in 2008, which ruled that the state Constitution protects the fundamental right to marry and that this also extends to same-sex couples. Opponents to same-sex marriage, including the Religious Right, argued that this court's decision did not reflect the opinion among the population of California and enacted a ballot measure, *Proposition 8*, that proposed an amendment to the California Constitution that would define marriage to be between one man and one woman, consequently ban same-

sex marriage. In the fall of 2008 the ballot measure was passed by popular vote after a record-breaking expensive campaign.<sup>93</sup>

### **2.2.1 Religion in the Campaign for Proposition 8**

In the early debate concerning gay rights and same-sex marriage the rhetoric used by those who opposed it was often colored by what can be called politics of disgust, which is framing homosexuality as a sin and abomination or that homosexuals are perverts, etc. This was the way Anita Bryant and the Religious Right argued the subject and it was a rhetoric that heavily relied on religion. As major organizations in the U.S., such as the American Psychological Association, and a bigger part of the population started to accept homosexuals, the religious opponents to gay rights and same-sex marriage needed to change their arguments to rely on something different. The campaign for *Proposition 8* was led by an organization called *Protect Marriage*, a coalition of religious political activists, who chose to focus on the definition and tradition of marriage and how same-sex marriage might harm children, instead focused on their religious belief concerning marriage. Even though they focused their rhetoric away from religion, religion still played a major part in the campaign. It can be argued that that the campaign had its roots in religion because it focused on the concept of a “traditional marriage” and on protecting children from learning about non-procreative relationships.

One of the main arguments of the *Proposition 8* campaign was that same-sex marriage would redefine the definition of marriage, which is also referred to as “traditional marriage”. It is interesting to look into the possibility of there in fact being a traditional definition of marriage. Stephanie Coontz have studied marriage in the U.S. and claims that there is no millennial old tradition and that marriage has changed immensely over the past centuries. She found that the most accepted form of marriage worldwide throughout history has been polygamy and that there has not been one “normal form” of marriage, since marriage has evolved and changed throughout time. Even the monogamous heterosexual marriage that has been the norm in the U.S. since it was founded has changed over the past centuries. It has gone from being a patriarchal institution treating women as property and excluding certain ethnicities to an institution including all races where man and woman are

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<sup>93</sup> "Timeline: Proposition 8"

now more equal. Marriage was formerly an institution that secured its members position both financially and socially, but now its purpose is to unite people who love each other .<sup>94</sup>

Further Coontz argues that the construction and understanding of families has changed and led to the concept of “traditional marriage” dying out at the end of the 20<sup>th</sup> century. Today divorce rates have never been higher and the number of single-person households was in the beginning of the 21<sup>st</sup> century higher than those with a married couple and children. This shows us that the “traditional marriage” is no longer the norm of relationships and households in the U.S. Since marriage has changed substantially since the 1700s and the understanding of family is still changing, one can argue that the idea of there being a “traditional marriage” is no longer relevant from a historical point of view.<sup>95</sup>

Debra L. DeLaet and Rachel P. Caufield support Coontz’s argument that history does not endorse a monogamous heterosexual marriage to be the definition of a “traditional marriage”. They argue that this definition of marriage has developed from a particular religious and historical context, not a universal one. The construction of marriage that was protected by *Proposition 8* represents a Christian interpretation of marriage. This definition has been widely supported by Christianity. There are religious groups on both sides of the gay marriage debate and at the time of the campaign for *Proposition 8* the acceptance of same-sex marriage increased. DeLaet and Caufield show how the understanding of marriage changed, there was not a universal agreement of a definition of marriage, not even among religions.<sup>96</sup>

DeLaet and Caufield even go so far as to claim that denying gays and lesbians the right to marry on the grounds of protecting “traditional marriage” could be unconstitutional. It is a violation of the Freedom of Religion because it favors one religious belief over others. The Freedom of Religion clause of the First Amendment protects people’s faith but it also ensures a separation of religion and government. This restricts religion’s impact on the government and helps avoid a creation of difference between people of different faiths. Religious societies and churches in the U.S. are divided on the topic of gay marriage. In 2008 most of the churches that had endorsed gay marriage or begun a debate on the topic had a Judeo-Christian background, such as the Unitarian Universalist Association and the United Methodist Church. It was mainly the Evangelical Protestants who opposed same-sex

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<sup>94</sup> Stephanie Coontz, “‘Traditional’ marriage has changed a lot”, February 26, 2006, accessed May 8, 2016. <http://www.stephaniecoontz.com/articles/article25.htm>

<sup>95</sup> Coontz, *Marriage, A History*, 272-276.

<sup>96</sup> Debra L. DeLaet & Rachel P. Caufield, “Gay Marriage as a Religious Right: Reframing the Legal Debate over Gay Marriage in the United States”, *Polity*, Vol. 40, No.3 (July, 2008), 305-308.



marriage arguing that they wanted to protect “traditional marriage”. DeLaet and Caufield state that there is no agreement on this topic that includes all religious groups. If the government supports this argument they favor one religious view over others and with that violate the First Amendment. They also claim that since there are religious groups on both sides of the gay marriage debate, gay activists can claim that their right to marry is supported by the First Amendment. If they argue that they support gay marriage based on their religious beliefs it should be as valid to be protected under the freedom of religion as their opponents opinions. If a religious group can state that same-sex marriage is included in their definition of marriage the Freedom of Religion could protect it. This further confirms how the definition of the “traditional marriage” is based in one particular religion and not all.<sup>97</sup>

In the arguments concerning the protection of children, *Protect Marriage* argued that the concept of a “traditional marriage” would protect children. They argued that the *Proposition 8* would protect children from being taught in school that a same-sex marriage was as legitimate as an opposite-sex marriage. In their campaign ad “Robb and Robin Wirthlin’s Story” two parents from Massachusetts describe their experience after the legalization of same-sex marriage in their state in 2003. Robin explains how their second grade son came home from school one day and told them that his teacher had read a book to them where a prince had married another prince. This worried them as parents particularly because of his young age. The Wirthlins feared that redefining marriage would have great effect on their son’s education; they claim that homosexuality would be taught in every subject, even math, reading and spelling. They argue that children need to be allowed to grow up in a protected and carefree environment and that adult issues, such as homosexuality should be introduced at an older age. The commercial ends with the text “Protect your children. Protect marriage. Vote yes on *Prop 8*”.<sup>98</sup>

Ruth Butterfield Isaachson claims that the focus on children in this kind of a campaign is far from a new concept. During the debate concerning interracial marriage organizations and people opposing it focused a big part of their campaigns on children, and claimed that children of interracial couples would be biologically inferior. In the beginning of the same-sex marriage debate similar claims were made. They claimed that the children would suffer a slower social and psychological development if they were introduced to homosexuality as a concept. As gays and lesbians started raising children this argument faded

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<sup>97</sup> “Gay Marriage as a Religious Right”, 298-305.

<sup>98</sup> “Robb and Robin Wirthlin’s Story,” *VoteYesonProp8*, YouTube video, 4:32. October 20, 2008, accessed May 9, 2016, <https://www.youtube.com/watch?v=WLHQBWSaW-4>

because there were no indication that children were affected by having two parents of the same sex<sup>99</sup>. Instead the focus shifted to reproduction and laws of nature and how only opposite-sex couples could reproduce and that this was the main goal of a marriage. Isaachson disagrees and argues that most of today's relationships do not start out with children as its purpose but as the relationship develops, children might become wanted.<sup>100</sup>

One might say that the campaign for *Proposition 8* made a point of “traditional marriage” protecting children to avoid including religion in their arguments, but in fact children are one of the most important religious arguments. Many Christians believe that God created Adam and Eve, man and woman, in order to create life. Religious conservatives see this union as the example humans are supposed to follow. Consequently, the purpose of any romantic relationship becomes reproduction. This turns children into the main focus of a relationship and only opposite-sex couples can reproduce naturally. If the argument is that the natural reproduction needs to be protected then religion can be seen as the background to that argument.

Anita Bryant used children as an argument already in 1977 when she argued that she could not point to others as examples of God's moral code if homosexuals were given certain rights. She argued that her children deserved to grow in a decent society and this is what the campaign for *Proposition 8* argues as well. That children are still an important argument shows how the campaign for *Proposition 8* is based on the same beliefs as in the rhetoric in 1977. One can argue that in 2008 the religious message was better hidden or disguised than it was in 1977. Arguments that focus on protecting the “traditional marriage” and children are not as aggressive as referring only to the Bible, but they are still founded in religion.

### **2.2.2 Supporters of the Campaign for Proposition 8**

The arguments that the campaign for the *Proposition 8* presented, shows how religion was present in this period of the same-sex marriage debate. If we look at who voted and donated to the campaign we can see how much impact religion might have had on the issue. The campaign for *Proposition 8* received great support and record-breaking donations. After the ballot measure was passed churches and religious communities were criticized for their amount of support for the campaign and the amount of money they or the members of their congregations donated.

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<sup>99</sup> Ruth Butterfield Isaachson, “Teachable Moments’: The Use of Child-Centered Arguments in the Same-Sex Debate”, *California Law Review*, Vol.98, No.1 (February 2010): p.123.

<sup>100</sup> “Teachable Moments”: 151-154.

In their report for the Public Religion Research Robert P. Jones and Daniel Cox show what religious groups voted for and against *Proposition 8* in California. They found that the majority of white evangelical Protestants voted yes (88%) on passing the ballot measure. There were more Hispanic Catholics that voted yes (62%) than there were white Catholics voting yes (57%). White mainline Protestants were more likely to oppose Proposition 8 than the other groups; they split evenly over the measure (50% to 50%). And for those who did not belong to any religion there were only 20% who voted yes on the ballot measure. These groups represent 73% of the population of California at the time. The remaining 27% were various ethnic and religious minorities such as Black, Latino and Asian Protestants and other non-Christian religious groups such as Jews, Buddhists etc. Several of the religious groups have more voters on the “yes-side”, this shows that religion did play an important part and that the campaign for *Proposition 8* might have had more of an impact on those who were religiously affiliated than those who were not.<sup>101</sup>

Jones and Cox also looked into the reason as to why people voted to pass the *Proposition 8*. 63% reported that they voted yes on the measure to preserve marriage, while 16% voted yes because of religious objections to same-sex marriage. This tells us that even though the campaign might have stated it was not based in religion, many of the voters still voted based on their religion. Those who reported that they voted yes on the measure because they wanted to preserve marriage can be argued to have indirectly voted based on religion since the traditional definition of marriage can be argued to have been founded in religion. So even if the person who voted for the proposition was not religious, they voted for something heavily affected by religion.<sup>102</sup>

There was a long discussion if the names of those who donated to the campaign for *Proposition 8* should be published or not. Much of the donations were made by private people and varied in amount and many feared they would be harassed if the names were published. In the end it was decided that the names would be published because the voters should have the right to know. The total amount that was donated to the campaign supporting *the Proposition 8* was \$38 991 356 and the published names and sizes of the donations were interesting in many ways. The biggest single donation was from a Catholic fraternity for adults called The Knights of Columbus who donated \$1.4 million. Among the top 10 biggest

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<sup>101</sup> Robert P. Jones & Daniel Cox, “California’s Proposition 8 and Religious Voters”, *Public Religion Research*, May 26, 2009, accessed May 9, 2016. <http://publicreligion.org/site/wp-content/uploads/2011/06/Religious-Voters-and-Proposition-8-Memo.pdf>

<sup>102</sup> “California’s Proposition 8 and Religious Views”

donations were several private people and religious organizations such as *Focus on the Family*.<sup>103</sup>

The Mormon Church did not directly donate any money to the campaign but there were more than 59 000 Mormon families that did. Together these families donated at least \$19 million and some even claim they were behind up to 70% of the donations. Most of these families lived in Utah and were not even from California, nor did they have any connection to the state. It seems peculiar that so many people were interested in a case that did not even involve them directly, and yet they donated large sums of money. This raised the question of the Mormon Church's role in these donations and if they had asked their members to donate to the campaign. The church claimed they did not force their members to donate, but that they had strongly supported it.<sup>104</sup>

The numbers showing that the biggest donations to the campaign were given by either religious groups or families with religious interests says a lot about who was attracted to this campaign. When such a big part of the donors were religious one can assume a possible religious background to the campaign, at least a serious religious attraction. This can be argued to be evidence of the presence of religion in the rhetoric at this point. The arguments were not directly built on scripture but they were heavily relying on it. This affected religious voters since a majority of them voted yes on passing the measure and many also donated to the campaign.

### **2.2.3 Opponents of Proposition 8**

The opponents to the *Proposition 8* campaign were mainly focused on equal rights in their arguments. In one of their ads they claimed that the measure would strip people of their rights and that it was a matter pushed on California by other states because of their interests in the same-sex marriage issue. The ad goes on to state that it is a threat to people's basic constitutional rights and that regardless of how one feels about marriage it is wrong to treat people unequal under the law.<sup>105</sup> This is the same rhetoric that supporters of gay rights and same-sex marriage have used for decades.

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<sup>103</sup> Rosie Cima, "CA Prop 8's Top 10 Supporting and Opposing Contributors", *Maplight*, June 25, 2013, accessed May 12, 2016. <http://maplight.org/content/73279>

<sup>104</sup> "Mormon Church steps into the Prop. 8 Battle", *LA Times*, October 9, 2008, accessed May 12, 2016, <http://latimesblogs.latimes.com/lanow/2008/10/now-the-mormon.html>

<sup>105</sup> "Watch Our Latest Ad", *No on Prop 8*, Youtube Video, 0:30, October 15, 2008, accessed May 12, 2016. <https://www.youtube.com/watch?v=JHeTVAE4ZkY>

During this campaign the opponents to the *Proposition 8* also focused on the way it had been presented and the consequences it would lead to. The proponents of the ballot measure argued that four judges had gone against the opinion of the population when they repealed *Proposition 22*. And that the *Proposition 8* would be able to let the people change that back. Opponents to the measure stressed the fact that gays and lesbians had already been given the right to marry and that many had married. This measure would take that right away from them and possibly make their marriages void. They argued that one thing is to not grant someone a right but to take a right away from someone is far worse.<sup>106</sup>

A change in the arguments of the supporters of same-sex marriage was that they began challenging the arguments of their opposition. They argued that there no longer existed such a thing as a “traditional marriage” because of the increase in divorce rates and change in the construction of families. In the ad “Proponents of Prop 8 are Using Lies to Scare You” the opposition to *Proposition 8* claimed the main arguments of *Proposition 8* campaign were lies. Stating that allowing same-sex marriage would not change the church-taxes and that schools would not be forced to teach their students about gay marriage.<sup>107</sup> This was the first time they challenged the opposition’s arguments. That was probably because the opposition no longer only focused on religion but had arguments that were easier to argue against.

## 2.2.4 Court Cases Following Proposition 8

After the ballot measure passed by a majority vote in November of 2008 reactions came from all over the country. Several lawsuits were filed that claimed that the proposition violated the rules for amending the California Constitution, but the California Supreme Court ruled upheld the proposition. In *Strauss v. Horton* the Supreme Court decided that the proposition would not affect the marriages performed before the amendment, which avoided making these marriages void. In May 2009 two same-sex couples in California filed a suit after having been denied marriage licenses. They claimed the *Proposition 8* violated the Due Process and Equal Protection Clause of the Fourteenth Amendment to the Federal Constitution. The case was named *Perry v. Schwarzenegger* and it reached the district court

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<sup>106</sup> “I Decide”, *No on Prop 8*, YouTube Video, 1:06, September 15, 2008, accessed May 12, 2016. <https://www.youtube.com/watch?v=UxQ6BBdXg78>

<sup>107</sup> “Proponents of Prop 8 are Using Lies to Scare You”, *No on Prop 8*, YouTube video, 0:33, October 9, 2008, accessed May 12, 2016. <https://www.youtube.com/watch?v=vKAqbQIWQhc>

of the Northern District of California, which made it the first same-sex marriage case to reach a federal court.<sup>108</sup>

In court the plaintiffs argued the illegality of the amendment and presented nine expert witnesses to argue their case. The proponents of *Proposition 8* used the court to argue how same-sex marriage would be harmful, and they specified 23 different ways in which it could be harmful. They presented only one witness who did not manage to provide any evidence to support the arguments of the proponents. In August of 2010, Judge Walker ruled that the *Proposition 8* was unconstitutional and in violation of the Equal Protection clause and Due Process. The proponents of *Proposition 8* immediately filed an appeal of the decision.<sup>109</sup>

The Ninth Circuit upheld the ruling in *Perry v. Brown* but on a narrower ground, applying it only to the state of California. This decision was also appealed and the United States Supreme Court agreed to hear the case. In the Supreme Court the justices stated that since same-sex couples received the same rights as marriage provides through domestic partnerships the case was really about the right to call one's union a marriage. They challenged the plaintiff's lawyer on this and he agreed but claimed that the Supreme Court had on several occasions affirmed marriage as a fundamental right that was denied gays and lesbians at that time. The lawyer of the proponents of *Proposition 8* argued that denying same-sex marriage could be justified if it preserved tradition and the label of marriage.<sup>110</sup>

In June 2013 the Supreme Court dismissed the case, in a 5-4 vote, on procedural grounds deciding that the proponents of *Proposition 8* did not have the standing to appeal. With this decision they found the ruling of the Ninth Circuit null and void because the court did not have jurisdiction to hear the case. They kept the ruling of the Northern District of California, which was a broad ruling that claimed marriage was a fundamental right under the United States Constitution. This decision consequently made same-sex marriage legal again in California.

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<sup>108</sup> Rachael G. Samberg, "California's Proposition 8 in Federal Court: Key Timeline Leading to *Hollingsworth v. Perry*", *Robert Crown Law Library*, August 10, 2012, accessed May 13, 2016.

[http://liblog.law.stanford.edu/wp-content/uploads/2012/08/Hollingsworth-v.-Perry-Cert-Petition\\_Prop-8-Timeline.pdf](http://liblog.law.stanford.edu/wp-content/uploads/2012/08/Hollingsworth-v.-Perry-Cert-Petition_Prop-8-Timeline.pdf)

<sup>109</sup> *Perry v. Schwarzenegger*. 704 F. Supp.2d 921 (N.D. Cal. 2010)

<sup>110</sup> *Hollingsworth v. Perry*, "Oral Argument," The Oyez Project, accessed May 10, 2016. <https://www.oyez.org/cases/2012/12-144>

# 3 The Legalization of Gay Marriage and the Debate About Religious Liberty

After *Proposition 8*, the debate concerning same-sex marriage got heated. People became more accustomed to the thought of same-sex marriage and several states decided to legalize it either through court cases or referendums. By 2014 more than 50% of the American population supported same-sex marriage and gay rights activism enjoyed a blossom in attention.<sup>111</sup> Several churches and religious communities chose to endorse or accept gay marriage after the ruling on *Proposition 8*.

This chapter will look into two shifts in the use of religion in the debate concerning gay marriage after *Proposition 8* and up till today. The case of *Obergefell v. Hodges* was the first time religion was actively used by supporters of same-sex marriage to show how scripture can be used to endorse gay marriage. The second shift happened after the ruling of *Obergefell v. Hodges*. It seems as if the religious opponents to gay marriage understood that they had lost the battle of same-sex marriage and decided to change their focus when working against homosexuality. Now the opponent's arguments became focused on expanding the freedom of religion to include the opportunity for someone to deny certain people their service or products. They argued that if for example homosexuality counteracts with someone's belief they should not have to offer their services to gay or lesbian couples. This chapter will look at ongoing cases concerning Religious Liberty and how religion appears in these arguments.

## 3.1 Obergefell v. Hodges and the Legalization of Gay Marriage

In 2015, two petitioners who had lost their spouses and were widowers, and fourteen same-sex couples filed suit in their respective District Courts concerning same-sex marriage. They challenged laws in their states that either denied them their right to marry or the right to have their marriage that had been performed elsewhere, recognized in their own state. The plaintiffs argued that these statutes violated the Equal Protection Clause and Due Process Clause of the Fourteenth Amendment. The cases were heard in Michigan, Kentucky, Ohio

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<sup>111</sup> "Changing Attitudes on Gay Marriage"

and Tennessee. All these states defined marriage to be between a man and a woman. The respondents of the suits were state officials that were responsible for enforcing the relevant laws. In all the cases the district courts ruled in favor of the petitioners allowing same-sex marriage. The respondents appealed to the Court of Appeals for the Sixth Circuit.<sup>112</sup>

The federal court ruled in favor of the respondents and reversed the decisions of the District Courts meaning same-sex marriage was again banned. The petitioners sought certiorari in the Supreme Court and the case was granted in January 2015. The questions asked to the Supreme Court were:

1. Does the Fourteenth Amendment require a state to license a marriage between two people of the same sex?
2. Does the Fourteenth Amendment require a state to recognize a marriage between two people of the same sex that was legally licensed and performed in another state?<sup>113</sup>

The arguments in this trial were basically the same or similar to the ones that were performed in previous same-sex marriage cases. During the hearing in April the respondents to the case claimed that the petitioners did not seek recognition to marry, but recognition of a new “right of same-sex marriage” that was non-existent. They argued that marriage was defined by nature to be between a man and a woman and that gay marriage would demean this institution. The petitioners answered that they did not intend to devalue marriage as it was and argued that they only sought marriage for themselves because of their respect for the institution<sup>114</sup>.

On June 26, 2015 the United States Supreme Court ruled in a 5-4 vote that marriage was a fundamental right that included same-sex couples as well as opposite-sex couples. They found that the Due Process Clause guarantees the right to marry as one of the fundamental liberties it protects. This also applied to gay marriage as it did to opposite-sex couples. And they found that the Equal Protection Clause of the Fourteenth Amendment guarantees the right of same-sex couples to marry since denying them this would be to deny same-sex couples equal protection under the law.<sup>115</sup>

The decision in *Obergefell v. Hodges* made same-sex marriage legal nationwide. From that ruling all homosexual couples were allowed to get married but more importantly they would finally gain access to the protection and benefits that marriage supplies. In the

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<sup>112</sup> *Obergefell v. Hodges*.

<sup>113</sup> *Obergefell v. Hodges*.

<sup>114</sup> *Obergefell v. Hodges*.

<sup>115</sup> *Obergefell v. Hodges*.



states where domestic partnership included these protections and benefits the change was not that big. This ruling was significant for the states that excluded these rights and benefits from domestic partnerships. In the states where only married couples were allowed to adopt, all couples would be able to legally become their child's parent. In many states only one parent could be the legal parent because of restricting laws and for them this ruling was very important. *Obergefell v. Hodges* was not only crucial for same-sex couples who wanted to marry, it also became very important in giving gays and lesbians equal rights because marriage laws affect many other laws as well.<sup>116</sup>

### 3.1.1 How Religion Appeared in Court

During the oral arguments in the United States Supreme Court there were no specific references to religion. The petitioners in *Obergefell v. Hodges* focused on the rights that gays and lesbians were denied when excluded from marriage. Bonauto was one of the advocates for the petitioners in this case. When asked why they sought the issue to be solved on a federal level when marriage has been agreed to be a state matter, Bonauto argued that the states denying same-sex marriage are not respecting people's constitutional rights.

“States do have primacy over domestic relations except that their laws must respect the constitutional rights of persons (...) And here we have a whole class of people who are denied the equal right to be able to join in this very extensive government institution that provides protection for families.”<sup>117</sup>

Justice Scalia asked Bonauto how the states could ensure the rights of churches and other religious communities who would want to deny performing same-sex marriages. He feared that these ministers might be forced to perform marriages through state law. Bonauto argued that the Freedom of Religion under the First Amendment protects these ministers and religious communities from having to do so. She stated that for example clerks employed by the states would not be able to deny same-sex couples marriage licenses if it interfered with their belief because they were employed under state law. But since the church and other religious communities are separated from the state, Bonauto argued that they would be

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<sup>116</sup> Brittany Blackburn Koch, "The Effect of *Obergefell v. Hodges* for Same-Sex Couples," *The National Law Review*, July 17, 2015, accessed May 14, 2016. <http://www.natlawreview.com/article/effect-obergefell-v-hodges-same-sex-couples>

<sup>117</sup> *Obergefell v. Hodges*, "Oral Argument," The Oyez Project, accessed May 10, 2016. <https://www.oyez.org/cases/2014/14-556>

protected from having to perform such ceremonies under the same grounds as tax exemption.<sup>118</sup>

The Justices questions for the petitioners during the oral argument were mainly concentrated around how the laws concerning marriage would be changed, and whether it would affect opposite-couples negatively. They challenged the advocates on what the possible consequences of same-sex marriage might be, and how one could avoid infringements on other people's rights

The respondents focused on the definition of marriage by discussing who should define it and how legalizing same-sex marriage would affect it. John J. Bursch, the respondent's advocate argued that the definition of marriage should come from the people through democratic acts and not federal courts. Justice Sotomayor questioned this and argued that the court would in no way take the individual's possibility to choose away from them. In fact it would only enable more people to choose because giving someone the right to marry does not mean you force anyone into marriage. People can still choose to enter it or not and legalizing same-sex marriage would just give more people the right to that choice.<sup>119</sup>

Bursch also argued how marriage has been an institution securing children and procreation. It was a way to ensure an increasing population, something same-sex marriage could not offer. He claimed that gay marriage would harm the institution of marriage because it would change how people viewed marriage. If same-sex marriage were to be legalized the institution of marriage would mainly be about someone connecting through emotions instead of securing a good upbringing for children. The Justices seemed very critical of this line of argument and kept pressing Bursch on it through questions. Especially Justices Sotomayor and Kagan questioned these arguments and openly disagreed with them.<sup>120</sup>

In *Obergefell v. Hodges* a record number of Amicus Briefs were submitted to the court. A total of 147 briefs were submitted, 77 supported the petitioners, 67 supported the respondents and 5 supported neither party. An Amicus Brief is a document submitted to the court by a non-party to the litigation that argues the case for either the petitioners or the respondents in the case. The Amicus briefs in *Obergefell v. Hodges* were signed by law professors, scholars in different fields, academic institutions, organizations, governmental entities and individuals. They focused on different issues and arguments in their briefs to argue their view and opinion on same-sex marriage.

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<sup>118</sup> *Obergefell v. Hodges*, "Oral Argument."

<sup>119</sup> *Obergefell v. Hodges*, "Oral Argument."

<sup>120</sup> *Obergefell v. Hodges*, "Oral Argument."

The briefs supporting the petitioners focused their arguments on the development of marriage and how same-sex marriage would not harm this institution. Among these briefs many came from states that had already legalized gay marriage and they argued that even though marriage traditionally is the province of the State the federal government needed to legalize same-sex marriage to secure the constitutional rights for gays and lesbians. In a brief admitted by Massachusetts and 16 other states where gay marriage was legalized, they showed the positive effects that it had had on their state. They claimed that the institution of marriage was strengthened and that families were healthier when they shared in the protection, benefits and obligations of marriage. They confirmed that equal marriage had been solely positive for their states and the institution of marriage had not suffered in any way because of it. Based on their success stories they encouraged the court to legalize same-sex marriage so that gays and lesbians could gain these essential rights.<sup>121</sup>

Scholars and academic organizations focused on the history of marriage when arguing that same-sex marriage would not change it. Historians of marriage submitted one brief where both Stephanie Coontz and Nancy Cott contributed. This brief showed how marriage in the U.S. had developed over time and they argued that marriage was created for many reasons but procreation was never the main one. Since no state had ever restricted elderly or sterile couples from marrying, they claimed that procreation could not be seen as the sole reason for marriage at any point. Gay marriage would therefore not be a threat to the institution of marriage and the interest to ban it must have come from somewhere else.<sup>122</sup> The brief sent in by *Americans United for the Separation of Church and State* challenged a different argument against gay marriage and was the only one focusing on religion. This organization works to protect the constitutional principles of religious liberty and separation between church and state. They argued that legalizing same-sex marriage would not pose any threat to the religious liberty as many claimed because the legal system protects both the religious liberty and equal rights to disfavored classes. And that this would not change just by legalizing gay marriage.<sup>123</sup>

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<sup>121</sup> "Massachusetts." Amicus Brief, Obergefell v. Hodges, accessed May 2016. [http://lawprofessors.typepad.com/files/14-556\\_machusetts.pdf](http://lawprofessors.typepad.com/files/14-556_machusetts.pdf)

<sup>122</sup>"Historians of Marriage and the American Historical Association." Amicus Brief, Obergefell v. Hodges, accessed May 2016. [http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556\\_Historians\\_of\\_Marriage\\_and\\_the\\_American\\_Historical\\_Association.pdf](http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_Historians_of_Marriage_and_the_American_Historical_Association.pdf)

<sup>123</sup> "Americans United for Separation of Church and State." Amicus Brief, Obergefell v. Hodges, accessed May 2016. [http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556\\_Americans\\_United\\_for\\_Separation\\_of\\_Church\\_and\\_State.pdf](http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_Americans_United_for_Separation_of_Church_and_State.pdf)

There were mostly organizations and individuals who sent in briefs supporting the respondents but some academics and states did as well. One brief came from 100 scholars of marriage who argued that changing the definition of marriage would harm marriage because it would change how people view it. They claimed that in most societies marriage marks the boundaries of procreation by being the preferred arrangement if procreation occurs. If same-sex marriage were to be legalized this was no longer the main role of marriage, consequently it would harm marriage as an institution. They also showed that in states where same-sex marriage was legalized the marriage rate for opposite-sex couples dropped five percent and they argued that this proved how the institution of marriage was threatened by gay marriage.<sup>124</sup>

The briefs from the opposition to gay marriage were more influenced by religion and referred to religion several times. The brief from an organization called *Foundation of Moral Law* argued that the U.S. was built upon certain moral laws that would be completely disregarded by legalizing same-sex marriage because same-sex marriage goes against these moral laws. This organization defends the right to acknowledge God as the moral foundation of the U.S. laws; which in turn leads to their arguments being based on religion. They also argued that the decision on same-sex marriage should come from the people not the courts because a court cannot represent the opinion of a whole nation.<sup>125</sup> A brief submitted by *Major Religious Organizations* focused on religious liberty. They stated that even though they represented many different faiths they had one thing in common, their view on family. Their faiths made them believe that a family with opposite-sex parents was the best type of family for the children and therefore they could not support same-sex marriage. In their brief they argued that a decision that traditional marriage laws are grounded in animus would demean their beliefs and stigmatize them as fools and bigots. If a decision led to this type of stigma that would be an infringement on their freedom of religion.<sup>126</sup>

Probably the two most interesting briefs submitted in support of the respondents were from *Same-sex attracted men and their wives* and *Parents and friends of ex-gays and gays*. The first one was from men who similar to the petitioners considered themselves gay but who

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<sup>124</sup> "100 Scholars of Marriage." Amicus Brief, Obergefell v. Hodges, accessed May 2016.

[http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556\\_100\\_Scholars\\_of\\_Marriage.pdf](http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_100_Scholars_of_Marriage.pdf)

<sup>125</sup> "Foundation of Moral Law." Amicus Brief, Obergefell v. Hodges, accessed May 2016.

[http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556\\_Foundation\\_for\\_Moral\\_Law.pdf](http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_Foundation_for_Moral_Law.pdf)

<sup>126</sup> "Major Religious Organizations." Amicus Brief, Obergefell v. Hodges, accessed May 2016.

[http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556\\_Major\\_Religious\\_Organizations.pdf](http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_Major_Religious_Organizations.pdf)

unlike the petitioners had decided to build a life with someone of the opposite sex.<sup>127</sup> The second brief was submitted by people who had identified as gay and who were attracted to people of the same sex, but who had made the decision to not be homosexual.<sup>128</sup> In both these briefs they referred to God and their religion as the reason for their choice to not live as gay or “quit” being gay. They argued that to claim that same-sex marriage was necessary in order to have equal rights for gays and lesbians was to demean the relationships of these couples and the decision these people had made. This was because it would take away their opportunity to choose to follow their religion and instead claim they had no choice.

The United States Supreme Court ended on a 5-4 vote legalizing same-sex marriage. They ruled that the Fourteenth Amendment of the United States Constitution requires to license a marriage between two people of the same-sex and a state to recognize such a marriage that was legally licensed and performed in another state. Justices Kennedy, Ginsburg, Kagan, Breyer and Sotomayor voted for, while Justices Scalia, Thomas, Roberts and Alito voted against.

Justice Kennedy delivered the Opinion of the Court where he describes marriage as an institution bigger than the two people joining it. An institution that has been beautifully described and cherished throughout history as to be between a man and a woman but that has also changed and developed over time. The understanding of same-sex intimacy and couples was also something that had changed immensely over time from being viewed as a mental illness to something most people accept and embrace. These changes show that a legalization of same-sex marriage is long overdue and supported by a majority of the population.<sup>129</sup>

The Opinion of the Court mainly addressed the constitutionality of same-sex marriage and rights of gays and lesbians. But he also addressed religion concerning same-sex marriage stating that personal opinions had no place in denying people rights. The respect for religion and personal belief is important but in this matter same-sex couples sought to get the same legal treatment as opposite-sex couples and personal faith should not deny them that. Justice Kennedy stressed the importance of the fact that religious persons or groups should not be forced to accept ways of life that was condemned by their faith. He assured that this

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<sup>127</sup> “Same-Sex Attracted Men and Their Wives.” Amicus Brief, *Obergefell v. Hodges*, accessed May 2016. [http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556\\_Same-Sex\\_Attracted\\_Men\\_and\\_Their\\_Wives.pdf](http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_Same-Sex_Attracted_Men_and_Their_Wives.pdf)

<sup>128</sup> “Parents and Friends of Ex-Gays and Gays.” Amicus Brief, *Obergefell v. Hodges*, accessed May 2016. [http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556\\_Parents\\_and\\_Friends\\_of\\_Ex-Gays\\_Gays.pdf](http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_Parents_and_Friends_of_Ex-Gays_Gays.pdf)

<sup>129</sup> *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015). (Opinion of the Court), The Oyez Project, accessed May 2016. <https://www.oyez.org/cases/2014/14-556>

ruling would not lead to that and that the First Amendment would give these people the proper protection to continue to exercise their faith.<sup>130</sup>

In his dissent Chief Justice John Roberts Jr. discussed concerns regarding religious liberty. He acknowledged that the majority claims religious believers may continue to “advocate” and “teach” their view of marriage. But he stressed that the First Amendment secured the freedom to “exercise” religion and that this was lost with this ruling.<sup>131</sup> Justice Thomas was also concerned about religious liberty in his dissent, claiming that the institution was not only an institution of the state but also a religious one. He feared that changing on of these understandings would lead to conflict between the two. Especially since religious people and groups might be confronted with demands to participate in civil marriages between same-sex couples.<sup>132</sup>

In the *Obergefell v. Hodges* case religion was present from start to finish. It was never the main focus of the court or used directly as an argument against same-sex marriage, but it was present in a more indirectly manner. During the oral hearing many of the arguments were based on or colored by religion, in many of the amicus briefs religion was referred to and used as arguments and in the courts opinion and dissent, religion was mentioned several times. This shows us that the shift in rhetoric that happened with *Proposition 8* was still very much the case in *Obergefell v. Hodges*. There was not a hateful rhetoric against same-sex marriage based on religious beliefs, but religion was still very much present in the debate and affected many in their opinion on it.

## **3.2 The Bible in the Arguments Supporting Same-Sex Marriage**

During and after the *Obergefell v. Hodges* case a new shift in the rhetoric used in the debate appeared, this time the shift did not come from the opposing side of same-sex marriage but from the supporters. Up until this point those who opposed gay marriage had used religion as an argument and the supporters of same-sex marriage had focused their arguments on gaining equal rights and ending discrimination. As rights were gained and

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<sup>130</sup> *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015). (Opinion of the Court), The Oyez Project, accessed May 2016. <https://www.oyez.org/cases/2014/14-556>

<sup>131</sup> *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015). (Roberts, J. dissenting), The Oyez Project, accessed May 2016. <https://www.oyez.org/cases/2014/14-556>

<sup>132</sup> *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015). (Thomas, C. dissenting), The Oyez Project, accessed May 2016. <https://www.oyez.org/cases/2014/14-556>

homosexuality was normalized the supporting side could start to focus on different parts of the debate. Religious gays and lesbians looked to scripture since religion was important for their identity or how they saw the world. They found interpretations of the Bible that supported homosexuality and same-sex relationships. With this research religion started to appear in the arguments on the supporting side of the same-sex marriage debate as well.

Religious texts and scripture is something that has been interpreted in many different ways for centuries, this is the reason as to why there are several denominations of religions. Evangelicalism for example, interprets the Bible more literally than other denominations of Christianity and will therefore view some issues differently than others. Interpretation is key in faith and the way scripture is understood by the two sides of the debate concerning same-sex marriage is a good example. To show how supporters look at the Bible differently from the opposition to gay marriage I have chosen to focus on the same scripture and verses from the Bible as I did in chapter 2.

The story of Adam and Eve is for many important in understanding love and relationships because it shows God's image of a union between two people. The opposition has used this story as reason to deny gay marriage. The supporters of same-sex marriage see the story of Adam and Eve in connection with a different story. In the book of Ruth the story of the relationship between Ruth and Naomi is told. Naomi moves from Israel with her family because of a famine, in the new land her sons marry two local women. After Naomi's husband and sons die one of her daughter-in-laws decides to go back to her family while the other one, Ruth, wants to go with her back to Israel. It is the word that is used for Ruth's feelings toward Naomi that is seen in connection to Adam and Eve. In Genesis 2:24 it says: "That is why a man leaves his father and his mother and is united to his wife, and they become one flesh,"<sup>133</sup> and in Ruth 1:14 it says: "At this they wept aloud again. Then Orpah kissed her mother-in-law goodbye, but Ruth clung to her."<sup>134</sup> In the New International Version of the Bible the word used to describe how these two people were connected is in Genesis 2:24 "united" and in Ruth 1:14 it is "clung". The Hebrew word that has been used for both these instances is "dabaq", which shows that it is the same type of connection between the two couples. Supporters of same-sex marriage argue that this shows how these relationships are considered equal through the Bible.<sup>135</sup>

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<sup>133</sup> Genesis 2:24 (NIV)

<sup>134</sup> Ruth 1:14 (NIV)

<sup>135</sup> "Ruth Loved Naomi as Adam Loved Eve," *Would Jesus Discriminate*, accessed May 20, 2016. [http://wouldjesusdiscriminate.org/biblical\\_evidence/ruth\\_naomi.html](http://wouldjesusdiscriminate.org/biblical_evidence/ruth_naomi.html)



Reverend Jeff Miner is the pastor of a congregation called Jesus Metropolitan Community Church, and the co-author of a book called *The Children Are Free: Reexamining the Biblical Evidence on Same-Sex Relationships*. In a sermon on this issue, he argues that there are three great love stories in the Bible and it is surprising that none of them are about Adam and Eve. There are several love stories in the Bible but only three that goes in detail about the feelings and relationship between the two people. These three stories are about Ruth and Naomi, Jonathan and David and Solomon and his concubine, none of which are traditional opposite-sex couples. Many claim that the relationship between Ruth and Naomi was more a mother-daughter relationship and that the love between them is an example of love for family. Rev. Miner argues that Ruth's vow to Naomi shows how their love is a typical example of a loving covenantal relationship. Ruth vows:

“Don't urge me to leave you or to turn back from you. Where you go I will go, and where you stay I will stay. Your people will be my people and your God my God. Where you die I will die, and there I will be buried. May the Lord deal with me, be it ever so severely, if even death separate you and me.”<sup>136</sup>

Ruth vows to give Naomi just about everything she has to give, which Rev. Miner argues is evidence for their relationship being more than a platonic one. This verse has been the most used verse of the Bible in marriage ceremonies in Christian history and this Rev. Miner argues is a sign that this vow is a vow of love. He also claims that their relationship is celebrated in the Bible since it has gotten its own book about it, this is an argument for why same-sex relationships should not be condemned but celebrated.<sup>137</sup>

Genesis 19 is one of the verses in the Bible that has been referred to the most as a condemnation of homosexuality. This is the story of how Sodom and Gomorra were destroyed because of their sins and how God saw the acts of the people as evidence of these sins. When two angels entered Sodom and stayed at Lot's house all the men in the city came and demanded that Lot gave them the angels so that they could have sex with them.<sup>138</sup> Supporters of same-sex marriage do not interpret this story to be about homosexual desire but about mob violence and brutality. They claim that the chances of every man in Sodom was gay is minimal and that they could not all have been driven by a desire to have sex with these foreign men. Rev. Jeff Miner argues that historians have found evidence that at this time in history it was common for soldiers to perform homosexual rape as a way to humiliate the

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<sup>136</sup> Ruth 1:16-17 (NIV)

<sup>137</sup> Jeff Miner, "Families as God Sees Them," *Jesus MCC*, accessed May 20, 2016.

[http://wouldjesusdiscriminate.org/assets/media/sermons/ruth\\_naomi-JesusMCC-2006-06-18.mp3](http://wouldjesusdiscriminate.org/assets/media/sermons/ruth_naomi-JesusMCC-2006-06-18.mp3)

<sup>138</sup> Genesis 19: 3-11 (NIV)



enemy. When the soldiers of the enemy were captured they treated them as women and raped them. This practice was not driven by desire but by brutality, which shows that the sin of Sodom was not homosexuality but brutality and that this was what God condemned.<sup>139</sup>

Leviticus 20:13 is a verse from the book of laws in the Bible and it says: “If a man has sexual relations with a man as one does with a woman, both of them have done what is detestable. They are to be put to death; their blood will be on their own heads.”<sup>140</sup> This law has been an important reference for the opposition to same-sex marriage because it directly states that homosexuality is to be condemned. Supporters of same-sex marriage stress the significance of looking at this verse in a historical and textual context. That is because you cannot understand what is meant by something without knowing how it was said or to what it responded. In this context it is important to know that Canaanite religions surrounding Israelis performed sexual rituals to secure fertility. These rituals included whole families, all types of sexual relations and more importantly homosexual temple prostitution. In these cultures there were no real possibility to form homosexual relationships because society was centered on procreation. Rev. Miner claims that because of this the laws in Leviticus cannot have been aimed at homosexual relationships but at homosexual temple prostitution. Meaning same-sex relationships and marriage cannot be condemned a sin.<sup>141</sup>

When it comes to Romans 1 and 1 Corinthians 6, Reverend Miner applies the same argument as with Leviticus 20. One needs to interpret the verses in lieu of their historical context and then see if that understanding applies to the situation today. In Romans 1:18-32 when Paul exemplifies different acts that show how God has been suppressed by unrighteousness, Miner claims that the form of homosexuality that Paul describes is a form of idol worship. It was probably some sort of homosexual temple prostitution and not gay or lesbian relationships based in love. Paul was condemning acts that were in spite of God, which these rituals might have been. If we apply this to today’s situation Miner argues that he know no gay people who are gay or who perform homosexual acts to spite God, instead there are many who embrace God and want to live out their life feeling accepted by their faith. This makes this verse irrelevant for today’s situation.<sup>142</sup>

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<sup>139</sup> Jeff Miner, “Sodom and Gomorra,” *Jesus MCC*, accessed May 21, 2016.

[http://wouldjesusdiscriminate.org/assets/media/sermons/sodom\\_and\\_gomorrah-JesusMCC-2000-06-11.mp3](http://wouldjesusdiscriminate.org/assets/media/sermons/sodom_and_gomorrah-JesusMCC-2000-06-11.mp3)

<sup>140</sup> Leviticus 20:13 (NIV)

<sup>141</sup> Jeff Miner, “Am I an Abomination?”, *Jesus MCC*, accessed May 21, 2016.

<http://wouldjesusdiscriminate.org/assets/media/sermons/leviticus-JesusMCC-2004-06-20.mp3>

<sup>142</sup> Jeff Miner, “Confronting the Boogie Man,” *Jesus MCC*, accessed May 22, 2016.

[http://wouldjesusdiscriminate.org/assets/media/sermons/romans\\_1\\_21-JesusMCC-2006-06-25.mp3](http://wouldjesusdiscriminate.org/assets/media/sermons/romans_1_21-JesusMCC-2006-06-25.mp3)

Most of these interpretations of verses have focused on arguing against the antihomosexual interpretation of them, but the Bible also has several stories where same-sex relationships are celebrated. As the story about Ruth and Naomi celebrates a relationship between two women, the story of David and Jonathan celebrates a relationship between two men. Many have argued that the relationship between David and Jonathan that is described in I and II Samuel is an example of brotherly love, but Reverend Miner argues that there are too many intimate situations and ways of conversation between them to be only a friendship.<sup>143</sup> In 1 Samuel 1:17-27, David has heard of the deaths of Jonathan and his father. He writes a song that he orders the people of Judah to sing and at the end it says: “I grieve for you, Jonathan my brother; you were very dear to me. Your love for me was wonderful, more wonderful than that of women.”<sup>144</sup> David states that the love he shared with Jonathan was greater than that of any woman, which Miner argues confirms that their relationship was more than friendly and that it is an accepted type of relationship.<sup>145</sup>

### 3.3 The Focus on Religious Liberty and Gay Rights

The debate concerning same-sex marriage has gone through many shifts when it comes to rhetoric and what the arguments have been based on. After *Obergefell v. Hodges* the supporting side started to use religion in their argumentation but there was also a major shift in the opposing side to gay marriage. Up till this point the opposition had focused on reasons for banning same-sex marriage but when it became legalized through federal government that “battle was lost”. This side of the debate was for the first time a minority and they had to find a different way to protect their faith and still oppose same-sex marriage. The solution was to focus on their freedom of religion and what that included. They argued that they should be allowed to refuse to offer their service to someone if it counteracts with their faith. With this the whole debate sort of shifted focus from same-sex marriage to Freedom of religion.

Already during *Obergefell v. Hodges* this focus appeared, the dissenting opinions of the case uttered a concern about what would happen to those who opposed same-sex marriage and how the ruling would affect them. Their main concerns were three issues in

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<sup>143</sup> Jeff Miner, “No respecter of Persons,” *Jesus MCC*, accessed May 22, 2016.

[http://wouldjesusdiscriminate.org/assets/media/sermons/david\\_jonathan-jesumcc-1998-04-26.mp3](http://wouldjesusdiscriminate.org/assets/media/sermons/david_jonathan-jesumcc-1998-04-26.mp3)

<sup>144</sup> 1 Samuel 1:26 (NIV)

<sup>145</sup> Miner, “No respecter of Persons”

particular: gay adoption, the tax exempt status of religious organizations that wish to discriminate on the basis of sexual orientation and the obligation of private churches and individuals to recognize and perform same-sex marriages. There have been cases the last years where these concerns have been affirmed and that have challenged these issues, but they have become more tense and stressed after the ruling from the summer of 2015. After this ruling the question is no longer what it means to support same-sex marriage, but what it means to oppose it and if that right is protected by the Religious Liberty or not.<sup>146</sup>

These cases test the limits of the Freedom of Religion and tries to figure out what it can include and allow. Many claim that their Religious Liberty allows them to utter their belief or refuse services to anyone or anything they believe counteracts their faith. Those who oppose this definition argue that one can create a society where we can deny anyone service based on any belief, leading to a new form of Jim Crow laws. They argue that Freedom of Religion should be limited to the right to believe and exercise any faith and that it should not be used to discriminate against others.

### **3.3.1 Episodes Expanding the Freedom of Religion**

Already in January of 2013 a bakery called *Sweet Cakes by Melissa* in Oregon refused to make or deliver a cake to a wedding because the couple getting married were lesbians. The owners of the bakery had cited verses from the Bible and called gay marriage an abomination to the Lord when they argued their refusal. The lesbian couple filed a discrimination complaint with the Oregon Bureau of Labor and Industries claiming the bakery had discriminated against them based on their sexual orientation. The complaint was ruled in favor of the couple and the bakery ended up having to pay \$135 000 in damage to them for their emotional suffering.<sup>147</sup> Similar cases with bakers, florists and photographers refusing to offer their services to same-sex marriages or couples have appeared in several states. In all these cases the respondents to the suits claim to be protected by their Freedom of Religion under the First Amendment. Most of them lost their cases and have been forced to pay fines

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<sup>146</sup> Emma Green, "How Will the U.S. Supreme Court's Same-Sex Marriage Decision Affect Religious Liberty?" *The Atlantic*, June 26, 2015, accessed May 24, 2016. <http://www.theatlantic.com/politics/archive/2015/06/how-will-the-us-supreme-courts-same-sex-marriage-decision-affect-religious-liberty/396986/>

<sup>147</sup> Todd Starnes, "Christian Bakers Face \$135K Fine for Refusing to Make Cake for Gay Wedding," *New York Post*, April 26, 2015, accessed May 25, 2016. <http://nypost.com/2015/04/26/christian-bakers-face-135k-fine-for-refusing-to-make-cake-for-gay-wedding/>

to either the state or the petitioners, but some of the cases have gone further and become issues that legislatures in the different states have needed to discuss.<sup>148</sup>

In the U.S., churches and religious organizations enjoy tax exemption because of the principle of separation between church and state. In the opinion of the court in *Obergefell v. Hodges* Justice Kennedy claimed that allowing same-sex couples to marry would not harm those churches and religious organizations that do not support gay marriage and their tax exemption would not be removed.<sup>149</sup> At the moment there are no federal non-discrimination laws that prevent schools from having policies that ban homosexual activity, but many states have begun to offer protection to gay and lesbian students. This protection has an exemption for religious schools so gay and lesbian students can still be banned from certain schools. In the summer of 2014, the first challenge to these policies appeared when Gordon College, a Christian school in Massachusetts, was asked by the New England Association of Schools and Colleges to review their ban on homosexual activity to see if it violated the associations accreditation standards. Gordon College chose to stick with their ban and did not suffer any restrictions.<sup>150</sup> As gay marriage has become more accepted by the majority of the population in the U.S. many religious schools that have these types of policies have found themselves needing to defend their Religious Liberty. Many claim these policies lead to discrimination against gays and lesbians and that they should not be legal. The public attention these objections have led to has had negative effect on these schools. But they continue to claim that they have these policies because of religious beliefs and argue that the Freedom of Religion allows them to withhold their services from certain people if it counteracts with their faith.

The case that created the most reactions after *the Obergefell v. Hodges* ruling was when on September 1, 2015 Kim Davis an elected county clerk in Rowan County, Kentucky, refused to issue any marriage licenses in her district as a reaction to the ruling. She stated that same-sex marriages violated her religious beliefs and refused to issue any marriage licenses so as not to discriminate against anyone. Davis was detained for contempt of court and rejected a proposal that allowed her deputies to process same-sex marriage licenses, releasing

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<sup>148</sup> Michael Paulson, "Can't Have Your Cake, Gays are Told, and a Rights Battle Rises," *The New York Times*, December 15, 2014, accessed May 25. <http://www.nytimes.com/2014/12/16/us/cant-have-your-cake-gays-are-told-and-a-rights-battle-rises.html>

<sup>149</sup> *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015). (Opinion of the Court), The Oyez Project, accessed May 2016. <https://www.oyez.org/cases/2014/14-556>

<sup>150</sup> David R. Wheeler, "Gay Marriage and the Future Evangelical Colleges," *The Atlantic*, July 14, 2015, accessed May 25, 2016. <http://www.theatlantic.com/education/archive/2015/07/evangelical-colleges-struggle-gay-marriage-ruling/398306/>

her from that responsibility. Since she rejected it she was jailed for five days for refusing to follow the courts orders. Three of her deputies also stated that gay marriage was something that violated their beliefs but they did not want to defy the court order because they respected the law and saw it as above all else.<sup>151</sup>

Kim Davis quickly became the face of these uproars against same-sex marriage. The day she was released, three presidential candidates uttered their support of her and her lawyer stated that her imprisonment was the first imprisonment in the U.S. of someone who stood up for something they believed in.<sup>152</sup> The judge in the case stressed that the law is not there for people to pick and choose from, allowing Davis to do so would send out a very wrong message to people saying laws were not definite. Davis and her supporters claimed that the case was about her Religious Liberty and that it had been infringed when she was forced to do something that violated her faith. While those who opposed her stated that since she had been elected to her position and as an employee of the state her personal beliefs would need to come in second after the laws of the state.<sup>153</sup>

### **3.3.2 Reactions to the Debate on Religious Liberty**

Reactions to activism for the Religious Liberty have come from all sides of society. Many support those who have taken a stand on matters because of their religious beliefs and others have criticized them and claimed that they only want to discriminate certain people. Those who support the activism for Religious Liberty argue that it is one of the most important rights in the constitution and its definition needs to be secured. Those who oppose it argue that the cases that have appeared do not work to secure the Religious Right but to expand it, which they see as problematic. Discussions on this topic have appeared in newspapers, radio shows and even talk shows such as the View. The segment on *The View* is a good example of the tension that affects this discussion. In it Raven Symone, who identify as lesbian, and Candace Cameron Bure, who is Christian, discuss the case about the bakers in

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<sup>151</sup> Alan Blinder, "Kentucky Clerk Denies Same-Sex Marriage Licenses, Defying Court," *The New York Times*, September 1, 2015, accessed May 25, 2016. <http://www.nytimes.com/2015/09/02/us/same-sex-marriage-kentucky-kim-davis.html?version=meter+at+1&module=meter-Links&pgtype=article&contentId=&mediald=&referrer=https%3A%2F%2Fwww.google.no&priority=true&action=click&contentCollection=meter-links-click>

<sup>152</sup> Alan Blinder & Tamar Lewin, "Clerk in Kentucky Chooses Jail Over Deal on Same-Sex Marriage," *The New York Times*, September 3, 2015, accessed May 25, 2016. [http://www.nytimes.com/2015/09/04/us/kim-davis-same-sex-marriage.html?\\_r=0](http://www.nytimes.com/2015/09/04/us/kim-davis-same-sex-marriage.html?_r=0)

<sup>153</sup> "Clerk in Kentucky Chooses Jail Over Deal on Same-Sex Marriage,"

Oregon. Bure supports the Freedom of Religion and the bakery while Symone compares it to denying interracial couples their service and argues that it will lead to discrimination.<sup>154</sup>

Those who opposed this activism for the Religious Liberty are mostly the same people who supported same-sex marriage. They fear that expanding the Freedom of Religion will lead to gays and lesbians being discriminated against and that it might be taken further and used to justify discrimination against other minorities as well. Among those who oppose this issue are different celebrities, organizations such as the ACLU, and politicians such as presidential candidate Hillary Clinton.<sup>155</sup> They argue that equal rights and possibilities are more important than protecting people from having to accept something that counteracts with their faith.

Among those who argue in support of the Religious Liberty are those who opposed same-sex marriage and many who fear that the possibility to exercise their religious beliefs may be restricted. This group argues that they do not aim to discriminate certain people but that they want to protect their right to believe in what they want to believe in and that they should not be forced to do something that violates their belief. They have been accused of bigotry and homophobia, which is something they strongly disagree with. In a short film called *Audacity*, which is made by a Christian missionary organization called *Living Waters*. In the film a Christian man is challenged on his beliefs and asked if he sees homosexuality as being wrong and sinful. He explains that he only wants people to be saved and able to enter the kingdom of heaven, which is why he tells gays and lesbians to admit their sin and try to be forgiven and that it is something he does out of love for these people.<sup>156</sup>

Since these reactions have led to so much media coverage certain states have been forced to discuss laws that will allow for religious people to deny someone service because of their faith. In Indiana in March 2015, a bill passed that was called the *Indiana Religious Freedom Restoration Act*. This bill allows Indiana businesses to cite their religious freedom as a legal defense making it possible for them to deny services to certain people or arrangements because it counteracts with their belief.<sup>157</sup> Similar bills were tried or passed in

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<sup>154</sup>”Candace Cameron Bure & Raven Symone on Lesbian Couple's Wedding Cake,” *The View*, YouTube video, 2:44, July 7, 2015, accessed May 25, 2016. <https://www.youtube.com/watch?v=hweFHIEyG74>

<sup>155</sup> Andrew T. Walker, ”Hillary Clinton’s Speech Shows the Vulnerability of Religious Liberty,” *The National Review*, October 5, 2015, accessed May 25, 2016. <http://www.nationalreview.com/article/425099/hillary-clinton-religious-liberty>

<sup>156</sup> Ray Comfort, ”Audacity: Love Can’t Stay Silent,” *Living Waters*, accessed May 25, 2016. <http://www.audacitymovie.com/>

<sup>157</sup> Ed Payne, ”Indiana Religious Freedom Restoration Act: What You Need to Know,” *CNN*, March 31, 2015, accessed May 25, 2016. <http://edition.cnn.com/2015/03/31/politics/indiana-backlash-how-we-got-here/>

other states as well, such as Arkansas and Kansas. Many reacted strongly to these laws being signed and Kirsten Powers, a reporter for *USA Today*, claim that such laws are really just Jim Crow laws against homosexuals. She claims it is similar because it makes some venues and services unavailable for certain groups of people. Further on she claimed that these types of laws will only be hurtful in the long run because it could lead to people discriminating against other minorities as well.<sup>158</sup>

This debate is still ongoing and has not reached a solution yet. Many of the cases mentioned above, as the one with the bakers in Oregon, have been appealed further. Some believe that these cases will find a solution soon and not lead to any major changes, while others believe they might end up in the Supreme Court where they will have to define the Freedom of Religion once and for all and decide its limitations. That the debate concerning same-sex marriage and gay rights developed to be more focused on Religious Liberty shows that this is an issue that engages a large majority of the population and that it will probably not quiet down any time soon.

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<sup>158</sup> Kristin Powers, "Jim Crow Laws for Gays and Lesbians?" *USA Today*, February 19, 2014, accessed May 25, 2016. <http://www.usatoday.com/story/opinion/2014/02/18/gays-lesbians-kansas-bill-religious-freedom-christians-column/5588643/>





## 4 Conclusion

As stated in the introductory chapter of this thesis, religion has been present in the discussion concerning same-sex marriage in the U.S. since its early beginning in the 1970s. The main goal of this thesis has been to look into the rhetoric used in this debate, and to analyze the presence of religion in it. My main questions have been: how is religion used in the debate concerning same-sex marriage? Who uses it? And why is the use of religion so prevalent in this matter? To answer this question I have looked at the academic debate concerning gay marriage, examined how religion is represented in the argumentation of both the Religious Right and the Gay Rights Activist Movement. Furthermore I have examined primary sources consisting of court documents, new articles and campaign ads to analyze the use of religion in the debate.

In chapter two, the research focused on how the debate started in the 1970s and who the opponents and proponents were. The findings in this chapter show that when some abortion rights and gay rights were gained, a coalition of conservative Christians was formed. This group became one of the most important and influential opponents to same-sex marriage and have been ever since. The research found that this group had great impact on politicians and courtrooms because they consisted of several thousand congregations, which meant an incredible number of potential votes or donations.

This chapter also showed how the proponents of same-sex marriage focused their arguments on equal rights and fighting discrimination against gays and lesbians, until the Supreme Court Ruling in 2015. Their opponents however, went through major changes in their argumentation. Up to the 2000s, their rhetoric heavily relied on scripture and has been referred to as “politics of disgust”. These arguments focused on how religious scripture condemned homosexuality as a sin and stigmatized gays and lesbians as pedophiles and misfits. This argumentation was used until *Proposition 8*, when there was a massive shift in their rhetoric. In *Proposition 8* and the following cases, the focus was on the definition of marriage and how important it was to conserve the “traditional marriage” to protect children and the understanding and institution of marriage that has existed for centuries. The research found that this rhetoric was in fact heavily based in religion and that the concept of a “traditional marriage” is just a religious definition of marriage that focuses on reproduction.

Chapter 3 looked into how religion was present in the Supreme Court case and ruling from the summer of 2015. It found that in *Obergefell v. Hodges* religion was never a direct argument, but again the opponents to same-sex marriage used reproduction and the definition

of marriage as arguments, in continuation of the rhetoric they used in *Proposition 8*. Interestingly, religion was a concern that was brought up several times in this case. The concern was whether freedom of religion would be threatened by same-sex marriage being legalized.

The research found that there were two major shifts in the rhetoric used in the debate after the *Obergefell v. Hodges*. This time the proponents of same-sex marriage went through a major shift in their rhetoric. They started to refer to religion in their arguments supporting gay marriage and showed how one could interpret the Bible to support same-sex marriage. The last shift in rhetoric found in this research came from the opponents to same-sex marriage. After gay marriage became legal they shifted their focus from marriage to freedom of religion. Religious liberty became the center of the discussion instead of marriage. Religious opponents to same-sex marriage and gay rights, now argues for the right to deny someone a service or product if their lifestyle or request counteracts with their religious beliefs, making religion the main focus of the case.

Besides the findings on how religion has been used in the debate, the research made three important findings. The first one is that the opposing or supporting feelings and opinions about same-sex marriage does not have its roots in religion, meaning it is not religion that has created support or opposition to the issue. Since the research found that one can interpret the same verses from the Bible to both support and oppose gay marriage, it cannot be the Bible itself that provides these opinions. The opinion and feelings toward gay marriage must come from somewhere else and scripture can provide argumentation for it, depending on how it is interpreted.

A second important finding is that the U.S. had to redefine marriage in order to offer equal rights to its citizens. Marriage has not only been an important legal institution in the U.S. but also a major religious institution. Many religious opponents to same-sex marriage claimed that legalizing gay marriage would be to violate their freedom of religion because it would diminish the value and status of marriage. While proponents of same-sex marriage claimed that marriage in the U.S. is not only a contract between two people confirming their love for each other it is also an institution that provides fundamental rights, protections and benefits. The research found that the U.S. court system were faced with a choice between protecting the religious freedom of the Religious Right or giving same-sex couples access to fundamental rights by allowing them to marry. The court system chose neither and maintained in their rulings that religious freedom could co-exist with same-sex couples being able to marry. In the cases that followed the legalization of gay marriage the courts ruled in

favor of equal rights to same-sex couples, showing that their right to be treated equally was seen as more significant than the right of the Religious Right to abstain from dealing with same-sex couples.

Lastly, the main finding of this research was that religion has had a major impact on the debate concerning same-sex marriage. Religion has been present since the beginning of this debate, which shows how strong a foothold religion has in U.S. society. Polls asking people what has affected them in their opinion on gay marriage and their opinion on different court cases, show that religion plays a major role, especially for those who are religiously affiliated. The research found that religion in general, and specifically what denomination people belong to, affect them in how they vote and whether or not they choose to donate to these cases.

## **4.1 Recommendations for Further Research**

This thesis has examined the representation and presence of religion in the debate concerning legalization of same-sex marriage. As this thesis has shown religious arguments are widely used by both opponents and supporters of same-sex marriage. In the time directly before legalization and directly after, the Religious Right framed same-sex marriage as standing in direct opposition to their Religious Freedom. Further research on the subject could look into the cases where both freedom of religion and same-sex marriage are present and take a closer look at how these rights are presented as being opposites. If the Religious Right gains ground with their argumentation we could see an expansion of religious freedom to include the possibility for people to deny service to anyone or anything they claim counteracts with their religious beliefs.

One could also perform a wider research on different religions and churches in the U.S. to see if the views and attitudes on same-sex marriage and gay rights are continuing to evolve in favor of the Gay Rights Movement. A comparative study between religious argumentation against same-sex marriage founded in Christianity and religious argumentation against same-sex marriage founded in Islam could also be fruitful in order to examine similarities and differences in the rhetoric.



# Bibliography

## Primary Sources:

### Books:

*The Holy Bible*, New International Version.

### Court Cases and Amicus Briefs:

"100 Scholars of Marriage." Amicus Brief, *Obergefell v. Hodges*. Accessed May 2016 at:

[http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556\\_100\\_Scholars\\_of\\_Marriage.pdf](http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_100_Scholars_of_Marriage.pdf)

"Americans United for Separation of Church and State." Amicus Brief, *Obergefell v. Hodges*.

Accessed May 2016 at:

[http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556\\_Americans\\_United\\_for\\_Separation\\_of\\_Church\\_and\\_State.pdf](http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_Americans_United_for_Separation_of_Church_and_State.pdf)

*Baehr v. Lewin*, 74 Haw. 530 (Haw. 1993). Accessed March 2016 at:

<https://casetext.com/case/baehr-v-lewin-1>

*Baker v. State*, 170 Vt. 194 (Vt. 1999). Accessed March 2016 at:

<https://casetext.com/case/baker-v-state-1092>

*Bowers v. Hardwick*, 478 U.S. 186 (1986). Accessed March 2016 at:

<https://casetext.com/case/bowers-v-hardwick>

"Foundation of Moral Law." Amicus Brief, *Obergefell v. Hodges*. Accessed May 2016 at:

[http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556\\_Foundation\\_for\\_Moral\\_Law.pdf](http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_Foundation_for_Moral_Law.pdf)

*Griswold v. Connecticut* 381 U.S. 479 (1965). Accessed March 2016 at:

<https://casetext.com/case/griswold-v-state-of-connecticut>

"Historians of Marriage and the American Historical Association." Amicus Brief, *Obergefell v. Hodges*. Accessed May 2016 at:

[http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556\\_Historians\\_of\\_Marriage\\_and\\_the\\_American\\_Historical\\_Association.pdf](http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_Historians_of_Marriage_and_the_American_Historical_Association.pdf)

*Hollingsworth v. Perry*, 558 U.S. 183 (2010). Accessed May 2016 at:

<https://www.oyez.org/cases/2012/12-144>

*Hollingsworth v. Perry*. "Oral Argument." Accessed May 2016 at:

<https://www.oyez.org/cases/2012/12-144>

*Lawrence v. Texas*, 539 U.S. 558 (2003). Accessed March 2016 at:

<https://casetext.com/case/lawrence-v-texas-6>

"Major Religious Organizations." Amicus Brief, *Obergefell v. Hodges*. Accessed May 2016

at: [http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556\\_Major\\_Religious\\_Organizations.pdf](http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_Major_Religious_Organizations.pdf)

"Massachusetts." Amicus Brief, *Obergefell v. Hodges*. Accessed May 2016 at:

[http://lawprofessors.typepad.com/files/14-556\\_massachusetts.pdf](http://lawprofessors.typepad.com/files/14-556_massachusetts.pdf)

*Obergefell v. Hodges*, 135 S.Ct. 2584 (2015). Accessed May 2016 at:

<https://casetext.com/case/obergefell-v-hodges>

*Obergefell v. Hodges*, 135 S.Ct. 2584 (2015). "Opinion of the Court". Accessed May 2016 at:

<https://www.oyez.org/cases/2014/14-556>

*Obergefell v. Hodges*, 135 S.Ct. 2584 (2015). "Roberts, J. dissenting". Accessed May 2016

at: <https://www.oyez.org/cases/2014/14-556>

*Obergefell v. Hodges*, 135 S.Ct. 2584 (2015). "Thomas C. dissenting". Accessed May 2016

at: <https://www.oyez.org/cases/2014/14-556>

*Obergefell v. Hodges*. "Oral Argument." The Oyez Project. Accessed May 2016 at:

<https://www.oyez.org/cases/2014/14-556>

"Parents and Friends of Ex-Gays and Gays." Amicus Brief, *Obergefell v. Hodges*. Accessed

May 2016 at: [http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556\\_Parents\\_and\\_Friends\\_of\\_Ex-Gays\\_Gays.pdf](http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_Parents_and_Friends_of_Ex-Gays_Gays.pdf)

*Perry v. Schwarzenegger*. 704 F. Supp.2d 921 (N.D. Cal. 2010). Accessed May 2016 at:

<https://casetext.com/case/perry-v-schwarzenegger-10>

*Roe v. Wade*, 410 U.S. 113 (1973). Accessed March 2016 at: <https://casetext.com/case/roe-v-wade>

[wade](https://casetext.com/case/roe-v-wade)

“Same-Sex Attracted Men and Their Wives.” Amicus Brief, *Obergefell v. Hodges*. Accessed May 2016 at: [http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556\\_Same-Sex\\_Attracted\\_Men\\_and\\_Their\\_Wives.pdf](http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_Same-Sex_Attracted_Men_and_Their_Wives.pdf)

*United States v. Windsor*, No. 12-307 (U.S. Jun 26, 2013). Accessed March 2016 at: <https://casetext.com/case/united-states-v-windsor-8>

### **Videos and Sermons:**

Grace to You. ”Thinking Biblically About Homosexuality (Selected Scriptures).” *YouTube* video, 1:06:53. June 15, 2012. Accessed May 11, 2016. <https://www.youtube.com/watch?v=OVznV4O4sto>

Miner, Jeff. ”Families as God Sees Them.” *Jesus MCC*. Accessed May 20, 2016. [http://wouldjesusdiscriminate.org/assets/media/sermons/ruth\\_naomi-JesusMCC-2006-06-18.mp3](http://wouldjesusdiscriminate.org/assets/media/sermons/ruth_naomi-JesusMCC-2006-06-18.mp3)

Miner, Jeff. “Sodom and Gomorra.” *Jesus MCC*. Accessed May 21, 2016. [http://wouldjesusdiscriminate.org/assets/media/sermons/sodom\\_and\\_gomorrah-JesusMCC-2000-06-11.mp3](http://wouldjesusdiscriminate.org/assets/media/sermons/sodom_and_gomorrah-JesusMCC-2000-06-11.mp3)

Miner, Jeff. “Am I an Abomination?” *Jesus MCC*. Accessed May 21, 2016. <http://wouldjesusdiscriminate.org/assets/media/sermons/leviticus-JesusMCC-2004-06-20.mp3>

Miner, Jeff. “Confronting the Boogie Man.” *Jesus MCC*. Accessed May 22, 2016. [http://wouldjesusdiscriminate.org/assets/media/sermons/romans\\_1\\_21-JesusMCC-2006-06-25.mp3](http://wouldjesusdiscriminate.org/assets/media/sermons/romans_1_21-JesusMCC-2006-06-25.mp3)

Miner, Jeff. “No respecter of Persons.” *Jesus MCC*. Accessed May 22, 2016. [http://wouldjesusdiscriminate.org/assets/media/sermons/david\\_jonathan-jesusc-1998-04-26.mp3](http://wouldjesusdiscriminate.org/assets/media/sermons/david_jonathan-jesusc-1998-04-26.mp3)

No on Prop 8. ”I Decide” *YouTube* Video, 1:06. September 15, 2008. Accessed May 12, 2016. <https://www.youtube.com/watch?v=UxQ6BBdXg78>

No on Prop 8. “Proponents of Prop 8 are Using Lies to Scare You.” *YouTube* video, 0:33. October 9, 2008. Accessed May 12, 2016. <https://www.youtube.com/watch?v=vKAqbQIWQhc>

No on Prop 8. "Watch Our Latest Ad." *YouTube* video, 0:30. October 15, 2008. Accessed May 12, 2016. <https://www.youtube.com/watch?v=JHeTVAE4ZkY>

"Ruth Loved Naomi as Adam Loved Eve," *Would Jesus Discriminate*, accessed May 20, 2016. [http://wouldjesusdiscriminate.org/biblical\\_evidence/ruth\\_naomi.html](http://wouldjesusdiscriminate.org/biblical_evidence/ruth_naomi.html)

The View. "Candace Cameron Bure & Raven Symone on Lesbian Couple's Wedding Cake." *YouTube* video. 2:44. July 7, 2015. Accessed May 25, 2016. <https://www.youtube.com/watch?v=hwefHEeyG74>

VoteYesonProp8. "Robb and Robin Wirthlin's Story." *YouTube* video, 4:32. October 20, 2008. Accessed May 9, 2016. <https://www.youtube.com/watch?v=WLHWBWSaW-4>

### **News articles and Polls:**

"2013 Affirming Church Survey." *Gaychurch.org*. January 2014. Accessed May 19, 2016. <http://www.gaychurch.org/affirming-denominations/affirming-church-survey/2013-survey/>

Blinder, Alan. "Kentucky Clerk Denies Same-Sex Marriage Licenses, Defying Court." *The New York Times*. September 1, 2015. Accessed May 25, 2016. <http://www.nytimes.com/2015/09/02/us/same-sex-marriage-kentucky-kim-davis.html?version=meter+at+1&module=meter-Links&pgtype=article&contentId=&mediaId=&referrer=https%3A%2F%2Fwww.google.no&priority=true&action=click&contentCollection=meter-links-click>

Blinder, Alan & Lewin, Tamar. "Clerk in Kentucky Chooses Jail Over Deal on Same-Sex Marriage." *The New York Times*. September 3, 2015. Accessed May 25, 2016. [http://www.nytimes.com/2015/09/04/us/kim-davis-same-sex-marriage.html?\\_r=0](http://www.nytimes.com/2015/09/04/us/kim-davis-same-sex-marriage.html?_r=0)

"Changing Attitudes on Gay Marriage". *Pew Research Center*. July 29, 2015. Accessed March 7, 2016. <http://www.pewforum.org/2015/07/29/graphics-slideshow-changing-attitudes-on-gay-marriage/>

Gast, Phil. "Obama announces he supports same-sex marriage". *CNN*. May 10, 2012. Accessed April 20, 2016. <http://edition.cnn.com/2012/05/09/politics/obama-same-sex-marriage/>



- Green, Emma. "How Will the U.S. Supreme Court's Same-Sex Marriage Decision Affect Religious Liberty?" *The Atlantic*. June 26, 2015. Accessed May 24, 2016. <http://www.theatlantic.com/politics/archive/2015/06/how-will-the-us-supreme-courts-same-sex-marriage-decision-affect-religious-liberty/396986/>
- Jones, Robert P. "Attitudes on Same-Sex Marriage by Religious Affiliation and Denominational Family". *Public Religion Research Institute*. April 22, 2015. Accessed April 23, 2016. <http://publicreligion.org/2015/04/attitudes-on-same-sex-marriage-by-religious-affiliation-and-denominational-family/>
- Jones Robert P. & Cox Daniel. "California's Proposition 8 and Religious Voters." *Public Religion Research*. May 26, 2009. Accessed May 9, 2016. <http://publicreligion.org/site/wp-content/uploads/2011/06/Religious-Voters-and-Proposition-8-Memo.pdf>
- Karimi, Faith & Pearson, Michael. "The 13 States that Still Ban Same-sex Marriage". *CNN*. February 13, 2015. Accessed March 9, 2016. <http://edition.cnn.com/2015/02/13/us/states-same-sex-marriage-ban/>
- Liptak, Adam. "Supreme Court Ruling Makes Same-Sex Marriage a Right Nationwide". *The New York Times*. June 26, 2015. Accessed March 6, 2016. [http://www.nytimes.com/2015/06/27/us/supreme-court-same-sex-marriage.html?\\_r=0](http://www.nytimes.com/2015/06/27/us/supreme-court-same-sex-marriage.html?_r=0)
- "Mormon Church steps into the Prop. 8 Battle." *LA Times*. October 9, 2008. Accessed May 12, 2016. <http://latimesblogs.latimes.com/lanow/2008/10/now-the-mormon.html>
- Paulson, Michael. "Can't Have Your Cake, Gays are Told, and a Rights Battle Rises." *The New York Times*. December 15, 2014. Accessed May 25, 2016. <http://www.nytimes.com/2014/12/16/us/cant-have-your-cake-gays-are-told-and-a-rights-battle-rises.html>
- Payne, Ed. "Indiana Religious Freedom Restoration Act: What You Need to Know." *CNN*. March 31, 2015. Accessed May 25, 2016. <http://edition.cnn.com/2015/03/31/politics/indiana-backlash-how-we-got-here/>
- Powers, Kristin. "Jim Crow Laws for Gays and Lesbians?" *USA Today*. February 19, 2014. Accessed May 25, 2016. <http://www.usatoday.com/story/opinion/2014/02/18/gays-lesbians-kansas-bill-religious-freedom-christians-column/5588643/>

- Silver, Nate. "How Opinion on Same-Sex Marriage is Changing, and What It Means". *FiveThirtyEight*. March 26, 2013. Accessed April 23, 2016.  
[http://fivethirtyeight.blogs.nytimes.com/2013/03/26/how-opinion-on-same-sex-marriage-is-changing-and-what-it-means/?\\_hstc=215845384.ec0918c403393bb6d136258fc6932fce.1363705083853.1364240144123.1364398842178.10&\\_hssc=215845384.1.1364398842178&\\_r=0](http://fivethirtyeight.blogs.nytimes.com/2013/03/26/how-opinion-on-same-sex-marriage-is-changing-and-what-it-means/?_hstc=215845384.ec0918c403393bb6d136258fc6932fce.1363705083853.1364240144123.1364398842178.10&_hssc=215845384.1.1364398842178&_r=0)
- Starnes, Todd. "Christian Bakers Face \$135K Fine for Refusing to Make Cake for Gay Wedding." *New York Post*. April 26, 2015. Accessed May 25, 2016.  
<http://nypost.com/2015/04/26/christian-bakers-face-135k-fine-for-refusing-to-make-cake-for-gay-wedding/>
- Walker, Andrew T. "Hillary Clinton's Speech Shows the Vulnerability of Religious Liberty." *The National Review*. October 5, 2015. Accessed May 25, 2016.  
<http://www.nationalreview.com/article/425099/hillary-clinton-religious-liberty>
- Wheeler, David R. "Gay Marriage and the Future Evangelical Colleges." *The Atlantic*. July 14, 2015. Accessed May 25, 2016.  
<http://www.theatlantic.com/education/archive/2015/07/evangelical-colleges-struggle-gay-marriage-ruling/398306/>

## **Secondary Sources:**

### **Books and Articles:**

- Coontz, Stephanie. *Marriage, A History: How Love Conquered Marriage*. Penguin Books, 2005.
- Cott, Nancy F. *Public Vows: A History of Marriage and the Nation*. Harvard University Press, 2002.
- DeLaet Debra L. & Caufield, Rachel P. "Gay Marriage as a Religious Right: Reframing the Legal Debate over Gay Marriage in the United States". *Polity*, Vol. 40, No.3 (July, 2008), 297-320.
- Deyoung, Kevin. *What Does the Bible Really Teach About Homosexuality*. Wheaton: Crossway, 2015.

- Eskridge, William N. *The Case for Same-Sex Marriage: From Sexual Libert to Civilized Commitment*. New York: The Free Press, 1996.
- Hull, Kathleen E. *Same-Sex Marriage: The Cultural Politics of Love and Law*. Cambridge University Press, 2006.
- Isaachson, Ruth Butterfield. "'Teachable Moments': The Use of Child-Centered Arguments in the Same-Sex Debate". *California Law Review*, Vol.98, No.1 (February 2010), 121-157.
- Klarman, Michael J. *From the Closet to the Altar: Courts, Backlash, and the Struggle for Same-Sex Marriage*. Oxford University Press, 2013.
- Sadler, Brook J. "Re-thinking Civil Unions and Same-sex Marriage." *The Monis*. Vol.91, No. 3/4 (July & October 2008), 578-605.

#### **News Articles, Websites and Polls:**

- Cima, Rosie. "CA Prop 8's Top 10 Supporting and Opposing Contributors." *Maplight*. June 25, 2013. Accessed May 12, 2016. <http://maplight.org/content/73279>
- Coontz, Stephanie. "'Traditional' marriage has changed a lot". February 26, 2006. Accessed May 8, 2016. <http://www.stephaniecoontz.com/articles/article25.htm>
- Feeney, Lauren. "Timeline: The Religious Right and the Republican Platform". *Moyers & Company*. August 31, 2012. Accessed April 29, 2016. <http://billmoyers.com/content/timeline-the-religious-right-and-the-republican-platform/>
- Koch, Brittany Blackburn. "The Effect of Obergefell v. Hodges for Same-Sex Couples." *The National Law Review*. July 17, 2015. Accessed May 14, 2016. <http://www.natlawreview.com/article/effect-obergefell-v-hodges-same-sex-couples>
- Melina, Remy. "How does Marriages, Civil Unions and Domestic Partnerships Differ." *Live Science*. August 17, 2010. Accessed May 16, 2016. <http://www.livescience.com/32770-how-do-marriages-civil-unions-and-domestic-partnerships-differ.html>
- Nelson, Gary. "In Florida, Miami-Dade has been Ground Zero for Gay Rights Struggle." *CBSMiami*. January 5, 2015. Accessed May 10, 2016.

<http://miami.cbslocal.com/2015/01/05/in-florida-miami-dade-has-been-ground-zero-for-gay-rights-struggle/>

"State-by-State History of Banning and Legalizing Gay Marriage, 1994-2015". *Procon.org*. Last modified February 6, 2016. Accessed April 20, 2016.

<http://gaymarriage.procon.org/view.resource.php?resourceID=004857>

"Timeline: Proposition 8". *LA Times*. June 23, 2010. Accessed April 16, 2016.

<http://www.latimes.com/local/la-prop8-timeline-story.html>

Wolraich, Michael. "Anita Bryant and the Myth of the Militant Homosexual". *The Daily Beast*. April 4, 2015. Accessed April 29, 2016.

<http://www.thedailybeast.com/articles/2015/04/04/anita-bryant-and-the-myth-of-the-militant-homosexual.html>

**Videos:**

Comfort, Ray. "Audacity: Love Can't Stay Silent." *Living Waters*. Accessed May 25, 2016.

<http://www.audacitymovie.com/>

