Uncomfortable Marriage

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Yuvraj Joshi, *Respectable Queerness*, 43 **Colum. Hum. Rts. L. Rev.** 415 (2012).

Much legal scholarship about same-sex marriage by liberals presents arguments for judges to use when interpreting constitutional rights. Another current of critical research, from queer, feminist, or other left scholars, explores how expanding access to marriage may disadvantage those who will not or cannot marry, undermine an intersectional queer politics, or both. Much less writing has explored the impact, for gay men and lesbians who might marry or who have married, of the lobbying and litigation that made doing so possible.

Some reasons for this relative neglect are obvious. It may be too early to have meaningful data. The question may be one for sociologists. But surely another is that a lot of people assume that same-sex marriage is a good thing for at least those who take it up. Yuvraj Joshi's paper joins the critical research about the potential harms arising from the campaign for same-sex marriage and its realization for those who wouldn't walk down the aisle even if they could. But it also enriches legal scholarship by exploring the psychological effects of same-sex marriage for those who marry.

Joshi develops "respectable queerness" as a theoretical framework for understanding the implications of recognizing same-sex domestic relationships. For him, the crucial distinction lies between respectability—the state or quality of being proper, correct, and socially acceptable—and respect—due regard for the feelings, wishes, or rights of others. Respect, he argues, connotes acceptance of difference; respectability connotes acceptance of the norm. Respectability is a system of hierarchy grounded on distinctions between the respectable and the degenerate.

On Joshi's reading, and it is a fair one, the push for same-sex marriage has proceeded less by demanding respect than by attempting to demonstrate gay men's and lesbians' respectability. The agency associated with respectability is a key analytical insight: while assimilation refers to pressures imposed by the mainstream, respectability gestures to efforts made by gay men and lesbians to remake themselves as worthy of recognition. Think of the factual accounts of model plaintiffs advanced to courts in same-sex marriage litigation, which were advanced in order to establish couples' stability and heteronormativity.

Drawing on Judith Butler's work, Joshi suggests that respectability is performative. It consists in performing the actions associated with it. One result is the potential gap between what a person does and who a person is, between performance and self. (Joshi is sensibly alert to the complexity of claims to authenticity and his analysis does not depend on a person's having "a true identity or essence that is independent of social context"; it is enough that situated individuals have a sense of who they are and who they wish to become.)

In particular, there may be a gap between the respectable, public self and the private self's ways of living. What exacerbates the gap is that the legal and social movement for recognizing respectable same-sex couples has re-privatized queer desire and sexual practices. Openness about queer desire and its expression becomes harder, argues Joshi, as public recognition of gay relationships is secured on the basis of their respectability. Desire may split into two parts, as the same non-heterosexual subjects

desire to be publicly respectable and privately queer. He continues: “[E]ven as more gay people ‘come out’ into the public world, aspects of their sexual identities remain hanging like skeletons in their closets.” Concretely, some couples experience a dissonance “between the appearance of monogamy in public and their privately non-monogamous existence.” (It is exemplary of the paper’s theoretical and methodological eclecticism that the discussion moves from Frantz Fanon’s “dual consciousness” to evidence gleaned from online social networks such as *Jake* and *Gaydar*.)

Although other parts of the paper draw on authors such as Michael Warner, Nancy Polikoff, and Dean Spade to elaborate on the harms from respectable queerness for the political organizing of those queer constituencies whose members don’t want to marry, the paper’s originality lies in its focus on those who do marry. For me, the paper’s thrill—in an experiential, non-propositional way—lay in the clarity with which it identifies the predicament of those who take up the public forms of recognition now accessible in many western jurisdictions while knowing that their private lives do not match publicly articulated and sustained assumptions.

Reflection has led me to further questions. What degree of coherence or unity ordinarily bridges the public representations ascribed to non-queer people and their private experiences? Whose business is it, if anyone’s, when inaccurate assumptions are made about a legally recognized couple’s private life? Where a form of legal recognition has been secured via strategic but politically problematic arguments—respectability and equality-as-sameness, say, instead of respect and robust claims to privacy—what ethical responsibility attaches to those who take up that form years later?

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