Changing Hearts and Minds: The Politics of Sentimentality and The Cultural Production of the Gay Family in New Mexico's Same-Sex Marriage Debate

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CHANGING HEARTS AND MINDS: THE POLITICS OF SENTIMENTALITY AND THE CULTURAL PRODUCTION OF THE GAY FAMILY IN NEW MEXICO’S SAME-SEX MARRIAGE DEBATE

by

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DISSERTATION

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ABSTRACT

Starting in February 2004, in the aftermath of San Francisco Mayor Gavin Newsom’s authorization of city clerks to issue marriage licenses to gay and lesbian couples, same-sex marriage and LGBT families moved to the center of American politics. In the same month New Mexico succeeded in making its own mark on the national debate over same-sex marriage as Victoria Dunlap, the Sandoval County clerk, issued marriage licenses to gay and lesbian couples. The resulting sixty-four same-sex marriages incited New Mexico gay and lesbian activism around the issue of marriage and launched civil rights and moral debates that dominated the New Mexico legislature, and which continue to drive local politics around marriage.

This dissertation is based on five years of anthropological field research (2005-2010) with New Mexico and national advocacy groups; with the New Mexico legislative process; and with gay, lesbian, and transgender couples and families. The research considers how lesbian, gay, bisexual, and transgender activists and couples articulate an LGBT group identity and construct political subjectivities through discourses and images about marriage and family and democratic citizenship. This dissertation argues that the creation of LGBT political subjects and public articulations of LGBT family identities were framed through three different social spheres: 1. dominant heteronormative public sphere in which kinship was (re)conceptualized and specific identities were publically
disseminated; 2. An LGBT public sphere in which group identities have formed and have been internally challenged; and 3. The private (home) sphere where people’s identities have been shaped by individual experiences and family experiences.

This dissertation assesses legislative testimonies, LGBT community forums and town hall meetings, LGBT organization’s strategies, and same-sex couples’ depictions and discourses about their lives as families. In their attempt to mobilize LGBT support for domestic partnership legislation, and pass domestic partner rights legislation, activists and same-sex couples created specific kinds of sexual subjects rooted in gendered notions of citizenship and family. Yet, subjectivity is also shaped and transformed through the private (individual and familial) sphere. While LGBT public discourses about same-sex marriage have over the years become an acceptable narrative through which to ask for social and legal recognition, in their private lives same-sex couples continue to have to generate spaces from which to negotiate identity and subjectivity and through which they simultaneously appropriate and challenge heteronormative and neoliberal frameworks of the family. At each level of social and political engagement, this research examines how kinship becomes deeply implicated in the realm of political symbolism, in democratic constructs of citizenship and belonging, and in LGBT group and identity construction.
NEW MEXICO LEGISLATION TIMELINE


2005 January–March. First domestic partner legislation introduced in the New Mexico Legislature: Domestic Partner and Responsibilities Act (Senate Bill 576) carried by Senator Cisco McSorley. The bill dies in senate.

2007 January–March. Domestic Partner and Responsibilities Act (House Bill 603 and House Bill 4) introduced in the house and carried by House Representative Mimi Stewart. The legislation loses by one vote on the senate floor.

2007 March. Governor Bill Richardson orders a special legislative session that lasts ten days. Domestic Partner and Responsibilities Act (House Bill 4) introduced by House Representative Mimi Stewart. The session lasts ten days, and the bill dies waiting to be heard by the senate.

2008 January–February. Domestic Partner and Responsibilities Act (House Bill 9) introduced in the house by Representative Mimi Stewart. The bill dies in the Senate Public Affairs committee.

2009 January–March. Domestic Partner Rights and Responsibilities Act (Senate Bill 12) introduced in the senate by Senator Cisco McSorley. The New Mexico Catholic bishops get involved and promise to stay neutral if the language of the bill excludes terms associated with marriage. Proponents oblige, but the bill still dies on the senate floor.
2010 January–February. Domestic Partner Rights and Responsibilities Act (Senate Bill 183) introduced in the senate by Senator Peter Wirth and House Representative Mimi Stewart. The Catholic Church promises to support the bill if it outlines every benefit to domestic partners and differentiates them from benefits associated with marriage. An 816-page bill is the result. The New Mexico Catholic bishops determine that domestic partnership represent marriage and send a representative to speak against the new bill. The bill is voted down on the senate floor.
KEY ORGANIZATIONS

The American Civil Liberties Union is the national nonpartisan organization that works to protect individuals from legal discrimination. In 1986 the ACLU founded its LGBT project. The project’s mission has been to change laws and to “convince Americans that sexual orientation and gender identity discrimination is wrong.” The project has five priority areas: Basic Rights and Liberties, Parenting, Relationships and Marriage, Youth and Schools, and Transgender Discrimination. In 2007 ACLU LGBT project representatives became involved in New Mexico’s struggle to pass domestic partnership law (see http://www.aclu.org/lgbt-rights).

The American Civil Liberties Union–New Mexico (ACLU-NM) is the state’s American Civil Liberties Union chapter. The organization’s goal is to attain and preserve legal protections for New Mexico residents. It is a nonpartisan organization focusing on First Amendment rights, equal protection under the law, due process, and the right to privacy. Since 2005 one of the organization’s priorities has been to support legislation establishing equal rights for gay and lesbian couples, including access to health insurance and domestic partnership (see http://www.aclu-nm.org/).

Equality New Mexico (EQNM) is statewide education and advocacy organization for New Mexico’s lesbian, gay, bisexual, and transgender (LGBT) population. The goal of the organization is to attain the full legal recognition of LGBT civil rights and end discrimination in the state of New Mexico. The organization was formed in 2005 by the
joining of its two predecessors: the Coalition for Equality, founded in 1993, and Basic Rights New Mexico, founded in 2003 (see http://www.eqnm.org/).

*Freedom to Marry* was founded in 2003 by Evan Wolfson, a civil rights attorney who played a significant role in shaping the national marriage equality movement. The national campaign’s goal is to end state and federal marriage discrimination and overturn Definitions of Marriage Acts (DOMAs) through the courts or through the legislature. The organization provided EQNM with funding, and Evan Wolfson became involved in pushing for marriage legislation in New Mexico (see http://www.freedomtomarry.org/pages/about-us).

The *Gay and Lesbian Alliance Against Defamation (GLAAD)* is the principle LGBT organization that works directly with news, entertainment, and social media along with cultural institutions to promote accountability for the words and images they present about LGBT individuals, helps grassroots organizations communicate LGBT issues effectively, promotes understanding, increases acceptance, and advances equality. The organization monitored media coverage on same-sex families in New Mexico and provided EQNM with media training (see http://www.glaad.org).

The *Gill Action Fund* was founded by Tim Gill in 2005. It is a 501(c)(4) issue advocacy organization that funds political and legal advocacy and endorses pro-LGBT legislators. In 2008 Gill Action provided funding for and sent a representative to New Mexico to
work with EQNM on the domestic partnership legislative campaign (see http://gillaction.org/).

The Gill Foundation is a Denver, Colorado–based LGBT 501(c)(3) organization founded by American software entrepreneur and philanthropist Tim Gill. The foundation’s mission is to advance equality by supporting other nonprofit organizations that serve LGBT individuals and groups. The foundation provides funds for education advocacy projects, and from 2005 to 2009 the Gill Foundation was a major source of funding for EQNM (see http://gillfoundation.org/).

Lambda Legal is the oldest and largest national organization that provides legal representation to LGBT people in civil rights and legal recognition cases. The nonprofit organization was founded in 1973 and focuses on public policy, litigation, and education. Lambda Legal had a strong presence in New Mexico in from 2004 to 2005 (see http://www.lambdalegal.org/).

The National Center For Lesbian Rights (NCLR) is a national nonprofit legal organization that was founded in 1977 and is committed to advancing the civil and human rights of LGBT people and their families through litigation, public policy advocacy, and public education. The organization provides free legal assistance to LGBT people and their legal advocates and conducts community education on LGBT legal issues. In 2004 NCLR’s local legal counsel, Lynn Perls, along with national representatives from Lambda Legal hosted a community forum to address the legal
challenges and possibilities for newly wed same-sex couples (see http://www.nclrights.org).

The National Gay and Lesbian Task Force (NGLTF) was founded in 1973 and focuses on building the political power of LGBT communities. The organization builds on grassroots and legal activism and lobbies to defeat anti-LGBT ballot initiatives and legislation and pass pro-LGBT legislation. The organization also provides training for activists and organizational capacity building, provides research and policy analysis, and reports on positions of candidates for public office on LGBT issues. NGLTF representatives were involved in strategy building around domestic partnership in NM for several years between 2007 and 2010 (see http://www.ngltf.org/).
# Table of Contents

## CHAPTER 1: NEW MEXICO LGBT IDENTITY, POLITICAL SUBJECTIVITY, AND ARTICULATIONS OF BELONGING THROUGH SAME-SEX MARRIAGE

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>Same-Sex Marriage in the United States</td>
<td>20</td>
</tr>
<tr>
<td>Same-Sex Marriage in New Mexico</td>
<td>23</td>
</tr>
<tr>
<td>Equality New Mexico</td>
<td>28</td>
</tr>
<tr>
<td>Entering the Field</td>
<td>32</td>
</tr>
<tr>
<td>Neoliberal Modes of Governing: Who’s the Public and Where’s the Public?</td>
<td>35</td>
</tr>
<tr>
<td>Liberalism and Neoliberalism</td>
<td>38</td>
</tr>
<tr>
<td>Liberalism</td>
<td>38</td>
</tr>
<tr>
<td>Neoliberalism</td>
<td>41</td>
</tr>
<tr>
<td>Envisioning the Self under Neoliberalism</td>
<td>45</td>
</tr>
<tr>
<td>Marginalized Mobilizations</td>
<td>53</td>
</tr>
<tr>
<td>The Promise and Failures of Community</td>
<td>55</td>
</tr>
<tr>
<td>Summary</td>
<td>56</td>
</tr>
</tbody>
</table>

## CHAPTER 2: METHODOLOGY AND THE ROLE OF ANTHROPOLOGY AND THE ANTHROPOLOGIST

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interviews</td>
<td>62</td>
</tr>
<tr>
<td>Gathering Participants</td>
<td>62</td>
</tr>
<tr>
<td>Benefits and Limitations to Interview Methodology</td>
<td>63</td>
</tr>
<tr>
<td>Participant Demographics</td>
<td>65</td>
</tr>
<tr>
<td>Table 1: Same Sex Couples Demographics</td>
<td>67</td>
</tr>
<tr>
<td>Table 2: New Mexico Residence</td>
<td>69</td>
</tr>
<tr>
<td>Table 3: Other Demographics</td>
<td>70</td>
</tr>
<tr>
<td>Interview Structure</td>
<td>71</td>
</tr>
<tr>
<td>Participant Observation</td>
<td>73</td>
</tr>
<tr>
<td>Legislation Observation</td>
<td>76</td>
</tr>
<tr>
<td>Media Monitoring</td>
<td>78</td>
</tr>
<tr>
<td>The Role of the Anthropologist</td>
<td>79</td>
</tr>
</tbody>
</table>
CHAPTER 3: DEADLOCK OVER WEDLOCK—LESBIAN AND GAY DISCOURSES ABOUT MARRIAGE IN THE NEW MEXICO LEGISLATURE. 84

Domestic Partner Legislation Timeline ................................................................. 88
  2005: Domestic Partner and Responsibilities Act (Senate Bill 576) ................. 88
  2007: Domestic Partner and Responsibilities Act (House Bill 603 and House Bill 4) ............................................................................................................. 89
  2008: Domestic Partner Rights and Responsibilities Act (House Bill 9) ............ 92
  2009: Domestic Partner Rights and Responsibilities Act (Senate Bill 12) ......... 93
  2010: Domestic Partner Rights and Responsibilities Act (Senate Bill 183) ........ 95

Economic Development and the Pursuit of Common Humanity ......................... 96

The Language of Nature, Justice, and the Homosexual Threat to Kinship ............. 102

The Gay Bill, Normalcy, the Disembodied Citizen, and the Disappearing Queer ..... 119

Neoliberal Equality and the Sentimentality of Domestic Partnership .................. 127

Equality and Tradition: The Return of the Queer Subject, Civil Rights and the New Mexico Catholic Bishops ................................................................. 137

Conclusion ............................................................................................................ 143

CHAPTER 4: ADVOCATING DOMESTIC PARTNERSHIP—MESSAGING AND ORGANIZATIONAL RELATIONSHIPS ................................................................. 147

Domestic Partnership History ................................................................................ 151

Creating Strategy .................................................................................................... 156

Rights and Personal Beliefs ................................................................................... 156

Courts versus Legislature ....................................................................................... 164

Messaging, Establishing Leadership, and Mobilizing the Community ................. 167

Involvement of ACLU-NM in the Domestic Partnership Campaign .................... 188

Relationships with National Organizations ........................................................... 196

Freedom to Marry .................................................................................................. 197

The American Civil Liberties Union and the National Center for Lesbian Rights (NCLR) .................................................................................................... 200

Gill Action ............................................................................................................. 205

Internal Relationships and Discords ..................................................................... 214

Just New Mexico ..................................................................................................... 219

Conclusion ............................................................................................................ 224
<table>
<thead>
<tr>
<th>CHAPTER 5: THE LGBT INTIMATE PUBLIC IN COMMUNITY DISCOURSES ABOUT MARRIAGE</th>
<th>231</th>
</tr>
</thead>
<tbody>
<tr>
<td>Activists Defining Community</td>
<td>237</td>
</tr>
<tr>
<td>How LGBT Couples Understand Community and Representation</td>
<td>246</td>
</tr>
<tr>
<td>Community Support Building and Conflicts</td>
<td>258</td>
</tr>
<tr>
<td>Building Community through Town Halls</td>
<td>260</td>
</tr>
<tr>
<td>The Problems with Maintaining Community</td>
<td>263</td>
</tr>
<tr>
<td>Representing Community</td>
<td>272</td>
</tr>
<tr>
<td>Activists on Representation</td>
<td>281</td>
</tr>
<tr>
<td>Conclusion</td>
<td>291</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CHAPTER 6: INTIMATE PUBLICS AND NARRATIVES OF MARRIAGE</th>
<th>295</th>
</tr>
</thead>
<tbody>
<tr>
<td>Love and Marriage</td>
<td>302</td>
</tr>
<tr>
<td>Feminism and History</td>
<td>304</td>
</tr>
<tr>
<td>Cultural Traditions and Acceptance from Society and Family</td>
<td>314</td>
</tr>
<tr>
<td>Relationship to the State</td>
<td>331</td>
</tr>
<tr>
<td>Acts of Resistance(?)</td>
<td>337</td>
</tr>
<tr>
<td>Conclusion</td>
<td>348</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CHAPTER 7: MAKING FAMILY</th>
<th>353</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defining Family</td>
<td>357</td>
</tr>
<tr>
<td>Biological vs. Chosen Family</td>
<td>359</td>
</tr>
<tr>
<td>Family as Community/Community as Family</td>
<td>377</td>
</tr>
<tr>
<td>Natural/Traditional vs. Unnatural/Artificial Family</td>
<td>395</td>
</tr>
<tr>
<td>Parenting as Performance of Family</td>
<td>400</td>
</tr>
<tr>
<td>Conclusion</td>
<td>409</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CHAPTER 8: CONCLUSIONS</th>
<th>413</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dominant and Intimate Public: The Politics of Belonging and LGBT Advocacy through Domestic Partnership and Marriage Discourses</td>
<td>414</td>
</tr>
<tr>
<td>The Public in the Private: Same-Sex Couples on Marriage, Family, and Identity</td>
<td>421</td>
</tr>
<tr>
<td>Contribution to Anthropology</td>
<td>425</td>
</tr>
<tr>
<td>Doing Anthropology in the Public and of the Public</td>
<td>427</td>
</tr>
<tr>
<td>Postscript</td>
<td>430</td>
</tr>
</tbody>
</table>

xv
CHAPTER 1:
NEW MEXICO LGBT IDENTITY, POLITICAL SUBJECTIVITY, AND 
ARTICULATIONS OF BELONGING THROUGH SAME-SEX MARRIAGE

Introduction

February 20, 2004, started out like any other day for Nidia and Mae. They got up, got ready for work, and got into their car for their hour-long drive from Albuquerque to Santa Fe. But something had happened the night before that Mae could not get out of her head. The nightly news had announced that the Sandoval county clerk would be issuing marriage licenses to same-sex couples.\(^1\) “I mean, we’d been politically involved with all the groups in New Mexico for a number of years,” Mae told me. “And nobody had [any] indication that the county was going to do it. And on the news the night before, I heard it announced that Sandoval County was going to issue marriage license to same-sex partners. And I thought I was imagining things. I couldn’t believe it. I thought, they’re just going to get us there and say, ‘No, you can’t do it.’

But there it was, on the front page of the *Albuquerque Journal* the morning of February 20: Sandoval County to Allow Same-Sex Nuptials.”

“It was a wild ride,” Mae recalled. And Nidia nodded her head in agreement. “I remember going like, ‘Wow! Wouldn’t that be wild if we got married here in our backyard?’ You know, because we talked about San Francisco. We also talked about how we’d go to, was it Vermont? I mean, this was like a dream.” But they continued their drive to Santa Fe, thinking it was all a big hoax. That was until Jane and Sandra called.

“You know, they were calling at seven in the morning,” said Nidia. And I was like,

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\(^1\) Sandoval County is located approximately twenty miles north of Albuquerque and encompasses the towns of Rio Rancho, Bernalillo, Placitas, and Corrales.
“‘What’s up?’ And Jane on the other line yelled excitedly, ‘We’re going to go get married! Wanna come?’”

At that point they were almost to Santa Fe, but they turned to each other, and they both knew they had decided to do it. Nidia and Mae, it turned out, were the first to arrive at the courthouse. It was a quarter to eight in the morning, and the courthouse doors were not yet open. Their friends arrived a few minutes later. But no one had any idea where to go or what to do. They looked curiously at each other and asked, “Where do you go to get married?” They had found their way up the stairs to the county clerk’s office when their friends asked, “You sure this is it?” “Yeah, in New Mexico they issue them at the county clerk’s office. That’s how it works, I think,” Mae answered. “Well, why don’t you go check since you know so much about it?” “And we were all like, like silly teenagers,” said Mae. “And then they shove me in the doorway.”

Nidia explained her own hesitation, saying, “It’s like part of you wants to, to really fight the fight, but part of you is just really like . . . like . . .” she began to stutter. “Like the first time you ever walked in a gay bar,” Mae finished the thought. “It was one of those first experiences where you’re just afraid that something’s going to go wrong. And then I went to the counter and said, ‘We want to get married.’ And the guy goes, ‘OK.’ And we were like, ‘What?’ So he said again, ‘OK.’ I asked him, I said, ‘Is this the very first same-sex marriage license?’ He goes, ‘Yeah, it is.’ I mean, the guy was just mellow. I said, ‘You knew this was coming?’ ‘I saw it in news last night,’ he said, ‘that’s why I ironed my shirt.’ We all giggled at him.”

“Oh, and the other thing is,” Nidia remembered excitedly, “we had no cash. So when they first called us, I said, ‘We have no money. We have no money to get married.’
We didn’t know it cost money to get married. But Jane knew, she said it costs twenty-five dollars. ‘We’ll lend you the cash,’ she told us. And I felt like we’re fifteen years old!”
Mae exclaimed, giggling. “We’re borrowing money from our friends to go and get married.”

“When we first got there,” Nidia said, “nobody was at the courthouse. Nobody! And then it changed really quickly. Couples started showing up in droves.” “It was a very emotional, cheerful moment for all of us,” Mae chimed in. “You can’t imagine what it feels like. Especially . . . when you didn’t, you didn’t expect it. I mean, I didn’t even understand the process,” Nidia added. In New Mexico, getting married is a three-step process. You pick up a marriage license, you have judge or religious authority marry you, and then you turn it back in. And there is no deadline for returning the forms. But Nidia and Mae did not know any of that. Plus, they realized that no one was there to marry them. Not at that hour. By the end of the day, ministers from queer-friendly churches had shown up and were marrying same-sex couples on the county clerk’s doorstep. But not at eight in the morning.

At that point, Nidia and Mae began to think about having a wedding. They had had a commitment ceremony, they explained. “But when I got this marriage license,” Nidia said, “that’s something that came to my head. It’s like, ‘We’re going to have a real, live, walking-down-the-aisle marriage that our families can now participate in, and a legal marriage.’”

That walk-down-the-aisle wedding did not happen for Nidia and Mae. At the time, however, content at the thought of having time to plan their legal ceremony, they went back to work after picking up the forms. Around three in the afternoon Mae
received a frantic call from their friends who told her, “They’re going to shut down the whole deal, they’re going to shut down the whole thing, you need to come down here and complete the process and get married now or it’s over.” So Mae got Nidia, and they rushed back to Sandoval County. By that time, Nidia explained, “there was media, and wire cables all over the place . . . and a lot of people” and no place to park.

“And people were still getting married on the courthouse lawn,” interjected Nidia. “People were crying. We saw friends from Las Cruces who had come up to get married, and they got turned down. I mean, they drove all the way up from Las Cruces, and they got turned down,” Mae shook her head in disbelief. “It was heartbreaking. I mean, it was wonderful for the sixty-four of us that managed to get a six-hour window.”

Nidia and Mae were quickly married by a minister and were able to get the marriage license filed before the doors were shut completely. “Here’s the difference between being gay and straight,” said Mae. “If we walked into the courthouse, free, and got our certificates in the morning, and we come back in the afternoon, and they have armed guards at every entrance. You can’t get in. I kid you not,” she said sternly. “There were armed guards at every entrance—and they only had one open. You’re less than a person, honestly.”

The couples that I have spoken to over the years who were present at the Sandoval County courthouse on that February day in 2004 had similar stories. They all recalled the joy, the hope, and the eventual sense of despair. Only two weeks after San Francisco’s mayor, Gavin Newsome, authorized city clerks to issue marriage licenses to lesbian and gay couples, the Sandoval County clerk, Victoria Dunlap, announced that since New Mexico had no clear mention of gender in its marriage statute, she would issue
marriage licenses to same-sex couples. Mayor Newsome’s action created a snowball effect around the country that placed the issue of same-sex marriage at the center of national debate. This effect is best epitomized by a *New York Times* March 2004 headline that read, “From San Francisco to New Paltz, N.Y., thousands of gay couples have wed, and the movement shows no sign of slowing down.”

New Mexico entered the nation’s same-sex marriage debate on February 20, 2004, when Victoria Dunlap issued sixty-four marriage licenses to same-sex couples, before the New Mexico attorney general ordered the clerk to cease issuing marriage licenses. The county clerk’s actions compelled many New Mexico lesbian and gay activists and organizations to make “marriage” the primary goal of the lesbian/gay movement in the state of New Mexico. This action also incited politically and religiously conservative opponents to same-sex marriage and launched civil rights and moral debates that dominated the 2005 New Mexico legislative session and continue to drive local politics around marriage.

I began this project in 2004 as local and national organizations were frantically trying to figure out what to do about same-sex marriage and the newly married couples. I call the events of 2004 and thereafter a phenomenon because they triggered a very deliberate, public, and in many ways conscious examination and rethinking of kinship concepts that are believed to be not only fundamental to our social structure but natural in their organization. This phenomenon has since become a process of debate in which both the naturalness of family and marriage and the un-naturalness of homosexuality have been questioned, analyzed, and in some instances negotiated, which over the years has challenged the worldviews of both proponents and opponents of same-sex marriage. I

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became interested and excited to see how marriage and family would be defined and maybe reinvented in a public way through the legislature. I saw this process as a rare moment in history in which concepts so ingrained in cultural thinking and social organization would be brought out from the depths of the dominant social subconscious and subjected to public scrutiny. I also wanted to understand how, in this new political environment, same-sex couples conceived of themselves as families, how they viewed and interpreted the institutions of marriage and family, and how they constructed their lives around and—when possible—within these institutions.

Thus, this dissertation is largely about the relationship between social meaning making and the production of cultural, social, legal, and political subjects through ideas about sexuality, marriage, and family. It is also about the way normality and difference are policed; the mutual constitution of sexuality, gender, and politics; and the role of advocacy in LGBT democracy and community building. Throughout the dissertation I demonstrate how the interactions between different players within New Mexico’s marriage movement defined taken-for-granted categories of marriage, family, gender, and sexuality and did so in relation to biopolitical structures of power, to borrow from Michel Foucault, that were built by both liberal and neoliberal definitions of the family and the individual. I show the processes by which public images and messages about same-sex marriage were created, in which both activists and same-sex couples have been involved, and illustrate how those images and messages have been used to reimagine and publicize LGBT identities. Moreover, I argue that how couples create and understand the images of gay marriage are part of daily, axiomatic practices of relating to each other; to friends, families, and communities; to society; and to the state. Those axiomatic practices in turn
shape the expressions of their identities in public forums. These couples’ relationships with LGBT organizations and activists are an important aspect on which I focus in this dissertation. Like most nongovernmental organizations, LGBT organizations have specific roles in representing a group identity and securing a social place for their members. Therefore, organizations and activists see public images and messages as important for obtaining legal rights for LGBT citizens. However, these images and messages are also laden with a certain amount of power through which organizations can leverage a dominant group identity. I try to show how images and messages about group identity are not simply strategies but beliefs that many activists and gay and lesbian couples have about who gay men and lesbians are and the kind of place they deserve to be accorded in society and under the law.

This study engages several theoretical discussions around Jürgen Habermas’ idea of the public sphere and Lauren Berlant’s conception of an intimate public; Michel Foucault’s later work on technologies of the self and Nikolas Rose’s take on it; liberal and neoliberal frameworks of citizenship via Wendy Brown, Aihwa Ong, Lisa Duggan, Ruth Lister, and John Borneman; and notions of community as debated by Vered Amit, Nigel Rapport, and Gerald Creed. Via these scholars, I illustrate how “publics” are formed within and through private and public spaces; how ideas of the self are central to the formation and maintenance of those publics; and how the relationships between publics, the individual, and liberal and neoliberal models of belonging shed light on the production of subjects and subjectivity, thus demonstrating how identities are shifting and how new identities are being produced through social movements such as the same-sex
marriage movement. Consequently, I argue that my analysis can also shed light on the
direction of a twenty-first-century gay and lesbian politics.

Using the work of Habermas and Berlant, I argue that the New Mexico domestic
partnership debate took shape in three types of spaces: the dominant public sphere, which
Habermas also refers to as the bourgeois public sphere; an intimate public sphere, where
an LGBT unifying identity was being re-envisioned by activists and same-sex couples
and where a sense of community was constructed; and within individuals’ and couples’
private lives. The dominant public sphere, put simply, is civil society, a sphere of
presumed private autonomy in which citizens connect with one another and enter into
economic and ideological exchange without interference from the state. As such, the
public sphere is directed by bourgeois principles of market exchange and liberal notions
of basic rights, such as the right to free speech and the right to engage in public debate
about the state.

Moreover, I draw on Brown’s description of liberalism as a reformulation of the
civil and familial domains such that they constitute two gendered subjects: a
public/civil/male subject and a private/familial/female subject. The public sphere thus
adheres to dominant heteronormative ideologies on which economic exchange is
dependent—that is, the division between private and public life, the home and the
market—and through which the liberal public subject is perceived as autonomous,
empowered, and self-oriented, while the private subject is seen as dependent, responsible
to others, and, therefore, lacking free will.

The intimate public sphere, according to Berlant, is also a representation of
particular subjects and collectives, but it is built on the sharing of sentiments, such as
what it means to be a woman or what it means to be lesbian, gay, bisexual, or transgender. The intimate public sphere, representing what Berlant calls a “porous, affective scene of identification” (2008: 5), promises certain experiences of belonging and disciplines people on how to live a certain subjectivity.

Thus, in the first section of the dissertation I argue that activists’ and LGBT individuals’ incorporation of same-sex couples into the dominant and heteronormative construct of marriage and family had two goals. The first was to exploit the legislature as a public arena for the demonstration of the nonsexual, nonthreatening gay family that was “normal” and the same as every other family. The second was to turn LGBT same-sex couples into subjects who could be convincingly read as “normal,” with “normal” being defined through heteronormative frameworks of family. I show how at the legislature proponents and opponents of the domestic partnership bill relied on a biopolitical model of family to argue for the legal and social acceptance or rejection of gay and lesbian relationships. This means they relied on a concept of marriage rooted in the idea that family is created through blood and code, through reproduction (or its legal variant of adoption), and through marriage. I assert that this biopolitical model of the family constructs a particular kind of queer subject who is directly linked to dominant heterosexual structures of the family and articulated through narratives about the self that are in turn connected to civil society and the state. Through the analysis of biopolitical tropes, I show how opponents and proponents of the domestic partnership bill at the New Mexico legislature (re)produced specific categories about the family, about sexuality, and about productive citizenship. In turn, I argue these tropes were internalized by queer couples, activists, religiously conservative opponents, and legislators.
Public narratives about domestic partnership and marriage were therefore largely shaped by liberal ideas about kinship, gender, and morality and by neoliberal concepts of personal responsibility, which also became representations of the ways people connected to the LGBT intimate public and to the dominant public sphere. I argue that both liberal and neoliberal modeling is central to understanding the images LGBT organizations put forth about queer sexualities and identities, their ability (or lack thereof) to reimagine social categories such as family, their claim of expertise over political, legal, and social knowledge, and thereby their positioning as authority figures working in the best interest of their members. Liberalism’s master narratives describe what is real by naturalizing the public and private sphere and provide ways of understanding and organizing collective life, but they do so through the use of abstract images of personhood that obscure racial, class, and gender disparities (Brown 1995). Neoliberalism has taken on liberalism’s fundamental components of liberty and rights—where liberty is defined as the ability to be sovereign and rights as the action of pushing against incursions that impede the subject’s sovereignty—and uses them to create and perpetuate institutions that maintain the neoliberal capitalist project of transforming global cultures into market cultures and individuals into consumers (Duggan 2003; Ong 2006).

New Mexico’s same-sex marriage debate included shifting discourses about rights and belonging as activists worked to include gays and lesbians in the heteronormative discourse about marriage by envisioning a new queer subject through neoliberal discourses of diversity and sameness. In legislative discourses, for example, same-sex couples’ and activists’ arguments went from liberal rights-based arguments that centered around equality and citizenship to more neoliberal, sentimental arguments about fairness
and being deserving members of society. This shift in discourses was meant to show diversity within the population but also to emphasize that underneath it all members of society shared one thing in common: family. I argue that these discourses of diversity and sameness were in fact one discourse. That is, diversity led to sameness as activists argued that when individuals’ relationships are denied state recognition, they are subject to the same forms of suffering, regardless of ethnicity, class, age, or ability. Thus, to draw on Brown, diversity in these discourses is the same as sameness, and difference serves as the opposite of diversity.

Within the public realm of the legislature, activists and couples used selected tropes that were believed to be universally understood and which same-sex couples felt were deeply significant to their own realities as well as to those of their heterosexual counterparts (i.e., parenting, caring for sick partners, being recognized and appreciated by society). Public discursive performances illustrated same-sex couples’ belief in a universal and timeless trope about kinship, and through the emphasis of that trope couples and activists attempted to incorporate queer relationships into the social memory of citizens. Thus, I show that a gay and lesbian intimate public sphere relied on a dominant public ideology of marriage that marginalized sexual identity and highlighted ideas about abstract equality. Moreover, I show that by viewing the state and legislators as architects of law, activists and couples tried to help legislators see same-sex couples as normal by obscuring sexuality, underscoring sameness, and invoking an asexual family arrangement.

The use of neutral and abstract language masked the gender, class, and racial components of family, while it promoted a color-blind, gender-blind, and homonormative
subjectivity. As a result, activists and same-sex couples developed a new expression of
the biopolitical mode of governing through the process of creating specific kinds of
worthy subjects and implementing political strategies that sought to regulate LGBT
identities in order to produce normal queer subjects. I therefore argue that production of
worthy subjects and subjectivity also happened differently in three different spaces: in the
legislature, in intracommunity forums, and in people’s private lives. These productions
were dependent on values that were consumed within or in relation to these spaces. For
example, the identities of gay and lesbian individuals as caregivers (for partners, parents)
and as citizens (hardworking taxpayers and good neighbors) were often emphasized in
legislative hearings or to the media to highlight the responsible gay family.

In response to Foucault’s argument about the realization of the self through
confession and self-sacrifice, I argue that legislative testimonies functioned as important
components in the production of “good” members of society or “good citizens.” Through
an analysis of the legislative process and the discursive debate about the naturalness of
kinship, I attempt to illustrate how a positive self is tied to the public practice of
confession, which at the legislature takes the form of testimonies, as well as illustrations
of sacrifice. By sacrifice I mean that the construction of a positive queer self is enabled
via particular ideas and rhetoric about family that require a renouncement of sexuality in
general and homosexuality in particular. Sexuality becomes detrimental to the image of
the gay family, as “gayness” is portrayed as an aberrant practice and psychological
deficiency.

Forums such as town hall meetings and legislative trainings exemplify a process
through which subjectivity is publically created, an intimate public sphere is solidified,
and connections to the dominant public are established. Looking at different community forums and legislative trainings, I argue that activists and couples used these spaces and moments to foster a sense of community and also to validate, negotiate, and publicize same-sex relationships. Moreover, these forums were also used by LGBT activists to teach LGBT couples and community members what to legally desire and the best ways to go about reaching those desires. Within LGBT community forums a different form of production and reproduction occurred. In these arenas same-sex couples shared narratives that expressed non-normative queer identities, even when individuals fit the normative image. These narratives represented a need to relate to LGBT histories in their ethnic, class, and feminist variations and allowed couples to articulate anger over social and legal exclusion and make claims as citizens based on those different histories.

In the first section of this dissertation, I additionally examine LGBT and ally organizations’ positions as intermediaries between the state and its subjects. However, I also delineate the hierarchical relationship between the local LGBT nongovernmental organization (NGO)—Equality New Mexico—and its national backers, a relationship that impacted strategies and relationships between EQNM and its constituents. Overall, I argue that NGOs’ command over LGBT couples and individuals was never fully achieved and was always in flux. Its tenuous nature was a result of different social and economic experiential factors that were outside of organizational representatives’ control. This precarious relationship was not visible, at least not in its entirety, within the dominant public sphere.

Moreover, I maintain that conflicts arose between LGBT organizations and community members themselves, which were rooted in neoliberal discourses of diversity
and interpretations of community. In today’s neoliberal social climate, Jane Ward (2008) argues, respect for diversity has become a centerpiece of American culture and citizenship. This diversity begins with the story of multiculturalism, a principle that deflects attention away from persistent structural forms of racism and toward the celebration of racial and ethnic differences. Unity through difference and equality become ubiquitous frameworks for management and central themes in popular culture. These ideas also become tools used to strengthen claims to legitimacy, normalcy, and professionalism. Thus, the activists’ process of selecting people to testify and setting the parameters of the testimonies, as I show in chapters 3 and 4, represents this idea of creating unity through diversity. “Being normal” was also constructed through discourses about diversity. However, I assert that normalcy was not being based solely on the status of the individual. The LGBT community as a whole had to be perceived as normal in order to lay claim to legitimate citizenship. Within the different sorts of training and forums that activists set up was an emphasis on inequality that was not as threatening as differences posed by sexuality. The emphasis was placed on inequalities faced by families rather than inequalities based on homophobia and gender discrimination. Believing that the LGBT community can gain rights and recognition by working within the legal structure, gay and lesbian activists employed an approach that viewed social rights as a legitimate expression of citizenship. In this process they adopted, promoted, and at times imposed strategies that adhered to selective dominant norms about family, marriage, and sexuality. Through these strategies, I argue, they promised a unified LGBT community that was representative of and committed to normative values.
Conflicts around this way of viewing diversity spurred different interpretations of community. Scholars have debated the usefulness of the concept of community in ethnographic research. It has been defined as both a categorical identity and a collective representation, and like the “intimate public” it “evokes a thick assortment of meaning, presumptions, and images” (Amit and Rapport 2002: 13) that have emotional resonance. It is, Amit has asserted, “refracted through symbolic intimacies of personal experience” (Amit and Rapport 2002: 14). Community has also tended to be a dichotomous concept defined through exclusion and inclusion (Amit and Rapport 2002: 7). However, I show that such ways of looking at community do not leave much room for understanding the process and results of creating a monolithic and homogenous category of identification. Berlant’s conception of intimate public, I assert, better describes the creation of singular unified identities and can therefore enable a richer analysis of the relationship between LGBT activists, their constituents, and the larger collective they claim to represent. Therefore, I argue that when people talk about community they are in fact referencing an intimate public. Nevertheless, individuals, activists, and the public alike deploy the term *community* as a way to define who gets recognized, who gets represented, and who gets political rights. Thus, activists and LGBT individuals use the dichotomous framework of community to contest dominant power. That contestation, as seen through the domestic partnership debate, is about inclusion within the power structure as opposed to dismantling it.

In the second section of the dissertation I maintain that the construction of an acceptable queer subject is as much an individual process as a group process, and therefore the debate about same-sex marriage is shaped and transformed through the
private (individual and familial) sphere as well. In this section I focus on interviews with
same-sex couples and their personal narratives about marriage and family. I argue that
same-sex couples formed their subjectivities and identities as members of the LGBT
intimate public sphere within the public and the more private sphere of the home and
through individual and lifelong experiences. Additionally, I assert that same-sex couples’
narratives about marriage and family are also narratives about the self and about
belonging. Here, I am utilizing an idea of the self that draws on the work of Foucault and
Rose. The self can be understood as the way individuals conduct themselves as opposed
to the way they are controlled by others, as the way they conceive modern experiences,
view themselves as autonomous beings, and relate to the state. Rose argues that the self is
a regime of common normativity, meaning that people conceive of themselves in similar
normative ways. I maintain that the self is produced through various discourses and
within various publics and can therefore also become a site that challenges regimes of
normativity. So long as the self is in question—meaning that people question who they
are in the world—subjectivities remain open to reconceptualization. The self is porous
because the characterization of one’s profound inwardness is subject to changing
experiences.

Drawing on the work of Berlant and Borneman, I contend that same-sex couples
articulated their personal narratives through personal life constructions and experiential
tropes shaped by and through the LGBT intimate public sphere. Through allegories about
love couples built bridges between their sense of self and sense of family and between
self and society, while through ideologies of citizenship many couples argued they should
be granted access to the legal institution of marriage. Together, these two types of
discussions not only affirm same-sex couples’ belief in the existence of a recognition of commitment and relationship that is shared by all members of society, and all members of humanity, but also demonstrate an important principle that sustains the LGBT intimate public sphere and connects it to the dominant public. In both the public and private spheres, therefore, marriage becomes a prescriptive language and an acceptable medium through which to ask for acceptance and recognition.

But while marriage tropes can connect people to group discourses of belonging, they can also disconnect individuals from those very discourses. Same-sex couples’ personal connections to the ideologies about belonging are experienced through different cultural and experiential lenses that do not neatly match the image of the gay family promoted in the forums and at the legislature. As a result, same-sex couples expressed difficulties and contradictions in negotiating their identities as couples and as families.

Something different was also revealed when people talked about family. I argue that a different kind of subject is found in the discourses about family because there were no linguistic prescriptions to discuss the family like there were to discuss marriage. While family was always necessary to talk about marriage, marriage was not as necessary to talk about family. Discourses about family therefore produce what I call flexible agencies, while marriage discourses produced prescriptive agencies. By prescriptive agencies, I am referring to the way same-sex couples make public claims about who they are and what they need based on the language and images associated with the normal gay family. Flexible agencies, on the other hand, refers to couples’ processes of identity formation and reconciliation based on multiple factors, such as viewing family as a product of consanguine and affinal relations, as a product of memory and experience, as a
process, and/or as a choice. These representations of family are components of non- normative families that do not match the discourse of marriage. As a result, and perhaps this point is where I am most optimistic, family narratives have the potential to disrupt the dominant rhetoric around same-sex marriage and uproot this new LGBT identity from its domestic shackles. Memory and experience especially become important to processes of authenticating the self and the family and can form political subjectivities that challenge the dominant LGBT identity construct. Still, and this is where pessimism sets in, the non-normative family narrative can also be co-opted to affirm a unifying gay identity through a celebration of the “diversity” of queer families.

The heterogenic and dialogic character of family narratives, therefore, complicates subjectivity and how we look at the construction of gay, lesbian, transgender, or queer personhood. The question is larger, as Rose suggests, than the truth knowledge through which individuals are disciplined and through which they envision themselves: “Who speaks according to what criteria of truth, from what places, in what relations, acting in what ways, supported by what habits, routines, authorized in what ways, in what places and spaces, and under what forms of persuasion, sanction, lies, and cruelties” (1996: 178). Since narratives can change with time, space, and context, the self is also formed through fragmentations and indeterminate spaces. I argue that within these fragmented and indeterminate contexts we can see resistance and agency take form. Within and via the private sphere, individuals question and reshape gay and lesbian dominant narratives about the family as well as their translation into dominant public sphere. From this place hierarchical relationships between queer individuals and their
organizational representatives are interrogated and re-evaluated, and political discourses are altered or changed.

The debate on same-sex marriage ultimately exposes the political nature of kinship, and through that exposition, kinship becomes a political speech act that is expressed publically and prescriptively through the normative discourses of family but that presents challenges to this normativity within the private sphere, too. Kinship as a political speech act also illustrates the dilemma of the split gendered subject born from modern liberalism. That is, kinship as a political speech act can be seen as a contradiction in terms because it suggests that the private/familial is actually an absolute representation of the civil/public and vice versa. The political aspect of the family is not a new idea. Rather, it has been a central tenet of feminist analysis. What I suggest is new is how “family” is applied differently to public discussions of same-sex marriage than to public discourses around and about women. In discussions of autonomy and the needs of women, for example, we might question the pushback that is still not publically challenged (with the exception of abortion), while gay marriage, which also relies on liberal discussions about needs and protections that are associated with the private/familial sphere, has become so popular and an increasingly accepted discourse of rights. As Brown states, “When women try to inject rights (and hence their autonomy and personhood) into the family, they are often reproached for infusing the family with market values, for corrupting the domain of love, need, and reciprocity with the language of contract and right” (1995: 158-159). Thus, female autonomy is espoused as illiberal.

Criticism of the corruption of the familial realm is also present with the same-sex marriage debate, pushed by the opposition that wants to uphold the gendered dichotomy
of public/private and in the process show that queers are not sovereign subjects. In one way, queers form the opposite of the masculine subject, but unlike women, queers are not accorded a place by the opposition within civil society or within the familial realm. Yet through the use of an abstract language of equality, gays and lesbians use the feminized domain of family as ground on which to claim civil subjectivity. I argue that gays and lesbians do so by usurping the role of the provider that is manifested in portrayals of independent, productive masculine citizens and attempting to transform the gay and lesbian subject into a worthy (masculine) subject. In the end, public discourses about same-sex marriage are not portrayed as illiberal, rather they come to represent the goal of achieving the status of national subject, of citizen. Therefore, I suggest that public discourses about marriage and family differently regulate the public and private spheres for queer families, for women (heterosexual or gay), and for heterosexual men, such that their distinctions as social subjects are maintained and the liberal dichotomy on which the neoliberal project relies remains intact.

**Same-Sex Marriage in the United States**

In the 1970s gays and lesbians challenged the restriction of marriage “between a man and a woman,” though politicians gave little serious attention to couples’ cases at the time. In 1970 the Reverend Troy Perry performed in California what was described as “the first marriage in the nation designed to legally bind two persons of the same sex”: Neva Joy Heckman and Judith Ann Belew (Ayers and Brown 1999: 14–15). The minister issued a church marriage license, which the state of California later ruled invalid. Similarly, in 1971 and 1973 several cases that asserted marriage rights for gays and lesbians were
brought before the courts in Minnesota and Kentucky. Both courts called upon “nature”
in to reject a constitutional claim to the right for same-sex marriages. Though plaintiffs
in Minnesota drew on Loving v. Virginia, the 1967 constitutional challenge to earlier
restrictions on inter-racial marriages, the Minnesota Supreme Court made “a clear
distinction between a marital restriction based merely on race and one based upon the
fundamental difference in sex” (Baker v. Nelson and Jones v. Hallahan cited in Hunter
2006: 110; emphasis mine).

Though the cases in the 1970s were unsuccessful, the attempts were made
possible by the civil rights movement of the 1960s. Theoharis and Theoharis assert that
“civil rights activists invigorated American democracy by championing the right to
petition the government for the redress of grievances, heightening public awareness of
the value of dissent, and exposing the limits of those rights as activists were repeatedly
denied free speech, fair trial, and equal protection under the law” (2003: 53). The 1970s
marriage cases highlighted the government’s lack of desire to protect equally under the
law the status of lesbians and gays, an issue that states in the twenty-first century are
being forced to revisit. The reasons behind the current conservative legal push to deny
gay and lesbian couples the right to marry resemble the reasons conservatives of the
1960s were espousing against the implementation of civil rights laws. During the 1960s,
conservatives claimed that liberal programs “created a climate that undermined respect
for the law and gave women and blacks special rights and unfair advantages over hard
working Americans” (Theoharis and Theoharis 2003: 54; emphasis mine). By the end of
the 1960s, another moral concern arose, with conservatives claiming that liberal
programs “undermined respect for family values, contributed to the breakdown of the
family, and encouraged an unbridled hedonism” (Theoharis and Theoharis 2003: 54; emphasis mine).

In the 1990s more cases in different states called for the legalization of same-sex marriages (Eskridge 2002). A 1993 Hawaii court case that sought to legalize same-sex marriage in the state created an uproar between religious conservatives and gay rights activists, while also launching debate within the gay and lesbian community. Nevertheless, the 2004–2005 discussion of same-sex marriage took place in a different cultural climate, one in which several legal and social successes for gays and lesbians had been achieved, like the rulings of Romer v. Evans (in Colorado; Keen and Goldberg 1997) and Lawrence v. Texas (Lubin, personal communication 2004), which overthrew laws and secured anti-discriminatory protection for gays and lesbians. That same-sex marriage has become one of the leading issues for lesbian and gay organizations is evidenced by Lambda Legal Defense and Education Fund’s Evan Wolfson, who contends

3 Baehr v. Miike (originally Baehr v. Lewin) was a lawsuit in which three same-sex couples argued that Hawaii’s prohibition of same-sex marriage violated the state constitution. It was initially dismissed in trial court after which an appeal was made to the Hawaii supreme court. In 1993 the supreme court ruled that while the right to privacy in Hawaii’s state constitution does not include a fundamental right to same-sex marriage, denying marriage to same-sex couples constituted discrimination based on sex in violation of the constitutional right to equal protection. However, the case was remanded back to the trial court so that the state could prove that its actions in denying same-sex marriage were not unconstitutional and furthered state interest. In 1996 the trial court judge ruled that the state did not prove that denying same-sex marriage was in the state’s best interest. However, the following day the judge stayed his ruling, stating that his ruling would place same-sex couples in a “legally untenable” position should the Hawaii Supreme Court reverse him on appeal. Meanwhile, in 1998 the Hawaii State Legislature passed a definition of marriage act (DOMA), amending the Hawaii state constitution to read that marriage is recognized as a union between a man and a woman. In 1999 the state supreme court ruled that the DOMA took the marriage statute out of the ambit of the equal protection clause of the Hawaii constitution, and accordingly, the defendant (the Hawaii director of health) was no longer in violation of this clause, whether or not the defendant had been in the past. Thereafter, bills supporting civil unions were introduced in the legislature but were unsuccessful until 2010, when the Hawaii House of Representatives passed a civil union bill. However, this bill was vetoed by Governor Linda Lingle. In 2011 a similar civil union bill passed the house and senate, and in January 2012 it was finally signed into law by the new governor, Neil Abercrombie. Baehr v. Lewin, 74 Haw. 530, 852 P.2d 44 (1993); Baehr v. Miike, Circuit Court for the First Circuit, Hawaii No. 91-1394; “Hawaii Is Latest Civil Unions Battleground,” Associated Press, March 1, 2009; “House Approves Civil Unions Bill in 31–19 Vote,” Honolulu Star-Advertiser, February 11, 2011.
that “in the wake of the Hawaii Supreme Court’s 1993 Baehr v. Lewin decision, there should be no intra-community debate over whether to seek marriage. The ship has sailed” (Warner 1999 in Rimmerman 2002: 72). As Rimmerman points out, Wolfson believes gay and lesbian organizations and movements should present a united front if homophobic Christian Right initiatives are to be defeated (Rimmerman 2002: 72).

**Same-Sex Marriage in New Mexico**

On February 19, 2004, Sandoval County Clerk Victoria Dunlap announced that since New Mexico’s marriage law made no clear mention of gender, she would allow Sandoval County to issue marriage licenses to same-sex couples. By 9:00 a.m. February 20, 2004, same-sex “couples had formed a line up the stairs and down the hall to the clerk’s office.” In an interview with the Sandoval Signpost, Dunlap explained, “I was confronted by a citizen who wanted to know [where the county stood on same-sex marriage licenses]. I wanted to get ahead of the curve because it’s a big issue, so I asked [county attorney] David Mathews. He said that the law was very ambiguous, but he couldn’t see anything that prohibits it. If I don’t issue the licenses, there could be grounds for charges of malfeasance.” Dunlap also endorsed her decision to the Albuquerque Journal, stating, “This has nothing to do with politics or morals. . . . If there are no legal grounds that say this should be prohibited, I can’t withhold it. . . . This office won’t say no until shown it’s not permissible.”

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5 Ibid.

However, the county’s attorney, David Matthews, proclaimed that the marriages were never supposed to happen. When the *Albuquerque Journal* asked for his opinion, Matthews maintained that he told Dunlap that since the law seems so ambiguous, he needed more time to do research and advised her to get an opinion from the attorney general, advice Dunlap later denied receiving. By 4:00 p.m. on February 20, Attorney General Patricia Madrid had written an advisory letter stating that “until the laws are changed through the legislative process or declared unconstitutional by the judicial process, the statutes limit marriage in New Mexico to a man and a woman.”\(^7\) She therefore ordered the county clerk to cease issuing marriage licenses. The following Monday, February 23, 2004, Dunlap told the Sandoval County Commission that she had complied with the attorney general’s opinion but that the licenses that had already been issued would be filed “since a court decision would be required to declare them illegal.”\(^8\)

It is unclear why Victoria Dunlap was so determined to allow gay and lesbian couples to marry, but her determination seemed unwavering for a while. On March 22, 2004, the county clerk once again announced that she would issue valid marriage licenses without discrimination. The following day, the Sandoval County Commission and the attorney general filed for a temporary restraining order against Victoria Dunlap, which the district court granted. Finally, on March 30 the attorney general filed a petition for a writ of Mandamus, maintaining that the county clerk was acting in excess of her jurisdiction and in violation of the law.\(^9\) The governor, Republicans, and Democrats alike

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8 See http://www.sandovalsignpost.com/mar04/html/up_front.html. Dunlap also stated that her office would refund license fees but that no one had claimed their refund.

9 “A writ or order that is issued from a court of superior jurisdiction that commands an inferior tribunal, corporation, municipal corporation, or individual to perform, or refrain from performing, a particular act,
felt that this decision was not one a county clerk should make but that it should be made at the state level. However, the court denied the petition and extended the temporary restraining order. Victoria Dunlap filed a motion with the New Mexico Supreme Court on June 9, 2004, requesting that the temporary restraining order be dismissed, thus allowing her to proceed with issuing gender-neutral marriage licenses, while the attorney general filed her own petition to halt Dunlap from trying to issue gender-neutral licenses in the future. On July 8, 2004, the New Mexico Supreme Court rejected both motions, sending the cases back to district court. The attorney general and county clerk battled it out in court over the next few months, eventually agreeing to court mediation. It seemed in November 2004 that a settlement was close. However, the settlement never materialized, and Victoria Dunlap’s term as clerk came to an end on January 1, 2005. Two days later, the attorney general petitioned to substitute as the defendant the new county clerk, Sally Padilla—who in her campaign was clear that she would not issue gender-neutral marriage licenses—and the case was dismissed.  

Explaining the legal process and reasoning behind restricting who issues marriage licenses, one of the lawyers involved with the LGBT community’s initiative to pass a domestic partnership law explained to me that marriage is defined in section 40-1-1 of the New Mexico legal code as a civil contract between any two people. The language in this section seems gender neutral. However, a few sections later is a sample form. The sample form, she clarified, “says bride and groom and it may also say male and female. You

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the performance or omission of which is required by law as an obligation. A writ or order of mandamus is an extraordinary court order because it is made without the benefit of full judicial process, or before a case has concluded. It may be issued by a court at any time that it is appropriate, but it is usually issued in a case that has already begun.” See http://legal-dictionary.thefreedictionary.com/writ+of+mandamus.

know, there’s definitely some gender reference in the sample form and that’s what the attorney general based her informal letter on” (referring to the advisory letter the attorney general issued the same day). Though the informal letter had no meaning, other than being a letter from one lawyer to another, it was enough to get Victoria Dunlap to temporarily stop issuing licenses. The real order came from a district court judge and later in July of 2004 from the state supreme court, which ordered the county clerk not to issue marriage licenses to same-sex couples until the trial court addressed the merits of the issue. However, the lawyer noted, “the trial court never addressed the issue on the merits. The case was dismissed without adjudication.” Still, she stressed, this form is one of the reasons people say that New Mexico county clerks should not issue marriage licenses: “The [marriage] form talks about husband and wife or male and female; there’s something gender referenced about that form.” There is another reason as well, she maintained: “Nobody contemplated same-sex marriages back when the Marriage Code was written initially.” Moreover, the state of New Mexico does not have any legislated history, so, for example, even though committee reports are written before a bill comes out, “it’s as if they don’t exist once a bill is passed.” Therefore, the state has “no legislated history to assist a judge in understanding what the legislators meant when they wrote a law. The judge is left having to interpret a statute that may be a little bit vague based upon the plain language of the statute, on its face.”

So with no legislative history and sixty-four marriages to contend with, both the state of New Mexico and gay and lesbian activists were scrambling to figure out how best to address and contain this new situation. Gay and lesbian activists found themselves in the middle of a war over whether or not the county clerk had the right to issue marriage
licenses to same-sex couples. However, they were also faced with couples who now held marriage licenses, the validity of which remained unclear since the lawsuit never addressed the existing licenses.

After multiple community forums and continued debates about direction, the LGBT community took their plight to the legislature, where supportive legislators introduced domestic partnership legislation and opposing legislators forwarded bills to define marriage as a heterosexual union. While passing domestic partnership legislation has been difficult, LGBT activists and their supporters have managed to defeat multiple DOMAs (Definition of Marriage Acts) in every legislative session since 2005. As a result, New Mexico is now one of thirteen states without a legal DOMA and one of nineteen states without a constitutional marriage amendment. It is also one of the remaining three states where same-sex marriage is undefined altogether. In other words, the state does not authorize same-sex marriage, but its prohibition is also not legally defined. From 2005 to 2009, New Mexico’s position as more or less neutral or undecided on the matter of marriage placed the state in the national spotlight. The Cote-Whitaker v. Department of Public Health decision in the Massachusetts Supreme Court stating that out-of-state couples cannot marry in Massachusetts if their home states do not recognize such unions also placed New Mexico and the remaining four states high on the radar of national queer and antigay organizations.

DOMA has been defined as Defense of Marriage Act and Definition of Marriage Act. There are two types of DOMAs: (1) the simple DOMA, which seeks to legally define marriage as a union solely between one man and one woman; and (2) the super DOMA, which also seeks this same legal definition but also prohibits any legally binding contracts between gays and lesbians. By default a super DOMA would also strip lesbian and gay citizens of their existing legal protections while also encoding the law into the state’s constitution.

See http://masscases.com/cases/sjc/446/446mass350.html. This decision was based on a 1913 Massachusetts law that impeded out-of-state inter-racial couples from going to Massachusetts to marry.
the dynamics between New Mexico’s leading queer organization and its members as well as between the organization and its national funders. I address the resulting dynamics in the second part of the dissertation as I tackle the issues of community, organizing, and the position of LGBT NGOs vis-à-vis the state as representatives of queer identities and needs.

**Equality New Mexico**

Equality New Mexico (EQNM) is the “statewide education and advocacy organization” for the LGBT population. Since its inception, the organization has had as its goal the achievement of full legal recognition of LGBT civil rights. Today, the organization defines its mission as “ending discrimination throughout the state, shaping public opinion and policy, and strengthening alliances with local, regional, and national partners.”

Officially becoming EQNM in 2003, the organization dates back to 1992 when its predecessor, the Coalition for Gay and Lesbian Rights, emerged “in the aftermath of the second defeat of legislation designed to amend the New Mexico Human Rights Act to prohibit discrimination based on sexual orientation.” One of the coalition’s founding

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13 See http://www.eqnm.org/about.html.

14 Ibid.
members recounted that after President Bill Clinton was elected in 1992, he publicly acknowledged the support he received from the LGBT community during his campaign. His acknowledgment, this founding member recollected, “was sort of an affirmation of us as a political force.” This affirmation provided LGBT activists in New Mexico the impetus to introduce hate crimes and nondiscrimination legislation to be included in the state’s Human Rights Act. “People really wanted to get involved,” he remembered, and a few began organizing strategy meetings for passing the amendment. The legislation failed that year and would not see victory until 2003, but it was enough to catalyze the formation of New Mexico’s first statewide LGBT organization. As this founding member explained,

Because of the unique structure in New Mexico, there was never a [cohesive] geography, and the disparity of class and racial diversity in New Mexico, we felt that we needed a strong central authority. Some states have operated with chapters or individual organizations. But there was a deliberate decision made, and it became a more deliberate decision over time that we needed a strong centralization to coordinate our efforts. And so in May of 1993, a group of people from across the state—Taos, Santa Fe, Albuquerque, and some other locales, Las Cruces—we all met at [two of the founding members’] ranch up in Santa Fe, and we decided that we would start our organization. At that point in time, it was called the Coalition for Gay and Lesbian Rights in New Mexico. It took us a long time to finally agree [on the name].

The idea was to provide a shared vision of and a unified political voice for gay and lesbian civil and human rights. By 2000, with the involvement of transgender community members, the organization included sexual orientation and gender identity in its legislative efforts. One transgender activist who played an important role in helping the coalition connect transgender and gay and lesbian issues explained the reason for her
involvement: “I started as a transgender partner to the gay and lesbian community around then, because back then many gays and lesbians really didn’t understand the Trans issues—and all in all they still don’t, but, I think we helped speed things up a little bit. We helped connect the GLBT together back in the year 2000, whereas previous to that it was just a gay and lesbian organization.”

The efforts of this new organization resulted in New Mexico becoming “the 14th state to extend non-discrimination protections to gays and lesbians and the third state to also cover transgender people.” However, the organization faced backlash as conservative groups announced immediately after Governor Richardson signed the measure into law that they would seek to prevent it by ballot initiative in November 2004. The coalition members realized that in order to repel these efforts they needed to work more closely with politicians and the New Mexico populace. In order to do so, they needed to financially back legislators willing to support LGBT causes and create a strong political campaign. Since the coalition was chartered as a 501(c)(3), their efforts could only extend to education and limited advocacy. Thus, Basic Rights New Mexico was formed to work side by side with the Coalition for Gay and Lesbian Rights, which had changed its name to the Coalition for Equality. As a 501(c)(4), Basic Rights New Mexico could lobby for legislation, and, unlike its 501(c)(3) counterpart, its members were allowed to participate in political campaigns and elections.

The Gay and Lesbian Task Force stepped in to help Basic Rights New Mexico launch their campaign by conducting an intensive training for local activists. The task force also pledged to match dollar-for-dollar any money Basic Rights New Mexico raised

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during the legislative session. Taking on the challenge, New Mexico LGBT advocates were able to raise $46,140, launching the campaign with an almost $100,000 budget. Within the year Basic Rights raised a total of $170,000 and built a base of over ten thousand pro-LGBT-identified voters across the state.\(^\text{16}\)

With additional assistance from other national organizations, the Coalition for Equality, and Lambda Legal Defense and Education Fund, Basic Rights New Mexico was able to keep the right wing’s initiative to overturn the newly signed nondiscrimination law from ever reaching the 2004 ballot, resulting in the final victory for human rights protections for LGBT New Mexicans. Unable to gather the necessary fifty thousand signatures, the right wing opponents announced on July 1, 2004—the day before the signature deadline—that they were abandoning their attempt to place a referendum on the November ballot to overturn New Mexico’s antidiscrimination law.\(^\text{17}\)

The celebration of this victory was short lived, however. In the midst of the fight to halt the ballot referendum, San Francisco’s mayor, Gavin Newsome, decided to declare same-sex marriage legal, an act that had a direct impact on New Mexico. Thrust onto this new battleground, Basic Rights New Mexico and the Coalition for Equality had to determine the necessary ensuing steps as couples were looking to the organizations for answers. At the time, a member of the C4 Board explained, “There [was] some perceived division or competition between the C4 and the C3 for fundraising dollars . . . and so in late 2004, some of us worked to try and bring everybody together so that we can have one umbrella entity with both a C4 and a C3.” Therefore, in 2004 Basic Rights New Mexico

\(^{16}\) Ibid.

\(^{17}\) Ibid.
became known as Equality New Mexico (EQNM), while the Coalition for Equality took on the title Equality New Mexico Foundation (EQNMF). Throughout this dissertation I use EQNM to represent the 501(c)(3) and 501(c)(4), as well as their predecessors, unless it is necessary to distinguish between the two present organizations and their antecedents. I do this for two reasons. First, most EQNM constituents do not highlight a distinction between the foundation and its lobbying counterpart. Second, EQNM and EQNMF are both housed under the same roof, share board members, and are run by one executive director.

**Entering the Field**

When I envisioned this research I was driven by the idea that the events I have described marked an important moment in history, specifically in academic history but also in Western history. Not necessarily a legally important moment but something bigger: a significant moment in the shaping of cultural beliefs and social practices. That moment I thought of as “kinship in action.” Kinship was being thrust out of its private domicile and offered up for public scrutiny and rethinking. And even more intriguing, it seemed to me, kinship was being related to specific discourses about sexuality that were relatively new. Since history has only presented us with particular circumscribed instances in which *marriage, family, and homosexuality* were uttered together in public, and since feminist challenges to marriage and family have been within larger heterosexual contexts, the social productions resulting from same-sex marriage debate seemed all the more important. That this opportunity for study arose in the same state in which I had chosen to do my graduate work was lucky. As I delved into this research, however, I realized that
New Mexico is an important place to conduct such a study. While the same-sex marriage movement in New Mexico is partly a reflection of the greater national movement, the state’s cultural and geographic uniqueness also highlights key differences between this place and the rest of the country, and understanding those differences can help explain both the successes and failures of the current structure of the same-sex marriage movement. The inclusion of gays, lesbians, and transgender citizens in antidiscrimination and hate crimes laws in a state with a largely rural, culturally conservative tri-ethnic population (Hispanic, Native American, Anglo), makes New Mexico a unique site for a deliberation on kinship, citizenship, normality, and difference.

As I conceptualized the study I posed the following questions: How and to what extent are gay, lesbian, and transgender kinship narratives shaped by the desire either to conform to or stand apart from mainstream ideas of family and appropriate relationships subsumed under the term *traditional*? How do couples understand and define “tradition”? Do mainstream heterosexual ideals of marriage and family influence the way gay, lesbian, and transgender couples discuss and enact their roles and relationships both publicly and privately? How does the construction of a lesbian, gay, and transgender group narrative about family and marriage reflect both gender-wide and individual experiences?

I was also interested in the connection between gay, lesbian, and transgender discourses about kinship, on the one hand, and citizenship as a way of talking about belonging, on the other. To understand the connection I decided to look at how ideas about family and marriage were being discussed and significations questioned and debated during the introduction of the Domestic Partner Act in New Mexico’s legislature.
I wanted to grasp what categories of normalcy and belonging were being produced and/or reproduced in legislative discussions about same-sex marriage and non-heterosexual families. I distinguished between normalcy and belonging—although they are fundamentally linked—because I had observed that the discussion among couples was not only or necessarily about being the same as heterosexual couples and families, in other words, being “normal.” The discussion was also about being recognized and participating in societal institutions, which I consider to mean “belonging.” In this part of the research I queried not only same-sex couples but also lesbian and gay activists and leaders who were and are shaping a public discourse on same-sex marriage and families.

This research also took me in different theoretical directions, particularly in thinking about the production of normalcy and belonging within the framework of neoliberalism and the regimes of domination that this system generates both at a group level as well as at the level of the individual. Much important work has been done on the subjective ramifications of marriage equality on queer identity and the LGBT social movement. Most research, however, concentrates on the public dimension—the ideological consequences of marriage on queer identity—while ignoring the connections between lived experience and political processes. In this research I have brought together public and private dimensions to illustrate how activism, the law, and individuals’ daily consumption, interpretation, and performance of family come together within neoliberal constructs of democratic citizenship. My research contributes to the methodological approaches to studying political processes and illustrates the increasingly overt politicization of LGBT beliefs about family not only in public debate but also in the everyday lives of queer subjects. In my analysis I examine this public/private interface
through three different lenses: citizenship and ideologies of belonging, advocacy and
dialectics of community, and kinship and political subjectivity. In the end, I also pose a
larger question: is the only politics that is left for LGBT identities a personal politics?
Such a politics points to the rise of the liberal self and the idea of love as the basis for the
construction of queer subjectivity, and particularly one that can play to heteronormative
ideologies of belonging. Throughout the ethnography I attempt to show that whereas
advocacy groups react against identity politics by replacing sexuality, race, and class with
abstract identities of privatized citizenship, same-sex couples generate spaces in which
they can negotiate identity and subjectivity in ways that can simultaneously appropriate
and challenge heteronormative and neoliberal frameworks of the family.

Neoliberal Modes of Governing: Who’s the Public and Where’s the Public?
Habermas broadly defines the public sphere as “a domain of our social life in which such
a thing as public opinion can be formed” (1989: 231). In principle, the public sphere is
accessible to citizens and generates conversations on matters of general interest and those
connected with practices of the state. A political public sphere is free of the coercive
power of the state, as citizens unite to express and publicize their opinions freely. For
Habermas, public power is state power that was consolidated through the state’s
relationship with the stock market, the press, and the trafficking of goods and news. The
formation of a public sphere, particularly a bourgeois public sphere, was made possible
by informational newspapers through which the bourgeoisie engaged in debate about “the
general rules governing relations in their own essentially privatized but publicly relevant
sphere of commodity exchange and labor” (1989: 233). As such, “public discussion” is
the medium through which the state and the public sphere debate (legislative hearings would be examples of such public discussions). To understand the liberal model of the public sphere, Habermas suggests looking at the sections of modern constitutions listing basic rights. In this liberal image of the public sphere, society is a place of private autonomy. Opposite this sphere of private autonomy stands a public power limited to a few functions. Habermas maintains that in theory, and specifically in relation to a bourgeois public sphere, general interest in the liberal model would be assured “if the dealings of private persons in the marketplace were emancipated from social forces and their dealings in the public sphere were emancipated from political coercion” (1989: 234).

Yet in welfare-state democracies, the public expanded beyond the confines of the bourgeoisie with the spread of the press and propaganda. Group needs, Habermas writes, “cannot expect satisfaction from a self-regulating market, [and therefore] tend toward state regulation” (1989: 235). In the welfare state, laws cannot be understood in terms of a consensus “achieved by private persons in public discussion; they correspond, in more or less undisguised form, to compromises between conflicting private interests” (1989: 235). Habermas maintains that these private interests are today represented by “social organizations that act in relation to the state in the political public sphere through the mediation of political parties or directly, in interplay with public administration” (1989: 235). Social organizations not only take over functions regulating the market and social labor but also appropriate political functions. This dual role, Habermas argues, leads to a “refeudalization” of the public sphere: “large scale organizations strive for political compromises with the state and with one another, behind closed doors if possible; but at
the same time they have to secure at least plebiscitarian approval from the mass of the population through the deployment of a staged form of publicity” (1989: 236). State organs (the legislature, the courts) have created organizations that act in relation to the state—tribunals of public opinion by which political decisions are revised. The public, once comprised of private persons acting as individuals, is now comprised of organized private persons. Effective participation in the process of public communication is only possible via an organized public, meaning that individuals must use the channels provided by intra-organizational public spheres in order to communicate and debate with the state.

In contemporary society, Habermas laments, “the public sphere could be realized only on a different basis, as a rationalization of the exercise of social and political power under the mutual control of rival organizations committed to publicness in their internal structure as well as in their dealings with the state and with one another” (1989: 236). Perhaps what he is lamenting is the impact of neoliberalism on an ideal type of public sphere in which the freedom of its members seems less visible and at times is replaced by a disciplinary politics that speaks to the concerns of the public but serves the interests of a globalizing market system. This idea of the public sphere, and particularly the contemporary vision of a public and public interest as mediated by NGOs, has been useful in contextualizing the roles of national and local organizations within the marriage movement, especially their roles vis-à-vis same-sex couples and the New Mexico state legislature. As Michel-Rolph Trouillot has also pointed out, state-like processes and practices are also found in nongovernmental sites such as NGOs and trans-state institutions such as the World Bank. These NGOs sometimes perform better and
“produce state effects as powerful as those of national governments” (2001: 130). An understanding of the redeployment of power to new sites can also help us to understand the effects of the incorporation and modeling of state practices within their governing structures. The transference of power also creates larger spaces in which other non-state processes work and shape identities and relations between organizations and the state, individuals and organizations, and individuals and the state. The most pervasive of these processes since its inception in the 1970s has been neoliberalism.

**Liberalism and Neoliberalism**

**Liberalism**

According to Wendy Brown (1995: 142), liberalism is simultaneously a set of stories and a set of practices—an ideology and a discourse—that obfuscates narratives about a particular social order while also being constitutive of that social order and its subjects. Liberalism reformulates civil and familial domains to constitute two subjects (a public and a private subject) that are naturally divided but at the same time complementary. This split subject is linked to the growing chasm between household and society. Liberalism has become one with modernity, and its discourse has been naturalized such that we believe we naturally exist in two worlds: the home/family and the public/civil society, with civil society specified as the domain of proper justice (Brown 1995: 138–151). As Michael Sanders has argued, “Civil Society or the economy is natural to man; it is the domain where rights are exercised and individuality is expressed, hence a domain of particularity; and the stratifications within it constitute the domain of ‘real political life’ for Marxists. The family or personal life is natural to woman and in some formulations
divinely ordained; it is a domain governed by needs and affective ties, hence a domain of
collectivity; and the hierarchy within it also constitutes the domain of ‘real political life’
for feminists (Brown 1995: 146).

Nevertheless, liberal discourse produces subjects without regard to their social
positioning by other discourses of gender, class, and race, meaning that it produces
abstract, genderless, colorless, sovereign subjects. Yet Catherine Mackinnon has shown
that while liberalism is premised upon sameness, sex always connotes difference.
Therefore, liberal equality is gendered but obscures this gendering every time it deploys
gender-neutral language. As a result, the state is most gender biased when it is gender
blind.

Brown goes on to outline the constitutive elements of liberalism. The first, she
argues, is that liberalism consists of a tripartite social order. While the subject is split
between home and civil society, the social order also includes the state, whose function is
seen as protecting its members from external threats and securing citizens’ rights and
liberties within. Second, the individual and the family form the basic unit of political
analysis, while the legitimate domain of the political is the state (or the public arenas,
such as the legislature, where people can debate rights and the power of the state). Third,
the liberal subject is the individual who is perceived as possessing power or the origins of
power, as opposed to being an effect of power. As such, the individual is also “divided by
reason (objectivity) and passion (subjectivity) rather than subjected by discourses of
truth” (1995: 145). Yet he also “bears an array of character attributes that confer the
masculine status” (1995: 49). He is fiercely autonomous and unencumbered by anyone
or anything. The political is an instrument of his happiness, while the household is a
place to retreat to and emerge from rather than a place to be. This autonomous subject is expressly civil and not familial, moves freely in society, is capable of providing for himself, and is driven by self-interest. This subject is, therefore, drawn in opposition to women’s activities, experiences, and responsibilities, which are expressly tied to the familial realm.

The fourth element encompasses rights and liberties that are accorded to individuals by the state and exercised by individuals against each other in civil society/the public sphere and against the excesses of the state. Liberty in liberalism is perceived as the ability to act according to one’s desires. Liberty, Brown states, is “the sovereignty of the liberal subject” (1995: 154). Its opposite is not what one might presume—that is, slavery or the lack of sovereignty—but rather constraint and necessity. Thus, for liberty to exist, someone somewhere has to be totally bound by necessity.

Similarly, rights, which are considered to be both the articulations and custodians of our autonomy and the political face of the sovereign subject, are contrasted to the need-based familial order. Through rights, the subject pushes away or against others, the state, or incursions that limit his autonomy. Therefore, rights relations presume autonomy, while relations of need presume intimacy and dependence: “It is a commonplace of liberalism that rights pertain to civil society while needs govern family” (Brown 1995: 158).

The fifth component Brown discusses is equality, which refers to the right to be treated the same as everyone else because everyone is regarded as having civil and political sameness. This means that in the liberal discourse of equality all citizens are subject to the same laws, and all liberal subjects are perceived as equally subjected to the
law. Yet gender in liberalism, Mackinnon reminds us, always emerges as a problem of
difference. Thus, we have a discourse of human equality on the one hand and gender
difference on the other. As such, Brown states, equality’s conceptual other is not
inequality but difference.

The sixth component pertains to values and goals that in liberalism are presumed
to be individually discerned and pursued and are not determined or enforced by political
institutions. “Debates about what values the state shall promote or proscribe, especially in
the moral domain, thus constitute a distinctly illiberal discourse” (Brown 1995: 146).

In her depiction of the components of liberalism, Brown is also illustrating that
the fundamental terms of liberal political discourse “depend on their implicit opposition
to a subject and a set of activities that are marked as ‘feminine,’” but that dependence and
opposition is obscured in discourse (1995: 152). “As the family dissolves individuals,”
she argues, “individualism dissolves the family, and as women’s right to be an individual
is curtailed by her identification with the family, man’s relationship to the family is
limited by his status as an individual” (1995: 160). As a result, liberalism’s “implicit or
explicit theories of justice, morality, psychology, and economics are predicated upon a
particular kind of person that it simultaneously reflects, engenders, and distorts” (1995:
149).

**Neoliberalism**

Neoliberalism, as Lisa Duggan describes it, is built on a wide-ranging political and
cultural project, on the “reconstruction of the everyday life of capitalism, in ways
supportive of upward redistribution of a range of resources and tolerant of widening
inequalities of many kinds” (2003: xi). She argues that in fact neoliberalism is a late twentieth-century incarnation of liberalism constructed in and through cultural identity politics. Master terms and categories from liberalism have been carried into neoliberal constructs and rhetoric, particularly *public versus private, the state, the economy, civil society,* and *the family.* “Different forms of liberalism define the categories somewhat differently and assign publicness and privateness to them in varying ways” (2003: 4).

These master terms and categories not only describe what is presented as the “real” world but provide only one way of understanding and organizing collective life. They create inequalities by obscuring disparities in wealth, power, and class and inequities in race, gender, and sexuality both across nation-states and within them. “Inequalities are routinely assigned to ‘private’ life, understood as ‘natural,’ and bracketed away from consideration in the ‘public’ life of the state” (2003: 5). As ideas of liberalism become “common sense,” they are used to create and perpetuate institutions that maintain the neoliberal project—the transformation of global cultures into “market cultures” (2003: 12). Two policy arenas that illustrate the relationship between the economic policies and cultural projects of neoliberalism are welfare reform and law and order initiatives.

“In both arenas, neoliberals have promoted ‘private’ *competition, self-esteem,* and *independence* as the roots of *personal responsibility,* and excoriated ‘public’ *entitlement, dependency,* and *irresponsibility* as the sources of social ills. Welfare reform18 masks the race and gender-specific operations of the policy change with neutral goals promoting “self-esteem” and “empowerment” through work “opportunity” (Duggan 2003: 16).

18 Here, Duggan is referring specifically to Clinton-era welfare reform.
Within the neoliberal project, there has been a move toward a superficial kind of “multiculturalism,” one that is compatible with global aspirations of U.S. business interests. Some gay and lesbian proponents of “equality politics,” Duggan asserts, have adopted this brand of multiculturalism and neoliberal identity/equality politics. These organizations, activists, and writers “promote ‘color-blind’ anti–affirmative action racial politics, conservative-libertarian; equality feminism,’ and gay ‘normality’ (2003: 44). Duggan argues that almost all national lesbian and gay rights, lobbying, and litigation organizations have moved away from constituency mobilizations and community-based consultation (2003: 45). Consequently, the push for gay marriage and military service has replaced the multiple political issues that galvanized the gay and lesbian progressive social movement decades earlier. Duggan calls this process the new homonormativity, and it represents a politics that does not contest heteronormative assumptions and institutions but rather upholds and sustains them. It does so by invoking a “phantom mainstream public of ‘conventional’ gays who represent the responsible center.” Supporters of this new politics position the responsible center in contrast to “liberationists” and leftists whom they categorize as “extremists” or “simply anachronistic,” in similar fashion to right-wing talk-radio hosts and mainstream neoliberal politicians who smear opinions to the left as “extremist” and “old-fashioned” (2003: 50). Hence, gay and lesbian supporters of neoliberal sexual politics promise “the possibility of a demobilized gay constituency and a privatized, depoliticized gay culture anchored in domesticity and consumption” (2003: 50).

Another component of neoliberalism is relevant to our understanding of this move from progressive to conservative-libertarian gay and lesbian politics, and that is how
neoliberalism has recently developed into an expression of a biopolitical mode of governing. Ong makes the argument that neoliberalism applies two optimizing technologies: *technologies of subjectivity*, which rely on an assortment of knowledge and expert systems to induce an active sense of self and promote self-government “so that citizens can optimize choices, efficiency, and competitiveness in turbulent market conditions” (2006: 6), and *technologies of subjection*, which “inform political strategies that differently regulate populations for optimal productivity, increasingly through spatial practices that engage market forces” (2006: 6). “On the one hand,” she explains, “citizenship elements such as entitlements and benefits are increasingly associated with neoliberal criteria, so that mobile individuals who possess human capital or expertise are highly valued and can exercise citizenship-like claims in diverse locations. Meanwhile, citizens who are judged not to have such tradable competence or potential become devalued and thus vulnerable to exclusionary practices. On the other hand, the territoriality of citizenship, that is, the national space of the homeland, has become partially embedded in the territoriality of global capitalism, as well as in spaces mapped by the interventions of nongovernmental organizations (NGOs)” (2006: 6–7).

In other words, neoliberalism, as an ethos of self-government, encounters and articulates with other ethical regimes in different contexts. Market rationality, for example, promotes individualism, and entrepreneurialism engenders debates about norms of citizenship and the value of human life. Significantly and at the same time, different degrees of political and moral claims by the politically marginalized “can be negotiated in the shifting nexus of logics and power” even though such determinations can produce indeterminate and ambiguous outcomes (Ong 2006: 9). In looking at how middle-class
values are displaced and rearticulated elsewhere (i.e., the effect on middle-class American masculinity of the shifting of white collar jobs across borders), we see how, via neoliberalism, “components of citizenship have developed separate links to new spaces, becoming rearticulated, redefined, and reimagined in relation to diverse locations and ethical situations” (2006: 7). Also that “techniques of economic globalization are invested with a moral calculus about more or less worthy subjects, practices, lifestyles, and visions of the good” (2006: 21). These worthy subjects are articulated through what Ong calls an “ethical regime” (which is similar to Foucault’s “technology of the self” and Rose’s “regime of the self”), “a practice of the self, or normative techniques in self-care for attaining a particular mode of being” (2006: 22). This ethical regime promotes a style of living guided by particular values for constituting oneself in line with a particular ethical goal. Religion, feminism, and humanitarianism are all examples of ethical regimes, which are also embedded within notions of citizenship to include expressions of national spirit and a style of subjectivity.

Envisioning the Self under Neoliberalism

In his later work on conceiving the modern experience of sexuality and subjectivity, Foucault began to rethink how techniques of domination act upon the individual and how, in the process, the individual creates an understanding of who s/he is. Toward the end of his life Foucault turned his attention more specifically to the role of the individual—the subject—and the kinds of understandings she creates about herself as a way to consider modern experiences of sexuality and subjectivity. Building on Habermas’ description of three types of techniques within societies—techniques of production, techniques of
signification, and techniques of domination—Foucault argued that in all societies one can find a fourth kind of technique: a “technology of the self.” This kind of technique, he maintained, “permit[s] individuals to perform, by their own means, a certain number of operations on their own bodies, on their own souls, on their own thoughts, on their own conduct, and this in such a way that they transform themselves, modify themselves, and reach a certain state of perfection, of happiness, of purity, of supernatural power, and so on” (1988: 154).

Foucault came to believe that to analyze the genealogy of the subject in Western civilization, scholars must take into account both technologies of domination and technologies of the self. In doing so, the scholar has to consider the connections between the ways people are controlled and/or influenced by others and the ways they conduct themselves. These connections, he claimed, are what we call government. In our societies one must not only obey but “produce and publish the truth about oneself” (1988: 155). One does so through self-observation, self-interpretation, and other forms of self-hermeneutics.

Taking Christianity as the model for the production of the modern self, Foucault states that the goal of a technology of the self is “to discover what is hidden inside the self; the self is like a text or like a book that we have to decipher” (1988: 166). The individual must not only hold as true a set of propositions that constitute a dogma, or certain books as permanent sources of truth, but has also the obligation “to know who he is, what is happening in him . . . [and] the faults he may have committed” (1988: 171). Most importantly, the individual is obligated to say these things to other people and to bear witness against himself. Foucault names this process “exagoreusis”—the continuous
and permanent discursive analysis of thought and obedience to the will of the spiritual father, in early Christianity, or, in more contemporary cases, to the different systems of domination. Verbalization, he maintains, has an interpretive function that is permanent and contemporaneous with the stream of thought. In early Christianity verbalization was also a sacrifice of the self for it was the way to renounce Satan and that which was evil within oneself (1988: 186). Ultimately, in the Christian experience one has to sacrifice the self in order to discover the self. And conversely, one has to discover the truth about oneself in order to sacrifice the self (1988:187). With time, Foucault argues, the verbalization of the confession of sin became “institutionalized as a discursive truth-game” (1988:189). However, Foucault continues, the role of judicial institutions, medical and psychiatric practices, and political and philosophical theory in contemporary Western culture has been to found the hermeneutics of the self on a positive emergence of the self as opposed to the sacrifice of the self. This goal of grounding subjectivity within a positive foundation of the self has proven to be one of the great challenges of Western culture and a problem that Western societies have tackled for the past few centuries.

In Inventing Ourselves: Psychology, Power, and Personhood, Nikolas Rose uses two concepts to illustrate more specifically how individuals envision themselves as autonomous beings in order to understand themselves and their relationship to the state: the “regime of the self” and the “genealogy of subjectification.” He argues that notions of autonomy are important to understanding our passions and desires, to shaping our lifestyles, as well as to establishing our ethics and debating their dilemmas as individuals and as a group. The regime of the self, he maintains, is a hypothesis that claims a common normativity: “a kind of family resemblance in the regulative ideals concerning
persons that are at work in all these diverse practices that act upon human beings, young
and old, rich and poor, men and women, black and white, prisoner, mad person, patient,
boss, and worker” (1996: 3). It is constituted from “ideals concerning our existence as
individuals inhabited by an inner psychology that animates and explains our conduct and
Thus, the self “is characterized by a profound inwardness: conduct, belief, value, and
speech that are to be interrogated and rendered explicable in terms of an understanding of
an inner space that gave them form, within which they were, literally, embodied within us
as corporeal beings” (1996: 4). This internal universe of the self provides the norm for
thinking about and judging the abnormal, “whether in the realm of gender, sexuality,
vice, illegality, or insanity” (1996: 4). The regime of the self, Rose affirms, is a “regime
of subjectification” (1996: 30). Via a feminist lens he argues that regimes of
subjectification are constructed and articulated through gender and sexuality (1996: 8).
Referencing Judith Butler, who argues that the subject comes into being via the process
of assuming a sex, a process that excludes certain “abject beings” from enjoying the
status of a subject, Rose asserts that subjectivity is not “the origin of action, but the
consequence of particular, and inevitably gendered, routines of performativity and modes
of citation” (1996: 8).

Berlant also talks about the formation of the subject, particularly through the
affective structures that she argues form the intimate public. In The Female Complaint,
Berlant reasons that the intimate public is a space in which minoritized and historically
marginalized communities create a sense of communitas and belonging through the belief
that they share a worldview and emotional knowledge derived from a common historical
experience (2008: viii). The narratives that consumers—as she calls those belonging to intimate publics—are tied to are shaped by the history of those narratives while at the same time they structure the intimate public’s conventions of belonging. Within this space, consumers make emotional connections with each other, making the intimate public a site where the “personal is refracted through the general,” one that provides “a way of experiencing one’s own story as part of something social, even if one’s singular relation to that belonging is extremely limited, episodic, ambivalent, rejecting, or mediated by random encounters with relevantly marked texts” (2008: x). In other words, the intimate public is where self-recognition and a reflection of the wider world are deemed possible. It is a place where subjectivity is formed for both individuals and the group. Therefore, the intimate public “flourishes as a porous, affective scene of identification among strangers that promises a certain experience of belonging and provides a complex of consolation, confirmation, discipline, and discussion of how to live as an x” (2008: x). The marked texts of intimate publics “cultivate fantasies of vague belonging as an alleviation of what is hard to manage in the lived real—social antagonisms, exploitation, compromised intimacies, the attrition of life” (2008: 5).

Utopianism, Berlant maintains, comes in the form of normativity, which she defines as “a felt condition of general belonging and an aspirational site of rest and recognition in and by a social world” (2008: 5).

Subjectification in this case, is, as Rose suggests, “the name given to the effects of the composition and re-composition of forces, practices, and relations that strive to operate to render human beings into diverse subject forms, capable of taking themselves as the subjects of their own and others practices upon them” (1996: 171). Berlant would
add to this statement that within the intimate public the personal voice of the minoritized author does not really exist. Individual experiences, Berlant would say, are “readable only as particulars that are exemplary not of the individual life but of that kind of life” (2008: x). Yet agency becomes important here because the intimate public does not only frame the self, the subject, the consumer, but its conventions can also change. “Aesthetics and pedagogy [shape] fantasies, identifications, and attachments to particular identities and life narratives,” writes Berlant (2008: xii). Personal voices and life narratives are thus not just readable, though that is an important aspect of belonging, they also shape and reshape the discourses and knowledge of truth within the space of the intimate public and the national body politic. In other words, notions of belonging are not fixed, and because the intimate and national publics are affective spaces, voices and life narratives maintain an affective interaction between the intimate public and the national body politic and in the process fine-tune personal desire, recognition, and reciprocity.

Rose similarly notes that the “self” forms only one way in which humans have been directed to understand and relate to themselves and that it is cast in terms of individuality, character, constitution, reputation, personality, and the like. He suggests examining the production of the self along other axes, like the indoctrination of intellectual techniques such as reading, writing, and memory. The memory of one’s biography, he states, is not a psychological capacity. Memory is organized through a ritual of storytelling that is supported by artifacts such as a photo album. Regimes of subjectification are assemblages of “routines, habits, and techniques within specific domains of action and value” (1996: 38). There is no one way of assembling personhood because “human beings live their lives in constant movement and across different
practices that subjectify them in different ways” (1996: 35). Within these different practices, persons are addressed and acted upon as different sorts of human beings. At the same time, vacillation between different practices leaves room for resistance to particular regimes of conduct, or as Rose articulates: “Techniques of relating to oneself as a subject of unique capacities worthy of respect run up against practices of relating to oneself as the target of discipline, duty, and docility” (1996: 35). Thus, the politics of identity “are racked by internal fragmentations in which the subjects supposed to be unified—as women, as black, as disabled, as mad—refuse to recognize themselves in the name that is offered them. In this fragmentation and refusals, we have been forced to recognize that national, racial, sexual, gendered, class identities have, historically, been created most typically by those who would identify us in the service of problematizing, regulating, policing, reforming, improving, developing, or even eliminating those identified” (1996: 38).

The image of the self is now in crisis because, Rose asserts, the universal subject—unified, totalized, individualized, interiorized—died with modernism. In its place new images of subjectivity have flourished: “as socially constructed, as dialogic, as inscribed upon the surface of the body, as spatialized, decentered, multiple, nomadic, created in episodic recognition-seeking practices of self-display in particular times and places” (1996: 169). The dialogic character of self-narratives is therefore social and not individual, meaning interpersonal and interactional. Self-narratives “culturally provide stories about selves and their passage through their lives that provide the resources drawn upon by individuals in their interactions with one another and with themselves” (1996: 176). They are symbolic systems used for justification, criticism, and social
solidification and are subject to continuous alterations as interaction progresses (Rose 1996: 176). As with all symbolic systems, we need to understand what self-narratives do as opposed to what they mean. Thus, outlining the practices through which persons are understood and acted upon in relation to their sexuality, their family relations, their productivity, and so forth (Rose 1996: 23) is important to understanding the subjectivity of queer individuals and family. Rose refers to this process as the “genealogy of subjectification” (1996: 23) and says that genealogy does not write a “continuous history of the self, but rather accounts for the diversity of languages of ‘personhood’ that have taken shape” (1996: 25).

A genealogy of subjectification can also elucidate the process by which citizenship and belonging are formed. Lister reminds us that “a citizenship regime encodes within it a paradigmatic representation of citizenship identity: of the ‘national’ and ‘model’ as well as the ‘second-class’ and non-citizen” (2003: 3). Borneman similarly states, “In [the] attempt at nation-building to define, regularize, institutionalize, and normalize the domestic practices of the self—the state codifies and legalizes the desires for specific kinds of relations and specific kinds of selves” (1992: 75). Therefore, nation-ness, meaning the sense of belonging as a form of governing, Borneman suggests, is “a subjectivity, not contingent on an opinion or attitude, but derived from lived experience within a state.” (1992: n. 11). Borneman also maintains that individuals and states do not include all experiences or events in their stories, “but rather select out specific nodes which are for them most significant in constructing a coherent narrative” (1992: 37). When explaining individual narratives—or one might think of them as ways in which individual subjectivity and belonging are imagined—Borneman utilizes three concepts:
(1) the experiential trope—the historically structured narratives that represent all citizens; (2) the master narrative—the state-employed narratives and texts that unify experiential tropes and create a shared history of the nation; and (3) the life construction—the experience-based accounts of everyday life built on master narratives that are representative of structuring categories specific to generations. Together, these concepts reveal the relationship between the production of the self, a larger group narrative, and the structuring process of national belonging.

Marginalized Mobilizations

Legal, political, and feminist scholars have developed two main approaches to interpreting citizenship and civic participation—the liberal and the communitarian. Liberals, they argue, view citizenship as individual rights, and communitarians understand it as obligation (Lister 2003: 15). Lister explains that classical liberalism grants primacy to market rights over all other forms of citizenship rights. This philosophy, she states, has opened up debates about the nature of rights and the legitimacy of extending them into the social sphere (2003: 16): Should the government concentrate purely on the protection of individual freedoms, or should it also protect group rights? The religious right argues that protection of social rights means interfering with the freedom of individual rights. Others, however, maintain that the recognition of social rights as a legitimate expression of citizenship helps “promote the effective exercise of civil and political rights by groups who are disadvantaged in terms of power and resources” (Lister 2003: 17). Furthermore, “without social rights, gross inequalities
would undermine the equality of political and civil status inherent in the idea of citizenship” (Lister 2003: 17).

For communitarians, social citizenship rights are contingent upon the duty of engaging in paid work. In reaction to the individualism of the liberal citizenship paradigm that conservatives believe increases the fragmentation of society, communitarians promote the idea of civic republicanism. Civic republicanism emphasizes citizenship obligations over rights appealing to the “common good” in every citizen. Lister contends that this tactic is usually called upon to justify eliminating support for welfare recipients (2003: 19).

Marginalized ethnic groups and other minorities have a history of working within these frameworks and at the same time challenging them. Cathy Cohen talks about the “ethnic model of inclusion,” which calls for the assimilation and integration of minority groups into the hegemonic model of citizenship. This model, she explains, is largely based on the experiences of white European ethnic groups and “assumes that over time, as groups prove themselves to be diligent and willing contributors to American society, they will become fully integrated and assimilated into dominant institutions and social relationships” (1997: 574). In this process, marginal group leaders, activists, and those with some privilege use institutions, relationships, and definitions of membership within marginal communities to create an image of the group that they believe falls in line with hegemonic cultural values (1997: 577). Cohen argues that these leaders “promote and prioritize adherence to dominant norms . . . [and] seek to control and make invisible those issues and members perceived as a threat to the status of the community” (1997: 577). This phenomenon, she contends, inflicts a double burden on people of color because they
are “forced to ‘buy’ their normativity and their honorary whiteness through the class privilege they acquire, through the attitudes and behavior they exhibit, and through the dominant institutions in which they operate” (1997: 577–578).

**The Promise and Failures of Community**

Anthropologists have used and defined *community* in myriad ways. *Community* has taken the place of *group*, has stood in for *culture*, and has also been at the center of defining the nation-state. Hence Benedict Anderson’s concept of “imagined communities.” One thing that can be said about the notion of community is that whatever form it takes it is always loaded with affective power. Community, Gerald Creed writes, is two sides of the same coin: collectivity and exclusion. It invokes a group of people, a quality of relationship usually imbued with positive normative value, and a place or location. Together, Creed explains, these components conjure “qualities of harmony, homogeneity, autonomy, immediacy, locality, morality, solidarity, and identity, as well as the idea of shared knowledge, interests, and meaning” (2006: 5). Its affective power is then manifested in the way the term is deployed as a “warmly persuasive word” that never seems to be used unfavorably, unlike other terms of social organization such as *state* or *nation*. Considering that *community* is always used positively and favorably, Creed and others assert that in order to understand how community works, we have to instead see it as “a moment in modern rule saturated with affective power” (2006: 11). As such, we can examine how *community* is deployed and what it does in different contexts. Community is an engagement with modern governance, for as Rose tells us, states traffic in the emotional elements of community to establish consent. Miranda Joseph illustrates this
point with the example of capital: community facilitates the flow of capital, and capital provides the medium in which community is enacted. Thus, community is inextricable from the nation-state, functioning both as an identity and as a medium for national formation and maintenance.

Creed maintains that the relationship between culture and community is echoed by the relationship between family and community. The family model for community, he states, “must involve a family that is integrated, cooperative, and harmonious.” Thus, family “provides a model or base of community,” but “only when the family conforms to romantic preconceptions about community” (2006: 40). Cooperation is central, but it is also tied to and dependent on formations of identity that are political and elective. In other words, community, as seen through this lens, is analogous to the intimate public.

Summary

This dissertation is divided into two sections and comprises eight chapters. In the first section I examine the activism and public discourses around same-sex marriage by tracing the strategies and neoliberal ideologies activists employ to enact domestic partnership legislation, how kinship narratives translate into political tropes, the relationships and tensions between activists and the queer community, and the impact of

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19 This idea of community becoming synonymous with identity, Creed claims, “is born of the 1970’s new community expansions. These notions of community were based on a complete consensus of political objective and uniformity along the particular lines that defined the community or association. . . . Even the inevitabilities of race, class, gender, and sexual orientation failed to automatically define a community but required some political involvement and self-ascription. Moreover, these identities cross-cut one another, which prohibited the kind of consensus and uniformity increasingly expected of community, provoking ever more narrowly defined units. Thus, Kath Weston suggests that the embrace of the concept of kinship by gays and lesbians beginning in the 1980s was partly a response to the failure to build a gay community. In absence of clear territorial boundaries defining communities, members of political and elective communities became increasingly consumed with boundary definition and maintenance, often based on consensus and uniformity.”
the movement on same-sex couples’ and families’ daily lives. The second part of the
dissertation focuses on the mutability of the social categories of marriage and family and
draws attention to the ways nature and morality permeate couples’ discourses about
marriage and the family, how kinship is deeply implicated in the realm of political
symbolism, and how narratives about the family transform into political speech acts.

Chapter 2 outlines my research methodology and process. In this chapter I also
discuss my role within the same-sex marriage movement in New Mexico and consider
the role of the anthropologist within research that is public and political. In chapter 3 I
examine the activism and public discourses around same-sex marriage. Through an
analysis of the legislative process this chapter reveals how kinship tropes are forwarded,
validated, and rejected by the proponents, the opposition, and state legislators. It discloses
the boundaries of the political and social economies of marriage and the family and the
strategies employed to police these boundaries. I take the reader through the activists’
processes of envisioning and promoting certain characteristics, behaviors, and language
that highlighted sameness in the attempt to include gay and lesbian partners and families
within the dominant heteronormative kinship structure. I maintain that gay and lesbian
activists forwarded a unified experiential trope about “the gay family” that was grounded
in a neoliberal ideology of privatization and personal responsibility. The “we are like
you” message promoted by activists tried to render same-sex families “normal” to
legislators by addressing fears of homosexual contamination, attempting to obscure
sexuality, and underscoring sameness through testimonies about love, fairness, and
equality. And I assert that while this strategy has had success at a popular discursive
level—by changing popular thinking about gay marriage—as a discrete legislative

strategy it has not worked. By marginalizing sexuality, activists called upon a form of abstract equality via an image of an asexual and non-gendered citizen that left gays and lesbians even more vulnerable to attacks from the opposition.

In chapter 4 I tell the story of the relationship between local and national organizations, showing how organizations strategized and mobilized LGBT support for domestic partnership legislation and how they defined “community” to conceptualize needs, rights, and representation. Relationships between local LGBT organizations and national funders also made a significant contribution to both the successes and the tensions between LGBT activists and couples. The money funneled into New Mexico made the local organization reliant on and responsible to its national funders. However, national funders, often ignorant of the makeup of the New Mexico legislature, infantilized local activists, assuming they were incapable of building relations with legislators. In spite of resulting conflicts, activists agreed on an overarching definition of community as constituting a collective of people who share certain experiences, the most important of which is discrimination based on sexuality and gender orientation. Via this definition, activists talked about “the right thing to do” and ‘the best thing to do” to gain rights for same-sex couples and employed strategies they felt would yield successful results. The word rights became a synonym for achieving acceptance as activists claimed that domestic partner recognition would normalize gays and lesbians and combat homophobia. Overall, activists strived to establish a chain of command, which became most evident in the legislative hearings as they determined the meaning of diversity and selected couples’ testimonies. A seemingly unified voice was presented, carrying the message that domestic partnership was the next step to gaining civil rights for gays and
lesbians and protecting same-sex families. Embedded in that message was the image of a partnership of two committed people, some of whom have children that mirrored the monogamous, heterosexual family.

Nonetheless, in chapter 5 I illustrate that throughout this process disconnects formed between activists and LGBT community members who did not fit neatly into this normativizing model. The second half of the dissertation describes New Mexican experiences concerning cultural ideologies about and practices of kinship in broader social and experiential contexts. Ethnic and regional identities, for example were more important to couples where both partners faced hardships or histories of marginalization and discrimination. These couples expressed that the gay families they saw publically represented were from Albuquerque and Santa Fe—the two main centers of the state—and that the majority of those faces were white. Lesbians of color especially felt excluded from this imagery, explaining that women of color with children are generally invisible to society, and felt that invisibility was also evident in LGBT organizations’ representation of queer families. I argue that people felt unrepresented in part because of LGBT organizations’ adoption of a neoliberal rhetoric of diversity, whereby families’ life experiences were reduced to a few representations that highlighted a singular middle-class and white image of family.

Other couples’ understanding of community was similar to the definitions provided by activists: commonality, like-mindedness, and a sharing of experiences. However, these couples also differentiated between a personal community and other forms of community based in geography or ethnic identity. In the case of the couples with children, their conceptualization of personal community was dictated in large part by
their ideas about their children’s needs and their desire to be viewed as good parents. These couples talked about finding community among heterosexual parents with whom they shared knowledge of the trials of parenthood.

The second part of the dissertation additionally focuses on interviews I conducted with same-sex couples addressing the topics of marriage and family. I conducted formal interviews between 2007 and 2010 with thirty-one couples from Albuquerque, Santa Fe, Silver City, and Gallup, New Mexico. I found that same-sex couples’ discourses about marriage focused on the ideals of democracy, progress, fulfillment of the self, and citizenship. By drawing on affective tropes that centered on progress, happiness, and love, I argue in chapter 6 that same-sex couples attempted to assert their own modernity and envision their own stories as part of the social world to which they wished to belong. Calling it a lingua franca, many couples maintained that marriage is a common language between queers and heterosexuals that leads to validation and recognition from neighbors, family, and coworkers. This belief creates a popular rhetoric about marriage and the responsibilities the state has to its citizens to protect and uphold their rights, on the one hand, and, on the other, the responsibility of citizens to the state to fulfill their duties as parents, as spouses, as adults, and, ultimately, as citizens.

However, chapter 7 illustrates that narratives about family did not fit so easily within the normativizing discourse of marriage. In other words, narratives about family did not follow a prescribed set of messages and therefore remained adaptable to the multitude of life experiences. Couples variously defined and ultimately performed family by drawing on LGBT experiential tropes that highlight the historical importance of forming family outside and in the absence of the traditional framework; by linking
biogenetic relationships with naturalness and in turn with tradition; by constructing biographies through storytelling; by associating tradition with happiness and the production of healthy children; and by highlighting the need to meet the social and moral requirements of parenthood via performances of love, caring, and monetary sharing. These experiential tropes, operating as matrices of affect about belonging, were used by couples to engage in political conversations that allowed them to usurp cultural spaces through which they negotiated and reconciled their desires to be seen like heterosexual families and to maintain a sense of difference. Consequently, sameness and difference became important components of couples’ processes of confronting the hegemonic models of kinship and social membership, as well as negotiating their positions vis-à-vis these models. I assert that such narratives of family become political speech acts when those producing the narratives do not conform to the dominant heteronormative and racially hegemonic construct of family. Such political speech acts are also produced when a convergence of personal identities and experiences are used to shape discourses about and performances of family in conscious ways, but through daily repetition the discourses begin to be seen not so much as political but as facts about who couples are and how they live.
CHAPTER 2:
METHODOLOGY AND THE ROLE OF ANTHROPOLOGY AND THE ANTHROPOLOGIST

This research was guided by three methodological approaches. The first approach comprised of open-ended and semi-structured interviews with same-sex couples and LGBT activists\(^\text{20}\). The second and the more traditional anthropological methodology was participant observation. My participant observation approach consisted of participation in community events such as town hall meetings, legislative trainings, volunteering with the leading local LGBT organization, Equality New Mexico, attending meetings and organizing events. A third approach was observation of legislative hearings on domestic partnership and DOMAs (Definition of Marriage Acts) which I did every year between 2005 and 2010. A fourth methodology was media monitoring. I followed media coverage on domestic partnership in New Mexico and nationwide that provided me with the foundation for understanding the context of the marriage debate in New Mexico.

Interviews

Gathering Participants

As of February 2004, I not only threw myself into a research, the topic which was taking the nation by storm, but I also had what seemed like a conveniently contained sample of sixty-four couples around which I could build my project. Of course, while conceptually I

\(^{20}\) To protect participants’ privacy, pseudonyms were given to all couples who participated in interviews for this project. One individual requested that I use her real name. Since it is more difficult to establish anonymity with activists who are known public figures, I asked activists I interviewed for permission to use their real names. Some agreed to have their real names be used. One declined. When protecting individual anonymity was possible, I used pseudonyms regardless of agreement.
envisioned the project and created my questions with these couples in mind, the fieldwork took me in a slightly different direction. In my attempt to find participants, I tried several techniques and found that snowball sampling and friendship pyramiding was the most efficient methods that produced an accessible pool of same sex couples. This also produced a different sample than I had envisioned at the beginning of the project.

By being present at the legislature and same-sex marriage and family events, I began building a base of participants. Once I began interviewing, I asked each couple at the end of the interview if they would provide me with names of friends and acquaintances that fit the research parameters and who would consider participating. This method yielded a different sample than I had originally anticipated. The majority of the couples I interviewed had not gotten married in Sandoval County, NM, nor had they tried. Most of the couples were either married out of state or were not married or had any other legal contract such as a Civil Union or Domestic Partnership.

Benefits and Limitations to Interview Methodology

In choosing my methodology, I drew on Kath Weston, who in her study deliberately selected from a growing pool of contacts of people of color and people from working-class backgrounds. She argued that although this may be seen as a form of tokenism, she was “not interested in these categories as demographic variables, or as reified pigeonholes for people, but rather as identities meaningful to participants themselves” (Weston 1991: 11). Similarly, in my selection of specifically gay male, lesbian, and transgender partners, I focused on the meaning of gender identity to participants in
relation to their conceptualization of kinship and to the kind of group representation they believe they are receiving.

Another benefit to this methodology was that it provided me with quick access to a wider pool of couples beyond those married at Sandoval County. Another approach I considered in order to contact same-sex couples was to access the marriage records of the Sandoval 64. However, because the state of the marriage licenses were being legally challenged, accessing the records became difficult, despite the law that marriage licenses are public record. I made multiple phone calls to the court house and I was either told that there was no existing record because of their contested legality or I was sent from one department to another. Therefore, I found snowball sampling to be the most efficient method at the time.

However, there are some important limitations to this technique. Snowball sampling kept me within particular networks of couples that converged at the legislature and/or attended community events around marriage rights. Therefore, my sample has a high representation of middle to upper class gay lesbian, and transgender couples. The couples identified as Anglo, Caucasian, or white, as Latino, Hispanic, and or Mexican, as African American, as Native American, and as mixed heritage. Couples resided primarily in the Albuquerque and Santa Fe area. See table 1 for demographics.

This speaks to various aspects of the domestic partner struggle. I believe it speaks to how people are and are not included in political organizing. It also speaks to who feels represented by the organizations involved and whose needs are met by the organizations and the politics around marriage. New Mexico is a state in which communities are spread apart and which possess their own unique regional cultures. A great deal of time and
investment is required in understanding the nuances of each community and how people identify and live their lives in each of these communities. I was unsure about how to find couples that would want to participate that reside in smaller towns and communities. It was a difficulty also encountered by EQNM in so far as getting a variation of New Mexican representation at the legislature. Such an endeavor, is possible and necessary, but would require a great deal of travel and time to find and establish relationships with LGBT families in small New Mexico communities. This is also related to a drawback of conducting fieldwork where one lives. Though I have been “in the field” for many years, I could not dedicate all of my time to fieldwork. The funding I received and financial obligations also required that I work, thus limiting my time for travel. When possible, however, I did make contact with couples and families from other areas of New Mexico particularly Silver City, Gallup, and Las Cruces. Nevertheless, I relied mostly on the opportunities presented at the legislature and the contacts I made through using the snowball technique. Therefore, the perspectives I present in this dissertation do not encompass the views and experiences of all New Mexicans. They do, however, represent the leading views and experiences that drive the politics of domestic partnership and marriage in New Mexico.

Participant Demographics
Initially, I reasoned I would have a sample pool of adults (20-80 years old), drawn predominantly from the sixty-four couples married at Sandoval County (n=64) who had come to be known as “The Sandoval Sixty-four.” I aimed to interview at least forty couples (n=40). I hoped to also interview about ten couples who wished to get married or were themselves at Sandoval County but were unable to receive marriage licenses.
To get at a lesbian, gay, and transgender group narrative surrounding marriage and the family I thought it necessary to also interview community activists. For this, I aimed to interview 10 community activists. Therefore, the total number of my sample was fifty to seventy-four couples (n=50-74) and ten individuals (n=10).

In the end, I was able to interview sixteen (n=16) LGBT organizational leaders and community activists. Two of these representatives were from national organizations, Gill Action, and GLAAD. Two were New Mexico legislative lobbyists, one hired by EQNM and the other employed with the local ACLU chapter. I also interviewed the legal expert that was called upon during the legislative hearings. In addition, I interviewed three board members for EQNM, two of which also served as former interim directors and who also engage in transgender activism, a former employee of EQNM and one former ACLU employee, a former local Lambda Legal employee, three community activists not associated with the organizations leading the domestic partner legislative movement, and two PFLAG members from the Albuquerque chapter. Three of these activists identify as Latino and or Mexican, one identifies as Navajo, and the other 12 identify as Anglo, white, and or Caucasian. The youngest of the activists was 23 at the time of the interview, and the rest averaged between 36 and 60 years of age.

In total, I interviewed 31 couples (n=62 individuals). I also conducted second interviews with 15 of these 31 couples (n=30 individuals). In so far as gender identity, the couples I interviewed identified either as female, identify as male, FTM, transgender, gender queer and queer femme. With respect to sexual identity, couples chose one or more of the following categories: lesbian, gay, bisexual, queer, lesbian queer, heterosexual. Ethnically, the bulk of the participants identify as Anglo, Caucasian, or
white, followed by Latino, Hispanic, and or Mexican, African American, Native American, and mixed heritage. The couples vary within the age range of 26-68. Most of the couples I interviewed also had a bachelor’s degree or higher and engaged in professional and or academic and technical work such as the legal system, secondary and higher education, social work, management, vice presidential, and CEO positions, small business ownership, entrepreneur, hair styling and other forms of art. A smaller percentage were employed in the retail, or service industry, a few were students at the time of the interview, were stay at home parents, or disabled or unemployed. See table 1 for demographics.

**Table 1: Same Sex Couples Demographics**

<table>
<thead>
<tr>
<th>Ethnicity</th>
<th>N</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>White/Anglo</td>
<td>41</td>
<td>68%</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>12</td>
<td>16%</td>
</tr>
<tr>
<td>Native American</td>
<td>1</td>
<td>2%</td>
</tr>
<tr>
<td>African American</td>
<td>5</td>
<td>8%</td>
</tr>
<tr>
<td>Asian</td>
<td>1</td>
<td>2%</td>
</tr>
<tr>
<td>Mixed</td>
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<td>5%</td>
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<table>
<thead>
<tr>
<th>Gender Identity</th>
<th>N</th>
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</thead>
<tbody>
<tr>
<td>Female</td>
<td>34</td>
<td>56%</td>
</tr>
<tr>
<td>Male</td>
<td>22</td>
<td>36%</td>
</tr>
<tr>
<td>Transgender</td>
<td>4</td>
<td>6%</td>
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<table>
<thead>
<tr>
<th>Age</th>
<th>N</th>
<th>Percent</th>
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<tbody>
<tr>
<td>26-35</td>
<td>14</td>
<td>23%</td>
</tr>
<tr>
<td>36-40</td>
<td>12</td>
<td>19%</td>
</tr>
<tr>
<td>41-45</td>
<td>9</td>
<td>15%</td>
</tr>
<tr>
<td>46-50</td>
<td>9</td>
<td>15%</td>
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<tr>
<td>51-60</td>
<td>11</td>
<td>18%</td>
</tr>
<tr>
<td>61-68</td>
<td>7</td>
<td>13%</td>
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<table>
<thead>
<tr>
<th>Education</th>
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</tr>
</thead>
<tbody>
<tr>
<td>High school graduate</td>
<td>3</td>
<td>5%</td>
</tr>
<tr>
<td>Some college or technical school</td>
<td>10</td>
<td>16%</td>
</tr>
<tr>
<td>Associate's degree</td>
<td>3</td>
<td>5%</td>
</tr>
<tr>
<td>Sexual Orientation</td>
<td>Bachelor degree</td>
<td>Master degree</td>
</tr>
<tr>
<td>--------------------</td>
<td>----------------</td>
<td>--------------</td>
</tr>
<tr>
<td>Lesbian*</td>
<td>26 40%</td>
<td>19 31%</td>
</tr>
<tr>
<td>Gay</td>
<td>22 36%</td>
<td></td>
</tr>
<tr>
<td>Bisexual</td>
<td>2 3%</td>
<td></td>
</tr>
<tr>
<td>Queer*</td>
<td>12 15%</td>
<td></td>
</tr>
<tr>
<td>Heterosexual</td>
<td>2 3%</td>
<td></td>
</tr>
</tbody>
</table>

*individuals chose both identifications

<table>
<thead>
<tr>
<th>Profession</th>
<th>Bachelor degree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Academic*</td>
<td>7 11%</td>
</tr>
<tr>
<td>Professional*</td>
<td>43 69%</td>
</tr>
<tr>
<td>Unemployed</td>
<td>3 5%</td>
</tr>
<tr>
<td>Stay at home</td>
<td>1 2%</td>
</tr>
<tr>
<td>Technical*</td>
<td>4 6%</td>
</tr>
<tr>
<td>Student</td>
<td>3 5%</td>
</tr>
<tr>
<td>Unable to work</td>
<td>1 2%</td>
</tr>
</tbody>
</table>

\*some individuals chose a combination of these professions

Concerning residence, couples’ responses ranged from having been born and raised in NM, born elsewhere and moved to New Mexico, moved to New Mexico when they were children, or moved to New Mexico as adults. Length of time in New Mexico ranged from one year to always having lived in the state. During the course of this project two of the couples moved out of the state, and one couple moved out of the country. The New Mexico regions in which the couples in this project resided are Central, Northern,
Southern, and Western New Mexico. Those from Central New Mexico live in the following cities/towns: Albuquerque, Corrales, Placitas, Ceder Crest, and Rio Rancho. Those from Northern New Mexico lived within the Santa Fe city district or the Rural Santa Fe area and 6% did not specify city or town on the survey. Those from Southern New Mexico resided in Silver City, and those from Western New Mexico hold residence in Gallup. See table 2 for residency demographics.

<table>
<thead>
<tr>
<th>Table 2: New Mexico Residence</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New Mexico Native</strong></td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>No</td>
</tr>
<tr>
<td><strong>Region of residence</strong></td>
</tr>
<tr>
<td>N</td>
</tr>
<tr>
<td>Central New Mexico</td>
</tr>
<tr>
<td>Northern New Mexico</td>
</tr>
<tr>
<td>Southern New Mexico</td>
</tr>
<tr>
<td>Western New Mexico</td>
</tr>
<tr>
<td><strong>City of Residence</strong></td>
</tr>
<tr>
<td>Albuquerque</td>
</tr>
<tr>
<td>Corrales</td>
</tr>
<tr>
<td>Placitas</td>
</tr>
<tr>
<td>Ceder Crest</td>
</tr>
<tr>
<td>Rio Rancho</td>
</tr>
</tbody>
</table>
The couples reported length of relationship ranging from 1-25 and forty years or more. All couples interviewed for this project continue to be in relationship. Three of the couples that were not married previous to the study at Sandoval County or elsewhere, have gone out of state to marry in California and Connecticut. See table 3 for relationship demographics.

<table>
<thead>
<tr>
<th></th>
<th>N</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Santa Fe</td>
<td>14</td>
<td>23%</td>
</tr>
<tr>
<td>Rural Santa Fe</td>
<td>2</td>
<td>3%</td>
</tr>
<tr>
<td>Silver City</td>
<td>2</td>
<td>3%</td>
</tr>
<tr>
<td>Gallup</td>
<td>2</td>
<td>3%</td>
</tr>
</tbody>
</table>

Table 3: Other Demographics

<table>
<thead>
<tr>
<th>Length of Time in Relationship</th>
<th>N</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2 years</td>
<td>8</td>
<td>13%</td>
</tr>
<tr>
<td>3-5 years</td>
<td>8</td>
<td>13%</td>
</tr>
<tr>
<td>6-9 years</td>
<td>14</td>
<td>23%</td>
</tr>
<tr>
<td>10-14 years</td>
<td>14</td>
<td>23%</td>
</tr>
<tr>
<td>15-19 years</td>
<td>4</td>
<td>7%</td>
</tr>
<tr>
<td>20-25 years</td>
<td>12</td>
<td>19%</td>
</tr>
<tr>
<td>26-39 years</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>40+ years</td>
<td>2</td>
<td>3%</td>
</tr>
</tbody>
</table>
### Have Children

<table>
<thead>
<tr>
<th></th>
<th>N</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>34</td>
<td>54%</td>
</tr>
<tr>
<td>No</td>
<td>28</td>
<td>45%</td>
</tr>
</tbody>
</table>

### Interested in Children

<table>
<thead>
<tr>
<th></th>
<th>N</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>16</td>
<td>26%</td>
</tr>
<tr>
<td>No</td>
<td>27</td>
<td>44%</td>
</tr>
<tr>
<td>Undecided</td>
<td>4</td>
<td>7%</td>
</tr>
</tbody>
</table>

**Interview Structure**

I conducted one interview with each participating couple, a second interview with sixteen couples, and one interview with each LGBT activist. While I interviewed each activist, individually, the interviews with couples I chose to do together as a couple since I was interested in their joint experience and their experience as a family. The first interview was geared toward couples’ personal experiences with and interpretations of tradition, family values and structures, marriage and domestic partnership, and beliefs about social approval, belonging, and normalcy. The first interview also opened with a survey taken by each individual of the couples. The survey had a “demographics” section and “opinions about the marriage debate” section. The survey consists of twenty questions altogether. In total I interviewed thirty-five couples. I conducted interviews with 35 couples which averaged between 2.5 to 3 hours.
The second interview dealt with couples’ experiences with and opinions about domestic partner and same sex marriage activism. Each year since 2005, New Mexico LGBT activists introduced a domestic partnership bill. Since the participation of same-sex couples and families was central to their strategies for passing the bill, I felt it was important to create a second interview that covered couple’s opinions about the publicity and activism around the domestic partnership bill, and about community organizing around the issue of marriage. Like the first interview, the second interview was also semi-structured but less open-ended. I began creating the questions before conducting the first interview. Once I began the interviewing process, I found that many of the questions from the second interview were being addressed in the first interview. Therefore, I decided to cap the second interview at fifteen people. I selected them based on two criteria. The first criteria, was that issues about political organizing that the second interview addressed, were not discussed by couples during the first interview. The second criteria for selection of couples for the second interview was based on my interest in investigating if there was a gendered discourse of kinship.

I believe that activists and leaders shape public discourse on lesbian and gay issues and do so by weighing multiple cultural, social, legal, and political factors. Therefore, they, too, help create certain kinds of societal truths about kinship and about social belonging. In order to understand how a lesbian and gay kinship group narrative is formed, I conducted structured interviews with community activists and leaders who help shape that public narrative. The sample consisted of three former employees of Equality New Mexico, Lambda Legal, and the local chapter of ACLU. I also interviewed two PFLAG members who devoted much of their time to activism around same-sex marriage;
two current, and two former board members of Equality New Mexico; the two lobbyists for the domestic partnership bill, two community grass-roots organizers who served in different organizations under various capacities; and two employees from the national organizations, GLAAD and the Gill Fund. By the end of the research I had interviewed fourteen local and two national activists.

Participant Observation

In addition to interviews I relied heavily on participant observation. Between 2004 and 2009 I attended numerous town hall meetings that addressed same-sex marriage and the domestic partnership bill in Albuquerque, Santa Fe, and Las Cruces, trainings on media messaging, and trainings that focused on how the legislature in New Mexico works and decorum during hearings. I also attended all the legislative hearings on the domestic partnership bill and the marriage bill from 2005 to 2010.

Starting in 2004 I also began volunteering for Lambda Legal and Equality New Mexico the leading state-wide, non-profit lesbian and gay organization spearheading the New Mexico political and educational campaigns for lesbian and gay rights. After the same-sex marriages that were performed at the Sandoval County courthouse, Equality New Mexico turned its full attention to how to maintain the rights of those marriages and expand them to all LGBT New Mexicans. As a volunteer I canvassed and phone banked on the issue of domestic partnership and same-sex marriage, helped organize meetings, and aided with grant writing and fund raising operations. I began volunteering as a way to conduct preliminary research to help conceptualize my project. However, I continued to volunteer after my project was conceived and received IRB approval. Between 2005 and
2009 I spent between ten and twenty hours a week volunteering with more time dedicated during legislative sessions.

My time with Equality New Mexico allowed me to see some of the conflicts that arose in the relations between organizational leaders and community members during the organizing process. To make sense of and keep track of these conflicts and relations I kept a journal for field notes. However, to be sensitive to the individuals involved, I rely on these field notes to provide context and background as opposed to details of daily activities or events. As a result of my time with the organization I was able to also observe how community members and activists connected and disconnected. I was also able to gather some understanding of the structure and function of EQNM and its relation vis-à-vis national organizations. I observed how issues that arose between local and national organizations impacted relationships, funding, messaging, and ability to organize. In 2004 no one was prepared to take on a legislative battle for domestic partner or marriage in New Mexico. The activists of EQNM had only a few weeks prior beat the conservative attempt to repeal the Human Rights Act, which they had spent eleven years struggling to pass through the legislature. The unexpected marriage event took EQNM and LGBT national organizations by surprise and the lack of preparation in many ways set the tone for the initial tactics employed in community organizing and in legislative lobbying. It fractured several alliances between LGBT community leaders, supporters, and activists. Over the years some of these fractures have been mended, others remain unhealed, while still others have been broken altogether. Thus, my attempt to feel out the lay of the land turned more into learning the New Mexico LGBT community’s political history, understanding its current predicaments, the methods employed and the challenges
faced in building LGBT community support around an issue that was also dividing the community. Many of the community forums and town halls I attended the first year produced heated debates and accusations from both the activists and the community members.

My first year was also spent attending potlucks and celebrations for the Sandoval Sixty-four. Because I knew very few of these couples and many of them were being bombarded with requests for interviews from journalists, I had to be more creative in initiating conversations, and relied on the friends and contacts I had made through my volunteer position to serve as my liaisons to meet and talk with couples about participating in my study. At the suggestion of one activist working on the educational component of the domestic partner and marriage movement that was being born, I helped at the greeting table of one of the celebratory potlatches. Along with distributing educational pamphlets about the many rights same-sex couples were denied because they were not allowed to marry, I also introduced my research topic and asked if they were willing to participate. I was able to obtain contact information for a number of couples, some of which I interviewed in 2007. This method allowed me to initiate the snow ball sampling technique, through which I was able to build a sizeable sample pool.

Until I received IRB approval to conduct interviews in 2007, I continued to do observations at the New Mexico legislature, of public events, have informal conversations with same-sex couples and activists, and volunteer with the local LGBT organization, Equality New Mexico. Observing legislative events and volunteering with EQNM provided me occasions of learning about New Mexico legislative politics and culture, which consequently prepared me for the ensuing years I spent at the New Mexico
legislature following the Domestic Partnership Act, the numerous DOMAs that were successfully defeated each year, and the marriage bills introduced to which little attention was paid.

I had ongoing informal conversations with couples and activists, which were not driven by interview questions but proved to be invaluable to understanding certain political, social, and legislative events, created a background for my research project, and drove the kinds of questions I asked in interviews. After receiving research approval from the University of New Mexico’s Internal Review Board (IRB) 2007, I began the official interview process with same-sex couples. Building relationships with my project participants created an emotional connection to their plights as they shared their life experiences with me. In the process I also built some good friendships.

**Legislation Observation**

Though I entered this project without an interest in marriage or feeling strongly about the need for marriage rights, my involvement in the politics of this movement invoked a sense of allegiance to LGBT activists and families. The homophobia and indifference to same-sex families that permeated the legislature over the years had produced a myriad of emotions in me, often simultaneously. A constant emotion was anger toward the opposition’s testimonies and the conservative legislators’ responses or lack of response. Along with anger I felt helplessness. As I looked around the hearing rooms, I saw how powerless gay and lesbian couples and supporters often felt against the negative and sometimes repulsive and hate filled comments from the opposition. Those who could not but react to the opposition were rebuked by the legislators and the LGBT activists.
Decorum, we were told, needed to be maintained in the hearings, so that gays and lesbians would be viewed as civil people.

Being at the legislature also produced a sense of exhilaration, pride, hope, and even a sense of righteousness especially when legislators would speak in support of or a vote would come down in favor of domestic partnership. These were long and emotionally exhausting days. It was hard not to feel connected to the gay and lesbian families’ plight, to their desire and sense of need for domestic partner rights. It was hard not to feel their desperation or joy. In many ways their fight became my fight. Their pain felt personal. I began feeling marriage was my right too, regardless of whether or not I wanted it, or whether it represented a sexist institution. Thus, it made me think about my position on marriage. Admittedly, to this day I have not come to any definitive conclusion about its place in my life. Concurrently, it put into question the funneling of resources to the same-sex marriage movement at the expense of other LGBT needs. Many times I felt torn because I was connecting to the families and to the individuals working to make domestic partner rights a reality. However, I also questioned the approach local and national activists were taking and I wondered (along with others) about the negative effects this intense focus on marriage was having on lesbian, gay, and transgender individuals who were not represented within the constructed image of the gay family, and whose lives would not necessarily be improved or changed by the passage of the Domestic Partnership Act.
Media Monitoring

In addition I also collected material sources such as newspaper, television, radio, and internet coverage of local and some national marriage news. I began collecting these sources in March 2004. I wanted to have larger national picture on same-sex marriage so I conducted online news research and signed up for “Google alert: constitutional amendment and gay marriage” on google.com, and building an electronic archive of national news. I also collected the maps outlining the laws such as domestic partnership, civil union, marriage, and DOMAs within the fifty states from the Human Rights Commission website as well as articles posted on LGBT national organization websites such as HRC, Lambda Legal, GLAAD, and ACLU. Furthermore, I collected printed material distributed by these organizations in New Mexico.

For New Mexico news coverage on domestic partnership I collected local and state-wide newspapers from new websites and printed newspapers. I also gathered information on anti-gay marriage from the local and national Catholic Bishops website. In addition, I collected video testimonies that were used for public educational campaigns in New Mexico depicting images and messages about same-sex families. Some of these have been distributed by EQNM and the local ACLU chapter, while others have been on the local ACLU website. In this dissertation I use a part of these sources gathered. Much focus is spent on the video footage depicting couples’ testimonies and material sources distributed by national and local organizations.
The Role of the Anthropologist

When I began my research I was not familiar with public anthropology, therefore, I did not design my project based on the tenets of this field. I saw my work as an anthropological study of a social issue that incorporates sexual identity and kinship within a public arena. While I continue to see my work as such, I find that it does have something in common with public anthropology because I have a vested interest in building and sharing knowledge. This knowledge may or may not create change immediately or even down the line. My curiosity in examining kinship, gender, and sexuality, in such a public way was the catalyst. I also felt that is what anthropology in general is about. I figured that I would be able to share my findings with organizations and participants as the research progressed. But that proved to be more difficult. As an anthropologist I was trained to “give back” to the people I work with; to not wield academic power through which I, as the anthropologist goes in, extracts information, then leaves to write about the ethnographic encounter without any responsibility to return the information to communities where it originated. So, my way of giving back was to give my time to organizations that advocated on behalf of couples and families. However, even that was not completely selfless because giving back can and has become part of anthropology’s methodology. For example, giving time means also spending time with the people whose lives and situations we seek to analyze and learn about. It becomes part of building rapport, establishing presence and trust, and engaging in participant observation.

Anthropologists also worry about their power vis-à-vis their participants, and in most cases, rightly so. Diane Wolf, in *Feminist Dilemmas of Fieldwork* states that “power...
is discernible in three interrelated dimensions: (1) power differences stemming from different positionalities of the researcher and the researched (race, class, nationality, life chances, urban rural backgrounds); (2) power exerted during the research process, such as defining the research relationship, unequal exchange, and exploitation; and (3) power exerted during the post-fieldwork period—writing and representing” (Wolf 1996:2).

She also maintains that “studying up” i.e. those that have more power than the researcher, is perhaps one way to subvert power hierarchies. I maintain that part of my study could be considered “studying up.” During my time as a volunteer with EQNM and at times incoming national organizations showed me that I as the researcher could lack power vis-à-vis “my subjects.” These organizations showed no interest in my opinion as an anthropologist. As a matter of fact there was little understanding of and interest in hearing about what anthropology is and how my research could assist them. Moreover, I was often dismissed by the lawyers and organizational leaders as “just a student.” I believed my presence was accepted because as with most non-profit organizations, there is always a shortage of volunteers. Still, whether or not it was heard, I often provided my opinion in discussions about strategic approach and how to bolster community support. This dynamic however, left me with a sense that when studying those that are in positions of authority (here I refer to individuals with authority within communities not necessarily within the larger public) anthropologists are not always in a position of power or have the ability to create an impact.

Additionally, through my observations of the power dynamics among activists, and between activists and LGBT couples, families, and wider community, I began to wonder about what it was that I would be supporting as an anthropologist. Many times I
felt uneasy about the decisions and behaviors of the organizational leaders at both the local and national level. I address these relationships between organizations and LGBT constituents in chapter four. I have grown to like and appreciate the passion and efforts of many of the activists and leaders but also disagreed with some of their approaches to both the legislature and LGBT communities. At times in their attempt to organize support, activists created a singular unwavering approach to the legislature and their efforts in organizing often translated into LGBT community members supporting the legislative strategy in lieu of other options or concerns. The need for those with knowledge about the legislature and experience with advocacy to demonstrate and explain the necessity and usefulness of legislative strategy was and continues to be imperative to gaining legal rights. However, being determined to use methods that continuously fail and being unwilling to consider alternatives becomes problematic. While organizers’ intent was not to alienate LGBT New Mexicans, their unwillingness to work outside of the legislative system or to introduce different kind of approaches within their legislative strategy, did create a chasm between activists and many gay, lesbian, and queer identified New Mexicans.

Through my interviews I also learned some of my participants’ were discontented because they felt these organizations did not represent them or cared to represent them. Many of these families that felt alienated were those with a lower class status and those that are younger. In looking at the makeup of the organizations and their supporters I also consider the extent to which in a minority/majority state, the main LGBT people one sees at the legislature are Anglo and white identified. This may be connected to the alienation of or disconnect with Native American and Hispanic/Latino populations particularly
those residing in the far corners of the state. I address this dilemma in chapter five. In the latter years of my involvement activists increased their efforts to engage different LGBT communities outside of the metropolitan sections of New Mexico. These quandaries leave my political engagement in question. There were numerous times I questioned what my role should be as an anthropologist and the balance between objectivity and subjectivity. What alliances would I be creating between academia and activism when I have doubts about the nature of the activism? I have come to believe that passing legislation in the name of social justice, fairness, and rights is not enough. I believe my responsibility as an anthropologist is also to shed light on intercommunity and intra-community relations and inequalities. Perhaps by doing so more LGBT voices may be heard and activists might consider new approaches to improving services to and representations of LGBT communities and their needs. I do not say this lightly because I have also become aware of the difficulty of social and political organizing. I am also conscientious of the fact that envisioning different methods that require a paradigmatic change is easier said than done. I believe an internal paradigm shift needs to happen if we are to truly create a public sphere in which LGBT and queer identified individuals can engage “in matters of general interest without subject to coercion” (Habermas 1989: 231).

Moreover, I take into account my positionality as a researcher and question if lacking power during the research process translates into being powerless. Feminist ethnographers have written about both the power that the anthropologist wields in research as well as about their subjects asserting their power over the ethnographers. Dorine Kondo, for example felt her subjects engaged in “’symbolic violence trying to
dominate the anthropological encounter” through their control of her behavior” (Wolf 1996: 21). Judith Stacey wrote about how friendship between the researcher and her subject can end up being manipulative as the researcher becomes privy to very private information about her informants which can then expose the subjects to danger and exploitation (Wolf 1996: 20). Ping-Chun Hsiung has argued that there are “players with power that must be configured in the researcher-subject relation” (Wolf 1996: 21); and Lila-Abu Lughod has written about feeling powerless because she could not force people to discuss issues that did not interest them and as a woman was seen as part of the backdrop and as a dependent (ibid). Nonetheless, as Diane Wolf points out “it is important to differentiate between the power plays during the micro-processes of interpersonal dynamics, which may render the researcher quite helpless, and her locationality and positionality within a global political economy” (Wolf 1996: 22). Wolf is referring particularly to the relationships between western feminist academics and Third World women as their subjects. However, I see her point as applicable in my research as well. While there were many times I felt helpless in my research, and disagreed with the activism around marriage, I also became aware of the power the written word gives me as a researcher. Therefore, while it is impossible to extract the anthropologist from the research and writing processes, my analysis is contingent upon the perspectives and experiences of my research participants. Where I offer analysis and critique based on my experiences I differentiate them from those of my subjects.
CHAPTER 3:
DEADLOCK OVER WEDLOCK—LESBIAN AND GAY DISCOURSES ABOUT MARRIAGE IN THE NEW MEXICO LEGISLATURE

This chapter is about the ways in which the public sphere is constructed, citizens are envisioned, belonging is articulated, and normativity is defined by the current debates about marriage and family. Using Jürgen Habermas’ concept of the public sphere, Aihwa Ong and Lisa Duggan’s interpretations of neoliberalism, and Michelle Foucault and Nikolas Rose’s notions of the self as frameworks for the analysis of testimonies selected from transcriptions of hearings I recorded throughout the 2005-2010 New Mexico legislative sessions, the chapter highlights the discursive process of the production of a neoliberal biopolitics within the most public of arenas, the legislature, where queer identities were subjugated to and rationalized through compositions of appropriate sexuality, natural family formations, and the rights of individuals. I argue that understanding how the public sphere is maintained and re-envisioned, and how a biopolitical model of family is constructed through the marriage debate requires and understanding of how articulation of an identity of the self has become necessary to the production of a queer identity, an LGBT group identity, and a dominant group identity. Sexuality is at the center of this process, and specifically, homosexuality, which in the New Mexico legislature was a constant and conflicting element in presentations of parenting, healthy relationships, and the achievement of good governance.

I assert that for gays and lesbian activists, same-sex couples, and others invested in passing domestic partner legislation, testimonies were confessions that, in the Foucauldian sense, were processes by which individuals discovered the truth about
themselves. These processes of discovery incorporated confessions of sacrifice as well as hope of evolving into the citizen and person one has the potential and right to become. The combination of sacrifice and hope, I maintain, sought to produce a positive construct of self-identity tied to a utopian vision of society and good government, where difference in sexuality based identities are inconsequential to family formations, and commitment to existing dominant relationship frameworks is proof of ones love for one self and one’s country. For the opposition, however, participation in life course of citizens—that is, being seen as belonging to the nation—could only be achieved through conformity to heteronormative prescriptions of family and through sacrifice of homosexuality.

Via theories of citizenship, especially as forwarded by John Borneman and Ruth Lister, the chapter also illustrates how narratives of belonging are publicly shaped through discourses about kinship, gender, morality, and personal responsibility. Borneman suggests that people engage in nation-building by selecting cultural elements that they believe are significant to them as opposed to relying on universality and objectivity. This idea has been central to theories of nation building and the construction of a national community (see also Anna Maria Alonso 1994, Benedict Anderson 1983, Katherine Verdery 1995, and Brakette Williams 1996). However, also central to nation-state theories is the importance of timelessness, of creating as Alonso stated and “epic time: an absolute time of being, of first and last words, of prefiguring fulfillment, of tradition and destiny” (Alonso 1994: 388). Epic item both particularizes and generalizes the national memory. Therefore, I reason that universality and objectivity as crucial to discourses of belonging and I illustrate through testimonies presented by both proponents and opponents how narratives that engaged in nation-building were based on selected
features of marriage and family deemed significant, but which were also viewed and presented as universal and important to the realization of a strong body of citizens. That is, LGBT couples’ discussions and performances of marriage and family within the public sphere illustrate a belief in a universal and timeless trope about kinship, based on an asexual framework of caregiving that can include same-sex as well as opposite-sex relations. Thus, by emphasizing an objective and universal concept of family proponents of domestic partnership attempted to incorporate homosexual relationships into the memories and practices of citizens. A gay and lesbian public formed around ideas about marriage and family that fall in line with a dominant public ideology, which throughout the sessions marginalized sexuality and highlighted a form of abstract equality.

At the beginning of the same-sex marriage debate in New Mexico, homosexuality occupied a central role in proponents’ testimonies. However, as the years progressed, a process of homonormativity ensued whereby proponents put forward a “we are like you” message which, I suggest, consequently relieved the state from having to validate homosexuality, and thus recognize same-sex families. Using this message of sameness, proponents also tried to convince both hostile and sympathetic legislators that homosexuality would not pose a threat to heterosexuality and that gay families would not disrupt the heteronormative system of marriage or the body of family law that supports that system. Making a distinction between marriage and domestic partnership became important to calming legislators’ hostilities and fears. Therefore, while in one way proponents showed that family is a performative relation, a “constructed quality of human interaction or an active process, rather than a thing-like object” (Weeks et al 2001: 37), they also argued that same-sex couples should be included in the socially and legally
established normative family model. By privileging certain “gay families” in the fight for domestic partnership, mainly Anglo, middle- to upper-middle class, two-parent lesbian or gay families from the Albuquerque and Santa Fe areas, proponents of the bill also supported existing categories of normalcy, and began a process of extracting sexuality from their rhetoric, replacing it with messages about the needs of the family and the protection of citizens.

Throughout the years, proponents and opponents presented arguments in response and reaction to legislators and to one another’s success. The goal was always to control how marriage and family is defined, and how to position gay and lesbian sexuality, as well as gender within these social categories and institutions. The chapter presents the reader with a timeline of events that took place at the New Mexico legislature between 2005 and 2010. However, the arguments that shaped these events are interrogated via five themes that became evident in proponents and opponents’ arguments throughout the years: 1. queer citizens as consumers and producers of social goods and therefore as productive citizens that are the same as everyone else; 2. Marriage as a natural heterosexual union hijacked by homosexuals and unnatural discourses of justice; 3. The sanitization of queer identities and non-heteronormative families through discussions of abstract citizenship; 4. Humanizing lesbian and gay families through neoliberal discourses of sentimentality; and 5. Negotiating equality and tradition with the New Mexico Catholic Bishops.
Domestic Partner Legislation Timeline

2005: Domestic Partner and Responsibilities Act (Senate Bill 576)

Spending the better part of 2004 strategizing with gay and lesbian and transgender interested communities and with national organizations and legislators behind closed doors, LGBT activists eventually conceived the first domestic partner bill. Known as Senate Bill 576 (for short SB 576), the Domestic Partner and Responsibilities act was introduced in the New Mexico Senate in January of 2005. Leading the charge was Senator Cisco McSorley, a progressive democrat that had been a long-time supporter of LGBT rights advocacy in New Mexico. It so happened that in 2005 Senator McSorley was also the Chair of the Senate Judiciary Committee, one of the main three senate committees through which the bill would have had to pass. However, the bill was voted down during the first hearing in the Senate Public Affairs Committee. Queer activists, the majority of which were part of the LGBT local organization Equality New Mexico (EQNM) maintained that the domestic partner bill was more inclusive than a civil union bill because it did not focus only on same-sex relationships, but included opposite-sex couples. Inclusion of heterosexual couples and families into the bill was also meant to confer a sense of sameness among straight and same-sex families, which seemed to make this legal route more palatable for same-sex couples and community members who argued their families were no different from those of their heterosexual neighbors. Nonetheless, there was a strong emphasis on the domestic partner bill as a piece of legislation that specifically addressed the needs of and discrimination against gay and lesbian couples and families.
2007: Domestic Partner and Responsibilities Act (House Bill 603 and House Bill 4)

In 2006, no domestic partner bill was introduced into the legislative short session. Instead, activists spent the year strategizing and mobilizing the LGBT community. Their organizational efforts paid off. In 2007 House Bill 603 (HB 603), the Domestic Partner and Responsibilities Act was introduced in the House by Representative Mimi Stewart who was known for her social and legislative activism especially around education. Always full of enthusiasm and ready for a good fight, Representative Stewart carried the bill to a near victory. During the 2007 legislative session LGBT community members and straight supporters arrived at the legislature in full force outnumbering the opposition by two to one. Often, opposition would arrive finding themselves blocked out of the legislative committee rooms by gay, lesbian, and supportive straight families as they descended upon the Round House in Santa Fe (home to New Mexico Congress) by the hundreds and patiently waited, sometimes four to five hours, for legislators to gather in their committees and begin the hearing process. However, due to the loss of a mere one vote on the Senate Floor, HB 603 was defeated.

In 2007, as the New Mexico Governor began his campaign to win the Democratic nomination for the presidency, same-sex marriage activists felt hopeful about passing Domestic Partner legislation in the state of New Mexico. With close to three years of

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21 The New Mexico legislature meets every odd year for sixty days, and every even year for thirty days. The thirty day sessions are reserved for bills dealing with fiscal matters and issues the Governor wants to address. Bills dealing with constitutional changes may also be introduced without the Governor’s approval.

22 Equality New Mexico spent most of the year engaging in community events: Gay Pride celebrations in different parts of the state, Voter ID campaign and signing of legislative cards, the New Mexico State Fair which attracts large numbers of people from different parts of the state, town hall meetings where strategies were discussed, and legislative trainings, teaching LGBT community members and allies how the legislature works and appropriate behavior in hearings. These different activities kept Equality New Mexico visible and let LGBT communities know that domestic partnership was top priority.
strategizing and organizing support from within LGBT and straight ally communities, getting national LGBT organizations and foundations’ attention, and isolating supportive and swayable legislators, EQNM entered the legislature with a significant arsenal at its disposal. The sense of impending victory was amplified by Governor Richardson’s public support for domestic partnership. Having received strong support from his LGBT constituents in his reelection in 2006, the governor saw the New Mexico and national LGBT communities as a source of support in his run for the White House. His public support for domestic partnership resulted in a sizeable endorsement from the Human Rights Campaign. Thus, Governor Richardson was invested in the New Mexico Domestic Partner Act. However, tensions slowly rose as Republican legislators took issue with the governor “pushing” the bill onto the legislature, which they saw as his campaign agenda. At the same time, some Democratic legislators rescinded their support and Republicans placed pressure on one another to vote party line. For example, Senator Ulibarri, a democrat appointed by the governor to the Senate Public Affairs Committee voted against the domestic partnership bill, to the surprise of the governor and other democrats. The governor pressured him to revive the bill in committee, and though Senator Ulibarri eventually consented and the bill passed the committee on its second time around, two days had been lost, which proved to be detrimental to the bill on the Senate Floor.

Further motivated by their dissatisfaction with the Governor, Republican senators put a call on the senate\(^\text{23}\) and introduced a substitute bill in which the words “domestic

\(^\text{23}\) A call on the Senate or on the House means that all Senators or House Representatives must be present to vote on a bill. All business is put on hold until the seats are filled (with the exception of those officially excused) and the state police is sent to escort legislators to their Floor seats if necessary.
“partner” were replaced with “contract household,” making the bill applicable to blood relations only, and implicating language that conflicted with existing law. That substitute bill was adapted by a vote of 22-21 and then unanimously passed by the entire Senate, sending it back to the House for concurrence. The House re-amended the substitute bill by 3:30am on the second to last day of the session to read as the original bill and sent it back to the Senate. Sitting on the bill until the late evening, the Senate voted for yet another substitute bill, which passed by one vote, sending the Domestic Partner Bill back to the House for approval. The House once again re-amended the bill to read as the original and sent it back to the Senate floor for concurrence at three a.m. However, time became an issue as the Senate had already adjourned for the night and the Domestic Partner Act was scheduled to be heard the following day, which was consequently the last day of the legislative session set to end at noon. The last day of the session, Senate Republicans spent their time filibustering the Governor’s transportation bill25, leaving the Domestic Partnership Act sitting on the agenda unheard as the clock struck noon and the session came to a close.

Discontent with the failure of three important bills he campaigned around, the Governor called a special legislative session that began on March 20, 2007 and lasted for ten days. During the special session the Domestic Partner Act, this time called HB4, was reintroduced and managed once again to pass the House with relative ease. However, the bill died in the Senate Judiciary Committee, as the House and the Senate agreed to adjourn after the Senate heard and passed two other bills important to the governor. In a

24 Taken from article in the LGBT newspaper The Normal Heart April 2007 vol. 18 no.4 pp1.

25 The transportation bill known as GRIP was another bill of contention for the Republicans that served to sour relations with the Governor.
show of support for the LGBT community, and in obligation to his endorsers, Governor Richardson promised to place the Domestic Partnership bill on his call for the 2008 thirty day legislative session.

2008: Domestic Partner Rights and Responsibilities Act (House Bill 9)

In 2008 the Domestic Partner Rights and Responsibilities Act was once again introduced by Representative Mimi Stewart. During this short session, proponents of the bill who by this point had formed a coalition between EQNM, the local and national American Civil Liberties Union (ACLU), and national LGBT organizations such as Gill Foundation, and Gill Action²⁶, focused on specific language within the bill and were increasingly concerned with ensuring the inclusion of heterosexual couples. The goal was also to reduce the potential of the failure of the legislation if it was viewed as a “gay bill.” However, Republican legislators and the Right Wing religious opposition were able to acquire the necessary votes to defeat the bill in the Senate Public Affairs committee. Moreover, the previous year also seemed to have weakened many Democrats’ resolve and angered Republicans who felt more determined to vote party line.

Despite the repeated failure of the bill, EQNM activists and same-sex families garnered significant public and legislative support between 2005 and 2008. Their partial success, I claim, had to do with their willingness to adapt their rhetoric to dominant concepts of kinship and citizenship, and the creation of a public sphere imbued with specific images of “the gay family.” This public sphere, developed on the one hand, out of an unanticipated struggle as LGBT activists and same-sex families were thrown into a

²⁶ I describe each of these organizations in detail in chapter four where I discuss the relationship between local and national organizations and the impact on strategizing and community organizing.
battle that was not of their choosing. On the other hand this gay and lesbian public is a product of neoliberal gay conservative ideology in which privatization and personal responsibility create an image of conventional gays “who represent the responsible center” (Duggan 2003: 65).

2009: Domestic Partner Rights and Responsibilities Act (Senate Bill 12)

In 2009 proponents decided to introduce the bill in the Senate and Senator Cisco Mcsorley carried the bill once more. Beginning in 2009, proponents were also faced with a new dilemma—the Catholic Church. Up to this point the Catholic Church had for the most part stayed out of the debate. In 2005 a Catholic Clergyman from the south had testified against the bill, but he acted on his own accord without the Catholic Bishops of New Mexico intervening. However, due to the near passage of the bill in 2007, the appointment of a conservative Catholic Bishop in Gallup, and an ordinance passed by Pope Benedict XVI stating that priests are not to support or remain neutral when it comes to same-sex marriage or domestic partnership legislation, the evolution of the debate took a different turn. At first the Archdiocese of New Mexico told EQNM activists they would remain neutral if they would strike any reference to marriage from the domestic partner bill. Viewing this as a positive point of negotiation, EQNM leadership decided to oblige and removed any reference to spouse or marriage, as well as the terms opponents claimed were reserved for the description of marriage from the 2009 bill. By the time the bill reached the Senate Floor multiple significant sections had been changed to appease both legislators and the Catholic Church.
In order to establish the bill as not a “gay bill,” in legislative hearings proponents further emphasized language about heterosexuality and disability and highlighted discussions about freedom of religious practices and religious entities. Despite this effort, the New Mexico Archdiocese did not respond to the new bill and the sponsor of the bill, Senator McSorley was forced to present to the senate without the Bishops’ comments. As a result the votes anticipated with the neutrality of the New Mexico Catholic Bishops were not gained and the bill once again failed on the Senate Floor. As one of the active lawyers for the DP legislation explained

The Catholic Church at the end of that legislative session said we’re not against gay people, we’re not even against gay people having domestic partnership rights, what we disagree with is the way this bill says domestic partners shall receive the rights, benefits and obligations of spouses in a marriage. It’s too linear, it’s too directly connected in definition that domestic partners have the same thing as married people. Marriage should just be for opposite-sex couples and domestic partnerships need to be something totally separate. And it was the Catholic Church that said if you created a bill that just clearly listed all these things you’re talking about, we won’t have anything against gay couples having community property, we don’t have anything against gay couples visiting, having decision-making authority; if you just list out all those rights and benefits separately and don’t use the word marriage, spouse, any of that stuff, well then the Catholic

27 In 2009 Republican Senator, Sharer also introduced substitute bill 144: Common Contractual Household in response to the Domestic Partnership Act. Following the oppositional arguments from previous years, the substitute bill intended to make domestic partnership relevant for blood relations and to introduce what he called a super power of attorney to meet the legal needs of domestic partners. However, one lawyer that reviewed the bill explained in committee that the bill did not provide anything the current law is not able to provide and it certain cases interfered and contradicted current law.

Sharer: What Senate Bill 144 attempts to do is grant the privileges, the rights and privileges that Senate Bill 12 does. SB144 follows the path of Power of Attorney. So, literally for $25, the same price as a marriage license, you go to the County Clerk’s office, the same place you get a marriage license, and you sign this “super power of attorney.” Consequently, there’s inheritance, joint property rights, medical decision making rights, are all built in at that time. And then if you wanna go off and have a ceremony, well go off and have a ceremony, it doesn’t matter to me. But that’s what this bill really does. It allows for, I hope, everything that everybody says they want. Now, there’s certain things we can’t do. We can’t change the federal tax code. But as far as the state of New Mexico goes, that’s what Senate Bill 144 does…You can’t be married…It also specifically says this does not authorize an incestuous relationships…I worked truly as hard as I can to come up with the solution to avoid the future pitfall that I think are built in to Senate Bill 12 right now.
Church will review that bill and we will very likely move from negative back to neutral.  

2010: Domestic Partner Rights and Responsibilities Act (Senate Bill 183)

After the bill died in senate in 2009, the New Mexico Bishops responded to Equality New Mexico saying the bill still resembled marriage and what they were looking for was a list of rights that would be associated with domestic partnership. Still hopeful for a successful negotiation with the Catholic Church, EQNM with the assistance of supportive legislators sent the bill to the Legislative Council Service asking them to draft a new bill listing all the rights and benefits and obligations of marriage without using the words marriage, spouse, husband, or wife. The legislative council service spent the year drafting an 816-page bill resulting in the creation of a subsection of the marriage statute that would only be for domestic partnership. Thus, in 2010 a new Domestic Partner Rights and Responsibilities ACT was introduced in the senate by Senator Peter Wirth and House Representative Mimi Stewart detailing line by line each right and obligation associated with a domestic partner union. Nevertheless, this proved to be a futile endeavor as the Archdioceses still sent a representative to speak in opposition to the bill, and was quickly defeated during the Senate Public Affairs and Senate Judiciary Committees joint hearing.

After the 2009 legislative session Equality New Mexico activists also received complaints from their gay and lesbian constituents about the focus of the testimonies and arguments on heterosexual benefits. EQNM leadership finally aware that framing Domestic Partnership as a heterosexual benefit did not win them any more legislative votes, decided to change strategies. The change in strategy became evident in 2010 as

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28 Author’s interview with LGBT domestic partner legislation activist and legal advisor March 25, 2010
focus was placed back on gay and lesbian partners and families within legislative
testimonies and rallies at the Round House incorporated drag performances and mock
queer wedding performances. Much to the disappointment of the activists and LGBT
community members, neither the 816-page bill nor the renewed focus on queer families
resulted in the success of the domestic partner legislation. Once again the bill had failed.
2010 was also the last year of Bill Richardson’s second term as governor of New Mexico.
Republican Susana Martinez, who during her campaign made public she would not sign a
domestic partnership bill into law, took office in January of 2011.

**Economic Development and the Pursuit of Common Humanity**

During the 2005 legislative session, pro-domestic partnership organizational leaders and
same-sex families argued that Domestic Partnership is pro-civil rights and equal rights,
pro-family, and pro-business, bringing New Mexico a step closer to leveling the playing
field for all citizens. Thus, the argument from the proponent side highlighted gays and
lesbians as consumers and producers of social goods and therefore as productive citizens
entitled and worthy of legal protections.

In his introduction of the Domestic Partnership Act in 2005, Senator McSorley
explained:

There is a first level of creating civil rights and privileges to those who cannot get
married under the laws of the state of New Mexico. But there is also a second
level to this bill... there is nowhere in the bill indications or conditions to domestic
partnerships based on race, creed, color, sex, sexual preference. In fact what this
bill does is grant rights and privileges to classes of New Mexicans who have
never in their lives had this right before. Also, what this bill does is provide in the
statutes of the state of New Mexico the ability for statutory protection, protection,
for those business entities who wish to relocate in the state of New Mexico. Albuquerque and its surroundings are in the top ten of the nation for attracting the kinds of technological and innovative people who will lead this country in the 21st century. These are exactly the kinds of people who will wish to remain in this state or come to this state only if they feel that the state of New Mexico is welcoming to them and only if they feel they can share the same rights and privileges of any other citizen in the state of New Mexico. By passing the Domestic Partnership Act we are ensuring that in New Mexico existing businesses and innovational corporations will be able to bring the best and brightest people of our country and the world to the United States to share the same privileges as every other citizen in this state.\textsuperscript{29}

Senator McSorley presented Domestic Partnership legislation as an equal rights bill and at the same time as an economic stimulant for the state of New Mexico. Through his introduction, an outline of the proponents’ testimonies was provided for the legislators and the rest of the audience. In similar fashion, legal expert witness Lynn Perls introduced the first strategic frame for the proponents in which she equated protection of all families with furthering state interest. She argued that the domestic partnership bill was “intended to provide all couples regardless of their gender or sexual orientation the opportunity to obtain [essential] rights, protection and benefits and to assume corresponding responsibilities, obligations, and duties to further the state interest in promoting stable and lasting family relationships [and] protecting New Mexicans from the legal and social consequences of abandonment, separation, the death of loved ones and other life crises.”\textsuperscript{30} Anticipating the opposition’s argument about marriage as a sacred union between a man and a woman, Perl made a clear distinction between domestic partnership and marriage. She highlighted the inherent inequality of domestic partnership, letting legislators know such an institution did not create true equality while

\textsuperscript{29} Author’s transcription from March 4, 2005 Senate Judiciary Committee Hearing
\textsuperscript{30} Author’s transcription from March 4, 2005 Senate Judiciary Committee Hearing
at the same time calling attention to the ways laws governing marriage create a different kind of social subject than domestic partnership, and privilege some families over others:

Let us clarify today what we are and what we are not talking about. We are not talking about marriage. Marriage conveys over 1400 state and federal rights for those who are allowed to marry. Marriages are automatically recognized in all fifty states. Married people may make unlimited transfers in gifts to each other without paying taxes…Married U.S. citizens can sponsor their spouse or other family members for immigration. We are not talking about any of these things today… Currently, same-sex couples are excluded from these basic protections. This is not marriage, but right now these couples are not even second-class citizens. Our families are torn apart both emotionally and legally without the benefit of any laws….With this legislation, at least within the boundaries of our state, discrimination and hardship will be reduced.\(^\text{31}\)

In the case of New Mexico, Perl highlighted the way marriage laws create membership in society by enshrining heterosexuality as a prerequisite to membership in the state model of kinship. Therefore, families who fall outside the heterosexual model of the family are punished and disadvantaged. Going even further, she called same-sex couples less than second-class citizens who are helpless in the face of legal adversity. She thus painted a picture of the same-sex family as a struggling “American family” in need of protection from the state. Her underlying message seemed to be that the protections mandated by domestic partnerships would in turn lead to recognition of same-sex families, and by extension social validation of homosexuality. In other words, legal change will lead to social and cultural change, for as she stated, the protections gained from domestic partnership would reduce discrimination and hardship for same-sex individuals and families in the state of New Mexico.

\(^\text{31}\) Author’s transcription from March 4, 2005 Senate Judiciary Committee Hearing
Bernstein has written that “family law defines individuals in relation to one another, and in order to subsume gays and lesbians into family law, the state has to recognize the sexually and emotionally intimate relationship constructed by lesbians and gay men as valid” (Bernstein 2001: 432). However, she questions whether legal recognition of same-sex families necessarily leads to ideological changes about sexuality and family within the state or in wider cultural understandings. Lise Gotell, in relation to sexual violence, also draws attention to law as a site of struggle over sexual subjectivity and to the role of legal discourse in the emergence of a neo-liberal sexual citizenship (Gotell 2007: 128). However, she maintains that the “new norms of governance [that] encourage citizens to conform to market ideal and to see themselves as responsible for enhancing their own well-being,” have erased gender and equality from public discourse. (Gotell 2007: 128). Accordingly, Perls and other proponents cast their arguments and claims for domestic partnership rights and membership to society on an ideology of citizenship that is understood in terms of what it means to be a rights bearing citizen (Holston 1999: 2). Ruth Lister refers to this as the idea of “lived citizenship,” which encompasses “the meaning that citizenship actually has in people’s lives and the ways in which people’s social and cultural backgrounds and material circumstances affect their lives as citizens” (Lister 2003: 3). Proponents sought to locate gays and lesbians within the boundaries of this kind of citizenship and engaged in what is considered legitimate public discourse: the right to reach one’s self potential, alongside notions of “autonomy, identity, individuality, liberty, choice, and fulfillment” (Rose 1996: 1).

Therefore, testimonies of inequality stressed legal and economic discrimination. In a letter written by a Taos resident who lost his partner of 35 years to congestive heart
failure, protection as state responsibility was highlighted as opposed to protections as linked to state interests. This resident emphasized the economic hardship he faced as a result of inheritance taxes which would not be a burden in his elder years had he been allowed to marry his partner. He wrote:

What is not an equal playing field is the discrimination of same-sex couples when it comes to unfair taxes and penalties at the time of death because we are not recognized as legitimate families. Same-sex couples can be in relationships that can be just as committed, just as long, just as caring as heterosexual couples. Same-sex couples, many times, are just as involved in church and civic affairs as their straight counterparts. We buy property, pay taxes, and own businesses. Now, in this enlightened society, many same-sex couples can adopt and raise children. Many things have changed since Richard and I started our journey so many years ago, but more things need to change for couples of the same gender. One of those things is more equal treatment by state and federal governments. I’m not necessarily advocating marriage. That is as much a religious issue as a government issue. But governments can recognize and provide for domestic partnerships for same-sex couples so that we are able to have legal rights that are now only provided to married heterosexual couples.  

This man also made a distinction between marriage and domestic partnership. His testimony spoke to the social stigma suffered by gays and lesbians that is legally encoded, identifying the law and the state as vehicles for creating change. It is the state—in this case represented by legislators who are supposed to reflect the needs and desires of their constituents, and thus, the general population—that has the responsibility and presumably the social and cultural power to change beliefs about homosexuality and heterosexuality. Such testimonies connect forms of economic organization to new forms of loyalty, membership, and belonging (Borneman 1992: 29). Therefore, alongside discrimination and unequal treatment, other testimonies also emphasized consumership  

32 Author’s transcription from March 4, 2005 Senate Judiciary Committee Hearing
and economic development. A resident from Corrales, NM and an employee of Intel encapsulated the consumer argument. She said, “I am here today as a private citizen to say that I really think that this is a [business] issue. [If] New Mexico wants to attract and retain industries like the film industry and hi-tech industries… [We should] not put laws in their way. The gay, lesbian, bisexual and transgender market is the second highest market-share in the U.S.”

Eric Griegos, chairman of the State Economic Development Commission and an Albuquerque City Councilman representing the downtown university area likewise argued that New Mexico has been able to bring jobs to downtown Albuquerque because businesses “saw us as a tolerant community in Albuquerque.” “We’re looked at around the country,” he concluded, “as a place that’s gonna be tolerant and welcome diverse people, all kinds… Let’s not send a national message that we are intolerant.

In their arguments these individuals were urging New Mexico legislators to see gays and lesbians as a consumer market and as producers of social and economic goods. Thus, they tried to present gay and lesbian couples and families as productive, visible, and worthy citizens. By highlighting consumership proponents through gender neutral language they attempted to show gender and more specifically sexuality as irrelevant to discussions of families and rights. Thus, LGBT proponents began to privilege a particular representation of same-sex families that would bridge together the idea of sameness, productive citizenship, and needs. The public has come to understand as the “gay family.” In legislative hearings this “gay family” was often represented primarily as

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33 Author’s transcription from March 4, 2005 Senate Judiciary Committee Hearing

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Anglo, middle- to upper-middle class, two-parent lesbian or gay families from the Albuquerque and Santa Fe areas.

The Language of Nature, Justice, and the Homosexual Threat to Kinship
Opponents to domestic partnership, the majority of which were Baptist with the presence of one Catholic clergy, centered their arguments on ideas about nature, sacred and profane acts, and the role the state should play vis-à-vis marriage and religion. Their dominant argument was that domestic partnership is anti-Catholic and generally, anti-religion. Gay sexuality was also outwardly linked with disease and promiscuity that in the minds of opponents lead to an increase in hepatitis, HIV, and even cancer in gay populations. At the same time, disease and promiscuity was also linked to child welfare, and longevity of gay and lesbian relationships. One opponent argued “the average live-in homosexual relationship won’t last 2-5 years” and the disillusionment of these relationships will have a negative impact on the children involved. He concluded “I believe that the health, integrity, safety of this generation and future generations depends and rests on your [legislators] ability not only to make law but to be the guardians of law that protect the people that you serve.” Arguments about disease and homosexuality disappeared from opposition’s testimonies after 2005, but the link between morality, and more specifically the immorality of gays and lesbians, with intimacy remained implicit and explicit in their arguments. The oppositional testimonies provided a reading of the domestic partnership bill that during 2007 emerged as central to Republican attempts to alter and kill the bill. These opponents established themselves as members of the public and felt assured that legislators, as representatives of the dominant/bourgeois public
would agree with and favor their arguments. Therefore, in their attempt to render
homosexuality unnatural and perverse opponents relied on well-established homophobic
arguments and gender stereotypes. Former Senator, Tom Benavides for example
proclaimed that Domestic Partnership Bill was anti-nature. He continued,

It’s against nature, right and wrongs, against natural law, and they want special
rights, which hurts the Hispanics…and minorities like the Hispanics. They forget
about the Hispanics. What they want is resources. Up in Massachusetts, where
they’re uh, more liberal than New Mexico, why don’t they go up there? We don’t
want them here because they don’t have any money like we do. They want to…to
bring in all kinds of sick people from all over the world and attach to our
money. 34

Lorenzo Esperanza, a Catholic clergyman emphasizing beliefs about normalcy
maintained that domestic partnership was discrimination against marriage and
appropriate sexuality, which he then equated to incest.

The Catholic Church believes that marriage is a faithful, exclusive, life-long
union between one man and one woman joined as husband and wife in an intimate
partnership of life and love. We believe God established [marriage] and gave it to
us as a great gift for the continuation of the human race…I noticed that a lot of
these words, intimate, union, those kinds of things have been hijacked…
[Marriage is] regulated by civil laws and church laws but it [does] not originate
from either the church or the state, but from God. Therefore, neither church nor
state can alter the basic meaning and structure of marriage… In conclusion this
domestic partnership bill 576 is anti-Catholic…It is discriminatory and those that
promote it make unfair and unjust discrimination against the perennial and
universal teachings on marriage and human sexuality. It is offensive and goes
against our holy faith, our precious families and our children. I urge you to vote it
down. If you think about it same-sex people can’t do it with each other. Same-sex
people can in fact get married [just] not to someone of the same-sex. Kind of like

34 Author’s transcription from March 4, 2005 Senate Judiciary Committee Hearing
a mom would not be allowed to marry her daughter and a dad is not allowed to marry his son.\textsuperscript{35}

Since these opponents conceived of marriage as a gift from God to heterosexuals, they labeled same-sex unions as profoundly unnatural. In the opposition’s reasoning, the government is a representative of God and therefore has a responsibility to maintain social harmony and order by following “natural law” in order to uphold heterosexual respectability. The possibility of diverse forms of families became a source of anxiety for the opposition whose reaction, as that of their 1980s New Right predecessors, was to impose a narrowly defined and policed family form (Weeks 1985: 43). That form, to draw from Weeks, carefully demarcated men and women, adults and children, and regulated sexual relations and sexual knowledge (Weeks 1985: 43). For this clergyman, gays and lesbians “hijacked” what he claimed to be heterosexual descriptors such as “union” and “intimate.” Drawing on connections between kinship and citizenship, Phyllis Chock writes that the category “citizen” in United States political and legal practice entails a subject who is an income producer, head of a nuclear family, and rational and orderly—qualities that Williams (1996), Bederman (1995), and Gal and Kligman (2000) illustrate have historically been associated with men. In contrast, a non-citizen implies a subject that is dependent, irrational, unproductive and unpaid—qualities associated with children and women (Chock 1996: 1). This understanding of family and citizenship as specifically heterosexual and masculine framed the logic presented by opponents to domestic partnership, making it difficult, if not impossible to envision gays and lesbians as family units.

\textsuperscript{35} Author’s transcription from March 4, 2005 Senate Judiciary Committee Hearing
Understanding that kinship resides at the forefront of the collective imaginary “wherever the collective imaginary is also national,” and actively nationalist (Fabio 2001: 9), can illustrate why and how the family became central to both the proponents and the opponents’ argument and how it functioned to desexualize gays and lesbians. Kinship also helps to articulate a national body and operates as a “matrix” for national inclusion and exclusion, as it permeates all legal domains that support, protect, or forbid specific categories of kin (husband/wife, parent/child) (Borneman 2001:31). The domain of kinship, Rayna Rapp has argued, “overlaps with other arenas—such as the workplace, the schools, and the fashion industry—in which the cultural meanings of men and women, children, and adults are spelled out” (Rapp 1987: 124). The politics of kinship can therefore serve as a perfect site in which state organizations institutionalize rules for “normal” sexuality, acceptable family forms, childcare, marriage and divorce (Gal & Kligman 2000: 4).

Religious testimonies in opposition, therefore, featured arguments about the purpose of domestic partnership vs. marriage. Marriage, opponents maintained with added fervor each year, is intended for the procreation and advancement of society and the human species, and therefore it is natural law (meaning heterosexual) that deserves special protection. Some stated that domestic partnership serves other purposes and should be expanded to all citizens, not those that are sexually intimate. Blood relations they argued should be able to benefit from the legal protections such as the taxable burdens of inheritance. And ultimately, the state has the responsibility to represent, serve, and protect the majority of people who elected the body of officials in the New Mexico
Congress. In Habermasian terms, the state has a primary responsibility to those publics that have the closest connection to state ideology and policies.

In seeking to establish heterosexuality as the framework for kinship, the opposition also claimed certain words and language to exclusively represent heterosexuality and heterosexual experiences. Clergy claimed that homosexuals “hijacked” special heterosexual descriptors such as “union” and “intimate,” while Senator Lidio Rainaldi stated that including the word “intimate” in the description of domestic partnership was equivalent to condoning criminal behavior. In a visceral response to the definition of domestic partnership, Senator Rainaldi argued that intimacy could only be linked to sexual activity, and sexual intimacy between same-gender persons was a profane and licentious activity. Addressing the sponsor of the bill, Senator McSorley he stated, “Senator, we are legislat ing criminality. This is totally immoral; unless you have a different interpretation of intimate than I have. That you can express from two gay people [how] they can become intimate, I don’t know if this body wants to listen to that.” For Senator Rainaldi, intimacy could only be linked to sexual activity, and particularly heterosexual activity, a reading that during 2007 emerged as central to Republican attempts to alter and kill the domestic partnership bill. However, supportive legislators tried to maintain that domestic partnership was a civil rights issue, and an issue of fairness and justice. Nonetheless, in 2007, even legislators in favor had an issue with the Domestic Partner Act focusing on heterosexual unions. Representative Barela expressed:

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36 The definition of domestic partner in the 2005 bill read as follows: “domestic partner means an adult who has chosen to share in another adult's life in an intimate and committed relationship of mutual caring and who has established a domestic partnership” [emphasis added].

37 Author’s transcription from March 4, 2005 Senate Judiciary Committee Hearing
“There’s only one thing I don’t like about this bill. I wish it didn’t include heterosexual couples. I’d be much more comfortable just voting for a civil union bill, among same-sex couples, because I think they deserve that. I think it’s the only way they can achieve some of these goals and I don’t think it’s the same for heterosexual couples. But I do support it because I think the needs of same-sex couples are important enough.”38

The relationship continued to be strained because sexuality could not be completely eliminated from the image presented. Neither religious opponents nor Republican Legislators would allow gays and lesbians access into heterosexually sanctioned institutions of marriage and the family. Underlying this argument for sameness is the image of the gendered family. As Hirsch and Wardlow point out marriage in most areas of the world continues to be premised on sexual difference and “entrenched notions of biologically-based gender and reproduction still dictate which couples may obtain legal and religious sanctions to marry” (Hirsch and Wardlow 2009: 19). Thus marriage has conventionally been conceptualized as “establishing and giving gender its fullest meaning in heterosexual union” (in Hirsch and Wardlow 2009: 19). None continued to sexualize the issue more than Senator Komadina who declared that the Domestic Partnership Act amounted to a “gay bill.” He stated

I guess one of the problems is that we are conveniently told that this [legislation] refers to two adults who are living together. But then that’s not what it does. And the people who have testified are not just two adults living together. I mean if you have two cranky old men who were fishing buddies whose wives both died, who live together to save money… this would not apply to them…Well, I’m really confused now, cuz I’m told this doesn’t apply to gay and lesbian relationships. It has nothing to do with that at all. It has to do with allowing people, who support

38 Author’s transcription from March 21, 2007 House Floor hearing.
each other and live together for whatever reason, and again, those people are not intimate, and they are not committed. So, this really is a gay rights bill.39

In response, the sponsor of the bill, Representative Stewart argued that she never said the bill would not cover same-sex adult partnerships. What we’ve seen, she argued, “Through the governor’s executive order, of 20,318 state employees, 1077 selected domestic partner coverage. Of that, 1077 couples 935 were in heterosexual relationships. So, it looks to us that that’s who this bill benefits the most. But, we’ve never said it’s only for heterosexual couples. And it’s not, it’s for domestic partners.”40

However, Senator Komadina in 2007 did correctly point out that testimonies about access to state benefits and support were made primarily by gays and lesbians, who emphasized the lengths to which they went to protect their families. The association proponents made between straight and gay families, opponents such as Komadina found offensive, and responded by launching an attack on the bill’s language, particularly the use of key words such as intimate and committed. The opponent’s prevailing idea that young people will ultimately enter a heterosexual and reproductive marriage reinforced gender, to draw on Hirsch and Wardlow, as both identity category and practice (Hirsch and Wardlow 2009: 19). Associated with this identity category and practice is a particular genre of speech about marriage that validates emotional practice. For this reason religious opponents and Republican legislators feared that the inclusion of the word intimate in the bill would be interpreted not only as validation of gay and lesbian emotional relationships, but also as validation of homosexuality itself. These legislators believed

39 Author’s transcription from March 9, 2007 Senate Public Affairs and Consumer Committee hearing.
40 Author’s transcription from March 9, 2007 Senate Public Affairs and Consumer Committee hearing.
proponents of domestic partnership were trying to conceal their agenda by ignoring the homosexual component in the bill, and therefore, emphasized their discourse on re-gendering and re-sexualizing same-sex unions. They did this by correlating homosexuality with immorality, treating domestic partnership as a threat to marriage, and claiming and reserving terms such as intimate and committed for relationships formed through sexual unions which could only be recognized if they were heterosexual. In an impassioned oratory on the House floor, a Republican Representative claimed marriage is a tradition and a moral law that belongs to heterosexuals. She stated, “We’re trying to shift the state’s moral direction through legislation. Marriage is a natural, moral law, which is binding. Wake up New Mexico, our traditions are being hijacked” (original emphasis)!

Another member of the opposition who served as an expert witness went so far as to say, “there are tens of thousands of us out there who would like the opportunity to speak on this issue.” The implication of this claim being that putting the issue to a popular vote would lead to the defeat of the domestic partner bill. Moreover, intertwining marriage with morality in the discourse allowed opponents to presume that the power associated with these natural laws would be confirmed and upheld if the definition of marriage were put to a popular vote. To change the understanding of marriage and open these sacred doors to a group that continues to engage in “profane” sexual practices, opponents argued, would be to go against the very laws of nature. Thus, the opposition made a distinction between those who protected nature by means of upholding marriage as a heterosexual union (“us”), and those who sought to destroy nature by changing

41 Author’s transcription from March 21, 2007 House Floor debate.
marriage, and by extension destroy the foundations of society (“them”). The statement that New Mexico’s traditions were being hijacked further reflected the notion that homosexuals are outsiders, interlopers in society who are threatening to contaminate the heterosexual purity of marriage, making heterosexuality unsafe as long as it occupied the same space as homosexuality (Cooper in Lister 2003:74, Hull 2006: 208).

Intent on further distinguishing between heterosexual citizens and homosexual aliens, a few staunch Republican legislators called in reinforcements from the Alliance for Marriage in West Virginia, who sent their representative Bob Adams to speak in favor of legally defining marriage as a heterosexual union. Adams more clearly delineated what legislators meant when they made general statements about protecting the sanctity of marriage. He declared:

I am here today…not because we brought this up, but because it was forced upon us, forced upon the nation as a whole by radical activists who have tried to force their agenda through the courts…The Alliance for Marriage is for more children to be raised in a home with a mother and a father. As part of our organization, members of our board, advisors, include such notables as Reverend Sam Rodriguez of the National Hispanic Christian Leadership Conference, Dr. Walter Contort who coordinated the march on Washington for Martin Luther King, Niger and Roy Innis of Congress on Racial Equality, one of the big four historic civil rights groups in America, Colonel Sean Patrick O’Maley of Boston, which is literally the epicenter of the destruction of marriage, Archbishop Joseph Gomez, of San Antonio, and countless other notable Americans. The Alliance for Marriage drafted the Marriage Protection Amendment that’s been voted upon twice in Congress, endorsed by the President of the United States, endorsed by the US Conference of Catholic Bishops. We’ve also filed numerous Amicus briefs in all the four cases that have been filed throughout the country, in essence trying to redefine the definition of marriage. The Alliance for Marriage believes that the vast majority of Americans believe that marriage is between one man and one woman. Americans want their laws to send a positive message to children about their future and about marriage. We believe that it’s just common sense that marriage is between a man and a woman. Now if I can be clear about one thing, let me be clear about this. Gays and lesbians have a right to live as they choose. But they do not have the right to redefine marriage for all of America…NM is
very important because NM is one of five states that stands naked from having no protection whatsoever. No statutory DOMA, no constitutional provision. It’s very, very important. If you look what’s going on in other states…Well, I’m reminded of what one of the leaders of the radical activist groups on the other side said at the anniversary of Massachusetts redefining marriage. And this individual said, well we have same-sex marriage in Massachusetts and the sky didn’t fall. Well, let me tell you the sky did fall. The sky fell because Catholic Charities in Boston was forced out of the adoption business. Basically, the state government told Catholic Charities that you either broker adoptions for gays and lesbians, which goes against the basic tenets of beliefs of the Catholic church and its hierarchy, or you get out of business, one or the other. So, today Catholic Charities after being in the adoption business for decades and decades, no longer handles adoptions in that state. So, the sky did fall for young children who were hoping to be placed in a loving family.  

Adams distinguished between “us” and “them,” locating heterosexuals as victims and homosexuals as aggressors who wielded a foreign agenda. That further framed the nation as distinctly heterosexual, which became more evident in the statement that “Americans” want their laws to send a positive message about the future of children and marriage. As aggressors, gays and lesbians did not send positive messages, but instead threatened the “American way of life.” In an ironic twist, Adams also distinguished a potentially “good” homosexual from a “bad” homosexual represented by the “radical activist.” The “good” homosexual was the one that lived as he/she chose, but who did so quietly, on the periphery, maintaining his/her sexuality within closed doors, away from the heterosexual gaze. This homosexual did not demand anything from society, and seemed to recognize that he/she did not have the right to make demands, or for that matter, to participate in the changing of social institutions.

Moreover, opponents began asserting that domestic partnership opens up a new set of laws that infringe on religious freedom. Referencing local and national cases in

42 Author’s transcription from February 1, 2007, House Consumer and Public Affairs Committee hearing House Bill 395 (Marriage Defined).
which courts sided with civil law as opposed to religious beliefs, opponents were claiming that religious rights, as fundamental rights under the constitution, were being overturned by a policy “without real consideration.” Ultimately, those in opposition argued that passing domestic partnership gave the message that first amendment rights are no longer important. For them individuals’ and organizations’ right to act on their religious beliefs should take precedence over gay people’s right to partake in the same civil contracts as heterosexuals.43

In 2009, the opposition to Domestic Partnership Act in New Mexico continued to argue that domestic partnership is a creation of alternative legal statuses for unmarried couples that are being used by courts nationwide to redefine marriage and create a higher level of scrutiny for distinctions based on sexual orientation. Bill Duncan, Director of Marriage Law Foundation, proclaimed

The experience of other states makes it clear that the proposed domestic partner legislation…will have very serious implications for family law, and I wanna focus on two areas. As family scholars have noted, one of the major reasons that the state privileges marriage as the site for child rearing is that the commitments inherent in family relationships increase the likelihood of stability for children in continuity. Those factors are so essential to child development that they alone can justify the…and justify the denial of legal recognition to other family patterns that may threaten the child’s development. Social science research specifically

43 These arguments are reminiscent of the 1996 Supreme Court case Romer v. Evans in which gays and lesbians sought to overthrow Amendment 2 of the Colorado constitution designed to strip lesbians, gay men of protections against discrimination based on sexual orientation. Romer v. Evans represented the legal debate about the moral make-up of the nation. The defendants, Colorado for Family Values, argued for what Williams calls the ‘respectability of the nation’. They forwarded arguments about familial and religious privacy, the psychological well-being of children and state intrusion into the moral fiber of society. Colorado for Family Values claimed that “people should be free to discriminate against gay people for any reason—be it personal, familial, or religious—and anti-discrimination laws interfered with personal and familial rights of privacy” (Keen and Goldberg: 1998: 180). The argument for religious freedom was based the idea that religious scripture condemns homosexuality, and discrimination based on that religious teaching should be protected under freedom of religion. Therefore, Colorado for Family Values argued that anti-discrimination laws “implicitly endorsed” homosexuality and undermined marriage and heterosexual families” (Keen and Goldberg 1998:189).
indicates that cohabiting relationships are on average less stable and will likely involve risk factors for children than are marriages. Marriages have long been society’s way of encouraging those who may create children to take responsibility for each other and for the children they create through their relationship. It makes it more likely for children to have the opportunity to know both know and be raised by both their mother and father.

The experience of other states also makes clear that the legal status for couples such as domestic partners or civil unions that are essentially marriage with a different name, they threaten the longstanding legal definition of marriage as a union between a man and a woman in two ways: 1. As courts in Massachusetts, Connecticut, and California specifically held, those states’ decisions to draw no distinctions between unmarried and married couples in terms of child rearing and in other settings, have undercut the state’s argument that marriage is something that can be defined as a union between a man and a woman. They severed the link between marriage and child rearing by redefining marriage. So in other words, the courts have looked to the existence of these kinds of laws as evidence that the state is not opposed to changing the definition of marriage.44

Pastor Jay of the First Baptist Church in Gallup New Mexico, and past president of the Baptist Convention of New Mexico and representing the Christian Life Committee, took a slightly different course to reach the same conclusions as those before him. He rendered domestic partnership akin to pornography, and maintained it would open Pandora’s Box because homosexuality will fracture the family, and endanger the religious freedom of churches.

44 Author’s transcription from January 29, 2009, joint hearing Senate Public Affairs Committee and Senate Judiciary.
We live in a very fractured world. Sad to say it’s a very sexually fractured world. Not only do I perform marriage ceremonies but I listen to the testimonies of families who want to end the marriage. I also know we live in a fractured world when we have so many of our people addicted to pornography [guffawing laughter from audience]. We live in a fractured world where so many children are abused and often times sexually. We live in a fractured world [someone from audience says aloud “here fracture this”] when we try to redefine marriage. It’s basically what we’re doing…When you can have rights when it’s infringed on the rights of others.45

In 2010 the evangelical churches brought in yet another Right Wing organization authority: Brian Ron, an attorney with the Alliance for Defense Fund and member of the defense team in the California Supreme Court trial that overturned Proposition 8. His argument rested on the importance of masculine power in which he linked the fear of the elimination or disappearance of men with the weakening of society and the weakening of social governance. Thus, to eliminate the heterosexual male from the family is to eliminate masculine power from society.

Now, if the members of this body desire to protect and preserve the fundamental definition of marriage in this state, instituting a Domestic Partnership scheme like this one will not accomplish that purpose. And as it has already been testified here today it’s no secret that this is a mechanism by which those who support same-sex marriage will use this legislation as a spring board to same-sex marriage…Senator Wirth in presenting this bill described the benefits that are contained in these 816 and so pages and 281 sections of law that are affected as fundamental rights. The Supreme Court of the United States has never said that the benefits associated with marriage are fundamental rights. Fundamental rights are those rights that are deeply rooted in our nation’s history and tradition. Marriage itself is a fundamental right. Many benefits that lawmakers attach to marriage are not fundamental rights, nor are the benefits that are attached to Domestic Partnership law, this bill that is proposed today. And just the sheer volume of the pages and the sections of law that are affected should give this body pause because of the consequences of changing the laws in this fashion will accomplish. And, I would

45 Author’s transcription from January 29, 2009, joint hearing Senate Public Affairs Committee and Senate Judiciary.
suggest that those sitting here don’t even know the potential consequences because they’ve yet to be seen. The one particular consequence that I’ve seen that stands out is this: when a man and a woman are married, they’re children are presumed to be the children of the marriage. Presumption of Parenting. If this law is to become law Domestic Partners will have that same presumption. Well how does that work because we know that domestic partners can’t be both the actual biological parents of the child? Yet under this law they will be presumed the legal parents. So, here’s an example. If a man and a woman are married and they conceive a child and are divorced before the child is born and that woman then becomes a domestic partner with another woman the new domestic partner will be presumed to be the child’s parent. Well, we know that in fact in reality that’s not the case but under the law they will be considered the legal parents whereas the biological father would be out in the cold under this particular bill. These are not fundamental rights.  

On the senate floor, Republican Senator Boitano inundated Senator McSorley with questions and scenarios intended to make the sponsor “confess” that the Domestic Partnership Act was a gay marriage bill. After his attempts failed Senator Boitano turned to what he referred to as “social science research” to argue against the bill. Using “social science research” Senator Boitano introduced a new strategy that has been difficult to respond to. This strategy of dismissal was another process of writing off any relationships that do not fall within the parameters of heterosexuality. This process began in 2009 as a form of denying any relationship—same-sex or opposite sex—that was not marriage. Arguing that while this bill affects heterosexual unmarried couples, such as the elderly and the disabled, these couples, he maintained, are in the minority. The majority of the heterosexual population would not fall into the class of disenfranchised. He continued,

46 Author’s transcription from February 3, 2010, joint hearing Senate Public Affairs Committee and Senate Judiciary.
And I guess, you know, madam chair, members of the committee, one of the other issues we need to talk about is, is it really a good idea to give, you know, benefits and protections that are afforded married couples, and throughout history have been afforded married couples, to unmarried heterosexual couples? And, I’m not going to tell you what I think about that but let me just look at some of the social science research here...I don’t know if there are any social scientists in the legislature...But, what social scientists tell us is it’s not a good idea to give protections and benefits equal to marriage to unmarried heterosexual couples. No. I there are far higher rates of domestic violence in those relationships. That’s what social science tells us. The quality of relationship is not the same. The interesting statistic, I don’t know if you’ve heard this but...if there’re children present in an unmarried heterosexual relationship, the likelihood that they’re going to be sexually abused is much higher, significantly higher than in a married relationship. This comes from social scientists folks, this isn’t something that I’m talking about personally...So, I think one of the things we have to ask is whether or not it’s a good idea to extend these same benefits to unmarried heterosexual couples. I don’t think it’s a good idea because social science tells me that’s not a good idea. So, madam chair, members of the committee, we have some questions about whether or not there is in fact a large amount of discrimination occurring. We’re told that there is, however, the evidence that we’ve heard and the evidence that we’ve read does not indicate that. Therefore, we have to really ask the question about: what is this doing to change the definition of marriage? And that’s really central to this...Social science tells us...that people in healthy marriages are happier, they’re healthier, they have a better sexual relationship. That’s from social science. That unit is one that should be protected. That unit is one that should receive benefits and there is no competing unit according to the social scientists. Saying yes to this bill will overturn centuries of consensus, in a cultural sense and religious sense about what constitutes marriage. And yes, it will further weaken our social system. You know marriage is weakened presently by many things, by lack of preparation. Marriage is further weakened by the fact that people don’t have communication and conflict resolution skills. Marriage is weakened by a rising divorce rate. Marriage may not be threatened by the passage of this bill but our social system will be threatened and we need to seriously consider that as we consider this bill.

Here, happiness is brought into the equation of love, and more particularly normal love. Senator Boitano, in essence was saying that it matters how we define and think about feeling. Sara Ahmed contends that “much of the new science of happiness is premised on the model of feelings as transparent, as well as the foundation for moral life” (Ahmed 2010: 6). While, proponents also use happiness in this way to construct the
fundamental aspect of the self, Boitano was using happiness to distinguish between normal and abnormal relationships. Using, what he termed social science evidence (though he provides no sources), he spoke against not only gay and lesbian relationships but against heterosexual relationships that were not bounded by marriage. To be unmarried was to engage in immoral and abnormal behavior such as domestic violence and child abuse. In this way, Boitano was measuring happiness and the capacity for love in marriages vs. unmarried relationships. The distribution of rights was then predicated on a comparative model of happiness. In line with Ahmed’s assertions about the science of happiness, Senator Boitano made correlations between happiness levels and social indicators (Ahmed 2010: 6). For him, heterosexual marriage was one of the primary indicators of happiness. If people are in heterosexual marriages, Senator Boitano argued, “social science” says that people are more likely to be happier and have healthier and more meaningful relationships.

In 2010, Senator Boitano narrowed his argument of dismissal by targeting the quality and validity of same-sex relationships in contrast to opposite-sex relationships. No matter how many families had come before the body of legislators and the numerous ways they displayed and talked about their relationships, those relying on strategies of dismissal refused to acknowledge their equality to heterosexual families. Senator Boitano was not only notorious for dismissing same-sex couples and families, but he also mocked the social and cultural marginalization of same-sex couples by flippantly referring to the chairs of the Senate Judiciary and Senate public affairs committee as Mr. and Mrs. Chair. In his attack on the bill he stated that one supporter wrote to him:
“Please support this bill because it will create equality between my same-sex partnership and those that are married.” So, one constituent submits to me that it is about equality of relationships… If we look at same-sex relationships vs. heterosexual relationships, are they equal? Well, let’s back up a little bit and try to end the confusion because are those relationships significant? Absolutely! Are those relationships committed? Absolutely! Are those relationships loving? Absolutely! But as my constituent proposes, is there an equality of relationship between same-sex partnerships and heterosexual relationships? And the answer to that is no. There’s not. I think we need to put that on the table. You know in terms of procreative ability, there’s not a similarity. If you look at same-sex relationships, the majority of same-sex relationships do not have children. The majority of heterosexual relationships have children. So, the case can be made that the primary, the primary function is different and not equal. So, are these relationships equal? In terms of exposing children to gender differences, are these relationships equal? No they’re not. I’m a father of two boys and two girls and there are a lot of times when my wife says “honey, you gotta sit down and talk to the boys.” There’s no equality there.47

Senator Boitano pronounced that the determining factor for equality among same-sex and opposite-sex relationships was first and foremost procreation (without technological assistance) followed closely by gender diversity which for him could only be present in families where there is a mother and a father. Since he deemed procreation impossible for same-sex couples, and concluded gender diversity was missing from same-sex family households, he felt it logical to dismiss the language of equality, fairness, and love proponents used, stating that their brand of equality was beside the point.

47 Author’s transcription from February 3, 2010, joint hearing Senate Public Affairs Committee and Senate Judiciary.
The Gay Bill, Normalcy, the Disembodied Citizen, and the Disappearing Queer

In 2007 proponents of domestic partnership emphasized a message of sameness, arguing that same-sex families utilize the same set of values that opposite-sex couples rely on for loving and raising children. Equality New Mexico’s leadership and the sponsor of the bill with assistance from the local ACLU chapter emphasized a new component to the argument. They stressed that domestic partnership would benefit everyone—including heterosexuals—especially elderly widowed heterosexuals who, if they re-marry, can stand to lose important benefits from previous marriages, such as social security and deceased spouses pensions. Thus, in 2007, the leadership made a gradual shift in the public introduction and discussion of the bill from an issue that primarily would affect same-sex couples to a heterosexual benefit, as the sponsor of the bill and the expert witness attempted to steer conversation away from the sanctity of marriage, and therefore sexuality, to tangible legal protections. This shift did not eliminate same-sex families, but

48 Representative Mimi Stewart, the sponsor of the Domestic Partnership Bill (House Bill 603) opening statement summarized the intent of the bill as well as the intent of its supporters. She stated:

The Domestic Partnership Act creates a system of domestic partnerships for any two unmarried adults gay or not gay. This includes senior citizens and disabled people who do not get married to each other because one or the other would lose their social security or other benefits. This is a domestic partnership and not a marriage and it’s a domestic partner and not a spouse. Right now unmarried couples have no legal recognition for their relationships under New Mexico law. It creates many hardships for gay and lesbian and heterosexual unmarried couples and families. No matter how much money unmarried couples spend on legal agreements like wills and power of attorneys to protect their children and themselves, it not duplicated in the rights and protections New Mexico offers couples who can marry. Although this is not marriage it goes a long way to protect children and families from unnecessary hardships. So, it confers all New Mexico state rights, benefits, protections, responsibilities, and obligations of civil marriage in the areas of death and inheritance, insurance benefits, health care decision making, family relationships, and disillusion of domestic partnership. It does not include federal rights. This is a state rights law.

49 Equality New Mexico is the state leading education and advocacy non-profit organization that has organized and advocated for domestic partner legislation in New Mexico.
it tried to create the image of the family as asexual and genderless. The discourse evoked a disembodied citizen that sent the message that domestic partnership is not about sex or sexuality, but about rights. In this sense, we can look at the debate, from the proponents’ side being framed from a position in which membership to the dominant public is demanded on the basis of individuals’ and couples’ performance of the right kind of citizen. In other words, inequality is addressed not so much on the basis of sexuality (although it can never be removed from the equation), but on the basis of performance of citizenship.

Ruth Lister writes that “in both liberal and republican traditions the citizen is represented by the abstract, disembodied, individual” (Lister 2003: 71). The experiences and history of women and homosexuals in relation to the law and policy-making (see Burrows 2002; Chambers 2002; D’Emilio & Freedman 1988; Gotell 2007; Kaplan 1997; Eskridge 2002; Herrell 1994; Hull 2006; Polikoff 2003; Rimmerman 2002; Weeks 1985; Wolfson 2004) illustrate how the citizen, as disembodied, serves to hide the “essentially male [and heterosexual] characteristics of the individual qua citizen” (Lister 2003: 71; see also Bell & Binnie 2000; Butler 1998; Chock 1996; Cooper 1994; Gal & Kligman 2000; Williams 1996). Due to the history of equating homosexuality with sexual indulgence, moral perversion, and abnormality, scholars have argued that gay men and lesbians are excluded from this model of citizenship (Bederman 1995; Chauncey 1994; D’Emilio & Freedman 1988; Foucault 1978). In light of the purported relationship between homosexuality and moral perversion, it was easy for the opposition to argue that lesbian and gay friendly policies infringe on their personal belief systems, and stand to defile marriage and the family. This link also induced panic in proponents who felt it
necessary to once again address the fear of “spillage” of homosexuality into the heterosexual way of life by distancing sexuality from the family.

In the process of disconnecting the “homo” from the “sexual,” I suggest that proponents of domestic partnership re-embodied same-sex couples as acceptable citizens not very different from their heterosexual counterparts. The effort was to create an image of a good, productive citizen who firmly believes in the sanctity of marriage and the greatness of tradition that constitutes the state of New Mexico and the nation. As productive citizens, gays and lesbians were asking to be allowed full access to the state’s political economy, so that they might become recognizable. Take for example the following two testimonies.

**Testimony 1**

My partner could not be here today because she’s with our two kids (12 and 9). We’ve been together for 15 years. In 2003 Governor Richardson initiated an executive order to provide state employees both gay and straight to provide them with the option to provide their partners with health care through domestic coverage. Under the order health care coverage is not available after retirement, while under a spouse it is. In 2004, after 25 years as a social worker, I retired due to health issues. For 25 years I’ve worked as hard as my colleagues, and so it is unfair that my family is not afforded the same benefits that the families of my colleagues are. Another thing just happened. I just sat here three hours for this hearing to happen and I sat with Reverend Leigh, and Reverend Leigh and I exchanged pictures of our families. We talked about soccer, we talked about football, we talked about our families and how important our families are. And I have to say that you as committee members play a very important role in assisting families like ours being afforded the same constitutional rights and protections that are given to Reverend Leigh and those who spoke in opposition. I’m not asking for anything more or anything less. I asking to be treated fairly and I’m asking that my children and my partner receive the benefits that other people do.

**Testimony 2**

My partner and I have been together for 14 years. We have a 7 year old daughter and this represents (holds up three manila folder) $5500 of legal work we have done to try to protect our partnership, our obligations to one another, our child, and her inheritance.
One of these folders is wills and trust, another is power of attorney, and the other is child custody related. What I want you all to understand is that we understand that we’re privileged. We spent $5500 on all this and it begins to approximate some of the privileges, benefits, and responsibilities we have to each other and to our child that would be transmitted by registering under this bill if it passes into law. And I want you all to understand that most families in this position with a young child are not in any kind of situation to spend this kind of money. The other thing I wanna say that I know what I spent but I don’t know what I bought. I don’t know what kind of benefits this [meaning the legal work she’s had done] is going to really give me. And one of the benefits of having a law like this to allow people to register is that they know exactly where they stand in terms of what kinds of protections that $25 investment is going to give them. And that’s a benefit really no one but the state can provide us with. So we can buy ourselves some things, but some things we need your help with, and I’d like to ask you for your help with that.  

These types of testimonies attempted to forge a relationship between same-sex and opposite-sex families that orbited around ideas of equality and the needs of citizens and their families. “Domestic partnership means a legal relationship and it is not marriage…This is a bill about fairness and justice. I really think that it’s about taking care of each other, being able to take care of children. Being able to make these very hard end of life decisions and anyone would recognize that who you love should not be dictated by a government.”

Nancy Fraser, while agreeing with Habermas that the “citizen is centrally a participant in political debate and public opinion formation” (Fraser 1989: 126), and that citizenship is dependent “on the capacities for consent and speech” (1989: 126), maintains that these capacities are connected with masculinity and in various ways “are denied to women and deemed at odds with femininity” (1989: 126). Consent, she argues, is not something readily available to women, making their participation in the debate

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50 Author’s transcription from February 15, 2007 House Consumer and Public Affairs Committee hearing.

51 Author’s transcription from January 29, 2008, Senate Public Affairs and Consumer Committee hearing.
among citizens, tenuous. Thus, she envisions women in the welfare state as “split subjects” having to juggle the often contradictory roles of “child rearer and worker, client [of social welfare] and citizen” (1989: 134). Similarly, I assert that lesbians and gays can also be viewed as “split subjects” who have to juggle and negotiate their roles as family, parents, workers, and citizens in everyday interactions, as well as in public. This “split subjectivity” is itself a result of gays and lesbians’ inability to “participate on par with [heterosexual citizens] in dialogue” (Fraser 1989: 126), which makes their roles as citizens insecure. That is, the model of the family presented by the opposition envisioned a fixed construct that brought nature and God into the same space creating a symbiotic relationship between these two forces that, in turn, circumscribed the roles of men and women, roles of kin, and ultimately roles of citizens. The opposition presented what Fraser calls a “soldiering aspect of citizenship” in which the citizen is “the defender of the polity and protector of those—women, children, elderly—who allegedly cannot protect themselves” (1989: 126). Therefore, within this model of citizenship and family, there was little room for gays and lesbians to enter political debate and public opinion formation on the family.

After the 2007 session, in response to the mounting pressure from the opposition and legislators and fearful of losing potential Democratic support by turning the bill into a “gay bill,” the pro-domestic partnership leadership decided to strike the words intimate and committed from the bill. To further minimize potential backlash in 2008, EQNM brought on board several gay and lesbian lawyers who worked on “cleaning up” the language of the bill in order. Thus, in 2008, the Domestic Partner leadership refined, eliminated, and resurrected particular themes from the preceding years. For the
proponents, *fairness, love, caring, and justice* became main themes that replaced the catchwords *rights, equality, and intimacy* which, proponents came to believe were too vague and loaded to contribute effectively to the debate. *Sexuality* also made somewhat of a comeback in proponents’ testimonies, and civil rights and protections remained.

Convinced that the best way to approach legislators and allow them to vote for domestic partnership without the fear of enacting gay marriage was to remove the gay component, legislators were hard hit with testimonies about the hardships of elderly heterosexual unmarried couples and couples with disabilities whose problems would be alleviated by domestic partner rights. The “good for business argument” also received extra emphasis this year, while gay and lesbian testimonies were reduced to one aging lesbian couple’s experience; a reference to another lesbian couple faced with the death of one of the partners and ensuing legal problems; and the testimony of the reverend from the United Church of Santa Fe who called for acceptance of gay and lesbian families. Overall what appears to take place in 2009 is a heightened attempt to make domestic partnership anything but a gay issue. Helplessness and insecurity was the order of the day for proponents alongside the benefit of domestic partner support to the New Mexico

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52 Senator McSorley introduction to the Domestic Partnership and Responsibilities Act in 2009 resembled the framing of the arguments from previous years: He stated:

This bill would protect those people who cannot or wish not to *be* married by allowing them to retain social security benefits and give those members of the domestic partnership certain health benefits which by law, both federal and state, they cannot currently enjoy. This law will be *particularly* helpful to seniors and individuals with disabilities in committed long term relationships who do not marry because of adverse impacts marriage would cause to many of their other rights.

Also this domestic partnership act in NM would provide equity to all of our citizens. Right now in the state of NM we have many multi-national corporations who grant domestic partnership benefits to their employees. Therefore, their employees are given rights of health care benefits to those of their domestic partners, which are denied to other New Mexicans. By passing this law we are leveling the playing field so that not only the employees of domestic partnerships but all other NM citizens can enjoy the same rights.
economy which, as with the rest of the nation, was in crisis. The reaction of the proponents to the Catholic Church and the previous years’ failure of the Domestic Partnership Act speaks to the critiques forwarded by Duggan and Cohen that the lesbian and gay rights movement is following the national political culture to the right “by invoking a phantom mainstream public of ‘conventional gays’ who represent the responsible center” (Duggan 2003: 50). In other words there has been a mainstreaming of the gay and lesbian movement that privileges the experiences of white, middle class, lesbians and gay men. Still, what is to be said of the direction of the domestic partnership movement in New Mexico in 2009, where even the middle class white lesbian and gay man is being eliminated from discussion altogether? This seems to support Cohen’s assertion that “no matter how well behaved gays and lesbians are or how much money members of this community can offer, they will never be fully embraced” (Cohen 1997: 573). In part it is this knowledge that drove proponents in 2009 to promote an argument that domestic partnership would provide economic opportunities for disabled and aging heterosexual couples, as opposed to protections for gay and lesbian couples.

Cindy Padilla, the Secretary of Aging and Long Term Services Department made a case for the elderly.

We come here today as advocates for the people we serve. [Domestic Partnership] provides statutory obligations, responsibilities, protections and benefits to all individuals, which includes our seniors and adults with disabilities who choose domestic partnership…We’re hearing from an increasing number of our elders who are choosing to live together but not marry. The U.S. Census Bureau continues to report significant increases in the percentage of unmarried senior couples 65 and older. A recent article in Forbes magazine reported in 2006 1.8 million Americans 50 and above lived in heterosexual unmarried partner household. This is a 50% increase from 2000. According to the U.S. Census Bureau there are over 65,000 New Mexico households that are 65 and over. And
out of these [inaudible words] 1700 people that are 65 and older that are in committed relationships but have chosen not to marry. Furthermore, we know that New Mexico senior populations continues to rise, comprising almost 13% of our total population today…[it is expected to grow to 26% by 2030]. New Mexico will become 4th in the nation [in the percent of population] over the age of 65. That means 1 in 4 New Mexicans will be 65 and older and many of those will be choosing domestic partnership over marriage… We also hear from our seniors, many of whom are widowed and living on fixed incomes that they are choosing not to marry because they are afraid they will lose their social security, survivor’s annuities, retirement benefits and eligibility for Medicare programs, like the Disability and Elderly Waver Programs and Nursing Home care. They’re also choosing not to marry because of fear of incurring liability for partner’s medical expenses or past death. These seniors cannot afford to lose the small income they receive each month, which often goes to pay for their costly medications or the gas to heat their homes. Unfortunately the choice of not remarrying because of financial reasons means that these seniors also cannot make emergency medical long term health care and end of life decisions for a loved one. Or they won’t be able to live in the same room with a long term partner in an assisted living facility or a nursing home. These are rights our married seniors do not have to worry about.53

Similarly, the Director of the State Developmental Disabilities Planning Council made a case for heterosexual couples with disabilities.

Currently, the figures we see from the national census bureau represent that there are approximately, there is now 19% of the United States’ population are individuals with disabilities. That means in our state we’re representing somewhere in the neighborhood of 380,000 individuals who have disabilities. There are about 38,000 individuals with developmental disabilities, which includes significant cognitive disabilities. The Developmental Disabilities Council supports domestic partnership legislation as this law provides legal protections and benefits for many couples with disabilities and other couples who have lived together for years without the protection or benefits of marriage. Current federal laws and regulations that govern support programs for persons with developmental disabilities are designed to drastically reduce individual income and benefits received after marriage by limiting savings accounts as well as actually reducing the income that these individuals receive by approximately 1/3. These income levels are initially set at a poverty level…This particular piece of

53 Author’s transcription from January 29, 2009, joint hearing Senate Public Affairs Committee and Senate Judiciary.
legislation would provide [disabled unmarried couples] the opportunity to be able to have access to additional health care, and they would be able to take care of each other...to live together in a recognized situation and allow them the benefits to be able to represent each other, to be going to the hospital, or work on various medical activities.54

**Neoliberal Equality and the Sentimentality of Domestic Partnership**

By 2008, the opponents had also become more organized, polished, and strategic in their efforts to stop the passage of domestic partnership, and responded more directly to proponents’ previous years’ testimonies. Opponents with the help of a few Republican legislators brought in their key witness at a more crucial point in the life of the bill—during the Senate Judiciary committee hearing. Key themes highlighted by the opposition included: *trampling on religious rights, sanctity of marriage, and special rights* that were repeated in every testimony, with an assumed understanding of their meaning.

The witness, Brad Miller, from Focus on the Family in Colorado however, expressed all of these notions, in a fifteen minute reading from a paper drafted by Focus on the Family. He stated:

> Marriage primarily exists for the sexual union between a man and a woman and results in children...Marriage is not created by government, *but* it is traditionally recognized by government, *because* it provides something the government desperately needs and cannot produce for itself: upstanding citizens who will contribute to the strength of this state and the country...There is no guarantee that [domestic partnership legislation] will satisfy homosexuals seeking legal recognition for their relationships. In fact, we have every reason to believe it will not be enough. Activists in New Jersey and Vermont currently have declared...civil unions to be insufficient and gay marriage is being pursued vigorously in those states. [Domestic partnership] may seem like a minor tweak to state policy. In the interest of equality, it is ultimately a radical redefinition of

54 Author’s transcription from January 29, 2009, joint hearing Senate Public Affairs Committee and Senate Judiciary.
vital family policy. And while the bill says, domestic partnership shall not be construed as marriage, please tell me what is created when every right of marriage is given but under a different name?\textsuperscript{55}

Pastor Jay with the Baptist Convention of New Mexico following suit, similarly argued that “any attempt to redefine marriage other than a union between one man and one woman is possibly in violation of NM constitution… [The Domestic Partnership bill] undermines the foundation of marriage, tramples on religious freedom, [and] puts the most vulnerable in our society which is children… It is traveling too fast without any real looking at the bill itself, in disregard for any societal, legal or economic circumstances and consequences.”\textsuperscript{56}

Derek Smith with Legacy Church in Albuquerque, New Mexico likewise maintained, “This is not about protecting the rights of minorities. They’re asking you to create new privileges for small special interest groups. I know there are many supporters of this bill here today, and I commend them for standing up for what they believe in. But what you see here today is not an accurate representation of our society.”\textsuperscript{57}

Representative Espinoza, a zealous opponent to the Domestic Partner act attempting to root her religious argument in historical and legal precedent pronounced

Domestic Partnership is just another word for marriage. It is all semantics. I believe and my constituents believe that we must protect the sanctity of marriage between one man and one woman. Historically, the definition of marriage has rested on the bedrock of tradition, legal precedent, [and] theology…If this bill

\textsuperscript{55} Author’s transcription from February 1, 2008, Senate Judiciary Committee hearing.

\textsuperscript{56} HB9 in Senate Judiciary Committee February 9, 2008.

\textsuperscript{57} HB9 in Senate Judiciary Committee February 9, 2008.
passes courts will not be able to favor traditional families involving one man and one woman over a homosexual couple in matters of adoption\textsuperscript{58}. It’s all we are asking Mr. Chair is that the sanctity of marriage be protected. At present, in this state, they can by law, have agreements, wills, trusts, life insurance, agreements for children, and even a married couple, if there is a divorce, there has to be agreements and all these things...And someone said, it’s very expensive to hire attorneys. Well, all you have to do is go to the internet and there are already...forms that you can...[you] that you can use. And I implore you that you can take care of you loved ones without touching the sanctity of marriage.\textsuperscript{59}

Following a neoliberal, new right framework, the opponents continued to eliminate gays and lesbians from citizenship, by excluding social rights from the conception of citizenship. Effectively they argued that citizenship should not embrace social rights because they are categorically different from civil and political rights. In other words social rights are special rights. Through the heterosexual construct of marriage, they also connect the private realm to the public sphere by pointing to the roles men and women play, or should play in society. Ruth Lister discusses how citizenship is constructed on the premise of male superiority and female inferiority. By identifying women’s bodies with nature and uncontrollable sexuality, women have been historically established as weak, and men have used the supposed weakness of women’s bodies as rationalization to disqualify them from citizenship. Harstock states, “bodies and their appetites and desires are given no legitimate place. The body and its desires are treated as loathsome, even inhuman, things that must be overcome if a man is to remain powerful and free...individuals must separate themselves from and conquer the feelings and

\textsuperscript{58} In my conversations with lawyers working with EQNM, they maintain that the courts will always give precedents to biological families in matters of adoption unless the case against a biological parent is severe such as in cases of child abuse and incest.

\textsuperscript{59} HB9 in Senate Judiciary Committee February 9, 2008.
desires of the body” (in Lister 2003: 72). Since only men have been deemed capable of such transcendence, women were then “banished to the private realm of the household and family,” where normal sexuality, meaning heteronormative sexuality was produced through the containment of disturbing sexuality (Lister 2003: 72). Marriage has been a way by which to control women’s bodies and sexuality, but has been presented as natural and fundamental to human existence. It is presented as the locus of the production of authentic citizens (“upstanding citizens”), unimaginable outside a heterosexual union. Thus opponents such as Miller situated his testimony in a biological configuration of the family in which clearly demarcated males and females enter into a union resulting in children to whom they can both make a biogenetic claim. Additionally, he presented the heterosexual model of marriage as at once the strength of American civilization and as a fragile construction in need of protection. This very fragility again envisioned heterosexuals as innocent bystanders under assault from homosexual predators whose main interest was to invade the sacred heterosexual spaces of marriage and the family. In this sense, marriage operates as a litmus test for the degree of inclusiveness of substantive citizenship, meaning the rights and duties one is accorded as a citizen (Lister 2003: 44). By defining gay and lesbian rights as social rights that are categorically different from civil and political rights, those like Espinoza felt free to argue that gays and lesbians should pursue an individual path to gaining protections. She did this by calling upon neoliberalism’s key terms that obscure identity politics based on the hierarchies of gender and sexuality (among race, class and nationality): privatization and personal responsibility. In other words it is the individual’s responsibility to better herself, by
following individual legal paths, rather than the state intervening to create policies that protect citizens’ rights (Duggan 2003, Lister 2003).

Proponents, for the first time had the chance to respond to the opposition and for many that meant taking the religious opposition to task about the sanctity of marriage. In introducing the bill on the House Floor, Representative Stewart referenced the *New Mexican* from Jan. 23, 2008 and the full page add paid for by Gill Action of the 27 New Mexican Clergy in support of the Domestic Partner Rights Act.

I wanna read what [the 27 Clergy] said first because I couldn’t say it any better than they did: “Members of New Mexico clergy stand united in supporting gay and lesbian families. Every family gay or straight should be supported and protected. We believe that New Mexico benefits when families have the means to stay united and strong. We know first-hand that strong families make strong communities. The Domestic Partner Rights and Responsibilities Act provides basic legal protections to unmarried adults. This is not a marriage but would offer all New Mexico families the basic legal rights that many of us take for granted, such as the right to visit one’s partner in the hospital or to take care of a partner at their time of death. We urge you to join us in our efforts to ensure that all families in NM have basic legal protections under the law. We believe that protecting families is the right and just thing to do.” Mr. Speaker I’m sorry that not everybody in the body has been able to hear some of this in committee because at every committee I’ve taken this to we’ve had over 150 people testify in support of this and the reason is that this is a bill about fairness and justice. This bill would offer basic legal protection to same-sex couples unable to marry as well as opposite-sex couples, senior citizens, and people with disabilities that choose to not marry for financial reasons. This legislation would benefit these couples by supporting joint medical [and financial decision-making], offer community property right, family medical leave, pension rights, rights of intestate succession, that’s inheritance, and end of life decision-making authority. New Mexico, if we pass [the Domestic Partner Act], joins 10 other states and the District of Columbia that recognize domestic partnership. We believe that this fosters a good business climate, business environment. In particular Mr. Speaker the young people in our community have come out in favor of this, in part because this bill really values diversity and inclusiveness.  

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60 By this point the bill had already traveled through two House Committees: the House Public Affairs and House Judiciary Committee. Therefore, the sponsor was well familiarized with the opposition’s arguments.

61 Author’s transcription from January 24, 2008, House Floor Hearing.
Similarly Reverend Ron of the Unitarian Universalist Church declared:

My tradition is to affirm and promote the inherent worth and dignity of *every* person. And this includes the responsibility of honoring the families that New Mexicans are creating in love…For me the common ground for domestic partnership has to do with fairness…Common ground has to do with honoring the commitment that New Mexicans are making in creating these families. This fairness…this common ground is beyond being Republican or being Democrat, beyond being religious left or religious right, it’s beyond being straight or being gay.  

Reverend Doctor Steven Fur with the Unitarian Church in Albuquerque similarly chimed in:

I too believe in the sanctity of marriage and yet I strongly support this bill…No married couple is going to get divorced because we passed this bill. No couple that is currently engaged will choose not to become engaged and not get married because this bill is passed. Nobody who is straight is going to become gay. But what will happen is that more people will be able to celebrate their love and care for one another, including children in families that are currently being raised by a grandparent, all kinds of constellations…The holy bible says: God is love and where love resides, is God, it is good. And I’m here to testify on that principle. Let us celebrate love where love resides and let us do so now in the form of [the Domestic Partnership Act]. I urge the immediate passage.  

Interestingly, proponents drew on similar liberal and neoliberal understandings of citizenship that opponents did. They too present a neoliberal brand of identity/equality politics, by adopting a politics that upheld dominant heteronormative institutions to

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62 Author’s transcription from February 9, 2008, Senate Judiciary Committee hearing.

63 HB9 Senate Judiciary February 9, 2009.
which they moored gays and lesbian via domesticity and consumption. Proponents
promoted and privileged certain characteristics behaviors, and language in the attempt to
include gay and lesbian partners and families within the heterosexual construction of the
individual citizen. For example, while the word *intimate* had been treated as vague and
coopunted language in the preceding years, *love* and *fairness*, proponents believed, were
universal and could not be as easily claimed as distinctly heterosexual. One family’s
heartbreaking experience and loss was critical to this illustration. The death of her partner
Dee, led Andrea and their son Michael to the legislature in hopes that their tragedy could
be transformed into victory for other families.

I heard a lot of the opposition here today say this bill is about marriage. This bill
is not about marriage. This bill is about being able to take care of our loved ones.
My partner, and I…we’ve been together for 13 years. We had all of the
paperwork…available to protect our rights. We had the wills, the power of
attorneys. We did everything that we believed we *could* do. On December 22nd
[Dee] died of a heart attack while we were on vacation in Mexico. I was contacted
by the American embassy through the consulate agent, and within a few hours of
Dee’s passing I was informed that the American embassy needed contact with
Dee’s next of kin in order to have her repatriated back to the United States. Under
the law as it stood on December 22nd Dee’s next of kin was our 19 year old son. I
did not want to have to call him and tell him over the phone that his mother had
passed away. The American consulate informed me that it was imperative that I
get a hold of him as soon as possible, because otherwise Dee would automatically
be cremated in Mexico. I had Michael’s father…notify [him] of his mother’s
passing…[and] inform Michael that he needed to call the American Consulate
agent in Mexico as next of kin and notify them of what his wishes were. He told
the agent whatever Andrea said is what I want. But unfortunately, it didn’t end
there. I returned to New Mexico on December 23rd arriving late at night. And on
Christmas Eve, Michael, 19 had to go find a notary public in order to sign
paperwork that I’d been instructed to…get to him to [sign] and fax back to the
American Consulate’s agent. So, on Christmas Eve upon hearing of his mother’s
death, instead of being home with his family, he had to go out and take care of
something that I could have taken care of in Mexico had this bill been passed.
Next of kin is determined under state law and that’s all the American Consulate
needed, for us to give them a next of kin in order for them to repatriate Dee. Had
this bill been in place, I could have identified myself as a citizen of the state of
New Mexico, that I was next of kin to Dee. I could have signed that paperwork that night and come home to New Mexico feeling assured that Dee would be returned to the state where she was born without an extra burden being placed on a 19-year-old.64

For proponents of domestic partnership this family’s tragic experience linked the notion of universal love and caring to legal protections. Love, as projected through Andrea’s pain and loss, trumped sexuality and shaped the very foundation of the family. But the deployment of love in Andrea’s testimony also re-sexualized the same-sex family and specifically re-introduced homosexuality as a central component to domestic partnership and the underlying discussion of citizenship. Her argument was not just about protecting all families. Andrea claimed that the state of New Mexico should have protected her family by recognizing her relationship with Dee, for only through that recognition would Andrea have been able to exercise her rights as a United States citizen in Mexico. Ironically, the placement of this story in a foreign country furthered an image of gays and lesbians as aliens. In Andrea’s case, she was treated as a foreigner by the United States government and was required, in essence, to obtain sponsorship from her son in order to make claim to her partner.65

Another point of defense and at the same time contention for legislators in the debate over domestic partnership was the idea and interpretation of civil rights.

Supportive legislators declared domestic partnership to be a civil rights issue, likening it

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64 At the request of Andrea, who wants her story to be heard and to lead to further discussions, and to eventual changes in state policies, I use her and her family members’ real names.

65 Nevertheless, despite the efforts to humanize gay and lesbian families and their presentation as law-abiding citizens, the bill died in the Senate Judiciary committee by a vote of 6-4. With the failure of the bill in 2008 several democratic senators votes were became questionable and dependent on the ability to sway two other democratic senators who up to that point had refused to vote for the bill on religious grounds.
to racially based anti-misogyny rhetoric and laws, and to discrimination based on race. In 2009 supportive legislators were the most vocal around the issue of civil and equal rights. They seemed more willing and ready to talk about sexuality in relation to rights than did the proponents. These legislators debated what constituted a fundamental right and responded to the opposition’s stance to privilege freedom of religion over all other freedoms where homosexuality was concerned. These legislators incorporated proponents’ themes of fairness and equality, but unlike the proponents and sponsor of the bill supportive senators talked directly about same-sex families in order to make their case for domestic partnership as a civil rights issue. Senator Griego was the most enthusiastic in his argument in 2009. In a lengthy homily before the joint Senate Public Affairs and Judiciary committee he orated:

One of the opponents of the bill mentioned the first amendment and fundamental rights and this is a trend that we have to fight and I guess one of my concerns is, I happen to represent District 14, which is the Barrels neighborhood going all the way to Los Lunas. It’s the neighborhood where one of the first Hispanic United States senators grew up. Actually, he moved there as a young man—Senator Dennis Chavez. And Senator Chavez was a senator who was the original sponsor of part of the Civil Rights Act, the 1964 Civil Rights Act. In 1947 he introduced legislation because he found that many Hispanic Americans were coming back from WWII and were essentially being denied rights to work, to fair housing, to many of the fundamental rights that we believe in. So, I’m very honored to come from that area and hopefully to carry on in tradition of protecting rights…I think at the heart of this issue is really, this is a Civil Rights issue. It’s always been difficult. We struggled with this as a nation as to how do we try to live up to our constitution? What is a fundamental right? And I think Mr. Rom mentioned the First Amendment and the right to believe what we want to believe. I think the Supreme Court has ruled throughout the years that we do have a right to our religious freedom. And I’m a Catholic. I’m proud of it. I’m the youth minister at my church and I’m proud of it. I have enormous respect for the Archbishop and his activism on immigrant issues and drug issues but I disagree with my church on this. I think that there was a time when we could take the words gay couples out of here or same-sex couples out of here and insert women before 1920 when they were given the fundamental right under our democracy to vote. I think we can
take out gay couple and insert, as Senator Chavez tried to do in 1947, Hispanics having basic fundamental rights to employment… Not special rights…

In many ways these testimonies could also be seen as a neoliberal answer to an increasing rate of poverty and at the same time less reliance on the welfare system. Here the disabled and the elderly are portrayed as either clients or potential clients of the welfare system. By linking domestic partnership with economic interests, the proponents are drawing on important neoliberal tenets—“a state-supported but ‘privatized’ economy, a socially responsible civil society, and a moralized family with gendered marriage at its center” (Duggan 2003: 10)—to say domestic partnership will make it possible for these heterosexual individuals to be more self-sufficient and ultimately depend less on the government for assistance. These testimonies promote, to quote Lisa Duggan “the privatization of the costs of social reproduction, along with the care of human dependency needs, through personal responsibility exercised in the family and in civil society—thus shifting costs from state agencies to individuals and households” (Duggan 2003: 14). They also define normalcy by relying on statistical numbers to tell them what is normal and not normal. These testimonies become important tools of negotiation. However, because the gay and lesbian subject is missing from their direct equation, the underlying reasoning is that it is less important how gays and lesbians gain domestic partnership rights, than that those rights are made available as soon as possible by any means possible. Therefore, the process of making gays and lesbians invisible is justified as a way of meeting their dire needs as couples and families. Supportive legislators

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66 Author’s transcription from January 29, 2009, joint hearing Senate Public Affairs Committee and Senate Judiciary.
similarly invoked a multi-cultural, gay normality, equality politics rhetoric to establish
gays and lesbians as legitimate and deserving citizens, and as such attempted to include
gays and lesbians into the dominant public sphere.

Equality and Tradition: The Return of the Queer Subject, Civil Rights and the New Mexico Catholic Bishops

At the end of 2009 proponents shifted their approach as a result of complaints from the queer community and the relentlessness of the opposition to talk about sexuality. This shift became evident in the proponents’ representations during the 2010 legislature. One of the board members I interviewed explained that the strategy used in previous years had been innocuous. He stated: “using the argument that this is a bill that helps seniors and people with disabilities, well that didn't work. They saw right through us. They think that we might as well be truthful with them. Yes, domestic partnership is a step towards full marriage equality. Yes, it is, because it's the right thing to do.” Therefore, on February 1st, at the start of the 2010 legislative session, the interim Executive Director of EQNM organized a rally at the State Capital in Santa Fe called “World’s Record Largest Engagement Party.” The Facebook event advertisement read:

We made the World's largest Engagement Ring--now with Legislature back in session it’s time to host the attempt to set the record for the World's Largest Engagement Party! They say we can't get married?? F**K 'em! We're doin' it anyway! Come get engaged (RINGS PROVIDED!) and show your support for Domestic partnership in New Mexico, then the day before Valentine's Day 2/13/10 COME GET MARRIED! No more Mr. Nice Gay! They won't give us our equality? Well we'll just TAKE it, thank you!
The event relied on some of the key elements historically associated with gay, lesbian, and queer identities—that of parody and performativity. The organizers and participants utilized what one EQNM board member described as “costumery” and signage. It was more of a spectacle he explained.

"Yeah, there's a drag queen right here". And there were these foam costumes that looked like the state of New Mexico, and joined together was domestic partnership, and it was kind of corny ... but it was a very strong visual. We had lots of signage; we had lots of color; we kept it organic, but without being over-produced. But by the same token...It was really gay. It was not this suit-and-tie sort of staged, "We're just like you, only we're homosexuals asking for equal rights." It was like, "No, we're gay. We're gay people here. We want equal rights." And so I think that was a departure.67

For this board member, focusing on homosexuality signaled a shift in strategy and in thinking about whose needs domestic partnership would actually meet.

In the hearings, proponents maintained their themes about fundamental rights, equality and justice, but did so by emphasizing their connection with homosexuality and gay and lesbian history. In addition they brought in arguments of compassion, and the humanity of gays and lesbians. After the session I spoke with several gay and lesbian couples and individuals who felt impressed by the testimonies presented. Some that had been present at the previous years’ legislative hearings did a comparison and concluded that 2010 represented the best testimonies they had heard thus far. People were more pleased with this year’s testimonies because homosexuality was not being avoided by the proponents. Quite the opposite, it was flaunted.

67 Author’s interview with LGBT domestic partner legislation activist February 28, 2010
One woman’s testimony highlighted this connection between equality, justice and humanity. She concluded, “Domestic Partnership should be passed for reasons of equality and justice. However, our leaders should also use this as an opportunity to help examine all human relationships and think about how to improve them. What does it mean to love another person? And how may we all have better and more committed relationships?”

This testimony seemed to more directly place responsibility on legislators to address sexuality. But it did so through an argument about humanity. Thus, it’s not just asking legislators to acknowledge and validate same-sex relationships, but it’s asking them to validate gays and lesbians as human beings. It sought to challenge legislators to see a variety of human relationships, and view them as part of the social make up of society, in part by naturalizing different forms of sexualities.

Father McLelan an Episcopal Priest from the Parish of St. Michael and All Angels in Albuquerque, made a case for humanity as well, but did so by painting an image of Jesus Christ as a social activist particularly through his focus on compassion. Father McLelan argued,

Jesus would be advocating for the full humanity of the LGBT community….Jesus embraced and built relationships with those who were considered outsiders…He bound himself to those whom society treated unfairly. He bound himself to those who were viewed as second class citizens… I believe Jesus calls you to [pass] compassion today… And by taking this path, the path of compassion, you will discover your true humanity and in doing so make possible the full humanity of all.

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68 Author’s transcription from February 3, 2010, joint hearing Senate Public Affairs Committee and Senate Judiciary.

69 Author’s transcription from February 3, 2010, joint hearing Senate Public Affairs Committee and Senate Judiciary.
Equality, justice, and humanity become part of the proponents’ rhetoric of sentimentality, used as Lauren Berlant maintain, to “represent the ordinary effects of structural suffering” (Berlant 2008: 22). By doing so, proponents imagine gays and lesbians as sentimental subjects that are “connected to others who share the same sense that the world is out of joint” (Berlant 2008: 21). However, the sense that the world is out of joint is created through a liberal discourse of subjects having the opportunity to share in what is human nature, i.e. love, and the right to have one’s humanity acknowledged and its expression and embodiment legally supported. Yet through the rhetoric of sentimentality, proponents are stating that the self, or reaching the potential of the self, is the process of constituting the truth of being human. Gay and lesbian couples’ lives, are then portrayed as being meaningful, to borrow from Nikolas Rose, “to the extent that [they] could discover [their] selves, be [themselves], express [their] self, love [themselves], and be loved for [their selves they] really are” (Rose 1996: 4).

However, opponents too, used this rhetoric of sentimentality by continuing to appropriate the language of love and reserving happiness for those who fit the heteronormative model of the citizen. Opponents once again forwarded a discourse of morality, social cohesion resting on the preservation of heterosexual unions, protection of children, and religion. The Catholic Church, on the other hand relied on a slightly different tactic. With its historic claim on New Mexico culture, and its long established influence, the Church took an authoritative stance over New Mexicans. The members of the Conference of Bishops of New Mexico saw themselves as an established and empowered entity to which domestic partnership proponents had to answer. Allen Sanchez the Executive Director of the New Mexico Conference of Catholic Bishops
began his testimony with the statement “I am the official voice of the Catholic Church to this legislature.”

We don’t come here to impose, we come here to propose. I’ve been in front of you in these committees many times...This is the most difficult time... God makes us different and I think he makes us different to see how we’re going to treat each other. This is part of our faith [as Catholics], how we’re going to treat each other...During the last session 2009, hearing testimony like this, beautiful testimony like today, the Bishops decided to enter into dialogue to see if we could find common ground on the issue...We hear from both sides, people in favor and against. Even within the church [there’s a] dividing of people. We hear saying, is it marriage, is it a contract? Can we not just give them a contract? That’s a good question can we not just give them a contract? In the dialogue that we began [can’t make out couple of words] we said what, what are the benefits you are seeking so that we can see what these are and see if there’s common ground. From the legislation that has been introduced up to this point, the church interprets it as a stepping stone to marriage. This is where the Bishops face their opposition because it parallels marriage...They’re not legislators by the way. They’re not governors. They do not command your vote. They just share what they believe to be the teachings of the church. And in that teaching they must uphold what they believe has been the traditional interpretation [unintelligible word] gospel for two thousand years.70

Via Allen Sanchez the Catholic Church is making their position of power clear and while Sanchez is saying the Bishops do not command the legislator’s votes, he was reminding them that the Bishops were watching their moves. Indirectly, he was also telling legislators the Bishops did not like how Governor Richardson had been wielding his authority to pass bills he favored. For legislators in opposition, the stance of the Catholic Church gave them more confidence in opposing the bill. It also made legislators on the fence fearful of supporting domestic partnership legislation. For the past two years proponents had been trying to get one particular legislator, Pete Campos, to support the

70 Author’s transcription from February 3, 2010, joint hearing Senate Public Affairs Committee and Senate Judiciary.
bill but his rumored aspirations to become a Catholic Deacon was believed to have
impeded proponents’ efforts. Some advocates suggested that the inability to get his vote
is a result of conservative Bishops’ pressure to vote against the bill.

Additionally, the very question Catholic parishioners posed about “giving them” a
contract, is also telling of the Church’s position of power. Within their question is the
underlying assumption that the Catholic Church possesses the ability to grant or deny
groups of people entre into the established social order. And while parishioners were
expressing a desire to give gays and lesbians a place within the social and legal
infrastructure, the difficulty was in how to negotiate that placement without disrupting or
challenging established doctrines and beliefs. Sanchez concluded,

Through the dialogue we did not reach common ground on this legislation…The
opposition to the proposed legislation is based on language that can serve as the
foundation for the court’s approval of same-sex marriage. We see passage of such
legislation as a stepping stone toward same-sex marriage… We believe that the
traditional marriage and family life are essential to our society… Male/Female
complementarity is intrinsic to marriage… Jesus teaches: have you not read from
the beginning the creator made them male and female? For this reason a man shall
leave his father and mother and be joined to his wife and the two shall become
one flesh (Mathew: 19).71

Thus, the Catholic Church also presented an authoritative interpretation of Jesus. Jesus in
this testimony upholds a presumed natural order of man and woman. An order that cannot
be deviated from for it is the essential makeup of society.

71 Author’s transcription from February 3, 2010, joint hearing Senate Public Affairs Committee and Senate
Judiciary.
Conclusion

In this chapter I presented key images forwarded by both proponents and opponents of the New Mexico Domestic Partnership Rights and Responsibilities Act about sexuality, who constitutes family, and how rights should be distributed based on that constitution. I illustrated that family and marriage are biopolitical social arrangements, which are produced and changed within the public sphere through neoliberal articulations of self-identity and citizenship. I also demonstrated that the biopolitics involved in presenting a sacred image of family and marriage were also important to the presentation and performance of a gay and lesbian group identity.

Through thematic arguments proponents of domestic partnership presented queer citizens as consumers and producers of social goods and as productive citizens that share within the dominant public’s common humanity. They initially argued that marriage creates a different kind of social subject than domestic partnership, stressing an existing unequal relationship between queer citizens and the state that denies people not only legal rights but the right of full recognition of one’s humanity. This argument stressed the responsibility the government has to protect citizens and positions gays and lesbians as a vulnerable population. Opponents attacked these arguments by maintaining that marriage is a heterosexual union that belongs to nature and saw gays and lesbians as hijacking nature through discourses of justice. They presented heterosexuality as normal and natural and homosexuality as abnormal and contaminating. Therefore, opponents believed the state’s obligation was to ensure nature would not be perverted through the political process, and heterosexuality and the masculine power that represented it would be prioritized and sanctified. Proponents’ response to the homosexual threat was to
sanitize queer identities, and eliminate non-heteronormative families through discussions of abstract citizenship. This process of homonormativity, as Lisa Duggan has named it, “comes equipped with a rhetorical recoding of key terms in the history of gay politics: “equality” becomes narrow, formal access to a few conservatizing institutions, “freedom” becomes impunity for bigotry and vast inequalities in commercial life and civil society, the “right to privacy” becomes domestic confinement, and democratic politics itself becomes something to be escaped” (Duggan 2003: 65-66).

The gay public sphere constituting of same-sex families, I argue, operated within and through coercive forces that came from outside—from the state power and dominant public sphere—and from within—from the gay and lesbian leadership’s depiction of the ideal same-sex family. Coercion came from within the public sphere insofar as the pro-domestic partnership leadership attempted to legitimate same-sex families by framing them as representative of the uniqueness of New Mexico, while also drawing larger connections of class struggle with LGBT same-sex family public spheres throughout the nation. Therefore, operating within the idea that “part of what law does is to name people, things and relationships, and in so naming, invest them with a heightened visibility and reality” (Hull 2006: 198), pro-domestic partnership leadership and many same-sex families perceived the law as a “unique cultural resource” that can render them “socially normal and culturally equal to heterosexual married people” (Hull 2006: 3). While proponents argued that domestic partnership is not equivalent to marriage, they did view the state as the architect of law and the key arbitrator in the process of cultural

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72 I use coercion here to mean both force and influence. Organizations, for example, while working on behalf of families, impose a vision of family on LGBT communities by using their knowledge of the political and legal ideological structures, thereby claiming greater knowledge of the workings of the state structures.
change. They therefore tried to help legislators render same-sex families “normal” by addressing fears of homosexual contamination, attempting to obscure sexuality, and underscoring sameness through ideas about love, fairness, and equality. In this way, the strategies implemented tried to serve the needs of same-sex families and couples whose interest was to carve a niche for themselves within the dominant public sphere, and thereby gain the legal entitlements that would protect their children and partners.

Moreover, the process of creating a sanitized queer family was additionally shaped by neoliberal civil rights discourses that sought to locate gays and lesbians within the dominant public sphere. By way of connecting gay and lesbian families to the dominant public, EQNM and national organizations structured a gay and lesbian public sphere by imagining and disseminating the image of an unthreatening, we are like you, “gay family.” These representatives acted as intermediaries in the negotiation with the state via legislators—both publically and behind closed doors—attempting to determine the political and economic value of same-sex families, and therefore, their roles as citizens. In part, by highlighting normalcy and sameness, proponents, through this public sphere, asserted the authority to reprimand the state for turning its back on its citizens and its families. Concurrently, the willingness to concede to proving gay normalcy through images of sameness with heterosexuals and the exclusion of different LGBT subjects, such as transgender families from the “gay family,” illustrates the symbolic reproduction of heteronormative regulation of gender and sexuality, and the difficulty gays and lesbians have in being accepted into a heteronormative ideological structure, even when they consume the liberal and neoliberal tenets that supports that structure. Ideas about love, recognition, personal responsibility became rhetoric of sentimentality used by
proponents against Republican legislators and the religious opposition’s arguments about privatization of rights through which they maintained that gays and lesbians have the right as citizens to draw individual legal contracts to protect their assets and interests. They viewed these arguments as fair points of negotiation for equality and as a solution to maintaining the heteronormative social order. In the face of the growing debate locally and nationwide the New Mexico Catholic Church asserted its paternal power by engaging in negotiations with gay and lesbian activists in shaping the domestic partnership bill and by making its presence known at the legislature.

Seeing how discourses about love and caring, once believed to be beyond the criticism and judgments of law, and arguments about a common humanity between same-sex and opposite-sex families were having little effect, the gay and lesbian community and its leadership once again began asserting a gay identity into the domestic partnership debate. These elements were not eliminated from the proponents’ testimonies but they once again highlighted the unequal conditions governing their lives and reinforcing family as a heteronormative privilege.
CHAPTER 4: DOMESTIC PARTNERSHIP—MESSAGING AND ORGANIZATIONAL RELATIONSHIPS

In chapter 3 I discussed the construction of marriage and family within the public space of the legislature. I showed how gays and lesbians attempted to fit within those constructions and described the various responses they received and the resistance they faced from the religious opposition and legislators. I maintain that the legislative processes of family construction followed a Foucauldian type of biopolitical model that relied on several types of discourses of inclusion: sacrifice, hope, rights, belonging, and the idea of the universal human promoted through sentimental tropes about love and family responsibility. I also demonstrated how in response to the opposition and legislators, EQNM and allied activists altered their strategy in order to forward ideas of equivalence between opposite- and same-sex couples, create a respectable gay family, and ultimately pass domestic partnership legislation. In this chapter I analyze the organizing, mobilizing, and discursive processes through which EQNM and national organizations conceptualized domestic partnership and marriage; implemented the language of rights, equality, and belonging that translated into legislative strategies; and helped shape the image of the respectable gay family.

This chapter illustrates that while legislative narratives show how activists and supporting community members adapted their arguments and testimonies throughout the years to the opposition and legislators’ concerns—such that discourses changed from domestic partnership as a gay right to those of fairness and belonging and whereby the family was abstracted and desexualized so that gay identity disappeared—in intracommunity discourses discussions about queer identity and experience were
continuous, central to processes of mobilization, and subjected to modification by the ideas and strategies implemented by activists. Thus, this chapter explores the history and advocacy around New Mexico’s Domestic Partnership Act from 2005 to 2010. I examine the ways in which strategies were created and implemented by the different organizations involved—Equality New Mexico (EQNM), the American Civil Liberties Union national organization (ACLU) and New Mexico chapter (ACLU-NM), Freedom to Marry, Gill Action, the National Center for Lesbian Rights (NCLR), and the Gay and Lesbian Alliance Against Defamation (GLAAD)—and I discuss how these conceptualizations shaped notions of community within LGBT circles. I look at different community forums and legislative trainings that took place between 2005 and 2010 and argue that activists and community members used forums to foment a sense of togetherness and create spaces for same-sex couples to share their experiences with LGBT community members, to validate, negotiate, and at times publicize same-sex relationships and gay and lesbian identities.

I also argue that EQNM and ACLU-NM activists utilized the forums to teach and train the LGBT community about effective and successful strategy and to garner consensus and support for the strategy from same-sex couples and LGBT community members. Ultimately, I argue that via forums and trainings new political and personal subjectivities were solidified around discourses about domestic partnership and marriage, identities that throughout the years translated into legislative testimonies and found their way into same-sex couples’ descriptions of themselves and their queer identities. In this chapter I also examine the relationship between EQNM and national organizations (the ACLU, the NCLR, and Gill Action, as well as GLAAD more peripherally) to show how
the organization’s reliance on national funding and national organizations’ ideas about political organizing impacted local activists’ decision-making process and community relationships. I discuss the issues EQNM encountered while mobilizing support and the inter- and intra-organizational conflicts and oppositions.

I also argue that examining the relationship between nongovernmental organizations (NGOs), the individuals they seek to represent, and the state is important to understanding the neoliberal frameworks that connect the dominant publics and intimate publics and which shape the relationship between the state and its citizens. Anthropology has a long history of studying the connections between culture, individuals, and political and economic structures. Since the 1960s anthropologists have also turned their focus to studies of power and agency within postcolonial states, looking at the connection between the state and citizens and the state and global structures. My analysis, though not focusing on postcolonial relationships, follows in the tradition of anthropological inquiry into the complex development of structures of power and their interweaving with the production of group identities, citizens, and individual agency. I look at EQNM and their national counterparts as intermediaries between the state and its subjects. I maintain that EQNM and the national LGBT organizations’ positions as intermediaries are accepted by the state, while they are also recognized by the communities they claim to represent—in this case an LGBT community in New Mexico.

Habermas has argued that in the welfare state private interests are represented by social organizations through the mediation of political parties or through interplay with public administration. Trouillot has similarly demonstrated that state-like processes can be observed in NGOs, which incorporate into their organizational structures a model of
state practices. More specifically, Ward demonstrates in her study on diversity culture in LGBT activist organizations in Los Angeles how NGO practices are linked to neoliberal notions such as professionalism and diversity that are based on color/gender-blind strategies organized around one social grouping or identity. LGBT NGO organizing represents a top-down approach and has created what historian Duggan terms a “neoliberal equality politics” that has given rise to a new homonormativity. In this chapter I go one step further and reveal the mechanisms employed in the attempt to create a unified identity and respectable queer subject through intercommunity forums and through NGO relationships. I show the fallibility of EQNM and national organizations as representatives of an LGBT community, and I argue that NGOs never fully achieve control over the LGBT community and that their power is in constant flux. In the case of EQNM, the leaders had to answer to national funders, while their relationship with their constituents and the LGBT New Mexico community was fragile and dependent on activists’ ability to negotiate the members’ needs without sacrificing the direction of the movement.

The chapter draws on different material sources I collected throughout the five-year span of the research, including informational and educational flyers, legislative and media training materials distributed by EQNM and ACLU-NM, an EQNM survey for couples, polls conducted by various entities throughout New Mexico to gauge voter support for the Domestic Partnership Act, promotional information on the EQNM website, newsletters and fund-raising materials, and interviews I conducted with local and national activists. The set of advocates I interviewed comprised five EQNM affiliates: some who were founding members, former and present board members, the
organization’s lobbyist, and a former employee. I chose to interview this set of EQNM’s advocates because of their knowledge of the organization and its history with New Mexico LGBT politics and their involvement in the domestic partnership movement in the state. While they hold important positions within the organization and have influenced the direction of the movement, I hope to show that no one player determined the decisions made throughout the years and to thereby complicate the processes and power associated with decision making and its architects. To illustrate the complexities within the strategizing procedures I rely on interviews I conducted with ACLU-NM’s lobbyist and Gill Action’s representative along with my extensive field notes from meetings I attended with EQNM and national organizations.

**Domestic Partnership History**

The issue of same-sex marriage hit New Mexico at a time when EQNM’s predecessors were still battling the introduction of a ballot seeking to de-codify the Human Rights Act. Recalling the events of 2004, one activist stated, “We kind of had to scramble and adjust and figure out how do we deal with suddenly the marriage issue being introduced in New Mexico while we’re still trying to save the Human Rights Act?” There was also the sense, she remembered, that New Mexico activists were not ready for marriage because there had not been any statewide outreach and education on relationship recognition. However, she explained, “all these people in New Mexico [were] all riled up about marriage [and] they want[ed] marriage equality.”

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73 The hate crimes and gender discrimination legislation was not safely won until July of 2004 when the proposed antigay referendum was taken off the 2004 ballot.
One of EQNM’s founding members similarly recounted feeling struck by how quickly the same-sex marriage debate was taking over LGBT politics. In his usual forthright, determined, and sincere manner, he remarked:

Marriage? What? Let us bob up for air. We didn’t even do effective fund-raising on that [Hate Crimes and Non-Discrimination] victory because we didn’t have time. We had to roll right into the marriage. We were one of the thirteen swing states where there were antigay ballot measures on the ballot. We prevented ours, our attorney general at the time got some agility to stop that, but we were of the thirteen states where Carl Rove made sure that there were antigay ballot measures. There were eleven swing states, but there were thirteen antigay ballot measures. We didn’t even get a chance to celebrate. . . . We’re having a hard time because the gay and lesbian community did not seize this issue. The issue was kind of thrust upon us.

As a result, he maintained, EQNM was not able to frame the debate. “It’s not our debate to frame,” he firmly told me. “It’s our opponents that are framing the terms of the debate.”74 Faced with the threat of a new referendum that stipulated marriage was to be constitutionally defined as between a man and a woman, EQNM now had to circumvent the introduction of a DOMA (Definition of Marriage Act) on the upcoming election ballot for which local and national conservative groups were already getting signatures.

Attorney General Patricia Madrid, despite the great lengths she went to in order to stop the Sandoval County clerk from issuing marriage licenses, did not want to see a DOMA in New Mexico’s Constitution. No Democrat would want such a referendum as it would draw out large numbers of Republican voters, leading not only to the ratification of a

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74 In chapter 4 I argue that EQNM did attempt to frame the debate by forwarding their own arguments for why marriage was necessary, though unsuccessfully. What Todd was referring to when he stated that the opposition framed the debate is the fact that LGBT activists had not prepared for the marriage events whereas religious conservative groups had been working on passing DOMAs since 2000.
DOMA but also to the defeat of other Democratic initiatives and the loss of local and statewide Democratic seats. Thus, with the help of the attorney general and other Democrats the referendum for the DOMA never reached the ballot.

Concurrently, it became clear to local and national LGBT activists that the next step religious conservative groups would take would be to go through the New Mexico legislature. EQNM activists would have to prepare to fight the DOMA in the upcoming legislative sessions and thwart its codification. In addition, activists I interviewed claimed that part of the impetus to take the matter to the legislature was Governor Richardson, whose political agenda included passing a comprehensive relationship recognition law, but one that did not include marriage. “Within his first six months of being in office,” one EQNM activist told me, the governor signed an executive order creating state employee domestic partner registration and benefits. And it was important to the governor that domestic partner registration and benefits for state employees be available to both same-sex couples and opposite-sex couples.

Therefore, within the month the LGBT forums addressed strategies for introducing civil union legislation. Disagreements ensued between the activists and community members over introducing a civil union versus a marriage bill. Members of the Sandoval 64 who attended these forums argued for marriage legislation, and they received much support from other LGBT attendees, some of whom were also activists. Civil unions, they argued, were a form of second-class citizenship, a concession to the idea of separate but equal. Civil unions were something for “gay people.” What they had, couples argued, was marriage and they wanted their marriages to be recognized. Over the course of these forums and town hall meetings, activists were able to convince the
majority of their LGBT constituents that marriage was unattainable at this time in the legislature. They argued three main points: (1) marriage is federally unattainable since the federal DOMA would not allow for full recognition of same-sex marriages; (2) New Mexico culture would be more favorable to domestic partnership or civil unions; and (3) religious and Republican conservatives were taking the DOMA to the New Mexico legislature. These last two points highlight activists’ claim that neither EQNM nor the LGBT community framed the debate. More specifically, one activist maintained that the introduction of a DOMA in the legislature was a ploy to initiate a ballot referendum that the opposition believed all New Mexicans would support. He asserted,

The legislature is going to pass a bill that would define marriage as between one man and one woman. But that’s not really the mechanism that our opponents have used. What they want is they want it to be on the ballot because they know that we will have to spend all of our time and energy running a campaign and communicating our message to people that don’t want to hear it about how this is bigotry, and so on, or about how this is equal rights. And it’s always a bad idea to have the majority vote on the rights of a minority. I’ll tell you what, it’s getting a little punishing to go back to 1943 in Alabama and ask black folks if they want white people to vote on their civil rights. There’s no difference—or whether migrant workers want white folks and property owners to vote on their health care in California and the San Joaquin Valley and in Maricopa County, in the orange groves.

Seeing the marriage fight and gay rights in general as part of a larger civil rights history, he and other advocates believed that the best way they would get some control over the situation was to go through the legislature. A young political activist and former EQNM employee explained that when looking at the legislative committees through which a relationship recognition bill would have to pass, he agreed with the advocates who believed that legislators would not be in favor of marriage. Referring to polls
conducted in 2005 and 2007, he stated that the results indicated domestic partnership legislation would have a greater chance of being approved. He connected the findings of the poll to what he termed “the religious nature of our legislature” and the state. Moreover, he stated, “I think it doesn’t feel like they were giving anything up with domestic partnership” because it “would provide the same benefits on a state level as marriage equality.” He referred to domestic partnership as the “accessible alternative” so long as marriage equality is unachievable. “We don’t have the money to do a full marriage campaign through the courts,” he emphasized, and “we don’t have the organizational work to do it through the legislature.”

Some activists, particularly EQNM lobbyist Linda Siegle, also argued for introducing incremental bills that would implement some of the rights of marriage under New Mexico state law. Siegle believed that if all else failed and an incremental bill passed, same-sex couples would have some protections. However, discontent from the LGBT constituents and a lack of support from national organizations for such a strategy directed activists to consider a bill that would provide same-sex couples with all the state’s benefits of marriage. They called it domestic partnership, thus separating it from the ideas people had about civil unions as creating a separate category of relationships for gays and lesbians and affirming it as more encompassing and representative. One lawyer explained the process of deciding what type of bill to draft in a slightly different way: “Generally, back in 2004, we looked at the various civil union and domestic partnership bills around the country and the general conclusion was that society understood civil union to mean gay marriage, marriage for same-sex couples, and that the general society understood domestic partnership to mean all the rights and benefits of marriage but for
any couple, like California’s domestic partnership bill is all the rights and benefits of marriage but if you’re over 62, opposite-sex couples. I mean, yeah, heterosexuals can get domestically partnered.”

In this way, the decision was declared a strategic one that was based on logic rather than a reaction to potential community upheaval. Through many discussions, debates, and arguments, the community and the activists eventually reached a majority consensus and a Domestic Partnership bill (DP) was introduced in the 2005 legislative session.

Creating Strategy
Rights and Personal Beliefs

From my interviews it also became clear that activists hold their own beliefs about marriage that do not necessarily reflect their ideas about strategy. They often separated personal beliefs from strategy for multiple reasons. In specific ways the activists spearheading the legislative movement for domestic partnership saw gaining rights as separate from creating a sense of belonging. They talked about their strategies as reflecting the reality of gay and lesbian couples who want the state to validate them, who want to belong to the nation only. They framed that discourse of desire within the parameters of the strategy itself. Nevertheless, activists’ ideas about good or effective strategy have also differed and in some cases have created internal discord.

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75 Reasons for the movement toward domestic partnership versus civil unions differed in interviews with other activists. In an interview with EQNM lobbyist Linda Siegle, she told me that she believed domestic partnership was chosen over civil unions because civil unions sounded too much like marriage: “Because I think that implies that it’s, by its language it sort of implies it’s more like marriage. Domestic partnership, even though it is, it sounds different. And I think that’s one of the reasons people didn’t want to go with the civil union language.”
Todd McElroy, for example, drew on his and his family’s history of engaging with their civic duties. McElroy, a white-identified man in his forties, moved from Oklahoma to New Mexico, where he became one of the founding members of Equality New Mexico. I met and formed a friendly acquaintance with Todd throughout the years I volunteered with EQNM between 2004 and 2010. He described himself as having always been involved in the organization and has worn many hats: that of a representative to the community, a board member, and a fundraiser. Coming from a family that was politically active in Oklahoma and whose members had held public office, McElroy described himself as “politically empowered.” Specifically as a gay man, he explained, his sense of empowerment grew after Bill Clinton’s presidential victory in 1992. “I mean, I’d always felt politically empowered,” he told me. “I mean I’m a white man, you know. But specifically as a gay man, I felt really politically empowered after Clinton’s victory, and that was an impetus.” This impetus led him to found an organization that would provide statewide representation for LGBT New Mexicans and which could take on political and legislative battles such as incorporating gays and lesbians into the state’s Human Rights Act. To this day, Todd remains on the board of EQNM’s 501(c)(4). In describing his role with the organization, he stated, “I think the part that I play is I have sixteen years of continuity that I bring to the organization: sixteen years of memory, sixteen years of history.” Most board members, he told me, are relatively new. There are only a few members from ten to sixteen years back who continue to participate.

Sitting in one of Albuquerque’s more popular cafés, I asked McElroy: within the greater activist community, what do you believe is the general view on domestic partnership? He offered me an explanation that, as we delved into the question more
deeply, turned out to be his view and what he believed was the view of the EQNM leadership body. Putting down his cup of coffee, he began,

Well, I think clearly, the general view is this is an issue of equal rights. You can’t deny, it is unfair to deny one group of citizens the benefits that you extend to another similarly situated group. And I think our view has been, as a leadership body, is that it’s a view of incrementalism. It’s incrementalism that we’ve always pursued, that domestic partnership benefits would be first and then full marriage recognition thereafter. . . . As long as there’s the Federal DOMA, then we can’t really, our marriages will just be valid in New Mexico at this point in time. And so, what we can actually achieve for all kinds of people is the rights that domestic partnership can afford.

Yet Todd also believes domestic partnership and civil unions objectify the rights of marriage. Ardently, he stated that what domestic partnership and civil unions say is that

“these are the rights afforded by the state. Whatever you do spiritually, whatever church, synagogue, temple, or whatever path you want to follow, that’s not what we’re talking about here. We’re talking about the rights of the governance.”

With that said, he also declared that marriage was not something he personally sought. He called it a failed institution that he was not interested in replicating. In contrast, Todd saw domestic partnership as a legal contract that lacked the historical baggage that came with marriage. For him, domestic partnership would be a way to share in the types of spousal benefits afforded to heterosexual couples, such as health insurance (one of the more popular examples). He emphasized that this was his personal view, and he recognized that other LGBT couples want to get married. He added that if people
choose marriage they should be able to have it because it is a civil right. He maintained that marriage is an issue of social justice: since it is “a right that is afforded to one group of people, it should be afforded to all groups of people.” Therefore, he saw domestic partnership as a step in the direction of achieving civil rights and social justice for LGBT citizens.

In explaining the reason for the central focus on domestic partnership and the legislature, Todd connected the need for rights to immediacy and to the impact the right wing has on LGBT issues. He stated, “I think that everybody intellectually and emotionally gets it, that there’s bigger fish to fry, there’s more important issues. But politically, we all damn well understand, and pragmatically, is that this is the one that’s here now. We have to address this now. And so, basically I think the far right has been successful in diverting our energies from the long-term goal, for the short-term thing.”

What all the activists agreed on, EQNM lobbyist Linda Siegle highlighted, was that “domestic partnerships, civil unions, they’re just second-class status. There’s no question to that. And I understand people not wanting that.” Linda Siegle has been working on LGBT issues since 1991 when New Mexico’s Nondiscrimination Act was introduced in the legislature. When Equality New Mexico was first born as the Coalition for Equality, Linda joined the board. In the last ten to twelve years she has taken on the role of the organization’s lobbyist, sometimes paid and sometimes not. I met Linda when I first volunteered with Lambda Legal and EQNM on marriage equality. From my first encounter with her, Linda came across as a reserved person. She did not shy away from being in the public eye, but she also did not run toward the limelight. I have come to know Linda as a person who speaks her mind even when her ideas conflict with those of
everyone around her. A difficult person to rattle, she comes across as emotionally controlled and unfazed by what others would consider personal attacks. She is objective and collected. Throughout the years I have also learned that this is only one part of Linda, one that I can only assume she fostered in order to engage in her line of work. She is also committed to the queer causes she takes on and resolute in her opinions.

Linda was of a similar opinion as Todd when it came to marriage. She stated that she had no personal interest in marriage but that domestic partnership did matter to her. In our interview she elaborated on the difference between these two categories:

“To me, marriage is just another vestige of the patriarchy, which I have no interest in participating in. You know, if we called it, if in our country we had civil unions for everybody, and then you could go off, get married in a church that would be a different story for me but... It’s the title... For me, it’s the name. Because I’d love the benefits!

Domestic partnership to me is strictly the benefits and the rights and responsibilities. It’s not necessarily a rational decision... and I acknowledge that. It’s just my personal dislikes.

Thus, she distinguished between marriage as an extension of the patriarchy and domestic partnership and civil unions as extensions of democracy. Marriage to her represented a history of sexism and female disenfranchisement, while domestic partnership represents the present and future of democratic citizenship whereby the law dictates a place and participation in the social framework through the allotment of rights. The fact that she saw this view as not necessarily rational, I claim, means that she recognized the different ways in which gays and lesbians view marriage, and perhaps it was also an implicit acknowledgment that laws and rights are not so easily separated
from the emotionally sensitive historical contexts from which they arise. When she resolved that “gay people getting married will change the flavor of the institution,” she added that the change would come in the form of “assimilation of us [gays and lesbians] into that institution.” Thus, democracy and patriarchy remain closely tied not, only through the history of female subjugation but also a negative history of assimilation. Domestic partnership, however, seemed different. It was baggage free in her view and was not something conceptualized by the dominant public.

Linda saw the activism around domestic partnership as part of a larger LGBT movement that has made strides in New Mexico. Proud of the thirteen years of hard work she devoted to the Nondiscrimination Act (from 1991 to 2004), she maintained that securing civil rights is a long process of educating the public and legislators. She recollected the years she spent on educating on and garnering support for LGBT rights: “And when I first started working on gay issues in the legislature, I remember the unions and one guy in particular . . . who was the head of AFL-CIO and he wouldn’t even talk to me in the beginning. And by four or five years later, we were best buddies and are good friends now.” Her experience lobbying for the Nondiscrimination Act influenced her approach to the domestic partnership legislation. She believed in pushing for incremental bills until full marriage could be achieved. She explained,

Well, in looking at, okay, what are the most important benefits for same-sex couples in New Mexico as an interim, before we get marriage, would it be inheritance rights, hospital visitation, health-care decision making, and put a package of a handful of big benefits together and try to pass that? As opposed to the full, all the benefits involved in marriage, that’s a possibility and once you get something like that, other states have done that—Maine did that. California did that, even New Jersey did that, where they put together some benefits and rights, passed that and then were able to expand it.
After the 2010 legislative session, Linda once again proposed introducing a comprehensive domestic partnership bill along with an incremental bill. She reasoned, “Okay, well, you can’t vote for this, then how about this? Because that takes away an argument that a lot of people, which they disingenuously use, that oh well, if it just wasn’t so broad, I could support it. Okay, well, here’s one that’s not so broad. And what about that, can you really support that or are you just full of shit?”

However, she stated that ACLU lobbyist Catherine Strong would not support such a strategy. This was not the first time the ACLU had told Linda Siegle they would not support her strategy. In 2005–2006 Linda had proposed attaching a DOMA to the domestic partnership bill as a possible strategy to make it easier for legislators to vote for the bill. She stated that she always thought it was a good strategy, but one that she attributes to her personal stance. “But remember,” she reminded me, “that’s because I care about the benefits, not the title. And a lot of people care about the title.” Though she emphasized she would never support a constitution-amending DOMA, she asserted that “a statutory DOMA attached to a comprehensive full-benefit domestic partnership gets people their rights right away and it doesn’t, in my mind, impair a lawsuit for full marriage equality.” For her, as for other EQNM leaders, the fact that the LGBT community was presented with the issue of marriage, whether or not it was welcomed; the backlash of the right; and the sense of urgency to provide some rights and peace of mind for same-sex couples outlined a very clear trajectory: organize around the domestic partnership bill and implement different ways to bring it to fruition.

For the ACLU, however, attaching a DOMA created problems, and Linda Siegle and Catherine Strong began butting heads as a result. Catherine Strong is the policy
director for the ACLU-NM northern regional office located in Santa Fe, New Mexico, as well as the lobbyist for the organization. She and her staff review bills during each New Mexico legislative session to determine whether they advance or hinder civil liberties. Once that determination is made, Strong’s job is to lobby the legislature in favor of bills that support civil liberties and against those that obstruct them. She has a high-pitched Southern twang, the charm to accompany it, and a strong personality, which instantly separate her from the crowd and command attention. She is sarcastic, funny, very direct, and resolute in her opinions. Thus, Strong was provoked when she discovered the plan to attach a DOMA to the domestic partnership legislation. Together with the ACLU-NM director, Strong met with Linda and the EQNM interim director at the time, telling them that the ACLU would be taking an offensive position to their strategy. She recounted,

Okay, and we told her flat out, the ACLU did, we would not support a combo bill. We were not supporting DOMA under ANY circumstance, for any reason, and in fact, I told her what’s going to happen is that DOMA’s gonna pass and your DP’s [domestic partnership bill’s] gonna be left behind, and then I’m gonna have to kill your DOMA over there in the House for you because you have promised Al Park [a Democratic House representative], who’s running for AG [attorney general], that he is gonna be able to support a DOMA and DP all at the same time, and won’t that just be the most beautiful political marriage that you’ve ever seen. Well, here comes DOMA, [pause] Al Park, what’s he gonna do. . . . He’s gonna run for DOMA.

True to her word, Strong had the ACLU lawyers contact donors on State Representative Park’s list, asking them to tell the representative not to support DOMA. The ACLU lawyers were successful in convincing Park to vote against it in his committee, and afterward EQNM decided to completely take the strategy off the table.
The focus then remained on finding ways to pass domestic partnership and impede the passage of any kind of DOMA.

Courts versus Legislature

Among the initial strategies considered was a lawsuit, and LGBT activists from EQNM, Lambda Legal, and the National Center for Lesbian Rights hosted a community meeting at the University of New Mexico School of Law. Ilana Acker was one of the lawyers who took the lead on this strategy. Acker had been involved in passing the antidiscrimination and hate crimes legislation (Human Rights Act). In our interview Ilana explained that in 2004 she was also the local legal counsel for the National Center for Lesbian Rights, and thus, she addressed the couples and LGBT community as an NCLR representative.

Together with a Lambda Legal lawyer, she presented the different ways to approach the existing same-sex marriages in a legal context. In this forum, Ilana argued that there were three options: (1) sue the state of New Mexico for a declaratory judgment, meaning force the court to take a stand on same-sex marriage and rely on the New Mexico Constitution’s nondiscriminatory clause; (2) file a recognition lawsuit and press for marriages performed in other states or countries to be recognized in New Mexico;76 or (3) file an affirmative lawsuit that would ask for the sixty-four licenses to be recognized as valid and open marriage to everyone in the state regardless of gender and sexuality. In

76 On January 4, 2011, New Mexico attorney general Gary King issued an opinion in response to a formal inquiry by State Representative Al Park, who asked, “Are same-sex marriages performed in other jurisdictions valid in New Mexico?” The attorney general stated, “A comprehensive legal analysis by my office concludes that valid same-sex marriages in other states would likely be valid in New Mexico.” However, the attorney general’s opinion does not have the force of the law, and it remains to be seen whether New Mexico courts or the state legislature would rule on this issue. Freedom to Marry, January 5, 2011, accessed June 8, 2012; Democracyfornewmexico.com, accessed June 8, 2012.
order to take on any of these options, Ilana announced that they were looking for “intervening plaintiffs,” couples on behalf of whom the case would be filed. They eliminated certain groups of people from becoming plaintiffs, namely other attorneys because as one of the attorneys claimed, “Lawyers do not look so good in the media,” and the general public tends to not like them. Lambda Legal’s lawyer also added that general public feeling is important, even though it is not necessarily fair. Due to the importance of general public sentiment, they also eliminated couples with child custody issues and those with felonies such as domestic violence.

“We are looking for diversity,” the lawyers continued, which they defined as couples in long-term relationships, mixed-race couples, couples of different class status, male couples; couples who had not been together for a long time but who wanted to get married, a couple or two from Sandoval County (“to give that hometown feeling”), and couples who would potentially be very affected by marriage. Though there was discontent from the crowd about couple selection and bickering over the type of suit to file, the attorneys plowed on. The second lawyer introduced the pros and cons of filing a lawsuit at the time. He emphasized the lack of time to actually prepare for the lawsuit and to implement an educational strategy. The lawyers also argued that they would have to consider whether LGBT political allies might view a lawsuit as a betrayal. Within the year (2006), all members of the New Mexico legislature were up for re-election, not to mention that George Bush and other presidential candidates would be relying on New Mexico as a swing vote in the upcoming election. A lawsuit, the attorneys feared, would undoubtedly bring right-wing voters to the polls. Therefore, Acker and Chase suggested waiting several months and even potentially waiting for the right-wing Alliance Defense
Fund—which had already threatened to take some kind of action—to bring the matter to the courts, at which point the LGBT community would take a defensive position, which Acker and Chase maintained would look good in the public eye. No pros were presented in the attorneys’ arguments for proceeding with a lawsuit. Instead, the cons of a potential lawsuit became fodder for introducing and advocating for a legislative agenda. In the meantime, Acker asked the Sandoval 64 couples present to keep a journal about how marriage had changed their lives so they could present their life experiences to the media, in the courtroom, and at the legislature.

The introduction of a lawsuit was shelved as other national organizations, particularly Freedom to Marry headed by Evan Wolfson, stepped in to provide strategic consultation and funding. Nonetheless, Ilana Acker did defend the first same-sex couple married at Sandoval County against efforts to bring them into the lawsuit that was launched against the Sandoval County clerk. This lawsuit presented LGBT activists the opportunity to send the court a broader message. In our interview Ilana explained, “What we said to the judge was these married couples believe they have valid marriages, it is our position they have valid marriages and if at some point, this lawsuit about the county clerk . . . ever addresses whether or not those marriages are valid or if a lawsuit ever addresses whether or not New Mexico should or should not marry same-sex couples, we will intervene, we’ll be prepared to intervene, you know who we are.”

At the time the lawsuit against the county clerk only addressed, Ilana maintained, “whether this one specific clerk should have acted or should have done what she did in terms of the clerical issuing of these licenses.” The validity of licenses was not in question, and this was clarified by the attorney general, who went on record stating that
the lawsuit was not addressing the marriages one way or another. After Victoria Dunlap’s
term ended and the new county clerk took office, the lawsuit was dismissed with the
understanding that marriage licenses were not to be issued to same-sex couples.
Therefore, since the validity of the existing sixty-four licenses was never addressed,
Acker and EQNM leadership have advised the couples to act as if they are married. She
articulated, “And so it’s been our position all along that we have sixty-four valid
marriages, all of those couples have been very specifically advised to treat their marriages
as valid and to seek legal assistance if they ever feel that they’ve been discriminated
against where their marriages had not been granted recognition as they would like them
to be granted.”

Messaging, Establishing Leadership, and Mobilizing the Community
In late 2004 the activists were in the process of developing a unified message that they
would use as a guide to implement strategies and which was encapsulated in the
leadership’s attitude about rights: defeat DOMA at all cost and legislate some kind of
protections for same-sex couples and families. Therefore, they created specific kinds of
messaging to use for phone banking and canvasing. To gain support from the LGBT
community for their strategy, activists often talked about New Mexico’s progressive
LGBT laws: that it was the fourteenth state in the union to pass antidiscrimination law for
queers and the third in the union to add gender identity to antidiscrimination law. During
2004 and 2005, the Human Rights Act, through which these antidiscrimination laws were
passed, was utilized to fuel people’s sense of activism. One flier advertising January 2005
workshops on learning the legislative process, how to testify, and how to volunteer for canvasing and phone banking read,

DON’T AGONIZE, ORGANIZE! COMMUNITY ACTION SUMMIT
Come meet other GLBT and Allied activists, learn valuable skills, and become a part of a movement for social change. With hard work and commitment, our community achieved passage of the Human Rights Act. We need to come together again to ensure our community is supported and protected. Our goal is to defeat a constitutional amendment defining marriage and to prevent it from going on the general election ballot in 2006. Together we can do this, Juntos, sí podemos, Join us!

Activists discussed the districts advocates felt should be targeted and legislators to be swayed and endorsed. The poll conducted in 2005 established which districts were friendly or swayable and determined the kinds of messages that would be effective in different districts. In our interview, Ilana explained that EQNM hired an independent polling company “to poll on issues of marriage and a whole spectrum of family recognition but really specifically marriage and the kinds of messages that would work in the different kinds of demographics we have in the state of New Mexico. And then the questions were formed, the questions that were used on door knocking were formed a lot from that poll and from the input of those national advisers who door knocked all around the country.”

These tactics were part of an education campaign, the building of voter support, and preparation for evidence to be produced for the legislators. Chris Salas, who in 2007 took over the phone-banking and canvasing endeavors when he joined EQNM as a legislative intern, confirmed that these polls indicated which districts, and therefore which legislators, could be swayed, making the legislative campaign the primary focus.
Salas was nineteen when he became an intern, was quickly charged with coordinating EQNM volunteers to attend hearings, and began working with the lobbyists to move votes in the House during the 2007 legislative session. During the 2007 session he was hired full time as an organizer, and in 2008 he became the field director, managing volunteers statewide and carrying out the field program: identifying new supporters of domestic partnership using phone banks and canvases. In 2009 Chris left his position to work on a Democratic political campaign but remained involved as a volunteer providing help during the legislative session.

As we discussed the messaging strategy Salas indicated that it was developed from national studies that found people preferred the terminology “basic legal rights” as opposed to “marriage benefits.” When talking to voters, canvassers, and phone bankers, Salas explained that they would not directly ask if voters supported domestic partnership benefits, and they would never mention the word marriage. Rather, they would ask voters if they supported “basic legal rights for gay and lesbian couples,” using three rights as examples: inheritance, adoption, and medical visitation. If the response was in support, canvassers and phone bankers would then inform the voter about upcoming domestic partnership legislation their legislators would vote on and ask if they would be willing to solicit their legislator to support the bill.

This type of phone banking and canvassing was implemented throughout the years, and Salas maintained that it was successful in certain legislative districts but not in others. “It worked in Taos, and in Roswell it didn’t work,” he stated and explained that Taos had a more progressive voter base. The northern part of the state appeared to be more in favor of domestic partnership than the south. Las Cruces, the largest southern
New Mexico city, was also somewhat difficult. In the metropolitan area there was more support, whereas outside the city limits and in rural towns and villages like Hatch, Mesilla, and Doña Ana, support dwindled quickly. Rural towns and colonias, that is, makeshift towns lacking basic utilities and primarily comprised of Spanish-speaking Mexican immigrants and migrants, are heavily Catholic and conservative, he reasoned. Yet despite these overarching differences between rural and metropolitan areas, Salas sustained that the organization had done well with the messaging, whereas the opposition had failed. “I think that’s where the organization/coalition did well; was messaging,” he asserted. “We had stayed on message consistently. I think the media sort of carried the message for the organization. . . . But they also did the same for the opposition. And but I think the opposition’s messaging is wrong and I don’t think they . . . used the right messaging. I won’t tell them what to use but I don’t think that they’re on message. They come across as crazy where we come across as principled and respectable, one to one.”

I asked him what made him certain the messaging was working. Salas believed the messaging impacted people outside of the LGBT community, prompting them to get involved or view gays and lesbians more positively. He explained, “Just what I see from people like my parents, who of course they have an emotional attachment to the issue but having all this, it just seemed our messaging, that’s what’s gotten them involved. And then you see the church’s response, talking about gay and lesbians, how this leads to incest and [pedophilia], which is outlandish. And I think that the opposition’s message doesn’t see that.”

Another key strategy had been town hall meetings. While these were open to the general public, the attendees were usually people who already supported LGBT rights. At
these meetings couples would talk about their lives together, and some brought their teenage children who disclosed to the audience their experiences of having two moms or two dads. The town halls were concentrated in Albuquerque and Santa Fe, though a few were also held in Las Cruces, Silver City, Española, and Gallup. These meetings were important on many fronts. They were a form of community building, as couples, other LGBT individuals, friends, and supporters created a sense of togetherness through the sharing of stories. At the first meeting with the lawyers on March 16, 2004, the couples present decided to create a support group for the Sandoval 64 to share their stories and experiences as married. A few others also began planning a community wedding celebration that eventually was held in June of 2004 in the University of New Mexico’s Student Union Building ballroom.

The town halls also served as public spaces for same-sex couples to talk about and validate their relationships and their experiences as gay, lesbian, and transgender couples. In the process of selecting who would speak at these meetings, EQNM and Lambda Legal looked for a wide array of experiences. At the time there was a stronger representation of Hispanic- and Chicano-identified individuals and couples who brought up the issue of race. Though they did not critique activists for the lack of racial representation, they did make reference to feeling invisible at public events. One woman, Patricia, recollected her feeling of relief during a past LGBT legislative event where she noticed Nidia and Mae. She told the crowd, “It was good to see people of color out there.” Another woman, Camille, who identified as a fifth-generation New Mexican Hispanic, explained her feeling of invisibility by drawing on both her lesbian and Hispanic identities. Referencing legislators, she compared the way people of color are
viewed with gay and lesbian experiences. She asserted, “Legislators don’t believe we exist” and read off the number of legal rights denied to queer couples in New Mexico. She also mentioned her partner, a teacher in the Santa Fe public school system, who did not like speaking publically for fear her colleagues would find out she is a lesbian and treat her differently.

At a different town hall meeting held in Albuquerque, a male couple talked about having adopted three siblings who came from drug-addicted parents. Speaking highly of the judge who heard their case, they affirmed, “The judge pronounced us a family in court.” Therefore, one of the partners stated, “[I] don’t understand how we can be entrusted with the most precious resource of our society but be denied the full package to take care of them. What if something happened to us? What would happen to the kids?” Others also spoke about love at first sight, daily boring (normal) routines, and feeling more comfortable identifying as queer in New Mexico than the states from which they came. At the end of the testimonies, the activists addressed the audience about the legislative strategy and what they needed from supporters. The message was usually for individuals to contact their legislators and attend hearings and rallies at the state capital (also called the Round House) when needed to fight a DOMA and promote the Domestic Partnership Act.

In preparation for the 2005 legislative session, the workshops organized by EQNM and Lambda Legal aimed at readying couples, the wider LGBT community, and supporters for the legislative session, which would start in January 2006. Foreseeing the kinds of questions LGBT community members would want answered and deciding what
information was important to disseminate, the handouts addressed what to anticipate from legislators and the opposition and what supporters could do.

Handouts framed the questions that the organizers believed would be important to establishing a unified message. The first question, “What is civil marriage and why do same-sex couples want it?” presented the language that was used at the legislature, in the media, and eventually in everyday conversations activists and couples engaged in. After explaining the legalities of civil marriage as based both on state and federal law and separate from religion, the drafters of the handout made a connection between same-sex and opposite-sex families and happiness:

Many same sex couples want to marry for the same reason heterosexual couples want to marry—they love each other and are committed to each other. Many have been together 10, 20, 30 years or more. They want to honor their relationship in the greatest way our society has to offer—by making a public commitment to stand together in good times and in bad through all the joys and challenges family life brings. Others want to marry because they are parents and know that marriage offers children protections that unmarried people do not have.

Thereafter, an abbreviated list of benefits denied to unmarried couples was handed out to highlight the selling points, which one of EQNM’s former board members stated were to show the public some of the rights and privileges associated with marriage that the gay and lesbian community would get: “We always cite the most popular ones that people know about, which is the ability to visit one’s partner in the hospital, rights of inheritance without having to go through the costs of attorney fees, and other important ones and I guess that’s just the way that we’ve always presented it; delineating maybe three, or four, or five important rights of marriage.”
Information on the difference between civil marriage and domestic partnership, and the rights of religions to not perform same-sex marriages, also prepared the LGBT community to respond to forecasted questions and attacks from the opposition. The final question posed in the handout, “What do you want legislators to do?” notified attendees that the type of legislation they should be interested in supporting was domestic partnership, while also backing the opposition to DOMA. Overall, these workshops aimed to educate the LGBT community and strived to set up a chain of command, which was at times tenuous and controversial. This chain of command was also evident at the hearings as members of the leadership decided what having a diverse set of testimonies meant and selected individuals to testify in the effort to control emotionally charged queer spectators and in order to show legislators that the LGBT community was organized and willing to play the game in order to gain acceptance.

Choosing the right people to represent diversity was also carefully thought out. Linda Siegle and Catherine Strong were in charge of suggesting the kinds of testimonies necessary, and EQNM and ACLU-NM helped find the individuals and couples. The selection process considered not only diversity but the portrayal of stability, normalcy, and the opposite of the stereotypical image being forwarded by the opposition about gays and lesbians. A former board member summarized the process:

Well I believe they chose first of all they wanted to choose stable couples that have been together a long time. Again you wanted . . . I think the strategy was to counteract some of the stereotypical objections of our opponents that we don’t need marriage because we are never together with a partner that long and you know all the other things that they say. So we picked I believe the lobbyist picked people to testify and then counteract a lot of those stereotypes: successful people, articulate people, partners that have been together a long time, some heterosexual partners, as well as some gay and lesbian partners and some gay and lesbian
partners that have families that have the other criteria. Obviously they put the best face on the issue for gays and lesbians to people that might not know us that well.

At the first hearing of the Domestic Partnership Act and the statutory DOMA held on February 22, 2005, the acting director of EQNM went to the front of the room and announced: “For the people from our side, the committee asked that only three people testify per bill. We have selected the people to testify. If you are not one of them please do not raise your hand during the session” (original emphasis). She then proceeded to call out six names. Certain demographics were carefully selected and were based on the same criteria that Acker and Chase outlined for the potential lawsuit. One selectee filled the desired role of the white, middle-class, and handsome gay man who spoke on behalf of his partner and their children. Another selectee represented the mother of a gay son who was also Anglo. And the third selectee was a white woman who worked for Intel in Albuquerque and who argued that passing same-sex partnership legislation was good for business, as it would draw to New Mexico businesses that wish to establish themselves in progressive states that offer as many benefits for their employees as possible.

For the bill on DOMA, a male counterpart to the mother was also selected and served a dual purpose. He was not only the father of a gay son but also identified as Hispanic and Mexican and illustrated for the audience his Catholic and New Mexico lineage. The second person was a queer-identified Navajo young woman who was also working to stop the passage of a marriage resolution in the Navajo tribal government, which similarly sought to define marriage as a heterosexual union. The final speaker was a rabbi who responded to the opposition’s testimonies about religion, particularly to a pastor from Española who claimed that domestic partnership diminished the rights of
traditional marriage. Thus, EQNM attempted to prepare for the gamut of issues they anticipated from opposing legislators and conservative religious constituents.

With funding from the national organizations, in April 2005 EQNM hired a new executive director, Alexis Blizman, from Detroit. Up until the hire of the executive director, I had been volunteering with Lambda Legal, which shared office space and organized town hall meetings with EQNM. At the time of Blizman’s hire, Lambda Legal, whose primary focus as an organization is supporting pro-LGBT legal cases, retreated, since the legislative direction had been established. Thereafter, I gave my volunteer time to EQNM. I helped canvas, phone bank, clean up their donor database, and set up events, and I eventually helped with fund-raising.

In 2006 EQNM also started an internship program to involve more youth in domestic partner organizing and increase their support base. This was the point at which Chris Salas was hired on as a volunteer organizer, and within the year he became the field director. Canvases, phone banks, and town hall meetings were a priority. Some traveling was involved to places such as Silver City and Las Cruces in southern New Mexico, though EQNM concentrated their work in Albuquerque and Santa Fe. By that point, domestic partnership was established as the route to gain LGBT rights, and those who disagreed with EQNM’s strategies seemed to have faded, at least for a time. A unified voice appeared to have risen from New Mexico’s LGBT community, carrying the message that domestic partnership was the next step to gaining civil rights for gays and lesbians and the way to protect same-sex families. Embedded within that message was an image of family that mirrored the heterosexual couple and family: a partnership of two people, the majority of which had children.
A flyer that circulated during the 2006 legislature illustrated twenty-five families who exemplified this image. Its caption read: “These 25 families represent the thousands of New Mexican families who currently live without basic protections.” The back of the flyer urged legislators to “Vote Yes on HB603!” (the bill for domestic partnership rights) and highlighted the inequalities unmarried couples faced as well as three ways domestic partnership rights would ameliorate their struggles. One of the three hardships highlighted concerned health and insurance and the issues of accessing health insurance through a partner’s employer, taking family medical leave, and receiving retirement benefits through a partner. A second hardship concerned death and inheritance and the issues of the authority around the disposition of a partner’s remains and inheritance from a partner without a will. The final hardship emphasized was family relationships, which incorporated several different responsibilities related to supporting each other and any children born or adopted during the domestic partnership, exercising community property rights, and allowing the courts to resolve custody and visitation disputes.
Adopting the messaging from the Marriage Project at Rutgers, another flyer was developed urging legislators to vote no on all forms of DOMA legislation. This flyer highlighted how DOMA would not protect families or marriage, gave statistics on rising divorce rates since 1960, and argued that LGBT people will continue to form families and have children who deserve protections and that marriage is an institution that has changed historically, pointing to anti-miscegenation sentiments. In the last instance, although the laws supporting such discrimination have been banned, many Americans continue to believe that inter-racial marriage is wrong. This issue was linked to another message posted on the flyer, stating that minority rights should not be decided by a popular vote. A popular vote, the drafters of the flyers argued, “would enshrine discrimination in New Mexico’s Constitution and Statutes” (See Appendix A).
While the domestic partnership bill was not passed in 2006, the DOMAs introduced were defeated, allowing EQNM to increase mobilization for the 2007 legislative session. By 2006 had EQNM moved office locations and was housed within the same building as the New Mexico chapter of the ACLU. The organizations formed a close partnership, making same-sex marriage a central issue around which they spent a good portion of their time lobbying and messaging. EQNM staff and volunteers also collected legislative cards from supporters to send to legislators, continued with town hall meetings, and traveled to some of New Mexico’s targeted regions. The main message was that the 2007 session would be the year the domestic partnership bill would pass. In a town hall meeting held on October 10, 2006, the new director of EQNM and Ilana Acker worked on providing the fifteen participants with information about the planned strategy for the legislature and for informing couples on marriage and child rights through their programs “So you wanna get married” and “So you wanna have a baby.” Giving an overview of the national political landscape around marriage and DOMA, Acker proclaimed to the audience: “The nation has us in their bull’s-eye.” She went into detail about the states in which constitutional and statutory DOMAS had been passed and brought the issue close to home by explaining that Colorado was on the verge of passing a statutory DOMA and domestic partner legislation. Ilana proudly reminded the crowd that New Mexico had no law, litigation, or legislation pending for a DOMA.

Participants, eager to know when their marriages would be fought for, asked about the possibility of a court strategy. Anticipating this question, Ilana maintained that New Mexico lawyers had to look at how marriage cases had gone in other states and
enumerated where anti-marriage laws had been upheld, places such as New York, Washington, and Georgia. She also discussed how California had gone through a lawsuit to invalidate over two thousand same-sex marriages that was overturned by the court of appeals but which was brought to the state’s supreme court, the decision on which was pending. She stated that California’s Supreme Court decision was important to New Mexico and in many ways determined the legal and legislative direction. At the time New Jersey was seen as a potential place for New Mexico couples to go and marry, as the state was awaiting the court’s decision on turning their civil union law into marriage. These marriages could then be used as a way to challenge New Mexico courts to recognize and allow the transfer of marriage rights from other states. Thus, Ilana argued for waiting to see what climate the other states would create that could affect New Mexico.

In the meantime, they advocated for working on passing legislation and emphasized the need to stop DOMA and introduce a domestic partner bill. “We do not want to define marriage,” they maintained, “we do not want to introduce a marriage rights bill.” Once again, the Domestic Partnership Act was presented as the best option through which to garner legislators’ support and provide couples and families with state benefits and protections. The lawyers present asked the audience to contact their legislators and urge them to vote positively on domestic partner rights and to participate in phone banking and canvassing to assess and build voter support. Acker also mentioned that EQNM had sent out questionnaires containing thirty-nine questions about domestic partnership and hates crimes to evaluate legislative candidates’ track records. From those

77 On June 15, 2011, the New York State Assembly passed the Marriage Equality Act, a bill to legalize same-sex marriage in New York.
surveys they had created a legislator endorsement list to help influence domestic partnership votes.

The concern from the audience was also whether or not the governor, Bill Richardson, would sign a super DOMA (constitutional DOMA) if it came across his desk. The audience had mixed feelings about the governor’s support. When the question was posed by a participant, another woman in the audience flippantly remarked, “It depends on how much money we give him,” referring to his upcoming presidential campaign. A young man who had been heavily involved in the organization’s daily activities defensively retorted that the governor proclaimed he would not sign a DOMA without legislation that provided some kind of protection. He justified his trust in the governor by opining that the governor was concerned with his national reputation among the gay populace, and therefore, it was in his best interest to support pro-gay legislation. Stepping in to diffuse a potential conflict between these two individuals who had butted heads on more than one occasion, Acker calmly interjected that the governor would do everything in his power not to allow a DOMA to reach his desk. Confident in his knowledge of the legislature, however, the young man brazenly lectured the audience on how it functioned and made declarations about what was legally acceptable and not acceptable to do. Though his approach was perceived as condescending by many audience members, his opinions supported what the EQNM executive director and Acker had already explained.

EQNM, ACLU-NM, and national organizations were all putting faith in the governor to serve New Mexico’s LGBT community. The community’s support of and trust in Bill Richardson translated into the potential success of his presidential campaign.
In an interview with *Bay Windows*, a news publication for lesbian, gay, bisexual, and transgender communities in New England, Alexis Blizman, the executive director of EQNM, was quoted as saying, “He’s [meaning Richardson] actually been wonderful. He’s kept every promise he’s ever made to the community.” Informing the readers that the governor had signed into law an LGBT-inclusive hate crimes and nondiscrimination bill, making New Mexico one of the few states to include gay, lesbian, and transgender people in the state’s civil rights laws, the writer further quoted Blizman praising the governor for “actively help[ing] work with the legislators to make sure it [the hate crimes law] passed.”

Surprised by Blizman’s statements about the governor, the writer remarked, “Anyone remember the last time you heard an LGBT political activist say that about a candidate for the White House? It certainly can’t be said about Bill Clinton, whose 1992 campaign pledge to let gays serve openly in the military resulted in the disastrous ‘Don’t Ask, Don’t Tell’ policy. Ditto for John Kerry, whose reputation for being a longstanding champion of gay civil rights went bust when he came out for anti-gay marriage amendments in Massachusetts and Missouri in the heat of the 2004 campaign.”

Therefore, the governor garnered national and local LGBT aid, and much faith was put in his promise to support “Equality New Mexico’s push to pass a comprehensive domestic partnership bill that would provide two ‘non-familial’ adults with all of the state-level rights afforded to married couples.” By the start of the 2007 legislative session, LGBT couples and supporters were convinced that the governor would back them, in part because he was also obligated to stand behind his promise since he had

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received generous donations from local and national LGBT organizations and individual donors for his presidential campaign.

The support and activism that were amassed in 2006 resulted in a more organized and sizeable LGBT presence at the legislature. Indeed, 2007 became the year in which domestic partnership legislation almost passed. In 2007 LGBT community members and supporters packed the hearing rooms and the legislative floors. However, the bill’s eventual failure devastated the LGBT community’s morale. At the same time, however, EQNM worked at turning this loss into a strategy to unite LGBT families, supporters, and the organizations against common enemies within the legislature. A package sent to EQNM’s local donors included two pages of accomplishments from 2007 and two pages outlining the plan for 2008 and 2009. The accomplishments page emphasized the strengthening of support from legislators and the gaining of new allies in the legislature; the mobilization of over eighty-five LGBT New Mexicans on lobby day; the swaying of the Republican senator from Las Cruces, Mary Kay Papen, who voted for the first time against DOMA; and the fact that the domestic partner bill passed the House three times and failed in the Senate by only one vote. It also highlighted the three thousand signed cards to the legislature that EQNM staff and volunteers obtained at the Albuquerque, Santa Fe, and southern New Mexico Pride events and an increase in community and public support that was evident from the doubling of guests at their second annual Equality Ball.

In 2007 EQNM and ACLU-NM also used the results of a research poll to mobilize LGBT supporters and create talking points to be used with legislators. The

79 I worked on creating this package.
organizations hired Lake Research Partners, an independent polling agency based in Washington, D.C., and Berkeley, California, to survey New Mexican registered voters on their likelihood of voting for domestic partnership in the 2008 general election. The survey conducted among six hundred registered voters and administered by phone November 11–14, 2007, suggested there was voter support for domestic partnership for gays and lesbians that would also extend to unmarried heterosexual couples (see appendix B for survey results). “Importantly,” the report reads, “voter support for domestic partnerships is rooted in the widespread agreement that gay and lesbian couples deserve the same legal protections as other people,” and it estimated that 70 percent of respondents, which included both Hispanic (16 percent) and Anglo (68 percent) voters, agreed with this statement and supported the legal recognition of gay and lesbian couples. In relation to political identification, the report stated that half of Republicans (51 percent), two-thirds of Democrats (66 percent), and seven in ten independents (70 percent) supported some recognition. Though the survey did not stipulate what regions and districts were polled, the results provided some hope for EQNM’s future endeavors.

The plan for 2008 was a continuation of what was started in 2007. This plan was “the Equality Tour” and entailed EQNM staff traveling to targeted districts. The Equality Tour was also an important way of maintaining and gaining new donor support. The package described the purpose of the Equality Tour:

During the 2007 legislative session, we identified 12 senators who, either voted against us, were on the fence about domestic partnership and family rights, or need the support of their constituents to be strengthened in their districts to continue to serve as our allies. To strengthen our success for the Domestic

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A sample packet is included in the appendix C.
Partnership bill in the 2008 legislative session we will help supporting senators maintain their constituent base and work to sway at least one of the senators who voted against the Domestic Partnership bill in 2007.

The tasks to be taken on were voter identification through canvassing and phone banking with the intent of finding individuals supportive of LGBT family recognition and willing to call and lobby their legislators, organization of LGBT communities and allies through town hall and interfaith meetings with the assistance of the ACLU and RAIN (Religious Alliance for Inclusion and Non-discrimination), and participation in local functions such as fiestas, fairs, and Pride events to garner general support and visibility. The tour also incorporated legislative and media trainings, a media campaign, and two legal workshops—“So You Want to Get Married” and “So You Want to Have a Baby”—that informed LGBT families about current New Mexico law and ways to use the law to protect themselves and their loved ones.

In preparation for the 2008 legislative session, the sponsor of the bill, Representative Mimi Stewart, pre-filed the Domestic Partner and Responsibilities Act. This bill became popularly known as HB9 (House Bill 9). Statistics from the poll conducted in 2007 were incorporated into talking points posted on the EQNM website under the tab Take Action: Tell House Consumer & Public Affairs Committee to vote for HB9. The statistics deemed most important concerned the support domestic partnership had from voters. The heading Protections for Gay and Lesbian Families Are Supported by a Majority of New Mexicans provided this one point for people to use when talking to their representatives: “A statewide poll conducted in November 2007 showed that voters across the political spectrum support legal recognition for gay and lesbian couples.
Altogether, 62% of voters support some form of legal recognition for gay and lesbian couples.”

The talking points also reflected a response to the opponents who in 2007 claimed words such as intimate and committed as descriptors of marriage and therefore as emotions and life stages that could only be experienced and understood by heterosexual couples. In order to steer the conversation away from marriage and away from the conservative image of gays and lesbians as homosexual aggressors seeking to destroy society, a stronger emphasis was placed on protecting families, as opposed to couples who wanted to enter into a recognized union. In two electronic petitions intended for legislators, the language used concentrated on how to protect families. While some of the talking points referenced rights conferred on individuals who had entered into a union—such as hospital visitation, health insurance benefits, and medical leave—they were geared toward humanizing the image of same-sex families. Family remained asexual, as unmarried heterosexuals and queers were conflated in statements. Part of one petition read, “All New Mexican Families should be protected. Right now, unmarried couples have no legal recognition for their relationships under New Mexico law. This creates many hardships for gay, lesbian, and heterosexual unmarried couples and families.”

Another petition focused more specifically on gay and lesbian families. This one read, “For too long gay and lesbian families in New Mexico have been denied the basic protections families need during times of crisis and to enjoy the peace of mind other families take for granted. . . . This bill protects vulnerable families in New Mexico. I support this bill because it is consistent with New Mexico’s growing commitment to meeting the needs of its citizenry and understanding the State’s diversity.”
On their website, EQNM posted the famous Rosie the Riveter portrait with Representative Mimi Stewart’s face superimposed on Rosie’s. Representative Stewart, who is extremely outspoken and passionate, personalized her commitments to the legislative causes she took on. She was thus depicted as a tried and true fighter. Yet her fight was not only for the downtrodden, in this case gays and lesbians, but for the nation, since after all, during World War II Rosie the Riveter represented the government’s call to American women to take on masculine roles by joining the male-dominated physical labor force. The iconic Rosie the Riveter, transformed into Mimi the Riveter, was now representing the gay and lesbian contribution to society and sought to inspire civic participation. EQNM used this image, and the power Representative Mimi Stewart gave it, to call on LGBT and allied supporters to keep up the fight by attending hearings. Wanting to continue the momentum gained in 2007 and fearing that the failure of the bill, so disappointing to the LGBT community, would cripple the movement, the EQNM leadership hoped that Mimi the Riveter would move people to action. “We will need as many people as possible at every hearing,” the message read. “The opposition this year is already far more organized than last session . . . your participation [is] more important than ever. We need to fill every hearing and we need to keep identifying supporters and contacting our legislators. The momentum is with us, but we need to remain vigilant.” Once again, they announced plans for phone banking and canvasing to garner support for the bill and asked people to write letters to the editor and talk to friends and neighbors about the importance of the domestic partnership law.

EQNM additionally called on same-sex couples deemed eligible to take the New Mexico State Domestic Partnership Survey, which advocates drafted for the purpose of
creating a more easily accessible pool of couples from which to select, to recount their stories to the media and legislators. Eligibility meant that a couple fell within the definition of domestic partners provided by the bill, meaning they were committed and not related by blood or were couples who had entered into a domestic partnership, civil union, or marriage in another state or country. Comprised of twenty-five questions, the survey isolated couples the activists maintained would provide the spectrum of diversity they were seeking: couples of different ethnicities, incomes and education levels, employment and retirement statuses, and religious affiliations; couples who had children; couples who had encountered problems or discrimination as a result of their relationship; and couples who had sought attorneys to draw up documents for adoption, wills, health-care proxies, or other forms of protections.

Involvement of ACLU-NM in the Domestic Partnership Campaign

By 2008 ACLU-NM was heavily invested in the domestic partnership legislation and education campaign. As a matter of fact, Catherine Strong called domestic partnership ACLU-NM’s number one legislative agenda, while the organization’s 2008–2009 Annual Report called domestic partnership one of their highest priorities.81

Catherine Strong had been working with EQNM’s lobbyist, Linda Siegle, to assure votes, though that relationship was fraught with difficulties and differences of opinion on how to strategize and approach legislators. Despite differences, the two organizations found common ground and also gained support from other organizations in New Mexico such as the Gray Panthers, New Mexico Voices for Children, Disability

Coalition, Pro Family Pediatricians, and the Arc of New Mexico. Strong explained her role in the domestic partnership campaign as that of forming a coalition of organizations to support domestic partnership legislation. She explained that in 2008 she engaged in outreach to senior organizations, senior centers, and advocacy groups for people with disabilities, presenting on the benefits of domestic partnership to these different communities and at the legislature. ACLU-NM featured their strategy, which included seniors and people with disabilities, in the domestic partnership campaign in their 2008–2009 Annual Report, which outlined the efforts they had made during the 2008 legislative session.

In advertising and promoting the domestic partnership legislation, EQNM and the ACLU began to refer to themselves as the New Mexico Domestic Partnership Coalition. Together they strategized and conducted trainings, though they still maintained separate identities. This was in part evident in the educational material disseminated by both organizations, and in 2008 it seemed as though the ACLU had taken charge of educational materials that instructed people how to write newsletter articles such as op-eds and letters to the editor, communicate personal stories, and e-mail and call elected officials. Verbiage about fairness and changing hearts and minds was prominent in the

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82 The ARC of New Mexico is an advocacy organization for people with intellectual and developmental disabilities.

83 The report read: “One of our highest priorities this year was to pass legislation establishing the same rights for gay and lesbian couples that married couples enjoy. We traveled the state recruiting seniors and people with disabilities to testify on the benefits that they too would derive, even if straight, from a domestic partnership law. When the bill bogged down in the Senate, the ACLU of NM commissioned polls in key districts that showed certain legislators opposed to the bill were out of synch with their constituents. The resulting media coverage generated the necessary pressure to free the bill from committee, but domestic partnership legislation died on the Senate floor. We are proud that, working with allies, we carried the legislation farther than any previous year and look forward to possible success in the upcoming special session.” ACLU 2008–2009 Annual Report, http://aclu-nm.org/wp-content/uploads/2010/02/ACLU-NM-2008-2009-Annual-Report.pdf, accessed June 2, 2012.
materials disseminated. ACLU’s flyer opened with the heading “It’s About Fairness” and summarized fairness as follows: “Domestic Partnership legislation will provide basic health security and legal protection to committed couples and their families. The bill protects same-sex couples unable to marry, as well as straight couples—many of whom are senior citizens and people with disabilities—that choose not to marry for financial and other reasons. In a state that has the highest uninsured rates in the country, Domestic Partnership legislation will create access to quality, affordable health care for many New Mexicans.”

The educational flyer ended with the same message—that supporting HB9 (House Bill 9, the Domestic Partnership and Responsibilities Act) meant supporting fairness. The flyer appealed to a sense of morality about LGBT families, seniors, and people with disabilities, whose placement together indicated that each of these groups held a similarly marginal social position.
This angle, I maintain, was explored in order to steer thinking away from sexuality. Having highlighted the protections the bill would provide—related to health care and medical emergencies, employment benefits, parenting, the death of a partner, and housing and estate rights—the flyer recapitulated: “Even if they are emotionally and financially committed to one another, unmarried partners have little more legal security to their relationships than roommates. Denying gay men, lesbians, seniors, and people with disabilities in committed relationship the same legal protections as married couples deprives thousands of families of the most important attributes of their labor—the ability to take care of and provide for their family members.”

Key words that had important in discussions in legislative hearings were also highlighted in this finale. Saying that “unmarried partners have little more legal security
to their relationships than roommates” was in part a farcical response to Republican legislators and conservatives’ dismissive parallel of gay and lesbian couples and families to roommates. It was also a way of extricating gays and lesbians from the idea of a perpetual adolescent lifestyle implied in Republican use of the term *roommate* and adding them to the serious adult category of family.

Using information from the Lesbian Gay Bisexual Transgender Project from the ACLU’s national headquarters, ACLU-NM distributed training packets that included instructions on the three most important arguments used to make the case for domestic partnership policies: arguments for equal treatment, for relationship recognition in crisis, and for relationship acknowledgment generally. The speaker, the instructions stipulated, should not dictate the argument based on what is most important to them. Rather, it should be dictated by the audience and should parallel the policies to be implemented. As an example, the authors gave “Equality Arguments.” These arguments, the instructions stated, would work best with employment benefit plans. Since workplace business policies depend on marriage status to define important categories like eligibility, it becomes unfair to exclude unmarried couples and is “particularly unfair for LGBT relationships, since same-sex couples aren’t allowed to marry.” While domestic partnership can open a loophole to provide benefits to same-sex partners, the drawback, the authors argued, is that domestic partnership “suggests equality with marriage.”

Cognizant of problems that can go along with pro–domestic partnership arguments, the instructions cautioned speakers on the use of acknowledgment and recognition arguments:
Acknowledgement and recognition arguments are occasionally recast, especially in light of AIDS, as arguments that society should give same-sex relationships all the help it can. This version of those arguments makes some sense when it is used with illustrations of the harsh consequences visited on people taking care of partners who are seriously ill because their relationships are undefined. It needs to be handled with care because occasionally it becomes an argument that we should pass domestic partnership laws to encourage exclusive relationships. This of course makes a value judgment about coupling you may not want to make; worse, it almost invites reliance on old stereotypes about commitment being particularly difficult for LGBT people.

An additional aspect of the talking points regarded the benefits of domestic partnership law for seniors. A separate flyer with the headline “Why Domestic Partnership Is Good for Seniors,” authored by the New Mexico Domestic Partnership Coalition, outlined the same benefits for seniors that had been argued for gays and lesbians: emergency medical decision making, hospital visitation rights, and health benefits. The authors further said that “domestic partnership law is likely to be especially helpful to senior citizens who don’t want to remarry but would like legal protections for their relationships.” It goes on to argue that remarrying after the death of a spouse results in termination of pension plan benefits and health insurance coverage. The final bullet point brought home the connection between gays and lesbians and senior citizens: “Documents like wills, powers of attorney, and medical proxies are expensive and require the aid of a lawyer to draft correctly. Even then, there is no guarantee that they will be honored, for instance by hospital staff, in an emergency. We shouldn’t make our senior citizens jump through hoops to have their relationships recognized.”

The ACLU organizers also took it upon themselves to instruct people on how to write newsletter articles and how to present an image of the writers, the coalition, and the communities involved. They proposed this grassroots advocacy as a strategy to “change
hearts and minds.” Op-eds and letters to the editor were meant to appeal to the masses in an intellectual and emotional way to convince them that gays and lesbians, senior citizens, and people with disabilities are a vulnerable but agentive population. In other words, this population was not asking to be seen as helpless, but rather to be viewed as marginal and fighting to be placed among the masses.

In various formats, the ACLU instructed writers to know the publication to which they sent letters; to be clear, persuasive, and short; and to act like an authority on the issue. That meant writers should be familiar with both sides of the argument, and they should be vigilant in doing research to strengthen their arguments. The ACLU also instructed writers to “keep it clean” and not use accusatory language that would weaken the writer’s credibility. Emotions should thus be controlled. Providing a sample editorial written by Andrea Joseph,84 who in 2008 testified before the House and the Senate recounting her experience with her partner’s death, the organizers showed how to address all the points they had outlined. Following the format outlined in the flyers, Andrea’s story was personal (she told the story of her partner dying while they vacationed in Cancún), it made a call to action by urging the Senate to pass domestic partnership, and it appealed to the masses by depicting the length and love of their relationship as well as describing how dignity is denied relationships that are not recognized by the state or federal government. The conclusion of Andrea Joseph’s letter then brought the issue back to fairness, which was linked to recognition: “But domestic partnership is about more than just protections, it’s about treating people who love each other, and who commit

84 Permission obtained from Andrea Joseph to use her real name.
themselves to one another, fairly under the law. In the wake of Dee’s death, I realize there is nothing more important than that.”

In another flyer titled “Domestic Partnership Is Good for Business,” the ACLU resurrected the business argument, stating that when it came to recognizing and protecting same-sex partners, businesses had progressive policies whether they were small or large. Drawing on information compiled by the Human Rights Campaign, the flyer stated that what is good for business is good for New Mexico. One of the points was that “fairness to lesbian and gay employees is fast becoming an important corporate principle.” The flyer added that gays and lesbians are not only productive but important to state and national economic progress as businesses recognize the diversity within their workforce and the need for fair policies and protections. Promoting fairness thus meant fostering diversity and a competitive business environment and contributing to and maintaining economic development. Gays and lesbians were placed within the “creative workforce,” which, according to the author of The Flight of the Creative Class paraphrased in the flyer, “is the key to gaining a competitive edge in the global market.”

Fair policies are, therefore, a signal of diversity and creativity. Fairness would lead to a decrease in turnover of gay and lesbian employees and a more comfortable, stress-free, and productive work environment. Gays and lesbians were not only portrayed as creative and productive employees but also as consumers. The tourist industry was highlighted as gaining $54 billion a year from gay and lesbian travels, while the hospitality industry was assured an increase in revenue from domestic partnership ceremonies.


**Relationships with National Organizations**

The morning the Sandoval County clerk began issuing and recording marriage licenses, the National Center for Lesbian and Gay Rights (NCLR) and Lambda Legal stepped in to provide EQNM with strategic assistance. That same week NCLR’s legal director arrived at the legal forum EQNM and the New Mexico Lesbian and Gay Lawyers Association held to address the sixty-four married couples. At this meeting they discussed the options for newly married couples, the validity of their marriage licenses, whether or not couples should treat their relationships as valid marriages, and what that treatment entailed.

National and local activists also discussed potential next steps toward marriage, directing their attention to the legislature.

Though the couples themselves were more concerned about their recently formed marriages, it quickly became clear that the issue was larger than the individual couples. Whether or not they were intended to be, these couples’ actions were political statements, and overnight, New Mexico stepped into the national limelight. New Mexico became the “darling of national organizations,” Todd stated, being one of the few states west of the Mississippi to successfully pass pro-LGBT legislation. With same-sex marriage at its doorstep, New Mexico was becoming a “beacon of hope” for national organizations who perceived it as a swing state that often voted blue and which could be a model for its conservative sister states. As a result, EQNM began receiving attention from national funders and organizations like Civil Marriage Collaborative, the Gill Foundation, and the ACLU. Chris corroborated Todd’s sentiment. He theorized, “Leading up to the ’08 cycle, we were going to be the only win across the country for marriage equality or for any GLBT issue, New Mexico was the only possible win in the ’08 cycle. So that’s why the
national money came, that’s why Gill Action, HRC, National Gay and Lesbian Task Force, that’s why they all funded New Mexico that year, because we were the only possible win.”

**Freedom to Marry**

In 2004 the national organization Freedom to Marry provided EQNM with a $15,000 grant for staff time to cover work toward marriage equality for two months while the organization awaited a larger grant from the Civil Marriage Collaborative.\(^85\) NCLR provided strategic and technical support, Lambda Legal launched a same-sex family education campaign, and the local ACLU chapter began collaborating with EQNM while also preparing a lawsuit related to postretirement domestic partner health care. The involvement of national funders meant that these organizations to some extent could influence EQNM’s decision-making process. An e-mail between activists and community members outlined a discussion with Freedom to Marry, the message being that “all conversation of strategy should have [stopping DOMA] as its primary outcome.” The imperative to stop DOMA was explained as twofold. It would allow activists to continue with marriage equality, and more importantly, it would keep the money coming into New Mexico. This e-mail stated, “If DOMA passes, our legal challenges are dead in the water. New Mexico is at the center stage of Marriage Equality nationally. If DOMA passes, all we will see of the national funding stream for our work will be the behinds of folks leaving the state.” While stopping DOMA from being legislated was also EQNM advocates’ primary concern, it was clear from the start that failure in the legislature

\(^85\) This information was obtained from interviews with several activists.
would be punishable by the rescindment of funds. In hindsight this e-mail appears ominous as the loss of funding became a reality in 2009 when national organizations turned their full attention to California and retracted financial support from New Mexico.

Aside from preventing the passage of a DOMA, marriage legislation was high on Freedom to Marry’s list of priorities. However, this priority posed a problem for EQNM, whose leadership along with other national supporters had concluded that domestic partnership rather than marriage had a better chance of passing the legislature. Throughout the years this difference in approach created friction and placed pressure on EQNM to introduce a marriage bill along with the Domestic Partnership Act. Feeling certain that a marriage bill did not have a chance, EQNM expended little effort on community mobilization and lobbying in support of this legislation. Nonetheless, one activist told me that it received a great deal of support from couples who wanted to testify to support the bill.

On April 23, 2007, representatives from Freedom to Marry, the Gill Foundation; the Civil Marriage Collaborative, and the Human Rights Campaign (HRC) met with EQNM representatives, among them Ilana Acker, Linda Siegle, and the executive director of EQNM for a field site meeting to strategize next steps. Freedom to Marry’s representative took the lead in the meeting, asking EQNM, “What vision do we lay out for people in order for them to be out volunteering?” The HRC representative jumped in, naming the places where HRC had done marriage education, though it was unclear what that education entailed. EQNM activists followed, detailing the organization’s desired

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86 HRC was somewhat the pink elephant in the room. Their presence in New Mexico was fraught with conflict. Many LGBT community members that had interacted with them disliked HRC’s fly-by methods. They felt HRC had no grasp on New Mexico cultures and always came in at the eleventh hour. And this perception was recurring. During my time with EQNM, the only time I saw HRC was when they came in with some funds to do election canvassing and during Pride when they collected new memberships.
plan. They proposed that individuals write op-eds and create video testimonies and that organizations increase their educational campaign and legislative lobbying and continue planning for a marriage lawsuit by finding plaintiff couples from New Mexico Supreme Court justices’ home regions. Focusing on plaintiffs in different regions, EQNM advocates argued, would force media coverage of those local areas that could be used for education. The Freedom to Marry officer, appearing unimpressed with the answer he received, reproached EQNM for “taking the easy path,” and with his presumed authority inquired, “How are you going to take the lead rather than take what is being given to you by the governor, by the legislature, etc.? What’s the plan? . . . This is how we bend history to our needs.”

His question visibly aggravated EQNM members. I felt the aggravation myself. He had come into the meeting as the authority, and his interaction with the EQNM representatives displayed this unequal exchange. He spoke to his audience in a demanding tone rather than engaging in a dialogue about options. The interaction made it clear that EQNM had to fight for their position and defend the work they had done and their achievements thus far. It was a top-down interaction that I had also observed with members of other national organizations who, because their work was at the national level, believed they had the answers to EQNM’s difficulties in strategizing and organizing.

In response, Ilana Acker retorted that his question was an unfair one as it minimized the work EQNM had done from 1991 to 2004. “To say we picked the easy path is to say we haven’t done any work,” she asserted, and she argued, “We did eight years of education with the governor and the communities.” Holding his position of
authority Wolfson responded, “Now take that fair answer and put it in the future tense.”

Wolfson continued to demand details about EQNM’s plans to pass legislation and win a marriage lawsuit. Ilana, refusing to acquiesce, continued to confront him, stating, “I don’t want us to repeat ourselves. We’re doing it with a three-prong strategy that we’ve talked about.” I could feel the tension building in the room, as did the Civil Marriage Collaborative program officer, who subdued the growing friction by directing the discussion to the budget needed to carry out EQNM’s strategy and suggestions for fundraising. The meeting ended on a positive note with discussion about public education and funding provided by Gill Action that would be helpful in the 2008 legislative session.

The American Civil Liberties Union and the National Center for Lesbian Rights (NCLR)

On July 11, 2007, the ACLU’s national chapter sent the director of the National ACLU Lesbian and Gay Rights/AIDS Project; a senior staff attorney; and a legislative and field director to New Mexico for a meeting with EQNM and ACLU-NM to strategize a long-term, comprehensive plan to ensure the legislation of domestic partnership law. They were additionally joined by NCLR’s executive director. This meeting had a different feel as EQNM sought the advice and backing of these two powerful national allies. The discussion began with concerns about pushing for marriage too soon and the potential challenges to marriage litigation. The EQNM executive director stated that her main concerns were lawyers, whom she called “rogue attorneys,” who could independently file

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87 I had formally told the EQNM executive director with a letter I sent via e-mail that I was interested in attending this meeting for research purposes and requested that she ask the members of the participating organizations if my presence would be okay. She assured me that I could attend, and we had agreed I would not write about the plan until it had been executed.
a marriage lawsuit on behalf of couples who did not want to wait on the legislature, pressure from the community, and pressure from funders to get marriage.

Addressing her, the ACLU LGBT project director suggested a four-part plan and stressed the importance of achieving marriage rights in New Mexico. “To get marriage here would be transformative nationally,” he emphasized, “because [New Mexico is] not a blue state that’s as open as Oregon, Washington, New York, or California.” However, he explained, people tend to think that going through the courts is lower risk, but the rulings against marriage in places like Washington, New York, Indiana, and Arizona show that it is not. To receive a statement from the court that says it is not illegal to discriminate against same-sex couples sends a powerful political message. For this ACLU representative, these kinds of rulings also cemented the notion that “it is not the court’s job to take care of this problem.” Stating that he was giving an “outsider’s perspective” and a national perspective, he concluded that “it would be bad for New Mexico to lose.” The conversation then moved to the legislative plan with Acker explaining that EQNM had assembled a team of lawyers to draft a new domestic partnership bill that would be introduced in the 2008 legislative session. Concerned with the backlash they had received from Republican legislators, Acker asked if it made sense to write a bill that did not include the phrase “benefits of spouses in a marriage.” Linda Siegle commented that “what’s important for people in New Mexico is to at least get a domestic partnership bill or civil union protections. For me that’s what we have to get first because we can get that.” Ideas were suggested about using the lawsuit as collateral at the legislature to pressure legislators to pass domestic partnership. The fear, expressed

88 This meeting took place after New York State ruled against performing same-sex marriages and before that ruling was overturned in 2010.
Siegle, was that legislators could say, “Oh, so you really do want marriage,” and then not support the bill at all. At this stage in the legislative strategy, the marriage idea continued to be thought of as only an internal discussion, while the public and the legislators were to understand that the end goal was domestic partnership.

Therefore, “the lay of the land,” as the NCLR director summarized, was that activists developing a strategy needed to keep in mind the problems with moving marriage too soon and develop a better understanding of the challenges to marriage litigation in New Mexico. The ACLU and NCLR leaders proposed the following plan: create a “quiet campaign” among the “ruling class” and find “community among people you want to talk to.” These people included the New Mexico Supreme Court justices, influential politicians, judges, and lawyers who do not necessarily occupy the absolute top positions as well as members of the chamber of commerce, influential businesses, and medical centers. The idea behind the quiet campaign was that getting business endorsements would not necessarily sway votes, but it might make other legislators feel more comfortable and secure. Building media momentum through messaging was another proposed strategy. The NCLR director tried to assuage EQNM representatives’ concern about runaway lawyers, maintaining that rogue litigation was less likely to happen if EQNM explained to their constituents their methodology to reach marriage in New Mexico and that they were not being asked to wait for the sake of waiting. She advised holding community meetings to keep people informed and explain to them that the courts were not the best place to turn to at this point. She also cautioned activists to

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89 Ilana and the EQNM executive director both responded to this, saying they had been holding town hall meetings and frustrations were expressed about community participation. These frustrations will be addressed in chapter 7.
“be careful not to make people feel like their futures have already been decided.” “People need to feel,” she expressed, “that they are part of the decision-making process,” and “most people do not want to hurt the effort.” However, as I discuss in chapter 7, interactions with community members and couples were not always that simple and in fact created several complications. The ACLU LGBT project director also added that those who were married should be encouraged to say so, but should be advised not to sue because of the legislative strategy in place. The emphasis from ACLU and NCLR was on domestic partnership now and marriage later.

EQNM’s executive director also reviewed the organization’s Equality Tour strategy, which she emphasized they had created based on their monetary and human resources. The EQNM executive director explained that the organization had a field plan targeting twelve districts where they did not yet have support, and they were in the process of talking with Gill to expand the plan and increase canvassing and phone banking. “We have five legislators against us that we are targeting,” she declared, “and while it will be difficult to change their minds, we still need to try because there may be a chance in hell in swaying one of them. We just don’t know which one.” But what was missing, she asserted, was a media component. Both ACLU and NCLR program directors offered to talk to funders and inform them that to win domestic partnership and marriage in New Mexico, “we will have to be able to run a public, community education, and grassroots campaign.” The NCLR executive director also offered to send a person to help EQNM develop a comprehensive communications plan and see the plan through the 2008 legislative session.

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90 This was the strategy mentioned earlier to mobilize for the 2008 legislative session. A sample packet of the Equality Tour campaign is included in the appendix.
legislative session.\textsuperscript{91} Trying to show support for EQNM’s efforts, the national ACLU program director also inquired about where the pressure was coming from to pursue marriage. The EQNM director responded that in terms of funders, it was primarily the Civil Marriage Collaborative (CMC) and the Gill Foundation, which were mostly funding states they believed could win marriage within one to three years and were therefore requesting very particular benchmarks. EQNM’s director remarked that CMC’s director was coming around to the idea of domestic partnership, but he was still requesting impossible results. To this, the ACLU LGBT program director replied that EQNM needed to use him and NCLR as allies and inform them when EQNM was being pressured to do things they did not think were smart.

An interesting conversation arose from the question posed by one of national ACLU’s representatives: “How do we message around domestic partnership without closing the option for marriage in the future but also doesn’t jeopardize the DP?” The EQNM director responded by saying, “We need to find elderly straight people to enforce the idea that the DP bill is not just for queers.” However, that was proving to be difficult because, Siegle stated, the New Mexico chapter of AARP was unwilling to share their member database with EQNM.

There was also discussion about using the terms \textit{equality} versus \textit{fairness} and phrases like “we want what everyone else has.” Siegle, aware of legislators’ responses, maintained that it was important to talk about equality rather than marriage when forwarding domestic partnership. ACLU agreed that language was important and offered a different way of framing equality: “We want what everyone else has.” This phrasing, he

\textsuperscript{91} I am not certain about the extent to which the support offered during this meeting was actualized. In 2008 and 2009 Gill Foundation, Gill Action, NCLR, and the ACLU were all present in New Mexico, but I was not consistently included in EQNM’s meetings.
argued, “requires that people understand that equality is access to what they have . . . [and] well that’s marriage.” In his opinion, “Marriage is the way to have access to what everyone else has.” While not wanting to rush marriage legislation, the ACLU LGBT project director was not ready to take references to marriage off the table, whereas Siegle along with the other local activists was fearful that any reference to marriage would destroy the DP’s chances. This fear was the result of the backlash they had received at the legislature as Republican legislators took the bill apart piece by piece and somehow tied most of its language to marriage. Yet ACLU’s LGBT project director also added a key component to his reasoning: “It isn’t fair to be locked out of what everyone else has.” ACLU-NM’s director and the national ACLU’s legislative and field director both argued that stories were a good place to start because, as ACLU-NM’s director stated, “it’s easy to talk about fairness with stories. It’s harder to talk about equality with the stories.” The EQNM director agreed and explained that she had a hard time talking about equality in reference to the domestic partnership bill and affirmed that “marriage is equality.”

Gill Action

In 2008 Gill Action made a strong appearance in New Mexico and at the legislature. In 2007 it had provided a small grant to EQNM, and once it saw the legislative campaign was a close win, Tim Gill’s politically focused fledgling foundation decided to endow EQNM with a larger grant.92 It funneled in about $300,000, Todd McElroy told me, and

92 Tim Gill is an American software entrepreneur and philanthropist who started the Denver, Colorado–based Gill Action Fund in 2005. “Gill Action is a 501(c)(4) issue advocacy organization dedicated to securing equal rights for all people regardless of sexual orientation and gender expression.” Gill also founded the Gill Foundation in 1994, which is a 501(c)(3) private foundation that supports nonprofit
the organization sent one of its chief operating officers to oversee the legislative efforts. I interviewed Gill Action’s officer at the beginning of February 2008 after the close of the legislative session. We sat in a small reclusive lobby area of the El Dorado Hotel in Santa Fe’s downtown tourist district, where she explained that the money Gill Action provided was to help EQNM “build a field program, to help do some polling, to help hire more lobbyists, to help do stuff like generating phone calls into their constituents into legislative offices—patch through calls is what they’re called—and provided just general technical support.” The relationship between her, and by extension Gill Action, and EQNM was a difficult one as their ideas about strategy conflicted, leading to animosity and finger-pointing. Todd recounted the events and summarized that Gill Action’s representative was dissatisfied with Siegle’s lobbying techniques and “was pissed,” as Todd phrased it, that “Alexis could not control [her].” He clarified: “There was a daily phone call at noon that Linda refused to get on. Well, that pissed off Robin. And she said, ‘Alexis, you need to get her under control.’ Well, Alexis wasn’t going to control Linda Siegle.”

Gill Action had told Alexis, according to Todd, “we want your lobby team to be more responsive to our requests.” The problem with that request was that the relationship EQNM formed with Siegle was not one in which she answered to or consulted the organization on every single move she made. Ultimately, Todd explained, Siegle followed the route EQNM wanted to take, but the lobbying details were left to her. Moreover, Todd defended, “by and large, she’s done it for free for years and years” and explained Gill Action’s representative’s expectation as one that “didn’t match the reality

organizations serving LGBT people as well as people with HIV/AIDS. See http://gillaction.org/who-we-are/about-tim-gill/.
here.” Therefore, in 2009 and 2010 Gill Action did not provide the organization with any more support. In his recollection, Todd felt that Gill Action saw EQNM as “a bunch of fuck-ups” and interpreted their response as “you can’t do it. You can’t manage a campaign so you’ll never be successful, so we’re not giving you any more money.”

He went further to say that as far as financing LGBT issues in New Mexico, the “Gill Action Fund and Gill Foundation really dictates philanthropic and—not even philanthropic giving, just the giving in New Mexico.” By this Todd meant that LGBT funding sources are tied together, and Gill Action and the Gill Foundation influence and even make the decisions for other funders.

The perspective Gill Action’s officer gave me in our interview, however, expressed the sentiment that Gill Action had extended itself. Frustrated by the outcome she stated, “I mean, we’ve had our team helping with developing their ad of clergy who supported the bill. We worked with them on how to design the new language around that. We’ve helped them with some mess. We really worked with them on developing a communications plan that never actually really got implemented.”

Here she was referring to generating letters to the editor, thinking about how to frame the domestic partnership issue using the data from the poll they conducted before the legislature, calling for press conferences before and during the legislative session, and communication during lobby day. While she stated that efforts had been made, she ultimately believed that these strategies were poorly implemented. “I mean, honestly,” she began, “all of [these were] areas that I think were sort of a weakness in the campaign, but,” she cautiously interjected, “there was an effort to try and put that in place.” She attributed this weakness to EQNM being reactive as opposed to proactive. Curious to
know how she defined these two positions, I asked her to explain what she thought made
the organizational leaders reactive. She answered that the plan was simply not as
proactive as she would have liked, believing “we could have been a little bit more
thoughtful about how we were generating new stories in some of the local papers, in
terms of how we were doing our messaging around this.” The messages that were in
place—gay and lesbian and straight families need protection to be able to take care of one
another—needed to be fleshed out according to her. The way that would happen, she
explained, would be with more examples and the creation of a coalition in which all of its
members would convey the same message.

I was not clear on the types of stories and examples she thought would help, and
she was unable to think of any concrete examples on the spot. In part, I believe this had to
do with the exhaustive and overwhelming legislative session, the events of which were
disorienting. I also realized she lacked knowledge about the New Mexico legislative
environment and LGBT politics. She did explain that Gill Action was a young
organization, three years old in February 2008. Gill Action’s strategy, she maintained, is
to first “build political clout through the electoral process” and form political
relationships by financing the campaigns of legislators they believed would support pro-
gay legislation. Afterward they try to pass legislation. However, the opposite happened in
New Mexico. The legislative session took place before the elections, and Governor
Richardson wanted domestic partnership on that session’s docket. EQNM and ACLU
also wanted to build on the momentum gained from 2007 when the Domestic Partnership
Act lost only by one vote in the Senate. Therefore, Gill Action found itself in unchartered
territory. This representative was thus learning about how the New Mexico legislature
worked and about the legislators as the session was in progress. She mentioned that the New Mexico campaign was particularly difficult: “It was hard for me because we didn’t have the same relationships here and the same political clout because we haven’t played here politically on the electoral premise.” It was additionally difficult because she did not understand Siegle’s way of lobbying and felt she was the only one “pushing for process in communication and organization.” Consequently, she concluded that EQNM was being uncooperative. Seeing herself and Gill Action as leading New Mexico’s domestic partnership campaign, she expressed that “it’s going to be a struggle and I’ve got to figure out next time when I go in and do this, how do I want this to work.”

In 2008 Gill Action’s lobbying strategy included having multiple lobbyists work legislators on behalf of domestic partnership. In our interview, Gill Action’s officer jokingly described this strategy as similar to that of the tobacco industry. “We’re going to be like tobacco,” she declared, “and we’re going to hire four, five, six lobbyists, okay, and we’re going to be major players.” Indeed she hired three additional lobbyists: Joe Thompson, a former Republican legislator; J. D. Bullington, a former lobbyist for the chamber of commerce; and Brian Ortiz, a business owner with an interest in running for a legislative seat, whom she believed had a relationship with all the Hispanic legislators. Thus, Gill Action’s officer saw herself as having a team of four lobbyists with separate strengths who could work different legislators.93 More importantly, she believed this coalition of lobbyists would create more visibility. “I think,” she justified her decision,

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93 The Gill Action representative saw Catherine Strong, the ACLU lobbyist, as separate and not as involved in the campaign. What I gathered from our conversation was that she perceived the ACLU as a completely different entity and therefore did not see Strong as involved in the campaign.
just in general, when you bring in more firepower it raises the visibility of the issue period. Like all of a sudden people who aren’t traditionally lobbying on these types of issues are now lobbying on these issues and it sort of catches those people’s attention. So that in itself is a value. ... And I think that more ears on the ground just creates more opportunities to generate that information and also provides broader strategic input, right? I mean, we’ve got four people who are used to getting things passed here, who all bring different experiences and approaches, and that I think is an added value too. We want to create a certain environment in which they’re building on each of their strengths, right? And that’s how I’m . . . like I think we’ve done that pretty well here but I’ve got to figure out what process do I use to really make sure that we’re capitalizing on the strengths that each one brings.

The intent she had was to create a winnable strategy. “I want really a smart strategy,” she emphasized, and she believed that the strategy that had been in place throughout the years needed to be rethought. Though unsure of how to rethink the strategy, she was steadfast in her belief that EQNM was not tapping into every possible resource and opportunity.

Well, I mean, honestly, I think the strategy has been not that dissimilar than past years and I don’t know how many . . . what the various options were and I actually personally realized I need to learn a lot more about procedural stuff so I can have more influence. . . . I really just need to understand it but I mean there’s just so many procedural pieces that can be used and not knowing them has frustrated me. So I don’t know whether our lobbyists had been thinking about every possible procedural piece, but that’s it. I mean, that seems to be a huge part of this game. There are questions like did the bill have to be referred to judiciary? I mean, could that have been, maybe, I don’t know. . . . So are we thinking ahead enough about all because when you’re in the majority, you have a lot of power. You got to know what to ask for and so those are sort of the things that I’m wondering, and that’s what I got . . . there are a lot to take away and to think about. And so that’s the stuff I’m thinking about.

In any case, not everyone saw this method as effective. Getting businesses to support the bill, Siegle maintained, was something that EQNM had already attempted.
“We had tried to get businesses on board for a year or two before that,” she remarked, but they had no luck. With a hint of gratification she accentuated, “and they [Gill Action] had no luck also. But they spent a lot of money doing that.” Not wanting to discuss details, Linda additionally expressed that Gill Action’s lobbying strategy “did not account for what the people in New Mexico were saying.” Linda saw the domestic partnership advocacy campaign as part of a long-term movement in which she had played an important part. “Well, I look at it as an overall movement,” Linda started explaining.

And I think the movement has been very successful. I think since the first introduction of the Nondiscrimination Act in 1991 to finally passing it in 2003, to the first introduction of hate crimes legislation in, I think, 1995 or ’97, to passing it in 2003, that the work on educating the public and educating legislators has continued to grow. And when I first started working on gay issues in the legislature, I remember the unions and one guy in particular . . . who was the head of AFL-CIO and he wouldn’t even talk to me in the beginning. And by four or five years later, we were best buddies and are good friends now.

Therefore, Linda Siegle put a great deal of weight on her experience as a local lobbyist and underscored the importance of acknowledging local accomplishments and knowledge. In contrast, she saw Gill Action as not only lacking local knowledge but also as approaching LGBT advocacy in New Mexico with a false sense of superiority. They brought a strategy, she maintained “that had an overlay of, well, this is how we should do it. And it was an abysmal failure and tens of thousands of dollars spent. . . . It was an internal disaster. We didn’t get one more vote.”

The ACLU-NM’s lobbyist, similarly commented that Gill Action was not connected to local politics or organizing. Vexed by Gill Action’s representative’s decision to hire more lobbyists, Strong rebuked,
Okay, so, you . . . hire[e], you know, Joe Thompson, J. D. Bulington, and Brian Ortiz, thinking we just don’t know what we’re doing; what we need is a business lobbyist and we need a Republican, and they knew Brian from who knows what Washington, politics, I don’t know. So they threw him in because they didn’t want to be just hiring straight white guys. Okay? So, we have those people, who we’ve never worked with, who we do not share, especially Joe Thompson and J. D. Bulington, any of our secrets. We don’t work with them on issues; we’re usually on the other side with them with issues. We kill their bills.

After three years of lobbying for the Domestic Partner Act alongside EQNM and declaring domestic partnership ACLU-NM’s number one priority, Strong saw Gill Action’s lobbying strategy as an impediment to the ACLU, as destructive and demoralizing to EQNM, and as overall unsuccessful. Continuing her reproach of the lobbyists Gill Action hired, she stated,

And their job was to get the business community on board and talk to mainly Republican legislators. . . . Let me see, how many votes did that get us? NONE. Okay, you know, and we go to the marriage summit, and they are saying, “You know, y’all oughta hire a Hispanic Catholic.” Well no shit. We’ve already done that. You oughta talk to AARP. No shit, we’ve already done that. You know, it’s, no one wants to tell them or set them straight because, my God, we need money. We need thousands of dollars, not ACLU [referring only to EQNM]. But why are they doing this? Trying to get money, trying to pacify the masses, so they will then give them money. So we’ve got to listen to these idiots who are now in charge, they, well think they’re going to come up with strategy.

When I asked her if the ACLU or EQNM were consulted about hiring new lobbyists, Strong sardonically replied, “Right, but why would they? [short pause] They don’t need to consult with us, and Equality had gotten just a hell, shitload of money.” It was this money that both she and Linda Siegle believed negatively impacted EQNM. The

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94 This was a summit on LGBT rights in New Mexico hosted by EQNM on June 6, 2009, at the University of New Mexico School of Law. I discuss the summit and its results in chapter 7.
funding EQNM received, they both argued, made the organization reliant on and responsible to Gill Action. Moreover, the amount of money received, Strong contended, was more than a small organization like EQNM could handle.

Well, any nonprofit, any nonprofit who gets a sum of money that is four to five times larger than their usual budget is going to struggle. . . . It is, your organization is not mature enough to handle the influx of big money; it’s like a movie star, or a football player who all of a sudden signs that first big contract. Have you seen them fall apart? Lose their minds? . . . So then, you see where it’s led to with Equality [pause] destroyed them actually, you know, at this point. . . . Yeah, it’s been horrible [pause] cuz they didn’t have the infrastructure to be able to take it, and it, it took them off their game plan cuz you’re doing Gill’s game plan, you’re not doing your game plan. To get money from a grantee, you gotta do what they want.

Todd, nevertheless, asserted that it was not just the conflict with Gill, but Proposition 8 in California, the growing recession, and the departure of the executive director Alexis Blizman that left EQNM on the brink of collapse. In 2009, Todd told me, only HRC sent some field organizers to EQNM. Thereafter, in 2010 EQNM did not see any support from any national organization. “The closest relationship that we have,” Todd stated “is really with GLAAD. GLAAD does some media consulting kind of stuff, and communications plan and stuff with us. And then the National Center for Lesbian Rights, in terms of just support, has been great. And then ACLU is a good local partner here.” Therefore, as Salas added, “we’re [EQNM] low on the totem pole.” The money that was available, Todd maintained, was funneled to California.95

95 According to the U.S. News and World Report, the campaigns for and against Proposition 8 raised $38.8 million and $44.1 million, respectively. Contributions totaled over $83 million from over sixty-four thousand people in all fifty states and more than twenty foreign countries, setting a new record nationally for a social policy initiative and trumping every other race in the country in spending excepting the presidential campaign. See http://www.usnews.com/news/national/articles/2008/10/29/california-same-sex-
Yeah. One of my allies said to me recently, she said, “They’ll tell you that they’re mad because you screwed up and you didn’t do it the right way. But the fact of the matter is, they took an ironic hit just like everybody else on September 30, 2008.” . . . So those national funders that were giving big checks now just don’t give those out anymore, they don’t have anything to give out. I understand that Tim Gill is changing his entire direction. So we don’t know what that means, but he’s just like, “Well, now that I don’t have as much money, then we’re going to have to do something different.” So I don’t know.

For Todd, the retreat of support was not a result of failure on the part of the organization, but a product of current events and conflicts. Adding to these factors were the New Mexico legislators with whom activists were encountering problems. Trying to put the discord around Siegle in a different perspective, Todd argued that unsupportive and wavering legislators were the culprits in the failure of the domestic partnership bill. Thus, between the strained relationships with national organizations, the different interests presented, the lack of funding, the recession, Proposition 8 becoming the central focus, and difficulties with legislators, passing domestic partnership started to feel more like an impossible endeavor.

**Internal Relationships and Discords**

The issue that arose between Gill Action’s representative and Linda Siegle created some strife between EQNM and ACLU-NM as well. Because the discord with Linda extended beyond Gill Action, Todd felt that she was taking the hit at the cost of other realities. Talking about a meeting with the ACLU in February of 2010, two years after the melee between Gill Action and EQNM, Todd recalled ACLU-NM’s executive director, saying

that legislation had not passed because Siegle could not get along or communicate with anyone. Aggravated, Todd summarized his response: “And I said, ‘Bullshit. Let’s be real here. It’s not because of some fucked-up strategy. It’s because Pete Campos\textsuperscript{96} wants to be a deacon in the church, and the archdiocese passed him over because of his progressive stands on various issues.’”

Another discord that arose about strategy was whether or not the bill was a gay bill. Linda expressed that in 2008 and 2009 there was a huge emphasis on straight and disabled people. The argument, she explained, was that a domestic partnership law would benefit opposite-sex couples who did not or could not marry without losing benefits from previous spouses. “But the reality is,” Linda stated, “everybody calls it a gay bill. And they’ve always called it a gay bill and they always will call it a gay bill. And you know, you’re right, it is a gay bill and the straight people are along for the ride.”

Linda explained that this tactic with which to pick up some votes from legislators. However, she asserted, no votes were secured with this method, and she believes no votes will ever be secured this way. In politicians’ minds, she emphasized, this bill is about gay people getting benefits. Not only has this approach been unsuccessful with politicians, but it has also been a controversial issue within the LGBT community. By 2009 a growing disconnect was becoming evident between the messaging on domestic partnership benefitting straight, elderly, and disabled people and the desires of the LGBT families and community. For the pro–domestic partnership coalition, this strategy lent credence to their argument that domestic partnership was about protection, love, and

\textsuperscript{96} Pete Campos is the Democratic senator who voted against the domestic partnership bill. Many presume he voted against the bill because of his aspirations to become a deacon in the Catholic Church. Some of the activists believe the Catholic Church may have threatened that if he voted for the bill he would not be able to have his post within the church.
responsibility rather than about procreation and, more specifically, sex. Therefore, the EQNM leadership found it a reasonable strategy to continue to explore. Acker explained this approach:

I think that was a strategic decision primarily on the part of the sponsoring legislator, the governor, and the lobbyists. I really think that Cisco [the sponsoring senator at the time] and Governor Richardson and Catherine and Linda, Catherine in particular, just all really thought, you know what, let’s try this one because there are in fact significant benefits to seniors and the disabled. At the time, there were a couple of state department heads . . . [that] would come in and speak on behalf of the Department of Senior Affairs.

Catherine Strong and the ACLU saw this political strategy as one that some legislators needed in order to justify voting for the bill. Thus, it was a strategy that the governor himself reinforced, which EQNM organizers accepted and supported. “When you’re drafting a bill,” Acker expounded, “you’re pragmatic and you draft it the way the person who’s going to have to sign off on it [Governor Richardson] wants it to be. And I don’t mean to imply that the governor and his people micromanaged the bill; [they] didn’t, but it was clear that he wanted it to include men and women in same-sex and opposite-sex couples. So that’s a big reason behind why it was a domestic partnership bill and not a civil union bill.”

Making a case for expanding the bill to opposite sex couples, Strong argued that the bill was not just about gay people because senior citizens and disabled individuals do stand to benefit from it. Strong explained that while she was searching for organizations supportive of domestic partnerships, the director of a senior center in Roswell told her that “they do commitment ceremonies there for heterosexual seniors who, due to
financial reasons usually—sometimes it’s family objections—are unable to get married and choose to live together but [want to be] recognized somehow in the community, and so they do commitment ceremonies much like gay couples do.” Nonetheless, she also explained the inclusion of seniors and people with disabilities (who in our conversation were often one and the same) as strategic. Their inclusion meant the possibility of swaying Republican senator Tim Jennings, who as a result of his own daughter being disabled had become a strong advocate for people with disabilities. Yet Senator Jennings was also one of the strongest opponents of domestic partnership, had always equated it with gays and lesbians, and also reduced same-sex couples to roommates. For legislators such as Jennings, incorporating seniors and people with disabilities was like pulling the gay wool over straight eyes, a strategy to which he reacted derisively.

Linda explained the efforts exerted in this controversial plan, stating that she had received the most complaints from LGBT constituents in 2008, asking “Why are we trying to pretend like this is not a gay bill?” As a matter of fact, she pressed on, “I heard that from legislators, too.” Another board member was of a similar opinion, explaining, “I think that most people see it as a gay and lesbian bill not as a heterosexual bill, and I think our lobbyists’ attempt to role together heterosexuality . . . unmarried heterosexual couples into the rights of domestic partner has not really been an effective strategy even though of course it would affect a wider constituency by doing that.” She attributed the lack of success of this strategy to unfriendly legislators who due to their personal convictions and/or those of their constituents would always vote against it because they saw the bill as benefiting only gays and lesbians.
In the face of the conflicts and lack of success of this approach, 2010 saw a comeback of gay and lesbian identities. In our interview, Todd explained the approach taken in 2010 in part as a reaction to LGBT constituents’ growing discontent. “We tried some things this session that we did not do in the past” he told me. “This session, we were like, ‘Yeah this is a gay bill. Sure, seniors and elders and people with disabilities will take care of it, but this is a gay bill.’ . . . Yeah. All of our testimony, the day that we did, we didn’t have any seniors, we didn’t have any unmarried heterosexual couples that testified. It was all gay.”

Todd expressed that in 2010 EQNM had become adamant in presenting the domestic partnership bill as a gay bill. Thus, in their negotiating efforts with the lobby team and legislators, Todd maintained, the bill was presented as a gay bill. Simultaneously frustrated and relieved, Todd stated,

Because this innocuous, “this is a bill that helps seniors and people with disabilities,” well that didn’t work. They saw right through us. They think that we might as well be truthful with them. Yes, domestic partnership is a step towards full marriage equality. Yes, it is because it’s the right thing to do. . . . I think what you’re going to see from EQNM, because we’re going to have to, is just a lot more, not flagrant, but just a lot more, “We’re queer.” That’s it. As opposed to trying to be something we’re not. And I think that strategy worked well, but it is not working well now.

Aside from loss of funds from the national organizations and differences with ACLU-NM, EQNM had an additional burden. In September of 2008, Alexis Blizman resigned her post as executive director and left the state. EQNM was officially left without an executive director and without any full-time staff or funding. With some of the money raised from the Equality Ball, EQNM’s annual fund-raising gala, they were
able to keep the doors open. However, they have not been able to replace Blizman or hire other full-time staff. “We’re still moving, we’re still going, things are still happening,” Todd professed, but “you can’t do this kind of work without a professional full-time staff.” The organization found an acting interim director, Jordon Johnson, though his position was not full time, and they managed to keep EQNM operational without full-time staff. In 2013 EQNM hired a new full-time executive director, Amber Royster.

**Just New Mexico**

In 2010 a number of the Sandoval 64 couples founded their own organization called Just New Mexico. These couples argued that marriage carries a social understanding that civil unions or domestic partnership cannot. Marriage is more than legal rights, said one couple. While the arguments for legal rights are important for financial stability, they do not wholly convey the social meaning of marriage. In like fashion to the opposition, one of the couples used children as an example to express the deep meaning and importance of marriage. When children go to school, one of them began, their classmates ask them about their family life, and one question they ask is “Are your parents married?” Saying, “No, they’re domestically partnered” can be confusing, she stated.

Well what does that mean? Imagine an eight-year-old trying to explain domestic partnership or civil union. I mean, all that society understands is marriage. So to children, and then I have heard this a lot, not only in our own media but from personal experiences that children have a hard time understanding anything other than marriage. Not to say that twenty years from now if there’s domestic partnerships in every state or civil unions, that that won’t be as well understood. . . . But children feel less than a real family if their parents can’t get married, because it’s not something that their peers understand.
Just New Mexico, this couple explained, is a single-issue grassroots organization that provides education and advocacy in order to achieve full marriage equality in New Mexico. At the beginning of 2010, the couples launched the website, on which they wrote that by “engaging New Mexicans in the conversations needed to change hearts and minds” and by “educating people on the importance of marriage equality” they can effect positive change in the state of New Mexico. They highlight that all individuals “have the voice and the power to help achieve full and equal marriage rights for all families,” thus discretely stating that people did not have to follow the protocols of other organizations.

Concurrently, they also wrote that Just New Mexico also supports other organizations that are working toward marriage equality, implying EQNM and ACLU-NM. They maintain that Just New Mexico provides “another tool for marriage visibility and awareness to complement their efforts.” Thus, what grew out of contention between couples and activists was turned into a partnership between two organizations that were to help each other instead of competing for support. In this way, both parties came out winning, so to speak. The frustrated couples created a medium through which they felt they could be better heard, and EQNM and ACLU-NM maintained their political position and responsibility for the passage of legislation. I asked one of Just New Mexico’s founding members about the reception they received from EQNM, to which they responded: “Oh, they’re fine.”

I mean there was a few people, they were like, “Oh, you’re trying to replace EQNM.” And I mean it’s not that at all. I mean a lot of the EQNM members and board members came over Saturday and hung out with us for a little while, came and visited. So you know I think we were really straightforward in just saying we’re not out to compete against EQNM, we’re actually out there to partner. And when it comes to marriage issues, toss the media our way, let them chew on us.
And you know part of the thing is we need to put the marriage bill into the legislature so that you know, take the focus off the domestic partnership bill.

Todd McElroy, one of EQNM’s board members, also described Just New Mexico as not only a partnering organization but one that is “in place to make EQNM be responsible about marriage equality.” At the time of our interview in February of 2010, Todd was still unsure of the organization’s intent. He understood that the members are not interested in domestic partnership or issues other than marriage equality. Therefore, he saw them as in some way overseeing EQNM’s actions around marriage, stating, “I guess that if EQNM doesn’t respond appropriately, then I guess they’ll take matters into their own hands, I suppose. I don’t know.”

Todd, along with other EQNM and ACLU-NM activists, was frustrated with the push for marriage. Todd continued to defend the approach organizers had taken to pass domestic partnership legislation, stating that since it was the opposition who foisted the issue of marriage on them, the LGBT community in general did not frame the debate properly: “It’s our opponents that are framing the terms of the debate.” Another activist maintained that internally marriage was defined as the ultimate goal, but activists had been wary of saying that in legislative training workshops because the LGBT community was being watched by the opposition. “They manipulate what we say,” he stated and proceeded to tell me of the ways in which he had been targeted by the opposition. He said that members of the religious right had manipulated his public statements to fit a completely different homophobic context meant to incite fear and disdain. One of their accusations was that the LGBT activists and the community “were recruiting young people to be gay.” Therefore, talking about marriage, he and others feared, would only
bring out more homophobes making outlandish statements. Nevertheless, he recognized
that “there’s a majority of the community members who would prefer marriage equality”
and simultaneously a definite “faction that don’t see a need for marriage equality.”

Defining himself as a realist, this activist also expressed frustration with what he
called “the marriage-only-now sort of voice in the community.” This is an opinion he did
not shy from expressing as he had engaged in public disagreements with these
individuals. His exposure to political work led him to firmly believe that marriage
legislation would not be possible to pass in New Mexico unless, he argued, there is “a
strong coordinated effort electorally to flip seats for pro-marriage people.” However, he
amended, that is too expensive an effort, and for marriage to be passed it would have to
go through the court system.

Todd added to this argument, stating that what people did not understand is that
marriage equality realizes benefits that domestic partnership would also bring. Therefore,
he reasoned,

people get caught up on this vocabulary that really doesn’t have anything to do
with the rights that we say that we want: right to inheritance, of being able to take
care of one another with health-care decision-making, or adoption, or whatever.
That stuff is all granted through domestic partnership. And until Congress
changes, until Congress is the one that changes the definition of marriage on the
federal level, we’re not going to get anything more than what domestic
partnership would provide.

I think that people get really wrapped up in that. I think that’s exactly what
they get wrapped up in. And so EQNM is willing to be wrapped up in it. I’ll
continue to sacrifice my life to achieve those equal rights. But I want to tell you
that we’re talking about state rights, rights bestowed by the state. I mean capital S,
the State of New Mexico. And it’s not going to be any different. To be really
honest, let’s say for instance that we were able to pass domestic partnership
legislation. I’m not sure what we would fight for, for marriage. We will, for full
equality, but that’s it. I think our argument then becomes separate but equal is not equal.

So I get it philosophically, I get it semantically, but politically, until we change Congress, and that’s why we’ve got to be one of the states that acknowledge civil unions, domestic partnership, or whatever; so that we can help create the momentum to change Congress mind. I think we’re a long way away from that. I mean, a long way.

Here is where the difference in perspectives and experiences between couples and activists can be seen. Marriage is being defined differently by each group. For the activists, marriage consists of benefits, and because a federal DOMA is in place, same-sex marriage will not bring those full benefits. Something like domestic partnership that encapsulates all the state’s rights of marriage is therefore understood and explained as the same thing as marriage. Thus, when broken down to the bare bones of benefits, marriage or domestic partnership becomes a matter of semantics and a source of frustration for activists when they have to engage in what essentially boils down to a meaningless and divisive debate. This is not to say that activists don’t actually see the difference between the two since they do talk about domestic partnership as an incremental move toward full marriage equality. The laws, however, force them to look at marriage on a state level and therefore come to the conclusion that the difference between domestic partnership and marriage as exhibited in the bills drafted is non-existent.

For couples and other LGBT community members, the difference between domestic partnership and marriage is more like a tectonic shift dividing continents. It is more difficult for couples to express that distinction because its significance cannot be easily broken down into distinguishing elements like right to survivorship or rights to medical visitation. Those rights are a component of the significance they attribute to
marriage. But marriage for them is more than recognition of those rights. Marriage is a paradigm shift in the collective social thinking: a new form of seeing gays and lesbians, an acknowledgment of their participation in society, an importance of their contribution to society, a place within the daily grind of the middle class that allows them to have and freely voice the same complaints, the same problems, the same forms of happiness as all other members of society. This is normalcy and belonging, and the years of this debate—waiting on the sidelines not only to step in but anticipating being met with gift baskets as though they had just moved into a friendly suburb—were increasingly highlighting the growing gap between the activists’ definitions of domestic partnership and marriage and their own. Of course, the distinctions I infer here are between these two particular parties. As I have argued throughout the chapter, other couples and LGBT community members have either deferred to EQNM’s position or rejected it altogether.

Conclusion

The processes of organizing and mobilizing around domestic partnership and recognition of gay and lesbian families were never only about gaining rights, though that was the primary goal. In order to mobilize LGBT support for domestic partnership, activists also had to engage in a process of conceptualizing an LGBT identity that prioritized a group and individual images of respectability and responsibility. The new gay identity had to reflect the idealism of heterosexual citizenship: the hard-working, tax-paying, child-raising, responsible adult. Gay and lesbian constituents had to learn how to reflect those ideals without contaminating them with narratives that would provoke public images of homoeroticism. Thus, activists had to find ways through which to gain consensus from
the community in this endeavor. The problem was that EQNM activists did not feel they had control over the public discourses of marriage. They claimed that members of the religious opposition were the ones who set the tone. Therefore, they felt they were left with having to respond to the opposition’s claims of homosexual immorality, as opposed to creating a different discourse in which gay and lesbian sexuality was not threatening.

The line between strategy and personal belief was also a fine one. While EQNM activists had their personal views about marriage, they saw the struggle for same-sex relationship recognition as an issue of civil rights. Activists believed in the idea that family is family, and for the most part so did their constituents and LGBT community members. Therefore, the battle for them became more than about gaining legal rights. It became an issue of belonging as well. Discourses about civil rights turned into narratives about belonging in the world, of making connections with fellow neighbors, coworkers, citizens. This transition was also visible in the type of language advocated, which became prevalent at the legislature. This process of creating a message about and image of the gay family and LGBT individual identity that was visible in discussions with national organizations was both conscious and unconscious. The meeting between EQNM, the ACLU (the national and New Mexico chapter), and NCLR represents the conscious process of identity selection. Words such as rights and equality, the ACLU LGBT project director stated, were too vague and invoked the abstractness of law while also making associations with a race-based civil rights history. Thus, he argued for using words such as fairness because this concept is something people can personalize. For this reason, in 2008 there was much discussion about ways to “change the hearts and minds” of New Mexicans.
Through these forums, I argue, activists were envisioning new queer political subjects who were to represent the modern family. Different from the family represented at the legislature, however, the family in the forums was not desexualized. Couples talked about their identities as gay and lesbian couples, and children talked about having gay and lesbian parents. Forums such as the town hall meetings were spaces in which non-heterosexual identities were encouraged. However, these forums were also places where LGBT identities were sanitized and molded to be more like a mirror image of a presumed heterosexual counterpart. Thus, in legislative and media training sessions couples were instructed on what to highlight about their experiences and identities, to emphasize family struggles due to lack of social and legal recognition, and to subordinate other aspects of their identities to their identities as families. Homophobia, while it always lingered in the background, was never part of discussions about gay and lesbian family identities.

Through different kinds of material such as informational handouts outlining the difference between civil marriage and domestic partnership, same-sex couples and LGBT community members were learning the proper discourse about the rights and privileges associated with each and the type of legislation the LGBT community should desire. Activists discussed domestic partnership and marriage in terms of incremental steps toward equality. Each activist emphasized passing domestic partnership first and then moving on to marriage, using the federal DOMA as the example of not being able to truly have marriage. They reasoned that the LGBT community should achieve what it could. Nonetheless, same-sex couples and community members challenged EQNM leaders’ authority and decisions throughout the years. I discuss this relationship in more detail in
the next chapter, where I illustrate how conflicts between activists and their constituents were a result of EQNM’s and national organizations’ internal structures, especially as these structures relate to ideas about diversity and beliefs about different LGBT communities’ makeup and needs.

In this chapter I presented the views activists had about diversity, which they implemented in selecting individuals and couples to represent the gay family and domestic partnership in general. Throughout 2005 and 2010, activists defined diversity as including gay and straight couples, individuals who represented the majority tri-ethnic New Mexico population, and people who represented the elderly and disabled communities. Most importantly, these representatives of New Mexico’s diversity also had to reflect stability, normalcy, and economic and educational success. I maintain that by adding these elements into their representation of diversity, activists believed they would be able to successfully respond to and discredit the negative stereotypes forwarded by the opposition, which argued that gays and lesbians did not need marriage because their relationships do not last. In the next chapter I examine the idea of diversity through analysis of the relationship between the domestic partnership bill activists and their LGBT constituents, between EQNM and the New Mexico LGBT community at large.

In this chapter I have also shown that the relationship between EQNM and national organizations had a direct impact on legislative strategy and community organizing. EQNM was dependent on national funding to carry out the domestic partnership campaign. Therefore, EQNM activists had to answer to these funders by demonstrating that they understood the model for obtaining legal rights, were able to mobilize support around that model, and could implement it successfully. The
relationship between EQNM and national organizations was always a top-down relationship, and EQNM’s position with the hierarchy of NGOs was made visible in meetings between EQNM and national organizations’ representatives. The hierarchical relationship was most clear in the meeting with Evan Wolfson, founder of Freedom to Marry, who in their interaction took on the role of a paternal figure to whom activists had to account for their actions. The national organizations’ lack of knowledge of New Mexico’s legislative and ethnic cultures often conflicted with local activists’ approach to organizing. The failure to pass domestic partnership legislation was blamed on what outside activists believed was EQNM’s lack of organizational abilities, lack of authority and control over LGBT community members, and inability to navigate political terrains. This blame eventually led to a loss of national funding. However, the relationship between EQNM and national organizations also fueled the conflict between EQNM activists and their LGBT constituents. Ultimately, these conflicts led to the alienation of different sectors of the LGBT community and, as I illustrated in this chapter, the branching off of a number of the Sandoval 64 couples to form an organization that focused specifically on marriage recognition for same-sex couples.

Class, ethnicity, and race produced underlying and fundamental issues that both local and national organizations either ignored or had a difficult time addressing. The majority of couples and activists involved in the organization and direction of the same-sex marriage and domestic partner movement are middle- to upper-class professionals (lawyers, doctors, administrators). The majority are also Anglo/white identified and transplants from different parts of the country; though, having resided in New Mexico for a decade or longer on average, they identify as New Mexicans. This majority made up the
local organization spearheading the activism around domestic partner rights, Equality New Mexico. In the chapter on community I go into detail about the effect of this makeup and the resulting conflicts and struggles with community organizing. Local and national relationships were also impacting EQNM’s ability to organize and connect to New Mexico’s diverse and widespread LGBT communities. The Human Rights Commission, for example, widely known for this behavior, would fly in every year around the start of the legislative session and fund a canvassing or community-organizing campaign. Though EQNM’s leadership was accommodating and welcoming of HRC, many LGBT community members in Albuquerque and Santa Fe had become frustrated with the national organization. From interviews and personal experience volunteering on these campaigns, I found that HRC limited the involvement of the local community in organizing canvassing and community events. Individuals were brought in from Washington, D.C., to speak to New Mexico’s LGBT communities about their needs and decide which neighborhoods were best to canvas. As a result of HRC’s lack of knowledge about the cultural differences between New Mexico and the East Coast, and the amount of work already invested in voter canvassing, most of the methods employed by the outside organizers were culturally insensitive, ineffective, and wasteful of human and monetary resources.

Other national organizations were more reliant on local activists, and large grants were awarded to EQNM over the years to make domestic partnership a reality in New Mexico. Partnerships were formed between EQNM and organizations such as the Gill Foundation, Gill Action, and Marriage Equality, and much of the progress made in public knowledge on same-sex marriage and domestic partnership has been a result of these
partnerships. Nevertheless, as in all partnerships, there were difficulties. The most prevalent of these difficulties was decision making on how to spend the money granted. Each national organization or foundation had its own stipulations, from how to approach the legislature to how to organize community participation. While most of the time the differences were sorted out, there were important instances when these organizations came into direct conflict with the realities of New Mexico politics. I address these issues in the chapter on community organizing. However, I mention them here to provide a context for how class and ethnic relationships were affected. National organizations, unintentionally, often came in with “father knows best” ideas, portraying themselves as knowledge holders on how to win rights. While they do indeed hold a great deal of knowledge about and possess years of experience in attaining rights for LGBT communities, I maintain that they also tended to be myopic in their approaches, which generated notions that locals lacked knowledge about their own political experiences. Unfortunately, this thinking also affected EQNM’s relationship to the LGBT community and impacted their outreach and organizing efforts. It led to the creation and dissemination of one particular image of the gay family that falls in line with the national image of the ideal gay marriage.
CHAPTER 5:
THE LGBT INTIMATE PUBLIC IN COMMUNITY DISCOURSES ABOUT MARRIAGE

The first potluck held for the Sandoval 64 was at Jackie and Susan’s home in Corrales, New Mexico on May 24, 2004. Corrales, a village in Sandoval County is largely a middle-upper class desert oasis. Though described as a “hidden gem” that “offers residents and visitors alike a glimpse into the past with its restored hacienda and historic mission church”97, it is a village where 68% of its population is white, the median age of its residence is fifty-one, and the median household income is double that of the rest of the state98. It is indeed surrounded by the picturesque scenery familiar of rural northern New Mexico, with the Rio Grande on one side, green pastures sprawled throughout, acequia (ditch bank) trails that provide walking, jogging, biking, and horse-riding paths, and the scent of horses, cows, and roosters that maintain the village’s a rural character. Yet, Corrales is also known for its unique shops and galleries, fine restaurants and wineries. And if you want to go into the city, Albuquerque is only a short drive away.

Jackie and Susan’s house, though modest in comparison to some of their neighbors’, is a reflection of the village’s style. Built from the ground up, it is a modern take on the sprawling southwestern adobe house, with a kiva style fireplace, a combination of brick and hardwood floors, southwest themed furniture and art to match, and a comfortable and welcoming atmosphere. They’re backyard, able to accommodate their fifty plus guests, was enclosed from their sizeable pasture with horses. Esthetically, it was the perfect location for the potluck, and it could not have been a more perfect

97 http://www.visitcorrales.com/blog/
spring day. Unlike the windy month of April, May brings in the perfect 70 degree Fahrenheit weather, calm breezes, and clear and open skies decorate by the strato-cumulous clouds so famously associated with the southwestern landscape. The day itself was a representation of the mood. Wanting to be at this potluck and meet the couples, I volunteered to sign the couples in for EQNM. Though most of the couples had never met each other before getting married at Sandoval County, they greeted one other warmly and talked like old friends. Two couples brought their children and spent their time chatting about the challenges of parenthood, and the achievements of their children. It was a relaxed atmosphere as everyone feasted, and pictures were taken to document the momentous event and the future faces of the gay rights movement.

One couple had brought a videotape of news clips that tracked the events since the issuing of marriage licenses to same-sex couples on February 20th. A number of them gathered around the television in the living room talking excitedly about the clips, cheering, and complementing one another when one of them appeared in the news. The raucous laughter brought in more of the couples who also began commenting and jeered when they saw the Sandoval County Clerk, Victoria Dunlap. At the time her motives were being questioned, not only by the couples and activists, but by the media as well. She later made statements that her motives were genuine, though many continued to doubt her sincerity.

This potluck was meant to produce a particular kind of intimate public; one composed of married couples and of parents. These individuals were representatives of the new battle for LGBT equality. Thus, this potluck also represented this new beginning. Lynn Perls, a legal representative, informed the couples that she, together with EQNM
and her colleagues at the National Center for Lesbian Rights (NCLR) were exploring the best possible legal route for the couples. Linda Siegle, EQNM’s lobbyist was also present to inform the couples she was exploring what could be done through the legislature. The most important thing, they expressed, were for couples to keep track of their experiences as newlyweds, to participate in town hall meetings and tell their stories.

This chapter provides an illustration of the relationship between EQNM and the New Mexico LGBT community in order to demonstrate the underlying premises about LGBT identities that were utilized to publicly frame domestic partnership and marriage. As such, this chapter also addresses the reasons behind the failure and success of particular strategies and discusses why the image of the gay family resonated with some LGBT individuals and couples but not with others.

In chapter four I examined the processes of mobilizing and organizing support for the domestic partnership legislation and illustrated how NGO’s use of particular neoliberal frameworks of identity and belonging are shaping the relationship between the state and its citizens. The chapter also demonstrated how through shifting discourses of rights and belonging activists attempted to relocate gays and lesbians into the dominant public sphere by envisioning new queer subjectivities that they believed represent the modern family. Thus, chapter four presented ideas activists promoted about diversity, sameness, belonging, and rights and the mechanisms employed in creating unified LGBT identity and a respectable queer subject. I also argued that the processes of mobilizing LGBT individuals and couples were dependent on hierarchical relationships between EQNM and national organizations, and EQNM and their constituents, which led to conflicts and challenges to organizational authorities.
This chapter examines that relationship between LGBT marriage activists and their LGBT constituents and between EQNM and the New Mexico LGBT community at large and show how these conflicts are rooted in ideas about the meaning diversity and community that seek to link the intimate public sphere of gay and lesbian families with the dominant public sphere. I use Berlant’s notion of the intimate public in combination with the concept of community to analyze these relationships. In the introduction of the dissertation I asserted that the usefulness of the concept of community as an analytical tool has been debated at large by anthropologists, who have questioned the relevancy of the boundaries that get created through the concept. As such, I also suggested that Lauren Berlant’s model of the intimate public sphere might serve as a better analytical tool for identifying the processes of creating presumed unifying LGBT identity for it focuses on the way people participate in its creation and maintenance. Nevertheless, while I people are invoking the sentimental elements of the intimate public when talking about community, the term community remains important to imagining and/or fostering a shared identity. Community, in other words, is still utilized in the mainstream to determine who belongs to what particular public.

Therefore, in this chapter I argue that while within the legislative forum the LGBT community was disappearing throughout the years of the Domestic Partnership bill, it remained constant in the public imaginary and critical to activists’ mechanisms of organizing and mobilizing LGBT support. It was also deployed by LGBT couples and individuals as a way to negotiate their desires and needs with activists. Through the forums introduced in the previous chapter, I argued that activists created specific kinds of gay and lesbian subjects that have come to define a gay and lesbian identity to the public.
Organizing has been occurring around this image of the gay family and has been dependent on LGBT individuals’ conformity to it. Thus, I maintain there was a reliance on the historical construct of the LGBT community to create group sameness and a common referent for an LGBT intimate public that was based on a shared history of sexual discrimination. This understanding created a bounded community that was in turn linked to representation and organizing.

Furthermore, the idea of an LGBT community was also tied to diversity that became most evident in the processes of selecting individuals and couples to testify at the legislature, and present their life stories to the public. Particular ideas about diversity created specific kinds of testimonies and shaped public narratives about life experience. Thus, on the one hand categories about sexuality and race were constructed through activist strategizing, organizing, and public performance of identity. Though unspoken, and largely unconsciously, activists and many couples also relied on the African American history of civil rights, in order to represent the LGBT populace as second class citizens. In relation to that framework of civil rights, they employed a superficial neoliberal construct of diversity to discuss how the LGBT community represents New Mexico, to make distinctions between ethnicity and sexuality, and explain the inability throughout the years to obtain New Mexico Hispanics and Native Americans as public representatives of domestic partnership.

On the other hand other queer identified activists talked about a lack of ethnic diversity within the organizational structures of EQNM and national LGBT organizations. These activists argued that the problem is not simply a lack of representation but a lack of inclusion of queer people of color in positions of leadership.
This lack of inclusion leads to reliance on models of activism that they did not see as including or welcoming community participation. The legal/legislative model, they argued, does not incorporate diverse LGBT voices but rather homogenizes identity. This homogenized identity, they read as white, middle-upper middle class, gay and lesbian.

This split in views about diversity and meaning of community was also evident among couples I interviewed. I show that all couples, in one way or another, shared in the idea the LGBT community has as its historical referent discrimination based on sexual orientation and gender expression. However, some individuals differentiated between their ethnic identities and their sexuality. At time some of the couples saw these identities as not only distinct from one another but irreconcilable. Therefore, they talked about them as separate categories. I assert that this division between ethnic and sexuality based identities is a result of the dichotomous way in which community is understood and the neoliberal framework of diversity in which categories of identification are clearly demarcated and recognized as producers of separate experiences. Thus, for example, it becomes easier to talk in terms of Latina experiences and lesbian experiences, but harder to accept or understand a Latina lesbian experience.

Other couples, however, saw their ethnicity, race, gender and sexuality as connected. For these couples, I argue, representation was not merely about seeing non-white queer faces in the media or on LGBT websites and pamphlets that look more like the gay and lesbian version of the united world of Benetton. Their expression of a sense of invisibility was based on sensing a lack of representation of their life experiences that they connected to multiple histories which they then connected to the way they formed their families. In response to these sentiments some couple prioritized their experiences
and identities as people of color when they talked about their lives together and their position in society.

**Activists Defining Community**

An overarching definition of community that all activists I spoke with agreed upon is that community constitutes a collective of people that share certain experiences and characteristics, the most common of which is discrimination based on sexuality. Others also included an understanding of New Mexico landscape and culture, as well as ideas about chosen family.

One of EQNM’s most devoted activist defined community as “a body, a unit of like-minded folks;” individuals who share similar life experiences distinct from biological ties. This activist was distinguishing community from biological family but connected it to chosen family, to politics and to business. “I have lots of communities,” he maintained. “I have the queer community, I have the Democratic Party community, I have the community of my employment, and we're bound together by common interest.” One community he called his family of choice comprised of people with whom he chooses to celebrate significant life passages and occasions such as his birthday.

Interested in understanding how EQNM, the organization he had participated in since its inception, perceived community and its members, I asked him how the organization defined it. Here he took a different approach, one that focused on a hierarchical structure that is comprised of those who lead and organizational constituents. Maintaining that the organization held a responsibility to meet the needs of its constituents, he stated, “Well, I do believe that we have a constituency, and despite the
fact that I said this isn't a transparent organization, this isn't a democracy, this is a private corporation, I do believe we have a constituency that we have to respond to. And I think that's what you were challenging me earlier about, is that yeah, we do have to respond to what the community's needs are, or else we're irrelevant.”

This type of community emphasizes the need for transactions between those that represent and those that are represented and is intended to reflect contributions organizational leaders believe they and their constituents need to make in order to pass laws and policies that will secure legal protections for the entire group. Community thus is also an exchange between the leadership and the wider LGBT populace that is both linguistic and performative, through which a consensus is to be reached regarding the welfare of the group. The performance of this exchange comes more into focus when looking at the strategies put in place by EQNM and its allied organizations and the fractured and confusing response from LGBT couples and individuals. Organizational representatives desire to serve, and many hold that they do serve those that are the most vulnerable in the group, predominantly exemplified by gay, lesbian, and transgender youth. They talk about not only what is best for the group but also “the right thing to do” and “the best thing to do”. Such ideas were encapsulated in the following types of statements:

Well, my prime objective when I do the work that I do is, like I often refer to, is the little faggot over at Del Norte High School, or the little dyke on the softball team at Artesia, or the transgender Navajo kid up in Shiprock. That's who I do this work for. I do not do this work for my middle-class friends that have power and status. I don't need this. I'm a white man. I have economic status. I have economic power. I have political power in New Mexico. I don't need this, but it's the right thing to do.
Similar notions of looking out for the group’s best interest are reflected in the different strategies presented. The right thing to do and the best thing to do from the leadership’s point of view meant obtaining some legal protections for same-sex couples and families. These translated into strategies such as going through the legislature and introducing a domestic partnership bill instead of a marriage bill, expanding the bill to include heterosexual relationships, proposing incremental bills and even considering attaching a DOMA to the domestic partnership legislation. All these were seen at different points in the history of the domestic partnership debate as the best thing and the right thing to do for the community. In exchange for doing the right thing or the best thing and I found that activists and a number of couples implicitly (and at times explicitly) assumed that those considered part of the LGBT community by virtue of being gay or lesbian should care about the issue of domestic partnership because it meant that people cared about their personal and the community’s rights. As this activist summarized, marriage recognition can help normalize people and combat homophobia by providing people “another context in which they can be who they are in the greater community.”

One transgender activist I interviewed similarly described community as “people with the same…either beliefs or characteristics or inherent abilities, or that people share in common, and the geographic location has nothing to do with it.” “We may even be separated by language,” she explained “but because we are experiencing some of the same things that’s why we feel a sense of community.” Interjecting that some gay, lesbian, and transgender people would disagree with her definition, she felt strongly that LGBT is tied together by a similarity of life experiences. That similarity, she clarified, is
discrimination: “I believe the life experiences are close enough, especially in the sense that we are all discriminated against because something we really feel was built in us from birth, was there that we cannot change, it’s immutable.” For her, these similar immutable characteristics from which life experiences are produced form a fundamental component of LGBT collective identity and result in a configuration of cultural marginalization that is different from that of other marginalized communities.

Expounding this idea she said,

There’s a lot of life experiences that GLBT people have to go through. There’s a fear of telling people who we are, a fear of coming out, the fear of coming out to family. There’s not too many other life experiences where you have to have those fears that you have to overcome, but GLBT people do have those things that you have to overcome. And it used to be even worse for gays and lesbians because gays and lesbians used to have to worry about losing their jobs and being killed, and very rarely does that happen, now it’s transgender people that you have to worry about getting killed and losing their jobs. We’re seeing an epidemic in those two things right now.

Violence, loss of jobs, loss of family and friends, and factors of discrimination and marginalization connect LGBT individuals and create a sense of sameness, mutual understanding and ultimately community. To show how an LGBT community is created and reinforced she recounted her experience at the 2010 Transgender Day of Remembrance in San Francisco:

Well, I’ll tell you what Deborah Johnson said. Deborah Johnson is an Afro American lesbian leader in the communities of faith in San Francisco. And she said at the most recent Day of Remembrance for the transgender people who have
been killed…I really believe that the reason Trans people are being killed at these alarming rates are because the culture is reacting to the political games of gays and lesbians, and Trans people are the most… are the symbol of that that are most out there in the culture that are most recognizable, and so they are picked out for violence. I have never heard anyone say that before. No one in the Trans community of course would say that but I’ve never heard anyone say that before and I guess when I heard that I just cried.

What Deborah Johnson was saying, she explained, was that America is split on the subject of gay and lesbian rights, represented through legalization of same-sex marriage, with relatively 50% of the population in favor and 50% against. Of those against same-sex marriage a small radical fraction—which she described as comprised of hateful individuals or people with personality disorders—justify the use of violence by condemning transgender people as “symbol[s] of the permissiveness or liberalization of society.”

However, she opined most organizations do not think about the meaning of community and how some members may become more vulnerable in the process of reaching equality. With the exception of the National Center for Transgender Equality and the National Gay and Lesbian Taskforce, who she stated focus on producing discussions and information on ways for organizations to be transgender inclusive, she could not recollect hearing other local or national organizations discerning what community means. “I think” she concluded on the subject, “a lot of people are including us all together but I don’t know that… there’s been a lot of discussion on what that really means.”

Invoking community is much easier than defining it. More often than not the activists I spoke with unquestioningly assumed that the audience they addressed would
understand who the members of said community were. Since, my interview with activists focused on same-sex marriage and LGBT families, and I had been a participant in the politics surrounding domestic partnership, it seemed natural to make the assumption that I would understand who they were referring to. I too started out with that assumption but found myself asking them to clarify who exactly they were referring to. Community seemed to be anyone who is gay or lesbian, and transgender, but really gay, lesbian, or straight when it came to the issue of domestic partnership. Justifying their decision to exclude transgender couples from testifying at the legislature, activists maintained that the transgender community is different when it comes to the issue of marriage. One activist, when I asked if the choice for choosing domestic partnership as opposed to civil unions was made in order to be more transgender inclusive, answered that it was not the reason. Nonetheless she continued: “Trans community is sort of a slightly different conversation because the trans community can marry. You can marry; it’s a more complicated conversation.” Indeed the couples in transgender relationships that I spoke to were able to marry because they are legally perceived as heterosexual couples. To be part of the domestic partner conversation transgender couples would have to legally fall into the category of lesbian, gay, or heterosexual in order to be represented within the community organized around domestic partnership.

Therefore, community is also bounded and compartmentalized by different meanings and values that are connected to gender and sexual orientation. Community is viewed as separate and distinct one from another and representative of only one or a few life experiences and human characteristics. Thus when activists talked about getting multiple communities on board with domestic partnership, the most popular of which
were the elderly and disabled communities, the gay and lesbian community, and the business community, they discuss them in compartmentalized ways. No doubt activists recognize that people move within different communities throughout their lives. However, when communities are publically discussed such as the elderly or disabled community, they are by default presented as heterosexual. It was difficult for activists to see how these depictions of community bounded by the dichotomy of gender and sexuality could raise concerns and conflicts.

Other activists have also specifically talked about ethnicity as an important component to defining LGBT community and in the process called out what they saw as missing from EQNM’s conceptualization of community and community organizing: inclusion of people of color, especially in leadership. It is at the juncture with rural and ethnic representation with the leadership’s conception and understanding of community that I maintain one of the central disconnects is formed between EQNM leadership and other LGBT activists and LGBT community members. This disconnect could be seen from the start of the marriage events in New Mexico at community forums where discussions about whether to go for marriage or Civil Unions was the primary concern and how the marriage phenomenon was or could be connected to larger LGBT community struggles.

In an interview I conducted years later with a non-EQNM queer identified activist, she too commented on the inclusion and representation of queers of color by EQNM and by national organizations. She argued that the State of New Mexico has a rich history represented by its different ethnic communities. “We have little Vietnam in the south east heights” she began, and
you look down in southern New Mexico you have Vado which is one of the first African American populated colonias in southern New Mexico. You know so then you have the four corners area and you have a lot of our Native American sisters and brothers and tribes and then you have pueblos all over the state. You know...then you have not just your Chicano populations you have you’re Hispano population...were a minority/majority state. So for a movement not to include people of color in leadership, by default they’re never gonna outreach to enough people within this state to shift a paradigm.

This activist was referring to local and national organizations’ lack of inclusion and knowledge of the cultural make-up of New Mexico and highlighted a need to have cultural understanding in common in order to be able to organize and mobilize New Mexico’s LGBT populace. Throughout our conversation she linked sexual orientation and identity with ethnicity and the need to think of LGBT needs through different cultural lenses. As such she was locating sexuality within different social structures and argued that organizations such as EQNM along with national organizations such as HRC were built on one cultural model that is middle to upper class white/Anglo which does not represent or speak to the majority of New Mexicans. Other activists have made similar claims and critiques thus showing that disconnect and conflict lie with the way community is defined/assumed and structured. In a 2005 interview with an activist who was for a while involved with the domestic partnership political action, he commented on the EQNM board composition tying together ideas of community, class, ethnicity, representation, and conflict:

The board is not necessarily reflective of the community. It’s almost entirely white. There’re two people of color on there. Almost all gay male, and there’s one person under thirty. Out of 14 board members...It’s not even that they hold

99 Vado is a town Dona Ana county of southern New Mexico.
positions. It’s mostly having a lot of money. The non-profit world is still run by rich white people Lavinia. They decide the agenda, who gets to do it, how fast and for how many pesos.

EQNM’s leadership is not indifferent to or ignorant of class and ethnic diversity within the LGBT community and its reflection (or lack thereof) in the organization. During the years the organization had funding (2006-2009) an executive director, and a full-time community organizer, were hired to engage LGBT youth as well as members of the Hispanic community. Funding, interest, knowledge, and intuitive understanding of the politics of the legislature allowed Chris Salas, the community organizer to employ different ways of reaching LGBT groups throughout the state. During his time as organizer, there was a visible increase in involvement of LGBT youth under twenty five that were Anglo and Hispanic and an increase in travel to locations outside of Albuquerque and Santa Fe, namely Las Cruces, Silver City, and Gallup. Nevertheless, in our interview Chris talked about the lack of representation of Hispanic LGBT families at the legislature and how the LGBT community was not reflective of legislators’ sense of community. In other words, a cultural commonality was not made with legislators who were predominantly Hispanic in order to present LGBT individuals and families as belonging to a larger community rooted in the New Mexico landscape and culture.

Though recognizing this discrepancy Chris also referred to the discussion of ethnic representation as racial politics. Ethnicity and cultural diversity, while recognized by EQNM activists (as well as national activists), was often spoken of as something marginal or something needed in addition to balance out the component that was understood as the fundamental connection, the glue that links the LGBT community: the
commonality and marginalization originating out of sexual and gender orientation.

Because the composition of the organizational leadership and the couples on the frontline represented largely an unmarked category of middle to upper class white families, ethnicity was treated as a perhaps unfortunate and extra political burden to have to deal with.

No, I think that there are less people that are out or people, when you come from a community like Mora where everyone is pretty much related in Mora. If you grow up to a community like that so you go before the legislature and you testify with your partner and you may have moved to Albuquerque so...and you never came out to your grandma or your grandpa or your village in Mora.

Yeah, just sort of yeah. You go in and the legislator is going to go back and the whole community will know. And so like this past session, my friend’s mom from Mora testified on her son’s behalf and she...it was empowering for her because she’s felt for so long that like it had to be, everyone knew about Rudy because...my friend Rudy because he’s very flamboyant and he’s just unique, in that community he didn’t fit and so he came to Albuquerque and he really thrives here. But when he goes back to Mora, he sticks out like a sore thumb. Well, for her to go before the legislature, before the senator from Las Vegas because they are close to Mora and tell her son’s story it was empowering for her because....

How LGBT Couples Understand Community and Representation

There are many similarities between couples’ understanding of community and the definitions provided by activists: commonality, like-mindedness, sharing of experiences, and community as an extended or chosen family. For some couples sexuality and discrimination are important elements to defining their community especially when they describe themselves as belonging to the LGBT community. Their conceptualizations of community also showed more variation than that of activists as couples talked in greater depth about the role community plays in their personal lives and the lives of their...
families. The following quotes summarize the main ideas about community that were prevalent in my interviews with couples:

people all living within a reaching distance of each other who are working together for some common cause; some common good.
I think community is, at its most basic, it’s people who have a common cause; being together to support each other.

For me community, it’s almost like family in terms of a group of people that support each other, but extended. I mean it’s acquaintances, it’s people that you may or may not know, but they have support for who you are and the life you live and want to encourage you to be successful in your choices.

It’s like a place where you belong in, like where your friends are and your family fits in, and where you live or you’re with people you have stuff in common with because you live near each other or you have a common interest or activities.

I don’t know. It’s not like-minded but commonality. What does this group have in common with one another? It’s sometimes just proximity, being close to one another.

I would say that the simplest definition is just a group of individuals no matter large or how small, who are just working together to survive at the end of the day…Knowing your neighbors. People you can trust, an extended component of, an extended family really.

I think community is a place that is a sanctuary for people and it should be a positive, healthy place and a place that people can access. Being you know, queer people, you know LGBT because we always can’t always turn to our family, but in our communities should always understand who and what we are.

The gay, queer, whatever community is accepting, even those of you that have your differences, you know you have a common understanding that just goes several levels deep. You have a common bond…Discrimination, we’re a minority. And we’re discriminated against and we’re not equal.

Couples also distinguished between categories of community: geographically formed communities, public communities, and personal communities. One couple stated, “You know, it’s funny because my job involves a lot of community so you know to me community means, in a very literal sense the place where I live and the people who live
here, even the people I don’t know.” Another couple summarized this distinction stating that community is kind of like family. I mean…there is a biological definition of family and sort of a modern definition of family. There is a geographical definition of community and there is a personal definition of community. Our community is not…yes it is your physical neighbors, but is also people who may not live near you but they sympathize with your trials and tribulations and they understand and they support you.

Similarly, other couples differentiated between a personal community and a geographical community. The geographical community they defined as their neighborhood and city and their personal community comprised of friends regardless of location that they keep in touch with and who are able to sympathize with their trials and tribulations. Personal communities like other categories of communities, are bound by common ideologies and world views, and interests. In the case of the couples with children their conceptualization of personal community was dictated in large part by their beliefs in what their children needed to be healthy and happy as well as their desire to be good parents and be viewed as good parents. These couples talked about finding community among other parents with whom they share knowledge of the trials and busyness of parenthood; engaged in children’s activities, and exchanging childcare. For example Jack and Kim highlighted the importance of parenthood and forming community around it to the extent that it takes priority over participating in or seeing themselves as part of an LGBT community. They defined community as friends that we had before, Jose, who we have maintained communication with. Friends that we’ve made after Jose because they’re parents in the school, they’re
people in our adoption group, people that we really interact with a lot and I don’t think--I mean, I don’t think of...the gay community but I don’t of us as much a part of that anymore especially even, I think as couples, to think, couples tend to begin to narrow their field as opposed to somebody who is single and is always hoping to meet somebody, that sort of thing.

I blame the busyness of parents, you know and when you’re-- when you’re spending your Saturday going to see the Children’s Museum, like we spend every Saturday doing something, that becomes your community that you see on Saturdays, you know with the young parents along with the children who are Jose’s age, which is good.

Alec and Helen talked about belonging to different types of communities that overlap depending on the situation. The primary community they called their personal community which they likened to an extended family comprised of friends and people with whom they have chosen to cultivate close relationships. They also talked about belonging to other communities mainly the transgender community, the LGBT community, and the activist community that overlap and come together as many of the people within their personal communities are members of these other communities as well. However, they did underline a distinction between these communities assigning more importance to personal community As Alec concluded, “if push comes to shove, for me it’s always going to be my personal community that I’ll do anything for.” Both he and Helen defined personal community as people whom they consider to be their family thus making this community an extension of family and defining it similarly to chosen family. This community is not just about sharing a common cause but also about providing family type support on a daily basis. Personal community as they define it provides love, caring, investment in people, confidence and diversity. Drawing on her experience growing up in a commune, Helen maintained that community is not perfect; it is flawed
and can break apart as she had seen and experienced it happen. Still, the fundamental ideas behind community remained with her and have been incorporated into the way she and Alec create and live in their personal community. Most importantly, she reasoned community or chosen family is imperative to how she wants to raise her son.

And when you ask me that, the first thing I think of is Sam and what it means to us to have him be part of a larger community…we want to make sure he has as close to sibling-like relationships with his friends, our friends’ kids, as possible.

We think of our friends as extended family and that is how I think of the people I grew up with. Like, I have sisters and cousins that I grew up with that aren’t blood-related to me. I have aunts and uncles that aren’t my blood, but that’s what they are to me. And that experience created this giant family. Whether I wanted them or not, they are my family.

And I think for [our child], you know, having kids of all different ages in his life and then all the adults around him who love him and care about him and are invested in him is important to him. And it’s going to make him a more confident person, a safe person—a child who feels safe and cared for and for and loved, and someone who also sees the world in all its diversity as much as possible. His family is large and very diverse in all different kinds of ways.

Personal community holds such significance that is considered more essential than other forms of safety nets such as pensions and retirement funds. Helen pronounced that “those people, that community, our family, as our true security” and proclaimed “we don’t think of jobs or money or pensions or retirement funds as security when we know that what’s real and that what can’t be taken away are people.” To Helen her community is more reliable adamantly concluding that in times of need the people that form part of their community will be there unconditionally making community “of utmost value.”

Others still, discussed the community of parents or a family oriented community as an important component to their participation in a wider community, namely a
religious one. Melissa and Linda are among those who found security, acceptance, and common interest in the Episcopalian church. Lillian explained their participation in the church as somewhat out of the ordinary: “Well particularly lately, I think of community in terms of our participation in an identifiable community is about the church…which is so weird because neither one of us were churchy kind of people when we met each other.”

Despite the misgivings she and Melinda previously had about religion in general as a misogynistic and colonial institution, they felt, as Melinda phrased it that in their church “you don’t have to check your brain at the door.” The sermons, Melinda maintained are intelligent and “demand intellectual engagement.” Lillian also expressed her initial awe over how included she felt as a lesbian and how in tune she is with this church’s ideology. This is a religion she explained that “is nationally very in tune with how I feel about a lot of political and spiritual stuff.” The Episcopalian church is also a place where they feel accepted not only as lesbians but as parents. Crucial to their sense of comfort is the fact that they are surrounded by other gay parents with whom the straight families have become accustomed and therefore are “completely comfortable and supportive of gay families.” They compared the church community environment to that of their daughter’s school where they describe feeling marked by their sexuality. At their daughter’s school, Melinda stated people were nice and people know her because she works there. However, she continued, “the reality is we’re the only gay family there. And I think although the parents are like pleasant to us… I think they’re…not really sure how to deal with us. And so it’s nice to have a place where that’s not an issue.”
A few other couples also spoke of having gay and lesbian friends with children as part of their community but for the most part LGBT parents stated that their time as parents is spent among heterosexual families. For some this fact was also a point of pride for being the first or only gay family their straight community of parents had been introduced to and pointed out how they were a source of education and positively influencing heterosexual’s beliefs about queer families and framing a normal image of gay families. Talking about transitioning from a gay community to a parent community Kim and Jack felt not only acceptance within this new community but believed they were impacting how the parenting community was being defined. It’s been a good point in our lives Jack happily stated, “and I think that they’re [straight parents] surprised and they keep saying how much they’ve included us within their community without—we have not had a negative reaction.” They describe the parenting community as a practical community because they can depend on other parents to help with childcare when needed. “Well,” Jack explained, “with the young parents for example who we swap and we support each other.”

While for many couples having some kind of connection to an LGBT identified community is important, for a few being part of the larger national populace is what they want to define as their community even though they identify and spend a great deal of their time within LGBT circles. Complaining about the compartmentalization of lives and identities by LGBT individuals, one of the older men criticized that as long as people identified only as being part of the lesbian or gay community they will never be part of the larger populace. “I think you isolate yourself, he insisted,
you’re not going to ever be accepted in the larger, broader community if you
don’t get out there. That’s my definition of community. It’s everybody…You
know, yes I know I’m gay and I like hanging around gay men and we have
common interests. That’s what makes them easy to talk with. They understand
when I talk about stuff that goes along with Jerry because they’ve got partners and
the whole nine yards.

Nevertheless he asserted, they have a lot in common with straight couples as well.
As example he recounted an incident in which they witnessed a heterosexual couple they
are friends with enter an argument. “They have the same problems,” Hank proudly
declared as he was telling the story of what he described as a normal argument couples
have after being together for many decades. “One time I started to laugh” he chuckled.

They were arguing about something that was so stupid and the woman actually,
Connie got a little angry at me. “It’s not funny.” “Connie, I’m sorry but it
sounds…it just sounds like the words were coming out of Jerry and my mouth.”
And she has laughed at us for doing the same stupid stuff which I reminded her.
“Yes, I did. Didn’t I?” Because it’s so funny when you hear it coming out of
somebody else’s mouth. They were all serious about something that was really
stupid and I do the same thing. That’s the community.

Adding to Hank’s comments Jerry stated, “I think one of our major contributions
to the communities, regardless of which one we’re talking about that we belong to, is
portraying the sense of normalcy in a relationship.” Thus community through this kind of
lens can also mean not just finding commonality but also to some extent conceptualizing
everyone as normal by highlighting sameness.

Others talked about community through difference, particularly highlighting the
diversity of people that make up the LGBT community but at the same time emphasizing
that the fundamental glue is sexuality. For example, Anthony and Nolan, a mixed
Hispanic and Anglo couple maintained that the gay community is interesting because
while “what we share that makes us a community is our sexuality, it doesn’t make us all identical.” People are more than their sexuality they argued and that is what creates diversity within the community. “It’s really one component of the whole being. And we’ve come across all sorts of different people in our community that have had completely different spectrums or personalities, or basically what we define to be the mortal soul – whether it is their race, their religion, what have you; whether they are conservative, liberal…quirky or intelligent or just plain stupid.” Nolan believed that were it not for sexuality which brought them into the same spaces as other gays and lesbians of different backgrounds, such as gay clubs, friends’ houses, parties, they probably would not have associated with them. “So I’d say that there’s more diversity, thus the rainbow flag, within the gay community than you would find is a say a Catholic community or the Hispanic community.” Adding to Nolan’s comment Anthony maintained that what brings people together in the Hispanic community is a sharing of language and centuries of common history.

They’re sharing a heritage of a completely different language that kind of separates them from everybody else and they feel much more closer. When you’re talking about your sexuality, where that may bind people that are younger, for gay people that are very old, too, or throughout their whole life, that’s less of an issue, that’s less of an adhesive...Whereas if you’re a Hispanic you’re always going to have that. You’re always going to have that heritage, you are always going to have that language, diet...

Anthony, in support clarified that the Hispanic community unlike the LGBT community “has its origins in the nation.” This makes the LGBT community unique because as he affirmed it “just pops up regardless of boundaries, geographical boundaries or political
boundaries.” Therefore you have members of the LGBT community all over in both liberal and repressive environments.

Nidia and Mae took the notion of the LGBT community as a unique community arguing that “gays, lesbians, trans, and queer people understand the value of community and the value of creating our own families.” Thus, community for them is born out of a lack of recognition and support from biological families and society. It is a community that is accepting of every gay, lesbian, bisexual transgender, or queer identified person regardless of cultural differences for the simple fact that queer sexualities and the discrimination that results from them create such a strong common understanding that “just goes several levels deep.” Discrimination, holding a minority status, lacking full civil rights creates an unequal environment and a distinction between “us” and “them.” While “community is what you make of it” as Nidia asserted, and you can include LGBT and heterosexuals within your community, the LGBT community remains distinct from any other. “How we define and look at community is different in what I was raised in,” said Nidia. Like Anthony, she referred to her Latino and Catholic upbringing in which she described family as the hallmark of community. She explained, “You know so coming from a small town Latina Catholic, you know my community would definitely be my family, I mean and there’s enough of us to create a, you know a big family, a whole town.”

Yet as a gay person family can look completely different from its heterosexual counterpart. At the center of LGBT community and perhaps even central to an LGBT collective identity is this distinction between chosen and biological family. “We often have to create our own families, they’re not of biological origin,” Nidia said once more,
highlighting an important component and reason LGBT people seek out community. However, the more she and Mae thought about the meaning of community the more confusing it became trying to place their heterosexual friends within it. They had a harder time distinguishing between a personal community and an LGBT community because while they felt that anybody that is a part of their lives and is supportive of them as lesbians are community, for Mae and Nidia their identities are in fundamental ways shaped by their long standing political involvement in LGBT issues. They commented

Mae: I would say we’re engaged in the LGBT community. I don’t think I’m very much engaged in the straight community and I don’t have much interest to be engaged in the straight community. And I’m not engaged in the church community and I don’t have much desire to, other than religious alliance for queers you know, stuff like that.

Nidia: So everything we do any affiliation really has a queer component to it.

Mae: Yes exactly, as far as community is concerned.

Therefore, political participation seems to also be an aspect of a community identity; at least that of the LGBT community. While there are differences in how activists and couples define community they also hold many similar fundamental ideas about it. All activists and couples talked about shared experiences, common understandings, and similar characteristics that bond LGBT people. Gender and sexual orientation are at the heart of the definition of LGBT community, though the meanings assigned to gender and sexual orientation can differ among activists and couples.

Ethnic identity is another component to defining an LGBT community that received interesting interpretations by the activists and some couples. While I did not ask
specifically how ethnic backgrounds fit into their definition of community, mixed couples entered that conversation. Unlike the activists who were adamant about the importance of including people of color within the conceptualization of community and within EQNM’s leadership structure, these couples looked at ethnicity and sexuality as being fundamentally distinct one from the other. They lauded the ethnic and cultural diversity that makes up the LGBT community but maintained that the fundamental commonality was sexuality and/or gender orientation. Ethnicity is important but not as important as sexuality and gender orientation in defining the LGBT community.

In particular ways the distinction between ethnic communities (most especially Hispanic community that was talked about) and LGBT community helps activists organizing around domestic partnership and some of their constituents explain and justify the lack of Hispanic representation at the legislature. However, this distinction is not sufficient for other activists of color who maintain that the lack of representation is due to lack of inclusion and a framing of the LGBT community through a white middle to upper middle class cultural lens. These are just a few perspectives and while most couples do not outright mention culture and ethnicity as components, they do invoke them when they talk about defining marriage and family illustrating that for many that ethnic culture and background shape their identities as individuals which in turn shape how they perceive community. I believe this is most evident in couples’ discussions about family and personal communities. Who they consider to be family are also members of their personal communities and for couples with children, their personal communities are formed around ideas of parenthood and children’s needs. Therefore, conflicts of interests between activists and their community members arise from how value is assigned to
different elements within definitions of community and family. It is to these conflicts that I now turn.

Community Support Building and Conflicts

To carry out the strategy that EQNM representatives were envisioning with the help and influence of national LGBT organizations, they had to bring together the LGBT community not only to discuss the options but to get community members to support the ones they were proposing. In chapter six I discussed the different kinds of trainings EQNM and allies proposed and organized. In this chapter I focus on the role of forums, town halls, and gatherings in fomenting a community that would support the political endeavors. From 2004-2005 LGBT couples and individuals were energized by what was happening locally and nationally around marriage. So naturally people were showing up to forums and town hall meetings and were gearing up for a “good old” gay rights fight.

After Feb. 20, 2004, EQNM which at the time was still called Basic Rights New Mexico, and the Coalition for Equality, partnered with Lambda Legal to coordinate the first LGBT community forum on marriage equality. The idea was to bring together lawyers and newly married couples to discuss the present state and the future of their marriages. In discussing the next steps it was also necessary to have more than just the Sandoval sixty-four present. They needed a larger selection pool because at the time the strategy was leaning toward the courts. Thus, on March 16, 2004, options in lawsuits were discussed.

Though, there were lawyers among the couples, the explanations were quick and at times unintelligible. The experts in the room sped through with legal jargon despite
their repeated claims of being there to answer questions. At the time they seemed less interested in answering questions than in telling people their preferred strategies. It was at this meeting that the lawyers worked to convince couples to wait a few months to see if President Bush would be re-elected, to see what the New Mexico legislature would look like, as well as monitor the actions of religious conservative organizations such as The Alliance Defense Fund. Despite disagreements the audience conceded to the option, and the couples decided to create a listserv as a way to communicate with one another about their experiences presenting themselves as married.

The year was spent putting together town hall meetings, potlucks and events to rally the couples and the LGBT communities around same-sex marriage and to gear them toward the legislature as opposed to going forward with a lawsuit. These different events were also important in giving couples a sense of community around their concerns, and many did help organize the different events to support LGBT families. Some of the events I attended exemplified the attention LGBT couples and families were given and the importance placed on the issue of same-sex marriage.

On Sunday, May 2, 2004, a few couples and EQNM and Lambda Legal representatives organized a potluck held at Jackie and Sue’s house, a couple that married outside the country a couple of years previously. A beautiful house built from the ground up, it was adorned in southwestern décor and abstract art, and a large enough backyard to house a small pasture with horses. It was the perfect size to host a large number of people. The majority of the couples that arrived were women, a few of which came with their children. I had noticed only three male couples and guessed that all the couples were over thirty years of age. With the exception of four individuals everyone was Anglo, and
the Navajo, African American, and Hispanic women were themselves in relationship with Anglo identified partners. One of the couples brought a video tape of local news clips detailing the progression of public discussions on marriage since the licenses were issued on February 20th. A lot of the people present gathered around the television in the living room commenting on how the newscasters were covering the topic, cheering when they would see one another on the news, and complementing each other on their remarks. Many also frowned or jeered when they would see the Sandoval county clerk, Victoria Dunlap, some calling her crazy and questioning her motives for issuing licenses.¹⁰⁰

On June 6, 2004 EQNM with the help of couples organized a wedding reception for all the couples married in Sandoval County. It was held in the Student Union Ballroom at the University of New Mexico. The reception turned out to be a great success, as the ballroom was packed with couples, supporters, and the media. In the middle of the ballroom were several large cakes, and wedding favors that people picked up at will. The tables lining the ballroom walls were decorated with a booklet documenting a small number of the couples. The diversity of the couples exemplified in the brochure and the large turnout presented to the public and to the LGBT community a strong sense of pride and unity.

**Building Community through Town Halls**

EQNM and Lambda Legal attempted to duplicate in the town hall meeting the diversity and participation represented in the wedding reception. Thus in the process of illustrating couple’s experiences, EQNM and Lambda Legal attempted to get a wide array of

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¹⁰⁰ At the time Dunlap had not yet stated why she had done it.
couples. In early town halls, couples were trying to find the balance between presenting themselves the same as heterosexual couples while also highlighting differences by holding on to their identities as gays or lesbians and by describing the differential treatment they had been receiving from neighbors, coworkers and employees.

One couple, identifying themselves to the audience as native New Mexicans, described their relationship as the quintessential love story. They began their story stating when they met it was “love at first sight.” “I was nervous” one of them explained. “I saw a future with her. A house, kids. We just purchased a home. I knew she was the one for me.” As she continued she increasingly rendered her love story to the affective aspect of the American gendered construct of love. Embracing the audience’s gaze she professed, “every woman’s dream is to have a big beautiful marriage [wedding] and tell everyone.” Recounting her parents’ mixed responses to her marriage announcement she posed to the audience the conundrum “being a lesbian how do you tell people?” Her mother was overjoyed, she explained, but her father “turned white from shock.” It was also a mixed response they received from society at large, she exclaimed; in some businesses they were greeted with joy and in others with homophobia. While they highlighted how they embraced the American ideal of love they concluded that their identities as Americans remain incomplete: “One thing that is still lacking, I don’t feel like I’m a whole complete American. We don’t have the legal contract. We are missing the advantages heterosexuals have.”

The idea of their identities as Americans and as families being completed by marriage was evident in other testimonies as well. Another woman stated “we already had a family, but when we got the certificate…It did not change our family but it gave me
a title. I am so and so’s step mom not that woman Jane lives with.” Jane chimed in with daily routines and enumerating several she voiced “we are like every other family or maybe more because we fight to be a family.” Like every heterosexual, she asserted, they should have that cohesive unit to fall back on and they should not live “in fear that any day the government will tell us we are not a family.”

Similarly, a male couple talked about having adopted three siblings who came from drug addicted parents. Speaking highly of the judge who heard their case they affirmed: “the judge pronounced us a family in court.” Therefore, one of the partners state, “[I] don’t understand how we can be entrusted with the most precious resource of our society but be denied the full package to take care of them. What if something happened to us? What would happen to the kids?” Moreover, they contended, they did not understand how other gays and lesbians have the same sense of urgency around marriage they did. “Maybe they don’t have families, maybe they don’t plan on adopting” one of them stated. Impassioned he uttered “I want to say loudly we are the same.”

At the time there was also a stronger representation of Hispanic and Chicano identified individuals and couples who brought up the issue of race. Though they did not critique activists for the lack of racial representation they did make reference to feeling invisible at public events. One woman recollected her feeling of relief during a past LGBT legislative event where she noticed Nidia and Mae. She told the crowd “it was good to see people of color out there.” Another woman, who identified as ninth generation New Mexican Hispanic from her father’s side and fifth generation from her mother’s genealogy, explained her feeling of invisibility by conflating her lesbian and Hispanic identities. Talking about legislators, she compared the way people of color are
viewed to gay and lesbian experiences. She asserted “legislators don’t believe we exist,” meaning queers of color and read off the number of legal rights denied to queer couples in New Mexico. She also mentioned her partner, a teacher in the Santa Fe public school system, who did not like speaking publically for fear her colleagues would find out she is a lesbian and treat her differently.

At the end of the testimonies the activists addressed the audience about the legislative strategy and what they needed from supporters. The message was usually for individuals to contact their legislators and attend hearings and rallies at the state capital (also called the round house) when needed to fight a DOMA and promote the Domestic Partnership Act.

The Problems with Maintaining Community

By the end of 2004, EQNM and national activists had already decided the direction of the movement and a town hall meeting was held on December 7, 2004 to announce the strategy and ask the community for support. Once again the meeting was held in the large auditorium of the University of New Mexico Law School. Lynn Perls and Linda Siegle led the discussion and started the meeting by posing the question “where do we go from here,” asking the audience for suggestions. People jumped in with many ideas, some that were considered outrageous, some idealistic, and others reasonable. The two hour conversation was spent arguing and debating how to approach the legislature and what those approaches meant. A few people started the conversation stating the LGBT community needed to reclaim rural voters, though it was not clear to me when LGBT activists ever had rural voters. Others argued for reclaiming moral value language. One
young Latino male, who was working with EQNM introduced the idea that the leadership wanted to put forward. The LGBT community, he stated needed to “work on meeting people in the middle,” and proposed that civil unions rather than marriage be considered as an option at that point. Everything lies in how you phrase things, he pressed on, and how you word equality. Kelly, one of the volunteers that had dedicated many hours and technical expertise responded that said she did not want to meet half way “if it compromises our relationships.” Another audience member voiced “we [gays and lesbians] are gonna have to speak out unapologetically.” She then warned that “we need to pay closer attention to ourselves and address more of our own internal homophobia.”

Mary, a queer poet of Asian descent stated that the number one priority should be “creating strategies for humanizing queer communities.” Referring to the 2004 presidential election she maintained that it was in that election year that the state of Ohio finally adopted the 14th amendment, formerly abolishing slavery in Ohio. White supremacy is at the base of what’s going on, she argued. Connecting white middle-class values with the disenfranchisement of people of color and queers she reasoned, there is not only a fear of browning the U.S., but conservatives and the Bush administration added queers to their list of fears, even if the queers are white.

Another woman accentuated that the LGBT community should not just strive to be part of the middle class: “We are also poor, we’re in the military, and we’re 99.3% in the rural areas.” Someone else similarly talked about reaching out to young people, poor people, and people of color. “We need a better reflection of our community,” pointing out that “95% of people in this room are white” “We,” LGBT activists and people present in these forums, she contended, needed to consider how to reach those that were excluded
from these meetings because they conflicted with their work obligations. These individuals’ testimonies one following the other generated a small yet unsuspected avalanche made of issues that left the room in silence. Neither the EQNM representatives nor most audience members showed signs of having ideas of how to address these concerns, and the silence was only interrupted by a call for a break. At that moment I began realizing that the marriage movement has been and remains a largely white middle-class movement because of the continued inability to address non-white and non-middle class issues, and the difficulty in conceptualizing LGBT identities and understanding desires and concerns in non-homogenous ways.

Yet, another audience member maintained that the LGBT activists needed to do a positive involving teachers and professionals who were “out.” She advocated using the media and showing people that gays and lesbians are not different. Somewhat vexed by some of the suggestions Linda Siegle interrupted to remind everyone that “we are doing that and that’s what Protect Our Families and the town hall meetings is about.” Sensing the growing frustration a break was announced. Now that the community was given a chance to voice their opinions and emotions, the second hour was to be dedicated to explaining the strategy. However, while undoubtedly EQNM leaders foresaw some objections, they did not expect the level of resistance they were to receive.

In the second hour of the meeting Linda Siegle talked about the upcoming 2005 legislative session. Adamantly, she stated that “When a DOMA is introduced we will lose. A DOMA will get passed.” She then proceeded to discuss what she considered viable options: Combine a DOMA with a civil union/domestic partnership benefits bill to be passed together and carried by a Democrat. I discuss this issue in chapter six as well
and the response she received from other organizations such as ACLU-NM. The reaction from the LGBT community, I sustain, had a great influence on the direction of this strategy. Immediately, the audience began stirring. At first all one could hear were echoes and murmurs as people looked at one another gauging each other’s reactions and vocalizing their own. Soon enough the room revealed itself divided. Some readily acquiesced, trusting Linda’s years of legislative lobbying experience. The way Linda spoke was with a great deal of authority, experience and knowledge, causing part of the audience to defer to her as “Linda knows best” However, there was opposition. As the audience stirred, one woman raised her hand to rebuke the idea. In a reprimanding voice she stated, “After a year of telling people civil unions are not enough, it makes us second class citizens, we’re supposed to turn around and say we should pass DOMA and settle for less?” “I don’t see how any Democrat would want to side with us.”

Siegle, trying to justify her reasoning, responded that she understood “people feel we’re selling out. But we’re already second-class citizens.” She then explained she had already spoken to Democratic legislators who were in favor of this strategy. Later in what was turning into an argument she was asked if a DOMA could be challenged in court, to which she responded yes. Some lawyers present in the audience disputed her answer and Lynn Perls jumped in to clarify that legally contesting a potential DOMA depended on the wording of the amendment. If it is written badly, Siegle simplified, it can be challenged in court” “Let’s hope that will be the case.” Siegle strongly believed and expressed that legislators had no reason to pass civil unions if it’s not attached to a DOMA. By this point, however the split was widening and more people became uncomfortable with the idea. For those who were on the fence the decision making point
lay in the answer to the question of whether or not the bill could be split in legislation. 

Siegle replied yes. Murmuring began to echo again through the room. One woman threw her hands up in frustration yelling, “What’s the point then?” Siegle began talking louder into the microphone exclaiming

> I’m not worried about the bill being amended. I’m worried about it not being passed. Let’s hope our community becomes more realistic about the politics. The reality is a DOMA will pass. The decision we have to make is either to wait years for equal marriage or ensure the state benefits we could have now like hospital visitation rights, state taxes, and inheritance. Our people need benefits.

As the arguing intensified, another woman stated outright, “I can’t support this.” Siegle then asked her “do you think it’s better to have nothing at all than to have civil unions? To this the woman resolutely responded “Yes.” A different woman also scolded, “It seems to me you’re compromising equality for politics.” And a man followed, criticizing, “I’m already sold out by you defining family as two people and children.” People began talking over one another and I could only make out some of the ensuing arguments. Religion had been brought up and claims were made that marriage is a religious institution and the state should only have civil unions. I heard a few even suggest trying legislating civil unions for queer and straight New Mexicans alike. In a frustrated laugh Siegle chastised the audience members as she responded “people we’re not gonna change the institution of marriage. Let’s be realistic.” A young man who had at one point been an EQNM board member jumped in to support Siegle, “I’ve had to do a lot of growing up in the last three years,” he stated, referring to his involvement in queer politics. “People need to stop acting like adolescents and listen to Linda because it’s the
most realistic route to take.” His remarks were met with provocation by an audience member whom he would manage to aggravate on multiple future occasions. Facing the crowd she said plainly she did not like the tone the conversation had taken. “Just because people don’t agree with Linda doesn’t make them adolescent. It makes them of a different opinion. I understand what Linda is saying, that is not the issue. I just don’t agree and don’t want to be silenced because I’m not on board with Linda’s idea.

Unable to come to a resolution the meeting closed on a somber note but with the agreement that EQNM would open the board meeting to further discussion on December 13. People rushed out frustrated and distrusting of the decisions yet to come. I was unable to make the board meeting, which was held in Santa Fe House. However, in an interview with Lambda Legal’s local representative, Amanda Rich, she noted that one option given a great deal of attention was the introduction of a Civil Union/Domestic Partnership bill on its own and fighting DOMAs that would be introduced by right wing conservatives. The day before the meeting Siegle sent EQNM her proposed legislative strategy for the 2005 session which included the introduction of a solo domestic partnership bill, and once legislators turned it down, the introduction of the DOMA/Domestic Partner combination bill. In addition she suggested fighting a constitutional DOMA which would most certainly be on the legislative docket. Siegle was assured that Governor Richardson would sign a DOMA but would also sign a DOMA/DP bill. Recognizing her ideas were not popular with the masses and could as she stated “Divide our already divided community more,” hamper fundraising locally and nationally, and appear out of sync with the national gay marriage agenda, Siegle was steadfast in her opinion believing her strategy would not only yield benefits for the LGBT community, but it would build
credibility and strength with the Democratic Party, and show through the making of hard and unpopular decisions EQNM’s leadership.

Nonetheless, after the December 7 forum, the Lambda Legal local representative began speaking with LGBT “community leaders” in New Mexico (Albuquerque, Santa Fe, Las Cruces, Gallup, Las Vegas, and Silver City), about the current strategy of introducing a CU/DP bill and attaching a DOMA to it. By the time of the board meeting she had done forty-two interviews. While there were a few supporters of Linda’s strategy, the majority wanted to focus on marriage and create an education campaign around it. “I don’t agree with it,” one interviewee stated: “When you start negotiating, you should ask for more. We should go for what we want. It contradicts everything we have been headed towards. It would make a mockery of everything that Feb. 20th was.”

Another interviewee maintained that a better strategy would be to introduce a civil union or domestic partnership bill and fight the passing of any DOMA. This time was a scary decision making time for people because many felt their options were so limited that the only way they would get any protections was by supporting a DOMA/DP bill. One woman maintained, “as much as I would hate to see it happen, I think it may be what we have to do” she stated. “I don’t care what they call it but we need more protections. If that means Civil Unions, fine.” Similarly, one man expressed that he would very much like to have health insurance: “I’m not sure it’s the best ideas, but if we want to get SOMETHING it might be the only choice we have.” One community leader from Las Cruces however, warned against giving in to these fears. She maintained:
In this climate people are being dichotomized and when we put people in the position where they have to choose, I fear that more than likely they will not be on our side. We need to give people in the middle a reason to question the status quo. So many people want certainty right now and to follow what someone says is right, I question people who guarantee certainty. I am more concerned with what our argument is and what our case is.

These community representatives’ testimonies and the presence of LGBT couples and individuals at the board meeting proved to be essential to the future legislative strategy. Lambda Legal’s representative explained that the audience did not get to vote on the matter. Nevertheless, she said,

but they influenced how the board members voted. Some [board members] came in sure about how they would vote and by the end of the night changed their minds. Ron ¹⁰¹ said it best. He said that we are presented with a conflict between two missions: one is to make a decision that would be the most logical and successful decision for the community, and the other to represent what the community wants.

In the end the legislative agenda changed. The community conceded to introducing a domestic partnership bill rather than a marriage bill, and EQNM leaders and the lobbyist agreed to not attach a DOMA to the bill and instead work on defeating any DOMA introduced by the opposition. Building on the previous achievement of the Human Rights Act—a hate crimes act that protects all gay, lesbian and transgender people from discrimination in the state of New Mexico, EQNM focused on the need to talk to legislators to humanize gay and lesbian families. Many LGBT folk also concentrated on creating religious coalitions and using Judeo-Christian rhetoric and values to humanize and legitimate their relationships. While the domestic partner bill did

¹⁰¹Ron Wheeler was the only African American member on EQNM’s board members in 2004 and 2005.
not pass its first committee in 2005, the efforts of the new strategy paid off as LGBT activism helped defeat the introduction of a DOMA in New Mexico and built momentum for the upcoming years.

There were a few other forums held in the years to come in which differences of opinion between EQNM leadership and their constituents were once again highlighted such as the one I discuss in chapter six that was held on October 10, 2006. In this meeting the couples present wanted to revisit the possibility of going through the courts for their marriages to be recognized. Evidenced from the discussion with ACLU national and NCLR, the EQNM director and board members feared that some couples were getting too antsy and would go on their own, hire outside lawyers and file recognition lawsuits. Thus there was a great fear of losing control of the community, of failure on the part of the leadership; many of the trainings focused on the positives of the legislature route and the devastating political and social impact of going through the courts. Thus, when brought up such as it was in the 2006 October forum, EQNM representatives listed off the states where the court route worked against same-sex couples, highlighting California and urged people to have patience to see what would happen in states such as New York and New Jersey where New Mexican couples could potentially marry if those states passed positive legislation. The more people married the stronger a legal case would be in New Mexico. The fact that couples they could not control were labeled “rogue” indicated a defection from the community that EQNM and its allies wanted to maintain. These couples were seen as the black sheep of the community and became one of the groups of enemies not only EQNM but the LGBT community had to fight.
Representing Community

From the start of the debate in 2004 representation had been an issue, particularly when it came to non-white ethnic communities. Even in the early forums when more Hispanic identified couples participated in the forums and town hall meetings, the presence was overwhelmingly white and older. Thus, on the few occasions when conversations about race were brought up such as in the forum held on December of 2004, when the poet Mary connected white supremacy and middle class values to the processes of dehumanizing queers, EQNM leaders did not know how to respond. Ethnic diversity was and continues to be important to EQNM but I maintain that diversity has had to fit within the confines of the organization’s imagined community and the political strategies set forth to represent said community. Starting in 2005 there were changes occurring in the board as board members stepped down and others stepped in their place. These changes, according to other community activists also impacted the fragile relationship between EQNM and queers of color, working class and rural queers. As the new executive director came in, the organizations’ leadership 99% white, and throughout the years I had volunteered with the organization, its board and E.D. were having a difficult time showing diversity within their organizational structure. Diversity was reflected in their two staff members, the office manager and the field director were, who identified as mixed African American and white, and Hispanic New Mexican. In an interview with Sandra, a queer identified grassroots activist, she expressed that “once there were no more people of color in leadership there was a, I saw a huge shift from connection to a grass roots community to no connection.” More so, she added that shift was also experienced in how information was disseminated and received. “It was either you were
online,” -meaning you not only had access to a computer and the internet but you were also on the EQNM listserv— “or you had to be in the office to find out and if you were outside of those means of communication then you weren’t finding out what was happening.” She had sensed this shift after Lambda Legal retreated from New Mexico and EQNM was undergoing major infrastructure changes. For a while EQNM was functioning on interim directors and a volunteer board. It was that transitional period, when leadership was left to the board, that Sandra felt communication was breaking down and the way communities of queer were organized changed. “If you look at the canvases before that [transition] to what canvases look like now [in 2009]” she argued, “the numbers of community people I’m sure were more than doubled…Back in the day I mean you know I participated in those. Reflecting on the makeup of EQNM and the organization’s relationship to New Mexico’s LGBT population she stated:

I think having a lack of people of color in leadership at EQNM definitely created a disconnect between other allies at other organizations. And there was more instead EQNM being allies or having people of color in leadership, they further alienated people of color because there was nobody to reflect those communities. So when you pull out leadership of color, then you’re losing communities of color because you’re not speaking the same language anymore.

This activist was critiquing not only the political structure of EQNM but was also indirectly commenting on a difference in conceptualizing community. She saw EQNM as a fragmented organization that lost the ability to connect to different ethnic communities. When the leadership shifted, Sandra believed that attempts at getting communities of color involved stopped. As the organization was faced with financial difficulties after 2008, she saw less dissemination of information, a thinning out of staff, and a breakdown
in communication with the constituents it did have. “It was kinda like the organization couldn’t hold itself together to really even communicate with the constituency it had,” she remarked. Rebuilding the constituency she believed EQNM built with Lambda Legal was no longer a priority, perhaps she guessed because of the crises the organization kept experiencing that did not allow for the community to be revived.

The lack of people of color in leadership was a huge factor for Sandra in explaining the lack of representation of people of color not only in the organization but in the marriage movement as well. In addition to this important component in a state that is a minority/majority state, Sandra also emphasized that what held EQNM from growing its constituency was the organizing model they were using. In her experience, EQNM lacked people with a “community organizing background.” What they had she argued were people that employed a campaign model which she differentiated from a grassroots organizing model.

And I think that that’s also one of the differences I saw is that we did have a conception of EQNM that was more community organizing based, and it went more to a campaign type of leadership. Then you completely lose the grass roots. And I think that that’s where we were never able to recover again. Is that it stayed at an unreachable level, and…information was no longer being disseminated into grass roots communities that normally don’t have access to some of this information.

The majority of the couples I talked to did not bring up the issue of racial representation, in part because the majority are white identified or if in mixed relationships their queer identities took precedents in this topic. Nevertheless, a few couples did point out that there was a lack of regional representation, meaning most
people represented were from central or northern New Mexico (Albuquerque and Santa Fe mainly) and recognized that the majority of those faces were white. A few also connected their sense of politics to the communities they grew up in such as in an artist community, African American and Hispanic communities, or anarchist communities, through which they discussed their sense of lack of representation or outright invisibility. For Audrey and Sophie their disinterest in the marriage movement and the local or national politics around it is linked to their deliberate disassociation from the mainstream world of politics and culture. In our interview they told me they did not see their relationship within the marriage movement, nationally or locally because their form of family is not represented, nor do they see their faces within this crowd.

They talked about being African American women as central to their own sense of identity and important to how they understand and form family and community. Sophie for example rejected what she called “patriarchal and Christian” components to the traditional family construct. Nevertheless, she feels the need to stay connected to her African American ancestry. She sees that connection maintained through her blood relations and her life experiences.

I feel that… as a black woman growing up through the civil rights movement and all of that stuff, I feel like, I’m not Christian, everybody in my family is. I’ve just really had to redefine myself, but I do have a strong need to stay connected with my ancestors and my family. But both of us, I think, have chosen not to be in such proximity with our family and live the lives that might have been laid out for us, in terms of traditions and stuff.

The idea that “being black is more than just an issue of skin color” but a “cultural identity constructed from experiences in the black family, in the black church, and out of
black history and folklore, [that] finds its expression in the social performance of black identity” (Hawkeswood 1996: 90) resonates in Audrey and Sophie’s discussion as they connect their identities as African American to their life experiences in very conscious ways. That is not to say they discount their sexual identities. Yet out of all the different identities they embody being black women stood out in their minds and in their narratives. Sophie elucidated,

I work on the blackness part of myself more than anything else, I think. The gay part, it’s just flowed through me that way, I’ve always lived in communities where it wasn’t a big deal, and I’ve always had jobs where it wasn’t a big deal. I’ve never really had to be in the closet or anything like that, even with my family, but they don’t say, “Well, here’s my daughter in law,” or anything like that either. So I just think that it’s been a balancing act around acknowledging the walk that I feel like my people have endured in this land.

Recollecting moving to New Mexico from Provincetown, Massachusetts where she completed her undergraduate degree in art, Sophie explained that she did not care much about being gay because that was the norm there. However, what made her feel different was that lesbian community she was a part of was white. For her, New Mexico provided a space in which to explore her identity as a woman of color and to find the kind of diversity not present in Massachusetts.

I came here and I was a graduate student at UNM and I definitely decided that, I’m not a big groupie, joiner kind of gal, but someone pointed me towards…the African American Student Services, and I sort of realized that there was a real lesbian of color scene here, so I decided to check it out. I made some real lasting friendships from that. It’s really funny I think that I’ve had the largest collection of black women in my life as an adult, here in Albuquerque by far. It’s just, a lot of the blacks that are here, if they’re not in the military or something, they’re probably some kind of freak anyway because this isn’t really a black town…Last
night we were at a concert at the Public Academy for Performing Arts. We had a couple of friends’ children who were performing last night. So we ran into a bunch of friends who were there supporting these girls and their parents and all of a sudden we look around, and here we were, all these black women in one little spot. We looked around and there’s no other black people in the whole audience, and then we all knew each other and there we were…We’re black women, in a city where we’re supposed to be invisible.

Audrey also recalled her experience moving to New Mexico. For her, Albuquerque presented her with the opportunity to define and embrace her sexuality. I think that’s one thing that really blossomed for me here,” she explained. “I understood that about myself,” referring to her attraction to women, “in ways that were just sort of germinating before I came here. As she came out, Audrey expressed that she found a type of community she never expected to have. As important as her bisexual identity has and continues to be, Audrey asserted

I definitely feel like my racial, cultural, color affiliations have been more defining, and that includes the fact that, because I speak Spanish, and I speak it as much as I can, and the largest group of people here are Mexican nationals, so when I speak to my neighbors or I talk to the folks that clean [the college where I teach] in Spanish and they’re like, “Are you Dominican or Cuban?” They just assume that I’m from somewhere else, but my color and race, and I say, “Color and race,” because I don’t necessarily think of them as the same thing, have really defined things more for me. More so than my sexual orientation. I find myself coming out of the closet when people are acting like fools because I pass as a straight woman, I guess. So I feel like some of my very light skinned friends of color who pass unintentionally.

Richelle and Cam also talked about not feeling represented within this movement. Aside from feeling overwhelmed by life with two children they expressed that their lack of involvement is also due to a sense of invisibility within the sea of LGBT family imagery. For example when I asked her about the face of the gay family, Richelle stated
she did not feel like women of color with children are an issue for society in general and thus they are also a non-issue when it comes to representing gay families. “It’s interesting” Richelle said out loud as she processed the question “I was thinking about ‘who did I see in my head’ when you are talking about gay families,” and women of color are missing because they are seen as single moms. “Because colored women with children? That does happen, right? I mean so you’re looked at as a single mom. So that [the gay family] doesn’t have that face. It has a different like- right middle class, white guys who make these choices of having children or family.”

A little later in the conversation Richelle looks at Cam and half-jokingly asks “Did I sound pro-blackish?” Returning her glance with a sly smile Cam responds “maybe a little.” This interaction resulted in a few seconds of silence during which an unspoken conversation seemed to be engulfing them. Cam finally ends the exchange saying “okay go, go. Go on with what you’re going to say” and Richelle picks up the conversation from where she left.

Okay women of color, colored women... So that’s not an issue. It’s like we’re- it seems like in all civil rights we’re not at the forefront of anything. We’re always the end. So my family isn’t taken I mean, whatever, I am not trying to complain or whine about it. It just seems like [it] isn’t at the forefront of anybody’s consideration if my rights are or my face is on the campaign for what a gay family looks like. Yeah, no because I’m not going to be writing a big fat check for the organization neither.

What Richelle and Cam are looking for when they want to see themselves reflected in the larger politics is the social and cultural representation of their day to day lives. For them marriage and family are separate things. Marriage, Cory maintained is a
single issue taken on as a political issue. While they maintain that local and national legislative and legal battles are positive efforts which they are happy to see LGBT organizations take on, how they focus on marriage and family they feel is abstract. “It doesn’t feel like they’re really talking about people” Cam explained. “They [meaning the media] interview people but mostly it just seems that they are talking about topics and legislation and what laws are there.” The media and organizations, do not portray the reality of people’s lives in contextual ways. When that attempt is made, she argued, “it’s quick and fast and presented…in a certain way but I don’t know, it doesn’t seem to have real context or real people.” Moreover, organizations send letters explaining what’s happening in different states and ask for support, and while “that’s not a bad thing” Cam said, “It doesn’t feel like you’re talking about your neighbor who lives next to you, who was not able to care for their loved one or your, you know, I mean they put a little bit of stories there but it’s broader and like this State passed this law, this State passed this law, but it’s like it doesn’t have like a human connection totally, to me.”

As a result Cam and Richelle feel disconnected from the fight for marriage equality. They take the information they receive from local and national organizations as knowledge of political strategy. In that way, Cam shrugged her shoulders, the issue and organizations do represent them “because we’re a lesbian family.” Still, she maintained “I don’t see my face there…it still feels like I’m separate.” They both had a difficult time expressing what made them feel like they stood outside of the political representation of marriage and family. When pushed to think about it they were able to say, like Audrey and Sophie, and April and Amanda, among others, that they did not see their face on the issue or they did not see their lives represented by the images portrayed. I believe that
one of the reasons for feeling this often without being able to pinpoint to any particular reason or model of representation is that not enough time is spent on showing daily lives and making a human connection. Instead, organizations and LGBT representative have adopted media types of methods, whereby people are exposed to sound bites and clips and blurbs about people’s lives. In these types of communication and representation people begin to disappear and are replaced by a few visual seconds or written paragraphs that represent a singular image of family. It is not surprising that even those that fit within this portrayal feel like a cultural footnote and crave for a broader representation of who they are as families.

Hank and Jerry more directly spoke of political vs. social representation. Jerry maintained that organizations, giving HRC as an example and legislators such as Mimi Stewart, represent the LGBT community on a political basis. “To me,” Jerry explained the representation “is not on a social or community basis, [it’s] more political.” The political basis he clarified is the political agenda to achieve equal rights for LGBT citizens, and

by necessity the representation tends to be a reaction to something that is negative, for example, because we don’t have rights, because we have suffered the consequences of not having those rights. The representation tends to portray the GLBT community as victims. They deserve to overcome the barriers to have equal rights. At least that’s how I perceive the political representation of us.

He defended his opinion stating this is but “by necessity it has to be that way.” A social representation on the other hand both he and Hank described as “support.” “It’s within the community itself,” stated Jerry. “It’s more internally focused.” As example he
mentioned an organization in Massachusetts that sponsored summer events for LGBT families and children. “That’s the type of event and organization that is directly for the social context in the GLBT community with absolutely no political context whatsoever.” Hank added other organizations such as Prime Timers, a support group for elderly gay men, and PFLAG and GSA, networks that advocate through education but also focus on providing social support.

**Activists on Representation**

EQNM representatives maintained in interviews that they had put forward a concerted effort to get a wide representation of New Mexico’s LGBT population. In explaining their search for diverse representation, one activist stated that EQNM and the ACLU-NM looked for people of faith, couples who represent different geographic areas in New Mexico and different cultural backgrounds in New Mexico. “We generally try and have the people testifying, not all look homogenous, she explained, and “I think sometimes it’s been more successful than others.”

A former EQNM activist stated that the organizational focus was on the legislature. When he first started volunteering with the organization he felt the leadership “worked hard to find families that would be affected by domestic partnership.” A wide range of families were put forth before the committee that did not fit the heteronormative model. Family, he stated encompassed different units of people, people committed to one another, such as “two lesbian grandmothers raising their young granddaughter with cerebral palsy,” or two gay men who had spent 30 years together and who were one of the first of the Sandoval 64 who were married, “or the heterosexual couple who had met
after their first marriage and now they were elderly and they didn’t want to get married because they would lose benefits.”

However, he affirmed, along the way the organization stopped following up with the couples and lost touch with them as a result. Testifying before the legislature is an emotional process and not everyone could or wanted to do it again the following year, he explained to me. Therefore, he believes that the resulting emotional stress led to people dropping off EQNM’s radar. However, he also admitted that not enough effort had been placed on organizing within communities or reaching out to these couples who testified in the early years. Moreover, while there were successful efforts in showing the different families their decisions would impact, more work on “in really defining faces and introducing legislators to people that they would be affecting,” would have been beneficial. Thinking about the indifferent responses he had heard from legislators he surmised the indifference resulted from legislators not being able to socially or culturally connect with the couples that were selected to testify. He maintained, “I think that what we really lack is Hispanic representation. I think that a lot of the couples that we’re working with were Caucasian. And a lot of the legislators were Hispanic.”

Therefore, he noted, racial politics were important with the legislature. For example, he told me, “two white lesbians from Santa Fe and their financial means” coming before “a legislator from a poor community in southern New Mexico I don’t think that it has the same emotional connection that it would when you introduce…the legislator from southern New Mexico to the impoverished woman who is wanting to go to her husband’s deathbed.” Thus, in this activist’s perspective the audience was different from the community of domestic partnership supporters. Despite these issues, he
confidently stated that EQNM did begin to connect with the legislators by bringing in students from places like New Mexico State University in Las Cruces and were able to sway Senator Mae Jane Garcia\(^{102}\) in favor of domestic partnership.

This activist as well as others contended that they encountered difficulty finding Hispanic couples and families willing to testify because Hispanics living in small towns and communities were hesitant about displaying their lives in such a public way. Most people living in rural New Mexico towns know each other and that includes the legislators. If you go before your legislator and whether or not you are out to your family or neighbors, “the legislator is going to go back and the whole community will know.” Hence, this presents itself as a difficult decision and that decision could be a double edge sword. In the 2010 legislative session there was a Hispanic woman from a small town in northern New Mexico who testified in support of her son. The whole community knows that her son is gay, Salas told me “because he’s very flamboyant and he’s just unique, in that community.” Not fitting in, as he put it, the son moved to Albuquerque where he has been able to find a place for himself. For his mother to come before her legislator and speak on her son’s behalf turned out to be an empowering act. “But it wasn’t like that for everyone” he quickly added. Not only did many others feared exposing themselves to their communities but people also felt that EQNM and other LGBT organizations would not be there to support them. As one activist stated, “People felt like we would come into small communities as our organization, organize them and then leave. And so…they were still gay in Roswell but we were back in Albuquerque being gay. And they were still

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\(^{102}\) Senator Mae Jane Garcia represents Doña Ana county. Las Cruces is the largest city in southern New Mexico that falls within Doña Ana County.
there. Now they’re out and where’s, like what sort of support network had we put around them."

This fear of being exposed and later abandonment by organizations was something that several activists expressed hearing from LGBT individuals living in rural and Hispanic communities. It is also why the activists from outside the EQNM circle argued that people of color should hold positions with the board. They believe that having people of color and individuals with grassroots organizing backgrounds could help implement that support needed by LGBT people living outside of New Mexico’s metropolitan areas.

Another EQNM activist also referred to the 2010 legislative session, noting that the faces and the testimonies were different from the previous years (at least the testimonies between 2007 and 2009). Jordan Johnson, the new acting director had impressed EQNM and its LGBT supporters, not only by prioritizing gay and lesbian testimonies over heterosexual testimonies, but he seemed to better achieve the diversity which EQNM and ACLU had been struggling to present. Lynn Perls for example in our interview spoke enthusiastically of the 2010 session and how different sectors of New Mexico’s population was represented and gays and lesbians became the center of the argument again. “All of that testimony probably did not matter for any senator’s vote,” she exclaimed.

But that hearing was broadcast on the Internet and that hearing was watched by many more people than any prior hearing. And so to some extent, when you talk about what is Equality New Mexico’s outreach and education plan, even if you go into a legislative session knowing that we haven’t changed any senator’s votes,
that joint hearing got a lot of press and that joint hearing has been preserved on
tape and can be replayed and that testimony can be replayed.

The combination of the success of the testimonies and its internet broadcasting was the
source of her excitement, because she saw the moment as an invaluable form of outreach
and education. Comparing supporters’ testimonies to the opposition, this year comprised
of the Catholic Church and as right wing Christians, Lynn remarked, “I thought some
really great folks [told] really good stories about their lives particularly and then you had
the opposition and their bunch of kind of hard to understand, mostly white folks.”

“That’s sort of the goal every time,” she stated. Conversely, reasoning why this
goal had been so hard to meet in the past she relied on my understanding of the
organizing process since I had participated in the legislative process in previous years.
“You know how it is,” she said to me. Getting up to Santa Fe in the middle of a workday
is difficult: “on the one hand, you try and round up the best diverse group of stories you
can; on the other hand, you’re also just trying to round up whoever you can get, who can
afford to take the time off and come up.”

The problem was also that the community was split on the idea of domestic
partnership.

Whereas in 2004 EQNM, couples and other LGBT constituents had reached a
resolution to go forward with domestic partner legislation, by 2008 the consensus was
deteriorating. As all the EQNM activists said to me, there was so much hope and
enthusiasm in 2007 the year the bill almost passed, losing by one vote, and in 2008 when
a large influx of money was coming in from national organizations. When the bill failed
to pass both years LGBT constituents lost hope and confidence in all the organizations but especially EQNM. The subsequent loss of their executive director and ensuing financial difficulties the organization faced as national organizations retreated, and the national recession made it impossible mobilize the LGBT community. One of the activists encapsulated this feeling:

Limited information[was] getting out about what’s going on and [there was] no ability to really invigorate the people and say, you know, this is just, this is one step in a strategy for marriage and it’s not the end point. Equality won’t stop until this is ever achieved, that the step is full marriage equality, the outcome is full marriage equality. And there’s no way to really deliver that message. And so I think the community is disheartened and with the economy downturn, I think that’s impacted the ability to fundraise, all the usual things.

Even in 2009, another activist explained, the community was optimistic heading into the legislative session. Losing by a large margin that year 17-25 had deflated the community. In 2010 people had gone into the legislature frustrated and skeptical mainly because they were afraid of losing once again, which is what happened. As a result, this activist stated that she began seeing more support for same sex marriage legislation from the community. She explained her conclusion lamenting some of the decisions and promises activists and lobbyists made.

It’s mainly because of the expectation in 2009 that we were led to believe by the lobbyist and by a lot of other people, we being the activists on the ground, the grass roots people, that we were going to get a domestic partner bill passed in 2009. And we worked hard and we had a good plan throughout the state we saw almost every legislator we work for to replace unfriendly legislators. We saw almost every one of them elected in 2009 so we were very optimistic about succeeding in the Senate with the domestic partner bill that we failed miserably and in looking back at why that happened it seems to be that at least three legislators were greatly influenced by the Catholic bishops. In 2009 was the first
year that the bishops had come out against the domestic partner bill. In 2008 and before they were neutral....so when you raise expectations you have to be careful because you’re doing that for two reasons, you believe it to be true and you’re asking for the community to rise up and get behind and support. But then if it doesn’t happen you have disappointment and you have frustration and then you have fears going into the next session of are we wasting our time again, are we wasting our time and money again? And I think a lot of the community felt that way heading into the 2010 session.

In 2008, the growing dissension among community members manifested itself most evidently through the actions of a number of couples who had married at Sandoval County. Fearing that the wording of the bill would demote their marriages to domestic partnerships they began a campaign of calling legislators to say they were not in support of the bill. EQNM and ACLU activists and lobbyists began panicking that their action would cause its defeat. In fact many activists and some domestic partnership supporting constituents did place that burden on the dissenting couples. One of these couples argued that overall EQNM and the LGBT community has done a good job with domestic partnership strategizing. However, they had reached a point where they felt strategies were impeding progress and marginalizing gays and lesbians. “I think we’re afraid to represent ourselves” one of them stressed. “You know we try to strategize and I say to hell with strategizing, just be yourselves and represent ourselves and the hell with strategizing, strategizing hasn’t gotten us any place. We don’t have marriage yet in New Mexico, we don’t have domestic partnership in New Mexico, because of stupid strategizing.”

The other argument couples and others began to feel had gotten stale was that it was too soon to push for marriage and it would not pass either in the legislature or the Supreme Court. Yet these couples rightfully pointed out that domestic partnership was
not passing either and was yearly losing votes as opposed to gaining. A woman in her sixties asserted: “I could be dead, waiting for too soon.” This woman blamed the fear of representing queers in the legislature and pushing for full marriage on internalized homophobia. “We feel ourselves like a minority…as less than equal” she argued, and that is why there is the feeling of needing to be careful of how to approach the issue. Frustrated she stated “I’m through debating; we just need to move forward. We’re too shy, we’re too paranoid.” As far as she and her wife were concerned marriage was a civil rights and not a moral dilemma and the LGBT community needed to approach it as such, eliminating the moral discourse.

Aside from the issue of marriage vs. domestic partnership was also the matter of the domestic partnership bill being depicted as a non-gay bill. In my interviews with EQNM and ACLU-NM activists I expressed my own reservations about the strategy. The impetus for domestic partnership legislation was a result of the marriages between gay and lesbian couples both locally and nationally. I saw the inclusion of opposite sex couples, the elderly, and disabled, as another way of eliminating discussion of sexuality from domestic partnership. More, specifically I saw homosexuality being strategically removed and replaced by discussions of elderly and disabled who were portrayed as heterosexual. Most of the arguments for the elderly concerned the dangers of marriage through the loss of social security and medical benefits from a deceased spouse. In my interview with ACLU-NM’s lobbyist, I opined that the introduction of elderly and disabled into the domestic partnership bill was done in such a way that it began to erase queer identities. Wood listened closely as I talked, but found it difficult to see why people
were so upset, in part because she too was upset with LGBT constituents, whom she felt were out of control. With a touch of satire she responded

I thought the fight was about getting rights. I didn’t know that it was about that, ok. And that’s where the problem is, and yes, there are elders who are gay and yes there are people with disabilities that are gay, and we’re talking about equality, and so, that’s what it is, you know. And…there’s nothing that’s going to erase that this is about gay people, nothing. As you said, it’s brought up; it’s in the papers. The rest of it is an aside, ok. But we know as a political thing that the legislators need this in some cases, and because of the lack of leadership among the gay community they [constituents] could not be told this and be led to be more open, and that’s what’s sad about the whole thing.

However, the gay and lesbian people I spoke to at the legislature understood that the inclusion of opposite sex and disabled couples was a strategy and were willing to accept it until they saw that the legislators were not buying the argument, yet the method continued to be pushed. EQNM leaders as well comprehended this strategy but the feeling germinating among the gay and lesbian constituents was that they were being pushed into the backseat, whereas many saw this time as their moment to demonstrate, talk about, and validate their relationships and families in public. Therefore, this created discord and imbalance between LGBT followers and EQNM, to which eventually the organization’s leaders had to respond.

How to balance between what organizers felt needed to take place politically and what LGBT followers wanted became impossible. Everyone knew the domestic partnership debate was heavily saturated by emotion, but very little attention was given to how these emotions were also entrenched in a history of queer marginalization, discrimination, and invisibility that the couples and families involved had been living. Of course, LGBT history was brought up in discussions but it was generalized and assumed
that it did not need to be more directly addressed since everyone knows that queers have been discriminated against. The focus from EQNM, ACLU, and other national organizations was on gays and lesbians being treated like second class citizens, and on the best ways to present LGBT families that resonated with legislators and which took the focus off of being gay. While personal issues and characteristics also came into play, I have come to believe that not addressing the deep seated sentiments that at times exploded from LGBT constituents resulted in reactions and comments such as: gays and lesbians impeded the work of lobbyists in hearing rooms because “they do not work well with others;” and gays and lesbians make inappropriate remarks, and lack leadership. Wood for example complained that she could not get her witnesses to testify about the needs of seniors and people with disabilities because LGBT folk were taking over the hearing rooms. “It is not an open room for them [elderly and disabled]…I cannot get them in the room. For Wood what was critical was bringing in voices that she believed would turn the tides in favor of domestic partnership.

I can’t stop the Republicans from saying it, yes, they’re going to bring up the gay stuff; I can’t shut them up, but I need another voice. I need another voice in the room, and I haven’t been able to do it. It’s already over. That strategy is done. Now all I need is Pinto’s vote. That’s all I need. So, I don’t care who testifies, I don’t care who’s in the room, I don’t care who talks to the press. Nothing. That’s over. We just need Pinto’s vote, but we might of gotten here quicker with some of this assistance, but no, it’s all about me, it’s all about me. Who cares if people who are disabled (short pause) want domestic partnership. That has nothing to do with me. (pause) It’s a very (short pause) sad place to be, very sad.

Wood’s implication that the reasons the strategy was not working was because she could not get seniors and disabled people in the room to testify because of selfish gays and...
lesbians led her to conclude that the problem stemmed from a lack of leadership. Wood felt that EQNM did not screen their witnesses, though I had observed throughout the years an increased vigilance on the part of EQNM advocates to recruit what they considered to be the right kind of witnesses to testify. There were times however, when the scheduled witnesses did not show up and with no contingency plan, the EQNM director and lobbyist had to quickly find a substitute. With that point Diane Wood resigned herself to the idea that both organizations were going to follow their own directions and methods in getting the bill passed.

**Conclusion**

In this chapter I have attempted to demonstrate how ideas surrounding diversity and focusing specifically and simultaneously on sameness and uniqueness have been incorporated, embraced, and challenged by LGBT individuals, couples, and activists through discourses about community and representation. At the beginning of the chapter I argued that analytically, Lauren Berlant’s concept of the intimate public sphere serves as a better tool for the analysis of the relationship between activists and LGBT New Mexicans. Activists and LGBT individuals and couples invoked community in ways they assumed everyone that belonged to it would understand. That is, they saw an LGBT community that shared particular histories and as such assumed its members possessed, to borrow from Berlant, “emotional literacy” of each other’s experiences. However, I argue that when approaching community from this perspective, individual and group experiences that stand outside that presumed emotional literacy, are overlooked, downgraded, or outright marginalized. The intimate public displays the process through
which the sense of group belonging is created and helps identify how different vectors of identification such as race, gender, class, sexuality are connected and stratified in the creation of a singular group identity.

However, while difference based on race and ethnicity were important to the representation process, the way activists went about in garnering support from LGBT individuals and families of color followed this superficial model of equality politics. They “embraced racial, gender, socioeconomic, and sexual differences when they saw them as predictable, profitable, rational, or respectable,” and “attempted to suppress them when they were unpredictable, unprofessional, messy, or defiant” (Ward: 2008: 2). When their tactics did not work and they were unable to gather people to testify that were Hispanic or Native, the reasoning became “we tried but they don’t want to” or “they’re culture won’t allow them.”

Some queer identified activists who were not part of the domestic partner movement talked about ethnicity as an important component to LGBT community and argued that the lack of representation and inclusion of queers of color within the EQNM organizational structure has created a divide between EQNM and queer communities of color and queer activists who follow a social justice model of activism. They further maintained that the lack of queers of color within organizations was also visible at the national level and is linked to the kinds of models and strategies implemented in gaining rights and creating visibility. Some of these activists also argued that at the beginning of the same-sex marriage debate in 2004, EQNM, at the time Coalition for Equality, did have people of color on staff and their presence was reflected in the way communities were organized. When people of color began to leave the organization, they state, some
of which felt pushed out of both staff and board positions, there was a visible change in strategy. Emphasis was placed on a legislative model that relied on canvassing, phone banking, and lobbying legislators. Community relations, they maintained became secondary and was required only to support the organizations’ strategies and visions. Therefore, these activists invoked the idea of the LGBT community so they can talk about the role of diversity, and point out inequities within LGBT organizations.

Some LGBT couples I spoke to had similar notions about community that activists had, whereby an LGBT community was the product of people who faced discrimination based on sexual orientation and a historical understanding and sharing of that discrimination. A number of individuals among the couples who also claimed a Hispanic ethnic identity differentiated between and categorized their identities. For these individuals being queer and being Hispanic was very different and while both were important to how they defined themselves, they saw as the two identities, at times, to be irreconcilable. Moreover, at least within the context of our interviews, these individuals also saw their gay and lesbian identities as more fluid, while their Hispanic identities as more rigid and restrictive. Therefore, they also talked about the choices they made in their lives as being more aligned with their gay and lesbian experiences. At the same time, they lauded the diversity of the LGBT community arguing that homosexuality has no cultural boundaries.

Others however, did not share in this definition. For them, their experiences as gay, lesbian, or transgender were tied to their experiences as people of color. Sometimes, they indicated, these identities did seem irreconcilable but it was more so because of the way that organizations or public display of homosexuality as a largely white identity.
These couples talked about not seeing themselves in the representation of families or not wanting to fit within those representations. They tied their identities to particular histories and ways of living that were not part of the gay family construct. Therefore, they complicated identity and community representation going beyond the idea of diversity as a display of different colored faces to linking diversity to multiple histories that shape different queer identities.
“I am a New Mexican. I’m a proud New Mexican,” Dee told the audience in her raspy voice as she began to recount her story at the Las Cruces town hall meeting in 2004. At the time Dee Karen Musgrove and Andrea Joseph had been together for ten years and were among the same-sex couples that tried to get married at Sandoval County. Dee had a way of delivering her story that was smart, funny, and sarcastic all at the same time. “I’ve got a thousand stories to tell you,” she said to the audience excitedly, but, pointing to her partner standing beside her she said, “but the one Andrea wanted me to tell you is about our trip to Sandoval County. It was the day the news came out that they were issuing same-sex licenses,” she told everyone with a tone indicating ‘you know the day that I’m talking about.’ “A friend called and told us. And Andrea was in with a client—a paying client,” she clarified for the audience. “So I wasn’t about to interrupt her” she said in a comedic voice inviting laughter from the audience. Andrea, still beside her, also began to laugh. “So, I waited and waited, and then I finally beeped her and said “Uh, your time is up.” And I said Andrea here’s what’s going on, Melody and Melinda called and said they’re on their way to Sandoval County, um to get married.” Imitating an agitated sway, she said “and Andrea was like, okay let’s go, let’s go, let’s go. So, we got in the truck and,” she paused to prepare everyone for the punch line, “it only took us three and a half hours.” The audience bursts into laughter because at a normal New Mexico speed of about 80-85 miles per hour on the open highway where the speed limit is 75mph, it takes about five hours to travel from Las Cruces to Sandoval County. “It was a very quick trip,” she said wryly. “But on the way we called Michael,” their son who at
the time was fifteen years old. “Michael was with us at our church wedding,” Dee explained. “We were married in Santa Fe at the Church of Religious Science... It was a joyous wonderful occasion and as far as I’m concerned we’re married. And Michael on the phone was like ‘But mom,” she deepened her voice to impersonate him, “I was at the wedding. You’re married. I mean, I wore the suit.” The audience laughed and Dee continued on, “You know Michael we wanna be legal. We want the law to ordain us as a married couple. God has already done that but we need this.” She then broke role to explain to the audience that Andrea, who is a lawyer, “especially, needed this,” So, she returned to the story, “Michael said ‘well, hurry up, and bring me something home.” Dee laughed along with the audience.

“So, we get there, and we walk in and this place is just amazing. The Clerk’s office in Sandoval County, you walk in and there’s this staircase winding around with the people winding all the way around” she motioned with her arm rising higher in the air. “The rumor was already started when we got there—it was three-thirty—that it was about to get shut down. I went inside and saw our friends were about four people away from the door” [meaning the clerk’s office where they would file the paperwork].” Andrea, who at this point had begun to fidget, stopped Dee and said “I know I said I wouldn’t interrupt but I have to. The place was filled with couples with their children, with grandparents, with uncles and aunts. It was filled with so much love.” Nodding her head in agreement Dee picked up the thread: “It, it was amazing. It was, it was filled with so much love and gayety” she said smirking at the audience, who burst into raucous laughter and applause. “And then” her smirk replaced by sadness, “the spokesperson came out and said that Patricia Madrid had issued a statement…and everyone was just freaking out.” The
statement Dee was referring to was the one that ordered the County Clerk to stop issuing same-sex licenses. Remembering everyone’s shock, Dee recalled “We’re all like, no you can’t do this. And she [the representative] says well if there is an attorney here who would like to discuss this I am open.” The audience was already snickering before Dee finished her sentence as Andrea was standing behind Dee with her hand raised high in the air. Looking over her shoulder at Andrea, Dee said shaking her head sarcastically: “Andrea was not doing this.” Giving the audience her version of Andrea’s behavior, Dee frantically waived her arm and imitated Andrea’s English accent: ‘Me, me, I’m an attorney.’ Andrea lowers her head laughing amusingly and feigning embarrassment as the audience roars and claps. “The lady ran like hell,” Dee state. “And it was over.” Her tone became somber again remembering one woman, who had been there all day with her partner. “They had made it outside to where the ministers were marrying people,” Dee recalled, and they were “coming back to register [only] to have the door slammed in their face. Their little girl was there and her parents and she started screaming.” Dee raised her fists in the air to express the woman’s depth of anger and shouted “THIS IS NOT OKAY!” She tried to stress the power in the woman’s voice. “I mean, she was a big woman and with all her might and force,” she said “THIS IS NOT OKAY!” Well, Sandoval County Sheriffs came in and… ushered her out real quickly and everything was all gloom and doom; there were tears, it was sad. Well, I was raised by a strong New Mexican woman who said ‘never let them see you cry.’ And so, I was holding it in and I was as stoic as I could but finally I burst into tears. I couldn’t help it.” The audience members were moved, as the event was still fresh in their minds. Some had pained looks on their faces and others were blotting their eyes as they watched Dee fight back tears.
“So,” Dee continued, “I turned around and walked toward the exit because I didn’t want people to see me cry and as I was approaching the stairs, there was a sheriff…a deputy, a big man she emphasized. Big huge burley! And he was looking at me as the tears were streaming down my face and,” she lowers her voice to whisper “he lips, ‘I am so sorry’.” Dee began to get weepy again and the audience consoled her with heartfelt claps and “awes.” “And I appreciated that” she began her conclusion. “There are people out there. And we will never, ever again apologize for being a family. We will not apologize for being Americans, for being democrats [people cheer and clap], for being foreigners. I believe that I have the same exact human rights as everyone else. I’m just a normal mom.

In this section I explore same-sex couples’ personal processes of forming and negotiating their identities as couples and as a family and examine the relationship between these personal processes and the public production of ideas marriage that were represented in public forums and the legislature. The previous section examined the public construction of LGBT singular identity framed around concepts about marriage in relation to citizenship and social membership. I showed how the process of constructing a public identity took place within the legislature, and community forums. I argued that neoliberal bio-political and sentimental discourses about marriage within the legislative arena revealed two aspects of the process of incorporating LGBT individuals into the dominant heteronormative construct of marriage and family. One aspect was to frame the legislature as a space for activists and same-sex couples to present a unified LGBT identity that could be read as “normal” and LGBT couples could be viewed by legislators and the heterosexual audience, as deserving members of society and productive citizens.
A second aspect, I argue, was a less conscious process of turning the LGBT participant into a convincing normal subject. One way I maintain this was done, was through the process of testifying, which in part was seen as a way to unload one’s burden, but also served as a guide for couples to discover that in fact they were the same as their heterosexual counterparts and in that realization, discover who they truly are. Of course, this process of self-discovery is one that began before the legislature. For some, this process began at Sandoval County, for others, it began to reveal itself through public discourses and participation in community forums. As I show in the next section, some couples, discussed this process of discovering oneself as only now being realized. Some argued that they had always had the desire to be married and connected that desire to becoming what they saw as complete members of society, and believed that being denied the right to marry was being denied the opportunity to for true self-achievement. Forums, I argue were also part of the development of the true self. Activists, couples, and LGBT individuals relied on forums, such as town halls, to generate spaces for mutual understanding and frame personal and group identity. I showed that activists used town hall meetings and legislative training to teach LGBT couples and individuals about the kinds of rights and representations accessible to queers, and how to go about achieving those rights. Chapters four and five demonstrated the internal process of envisioning and promoting a gay and lesbian subjectivity that fit the dominant image of the family and the narratives of belonging. I also showed how this process was impacted by the hierarchical relationships between EQNM and national organizations. In turn, I argued that the relationship between EQNM and its constituents in part hinged on the organization’s relationship with national NGOs. In addition to the power relation between organizations,
conflicts between LGBT community members and EQNM were additionally based on interpretations and enactment of diversity and community. The term community was deployed by activists and couples in ways that assumed mutual understanding of individual experiences, which posed problems when mobilizing support. I argued that Lauren Berlant’s concept of the “intimate public” is a better analytical tool than the concept of community for examining the relationship between LGBT organizations and the people they seek to represent because it illuminates the mechanisms of envisioning and enacting group belonging, while interrogating the processes of incorporating and stratifying multiple forms of identities within the construct of a singular group identity.

In this chapter I utilize the concepts of experiential tropes, life constructions, and intimate public to illustrate how couples, in their private daily lives, create and talk about their relationships vis-à-vis the state and the privileged public. I draw on Lauren Berlant and Bruce Borneman to show how couple’s personal negotiation processes were always in relation to the dominant narratives. This relation creates individual subjectivities that are representative not only of personal histories but also of narratives, behaviors and understandings of a gay and lesbian intimate public. Both Borneman and Berlant argue for viewing biographical texts and genealogical and historical narratives as works that are read. For Berlant, narratives should be read as texts of sentimentality, desire, and nationalism. For Borneman, one should read personal narratives as ways of revealing everyday life constructions, while legal texts should be read as ways in which the state’s biographical plan for its citizens is reconstructed serially and chronologically (Borneman 1992: 43). In relation to each other, life constructions, experiential tropes, and master
narratives become significant for production of subjects and subjectivity, as well as to continuities and discontinuities of these subjectivities over time.

Out of the couples’ narratives about marriage two overarching tropes arise that shape how they talk about love and their relationship to society and to the state. Within and between both these tropes is the belief there is an essence to commitment and relationship affirmation that is shared by all members of society, locally and nationally, and which is connected to family, community, social, and governmental recognition. Marriage, as portrayed by couples, is on the one hand an emotional component of their lives together, and on the other hand, a legal institution of which they want to be a part. Because ideas of acceptance and recognition flow through both these types of narratives it makes it at times a difficult and interesting process of reconciling between previously held beliefs about marriage as a heterosexually gendered and heterosexist institution with the new opportunity and desire for it. Ideas of acceptance and recognition that underline belonging are also experienced differently because they are contingent upon other cultural, social, economic, and political elements, namely ethnicity and class. The majority of couples in this study either identify as white or as middle class, thus the narratives presented are largely representative of the gay and lesbian intimate public’s dominant discourse comprised of notions of equality, fairness, protection, and citizenry rights. Nevertheless, other perspectives and experiences do exist and are presented as potential forms of resistance to the state and to the intimate public. Finally, I illustrate the difficulties and contradictions of negotiating personal identities and beliefs that underlie all these narratives, as the individual process of negotiation always takes place via experiential tropes and master narratives.
Love and Marriage

To explain their position in the world as a family unit, couples appeal to love as a human universal referring to it as a *common denominator*, or a meeting of souls meant to be together. Padilla et al. argue the idea of love first gained root in the late nineteenth and early twentieth century United States, and became prominent globally making it “impossible to discuss the increasing frequency with which people in very diverse contexts use the language of love to talk about how they build their families without addressing the lure of modernity” (Padilla et al. 2007: xvii). Gender, marriage, and progress are discursively intertwined with modernity and the modern identity born of it is what cultivates the individualized self, “a self who has a particular style, particular tastes, a particular constellation of relationships not necessarily based on kinship.” (Hirsch and Wardlow 2009: 14). Modern identity posits a romantic relationship in which partners have mutual recognition of each other’s individuality, and in which partners are assumed to respect each other as equal individuals. Via Eli Zaretsky, Berlant asserts that “the purpose of love is “to make its institutions of intimacy seem like social relations that flow naturally from urges and desires for attachment” (Berlant 2008: 171).

I suggest that through the affective structure of modernity couples invoke love as a trope through which they assert their own modernity and envision their own stories as part of the social world to which they want to belong. In many ways love and marriage become performed through the tenets of monogamy, family, and mutual support. Melinda for example, defined marriage as

One person that you love and that love doesn’t just mean I have a sweet feeling in my heart for the person, but that means every day I get up and I live my life
taking that person into consideration. And whether that means I sometimes can’t
go do things that I want to do because they would be harmful to that relationship,
than that’s what it means…but, that also means that, daily, we’re going to support
each other and hopefully I can do more of the things that I want to do in life
because I will have someone who supports me there to do them.

Implicit in the ideology of what anthropologists are calling companionate
marriage (also called marriage for love) is the prioritization of and greater personal
investment in the marital bond over other relationships” (Padilla et al. 2007: 24). For
Melinda, her everyday actions are connected to her partner Lillian, and now their
daughter Jenna. She connects them to the larger public, selecting practices that are
socially valued and which make sense to her. Publics, as Berlant argues, magnetize
optimism about living and being connected to strangers in a kind of nebulous
communitas” (Berlant 2008: x-xi). Melinda, along with other couples, embraces this
optimism and enacts her subjectivity uniquely through it. The following excerpts
represent optimism behind modern love and its bond with intimate and privileged
publics.

Marriage, Karen Littlewood explained is “the process [of] continually discovering
new mistakes to make with each other…Cuz the same old mistakes are boring after [a
while].” Her wife Sandy recalled her process of contemplating the meaning of marriage:

You know, well first of all, I think I’ve thought some things about what marriage
was when we, when we had our wedding. That was really a whole lot about the
externals of creating a community that looked at our relationship in a certain
way… I’m saying our family and those people who were at that first church
ceremony. I think it was pretty external that we felt like our relationship was
about same; that we’ve committed and that it was about making that a more
public and permanent statement.
Joel Lewko, considering the age difference between himself and his partner Bruce Fossey, appeals to love as the element that breaks down barriers and conquers emotion.

So there is a difference in age, there is a difference in how we grew up and lots of different disciplines, and we are still puzzled by the forces that drew us together. I guess it’s love. There is no other common denominator that I can come up with. It seems that word and that life, or that seems to trump all other differences. So it has been wonderful and it has been, what, ten years of fast moving lives?

Similarly when Mae Gallus asked Nidia Vinciguerra to marry her, Nidia explained it as the “ultimate compliment one can give a partner” Mae, also called it an “ideal” held in our society, something to be aspired to despite its failings.

**Feminism and History**

This is not to say, however, that couples are completely blinded by love’s edicts of intimacy. While modern love does promise equality and mutual respect within relationships, feminism has shown the many ways in which ideas of love are used to create gender roles and responsibilities, which have historically subjugated women and subsumed them under the identity and citizenship of the husband (Cott 2002; Bederman 1995; Hirsch and Wardlow 2009; Ramirez de Arellano 2008). These discussions and critiques have also found their way into same-sex couples’ self-explorations and thinking about why they do or do not want marriage. The couples I interviewed indirectly and at times directly talked about the ways they have struggled or continue to struggle with the idea of marriage, with the majority searching for a middle ground where they might feel
comfortable. This can be looked at in part as the re-creation of the self and as negotiation of individual narratives/life constructions and master narratives.

Couples drew on personal and family histories to construct their views on marriage. Early in their process of coming out, more often than not couples expressed a sad resignation to the belief that access to the institution of marriage would never be possible. Thus, while some expressed a desire for marriage from an early age, the realization of their sexual and gender orientation lead them to the conclusion that it would never happen. With the history of marriage and the feminist critiques about the gender inequality within and normativity of marriage, these couples found justifiable reasons to snub the institution, and as such minimize their own feelings of rejection. Melinda Cardwell for example explained her reasoning:

And I was like, if [what] you want to do is love someone and live together forever, why don’t you just do that? Just live together and love each other and make your commitment to each other. Why get involved in this antiquated institution that has all this really negative baggage of…traditionally formalizing very unequal relationships…you know, making a woman a man’s property and that kind of stuff. So, I was pretty down on the concept of marriage...

Similarly, Nidia and Mae as self-proclaimed feminists talked about marriage as rooted in ownership and female subordination, but made sure to distinguish between the lesbian, gay and heterosexual community. Nidia explained, “wives…I guess, mainly in the heterosexual community connote property.” Mae, explained her position stating:

I wasn’t searching for a partner, per se. But my entire life from junior high on, I wanted to be with a woman and I wanted a partner. I wanted something similar to marriage like I was familiar with: heterosexual marriage. I wanted that sort of
stable, loving relationship. I’ve always wanted it ever since I can remember. And I’ve always wanted it with a woman even though I never came out until I was twenty-eight, you know.

Nevertheless, using the term “wife” has been a point of conflict for her as it has for Nidia. She stated,

Yeah, “wife” still makes me uncomfortable though because…it denotes a whole lot of things that I don’t believe our relationship is. But partner, we’re much more than partners, you know, so there really is no term if you have an issue with wife-wife or I guess… with husband-husband…there’s always all those baggage with the “wife” term.

Quickly thereafter, Mae reasons that even if there were another term, it would still not have the same cache as the terms “wife,” “husband,” and “spouse,” because, she explained

The straight community doesn’t have such a thing as partners. I mean, maybe certain liberal segments do because they don’t want to get married in the straight society, and that’s fine. But to most straight society, marriage is the institution. And that’s what they identify with, that’s where the values lie and partners are less than something else. And that’s why you have people more willing to give domestic partnership than marriage to us.

Likewise, Hank Madia and Jerry Huang debated the term “husband” vs. “spouse.” Jerry, a Chinese born and Midwestern raised Baptist turned atheist, met Hank, an Italian Catholic from the south, in 1982. The two had a commitment ceremony in 1984, and legally married in 2009 in Connecticut. After they were married Hank and Jerry discussed how to refer to one another, as the term “partner” no longer seemed fitting to them. They
wanted a term that would reflect their new legal stature. For Hank calling Jerry his husband was not a problem. He welcomed the term for he felt it normalized them. Jerry however, had a determined objection on the grounds that “It’s too traditional.” He declared,

I think husband and wife just carries too much baggage. I could well believe that’s the root of all the problems with same sex marriage because there’s so much connotation behind the term marriage that has nothing to do with the civil institution of marriage, and the same with husband and wife. To me there’s just too much religious overtone in that.

After some negotiation and searching, they settled on what they considered a more historically and gender neutral term and one accepted and understood by all: “spouse.”

Couples also talked about having a change of heart or realizing the importance of marriage. Melinda finished her critique by way of realization of the social significance of marriage. “And then,” she continued, “I did get to the point where I was like, well I can see how making a public declaration has its value because it’s different than just whispering I love you to someone in private. Like, making it public is a big deal.”

Thus most of the couples’ critique of marriage relies on the claim of not truly understanding its emotional purpose, a frame of thinking usually linked to a time period when these couples were not in relationship, had no children, or worries surrounding health or financial matters.

Sandra Bazan and Abby Tate, a couple in their early thirties, have been together for seven years. Sandra who identifies as half Latina and half white, moved to New Mexico from a neighboring southwestern state. Abby grew up in a small New Mexico
rural town. They have not had a commitment ceremony and feeling that they are already committed to their seven year relationship see no point in one. However, on the topic of marriage, Sandra found herself wavering on what was once a definitive stance. After several attempts at finding the right words to express her position, she said that as a young adult she had a negative view of marriage because she saw it as a form of “mimicking heterosexual couples.”

Yeah… when I was younger like in my 20’s I really connoted [marriage] with being straight… people that I was with, we sort of had this idea around that— it was like we were queer for a reason and we didn’t really want to emulate a straight kind of a relationship... And I feel like I’ve had a really hard time I think like getting rid of that.

Abby, while not opposed to getting married, did not talk about it as a particularly high priority. Having grown up in a small rural New Mexico town, being gay was not something she felt she could or had the opportunity to talk about. She recounted that homosexuality was something that was unspoken. Therefore, she stated “I never saw [marriage] as an option for me. I’m like, okay, you’re gay, you can’t get married, okay fine.” Besides, she mocked, “I never really pined for like, Oh my God! How come I can’t have my bridal registry, you know.” Sandra associated Abby’s form of reasoning with “internalizing otherness,” accepting social bigotry and inequity, and the marginalization of gays and lesbians, in the sense that they become more readily accepting of their legally marginal positions. She retorted

I don’t feel like [marriage is] a high priority. I mean – what is a priority I think for me is basically getting away from this special rights like propaganda crap that is
pervasive in the society right now and just letting it be. If people want to get married they can and allowing that to happen and having all the rights that go along with that and not having this backlash against special rights and not seeing these bumper stickers and all this other stuff. I mean that’s what really – it just makes me sick.

Nonetheless, circumstances and events that have shaped a new reality for Sandra are also muddying her view on marriage. She talked about her lesbian and transgender friends who have entered into legal marriages, but the more important reason for her struggle with the institution was her diagnosis of an immune disorder.

And so I think I had sort of this preconceived idea about it for a long time… and I feel like now it’s kind of flipping – I realized that it is just ceremony and ritual and that’s really powerful. But I think for me…the piece of it that’s irritating is that in our eyes it would mean something, even for friends it means something, but in terms of - we can’t jointly file income tax, we can’t – you know what I’m saying. I can put her under a domestic partnership, at [my place of work] and I can do all those things but there’s still so many things that we can’t do even if we went through a ceremony or went to [get married somewhere]… I have [an immune disorder] and so for me there is some implication like if I was ever hospitalized or...Or if I was ever debilitated and so I think that’s always sort of in the back of my mind that she really needs to be basically the person making those decisions for me. And so I think in that regard, like I think I really probably do need to or we, us together need to figure something out where there is something stated, written, drawn up or something like that where there is some kind of legality to it.

The legalities of health and decision making are concerns that circulate most of the couples’ narratives. They become reasons for the couple’s change of heart and challenge previously held ideas about marriage. When opportunities that were once unthinkable begin to be seen as options, counter cultural ideas about social constructs such as marriage enter a realm of reinterpretation and (re)reasoning. The promise of access and belonging in society begins to appear tangible. Marriage turns into a space where they can
rub elbows with their heterosexual neighbors and coworkers secure in their sense of freedom from judgment and persecution, whether that persecution is over access to the legal and political spheres, or due to abnormality associated with gay and lesbian sexuality.

Nidia and Mae made a case for their belief that marriage is important despite growing rates of failing marriages among heterosexuals. They stated that “marriage has become too transient in our society,” trying to express a sense of loss of traditional marriage and family values. At the same time they made room for divorce, asserting that people should not stay together if they don’t get along. In this process they Nidia reasoned,

Yeah, I guess, in some ways you could just say, would you get on a plane that you knew that fifty percent of the time it’s just going to crash? Right? That’s what you’re asking…—when half the people who get married in the United States end up in divorce? And you know, I would just say then what’s the big deal about two people who have been committed together for twenty years? You know, what’s the big deal about us getting married, you know? You could look at from that perspective too. But I mean, you’re right, relationships don’t last in a way that they used to or maybe they were forced to last. So but that’s something our society really values.

Bruce Fossey and Joel Lewko, southern raised white men met in 1999 at a national conference. After one year of long distance dating they moved to New Mexico, where they retired. They had both previously been in heterosexual marriages, from which they draw their knowledge to explain what marriage means to them and to engage their relationship in a different way. However, to date, they have had neither a commitment ceremony nor married, as their desire is to have a religious ceremony in the Episcopal
Church where they are active members. The combination of their desire for a church sanctified and state recognized wedding has led them to view same-sex marriage as an important political movement, believing that gay weddings are ways of subverting this traditionally straight institution. In our discussion about the meaning of marriage and how they talk about one another to friends, family, and in public spaces, Bruce stated that for the most part, uses the term partner but is making a conscious attempt to use the term husband. He believes saying husband confronts social conventions surrounding the idea of marriage. He stated

I think I refer to Joel as my husband and I refer, you know, I am okay with the word Partner but it just, I think it makes a bit more of a political statement. And I am okay with making that statement… it is a little provocative. I think it gets people who do not think about same sex marriage to think about…where they stand on that.

However, Joel has a different take on these terms. For him, the term partner carries more emotional weight, while the terms husband and wife, he views as administrative terminology. For Joel the terms husband and wife are linked to institutional processes of marriage, most particularly divorce. Having gone through both marriage and divorce, he recounts the bureaucracy that he believes creates a sterile relationship with the state. By contrast, partner, he states, “links for me more [of] a personal bond and so I find myself just instinctively using the word Partner… I think in terms of the words husband and wife being a, more a legal kind of designation for what one or the other’s role might be in a legal relationship.”
Like Bruce, Joel questions the validity of marriage as an institution, and the
general desire for it, but takes the approach that a less institutionalized way of forming a
union would serve a better purpose for showing commitment to one another.

I think within the gay community, it appears to be something that we wish to have
universal acceptance but yet there is perhaps on the other side, in the heterosexual
world, a wish to get away from marriage as an identifying status, and to be more
focused on the emotional commitment in that institution… Now, I’m a divorced
male. One thing that you find out in divorce is how institutional it is. All of a
sudden it’s a real slap in the face of a longstanding emotional life together, even
under the best of circumstances. What I just said is not to imply a terrible
divorce; it’s just that the process of it.

For this reason, Joel also regards the word commitment as a more definitive and
emotionally charged term than the word marriage. He made a distinction between
marriage and their relationship explaining that marriage is traditional, while their
relationship is not. “When and if Bruce and I marry” he began,

I don’t know that our marriage will be a conventional marriage. It may be a
commitment ceremony that may better define a commitment ceremony than a
marriage because of it being so unconventional. What do I mean by that? Well, if in fact the coming together of friends is to serve witness to the fact that these
two people want to verbally make commitments one to the other, then it could be
more meaningful that it has to be performed in a church. To Bruce and me,
church is important…It may be a ceremony where everybody puts their hand on
each other’s shoulder and generates energy. I’m not saying that’s unique; I am
just saying it may go more to the heart of what we’re about, what we’ve been
talking about this act in terms of feeling one for the other, emotional attachment,
than the institution of marriage as is tradition.

Likewise, Bruce talked about understanding people’s desire to be a part of the
tradition of marriage. “But, I already did that,” he explained.
It wasn’t that great; I mean it was okay. I guess it fed whatever that was in my head. I think it’s far more important to me to have the relationship without the trappings…I would like very much for my community…my church community, the wider community [to] participate in what I consider to be a really important part of my life in terms of the ritual before God and everybody else. But it’s almost more of a political statement. I don’t think it changes anything between Joel and I.

The “trappings” he refers to are reflective of the gendered structure of marriage. On the one side, he sees it in a similar context to what Nancy Cott explains as the turning of “men and women into husbands and wives,” designating “the ways both sexes act in the world” (Cott 2000: 3). On the other side, Bruce talks about same-sex marriage as a political statement particularly because he views it as an act of subversion. His reasoning brings to mind Ellen Lewin’s argument that same-sex marriages and commitment ceremonies have the potential to be simultaneously conservative and subversive, to “enshrine presumed traditional values as they also satirize and undermine them, to protest convention and to insist upon inclusion within its boundaries” (Lewin 1998: 243). At first glance, gay and lesbian weddings seem to epitomize the dichotomous categories queer theorists frown upon, but same-sex marriage ceremonies can be seen as rituals of resistance as well, a way of undermining the authority of oppressors, in this case the state and religious conservatives (Lewin: 35, 241). That is, sometimes, participants in same-sex marriages or ceremonies understand these acts as political statements. What is subversive about same-sex marriage for Bruce, is its normalization and the normalization of tradition. He asserted

I think it’s because it’s so normal; because it’s so traditional; because it’s such a part of our fabric. It’s a part of the American culture and probably world
culture…having that cultural ritual observed in the context of two men or two women makes a really powerful statement. The world is not going to collapse; God is not going to strike you dead; the church isn’t going to burn down tomorrow.

Cultural Traditions and Acceptance from Society and Family

Lauren Berlant states that “intimate publics elaborate themselves through a commodity culture; have an osmotic relation to many modes of life; and are organized by fantasies of transcending, dissolving, or re-functioning the obstacles that shape their historical conditions” (Berlant 2008: 8). Yet, fantasies and practices of social belonging operate imprecisely because while “there are elaborations, amnesias, shifts, new potentials [that are] constantly released in the activity of living, historical wounds always remain available for reopening” (Berlant 2008: 5). Thus, the desire for belonging is based on the fantasy of being okay; “it is a desire to be in proximity to okayness, without passing some test to prove it” (Berlant 2008: 5). Correspondingly, Borneman asserts that “selectivity and significance, not universality and objectivity, are the principles behind remembering and forgetting in the construction of legal and individual narratives” insofar as these narratives also engaged in the nation-building project (Borneman 1992: 38). Thus, while intimate publics are based on the belief in a shared common history, people select specific memories and experiences that speak to their life experiences as citizens that bring them into the same space as all other citizens. This is something that the couples engaged in while trying to make sense of their positions. They each selected different parts of gay and lesbian, and feminist histories in order to justify, come to terms, or
continue to struggle with the ideas behind marriage and also reconcile personal and gay and lesbian histories with their desires and actions toward normativity.

A yearning for recognition of their relationships as normal drives the couple’s discourse of belonging and to draw from Borneman, in the process of manifesting their life constructions, gay and lesbian couples “select events and experiences not on the basis of some abstract principle of truth but rather because they are significant for their lives” (Borneman 1992: 38).

Similar to the legislative testimonies, these couples make sense of their desire by appealing to a sense of need for protections and for visibility, a psychological need to create a healthy self that allows the individual to reach her true potential in society, and to become the authentic self that “plans a life in accordance with [her] own account of the good” (Heyes 2007: 5). Thus, couple’s life constructions are based on the liberal ideals of the individual, as possessing the freedom of self-expression and self-discovery.

Nonetheless, as Heyes illustrates these freedoms “co-exist with practices that relentlessly pressure these selfsame individuals to conform” (Heyes 2007: 5). This is part of Nikolas Rose’s hypothesis of the “regime of the self,” the idea that there is a common normativity. As Nikolas Rose frames it,

“This internal universe of the self, this profound ‘psychology’, lay at the core of those ways of conducting ourselves that are considered normal and provided the norm for thinking and judging the abnormal—whether in the realm of gender, sexuality, vice, illegality, or insanity. And our lives were meaningful, to the extent that we could discover our self, be our self, express our self, love our self, and be loved for the self we really are.” (Rose 1996: 4) Defining the self as a regime of subjectification, and viewing
practices as the locus in which the understanding of what it means to be human is understood, interiorized, and psychologized, it makes sense to look at couple’s life constructions and experiential tropes in relation to master narratives as ways of constructing their autobiographies as citizens are imagined.

Susan Wainright began explaining marriage through her past relationship with her parents and with feminism. Like other couples with divorced parents, Susan did not see marriage as possessing the bond that keeps couples together. Feminism for her helped solidify her belief that marriage was not something to aspire to. She stated, “My parents had been divorced and remarried and it was not an institution in a very personal sense that I thought very much of. And when feminism came along, I was certainly right there saying this is a patriarchal institution, I have nothing to do with it.”

Like Mae, however, Susan Wainright found herself having a change of heart. When she married Jackie Laris, her partner of 21 years, in 2003, she said she felt “profoundly affected” by the process.

When we did get married and what really started it was when the Canadian, I can’t remember what you called it… a commissioner, yeah, who got the papers and said sign here and put us officially in the book. It was just so like, damn, this is really real and we’re being recognized and it’s okay. And it was really… It was extremely moving. It was also, it was moving partly because it was recognition, public recognition of the two of us… But it was really important also in a different way. We had never said to Jackie’s brother that we were a lesbian couple. I mean we just left them to figure it out. Or the kids, and the minute that we got back, Jackie [sent] an email saying, ah, hi, we’re married, blah blah blah, and did the official wedding announcement email blast. And what we got in the mail shortly after was a box of fruit from Harry and David and her niece… But it also meant that actually were we to run into a situation where one of us was in the hospital or when we die, that her family was going to recognize that, the legality of it without having to show them bills and show them all those sort of stuff.
Similarly, Karen Littlewood explained:

The meaning of marriage changed for us enormously when we got legally married because, you know, I mean I think being married didn’t change how I feel about my family or how I feel about those commitments although the church wedding in some ways did influence that. It was a real sort of – I mean… it was a big shift that was about the social aspects of marriage and what it was going to need to have to be responsible to this community of people outside the two of us for whether this relationship’s going to last. You know… that was a huge transition for me. And I think that’s pretty normal and typical and kind of average about getting married… And so that was one thing that was about sort of a social and emotional component of marriage. And then being legally married of course was a, you know… It was very much about sort of my relationship [with] my society, not… my social and emotional support network.

For Melinda Cardwell and Lillian Goddard marriage is also tied to social tradition and acceptance, ritualized form of recognition. They saw their commitment ceremony as a ritual process of starting a family, a symbolic act they wished the state had acknowledged. Melinda talks about her brothers and sisters getting married and receiving that legal acknowledgement, while her commitment to Lillian was ignored:

I didn’t marry Lillian to get lower health care rates or to have access to her health care or so that I can get her pension. She sure as heck didn’t marry me for mine. But…one aspect you have to think about is how can we protect each other in times of illness and partly that’s health care and partly that’s access to the hospital bed and all that stuff. As well as when we get to our retirement what kind of a life are we going to lead? That is why for all these years it’s been normal for spouses to have access to those things. So, I don’t in any way see us as needing less protection in terms of health things or having less of a right to be able to plan our lives together including our retirement and that kind of stuff.

Representative of John Borneman’s experiential trope and life constructions, these couples draw their subjective experiences with marriage from particular master narratives.
that encompass cultural and political legitimation and specifically normativity.\footnote{I use normativity here as defined by Berlant, as a “sense of general belonging and an aspirational site of rest and recognition in and by a social world” (Berlant 2008:5).} Despite the fact that their marriages are not recognized in the state of New Mexico, these couples uphold their unions as possessing the same cultural significance as heterosexual marriage. To employ Nikolas Rose’s definitions, these couples build their stories on the teleologies\footnote{Nikolas Rose defines teleologies as “the forms of life that are the aims, ideals, or exemplars for these different practices for working upon persons” (Rose 1996: 27-28).} of marriage, which encompass transition, adulthood, acceptance, happiness, and belonging in order to become subjects that possess the authority\footnote{Authority, in Rose’s usage refers to “who is accorded or claims the capacity to speak truthfully about humans, their nature, and their problems” (Rose 1996: 27) } to speak about marriage from a perceived internal space. This authority is garnered from the process of state legitimation enacted through the marriage license. Possessing this new status, or the belief that they now have a new status that places them within the national and privileged community, has led some of the couples to talk about commitment ceremonies as “less than” marriage or incomplete.

Melinda made a distinction between a commitment ceremony as the ritual process of the wedding and marriage as the legal contract. She explained their commitment ceremony as the family and community oriented ritual of solidifying their relationship as a couple, thus resembling the social ritual of marriage. Yet, it remained incomplete. She referred to the legal contract as “the missing piece that brings with it a lot of extremely important rights and benefits,” that makes it a complete marriage and adds a more serious component to it. She stated,
[Marriage] is not something you can just say, okay I’m done. There are ways—there are formal things that you have to do to end that. And, it is a bigger commitment than going up to the mountains and saying in front of your family and friends “This is the one.”

Likewise, Karen Littlewood and Sandy Kisler described their sentiments that even when they did not believe legal marriage and creating a family was a possibility for them as a lesbian couple, they still viewed commitment ceremonies as less than. Marriage, Sandy explained:

It always became a running gag that as soon as [lesbians] have the commitment ceremony they’re going to break up within six months. So I think that didn’t relate to my childhood dreams of marriage.

Karen justified their wedding ritual as gift to her dying father who wished to see one of his children marry, and as a way to legitimate their future kids. Despite not seeing commitment ceremonies as satisfying, a level of legitimacy still existed even if they felt they had to resign themselves to the thought that “it was marriage until we could get something else to go with it.” They referred to commitment ceremonies as “gay marriage” which they then equated with “marriage light,” the same terminology activists and politically involved couples use to refer to the Domestic Partnership Act they have been trying to pass in New Mexico. To translate this idea into something, presumably heterosexuals could understand Sandy when she makes the following analogy: “If the most education that was available for my kid was through the 6th grade, I would educate her through the 6th grade. And if junior high opened up, then that would be necessary.”
Through these narratives couples place themselves in juxtaposition to the state or what Berlant calls, the body politic. Like “women’s culture,” these couple’s vision of same-sex marriage—consequently also belonging to a dominant discourse within the gay and lesbian intimate public—can be seen as juxtapolitical because the sentimentality behind marriage and family is expressed in “proximity to the political, occasionally crossing over in political alliance, even more occasionally doing some politics, but most often not, acting as a critical chorus that sees the expression of emotional response and conceptual recalibration as achievement enough” (Berlant 2008: x).

However, not all couples shared in that sentiment about commitment ceremonies. Others, felt not only connected to the ritual, but maintained and defended it as marriage. Richelle Douglas and Cam Greene, an African American couple in their mid-thirties who have been together for eleven years, characterized their commitment ceremony as religious, and talked about the importance of having an Anglican priest preside over it. Giddily, Richelle referred to it as their wedding and explained it as an opportunity to mark their relationship to their community. Describing the wedding as the process of “coming out to our family and friends who new us as a couple,” she explained she wanted their immediate community to see “that we were not just dating and not just friends and not just roommates or lovers, that we were becoming a family with each other.” Although not legally married Cam believes that they are, and she stated matter-of-factly that marriage means “You’ve got my back. We’ve got somebody to look out for each other. I got you, you got me, we’re together; fantastic. Okay, done. That’s our case. That’s it. We’re a little simple about shit, you know.”
In many ways Richelle and Cam used the same language and ideas about what commitment ceremonies do as the couples who felt they are less than marriage. However, Richelle and Cam legitimate their relationship via an older discourse within the gay and lesbian intimate public, one that includes what Ellen Lewin has referred to as a polyvocal ritual, the symbols evoking different meanings to the participants and audience. The process of the ritual constructs naturalness and authenticity but can also be a ritual of resistance thereby being simultaneously conservative and subversive (Lewin 2008). Part of the construction of authenticity and naturalness for Richelle and Cam was going to marriage counseling for several months where they covered topics such as coming out, the kind of family they envisioned for themselves, and money. Such actions demonstrate their performance of wife or spouse that establishes them as a serious and normal couple, and connects them to a community of couples and families. Richelle concluded, “I think it was really great that we did that, because…it was just an important piece of thinking about being together.

Yet Berlant also postulates that “to desire belonging to the normal world, the world as it appears, is a root fantasy of a sense of continuity, a sense of being generally okay” (Berlant 2008: 9). Thus “to love conventionality is not only to love something that constrains someone or some condition of possibility: it is another way of talking about negotiating belonging to a world” (Berlant 2008: 9). The negotiation of belonging for some of the couples, like Richelle and Cam, took shape through conventional notions. Several couples also stated that marriage is a of “using society’s words…[to] solidify and to say that I want to spend the rest of my life with you.” Susan referred to this as a lingua
franca; a common language between gays and straights. She describes sending out announcements to local newspapers:

When we got married, we sent our wedding announcements to all the local papers, and as well as papers back home...What was then the Tribune not only published it, they did a story on us. When that came out, it was really interesting because people, particularly in the neighborhood, that we knew, all of a sudden had language to connect to our relationship. They could say congratulation which is why for me this whole thing, gay marriage is so important, because it’s a lingua franca that they, that other people, particularly straight people, know and so they can relate to.

Nidia and Mae similarly stated that “there’s no other word in our English language that says I [want to spend the rest of my life with you]. Therefore, using the words marriage, or married, or asking her partner to marry her despite its legal unattainability, Nidia remarked, “that’s where I want to be with you and that’s my dream with you.” Mae talked about how the “the rings, the wedding cake, traditionally the tuxedo and the gown and everything else that goes with it, the best man, the best woman, the wedding song” are themselves cultural symbols of recognition. By not being allowed to partake of these social symbols they were left with the sense as Mae expressed, that “our relationships will always be less than.”

After getting married at Sandoval County, Mae stated that people began to see them as a legitimate and normal married couple. Pleasantly surprised by other people’s reception to their marriage, Mae said, “I even had two [straight people] talk to me on the side about…and they literally said it, ‘Now you know what relationship is like, it’s just like ours.’ I mean, they literally said that.” Nidia further explaining Mae’s point tried to create a clearer link between straight and gay marriages.
Well, you know, it gives them a box or a context to put us in. It was a big shift on how, they were nice to me before, but it’s really now we’re a married couple and it was out, open. It was something that they celebrated with us. And so you know, it changed the dynamics of our relationship with our community.

Here, Berlant’s argument rings true that “when conventionality is not called a homogenizing threat to people’s sovereignty and singularity it is seen as a true expression of something both deep and simple in the human” (Berlant 2008: 9). Heyes maintains that “thinking ourselves differently is important, but even more so is practicing ourselves into something new” (Heyes 2007: 9). Instead of choosing to be a particular kind of individual, “we find ourselves thrown as subjects, and must find ways of negotiating our uncomfortable, resented, or subordinate subject-positions that embody the forms of resistance to which our politics commit us, and which enable us to live the best kind of life” (Heyes 2007: 8). If we are to see these couples as new subjects that are thinking themselves differently, their stories can also be seen as juxtapolitical in the sense that as new subjects they are simultaneously engaging the social discourse of normativity and challenging social and legal conventions to change the normative discourse, at least enough to include them.

Couples like Bruce and Joel believe they do challenge the normativity of marriage. Using pro-marriage rhetoric they maintain that the challenge is presented by their mere presence in the institution because it destabilizes its heteronormativity. Simultaneously, Bruce talked about marriage having the same meaning to him as it does to society, and to the rest of the world. He links his personal narrative to a gay and lesbian experiential trope, and more precisely a gay and lesbian intimate public where the
identity of homosexuality resides, and though understood differently by the members of the intimate public it creates “a world of strangers who would be emotionally literate in each other’s experience of power, intimacy, desire, and discontent, with all that entails” (Berlant 2008: viii). “It’s inclusion,” Bruce declared, “it’s equality.”

There’s no separation between me as a homosexual male and the rest of the male or female universe. You know what I mean?...I think it’s important... there’s no difference unless there’s a subclass, if we as a group decide that there should be subclasses. I think to discuss that in terms of other values choices is not really helpful. As it relates to Joel and me, I don’t think that marriage has much value. It doesn’t change anything between us, but it does change how the rest of the world looks at us. I think that that’s important as a statement, to say that there’s no difference between us that there isn’t between any other two people that want to spend their lives together.

Through his belief of sameness and equality, Bruce positions himself as an insider to the privileged public that is recognized and allowed the space for self-development. Despite the reality that insider recognition and cultural development is denied him, the very idea of recognition provides Bruce, to borrow from Berlant “an experience of social belonging in proximity to the technologies that make the nation itself a site of affective investment and emotional identification” (Berlant 2008: xi).

Nidia and Mae, while feeling they were getting recognition and validation from neighbors, family, and coworkers, argued that marriage as a legal contract did not impact the level of love and commitment for one another. Yet the link between the emotional component of their relationship and legal protections is embedded within the idea that together they act as one cultural agent solidifying their union. It becomes difficult to divorce the emotional bond from social bond from legal bond, and as with the other
couples, the division of these elements was stressed and sometimes forced. They were put in the position of having to negotiate and defend what they had already built over the long span of their relationship while aspiring for what they see as a more powerful form of union. Berlant reminds us that neither the intimate public nor national sentimentality is about being right or logical. Rather, they are “about maintaining an affective transaction with a world whose terms of recognition and reciprocity are being constantly struggled over and fine-tuned” (Berlant 2008: xiii). Therefore, even though couples talked about marriage as that part that completes their relationship, they also tried to make sense of and protect the significance of the years they have had together without marriage. Some did so by making a distinction between marriage as a legal contract that does not define, impact, or change their commitment but rather adds to it. Nidia explained,

Well, marriage is, if you really dissect marriage it’s a contract and it’s a legal contract... But I think for us, because we came into marriage, I mean, so late we’ve already been established. We’re already a couple. Marriage wasn’t anything that’s going to bind us together anymore other than help us walk each other to the grave. And by that, I mean, so now, we have the legal issues to deal with, like we bought a house. You know, we have cars. You know, if we go to a hospital and those things, we have insurance, those kinds of things; the legality really helps protect your relationship and solidify it in a way that not having that piece of paper can’t do.

Nevertheless, Nidia expressed something a bit more about marriage than the legalities surrounding it. Marriage again, was expressed as a symbol of recognition, and a symbol of status, for she emphasized, it also puts one in a special category. And Nidia and Mae wanted that status. We want what everybody else wants, Nidia stated.
We want to be respected from society looking in to say, “We’re a couple, you know, we’re together, we’re committed, and this is who we are, this is our family.” Because marriage really kind of solidifies families in a way that, you know, other things cannot…And marriage is status. (my emphasis)

Mae equated this status with civil liberties making an association with injustices faced by other minoritized populations, particularly African Americans. She stated, “You don’t have the same status and you don’t get the same recognition. So, yeah you can use the black toilet but you can’t use the white toilet. That’s the same thing. I’m sorry it doesn’t cut.”

She asserted that those in power and those that devalue gay and lesbian relationships prefer domestic partnerships for the queer community because they know it is not the same thing. Therefore, she argued, looking at the issue as an aspect of civil liberties brings to the forefront that the fight is about accepting gay and lesbian relationships: “That’s what it’s about. It’s about full equality for gays, I mean it’s about accepting gay relationships. It’s really not about marriage.”

Other couples talked about marriage as the process by which to forge connections with the government. Hank and Jerry for example, talk about marriage as a legal institution as opposed to a social and religious institution because it is fundamentally a relationship between citizens and the government. Hank asserts

Well at least since the founding of this country, well, before that but I mean ever since the founding of this country marriage has always been a contract between two people and the government. If you wish to believe that there’s more to it than that and that there’s an involvement of a supreme being of some kind that’s your belief. But marriage in this country since its founding has always been a civil
contract. That’s the reason you have to get a marriage license. It’s also the reason ministers have to be licensed by the state to perform marriages on behalf of the state.

Supporting Hank’s point, Jerry adds that even before he thought about gay marriage he had decided that religion should not have anything to do with marriage.

Even though I grew up with the perception of the marriage tradition from a Christian perspective as I learned more about history and civics issues, very early on I realized that marriage, even before I even thought about gay marriage that marriage should have absolutely nothing to do with religion in terms of definition.

Hank and Jerry began thinking about marriage when they moved to New Mexico in 2001, with the intent to retire. They expressed some doubts about whether marriage is the most important issue in the LGBT movement, but these doubts have been conflicting with their growing sense of need for the benefits that come with the title of marriage. Jerry explained, “We moved here with the intent of retiring here. So it was a very tangible point in life with both of us realizing we are now planning for old age and that’s when we became a lot more in tuned with the challenges of not having legal recognition of marriage.”

Reading horror stories about people in other states who have been denied access to their partners in the hospital, and others losing their children have made them more aware of the legal fragility of their relationship. While they trust that New Mexico is a good place for gays and lesbians, as one of the few states without a Definition of Marriage Act, a level of uncertainty still looms over them. Having been one of the couples that testified at the legislature, Hank and Jerry knew how the story went and
should go and were invested in the recounting of that story. Theirs is a story about the fears surrounding legal and social abandonment, growing older and having to worry about illness and the decision-making processes around it. Thus, while they stress that they “don’t need a piece of paper” to make them love each other more or be more committed to their 29 year relationship they cannot escape the calculated costs of being an aging gay couple.

Like the other couples Hank and Jerry desired a sense of normalcy, but they have learned to talk about it in the sense of a relationship to the state, not necessarily to the privileged public. They draw on rights, liberties, and readings of the U.S. as a nation that maintains a stark separation of law and religion. This sentimental rhetoric maintains their emotional connection to others within the intimate public who see “the world is out of joint,” but presenting different reasons for that disjuncture (Berlant 2008: 20). Thus, their turn to politics is because they see it as being infiltrated by religion, which they see as degrading the political space. This degradation is as Berlant explains, “a threat to happiness and justice that needs reforming so that better living can take place” (Berlant 2008: 3). Therefore, politics becomes the means by which to reach that which is desired in the privileged public: a sense of belonging and sharing in the general conventions of what marriage and family is.

Daniel Cornwell and Ramon Lucero met in September of 2005 on the Navajo Reservation on the border of New Mexico and Arizona where they were both employed. Ramon is Navajo and has been part of the community all his life, though he refers to himself as an “urban Indian” because he went to school in Albuquerque and has traveled to different parts of the country. Daniel is a transplant from the Midwest that came to
New Mexico to work at the Indian Hospital in Navajo country. After six months of working together and getting to know one another, Daniel decided to move permanently to New Mexico with his adopted son. Daniel explains that his desire for a partner and a relationship was tied not only to his sense of loneliness and quest for a “harmonious relationship” but it was also tied to wanting to provide security for his son. He explains that for a long time he did not understand why gays and lesbians wanted marriage, like others viewing it as a heterosexual and heteronormative institution. It was when he became a parent, he explained, that he changed his view on marriage. He worried that if anything should happen to him, his son would once again be parentless, while also believing that “it’s good for kids to have two parents” because parenthood is difficult and two parents makes it easier and more beneficial for the child. Ramon too felt that marriage would not be for him and believed married people were for the most part unhappy. But like Daniel, fatherhood changed his perspective. Thus, feeling strongly about their commitment to their relationship, Daniel and Ramon legally married in Massachusetts in December 2007. Daniel described his frame of thinking.

Yes, we went all the way to Massachusetts, where it’s legal, to have our own wedding, because having legal recognition, even if it wasn’t in our own state, was extremely important to us. Our relationship was real and it was a marriage. We wanted something that said it was a marriage in somebody else’s eyes too. It ended up being a very expensive wedding because we took our families with us. So his parents went and my parents went and my sister went.

In agreement Ramon added that it was important for their families to recognize them as a family unit. He recounted,
I wanted to be married…and went to the trouble of going all the way across the country and bringing the parents along and everything because I wanted somebody other than us to recognize our marriage… It was important that family recognize it… I think we were caught up in trying to validate our relationship to other people. But still it’s good to be recognized, we got more than we bargained for when we did go to Massachusetts cuz when we did get married people were so welcoming, so much more than we had realized, than we had ever imagined and we came back from there with a good feeling. We were happy we did have the opportunity so people could join in our celebration. Because we know how we feel about our relationship and it was good to have that expressed by other people; especially by the ones we love. Marriage to me, it goes back to how you refer to a partner or a spouse in Navajo. It’s a person I make my life with. It’s not wife, it’s not husband, it’s the person I make my life with.

They both viewed the act of marrying as a ritual process through which they gained a new status, and received acceptance and recognition from family and the state.

For Ramon the ritual act of the wedding ceremony was significant to solidifying his and Daniel’s relationship with his family in a culturally important way. He explained that “the actual wedding ceremony itself is not complex,” but it was symbolic and important:

there was a prayer, which my dad did. And it is just a union between two people and in a traditional sense, in a Navajo sense, my dad made that union by introducing us to the Holy People. It is who we believe watch over us. He said we were now together as a family. We would take care of each other the best way we could, he’s right when he says that the ceremony was important.

As for Daniel the act of picking up the marriage papers was the pinnacle and culmination of the ritual. “And I’ll tell you what; the highlight of that trip for me was when we went to City Hall to pick up our marriage license. That was, holding that piece of paper, I was ecstatic…that was so important for me, getting that piece of paper and I have to admit, I really cherish that piece of paper.”
Relationship to the State

Borneman writes “in [the] attempt at nation-building to define, regularize, institutionalize, and normalize the domestic practices of the self—the state codifies and legalizes the desires for specific kinds of relations and specific kinds of selves” (Borneman 1992: 75). The setting of policies, he argues, and the authorship of legal texts are not as important as what they talk about, meaning how they are read and appropriated as codes of conduct by citizens. Citizenship, can thus be seen as Lister maintains, in terms of membership and identity which together create relationships between individuals and the state (Lister 2003: 14). In that relationship, individuals might see themselves as active agents within the state, with the ability to affect the state and its institutions, and the right to critique it and demand change. Feminist and queer scholars have long maintained that sexuality is attached to sets of gendered rules to which citizens must conform if they are to be a part of the national community. Sexuality is linked with normalcy or perversion, and used to disqualify groups such as women and gays and lesbians from membership. (Lister 2003, Cooper 1994). While that is, individuals’ relationship to the state looks differently. The affective relationship, if nothing else, gives the impression that individuals, as unique selves, matter, and they have freedom to be or aspire to be who they want. If that sense of belonging is not yet achieved, it is always viewed as being in sight, and individuals must reach out to it.

In the legislative and legal process of gaining marriage rights, many gay and lesbian couples felt that those rights are in fact within their reach. The couples get to the legal reality of recognition and protection the more they desire it, the more intense their feelings of being denied become, and the more they demand to be accepted by the state.
Lillian felt that marriage would change her and Melinda’s relationship. Emotionally, she recounted

When the day came where we could go get married, I knew that I wanted to, and for personal reasons, because I knew it was going to change our relationship even though we had already had a commitment ceremony. I knew that that step, that that contract, with that formal recognition, not just by our families and our friends, but by the state, meant something to me--it mattered to me--and that I wanted that with Melinda, that she is the only one I want that with. (laugh). And, it was also important to me because I feel the need to protect her and to protect Jenna. And, as much formal recognition as I can get to our relationship, the closer I can get to what other people already have because they’re heterosexuals and they enter into this contract, and there is just assumptions about the passing of property, the protection of children, the what’s going to happen should I pass away before I retire…The closer I can get to those assumptions applying to her, the safer she is and the happier I am about that. The less risk there is in our not being able to do that. It still makes me nuts that if I die on the way to work tomorrow or Monday, she can’t access my retirement…That discrimination makes me nuts, and it’s not like I didn’t work as hard as the judge who is across the hall from me who is also the primary breadwinner in her household, but there’s no question that her husband is going to have access to that stuff. The closer we can get to—it’s a very legalistic and a very lawyerly kind of thing, but that matters to me. I didn’t work any less hard for that than Julie did, and I want my family to have access to all of that the way Sharon’s family can. But in terms of what it meant for us, I knew that it would matter to me even as a deeper commitment than the commitment we made to each other in front of our friends and families, although, that was a huge, huge commitment for me that Melinda said, “Yes, I do want to marry you,” and have a legal piece to the already family piece that we have. That mattered. It made a huge difference.

Similarly, Jackie called marriage “the ultimate civil right whether you choose to marry or not.” For her, legal marriage symbolizes state recognition not only of their relationship, but of their humanity and their right to equal treatment. Angrily, defiantly, and admittedly self-righteously she stated
And how dare they? I mean, how dare they say, I’m not the same as somebody else down the street. So there’s just a real deep, deep-rooted anger and sadness, how the toll that homophobia takes on people or the toll any kind of discrimination [takes]. You know, anti-immigrant stuff, any kind of discrimination; people don’t recognize or realize how harmful it is. They can be blind about it…they don’t connect with how vicious and harmful that is. And I guess that’s why for me it’s so important, that it’s public.

The self, as Nikolas Rose maintains, “is envisioned alongside notions of “autonomy, identity, individuality, liberty, choice, fulfillment” (Rose 1996: 1). He argues,

It is in terms of our autonomous selves that we understand our passions and desires, shape our life-styles, choose our partners, marriage, even parenthood. It is in the name of the kinds of persons that we really are that we consume commodities, act out our tastes, fashion our bodies, display our distinctiveness. Our politics loudly proclaims its commitment to respect for the rights and powers of the citizen as an individual…Notions of autonomy and identity act as ideals or criteria of judgment in conflicts over national identities, in struggles over the rights of minorities, and in a whole variety of national and international disputes (Rose 1996: 1).

Jackie drew on that sense of self as autonomous and free, but she positioned herself within the national community by comparing herself with Hank or Jane down the street. She viewed herself and her heterosexual neighbor as being the same kind of citizen. This connection to the nation-state in many ways is representative of couples like Jackie and Susan’s other statuses that allows them more access to state institutions and resources, such as being identified as white, being highly educated, and being financially well off. For this reason, Jackie could be appalled that as a citizen she is being denied.
Lillian roots her frustration in more material matters making the connection between fairness and rights that has been a cornerstone of the legal and legislative fight.

Lillian in her comparison to her colleague also personalizes citizenship but speaks to it more positively in her attempt to portray what it can do for her and her family. She relies on specific codes of conduct associated with the good citizen, particularly being a bread winner, contributing to the nation-state through hard work, upholding the law, and protecting and providing for her family. In this way she makes an appeal rather than a demand. As well, Lillian draws on the affective power of the state to personalize its edicts and establish emotional bonds. She does this by describing the state-recognized marriage contract as a “solemn” and “sacred” contract that is to be respected and taken seriously.

Seriousness of marriage becomes important to the process of belonging. Other couples have defined marriage as an act of responsibility and one’s duty to be responsible as a parent, as a spouse, as an adult. For some, like Karen, gays and lesbians have a greater responsibility to behave in ways that show their commitment to their relationships and their families. Like Ellen Lewin’s argument that gay fathers feel the need and the pressure to perform “family” convincingly (Lewin 2009: 48), I suggest that many of the couples are similarly invested in performing “marriage” and “family” convincingly. This may or may not be a conscious process. For Karen and Sandy, this performance did take a conscious form. They maintained that marriage is an act of responsibility that is especially important to same-sex couples. Karen stressed: “our families are vulnerable in ways that families graded by biology are not vulnerable.” Sandy in agreement clearly declared “I just think everybody should be married.” In support Karen replied
I think it’s something that…if you have it available to you and have kids and choose not to take advantage of the protections that marriage offers your family. I mean I’m very judgmental about it. I question whether you’re committed to each other…You know, once you have a child with someone you’re stuck with them forever…We know some couples who have kids together who aren’t married, don’t want to be married and I just I mean I wonder… I mean I guess I assume when I hear people say, “We don’t need to be married because we’re like already committed to each other.” I think you have no idea… you just don’t understand what the protections of marriage can offer your kids. If you really think this is about how you feel then you don’t get it. ‘Cause it’s not. It has nothing to do with how we feel… The advertising that the works the best, “We’re in love and we want to get married.” Well, you know—bullshit! If you’re in love, tell that to each other. If you want to have community property protections, get married.

Performativity can also be located in the regime of subjectification, for as Judith Butler argues, “subjectivity is not the origin of action, but the consequence of particular, and inevitably gendered, routines of performativity and modes of citation” (in Rose 1996: 8). Thus, relationships to the state are also established via a convincing performance of mother, father, care giver, and breadwinner (aspects of gendered routines) that is believed to lead to acceptance from society. That is not to say that being conscious of ways to behave because of their cultural, economic, political and legal importance, means that these are tactics of manipulation or trickery. On the contrary, the more these couples behave, adopt, and adapt to the roles valued by and central to the maintenance of the body politic, the closer they feel they are to achieving that status of belonging. For this reason, social and state recognition are woven together in couples’ narrative. It is why neighbors and coworkers’ opinions are important. But performance of and desire for marriage is also embedded in pragmatism. Karen declared that marriage is not just a feeling of stability but a “fact of stability.” Like the other couples she believes marriage
provides stability in financial planning of their future and that of their kids, and provides piece of mind when something happens to the other one and being able to make decisions without the interference of other family members. Stability also comes in the form of protecting one’s family from oneself. Recounting the story of one of her relatives whose husband ran off with a younger woman, Karen exclaims, “Marriage protects me from my own stupidity as well as from the interference of other people in our family’s affairs. And I think that’s a good thing ‘cuz you can’t never be stupid enough.”

Lillian employs a legal pragmatism to the understanding of state structures and believes in finding ways of working within those structures. Melinda, on the other hand as an educator with an immigrant activist background describes a dual vision of the state: one, as an intrusive entity and an apparatus that controls individual rights; and two as an organized body that prevents social chaos and improves people. To the extent that the state works to the benefit of its citizens, she values and respects it. However, to the extent that it hinders’ or harms people’s lives, she feels she has a right, on principle, to refuse to respect it. She exclaims

Okay, in society, I think there is value in having an organized body that everybody says, okay, they’re the official say on things. I think there is value to that. To the extent that that organized body--let’s call it a state government--can regulate things in a way that makes people’s lives better and helps keep chaos from breaking out and generally tends toward making people’s lives better than worse, then I’m okay with it. But you know in ways—if there are any ways in which I think it’s serving to make people’s lives worse, then I have sort of a philosophical refusal to respect it… So, how this relates to marriage is simply that, for me, when we had our commitment ceremony in 2002 and…we couldn’t legally recognize our marriage, it pissed me off because I felt like that’s not equal, while my brothers got to have their commitments be officially recognized. Only in the sense that it’s just not fair that some couples get recognized and some don’t. But to me it really didn’t affect the level of commitment that I was making. I felt like whether or not I signed any papers, I was making a commitment for life and,
whereas to Lillian, that was like an extra piece that had a sort of deeper level of meaning. Not only did it bring with it a bunch of rights and benefits, but it actually affected the meaning of the commitment. To me, I was like, no! The state’s role doesn’t really affect the meaning of the commitment.

In her critique, Melinda locates the individual at the center of the nation. It is to the individual that the nation must be loyal and must answer. She employs her autonomy as an individual and as a member of a democracy that in its ideals encourages her to be self-reflective and self-determining. Through her autonomy she deliberates over and judge state actions. At the same time that she seeks state recognition, she admonishes the state for defining the meaning of commitment and particularly her commitment to Lillian. Having established herself as a person in a loving relationship, or ‘pure relationship’ to borrow from Giddens she links intimacy to the promise of democracy, freedom, and selfhood. Intimacy is something that belongs in the private realm, and it is in the respect of that realm—meaning the government staying out of this realm and the rights of all to be part of it—that she sees the role of the state. What Mouffe has argued, seems applicable for Melinda: “the way we define citizenship is intimately linked to the kind of society and political community we want” (in Lister 2003: 13 Mouffe 1992).

Acts of Resistance(?)

Thus far this chapter has explored the intimate public from the point of view of couples who consume the dominant rhetoric of marriage. Nevertheless, as Berlant points out alternative voices do exist within intimate publics “but even when people speak out against the terms the intimate public sets out as normative, they are still participating in the promise of belonging that it represents insofar as they are trying to recalibrate whose
experience it can absorb so that they can feel included in the mass intimacy that has promised to include them” (Berlant 2008: ix). Two couples I interviewed held contrary positions and beliefs to the rest of the couples about marriage, perspectives which are equally important to explore in this process of negotiating individual, family, and group identities while bargaining with power and desire.

Audrey Vaughn and Sophie Pierce are an African American couple who have chosen to live a life outside of the mainstream world, considering unappealing and in some cases harmful to their partnership and family. Both are artists that met while pursuing their artistic interests with other African American women in Albuquerque in the early 1990’s. They became friends and a few years later as they realized they developed feelings for one another began what has turned into a sixteen year relationship. Together, with their two daughters, they live in one of Albuquerque’s well known Hispanic neighborhoods in a very modest house decorated with personal artwork and that of their friends. Calling herself and anarchist with a little “a,” Sophie explains her position in their relationship as being the one that completely divorced herself from the world. She says

I’m a lot less out in the world than I used to be. It’s not something that I was always into doing but I think the system has truly managed to get on my nerves and I don’t want anything to do with it. So I don’t have a job. I don’t go out every day or anything like that. Ever since [my daughter] was born, really, I’ve been home and flowing around and doing little jobs like this and just doing my art.

Sophie, in the process of divorcing herself from what she calls “the system,” began engaging in a different form of economic subsistence based on barter and
exchange with friends and neighbors. Audrey however, continues to teach at a local college as a part time instructor, and is the primary financial provider for their family. Both have higher education degrees, Audrey a PhD, and Sophie an M.A. and talk about their awareness that they hold positions of privilege even though they have chosen to remove themselves as much as they can from the mainstream capitalist focused world. Sophie also comes from a family where education and social activism is valued, and whose members all have higher education degrees. She views herself an activist, though approaching things differently from her family, focusing more on making visual and performance art accessible to lower income ethnic communities and using it as both community building and as social critique. Audrey, sharing in Sophie’s vision, comes from a working class family where education was not promoted and had little value. Her pursuit of her educational interests led her farther away from her family, with whom she has a loving yet strained relationship. In living their lives together, Audrey and Sophie reject to the extent possible having technology in their home, particularly the internet and television, and prefer to have little to no institutional involvement including going to doctors and hospitals, or going through legal avenues for adoption. While a desire to reject the system is a driving force that has molded their lives together, so is the history of the relationships between the United States and African Americans and other marginalized ethnic communities. Sophie explained that she prefers to “trust in the community and the family to do the right thing, if necessary.” Audrey added that what makes their relationship work is the shared values, trust in and respect they have for each other’s ideas and beliefs. She clarified
This is extreme for some people, but Sophie doesn’t want to go to a hospital for any reason, ever, if she can avoid it. That included her pregnancy. So me and her midwife, we sat down, this is before the birth, and we agreed that no matter what happened we weren’t going to do that because she didn’t want it…That level of commitment, most people are not willing to take on themselves, but I really do respect that about her. If you go to the hospital there isn’t any guarantee that you’ll ever come out alive (laughter) or with all your body parts. They be doing black people dirty in the hospital. I’m just saying.

Sophie jokingly concluded, “finding people crazy enough to be crazy with you is a gift”, and is what creates a working relationship. Considering Berlant and Borneman’s points that the personal is not organized by the singular autobiography, and the voice of the minoritized author “is readable only as particulars that are exemplary not of the individual’s life but of that kind of life” (Berlant 2008: x), than we need to ask what kind of life is their story representative of? What forms of sentimentality are Audrey and Sophie calling upon in their rejection of the state and society? Their complete removal is impossible, as they still come into contact with privileged publics and the body politic. Their individual narratives or life constructions are still created in relation to master narratives, even though the relation is fraught with distrust and disgust. But they circulate through multiple intimate publics and have several experiential tropes that they draw from while shaping and reshaping their life constructions. These intimate publics themselves are built on a history of African American experiences, a New Mexican Hispanic and lower class neighborhood understanding, feminism, and grassroots social activism. They select from these intimate publics elements that speak to them and help shape the unique vision of their lives. What they created conflicts with dominant rhetoric of the gay and lesbian intimate public, and on the surface it does not appear that they care
to belong to the mass intimacy into which this intimate public has promised to include them.

Calling upon their feminist past, Audrey and Sophie define marriage as a proprietary institution. Yet at the same time they claim that marriage should be based on love. Love, Audrey commented, is “really a recent phenomenon” and “usually you got married because mom and dad said so.” In spite of that knowledge of love’s history, it is embedded in their own narrative of their relationship. Therefore, love, whether or not they intended it so, connects them to the gay and lesbian intimate public and its dominant rhetoric, and to the national body discourse of the modern self, the citizen as partly constructed through the conventionalities of love and promise of personal choice.

Concurrently they talk about marriage as a heterosexual institution and Audrey distinguishes the foundations upon which they as a gay couple build their relationship. She maintained that because queers are not part of the “heterosexual wedding matrix” they have to stay together out of a sense of really accepting and committing to being together. Here, Audrey employs not only the affective nature of love, but a history embedded within the gay and lesbian intimate public that is situated in opposition to the liberal project of marriage inclusion. She maintained,

Yeah, it would be out of a sense of really accepting and committing to being together as much as possible and to being respectful enough to let each other change and all of that idealistic stuff that we’ve been talking about. What’s kept us together so far, some of that is going to have to keep us together in the future too...because we’re not part of the heterosexual wedding matrix, (laughter) we don’t have this, “You have to stay married,” kind of thing going on. We don’t have to stay married for the kids. We don’t have to stay married because we’re afraid of being alone or have to stay married because our parents say so or that’s what everybody else does or any of that. So for us, it’s really going to have to be
about us. So yeah, commitment, work, love, creativity, you’ve got to have some creativity.

Sophie chimed in distinguishing between marriage with a capital “M,” which she claimed is about the dialogue with the government through the continuous process of gay and lesbian assimilation, and marriage with a little “m,” that is about two people loving each other and creating a life together.

I agree with her completely. The capital “M” has been an issue, I would say. Partly because of the dialogue with the government around gay people and our people’s seeming need to continue to assimilate, whatever ways we can. I feel like we’re moving so much towards homogeneity in general and it’s very disheartening when freaks, straight or gay, decide to do something that’s so much about substandard that, in my mind, it’s kind of abstract, in the sense of marriage. “It’s a relationship between a man and a woman,” and it feels really, I think, going up against that repeatedly.

Sophie’s critique is reminiscent of Rimmerman’s distinction between assimilationists and liberationists. Assimilationists, Rimmerman maintains, take a rights-based approach and work within the broader framework of liberal, pluralist democracy “fighting for a seat at the table” (Rimmerman 2002: 2), centering on strategies of civil rights, legal reform, political access, visibility, and legitimacy (Rimmerman 2002: 18). This approach, explains Cohen, “is based on the experiences of white European ethnic groups and assumes that, over time, as groups prove themselves to be diligent and willing contributors to American society, they will become fully integrated and assimilated into dominant institutions and social relationships” (Cohen 1997: 574). Liberationists on the other hand favor more radical cultural change, arguing it is not enough to have a seat at
the table because there is a considerable gap between access and power. They call for a strategy that “embraces both structural political and cultural change often through outsider political tactics” (Rimmerman 2002: 2). For Sophie, the battle for marriage is a battle for heteronormative values which she believes are inconsistent with gay and lesbian identities and their historical relations with the heterosexually constructed and politically sanctioned institutions.

Holding fast to her critique, Sophie talked about an internal contradiction challenge she had recently faced, as she found herself going up against this heterosexual construct with a friend. She recalled,

We had some friends get married this year and it challenged me in ways that I did not anticipate at all… This is a couple that we double up with, and our kids hang out and they lived with us for a while and they’re family. I love these people and they got married and the man confided in me that it was partly because he felt like he needed that structure to stay there and I was like, “Wow, really?” And it just so happened that he’s a part of the Mormon church, which you know, he’s a freak who’s a part of the Mormon church…The contradictions were so huge that I didn’t even know what to do. So then, I was like, “So you’re tithing into that church, who almost single handedly brought down gay people getting married in California this year?” He goes, “Well, I knew it was going to happen” (laughter) and we just talked for hours and it was like, “So you’re telling me that after all this that we’ve been through together, you really would not support? Do you realize that if those people had their way and something did happen to me, Audrey would be completely irrelevant, and she’s actually literally been paying for Ramie’s life... Exactly, and it’s like, “You know how much we love each other and you lived with us and we do our children together and you’re going to sit here and tell me that you don’t think gay people should get married, but you got married just so you could have some integrity?” I was like, “Are you crazy?” He was just like, “You know, I’ve got to hold onto something, kind of thing. He needs the church and the structure and the system… So it made me think about that. If I didn’t trust our families enough to know that or children and our property is okay no matter what happens, I would do that. It’s like, yeah, I would. There are people out there whose family would steal the child, if something happened to the biological parent. Do you know what I mean? It’s like, that’s really jacked up. This woman has raised Ramie. She has every right to make every decision that needs to be made about this kid as far as I’m concerned, and if we needed to do
that, I would like to think that we could. I don’t play that but I think there’s a lot of other people who do really need that structure.

Sophie also talked about the resentment she has found herself feeling toward the straight community for having the social recognition and celebration of their relationships. Referring to another pair of heterosexual friends who married she explained, “I found myself getting really angry because he had all of this support from the community at large. All of their families came. If we wanted to do that, that just wouldn’t happen… I was feeling very resentful about that privilege. I think it was more about privilege than marriage itself.”

Audrey added “in the end, people want as much privilege as they can possibly fucking get, on that level,” and equated marriage with American citizenship saying “I mean, in a way, you don’t have to do anything to make it happen, and in a way, it’s the same for hetero people to get married…You do have to apply for a passport, it’s a lot like getting a marriage license.” Hurt by the privileges her straight friends enjoy and the interactions she’s had around such privilege, Sophie concluded

So now, I feel like maybe that stuff should get more attention in the roundhouse or capital. Just because that’s so fucked up... That particular institution just feels like a complete legal issue for me, at this point…I don’t really want the government involved in my life, but I would [marry] for other issues, immigration issues and stuff. I think I would do it without batting an eye. It has nothing to do with relationships, to me.

Thus, in spite of her own view that marriage is not something she wants to be a part of, her own experience with discrimination as a lesbian, framed as part of a shared history with a community of gay and lesbians, invoked strong emotions and a sense of
communitas with the gay and lesbian intimate public. As a form of resistance to the privilege allotted to only a sector of society, she and Sophie both concluded that they would marry to help others gain citizenship.

Amilia Reede Alana Saunders a younger couple in their early to mid-thirties, met in 2001 while working for homeless food organization, dedicated to providing food for the homeless. Gradually they began seeing each other “keeping things casual and private.” One year into their casual relationship they traveled to Mexico for a WTO protest. At that point they solidified their relationship and have been together eight years since. Akin to Audrey and Sophie, Amilia and Alana reject state interference in their lives and in their relationship. They see marriage as distinct from commitment, believing that they have with one another is the latter. Alana explained, “When I think of marriage, I definitely think of state-sponsored like, the state acknowledging a relationship which I don't need… I think, like a commitment is different to me than the word marriage. Like, marriage just has a bad connotation to me.”

Similarly, Amilia talked about commitment being different from marriage, calling the institution heteronormative, and having little to do with her life. “I immediately think of,” she explained,

some woman in a white dress and some man in a black suit and some church and some bullshit that doesn't look like my life at all…You know, so it's like, and it's like I'm not in that picture. I'm sitting in the aisle bored or whatever, you know? But it's not—I think that's like my first image if I even hear the word marriage. And I think Alana's right. It's like, commitment is different.
Yet, a couple of elements interrupt this clear cut categorization of herself. Having worked for a prominent national LGBT organization on the issue of same-sex marriage in New Mexico, Amilia is also sympathetic to the choices, desires, and needs of other couples. She explained,

You know, having heard and met a lot of couples who are negatively affected by not being able to get married, I feel like, I know that that state sanction thing is important to some people and I want to validate that importance. Personally, I don't know if I would gain anything from that state sanction… Yeah, we don't pay taxes, we don't have any property, we don't have kids—you know, there's a lot of things that have to do with that really don't affect us right now.

Another element has been feeling like wanting to validate her relationship with Alana. She finds it interesting that she too uses language and imagery associated with marriage or wedding when envisioning her own commitment ceremony. That imagery in some ways challenges her and in other ways pushes her to hold tight to her own ideas of what it means to be in a lesbian/queer relationship. But at the same time, she continued

I feel like we talk and fantasize and joke about having some like, basically, huge fucking party with all of our friends and food and our family to basically get married, to basically have some ceremony of commitment. It's like—and we even use the word marriage. So, it's funny that we're like, “State-sanctioned marriage, fuck the state,” or whatever but then, it's like, “Oh, yeah. Like, we're going to have the best food. We're going to tell them not to bring presents, just bring food”…I mean, we go on as if there’s two levels. You know?

Referring to the commitment ceremony Amilia invoked responsibility to family and community as opposed to the state. That way she still located commitment
ceremonies within a public space and differentiated them from heterosexual forms of portraying commitment.

It's a, I think a public statement. Really, is what it is! It's like, coming out to your friends and your family. Bring them all together and publicly saying, “I'm committed to this person,” and in some way it creates this accountability, right? Of like, not just “We're living together and one of us could leave any minute, in a flash of like, you know, insight or crazy insanity or whatever,” but really, in front of witnesses, our community—people who hold us accountable to our words, we're saying, “I'm going to stick with this person.” But really, I just want a big, fucking party…So, it's funny. It's just funny anyway. We talk about commitment in these ways and I feel like, probably, if we were like, heterosexuals, we might just get mar—you know, I think—I think it's easier for heterosexuals… I feel like, for queer couples, they need to be more creative about what that commitment's like or what that feels like that.

In spite of this difference she’s maintaining, Amilia also felt a pull towards using marriage terminology because it created what Jackie has referred to as a lingua franca. She contemplated other options of how to refer to their ceremony that would evoke the depth of understanding that terms associate with marriage do. She stated

I feel like, if I told my parents, “Oh, I'm going to have a big party, do you want to come?” they would not fly out from Idaho. But if I was like, “Alana and I are having this ceremony or we're having this commitment blah, blah, blah, or we're getting married,” they'll totally come down. You know, so, I feel like, it's a hook…And it's funny, too because…we were visiting [my aunt and] she called Alana's mom my mother-in-law. And somebody else recently said something about “wife” or—was it Leigh?

Regardless of their position on marriage, these couples are finding it difficult to escape social conventions they reject. Language and its power in giving meaning to relationships is part of their personal deliberations. Furthermore, these couples also
demonstrate Berlant’s point that their rejections of dominant intimate public discourses do not result in the rejection of the intimate public itself. They still maintain emotional bonds with its members and like other couples engage in similar processes of negotiating their identities and convictions. This is in part because they share in the sense of social rejection and in part because they are forced into that discursive space by family, by friends, and ultimately by the social construction of relationships. Yet their association with underprivileged communities provides them a different perspective on citizenship and belonging. They do not talk about justice or their virtues as citizens, like other couples do, or position themselves within the boundaries of citizenship making social claims of equality or demanding rights based on that citizenship. Their frustration with the state and their own attempts at divorcing themselves from it, make them gravitate towards other communities, different intimate publics, with which they feel a sense of kinship and commonality. Here class and ethnicity play a different role, one of questioning the intimate public dominant discourse and minimizing connection and participation in the body politic.

**Conclusion**

In this chapter I argued that same-sex couple’s narratives about marriage produced two tropes: one is about their emotional lives together and the other about legal recognition. I argue that together, these tropes frame marriage as a powerful overarching affective trope of modernity that couples used in order to assert themselves as modern social subjects. While LGBT organizations helped configure this trope, it has its roots in liberalism, from where modernity is first conceived. However, today modernity is deployed, as Lisa
Duggan, Aihwa Ong, and Lauren Berlant, among others have shown, through neoliberal identity politics that are based on viewing economic and ideological consumption as a requirement to social participation. I argue the public ideas around marriage and relationships have, through various processes, been relocated into personal narratives of self-identity. Therefore, I have tried to show that the process of constructing a queer subject does not end (nor necessarily begin) with the public sphere. Dominant and intimate publics are always connected by necessity, as each require the other to construct its membership. Therefore, marriage tropes help connect and disconnect people from group discourses of belonging. Utilizing Berlant’s concept of the intimate public and Borneman’s categories of life construction, experiential tropes, and master narratives, the chapter intended to illuminate the challenges encountered by couples in negotiating their identities as gays and lesbians, as couples, and as citizens. Employing the idea of the self and the affective act of love, couples envision themselves as free and equal individual subjects who share the ideals of the body politic. I also tried to demonstrate how couples utilize similar arguments to come to different conclusions about marriage and belonging. Oppositional voices not only to marriage but to the state are also created in relation to belonging to multiple intimate publics, complicating any homogenous category of gay identity and showing the troubles that arise from insisting on a dominant intimate public discourse.

Couples I interviewed tapped into several key messages within these tropes to explain their relationship to marriage and to embrace or reject the image of the “gay family.” I have shown how some couples draw on feminist critiques of marriage as a way to reconcile those critiques with personal histories and desires. These couples
acknowledged the drawback of marriage and the history of women’s subordination within it but believed that same-sex marriage is either separate from that history and therefore not subject to the same critiques, or it has the power to transform the institution of marriage into something positive and therefore unchaining it from that history of subordination. Some couples went as far as to say that LGBT critiques against same-sex marriage are a result of people not understanding its emotional purpose.

Traditionalism was also connected to same-sex marriage. Some couples defended their stance on marriage by arguing that gays and lesbian couples who want to marry are actually the ones who are thinking about the sanctity of marriage. Marriage, as Mae and Nidia explained has become transient in our society, yet gays and lesbians want to embrace it. Society should, therefore, encourage same-sex marriage since gays and lesbians want to honor this sacred institution. One way couples showed their commitment to marriage was by emphasizing their daily, normal routines. This way of framing marriage and normalcy was common in legislative testimonies and in forums. Marriage thus becomes a prescriptive language, but one that also come to be viewed by many same-sex couples and activists as a more acceptable language for asking for acceptance and recognition. Legal benefits and individual needs are also part of that language. For example, a common theme among couples was the legalities of health care and medical decision making. While for many the fear of not knowing if their partners will be allowed to see them through illnesses or make medical decisions on their behalf has always been a reality, how people discuss that reality, I argue is impacted by the public discourse of rights, fairness, and humanity.
Authenticity and naturalness was another way in which couples made claims to marriage as shaping social membership. Some couples believed they could only reach their true potentials and become authentic individuals through social recognition and legal incorporation into the institution of marriage. Thus, these couples talked about a relationship to society and a relationship to the state. Yet, there were some couples who took a different position on their relationship to the government and the state. These couples either sought to have as minimal a connection to the legal structure as possible or rejected notions of state representation. Nevertheless, even when rejecting the state there was a recognition and acceptance of marriage as tied to rights, visibility, and personal freedom.

This chapter has shown how discourses about daily life, needs, and authenticity have become important points of reference to couples discussions about their personal identities and their connection to an LGBT intimate public, the dominant public, and the state. However, my use of intimate public diverges somewhat from that of Berlant when considering agency. Berlant maintains that sentimentality produces an agency that focuses on “ongoing adaptation, adjustment, improvisation, and developing wiles for surviving, thriving, and transcending the world as it presents itself” (Berlant 2008: 2). This agency is not part of the political, but rather is juxtaposed to it because even for those seeking change politics is not seen as a resource for living but a “degraded space and a threat to happiness and justice that needs reforming so that better living can take place” (Berlant 2008: 3). In part, I agree that even for LGBT activists, politics is seen as thwarting happiness and justice and must therefore be changed. However, I also argue that agency is not produced only within an LGBT intimate public. Agency is a product of
belonging to different publics, the sentimentalities and ideologies of which can conflict with or differ from one another. At times, agencies are a form of adaptation and adjustment, as this chapter largely illustrates, while at other times they challenge those very notions. If agency can only be representative of the most powerful voices, desires, and sentiments than agency is only about consuming the particulars of the intimate public. Today we are visually saturated with the particulars of an LGBT intimate public that surrounds the family: the idea of sameness that connects the queer to the intimate public. Public discourses about marriage have become increasingly themed and pervasive such that it becomes hard to think about one’s own subject outside the parameters of those themes. Marriage is being defined publicly and therefore, in order to talk about commitment in ways members of the dominant public can understand that relationship, one must incorporate a language of marriage into his or her descriptions. When people do not use this language, the dominant public’s understanding of that relationship is lost or altered. It becomes something different, something other than marriage. The power of this rhetoric gave many couples and LGBT individuals reason to reject domestic partnership. However, I argue that a different kind of agency can be found in discussions about family. I show in the next chapter that talking about family is different because the linguistic prescriptions necessary to discuss marriage are not required for discussing family. In other words, while family has been used to talk about marriage, marriage is not necessary to talk about family. This does not only have the potential to produce a different kind of discourse but to produce a political speech act based on different vectors of identification and experience.
In the same town hall meeting held in Las Cruces New Mexico in 2004 where her partner Dee recounted their experience trying to get married at Sandoval County, Andrea Joseph talked about them as a family, recounting one particular experience. Linking family and marriage to forms of discrimination rooted in homophobia was important to couple’s testimonials in town hall meetings, especially in the early years of the same-sex marriage debate. They were important to connecting couple’s experiences to social inequality, and the need for representation. In the process, these stories also showed the variability among family structures, and even when resembling the nuclear family, LGBT families maintain distinctive characteristics that are connected to non-normative genders and sexual orientations.

“Thankfully,” Andrea said, “in terms of our work here in Las Cruces we have not suffered discrimination…However we have had discrimination in small subtle forms that have eroded and eaten at us and our family. The most blatant occurred when we had gone back to North Carolina a few years back to help my mother who wasn’t doing well. We heard about this one YMCA that was just built in the community; they had swimming pools, racket ball courts, a weight room, and we wanted to join. We were in North Carolina and this was the YMCA, so I was a little hesitant. So,” she said, “I decided to call first before we went in. When I called I talked to a very nice woman on the phone and asked about the membership rates and types of membership, until finally I got the courage to ask ‘Well, what’s your definition of a family for the family membership?’ Andrea had slowed down her speech to emphasize the word family for the audience.
Mimicking the woman’s confusion on the other line, she said “well you know family. ‘Well I’m asking’ Andrea tried to explain ‘because we have an alternative family. There are two women and a son. To Andrea’s relief, the woman replied ‘well, that’s not a problem. That’ll be fine you’ll still qualify for the family membership.’ “I was thrilled,” she pronounced. Together with Dee and Michael, their ten year old son, they went down to the YMCA. “We went up to the counter, filled out all the paperwork, all ready to submit our forms,” she told the audience “when the lady behind the counter looked it over and she said ‘Well, I’m sorry but you’re not a family. Right in front of our ten year old!” she stated in disbelief. Speeding up her speech and gesturing a quick pace with her hands to mark her repetitiveness, she said “I explained to her, ‘Well you know I called up before hand and I was told this would be fine, not a problem.” Not knowing what to do the woman, Andrea explained disappeared into a back room for a while. In the meantime, Michael was excitedly bouncing around the place ready to jump in the swimming pool. A few moments later, Andrea recalled “the woman comes back out and says, ‘No, I’m sorry you are not a family.” Once again Andrea pauses and looks over a silent audience, at this point nervously waiting to hear how the story will end. “And Michael is standing there,” she continued “somewhat confused. Michael has an IQ of 137,” she boasted to the audience, “so he picks up on things very quickly.” Raising her hand and drawing it across the air, she said “and on the wall by the lobby there was the YMCA mission statement, and Michael to this perfect stranger who he’d never met says: ‘But it says,’ Andrea turned her gaze down to her notes and in a raised voice and bouncing index finger she repeated the mission statement that her son had read to the YMCA representative: ‘to put Christian principles into practice through programs that build healthy spirit, and body, for
all.’ Proudly, she then told the audience “and [Michael] said” ‘aren’t we part of the all?’ The audience laughed and clapped in a show of support and Andrea continued on: “the director, or whoever the person was, quickly vanished back into her office. She came back out a little while later and told them ‘Well, this is what we’ll do for you: Dee and Michael can have the family plan and we’ll let you have the single plan all for the price of the single family membership.” The absurdity of this logic incited further laughter from the audience, but Andrea finished her testimony on a somber note stressing the negative impact that experience had on her, on Dee, and especially on their son Michael. “It was at that point” she concluded “that Michael realized that society didn’t recognize us as a family and for the last four years we’ve been struggling to rectify the damage that that caused.”

This chapter is about the way same-sex couples talk about and perform family. The interviews I conducted with New Mexico same-sex couples reveal that while same-sex couples’ discourses about marriage tended to be imbedded in the normative ideology queer scholars warned about, narratives about family did not fit so easily within this normativizing discourse. While couples did rely on some of the same language to describe family that they use for marriage—love, security, commitment—discussions about who and what makes a family produce more fluid and complicated narratives that do not fit the singular unifying identity imposed on the public image of the gay family. In other words, narratives about family did not follow a prescribed set of messages, therefore remained adaptable to the multitude of life experiences.

Family, I maintain, is often experienced differently because its’ imagining is contingent upon cultural, social, economic, and political elements that help make up
couples identities as families. The gradations within family experiences found at junctures between ideas of substance and relatedness, and social and political subjectivity illustrate how narratives of family reflect individual experiences that help reconcile couples’ desires to be seen the same as heteronormative families, and simultaneously maintain a sense of difference that is imbedded within gay, lesbian, and transgender identities.

These narratives, I assert, also produce different kinds of agencies and identities, which I argue have the potential to disrupt the dominant rhetoric around marriage that permeate the LGBT intimate public and the dominant public. However, like the rhetoric of diversity, LGBT family discourses can fall subject to neoliberal processes of identity simplification. In this sense, LGBT family discourses can likewise be used to maintain a singular unified LGBT identity. The diversity of LGBT families is something that is “celebrated” within the LGBT intimate public sphere, as can be seen through town hall gatherings. However, the depiction of non-normative queer family constructs are not part of the dominant public’s ideological consumption of family. In this sphere, I argue, the display of the family has had to match the discourse of marriage.

In couples’ narratives, consanguinity and affinity (blood and law), the presumed building block of the Euro-American family structure remained a constant. The majority of couples relied more heavily on their childhood memories and their formative years to conceptualize and enact family. Therefore, this chapter also demonstrates that blood relationships maintain an important position within gay and lesbian identity formation and are positioned alongside but not necessarily in contrast to chosen family. Concurrently, it demonstrates that memory and experience play an important role in the
process of authenticating the self and the family, a process I suggest is also tied to mechanisms of turning one’s identity into a form of political subjectivity. For other couples, I contend that the nuclear family format was re-appropriated as a platform from which to challenge the homophobic connection between queer sexuality and nature and protest against family members and others who tried to portray their relationship and their identities as deficient and unnatural.

Defining Family

I began the discussion about family with the couples by asking the general questions: What do you think makes a family? What are the components to family? These questions were often met with a pause, sometimes a blank stare, or a request for clarification. Most people do not consciously think about what family is, or its components. Mostly, people do family. That is they perform what they believe to be and have learned symbolizes a family. Often times, these symbols of family include muddled or unclear relations, as well as undesired relations. Gathering their thoughts the majority of couples gave definitions such as:

“What makes a family? Anyone, any people, who have commitments to each other and love each other...whether or not there’re children, whether they’re blood related, whether they’re friends, whatever...as long as they have commitment and there’s trust and love, that’s pretty much it.” Hanna.

“Love! Without a doubt love and care for each other.” Joel

“What constitutes a family to me is if there’s love and nurturing, compassion.” Jaime

“Family is two loving people together with possible children, supportive, caring and loving.” Dee
“I guess it just involves having a commitment to love and care for the people within that family that you’ve chosen… Jill

“I think a big part of it is loyalty and the idea that you can depend on your family.” Glenda

“I think I have a pretty loose definition on this [what is family]. I guess committed relationships, long-term committed relationships of people who support each other emotionally, financially, physically, spiritually. I have a very large family and by no means are they all biologically related to me. We’ve talked a lot about, lately we’ve been talking a lot about the family that you come in with, your birth family and the family you choose, your chosen family.” Helen

Love, security, commitment, and mutual support are the underlying components of family, in the couples’ initial definitions, regardless of biology. In this sense, family differs little from marriage. In the previous chapter I demonstrated how marriage gets performed socially, legally, and politically through the underlying tenets of modernity’s affective structures, mainly monogamy, family, and community. In spite of its long history of being an institution rooted in ownership and female subordination, for many LGBT couples and activists marriage becomes a desired link between tradition, ritual, and the state. A yearning for recognition of their relationships as normal drove many of my interviewees’ discourse of belonging. These couples made sense of their desire for marriage by appealing to a sense of need for protections and for visibility, and a psychological need to create a healthy self that allows the individual to reach her true potential in society (Heyes 2007: 5). They also appealed to sameness referring to marriage as a *lingua franca*, a common language between gays and straights that leads to validation and recognition from neighbors, family, and coworkers. Couples’ ideas about protections and sameness when combined with the argument that marriage is an
exclusionary and discriminatory institution and practice, served to identify connections between citizens and government. Thus a popular rhetoric about marriage was born surrounding responsibilities the state has to its citizens to protect and uphold their rights, and the responsibility of citizens to the state to fulfill their duties as parents, as spouses, as adults, and ultimately as citizens.

Nevertheless, when thinking about who couples consider to be their family and what makes those individuals family, distinctions between the two categories started to appear. It is in these discussions that narratives of family moved between a fixed and fluid state illustrating that the line between sameness and difference is mobile and connected to socio-political objectives that transcend the rights rhetoric.

**Biological vs. Chosen Family**

Family, in many of my discussions with couples was presented as what Weeks described as “a constructed quality of human interaction” and an active process rather than a thing-like object (Weeks et al. 2001: 37). From this point of view “it is less important whether we are in a family than whether we do family-type things” (Weeks et al. 2001: 38). Therefore, when family is defined as something that is done, that is performed through activities such as sharing meals or reading bedtime stories, this opens its conditions for membership to choice rather than rooting it in fixed categories designated to nature (read biology). While I maintain that all the couples are performing family, and many times in conscious ways in order to show they fit within this category, for the majority of couples that performance also adhered to the cultural construct of kinship consisting of
consanguine and affinal relationships, or what Schneider referred to as relationships of blood and code.

Madison Casady and Veronica Sanchez met in 2005 through an online dating site and have been together for four years. When I asked them who they considered family and why, they began by saying that they are not traditional when it comes to thinking about family makeup. Part of Madison’s reason for calling herself non-traditional had to do with her experience growing up in a Baptist and very conservative family. She explained,

I kind of went against everything the way I was taught things were supposed to be. The traditional family model, I never really, even growing up. I wasn’t the little girl that was over there trying to figure out what guy I was going to marry, what farm I was going to be living on, weather I was going to raise pigs or cattle.

Madison introduced an element that is present in various forms in the majority of the couples’ definitions of family: difference. By proclaiming that from childhood she did not fit into a heterosexual gendered model of the family she positioned herself as different from her biological family. She accepted the prevailing social definition of family and simultaneously situated her identity in contrast to it. Family, in her explanation is linked to marriage and marriage is then linked to heterosexuality and monogamy. Thus, in part she is relying on the conventional framework of kinship centered on what Schneider coined as the cultural alliance between “blood” and “law” to understand family and her relationship to it. Reminiscent of Kath Weston’s Families We Choose, Madison also constructs her idea of family in relation to “biological,” “blood,” or “straight” notions of family (Weston 1991: 3, 28). Her identity as a lesbian becomes
central to her understanding of family, but works in conjunction with conventional
definitions, which as an adult she embraces. Since the 1980’s, in the attempt to challenge
cultural representations and exclusionary practices that denied gays and lesbians access to
kinship (Weston 1991: 21) chosen family has become the way through which gays and
lesbians made claim to kinship in a non-procreative way. At the same time, chosen
family has been the way activists and scholars have thought and written about gay and
lesbian kinship. The idea of chosen families is treated as something divergent from
conventional families and has become a new category of kinship that is particular to gays
and lesbians. Kath Weston and Ellen Lewin have shown the importance of fictive
kinship or chosen families as a means of constituting individual roots and gay and lesbian
identities and relations based on a history of race, gender, and sexuality. Couples such as
Madison and Veronica are also embracing this gay and lesbian kinship structure as
important to maintaining their identities as lesbians and as a way to show their belonging
to a gay and lesbian community. However, they are not embracing their chosen family in
the place of their biological families. They are combining the two as part of their
definitions. The fact that they have not been ostracized by their families, and quite the
opposite, have been supported by them, identifying family as both biological and chosen
makes sense to them.

Jokingly referring to herself as a “cracker from Oklahoma” with no culture,
Madison saw herself going against the Baptist culture she grew up in. As a result, she
maintained she belonged more to a “counter culture.” Like her partner, Veronica,
Madison defined family as “a partnership.”
You know I don’t think it necessarily means you have to have kids to be a family, because right now we don’t have kids, but I consider this to be my family. You know those interpersonal relationships; I have people that I’m not related to that I still consider being a family. But as far as we go it’s definitely a partnership and feeling that safety. In a family you have to feel secure, and that’s the biggest part for me.

Family, in this definition is first and foremost based on interpersonal relationships and feeling safe, as opposed to biogenetic ties. Nonetheless, when I asked her to name some people whom she called family, Madison started with a list of her biological and extended family.

I have a very extended family. My parents divorced when I was 14, my dad married his mistress who had a 4 year old and a 6 year old. Now I call them my brother and sister, they have been around for 20 years. So I have that brother and sister, then I have my dad and my stepmother is like another mother to me. She helped raise me. Then I have a biological brother, and then I also have a, my biological mom, my real mom, and her idiot husband, and his two daughters. I’m not a fan.

Her extended family, however also includes two of her college friends, whom she referred to as being “like my brothers.” What she considers to have created that familial bond was experiencing their coming out process together. “I think that’s a really strong bond,” she expressed. To emphasize their importance she asserted that in times of need “those are the people I call, even before my brothers.”

Similarly, for Veronica, family is about sharing responsibilities and the same space, and raising children. But, she explains, family is also a choice that people make together. Thus, family is not a thing that one enters into, but rather a process that involves agency and choice. In other words, “family represents a constructed quality of human
interaction or an active process rather than a thing-like object of social investigation”
(Weeks et al. 2001: 37). Veronica defined family as

> Individuals that make a decision to live together as a unit and support each other and everything that that involves. Household duties, financially, they create their home and they choose to do that and if they choose to bring children into the family then they share in the responsibility of raising the children and incorporate the children into that family. And they participate in the household. I think it’s a conscious choice to be a unit and to support each other in every way necessary to keep that unit together.

Maintaining conventional definitions of family with chosen family may be seen as a way of maintaining what has become important to many gays and lesbians: difference and sameness. Difference is created through the accepted notion of chosen family that is equated with the gay family and which stands in opposition to the heterosexual and heteronormative family. Sameness is presented by the maintenance of biological or conventional kinship ties that are seen as validating gay and lesbian relationships and as a way of gaining recognition and acceptance as a couple or a family unit.

Carl Barlow and Drew Zelinsky, in their 50’s see their family as chosen family. Together ten years, they have what they call a leather-based relationship. Though they keep the leather part of their relationship private, Carl pointed to Drew’s padlock and chain around his neck stating “he wears this twenty-four seven, it’s like our version of the wedding ring.” He explained to me that they do not associate much with blood relatives and certainly do not base themselves on “familial support or any outside approval.” I think it’s fair to state, Carl affirmed,
That if it comes to an approval situation, we approve of ourselves, and I think that also runs in the foundation we have. We’re not sitting here, worried about whatever people think or what our relatives or anything else, because we’re clear on who we are and what we do, how we appreciate each other and our leather lifestyle. And if it's not approved of by somebody, that's their issue, and we're not going to become [part] of that.

Their support network is thus largely based on friends and specifically on what Carl called “commonality with people,” which they find primarily in the gay male and leather communities. Drew articulated his own definition of family as such:

I have formulated a non-traditional concept of family, which means it’s not biological. I choose that life and so my family consists of my partner and our closest friends, and the people we share values with, that we share the world we view with, and that we communicate freely. We care about what happens to these people, they’re meaningful to us, and we help each other.

Carl and Drew, having lived as out gay men since the 1980’s had long ago relinquished their ties with their biological families. At this point in their lives, they frame their decision as a choice they made. But this choice, as they explain it to me, is free from an experience of exclusion or disownment by their biological families. It is one they seem to have made on the basis of how much they have in common with the families they grew up in. As Drew phrased it, “it's not in any way hostility based it's just not having the resonance.” Accepting their gay identities and joining the leather community became important evaluative tools for determining commonality and finding comfort and belonging. Similar to Weston’s Bay Area participants, Carl and Drew “reached the tacit conclusion that elements of choice rather than inevitability contribute to the maintenance of blood ties” (Weston 1991: 73).
Nikolas Rose in reference to Foucault’s argument “our relation with ourselves…has assumed the form it has because it has been the object of a whole variety of more or less rationalized schemes, which have sought to shape our ways of understanding and enacting our existence as human beings in the name of certain objectives—manliness, femininity, honor, modesty, propriety, civility, discipline, distinction, efficiency…virtue, pleasure” (Rose 1996: 24). “The list” he maintains “is as diverse and heterogeneous as it is interminable” (Rose 1996: 24). In this way the varieties of identities Carl and Drew embody, particularly that of community activists, become varieties of rationalized schemes through which they created their sense of selves both as individuals and as a couple. Therefore, the notion of “equality” influenced how they conceived their own personal identities and their identity as a couple. Though they maintained that they do not care how the world perceives them, they talked about being viewed as equal to heterosexual citizens. Linking rights with marriage and indirectly with family and citizenship Carl expressed, “I mean…equality is what we’re all striving for. We’re getting sick and tired of being treated as sub-citizens. We’re really sick and tired of it. So whatever little thing we can do; whether it's the legislature or something else…or help let some officials, let everybody go with it.”

The choice to choose who you love and your family is linked to freedom and full citizenship, in Carl and Drew’s conceptualization of their personal identities. However, it is also linked to community, as represented by the statement “let’s everybody go with it,” meaning do something about gaining equal rights for gays and lesbians. This link between family and community, I explore in depth in the subsequent chapter. Here, I
want to illustrate how some couples view their identities as individuals, as couples, and as family in relation to the ideas of freedom, rights, and choice.

Helen Tolbert and Alec Wyss have been together since 1999. By the time they entered their relationship Alec had undergone his transition from female to male. When they began dating Alec was in an open relationship with another woman that he had been with for ten years. However, he explained that his relationship had been disintegrating for some time and as a last ditch effort to save it they began pursuing ways to have a baby. Alec had become accustomed to keeping his secondary relationships at an emotional distance and dated women for no longer than a three month time span. His relationship with Helen, however, was quickly exceeding that time. After eight months of dating, Helen broke off the relationship feeling she had become her worst nightmare: “the other woman.” The break up made Alec realize that he had fallen in love with Helen, and forced him to evaluate his current relationship. He therefore, ended his primary relationship and soon after Helen and Alec began their now twelve year relationship.

Helen and Alec describe themselves as politically minded individuals and are active in the transgender community, providing education about living as a transgender individual and as a couple. They talked about what it is like for them to be in relationship with Alec “passing” easily for male and having a child together. Alec’s legal status as male gave them the opportunity to enter into a heterosexual marriage. Reluctantly, they confessed that they have considered that option, but so far they have refused to enter into marriage on the grounds that it is not legal for their gay and lesbian friends. They explained that they are strong believers in standing in solidarity with their friends. Alec specifically, drew on his younger years living in the lesbian community where he
described having formed his sense of self. Therefore, he did not want to “mimic a heterosexual marriage.” Coupled with Helen’s own history as a lesbian and her sense of feminism, they expressed an awareness of the privilege that comes with the status of their relationship as white, and readably heterosexual and middle class. Correspondingly they placed more emphasis on chosen family and maintained they are consciously thinking about how they want to be perceived by the outside world. Yet, they did not discount the role of biology in forming familial bonds, as exemplified by several occasions in our interview when their contemplation on the meaning of family forced them to navigate between chosen and biological family more consciously. As Alec explained,

*My greatest inheritance for the really long time that I spent in the queer community, the lesbian community, is that I have a real fully developed appreciation for what I believe to be the fact that your family is not who has DNA in common with you. I feel more lasting and more responsibility and more familial ties to people who don’t share DNA with me than most of the people who do.*

*But I don’t know how to define family because I also say those people are not my family. My brother and my dad are family to me even though they don’t feel like it. And there are other people in my life who feel like family to me who aren’t blood relatives of mine. But I can’t just say that it’s the people you choose because my dad’s family even though we probably would never pick each other out to be friends or anything like that ever.*

*I mean it’s a fundamental underpinning of my life today that I learned that whole truth in my years of being with the lesbians has stayed constant into these years of now living away from the lesbian world. But I still feel, the people that I’m surrounded with, the people I feel love me the most, the people I feel support me the most, the people that I feel I would do anything for, are people who aren’t blood relatives of mine but I’m able to think of them as being family members to me because I learned that [in the lesbian community].*
Alec and Helen, perhaps more clearly than Madison and Veronica, are in constant negotiation with their identities as queer individuals, as a couple and as a family. These three identities intersect in how they present themselves and how they want to be read. “This is not an unconscious topic for us,” explains Alec. “We actually have thought a lot about how we would like to be perceived versus how we are perceived. And these days, it’s different.” Alec was referring to his conscious endeavor to educate the public on transgender issues. He recalled his educational presentations to PFLAG, stating that when he brings Helen with him, they are perceived as a couple in which one of the partners is gay. Helen thinking about their interactions with non-trans or non-queer identified people, conveyed how “people can make these assumptions about us, that we’re a typical white middle class, like they’re really open toward us and then find out that we’re not who they thought we were and it kind of gives them a bridge to thinking about different kinds of people in a way that’s like, “Oh, they’re not so bad.”

Weeks et al. argue that “new stories about families of choice that characterize the contemporary non-heterosexual world provide new truths, and these in turn circulate within communities, and give rise to claims for recognition and legitimization as crucial elements of the claim to full citizenship” (Weeks et al. 2001: 11). Helen and Alec, through their endeavor to educate the public on different gender identities and different family formations, are engaging in a political process that attempts to legitimize their own family. In part they are doing this by asserting both sameness and difference. Whereas within marriage narratives there is a strong “we are like you” rhetoric that attempts to obfuscate sexualities and non-normative identities, the narratives about family become a way of maintaining a sense of self rooted in gay and lesbian and transgender
identities and histories. Thus, Alec and Helen build their life narratives in relation to a gay and lesbian experiential trope, calling upon their present day experiences and the memory of a gay lesbian, queer community, which helped shape their identities. These memories form the teleologies, to borrow from Nikolas Rose, for the understanding of who they are and who they want to be and thus shape their own biographies. Their biographies are then expressed through rituals of storytelling “and supported by artifacts such as photography albums and so forth” (Rose 1996: 38). For Alec and Helen, the ritual of storytelling helps them challenge cultural representations and exclusionary practices that deny gays and lesbians access to kinship (Weston 1991: 21). It is also an act whereby Alec, Helen, and their son become the artifacts through which they construct their biography as a family that is connected to a transgender identity and activism, to Alec’s history as a former lesbian, and to their desire to be read as conventional. Alec also connected their identity as a family with his wider concern for transgender rights. He gives presentations at PFLAG events where he and Helen and their son become the artifacts through which he constructs their biography as a family and connects it to both his identity as a transgender male and that of his former lesbian self, as well as to their desire to be accepted into the conventional formation of the family. He narrated

You’d have to hope that what happens from there is that when they see a transgendered person who they can easily pick out as trans but they give a thought to that person’s humanity the way they had to face mine and Helen’s that day and saw a picture of us with our 2-year-old son, we’re a pretty cute family, just like their own family, but I’m not, I’m trans. So if you see a trans woman in a department store who’s 6 feet tall and has size 13 feet, and hasn’t had electrolysis yet, could you maybe give a thought to her humanity for one second before being like “freak”. I don’t know. That’s what we do it for. I mean that’s why we do it.
Like Carl and Drew, Alec made a connection between activism and family. Both Alec and Helen utilize kinship to “actively engage novel ideological distinctions and contested representations that would exclude them from kinship” (Weston 1991: 29). In other words, they use kinship to challenge its social construct and to negotiate their place within it. In one way they do so by connecting their non-normative identity with conventional, normative, and normativizing construction of family. But they also use kinship as a tool for educating about transgender rights, and therefore inadvertently link recognition of multiple family formations with combating gender discrimination. Their desire to belong to the categories of family and queer is summarized by Helen.

I want both to be seen in both ways. I want to be seen as how I feel but I feel both ways too, that we are just a really average easygoing, healthy, sometimes struggling, working it out family. And a lot of times I forget that we’re queer, like that we, not that, it’s not exactly, not forget that we’re queer but I don’t think about it…I also want to be seen for the queer family that we are because both of those things are real and they go hand in hand, and you can’t, that we represent a healthy family and you can’t dismiss us, the world can’t dismiss us because one of us is trans or we’re both queer.

To put it in Borneman’s terms, Helen and Alec live out their life story by drawing upon a perceived gay, lesbian, and transgender experiential trope and upon master narratives. Both these tropes posit an authoritative voice which, Nikolas Rose maintains “accords or claims the capacity to speak truthfully about humans, their nature, and their problems” (Rose 1996: 27-28). The struggle for couples such as Helen and Alec is to reconcile the different codes of knowledge about the ideals of family and normalcy presented by a queer experiential trope and the master narratives that have been, in their brief history of existence, pinned against each other and portrayed as fundamental opposites.
Hanna and James Sullivan, have been together for six years. Since James is legally recognized as male by the state of New Mexico, they were able to enter into a heterosexual union in the state of New Mexico four years after they began dating. Like Alec and Helen, Hanna and James also debated whether or not they should get married, feeling guilty about having such an opportunity. James explained his guilt and frustration. “It seems so asinine to me, obviously there’s a lot more to it, but literally what it boils down to is I’ve injected myself with a hormone, and because of that, we can get legally married’ which is really ridiculous to me because other people that have not chosen that or done that, they can’t.”

After much consideration Hanna and James began to see getting married as a political and subversive act. Hanna, especially, maintained, “we were going to have a ceremony regardless” but “I saw this as basically sort of a “fuck you” to the state because had we done this six years ago, before [he] transitioned, we wouldn’t have been allowed to but now we can.” Hanna also defined family as having a strong component of people who are not biologically or legally related. She explained family as people who have commitments and those commitments span a lifetime. Simultaneously, she saw the law and the state, which she equated with society, define family based on inheritance laws. “The easiest way to figure out what society defines as family” she emphasized is by looking at “who’s going to inherit shit.” Thus, Hanna indirectly polarized the notions of chosen and conventional families “along an axis of sexual identity” (Weston 1996: 28). Drawing on her history and activism within the queer community, she talked about blood family as “representing not some naturally given unit that provide[s] a base for all forms of kinship, but rather a procreative principle that organize[s] only one possible type of
kinship” (Weston 1991: 28). On the one end, gay families are not constrained and fall within the logic of free choice. On the other end, conventional families are controlled by assumptions about the natural characteristics of men and women that are then transferred into law (Weston 1991).

James however introduced a more conventional aspect to understanding family. In a way, to reference Weston, he considered biology a matter of ‘natural fact’. James believed there is a difference between what he termed “your friend-family and your family-family.” For James blood relations are fixed and unchanging under all circumstances. He explained,

Not necessarily the family that we’re raised with, but the family you married into, your children, whether they’re your blood children or not. Do you know what I mean?...Like your sister is never going to be just your friend…So I think there is a differentiation there because it can’t go the other way. Your friend can be your family, but your family can’t just be your friend - unfortunately, sometimes.

What James is pointing to is what Marilyn Strathern has argued is a parallel between the way biological relationships and social life are described in terms of a contrast between what is natural and what is artificial or socially constructed (Strathern 1992: 3). Strathern states that this parallel lies in kinship thinking: “kinship systems and family structures are imagined as social arrangements not just imitating but based on and literally deploying processes of biological reproduction” (Strathern 1992: 3). James’s argument of biology creating insoluble families is in part related to his own experience of transitioning after identifying as a lesbian for 14 years. He clarified
I lost a lot of my friends, but even people who lose their families, in some weird way, their family’s still there. Does that make sense? Like, even if you’re not actively talking to them, or interacting with them, they’re still always going to be a part of some aspect of your life…Like if you have a sister and your uncle has an issue with [you being gay], you may never speak to your uncle again, or your parents for that matter, or whatever, but your sister might still talk to them, because she’s the extension, or your brother, or whoever. They’re still there. Like in my case, I lost a lot of friends and they’re not really there. Do you know what I mean? They’re just like, “Oh, well we’re not friends anymore.” It’s not like, “Oh, I lost this part of me.”

Loss of friendship, in James’s explanation is not felt as deeply as loss of family. Loss of family is associated with the loss of the self, at least a part of oneself that leaves the individual feeling incomplete. However, James does not believe that friends cannot be held in the same regard as family, recalling the importance of his friend of 20 years. What he believes is that socially there is a higher expectation to always be there for your biological or conjugal family as opposed to those that are socially viewed as friends. His rationale in a way represents what Strathern refers to as the Euro-American thinking in which “kin arrangements are [understood as] specific to particular cultures and societies, and artificial in that sense, but these arrangements exist to make sense of the natural facts of life (Strathern 1992: 3).

Perhaps it is this reasoning that has also compelled Hanna and James, at least in part, to keep his transgender identity concealed from her parents. James and Hanna both expressed that it is important to them that her parents accept and love James for who he is without pre-judging him. The desire for acceptance of James as an individual, and of their relationship as valuable, and maybe even normal, as well as the preparation for potential ostracism, gives blood a level of importance within their construct of family that places biological family and chosen family in a hierarchical relationship. Chosen family is not
thought of by Hanna or James in contradiction to biological family. They at times exist side by side with chosen family seeming to possess more fluidity, and biological family a more rigid and conditional membership structure. At other times, it is evident that the role of biology supersedes that of chosen family. Therefore, James’s identity, once revealed, has the potential of transforming their relationship with Hanna’s family into something tenuous. This tenuousness then puts in question the nature and the natural order of the family. Hence, James, casually stating, “I think it will happen when it happens and it will either be fine or it won’t be, but I didn’t want them to know before they ever even met me because people treat you totally differently.” James, relinquishing control over the situation, was in a way saying when time comes their disclosure will uncover the “truth” of their “kinship relations” (Weston 1991: 73).

In talking with James’s family, Hanna’s sister, and their friends, they reported an overwhelming consensus to continue to keep his identity a secret. However, thinking about their future together, has been motivating them to reveal James’s transgender identity. James frankly stated: “my reason would only be…if we had kids because obviously how would I not tell my child.” Agreeing with him, Hanna continued, We wouldn’t want to not tell our children and we wouldn’t want to tell our children, “You can’t tell grandma and grandpa,” because I don’t want to raise our kids to feel ashamed about it and I think that’s the number one thing that you can do to impart shame is to tell your kids, “Don’t tell other people.” Because it just automatically gives them a reason to think that there’s something wrong with it. So I don’t know. It’s been a long, I don’t know it’s getting to that point. (laughter) It’s like, “Oh we should have done that,” but it’s just so...
It is perhaps fear that underlines James and Hanna’s decision to refrain from revealing the transgender and ultimately queer nature of their marriage, for as Kath Weston notes, the fear of losing relatives can “act as powerfully as the actual experience of being disowned” (Weston: 1991: 73). However, their rationale has to be balanced out with being true to themselves and to their future children. In other words fear of losing family is pinned against the desire to be their authentic selves and live an authentic life (Rose 1996).

These couples’ conceptualizations of family are grounded within their histories as lesbian, gay, and transgender individuals, the politics they have adopted as a result of that history, and the relationships they have with their biological families. John Borneman argues that “all [family] structures throughout history were created for political reasons, however obscure those original struggles are to us today.” While this is true insofar as the couples accept a general image of how a family is structured, the unique aspect of this historical moment is that the understanding and acceptance of family for gay, lesbian, and transgender couples is not based on an obscure politics. The couples I interviewed are actually quite conscious of their political position within the social fabric that defines and regulates acceptable family forms. Some see their configurations of family as fighting structures of exclusion, and simultaneously also view themselves as normal families. As Borneman reminds us, “kinship operates as a matrix not merely of relationships but also of affect, of a distinctive sentiment or sense of ‘belonging’” (Faubion 2001: 9). The couples draw on an affective power of love to demonstrate their normalcy as a family and to make claims to social recognition and legal rights. Concurrently, they maintain a sense of difference about their identities by associating themselves with gay, lesbian, and
transgender politics, and with the “gay family,” described by Kath Weston as “chosen family.” Therefore, choice, freedom, and authenticity become part of the couples’ narratives about family. These elements are crucial to the construction of their lives and their selves as authentic, for as Nikolas Rose aptly put it “the images of freedom and autonomy that inspire our political thinking equally operate in terms of an image of each human being as the unified psychological focus of his or her biography, as the locus of legitimate rights and demands, as an actor seeking to ‘enterprise’ his or her life and self through acts of choice” (Rose 1996: 170).

These engagements with public, non queer audiences, I maintain, are also political processes that “give rise to couples’ claims for recognition and legitimization” (Weeks et al. 2001: 11). Whereas within marriage narratives there is a strong “we are like you” rhetoric that attempts to obfuscate sexualities and non-normative identities, the narratives about family become a way of maintaining a sense of self rooted in gay, lesbian and transgender identities and histories. Thus, couples build their life narratives in relation to a gay and lesbian experiential trope, calling upon their present day experiences and the memory of a gay, lesbian, transgender community, which shaped their identities. These memories form **teleologies**, as Nikolas Rose argues, for the understanding of who they are and who they want to be and thus create individual and familial biographies.106

Through a conscious process of negotiating identity via memory and experience, couples authenticated themselves as a family. In other words family was established as

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106 Nikolas Rose defines teleologies as the forms of life that are the aims, ideals, or exemplars for models and practices of personhood that work upon persons. He argues that by recognizing the heterogeneity and specificity of the ideals or models of personhood deployed in different practices, “one can identify the peculiarity of programmatic attempts to install a single model of the individual as the ethical ideal across a range of different sites and practices.” He questions how procedures for regulating the capacities of persons is linked into wider moral, social, or political objectives concerning the undesirable and desirable features of populations, work force, family, society (Rose 1996: 27-28).
couples confronted notions of normality and negotiated difference by appealing to their pasts sometimes as political individuals and educators, by claiming difference via gender and sexuality, and by defining sameness through key terms such as average, easygoing, struggling, and working family. As such couples created a continuum through which they moved on a daily basis. Choice, freedom, and authenticity were also important elements in the construction of their lives and their selves as authentic, for as Nikolas Rose aptly put it “the images of freedom and autonomy that inspire our political thinking equally operate in terms of an image of each human being as the unified psychological focus of his or her biography, as the locus of legitimate rights and demands, as an actor seeking to ‘enterprise’ his or her life and self through acts of choice” (Rose 1996: 170). The next section explores these ideas of choice and freedom as couples related them to parenting and the construction and performance of an authentic parent and an authentic family.

**Family as Community/Community as Family**

I met Wade Orman and Les Halprin for the first time in their apartment complex located in one of the more impoverished and largely Hispanic neighborhoods of Albuquerque. They both identify as white however, and draw their lineage to Eastern and Western Europe. Wade identifies as Catholic with Hungarian roots, and Les draws his Jewish ancestry from Russia and later Austria. Three years ago, when they first began dating, Les was in the process of ending a relationship of twenty-two years and negotiating his place in the family structure he and his partners had created. He explained his previous relationship as a “threesome.”
My boyfriend and I brought my best female friend into our household. We didn’t share beds with her. She ended up adopting an infant after her mother gave her the money to do so and the three of us raised the infant as our child. I was papa, he was daddy and she was mommy. Oh, to make it better, a year and a half after getting Emily, who is five months old, Leah quit working in Manhattan at a law firm and decided to come home and get a part time job at a private school which paid nothing; and she didn’t get health insurance so she married Timothy because he was a banker and got free health insurance.

Les’s own career as a hairdresser in Long Island, though successful, did not make him an ideal candidate for marriage since he did not have health benefits. After they married, Timothy and Leah decided they wanted another baby and began looking at adoption possibilities in China. Les however, was hesitant but eventually gave in. He explained

It took the two of them five years to talk me into agreeing on a second adoption that Mister and Missus Joyce were going to make and took China another two years to give us Jade who is a year and a half... So the three of us played house, the five of us played house for 18 years and I was with Timothy for 22 years. And then the two of them decided we need to move to New Mexico. We visited twice. I was totally against it because I’m real. You don’t buy a $350,000 house that needs another bedroom to be built on. And I was giving up a 22 year practice of hair on Long Island making good money. So that type of relationship, the two of them always teamed up on me because I was stronger than them and I didn’t want to fight so they get away with murder.

Though he was a necessary part of the decision making process, Les’s placement as a parent remains legally murky. The first daughter was a single parent adoption Leah had entered into on her own, while the second daughter is legally recognized as Leah and Timothy’s child. But Timothy, seemed to not have fulfilled his end of the parenting bargain. About a year after Les left the relationship, Timothy also left and had not tried to
contact the children or provide any form of alimony. Les has since become the primary male parental figure for the girls.

Wade also considered himself as sharing parenting responsibilities with Les. Wanting to acknowledge his role as family member, he reminded Les that the two of them together were financial providers and caregivers to the girls. In this way, Wade exerted himself as a father in the only way that was available to him, through his association with Les. Les, in recognition of Wade’s role enumerated the ways in which they both contribute to the girls’ welfare while at the same time revealing his own feelings about his role and his efforts in trying to change it.

We got the older one contact lenses and we get them Easter clothes and we got them Christmas clothes and we make the fourteen-year-old know that her mother is responsible for the roof over their heads and the food in their stomachs. And we’re responsible, when she falters and runs out of money. I spent $5,000 to get legal rights to the children cause legally I was nothing but a concubine.

Wade and Les were doing what John Borneman, in his article “Caring and Being Cared For: Displacing Marriage, Kinship, Gender, and Sexuality” argues anthropology should do in exploring kinship; they “privilege[d] caring and being cared for as processes of non-coercive, voluntary affiliation” (Borneman 2001: 30). Borneman asserts that people find various ways of reinventing human sociality, especially when they are excluded from the existing legal frameworks that confer rights and privileges. In a 1987 case from Germany, Borneman explains how two female lovers, one from West Berlin (Mirka) and the other from East Berlin (Bärbel) arranged a marriage with the son of Mirka in order for Bärbel to live in West Berlin (Borneman 2001: 37-39). He argues that
Martin and Bärbel cohabitated not because they were married but because they both had caring relations with Mirka. Therefore, he continues “one of the relationships is this household inverted the anthropological/legal gender-sex paradigm: lesbian lovers, mother-in-law-daughter-in-law sex. The other extended the mother-son bond well beyond the culturally expected age of parental care” (Borneman 2001: 39).

Looking at Wade and Les’s family structure, the aspect of caring is the fundamental basis for establishing and maintaining familial relations. They articulate this not only in relation to each other, Leah, and the girls, who do not share biological or affinal ties, but with blood relations as well. They prided themselves, in our conversation, on being close with siblings and taking care of family including Wade’s ailing father who lives in the same apartment complex as the two of them. Therefore, Wade and Les, to borrow from Borneman, subordinate the principle of descent to a relation of care (Borneman 2001: 35-36). Blood or law is not a necessary adhesive for their kinship structure. However, blood and law remain accepted elements in the configuration of family. Thus, like the other couples, Wade and Les’s notion of family is comprised of both blood and chosen family. Obligation, is part of maintaining their family structure, as Les talked about filling the father role as a given, and Wade accepted the responsibility with no questions asked. By claiming the role of father, Les, and Wade by extension, are permitted, as Ellen Lewin has argued in the case of gay fatherhood, “particular kinds of cultural performances” (Lewin 2009: 49-50). Part of these cultural performances is adulthood, responsibility, love, and caring. For Wade and Les, this cultural performance of fatherhood came in the form of financial contribution to the girls’ welfare as well as providing what he called a structure of discipline. As such they make claim to meeting
the moral requirements of parenthood, because “they have transformed the monetary and
collection related dimensions of becoming a parent into the appropriate categories of
love, nurture, and responsibility (Lewin 2009: 73). Les illustrated his role by primarily
defining family from the point of view of parenting. Wade however, threw a wider net in
his definition, in which the role of parent can be filled by multiple people.

Les: [Family is] someone who gives you – you need someone that’s going to give
you restrictions and you need somebody that’s going to, not necessarily give you
restrictions; you need a good cop bad cop. So I think a family really needs more
than one person to be the adult in their situation. I think two older people
overseeing children are better than having one person overseeing children. So I
think two people definitely do a better job than one person...

I think two parents do a better job than one parent. I saw my parents raise
me and they both did a better job than what my mother did alone with my sister.
But yes, love does make a family, very important. Communication helps make a
family.

Wade: I don’t think family requires two parents but I also don’t think family
requires a parent. I think family just requires the solidarity of a group. And as he
alluded to I was raised by my sister who’s only three and a half years older than
me so certainly not a parent but we were a family. Does that make sense?
Les: Isn’t that like in a group of friends who hang out together and care for one
another ‘cause you can always see in a group who the father is or who the mother
is and who the child is and that technically can be your family…

Especially in an alternate lifestyle situation where birth people don’t
acknowledge the gay people in their families, in their units so people get together,
come together and create their own families.

Both draw on their childhood experiences to define family and specifically to
define their roles. However, while biology is a defining feature of kinship, in both Wade
and Les’s definitions, it is only one among many defining features. They both see their
family construct as having conventional and chosen elements but they each have taken
different creative paths in inserting themselves into a family model. Les takes a more conventional approach to his vision of family, accepting the nuclear format as the best type of arrangement. Comparing his upbringing, in which both his parents were present, to that of his sister, in which only his mother was the care giver, Les connects the nuclear family to the rearing of healthy children, which presumably will grow up into healthy members of society. He incorporates gays and lesbians within the nuclear family and does so by linking parental responsibility with the production of healthy children that eventually become good citizens. However, to produce good citizens relies on the same performance that Ellen Lewin maintains gives meaning to procreative practices: “a convincing performance of belonging” (Lewin 2009: 75). In other words, Les’s performance of fatherhood has to demonstrate that he belongs in that role and as such belongs to the larger community of families and deserving citizens.

Wade on the other hand draws on his difficult childhood experiences with parental figures, to create a more extended image of family which in turn creates room for him within Les’s complex family web. For Wade the role of parent is not confined to two gendered figures or to only two individuals. It is behavior, and in that sense, performance that defines one’s role. For Wade, to borrow from Janet Carsten, “conduct alters substance,” (the genetic link, blood), as well as “all interpersonal transactions (for example, sex, sharing food or water, co-residence, [financial contributions])” (Carsten 2001: 35). Biological connections or relations by law do not determine one’s role in Wade’s concept of family. His idea of the family resembles Roy Wagner and Marilyn Strathern’s depictions of kinship in Melanesia, in which “substance is the kind of stuff
that can be detached from persons, flows between people, and create the possibility for relationships founded on analogy” (in Carsten 2001: 40).

Audrey Vaughn and Sophie Pierce, whom we met in Chapter Six, utilize several factors in conceptualizing their identities as a family: a notion of community, their identities as African American, their desire to stay on the outskirts of dominant culture and the legal system, and their identities as lesbian and bisexual. The mixture of these factors has also made them struggle with the idea of biology decreeing kinship membership. While they view their blood family as important and continue to be a part of their lives and their children’s lives, their decision to live outside of the social and legal system also included creating and performing family differently. Invoking Carsten’s examples of the importance of food and household sharing, Audrey and Sophie begin talking about family as sharing meals, household expenses, and caring for the kids of those who come in and out of their house. Sophie also compared biology to community. She asserted,

I think, over the years, I have kind of, here and there, struggled with the blood thing versus other things, like community. Because my alliance with my blood family is very tangible to me, but at the same time, I haven’t been interested. I want Ramie to know them all and spend time with them and stuff, and know the values, some of their values and their lifestyles and yada, yada, the culture that they live in, that I grew up in. So I have that attachment, but I feel like we definitely have been able to construct our family. We love each other, that’s easy. We live together and we make decisions together and the little one is very comfortable with calling both of us her mom. The big one isn’t. We show up as a family, as a group. Then, we’ve had a number of people who’ve had to, for various reasons, they’ve had to stay at our house, and I feel like those people, we’ve had to decide that they’re family to us, if they’re going to live in our house. A number of them have kids, so we already had that going, sharing meals and expenses and stuff together…
Sophie envisioned family as a fluid concept and space in which people, biologically related or otherwise, can come in and out at different times. Thinking about two women in particular that have been a strong presence in their lives Sophie expressed that the “litmus test” for family membership is the commitment to helping them raise their daughters. She stated, “those are the people who have really become family because if you could trust people with your kids, that’s about as deep as it goes, as far as I’m concerned.”

In many ways, Sophie’s interpretation of family resembles that of the black gay male community in Harlem, described by Hawkeswood. Hawkeswood argued that “gay men in Harlem are linked together in social networks of friendship and support…The members of these social networks are interrelated (through membership) and interdependent (socially, financially, and emotionally), leading to the formation of a community” (1996: 65). He further asserted that “enhancing this sense of community, and a loyalty to its membership, is the symbolic construction of “family” as a metaphor for that community” (Hawkeswood 1996: 65). Thus, like Hawkeswood’s research participants, Audrey and Sophie utilize the idea of non-biological kinship and extended family to link family with community. Nevertheless, they do so in slightly different but important ways. Whereas blood family is central to these men’s identities as black gay men, blood relations are more strained in both Sophie’s and Audrey’s concept of the family.

Audrey, for example, expressed that “blood family is not all that family is because we cannot always count on them.” However, the importance of music and dance in her childhood, through which she expressed her family, “taught [her] ways of talking and
being in the world,” so that she recognized that her blood family provided her with “the foundation for how to think about” her own family as an adult. She has also come to see them as important for her oldest daughter. Audrey already had Ellie when she entered the relationship with Sophie. Now a teenager, Ellie has had a difficult time adjusting to and acknowledging Sophie as family and accepting their relationship. Audrey and Sophie attribute her reluctance in part to the challenges Ellie has faced as an African American girl in Albuquerque\textsuperscript{107}. Hence, Audrey explained that blood family is important because,

They’re all replications. You know, you go home and you’re like, “Oh wow, I look like you, dang. That’s my cousin, that’s my other cousin.” (laughter) My daughter really needed that. I feel like, my oldest daughter, because we didn’t grow up with her father at all. He’s just not in the picture… So she has really needed my maternal blood family more than I thought she would, just to have a sense of self and normalcy. … She likes being normal. She likes going to the mall and hanging out with her Auntie and her cousins...

I think she wanted a more traditional family. She struggles with Sophie and I don’t think she would have if Sophie would have been a man. I think she wouldn’t have had those kinds of struggles with her. She would have had different struggles with her.

Sophie agreeing with Audrey added:

She’s a dark-skinned, beautiful, black girl in Albuquerque, so she’s had to claim herself in this really intense way here in Albuquerque. … I think, yeah, she’s been on the road to normalcy all her life, and she’ll never be that because she knows too much and we do have a community of friends, and those same people love her. All those Aunties, they both have that.

\textsuperscript{107} According to the U.S. 2010 Census, the state of New Mexico has a population size of 2,009,671, out of which 1.9% identify as African American, 45.6% identify as Hispanic or Latino, 41% identify as white or Anglo, and 8.6% identify as Native (\url{www.uscensus2010data.com/35-new-mexico-census-2010-data}).
Bennett and Battle wrote that historical oppression plays a role in the way the African American family is defined within and outside African American communities. They maintain that this historical oppression has tested the “adaptive capacities” of black families and gave rise to a number of effects, not the least of which is that African Americans have needed to develop a common agenda to combat their shared predicament in American society. In order to relieve historical oppression based upon race, members of black communities have been called upon to rally around that common agenda. As a result, subcultures or minority groups within that oppressed group often have to suppress their own agenda because it is thought to detract from a politics based on race (Bennett and Battle 2001: 57).

With regard to family, this common agenda, Bennett and Battle argue, follows a heteronormative model, which has in part been “constructed and perpetuated by social science research circumscribing notions of black subjectivity to fit within this model” (Bennett and Battle 2001: 58). Faced with the legacy of racism, the lack of a large African American community in Albuquerque, and her mothers’ choices to shun mainstream culture, Audrey and Sophie see Ellie as struggling to find a place for herself, establish commonality with her peers, and feel less marginalized. Thus, Audrey and Sophie explained that Ellie relies on her extended blood family in the south to reach what she desires, a sense of normalcy. However, Sophie maintained that the knowledge Ellie has gained from and the bonds she has created with her family in Albuquerque ensure her difference, and impede her ability to ever truly be “normal.”

Being African American women is also central to their own sense of identity and is important to how they understand and form family and community. Sophie for example
rejected what she called “patriarchal and Christian” components to the traditional family construct. Nevertheless, she feels the need to stay connected to her African American ancestry. She sees that connection maintained through her blood relations and her life experiences.

I feel that… as a black woman growing up through the civil rights movement and all of that stuff, I feel like, I’m not Christian, everybody in my family is. I’ve just really had to redefine myself, but I do have a strong need to stay connected with my ancestors and my family. But both of us, I think, have chosen not to be in such proximity with our family and live the lives that might have been laid out for us, in terms of traditions and stuff.

Hawkeswood wrote that for the black gay men in Harlem he interviewed, “being black is more than just an issue of skin color. It is a cultural identity constructed from experiences in the black family, in the black church, and out of black history and folklore, and it finds its expression in the social performance of black identity” (1996: 90). This is equally fitting for Audrey and Sophie whose identities as African American resonate with their life experiences in very conscious ways. That is not to say they discount their sexual identities. Yet out of all the different identities they embody, being black women stands out in their minds and in their narratives. Sophie elucidated

I work on the blackness part of myself more than anything else, I think. The gay part, it’s just flowed through me that way, I’ve always lived in communities where it wasn’t a big deal, and I’ve always had jobs where it wasn’t a big deal. I’ve never really had to be in the closet or anything like that, even with my family, but they don’t say, “Well, here’s my daughter in law,” or anything like that either. So I just think that it’s been a balancing act around acknowledging the walk that I feel like my people have endured in this land.
Recollecting moving to New Mexico from Provincetown, Massachusetts where she completed her undergraduate degree in art, Sophie explained that she did not care much about being gay because that was the norm there. However, what made her feel different was that lesbian community she was a part of was white. For her, New Mexico provided a space in which to explore her identity as a woman of color and to find the kind of diversity not present in Massachusetts.

I came here and I was a graduate student at UNM and I definitely decided that, I’m not a big groupie, joiner kind of gal, but someone pointed me towards…the African American Student Services, and I sort of realized that there was a real lesbian of color scene here, so I decided to check it out. I made some real lasting friendships from that. It’s really funny I think that I’ve had the largest collection of black women in my life as an adult, here in Albuquerque by far. It’s just, a lot of the blacks that are here, if they’re not in the military or something, they’re probably some kind of freak anyway because this isn’t really a black town…Last night we were at a concert at the Public Academy for Performing Arts. We had a couple of friends’ children who were performing last night. So we ran into a bunch of friends who were there supporting these girls and their parents and all of a sudden we look around, and here we were, all these black women in one little spot. We looked around and there’s no other black people in the whole audience, and then we all knew each other and there we were…We’re black women, in a city where we’re supposed to be invisible.

Audrey also recalled her experience moving to New Mexico. For her, Albuquerque presented her with the opportunity to define and embrace her sexuality. I think that’s one thing that really blossomed for me here,” she explained. “I understood that about myself,” referring to her attraction to women, “in ways that were just sort of germinating before I came here. As she came out, Audrey expressed that she found a type of community she never expected to have. As important as her bisexual identity has and continues to be, Audrey asserted
I definitely feel like my racial, cultural, color affiliations have been more defining, and that includes the fact that, because I speak Spanish, and I speak it as much as I can, and the largest group of people here are Mexican nationals, so when I speak to my neighbors or I talk to the folks that clean [the college where I teach] in Spanish and they’re like, “Are you Dominican or Cuban?” They just assume that I’m from somewhere else, but my color and race, and I say, “Color and race,” because I don’t necessarily think of them as the same thing, have really defined things more for me. More so than my sexual orientation. I find myself coming out of the closet when people are acting like fools because I pass as a straight woman, I guess. So I feel like some of my very light skinned friends of color who pass unintentionally.

The structure of their family becomes more intricate with the birth of Ofilia, their youngest daughter. Before they began dating, Sophie was in the process of trying to have a child with one of her white male friends, Andy. Her decision and arrangement to have a baby continued into their relationship and within a year of their dating, Sophie was pregnant with Ofilia. Sophie had always intended to be the primary care giver, and did not envision Andy as having a critical role. Once she and Audrey decided to commit to one another, they both agreed to be the primary care takers. What was unexpected for Sophie was Andy’s desire to be a part of the child’s life as well as that of his family. Thinking about her reaction to his mother’s happiness over having a grandchild, she stated, “Ramie’s her first grandchild and she embraced Ramie whole-heartedly from the moment that she was born, and she really wants us in her life, and that’s been a little hard to stomach. Because I didn’t think all of that through when I asked him to donate some sperm.”

Sophie and Audrey and Andy negotiated his involvement in Ofilia’s life and the amount of say he would have in decision making. As well, they now had to entertain a
whole new component to family that they were not expecting to have to consider. Their conceptualization of family was being altered by both Andy and his mother. This was not a choice that Audrey and Sophie freely made. Their presence and their roles and identities vis-à-vis Ofilia and by default Sophie and Audrey, were imposed and regulated by blood, or, more specifically, the symbolic importance the American kinship system gives to blood as the biogenetic substance that is believed to ground immutable kin relations (Carsten 2001; Schneider 1980; Strathern 1992). We did not discuss why they entertained this negotiation. However, Terry Boggis in her article “Affording our Families: Class Issues in Family Formation,” notes that one of the risks lesbians who have sex with or inseminate with sperm from a known donor to circumvent costs of artificial insemination, are confronted with “is the sacrifice of their ability to control the construction and identity of their own families” (2001: 178). These risks include the donor “asserting parental rights, usurping their lesbian partner’s role as the child’s other parent, court challenges regarding custody and visitation, curtailment of their and their partner’s ability to relocate their family” (Boggis 2001:178) among others. Although many mother-known donor arrangements work well, Boggis asserts that they do so without legal support or social recognition of alternative family structures (ibid).

Due to their desire to “stay out of the system,” Sophie and Audrey have minimal legal documents and commitments, which did leave them vulnerable in the face of these potential risks. Having given birth in their home with the assistance of a midwife, Sophie considered forgoing a birth certificate. “The only reason we got the birth certificate at all” noted Sophie, “is because I didn’t want to limit her options. She needed it to go to school and get a passport and junk like that, but they didn’t need to know all of the rest of it. Do
you know what I mean?” The one thing that Sophie did in order to eliminate any legal connection to Andy and the risks associated with such a connection, was to omit him from the birth certificate. Having only herself as the parent on the birth certificate also opened the possibility for Audrey to do a second parent adoption. However, that is another avenue they chose not to pursue. Insofar as their roles as parents are concerned Sophie remarked, “I’m just going to trust in the community and the family to do the right thing, if necessary.”

Jill Smith and Lucy Davis met in Albuquerque and have been together for twenty-one years. In this time together they raised Tonya who Lucy adopted shortly before dating Jill. In her late teens Tonya had a daughter of her own, Juliana, but due to several personal problems, Tonya gave up custody of Juliana who was then adopted by Lucy and Jill. By many mainstream definitions, Lucy and Jill have an alternative family. Not only because they are two women in a relationship, but also because the legal processes of adoption they have undergone are blurring the normative understanding of how parents are socially identified. Jill’s adoption of Juliana places her in the role of parent, which, her sexuality notwithstanding falls more clearly within the American kinship arrangement of substance (blood relations) and code (legal relations). Where adoption is concerned, the law recognizes those familial relationships as a socially acceptable replacement of biological parents. Nonetheless, Lucy’s identity within this kinship structure becomes a little more complicated. Her adoption of Tonya would make her Juliana’s grandmother. However, having undergone an adoption process with Juliana, she is considered her parent. Legally, this new status overrides her previous legal relationship.
Strathern, in her study on Britain’s embryology act, maintained that “the legal
debate over who shall be socially acknowledged as a parent makes constant reference to
biological parenting” (1992: 26). Therefore, she argues, attempts to define relationships
such as parent and child are elusive (ibid). Perhaps, in less complicated ways, adoption
does the same thing. It makes such relations elusive, and therefore obscures the link
Euro-American culture makes between nature and culture. This of course, is not
particular to gay and lesbian relations. Grandparents adopting grandchildren has
happened among heterosexual families across time and space. How such relations are still
viewed as belonging to the Euro-American structure of the nuclear family especially as it
is tied to gay and lesbian conceptions of family and the politics that surrounds them,
makes for interesting situations for both normative and alternative formations of kinship.
Lucy, for example associates family, at least as she is performing it, with tradition, which
in turn she associates with being white and middle class. Though, she and Jill exclude
themselves from the category “traditional” on the grounds that they are two women who
have formed a family, they do believe that “family” as a category is traditional. Jill
explained, “I don’t think that what Lucy and I are doing is traditional but I think the
concept of family is very traditional.” “Yes, we are a couple and we have a kid” Lucy
chimed in. “We have a mortgage, we have work, we have jobs, we pay taxes, and we
celebrate traditional holidays.” Lucy humorously stated: “we do middle class white girl
things,” by which she meant, “You have your…little middle class family. You live in
your little middle class house and that for me seems to consist of two adults and kids or
not.”
Jill, however, expanded her definition to include individual choices in creating family, and therefore, tilting away from a normative kinship structure. She commented,

I guess [family] just involves having a commitment to love and care for the people within that family that you’ve chosen. There’s a difference between -- Lucy and I chose each other and have decided to make a family. Then of course there’s your blood relatives I suppose -- who are supposed to care for each other too…I think it’s hopefully a family is where you go to tell your deepest most horrible parts of you and the most wonderful parts of you and to share all that with and to know that about the other people.

This definition made Lucy reconsider her nuclear explanation of family. She began talking about friends that have a polygamous family structure and then clarified her definition. Family, she redefined, “starts with two and then can grow to other people.” However, she maintained that she did not believe her friends are her family. Blood or some kind of marriage like commitment still resonated with Lucy’s understanding of family. Jill contemplated Lucy’s definition and remembered that the people they chose as godparents for Juliana are not blood relatives, but they are much closer to Juliana than either of Lucy’s or Jill’s blood relatives. Juliana’s godparents have a strong commitment to her and are an active part of her life. But what makes their commitment appear more real and tangible in their eyes is the fact that they signed a legal paper agreeing to adhere to the responsibilities conferred on them as godparents. Jill believes that at least in New Mexico, godparents have a legal right to be a part of the godchild’s life, which to her is not only meaningful but also key to solidifying their placement in both hers and Lucy’s ideas of family. She reflected,
I think just having that legal backing almost kind of makes it even more of a commitment. I don’t know that I’m saying this right but it makes it really real. It makes it that it’s not just a play thing. It’s not just a piece of paper; this is a real thing that we’ve entered Juliana into. Because these two friends have just taken this on, in that respect it’s like I feel like that becomes more of a family kind of thing.

Lucy’s reflection is reminiscent of the justifications couples in chapter four offered for the importance of legal recognition of same-sex marriage: a way of not only acknowledging their relationships but making them genuine. Law, John Borneman has indicated, “in its goal of harmonizing the social with an official vision of itself, prides itself on the moral regulation, through prescription and prohibition, of discursive practices and their forms of affiliations and identifications” (2001: 31). Within Lucy’s explanation, I claim, is the underlying and widely held belief that law assists nature in creating alternative but mirrored relationships, particularly when nature, or in this case biology, fails to maintain the natural ties of kinship. As in the case of adoption, law has the power to step in for nature and regulate practices of affiliation. In Lucy’s reasoning, the turning of individuals into family members and the intimate connection fomented through this transformation can only truly bear social and moral weight if it is authenticated by law. In other words, it is through the carrying out of institutionalized commitments that individuals can claim to be family; and it is through the legal homogenization of family that those commitments impress on people their affective power and their social and moral importance.
Natural/Traditional vs. Unnatural/Artificial Family

Sexuality, ethnicity, class status, community, and parenthood become factors in how couples view and negotiate their family structures, and engage in familial activities. Extended family is also part of these structures and for the couples I have discussed, extended family is loosely distinguished from the primary family unit. For other couples the distinction between primary and extended family is what shapes their constructions of family. Such a distinction is made by some as a result of ostracism by their birth families, while others see it as an important factor to establishing themselves as an acceptable and therefore readable family.

Anthony Navarro and Nolan Evans are an upper middle class couple who live in Santa Fe. They met in July of 1999 at a self-empowerment workshop in Santa Fe. Anthony grew up in northern New Mexico and lived in Santa Fe and Nolan traveled from Atlanta to attend the workshop. They hit it off and continued to explore a relationship long distance. A few months after the workshop Nolan lost his job, which presented Anthony with an opportunity to ask Nolan to move to Santa Fe and live with him. Though he felt it was impulsive and unlike him, Nolan decided to make the move. Anthony recalls that even with Nolan moving to Santa Fe they were not thinking they would spend the rest of their lives together. Yet, nine years later they found themselves ensconced in what Anthony called the “American dream:” two kids, two incomes, and a beautiful Santa Fe home.

Their story of becoming parents is the most unique of all the couples I interviewed, not to mention a rare probability. When they decided to explore different avenues to have children Anthony and Nolan realized they wanted to have some kind of
biological connection to the child. They decided on surrogacy and found a couple in California who were willing to be their surrogate. To ensure no legal complications with the surrogate after birth, Anthony and Nolan also invested in anonymous egg donation. They each donated sperm which was used simultaneously during the in vitro fertilization process. As it so happened two of the eggs that were viable were fertilized by each of their sperm. Thus, the surrogate gave birth to twins with Nolan being the biological father to one and Anthony to the other. Because they underwent this process of surrogacy and sperm donation in California, it allowed them to circumvent legalities such as the surrogate relinquishing her rights, and undergoing second parent adoption. Anthony explained, “Our kids only need on the birth certificates, the egg donor is anonymous so the file is sealed before the children were born, the surrogate has no biological connection to the children, so the birth certificates are ‘Parent One’ and ‘Parent Two’. We did not have to adopt.”

Anthony and Nolan could afford the most ideal of opportunities. Their wealth made it possible for them to access reproductive technologies that allowed them to have children without compromising their identities as gay men, and without having to negotiate their family structure with others. However, their family structure was influenced by several social factors. When we began talking about their family make-up Anthony and Nolan launched into an explanation about losing blood relatives and the role of friendships in their lives. Like other gay couples, they too invoked the notion of chosen family in contrast to “blood family.” As Carsten noted about kinship, one cannot talk about family without referencing biogenetic substance in some way and bringing together a whole range of other themes: procreation, relations between kin, bodies,
personhood, gender, and feeling (Carsten 2001: 48). Anthony and Nolan bring together several of these themes, mainly their relations to family members, relations to a gay community, gender, and ideas of personhood, and tradition when they began defining family.

Nolan: We're both estranged from our families for various reasons, so we have a network of friends and we support each other. I mean, do you think that's fair to say, Anthony?

Anthony: Pretty much. That's it.

Nolan: I mean, we have, you know, I've come to feel that your family is what you define it to be, so our family is our friends.

Anthony: I wouldn't say—the community tends to say how you choose your family. I know what family is, at least our family, and what it's supposed to mean. Unfortunately, it wasn't as strong, but it's kind of like a one-way kind of a morality or honor system on their part. So now we don't have that in our relationship with our friends.

I mean, our friends are, our friends, you know, and they do respect your lifestyle and support you, again, we laugh and we cry with each other. We're parents, a double-income family, so our lives are going to work and our children [laughter]. That's pretty much it.

Nolan: And when it comes down to—yeah, I mean, absolutely agree that when it comes down to it, the four of us are it.

Whereas Nolan readily reference friends as family, Anthony is more hesitant. The relationships he is talking about as “a one way kind of a morality or honor system,” consist of both friendships and blood relations. Therefore, while Anthony denounced ties to those that are biologically and socially considered family, he was not embracing an idea of an alternative family. He continues to hold onto a normative and traditional American family structure, that of the nuclear family unit. It is in this nuclear family
structure that he, and ultimately Nolan find safety, comfort, and a sense of social belonging. Recounting the backlash they received from family members when they decided to have children, they explained how their ideas about family have been cultivated around their children and the nuclear family. Anthony and Nolan lamented their relationship with their biological families and see it as loss of important ties. Anthony stated, “I would've liked to have a much more extended family,” with Nolan agreeing. However, Anthony recalled that “basically the last holdout was my sister-in-law, who we always had a very close relationship with.” That was until four weeks before the birth of their children. Careful not to demonize Nolan’s sister and having obviously thought through the possible meanings of her behavior towards them, Anthony explained that she did not feel uneasy having them around her young son, until she found out they were having children. “She accused us of buying children,” Anthony remembered. Nolan continued:

“Before the children were born...she and her husband tolerated it [meaning their sexuality]. They were not rude to us....And I don't mean that as a good thing. That's just their attitude. They weren't rude to us outwardly in our face, but they did ask that we not stay in the house with them...That my family owned. Not at their home which was a different residence.

When we had the children, when we made the decision to have the children, they did change, and now I joke and say well, you know, the fact that we're gay put us on the plane to Hell—the fact that we have children gets us a front row seat. That was their attitude.

The hurt they experienced from Nolan’s sister’s change in behavior was compounded by yet another factor. One of her childhood female friends, whose identity they did not feel comfortable revealing, but alluded to her attachment to a political figure,
came into the national spotlight as a lesbian with children, with which Nolan’s sister seemed to have no problem. Thus, it seemed to them, that her discrimination was specifically based on their being gay men, and the perception of gay men as pedophiles or incapable parents. Her behavior also turned hostile when they baptized the children. She contacted the clergyman performing the baptism Nolan narrated, berated him for conducting the ceremony and told him “he was not a man of the cloth.”

In her study on gay fatherhood, Ellen Lewin argues that gay fathers are confronted with cultural constraints and demands that they consistently have to negotiate. “On the one hand,” she asserts “in a culture that gives scant recognition and respect to same-sex couples and has only grudgingly decriminalized homosexual behaviors, gay men who wish to be fathers must manage the suspicion and hostility they are likely to meet as they explore adoption and assisted reproduction. Once they have achieved parenthood, they may continue to confront ignorance and sexism from those who think, men, and especially gay men, cannot or ought not to be parents” (Lewin 2009: 181).

Nolan’s sister’s homophobia was additionally combined with a notion of economic consumption. Because she viewed family as a social system through which processes of reproduction are deployed via the assumed naturalness of the mother’s biological contribution and the social acknowledgement of that of the father (Strathern 1992), she could not envision gay men within this paradigm. Assisted reproduction, in Nolan’s sister’s statement seemed to mark Nolan and Anthony as deficient biologically not only because they need technology to help them with the natural process of creating life, but also because their identities as gay men omitted them from the perceived natural heterosexual unit that links procreation to nature. By this logic the only option they were
left with was to appeal to the market system to obtain what should only be reproduced in
the private realm. Thus for Nolan’s sister, parenthood for gay men is a dishonest and
deporable economic transaction. These experiences led Anthony and Nolan to retreat
from their biological families but consequently also contributed to their reliance on
biology and law to construct their own family. Having children, however, allowed them
to preserve a traditional notion of family that functions as the small nuclear family unit,
and falls within the rubric of the middle class American family.

**Parenting as Performance of Family**

Richelle Douglas and Cam Greene whom we met in chapter four have a family
arrangement that on the surface resembles a traditional heteronormative model, with
Richelle being a stay at home mom and Cam the financial provider. Cam’s
responsibilities, as she explained, are to run her business successfully and be able to
provide for Richelle and their two children. Richelle on the other hand, having spent
many years working late hours decided she wanted to be a full time mother and wife, to
ensure, she reasoned, the children are cared for, the house is clean, and dinner is made
before Cam arrives home. Cam expressed

I love coming home to dinner being cooked. I love coming home and the kids are
well taken care of. I love all that! And then being the one who went out to do it
all, and then coming home, it’s different. We both have our own challenges but
I’m glad that we decided to do it this way, to have these, whatever traditions for
the family. It’s really important.
At first their roles were startling to me for they seemed extremely gendered, especially when Richelle remarked that not only does she “keep house”, but at meal times, she serves Cam, not expecting her to get up from the table for anything. This aspect of their relationship, they acknowledge, is startling to everyone they know, including siblings and parents, but one that they nonetheless embrace. This is similar to the mothers in Ellen Lewin’s book about lesbian motherhood who worked with the contradictions between the categories of lesbian and mother to create manageable identities (Lewin 1993; Lewin 2002: 119). I believe that Cam and Richelle utilize the traditional heteronormative framework, in part, to help establish their relationship with each other and their children in ways that makes their family structure readable by others. In this way, they articulate what Maureen Sullivan has called a familial truth regime (2001: 231). The heterosexual nuclear family, Sullivan maintains “is our guiding image of what “real” families look like; it constitutes a kind of truth regime in that its power guarantees that human beings will not only strive to conform to this image but will also recognize as families only those social relationships that do” (2001: 231).

As lesbians Cam and Richelle do not fit within this image of the family, yet the roles they take on elicit an image that conforms to this regime of truth. Cam and Richelle are both within and outside of the ideal nuclear family construct. While Richelle’s identity as the birthmother “can be signified through [her] biological maternity”, Cam’s identity as the other mother “must somehow be created and articulated within a familial truth regime designed to suppress all nonconformity” (Sullivan 2001: 231).

Moreover the choice they made in “doing family” in a traditional way, also expresses childhood experiences and yearnings, which they consciously refer to and
utilize in their decision making process about the types of parents they strive to be and the ways in which to raise their children. Cam, who is extremely close to her mother, explained that her mother stayed at home until Cam entered third grade. “Taking care of your family…first” she explained, “was really important to me. I saw my mom do that. Being a hard worker; my mom was a really hard worker…I’ve watched my mom juggle all kinds of stuff and solve it all. So those are the things that I wanted to grow up to be like, to be like her, for sure.” At the same time, her father spent most of his time outside of the home, and as an adult Cam strongly believes that having “two parents that are really present” is important.

So, it’s really important to me to come home and see the kids, and after we have dinner, we do tubby time and I’m playing with the kids and then we read books together and we talk about our days…Yes, it was really important that the time that I am home, that I’m parenting; that I’m listening and I’m talking to my kids and I’m challenging them, having them think about different things.

In contrast, Richelle had a childhood in which both parents seemed to be absent and abusive, which she explained made her hyper-vigilant about her own parenting. She asserted,

Yeah, I mean, they were abusive and so coming out of like that type of household you can see how much of stuff that you don’t want – like I never want to be – you can say I don’t want to be a drunk mommy, or I don’t want to hit my kids. Something very basic but it’s also like how are you going to be like a healthy loving parent if you’ve come from a very difficult family situation, or how do you take care of yourself in a positive way and take care of your relationship and stay really grounded when you don’t have a model for that?
So, we are – it’s like I’m nuts maybe, like tradition and all of those things are so important to me. And Cam is all like “Oh, we’re going to have a birthday party. It doesn’t have to be a big deal.” And it’s like “No, it doesn’t have to be a big deal but I want them to know that it’s their birthday and we’re happy that they’re here and we’re happy and we love them and let’s celebrate this. Let’s make it fun.” …And we’re lucky to have each other. I enjoy my kids and Cam enjoys them and that’s a value. It’s like I try to make sure they’re safe and warm and educated and all this kind of stuff and healthy. But I really want them to enjoy their lives and to know that I love them. That is my goal.

Thus, the combination of their experiences growing up, their identities as lesbians, and their desire for children shaped their choices with respect to creating a traditional family. Their choice was not framed as a desire for gender normalcy. Rather normalcy is tied to happy and healthy relationships in general which in turn are tied to notions of tradition. And because, the heterosexual nuclear family is the guiding image not only for what “real” families look like but also for equating traditional family with healthy family, Richelle and Cory, along with other couples, utilize this kinship structure to assert themselves as family and to become “good” parents. Simultaneously, they extend their family beyond the conception of “blood” and “law.” Richelle clarified family as

People who live together who are – that you choose to be with and that you are responsible for to take care of…Well, Cam and I and the kids. So that’s who I see as our primary family. And our extended New Mexico family, we include her dad and his sister and Cory’s family who don’t live here but they’re here a lot; and my family – well, my sister. I mean not that I don’t include my parents but I’m not close to them so I do not see them very often.

Cam defined extended family, or “big family” to use her terms, as “people who are around and who support and love you,” and Richelle included her best friend into their extended kinship chart. Thus while their roles seem to follow a heteronormative
gender prescription, their family make-up is far from normative. In the picture is also the children’s father, who they both approached to be the donor. Like with Audrey and Sophie, his participation in their family configuration was not planned, but he maintains an active role in the children’s lives.

In negotiating Robert’s role as a father and a presence in their children’s lives Cam took in consideration her experience in her previous relationship. Her previous partner also had children in whom Cam had emotionally invested a great deal. When they broke up, her partner would not allow her to see the children. Therefore, Cam was sympathetic and sensitive to Robert’s desire to have the children in his life. She explained, “I had been in the children’s lives and their parents took, their mother, specifically, had taken them away from me, and I was really very clear that that would not be something that I would do to another person who didn’t deserve it.”

However, she also kept a firm distinction between herself and Richelle as the parents and final decision makers, and Robert as a relative who spends time with the kids but does not get to decide how their future or how they are raised. “Now, if there is a moment that he deserved not to be in my children’s lives,” she emphasized, “for any reason that I think, then I would end that relationship; very clear. And I told him kind of like that.”

It would seem I get mean or harsh but it’s true; I meant it, meant that he would never be out of their lives because I meant that he was that important. But if he needed to, I would end it if...he mistreated my children, didn’t really listen to what Richelle and I – because we’re the parents and he’s their uncle-daddy. He’s their dad.
Cam and Richelle also took in consideration the needs of their children and what they might want to know later about their father. As Richelle detailed,

I mean we’ve both been really committed to having them have him in [their lives] and even when it’s been challenging for whatever reason, we’ve always thought it was really important like it’s been great for them like they know – I mean if people choose to make their families however but I thought it would be great…having this guy that comes around every once in a while.

If there’s a dad, something that he’s willing to do, then, they have that, they have this person; and they have his whole family too. Their grandmother is my good friend, and their whole extended family has really accepted the kids. We went out to see them a couple of years ago, like, a lot of the family is from Boston and we went up there and – you know I didn’t know how it was really going to be but they were like so excited about them and kind of embraced them and embraced us as a couple and not just necessarily me as a biological mom but embraced us as a couple and their family are excited about the kids and everything.

Richelle and Cam are talking about kinship through both a biogenetic construct and a construct that more resembles Carsten’s concept of relatedness. While they acknowledge the biological link Robert has to the kids, and attribute emotional and moral importance to it, they place him outside of their nuclear family unit. To them he is extended family. Richelle and Cam are both legally recognized as the parents, while Robert is permitted to visit the children once a week. Thus, through the legal system that orders the social aspect of American kinship, Richelle and Cam are able to appropriate the social and legal power that is afforded to individuals that are culturally recognized as parents. Nonetheless, they explain that it took many discussions between the three of them and between Cam and Richelle to negotiate his role. Cam recounted the process and some of what they had to consider.
What does this mean? How are we going to make this happen? And so talking to him and just really kind of saying this is what we’re willing to do; are you willing to do this as well? He thought about it and he said yes. So we all had to take each other at our word and we had to hold up to that. Sometimes it’s harder than others but we’re all committed to what we said we were going to do…

Richelle then summarized Robert’s role as such:

So in a way he’s more like a grandparent or like an uncle but he has that – like he loves them and he does stuff for them and they love him and they have a special un-replaceable place in his life; and he’s still not responsible for their day to day thing. He can choose to engage and not engage to whatever extent. He will watch the kids for us and we all identify that he’s watching the kids for us and he enjoys it and he gets to spend time with them, and we think it’s really positive. But it’s still like an auxiliary kind of role.

The legal power they possess also allow them to conceptualize family outside of the American kinship model that Schneider illustrated as based on notions of “blood or substance” and “law or code.” In this case, law seems to alter substance, since it is Cam’s legal status vis-à-vis the children that takes precedence over Robert’s biological connection. As such the legal ties they have permit them to also define substance in relation to family membership more broadly. That is, substance in their explanation is analogized to both corporeal matter (biological connection) and, to borrow from Carsten, with essence. The essence is encompassed by the activities they engage in to show they are family, mainly sharing food and providing emotional and financial support. Together these activities represent the essence of family: love. Therefore, Robert can be and is considered part of the family because he falls within both the biological connection and
the essence that symbolizes family. Nonetheless, in their arrangement the activity of sperm donation alone does not win him a place within the “primary” family unit. The biological and legal recognition of Richelle as mother and Cam as parent cancels out the connection the American kinship system makes between semen and blood, and therefore, transfers the social power of parenting from Robert to Cam.

Dean and Jaime Collins-Shaw also conceptualize family through a parenting lens. Together for twenty years, they have created a comfortable life for themselves and their two daughters in a beautiful home in an upper middle class neighborhood located on the suburban outskirts of Albuquerque. Children, Dean told me, “they change a relationship completely…your expectations are different prior to children, of each other.” What changed when their daughters came into the picture was thinking about what kind of parent they each wanted to be and the parental expectations they had of each other. “I think our lives [are] so much family and it’s unbelievable probably because of the children,” remarked Jaime. However, they expressed that the mainstream understanding of family follows a philosophy and an imagery they believe is promoted by the “straight religious right.” Jaime explains this imagery as “a man, a woman, and kids and a dog and a white picket fence.” They both shared the fear that some people do not see them as family because they are two men with two kids. As a result, Dean and Jaime have taken specific actions to, as they explained, “secure our family.” Along with drawing up various trusts Dean and Jaime also legally changed their surnames to reflect a hyphenated version of both their last names. They began this process as they were undergoing adoption procedures. “We went before the judge”, Dean recalled, and “we said the main reason we wanted to have the same last name is because we are our family. We all want
the same last name.” They explained their reasoning as a process that would “complete” their family and save them from having to answer questions and justify their relations to their kids when they travel, when they take them to school, or to the hospital. “We would like to be [hyphenated last name] to match our children’s names so we could be a family,” they concluded to the judge.

Dean and Jaime, in similar fashion to the gay fathers in Ellen Lewin’s study, see forming a family as an emotional and legal process. However, the legal actions they had taken reveal their desire “to perform ‘family’ in a convincing manner.” (Lewin 2009: 48). Thus the sharing of a common surname is itself part of performance of family and they associate it with being socially marked and treated as a family unit. Through the process of changing their surnames and adopting their girls, Dean and Jaime were illustrating to the judge what they believe are core family attributes: morality, commitment, and foresightedness. They were showing that as parents they are responsible adults who are putting the needs of their children and their family before personal desires. They are no longer individuals, they are a unit. Therefore, they also took on the attitude that parenthood “entitles [them] to make social and material claims, to achieve a kind of cultural recognition not otherwise available” (Lewin 2009: 48). In this fashion, having the girls and a common surname ratifies Jaime and Dean’s relationship as marriage, “making it clear to the world that a family exists” (Lewin 2009” 122).

The judge’s reaction, which they described as admiration for their dedication to each other, also made them feel like their act of changing their names was political. “You make them think,” Dean declared; and Jaime added “It’s just an awareness.” “You all of
a sudden see it happening and…they’re going, “Oh,” putting it together.” Seeing it also as an act of marriage and family formation, Dean argued

I think we should all do it. I think, really think that like everybody did it and there’s nothing stopping us from doing that except the judge. And I think if you get one that says, “No,” then go to another one, because nothing will stop it. So if you have a partner, hyphenate your last names. Have the same last name.

Therefore, Dean and Jaime also see the act of changing their last name as subversive, a way of bucking the system that has not allowed them to legally marry. Their subversive act is dependent on viewing themselves as individuals barred from making free choices in order to meet their true potential as individuals. However, they also appeal to a sense of community, challenging other gay and lesbian couples to also change their last names as a way to mark themselves and be marked as a family, which signals that they are in turn married. Thus, family, and having a family is a critical marker of citizenship, as Lewin asserts, for it delineates social acceptability through demonstrations of maturity, and contributions to tradition.

Conclusion
Throughout this chapter I demonstrated the different ways in which discourses about family have shaped queer identities and subjectivities differently from marriage. Marriage, I have argued is the desired link between tradition and the state that relies on a “we are like you” rhetoric that obscures sexuality, queer histories, and identities. Family, on the other hand, provided same-sex couples sense of self rooted in LGBT identities and personal histories but also allowed them to make connections to larger cultural
productions of the family. Couples simultaneously talked about the importance of
biological family and being part of the “counter culture.” They saw their families as
connected to their childhood memories, to their personal histories and identities as gay,
lesbian, transgender, middle-class, working class, black, Latina, white. Some saw blood
family as fixed and unchanging. They placed importance on the heterosexual nuclear
format of the family arguing that is how society functions whether or not we like it. The
importance placed on the nuclear format, some couples also linked to personal
responsibility, calling it an important structure for children who need a two parent home.
Others talked about their non-traditional family arrangement as fighting structures of
exclusion: from parenting, caring for one another. Couples, in other words, authenticated
their families through memory and experience with the world around them. In turn,
choice, freedom, and authenticity connected personal life to political thinking and
participation, as well as to the LGBT intimate public sphere such as exemplified by Alec
who educates on transgender identities and queer family structures at PFLAG meetings,
and Audrey and Sophie who embraced a model of family rooted in history of
communities of colors that drew on exclusion of slave, and poor immigrants and migrants
of color who have been forced to create social networks outside of the legal and
mainstream cultural system.

Moreover, I argue that same-sex couple’s family formations reveal the
superficiality and limitations of the dominant marriage discourse, and show that family
narratives and performances can in themselves be subversive and challenging. In these
discourses the connection between normalcy and queer identity are complicated. In other
words, through family discourses the complexity of how same-sex couples negotiate their
identities becomes more visible and the image of the self-more complicated. Personal histories and childhood memories that shaped their identities as gay, lesbian, bisexual, transgender, Latina, white, middle or lower class, come together to create couples’ identities as individuals and as families.

Biological and chosen families held varying statuses in couples’ lives. For most, biological families continued to be central to the way they define family. By connecting family to blood, select individuals saw biological families as fixed and unchanging, and believed that biological families will always be family, whereas friendships they expressed were more easily disposable. Others saw family as a choice people make together and as a lifelong process, and some perceived that choice as the ultimate form of freedom and was connected to their identities.

A number of couples also talked about the importance of the nuclear family, and some saw that family format as a subversive when formed by gay, lesbian, or transgender families. For one couple, the nuclear family was a way to protect themselves from arguments of homosexual deficiency and unnaturalness. Through the nuclear family they found refuge from a discriminatory public and made connections to normalcy and naturalness. Yet, those connections had to be made in conscious ways which also underlines how for many LGBT families normalcy and naturalness are achieved through convincing performances as opposed to being something that could be naturally embodied. Family, therefore, can also become an iteration of normalcy and naturalness. Parenting is perhaps the best way to illustrate that normalcy, as same-sex parents highlighted the importance of their responsibility toward their children, their priority in raising good children, and creating happy and healthy relationships. Health was a very
important part of their self-descriptions, but used as a descriptor for normal and non-deviant.

Nevertheless, discourses about family also complicated and challenged the singular LGBT identity discourse as couples’ representations of family also incorporated non-normative elements, which were important to their processes of authenticating themselves and their families. Thus, there is a heterogenic and dialogic character to the family that produces different kinds of discourses and different kinds of subjects.
CHAPTER 8: CONCLUSIONS

The right for marriage equality became a civil right when we signed the Constitution.
—Kirk Linn-Degrassi, gay marriage vigil participant at the Supreme Court, March 26, 2013

It’s like you were to say you can vote, you can travel, but you may not be a citizen. There are certain labels in this country that are very, very critical.
—Theodore Olson, legal representative of California same-sex couples in Supreme Court hearing on Proposition 8, March 26, 2013

In this dissertation I have examined three facets of the same-sex marriage debate in New Mexico: the public and private interpretations of normality, difference, and kinship; the role of advocacy in constructing a mutually constitutive politics of sexuality, gender, marriage, family, and citizenship; and the production of social and political subjectivity. The chapters have attempted to elucidate the discursive processes of producing and contesting neoliberal politics through the public arena of the legislature, via the internal relationships and politics of New Mexico’s gay and lesbian community, and through the private lives of same-sex couples. This dissertation has also been about the exploration of three different kinds of social spheres. The first is the dominant heteronormative public sphere in which kinship is (re)conceptualized, specific identities are publically disseminated, and laws are passed. The second is the intimate LGBT public sphere in which marginalized group identities are formed and internally challenged. The third is the
private sphere in which individual experiences shape people’s identities in ways that can simultaneously unify and contest essentialist public discourses about identity and kinship. Through an exploration of these spheres I have examined the types of LGBT subjects and subjectivities produced and illustrated a social and political process by which worthy citizens are envisioned.

**Dominant and Intimate Public: The Politics of Belonging and LGBT Advocacy through Domestic Partnership and Marriage Discourses**

In chapter 3 I showed how a biopolitical model of the family was constructed through public debate by all sides (LGBT proponents of domestic partnership, religious opponents, and legislators). Based on an analysis of testimonies, I asserted that a new gay and lesbian subject was being produced via discourses of sacrifice and hope; narratives of belonging were composed as these discourses gave rise to discussions about needs, personal responsibility, morality, and fair participation in society. Proponents’ testimonies attempted to create the idea of a universal human, that is, a vision in which people’s relationships and needs were seen as the same regardless of their histories and identities. That sense of universality was used to incorporate—or at least to attempt to incorporate—gay and lesbian families into the social history and memories of all citizens.

Through legislative testimonies, proponents of the domestic partnership bill also attempted to create relationships between gay and lesbian families and the state and between gay and lesbian families and society through various arguments about economic development and the pursuit of a common humanity. At first, gays and lesbians were portrayed as rights-bearing citizens through an emphasis on legal and economic discrimination. Proponents presented an image of the state in which the government
protected all citizens, and that action reflected state interest. Economic development was
linked to an individual’s potential to engage in business with the state, promote state
interest in improving the economy, and reach one’s true potential as a citizen and
member of society.

In contrast, the opposition associated nature with religion and argued that
marriage was intended for procreation and the advancement of society. By framing
marriage as a reproductive, moral responsibility, opponents sought to uphold
heterosexuality as the only standard for marriage and masculinity as the representation of
social order. To maintain this idea of marriage they attacked the language of the domestic
partnership bill and that of gay and lesbian couples’ testimonies. Words such as
committed, spouse, and intimate became heterosexual terms and thus taboo for
proponents. The reaction of the domestic partnership bill organizers was to change their
language from reflecting rights to reflecting fairness. I argued that a language of
sentimentality replaced the language of rights as it was presumed that love and caring are
universal, free from co-optation, and understood by all. It was imperative that those who
tested represented that change in language. Therefore, a new process of humanizing
queers and making them respectable family members began in 2007 and continued into
2009. Respectability would be achieved even if it meant erasing the queer from the
picture altogether. It seemed that by 2009 this process was just about complete within
hearing rooms as the majority of testimonies came from representatives of different
organizations that worked for the interests of elderly and disabled people, who were
included, by default, in the heterosexual category. However, sexuality would eventually
make its way back into proponents’ discourse and testimonies as well as into the
subjectivity of the public queer. In 2010 discussions about the “ordering effects of structural suffering” infused gay and lesbian testimonies once again, and people began to talk about the inequality as well as the unfairness of the lack of recourse for gay and lesbian couples and families.

Opponents also advocated a distinction between social rights and civil rights by promoting a neoliberal approach to gaining rights and protections. They would often suggest that as members of a free society, gays and lesbians could draw up individual contracts regarding hospital visitation rights, end of life decision making, and inheritance. Through this anti–civil rights rhetoric of privatization and individualization, activists sought to move the focus from group rights to individual rights. The change in the language about equality seemed to present activists with a way out of explaining how black civil rights rhetoric had been adopted by LGBT couples and organizations to talk about queer discrimination. Now, they could avoid opponents’ jabs that queers were co-opting identities that were not theirs for the taking, which consequently also helped them dispute arguments that gay rights are special rights. Activists and same-sex couples could talk about fairness instead.

Nonetheless, democratic legislators continued to make connections between gay rights and civil rights, as some compared same-sex marriage discrimination to the racism faced by inter-racial couples. While LGBT community members shook their heads in agreement, activists never responded to these comments. They left it to the legislators to make those associations. In so doing, I argue that activists also relinquished the responsibility of seriously addressing issues of race and class to the opposition, the mainstream public, or the LGBT community.
The processes of conceptualizing, defining, and creating an image of family and rights, as I showed in chapter 4, were not only a matter of organizational strategy and activists’ decision making. These processes involved creating priorities for LGBT New Mexicans and meeting the needs of those invested in these priorities while balancing the demands of multiple players: national organizations, partnering organizations, LGBT community members, the religious opposition, and legislators. In the process of deciding how to go about securing relationship recognition and rights for same-sex couples, activists distinguished between personal beliefs about marriage and domestic partnership. However, I pointed out that these distinctions were also what fueled their beliefs about domestic partnership legislation. While some activists believed that marriage is a failed institution, they maintained that marriage is also an issue of rights. Therefore, activists defined domestic partnership as an issue of civil rights, which they connected to the immediate needs of the family for legal protections.

Activists organized forums to create a sense of togetherness and to create unity at the legislature. In addition, forums were also spaces in which to share experiences and validate same-sex relationships and families. Forums, I argue, were constitutive of LGBT political subjectivity. Town hall meetings, for example, involved different mechanisms for the development of a new language about gay and lesbian identities. Testimonials about families and family experiences sought to create not only a unified message that would be carried to the media and the legislature but also allowed people to think about themselves and their queer identities in new ways. This new subjectivity was thus both a political subjectivity and a personal one. Messages about relationships and families
translated into legislative arguments about sameness and fairness, as I demonstrated in chapter 3.

Therefore, these forums exemplified the process through which LGBT subjectivity was created, an LGBT intimate public envisioned, and connections to the dominant public established. In part, subjectivities and links to different publics are established through attention to consensus and by instituting a chain of command. Via the chain of command, activists were able to forward a unified message by determining what kind of family would be the image of the gay family, the types of discrimination and feelings to talk about at the legislature and in the media, and how to support activists’ endeavor to pass legislation. These elements were also dependent on the opposition’s and legislators’ responses to their arguments at the Roundhouse. I argued that couples, too, influenced the political process and in particular through an insistence on equal recognition. While the methods of approaching that recognition created conflict between community members and activists, as I showed in chapter 5, I maintain that couples’ personal desires for recognition helped keep the public and private understanding of marriage mutually representative.

The changes at the legislature were also reflected within these forums where discussions went from equal rights to fairness to changing hearts and minds. In other words, the different forums and training sessions moved discussions within the queer community from ideas about rights to notions about belonging. The movement for relationship recognition was, in some ways, fueled by its own logic. That logic was based on a national strategy of how to win legislation that the national LGBT organizations brought with them. It was also a logic that, for the most part, EQNM activists believed in.
They believed in their understanding of how politics works and what compromises were acceptable in order to secure rights and take incremental steps toward marriage recognition.

This logic conflicted, however, with LGBT community representation, as I demonstrated in chapter 5. Activists needed and wanted to have a broader representation of New Mexico’s LGBT communities. However, activists, directly and indirectly, created an atmosphere in which LGBT members had to be representative of the message and image of gay and lesbian relationships the activists were endorsing. I illustrated this conflict in chapter 5 by presenting LGBT forum discussions about individual and group subjectivity that were based on the premise of group sameness rooted in ideas about a gay and lesbian community. Both the activists and LGBT individuals and couples I interviewed defined community as a sharing of experiences and history of discrimination. They each brought up issues of violence, visibility, loss of jobs, loss of family and friends, and unequal treatment under the law, regardless of whether they themselves had experienced any of these in their lives. It was the understanding of this history and the pervasiveness of these kinds of experiences that provided couples and activists with a platform from which to talk about inequality and from which to establish a collective force that would affirm discrimination against same-sex relationships as deserving of the highest community support. These platforms, specifically emphasized by activists, established certain images of inequality that were then universalized to represent the queer community experience.

When disconnects began to surface between activists and community members in regard to the meaning of (in)equality and strategy, community began to demonstrate a
hierarchical structure. When the activists’ proposals were in the minority, community members were able to sway the direction of the domestic partnership strategy. But when members of the community held opinions that differed from those of activists, these community members found themselves in a tenuous position. When members were in the minority, they not only felt pushed out of the decision-making process, in some cases they felt pushed out of the community altogether.

In other instances, as different identities surfaced and different needs were expressed, being part of an LGBT community became less dependent on the sharing of identities and experiences and more on difference and uniqueness. Couples talked about wearing different hats and juggling their way through the different terrains of the heterosexually dominated world (in jobs, in parenting) as well as embracing their individual queer histories that included their processes of coming out and becoming comfortable with themselves. This aspect of community, however, did not get translated into public discourse. This community was more of the internal representation of the intimate public as formed via different constructions of a gay, lesbian, transgender, or queer self. The different constructions of the LGBT identities were a constant problem because they brought into question what it means to be an LGBT community that is also a political community in New Mexico.

In forums and in interviews with couples, their dissatisfaction with how family is presented and defined was an issue. That is, the nuclear family was not representative of the realities of many couples and individuals who wanted to be a part of the movement for relationship recognition. Lesbians and gays of color who may also have identified as working class, individuals who were single or who had nontraditional family structures
expressed that they could not see themselves in the depiction of the gay family. Activists responded to these complaints by trying to select couples and individuals to testify who would represent the cultural makeup of New Mexico. However, the selections of diverse New Mexicans continued to be dependent on the unified message about the family.

Thus, activists followed a model of diversity that was based on superficial neoliberal constructs of identity. Diversity was constructed through a process of mobilizing support and identifying individuals and couples who believed in the messages that had been established as important through the forums. Activists attributed the lack of testimony from gays and lesbians of color to cultural restrictions. A “we tried but they don’t want to” explanation surfaced, which I suggest was due to activists not knowing how to navigate ethnic and cultural landscapes, in part because of the legislative and law-oriented model of activism that had become the main practice of national and local NGOs.

The Public in the Private: Same-Sex Couples on Marriage, Family, and Identity

The discussions in forums and at the legislature, and their repetition in the media, also transformed into personal convictions about marriage, citizenship rights, and the ability to be a fully formed individual and social participant, which I illustrated in chapter 6. There, I maintained that the affective trope of love was a way for couples to assert their own modernity and a way to achieve a transformation into one’s true self. Love is a powerful modern trope that posits the mutual recognition and respect of individuality; it promises equality among couples that is formed naturally through individual urges and desires. By connecting everyday actions to partners and kids, individuals established
themselves as particular kinds of selves (as wives, husbands, mothers, fathers, breadwinners, caregivers, etc.). Thus, the creation of the self was conceived in relation to individuals who assume important roles in same-sex couples’ lives. The creation of the self was further achieved by connecting the different aspects of same-sex couples’ identities that they presented in public settings and established and reinforced in their private lives. This particular self, highlighted the practices that are socially valued within identities as parents, husbands, and wives. The connection to the public became a representation of optimism about being able to be connected, belong to, and share a lingua franca with heterosexuals.

LGBT organizations helped make those connections between couples’ private lives and the dominant public. The image of the family, which I discussed in chapters 3 and 4, and discourses about needs, rights, and fairness become ideological mediums through which this connection was made. As such, the political process of domestic partnership and marriage permeated people’s daily lives and was seen in the way couples interpreted, accepted, or rejected the politicized tropes of rights, love, and fairness along with narratives about what makes a family. Couples incorporated the language used at the legislature into daily discussions about their own realities, particularly language that highlighted the unfairness of not being able to provide for the future of their families and the difficult legalities of health care and decision making as new illnesses have impacted their relationships. These public discourses, some couples maintained, led them to change how they felt about the institution of marriage and created in them a desire to have that legal recognition, some for the benefits and others for the social recognition.
What these queer private and public discourses about same-sex marriage indicate is that gay marriage has become a more acceptable language for asking for social and legal recognition and approval. Gay and lesbian individual and political subjectivity was created through discourses of marriage and through the embodiment and public performances of roles associated with marriage and family. Couples and activists’ performances of marriage activism, I maintain, created meanings about the self and new meanings about queer relationships. These subjectivities also produced discourses that reflected relationships with the state (equality discourses in which marriage becomes the ultimate civil right) and relationships with society (discourses of sameness and fairness that portray marriage as an act of responsibility, caring, and human connection).

However, in chapter 7 I contended that narratives about family do not center directly on rights as do discussions about marriage. Like marriage narratives, family narratives show how a couple’s consideration of the components of and membership within a family are thought of in relation to legitimacy and social and political subjectivity and therefore create, to borrow from Maureen Sullivan (2003), new truth regimes about the shape of family that engage with liberal discourses about democracy and democratic subjects. Thus, definitions of family forwarded by the couples in this study illustrate how relations to ourselves and relations to democratic ideals are shaped by particular objectives—love, happiness, tradition, visibility, belonging, responsibility, and adulthood.

Unlike in narratives about marriage, couples variably defined and ultimately performed family by drawing on LGBT experiential tropes that highlighted a multitude of factors and personal beliefs: the historical importance of forming family outside of or in
absence of the traditional framework; the belief in a link between biogenetic relationships with naturalness and in turn with tradition; the construction of individual and family biographies through the ritual of storytelling; the association of tradition with happiness and the production of healthy children; and the connection of ethnic and racial identities and experiences to social justice and community. Family experience and political subjectivity, I therefore argue, are narratives about how family reflects a couple’s reconciliation of their desires to be seen the same as heterosexual families and at the same time maintain a sense of difference imbedded within LGBT identities, ethnic identities, and other life experiences. Consequently, sameness and difference became important components of each couple’s processes of confronting the hegemonic models of kinship and social membership, as well as negotiating their positions vis-à-vis these models.

On a larger scale, the same-sex marriage movement poses a conundrum for gay, lesbian, and queer organizing, for we find ourselves in a moment in which the identity politics of the 1960s and 1970s—fixed on the idea that “the personal is political”—has become central to gay and lesbian political organizing. This form of politics asks the question: is the only politics that is left for LGBT identities a personal politics? Such a politics points to the idea of love and the rise of the liberal self as the basis for the construction of queer subjectivity and particularly one that can play to heteronormative ideologies of belonging. I suggest that personal politics are as much symptoms of political life in liberal democracy as they are inventors of new political subjectivities. Whereas advocacy groups react against identity politics by replacing sexuality, race, and class with abstract identities of privatized citizenship, same-sex couples’ daily lives
generate spaces in which they can negotiate identity in ways that can simultaneously appropriate and challenge heteronormative and neoliberal frameworks of the family.

**Contribution to Anthropology**

Ideas about family and marriage have been central to academic understandings of social organization, the division of labor, and the role of gender within society as well as social, political, and economic debates. Motherhood and sexuality, for example, have been combined to create what Susan Gal and Gail Kligman call “the dubious morality of the welfare mother” (2000: 8), which plays an important role in how governments treat welfare programs as public discussions about single motherhood, abortion, and social citizenship and use them to streamline public spending. Kinship, to borrow from John Borneman, permeates all legal domains. The ongoing attack on motherhood and the welfare system is one that symbolizes the intricate connection between kinship and political and legal structures. The discussions and debates concerning the inclusion of LGBT subjects within heteronormative institutions such as marriage and the family represent another uneasy relationship between kinship and politics. The introduction of LGBT subjects within the social and legal realm of marriage and family resulted in public discussions about what is appropriate sexuality, who or what is the normal or nuclear family, and what is the role of the state in protecting and upholding definitions of family. The fact that marriage and sexuality are being debated together within public spaces illustrates how categories of normalcy and belonging are produced from public definitions of kinship and sexuality and how relationships and families become normalized and institutionalized or socially marginalized and legally denied.
Therefore, the contribution of this dissertation to anthropology spans several traditional and contemporary foundations of anthropological inquiry: the role of kinship in social organization, the ideological importance of gender and sexuality in cultural and political formations, how structural hegemonies are changed and/or maintained, and relations of power between individuals, communities, and the state.

Same-sex marriage has been the subject of debate and critique by many cultural studies, American studies, and legal theorists (Bornstein 2010; D’Emilio 2006, 2010; Ettlebrick 1989; Farrow 2010; Nair 2010; Polikoff 2003; Warner 2001). Unlike these theorists, however, I provide in this dissertation an ethnographic analysis of the debate as a historical moment in which marriage and family are being reimagined, discussed, and performed in three different spheres by members of society who hold differing political and social positions. I have presented a new way of examining kinship—as a political process in action through which power circulates and opens spaces for different members of society to generate new identities or change old ones. This process thus represents a historical moment in which gender, sexuality, marriage, family, and political subjectivity have become mutually constitutive. This mutual constitution has done two things. First, it has provided new platforms for discussing and conceiving LGBT identities that allow a traditionally marginalized community to enter into the dominant institutions that regulate social membership. Second, it has revealed how this mutuality is constituted through structural and ideological systems, mainly the legal process of creating social belonging, and the liberal and neoliberal frameworks that link belonging with social productivity. By showing how the public, intimate public, and private sphere are used to weave different identities, I reveal how hegemonic systems are maintained, as well as how they are
disturbed. Moreover, I reveal the processes through which the individual becomes the locus of group identity formation whether the identity is based on gender, sexuality, ethnicity, class, or citizenship.

I also illustrate how, through discourses about marriage and family, emotional experiences such as love have become affective representations of social productivity. In turn, I show how the movement for same-sex marriage exposes the connection between social productivity and production of good citizens and therefore the connection between the construction of the self and social and political subjectivity.

**Doing Anthropology in the Public and of the Public**

Studying this very public issue has positioned my work within a newer area of anthropology called public anthropology. Though I did not envision myself as a public anthropologist, the fact that I deal with a public seems to position my work within its parameters. Because public anthropology is a fledgling field within the discipline, anthropologists have been working at defining it and distinguishing it from other forms of anthropology such as applied and participatory anthropology. Therefore, I have also had to figure out what exactly is public anthropology and how this dissertation fits within it.

Ellen Lewin and William Leap associate public anthropology with issues of practice in addition to method and theory. They explain that *practice* means more than to “merely ‘study’ the particulars of social experience” (2009: 2). They equate practice with creating social change and claim that anthropologists focusing on (homo)sexuality or same-sex identity in ways that are affirming of homosexual practices and presence have unavoidably engaged with practice. They argue that in the process of highlighting same-
sex identity, de-exoticizing and extracting it from the category of deviancy in which it has long resided, anthropologists have spoken back to assumptions about sexual and social normativity and their structures of power. Leap and Lewin point out that it has become a recurring theme in lesbian/gay anthropology to look at “regulation, oppression, and resistance” (2009: 5) in relation to homosexuality. Drawing on Habermas’ notion of public sphere formation, they maintain that lesbian/gay anthropology is concerned with the processes through which “private [same-sex identified] persons come together to form a public, . . . [and to] deal with matters of general interest without subject to coercion.” These matters of general interest, they continue, are “questions about sexual citizenship, belonging, public morality, and social justice, as much as they are questions of desire, personal identity and erotic interest” (2009: 2). By addressing matters of general interest to the gay and lesbian public, anthropologists can expose the conditions through which homophobia and heteronormativity gain everyday authority and demonstrate the willingness of lesbian/gay subjects to talk back to that authority rather than become subservient (2009: 3).

Nevertheless, others such as Maximilian Forte critique the notion of a public anthropology. He argues that “one may get the uneasy feeling that ‘public’ means *everything* outside of the academic’s classroom, conferences, and regular publication venues” (2008: 2). This definition conflates Habermas’ “public sphere” with the state, which in turn works to shape the “praxis of public anthropology by not differentiating which public it seeks to serve” (2008: 2). However, a gay and lesbian public anthropology claims that it seeks to serve a gay and lesbian public. My concern is, where we should position public anthropology within gay and lesbian politics, especially those
politics that are formed within and by neoliberal identity politics that focus on what Lisa Duggan calls *homonormativity* and no longer represent a broad-based progressive movement? Habermas, in his distinction between the public sphere that existed under classical capitalism and its contemporary successor, argues that today the public sphere can be realized only “as a rationalization of the exercise of social and political power under the mutual control of rival organizations committed to publicness in their internal structure as well as in their dealings with the state and with one another” (1989: 236).

So what is the role of public anthropology in gay and lesbian politics if practice equals change and change is, in turn, viewed as winning legal and legislative battles led by organizations that claim to represent the LGBT populace? Does studying the struggles to win rights within these arenas translate into anthropologists doing public anthropology? Is public anthropology providing witness to the presence of local experiences, “not pre-empting local voices but certainly, at times, amplifying them,” as Lewin and Leap suggest? They maintain that as part of its witnessing, public anthropology explores those experiences within their regional or broader social contexts or otherwise discloses dimensions of those experiences that local constituents may not fully observe. Thus, the experiences may not only be those of gays and lesbians but may also encompasses other experiences, such as those of transgender individuals. By doing so, public anthropology could ideally help to construct new alliances between scholarship and activism, transforming the texture of the academic project and the resources available to constituency-based public intellectuals and political workers, while broadening issue-centered understandings of the “public at large” (2009: 3). Following this agenda, argue Lewin and Leap, will “bring into sharper focus the mechanisms of power against which
lesbian/gay (and other sexual) subjects are already struggling and document the social costs (and for some, the social benefits) stemming from regulatory control” (2009: 3).

**Postscript**

During the writing of this dissertation, national debates on same-sex marriage and gays in the military have changed the country’s social and political climate. The ongoing public discussion about same-sex marriage has become regular headline news, while opinion polls have claimed an increase in support of same-sex marriage throughout the country.

In 2011 Gallup published its poll titled “For the First Time, Majority of Americans Favor Legal Gay Marriage.” The poll announced a nine-point increase in support of same-sex marriage from 2010 to 2011, as the country went from 44 percent to 53 percent in favor, and an eight-point decrease in opposition, from 53 percent to 45 percent. The significance of this measurement in this year, Gallup pollsters highlighted, was that support increased faster from 2010 to 2011 than it had in previous years.\(^{108}\) In May of 2012 President Obama also made an official announcement of his support for same-sex marriage. *USA Today* and Gallup conducted another poll to see how many Americans agreed with the president’s endorsement and found that 51 percent of Americans were in agreement, while 45 percent disagreed.\(^{109}\) NBC News and the *Wall Street Journal* also joined the polling frenzy and reported that 54 percent of Americans would support a law in their

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\(^{108}\) Nevertheless, Gallup reported that while support is increasing, the increase is not visible among Republicans or older Americans. The full Gallup poll with trend data graph can be accessed at [www.gallup.com/poll/147662/First-Time-Majority-Americans-Favor-Legal-Gay-Marriage.aspx](http://www.gallup.com/poll/147662/First-Time-Majority-Americans-Favor-Legal-Gay-Marriage.aspx).

state making same-sex marriage legal.\textsuperscript{110} As of March 2013, the \textit{Washington Post}–ABC News poll indicated that 58 percent of Americans support same-sex marriage, while 36 percent oppose it.\textsuperscript{111}

Since 2010 several states have also taken action on same-sex marriage and civil unions. In 2012 residents of Washington, Maine, and Maryland voted to legalize same-sex marriage, and Minnesota voted down a DOMA.\textsuperscript{112} In March of 2013 Colorado joined the eighteen states that had passed same-sex partner recognition laws by legalizing civil unions, while on May 14, 2013, Minnesota’s governor signed a same-sex marriage bill into law. To date, twelve states have legalized same-sex marriage: Connecticut, Delaware (effective July 1, 2013), District of Columbia, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New York, Rhode Island (effective August 1, 2013), Vermont, and Washington. Eight states support civil unions or broad domestic partnership laws: California, Colorado, Hawaii, Illinois, Nevada, New Jersey, Oregon, and Wisconsin.\textsuperscript{113} Wisconsin has a more limited domestic partnership law.\textsuperscript{114}


\textsuperscript{111} Trend data from 2004–2013 can be accessed at http://www.washingtonpost.com/blogs/the-fix/wp/2013/03/18/gay-marriage-support-hits-new-high-in-post-abc-poll/. In a similar poll conducted in March of 2013, CBS News maintained that 33 percent of Americans who now think same-sex couples should be allowed to legally marry once held the opposite view and have changed their opinion. See http://www.cbsnews.com/8301-250_162-57576249/poll-53-of-americans-support-same-sex-marriage/.

\textsuperscript{112} However, Washington State has no relationship-recognition law for same-sex couples. See http://www.hrc.org/resources/entry/maps-of-state-laws-policies.

\textsuperscript{113} See http://www.freedomtomarry.org/pages/where-state-laws-stand.

\textsuperscript{114} In June of 2013, Wisconsin’s Supreme Court said it will decide if the state’s same-sex domestic partnership law violates a constitutional amendment defining marriage as being between one man and one woman. See http://www.businessweek.com/news/2013-06-14/top-wisconsin-court-to-hear-domestic-partner-law-challenge-1.
Though many national organizations have looked to New Mexico to usher in change for the Southwest, it remains the only state without any legislation or ruling on marriage. But following in the footsteps of New York State, New Mexico recognizes out-of-state same-sex marriages as of 2011. On Thursday, April 25, 2013, Santa Fe, New Mexico, also passed a resolution that recognizes gay marriage and authorized the city’s county clerks to issue marriage licenses to same-sex couples. However, on Thursday, June 6, 2013, the New Mexico attorney general, Gary King, advised New Mexico county clerks to not issue marriage licenses to same-sex couples. While refusing to issue a formal opinion on same-sex marriage is legal in New Mexico, King stated that through the research conducted by his office he had determined that the state’s laws “may limit marriage to couples of the opposite sex,” but the law is vulnerable to a court challenge. The same day, two Santa Fe men filed a lawsuit with a state district court to order the Santa Fe county clerk to issue them a marriage license. This lawsuit followed an existing lawsuit that was filed in March 2013 by the ACLU of New Mexico and the National Center for Lesbian Rights on behalf of two lesbian couples who applied for and were denied marriage licenses by the Bernalillo county clerk.

The winds have been changing and seemingly in favor of same-sex marriages and families. With President Obama issuing his opinion on same-sex marriage, more


118 “The lawsuit claims that the New Mexico marriage statutes and the New Mexico Constitution do not bar same-sex couples from marrying, and therefore the state should issue civil marriage licenses to any same-sex couple who applies for one.” See http://www.dallasvoice.com/mexico-couples-sue-marriage-equality-10142671.html.
Democratic legislators have come out in support of same-sex relationship recognition, and more recently, some Republican opinions seem to be taking a turn as well. U.S. senator Mark Kirk, an Illinois Republican, and Ohio senator Rob Portman made headlines in March 2013 as they both declared their support for same-sex marriage. It is too soon to say if this is the beginning of a change in Republican opinion about marriage, but several other Republican legislators have also indicated a change in their “feelings” on same-sex relationships.\textsuperscript{119} However, we should remember that the fight for same-sex marriage is far from over. It may very well be in its nascent stages considering that thirty-eight states banned same-sex marriage between 1996 and 2013, and religious conservatives show no sign of changing their beliefs in marriage as a sacred heterosexual union.

The Supreme Court’s hearings on the federal DOMA and Proposition 8 are also telling of a change in the political and social climate surrounding same-sex marriage. The question the nation is left with is will the Supreme Court determine the direction of relationship recognition in the United States? On March 26 and 27, 2013, the U.S. Supreme Court heard two cases on California’s Proposition 8 and the federal DOMA. Proposition 8 was California’s ballot initiative that amended the state’s constitution in November of 2008. The measure added a new provision to California’s Constitution that stated “only marriage between a man and a woman is valid or recognized in California.” By restricting marriage to opposite-sex couples, the measure overturned California’s Supreme Court ruling that same-sex couples have a constitutional right to marry. The proposition, however, did not affect domestic partnerships in California, nor did it

invalidate same-sex marriages performed before November 5, 2008. In August of 2010, U.S. District Court judge Vaughn Walker overturned Proposition 8, ruling that it violated both the due process and equal protection clauses of the U.S. Constitution. The proposition’s proponents filed a petition for certiorari with the U.S. Supreme Court, requesting that the court review the case, which the court agreed to do. The Proposition 8 case, *Hollingsworth v. Perry*, was heard by the U.S. Supreme Court on March 26, 2013. During the hearing, the lawyer for the proponents of Proposition 8, Charles J. Cooper, “asked the court to defend the law stating that the court should respect the decision of California voters, who faced the ‘agonizingly difficult question’ of whether to protect traditional marriage after the state Supreme Court ruled that gay couples could wed.” Representing the two California same-sex couples in the case, Theodore B. Olson requested that the court overturn Proposition 8 and find that the Constitution bestows the right to marry on all citizens, including same-sex couples.

The Defense of Marriage Act (DOMA), the U.S. federal law that restricts federal marriage benefits and requires interstate marriage recognition only for opposite-sex couples, passed both houses of Congress by large majorities and was signed into law by President Bill Clinton on September 21, 1996. The Obama administration announced in 2011 that it had determined that section 3 of DOMA—which denies all federal benefits to same sex couples, including insurance benefits for government employees, Social Security survivors’ benefits, immigration benefits, and the filing of joint tax returns—to

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120 He issued an injunction against enforcing Proposition 8 and a stay to determine suspension of his ruling pending appeal. In February of 2012, a Ninth Circuit Court of Appeals panel affirmed Walker’s decision, declaring the Proposition 8 ban on same-sex marriage to be unconstitutional but continued the stay on the ruling, barring any marriages from taking place pending further appeals.

be unconstitutional. President Obama declared that the administration would continue to enforce the law, but he would no longer defend it in court.  

In March of 2012, “a federal appeals court ruled that the Defense of Marriage Act is unconstitutional because it denies equal rights for legally married same-sex couples.” While, it was a unanimous decision made by the U.S. Court of Appeals for the First Circuit in Boston, the court “did not address whether the Constitution provides gays and lesbians a fundamental right to marriage,” nor did it address a part of DOMA that says, “States do not have to recognize same-sex marriages performed elsewhere.” On March 27, 2013, the U.S. Supreme Court heard oral arguments on one of the federal DOMA cases, *United States v. Windsor*. The question before the court in this case was

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122 Section 3 of DOMA has been found unconstitutional in eight federal courts, including the First and Second Circuit Court of Appeals, on issues including bankruptcy, public employee benefits, estate taxes, and immigration. In response, the Republican leadership of the House of Representatives instructed the House General Counsel to defend the law in place of the Department of Justice (DOJ) and hired Paul D. Clement, who was solicitor general in the administration of George W. Bush, to defend the law in court. In June 2012 two former Republican attorneys general, Edwin Meese and John Ashcroft, called the DOJ’s decision not to defend DOMA section 3 “an unprecedented and ill-advised departure from over two centuries of Executive Branch practice” and “an extreme and unprecedented deviation from the historical norm.” On March 4, 2011, John Boehner, speaker of the U.S. House of Representatives, convened the Bipartisan Legal Advisory Group (BLAG) to consider whether the House of Representatives should defend DOMA section 3 in place of the DOJ, and on March 9 the committee voted 3–2 to do so. See http://www.metroweekly.com/poliglot/2012-06/former-ags-meese-ashcroft-call.html; http://www.npr.org/blogs/itsallpolitics/2011/03/04/134268656/boehner-house-will-defend-doma-courts-not-obama-should-decide; and http://voices.washingtonpost.com/2chambers/2011/03/house_to_defend_the_defense_of.html.


124 Ibid. Mary L. Bonauto, who argued the case for the group called the Gay and Lesbian Advocates and Defenders (GLAD), said the case presented only “the question of how the federal government treats people once they are married in their states.” GLAD lawyers stated, “We think this is a very solid decision to go before the Supreme Court.” See http://articles.washingtonpost.com/2012-05-31/politics/35456967_1_doma-case-defense-of-marriage-act-host-of-federal-benefits. The federal judges also agreed with Clement, who said that the Supreme Court should decide the matter of the federal DOMA. Circuit Judge Michael Boudin wrote that the case “couples issues of equal protection and federalism with the need to defer to Congress when it shows a rationale for passing a statute.” See http://articles.washingtonpost.com/2012-05-31/politics/35456967_1_doma-case-defense-of-marriage-act-host-of-federal-benefits.
whether or not Congress should withhold federal benefits from same-sex couples married in those states where it is legal.

The questions posed through the federal DOMA and Proposition 8 cases have become larger than anyone had anticipated. The national climate has changed so that the issue of same-sex marriage is being increasingly discussed as a serious matter of civil rights. Olson, the lawyer arguing against Proposition 8, stated that the measure “walls off the institution of marriage, which society does not have a right to do.” The right to marry, he said, “is an individual right, which this court again and again and again has said . . . is a personal right. It’s a part of the right of privacy, association, liberty, and the pursuit of happiness.”125

Justice Roberts, however, disputed the notion that Proposition 8 excludes same-sex couples, since historically the definition of marriage never included same-sex couples. Justice Antonin Scalia also chimed in, demanding to know when same-sex marriage became constitutional. But the supporters of Proposition 8 did not have an easier time with their arguments. Charles Cooper, the lawyer defending the California ban, maintained that “same-sex couples and opposite-sex couples are simply not similarly situated” and that it is reasonable to believe that over time, the institution of marriage itself would be harmed if marriage were redefined as a “genderless institution.”126 When asked by Justice Elena Kagan what exactly the harm would be to the institution of marriage or to opposite-sex couples, Cooper answered that “the correct question is whether or not redefining marriage to include same-sex couples would advance the

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126 Ibid.
interests of marriage?” His answer received attention from Justice Kennedy, who is seen as the swing vote but is also perceived as reticent to have these issues before the court. Kennedy stated, “The problem with the case is that you’re really asking . . . for us to go into uncharted waters, and you can play with that metaphor: There’s a wonderful destination, it is a cliff.” He added, “We have five years of information to weigh against 2,000 years of history or more.” On the other hand, he stated, “There are some 40,000 children in California that live with same-sex parents, and they want their parents to have full recognition and full status. The voice of those children is important in this case, don’t you think?”

Trying to establish marriage as a procreative union, Cooper stated that if the court rejected the traditional procreative aspect of culture, there would be a shift away from raising children to the emotional needs of adults. In response to this statement, Justice Kagan retorted that it would then be constitutional to ban marriage licenses for those over fifty-five years of age. Unable to dodge the question, Cooper contended that one partner within the union would likely remain fertile. Kagan’s response, reported as “tinged with sarcasm,” yielded a burst of laughter from the courtroom. “I can just assure you,” Justice Kagan was quoted as saying, “if both the woman and the man are over the age of 55, there are not a lot of children coming out of that marriage.”

The responses from the Supreme Court justices have prompted much debate about how they will rule. Journalists and legal commentators alike maintain that the justices are

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127 See http://articles.washingtonpost.com/2013-03-26/politics/38020525_1_gay-couples-marriage-case-marriage-act. Why 2,000 years is unclear.


129 Ibid.
being presented with an issue that is more than about determining the constitutionality of same-sex marriage bans. Charles Fried, a Harvard Law School professor and former solicitor general of President Ronald Reagan, stated in a *Bloomberg* interview, “There was a genuine concern about going too far, too fast. I sensed a genuine regret that the court had this case before it now.”

Several justices expressed concern that by stepping in and answering the marriage question for all fifty states, the court would be halting each state’s democratic process of debating same-sex marriage. “I just wonder if the case was properly granted,” commented Justice Anthony M. Kennedy, a concern echoed by Justice Sonia Sotomayor. She asked, “If the issue is letting the states experiment and letting the society have more time to figure out its direction, why is taking a case now the answer?” The justices indicated in their questioning and comments that there would be no attractive middle ground on the question before them. It seems the decision would have to be all or nothing. This all or nothing dilemma has spurred controversy and thoughts on previous court decisions. *Roe v. Wade* was referenced in briefs from opponents which, as Adam Liptak of the *New York Times* put it, were “studded with references to the aftermath of the abortion decision and to Justice Ginsburg’s critiques of it. They say the lesson from

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131 See http://www.nytimes.com/2013/03/27/us/supreme-court-same-sex-marriage-case.html?pagewanted=all&pagewanted=print. According to Lambda Legal’s Camilla Taylor, this quote from Justice Sotomayor was misunderstood when read off the transcript. Her intonation in the hearing indicated that she was saying that in the past courts took too long to hear cases of discrimination. See http://www.lambdalegal.org/blog/teleconference-prop-8-and-doma-at-scotus.
the Roe decision is that states should be allowed to work out delicate matters like abortion and same-sex marriage for themselves.”  

The lesson, John Eastman, chairman of the National Organization for Marriage, writes, is that the justices should consider that “when you are moving beyond the clear command of the Constitution, you should be very hesitant about shutting down a political debate.” Justice Ruth Bader Ginsburg had at one point commented that she harbored doubts about the ruling on Roe v. Wade and believes the Supreme Court should have struck down only the restrictive Texas abortion law and left the broader question for another day. This consideration is being put before the Supreme Court justices today. In the case of Proposition 8, should “the court could uphold the ban; reject it on grounds that apply only to California or only to eight states; or establish a nationwide right to marriage equality. Or the court could say it is powerless to render a decision on the merits.”

Linda Greenhouse and Reva B. Siegle, professors of law at Yale, in a recent UCLA Law Review publication recently argued that “the Roe-centered backlash narrative . . . is a trump card in many discussions of the marriage cases.” Before Roe, “despite broad popular support, liberalization of abortion law had all but come to a halt in the face of concerted opposition by a Catholic-led minority. It was, in other words, decidedly not the case that abortion reform was on an inevitable march forward if only the Supreme

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133 Ibid.

134 Ibid.
Court had stayed its hand . . . political realignment better explains the timing and shape of political polarization around abortion than does a court-centered story of backlash.”  

Silence from the Supreme Court on same-sex marriage, others maintain, is irresponsible, even if the belief is that judicial intervention will damage both democratic processes and the judiciary itself. Referencing other civil rights cases that had been brought before the court, such as Brown v. Board of Education, a Harvard law professor and Bloomberg commentator argued: “Suppose the court had been able to anticipate the terrible storm of protest that followed its 1954 decision in Brown v. Board of Education, forbidding racial segregation in education. Should the justices have struggled to find a way not to decide the case? If the court opts for silence whenever it fears an intensely negative public reaction, it will vindicate the Constitution only in the easiest cases, when the public already agrees with it. If so, what would happen to the Constitution’s role as a safeguard against the will of political majorities?”

Far from being concluded, the same-sex marriage debate continues to provoke thinking about the relationship between rights and freedom and the place of gay and lesbian subjects within the institution of marriage, within law, and ultimately within society. The debate continues to reveal how the boundaries of the political and social economies of marriage and the family are policed and how they connect to the racial and masculine foundations of the American society.

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135 Ibid.

APPENDIX A: EQUALITY NEW MEXICO DOMA, HOUSE BILL 603, AND HOUSE BILL 9 FLYERS
DOMA DISCRIMINATES VOTE “NO” ON ALL FORMS OF DOMA LEGISLATION

• DOMA is a distraction from the issues that need to be addressed by the legislature. Those pushing these laws are doing so for political purposes. New Mexicans want legislators to focus on real issues like education, health care, and transportation. This amendment represents divisive politics at its worst; we should not let proponents use this issue as a partisan tool.

• DOMA does not protect any families or marriages. These laws would provide no benefit to families headed by different-sex married couples, while it would significantly harm families headed by same-sex couples. No proponent of DOMA has ever explained how any family gains anything by denying other families legal protections.

• In the United States, Americans have been less inclined to marry over the last few decades. The number of people entering marriage has declined 50% since 1970 while cohabitation rates have increased. Divorce rates have doubled since 1960 with nearly 40-50% of heterosexual marriages ending in divorce. Studies have shown that the lack of affordable health care and child care, long hours at work without adequate pay, and other economic factors contribute to the kind of stress that can lead to divorce. Same-sex couples and families are not one of the many challenges facing marriage in America.

• GLBT New Mexicans will continue to form family bonds and have children and these families need legal protection. The question is not whether there will be same-sex couples but whether their families and their children deserve the same rights and privileges granted to the rest of society. Indeed, children being raised by same-sex couples would be major beneficiaries of marriage equality, because legal marriage would have the effect of protecting the rights of the family as a whole. It is often difficult for children of same-sex couples to establish a legal relationship with one of their parents, which creates physical and financial risks for the child. For example, one parent may not be able to authorize medical treatment in an emergency; a child may not be able to get child support from the non-legal parent in the event of a separation, and social security benefits are not available to a non-legal parent. Children are harmed when their parents are prevented from marrying or having other legal protection.

• **This conversation is in its infancy – public debate should be allowed to continue.** The issue of how to protect same-sex couples and their families is relatively new—one not debated publicly by earlier generations. There is evidence that the public is growing more accepting of GLBT people and is changing its views on how to protect GLBT families. The conversation about how to protect GLBT families should not be shut down prematurely by permanently enshrining today’s views for tomorrow’s generations.

• **Marriage is an institution that changes with society.** Less than four decades ago, laws banning interracial marriages were still on the books in many states. At the time the US Supreme Court struck down anti-miscegenation laws, a Gallup poll found that 72% of Americans believed that interracial marriage was still wrong and that 48% believed it should be a punishable crime. We cannot allow current public opinion to enshrine discrimination in New Mexico’s Constitution or Statutes.

• **New Mexico’s Constitution was written to guarantee equal treatment for all people and is not designed to take rights away from people.** Neither the U.S. nor the New Mexico Constitution has ever been amended to mandate discrimination. Appealing to voters to impose inequality in the constitution is exactly the sort of abuse of democracy that constitutions were intended to prevent.

• **Minority rights should never be decided by a popular vote.** There are many hotly contested issues in our public sphere – from gambling to gun control – that the public might wish to debate. But asking voters whether or not to mandate discrimination against a minority is exactly the wrong type of issue for a popular vote. The civil and human rights of a minority should never be decided by a majority vote.
Support HB 603 —Domestic Partner Rights & Responsibilities Act
Sponsored by Representative Mimi Stewart

- Right now, unmarried couples have no legal recognition for their relationships under NM law. This creates many hardships for gay, lesbian, and heterosexual unmarried couples and families.

- No matter how much money unmarried couples spend on legal agreements like wills and powers of attorney to protect each other and their children, they cannot duplicate many of the rights and protections that NM offers to couples who can marry.

- HB 603 is not marriage, but it goes a long way to protect children and families from unnecessary hardship.

HB 603 in brief:

- HB 603 creates a system of Domestic Partnerships for any two unmarried adults, gay or not gay. This could include senior citizens or disabled people who cannot get married to each other because one or the other would lose their social security or other benefits.

- A domestic partnership is not a marriage and a domestic partner is not a spouse.

- Domestic Partnership confers all of the NM state (no federal) rights, benefits, protections, responsibilities and obligations of New Mexico civil marriage in the areas of...
  - Death & Inheritance
  - Insurance benefits
  - Health care decision-making
  - Family Relationship
  - Dissolution of a Domestic Partnership

- People wishing to become Domestic Partners will go to any County Clerk and register a domestic partnership
  - Parties must live together or be planning to live together after creating domestic partnership
  - Be over 18
  - Capable of consent
  - Not married to anyone else and not related by blood
  - Pay $25
HB 603: Domestic Partners would have the following rights and responsibilities: (None of these rights or responsibilities flow automatically to gay, lesbian or unmarried heterosexual families at the present time.)

**Health & Insurance:**
- To be eligible to receive health insurance benefits through a partner's employer.
- To take family medical leave to care for a partner, a partner's child or a partner's ailing parent.
- To retain health benefits upon the retirement or death of a domestic partner who was a state employee.
- To continue health insurance coverage after the death of a domestic partner or dissolution of the relationship.

**Family Relationship:**
- To receive the presumption of parentage for all children born or adopted during the domestic partnership.
- *To be obligated to support each other.*
- To have equal right to manage and control property owned together.
- To retain a family home and additional assets while still allowing the disabled partner to qualify for Medicaid Benefits.

**Death & Inheritance:**
- To have decision-making authority for the disposition of a partner's remains and funeral arrangements.
- To inherit from a partner without a will.
- To inherit a small homestead without going through probate court, which can save the surviving partner thousands of dollars in legal expenses.
- To be automatically designated the personal representative of a domestic partner's estate (instead of the decedent's children or parents) if he or she died without a will.
- To receive full community property share of either partner's employee pension, including all survivor and death benefits.
- To receive educational scholarships and survivor annuities upon the death of a partner who was a peace officer or firefighter.

**Dissolution of a Domestic Partnership:**
- To access the family court system for an orderly dissolution.
- To receive community property rights and obligations, allowing for a property division after separation that recognizes the contributions of both partners to the household.
- To be assured of financial support and health insurance during a separation.
- To make both parents responsible for financial support for the children.
- To have courts resolve custody and visitation disputes between both parents based on the children's best interests.
It's About Fairness
Domestic Partnership legislation will provide basic health security and legal protection to committed couples and their families. The bill protects same-sex couples unable to marry, as well as straight couples – many of whom are senior citizens and people with disabilities – that choose not to marry for financial and other reasons. In a state that has the highest uninsured rates in the country, Domestic Partnership legislation will create access to quality, affordable health care for many New Mexicans.

Let's see what specific protections the bill provides:

Health Care and Medical Emergencies

- **Domestic partner health insurance.** Companies that provide health insurance to employees would have to offer coverage to domestic partners and their children. State and most public employees could extend coverage to their partners and children after they retire and continue those benefits after they die.

- **Medical decision making.** Registered domestic partners would have the right to visit one another in the hospital and to make medical decisions for one another if their partner becomes mentally or physically incapacitated.

- **Disability benefits.** A registered domestic partner could file claims for state disability benefits on behalf of a partner who is eligible for benefits but too incapacitated to file claims.

- **Nursing home rights.** Senior registered domestic partners could live together in nursing homes and gain legal protection from being forced to sell their homes to pay high nursing home bills.

Employment Benefits

- **Right to care for a partner with sick or paid leave.** Any employer that has a policy permitting employees to use sick or paid leave to care for spouses and children would have to extend the same benefits to domestic partnership couples.

- **Unemployment insurance.** If a registered domestic partner must quit his or her job and relocate to accommodate his or her partner's job, he or she would be eligible to collect New Mexico unemployment benefits on the same basis as a spouse who relocates under the same circumstances.

Parenting

- **Adoption.** Adoption procedures used by spousal stepparents would apply to domestic partners. These procedures would enable one partner to adopt the other partner's child or children, so that both partners have a legally protected relationship to the couple's child or children.

(Continued on Next Page)
Domestic Partner Rights & Responsibilities Act
Support House Bill 9

Protections upon Death of a Partner

- **Right to inherit.** A surviving registered domestic partner would have the same priority as a surviving spouse to inherit a specified share of a partner's separate property if the partner dies without a will.

- **Administration of personal estates.** A registered domestic partner would have the same priority as a spouse in being appointed to be the administrator of a partner's estate after his or her death.

- **Wills and trusts.** Registered domestic partners would be included in the exceptions to the law that prohibit making a transfer through a will or trust to the person who drafted the will or trust.

Housing and Estate Protections

- **Legal and financial decision making.** If a registered domestic partner becomes incapacitated and needs a court-appointed conservator to handle his or her finances and other personal matters, his or her partner would be given the same priority in being named the conservator as a spouse. The partner also would have the right to object to the appointment of a conservator.

Support the Domestic Partner Rights & Responsibilities Act

*It's About Fairness*

Even if they are emotionally and financially committed to one another, unmarried partners have little more legal security to their relationships than roommates. Denying gay men, lesbians, seniors, and people with disabilities in committed relationships the same legal protections as married couples deprives thousands of families of the most important attributes of their labor – the ability to take care of and provide for their family members.

Support House Bill 9

The following organizations are standing in support of the Domestic Partner Rights & Responsibilities Act:

- American Civil Liberties Union
- The ARC of NM
- Children, Youth and Families Department (CYFD)
- Disability Coalition
- Equality New Mexico
- Family Law Section of the State Bar
- Gray Panthers
- New Mexico Voices for Children
- Pro Family Pediatricians
- Human Rights Commission
- YWCA of Albuquerque

Learn More

- **ACLU of New Mexico** [http://aclu-nm.org](http://aclu-nm.org)
- **National ACLU LGBT Project** [http://aclu.org/lgbt](http://aclu.org/lgbt)
- **10 Couples** [http://www.10couples.org](http://www.10couples.org)
- **Get Equal!** [http://www.aclu.org/getequal](http://www.aclu.org/getequal)
- **Equality New Mexico** [http://eqnm.org/](http://eqnm.org/)

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The mission of the **American Civil Liberties Union (ACLU) of New Mexico** is to maintain and advance the cause of civil liberties within the state of New Mexico, with particular emphasis on the freedom of religion, speech, press, association, and assemblage, and the rights to vote, due process of law and equal protection of law, and to take any legitimate action in the furtherance and defense of such purposes. These objectives shall be sought wholly without political partisanship.

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**Legislative Priorities**

American Civil Liberties Union of New Mexico
aclu-nm.org • PO BOX 568 • Albuquerque, NM 87103 • Tel: (505) 266-5915 • Fax: (505) 266-5916
APPENDIX B: LAKE RESEARCH PARTNERS NEW MEXICO STATEWIDE POLLING RESULTS 2007
A new Lake Research Partners’ survey of likely voters in New Mexico reveals significant voter support for domestic partnerships between unmarried but committed couples – including gay and lesbian couples. Importantly, voter support for domestic partnerships is rooted in the widespread agreement that gay and lesbian couples deserve the same legal protections as other people.

- **Voters’ strong support for domestic partnerships is anchored in their belief that gay and lesbian couples deserve the same legal protections as other people.** Nearly 70% of New Mexico voters, including both Hispanic and Anglo voters, agree with this sentiment. Notably, nearly half of all voters (46%) completely agree with that statement. Agreement that gay and lesbian couples deserve the same legal protection as other people does not drop below majority support among any demographic group.

- **Voters across the political spectrum support legal recognition for gay and lesbian couples.** All together, 62% of voters support some form of legal recognition for gay or lesbian couples, including 23% who support full marriage rights and another 12% who support full marriage rights but do not want to call it “marriage,” as well as 26% who support “domestic partnerships or some other legal rights that would give...many of the benefits and protections of marriage.” Only a third oppose any legal recognition for gay and lesbian couples (32%). Sixty-two percent of both men and women support some form of legal recognition, as do seven in ten voters (71%) under age 50 and more than half of voters over age 50 (56%). Half of Republicans (51%), two-thirds of Democrats (66%), and seven in ten independents support some recognition (70%). Finally, 62% of Anglos and 61% of Hispanics support legally recognizing gay and lesbian couples.

- **The proposed law extends its reach beyond gay and lesbian couples and seeks to include all unmarried couples under domestic partnerships – a notion more than half of voters support.** A majority of New Mexico voters (52%) favor allowing all “unmarried couples – including gay and lesbian couples” to enter into legally recognized domestic partnerships. Fifty-three percent of likely voters want their legislator to vote for the potential proposal, including 54% of Anglos and 51% of Hispanics.

Overall, our data indicate that voters support legal recognition for unmarried couples, including gay and lesbian couples, both in terms of their own personal decision and specifically when it comes to state policy. They want their state legislators to vote in favor of domestic partnerships.

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1 *Methodology:* Lake Research Partners designed and administered this survey, which was conducted by phone using professional interviewers. The survey was conducted among 600 registered voters in New Mexico who are likely to vote in the 2008 General Election. The survey was conducted November 11-14, 2007. The margin of error for the full sample is +/-4.0 percentage points.

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APPENDIX C: EQUALITY NEW MEXICO “EQUALITY TOUR” SAMPLE PACKET
EQNM's 2007-2008 Campaign: The New Mexico Equality Tour!

During the 2007 legislative session, we identified 12 senators who either, voted against us, were on the fence about domestic partnership and family rights, or need the support of their constituents to be strengthened in their districts to continue to serve as our allies. To strengthen our success for the Domestic Partnership bill in the 2008 legislative session will help supporting senators maintain their constituent base and work to sway at least one of the senators who voted against the Domestic Partnership bill in 2007. Below is a list of Senators and cities we have targeted for our Equality Tour.

**Senators’ Support Strengthening**
Pete Campos (D-Las Vegas)
Phil Griego (D-Las Vegas)
Lynda Lovejoy (D-Crown Point)
Ben Altamirano (D—Silver City)
Michael Sanchez (D-Los Lunas/Belen)
David Ullbarri (D-Grants)

**Senators to Sway**
Carlos Cisneros (D-Taos)
Lidio Rainaldi (D-Gallup)
John Arthur Smith (D-Deming)
John Ryan (R-Albuquerque)
Timothy Jennings (D-Roswell)
Clinton Harden (R—Clovis/Portales)

**The Equality Tour**
EQNM Staff will travel to each district to

- Conduct voter identification through canvassing and phone banking to find individuals supportive of LGBT family recognition willing to call or lobby their legislators during the 2008 short session.

  ➢ We will be partnering with America Votes for voter identification and with local leaders and organizations for broad-community education.

- Organize the LGBT communities and allies in the target districts

  ➢ With the help of contacts in these areas, and the organizations RAIN (Religious Alliance for inclusion and Non-discrimination), and ACLU (American Civil Liberties Union) we will hold town halls and interfaith meetings.
We will also participate in city fairs and fiestas, in Pride Events, and in other local functions to garner general support and visibility.

- Conduct trainings and workshops:
  - ***Legislative Training***: Learn how the New Mexico legislative process works and how to effectively educate legislators.
  - ***Legal Workshops***: "So You Want To Get Married" and "So You Want To Have A Baby" EQNM’s team of volunteer lawyers are touring the state to inform/update LGBT families about current New Mexico law and how to use the law to protect their future with their loved ones.
  - ***Media Trainings***: Join EQNM and GLAAD for a training on ways to approach the media and receive fair and inclusive representation of LGBT issues.

- Carry out a **Endorsement Plan**
  - With the help of ACLU and NCLR we are creating a comprehensive list of statewide stakeholders with political clout. These may be politicians, lawyers, justices, or business people.
  - We will conduct an outreach program to educate these stakeholders on the issue of Domestic Partnership and gain their endorsements to use during the legislative session to exert pressure on Senate members.

- ***Media Campaign***: EQNM is in the process of developing a media plan to effectively message the strength and diversity of domestic partnerships for all New Mexicans.
  - We are collaborating with the ACLU, NCLR, and the Gill Foundation to get the resources needed to positively interact with the public through the media including television, print, radio, and internet.
  - We want to hold meetings with editorial boards around the state; create press events with key stakeholders; develop a “letters to the Editor” campaign; organize Talk Radio call-in; and organize Blog Postings and Chat Rooms.

**2008 Elections**

- ***The Equality Tour*** helps EQNM in the 2008 election cycle.
  - We need to concentrate on removing senators and representatives who have been hostile towards the LGBT community and, in their place, help elect legislators who will support our causes.

**A Look Ahead: 2009**

- Even after the passage of the Domestic Partnership bill we will continue to educate on the issue of marriage equality.

- In 2009 EQNM will also dedicate programs to LGBT youth that deal with violence and discrimination in New Mexico schools and in rural communities.
  - Together with other organizations like the Santa Fe Mountain Center, EQNM wants to forward anti-bullying legislation in 2009 that includes gender and sexual identity.
Accomplishments 2007

Equality New Mexico at the Legislature 2007
The Domestic Partnership Rights and Responsibilities Act was the star focus of the 2007 legislature. We worked hard and smart, and slept very little throughout the 60-day session. So, why aren’t we crying over the loss of the Domestic Partnership Bill?

Because in 2007

- We defeated three independent DOMAs (Defense of Marriage Acts), one of which was a proposed constitutional amendment; and we defeated an attempt to attach a DOMA to our DP Bill.
- We strengthened our support and visibility by
  - Keeping our supporters connected through daily e-blasts.
  - Packing every committee hearing and outnumbering our opponents by at least 3:1 each time.
  - Mobilizing over 85 LGBT New Mexicans on lobby day to demand equal rights their legislators.
- We gained new allies among the legislators.
  - A noteworthy mention is Las Cruces Senator Mary Kay Papen who, for the first time, voted against DOMA (Defense of Marriage Act).
- In 2005 a far less comprehensive Domestic Partnership bill passed out of only one Senate Committee. In 2007 a comprehensive Domestic Partnership bill passed through the entire House three times, and through two Senate Committees before it died on the Senate Floor by 1 vote.
  - We were close. But, this is not the end! The Domestic Partnership bill is on the Governor’s agenda for the 30-day special session in 2008. We will be there in full force! However, there is a great deal of work ahead and we need you with us.

The Equality Federation Meetings
This year Equality New Mexico won the bid to be the host for the annual Equality Federation meetings, which brings in members from Equality organizations around the country to work on our plans to secure LGBT equality in our respective states. This means more national visibility for Equality New Mexico and stronger networks with sister organizations.
Activities: Keeping in Touch With Our Supporters

The Second Annual Equality Ball
In 2007 we doubled the number of guests to the Annual Equality Ball. In 2006 we had 185 guests and in 2007 we were hosts to 400 guests.

New Mexico has Pride
Equality New Mexico staff and volunteers gathered 3000 signed legislative cards at the Albuquerque, Santa Fe, and Southern New Mexico Pride events.

➢ These cards will be sent to legislators during the 2008 session in support of the Domestic Partnership Bill and in 2009 to support of anti-bullying legislation that includes sexual orientation and gender identity.

Keeping In Touch With Equality New Mexico Supporters
In January 2007 Equality New Mexico launched a new user friendly website from where community members can learn what we are currently working on, track what is happening in the legislature, contact their representatives, and assist Equality New Mexico with our lobbying efforts.

Check out our 2007-2008 Plan to win equality for all New Mexicans.
Find out how you can help make it happen.
Equality New Mexico is working tirelessly to ensure that all LGBT individuals and families in New Mexico receive fair and equal treatment under the law. **We need your generous contribution today to keep Equality New Mexico on the forefront of the fight for fairness.** In June 2007 we launched **The Equality Tour**, our strategic plan to strengthen the success of the Domestic Partnership bill in 2008.

**We want to travel to 12 districts across New Mexico where our opposition is stronger to**

- **Identify voter allies** willing to testify and talk to legislators during the 2008 legislative session.
- **Organize LGBT communities and allies** to discuss their concerns about their families’ protections and future, which we will incorporate in our plan of action.
- **Conduct legal and media trainings** to inform community members about family rights and legislation.
- **Mobilize LGBT and ally voters** for the 2008 legislative session and the 2008 election cycle so we can replace legislators hostile towards the LGBT community with legislators who will support our causes.
- **Prepare LGBT communities and allies** for our **LGBT youth anti-bullying campaign** to start in 2009.

**The Domestic Partnership Bill died in 2007 because of ONE vote. Join Equality New Mexico in turning that vote around to win Domestic Partner Rights for all New Mexicans in 2008. Become an Equality New Mexico key contributor today.**

**Impact the lives of New Mexicans. Join the Equality New Mexico Round House Club and assure that the work for LGBT equality will press on for years to come.**

When you become a Round House Club member you

1. Enjoy various benefits and recognition that come with being a major supporter of Equality New Mexico’s work.
2. Become part of educating New Mexicans about issues that affect LGBT communities.
3. Become the vehicle for creating social and legal changes in our great state.
4. Ensure that all families receive fair treatment in New Mexico.
5. Ensure that LGBT youth are legally protected and have safe venues to explore their identities and develop into healthy and confident adults.
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