

# Marriage equality & intersectionality

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## Abstract

The goal of this study is to understand the extent to which a diverse group of sexual and gender minorities understood the landmark Supreme Court ruling in favor of marriage equality as personally impacting them. Prominent lesbian, gay, bisexual, transgender, and queer (LGBTQ) figures have argued that marriage is an oppressive institution and that legalizing same-sex marriage would not benefit the most marginalized members of the community, particularly Black people. Until now, there have been few resources for comparing these claims of scholars and activists with those of members of the communities they claim to represent. Guided by Critical Race Theory and intersectionality, this study centered LGBTQ people of color's lived experiences. A purposive sample of 99 LGBTQ people in Chicago, New York City, and San Francisco were asked whether and how the Supreme Court's decision in *Obergefell v. Hodges* (2015) personally impacted them. Most participants described an emotional impact. Relatively few criticized marriages as "heteronormative" or unfit for LGBTQ people. Black participants were less likely than participants of other races to criticize marriage as an institution. Moreover, Black and Latinx participants articulated a more expansive, equality-focused understanding of the right to marry than the Court itself articulated. They described the marriage decision as

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carrying the potential to empower and elevate their identities in various contexts. For these people, the marriage equality movement was centrally about equality rather than marriage.

## INTRODUCTION

In 2015, the US Supreme Court ruled that same-sex couples have a fundamental right to marry (*Obergefell v. Hodges* (2015)). Although the Court held that the state laws before it violated the Due Process and Equal Protection Clauses of the 14th Amendment, it wrote much more about the importance of marriage than principles of equal treatment. Moreover, the marriage equality movement selected affluent White people as the face of the community (Godsoe, 2015), and all the plaintiffs discussed by the Court were White gays or lesbians (Robinson & Frost, 2018c). Most of the media coverage of the case similarly featured White cisgender people, played up the rhetoric about the importance of marriage, and said less about equality (Liptak, 2015).

For decades activists and scholars have debated whether a legal right to same-sex marriage would benefit sexual and gender minorities broadly or only the most privileged members of the community (Ettelbrick, 1989). The current study bridges legal and marriage and family scholarship to better understand the impact of marriage policy change on lived experiences among marginalized communities. The study uses Critical Race Theory and intersectionality to produce a robust examination of how participants, especially LGBTQ people of color, understood the relationship between the right to marry and racial and sexual orientation equality more generally. Much research on same-sex marriage has relied on overwhelmingly White samples (Lannutti, 2005), and as noted by a recent review in the *Journal of Marriage and Family*, many scholars writing in this area fail to consider race or do so superficially (Reczek, 2020). By contrast, this study centers on LGBTQ people of color and those of various relationship statuses (single, married, partnered, or dating).

A prominent and vocal group of critics has assailed same-sex marriage and the marriage equality movement on multiple fronts. Lesbian feminists have claimed that marriage is a “patriarchal system that looks to ownership, property, and dominance of men over women as its basis.” (Ettelbrick, 1989). Queer theorists have opposed same-sex marriage as an attempt to “domesticate” non-normative sexual practices, such as public sex (Franke, 2004; Warner, 1999). Some such scholars and activists argue that the rights and benefits of marriage should extend to numerous sexual and relational arrangements (Duggan, 2008). Many scholars and activists blend concerns about gender, sexuality, and government power, denouncing marriage as “a technology of social control” that “puts a stamp of ‘equality’ on systems that remain brutally harmful, because a few more privileged people will get something from the change.” (Spade & Willse, 2013). Relatedly, some scholars have warned that historically government has used marriage to regulate the sexuality of Black people (Franke, 2015).

Contemporary Black voices have also resisted the campaign for same-sex marriage. The force of two of these critiques is evident from their titles: *Is Gay Marriage Anti Black???* and *Is Gay Marriage Racist?* (Bailey et al., 2008; Farrow, 2007). According to some advocates, the marriage equality movement is “led by White, middle-class gays and lesbians who would largely benefit from same-sex marriage... [Black queer people] are not the ones who stand to gain anything” (Bailey et al., 2008; Cannick, 2008). Kenyon Farrow argues that “gay marriage, in and of itself,

is not a move towards real, and systemic liberation. It does not address my most critical need as a black gay man to be able to walk down the streets of my community with my lover, spouse or trick, and not be subjected to ridicule, assault or even murder.” Angela P. Harris worries that same-sex marriage may simply “pave a path that takes us from Stonewall to the suburbs,” while sidestepping the structural economic issues that lock in the subordination of most Black people (Harris, 2006).

Another body of work, including some of our own, critiques the racial politics of the marriage equality movement, rather than same-sex marriage itself (Robinson & Frost, 2018b). From this perspective, “[m]arriage equality is a deeply important step toward eliminating discriminatory social policies and structural stigma in LGBT lives.” (Robinson & Frost, 2018b). Yet some decision-makers in the movement unnecessarily framed their arguments in divisive terms, such as arguing that “gay is the new Black”—thus erasing people with the intersectional identity of gay *and* Black (Robinson, 2014). Moreover, we have argued that the movement generally failed to demonstrate how the question of access to marriage relates to broader questions of structural inequality for sexual and gender minorities. (Robinson & Frost, 2018b).

In general, there have been few resources for comparing racial critiques by scholars and activists with the views of the lay people in the communities that they claim to represent. The most notable survey of LGBTQ Americans’ views on same-sex marriage was released in 2013 (Pew Research Center, 2013). It found that 93% of respondents supported legalizing same-sex marriage and did not discuss any racial differences in opinions on marriage.

A General Social Survey asked LGB respondents from 2004 to 2012 if “homosexual couples should have the right to marry one another” and found a significant racial gap in support (Hunter, 2013). Both African-American and “non-White” LGBs were less likely to support same-sex marriage. For instance, in 2012, about 51% of White people supported the right, while only 41% of African-Americans did (Hunter, 2013). Some evidence suggests that greater religiosity among African-Americans may be a significant factor in producing less support (Pew Research Center, 2013). But surveys such as this do not provide qualitative evidence of the particular reasons why LGBTQ people embrace or reject same-sex marriage or have more conflicted or nuanced reactions. Further, the data for prior studies were collected before the Court ruled in favor of same-sex marriage in 2013 and again in 2015. Our study appears to be the first to gauge the reactions of LGBTQ participants in the wake of the Court’s groundbreaking decision in *Obergefell*.

This study calls for grounding the understanding of the significance of marriage equality in the narratives of everyday people who grapple with various forms of discrimination. Intersectionality explores how systems of subordination (such as racism and patriarchy) overlap to produce distinct forms of vulnerability (Bowleg, 2008; Crenshaw, 1989). Crenshaw invited the reader to imagine marginalized communities as a throng of people trapped in a basement. These people are organized so that people with a single source of vulnerability (say, a White cisgender gay man) are at the top and those with multiple sources of vulnerability (say, a poor, Black, transgender, queer woman) are stuck at the bottom. Legal reform, per this metaphor, may resemble the temporary opening of an escape hatch at the top of the basement. Those with a sole source of disadvantage are well-positioned to wriggle through the hatch. But most people in the basement will remain trapped and experience little meaningful change in their wellbeing.

Critical race scholars have argued that “those who have experienced discrimination speak with a special voice to which we should listen” (Carbado, 2002; Matsuda, 1987). By “looking to the bottom” of society, we can learn from lived experiences beyond our own. Although some of this scholarship did not fully explore the intersectionality of marginalized voices (Matsuda, 1987), this bottom-up approach dovetails with Crenshaw’s concern about those trapped in the basement while their more-privileged peers crawl through the escape hatch. The hope is that by “looking

to the bottom” of a marginalized group—in all its diversity, contestation, and complexity—we can learn new insight that may have escaped those who reside at the top. Although attending to the lived experiences of people impacted by a policy is important, it reveals only part of the broader picture as to the social impact of marriage equality. Our participants described their personal experiences in a specific, temporal moment, but could not fully address the question as to whether marriage equality, as a general matter, would ultimately facilitate assimilation of a subset of LGBTQ people into the mainstream or have a more transformative impact on society and the LGBTQ community.

This study supplements the longstanding controversy over same-sex marriage by focusing on the lived experiences of 99 LGBTQ people in the Chicago, New York City, and San Francisco-East Bay metropolitan areas who discussed what the Supreme Court’s decision in *Obergefell* meant to them and their life possibilities. Narrative psychology teaches that people make meaning of their lived experiences by creating, telling, and retelling stories (Bruner, 1991; Josselson et al., 2007). Moreover, scientific evidence revealing how ordinary people describe the impact of policies may inform social justice movements and legal reform. This stream in narrative psychology is compatible with legal scholarship in Critical Race Theory (Robinson, 2008; Williams, 1987) and Feminist Theory (Abrams, 1991) that deploy personal narrative as a methodology for illuminating discrimination. The research question was: How do racially diverse sexual and gender minority individuals perceive the Supreme Court’s marriage decision’s personal impact on their lives and relationships?

## METHOD

Our data come from the *LGBT Relationships Study*, a qualitative study that began interviewing LGBTQ people a few months after the Court decided *Obergefell* in June 2015 and completed interviews in summer 2019.<sup>1</sup>

## Recruitment

Sexual and gender minorities represent a “hidden population,” and studying them raises distinct challenges (Meyer & Wilson, 2009). This problem is magnified if one is committed to including a substantial number of LGBTQ people of color, who constitute a minority within a minority group. This study is exceptional in placing people of color at the center, while also including White participants. Most leading empirical studies (like marriage equality litigators) focus on “same-sex relationships” and do not seek to include transgender and non-binary people. Our quota sampling design oversampled these populations, and most of the transgender and non-binary participants are people of color. Given the intersectional objective of our study, we set a larger than normal sample size. Our aim was to achieve a critical mass of multiple subgroups based on intersections of race, sexual orientation, and gender identity and increase our ability to achieve saturation of themes (Vasileiou et al., 2018).

Our study obtained participants from a wide range of venues associated with LGBTQ populations in three major cities, Chicago, New York City, and the San Francisco Bay Area. We modeled this list of venues on a database created for the Generations Study.<sup>2</sup> Working with a team of young

<sup>1</sup> Our study website is at: <https://www.law.berkeley.edu/lgbtrelationships/>.

<sup>2</sup> For information on this study, see <http://www.generations-study.com/>.

and LGBTQ-identified research assistants, we then added newer venues to the database (including for cities not included in the Generations study) and removed venues that were no longer active. We deliberately limited the number of participants from each venue to two, being particularly cautious about overreliance on mainstream LGBTQ venues, such as Gay Pride and bars and nightclubs. Venues included coffee shops, bookstores, barbershops, street fairs, people of color-oriented community groups, and churches. We also recruited participants through ads placed on Facebook. In addition, the researchers tapped their professional networks for potential participants. Finally, we used snowball sampling—asking participants who sat for interviews to refer people in their social networks.

Advertisements for the study included a link to a brief online screening questionnaire to assess eligibility. Participants were eligible if they were between ages 18 and 65, did not identify as heterosexual and cisgender, and had any experience with dating or relationships.

We set quotas to make sure that the study would include a substantial number of Black, Latinx, and Asian-American participants. We oversampled transgender and non-binary people, who have often been overlooked in marriage research. A total of 992 people responded to the eligibility questionnaire. After the research team assessed eligibility and compliance with quota sampling needs, we invited 120 participants for an interview. Of those invited, 83% completed interviews. Interviews typically lasted 60–90 min and took place in a research office or private location of the participant's choosing. Participants received a \$50 pre-paid visa card as a token of appreciation for their taking part in the study.

## Sample

Participant demographic characteristics are presented in Table 1. Slightly more than half of our participants identified as gay or lesbian. Half identified as queer, bisexual, transgender, genderqueer, and/or non-binary, among several other labels. People of color (68%) make up the majority of our participants. Thirty percent of our sample identified as Latinx. Thirty-two percent identified as White. Twenty-three percent of participants identified as Black; 13% identified as Asian-American; and 31% identified as mixed race (many of whom also identified as Latinx). Fifty-six percent of participants reported that they were assigned male sex at birth; 41% were assigned female sex at birth; and 1% identified as intersexed. The majority of participants were cisgender; nearly one-third of participants were not cisgender: 10% identified as transgender, and 15% identified as genderqueer. Seven percent identified their gender as “something else” and wrote in a particular identity or identities. Table 2 provides the income distribution of participants. Table 3 provides the income distribution of participants by race. (Eleven participants did not provide income data.)

## Procedure

The study interview contained many questions concerning the general topics of experiences with relationships and discrimination over the participant's entire life span. The interview protocol (available upon request) covered multiple specific topics including race, gender/gender identity, sexual orientation, family dynamics, sexual behavior, stigma of various forms, and health issues, including HIV, alcohol and substance abuse, and mental health concerns.

**TABLE 1** Participants' gender, sexual orientation, race/ethnicity, and sex at birth distributions ( $N = 99$ )

Variable	Categories	Count	Percent
Gender identities <sup>a</sup>	Man	52	52.5%
	Woman	28	28.3%
	Genderqueer	15	15.2%
	Transgender	10	10.1%
	Other gender	7	7.1%
Sexual orientation identities <sup>a</sup>	Bisexual	16	16.2%
	Gay	43	43.4%
	Heterosexual	3	3.0%
	Lesbian	11	11.1%
	Queer	38	38.4%
	Other sex orientation	11	11.1%
Race	Asian	13	13.1%
	African American	23	23.2%
	Mixed race	31	31.3%
	White	32	32.3%
Latino	Latino	30	30.3%
Sex at birth	Female	41	41.4%
	Intersex	1	1.0%
	Male	55	55.6%
	Missing value	2	2.1%

<sup>a</sup>Because some respondents selected multiple gender or sexual orientation identities, percentages do not add up to 100%.

**TABLE 2** Participants' income distribution ( $N = 88$ )

	Total ( $N = 88$ )	
Income	Count	Percent
Less than \$25,000	25	28%
\$25,000–\$75,000	28	32%
\$75,000–\$150,000	22	25%
More than \$150,000	13	15%

**TABLE 3** Income distribution by race ( $N = 88$ )

	Asian ( $n = 12$ )	Black or African American ( $n = 18$ )	Mixed Race ( $n = 26$ )	White ( $n = 32$ )	Total ( $n = 88$ )
Income	Percent	Percent	Percent	Percent	Percent
Less than \$25,000	33%	17%	38%	25%	28%
\$25,000–\$75,000	25%	33%	46%	22%	32%
\$75,000–\$150,000	33%	33%	12%	28%	25%
More than \$150,000	8%	17%	4%	25%	15%



For the purposes of the current study, our analysis focused only on responses to the following questions about marriage equality: *In June 2015, the Supreme Court ruled that same-sex couples have a fundamental right to marry. Has this decision impacted your thoughts about marriage? If so, in what ways?* Unmarried participants were also asked whether they personally were interested in marrying and why or why not. We did not describe the reasoning of the Court in *Obergefell*, and it seems likely that most participants had not read the full opinion. Instead, they likely relied on news summaries of the decision and other informal avenues of information, including conversations with friends and on social media.

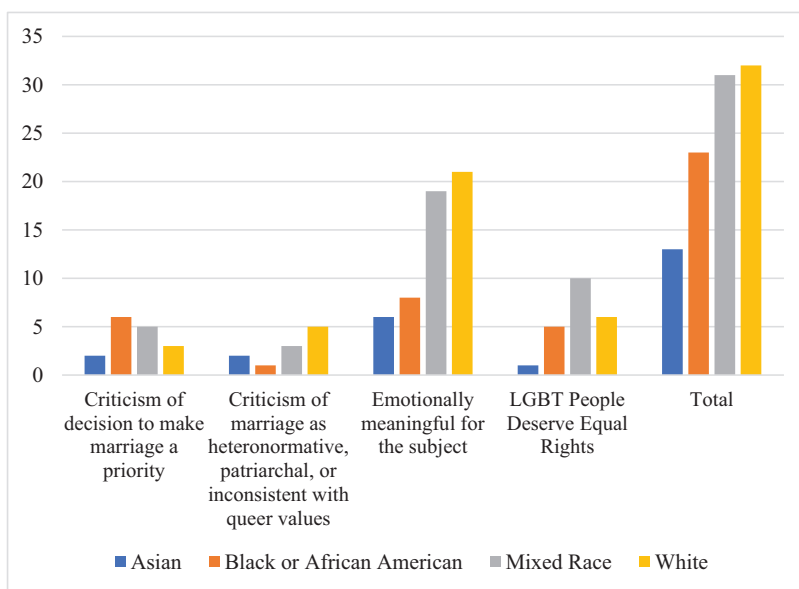
## Analysis

Interviews were professionally transcribed, and transcripts were entered into Dedoose for analysis.<sup>3</sup> We developed an approach to analysis based on the thematic analysis protocol recommended by Braun and Clark (2006). First, the first author read the transcripts in depth to begin the process of data emersion. Next, the lead author and two graduate students engaged in a process of open coding, whereby a portion of the transcripts were again read line by line and descriptive codes were applied to relevant concepts in the text using Dedoose. The researchers then refined this list of descriptive codes into a codebook based on the research questions at the center of the study (codebook available upon request). The second author reviewed and helped to revise the codebook. The first author and a different graduate student applied the codes to all the transcripts, which was followed by further meetings to align understandings of the codes, resolve discrepancies, and refine the codebook. We used the Dedoose testing center in order to assess consistency in coding (inter-rater reliability) across the coding team. After all transcripts were coded, the first author reviewed coding reports in Dedoose and linking categories and explanatory themes were identified in relation to the overarching research question. The University of California, Berkeley Institutional Review Board approved this research (protocol number 2014-02-6070).

## RESULTS

We identified several themes in participants' responses to the specific questions about marriage equality and the Supreme Court rulings: (1) Emotionally Meaningful for the Participant, (2) Happy that Other People Can Marry, (3) Provides A Frame for Understanding One's Relationship Possibilities, (4) Distant From or Not "For" a Participant's Community, (5) Criticism of Marriage as a Priority within the LGBTQ Community, (6) Criticism of Marriage as Heteronormative, Patriarchal, or Inconsistent with Queer Values, (7) LGBTQ People Deserve Equal Rights, (8) Family Members' Reaction to Marriage Equality Decisions, (9) Just a Means to a Practical End, (10) Provides No Legal Benefit to the Subject, and (11) Other Views. Happy that Other People Can Marry is a child code of Emotionally Meaningful, the parent code. Although both codes involve emotional meaning, in the child code, the happiness stemmed less from the participant's personal experience with marriage than other people's marital opportunities. We coded all transcripts, which included searching for instances of the abovementioned themes. We present the results for all codes but focus on the most prominent themes, providing illustrative quotations as evidence in support

<sup>3</sup> Dedoose Version 8.0.35, web application for managing, analyzing, and presenting qualitative and mixed method research data (2018). Los Angeles, CA: SocioCultural Research Consultants, LLC [www.dedoose.com](http://www.dedoose.com).



**FIGURE 1** Participants' views on marriage equality by race. [Color figure can be viewed at [wileyonlinelibrary.com](http://wileyonlinelibrary.com)]

of our analytic claims. Figure 1 summarizes our findings. Frequencies and percentages are provided for the purpose of describing the sample and dataset and should not be seen as numerically generalizable to the population of interest.

### Emotionally meaningful for the participant

A slim majority of participants (55%) described Obergefell as having an emotionally meaningful impact on them. Lesbians were the sexual orientation subgroup most likely to report an emotionally meaningful impact, and they were followed by gay-identified people (most of whom were men). Most of the participants who identified as women described themselves as queer or bisexual, not lesbian. Notably, non-cisgender participants—genderqueer, transgender, and “other” gender—were less likely to describe an emotional impact. The racial pattern on this question was complex: White, multiracial, and Latinx participants were more likely than Blacks and Asian-Americans to articulate an emotional impact.

The following exchange involves a bisexual Latina in her mid-20s who lives in Chicago. She described the impact of her professor coming out to the class after *Obergefell*:

*Interviewee:* I remember I was in class one day and this professor said she finally is able to marry her partner. No one in the class thought she was ever a lesbian or anything like that. It's just one of those like, “Wait here.” Then it also hit me like, I never knew. Then I thought... she is like one of those most religious people that I've ever met, for a Catholic, and she was just so open about it. I was just like, oh. Then I thought, wait, you're really, really religious, why does that feel like there's something wrong with that? I was like, oh, okay. Then it just made me feel happier. She is like all involved in



our Catholic, went to a Catholic university, and to know that she's openly telling us and she's so happy about it, and she was showing these pictures and stuff. I was, "You were so conservative. You were really good at hiding that then." Because she's like this elderly [woman]. Things like that made me really happy 'cause she was already 67 or something.

Interviewer: Why did it make you happy?

*Interviewee:* Because it made me realize, someone that was struggling for that long and was hiding for it, all of a sudden is so just happy to know that this is one little thing that would just change her life. She was showing all these pictures as if it just happened yesterday that she met her and they just got engaged, when really they've been married for this long but now it's officially noted. We're like, now we just get this idea. Then I started to realize there was more [same-sex couples] holding hands now all of a sudden in public... I remember a couple saying the reason they always hold hands is because they remember when they were little, they saw a couple do that, and they were a little kid looking at that and thinking, that's hope, that was their sign of hope that maybe one day I can hold a hand too. That's why I tend to always hold hands [with my female, Latina partner], 'cause you never know how people are perceiving it or what you're making somebody feel.

Interviewer: To let children know that this is a possibility for you?

*Interviewee:* It's a possibility. For now, it's even more official to have the government saying, you know, taking the church and state out, it's insane. Okay, this is something that we're accepting, this is something that's a possibility. I felt like it brought more hope in many places... For me personally, it just gave me this idea like, okay, so now this is a possibility of getting married and maybe having a real wedding where maybe there's more of a chance to convince family and public that this is an accepting thing. Now all of a sudden, things like that. Before, I honestly didn't feel like I'd ever even want a wedding, and I still have this weird like, "I don't really want a big wedding." Now it's more of this idea like I get to choose if I want that, and there might be actually more meaning to it versus this is just a party that we're doing but really there's not—it's not legal.

This young woman describes *Obergefell* as triggering a cascade of positive developments in her life and community that swept far beyond marriage itself. In this case, the marriage decision inspired the woman's teacher to come out to her class. The elder teacher's coming out exploded the participant's assumptions that very religious and "conservative" people could not also be sexual minorities (an intersectional identity) and be public about their same-sex relationships. Further, she suggests that the teacher's coming out emboldened queer people, such as her, to challenge oppressive norms in religious institutions. The Court's legitimization of the participant's capacity to wed her same-sex partner, she suggests, could be a powerful weapon

in the hands of religious people who are also sexual minorities. She hopes that this will make it easier for her family to evolve and eventually support her relationship. Finally, she narrates an intergenerational chain of validating and encouraging other sexual minorities to assert their identities in public. The participant's elder teacher came out during class, which inspired the participant and her partner to hold hands in public to serve as role models for the next generation of queer children. This participant's narrative is notable for how interconnected she regards the marriage decision with broader dimensions of equality, including coming out and visibility, equal treatment within religious institutions, family dynamics, and community formation. The participant expressed happiness for her teacher's marriage, but her emotions also encompassed hope for her own future and a desire to inspire young queer children by holding hands with her partner.

The following participant, an African-American gay man in his early 40s, expounded on the connection between race and marriage. When asked about *Obergefell*, he reflected on marrying years before the decision. This participant was a member of one of the first same-sex couples to wed at New York City Hall after the state legalized same-sex marriage in 2011, and one of very few Black men who married another Black man on that day. (The lead author was at city hall that day documenting the identities of the couples that married).

*Interviewee:* Certainly, when it happened and that day, a lot that we couldn't foresee, that didn't anticipate—the feeling of pride, the appreciation for the word freedom 'cause you read about that, but now you can feel it. That was the first time in my life because I've never been in the closet. It was the first time in my life that I said, oh, that's what good old Harriet Tubman must've felt like. You know what I mean?

*Interviewer:* Interesting.

*Interviewee:* That is the first time I said, oh, this is—it makes my pride now. You know?

*Interviewer:* Mm-hmm.

*Interviewee:* But freedom. For our relationship, I felt Jake and I were very proud that we exercised freedom and we took advantage of it. We continued to do that in every way in all realms of our life as individuals and as a couple.

Although the *Obergefell* opinion and media coverage of the decision said little about race, this participant expressed an intersectional understanding of marriage equality. He interpolated Harriet Tubman, a historical Black civil rights figure, into his experience as a Black gay man, newly able to participate in marriage to his Black male partner. For him, the experience was not simply about marriage, but extended into “all realms of our life as individuals and as a couple.”

Another Black participant in New York, a non-binary person in their 30s, had a more ambivalent emotional reaction to the Court's 2015 marriage equality decision because it was released during the aftermath of a brutal hate crime, White supremacist Dylann Roof's attack on a Black church in South Carolina:

It was this really intense moment of cognitive dissonance, because I grew up in the church. My father was a minister. . . his side of the family are from South Carolina. I felt this very intense connection to that incident, and that moment. It really affected me, and I was mourning it pretty intensely. Then there was this decision about marriage equality with the Supreme Court, and there's all these White gays in the street dancing and shouting. It was wonderful, but I couldn't really enjoy it. Anyways, all that to say that I do remember it, and it was just a strange moment in history for me.

This participant's experience complicates a mainstream or "single axis" (Crenshaw, 1989) understanding of marriage equality. While some White gay men were dancing and celebrating, the participant, an African American, "felt a little alienated, and I felt not seen" because the church shooting was equally relevant to their emotional state. Rejecting the conventional view of marriage equality as unrelated to race, this participant said: "You're going to think of them as separate issues, but they're not, because intersectionality is real. It [the timing of these events] just perfectly summed it up for me."

### Happy that other people can marry

Several participants distinguished between their personal disinterest in marriage or lack of opportunity to marry and their happiness based on other members of the LGBTQ community being able to marry. William, a Black transman in New York who reported earning less than \$25,000 a year, was living with his partner, a transwoman who had been abusive toward him and lied about being HIV-positive and doing sex work. Although William identified marriage as a life goal, it was not accessible in the near term. William could not afford to move out of his partner's home and expected a long road to gaining financial stability and finding a suitable partner to marry. William also did not see the legalization of same-sex marriage as impacting him personally because he had changed his gender marker on government ID to male and typically dated women. Nonetheless, William described *Obergefell* as an "amazing triumph. . . for all." He noted that his brother, a gay man, might take advantage of this new right. William expressed a desire for greater government action on anti-trans violence and access to healthcare, including gender-affirming care. But William was able to hold joy about same-sex marriage alongside ongoing concern for policy goals impacting transgender people.

Tamika, a 20-year-old bisexual Black woman, had a similar response to *Obergefell*. Tamika, who lived on the South Side of Chicago, had had turbulent, short-term relationships with women and men. She left home at 16 after coming out to her parents and being physically attacked by her father. At the time of the interview, Tamika was pregnant and planned to carry the fetus to term. Tamika reported an income below \$25,000 and expected to rely on her bisexual aunt for help in raising her child. Tamika recalled attending the Pride parade after the Court announced its decision. Although she was a teenager and had not experienced a stable romantic relationship, she stated, "I honestly am so happy that [same-sex marriage] is legal now." She explained: "I think I was really happy for other people who got the chance to do that who's been together for so long."

### Criticism of marriage as a priority within the LGBT community

Roughly 16% of the participants questioned the decision to make marriage the priority over policy goals that they regarded as more pressing. Latinx and Black participants were more likely to

express this critique. The participants who made this critique were also predominantly gender non-conforming, genderqueer, transgender, and other gender.

This Chicago participant, a Black gay man in his 50s, did not object to marriage per se, but he did take issue with the marriage equality movement.

*Interviewee:* I didn't have an emotional [reaction]—again, this is me. This is the academic in me. I have issues with marriage being at the forefront of the LGBTQ mission. That being the priority when there were so many other things that I felt should have—not that they're not disconnected, because of the way marriage [is] imbricated into our culture and our laws. For instance, job discrimination and [the needs of] LGBT people of color was much more of an issue than marriage. Because for me, marriage was just going to give gay White men more access to power and resources in a way that Black gay men specifically would not have access to.

This man, who happens to be an academic, shares the critique of the movement for putting marriage ahead of issues that some understand as more foundational, such as legal protection from employment discrimination. Nonetheless, the narrative is more nuanced in that this participant had not ruled out marrying his long-term partner, who is a White gay man, the group which he regards as the primary beneficiary of the marriage equality movement.

Along similar lines, another participant, a queer White woman in her 30s in Chicago, stated: "I mean, you can still be discriminated against legally in a lot of states, but [marriage] was one thing that you could have. Still feel like it was a Band-Aid solution to a lot of the issues." A Black transgender, intersexed man in Chicago had a more visceral reaction to the movement:

I just feel like, institutionally, we have a lot more to cover, not just marriage. We have a lot to cover for our trans sisters who aren't surpassing the age of 32. We have a lot to cover for newly [HIV] positive [people] or what they call newly infected youth.... We have a lot to cover for homeless... in Chicago.... That's 10,000 heads. Do you know how many beds are available for homeless queer kids? Ten, ten. In Chicago.... It's f—— disgusting. It's disgraceful. I'm not worried about Ken and Kyle wanna get married. I don't care.

This participant expressed anger at "Ken and Kyle," presumably cisgender gay men, dominating the LGBTQ rights movement and relegating issues such as homelessness, HIV risk among youth, and violence against transgender women to second-tier status. This man was not categorically opposed to marriage. He noted that his aunt protested at Stonewall and married her female partner in Illinois shortly before the aunt passed. Yet the participant, a poor, intersexed Black man of short stature, repeatedly referred to the devaluation of his body in romantic markets as a barrier to his romantic future. Marriage, he said, "does not affect me." These comments suggest the structural underpinnings of some Black men's disaffection with marriage, including poverty, the prevalence of sexual racism and extreme body standards in the mainstream gay male community. (Robinson & Frost, 2018a). The formal equality framing of the movement declined to address such "private" matters, which may determine whether a person can actually exercise his newly conferred fundamental right to marry. A Black bisexual woman in her 30s in Chicago who organizes on issues of racial justice bristled at the White dominance of the marriage equality movement. She asserted: "When you ask Black queer people what their most pressing needs are, it's not marriage equality. That tells us who you are actually fighting for."

## Criticism of marriage as heteronormative, patriarchal, or inconsistent with queer values

Approximately 11% of participants critiqued marriage as an oppressive institution. Given the prominence of queer critiques of marriage, it is striking that few participants in our racially-diverse sample voiced this critique. Those who held this view were predominantly queer-identified or bisexual. As for race/ethnicity, Black participants were less likely to express a critique of marriage as an institution. Blacks made up 23% of all participants but just 8% of marriage critics.

The following exchange is with a Latinx, gender non-conforming gay man in his 20s who lives in New York City.

*Interviewer:* When the Supreme Court ruled in late June that same-sex marriage is available as a constitutional right, how did that impact you? How did you feel about that?

*Interviewee:* I certainly was not posting [on social media]. I remember all these heterosexual girlfriends texting me: “Congratulations!” I said to one, “For what?”

*Interviewer:* Mm. Mm-hmm. Mm-hmm.

*Interviewee:* “For what?”

*Interviewer:* Did they understand that? Were they surprised that you weren’t partying in the streets?

*Interviewee:* They were surprised. They were very surprised. I didn’t change my [status on social media] to be one of the gay pride [flag]... Yes, those are battles that were won, and should be considered as parts of a battle, but I don’t want to be a person that has rights because I’m married or that has rights because I serve a country. I don’t want that. I think that marriage is an institution that should be abolished.

*Interviewer:* Should be abolished?

*Interviewee:* Yes! Single people should have rights—

*Interviewer:* Mm-hmm.

*Interviewee:* —that people, who are married, have. I mean, this idea that we have rights—it seems very, I mean, yes, there’s money and stuff and property involved,

but to be viewed as a dignified human being in this society because I'm married, and because the Supreme Court rules that we can get married, and, therefore, have dignity "in the law," and therefore, that's a celebration. I don't approve of that.

*Interviewer:* Is that something that comes up in your relationships in terms of, do you meet gay men that are [in] the "marriage-equality crowd"?

*Interviewee:* Oh, yeah! Yeah, I was dating this guy Grant in the early part of the summer. I mean, [he's] a gay-equality and marriage-equality whore. Can we move beyond that? Can we actually have a different set of demands that are not so much infected by this assimilation, and this idea, but can we shape things up differently? Can we bring other sets of questions that I think gay identity, and queer identity in particular, has been able to ask in the past?

This participant spoke with a passion that resembled the Black intersexed man mentioned earlier. This person views marriage as so toxic that he bristled when heterosexual friends tried to affirm him in the wake of the Court's decision. Moreover, he describes marriage as creating a schism within the gay community, including his dating prospects. He denounced a man that he dated as a "marriage-equality whore"—a dig perhaps designed to subvert the "dignity" that Justice Kennedy believes that marriage confers. This example speaks to the social and romantic implications of legal and political disputes. Disagreement about same-sex marriage does not fall strictly along straight/gay lines. Moreover, for some LGBTQ people, the political is the personal, and disagreements about values, including the value of marriage, may disrupt romantic opportunities for these people. (That said, some participants with ideological objections to marriage described them as fading when in a happy relationship with a partner who desired marriage.)

The following excerpt involves a non-binary, African American graduate student in Northern California:

*Interviewee:* I think all my friends were excited [about *Obergefell*], and I was like, "Oh." In many ways, I was not—I wasn't enthusiastic. I was just like, "Oh. I mean that's just the elasticity of the state," which is that when people become rebellious, or when they become revolutionary, the state finds a way to bring them back into its fold, to shut them up. A part of me, who was doing a lot of activist queer work at the time, felt like I was—the movement I was trying to create, which was a socialist, kind of anarchist movement, was being silenced by this other gay community over here, who was like, "We got our rights. Y'all got to fight us hard." We're like, "No. We don't have trans rights. We don't have Black rights."

*Interviewer:* Okay. Do you feel like same-sex marriage is important to people in your community, especially Black people? Do you feel like this is something that they value or that it's sort of like, "That's not my issue. It doesn't really pertain to my situation?"

*Interviewee:* To be totally honest, in my—I was actually in Atlanta when the Supreme Court ruled in favor of gay marriage. I was actually at a Black, gay bar at the time, and



all the Black people are just like, “So are we turning it back to [*The Real*] *Housewives of Atlanta*?” Cause they were showing [reactions to *Obergefell*], and they were just like—

*Interviewer*: Like, “Turn the channel back to the *Housewives*?”

*Interviewee*: Right. “Can we turn it back to the *Housewives*?”

*Interviewer*: Interesting.

*Interviewee*: It was some of them that were excited, and then the other ones were like, “Can we turn it back?”

*Interviewer*: Not interested.

*Interviewee*: It was just like, “Yeah.” It was like an acknowledgement that that just happened, but I don’t think—I think it was also acknowledgement that that isn’t gonna necessarily improve the lives of Black people, right, or Black, queer people. I think it was both. It wasn’t a total dis-announcement of it.

In this excerpt, the site of a gay bar sets the stage for disagreement within the Black, gay community—the participant describes some people as “excited,” but others preferred a Black, heterosexual-focused soap opera to *Obergefell*. It is also interesting that this participant is both a graduate student and an activist, two groups which might be particularly likely to be exposed to queer critiques of marriage. Each of the last two participants used language reminiscent of published critiques of same-sex marriage, such as “the elasticity of the state.” Like some of the published activist critiques noted earlier, this participant warned that marriage “isn’t gonna necessarily improve the lives of Black people.”

A White, queer-identified person in their 20s who lives in Chicago and does not identify with a gender at all disavowed marriage as follows:

This is still a very government, and religious based institution that has a lot to do with ownership. I also really liked the idea of being in a relationship that doesn’t have that outside pressure to stay together, so being very confident in knowing I’m still in this relationship, because we both actively want to be here. Not just because it would be too complicated to break up.

This participant’s view contrasts with that of the first participant discussed in this study, the bisexual Latina whose teacher came out. While one participant regarded marriage as a problematic religious institution, the other saw the right to marry as empowering her within a religious institution.

## LGBTQ people deserve equal rights

Roughly one-quarter of participants, including some in the section on Emotionally Meaningful reactions, saw *Obergefell* as primarily advancing equality. Some of them shared the critiques of marriage as an institution and/or the movement's decision to prioritize marriage. But these concerns did not negate their conviction that *Obergefell* had transformed the status of LGBTQ people in society. This equality-focused group was disproportionately people of color—mainly Latinx, mixed race, and Black.

A Filipino-American non-binary participant in New York said that they “firmly don’t believe in marriage.” However, Trump’s election and assault on LGBTQ rights, as well as the participant’s experience of falling in love, made them more convinced that the right to marry is worth fighting for.

Interviewer: Do you see marriage equality as something that’s important for your community?

Interviewee: That’s hard. Yes. Yes, because we—how do I formulate this—because even though it is rooted in patriarchy and oppression, I think that it’s still important in terms of proving queer peoples’ humanness. It’s important in proving us as valid citizens.

Interviewer: You mentioned humanness. What impact do you think marriage equality has on humanness?

Interviewee: Hmm. I think it’s, for me, been framed as an achievement of this freedom, this freedom to live visibly and to live legally with your partner or with your significant other...

Interviewer: Do you feel like it’s about recognition, that society will see you, and see and honor your relationship in marriage? Does that jive at all with what you were thinking?

Interviewee: Yeah. Yeah. Exactly. It’s an acknowledgment and acceptance of it, at least.

The positive reactions to marriage equality were particularly notable when they came from participants who described meager prospects for marrying because of intersecting identities, such as race and class. A bisexual Black man in his 50s participated in the marriage equality movement in Illinois and described *Obergefell* as giving him hope that the marriage victory would lead to similar breakthroughs on other equality issues: “It gives you hope not just for the LGBTQ community, but for the immigration community, for women, for anybody who’s marginalized. Things can change. Attitudes can change.” That said, his own relationship history was bleak—two of his Black male

partners had died of AIDS, and most Black women refused to date him once he disclosed that he was bisexual. For this man and other participants, the value of marriage extended beyond their own interest in or access to marriage.

The Black gay male academic in Chicago who has a White male partner (mentioned above) stated the case succinctly:

For me, the question of marriage equality has been just about that. The equality part. It's not been about—it hasn't been about marriage as an institution. It's about the right to do it if I wanted. Because for me, and I think [my partner] Justin feels the same way. I've always had to pay taxes that facilitate heterosexual marriages. Whatever my tax dollars are going to, I should have access to that thing. For us, it was about that more than marriage.

### **Provides a frame for understanding one's relationship possibilities**

A biracial Black non-binary person in Northern California stated that the Court's decision freed them and their partner to consider moving to the South, where the participant grew up and where States would now have to make marriage available to them. "It's a big deal when all the other states are forced to get on board."

### **Distant from or not "for" a participant's community**

A Black queer woman in her 30s suggested that marriage seemed distant from her because she was single when the Court announced its decision, she had gained a lot of weight, and she felt "undateable." She elaborated: "It just feels like—it's like [marriage is] over there, and I'm over here. I'm over here trying to go on more than three dates with someone."

### **Family members' reaction to marriage equality decisions**

Few participants described their families' reactions. Most family responses were positive, such as posting "Congratulations!" on Facebook. However, a White gender queer person in Chicago recounted their parents sending a postcard congratulating them on getting married. Because the participant had a toxic relationship with their parents, "that promptly went in the trash."

### **Just a means to a practical end**

These comments described marriage as practically beneficial, but not driven by emotion. For example, a Black-Asian lesbian in New York City said that she might marry because of "the inheritance, taxes, things of that nature. Really sort of the mundane details, but they're so, so important."

## Provides no legal benefit to the subject

Comments in this category included people who were already legally married before the rulings and transgender people who already had access to marriage. A Black transman in New York noted:

“Well, being that my gender mark has changed on my paperwork, if I wanted to get married, I easily can.”

## Other views

We used this category for comments that did not cleanly fit other categories. For instance, a Black queer man in New York City said that the decision did not impact him because he prefers to be alone: “I’m not necessarily pre-wired to be in relationships to be frank.”

## DISCUSSION

Our study yields several novel findings that call for further inquiry. Our findings with respect to race and ethnicity complicate broad claims about same-sex marriage not benefitting Black and Latinx people (Bailey et al., 2008). Our findings demonstrate that, even if White affluent people set the policy agenda that resulted in the availability of same-sex marriage, people of color could still reap benefits from this change in the legal and social landscape. Certain participants described the Court’s announcement of the right to marry as leading to more visibility of same-sex couples, including role models for queer children, and enhancing the participants’ ability to fight stigma within institutions, such as their families of origin and religious institutions. Their lived experiences suggest the broader equality ramifications of *Obergefell*.

This finding is consistent with a pre-*Obergefell* study of Black LGB people, which concluded that some participants regarded marriage as an opportunity to gain inclusion and status in the Black community (Lee, 2018). While some have interpreted Black people’s interest in marriage as the pursuit of “respectability” (Lee, 2020 & 2018), our findings indicate that some LGBTQ people of color see the benefits of the *right* to marry as substantial whether or not one exercises that right by choosing to marry. Thus, these views challenge the effort to reduce marriage to simple respectability. From this vantage point, a person of color who seeks to marry may not necessarily be seeking to assimilate into the broader, majority-White LGBTQ community, but rather may conceive of marriage as a tool for battling stigma and creating greater space to live as an “out” sexual and/or gender minority in their community of color.

Matsuda, a foundational CRT scholar, observes how people of color have often embraced and renovated mainstream institutions, rather than simply mimic or absorb them: “This ability to adopt and transform standard texts and mainstream consciousness is an important contribution of those on the bottom. Black Americans, the paradigm victim group of our history, have turned the Bible and the Constitution into texts of liberation.” (Matsuda, 1987) Perhaps some of our participants had this history in mind in regarding marriage as valuable to them, despite the movement’s troubling racial politics. While some participants saw same-sex marriage as a form of assimilation, other participants seemed confident in their ability to *transform* the right, rather than *conform* to mainstream forces in the heterosexual, cisgender community and the White LGBTQ community.

As suggested by the above, some participants provided counternarratives that should give pause to scholars—particularly White scholars—who have crudely branded marriage equality as a tool of White supremacy and suggested that people of color will not benefit from gaining access to marriage (Spade & Willse, 2013). A number of participants of color identified benefits that extend beyond their own marital status. These participants saw the affirmation of equal rights as encompassing their identities in various domains. These voices “from the bottom” caution against the sweeping and decidedly negative views of marriage that are common in legal scholarship.

To some extent, the divide between certain left-leaning scholars and our participants is reminiscent of the debate between Critical Legal Studies (“CLS”) and Critical Race Theory (“CRT”) several decades ago. CLS scholars had “deconstructed” rights as unstable, indeterminate, and a delusion that masks power relations (Williams, 1987). Leading CRT scholars, including Kimberlé Crenshaw and Patricia Williams, pushed back against those who had “trashed” rights by explaining how meaningful exercising rights was to African-Americans (Crenshaw et al., 1995, Williams, 1987). From this vantage, rights may be “a source of agency, political empowerment, and a vehicle through which to effectuate resistance” (Carbado & Harris, 2019). Williams’s recommendation seems apt to the marriage context: “What is needed, therefore, is not the abandonment of rights language for all purposes, but an attempt to become multilingual in the semantics of each other’s rights-valuation” (Williams, 1987).

There was some degree of variability in participants’ lived experiences and perspectives on the meaning of marriage in their own lives and for society more broadly. As reflected in the findings reported in the results section, some identified the limits of marriage as a liberatory institution at the same time that they voiced personal value in seeing their relationships recognized by society or that others in the community could obtain this experience. This reflects findings from previous research reflecting the ways in which the individual and social meanings of marriage, intimacy, and the legal treatment of couple relationships vary tremendously among people (Cherlin, 2004).

Second, our findings suggest further inquiry as to the role of scholars and activists in shaping views of marriage. Several of our participants who most vocally objected to marriage used language that was quite reminiscent of scholarly and activist critiques. Scholars should reflect on the extent to which their views reflect those of marginalized sexual and gender minorities outside of the academy. Some scholars might respond that the people in our sample are simply less educated or less radical, but CRT scholarship suggests that scholars might learn from listening to the experiences of those on the bottom.

Third, legal scholars may find it important that some of our participants suggest a more robust understanding of *Obergefell* as an anti-subordination precedent. This is compatible with other social science research on same-sex marriage (Lannutti, 2005). Justice Kennedy’s *Obergefell* majority opinion focused primarily on due process and the importance of marriage. While some legal scholars have championed *Obergefell* as a landmark anti-subordination precedent (Tribe, 2004; Yoshino, 2015), other readings of the case have been more skeptical. The first three-quarters of the opinion’s legal analysis concentrated on due process. When Justice Kennedy finally turned to equality, it was not to elaborate an independent Equal Protection Clause holding, as the Court did in *Loving v. Virginia*. Instead, the Court offered an essay on the intertwined nature of liberty and equality. Equality, for Justice Kennedy, appeared to be subordinate to the Court’s interest in liberty and “dignity.”

But perhaps it is a mistake to be overly fixated on the text of the opinion. The voices in this study may redirect one’s attention from *Obergefell*’s limits to the social and personal meanings of the decision that individuals may create. Legal scholars have argued that Justice Kennedy’s

opinions in sexual orientation cases repeatedly invoke the idea of a “Living Constitution,” which evolves and unfolds against the landscape of social change (Post, 2003; Tribe, 2004). For many of our participants, *Obergefell* was primarily about equality, and they experienced it as an affirmation of their humanity irrespective of their current marital status or aspirations. This finding suggests that the court of public opinion may, in time, shed Justice Kennedy’s exclusionary rhetoric about marriage serving as the only pathway to human happiness and civic belonging, and re-read *Obergefell* as centrally advancing equality for all. The ultimate impact of *Obergefell* may turn less on Justice Kennedy’s precise words than on how ordinary people make meaning of it.

## LIMITATIONS AND CONCLUSION

This qualitative research was done to understand the extent to which LGBTQ people, in particular LGBTQ people of color, understand marriage equality and the marriage equality movement in the United States as impacting their lives. This research by no means should be considered statistically generalizable to the entire LGBTQ population in the United States. However, the large, diverse, purposive sample reported in the present study is novel in its scale and diversity and thus has a high degree of theoretical generalizability (Fine, 2006). Additional limitations include the focus on three cities, which reflect some degree of geographic variability, but likely underrepresent rural-living individuals and individuals from more potentially conservative regions of the United States (e.g., the South). Finally, our purposive sampling methods required participants to identify publicly as LGBTQ at least within the research context, and thus our findings may not represent the lived experiences of people who are less “out” about their sexual and gender identities and people who are less connected to LGBTQ community and venues through which we recruited participants.

This research oversampled marginalized sexual and gender minority populations, including people of color, transgender, and non-binary participants, to fill a gap in the literature on the right to marry (Reczek, 2020). Our participants perceived robust links between this newly conferred right and their ability to combat stigma of various sorts in domains that extend beyond marriage. The study also shows the promise of deploying Critical Race Theory and intersectionality to uncover insights that challenge conventional narratives about the right to marry, including those promoted by the Supreme Court and prominent sexuality scholars.

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## DATA AVAILABILITY STATEMENT

Data available on request due to privacy/ethical restrictions.



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