



Uses of History in the Press and in Court During California's Battle Over Proposition 8: Casting Same-Sex Marriage As a Civil Right

Anqi Li

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This is the first short monograph to show how public opinion about same-sex marriage is shaped by drawing on the past. Research suggests newspapers and courts sometimes draw on history to explain issues and bolster arguments. This study seeks to identify how three newspapers and three court documents used history to discuss marriage during and after the Perry Trial (Jan. 1 to Dec. 31, 2010); how those uses reflected or challenged ideas of marriage; and whether judicial uses of history contradicted or were consistent with the press' uses. The history marshaled by the "New York Times", "Los Angeles Times", and (San Francisco) "Bay Area Reporter", and by the Perry decision, Plaintiff-Intervenor-Appellee Response Brief, and Defendant-Intervenors' Trial Memorandum, typically favored same-sex couples' inclusion in marriage. During the trial, newspapers used history to highlight the social significance of marriage and to explore same-sex couples' qualifications to participate in marriage. The narratives of marriage history in the newspaper coverage and judicial records challenged accepted memories of what marriage has been. Historical comparisons of modern marriage to past transformations in the institution suggested what marriage could or should be in the future.

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