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Crisis at the Courthouse: Examining Challenges to Normativity [1]

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Abstract: In June of 2015, a County Clerk of a Kentucky courthouse refused to issue a marriage license to a same-sex couple, despite being legally required to do so by a Supreme Court edict. The incident made headline news and sparked a national debate. A close analysis of the interactions during the incident reveals participants proffering several member categories and related actions in an attempt to persuade one another of the morality of a given position. Within these conversational moves, participants attempt to make sense of the unfolding events. As communication researchers we can use participants' own strategies and orientations to learn more about how an interpersonal conflict can form part of a larger social crisis. When a challenger attempts to entice a target with leading questions, we find targets resisting through means of silence as well as appeals to alternate categories. When these attempts are examined closely through members hip categorization analysis, we find that categories and their related actions may be used to reinforce outdated norms.

On June 30, 2015, Kim Davis, the clerk of Rowan County, Kentucky, denied a license to April Miller and Karen Roberts. This action defied a federal court order requiring the issue of marriage licenses to same-sex couples, pursuant to the June 26, 2015, U.S. Supreme Court decision in *Obergefell v. Hodges*. News reports indicated that protesters began organizing that week outside the courthouse where Davis worked. And, that same week, another couple, David Ermold and David Moore sought a marriage license at the same courthouse, and made plans to videotape their request. When they were denied a marriage license by Davis, they subsequently posted the video of the event to YouTube (currently available at **USA Today**; see <http://www.usatoday.com/videos/news/nation/2015/09/03/71527640/>). The original video "went viral", garnering over 400,000 views by Wednesday, July 7th at 5 p.m. (Bellamy, 2015). An injunction was brought against Kim Davis for refusing to comply with the law. During her hearing in a lawsuit brought by the American Civil Liberties Union (Menville, 2015), Davis described that she had ordered her office not to issue licenses to same-sex couples, thus expanding her actions from one individual, to an entire office staff. Davis was declared to be in contempt of court from the decision filed against her in *Miller v. Davis*, and subsequently incarcerated for five days before being released. All of this transpired during a U.S. election cycle. Mike Huckabee and Ted Cruz, presidential candidates for the Republican Party, visited Davis in jail, and upon her release held a rally to showcase the event, which quickly became a symbol for both the political right and the left. In the months following Kim Davis' initial refusal to comply with the new law, media outlets began publishing and reporting on all of the events related to the incident, providing retrospective accounts from supporters and from detractors, including advocates of same-sex marriage and the LGTB community, who viewed Davis' actions as an illegal act of discrimination. How this local event began and subsequently unfolded can be considered as a part of a potential national crisis. Some cast it as a crisis of democracy where laws were not being upheld, whereas others cast it as a crisis of morality and faith, pitting church against state.

In this paper, I examine excerpts from the video taken on the occasion where Davis refused to issue a marriage license to Ermold and Moore. This event provides communication scholars an opportunity to examine how participants jointly construct the beginning of crisis. Instead of focusing on Kim Davis as if she were the sole agent of this crisis, I will use transcribed[2] segments to illustrate how what begins as an interpersonal conflict, becomes part of a larger social crisis through its projection upon the national stage via its public broadcast and viewing. However, rather than fast forward to the news media's casting of this incident as a crisis, it is useful to carefully examine participants' appeals and reactions to broad social categories in the case: citizens and county clerks, men and women, parents and police. For it is these very categories, that draw in the public at large who were not present during the event, and provide common fodder for the broader national conversation that ensued. This analysis underscores the important role that media coverage played in escalating this single event into a national public debate. The ability for a broader national public to witness the events as they transpired, and to learn about the participants through the hundreds of news articles over the subsequent months, cannot be underestimated[3].

The Kim Davis episode fits within the definition of a crisis, as has been defined, for example, by Sellnow and Seeger (2001); and Bartesaghi (2014), who posit the beginning of a crisis as an unexpected event, often based on minor preceding events that unanticipatedly produce large impacts on everyday life, and can lead to states of uncertainty. Before this incident, no other county clerks had refused to comply with the law as adjudicated[4]. The live video footage offered a rare opportunity for scholars to examine a crisis evolving in real-time, allowing them to understand the way participants (including media) jointly negotiate what is happening **in the moment** (Bartesaghi, 2014; Bartesaghi & Castor, 2010; Bergeron & Cooren, 2012; Hearit & Courtright, 2003).

In order to focus on participants' negotiations, it is important to set aside pre-existing or researcher-based categories within our analyses, and ask the far more important ethnomethodological question: How do participants account for themselves and their actions and argue with one another to establish and make sense of their unfolding roles and actions within a given crisis situation? When participants articulate conflicting positions during an interactional episode or event, they respond to one another to negotiate and make sense of who they are in relation to one another. We can see how interactants in a crisis make appeals to arguments that hinge upon particular member categories, such as "mother" or "family"; an analytic apparatus, such as MCA can address the behaviors and actions with which these categories are paired, and bring into sharp relief the normative implications. Consider this interaction from the courthouse episode that is laden with group member categories:

17 **MOORE:** **Would you do this to an interracial couple?**
 18 (1.0)
 19 **DAVIS:** **A man and a woman, no ((shaking her head))**
 20 (2.0)

Some communication scholars (see: Hansen, 2005; Hansen & Milburn, 2015; Hopper & LeBaron, 1998; Kurylo and Robles, 2015; Pomeranz & Mandelbaum, 2005) have illustrated how to examine the particular identity categories being used when participants' identities become relevant within an interaction. Few communication researchers, however, have employed membership categorization analysis (MCA) specifically to examine retrospective accounts of major crises (Bartesaghi & Perlmutter Bowen, 2009). By contrast, sociologists have been using MCA to analyze crises related to violence and crime (Clifton, 2009; Eglin & Hester, 1999a, 1999b, 2003; Leudar, Marsland, & Nekvapil, 2004; Lynch & Bogen, 1997; Mazeland, 2003) often as it is jointly produced within hearings, between protesters and reported by the news media. Using the analytic tools from MCA when member categories are proffered by participants themselves during an interaction, a researcher can learn more about how crises (or potential crises) are negotiated, contested and transformed over the course of a single or multiple encounters.

Membership Categorization Analysis: A Method to Examine Crisis-in-Action

Membership Categorization Analysis (MCA) is a method that originated from the novel insights by Harvey Sacks (1972; 1979; 1995). Following the publication of Sacks' lectures in 1992 and the publication of Hester & Eglin's (1997) **Culture in Action**, MCA became an established method through which analysts seek to discover members' routine practices for accomplishing social and moral order (also see Jayyusi, 1984). As such, MCA is particularly apt for providing analysts with a robust set of tools to understand crises as they occur when participants themselves use arguments that appeal to different member groups, and the actions that are warranted for each group. To date, MCA has been used to further understand horrific events including the Montreal massacre (Eglin & Hester,

1999 a, 1999b, 2003), the Waco siege (Clifton, 2009); the Warsaw uprising (Mazeland, 2003) and 9/11 (Leudar, Marsland, & Nekvapil, 2004).

Recent articulations of MCA describe the future of this work (Stokoe, 2012), but the main tenets go back to Sacks' (1972) groundbreaking work, where he put forth the notion that one could discover "devices" that functioned as an apparatus in order to understand more about the categories that conversational participants used during their talk. According to Sacks,

any collection of membership categories, containing at least a category, which may be applied to some population containing at least a member, so as to provide, by the use of some rules of application, for the pairing of at least a population member and a categorization device member. A device is then a collection plus rules of application (Sacks, 1972, p. 332).

Sacks further proposed two rules that the conversational participants seemed to follow when using and hearing categories: rules of economy and consistency. The rule of economy posited that speakers would often use a single category as a way to do "adequate reference" for an entire group; and the rule of consistency suggests that once a collection has been used, it can be used for other category members as well (Hester & Eglin, 1997). Although these rules could apply to any devices, the economy rule is used specifically with the devices: sex and age since any member of a population can be characterized this way (Jayyusi, 1984, p. 213).

Using MCA provides both an orientation to the interactional work being accomplished (the culture-in-action) as well as a robust analytic framework for examining the crisis at the courthouse that culminated in a denial of a marriage-license. Three moves in the analysis that follows can be summarized as: (1) learning how participants use categories and form the collections of which they are a part; (2) noticing how specific features or actions are tied to categories; and (3) demonstrating outcomes that include potential transformations of categories and their features from one category or collection to another through a specific incident whereby a challenge is resisted.

Hester & Hester (2012) describe the importance of "collections" wherein categories are bundled. They draw on Sacks' early observation that mothers and babies, for example, fall within the "natural" collection of family, and expand his idea to recognize that the analyst may have preconceived notions of particular collections, but that these cannot simply exist a priori and independent of an interaction, but rather must be **discovered** within each particular interaction. For instance, in order to determine if categories such as "man and woman" belong in the same collection "marriage," researchers must move beyond what might seem like a natural collection, and examine specific conversations to learn more about how collections are occasioned. Practically speaking, every collection is occasioned by its use in conversation.

The next property of MCA relevant to the present analysis relates to how categories are "bound" to certain features or concomitant actions. Early on, Sacks proposed that categories are bound to their features, yet **how** they are bound is an important matter for continued investigation. For instance, Bartesaghi & Perlmutter Bowen (2009) describe the way Holocaust survivors as a group are category-bound to memory of the Holocaust. That is, it is not just anyone who can have this memory - as a survivor, you are expected to have those memories.

In order to consider the third outcome of MCA important to this investigation we turn to the speech act Reynolds (2011) identified as "enticing a challengeable." This form may be better considered as a metadiscursive speech act[5] because it occurs in conversation, but can be recognized as an analytic form designating a multi-part sequence with a specific structure. The purpose of **enticing a challengeable** is to gain agreement from a conversational opponent in order to demonstrate the upshot of holding the moral high ground. Reynolds outlined five parts to the process of enticing a challengeable. These parts include: (1) an arguable or prior point made by a challenger; (2) the preface; (3) the pre-challenge; (4) the challenge; and, (5) the reaction. While these five parts make for a complete set, it also may be the case that only some of the five parts occur, or can be identified as such.

For instance, consider the sequence of this sample challengeable[6]:

9. C: you have [children?]
 10. A: I have two grea:t kids.
 11. C: do you have gran[d children
 ((lines 12-22 omitted))
 22. C: [do you care about their]

23. future?
 24. A: ↑↑ of ↑↑course,
 25. C: do you want them to have clean water?
 26. A: ↑ yeah.
 27. C: wull, you better oppose the geetwenty,

In this example, we find that C asks a series of questions (lines 9, 11, 22-3, 25) to the target, A. The questions serve as the pre-challenge (part 3) to the final challenge question (line 25). The response of agreement in line 26 demonstrates the success of this sample challenge sequence.

Although we find an agreement token, “yeah,” in the sequence above, two typical responses to challenges include deflecting and minimizing. Targets may steer a conversation away from a challenge by deflecting it, or they may attempt to minimize the implications of a challenge. In addition, there are at least two specific ways that the target of a challenge can resist: silence and an alternate relationship within the category. They state,

the first pattern of resistance is delay coupled with a minimal, yet ‘type conforming’...response which belatedly assents to the tie. The second pattern of resistance, a confirming yet non-type conforming response, proposes that the tied relationship should be bound instead (Reynolds & Fitzgerald, 2015, p. 105).

For instance, in the example below, they illustrate the slight delay (line 24) and an alternate proposal (line 26) in the following segment whereupon the Target (T) is challenged by a heckler (C) during a “human rights” protest:

21. T: [>and then] you can pray.<
 22. (0.7)
 23. C: does praying work?
 24. (1.2)
 25. T: (h) \$ye:s\$z
 26. (0.9)
 27. C: >then why don’t you just stay home and pray.<
 28. (1.0)
 29. T: because (0.3) there’s (0.3) other ways to do it.

The main goal of the “adversarial method” of challenging is to call into question an “opponent’s normativity” (Reynolds & Fitzgerald, 2015, p. 100). One example they cite is for a challenger to invoke the social order by suggesting that their opponents’ argument is disorderly and therefore resulting in the challenger having the upper hand in upholding normativity. This type of interaction may be commonly found within interactions that escalate to crisis levels. In particular, and for this analysis, the ways the target responds to the challenge seems to be a pivotal moment for a conflict to become a breach or social breaking point.

MCA is a useful framework to use as it can draw on several moments from the courthouse saga where the speech act “enticing a challengeable” is used. In the segments chosen below, I recount how challenges are set up and resisted. Some of the resistance includes alternate categories, collections or actions that are tied to those categories, other types of resistance includes notable silence accompanied by facial gestures, including specific eye contact and facial movements that figure prominently in the interaction.

Crisis at the Courthouse: Negotiating a New Right to Marry

As the episode between Kim Davis and David Ermold and David Moore unfolds, several member categories are invoked: e.g., second-class citizen, interracial couple, man and woman, court, sixth circuit, Supreme Court. The way they are raised and responded to by participants within this scene illustrates the way that conflicting normative stances are articulated. It is noteworthy that categories include non-present members. Because this conflict included broader categories such as citizens, couples and courts, these are not just individual but social categories that are meant to have normative implications for acting as a member of society. Some categories that go unmentioned, or are left unsaid, may be equally important. For instance, during this episode no one utters, “Kim Davis is county clerk.” As analysts we can either recognize this as relevant, in that we (observers of the scene and participants) know Davis is a county clerk in the same way that we know she is a woman. Yet, in addition and more to the point, by

dismissing our own acknowledgement of the possible roles that might become relevant in the scene, we instead only consider the participants' actual interactions as orienting to what is relevant and how it is relevant.

Other categories referenced in this scene are endowed with certain kinds of authority. These include God, figure-head, police, children, and governor. The status of these categories, and the collection of them into "those with authority" are raised by participants in the outset of this crisis. Once used, categories are intertwined with particular rights and obligations that become significant both for this episode itself as well as for its subsequent interpretation by those who were not present.

Citizens and Their Rights

In the first few moments of the publicly-recorded interaction at the courthouse, David Moore one of the two men seeking a marriage license, refers to himself and his partner within the group member category "second class citizens."

8 DAVIS: I'm not being disrespectful to you
 9 ERMOLD: You absolu[tely have disrespected us
 10 MOORE: [you absolutely are, treating us as second class citizens=
 11 DAVIS: =[No I don't ((shaking her head))
 12 MOORE: =[is what you are doing, telling us that we don't deserve the same right rights
 13 that you do think that you have
 14 DAVIS: I'm saying that [you do-

Kim Davis begins the segment by making the claim that she is not being "disrespectful" to the target couple referenced through her use of "you" (line 8). Davis' statement characterizing her action as not "disrespectful" prompts Moore to proffer the category "second class citizens" (line 10). One way to interpret this category is to treat it as a predicated category (one that is taken-for-granted), falling under the unstated collection of citizens of the United States. As analysts, it is possible to use our own member knowledge to recognize that citizens are citizens of a country. However, we must ask if there is any indication that the conversational participants are orienting to citizens in that manner. In line 12, we find Moore's elaboration of second-class citizens as those who "deserve the same rights." Second-class citizen is **category-tied** (by Moore) to the action of being disrespectful (mentioned in lines 8 and 9) because it is made explicit, rather than merely being left unstated. Therefore, we see from the participants' perspective that the actions, rights, duties and obligations that are warranted for the particular category, citizen, are at issue locally. The category of citizens who all have equal rights is locally established as consisting of two categories, those deserving "the same rights" (line 12) as others, and those of a lower rank of "second class citizen" (not receiving the same rights, nor respect).

Subsequently, Moore asks a typical challenge question, intending for an affirmative answer so that his point can be found morally correct.

17 MOORE: Would you do this to an interracial couple?
18 (1.0)
19 DAVIS: A man and a woman, no ((shaking her head))
20 (2.0)



Figure 1. Kim Davis (on the left) looking at Moore (on the right) as she begins her statement in line 19.

Kim Davis' response (line 19) rejects the proposed tie of giving a marriage license to an interracial couple through an alternate proposal demonstrating the way the category of marriageable people is tied to "a man and a woman." Furthermore, in this segment, we have Moore drawing on a racial collection ("an interracial couple") and Davis countering with a gendered collection ("a man and a woman"). This extract illustrates how collections are occasioned from **within** the enticing a challengeable sequence whereby Davis orients to the category of "couple" with a standardized relational pair (Jarryusi, 1984; Stokoe, 2012) in order to demonstrate the morality of her position.

Categorizing the Clerk in Relation to Citizen

This episode demonstrates a normative crisis because what had been a standardized relational pair, a man and a woman, into the device marriageable couple, is no longer the **only** legal pairing. At issue for the conversational participants in the courthouse scene are how these and other categories, such as clerk and citizen, and the rights, duties and obligations (or moral stance) are expressed as normative. The laws that have been in place for many years have recently been changed. Although Reynolds and Fitzgerald (2015) elaborate on challenges that are present within the context of protests of current laws, this courthouse incident illustrates a social crisis whereby participants must reconcile and account for norms that no longer hold sway. The way Kim Davis chooses to respond to Moore and Ermold's challenges demonstrate her ties to previously normalized categories. For instance, consider her reference to God (line 46 below) as another claim for asserting her normalcy.

36 DAVIS: [And we are not issuing marriage [licenses today.
37 MOORE: [The Supreme Court denied your stay
38 DAVIS: We are not issuing marriage licenses today [sir
39 MOORE: [Based on what?
40 DAVIS: I would ask you all [to [go ahead and-
41 MOORE: [Why are you [not issuing marriage licenses today?
42 (0.5)
43 DAVIS: Because, I'm not
44 MOORE: Wh[y
45 ERMOLD: [Under whose authority? (0.5) are you not issuing licen[ses?
46 DAVIS: [Under God's
47 authority ((looking at David Ermold))
48 OTHER: Did the lawyers tell you-
49 MOORE: [Did God tell you to do this? Did God tell you how to treat us (.) like this?
50 ERMOLD: [I don't believe in your god. I don't believe in your god. I don't believe in
51 your [god
52 DAVIS: [((looking at Moore)) I've asked you all to leave, you are interrupting

In this segment, Davis states “we are not issuing marriage licenses today” (line 36). Her negation of the strong tie between clerks who issue licenses to those who do not, transforms the assumptions of this category-bound device. Kim Davis answers Ermold’s question, “under whose authority?” (line 45) with the slightly overlapped response, “under God’s authority” (line 46). In this way, Ermold enticed a challengeable that Davis responds to with an answer that shifts from her placement into the category of clerk with the duty to issue a license, into the category of Christian, with a perceived duty to God by not issuing the license.

Davis’ use of “we” (line 36), in light of the operable collection (clerks), shows how Davis’ assertion that she is operating under “God’s” authority by proffering a religious collection in which she takes on a category (Christian or disciple). She uses the adequacy rules Sacks’ recounted (above) to proffer a religious category that implicates herself as a disciple. In one reading, her statement can be understood as including categories in this collection (disciple : non-disciple). Similarly, subsequent statements shouted by others in the room (see below, line 89) “do your job” and “this is not a house of God” (see below, line 114) assert an alternate, secular collection.

As the crisis unfolds, more voices join in to construct this event. Ermold directly asserts that, “God does not belong in the county clerk’s office.” He can make this claim based on the secular collection including (citizen : clerk). The others in the room engage with this collection and add new dimensions, “God doesn’t run government” (lines 112-113) and “this is not a house of God” (line 114).

111 **ERMOLD:** =God (.) [does not belong in the county clerk's office
 112 **OTHER:** [God doesn't run the government!
 113 **OTHER:** God doesn't run the government!
 114 **OTHER:** This is not a house of God!

In sum, this segment demonstrates that two alternative collections are operating in the environment of enticing a challengeable.

Concomitant with the category of citizen are particular features.



Figure 2. Moore pointing index finger at Kim (line 60).

58 MOORE: [I'm paying you your salary ((pointing his index at her))
 59 (0.5)
 60 MOORE: I PAY YOUR SALARY ((pointing his index at her and raising his voice))
 61 ((Kim Davis looks at Moore))
 62 OTHER: We pay your salary
 63 MOORE: I pay you to discriminate against me right now! ((Banging hand against the
 64 counter)) that's what I'm paying for
 65 ((Kim Davis looks at Moore))
 66 MOORE: ((looking at his partner)) that's what I'm paying for. I'm paying for this memory
 67 with my partner that I love, that I have been with for seventeen years. What's
 68 the longest you've been with someone, that you've been married to someone?



Figure 3. Davis looking at Moore and his partner (line 65) as Moore looks at his partner (line 66).

The additional features associated with the term citizen, such as Moore's repeated assertion, "I pay your salary" (lines 58 and 60), is not taken up or responded to (as such, or topically). It is met with silence (line 59). One can interpret Davis' silent response as resisting the enticement (as discussed [earlier](#)), rather than as letting the claim stand. Similarly, in this same extract, when Moore asserts that he pays the clerk's salary he makes operable (or sustain its operability) the secular collection **clerk : citizen** and proposes a very specific relationship between categories in this collection, namely, that clerks work for citizens (that is, clerks are public servants).

When Moore proposes an extension to the first part of his challenge, "I pay you to discriminate against me" (line 63), his preferred response is denial. In his logic, government officials are not paid to discriminate. Kim Davis' response is a nonverbal look (line 65). Given that the sequence of a challengeable ends with a silent response, we anticipate a next turn. In fact, Moore does follow up with a new challengeable question, "what's the longest you've been with someone, that you've been married to someone?" (lines 67-8), which does not gain the uptake he anticipates.

Contrasting with Uncontested Categories

Within this conversation, we have noticed several contested categories, their collections and the actions bound to those categories. By contrast, some categories are used within the conversation whereby participants do not make explicit the related actions, but infer that the actions are, without a doubt, connected to the category. These include parents and police. That is as the interaction unfolds, participants allude to the relationship between categories and their actions, such as police and making arrests, and it remains uncontested.

For instance, in line 54 (see [Appendix A](#)), Moore suggests to Davis that she, "call the police if you want us to leave." She does not respond to this suggestion. Later in the conversation, after she has retreated to her office and closed the door, Moore again refers to the police, but in a different manner.

88 MOORE: We will call the police. I will ask them to arrest you
 89 OTHER: Do your job! [7] Do your job! Do your job
 90 MOORE: CALL THE POLICE, CALL THE POLICE, GO AHEAD [I will ask them to
 91 arrest you
 92 [(applause)

In line 88, now it is Moore who shouts that he will call the police. In 90, he again refers to Davis' calling the police and binds their action, "arrest you" (line 91), to the category of police. That police make arrests is stated as an assertion, and left uncontested.

Reflections and Conclusions

The difference between interpersonal conflict and a full-blown crisis can begin when the norms (and rules) we use as a larger community are interactionally called into question within a single, or series of smaller events. These norms can become violated in numerous ways. Protests are frequent examples whereby groups gather to demand a change. However, social norms can also be called into question through individual defiant or resistant acts. When these defiant acts achieve the level of public notoriety and discord, then as a community we take notice.

In noticing crisis episodes that call into question the status of particular persons in society, we must investigate how their roles and corresponding actions are not simply transformed from the normal, unspoken and taken-for-granted, but become publicly relevant and interactionally accomplished or contested. In the example above, a citizen calls into question the duties and obligations of a local government official. The county clerk rejects what others in the room perceive as her duty to uphold a newly-created law. Rather than being contained within the category of her job or the collection of the U.S. legal system, she appeals to what she considers a "normal" moral principle that she is obeying God's law.

Part of the crisis unfolding in this episode involves membership category devices. Which social categories become relevant during crises? Who do we present ourselves as during interactional moments? Do those interactional moments that are employment-based demand from us a single unitary self, or can we factionalize ourselves into our different member categories: myself as a mother, employee, spouse, atheist, etc.? Do these types of events call into question what it means to be an "American self" (Carbaugh, 1988), or does this example illustrate a tension that still remains during socially negotiated moments of structure(s) or cultures-in-action?

That similar examples play out repeatedly in the political sphere, especially during elections, may suggest that there are particular conversations where agreeing to accomplish actions strongly bound to particular categories is publicly demanded. For instance, during the 2016 presidential election the news media made reference to John F. Kennedy, the first Roman Catholic running for President, who was questioned about whether or not his religious beliefs would cause him to not uphold the legal responsibilities and duties of the office. What member categories help us closely attend to are the ways in which what may be considered natural categories are occasioned, especially during challenges, and it is during those moments when conversational participants must give accounts for actions that may fulfill one member category or collection and demonstrate inadequacy within other categories or collections.

By illustrating ways categories are bound in conversation calls further attention to the ways they can change. Leudar, Marsland & Nekvapil (2004) described several types of transformations including those where the category members or their collections changed. Their third type of change whereby "predicates normatively bound to a category" are altered is contingent upon **how** they are bound. In this courthouse episode, Kim Davis resisted being included into the category of clerks who were **tied** to those who must issue marriage licenses to same-sex couples. Davis' category-predicate was based on her strongly previously-held norm that licenses are issued to a "man and a woman" (line 19). Furthermore, her category collection that included those who can get married (and those who can issue marriage licenses) was challenged by someone who was making an appeal to a new law that man dated a change in the category collection from man and woman, to two men or two women. Employing MCA to examine categories, collections and the ways they are challenged allows for a more thorough analysis of how a category or collection may begin to be transformed, initially by particular speakers in a given interaction that may extend to an entire society.

The way individuals and their activities are tied, bound or predicated can justify/reject past acts and prepare ground to reproduce or change future membership categories. In these ways, categorizing is a practical and contingent matter (Leudar et al., 2004). By

recognizing the way that categories are proffered, accepted or rejected, we can link that work to what may be possible in the future and keep in the foreground that “crisis is **itself** a social dynamic organized around a familiar discourse of frustrated expectation and well-worn constructs of post-facto social accountability” (Bartesaghi, 2014, p. 538).

Through this analysis, I hope to have at least partially reached Bartesaghi's (2014) goal of rendering “transparent the social order in terms of dynamics and structures” (p. 538) by using MCA to examine the “moment-to-moment flow of crisis as social interaction” (Bartesaghi and Castor, 2010). Whether or not any given set of categories are, or can be, agreed upon in any particular interaction is not the right question to be asking. Rather, we should be interested in understanding how a “natural” category is challenged, upended, and even redefined, even by a small breach or transgression. This process resonates with what Victor Turner (1985) has called a social drama. In his four stages, the breach (stage 1) leads to a crisis (stage 2) whereby the community must work to establish a “new normal” or re-asserts the status quo (stage 4).

In the case above, the new normal for the United States would be to ensure that marriage licenses are available to all couples seeking one. A further implication of Turner's social drama suggests that if a resolution cannot be met it may lead to an **irreparable schism** – something we saw in the case of Kim Davis. Even after the redressive action (stage 3), whereby Davis was incarcerated for failing to uphold the new law, Davis, rather than following the procedure for issuing licenses, took a further resistant step by removing her name (as clerk) from all marriage licenses. This action did not unite the community around this new value, but demonstrated the irreparable schism that may again form the ground for a continuation of this crisis.

Future crisis researchers should become more vigilant in examining what at first may appear as small or minor breaches. MCA is a particularly well-suited tool to examine interactions where within these breaches conversational participants challenge and resist social norms.

Notes

[1] This paper was presented as part of a preconference at ICA in Fukuoka, Japan and entitled, “Enticing the challengeable: ‘Under whose authority?’”

[2] The transcript that appears in **Appendix A** is a slightly modified version that was produced thanks to Nicolas Bencherki, Frédéric Matte, and François Cooren, the organizers of the May, 2016, ICA preconference (“On whose authority” in Fukuoka, Japan). Nonverbal coding includes minimal smiles, directional looks, hand gestures and walking away from the scene. The nonverbal interaction is not the main part of this analysis and any interpretation of what interactional work those gestures are doing is either provided in the analysis or not covered here due to the limitations of this particular type of analysis.

[3] A Lexis-Nexis search uncovered over 650 news articles published about this event using the key search terms “Kim Davis” with only 5 articles published about her before the incident and the balance of news appearing **after** the event.

[4] Interestingly, Uberti (2015) commented on the “media circus” surrounding Kim Davis, a lone actor who came to symbolize a moment that was otherwise quite small. Citing research conducted by the Washington Post, they described how little resistance there was nationwide to the new law, “in Alabama, Kentucky, Tennessee, Mississippi, Louisiana, Georgia, and Texas: 826 of 841 [county clerks] were indeed following the new law as of Tuesday. In the seven other states where gay marriage had previously been illegal ... Freedom to Marry hadn't learned of a single instance of noncompliance.” Uberti, D. (2015, September 4). The media has made Kim Davis a conservative martyr, missing the bigger picture (Menville, 2014).

[5] Bartesaghi (2014) describes metadiscursive speech acts as those that move beyond representation to “bind agents to specific actions” (p. 540). She further explains, “they are forms of accounting for events and to explain or justify them (Buttny, 1993; Scott & Lyman, 1970).” Following some untoward actions, participants must “mend breaches in the social order” (p. 540).

[6] This segment is reproduced from Fitzgerald & Housely (2015, p. 111; with the aid from p. 102-3 where the speakers were identified by slightly different markers: T and C versus A and C).

[7] The statement to do “your job” (uttered by bystanders in lines 86 and 89) references the predicated (or taken for granted) relationship between county clerks whose job is to give out marriage licenses.

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Appendix A: County clerk defying Supreme Court on gay marriage

Video available at:

<http://www.usatoday.com/videos/news/nation/2015/09/03/71527640/>

Interaction between a gay couple (David Ermold and David Moore) and county clerk Kim Davis (Rowan County, KY):

1 ERMOLD: solutely ludicrous
2 (1.0)
3 ERMOLD: Don't smile at [me
4 MOORE: [Here she is
5 (0.5)
6 DAVIS: I did not smile
7 (2.0)
8 DAVIS: I'm not being disrespectful to you
9 ERMOLD: You absolu[tely have disrespected us
10 MOORE: [you absolutely are, treating us as second class citizens=
11 DAVIS: =[No I don't ((shaking her head))
12 MOORE: =[is what you are doing, telling us that we don't deserve the same right rights
13 that you do think that you have
14 DAVIS: I'm saying that [you do-
15 MOORE: [and even though in your entire life-
16 (0.5)
17 MOORE: Would you do this to an interracial couple?
18 (1.0)
19 DAVIS: A man and a woman, no ((shaking her head))
20 (2.0)
21 MOORE: How many times have you been married, Kim?
22 (0.5)
23 DAVIS: I just want you all to know that we are not issuing marriage licenses to[day=
24 OTHER: [Why
25 DAVIS: =pending
26 (0.5)
27 DAVIS: [Hum
28 WOMAN: [((yelling)) contempt to court
29 MOORE: What appeal is left?=
30 DAVIS: =Pending the appeal of [the Sixth Circuit
31 ERMOLD: [It's been denied
32 DAVIS: [The appeal stay has been denied, so
33 ERMOLD: [The appeal for the sixth circuit has been denied
34 MOORE: Right, the induction is the order is that you are supposed to issue marriage
35 li[censes
36 DAVIS: [And we are not issuing marriage [licenses today.
37 MOORE: [The Supreme Court denied your stay
38 DAVIS: We are not issuing marriage licenses today [sir
39 MOORE: [Based on what?
40 DAVIS: I would ask you all [to [go ahead and-
41 MOORE: [Why are you [not issuing marriage licenses today?
42 (0.5)
43 DAVIS: Because, I'm not
44 MOORE: Wh[y
45 ERMOLD: [Under whose authority? (0.5) are you not issuing licen[ses?
46 DAVIS: [Under God's
47 authority ((looking at David Ermold))
48 OTHER: Did the lawyers tell you-
49 MOORE: [Did God tell you to do this? Did God tell you how to treat us (.) like this?
50 ERMOLD: [I don't believe in your god. I don't believe in your god. I don't believe in

51 your [god
52 DAVIS: [((looking at Moore)) I've asked you all to leave, you are interrupting
53 [my business
54 MOORE: [You can call the police if you want us to leave
55 OTHER: It's not your business
56 MOORE: You can call the police.
57 DAVIS: [That's exactly right xxxxxxx ((speaking to another person on her left))
58 MOORE: [I'm paying you your salary ((pointing his index at her))
59 (0.5)
60 MOORE: I PAY YOUR SALARY ((pointing his index at her and raising his voice))
61 ((Kim Davis looks at Moore))
62 OTHER: We pay your salary
63 MOORE: I pay you to discriminate against me right now! ((Banging hand against the
64 counter)) that's what I'm paying for
65 ((Kim Davis looks at Moore))
66 MOORE: ((looking at his partner)) that's what I'm paying for. I'm paying for this memory
67 with my partner that I love, that I have been with for seventeen years. What's
68 the longest you've been with someone, that you've been married to someone?
69 ERMOLD: [((laughs))
70 DAVIS: [I'm asking you to lea:::ve.
71 MOORE: I'm not leaving
72 (.)
73 DAVIS: Okay, you all [so you could just push back away ((making a gesture with both
74 hands, imitating the action of pushing))
75 ERMOLD: [I'm asking you to do your job
76 DAVIS: [you are all welcome to stay
77 MOORE: [I'm not leaving
78 MOORE: I'm not leaving
79 DAVIS: [just push back away from the counter
80 MOORE: [can't help with the pressure, here (.) no
81 ERMOLD: No, no
82 DAVIS: Just push back [away from the counter
83 ERMOLD: [We're not leaving until we have a license. (.) We're not
84 leav[ing until we have a license
85 DAVIS: [Then you're gonna have a long day.
86 OTHER: Do your job!
87 DAVIS: Good day ((walks away to another part of the office))
88 MOORE: We will call the police. I will ask them to arrest you
89 OTHER: Do your job! Do your job! Do your job
90 MOORE: CALL THE POLICE, CALL THE POLICE, GO AHEAD [I will ask them to
91 arrest you
92 [(applause)
93 OTHER: Do your job!
94 OTHER: Coward
95 MOORE: YOU SHOULD BE ASHAMED OF YOURSELF! EVERYONE IN THIS
96 OFFICE SHOULD be ashamed of themselves. ((Ermold put his right hand on
97 Moore's left shoulder))
98 MOORE IS THIS WHAT YOU WANT TO REMEMBER?
99 (.)
100 MOORE IS THIS WHAT YOU WANT TO REMEMBER, THAT YOU STOOD UP
101 FOR THIS?
102 OLD CLERK: xxxx Amen, yes sir ((pointing his right index to the ceiling))

103 MOORE: THAT YOUR CHILDREN WILL HAVE TO LOOK AT YOU AND
104 REALIZE THAT YOU ARE BIGGOTS ((knocking his fist on the counter))
105 ((Kim Davis reappears from her office and comes back to the counter))
106 MOORE: AND THAT YOU DISCRIMINATED AGAINST PEOPLE?
107 OLD CLERK: No, no [discrimination
108 MOORE: [is that what you want of- [Is that what you want?
109 OLD CLERK: [xxxx for God and God's word [and what he
110 told= ((raising his right hand toward the ceiling))
111 ERMOLD: =God (.) [does not belong in the county clerk's office
112 OTHER: [God doesn't run the government!
113 OTHER: God doesn't run the government!
114 OTHER: This is not a house of God!
115 MOORE: Call them, call the police (xxx). Call them now. ((Hits hand on the counter)).
116 DAVIS: [It's what you are
117 MOORE: SOMEBODY CALL THEM
118 ERMOLD: Call them
119 DAVIS: [David, David, listen to me
120 MOORE: [Call them call them I'm beyond listening to you
121 DAVIS: [David, please, listen to me
122 MOORE: [This is ridiculous
123 DAVIS: David, please, xxx just listen to me
124 OTHER: Do your job
125 MOORE: I don't, I don't care how polite you are-
126 OTHER: We've heard you
127 OTHER: We've heard you
128 MOORE: -Or what you are feeling
129 DAVIS: I know you don't care
130 (.)
131 MOORE: You're not- this is not polite
132 DAVIS: [This is- this is- [This is what I want to do
133 MOORE: [I would never do this to someone, what you are
134 doing to us, I would never (.) do to someone
135 DAVIS: You believe passionately in wh[at you are doing as I do, okay, as I do
136 MOORE: [You do not understand what you are doing to
137 people
138 PARTNER 2: But you are forcing religion on other people
139 MOORE: ((Turning towards crowd)) Can you guys shut up?
140 (1.0)
141 MOORE: You're the press, so shut up.
142 PARTNER 1: No we're waiting for a [license too
143 PARTNER 2: [Yeah, we're waiting for a license
144 MOORE: I'm sorry I thought it was the press
145 ((laughter))
146 MOORE: You guys come up here too!
147 (0.5)
148 MOORE: Come up here (.) tell them, (.) tell them, [tell them to their face.
149 DAVIS: [I'm alright
150 PARTNER 1: She's already denied it a couple times to us, so.
151 PARTNER 2: This is your job mam, that's all we are asking. Do your job, but you have
152 another option, you can step down
153 (1.0)
154 PARTNER 2: If your beliefs mean that much to you, resign:::

http://www.cios.org/getfile/027121_EJC

207 DAVIS: We're done here
208 ERMOLD: No please, let me ask you one question
209 DAVIS: We're done
210 ERMOLD: One question
211 DAVIS: If you want-
212 MOORE: It's gonna take five year to sue you, [that's all its gonna take out of my life
213 ERMOLD: [David, let me ask her a question
214 MOORE: I don't want that
215 ERMOLD: Let me ask her a question
216 DAVIS: I don't want you to be put out anymore that, I don't [want to be put out
217 anymore than that
218 ERMOLD: [will you please let me ask
219 her a question
220 MOORE: Ask her a question
221 (0.5)
222 ERMOLD: Yo[u have one deputy clerk
223 DAVIS: [There is a remedy, there is a remedy to this
224 ERMOLD: I I would like to ask you a question
225 DAVIS: If the governor would do what he is supposed to do, he could settle all this

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