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For Richer, For Poorer: The Freedom to Marry Debate

The Cost of Nonrecognition of Same Gender Marriages

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ABOUT THE ISSUE

The State of Hawaii may soon make history by becoming the first state in the nation to recognize same gender marriages. And because a marriage that is legal in one state usually is legal in the 49 other states, policy makers nationwide have been forced to examine this highly controversial issue.

Here, economists Lee Badgett and Josh Goldfoot discuss the socio-economic impact of same gender marriage recognition in the State of California which is currently considering two bills seek to preempt recognition of such marriages. Be aware, though, that while the facts are California-specific, many of the issues raised here are relevant to other similar discussions currently taking place.

Marriage is a personal and emotional commitment two people make to each other. And marrying someone often is a public announcement of that commitment.

With its mix of benefits and obligations, marriage encourages individuals to form economically stable family units that will provide life's necessities for its members. Our nation's health care, pension systems, and social safety net have all been constructed around it.

Encouraging economically stable families has obvious social benefits. Children have increased access to parental resources, both economic and social. Adults will likely improve their own standard of living, share in the responsibility of child-rearing, and have built-in financial support during tough times.

Evidence further suggests that married adults are healthier and live longer than single ones.¹ As well, business and industry get a more stable customer base and a stronger current and future labor force. Though difficult to quantify, these are just some of the social benefits of marriage.

The institution of marriage promotes economic stability not just for heterosexual couples, but would also do so for same gender couples who will marry if allowed. Moreover, the costs of recognizing same gender marriages are likely to be negligible.

The failure to legally recognize those marriages undermines the larger social purpose of marriage and will be financially costly to any government. Through tax revenues and expenditures, marriage has a significant impact on governmental budgets -- particularly in terms of tax revenue and payments for means-tested assistance programs.

In this analysis, keep in mind that the state budget represents transfers of income throughout the state, and measuring the overall social impact -- on children, adults, and the health of our economy -- is not as simple as measuring changes in taxes and expenditures.

How many same-sex couples will marry?

Very little useful information exists for predicting how many same gender couples would marry if given the opportunity. We expect that couples will weigh the pros and cons.

The advantages of marrying include social approval, increased relationship security, and access to spousal benefits. Another advantage is that it creates a legal family relationship for inheritance, hospital visitation, and other purposes.

Disadvantages of marriage might include higher federal income tax payments or loss of eligibility for some social programs. However, available evidence suggests that such disadvan-

tages at most have a small effect on the propensity to marry.²

Although all of these factors are relevant in some way for most couples, individuals will place different values on them. In the end, some lesbian or gay couples will decide to marry and others will not. Not knowing how many couples will marry, however, does not prevent us from estimating the economic impact of those marriages and the cost of nonrecognition.

Most of the significant benefits of marriage do not involve direct financial costs for the State or local businesses. For example, with no cost to anyone else marriage can save couples thousands of dollars in attorneys' fees for writing wills, living together contracts, and other legal documents to protect their relationship, property, and children. Other benefits, like the right to hospital visitation or to make medical decisions for an incapacitated spouse, involve no financial gain to the couple or loss to anyone else, but have obvious value to a patient and his or her spouse.

For the other potential costs of recognition versus nonrecognition, we start with the potential cost per couple. We then put the potential cost into the larger social context to provide a sense of its size and importance.

Marriage and the Social Safety Net.

A number of economic supports are created by marriage, among them:

- Many employers offer health and pension benefits to their employees and their spouses and children.
- Married couples must provide mutual financial support.
- Marriage automatically creates property, spousal inheritance, and social security survivor benefit rights in the event of divorce or death, all of which enhance the economic security of the family.

These private benefits of marriage have allowed state and federal governments to construct safety net programs that catch individuals when their families cannot provide adequate housing, health care, food, or income because of some financial misfortune, death or unemployment. These programs require that employed or financially able spouses contribute to the family's maintenance. *But if a marriage is not legally recognized, no spousal support can be expected, increasing the state's financial burden for that family.*

The economic vulnerability of single parent families cannot be overstated. In 1990, 65% of California's single parent family households received Aid to Families with Dependent Children (AFDC), while only 3% of its two parent families received AFDC.³

The potential state budgetary impact of not recognizing a marriage that would lift a family out of eligibility for these programs is large. In 1993, the average California family on AFDC received \$6,816, and the state spent an average of \$581 per family to administer the program.⁴ The State pays for half of this program's costs.

Another program, Supplemental Security Income (SSI), supports the aged or disabled. Eligibility is based on financial resources, so an unmarried individual is more likely to qualify. In 1994, the maximum California supplement was \$1884 per year for an individual and \$5280 for a couple.⁵ California added an average of \$2,159 to the federal government's average \$3,970 payment in 1993.⁶

MediCal is available to those on AFDC and SSI as well as other needy individuals. The federal and state governments split the cost of MediCal, which in 1992 averaged \$1,480 per adult on AFDC and \$652 per child on AFDC in California.⁷ Finally, state and local governments might incur additional costs from other means-tested

programs not discussed here, such as General Assistance, that use resources to determine eligibility.

Of course, not all same gender marriages would lift one spouse out of eligibility for these programs, but marriage is the most common route off welfare.⁸ Certainly in a state as large as California, the economic position of some families headed by gay people will be dramatically helped by marriage. And many gay people do have children, making this scenario plausible. (A 1993 survey by Yankelovich Partners showed that lesbians are as likely as heterosexual women to be parents and to have children in their households. Gay men are less likely to have children, but many do.)⁹

The total cost to the state and federal governments of not recognizing one such marriage could easily be \$9,000 for a small family eligible for AFDC and MediCal. Using that average cost per family, every 100 families leaving AFDC reduces expenditures by nearly

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\$1 million per year -- half of those savings going to the state. If only 0.1% of families on AFDC in 1994 married and left AFDC, the total savings would be over \$3.3 million to the state in this hypothetical scenario.¹⁰

Marriage and the Federal Budget.

Since the federal government shoulders at least half of these safety net program costs, it will also pay more if California refuses to recognize particular marriages. On the other hand, it is not likely to incur any higher costs if California recognizes all marriages.

Impact on Federal Income Tax. The state's failure to recognize these marriages also could deprive the federal government of additional tax revenue. The impact of marriage on a couple's tax obligations depends on whether both spouses work and how similar their earnings are. By paying more taxes as a married couple than they would as single individuals, couples with similar earnings suffer a "marriage penalty" that averaged \$1244 in 1994.¹¹ The traditional married couple, with the wife working in the home and the husband in the workforce, receive a marriage benefit (averaging \$1399 in 1994) since they pay less in taxes than they would pay separately if single.

In some ways, marriage provides incentives for couples to form more traditional kinds of households that will get the marriage benefit.¹² But studies show that even if they legally marry, same gender couples are not likely to adopt that traditional form, often expressing a strong belief that both members of the couple should work outside the home.¹³ Therefore, same gender couples would be more likely to pay the marriage penalty.

The total increase in tax revenues will depend on whether the marriage penalty discourages some couples from marrying. Results of recent studies imply that 10-15% of two earner couples might decide not to marry because of

the marriage penalty. That means that 85-90% of such couples would still marry, contributing an additional \$1,244 in federal taxes. California's failure to recognize the marriages of 10,000 two-earner gay couples, for instance, could cost the federal government over \$12 million.¹⁴

Marital Exemptions on Other Taxes.

One benefit of marriage for wealthy couples is the exemption on federal estate taxes. All transfers of property to a surviving spouse are exempt from taxation, regardless of the size of the estate. Otherwise, only up to \$600,000 of estate property can be transferred to heirs without estate taxes. It is difficult to estimate the amount of estate tax revenue that would be lost by legally recognizing same gender marriages. However, wealthy people tend to engage in estate tax planning to minimize taxation, so the difference would likely be small.

Marriage also creates an advantage when adding a spouse's name to a car title, for instance. Such changes in title are often subject to a conveyance tax unless the new owner is a spouse. This exemption recognizes that property owned by married people is typically treated by the law as jointly owned, even if held in only one spouse's name.¹⁵ Like other taxes, this tax transfers income from one person to others through the state tax system and does not create any true cost or benefit.

Spousal and Survivor Benefits. Married couples are eligible for spousal social security benefits in the Old-Age and Survivors Insurance Program (OASI).¹⁶ When a fully insured worker retires, his or her spouse is eligible for a benefit of 50% of the retiree's benefit. When the retiree dies, his or her spouse continues to receive the retiree's monthly benefit as well as a \$255 lump-sum death benefit.

We do not know how many same gender couples would be eligible for spou-

sal benefits, but evidence suggests the amount of additional benefit payments is likely to be small. Spousal benefits are only paid when the spouse is not entitled to better benefits based on his or her own work record. As noted earlier, though, both partners in same gender unions are likely to work, making them eligible for separate benefits.

Currently, a surviving partner in a same gender couple is not eligible for survivor benefits. What would be the impact of recognizing those marriages? If the survivor's own OASI benefit is more than that of the deceased spouse, there would be no increase.

Imagine the most potentially costly scenario: an insured worker receiving OASI dies, leaving behind a spouse who was uninsured and has no earned income. If the couple was married, the survivor would receive a benefit that averaged \$608 per month in 1992. If the couple was unmarried, the partner would not receive OASI, but might be eligible for SSI, which could conceivably pay more than OASI since the maximum individual benefit in a high-cost California county was \$663 per month in 1995.

The Impact on Private Sector Businesses in California.

What hidden costs to recognizing same gender marriages might there be? Some call for nonrecognition out of concern that it will impact business employment costs.

Health Care Costs. Many people worry that businesses providing health benefits to employees and their spouses would have to pay for more spouses. This concern is unfounded.

First, costs to an individual business are likely to rise by very little, if at all. A growing number of employers currently offer health benefits to their employees' same gender "domestic partners." Those businesses have experienced

very low cost increases because few employees (typically well under 1%) enroll domestic partners; and those partners are not incurring higher than average medical costs.¹⁷ So recognizing same gender marriages will not dramatically increase the number of people insured by a single business.

Second, even a low cost increase for a single employer may not be true for the state economy as a whole. Some newly married people might switch from their own employer's insurance benefits to his or her spouse's insurance plan, but that just shifts the costs from one employer to the other. Others might shift from MediCal to a spouse's employment plan, which simply shifts the costs from the state to the employer and could benefit the employer in the long run through lower taxes.

Even those who are currently uninsured but would become eligible for benefits if married would not necessarily increase total state health care costs. Those individuals currently constitute a vulnerable group of people who, in a medical crisis, might become eligible for MediCal or simply be unable to pay for care. Recognizing marriages of the currently uninsured might mean some small increase in employers' costs but would likely reduce the amount of uncompensated care that is a growing burden on health care providers, private insurers, and the state. The net effect of the uninsured gaining health insurance through marriage will depend on the balance between reduced uncompensated care expenses and the potential for increased usage of health care services while insured.

Overall, recognizing same gender marriages will most likely result in a redistribution of health care costs, with some possibility of a small increase in total costs to the state or private businesses.

Insurance and Business Discounts.

Insurers often provide lower auto insurance for married people based on actu-

arial data showing that married individuals are lower risks. Extending the same discount to married same gender couples should not, therefore, increase costs to the insurance companies if a similar reduction in risk occurs.

Discounts on other products or services offered to married couples may not result in lower business revenues. When the price of a product falls, more people purchase it, so such discounts will not necessarily reduce revenue. Presumably those businesses offer discounts in the first place because those discounts increase revenues and profits.

Private pension plans. Most employers offering pension benefits must offer "joint and survivor" benefits as an option upon retirement -- the retiree receives a lower payment while alive and his or her spouse gets a smaller payment after the retiree's death.¹⁸ Allowing employees with a same gender spouse should not increase employers' costs because the values of the two different income streams -- the higher one for the life of the retiree or the lower one with survivor benefits -- are set to be actuarially equivalent.

Overall, then, the cost of recognizing more marriages should be small to nonexistent for private sector businesses.

NOTES

1. C. Ross, J. Mirowsky, and K. Goldstein, "Impact of the Family on Health: Decade in Review," *Journal of Marriage and the Family*, Vol. 52, Nov. 1990.

2. D. Sjoquist and M. Walker, "The Marriage Tax and the Rate and Timing of Marriage," and J. Alm and L. Whittington, "Does the Income Tax Affect Marital Decisions?," *National Tax Journal*, Vol. XLVIII, No. 4, Dec. 1995. R. Moffitt, "Incentive Effects of the U.S. Welfare System: A Review," *Journal of Economic Lit.*, Vol. 30, No. 1, Mar. '92, pp. 1-61.

3. Calculated with Cal. data from the 1990 Census of Population and data on AFDC reciprocity from the State of Cal., Dept. of Social Services. The standards for AFDC Un-

employed Parent are more stringent, which exaggerates the difference in rates somewhat.

4. 1994 Green Book compiled by the Comm. on Ways and Means, US House of Representatives.

5. 1994 Green Book, pp. 224-225.

6. *Social Security Bulletin, Annual Statistical Suppl.*, 1994, p. 69.

7. 1994 Green Book, p. 811.

8. R. Moffitt's study, (note 2).

9. G. Lukenbill, *Untold Millions*, Harper Business, New York, 1995.

10. In 1994, 742,656 single parent families received AFDC, according to the State of California's Dept. of Social Services.

11. D. Feenberg and H. Rosen, "Recent Developments in the Marriage Tax," *National Tax Journal*, Vol. 48, No. 1, March 1995.

12. G. Becker, *Treatise on the Family*, Harvard Univ. Press, Boston, 1991.

13. P. Blumstein and P. Schwartz, *American Couples*, Wm. Morrow and Co., N.Y., 1983; L. Kurdek, "Lesbian and Gay Couples," *Lesbian, Gay, and Bisexual Identities Over the Lifespan*, ed. by A. D'Augelli and C. Patterson, Oxford Univ. Press, New York, 1995.

14. This figure results from using the -0.012 elasticity of the marriage probability with respect to change in taxes reported in Alm & Whittington (see note 2) and the \$1,244 avg. marriage penalty for 2-earner couples from Feenberg & Rosen (see note 11).

15. M. Glendon, *Transformation of Family Law*, Univ. of Chicago Press, 1989, pp. 123-131.

16. 1994 Green Book.

17. In the City of N.Y. and State of N.Y., fewer than 1% of employees enrolled a domestic partner of either the same or opposite sex (data for city and state from Office of Labor Relations, NYC, 1995, and Empire State Pride Agenda, respectively); see also "The Report of the CUNY Study Group on Domestic Partnerships," City Univ. of N.Y., Oct. 1993.

18. R. Clark and A. McDermed, *The Choice of Pension Plans in a Changing Regulatory Environment*, The AEI Press, Washington, D.C., 1990, p.78; A. Munnell, *The Economics of Private Pensions*, The Brookings Institution, Washington, D.C., 1982, p. 225.