

Same-Sex Marriage

A Compelling Need

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Partners Task Force for Gay & Lesbian Couples

Legal Marriage Offered

- ◆ Same-sex couples can legally marry in Netherlands, Belgium, Canada, Spain, South Africa, Norway, Sweden
- ◆ In the U.S., marriage is only available in Massachusetts, Connecticut, Iowa, Vermont, Maine, New Hampshire
- ◆ No other countries provides same-sex couples the same range of protections, responsibilities, and benefits that come with civil marriage

Marriage Denial Based on Biological Sex

- ◆ The discrimination is based on *apparent* biological sex, not being gay or lesbian
- ◆ Marriage applicants are never required to reveal their sexual orientation
- ◆ No marriage license bureau tests for the maleness or femaleness of the applicants, via chromosome or body inspection

What is Marriage?

Legal Marriage Defined

- ◆ **A contract between two adults and the state**
- ◆ **A legal standing as next-of-kin, providing**
 - ◆ **rights**
 - ◆ **privileges**
 - ◆ **responsibilities**
 - ◆ **presumptions of law**
- ◆ **Also called “civil marriage”**

Legal Marriage is Not

- ◆ **In most countries, legal marriage is controlled by the state, not by any religion**
- ◆ **In some countries, a religion might have a powerful say in the legal structures**
- ◆ **In the U.S., no religious affiliation or approval is required for legal marriage**
- ◆ **While ceremonies are often performed with legal marriage, they are not required**

Why Withholding Legal Marriage is Wrong

- ◆ It is arbitrary
- ◆ Based on attributes one can't control or change
- ◆ An intrusion where *personal* control is essential, such as religion, or political ideology
- ◆ Government interference in personal life
- ◆ Public policy must not be dictated by religions, or held hostage to so-called “tradition”

Legal Marriage Triggers

- ◆ **Marriage allows couples to be protected at times of crisis, such as ill health or death**

In the U.S.:

- ◆ **150-300 laws are triggered in each state**
- ◆ **At least 1,049 Federal laws are triggered**

A Few Key Benefits of Legal Marriage

- ◆ Property rights
- ◆ Access to family court
- ◆ Kinship
- ◆ Parentage, custody
- ◆ Possible tax breaks
- ◆ Automatic inheritance
- ◆ Immunity from testifying against a partner in court
- ◆ Automatic lease transfer
- ◆ Workplace benefits
- ◆ Immigration
- ◆ Social Security
- ◆ Medicare
- ◆ Hospital visitation
- ◆ Medical decisions for incapacitated partner

A Few Key Responsibilities of Legal Marriage

- ◆ **Economic equality**
- ◆ **Community property requirements**
- ◆ **Alimony**
- ◆ **Legally required to make some decisions jointly**
- ◆ **Limitations on nepotism**
- ◆ **A married spouse is the social safety net of first resort**

Legal Marriage and Immigration

- ◆ **Most country's immigration laws promotes family unification by allowing a foreign, legal spouse to immigrate**
- ◆ **Immigration laws do *not* allow a citizen to petition on behalf of a same-sex partner**
- ◆ **Denial of legal marriage means binational couples often find their families torn apart**

Marriage Not Just to Beget Children

- ◆ Legal marriage is not denied to opposite-sex couples if they *choose* not to have children
- ◆ Legal marriage is not denied to sterile couples
- ◆ Marriage laws do not require bearing or raising children
- ◆ Many gay men and lesbians have children, but are denied the right to raise them in a legal marriage

Even Divorce is a Marriage Benefit

- ◆ **Judicial review of dissolution**
- ◆ **Protects individual interests *and* the interests of affected children**
- ◆ **Same-sex couples who break up rarely get fair help from the courts except to enforce contracts or agreements, *if* they have written them**

Social and Ethical Concerns

Same-Sex Marriage Is Good

- ◆ **Choice of a life-partner is a fundamental freedom**
- ◆ **Marriage seen as a signpost of maturity**
 - ◆ **Should be available to all**
- ◆ **Supported couples are better able to contribute to the community**
- ◆ **It supports same-sex family members**
 - ◆ **Promotes good health**
 - ◆ **Enhances ability to provide care for children**

Why Some Oppose Freedom to Marry

- ◆ **Personal religious beliefs**
 - ◆ All have a right to their religious beliefs
 - ◆ However, the government may *not* enforce one group's religion on everyone else
- ◆ **Lack of information, or misinformation**
- ◆ **Fear of change**
- ◆ **Fear of lesbians and gay men**
- ◆ **Hatred of lesbians and gay men**

Same-Sex Marriage Labeled a “Special Right”

- ◆ “Special rights” is a false concept invented by opponents of equal rights
- ◆ Marriage is an “exclusive right” when it is *only* offered to opposite-sex couples
- ◆ Ending discrimination results in *equal* rights
- ◆ Freedom to marry is about nothing more, and nothing less, than *equality*

Condoning Homosexuality?

- ◆ Marriage licenses do *not* force acceptance, they trigger equal access to a legal status
- ◆ Prisoners, rapists, and drug dealers may legally marry — that does not condone criminal behavior
- ◆ Granting freedom endorses freedom
- ◆ Requiring equality condones equality

Same-Sex Marriage Does Not Diminish Marriage

- ◆ Offering legal marriage to one group in no way diminishes the rights, responsibilities or value of marriage to any other group
- ◆ Legal marriage *strengthens* commitment — commitment is what makes marriage
- ◆ Making marriage the universal standard of a committed relationship actually strengthens the institution

Marriage and Religion

- ◆ Religious & legal aspects are *different*:
 - ◆ Ceremonies don't make marriage *legal*
 - ◆ Ceremonies are not necessary to get a license
- ◆ Many same-sex couples already have religious marriages, but partners remain *legal strangers*
- ◆ Legal marriage for same-sex couples *does not* force a religion or any person to change their beliefs or practices

“If Same-Sex Marriages Are Allowed, *Where Will it End?*”

- ◆ **There is no “slippery slope”**
- ◆ **Extreme, ridiculous examples are used to frighten and confuse the issue**
- ◆ **We advocate *only* that governments stop barring couples from equal access to marriage law**

It is *Moral* to Support the Freedom to Marry

- ◆ **Everyone should be free to marry and share a life with the person she or he loves**
- ◆ **Everyone deserves to have his or her primary adult relationship supported by law**
- ◆ **It is a matter of basic fairness**

Historical Marriage

Changing Marriage Traditions

Historically:

- ◆ Biblically, wives and children were treated like slaves or property
- ◆ Men had multiple wives in many cultures
- ◆ Parents picked spouses for their children
- ◆ Some countries denied legal marriage to those of certain religions

For many more examples, see
“Marriage Traditions in Various Times and Cultures”
www.buddybuddy.com/mar-trad.html

Recent U.S. Marriage Laws

In the U.S.:

- ◆ Blacks, Asians, and Native Americans were denied legal marriage during America's early years
- ◆ Married women were not allowed to make legal contracts in 12 U.S. states until 1940
- ◆ Until 1967, 13 states outlawed interracial marriage
- ◆ Massachusetts became the first state to offer legal marriage to same-sex couples in 2004

Same-Sex Couples Are a *Family*

- ◆ “Family” — two or more people who share their lives, bound together by love
- ◆ “Family” is how we treat each other
- ◆ Same-sex couples are already families. A legal marriage would bring them legal support
- ◆ 60 percent of U.S. gay men and lesbians are in a relationship
- ◆ Committed, adult couples *deserve* benefits, protections, and the duties of legal marriage

Non-Marriage Methods to Gain Spousal Rights

U.S. Domestic Partner Workplace Benefits Positives

- ◆ **Vital because America is the only industrialized nation that does not have universal health care**
- ◆ **Usually offer medical insurance, sick or bereavement leave**
- ◆ **Help employers attract and retain quality employees**
- ◆ **Are voluntarily offered by large numbers of employers**

U.S. Domestic Partner Workplace Benefits Negatives

- ◆ Are active only as long as you work for the same employer
- ◆ Are taxed as real income
 - ◆ Based on street value of the benefit, not on what employer paid
- ◆ Affidavits signed for workplace benefits may adversely affect the legal standing of partners, should a relationship end
- ◆ Domestic partner *benefits* are *not* equivalent to, or a substitute for, legal marriage

Domestic Partnership City or County Registration

- ◆ Usually offers few, if any, rights
- ◆ Represents an unjust policy of *separate and unequal*
- ◆ Affidavits signed for registrations may adversely affect the legal standing of partners, should a relationship end
- ◆ Domestic partner *registration* is *not* equivalent to, or a substitute for, legal marriage

Individual Legal Agreements

- ◆ Can only address a few issues, such as inheritance, custody, and acting on behalf of an incapacitated partner
- ◆ Are time-consuming and costly
- ◆ Can be challenged, since unmarried people are legal *strangers* — no matter how long together
- ◆ Hardly covers the many hundreds of state and Federal laws triggered by legal marriage, such as Social Security and immigration

Further Concerns

Not All Same-Sex Couples Want to Marry

- ◆ Not everyone will choose it, including some in long-term relationships
- ◆ Charges that marriage is feudal, oppresses women, or is part of a patriarchal institution, are not consistent with today's marriage laws
- ◆ Marriage is not compulsory
- ◆ The point is to be *free to choose* without government interference

The Right Time for Marriage?

- ◆ There has never been a better climate to demand civil rights than the present
- ◆ The issues are equality and justice under law
- ◆ In the U.S., the radical right launched the fight against marriage because they saw the first domestic partner benefits of the 1980s as a wedge to legal marriage; they consistently insist that *no* recognition or benefits be extended to same-sex couples

U.S. Legal Suits for Marriage

Same-sex couples have filed at least 48 suits for legal marriage since 1971. These suits have:

- ◆ Brought attention to same-sex marriage, which led to positive changes in public opinion
- ◆ Shown the need to protect *all* families
- ◆ Helped bring about acceptance to other partnership methods, such as registrations and workplace benefits
- ◆ Demonstrated the grassroots nature of the effort for access to marriage

The U.S. "Defense of Marriage Act"

- ◆ The federal system had *never* before 1996 offered any description of legal marriage — it only made laws that were triggered by it
- ◆ “DOMA” defined marriage, for federal purposes, as “a legal union between one man and one woman as husband and wife” and “spouse” as a person of the opposite sex
- ◆ This law allows states to refuse recognition of legal same-sex marriages from other states

“DOMA” Does Not Protect Marriage

- ◆ It only restricts marriage
- ◆ Was used as the pattern to restrict marriage in more than 40 states
- ◆ Many scholars agree that it is *not* constitutional because it violates a state right to define marriage and guts the Constitutional “Full Faith and Credit” guarantee

What Anti-Marriage Laws Really Accomplish

- ◆ Not even one marriage or family is protected
- ◆ Divides people
- ◆ Used as legal rationale to deny other benefits, such as health insurance and custody
- ◆ Consolidates power by right-wing extremists
- ◆ Couples married in one state or country now become *legal strangers* in others, creating a legal chaos

What You Can Do

How You Can Help

- ◆ *Talk* about these issues with friends, relatives, and co-workers; tell them how important legal marriage is to you and the health of the nation
- ◆ *Write* about these issues to your elected representatives, heads of state, other leaders, and the media
- ◆ *Join* a Freedom to Marry affiliate group listed on the Partners Task Force Web site:
www.buddybuddy.com/ftm-affi.html

About Partners

- ◆ **Partners is an international resource for same-sex couples, supporting the diverse community of committed gay and lesbian partners through a variety of media since 1986**
- ◆ **The constantly updated Web site contains more than 400 essays, surveys, legal articles and resources on legal marriage, ceremonies, domestic partner benefits, relationship tips, parenting, and immigration**
- ◆ **The Web site is frequently accessed by couples, counselors, clergy, personnel staff, reporters, researchers, students and government officials**

— Demian, Ed.D., director

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