

Marriage 101: The Case for Equality

by Linnea Johnson



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Printing History

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Marriage101: The Case for Equality

Definitions

Defining marriage is easy. If the Body Politic understood how simple all this is, we could spend our time doing more constructive political actions, like busting up corporations and taxing the richest two percent of the population to, say, fund basic education so that people could learn the difference between one and two, soup and salad, a civic act, and a religious sacrament.

It is so easy that one need not know how to count past two! Pretend for a moment that you go into a 'Soup 'n Salad' joint for a quick lunch.

One. Two. Soup. Salad.

There, that's all there is to it: 1) Soup and 2) Salad.

There's civil marriage: 1) Soup. Civil marriage is where the state sticks its nose into a citizen's beeswax, stakes a claim to that part of a citizen's life, and bestows upon The Married Citizen certain civic benefits. Civil marriage establishes a contract between the married people and the state. What one needs to enter into a contract, in this case, is to be a citizen,

There's religious marriage: 2) Salad. Religious marriage is asking whatever god or gods you believe in to bless your union. In Religious

marriage you follow the rules and traditions of whatever church you choose.

The only real difference is you don't have to get married in a church to be married, but you must sign a state contract. Every citizen has a right to enter into contracts. No one has to go to church. With salad you have to have soup, but with soup, you can skip the salad. See?

Too simple? Well, then, here's this:

There are **TWO forms** of marriage in this country:

- there is marriage which the STATE sanctions.
- there is marriage which the CHURCH sanctions.

As citizens in a country founded on freedom of (and from) religion, and on equal protection under the law, the exercise of the equal civil right to marry is not something lesbians and gays should have to demand. This right is already implicit within civil law. This right inheres within ALL citizens. That lesbians and gays do not now enjoy these rights is a function of our civil rights being illegally denied to us. Each citizen already has the right to a civil marriage license from the state: civil marriage (for lesbians and gays and anyone else) is rooted in civil law.

In a secular society, it is immaterial (and should remain immaterial) if, in fact, Christians fear, dread, or loathe people of color (the last group this country disenfranchised) or same-sex marriage. As a citizen, I bear my civic responsibilities and I want the concomitant privileges which are currently, and I maintain, illegally withheld from me. All people in this state and in this country are entitled to the full protection of equal interpretation of the law.

Christian Marriage

Want to save heterosexual marriage? Write a constitutional amendment outlawing divorce and adultery. The only real threats to heterosexual marriage are heterosexuals themselves.

If, however, conservative Christian bigots wish to thump Bibles as their source of inspiration for making secular marriage law, let them

be less selective, more biblically correct, and more inclusive by including these equally biblical, contradictory, and arcane dicta:

- * Marriage in the United States of America shall consist of a union between one man and one or more women. (Gen. 29:17-28; II Sam 3:2-5.)
- * A marriage shall be considered valid only if the wife is a virgin. If the wife is not a virgin, she shall be executed. (Deut. 22:13-21)
- * Marriage of a believer and a non-believer shall be forbidden. (Gen. 24:3; Num. 25:1-9; Ezra 9:12; Neh. 10:30, 2 Cor. 6:14)
- * Marriage shall not impede a man's right to take concubines in addition to his wife or wives. (II Sam 5:13; I Kings 11:3; II Chron. 11:21).

Concubines, perhaps, but remember, Thou Shalt Not Commit Adultery. Adultery is mentioned a provocative 69 times in the Bible. Not committing adultery is also the seventh commandment.

Since religious marriage is to be lifelong, Christians should argue that neither the *U.S. Constitution* nor any state law shall permit divorce. (Deut. 22:19; Mark 10:9-12). One marriage only. That's right, no more "starter" marriages, no no-fault divorce, and no more religion professors second-marrying their decades younger students. Indeed, no divorce at all. You make your bed once. You lie in it forever.

Therefore, heterosexual adultery must carry the death penalty. No het girlfriends, guys. No het boyfriends, gals.

This also means no nice heterosexual married ladies (or gentlemen) waking up in San Francisco, Iowa City, Paris, Prague, Wichita, or P-town wearing buttons which read "I'm not a lesbian, but my girlfriend is." No "experimenting." No aching. No dreaming. No begging. No exceptions.

You will recall, too, that, in two of the gospels, Jesus speaks about divorce. And adultery. In the Bible, Jesus declares clearly and unambiguously that, when someone divorced remarries, that person is committing adultery.

* If a married man dies without children, his brother must marry the widow. If the brother refuses to marry the widow, or deliberately does not give her children, he shall pay a fine of one shoe and be otherwise punished in a manner to be determined by law. (Gen. 38:6-10; Deut. 25:5-10).

*If religious marriage is supposed to be for the purpose of procreation, then, should one be incapable of procreation, or should one halt procreating, the marriage will be dissolved. Similarly, the old shall be forbidden to marry, as shall the infirm, as shall all others not pledging or demonstrating persistent procreation. Wow, no more sexless marriages!

Other proscriptions in the Bible prohibit usury. No more buying money, using credit cards, getting mortgages, or loans! Not if you follow biblical law.

No more pork chops, either! No ribs, bacon, ham, or rinds, folks, if the Biblical prohibition against eating pork products is to be observed, if Christians are not to, as they do now, pick and choose which teachings to observe.

Re-vivifying the failure-ridden institution of heterosexual marriage also may necessitate making the murder laws of Kansas more lenient, despite the Bible, given the incidence of male brutality against women within traditional marriage. Women, still not accorded full legal status under the *U.S. Constitution*, may have to go unpunished for opting to kill husbands who beat them and their children, husbands who do not support their children and families, husbands who abandon their offspring, home, and wives, etc., et alia, ad nauseum, ad infinitum.

Let us also not forget that “Christian marriage” is defined by the *Catholic Encyclopedia* as “marriage between baptized persons.” It further notes that marriage “was invented in the Church by men” and was not a sacrament “before the time of Gregory” (a medieval Catholic who died about 604).

Marriage in fact

Of the approximately 10 to 20% of the population who are lesbian or gay, those of us who want to establish a matrix of reciprocal rights and responsibilities in union with another person execute appropriate legal instruments to state who owns what together, who says what in times of extremis, inherits what when a partner dies, and so on. We buy homes together, wear rings we’ve exchanged with one another, raise our children together, celebrate achievements and tragedies with one another, keep scrapbooks of our lives together, and love one another as we are able.

So, surprise, whether Kansas or anyone likes it or not, lesbians and gays of these United States are already united, linked, yoked, connected, married, wedded, joined, coupled, espoused if we want to be, even if unsupported or uncushioned by the full protection of the laws of the country of which we are citizens. A rose is a rose is a rose, a citizen is a citizen is a citizen, married is married is married.

The history of one man-one woman heterosexual marriage is rooted in patriarchal property law, with women and children being considered as much the husband’s property as were his land or cattle. There are mixed-sex couples who work hard to achieve balance within marriage, who struggle with the history, strictures, and demands of the structure of marriage they find and enter. They are valiant and rare as are all those who struggle to make other received values, beliefs, and structures fit their lives.

However, consider this possibility: truly equal marriage can perhaps ONLY exist for same-sex couples, neither of whom are duty bound to one another, but who freely choose one another and then construct those structures which support their choices, their liberty to be themselves with one another.

Keeping Church and State Separate

Because conservative Christian groups continue to champion prohibiting same-sex marriage, it has become imperative that the rest of us realize that this is based not only on unarticulated jealousy (perhaps) and homophobia (certainly), but also on an overweening desire of the church to subsume the state, to marry church and state, as it were, melding them into a single and singular entity. Church and state are not the same entity in this country. They should not be allowed to become the same entity.

Churches may sanction only their own forms of marriage. Remember the old saw: “Render unto Caesar that which is Caesar’s. Render unto God, that which is God’s” (Matthew 17:25). The eyes of the church should keep their peeping limited to the confines and community of the church. The sanctimonious, self-serving gobbledygook which churches and other cults babble should neither infect nor infect civil law.

And, the language of the church should not become the language we use, or allow others to use, when discussing civil marriage. Those publicly elected should be corrected when they prattle on about the “sanctity of marriage,” blurring the differentiation between civil and church marriage. There is no “sanctity of marriage” inherent in civil marriage. “Sanctity” solely pertains to saints and to other churchly concepts. This is an important, fundamental distinction which needs to remain distinct.

Lesbian, gay, or straight, it is in everyone’s best interest that THE SEPARATION OF CHURCH AND STATE BE KEPT DISTINCT, CLEAR, AND UNEQUIVOCAL, that civil law be civil law, that church law be church law, and that the language of the church remain the language of the church.

Perhaps conservative Christians could learn something from those countries when church and state are fused. Perhaps we could begin our lesson with the Church of England founded by Henry VIII, founded, indeed, for the purpose of obtaining a sanctioned divorce and to lessen the need to continue killing off wives whom he had legally and in church married but, alas, eventually did no longer want

to wife. Lessons two through seven could be from his wives, perhaps: Catherine of Aragon, Anne Boleyn, Jane Seymour, Anne of Cleves, Katherine Howard, and Catherine Parr.

Finally, if bigotry and hatred, fear and loathing and the impulse to disenfranchise certain citizens of one’s country is the strategy one deduces from the god to whom one prays, switch gods. But, whatsoever one believes one’s god is instructing one to do, keep it inside your church: persecute lesbians and gays (those so deluded to attend such a church), if one believes one is called to do so but religious ideologies must be kept distinct from civil law in this country.

It is on categorically religious grounds, and ONLY on religious grounds, that federal and state governments refuse to grant the same legal recognition to same-gender couples that is available to mixed-gender couples who meet the same qualifications. And so, such law is invalid. Amendments 1, 5, and 14 of the *U.S. Constitution* are particularly relevant, necessary, and sufficient in stating that civil marriage (for lesbians and gays and anyone else) be rooted in civil law:

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Amendment XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Re-crafting civil law to mimic church law, however preposterous, will necessitate the revocation, not simply the amendment, of the *Constitution of the United States*. Amending documents to mean the opposite of what they were written to mean will not suffice.

Separate Is Not Equal

With so many fervently held backward and egregious bigotries to choose from in this country, let us recall one particularly hateful, goofy, and long-standing state law analogous to existing Kansas law and to proposed U.S. and Kansas legislation regarding same-sex marriage: Alabama prohibited interracial marriage until the year 2000, on the grounds that it was “unnatural” and “immoral” (to the white bigots who wrote the laws, anyway). It should remain a roaring, screaming, whirling red light cautionary lesson that the exact same arguments used recently against same-sex marriages were used against heterosexuals who wished to marry a person of a different skin tone.

Blessed by eight justices and a majority population who should have known better, this country practiced not only legal miscegenation but legal and equally odious segregation for sixty years, from the 1896 “SEPARATE BUT EQUAL” Plessy v Ferguson Supreme Court decision until the 1954 Brown v Board of Education Supreme Court decision. One wonders, given U.S. and Kansas’ stand on the necks and hearts and civil liberties of lesbians and gays regarding equal protection under civil law, if Kansas is straining to hurl itself back to the New Old School South! Will Kansas echo with the familiar chants of hypocrites, bigots, and demagogues bellowing, “Segregation now. Segregation forever”?

“The history of our nation has demonstrated that separate is seldom, if ever, equal... for no rational reason, the marriage laws of the Commonwealth discriminate against a defined class.”

-MA Supreme Judicial Court advisory opinion to the Senate.

In this the 50th year since the Brown v Board of Education decision overturned sixty years of legal intolerance against black citizens, as a Kansan and a lesbian, I demand that this city, this state, and this

country make NO NEW “SEPARATE BUT EQUAL” LAWS VIZ. LESBIANS AND GAYS IN REGARD TO MARRIAGE, OR IN REGARD TO ANY OTHER ISSUE. NO MORE SEPARATE BUT EQUAL LEGISLATION. Not now. Not ever.

Conservative Christian heterosexuals seem to be scared of the full function of equal protection (for all citizens) under the law. Whether that fear is authentic or is cynical strategy to deny all but conservative Christian heterosexuals from enjoying civil rights deserves our close scrutiny. Their Federal Marriage Amendment prohibiting same-sex couples to marry would be the first time the *Constitution* was altered to discriminate against a specific class of citizens.

Also, the thousand or so federal benefits and entitlements which heterosexuals have granted to themselves are only accessible through civil marriage. These are government entitlements, not religious ones. What one citizen enjoys, every citizen should enjoy. Anything else, or less, is unconstitutional, unconscionable bigotry.

NOTE from the editor:

Linnea wrote this essay while GW Bush was President. She kept writing similar, updated essays, mainly as letters to various state and national legislators, the Kansas governor, etc., the rest of her life. She also emailed them to increasingly lone mailing lists. Future editions of this work will include her lists of references, quotations of arguments from the radical right, and so on.



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