

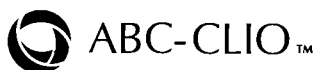
CONTEMPORARY WORLD ISSUES

Same-Sex Marriage

A REFERENCE HANDBOOK

Second Edition

David E. Newton



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Going back to quote Senator Cruz (Svitek 2015) one more time, he states that “there’s no right to force a Jewish Rabbi to perform a Christian ceremony, or a Muslim Imam to perform a Jewish one.” This would indeed be an infringement of a religious figure’s ability to practice his faith, and this is also something nobody is asking. The “religious oppression,” the men and women he referred to fled from, was that of imposing beliefs and expectations of one faith on another outside of religious service, in secular society. A practice he and other modern “religious freedom” proponents are currently advocating.

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For or Against: Everyone Loses Ryan Conrad

The protracted battle over same-sex marriage in the United States has seemingly resulted in two deeply retrenched and explicitly opposed camps: gays and their liberal allies in favor of expanding marriage rights to LGBT couples on one hand, and homophobes and religious fundamentalists opposed to expanding marriage rights to anyone but one man and one woman on the other. Unfortunately, this for/against binary with liberals and gays on one side and homophobes and conservative religious folks on the other makes it nearly impossible to conceive that some LGBT people are quite suspicious of, if not downright opposed to, their inclusion into the hetero-matrimonial status quo.

While gay rights organizations have framed anyone opposed to same-sex marriage as oppressive homophobes, they’ve had a hard time dealing with and responding to the growing chorus

of critiques made by queer scholars and activists for the past decade over the battle for same-sex marriage. These arguments range from those leveled by queer theorists like Michael Warner, Kath Weston, and Lisa Duggan concerned about the impact of marriage on distinctly queer forms of kinship, family, and culture to those arguments made by queer social justice activist groups like Against Equality, Gay Shame, and Gender JUST questioning the goal of being included in deeply inequitable institutions like marriage that privilege the conjugal couple form with economic and social incentives like sharing health insurance plans, accessing tax breaks, leveraging immigration opportunities, and collecting inheritance, while leaving other kinship forms economically and socially disadvantaged (Weston 1991; Warner 1999; Duggan 2003).

In their defense, same-sex marriage advocates fall back on the notion of choice with the common refrain, "If you don't like same-sex marriage, don't have one!" Alas, this idea that marriage is a choice, one made on the basis of love and commitment alone, ignores the material realities that marriage is a legal business-like contract between two individuals under the purview of the state with certain legal and economic privileges and responsibilities attached. If marriage becomes the only way to secure material necessities like health care or immigration or the only way to access some form of family law that provides minimal legal protections and a sense of well-being for one's family, then whether or not to get married is hardly a choice gay or straight, let alone a choice based on sentimental notions of love.

As legal scholar Nancy Polikoff has pointed out, LGBT people are not asking the right questions when it comes to family law reform (Polikoff 2008). Instead of asking what it is that our families need, in whatever form or configuration they take, to be protected and supported under the law, we are asking what is it that straight people have that we do not. With this reactive line of questioning LGBT rights groups are missing out on being at the forefront of much-needed comprehensive family law reform that would benefit not only LGBT people but all

families that fall outside the heterosexual conjugal couple form. While less and less straight people are getting married today and with more than half of first marriages in the United States ending in divorce by the 1980s (Coontz 2005, 263), one must ask why LGBT people are clamoring to participate in a family law system that clearly is not working for the majority of families in the United States that already had access to it. Or as gay historian John D'Emilio has asked, why are gays swimming against the tides of history when they frame marriage and family the way it was conceived in the 1950s when so much has changed in how we organize our families today? (D'Emilio 2006).

While the battle over same-sex marriage has been winding down in the United States after the 2013 Supreme Court decision made gay marriage the law of the land, there is still much to be done that marriage has failed to do. Social and economic justice activists will continue to point out the inadequacies of our family law system that upholds an ideology of the conjugal nuclear family that one must aspire to in order to reap its legal and economic benefits. Why should we ever settle for a system of family law that requires us to organize our kinship networks in a particular ideological manner instead of demanding a system of family law that supports and protects our families as they exist?

Second, social and economic justice activists will continue to fight for the deinstitutionalization of marriage, a goal of the feminist movement that has been jettisoned by LGBT rights organization in favor of their own vague notions of equality. By deinstitutionalization I mean the decoupling of marriage from essential benefits like health care and immigration among others. For example, many argue that access to health care should be a universal right not based on one's employment or marriage status as it is in the rest of the industrialized world where access to health care is a right based on citizenship alone (Ingraham 1999, 17). It is only through a process of deinstitutionalization that marriage can ever truly be a choice. Whether or not one is married does not have an impact on his or her ability to not only survive but also thrive.

With the shuttering of many state equality organizations in the wake of the passage of same-sex marriage at both state and federal levels, we know that all the other issues intersecting with LGBT life (teen homelessness, suicide, HIV/AIDS, the elderly, poverty, bullying, criminalization, incarceration, addiction, etc.) that these organizations promised to tackle once the marriage battle was over will be left to the rest of us that were skeptical in the first place. Queer and trans activists will continue carrying the torch of social and economic justice, while the middle- and upper-class gays are busily planning marriage ceremonies, tropical honeymoons, transnational adoptions, and statistically speaking, their own divorces.

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