

## Gays Engaged in a Battle for Hearts, Minds

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by Stephanie Simon

In upholding bans on same-sex marriage this month, judges in New York and Nebraska relied on the same legal argument: Gays and lesbians do not have a right to wed because their relationships are fundamentally different from straight relationships.

Stung by that reasoning, gay and lesbian leaders have set out to convince the public that it's not true.

They are not giving up on the courts. Washington's highest state court is due to decide today whether same-sex couples can marry. Similar cases are pending in California and several other states; gay advocates are especially optimistic about their chances in New Jersey. But as they wait for those rulings, gay-rights leaders have refocused their agenda.

The top priority now: to step back and reintroduce themselves to America. After the recent setbacks, they see an urgent need first to convince the court of public opinion — and then, they hope, more and more courts of law — that their families are just like any other family, their children like any other children, their love just as deserving of official recognition.

"We really have to start at a very basic level," said Joe Solmonese, president of the Human Rights Campaign, a gay-rights group based in Washington, D.C.

Working both independently and in coalitions, all the major gay and lesbian groups are cranking up their public education campaigns. They're also reaching out to straight activists — liberal clergy, union bosses, and leaders of black, Latino and Asian groups — in search of allies who can help them portray their cause as a broad social-justice movement.

"There's no marriage without engagement, and our job is to engage nongay people in this conversation," said Evan Wolfson, executive director of the group Freedom to Marry, based in New York. "We've made a renewed effort to say we're going to talk to America."

His organization pooled resources with other groups for a \$250,000 ad campaign that began appearing Tuesday in 50 newspapers nationwide. Photos of same-sex partners — including one couple together for 53 years — appear over the words "Marriage Matters." Dozens of civil-rights leaders, religious figures and elected officials (among them Los Angeles Mayor Antonio Villaraigosa) are listed as signatories to this pledge: "We will not stop until every American family is treated fairly, with dignity and equality under the law."

The ad aims to personalize the issue. **"This is what we want people to talk about around their kitchen table," said Roberta Sklar, communications director of the National Gay and Lesbian Task Force.**

To encourage such conversation, the Gay and Lesbian Alliance Against Defamation is trying to nudge more same-sex couples, especially those raising children, to come out openly in their communities. The group has expanded seminars that help gay and lesbian parents prepare for questions from Little League coaches, PTA presidents, neighbors and reporters.

"We tell them to share their similarities, so fair-minded Americans will recognize that families headed by gay and lesbian couples have the same experiences as any other families," said GLAAD President Neil G. Giuliano.

Stressing similarities is especially important, Giuliano said, because the legal argument for banning same-sex marriage rests almost entirely on the biological differences between gay and straight couples.

That argument, often called the theory of "inevitable procreation," runs like this: Put a man and a woman together, and it is likely they will have children. Society has a vested interest in taking care of those children, so it encourages the parents to unite through marriage.

Without marriage, "men tend to be irresponsible, women tend to be exploited and children tend to be undisciplined," said Jordan Lorence, a lawyer who has argued against same-sex marriage in several states on behalf of the Alliance Defense Fund. "So society sets up rules, laws, norms and customs to try to funnel procreation into marriage."

Gay and lesbian couples, of course, can and do have children. But backers of traditional marriage say such procreation is different because it's not inevitable; it requires an assist from reproductive technology.

Because gays and lesbians do not conceive accidentally or on impulse, the argument goes, they do not need the same nudge into responsible parenting that marriage provides heterosexual couples. Therefore, the state is justified in denying them the benefits of marriage — even if they are raising children.

The highest court in New York affirmed that reasoning this month, as did a federal appeals panel in Nebraska and a lower-level trial court in Connecticut. (Gay-marriage advocates also lost cases in Georgia, Massachusetts and Tennessee in recent weeks, but those hinged on technicalities of state law and not the procreation argument.)

Most Americans clearly support reserving marriage for heterosexual couples. Ballot initiatives to ban same-sex marriage have passed overwhelmingly in 20 states. National polls show support for gay marriage at no more than 39%.

But activists are well aware that Americans are far more likely to support specific gay-rights measures if they know someone who identifies as gay or lesbian. That's why they're trying to encourage more same-sex parents — a population they estimate at 6 million or more — to come out.

Even before the recent court rulings, "marriage ambassadors" had started to speak at union halls in New York, meet with black pastors in New Jersey and attend Latino political gatherings in California. In Missouri, same-sex couples invited the media to profile them as they pushed for the right to take in foster children. Gay-rights leaders promise many more such initiatives in the months ahead.

"It's our challenge to get people thinking about how we have all types of families in our communities and how it's not beneficial to society to recognize and protect some families and not others," said Toni Broaddus, who leads the Equality Federation, an umbrella organization for gay-rights groups.

From a legal standpoint, the gay community also plans to step up efforts to ensure that gay and lesbian couples are treated — in every respect outside of marriage — like their heterosexual counterparts.

That strategy won two victories recently in conservative states. The Arkansas Supreme Court ruled it was unconstitutional to deny gay couples the right to raise foster children. And the University of Louisville became the first public college in Kentucky to offer health benefits to domestic partners.

In more liberal California, activists have spent years laying groundwork for equal treatment of gay and lesbian couples. The state offers a domestic partnership that in many ways is equivalent to marriage. It also automatically grants both partners in a same-sex couple parental rights if they're raising children.

This presumption of equality for gay families has put California Atty. Gen. Bill Lockyer in an awkward position as he defends traditional marriage in a lawsuit before a state appeals court.

The plaintiffs, 12 same-sex couples, are seeking marriage licenses. Lockyer can't rely on the procreation argument that prevailed in New York and Nebraska because California law so clearly recognizes and protects gay parents. Instead, he has defended traditional marriage on the grounds that it's traditional.

Analysts on both sides call that argument weak and await the appeals court ruling — due by October — with interest.

"The general lesson to be learned is that it's important to build a foundation" for treating gay parents equally "and do a lot of public education," said Shannon Minter, legal director of the National Center for Lesbian Rights in San Francisco. "We have to make sure the courts are not thinking about gay and lesbian people for the first time when they make a marriage decision."