

Talking Points On Marriage Equality for Same-Sex Couplesⁱ

- Q. *When same-sex couples insist upon the right to marry, aren't they demanding a special right?*
- A. No. When same-sex couples ask for equal access to civil marriage, they are asking to be treated equally. Marriage should be available to all committed, loving couples, regardless of sex or sexual orientation.

When a heterosexual couple marries, the couple automatically benefits from the comprehensive package of protections marriage offers through a plethora of policies and laws. On the federal level alone, there are over 1,000 laws and policies that delineate the couple's rights, benefits and responsibilities. In addition, hundreds of state, local and private sector rights—for example, employment-related—family benefits are automatically granted to couples through the institution of marriage.

Some of these include: treatment of the couple as an economic unit (for filing of taxes, inheritance purposes, and receipt of pensions or Social Security benefits in the event of one spouse's death), protections that help the couple stay together geographically (immigration rights, eligibility for unemployment during a relocation process), health-related rights (insurance coverage, hospital visitation and medical decision-making rights), and parental recognition (automatic parental status in relation to any child born during the marriage, simpler adoption processes). Committed gay and lesbian couples, and bisexual and transgender people in same-sex relationships, are regularly denied these protections and, at best, can access only some of them piecemeal.

- Q. *What about the fact that many religions do not allow the marriage of individuals of the same sex?*
- A. Access to civil marriage under secular law is completely unrelated to the right of religions to decide whom they will marry. It is standard under state and federal law in the United States, which is secular in its authority and operation, to recognize marriages that some religious traditions do not allow. For example, some religions do not recognize divorces or second marriages, even though they are allowed by civil law. Many religions do not marry a couple if one member of the couple adheres to a different faith. That said, however, many religious denominations have sanctified same-sex unions. These include the United Church of Christ, Reform Judaism and Unitarianism. At this point those couples' unions are not recognized by law, despite the religious blessings.
- Q. *What about civil unions or domestic partnership benefits—don't these provide protections for same-sex couples?*
- A. While domestic partnership benefits and civil unions represent significant advances toward recognition of same-sex relationships, they are not a substitute for full and equal civil marriage. Only one state, Vermont, allows same-sex couples to enter into civil unions. Although civil unions offer many of the same rights, benefits, and responsibilities



of marriage, same-sex couples who enter into a civil union are still denied access to all of the rights and responsibilities provided by federal law. Also, it remains unclear to what extent the benefits and obligations associated with civil unions will be recognized in other states. Thus, in contrast to a married heterosexual couple who will retain their marital status when they move from Vermont to Texas, a lesbian couple's civil union may not be recognized in the same situation. Civil unions give same-sex couples important rights and protections, but far less than full equality.

Domestic partnership benefits are not universally available. Even where they do exist, their scope varies from state to state, from locality to locality, and from employer to employer. None are as substantial as the benefits associated with marriage and rarely are they portable, although New York City's recently passed law does provide an element of portability for people moving to New York City. Also domestic partnership provides just a handful of benefits, not the more than 1,000 rights, benefits and obligations of marriage.

- Q. *Won't allowing same-sex couples to marry fundamentally undermine the institution of marriage itself?*
- A. No. There is no reason that allowing same-sex couples to marry would have any impact upon the marriages of opposite-sex couples. Further, institutions are generally undermined when people leave them, not when people enter them. Some argue that granting equal marriage rights to same-sex couples will actually strengthen the institution of marriage. Most importantly, the institution of marriage is not static; it has changed significantly over time. Married women used to be the legal property of their husbands, Asian immigrants were prohibited from marrying each other, and interracial marriages were prohibited by anti-miscegenation laws. A strong institution endures by accommodating social and cultural shifts. Allowing committed same-sex couples to marry will modify the institution of marriage, but will not undermine it.

**National Gay and Lesbian Task Force Policy Institute
80 Maiden Lane, Suite 1504
New York, NY 10038
Tel 212-604-9830
Fax 212-604-9831
E-mail theTaskForce@theTaskForce.org
www.theTaskForce.org**

ⁱ Source: Cahill, S., Ellen, M., & Tobias, S. (2002). *Family Policy: Issues Affecting Gay, Lesbian, Bisexual and Transgender Families*. New York: National Gay and Lesbian Task Force Policy Institute. Available at http://www.thetaskforce.org/reports_and_research/family_policy