

## Topic A: The moral fight rewarding gay adoption and the possibility of legalized marriage

Same-sex marriage or gay marriage is marriage between two people of the same sex. Legal recognition of same-sex marriage or the possibility to perform a same-sex marriage is sometimes referred to as marriage equality or equal marriage, particularly by supporters. The legalization of same-sex marriage is characterized as "redefining marriage" by many opponents.

The first laws enabling same-sex marriage in modern times were enacted during the first decade of the 21st century. As of 1 January 2015, the following seventeen countries: Argentina, Belgium, Brazil, Canada, Denmark, France, Iceland, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, South Africa, Spain, Sweden, the United Kingdom, and Uruguay and certain sub-national jurisdictions (parts of Mexico and most states of the United States) allow same-sex couples to marry. Polls show rising support for legally recognizing same-sex marriage in the Americas and in parts of Europe.

Introduction of same-sex marriage laws has varied by jurisdiction, being variously accomplished through a legislative change to marriage laws, a court ruling based on constitutional guarantees of equality, or by direct popular vote (via a ballot initiative or a referendum). The recognition of same-sex marriage is a political, social, human rights and civil rights issue, as well as a religious issue in many nations and around the world, and debates continue to arise over whether same-sex couples should be allowed marriage, or instead be allowed to hold a different status (a civil union), or be denied such rights. Same-sex marriage can provide same-sex couples who pay their taxes with government services and make financial demands on them comparable to those afforded to and required of opposite-sex married couples. Same-sex marriage also gives them legal protections such as inheritance and hospital visitation rights.

Some analysts state that financial, psychological and physical well-being are enhanced by marriage, and that children of same-sex couples benefit from being raised by two parents within a legally recognized union supported by society's institutions. Court documents filed by American scientific associations also state that singling out gay men and women as ineligible for marriage both stigmatizes and invites public discrimination against them. The American Anthropological Association avers that social science research does not support the view that either civilization or viable social orders depend upon not recognizing same-sex marriage.

Same-sex marriages can be performed in a secular civil ceremony or in a religious setting. Various faith communities around the world support allowing same-sex couples to marry or conduct same-sex marriage ceremonies; for example: Buddhism in Australia, Church of Sweden, Conservative Judaism, the Evangelical Lutheran Church in America, U.S. Episcopalians, Humanistic Judaism, Native American religions

with a two-spirit tradition, Druids, the Metropolitan Community Church, Quakers, Reconstructionist Judaism, Reform Judaism, Unitarian Universalists, the United Church of Canada, the United Church of Christ, and Wiccans.

## Other legally recognized same-sex unions

Civil union, civil partnership, domestic partnership, registered partnership, unregistered partnership, and unregistered cohabitation statuses offer varying legal benefits of marriage and are available to same-sex couples in: Andorra, Australia, Chile, Colombia, Costa Rica, Croatia, Czech Republic, Ecuador, Estonia, Finland, Germany, Gibraltar, Greenland, Hungary, Ireland, Isle of Man, Israel, Jersey, Liechtenstein, Mexico (Campeche, Colima and Jalisco), San Marino, Slovenia, Switzerland, Venezuela (Mérida) and the United Kingdom (Northern Ireland). Malta has established civil unions with the same rights and responsibilities as marriage, differing only in name.

They are also available in parts of the United States (California, Hawaii, Illinois, New Jersey, Nevada, Oregon, and Wisconsin). In some countries with these legal recognitions, the actual benefits are minimal. Many people consider civil unions, even those that grant equal rights, inadequate because they create a separate status, and believe they should be replaced by gender-neutral marriage.

## International organization

The terms of employment of the staff of international organizations (not commercial) in most cases are not governed by the laws of the country where their offices are located. Agreements with the host country safeguard these organizations' impartiality.

Despite their relative independence, few organizations recognize same-sex partnerships without condition. The agencies of the United Nations recognize same-sex marriages if and only if the country of citizenship of the employees in question recognizes the marriage. In some cases, these organizations do offer a limited selection of the benefits normally provided to mixed-sex married couples to de facto partners or domestic partners of their staff, but even individuals who have entered into a mixed-sex civil union in their home country are not guaranteed full recognition of this union in all organizations. However, the World Bank does recognize domestic partners.

### Parenting

Scientific literature indicates that parents' financial, psychological and physical well-being is enhanced by marriage and that children benefit from being raised by two parents within a legally recognized union (either a mixed-sex or same-sex union). As a result, professional scientific associations have argued for same-sex marriage to be legally recognized as it will be beneficial to the children of same-sex couples.

Scientific research has been generally consistent in showing that lesbian and gay parents are as fit and capable as heterosexual parents, and their children are as psychologically healthy and well-adjusted as children reared by heterosexual parents. According to scientific literature reviews, there is no evidence to the contrary.

While few societies have recognized same-sex unions as marriages, the historical and anthropological record reveals a large range of attitudes towards same-sex unions ranging from praise, through full acceptance and integration, sympathetic toleration, indifference, prohibition and discrimination, to persecution and physical annihilation. Opponents of same-sex marriages have argued that recognition of same-sex marriages would erode religious freedoms, and that same-sex marriage, while doing good for the couples that participate in them and the children they are raising, undermines a right of children to be raised by their biological mother and father. Some supporters of same-sex marriages take the view that the government should have no role in regulating personal relationships, while others argue that same-sex marriages would provide social benefits to same-sex couples. The debate regarding same-sex marriages includes debate based upon social viewpoints as well as debate based on majority rules, religious convictions, economic arguments, health-related concerns, and a variety of other issues.

## Background

The Netherlands was the first country to legalize same-sex marriages, with the first marriages performed in the Amsterdam city hall on 1 April 2001. Since then, same-sex marriages have been performed legally by Belgium (2003), Spain (2005), Canada (2005), South Africa (2006), Norway (2009), Sweden (2009), Portugal (2010), Iceland (2010), Argentina (2010), Denmark (2012), Brazil (2013), France (2013), Uruguay (2013), New Zealand (2013), and the United Kingdom (2014, excluding Northern Ireland), Luxembourg (2015) and Finland (from 2017).

In the United States, same-sex marriages are performed in the federal district, the District of Columbia (2010), and in thirty-seven states: Massachusetts (2004), Connecticut (2008), Iowa (2009), Vermont (2009), New Hampshire (2010), New York (2011), Washington (2012), Maine (2012), Maryland (2013), California (2013), Delaware (2013), Minnesota (2013), Rhode Island (2013), New Jersey (2013), Hawaii (2013), New Mexico (2013), Oregon (2014), Pennsylvania (2014), Illinois (2014), Indiana (2014), Wisconsin (2014), Oklahoma (2014), Utah (2014), Virginia (2014), Colorado (2014), West Virginia (2014), Nevada (2014), Idaho (2014), North Carolina (2014), Alaska (2014), Arizona (2014), Wyoming (2014), Kansas (2014), Montana (2014), South Carolina (2014), Florida (2015) and Alabama (2015). Same-sex marriages are also performed in St. Louis, Saint Louis County and Jackson County in Missouri (2014) and in twenty-two Native American tribes. A 2013 Supreme Court ruling requires the federal government to recognize same-sex marriages performed by states that allow same-sex marriage.

In Mexico, same-sex marriages are performed in Mexico City (2010), Quintana Roo

(2012) and Coahuila (2014), but same-sex marriages are legally recognized throughout the country.

To end, this are the CURRENT Countries That Allow Gay Marriage

### **Luxembourg (2014)**

On June 18, Luxembourg's parliament, the Chamber of Deputies, overwhelmingly approved legislation that will allow gay and lesbian couples to wed and to adopt children. The bill, which will take effect in early 2015, was championed by the country's prime minister, Xavier Bettel, who is openly gay.

The changes are part of a larger rewrite of the tiny country's marriage laws – the first major overhaul since 1804. In addition to allowing same-sex couples to marry and adopt, the legislation sets the legal age of marriage at 18 and eliminates the existing requirement that couples who want to marry must first submit to a medical exam.

### **Scotland (2014)**

On Feb. 4, 2014, the Scottish Parliament (known as the Holyrood) voted overwhelmingly to approve legislation legalizing same-sex marriage. In addition to allowing same-sex couples to wed, the measure gives churches and other religious groups the option of deciding whether or not they want to conduct such marriages. The two largest churches in Scotland – the Church of Scotland and the Roman Catholic Church – oppose same-sex marriage and lobbied against the bill in the Holyrood. As Scotland is a semi-autonomous part of the United Kingdom (UK), the law will not take effect until the UK's national parliament in London passes enacting legislation. But given that the national parliament already legalized same-sex marriage in England and Wales (see next entry), the passage of such enacting legislation is considered a formality. Same-sex couples are expected to be able to wed in Scotland as early as the fall of 2014.

### **England and Wales (2013)**

On July 17, 2013, Queen Elizabeth II gave her "royal assent" to a bill legalizing same-sex marriage in England and Wales. The day before, the measure had won final passage in the British Parliament after months of debate. The law only applies to England and Wales because Scotland and Northern Ireland are semi-autonomous and have separate legislative bodies to decide many domestic issues, including the definition of marriage. While Northern Ireland's legislature in April 2013 voted down a measure that would have legalized same-sex marriage, the Scottish Parliament passed a bill to legalize same-sex marriage in February 2014.

The new law in England and Wales, which was a priority for British Prime Minister and Conservative Party leader David Cameron, allows gay and lesbian couples to marry beginning March 29, 2014. However, the law prohibits same-sex weddings within the Church of England, which continues to define marriage as between one man and one woman.

### **Brazil (2013)**

On May 14, 2013, Brazil's National Council of Justice ruled that same-sex couples should not be denied marriage licenses, allowing same-sex marriages to begin nationwide. (Previously, about half of Brazil's 27 jurisdictions had allowed same-sex marriage.)

The conservative Social Christian Party has appealed the Council of Justice's decision to the Supreme Court, and Brazil's legislature may still weigh in on the issue, leaving some uncertainty surrounding the future of same-sex marriage in the world's fifth-largest country.

### **France (2013)**

On May 18, French President Francois Hollande signed into law a measure legalizing same-sex marriage, making France the 14th country to grant gays and lesbians the right to wed. Although the bill had passed the National Assembly and the Senate in April, Hollande's signature had to wait until a court challenge brought by the conservative opposition party, the UMP, was resolved. On May 17, France's highest court, the Constitutional Council, ruled that the bill was constitutional.

In May 2012, Hollande was elected and his Socialist Party won majorities in both houses of France's legislature. True to their campaign promises, Hollande and the Socialists have pushed through a law that not only legalizes same-sex marriage but also gives gay and lesbian couples the right to adopt children—a provision that has drawn especially strong criticism from French Catholic leaders.

While recent polls show that a majority of French adults support the law, opposition to the change has been intense. Since the beginning of 2013, several anti-gay marriage protests with occasionally volatile crowds numbering in the hundreds of thousands have taken place in Paris and elsewhere.

### **New Zealand (2013)**

On April 17, the New Zealand Parliament gave final approval to a measure that legalizes same-sex marriage, making the Pacific island nation the 13th country in the world and the first in the Asia-Pacific region to allow gays and lesbians to wed. The measure won approval by a 77-44 margin in the country's unicameral legislature, including support from Prime Minister John Key, and was signed by the country's governor-general (a process known as royal assent) on April 19. The law took effect in August 2013.

In 2005, New Zealand enacted legislation allowing same-sex couples to enter into civil unions. The 2013 measure not only legalizes same-sex marriage but also allows for gay and lesbian couples to adopt children.

### **Uruguay (2013)**

On April 10, the lower house of Uruguay's Congress passed legislation legalizing same-sex marriage, a week after the country's Senate did so. President José Mujica signed the bill into law on May 3, making Uruguay the second Latin American country to legalize same-sex marriage, following Argentina. Civil unions have been permitted in Uruguay since 2008, and gay and lesbian couples were given adoption rights in 2009. Uruguay is among the most secular countries in Latin America. A Pew Research Center study on the global religious landscape as of 2010 found that roughly four-in-ten Uruguayans are unaffiliated with a particular religion. About 58 percent of

Uruguayans are Christian; in the Latin America-Caribbean region as a whole, 90 percent of the population is Christian.

### **Denmark (2012)**

In June 2012, Denmark's legislature passed a bill legalizing gay marriage. The measure was enacted into law a few days later when Queen Margrethe II gave her royal assent to the bill.

In 1989, Denmark became the first country to allow same-sex couples to register as domestic partners. And in 2010, the country enacted a law allowing gay couples in registered partnerships the right to adopt children.

With the legalization of gay marriage, the Evangelical Lutheran Church in Denmark (which is the state church), is required to allow same-sex couples to marry in churches. However, no member of the church's clergy is required to perform the wedding of a gay or lesbian couple. In addition, the law leaves it up to other religious groups to determine whether or not to allow same-sex weddings in its churches.

### **Argentina (2010)**

In July 2010, Argentina became the first country in Latin America to legalize same-sex marriage. In spite of vigorous opposition from the Catholic Church and evangelical Protestant churches, the measure passed both houses of the Argentine legislature and was signed into law by President Cristina Fernandez de Kirchner. The law grants same-sex couples who marry all the rights and responsibilities enjoyed by heterosexual couples, including the right to adopt children.

In the decade before the enactment of the same-sex marriage law, a number of local jurisdictions, including the nation's capital, Buenos Aires, had enacted laws allowing gays and lesbians to enter into civil unions.

### **Portugal (2010)**

In June 2010, Portugal became the eighth country to legalize same-sex marriage. Its parliament had passed the measure legalizing gay marriage earlier in 2010. But following its passage, Portugal's president, Anibal Cavaco Silva, asked the Constitutional Court to review the measure. In April 2010, the Constitutional Court declared the law to be constitutionally valid. It was signed by Silva in May of that year and took effect one month later. Portugal's gay marriage law does not give married same-sex couples the right to adopt children.

### **Iceland (2010)**

A measure legalizing same-sex marriage passed the Icelandic legislature in June 2010. Public opinion polls prior to the vote indicated broad support for the measure, and no members of the country's legislature voted against it. Iceland had allowed same-sex couples to register as domestic partners since 1996. A decade later, the parliament passed a measure allowing gay couples to adopt children.

After the new law took effect in late June 2010, the country's prime minister, Johanna Sigurdardottir, wed her longtime partner, Jonina Leosdottir, becoming one of the first people to marry under the statute.

### **Sweden (2009)**

In April 2009, the Swedish parliament voted by an overwhelming majority to legalize same-sex marriage. Gay couples in Sweden had been allowed to register for civil unions since 1995.

The 2009 law allows gays and lesbians to marry in both religious and civil ceremonies, but it does not require clergy to officiate at such ceremonies. The Lutheran-affiliated Church of Sweden, to which roughly three-quarters of all Swedes belong, has offered blessings for same-sex partnerships since January 2007. In October 2009, the church's governing board voted to allow its clergy to officiate at same-sex marriage ceremonies.

### **Norway (2009)**

Since January 2009, gay couples in Norway legally have been able to marry, adopt children and undergo artificial insemination. The new law replaced a 1993 law permitting civil unions. The 2009 law was passed despite resistance from members of the Christian Democratic Party and the Progress Party, as well as a public controversy over state funding for fertility treatments for lesbian couples.

The largest religious group in the country, the Lutheran-affiliated Church of Norway, was split over the issue. Following passage of the new law, the church's leaders voted to prohibit its pastors from conducting same-sex weddings. But the Church of Norway does allow clergy to bless same-sex unions.

### **South Africa (2006)**

The South African parliament legalized same-sex marriage in November 2006, one year after the country's highest court ruled that the previous marriage laws violated the South African constitution's guarantee of equal rights. The new law allows for religious institutions and civil officers to refuse to conduct same-sex marriage ceremonies, a provision that critics claim violates the rights of same-sex couples under the constitution.

The new measure passed by a margin of greater than five-to-one, with support coming from both the governing African National Congress as well as the main opposition party, the Democratic Alliance. However, the traditional monarch of the Zulu people, who account for about one-fifth of the country's population, maintains that homosexuality is morally wrong.

### **Spain (2005)**

A closely divided Spanish parliament legalized same-sex marriage in 2005, guaranteeing identical rights to all married couples regardless of sexual orientation. The new measure added language to the existing marriage statute, which now reads, "Marriage will have the same requirements and results when the two people entering into the contract are of the same sex or of different sexes."

Vatican officials, as well as the Catholic Spanish Bishops Conference, strongly criticized the law, and large crowds demonstrated in Madrid for and against the measure. After the law went into effect, the country's constitutional court rejected challenges from two municipal court judges who had refused marriage licenses to same-sex couples. The high court ruled that the lower court judges lacked legal standing to bring the suits.

### **Canada (2005)**

Same-sex couples in Canada gained most of the legal benefits of marriage in 1999 when the federal and provincial governments extended common law marriages to gay and lesbian couples. Through a series of court cases beginning in 2003, same-sex marriage gradually became legal in nine of the country's 13 provinces and territories. In 2005, the Canadian Parliament passed legislation making same-sex marriage legal nationwide. In 2006, lawmakers defeated an effort by the ruling Conservative Party of Canada to reconsider the issue, leaving the law unchanged.

### **Belgium (2003)**

Beginning in 1998, the Belgian parliament offered limited rights to same-sex couples through registered partnerships. Same-sex couples could register with a city clerk and formally assume joint responsibility for a household. Five years later, in January 2003, the Belgian parliament legalized same-sex marriage, giving gay and lesbian couples the same tax and inheritance rights as heterosexual couples.

Support for the law came from both the Flemish-speaking North and the French-speaking South, and the law generated surprisingly little controversy across the country. The long-dominant Christian Democratic Party, traditionally allied with the Catholic Church, was out of power when the parliament passed the measure.

The 2003 law allowed the marriages of Belgian same-sex couples and recognized as married those from other countries where same-sex marriage was legal. Those provisions were broadened in 2004 to allow any same-sex couple to marry as long as one member of the couple had lived in Belgium for at least three months. In 2006, the parliament also granted same-sex partners the right to adopt children.

### **The Netherlands (2000)**

In December 2000, the Netherlands became the first country to legalize same-sex marriage when the Dutch parliament passed, by a three-to-one margin, a landmark bill allowing the practice. The legislation gave same-sex couples the right to marry, divorce and adopt children. The legislation altered a single sentence in the existing civil marriage statute, which now reads, "A marriage can be contracted by two people of different or the same sex."

The only opposition in parliament came from the Christian Democratic Party, which at the time was not part of the governing coalition. After the law went into effect, the Protestant Church in the Netherlands, which then represented about 12% of the country's population, announced that individual congregations could decide whether to conduct same-sex marriage ceremonies. Although Muslim and conservative Christian groups continue to oppose the law, same-sex marriage is widely accepted by the Dutch public.

## **Countries Where Gay Marriage is Legal in Some Jurisdictions**

### **Mexico (2009)**

In December 2009, the government of Mexico City legalized same-sex marriage within its jurisdiction. The decision was challenged in court, but the law was upheld by



Mexico's Supreme Court, which in August 2010 ruled that same-sex marriages performed in Mexico City were valid and that they must be accepted throughout the country. Since 2011, the southern Mexican state of Quintana Roo also has allowed gay marriages. In 2014, the congress of the northern state of Coahuila approved same-sex marriage.

### **United States (2003)**

Same-sex marriages were first made legal in the U.S. in Massachusetts in 2003, when the state's highest court ruled that the Massachusetts Constitution gives gays and lesbians the right to marry. Now, laws legalizing same-sex marriage are in effect in 37 states and the District of Columbia, with court decisions, legislative action or statewide referendums prompting the changes. Court rulings striking down same-sex marriage bans in several other states are currently being appealed. In addition, the Supreme Court struck down part of the federal Defense of Marriage Act in 2013, requiring the federal government to recognize same-sex marriages from the states where they are legal