

http://onfaith.washingtonpost.com/onfaith/panelists/willis_e_elliott/2008/05/marriage_is_more_sacred_than_e_1.html

Marriage Is More Sacred Than Equality

On PBS, with Vermont lawyers, I argued that “gay marriage” is an oxymoron expanding/diluting/polluting the word “marriage,” and that Vermont law should use, instead, “gayunion.” In Vermont law, the word “marriage” would provide no advantage over the word “union”; and the word “union” would avoid both the cultural-linguistic and the culture-war issues. “Gay union” won.

But speakers for the gay community were unhappy. They wanted “marriage” for the equal dignity which “union” could not provide, and for federal rights which “marriage” might provide.

But in 2004, in my own state (Mass.), “gay union” lost to “gay marriage.” The resulting explosion across the nation was so great that I feared the issue would keep Bush in the White House for another four years. In my opinion, it did.

That’s background for the current “On Faith” question:

“The California Supreme Court has overturned that state’s ban on gay marriage. Is marriage a legal right or a sacred rite? Should the state be involved in marriage? Should religious institutions?”

1.....The last question is the easiest. Religion touches – and most religions have rites for - all of the common ventures of life. Marriage is so much seen as having a religious dimension that some couples want a religious rite even though otherwise they have nothing to do with religious institutions. (And some, after civil marriage, decide to add a religious rite.)

2.....Yes is my answer to the middle question. Some heterosexual couples prefer social-legal recognition – “civil marriage” - without the involvement of any religious institution. As a judge in New York State, my father performed over 2,000 civil weddings; and when in 1937 I was state-and-church authorized to perform *religious* marriages, he jokingly accused me of horning in on his business.

(My father was a religious man, and asked couples for permission to use prayer in the ceremony – until he hit upon a pair of atheists and the groom said “Hell no! We don’t want to begin our married life that way!” From then on, he didn’t ask: all his customers got prayed—but with “I pray” rather than “we pray.”)

Furthermore, yes is my answer to the middle question if it is expanded to include gay unions. The state should be involved in marriages (whether or not involving religious institutions) and in gay unions.

3....The first question – “*Is marriage a legal right or a sacred rite?*” – needs unpacking. Of course it’s a legal right if you go by the consistently heterosexual meaning of “marriage” before the current homosexual challenge. And of course the legal right includes same-sex partners if the law expands/dilutes/pollutes the word “marriage” to include them.

But the question’s “or” is unreal in setting “right” and “rite” in opposition rather than apposition. In America (the American way of life, or culture, or civilization), monogamous heterosexual commitments need and have public (social and legal) recognition and support; and both monogamous homosexual commitments and polygamy have had public condemnation. One of the societal effects of removing condemnation of the former is to weaken the condemnation of the latter. (I oppose both laws against homosexual behavior and laws inserting homosexual commitments into the word “marriage.”)

If we substitute the word “and” for the word “or,” the question disappears (as it should). The American separation/relation of church and state frees each *byprotecting each from the other*. Church cannot nullify “rights” defined by state, and state cannot deny church the right to define its “rites.” (Traditional marriage “rites” in America include God’s establishing marriage as the “one flesh” commitment of a man and a woman [beginning at Genesis 2:24].)

4....Church and state exist because they meet human needs, including order, which both “rights” and “rites” serve. Today, the American family is so disorderly (dysfunctional) that we are approaching the moment when more than half of America’s babies will be born bastards (“illegitimate, born out of wedlock”). Bad news for children, for everybody. Those who say that state and church, or at least state, should not be involved in the regulating of sexual commitments are go-with-the-flow bad news for the health of society.

5.....The gay argument is that “marriage” should include same-sex couples for equality’s sake. But in privileging heterosexual commitments (the biological “family”), laws both state and federal look to the stability and health of society and its citizens. Some, however, consider equality more sacred than the traditional stabilizing structures of society.

6.....In overturning California’s ban on gay marriage, that state’s Supreme Court’s “sacred” was equality, not stability. We need freedom, but also order. Courts would do better if they were to define the civic-sacred as freedom-within-order. With that orientation, they would be more careful participants in the word-wars (logomachies); they would let “marriage” continue to serve its freedom-within-order function.

BY WILLIS E. ELLIOTT | MAY 22, 2008; 9:28 AM ET

Comments

Please report offensive comments below.

The title of this columnist's post just bothers me.

You cannot make anything sacred through injustice. No good ends come of impure means.

Especially not in America.

POSTED BY: PAGANPLACE | MAY 26, 2008 3:52 PM

[REPORT OFFENSIVE COMMENT](#)

"Render unto Caesar the things which are Caesar's, and unto God the things that are God's"

POSTED BY: AQUARIUS | MAY 24, 2008 8:22 AM

[REPORT OFFENSIVE COMMENT](#)

Willis, here is a multiple choice test. Let's see if your religious myopia allows you to see the answer that you seem to argue is correct:

Q: Which of the following types of structures would help to stabilize a society?

a) structures that promote committed, long-term relationships, supported by special rights and responsibilities that tend to strengthen the stature of those relationships in society

b) structures that promote uncommitted, short-term relationships, by denying them any special rights or responsibilities that would have tended to strengthen the stature of the relationship in society

POSTED BY: RAFAEL | MAY 23, 2008 3:11 PM

[REPORT OFFENSIVE COMMENT](#)

5.....The gay argument is that “marriage” should include same-sex couples for equality’s sake. But in privileging heterosexual commitments (the biological “family”), laws both state and federal look to the stability and health of society and its citizens. Some, however, consider equality more sacred than the traditional stabilizing structures of society.

Elliot, all family structures (straight, gay, and yes, even good single parents) stabilize society by providing safe, loving, secure havens for children to thrive in.

You are stepping outside your sphere of knowledge on this subject.

POSTED BY: BRIAN | MAY 23, 2008 12:56 PM

[REPORT OFFENSIVE COMMENT](#)

Patrick,

That is a poor legal argument, but my guess is that American law is secondary to other issues of your concern. Just please understand that the American law is what is at issue here. No one is asking for gays to be married in religious ceremonies or have those marriages be recognized by your God or other Gods. And understand that American law is based on the Constitution, not the bible or other religious scripture.

POSTED BY: FATE | MAY 23, 2008 10:10 AM
[REPORT OFFENSIVE COMMENT](#)

No deviance should be legitimized by any law. To do so is tantamount to the establishment of another Sodom and Gomorrah society. The last time those communities existed they were wiped off the face of the map by Yahweh Himself for legalizing deviance. It has not been, since then, until now. ANOTHER sign of the times and the nearness of the End. "Unless you repent you will likewise perish." Y'Shua the Messiah.

POSTED BY: PATRICK@ONLYJESUSSAVES.COM | MAY 23, 2008 9:53 AM
[REPORT OFFENSIVE COMMENT](#)

Elliott wrote:

"5.....The gay argument is that "marriage" should include same-sex couples for equality's sake. But in privileging heterosexual commitments (the biological "family"), laws both state and federal look to the stability and health of society and its citizens. Some, however, consider equality more sacred than the traditional stabilizing structures of society."

Marriage did not begin with the state and the state licensing of marriage ONLY provides the legal structure for child parenthood, divorce, inheritance, medical decisions, and other legal provisions dealt with by the state. That is why the state must recognize marriages through licensing, for future family legal matters brought before the state.

And what I find missing in your arguments is that if state licensing of marriage offers stability, wouldn't the state licensing of gay marriage bring stability in that community as well? I have seen gay couples come together only to see it fall apart in a few years. By not licensing gay marriage, is the state allowing chaos in the gay community, increasing promiscuity and thus the risk of disease?

You cannot argue that state licensing of heterosexual marriage brings stability to society yet in the same breath argue that licensing of gay marriage breaks down social stability. You are trying to have it both ways. And gay marriage is not being argued for "equality's sake", it is being argued for the Constitutional equal protection clause's sake. Its merit is not based on a notion of fairness, it is based on the Constitution, which the CA courts found CA to be violating. This is not a trivial thing.

POSTED BY: FATE | MAY 23, 2008 9:05 AM
[REPORT OFFENSIVE COMMENT](#)

I think a gay man and a gay woman have the unalienable right to get married. And civil unions for everyone, regardless of gender.

This week's question is so prosaic and pointless and who cares...

POSTED BY: AQUARIUS | MAY 23, 2008 7:07 AM
[REPORT OFFENSIVE COMMENT](#)

Must.. resist.. temptation.. to quote.. the... monty python..
Aw, whatever.
youtube.com/watch?v=sFBOQzSk14c&feature=related

POSTED BY: AQUARIUS | MAY 23, 2008 6:49 AM
[REPORT OFFENSIVE COMMENT](#)

god allmighty is more sacred than marriage and equality.

in judochristianity ,people are schismed between god and man ,between the teaching of the church and the teaching of man ,between god and caesr,between god who distinguish right from wrong and democracey who promote equality even if its contradictory to god.(the 2 minds that the above writer always talk and brag about -christianity promoted democracey and secularism).???

in christianity even though they belive in the existance of god but in actual life they rely entierly on secular laws for applied life ,life is not based on pure love ,in life you need to distinguish wright from wrong in life you need governement and you need enforcement.

in christianity wrong is forbiden by god, but in the same time, wrong is also contained ,tolerated and loved ,since god is pure love and since the lord died on the cross for the love and the sin of mankind????????? that promote 2 kinds of heart diseas:

- 1-disease of the creed .
- 2-disease of lustation.

separation between god and the state is the other face of liberalism and secularism,this is exactly what judochristianity promotes.

POSTED BY: MO | MAY 23, 2008 5:40 AM
[REPORT OFFENSIVE COMMENT](#)

Why would anyone care what gays do in private, unless they are gay themselves. I'm more concerned with the growing numbers of perverted child molesters in the weird churches all over the South and rural America.

POSTED BY: HAMMERDOWN | MAY 23, 2008 2:19 AM
[REPORT OFFENSIVE COMMENT](#)

Yaknow, it's funny, but it seems I'm in a position to notice little details like that.

POSTED BY: PAGANPLACE | MAY 23, 2008 1:42 AM
[REPORT OFFENSIVE COMMENT](#)

Anyway, if straight folks want same sex couples to 'settle' for civil unions.

Pony up with the federally-recognized civil unions and absolutely-guaranteed equal rights before blaming queers for 'messing with your definition of marriage.'

Kind of disingenous to claim we got 'separate but equal and that should be good enough' ...when we *don't even.*

POSTED BY: PAGANPLACE | MAY 23, 2008 1:41 AM
[REPORT OFFENSIVE COMMENT](#)

Hey, with 'logic' like that, who needs Constitutionally-guaranteed equal protetion under the law, right?

POSTED BY: PAGANPLACE | MAY 23, 2008 1:25 AM
[REPORT OFFENSIVE COMMENT](#)

Posted on May 21, 2008 16:05

Ash: "God told me that he thinks the term "gay union" is silly, but not to worry because all the controversy over this will fade soon as most of the anti-gay types in our society are really old and are about to kick anyway."

The thing wrong with your theory is that even though "all the controversy over this will fade soon as most of the anti-gay types in our society are really old and are about to kick anyway," God will not "kick anyway." Also, God will continue to "reproduce" his kind, my friend so the fight will carry on.....

The girl/guy with the horse story about celebrating same sex marriages that are in another county and out of the barn.....is a "horse's ass! Tell "all" your friends and community associations about your "closet" ordeal and see how fast you get a "horse's kick" out of your status.....yep, you are a horse's ass!!

POSTED BY: ANONYMOUS | MAY 23, 2008 12:18 AM
[REPORT OFFENSIVE COMMENT](#)

Erk. Wrong thread, beg pardon. :)

POSTED BY: PAGANPLACE | MAY 22, 2008 10:56 PM
[REPORT OFFENSIVE COMMENT](#)

And that's just my way of lightening up after Tday's little pronouncement of some 'good old days' when queer folks in America were 'kept in our place.'

Took the methods a while to fade out, yaknow.

But, hey, next life, I'll forget if I don't need to remember, know what I'm saying?

POSTED BY: PAGANPLACE | MAY 22, 2008 10:54 PM
[REPORT OFFENSIVE COMMENT](#)

I want to commend Chuck on his clear, informed, and dispassionate writing. The following is one of the best statements of the situation I've read. I'd like to see someone argue against it.

"If the government still considers "marriage" to be a religious designation rather than a legal one, it has no business making any laws concerning that institution. If, as confirmed by its actions, the government believes "marriage" to be a legal contract, it has no business denying that contract to any two people, no matter what their gender might be."

POSTED BY: RAFAEL | MAY 22, 2008 10:47 PM
[REPORT OFFENSIVE COMMENT](#)

But, hey, if someone wants to argue 'Civil unions are just as good,' ...well, pony up with the federally-recognized and legally-enforced civil unions.

The rest can be sorted out later.

But the courts rightly keep ruling that it's unfair to extend even the *word* 'marriage' to people of certain sexes while denying them to others.

That's their *job.* That's *justice.* That's *the right of it.*

Even if you try to force through amendments specifically denying that equal protection to a minority you don't happen to like. To 'make it legal.'

Don't come crying to me about your bad press, though, which we spent the past two weeks talking about, despite the 'Manifesto.'

POSTED BY: PAGANPLACE | MAY 22, 2008 8:58 PM
[REPORT OFFENSIVE COMMENT](#)

"Vermont law, the word "marriage" would provide no advantage over the word "union";"

Except the full faith and credit clause of the Constitution, which when the word 'Marriage' is involved provides civil rights when one leaves the state of Vermont or is dealing with a corporation that doesn't happen to be headquartered in Bennington.

POSTED BY: PAGANPLACE | MAY 22, 2008 8:50 PM
[REPORT OFFENSIVE COMMENT](#)

This sort of argument is extremel-stupid, particularly as if trying to block equal protection under the law somehow controls linguistics.

Sorry, same sex couples have been getting 'married' a *long* time, Reverend, some people just don't treat us fairly about it.

Helped celebrate a few ceremonies, myself.

That horse is in the next county by now. And glad to be out of said metaphorical barn, if I do say.

POSTED BY: PAGANPLACE | MAY 22, 2008 8:47 PM
[REPORT OFFENSIVE COMMENT](#)

"What's laughable about this whole issue is that the citizens of this country have overwhelmingly stated their opposition to same-sex marriage. In one state after another, voters soundly embraced amendments restricting same-sex marriage or ratified existing amendments (that is, renewing similar voices of the past)."

This is citizens depriving other citizens of the right to receive social and governmental benefits for their choice of significant other. As another commentator rightly pointed out, Courts and constitutions protect minorities from the tyranny of the majority - majorities have enslaved others, have committed genocide against others. California's constitution protects individuals' rights against the tyranny of legislation, and that's what the Republican court did. If you don't like it here, maybe some other country with a theocratic government would be more to your liking: how about Iran or Saudi Arabia?

POSTED BY: MARK IN IRVINE | MAY 22, 2008 8:09 PM
[REPORT OFFENSIVE COMMENT](#)

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In Vermont law, the word "marriage" would provide no advantage over the word "union"; and the word "union" would avoid both the cultural-linguistic and the culture-war issues. "Gay union" won. But speakers for the gay community were unhappy. They wanted "marriage" for the equal dignity which "union" could not provide, and for federal rights which "marriage" might provide.**

Legally speaking, giving an entity a different name makes it a different legal entity. Equal rights require equal nomenclature. As long as the word "marriage" has a legal definition, it cannot be reserved only for unions that contain specific gonadal attributes.

POSTED BY: LEPIDOPTERYX | MAY 22, 2008 3:53 PM
[REPORT OFFENSIVE COMMENT](#)

DEAR FH:

Exactly how is allowing Gay couples to marry "diluting" marriage? That Gay couples seek to marry is not an attack on or a "dilution" of marriage. If anything it is an ENDORSEMENT of marriage, an acknowledgment that it

far better to encourage couples toward monogamy and commitment, rather than relegating them to lives of loneliness and promiscuity.

Ask any Straight couple why they choose to marry. Their answer will not be, "We want to get married so that we can have sex and make babies!" That would be absurd, since couples do not need to marry to make babies, nor is the desire to make babies a prerequisite for obtaining a marriage license.

No, the reason couples choose to marry is to make a solemn declaration, before friends and family members, that they wish to make a commitment to one another's happiness, health, and well-being, to the exclusion of all others. Those friends and family members will subsequently act as a force of encouragement for that couple to hold fast to their vows.

THAT'S what makes marriage a good thing. Gay couples recognize that and support that. And those that want to prohibit Gay couples from marrying do so only because they don't want to allow Gay couples the opportunity to PROVE that they are up to the task. Where is the logic in saying that Straight couples get to marry and building lives together in the context of monogamy and commitment, and this this is a GOOD thing ... yet for Gay couples to do exactly the same is somehow a BAD thing?

For those who suggest that the issue of marriage is best left up to the states, it's important to remember that the federal government has a vested interest in married couples for the purposes of income taxes and Social Security benefits. From the fed's point of view, it wouldn't do for a couple to be considered married in one state, then magically "UN-married" once they decide to move somewhere else.

The fact remains that the term "marriage" does not occur in the Constitution of the United States. There is technically no "right" for any couple, Gay or Straight, to get married, at least from the federal government's standpoint. And that is why, ultimately, the Supreme Court will have to address the issue of what constitutes a marriage, much as I'm sure they would prefer NOT to.

POSTED BY: [CHUCK ANZIULEWICZ](#) | MAY 22, 2008 3:49 PM
[REPORT OFFENSIVE COMMENT](#)

"Mr Mark:
Utter rubbish.

At one point in our country's history, slavery provide more "stability" than did emancipation.

At one point in our history, denying women the right to vote provided more "stability" than did giving them the right."

So let me get this straight...not giving same-sex couples tax breaks is the same as forced labor and disenfranchisement...yea, right.

The real question is: Do we as a society benefit from diluting marriage to include same-sex couples? Um...NO.

POSTED BY: FH | MAY 22, 2008 3:29 PM
[REPORT OFFENSIVE COMMENT](#)

DEAR BRAMBLETON:

It is not the courts' job to uphold the precise will of the majority of the people. That's what elections are for. The job of the courts is to uphold the Constitution, regardless of whether the necessary decisions fall in line with the will of the majority. It is up to the judges to determine, without bias from the rest of the population, what constitutes equality under the law, or equal protection. It seems more than obvious to me that to exclude Gays from the institution of marriage is a clear violation of any notion of "equality," and I have yet to see anyone dispute that on a rational level. Therefore, it is not "activism" on the part of judges to declare that Gay and

Straight couples should be treated equally under the law, rather it is an example of judges performing their rightful duty.

To those people out there who still suggest that social justice must be reached through the legislative process, rather than through the courts, I would point to the history of racial injustice in this country. While I could choose any number of cases to make my point, I'll start with the most obvious - Brown v Board of Education of Topeka, Kansas. As everyone knows, this is the ruling that essentially reversed the Plessy v Ferguson "separate but equal" doctrine. Without the decision of the court in Brown v Board, it is impossible to say when the schools of America would have begun to integrate, but I believe it is safe to say it would have been much later. At the time, the Brown v Board decision was just as unpopular with certain segments of the population as a decision today would be that grants Gay couples equal marriage rights. Looking back, I think we can all agree that the unpopularity of the decision did not make it wrong.

When you're dealing with bigotry, a force which runs deeper than many would like to admit, it is often impossible to wait for the "legislative process" to do its work. There is no telling how long it will take a majority of the population to decide, on its own, that it is time to stop discriminating based on sexual orientation. I therefore believe that it is not only the right, but the obligation of the courts to step in and ensure that all citizens are able to enjoy the same rights under the law, as the spirit of the Constitution provides.

POSTED BY: [CHUCK ANZIULEWICZ](#) | MAY 22, 2008 3:11 PM
[REPORT OFFENSIVE COMMENT](#)

What's laughable about this whole issue is that the citizens of this country have overwhelmingly stated their opposition to same-sex marriage. In one state after another, voters soundly embraced amendments restricting same-sex marriage or ratified existing amendments (that is, renewing similar voices of the past). The fact that a court of law (shocking that it was California - note excessive sarcasm) discarded the majority of american's thoughts on the subject matter is disgraceful.

Proponents of same-sex marriage are obviously hopeful of what could be in 2008 in regards to a Democratic president. But keep in mind that in the past two years, the Democratic majority currently in Congress, who also ran on the platform of "Change, Change, Change", has changed absolutely nothing and have an immaterial federal minimum wage law to their credit. Yikes.

POSTED BY: [BRAMBLETON](#) | MAY 22, 2008 3:05 PM
[REPORT OFFENSIVE COMMENT](#)

It is not the purpose of government, nor of the Constitution, to make things "sacred." Those who believe that marriage is sacred usually choose to be married in a religious ceremony. Gay couples may or may not be making a religious or moral statement; though most Christian denominations do not recognize such commitment, some do. Regardless, Gay couples simply wish to be legally bound to each other by law. We wish to have all the same privileges of any lifelong couple.

If the government still considers "marriage" to be a religious designation rather than a legal one, it has no business making any laws concerning that institution. If, as confirmed by its actions, the government believes "marriage" to be a legal contract, it has no business denying that contract to any two people, no matter what their gender might be.

POSTED BY: [CHUCK ANZIULEWICZ](#) | MAY 22, 2008 2:50 PM
[REPORT OFFENSIVE COMMENT](#)

Utter rubbish.

At one point in our country's history, slavery provide more "stability" than did emancipation.

At one point in our history, denying women the right to vote provided more "stability" than did giving them the right.

Rev Elliot argues that denying gays equal rights under the law provides our country with "stability."

Guess what? A grave provides stability as well.

Your arguments belong on the trash heap of history, Rev Elliot. They're shameful.

Your church can go ahead and define its rites, but stay the hell out of the lives of people who see your myth-based rantings for what they are.

POSTED BY: MR MARK | MAY 21, 2008 5:14 PM

[REPORT OFFENSIVE COMMENT](#)

@Chris

Actually, that might be in the interest of religion as well; it might make straight people 'get married' in the religious sense, rather than getting married in the 'civil union' sense.

POSTED BY: AQUARIUS | MAY 21, 2008 4:44 PM

[REPORT OFFENSIVE COMMENT](#)

Willis,

The linguistic distinction is still a slap in the face. Why not "unions" for everyone (or no one) and reserve "marriage" for religious ceremony exclusively?

POSTED BY: CHRIS EVERETT | MAY 21, 2008 4:05 PM

[REPORT OFFENSIVE COMMENT](#)

God told me that he thinks the term "gay union" is silly, but not to worry because all the controversy over this will fade soon as most of the anti-gay types in our society are really old and are about to kick anyway.

POSTED BY: ASH | MAY 21, 2008 11:24 AM

[REPORT OFFENSIVE COMMENT](#)

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