

Brief Refutations of Some Common Arguments against Same-Sex Marriage

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In recent months, there has been a renewed interest in the question of whether or not same-sex couples should be allowed to marry. The ruling of the Massachusetts Supreme Court, the same-sex marriages performed in California, New York, and Oregon, and the recent vote in the U.S. Senate, have all served to bring this issue into the national consciousness. This renewed interest has spurred a national debate. I have seen and heard a number of arguments proffered by conservatives on television, radio, and in the print media, each attempting to show why same-sex marriage should not be allowed. There have been a number of philosophy papers published on this topic, which all seem to deal with interesting philosophical issues relating to the acceptability of same-sex marriage. Unfortunately, these discussions do not deal with the issue as it is seen in general society. Since it is my opinion that there is no good reason why same-sex marriage should not be allowed and that there is no adequate reason for same-sex couples to be treated any differently than my wife and me, I feel that it is necessary to refute some of the arguments that are circulating in the general public.

Here I will discuss several of the arguments that I have heard, and I will attempt to show why each of these is inadequate. This paper will be broken into several small sections. In each, I will deal with a different argument against same-sex marriage and show why it is faulty. In a brief final section, I will discuss some conclusions that can be drawn from the discussion.

I. The “Religious” Argument

One argument I have heard deals with the religious nature of marriage. The argument runs something like this: marriage is a religious institution; it deals with the union of a man and a woman before the eyes of God; most churches do not recognize same-sex marriage and the Bible states that homosexuality is a sin; therefore, same-sex marriage should not be allowed.

There is a kernel of truth in this argument. Marriage is, in fact, a religious institution. This seems to be an obvious statement. Where this argument goes wrong is that it does not seem to recognize that marriage has more than one meaning. If marriage were only a religious institution, then the only way to get married would

be by a religious figure. This, of course, is not the case. People can be married by a justice of the peace or by a judge. Neither of these is a religious figure, yet the state recognizes marriages performed by them. So it seems that, at least according to the state, marriage is more than a religious institution. We can say, then, that marriage is (1) a religious institution and (2) a legal institution.

More needs to be said about what it means for marriage to be a religious institution. We can imagine a church (say, Church X) that refuses to recognize interracial marriage. If the state tried to force Church X to change its position on interracial marriage, Church X might appeal to the first amendment and say that the state has no right to force it to recognize interracial marriage. We can certainly tell Church X that we do not like its practices, but the state has no standing to require that it recognize interracial marriage. Similarly, the state has no means to require that a given church recognize same-sex marriage. We may not like it, but we have no room to complain. The state cannot force a religious institution to change its basic tenets.

Although the state cannot demand that a given church recognize same-sex marriage, it does not follow from this that the state should not recognize same-sex marriage. Think again of the interracial couple that wants to get married. Although the state cannot require Church X to recognize their marriage, it can be demanded, however, that the state recognize it. It is apparent that it would be an overt act of discrimination for the state to deny an interracial couple the right to marry. The fourteenth amendment requires that each person enjoy equal protection under the law. This protection includes protection against discrimination. From this it follows that the interracial couple can demand that the state permit them to marry. Otherwise, they would not be receiving equal protection.

Since it has been shown that the state must recognize the marriage of an interracial couple, it seems that we can make the same argument regarding same-sex marriage. The state cannot compel a church to recognize same-sex marriage, but the state can be compelled to recognize it. Any limitation on the right of a couple to get married seems to be an overt act of discrimination. This includes a same-sex couple. Unless we are willing to allow the state to discriminate against people simply on the basis of their sexual orientation, we must demand that the state sanction same-sex marriage.

The point, then, is this: when one is speaking of marriage as a religious institution it might be acceptable to say that same-sex marriage should not be allowed. However, when one is speaking of marriage as a legal institution, it must be said that the state should recognize same-sex marriage. Otherwise we are supporting state-sanctioned discrimination. For the remainder of this paper I will be discussing marriage as a legal institution.

II. The “Society is Against It” Argument

Another argument that has been presented is that the citizens of the United States do not want to allow same-sex marriage. According to this argument, since most Americans do not support same-sex marriage, it

should not be allowed. While I am not sure that most Americans do not support same-sex marriage, we can imagine a world where most Americans do not. The question to be asked, then, is this: in the possible world where most Americans do not support same-sex marriage, would that be an acceptable reason to prohibit same-sex marriage? The answer to this question is no. Imagine a possible world where most Americans support discrimination against ethnic minorities. Would it be acceptable for the government to discriminate against ethnic minorities if that were the will of the people? I hope that everyone reading this would say that it would be unacceptable for the government to act in such a way. Simply because the majority of people want to discriminate against a particular group does not mean that such discrimination should be performed. It would be unjust for a government to discriminate against a group of people based on accidental factors. Similarly, even if the majority of people supported discriminating against same-sex couples (which I think is not the case), that is not an acceptable reason to allow such discrimination. Thus, we cannot discriminate against same-sex couples based on the supposed will of the people. To do so would be unjust.

III. The “No Benefit” Argument

It has also been argued that there is no reason to for same-sex couples to get married because they can gain no additional benefit from it. It is argued that monogamous same-sex couples can have commitment ceremonies, can get the necessary legal documents to allow for hospital visits in the case of accidents and terminal illness, can include each other in their wills, and can even create legal agreements to allow for a distribution of wealth and possessions if there should be a split. Given this, the argument claims, there can be no added benefit for a same-sex couple to be married. A same-sex couple can have all of the same rights as a heterosexual couple. Thus, there is no reason to allow same-sex marriage.

I suspect that the easiest way to refute this argument is to appeal to the interracial couple again. Would it be acceptable to say to an interracial couple that they can have a commitment ceremony and all of the necessary legal documents to make it as if they were married, but not actually married? Would this solution be sufficient to avoid discriminating against the interracial couple? I think that we would all agree that the answer is no. If we treat people differently based on their accidental properties such as race, age, or sexual orientation, we are treating them unjustly. It does not seem to matter that you can find a way to make it as if you were married, but not actually married. To deny same-sex couples the right to marry is simply discriminatory. That they can get legal documents and have commitment ceremonies does not seem to be enough.

I suspect (though I am not positive) that there is something to be added to a relationship by getting married. Some people claim that being married is really no different from being in a monogamous relationship. The only difference is that there is a piece of paper stating that both people agree to be monogamous. I suggest, however, that being married in the eyes of the state might add something to a relationship. Further, prohibiting same-sex marriage has the effect of saying that same-sex relationships are not as meaningful and

important as heterosexual relationships. Ultimately, however, none of this matters. Prohibiting same-sex marriage is discrimination, and discrimination is unacceptable.

IV. The “Procreation” Argument

Another argument I have heard deals with the purported purpose of marriage. It is claimed that the purpose of marriage is to have children. Since same-sex couples cannot have children, they have no reason to be married. There are two obvious flaws with this argument. First, many same-sex couples do have children. Second, having children is not the only purpose of marriage. Even if these were both true, the argument can still be refuted. Let us grant, for the sake of argument, the following two premises: (1) same-sex couples cannot have children, and (2) the purpose of marriage is to have children. From these premises it follows that only couples that can have children should be allowed to be married. Imagine two heterosexual people, both of whom happen to be infertile. Is it acceptable to say that they should not be permitted to get married since they cannot have children? I’ll go out on a limb and say that everyone would agree that an infertile heterosexual couple should be allowed to get married even though they cannot have children. The obvious implication here is that we cannot deny a same-sex couple the right to marry simply because they cannot have children.

It might be argued that there is a difference between being an infertile couple and being a same-sex couple. One might argue that the infertile couple does not choose to be infertile, but a same-sex couple chooses to be in a relationship that does not allow for procreation. There is increasing evidence that sexual orientation is not an active choice, but rather something that you are born with. So an easy response to this objection is to say that a same-sex couple does not choose to be in a relationship that does not allow for procreation. This response is not, however, necessary to show that it is wrong to discriminate against same-sex couples based on their ability to have children. Even if we grant that sexual orientation is a choice; that is still not sufficient to show that they can be prohibited to marry. Imagine for a moment that a heterosexual couple decides before they get married that they do not want to have children. Imagine further that the man has had a vasectomy and the woman has had tubal ligation. We now have a situation where a couple has actively chosen to be in a relationship where there is no possibility of having children. Would it be acceptable to prohibit this couple from marrying simply because they choose to be in a relationship where there is no possibility of having children? I suspect that the overwhelming response to this question would be that it is discriminatory to prohibit such a couple to marry. If we are not willing to discriminate against a heterosexual couple based on their inability to have children, even if this inability is based on an active choice, then we cannot discriminate against a same-sex couple based on their ability to have children. Thus, the conclusion to be drawn is this: even if we grant that the purpose of marriage is to have children and that sexual orientation is a choice, we still have no basis for not allowing a same-sex couple to be married.

V. Conclusion

It seems worth noting that the arguments against same-sex marriage which I mention share a common theme. That theme is intolerance. Similarly, my refutations share a common theme. That is this: we should not discriminate against people. Thankfully, we, as a society, are finally getting closer to the point at which we do not discriminate against people based upon their race, sex, or ethnicity. It is time for us to do the same with regard to sexual orientation. It is unjust to unfairly discriminate against anyone, and prohibiting same-sex marriage constitutes unfair discrimination.

In the preceding pages, I have sketched simple refutations for some of the more common arguments against same-sex marriage. I do not claim to have conclusively proven that same-sex marriage should be permitted (although I certainly believe that to be the case). I do think, however, that I have shown that many of the common arguments against same-sex marriage are fundamentally flawed; they are based upon prejudice and discrimination.