



Same Sex Marriage

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**YOU SHALL
NOT LIE WITH A MAN
AS WITH A WOMAN:
IT IS ABOMINATION.**
Leviticus 18:22

Different Types of Arguments for/against Same Sex Marriage

- ❖ Arguments based on the **definition** of marriage (e.g. marriage is only between a man and a woman)
- ❖ **Historical** arguments (e.g. marriages was created to regulate procreation)
- ❖ Arguments based on **psychology** (e.g. children growing up in an heterosexual family are better off psychologically)
- ❖ Arguments based on the **social/economic** consequences of homosexual marriages
- ❖ **Religious** arguments (e.g. Bible prohibits homosexuality)
- ❖ **Moral** arguments (e.g. homosexuality is immoral)

Common Procreation Argument

ARGUMENT: Marriage is only between a man and a woman **because** the ability (*at least in principle*) to procreate is a necessary condition for marriage.

OBJECTION:
What about heterosexual couples who cannot procreate? Can't they marry still?

Alan Keynes



<https://www.youtube.com/watch?v=KrD8zvCUtWc>

Alan Keynes' Argument

1. Historically, the only reason why the institution of marriage was created was to regulate the rights and obligations pertaining to the procreation of children.

2. So, a necessary condition of marriage is that it is—*in principle*—geared toward procreation.

3. So, marriage is only between a man and a woman.

Keynes'
argument
rests on a
**definition of
the purpose
of marriage
based on
history**

But...

Besides a definition, can there be other considerations that weigh in favor or against same sex marriage?

Examples:

- psychological advantages or disadvantages of same sex marriage
- economic advantages or disadvantages
- harms or benefits to individual or society

Federal Judge Posner (August 2014) on the Indiana and Wisconsin Bans Against Same Sex Marriage

Background

Both Indiana and Wisconsin have same sex marriage bans.

Married couples enjoy health and social benefits that unmarried couples do not enjoy.

Both states do not ban adoption by same sex couples.

"It's a matter of indifference to you"

"You should want to enlist people as adopters"

*"Who's being harmed?
Answer my question!"*

Judge Posner's Point in Brief

By allowing same sex people to marry, we do change the old definition of marriage.

But besides a change in definition, **are there any tangible harms resulting from legalizing same sex marriage?** *It seems not.*

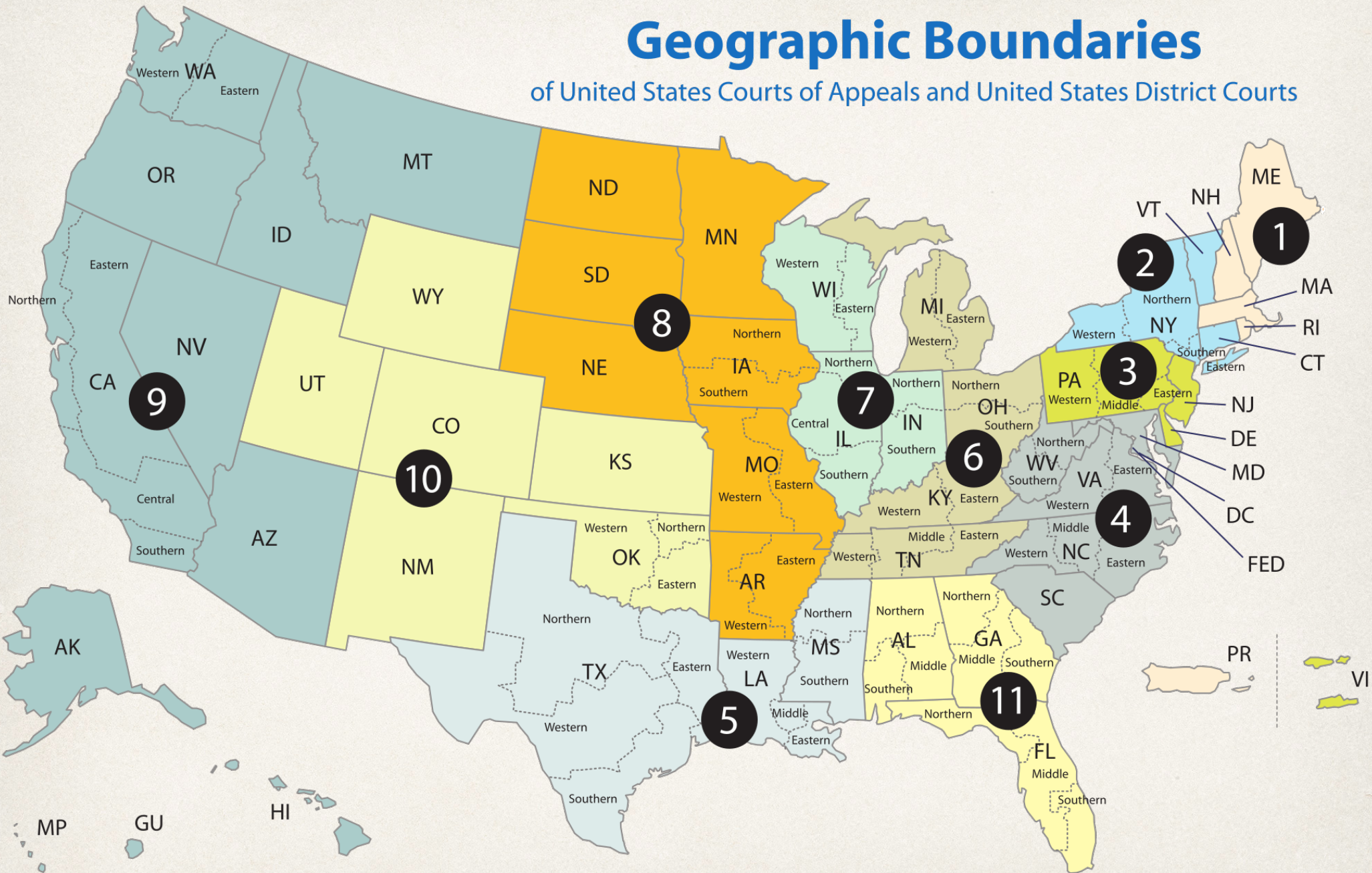
The question on the table for Posner was this. Given that same sex couples can adopt (according to the existing law of Indiana and Wisconsin), should same sex couples be allowed to marry? Posner concluded *Yes*, because he thought that no harm would be done to society by allowing same sex couples to marry.

News From the Legal Front

- In April 2014, Federal Appellate Court (11th Circuit) *declared unconstitutional* the ban against same sex marriage in Florida
- In September 2014, Federal Appellate Court (7th Circuit) *declared unconstitutional* bans against same sex marriage in Indiana and Wisconsin
- In October 2014, Federal Appellate Court (9th Circuit) *declared unconstitutional* bans against same sex marriage in Alaska, Idaho, Nevada
- On November 6, 2014, Federal Appellate Court (6th Circuit) *upheld* bans against same sex marriage in Kentucky, Ohio, Tennessee, Michigan
- Federal Appellate Court (5th Circuit) is currently discussing bans on same sex marriage in Texas and Louisiana

Geographic Boundaries

of United States Courts of Appeals and United States District Courts



We have Seen Two Ways to Look at
the Issue of Same Sex Marriage

In Deciding Whether to Allow Same Sex Marriage, There Are Two Questions We Can Consider

What is the correct definition of marriage? What is the true purpose of marriage?
(Keynes)

If the correct definition is a union between a man and woman because the purpose of marriage is procreation, then same sex marriage cannot be a marriage.

What greater and tangible harm result from legalizing same sex marriage? (Posner)

If no greater and no tangible harm result from legalizing gay marriage, then same sex marriage cannot be prohibited.

Which is the most important question?