

The Movement of Homosexual Marriage into the Public Sphere

Marriage is and always will be a private contract between individuals. The boundaries of marriage in our country have been concrete for centuries. However, they are currently being questioned. Should marriage remain defined as the union between a man and a woman? There are many individuals who think the current definition of marriage is insufficient. Homosexual couples deserve the same union and legal rights as heterosexual couples, with full liberty to celebrate their union as they wish in the public sphere. My argument for the rights of homosexual couples to be married under the same circumstances as heterosexual couples is comprised of a few basic points. Homosexuals are afforded all the same rights and liberties as heterosexual individuals – as long as they are individual. To take away the specific liberty to choose your own partner is immoral and creates an inequality in society. Homosexual couples have the negative right of noninterference (Hospers, 1974), which I will later discuss along with the benefits of Rawlsian theory as a moral framework. As Horowitz (2004) discusses, there is a difference between the private sphere and public sphere in a relationship, and according to him, homosexuals are perfectly acceptable if they limit themselves to the private sphere. However, I will argue that this is a loss of liberty. No one can morally be confined to their home without the opportunity to express themselves freely and publicly. In an expressive dimension, the roles of homosexuals as a part of society's norm are still being defined. There is a great need for recognition of homosexuality as normal in order for homosexual marriage to become a norm.

Legally, homosexual couples have the right to be treated equally under the law, because, as I will argue, their liberty is otherwise lost. The right of a homosexual couple to marry falls under a basic moral framework that is laid out by Rawls (1971). I will discuss Rawls' argument shortly, and will now argue that homosexual couples are entitled to the rights and liberties given to heterosexual couples by our government. To neglect their right and the benefits of marriage is

taking away the acknowledgement of their partnership, which is valued in our society. This is important because each individual is entitled to be viewed equally under the law to receive liberties and benefits that the union of marriage brings. It is not the right of the government or other political figures to limit or take away rights that each individual is entitled to. Rights, as I am speaking of them, are the certain benefits that have already been outlined in each state's marriage license, and grounded in each state's legislature, that our government is obligated to give each individual when he or she becomes married. These rights include, but are not limited to: reductions in housing costs, income taxes, pensions, and insurance premiums (Horowitz, 2004, p.465). The right to adopt a child is another right that the government grants to heterosexual couples, but is difficult for homosexual couples. Proponents of limiting the rights of gay and lesbian couples feel as though homosexual couples cannot nurture or be able to provide for a child the way that a heterosexual couple can. This is an extremely false and discriminative presumption, as I personally know of a couple who is more caring and concerned for their daughter than many heterosexual "normal" couples. The importance of adoption by homosexual couples is an important topic, but will not be of discussion in this argument. The moral argument for homosexual marriage includes discussion about treating each person equally and abstaining from discrimination on the basis of sexual preference. My argument is for legal recognition and the terms under which society views homosexual marriage.

Rawls (1971) draws upon two different primary social goods in society – liberty and opportunity. The principles chosen include equal political liberty and opportunity to engage in a union with regard to your sexual preference. Homosexuals have the liberty to make their own decisions and are entitled to legally be protected from having the views of others thrust upon them. This is a negative right (Hospers, 1974) which states that each individual, without concern

for sexuality or gender roles, has a right of noninterference. This Libertarian viewpoint can be incorporated into the liberties that Rawls calls upon for each individual in society. Homosexual couple can not feel a sense of liberty when they are being harassed with the negative viewpoints of others in society who condemn their union. As marriage becomes more culturally oriented, the social context of marriage keeps changing. This reflects a change in many people's belief systems, but these beliefs can never change the rights or opportunities of any individual. These rights include, but are not limited to, the right to choose your own partner regardless of sex, and society is still conforming to this realization.

A common objection is one that many people in society hold, and is argued by Horowitz (2004). He proposes an argument that homosexuality is perfectly acceptable in the private sphere, but not the public sphere. This argument is incredibly presumptuous because it tries to restrict homosexuals because of a personal preference. An argument like this is analogous to discriminating against individuals who choose to dye their hair pink. His hair hurts no one else, other than perhaps making one uncomfortable with the glaringly bright head, but it is up to him to be able to assert his individuality without intrusion. Perhaps it makes you uncomfortable that his hair is such an outrageous color. On the other hand, maybe he is uncomfortable with your monotone colors and unfashionable dress. In the same manner, there is no reason why another needs to hide his pride and love for his partner within the private sphere. Morally, this is against his right for equality. Also, if Horowitz allows homosexuals to behave however they please in the privacy of their homes, he is recognizing that there is nothing fundamentally wrong with the two as a couple, he just does not wish to see them. Personally, I find a public display of affection just as repulsive when it involves a heterosexual couple as well. It makes no difference what the sexes are of the two people involved, it should just be understood that "kissing in a

café” is not pleasant for bystanders regardless of the couple’s sexual orientation. This is a weak argument against public unity of homosexual couples on the part of Horowitz because he contradicts himself by allowing their right to be a couple, and then not allowing it “where he can see it”. His argument is easily refuted by citing that under the moral framework to which I am appealing, each individual, with no regard to sexual preferences, has equal liberty in a society.

The movement for homosexuals’ right to marry is moving increasingly closer to the norm in society. They are being recognized by more people as legitimate and deserving of rights, and the movement towards legalizing their marriage has reached several important points making the case stronger. “The states of Massachusetts and Wisconsin in the late 1980s had enacted laws forbidding discrimination against homosexuals” (Horowitz, 2004, p. 463). This is a step toward making gay marriage an expressive norm in society concerning their legal opportunities and rights. This is very important and a great step in the right direction, but the acknowledgement of homosexual marriage in an expressive dimension is still imperative. These two states have made it illegal to discriminate against them, but they are a small minority in our country. Complete recognition of homosexual marriage is necessary to make it a norm in society. Homosexual couples are legally entitled to a concrete statement of their love for each other due to their right for liberty and opportunity under the Rawlsian framework. Recognition is needed to debunk the current assumption in society that homosexual couples are not fit to fill the roles of “husband and wife” as most people see them. Homosexual couples adjust these roles to create a bond for them that becomes just as meaningful, and morally, cannot be denied. The norm that homosexual couples would be incapable parents, for example, due to social stigmas is the fault of society, not their own. Recognition of homosexual marriage as a norm is the first step to removing these stigmas and others from society.

Marriage is a private contract that will always stand. Who can be included in that contract needs to change, by virtue of the contract's exclusiveness and moral inequality. Homosexuals have the right to be married for several reasons in order to be granted equality as individuals. They have a right to liberty and opportunity, meaning that they can choose whomever they wish as a partner and morally have the opportunity to be married should they so choose. Homosexual couples have the right to equality, so Horowitz's argument that they are acceptable only in the private sphere is an infringement of their liberties. In order to make all these points more acceptable to the public, homosexual marriage is moving into its place in the expressive dimension. Same sex couples are not becoming norm-al, but their establishment as a cultural norm is becoming more prevalent. In an argument for their liberty and equality, the homosexual marriage legally and socially belongs in the public sphere.

References

- Hospers, J. (1974). "The Libertarian Manifesto" in James Sterba, 7e., *Morality in Practice*. (Wadsworth/Thomson Learning, California: 2004). Pages 22-31.
- Horowitz, C. F. (2004). "Homosexuality's Legal Revolution" in James Sterba, 7e., *Morality in Practice*. (Wadsworth/Thomson Learning, California: 2004). Pages 461-468.
- Rawls, J. (1971). "A Social Contract Perspective" in James Sterba, 7e., *Morality in Practice*. (Wadsworth/Thomson Learning, California: 2004). Pages 49-60.