

Marriage Equality Opponents Blur Distinction Between Civil And Religious Marriage

Right Claims Its Religious Liberty Threatened, But Uses Force Of Law To Impose Its Own Religious View Of Marriage Onto Everyone, Including Those With Different Religious Views

Efforts to bring down discriminatory legal barriers to marriage equality have met with fierce resistance led by Religious Right organizations. Anti-equality leaders routinely blur the distinction between civil and religious marriage in order to portray legal marriage equality as a threat to their religious liberty. The truth can be a powerful weapon against that deception: when Americans understand that allowing same-sex couples to be legally wed would not require any church or congregation to bless or perform such weddings, support for legal equality jumps substantially. In fact, it is Religious Right leaders who undermine the constitutional principles of religious liberty and equality under the law by demanding that their own religious view of marriage be imposed by law on all Americans, including those whose religious beliefs and traditions support full marriage equality for same-sex couples.

More than one definition of marriage

There are many different definitions of marriage. For most Americans, marriage is a couple's public commitment to love, care for and take responsibility for one another and for their families. As a legal matter, marriage is a civil institution regulated by state governments, an institution accorded recognition and protection in a variety of ways. Marriage is also a religious institution, defined differently by different faiths and congregations. In America, the distinction can get blurry because states permit clergy to carry out both religious and civil marriage in a single ceremony. Religious Right leaders have exploited that confusion by claiming that granting same-sex couples equal access to *civil* marriage would somehow also redefine the *religious* institution of marriage.

Like many other Religious Right political strategies, this is grounded in falsehood and deception.

The *civil* marriages available to same-sex couples in Massachusetts and Connecticut, and until recently in California, have had no effect on individual churches' or religious denominations' ability to define *religious*

marriage in their own way. Thanks to the religious liberty protections of the First Amendment to the U.S. Constitution, no church or clergyperson can be forced to marry or bless same-sex couples, just as no church or other religious congregation is legally required to marry interfaith couples, divorced couples, or any couple that does not meet their religious community's requirements. But those requirements are not imposed on others by law: all couples' *civil* marriages — at least all opposite-sex couples' *civil* marriages — are legal in the eyes of the law. This can and should be the case for same-sex couples without any governmental definition or redefinition of religious marriage.

It is important to note that there are denominations and congregations whose religious views embrace marriage for loving and committed same-sex couples. In the absence of civil marriage equality, clergy from those denominations and congregations are essentially made unwilling enforcers of inequality, because they cannot offer all the couples who come before them the same services. Some equality-affirming clergy have responded to that inherent inequity by performing only religious marriages for all couples and requiring couples to have a government official perform their civil marriage.

This memo focuses on the Right's persistent, purposeful blurring of the distinction between religious and civil marriage. This blurring serves several of the Right's purposes: it falsely frames marriage equality as a threat to churches' freedom, independence, and integrity, and it encourages voters to think they must choose between religious liberty and the constitutional principle of equality under the law.

Right-wing leaders: We're not doing what we're clearly doing

In December, when *Newsweek* ran a cover story by religion editor Lisa Miller making a religious case for gay couples being allowed to marry, Religious Right leaders responded

with numerous critiques of her interpretation of the Bible. But they also argued that they haven't been opposing marriage equality based on scripture. Both Ralph Reed, the former executive director of the Christian Coalition, and Richard Land of the Southern Baptist Convention argued that the case against marriage equality wasn't about the Bible, but about secular arguments. "We're not trying to take the Bible and put a bill number on it and legislate it," Reed told *Politico*.

While it is certainly true that the proponents of anti-equality initiatives have employed pseudo-scientific theories and "secular" scare tactics — like stirring fears about marriage equality's supposed threat to children, families, and civilization itself — there is no question that those campaigns have rallied support among religious voters by insisting, falsely, that civil marriage equality would redefine religious marriage and forces churches and pastors to marry same-sex couples against their will.

Religious and Political Leaders Confuse or Distort the Civil and Religious Distinction

During the pastor organizing calls for Proposition 8, in which Californians voted to strip same-sex couples of the constitutional right to marry, a two-fold strategy became clear. To pastors and members of conservative evangelical churches, proponents of equality were described as satanic forces who needed to be engaged in a religious war. People For the American Way Foundation's report on one of those calls notes that one speaker predicted that if Prop. 8 failed, the God-ordained institution of marriage would be destroyed; the engine of hate crimes legislation would be fueled, ultimately leading to it being illegal to read some sections of the Bible; the floodgates would be open to gay couples suing to force churches to marry them; and the polygamists would be next. But organizers were told that in reaching beyond their religious communities the campaign strategy would be to attack activist judges and stir fears about supposed threats to children.

Contrary to the claims of Ralph Reed and Richard Land noted above, many opponents of marriage equality did insist that civil marriage law must follow what they believe God and the Bible say about marriage. Below are just a few representative samples of that kind of rhetoric:

"If you believe what the Bible says about marriage, you need to support Proposition 8."

—Rick Warren, pastor and author, in a video message to church members

"As a Christian, the candidate for Vice President must affirm that marriage is an institution created by God and defined as a union between one man and one woman."

—Christian Anti-Defamation Commission demanding in June 2008 that John McCain pick as his running mate a "True Christian," which the group defined as someone who is anti-gay and anti-choice.

"The California Supreme Court ruling not only overruled the very clear will of the people, it also proposes to overrule God's design. These judges may think they know more about marriage than the rest of us, but I am confident they don't know more about marriage than God. Marriage is the union of one man and one woman. Children need that environment to give them their best chance to fulfill their great potential. That's not only my opinion and the opinion of most of the people in this country, it's God's opinion, and His opinion overrules the opinion of any judges.

—Barrett Duke of the Southern Baptist Convention's Ethics & Religious Liberty Commission following last year's California Supreme Court ruling that the discrimination against same-sex couples violated the state's constitution

"It's the height of humanist hubris to believe that man (including judges) can radically redefine that which God has created. We can never sanctify that which natural law rejects and God expressly condemns."

—Concerned Women for America's Matt Barber

The power of clarity about religious liberty

In focus groups conducted by People For the American Way Foundation in 2008, a number of churchgoers who strongly backed the general principle that gays and lesbians should be free from discrimination on the job, and should have the same rights and legal protections as other Americans, stopped short of applying that principle to marriage, largely because they saw marriage as a religious institution, a covenant between a man, a woman, and God. Helping people understand the difference between civil and religious marriage is crucial to winning broader support for the right of same-sex couples to be legally wed.

In 2006, the American Values Survey, an in-depth poll on religion and values conducted by People For the American Way Foundation, found that when given a three-way choice between allowing same-sex couples to get married, allowing them to form civil unions but not marry, or not providing any legal recognition, 28 percent of Americans supported marriage, 32 percent supported civil unions, and

36 percent supported no recognition. But when those who did not initially support marriage were asked as a follow-up, “If the law guaranteed that no church or congregation would be required to perform marriages for same-sex couples, I would support allowing gay couples to legally marry,” overall support for marriage jumped to 40 percent of the public — a 12 point increase — and opposition to any recognition dropped to 33 percent.

In 2008, when the same follow-up question was asked on the Faith and American Politics Study by Public Religion Research, the impact was even stronger, with support for marriage equality jumping from 29 percent to 43 percent overall, with a 52 percent majority among mainline Protestants and 47 percent support among Catholics.

Real-world examples clarify the civil – religious distinction

Religious traditions have varying views on the acceptability of divorce and the *religious* validity of a marriage by a previously divorced individual or individuals. But those differences have no bearing on a divorced person’s right to be remarried in a civil marriage. For example, the Roman Catholic Church does not view divorce and remarriage as acceptable, unless the previous marriage is annulled — a religious status, not a legal one. But even though a civil marriage between divorced Catholics may not be recognized as religiously acceptable by the church, the legal status of that couple’s civil marriage is the same as any other. The couple and their children and families enjoy the same legal protections.

The same is true for interfaith couples. Some religious denominations as well as individual clergypersons and congregations may not recognize, and may refuse to perform, marriage between two couples of different faiths. They have the right not to bless or marry any couple. But the civil marriages of interfaith couples enjoy the same legal status as other marriages. Similarly, civil marriages performed by judge or magistrate, without any religious ceremony, have the same legal status as marriages performed in a church, synagogue, or other house of worship.

Those who portray civil marriage equality for same-sex couples as a grave threat to churches’ religious liberty are not being truthful or consistent. There are no high-profile campaigns to make divorce or remarriage illegal, or claims by church leaders that legal recognition of second or third marriages — or interfaith marriages, or civil marriages between people of no faith at all — is somehow an assault on their own religious liberty.

Protecting Religious Liberty and Equality for All

The core constitutional value of religious liberty requires that churches and other religious congregations maintain the freedom to decide, in accordance with their religious beliefs, which couples they will marry.

And the core constitutional value of equality for all requires that civil marriage, as a legal institution with significant rights and responsibilities, be available equally to same-sex couples as to opposite-sex couples.