

Gay Marriage

We should consider two issues:

- Are there good arguments in support of legalizing same-sex marriage that simply rest on demands of formal equality?
 - We need such arguments because formal equality doesn't establish that the institution of marriage is good.
- Are the arguments in support of same-sex marriage ones that express values that should be broadly endorsed?

Arguments supporting gay and lesbian marriage:

- I. The value of marriage as normative ideal for all
- II. The potential of gay marriage for undermining traditional gender norms
- III. Reversing the unjust displacement of gays and lesbians

I. Marriage as normative ideal

1. The state has an obligation to promote "valued ways of living" (110)¹.
2. "[Marriage] is *the* normative ideal for how sexuality, companionship, affection, personal economics and child rearing should be organized." (110)
3. Marriage promotes "personal and social flourishing" in ways that are indifferent to the genders or sexualities of the couple.
4. So, the state has an obligation to promote both homosexual and heterosexual marriage.

Conservative objections:

Reject (3). Gay and lesbian sex is not good for the individuals who participate in it, and gay and lesbian families are not good for society.

But, isn't it better to encourage rather than discourage gays and lesbians to enter into committed, monogamous relationships? (Eskridge)

Anti-marriage objections:

- Reject (2): Marriage is a questionable institution that has a long problematic history.
 - Calhoun: but marriage—as a social and legal institution—has evolved, and many of the problematic features of marriage are gone, e.g., a woman no longer loses her property when she is married and becomes the property of her husband. It is open to us to endorse marriage and also rethink what rights and expectations marriage brings with it; this has been the approach of many heterosexuals for some time (113). Moreover, heterosexuals are able to have egalitarian marriages, why shouldn't we expect gays and lesbians to do so as well?
- If the state undertakes to promote long-term stable relationships, it will also have to make divorce more difficult to obtain, etc. Stability of relationships will take priority over other more important goods and women will become more vulnerable to domestic violence.

Calhoun's objections:

Reject or modify (1): the State should not be in the business of promoting one and only one way of organizing one's intimate life (112-4) The state should leave open the possibility of forming

¹ Page numbers from Calhoun, Cheshire. "Defending Marriage." In *Feminism, the Family and the Politics of the Closet*. New York, NY: Oxford University Press, 2000, chapter 5. ISBN: 0198295596.

many different kinds of families, economic units, childrearing collectives, sexually intimate relationships. What rights come with marriage should be a matter of ongoing debate.

II. Undermining traditional gender norms (2 arguments)

Version 1 (combating male domination)

1. Our society suffers from the injustice of male domination.
2. Male domination is supported by the strict separation of gender roles and the gendered division of labor.
3. Gay/lesbian marriage challenges traditional gender roles.
4. Gay/lesbian marriage challenges male domination.
5. Permitting gay/lesbian marriage is an effective way to combat injustice.
6. So gay/lesbian marriage should be legal.

Advantages over previous argument: doesn't presuppose one form of marriage or one way of structuring our intimate relationships (116).

Conservative objections:

Reject (1) or (2). (1) suggests that we currently live under conditions of male domination, but this is hyperbolic. Moreover, distinct gender roles does not support male domination. It is possible to have a society in which the genders are separate but equal.

Anti-marriage objections:

Reject (5): This argument gives reasons for heterosexuals to endorse gay/lesbian marriage, since it will provide those who comply with traditional gender norms greater opportunities to break free. It provides little or no motivation for gays and lesbians to endorse gay/lesbian marriage, since by hypothesis, gays and lesbians already resist traditional gender norms. So it won't adequately address the injustices done to gays and lesbians.

But: the goal is to undermine male domination, and there are aspects of male domination that affect those who live outside traditional gender roles.

Calhoun's objections:

Reject (3): The dominant understanding of homosexuality has been, at least since the 19th century, that gays and lesbians are *essentially* different from heterosexuals. "...lesbians and gay men have, for the past hundred years, been constructed as a kind of naturally fixed third sex for whom gender deviance is a uniquely constitutive and unavoidable part of their nature" (119). So the fact that gays and lesbians resist traditional gender roles is not a threat to those roles. It is likely that heterosexual marriage will remain pretty much as it is, even if gay marriage becomes legal.

Version 2 (combating male domination and heterosexism)

1. Our society suffers from the injustice of male domination, an injustice that is manifested also in heterosexism.
2. Male domination is supported by the idea that "real men" and "real women" are heterosexual, and homosexuals are "unfit" for participation in society.
3. Gay/lesbian marriage challenges the idea that gays and lesbians are "unfit, and so too the idea that "real" men and women are heterosexual.
4. Gay/lesbian marriage challenges both male domination and heterosexism.
5. Permitting gay/lesbian marriage is an effective way to combat injustice.
6. So gay/lesbian marriage should be legal.

Calhoun's objections:

This argument doesn't adequately address the fact that gays and lesbians are stereotyped by the idea that "gay and lesbian sexuality is dangerously uncontrolled, predatory, insatiable, narcissistic, and self-indulgent" (121). As a result, gays and lesbians are considered "unfit for

assuming gendered familial roles and producing properly gendered children, they are incapable of sustaining long-term stable relationships, pose a sexual threat to their own and others' children, and risk reproducing their own defects in a second generation" (122).

III. The Unjust Displacement of Gays and Lesbians

A central argument for DOMA (Defense of Marriage Act) was this:

1. Marriage—understood as between one man and one woman—is a pre-political foundation for society.
 - The state does not create marriage. It exists logically prior to the state, since it is the basis for any society.
 - The state depends crucially on marriage for its existence, so it must recognize it.
2. Those who are “fit” for establishing the foundation of society should have a special status.
 - Those who are “unfit” are “inessential citizens” (124).
 - “Whatever social contribution they might make to civil society depends on the antecedent marital and familial labor of others” (124).
3. Gays and lesbians lack the special status of “essential citizens”, and same-sex relationships are not merely a “lifestyle choice”.
4. Taking a permissive attitude towards same-sex relationships weakens the society. (125)
5. Legalizing same-sex marriage is neither just nor beneficial.

Calhoun's argument *supporting* same-sex marriage is structured as a response to this DOMA argument.

1. Gays and lesbians are unjustly viewed and treated as “inessential citizens”.
2. Allowing gays and lesbians to legally marry will be a way of viewing and treating them as essential citizens.
3. So same-sex marriage should be legal.

We have two conceptual options:

- A. Continue to treat marriage as a pre-political institution, but include gays and lesbians in society's foundations.
- B. Treat marriage as a “lifestyle” choice and grant gays and lesbians rights similar to rights to other voluntary associations.

Conservative objections:

The DOMA argument is sound and premise (1) of Calhoun's argument should be rejected.