

Jumping the Broom

MASSACHUSETTS EDITION



**A BLACK PERSPECTIVE ON
SAME-GENDER MARRIAGE**

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Contributors: Dr. Sylvia Rhue, Director of Religious Affairs and Constituency Development, NBJC; Alexander Robinson, Executive Director and CEO, NBJC; Jeremy Pittman, Deputy Campaign Director, MassEquality; Al Toney III and Keith Toney, Partners, AK Consulting Services

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Introduction

Today, more than ever, lesbian, gay, bisexual and transgender (LGBT) people's rights continue to be attacked from a multitude of sources across the United States and the world. The inequality towards LGBT people takes many forms, such as laws that exclude lesbians, gays and bisexuals from serving in the military, efforts attempting to abolish homosexuals' parenting rights, extraordinary efforts that attempt to revoke equal protection in employment and housing, and anti-gay ballot initiatives and smear campaigns that vilify homosexuals with the sole purpose of excluding them from the rights of marriage. When we begin denying same-sex couples the rights and protections that are afforded through marriage we disproportionately hurt African American same-sex couples, as well as Latinos, Asians and other minorities.

According to recent studies posted on the National Gay and Lesbian Task Force website, www.TheTaskForce.org, "In 1990 and 2000 the Census allowed cohabiting same-sex couples to self-identify. The 2000 data show that black and Latina female same-sex (lesbian) couples parent at almost the same rate as black and Latina married couples. Black and Latino same-sex couples (both female and male couples) parent at nearly twice the rate of white same-sex couples. Compared to white non-Hispanic same-sex couples, black and Latino same-sex couples earn less and are less likely to own the home they live in."

The study also reports, "These families have the same hopes and aspirations as other American families. They deserve the same protections and opportunities to benefit from state and federal programs designed to promote family formation, stability, home ownership and other values that contribute to community strength and the common good. Those who care about racial and economic justice should reject discriminatory anti-family amendments to our state and federal constitutions."

Al Toney being embraced by his husband, Keith Toney, at a rally in the Massachusetts State House after an amendment seeking to ban gay marriage was soundly defeated. This photo appeared on the front page of newspapers across the state and in others across the globe. The couple was also featured in the Showtime documentary, *Same Sex America*, which portrayed several couples through the debate on marriage equality through their own marriages in 2004.



As gay men in an interracial same-sex marriage, parent/step-parent of a teenage daughter, and former foster and pre-adoptive parents to dozens of children over the past ten years, we can attest to the benefits that marriage can bring to a same-sex household. In 2004 we were fortunate enough to solemnize our five-year union through marriage equality in Massachusetts. From the state-sanctioned validation of our relationship to shared health care coverage and now self-employment, we are recognizing dreams we never thought possible.

Al Toney III
Keith Toney

Jumping the Broom



This is not the first time in our history that black men and women have been denied the right to legally marry the person of our choice. Based on the argument that black people were not fully human and were thus incapable of expressing love or commitment, enslaved Africans were legally forbidden to marry. In the defiant spirit of love, black folk created ways to celebrate and bless their unions by continuing the traditional African marriage custom of jumping the broom—a ritual symbolizing new life and commitment. Although they were not legally recognized, these traditional unions formed the foundations of strong families.

Same-sex couples have found ways to create strong, vibrant families. They live the lives of married couples and are often blessed in their places of worship through commitment ceremonies and bonds of faith—just as the broom-jumpers of years past. However, these families did not have access to the legal securities that accompany a marriage license until the Massachusetts Supreme Judicial Court ruled on November 18, 2003, that it was unconstitutional to deny same-sex couples the rights to marriage. The ability to fulfill the dream we all have—to fall in love and marry—is finally achievable for black Massachusetts residents who also happen to be same-gender loving.

David Wilson
(left), Mass-
Equality
Education Fund,
Inc. Board of
Directors, and
husband Robert
Compton are
plaintiffs in
*Goodridge v.
Department of
Public Health*



Evolution of Marriage in Massachusetts

Massachusetts had legalized interracial marriage in 1843. By 1913 most states continued to prohibit interracial marriage and Massachusetts General Laws Chapter 207, Section 11 was then enacted. More commonly known as the 1913 law, it states that “No marriage shall be contracted in this commonwealth by a party residing and intending to continue to reside in another jurisdiction if such marriage would be void if contracted in such other jurisdiction, and every marriage contracted in this commonwealth in violation hereof shall be null and void.” (*Mass. Gen. L. ch. 207, §11*)

On November 18, 2003, the Massachusetts Supreme Judicial Court declared unconstitutional the policy of granting marriage licenses only to heterosexual couples, paving the way for same-sex couples to begin marrying in May 2004. Chief Justice Margaret Marshall concluded that, “the right to marry means little if it does not include the right to marry the person of one’s choice.”

The court’s opinion in *Goodridge v. Department of Public Health* stated: “Marriage is a vital social institution. The exclusive commitment of two individuals to each other nurtures love and mutual support; it brings stability to our society. For those who choose to marry, and for their children, marriage provides an abundance of legal, financial and social benefits. In return it imposes weighty legal, financial and social obligations. The question before us is whether, consistent with the Massachusetts Constitution, the Commonwealth may deny the protections, benefits and obligations conferred by civil marriage to two individuals of the same sex who wish to marry. We conclude that it may not. The Massachusetts Constitution affirms the dignity and equality of all individuals. It forbids the creation of second-class citizens. In reaching our

“I see no problem with gay couples marrying. It’s a decision between two people—the government has no business interfering. I remember when it was against the law for blacks and whites to be married—and that wasn’t very long ago. The same people who are fighting gay marriage fought black and white marriage and fought school integration.”



—M. Joycelyn Elders,
Former Surgeon
General (*Tri-Valley
Herald*, 3/14/2004)

conclusion we have given full deference to the arguments made by the Commonwealth. But it has failed to identify any constitutionally adequate reason for denying civil marriage to same-sex couples.”

Following the Supreme Judicial Court’s decision in *Goodridge v. Department of Public Health* (2003) and the legalization of gay marriage in May 2004, the 1913 law was resurrected by Governor Mitt Romney after several decades during which it had not been enforced. The Governor’s intent was to ensure that same-sex couples who were not planning to reside in Massachusetts once they were married were not issued marriage licenses by the Commonwealth’s town and city clerks. Attorney General Tom Reilly would later include in a brief his position that enforcing the law was Massachusetts’s way of respecting other states that have banned such marriages.

The renewed implementation of the law was almost immediately challenged by eight same-sex couples from outside Massachusetts and by 13 Massachusetts city and town clerks who argued that they were being turned into “agents of selective enforcement.” The challengers argued that the law violates the equal protection provisions of the state’s constitution and the United States Constitution. The Massachusetts Superior Court ruled that the law was not unconstitutional because it was being applied equally to both heterosexual and homosexual couples.

On March 30, 2006, the Supreme Judicial Court upheld the application of the law as it applies to marriages of same-sex couples in *Cote-Whitacre v. Depart-*

ment of Public Health. The court sent the out-of-state couples' cases back to the superior court judge, asking the judge to determine whether same-sex marriage is expressly prohibited in those states. It denied the claims of the clerks and the couples.

In December 2006, the Massachusetts Supreme Judicial Court released an opinion on a multi-million dollar lawsuit filed by same-sex marriage opponents who were demanding that the legislature vote on their proposed ballot initiative. The initiative would halt future same-sex marriages if passed by the Massachusetts State Legislature in two consecutive sessions and then by the public via the 2008 ballot. The opinion stated that the court did not have the authority to force the legislature to vote on the citizen initiated ballot petition, however, it chastised the legislators for avoiding taking an up-and-down vote on the matter. On the final day of the 2006 Constitutional Convention, the legislators, pressured by the court's opinion, again debated the citizen initiated amendment. The amendment was affirmed after two up-and-down votes and much political maneuvering, advancing it to the 2007/2008 legislative session when it will be considered once again. Families headed by same-sex couples in Massachusetts continue to hang in the balance while waiting to see whether or not their equal-marriage rights will be placed on the ballot in 2008.

Same-Sex Marriage: A Matter of Civil Rights?

Generations of African Americans have worked to make our nation's promise of equal justice a reality. From Emancipation and *Brown vs. Board of Education* to everything beyond, black communities have struggled to gain due respect in society. Today, advocates working to end discrimination in marriage often invoke the spirit of civil rights in their quest to legally marry.

Are marriage rights for same-sex couples the next hurdle in our ongoing movement for civil rights? Black lesbian, gay, bisexual and transgender people of Massachusetts seem to think so and are actively seeking to achieve this next level of equality. Some key architects of the African American civil rights movement are joining them, calling the ability to marry the person of our choice a matter of basic human rights.



"From time to time, America comes to a crossroads. With confusion and controversy, it's hard to spot that moment. We need cool heads, warm hearts, and America's core principles to cleanse away the distractions ... We are now at such a crossroads over same-sex couples' freedom to marry. It is time to say forthrightly that the government's exclusion of our gay and lesbian brothers and sisters from civil marriage officially degrades them and their families...I have fought too hard and too long against discrimination based on race and color not to stand up against discrimination based on sexual orientation."

—U.S. Representative John Lewis (D-Ga.), worked closely with Dr. Martin Luther King and was one of the original speakers at the 1963 March on Washington

Deval Patrick ran a successful campaign of hope leading to his landslide victory over his Republican opponent, then Lt. Governor Kerry Healey, in 2006. Governor Patrick became the second African American to ever be elected governor in the history of the United States and the first in the history of Massachusetts. Throughout his campaign he strongly and unequivocally voiced his support for marriage equality.

Addressing delegates to the Massachusetts Democratic Platform Convention, on May 14, 2005, he stated: "I see time and energy devoted to debating whether to discriminate against gays who want to marry, while the pressing business of building our economy, building our public schools, and rebuilding our shattered public health system goes unattended."

On January 2, 2007, the last day of the Massachusetts 2006 constitutional convention and two days before Deval Patrick was to be inaugurated as the state's first black governor, the Massachusetts State Legislature reconvened and immediately took a vote on a proposed citizen ballot initiative driven by conservative groups across the state seeking to ban all future gay marriages in the Commonwealth. The initiative was affirmed, advancing it one step closer to a public vote despite Patrick's urging the legislature to defeat the measure by any means necessary to end the debate in Massachusetts.

Governor-elect Patrick made the following statement after the vote was announced: "I am disappointed by today's vote in the Constitutional Convention. We have never used the initiative petition to limit individual freedoms and personal privacy, but today's vote was a regrettable step in that direction. We have work to do over the next year to turn this around, and I am heartened by the fact that the overwhelming majority of the members of the Legislature, a margin of over 2 to 1, voted to move on. I pledge to do what I can to build on that momentum, so that our Constitution will continue to stand for liberty and freedom, and not discrimination."



Isn't Marriage a Religious Institution?

Before one can really make sense of the issue of same-sex marriage, it is important to distinguish between the state-created institution of marriage and religious marriages performed in churches and other places of worship.

Rights and rites: Legal marriage vs. religious marriage

Gays, lesbians, bisexual and transgender people across the nation are actively seeking the right to legally marry. In addition, many individuals are also working within their own faith traditions to challenge the exclusion of same-sex couples from the rites performed by clergy.

Legal marriage and religious marriage are entirely distinct from one another.

A marriage license issued by the Clerk of Court's office unlocks the door to more than 1,000 securities, benefits, rights and obligations that enable two people to properly care for each other and their family. A couple does not need to comply with any religious requirement to obtain a marriage license, nor does the license confer any religious approval.

To be valid, the couple must be legally married in a ceremony performed by anyone who has been authorized by the Commonwealth of Massachusetts to solemnize the marriage. This includes any clerk of the court, or any official of a religious body authorized by the rules and customs of that body to perform a

An active Episcopal layman and former civil rights worker, Massachusetts State Representative Byron Rushing speaks of same-sex marriage as a civil rights issue, and then as a secular issue. At a March 2004 rally in favor of same-sex marriage, Rushing addressed the many black ministers who had come out against marriage equality rights for same-sex couples by pointing out that they “have forgotten their relationship to

the struggle of the rights of African Americans. They have forgotten it in an incredible way, because they are telling us that black people, once they have gotten those rights, don't have to share.” He added, “Shame on you,” resulting in a rousing applause.



marriage ceremony. The flexibility of that definition means individuals from all walks of life can become authorized to solemnize marriages.

According to Gay & Lesbian Advocates & Defenders, New England's leading legal rights organization dedicated to ending discrimination based on sexual orientation, HIV status and gender identity and expression, “While marriage ceremonies can take a number of forms, there is only one type of legal marriage—civil marriage. The religious rite of marriage is separate. Couples may have both a civil marriage and the religious rite: a civil marriage if they meet the government's requirements and a religious ceremony if they meet the requirements of their faith tradition. However, only a civil marriage confers the legal protections of marriage and it is only the legal right to civil marriage that these couples seek.”

Civil marriage

Civil marriage is the legal relationship of two people who meet certain basic state requirements. In Massachusetts, examples of these requirements include that the couple is of the proper age, that neither member of the couple is already married and that the members of the couple are not closely related to one another. Despite fulfilling these requirements, same-sex couples are not allowed to marry anywhere in the United States except in Massachusetts, although they are now permitted to marry in the Netherlands, in Belgium and most recently in Canada and in South Africa. This is true no matter how

committed their relationships, how long they have been together, or how much their families need the protections that marriage would provide.

Religious rite of marriage

This is the spiritual union of couples meeting marriage requirements based on the tenets of a church or religious tradition. Religions have complete autonomy in deciding which marriages to consecrate. Because of the separation of church and state, the right of religious communities to perform or not perform any marriage rite is absolute and will remain unaffected even when the right of same-sex couples to marry is recognized. The rules for who can marry religiously in different faith traditions vary. Many faith communities allow same-sex couples to wed. Individual congregations of Reform Jews, Unitarian Universalists and Presbyterians have performed marriages for same-sex couples. The religious rite of marriage, however, unlike civil marriage, accords a couple no legal rights or responsibilities.

While Massachusetts clergy can, of course, legally marry a same-sex couple, a religious blessing is entirely separate from the civil function of the marriage license.

Many people incorrectly believe that places of worship will be forced to marry same-sex couples when such marriages become a legal option. This is simply not true.

Even though marriage has become a legal option for same-sex couples in Massachusetts, churches will always be able to decide for themselves whether to perform or recognize any marriage, just as they already do for every couple. Some clergy refuse to marry interfaith couples. Other clergy refuse to marry a couple if one member has been divorced. No court decision or legislative mandate can change these fundamental tenets of freedom of religion, which are guaranteed in both the U.S. and Massachusetts constitutions.

Fortunately, no one has proposed that churches or religious institutions be forced to perform same-sex marriages. The decision to bless any union should, and will always, rest with the clergy involved. Marriage advocacy groups strongly agree.

What some clergy had sought was the right to perform legally binding marriages of their choice—regardless of the gender of the marriage partners. Many

religious congregations had already performed rites for same-sex couples, even though such unions were not legally recognized by the government at the time. Some of these religious groups include:

- American Baptist
- Buddhist
- Episcopalian
- Presbyterian
- Unitarian Universalist
- Methodist
- Reform, Reconstructionist and some Conservative Jewish congregations
- The United Church of Christ

The separation of church and state stands to prevent proponents of any religion from utilizing the government as a tool of tyranny over believers of a different faith. While every faith community must make its own decisions regarding morality and marriage, there should also be respect for the legal arguments brought forth by lesbian, gay, bisexual and transgender people.

“Let me in this great house say a word about Massachusetts because there are people constantly complaining that Massachusetts is out of the mainstream. We are not like everybody else. Somehow we are uniquely different. Thank God we are!

“I don’t wish to take my social signals from Mississippi or Georgia or Alabama, or for that matter California or even Virginia, or Texas, praise God! We, after all, have the Mayflower Compact. We have John Winthrop and his vision set on a hill. We have John Adams and the oldest Constitution in the world. Why should we yield to the sentiments of the main street or the mainstream? We set the mainstream, we don’t follow it!

“It is not about polygamy, it is not about special rights, it is not about the defense or definition of marriage, it is not about the future shape of the family, it is not about hearing the voice of the people, it is not about the judiciary, it is not about religion, yours or mine or the absence thereof. It is about nothing more and nothing less than Civil Rights! To this Amendment, *just say no!*”

—The Rev. Professor Peter J. Gomes, Harvard University,
(Speech in the Massachusetts State House, 2004, *Same Sex America*, Showtime)



Getting to the Heart of the Matter

Do black same-sex couples really want —or need—the option to legally marry?

The answer to this question is a resounding “Yes.” There are many black same-sex couples who sought to obtain marriage licenses from the state of Massachusetts.

Black same-sex couples are already living married lives

Fourteen percent of gay, lesbian, bisexual, or transgender Americans are black. Forty-five percent of black same-sex couples reported stable relationships of five years or longer on the U.S. Census. This figure rivals that of heterosexual couples.

Louis Eaton (*left*) and Herbert Jones met in the Concord Baptist Church in Boston's South End. "It was not exactly an open and affirming church, certainly not 25 years ago." Both were members of the same choir where they also had mutual friends. "Most of the guys were gay but no one talked about it." Their relationship began and they have been together ever since.

After 23 years together they decided to get married. They were not actively involved in the battle for equal marriage rights, but followed it closely. They both agree that they never needed a marriage ceremony to validate their bond, however they realized the legal ramifications to not being married were important when one of their uncles, who was gay, was hospitalized and a distant nephew was granted legal status over the uncle's own partner. They gave serious thought to the legal protections of marriage and once it became legal they decided to do it. They held a small private ceremony, inviting only a nephew and a good friend from college. Both Herbert and Louis agree that their "...marriage was secondary, because as far as we were concerned we had been married already." Herbert declared, "I think one thing I would say is that marriage is not a religious thing, it's a human thing. It's about creating and maintaining a family. Families don't know the bounds of the religious structure. Relationships can't always be defined by religion. My loving Louis shouldn't threaten anyone else's marriage. If anything it should make their marriage stronger."

Louis concurs, "I have the same rights as anyone else. My sexual orientation doesn't necessarily decide what my rights are. As a black person, for a long time I was offended by the association of the gay rights movement to civil rights, but I was offended because I thought it was a different struggle. Putting myself into the marriage debate helped me reconcile what civil rights really are. It's not just a black and white thing."



Michelle Rowlett (*left*), born and raised in Central Massachusetts, and Marie Boone, originally from Georgia, have been partners for nearly five years. Both are from very religious families. Michelle came out to her family when she and

Marie began their relationship, although it is not openly discussed with her mother. "If we were to ever get married, I don't believe my mother would come. My brothers might, they are pretty cool with it, but I know my mother wouldn't come." "To them it's blasphemous," says Marie, "and according to doctrine, we're going to Hell."

In addition to their families' beliefs, the couple has their own internal struggles regarding marriage. Marie describes what she has been going through as "spiritual warfare." "It's an economic issue really. I look at it logically, but it's still hard for me to disconnect from the way I was brought up. The other issue is that if we don't get married, we're 'shacking up.' It was a tense situation when the option became real because it brought up some core issues that I had to deal with, but until I met Michelle, there wasn't anyone I was interested in marrying anyway. My mom and I have had candid conversations, but the truth is that if I was in a heterosexual relationship I would be able to go to her about anything, but I can't because I'm not. I don't try to influence her opinion because sometimes I just feel it's a waste of breath and energy to try to get people to understand. I'm not isolated from my family, but I do know how they feel. They look at it as a sexual demon and think I need to be saved. I just know I need to go on with my life. My mom has let me know emphatically that she loves me unconditionally, but she doesn't accept the lifestyle. Part of her feels my soul is lost, but I'm still her baby. She actually likes Michelle. She prays that we both get saved, but she does think Michelle is good for me, that she's good people. Now if she was a nice guy, we would be in business!"

Marie attends church regularly, but knows that her pastor believes homosexuality is a sin. The couple has discussed finding a more welcoming and affirming church because they know that "there are plenty of people in this lifestyle that have a relationship with God and want to be able to serve him openly and freely without being chastised."

Is Marriage Equality a “Civil Right”?

A fairly common definition of “civil right” looks something like this: the protections and privileges of personal liberty given to all U.S. citizens by the United States Constitution and Bill of Rights.

Some blacks are offended when the same-sex marriage movement is equated with the African American civil rights movement. When white marriage advocates overshadow the voices of black lesbian, gay, bisexual and transgender people and discuss the ability to marry as a matter of “civil rights,” some blacks may feel that the comparison diminishes the stain on our nation that has resulted from centuries of slavery, lynching and segregation. We should remember, however, that many members of our community, the black community, are lesbian, gay, bisexual and transgender and were an integral part of our black civil rights movement.

Many white lesbian, gay, bisexual and transgender people, including Congressman Barney Frank (D-Mass.), stood arm-and-arm with

Bayard Rustin (1912-87), Deputy Director of the 1963 March on Washington, was an openly homosexual black man. In his position as advisor to Dr. King he is credited as the true logistical mastermind of the event. Rustin initially began working with King during the Montgomery Bus Boycott of 1956, and became a key movement strategist. Though the FBI pressured March organizers to abandon Rustin, they recognized the essential quality of his leadership and stood behind him. Rustin represents many black gay community members whose service to the extended black family has been indispensable.



“Human rights for all human beings is why gay, lesbian, bisexual or transgendered Americans deserve the same rights and protection under the law as other Americans. Gay and lesbian couples who make a life-long commitment to one another should receive the same legal rights and benefits of marriage that other couples receive. Gay and lesbian couples in long-term committed relationships deserve to be able to visit each other in the hospital, share health insurance coverage and get equal



pensions and other survivor benefits if one spouse dies. There are those who want to make gay and lesbian civil unions or civil marriages a moral and religious issue only...but in our secular society, religious institutions are under no moral, religious or legal obligation to perform or bless gay unions.”

—Rep. Jesse Jackson Jr. (D-III.)

black Americans in Selma and Montgomery and at other critical sites of the struggle for civil rights.

Black lesbians, gays and bisexual and transgender people face oppression today, alongside those of every other race and creed.

Arguments against same-sex marriage today are very similar to those used decades ago to create and expand interracial marriage bans on both the state and federal levels. Without trying to establish a hierarchy of which kind of discrimination is worse, our country’s civil rights laws place the prohibition against gender-based, racial, or religious discrimination into the same provisions.

Has marriage always been one man and one woman?

The Executive Board of the American Anthropological Association, the world’s largest organization of anthropologists, the people who study human cultures, released the following statement in response to President George W. Bush’s call for a constitutional amendment banning gay marriage.

“The results of more than a century of anthropological research on households, kinship relationships and families, across cultures and through time, provide no support whatsoever for the view that either civilization or viable social orders depend upon marriage as an exclusively heterosexual institution. Rather, anthropological research supports the conclusion that a vast array of family

types, including families built upon same-sex partnerships, can contribute to stable and humane societies.”

Many people are unaware that from the fifth to the 14th centuries, the Roman Catholic Church conducted special ceremonies to bless same-sex unions that were almost identical to those that bless heterosexual unions. At the very least, these unions, spiritual if not sexual, were sanctioned by the Catholic Church.

“I still hear people say that I should not be talking about the rights of lesbian and gay people and I should stick to the issue of racial justice. But I hasten to remind them that Martin Luther King Jr. said, ‘Injustice anywhere is a threat to justice everywhere.’ I appeal to everyone who believes in Martin Luther King Jr.’s dream to make room at the table of brother- and sisterhood for lesbian and gay people.”
(Reuters, 3/31/1998)

“Gays and lesbians stood up for civil rights in Montgomery, Selma, in Albany, Ga. and St. Augustine, Fla., and many other campaigns of the Civil Rights Movement. Many of these courageous men and women were fighting for my freedom at a time when they could find few voices for their own, and I salute their contributions.” (Chicago Tribune, 4/1/1998)

—Coretta Scott King, Civil Rights Leader



Only Marriage Provides Full Legal Equality

The word “marriage” is the gateway to the 1,138 federal protections afforded to married couples. Without that word, same-sex couples in civil unions or domestic partnerships have no claim for those legal protections. While those federal protections are still withheld from same-sex married couples in Massachusetts, many in the LGBT community believe that this discrimination will not stand the test of time.

A marriage license provides protections that are crucial for families, including:

- Right to spousal health insurance benefits
- Access to family courts for dissolution of relationships
- Death benefits for surviving spouses of firefighters and police officers
- Mutual responsibility for debts
- The ability to sponsor a foreign-born partner for a green card
- Joint incomes for determining eligibility for state assistance programs
- Child custody, visitation and duties of financial support to children
- Right to inherit a spouse’s pension
- Entitlement to receive social security and disability benefits upon the death of a spouse
- Ability to inherit jointly owned property without incurring tax penalties
- Right to file joint income taxes
- Ability to put a spouse on a real estate deed without incurring tax penalties
- Access to “family memberships”
- Domestic violence protections
- Immunity from testifying against a spouse
- Right to sue for wrongful death of a spouse

"I believe this is a civil rights issue ... My aunt married a white man in the 1950s when their marriage was illegal in half the states of this country. Indeed, my uncle, had he taken his wife across the wrong state line, would have been guilty of a criminal violation. It seems to me that if people want to marry a person of a different race, that's no different than somebody wanting to marry someone of the same sex." (Democratic Debate, Des Moines, Iowa, 11/24/03)

—Carol Moseley Braun



Civil unions are separate and unequal

By inventing a new license for same-sex couples, a state that passes civil unions is sending a negative message setting apart families headed by same-sex couples and denying them access to the same license all other families receive.

In its opinion about the constitutionality of a civil union bill, the Massachusetts Supreme Judicial Court stated: "The bill's absolute prohibition of the use of the word 'marriage' by 'spouses' who are the same-sex is more than semantic. The dissimilitude between the terms 'civil marriage' and 'civil union' is not innocuous; it is a considered choice of language that reflects a demonstrable assigning of same-sex, largely homosexual, couples to second-class status. . . . For no rational reason the marriage laws of the Commonwealth discriminate against a defined class; no amount of tinkering with language will eradicate that stain. The bill would have the effect of maintaining and fostering a stigma of exclusion that the Constitution prohibits. It would deny to same-sex 'spouses' only a status that is specially recognized in society and has significant social and other advantages."

Why not civil unions or domestic partnerships?

Civil unions end at the state line, as do same-sex marriages from Massachusetts.

Several states grant protections to same-sex couples: Vermont, Connecticut and New Jersey grant civil union licenses, California allows same-sex couples to register as domestic partners, and Hawaii, the District of Columbia, Washington and Maine grant more limited forms of protections to same-sex couples. Massachusetts is the only state to grant marriage to same-sex couples.

However, none of these legal relationships provide full equality and none are recognized by the federal government. While civil unions in Vermont, Connecticut and New Jersey do provide state-level benefits of marriage to same-sex couples who live in those states, those benefits end at the state line. Couples who obtain civil union licenses are virtually legal strangers once they cross the state line and they could still be denied the right to visit each other in a hospital in other states. Currently, the same is true for married same-sex couples from Massachusetts. While marriages of same-sex couples will face discrimination in some places, marriages are still advantaged over civil unions because all states have a marriage system.

Civil unions and domestic partnerships create a legal quagmire

By inventing a separate institution rather than just granting a marriage license to same-sex couples, state governments create more legal problems than they solve. Case in point: a couple in Vermont, Connecticut, New Jersey or Massachusetts needs to file joint state taxes and separate federal taxes. There are also problems determining qualification for aid programs and other government benefits.

Civil unions create a burden on businesses

By calling a relationship a "civil union," a self-insured employer (and that includes most large employers) would have to amend its insurance plans to include civil union spouses whereas married spouses are automatically covered under self-insured plans that defer to a state-law definition of who is married.

Marriage is much more than the sum of its legal parts

Because it is a social, cultural and legal institution, access to marriage provides protections to the married family on many levels. The word “marriage” is itself a protection because others understand that when you are married you are part of a family. For some, being married allows them to express externally the nature of the commitment they feel internally. Marriages receive widespread respect and protection that domestic partnerships and civil unions do not.

“Whatever my personal feelings may be about gay and lesbian marriages, unless you are prepared to say gays and lesbians are not human beings, they should have the same constitutional right of any other human being.”

—Rev. Al Sharpton,
founder of the Harlem-
based National Action
Network



Interracial Marriage Bans vs. Same-sex Marriage Bans

In 1948 the California State Supreme Court became the first in the country to strike down its interracial marriage ban. At that time, the number of people who opposed marriage for interracial couples was alarmingly high. In fact, if we compare polling information, we see that far more people opposed interracial marriage in 1948, and for decades to follow, than the number of people who opposed same-sex marriage in 2003 (when the Massachusetts Supreme Court issued its ruling in favor of same-sex marriage).

The parallels between laws against interracial marriage and laws against marriage for same-sex couples are significant.

Public opinion was against black Americans’ right to marry the person of our choice if our spouse’s race was different than our own and many states changed their constitutions to protest the 1948 California ruling.

Thankfully, all attempts to amend the U.S. Constitution to ban interracial marriage failed.

In 1911, Rep. Seaborn Roddenberry of Georgia introduced a U.S. constitutional amendment to ban interracial marriage. In his appeal to Congress, Roddenberry stated that: “Intermarriage between whites and blacks is repulsive and averse to every sentiment of pure American spirit. It is abhorrent and repugnant. It is subversive to social peace. It is destructive of moral supremacy.”

Having been together for nine years, Mark Bilotta (right) and his partner, Henry Ritter, traveled to Vermont in 2000 to partake in that state's newly enacted civil union law. After their ceremony, the two traveled back to their home state of Massachusetts where their civil union held no legal status. Obtaining the civil union was, however, a first step to legally recognizing their relationship.

In 2004, the couple exchanged marriage vows in Massachusetts. Prior to signing their Massachusetts marriage license, they were requested to sign a form which would nullify their civil union from Vermont. They refused, but were still granted the marriage license. The legal recognition elsewhere of their Vermont civil union and Massachusetts marriage remains in question, with the addition of civil union laws in Connecticut and New Jersey.

Mark Bilotta is quick to point out the irony that South Africa passed equal marriage rights in 2006. "I find it strange that as an interracial couple, Henry and I can travel to South Africa and have our marriage recognized, but not in nearby Rhode Island or Maine, or any other state in the United States. Hopefully, even our own country will become more enlightened."



In 1967, the interracial marriage bans still on the books in a number of states were finally struck down by the U.S. Supreme Court in *Loving v. Virginia*. The Lovings were an interracial Virginia couple that had married in Washington, D.C., then returned to Virginia, where their marriage was illegal. They were arrested, convicted and sentenced to a year in jail. The trial judge suspended the sentence for a period of 25 years on the condition that the Lovings leave the state and not return for 25 years.

When sentencing them, the Virginia judge stated: "Almighty God created the races white, black, yellow, malay and red, and He placed them on separate continents. And but for the interference with His arrangement there would be no cause for such marriages. The fact that He separated the races shows that He did not intend for the races to mix."

Is Marriage a Constitutional Right?

Many people invoke “God’s plan” when advocating for a constitutional amendment to ban same-sex marriage.

No matter what we feel about same-sex marriage, is it okay to change our Constitution to tell lesbians, gays and bisexual and transgender people that the equal protection clause in that Constitution applies to everyone but them?

One of our most fundamental rights as citizens of the United States of America is the ability to marry and the ability to marry the person of our choice. Courts in this country have determined that the right to marry is, in some cases, more fundamental than the right to vote.

It cannot be denied:

- on the basis of an individual’s race;
- to those who have shown themselves to be delinquent on child welfare payments; or
- to inmates.

Every day, however, tax-paying, law-abiding lesbians, gay men, bisexual and transgender people who love and cherish each other and their children are denied the ability to protect their families with a marriage license.

The 14th Amendment to the U.S. Constitution extends “equal protection of the laws” to all citizens.

State Representative Marie St. Fleur of Boston, “...forcefully stated why she opposed any move to ban same-sex couples from marrying. ‘You cannot compromise on discrimination,’ she said. ‘Discrimination is. And there’s no way around it.’ Her decision was one of the most difficult she’s ever come to, she said, because of her Catholic background. ‘My mother is dying about this decision I’ve made. It’s been quite painful for both of us,’ she added. But her role as a legislator, she said, ‘is a separate and distinct role. I may have personal views on marriage, but the bottom line is we’re talking about state action and if the state is involved in marriage we ought to do it equally.’

St. Fleur also talked about how the U.S. Constitution has been amended to extend rights based on ‘race, sex, and immigrant status,’ and that she fit all three categories. ‘Putting aside the voice and power of the majority in order to protect the rights of minorities,’ St. Fleur said. ‘That is what is so special about this country. This isn’t just about gay rights, it’s about the state of American democracy.’” (*Boston Phoenix*, 2/2004)



Courts in Hawaii, Alaska, Oregon, Washington, California, Vermont, New York and Massachusetts have found that same-sex couples have a constitutional right to marriage licenses or the protections that stem from them. Those who fight to write same-sex couples out of the Massachusetts Constitution are actually recognizing that the ability to marry someone of the same gender is a constitutionally-protected right in Massachusetts—a right they would like to take away.

Amending the Massachusetts Constitution undermines everyone’s freedom.

We must reject the attempt to use our Constitution to establish discriminatory policies. It is our history as African Americans that guides us to this inevitable conclusion.

Dangers of a Constitutional Amendment

- Passage of the constitutional amendment would deny access to the judicial branch of government to a diverse group of citizens. It says to gay, lesbian, bisexual and transgender citizens of Massachusetts—and their children—that they must accept the government’s judgment of them as second-class citizens.
- We must not send the message that one group can simply change the Constitution to bar another group from their rights because of ideological differences. This would undermine the very purpose of having a Constitution.

Julian Bond, Chairman of the NAACP, in a letter to the Massachusetts State Senate, March 8, 2004, wrote: "The NAACP vigorously opposes President George W. Bush's attempt to pass a federal constitutional amendment banning same-sex marriage. ... We also oppose state-level attempts to do the same thing. ... There is no such thing as a moderate or 'compromise' amendment that in any way enshrines treating one group of people differently than others."



■ The constitutional rights of citizens should never put up for a popular vote. It was wrong after the 1948 California decision on interracial marriage and it is wrong today.

Black legislators and community leaders have recognized the crucial importance of protecting our Constitution from the assault that is the proposed ban on marriage between same-sex couples.

In Georgia, black members of the State House of Representatives provided 39 of the 50 votes that were needed to defeat a state constitutional amendment to ban same-sex marriages.

In Mississippi, black legislators cast the only 17 votes against a similar measure.

Every major civil rights organization in the country recognizes the importance of protecting our Constitutional freedoms by opposing these amendments. Among them are:

Alliance of Baptists
American Bar Association
American Civil Liberties Union
American Federation of State, County and Municipal Employees, AFL-CIO
American Federation of Teachers, AFL-CIO
American Friends Service Committee (Quaker)
American Jewish Committee
Anti-Defamation League
Central Conference of American Rabbis

Disciples of Christ Church
Episcopal Church, USA
Friends Committee on National Legislation (Quaker)
Guru Gobind Singh Foundation (Sikh)
Japanese American Citizens League
Leadership Conference on Civil Rights
League of United Latin American Citizens
League of Women Voters of the United States
Lutheran Office for Governmental Affairs of the Evangelical Lutheran Church in America
National Association for the Advancement of Colored People
NAACP Legal Defense and Education Fund
National Conference for Community and Justice
Presbyterian Church (USA), Washington Office
United Church of Christ
United Farm Workers Union
Women of Color Resource Center

Where Does the Black Community Stand?

As African Americans, our feelings about sexuality vary greatly, but the reality is that our government is *not* allowed to decide for consenting adults what is “acceptable” when it comes to love and commitment. Those who are lesbian, gay, bisexual, or transgender deserve an honored place in our communities, free from pressure to “assimilate” into heterosexuality or disappear.

Questions for black heterosexuals who are uncomfortable with homosexuality:

■ Can people change their sexual orientation?

Information from professionals in the field of mental health tells us that sexual orientation is not a choice like other aspects of our lives, such as the choice of career path or religious membership.

The American Psychological Association, along with the American Psychiatric Association and American Counseling Association, has issued a statement which represents the consensus among virtually all mainstream healthcare professionals: “For nearly three decades, it has been known that homosexuality is not a mental illness. Medical and mental health professionals also now know that sexual orientation is not a choice and cannot be altered. Groups who try to change the sexual orientation of people through so-called “conversion therapy” are misguided and run the risk of causing a great deal of psychological harm to those they say they are trying to help.”

Over the past three decades, groups promising to “heal,” “change” or “save” gay, lesbian, bisexual and transgender people from their sexual orientation or gender identity have been striving to increase their clout and influence in religious and political circles.

In addition to being inaccurate in the facts that they use to support their position that one can actually change one’s sexual orientation, these programs have been denounced by every legitimate mental health association as unhealthy and even potentially dangerous for those who enroll.

Those claiming to be “ex-gays” have every right to state what is in their hearts. What they should not do, however, is use medically unsupported claims to advocate writing discrimination into the Massachusetts Constitution.

■ Should I support laws that deny same-sex couples the right to enjoy the benefits of marriage?

Refusing to allow a same-sex couple and their children the protections that accompany a marriage license will not serve to convert people to heterosexuality any more than denying blacks the right to vote or equal access to education has succeeded in obliterating our rich cultural heritage. Changing a constitution to restrict the rights of a group of people will not erase their families. Policies that deny civil rights for lesbian, gay, bisexual and transgender folk only serve to establish inequality based on personal bias. As a society, we should be guided by the principle of reverence for human diversity.

■ Should a black woman be discriminated against on the basis of her race, her sex, or the fact that she loves another woman? Must a black man be stigmatized for the fact that he loves another black man?

Sexual orientation is an integral aspect of our individual identities: an aspect that we cannot simply cast off as we do our daily garments. Are we prepared to live in a society that punishes its members—not for harming others, but simply for loving the “wrong” person? The call to love is the strongest human urge and love should be a cause for celebration. When two adults love each other deeply, they want to express their feelings. The fact that this love may be for a person of the same sex should not be a source of fear.

■ **Shouldn't gay people be willing to accept the consequences of their lifestyle choice?**

Most gay people argue that they do not have lifestyles, just lives. They do not choose their sexual orientation; they simply choose to live their lives honestly.

■ **Even if we entertain the widely debunked notion that sexual orientation is a choice, isn't choosing who to love the same type of intimate decision as choosing a religion to follow—and does it not thus merit the same protection?**

In our society there are certain choices, such as the free exercise of religion, that are protected by the Bill of Rights and laws. One is free to choose the path of Christianity, Islam, or of any faith, and the integrity of the U.S. Constitution must uphold our right to make that choice without fear of discrimination.

■ **How can I accept my family member or friend who has a relationship that I wish he/she did not have?**

Often our own truth—clear as it is to us—may contradict that of our loved ones. This is true on matters ranging from religion and economics to sexuality and politics. Compassion allows us to realize that the feelings of others are just as strong and undeniable as our own. Black heterosexual, lesbian, gay, bisexual and transgender individuals have all come to know their own hearts through a process of self-realization. When we recognize that and act with compassion, we are able to build the mutual respect necessary for dialogue.

■ **How can I acknowledge the relationship of a same-sex couple? How should I acknowledge their children?**

The decision to commit to building a family with someone does not come easily. Once individuals have made that commitment, pressure to change their hearts and minds can lead to isolation and the cutting of family ties. If we allow personal beliefs about homosexuality to bias us against our loved ones, who is really winning? If instead we extend ourselves with love, we can find an acceptance that renews our relationships and opens the path to dialogue.

■ **If we support gay people, are we condoning the spread of AIDS?**

AIDS is a sexually-transmitted disease; anyone who engages in unprotected sex or other high-risk behavior can contract HIV, the virus that causes AIDS. Currently, the fastest-growing rate of HIV infection in black communities is among black women—many of whom are infected through heterosexual con-

tact with black men. Media hype irresponsibly throws around phrases like “on the down low,” increasing homophobic responses to the crisis of AIDS/HIV.

It is true that homophobia in the African American community encourages some black men to live secret lives and lie to their female partners while engaging in risky sex with other men. When homophobia is diminished and people are able to acknowledge their unions, they will be more likely to form healthy and stable relationships. Marriage—whether between heterosexuals or same-sex couples—promotes monogamy.

■ **Why should we support a lifestyle that we don't condone?**

Our history as African Americans mandates that we be vigilant about the human rights of all people. We cannot afford to allow ourselves to be divided on the basis of sexuality. Unity is essential in our work to empower black communities. One does not have to “condone” homosexuality to realize that it's wrong to twist a constitution to take away people's rights. One does not have to “condone” homosexuality to believe that all children deserve the same family protections—regardless of the sexuality of their parents.

As the high court for South Africa recently explained: “A democratic, universalist, caring and aspirationally egalitarian society embraces everyone and accepts people for who they are. To penalize people for being who and what they are is profoundly disrespectful of the human personality and violatory of equality. Equality means equal concern and respect across difference. It does not presuppose the elimination or suppression of difference. . . . The acknowledgement and acceptance of difference is particularly important in our country where for centuries group membership based on supposed biological characteristics such as skin colour has been the express basis of advantage and disadvantage. . . . Accordingly, what is at stake is not simply a question of removing an injustice experienced by a particular section of the community. At issue is a need to affirm the very character of our society as one based on tolerance and mutual respect. The test of tolerance is not how one finds space for people with whom and practice with which, one feels comfortable, but how one accommodates the expression of what is discomfiting.” (*Fourie v. Minister of Home Affairs (South African Const. Ct. 2005) Const. Case No. 60/04, at 38-39.*)

Marriage for Same-Sex Couples and the Protection of Children

In Massachusetts and across the nation, same-sex couples are raising healthy children in an atmosphere of love. These may be biological children, children of family members, or adopted or foster children who may not otherwise have the love of two parents. In many cases, same-sex couples care for children whose life circumstances are difficult—those who have been abandoned by our child welfare system, those who were born with HIV, or those who live with a disability.

Are lesbians and gays fit to be parents?

The American Academy of Pediatrics (AAP), comprised of more than 60,000 pediatricians across the country, passed a policy in 2002 in support of laws allowing a parent to adopt a same-sex partner's child. The pediatricians based their policy on evidence of children's healthy development in families headed by loving, committed same-sex couples.

Research conducted by the AAP concluded that there is more similarity than difference in the parenting of heterosexuals and lesbian and gay mothers and fathers:

■ “Compared with heterosexual fathers, gay fathers have been described to adhere to stricter disciplinary guidelines, to place greater emphasis on guid-

Rev. Michael W. Walker of the Messiah Baptist Church in Brockton, Massachusetts created the following statement, which has been included in everything distributed by the church since the summer of 2002:

“We are an inner-city, downtown Baptist Church committed to ending spiritual violence perpetuated by religious policies and teachings against gay, lesbian, bisexual and transgendered people. We welcome and affirm all of God's gay, lesbian, bisexual and transgendered children.”

Rev. Walker says the church was criticized for this statement and some congregants and people in leadership positions publicly stated why they were leaving the church. Other churches also stopped associating with the Messiah Baptist Church.

He says people in disagreement over same-sex marriage are always bringing up Genesis 19 in which God destroyed Sodom and Gomorrah. “My response is that he destroyed them because of ‘inhospitality.’ If a man forces a man to have sex, it's wrong. If a man forces a woman to have sex, it's wrong. It's not the sex, it's the force, the inhospitality. Inhospitality is an abomination, not homosexuality. If you are going to read the Bible that literally then women are not to be heard in church (Corinthians verse 34) and slaves need to be respectful of their masters (Ephesians verse 5). I tell people, ‘This clearly is a civil rights issue,’ however some still believe homosexuality is a choice. They love the sinner, but hate the sin. I don't know any other ways to get the message across that homosexuality is not a choice. And unfortunately, the church has contributed to the discrimination more than any other institution.”



ance and the development of cognitive skills and to be more involved in their children's activities. Overall, there are more similarities than differences in the parenting styles and attitudes of gay and non-gay fathers.”

■ “Lesbian mothers strongly endorse child-centered attitudes and commitment to their maternal roles and have been shown to be more concerned with providing male role models for their children than are divorced heterosexual mothers.”

According to the American Psychological Association, “not a single study has found children of lesbian or gay parents to be disadvantaged in any significant respect relative to children of heterosexual parents.” Teachers surveyed about their students' development have noted equal levels of social competence among youth of same-sex partners and heterosexual couples.

Studies have found that children raised by two parents as opposed to one parent may have an advantage. Above all, however, children need to be nurtured

in structured homes by parents and extended family members who treat the children and each other with respect. Parenting potential is made up of many factors, including the key elements of self-esteem and self-acceptance.

Are children of same-sex couples more likely to be gay?

By all indications, the sexual orientation of parents does not determine their ability to nurture young people nor does it determine the sexual orientation of their children. Studies have shown that young people raised by lesbian or gay parents are no more likely than those raised by heterosexual parents to develop same-sex attractions.

"It's puzzling that the black church is so much more conservative on same-sex marriage than it is on other divisive issues such as abortion. The answer may lie in the invisibility of the black gay and lesbian community. While the black church embraces single mothers, drug addicts, and ex-cons, it does not embrace black homosexuals largely because they haven't organized to make their presence felt. Instead, black gays and lesbians have been shamed and silenced into a kind of 'don't ask, don't tell' relationship with the church." (Village Voice, 5/2004)

—Keith Boykin



The Least of These: Marriage Discrimination Harms Children

Some feel that marriage must remain an institution only open to heterosexual couples, claiming that it is designed to foster child-bearing and child-rearing. While stable marriages do provide support for children, we must question the universal application of this argument. No heterosexual couples are denied the right to marry simply because they are incapable of—or simply do not desire to—have children. The institution of legal marriage offers partners the freedom to provide for each other in life and in death—whether or not they have children.

While many claim that denying same-sex couples the right to marry protects children, just the opposite is true. Denying the stability of legal marriage to families headed by same-sex couples means that we as a society fail to protect “the least of these,” our children.

Nationally, 61 percent of black households headed by female same-sex couples are raising children, as are 46 percent of black male same-sex couples.

Massachusetts law already recognizes families headed by same-sex couples in adoption, foster parenting, child custody and parentage. However, the children in these families would be denied the protections available to children of heterosexual married parents if the state government were to refuse to grant their parents a marriage license. Even in Massachusetts, these children are still



“Homosexuals are not given freedom and liberty by anyone in the society. Maybe they might be the most oppressed people in the society.”

—Black Panther Huey Newton, in a 1970 article encouraging the black liberation movement to unite in coalition with the women’s and gay civil rights movements

denied the protections from the Federal Government, unlike those of heterosexual married parents.

Marriage protects the economic interests of children by providing an economic safety net to their families and to the children themselves. For instance:

- Children who have a legalized relationship with both parents have automatic and undisputed access to the resources, benefits and entitlements of both parents.
- Married couples do not have to incur any expenses, legal or otherwise, to ensure that both parents have the right to make important medical decisions for their children in case of emergency.
- The children of legally married couples are automatically eligible for health benefits from both parents, as well as child support and visitation from both parents in the event of separation.
- If one of the parents in a marriage dies, the law provides financial security not only for the surviving spouse, but for the children as well, by ensuring eligibility to all appropriate entitlements, such as Social Security survivor benefits.

The parents’ marriage allows children to receive health benefits under an employer’s family plan and to take leave to care for one another in case of illness.

Marriage Discrimination: Particularly Harmful to Black Families

“Like with most civil injustices, marriage inequality falls particularly hard on those living on the margins: the poor, less educated, immigrants, the elderly, the ill and those otherwise most vulnerable,” says Evan Wolfson, Executive Director, Freedom to Marry.

A landmark study of African American lesbian, gay, bisexual and transgender people in the U.S., *Say It Loud: I’m Black and I’m Proud*, released in March 2002 by the National Gay and Lesbian Task Force Policy Institute, found that ending the exclusion of same-sex couples from marriage would provide especially significant protections to LGBT people of color.

The median annual income level for black same-sex couples who are raising children hovers around \$40,000. This is less than their white counterparts. The inability to marry creates significant problems with:

■ **Coping financially after the death of a partner**

Even the lowest wage workers, if legally employed, pay to support the Social Security system. Unmarried partners, though, cannot receive the Social Security survivor benefits that married partners do, and may therefore be left without any means of supporting themselves.

■ Accessing healthcare

According to the Current Population Survey, one in five African Americans lacked health insurance, based on a three-year average from 1998 through 2000. Allowing same-sex couples to marry extends Medicare and Medicaid spousal benefits and allows for the tax-free provision of benefits by an employer to the same-sex partner of an employee.

■ Accessing veterans' and military medical care benefits for partners

Twenty-one percent of men and 10 percent of women in black same-sex couples are military veterans who served bravely in our country's armed forces, despite threats of discharge under "Don't Ask, Don't Tell."

■ Receiving governmental support

Married, heterosexual couple-led families should not be favored over other types of families in determining eligibility for any government-funded service, including welfare benefits and limited supply benefits such as Head Start slots, student financial aid, public housing, or job training.

■ Securing housing benefits

Same-sex couples do not receive the protections of joint rental leases with automatic renewal rights. In highly competitive public housing slots, families can lose their homes. Only 57 percent of black male same-sex couples and 55 percent of black female same-sex couples own their own home.

■ Dealing with medical emergencies

Living wills and powers of attorney are intricate and expensive legal documents to draft and don't solve most problems. While Massachusetts same-sex marriage may seem to eliminate these problems they do not eliminate the need for these extra protections when same-sex couples travel or move to another state.

Marriage Discrimination Breaks Up Families

More than 10 percent of black same-sex households include a partner born outside the U.S. The ability to marry can impact these families and their children greatly—in some cases determining their ability to stay together.

Because same-sex marriages in Massachusetts are not recognized by the federal government, one cannot sponsor a partner from another country for a Permanent Resident Card to stay in the United States and eventually become a U.S. citizen.

■ Current U.S. law forces thousands of same-sex couples to be separated or live in constant fear of being stopped by officials who demand to see documentation and threaten detention and deportation. Many U.S. citizens are sometimes left with no other choice but to migrate with their partners to a country with more fair-minded immigration laws.

■ The United States lags behind at least 19 countries around the world that provide some form of immigration benefits to same-sex partners of citizens and permanent residents, including: Australia, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Iceland, Israel, the Netherlands, New Zealand, Norway, Portugal, South Africa, Spain, Sweden, Switzerland and the United Kingdom.

The children of black same-sex parents are more likely than those of married parents to be forced to relocate or to live without their parents. Should people be forced to choose between their life partners and their country, families and livelihoods?

"To say it's been a roller coaster, I didn't get home until late last night, turned on my television, and I see that our Governor [Mitt Romney] has been busy again, and I'm thinking of a bumper sticker that says, 'When all else fails, try governing; like, don't you have anything else to do?'" (Hallway of Massachusetts State House, 2004, *Same Sex America*, Showtime)

As a straight African American, Senator Wilkerson plays a vital role in the battle for marriage equality, AIDS prevention and broader LGBT rights.

"The Roxbury Massachusetts Democrat was the first to speak on a personal note in the chamber. She talked about her own family history, from slavery through segregation in Arkansas. And about the fact that many black people have names ending in 'son' because it signifies their ancestors' masters. Names like Jefferson, she said. And Wilkerson. Her eyes welled up at that point. After regaining her composure, she told her colleagues that she would vote against any amendment to ban or restrict marriage rights. 'Through my lenses the picture could not be more clear,' she said. 'Simply put, this is a civil rights issue. It should not be left to the public to be decided by popular vote.' Her speech left many of her colleagues deeply moved." (*Boston Phoenix*, 2/2004)



Marriage Inequality Affects the Health of Black Families

Love is strong medicine.

There is a well-documented correlation between marriage and health status. The peace of mind fostered by loving commitment actually increases general well-being.

On the more practical side, partners often depend on each other for health insurance. Without access to health insurance, late detection of diseases and emergency care may be too little too late. In the case of illness or injury, it is always beneficial to have a trusted partner who can communicate with doctors and provide bedside comfort. Currently, because they are unable to legally marry, same-sex couples in many states often suffer for the lack of these health-related privileges, such as the right to:

- Visit a partner in a hospital intensive care unit or during restricted, "family-only" visiting hours,
- Travel with a partner in an ambulance,
- Share a room in nursing homes,
- Honor a partner's last wishes regarding organ donation, burial or other final arrangements,
- Make health care decisions for an incapacitated domestic partner,
- Make organ/tissue donations/anatomical gifts of a deceased partner,
- Receive Medicare and disability benefits,

- Receive family rates for health insurance,
- Receive consumer discounts and incentives for medical services offered only to married couples or families,
- Take family leave to care for a partner or a partner's child during an illness, or
- Take bereavement leave if a partner or a partner's close relatives dies.



Rev. Irene Monroe, in an open letter to the African American community regarding marriage equality, wrote: "Multiple family structures presented by same-sex marriages should not be what the African American community opposes because multiple family structures are what have saved and what are still saving African-American families. A grandmother or an aunt and uncle—straight or gay—raising us in their loving homes have anchored our families through the centuries. And these multiple family structures, which we have had to devise as a model of resistance and liberation, have always, by example, shown the rest of society what really constitutes family." (In NewsWeekly, 2/2006)

America Lags Behind



Societies across the globe are confronting the issue of discrimination in marriage and rights for same-sex couples. Canada has recently joined Spain, Belgium and the Netherlands in legalizing marriage between same-sex couples. South Africa will soon join this group of countries.

As the South African Supreme Court of Appeals explained: "The focus in this case falls on the intrinsic nature of marriage and the question is whether any aspect of same-sex relationships justifies excluding gays and lesbians from it. What the Constitution asks in such a case is that we look beyond the unavoidable specificities of our condition—such as race, gender and sexual orientation—and consider our intrinsic human capacities and what they render possible for all of us. In this case, the question is whether the capacity for commitment and the ability to love and nurture and honor and sustain, transcends the incidental fact of sexual orientation. The answer . . . is Yes." (*Fourie v. Minister of Home Affairs* (South African Supreme Court of Appeals 2004), Case No. 232-2003, at 11.)

All over the world, more countries than ever are implementing relationship recognition laws for same sex couples. Several counties in the world grant legal recognition to same sex couples through registered partnerships that are equivalent or nearly equivalent to marriage. These countries include:

- Iceland
- Finland
- Denmark
- France
- Germany
- Greenland
- Norway
- United Kingdom
- Sweden
- Switzerland

Other countries grant protections that are also available to heterosexual couples automatically after a specified period of cohabitation. These countries include:

- Argentina (certain provinces)
- Croatia
- Hungary
- New Zealand
- Portugal
- Scotland
- Slovenia

Conclusion

Marriage equality for same-sex couples will provide legal recognition to committed relationships that already exist. Far from a new phenomenon, relationships between black same-sex couples have thrived over many generations, built on the same foundation that sustains any solid union: trust, loyalty and love.

Black same-sex couples in Massachusetts and all over our country have chosen to join together in both body and soul. By partnering for life, these couples enter a covenant made sacred by their faith in each other. It is imperative that this covenant be respected and granted the legal status it deserves.

About the Authors

MassEquality Education Fund



The MassEquality Education Fund seeks to create a world in which same-sex couples and their families are fully valued and treated equally under the law. The charitable public education programs of the Education Fund focus on accurately conveying Massachusetts' experience with marriage equality and include public opinion research, advertising and media relations, coalition building, and constituency-based education among African Americans, labor union members, seniors and people of faith. The Education Fund partners with MassEquality.org to build and maintain a large, diverse and active base of supporters across Massachusetts who can help achieve the organization's public education goals.

Sue Hyde, President, Board of Directors
Marc Solomon, Campaign Director

National Black Justice Coalition



The National Black Justice Coalition is a civil rights organization dedicated to empowering Black same-gender-loving, lesbian, gay, bisexual, and transgendered people. The Coalition works with our communities and our allies for social justice, equality, and an end to racism and homophobia.

The National Black Justice Coalition envisions a world where all people are fully empowered to participate safely, openly, and honestly in family, faith and community, regardless of race, gender-identity or sexual orientation.

Earl Plante, Chairman, Board of Directors
H. Alexander Robinson, Chief Executive Officer

Resources for Further Information

Each of us has a responsibility to stand for justice. The National Black Justice Coalition and MassEquality have compiled the following resource list to assist individuals interested in exploring the issue of marriage equality. The following publications, community centers and websites listed specifically serve African American communities.

As we educate ourselves, let us continue to dialogue across our differences, in hopes that together we will achieve justice for all of our families.

Community Organizations Standing for Equality

Boston GLASS

www.bostonglass.org

Boston GLASS is a drop-in center for lesbian, gay, bisexual, transgender and questioning young people of color between the ages of 13 and 25. Young people will find a safe space to hang out, new friends, and time to just relax. Facilities include a darkroom, computer stations, a library, a TV room and a kitchen. The staff of full-time professionals offer support on issues from coming out to health and relationships. Get your questions answered and find the resources you need.

Multicultural AIDS Coalition

www.mac-boston.org

The MAC is a non-profit community-based organization committed to the delivery of HIV/AIDS related prevention, education and intervention services for communities of color. The MAC emphasizes intervention strategies to promote individual and community empowerment and institutional capacity building. The MAC is committed to effective prevention, advocacy and public policy development in the fight against HIV/AIDS disease.

Unity Fellowship Church Movement

www.unityfellowshipchurch.org

The primary work of the Unity Fellowship Church Movement is to proclaim the "Sacredness of ALL Life," thus focusing on empowering those who have been oppressed and made to feel shame. Through an emerging international network, UFCM works to facilitate social change and improve the life chances for those who have been rejected by society's institutions and systems.

The Balm in Gilead

www.balmingilead.org

The Balm In Gilead is a not-for-profit, non-governmental organization with an international mission to stop the spread of HIV/AIDS throughout the African Diaspora by building the capacity of faith communities to provide AIDS education and support networks for all people living and affected by HIV/AIDS.

Parents, Family, and Friends of Lesbians and Gays

Families of Color Network

www.pflag.org/Families_of_Color_Network.focn.0.html

The Families of Color Network is a collective group that facilitates Parents, Family, and Friends of Lesbians and Gays activists of color to work together on local and national levels to fight homophobia, striving to promote cross-

culture synergism and make our ethnic communities safe for LGBT people through education.

National Minority AIDS Council

www.nmac.org

The National Minority AIDS Council, established in 1987, is the premier national organization dedicated to developing leadership within communities of color to address the challenges of HIV/AIDS. NMAC provides in-depth training conferences and opportunities to AIDS service organizations across the country.

Zuna Institute

www.zunainstitute.org

Zuna Institute is a national advocacy organization for black lesbians that was created to address the needs of black lesbians in the areas of health, public policy, economic development, and education.

Operation Rebirth

www.operationrebirth.com

Operation Rebirth is dedicated to ending the religious and spiritual abuse against black gays and lesbians inflicted by black churches and provides resources that assist black gays and lesbians on reclaiming their religion and spirituality.

Books and Publications

Say It Loud: I'm Black and I'm Proud by Juan Battle, Cathy J. Cohen, Dorian Warren, Gerard Ferguson and Suzette Audam, available at www.thetaskforce.org/downloads/blackpride.pdf

In the Life: A Black Gay Anthology edited by Joseph Beam, Alyson Publications, 1988.

Sexuality and the Black Church: A Womanist Perspective by Kelly Brown Douglas, Orbis Books, 1999.

Black Like Us: A Century of Lesbian, Gay, and Bisexual African American Fiction edited by Devon W. Carbado, Cleis Press, 2002.

Black Same-Sex Households in the United States: A Report from the 2000 Census by Alain Dang and Somjen Frazer, available at www.thetaskforce.org/downloads/blackcensus/BCRNationalReport.pdf

A Whosoever Church: Welcoming Gays and Lesbians into African American Congregations by Gary David Comstock, Westminster John Knox Press, 2001.

The Good Book: Reading the Bible with Mind and Heart by Peter J. Gomes, William Morrow and Co., 1996.

Brother to Brother: New Writings by Black Gay Men edited by Essex Hemphill and Joe Beam, Alyson Publications, 1991.

Sister Outsider: Essays and Speeches by Audre Lorde, Crossing Press, 1984.

Coming Out While Staying In: Struggles and Celebrations of Lesbians, Gays and Bisexuals in the Church by Leanne McCall Tigert, United Church Press, 1996.

Does Your Momma Know: An Anthology of Black Lesbian Coming Out Stories edited by Lisa C. Moore, RedBone Press, 1998.

False Promises: How the Right Deploys Homophobia to Win Support from African Americans by Nicholas Ray, available at www.thetaskforce.org/downloads/FalsePromisesReport.pdf

Black Gay Man: Essays by Robert F. Reid-Pharr and Samuel Delany, New York University Press, 2001.

The Greatest Taboo: Homosexuality in Black Communities by Delroy Constantine Simms, Alyson Publications, 2001.

Coming Out in Communities of Color: African Americans by the Human Rights Campaign, available at www.hrc.org/Content/ContentGroups/Publications1/AfricanAmericanResourceGuide.pdf

Films

All God's Children. Dee Mosbacher, Frances Reid and Sylvia Rhue, 1996.

A Litany for Survival: The Life of Audre Lorde. Michelle Parkerson, 1995.

Among Good Christian People. Catherine Gund and Jaqueline Woodson, 1980.

Black Nations/Queer Nations? Shari Frilot, 1995.

Brother Outsider: The Life of Bayard Rustin. Nancy Kates and Bennett Singer, 2002.

Tongues Untied. Marlon Riggs, 1989.

James Baldwin: The Price of a Ticket. Karen Thorson, 1990.

Living With Pride: Ruth Ellis @ 100. Yvonne Welbon, 1999.

Our House: Lesbians and Gays in the Hood. Not Channel Zero, 1993.

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