

The Marriage Fight Is Setting Us Back

JOHN D'EMILIO

EVEN BEFORE the morning paper was delivered to my door, I had a long string of e-mails from news groups and organizations announcing the decision in the New York same-sex marriage case. Once again, a major defeat. Over the next weeks, a few more piled up. In the last dozen years, in almost every one of the fifty states, overwhelming majorities in state legislatures or lopsided votes in ballot referenda have reaffirmed that marriage is the union of a man and a woman.

Even the few victories for seekers of the right to marry have morphed into defeats. Legislators and voters undid favorable court opinions in Hawaii and Alaska. And, thanks to the insistence of marriage activists that only the real thing will do, the enactment of civil unions in Vermont and Connecticut and marriage-type rights in California and New Jersey have come to seem like a consolation prize, a spruced-up version of inferiority.

Please, can we speak the truth? The campaign for same-sex marriage has been an unmitigated disaster. Never in the history of organized queendom have we seen defeats of this magnitude. The battle to win marriage equality through the courts has done something that no other campaign or issue in our movement has done: it has created a vast body of *new* antigay law. Alas for us, as the anthropologist Gayle Rubin has so cogently observed, "sex laws are notoriously easy to pass. ... Once they are on the books, they are extremely difficult to dislodge."

While outrage and shock over judicial defeats make for good quotes in the press, this disaster should surprise only those activists and ideologues who are utterly convinced of their own rectitude and wisdom. Their determination to get marriage has blinded them to the glaring flaws in the strategy of making marriage equality the prime goal of the gay and lesbian movement, and litigation the main way to achieve it. For one thing, the federal courts and many state courts have grown steadily more conservative for a generation. Did any one really believe that the courts in this era would lead the way on marriage equality?

Then, too, our ever more right-of-center Supreme Court, to which this issue must finally come, has not generally led in struggles for social justice. Rather, it has tended to intervene as a new social consensus develops. Decisions like *Brown v. Board of Education* and *Roe v. Wade* do not prove that social movements should turn to the courts to deliver justice. Instead they

show that litigation produces the desired results only after a lot of groundwork outside the courts has been laid. What groundwork for same-sex marriage had been laid when the first cases went forward in the 1990's? What groundwork had been laid for the more recent cases that marriage activists pushed forward *after* countless legislatures and hordes of voters reaffirmed that marriage is the union of a man and a woman?

But putting aside the tactical stupidity of the marriage activist, if there's a single overarching reason why their determined focus on same-sex marriage has disturbed me, it is this: in the deepest, most profound sense, the campaign for marriage equality runs *against history*.

The last half-century has seen one of the most remarkable social transformations in U.S. history. A group of people despised by virtually everyone, hounded and pursued by government officials and law enforcement agents, condemned by every significant religious tradition, and pathologized by scientific experts now has taken its place among the panoply of groups—ethnic, racial, religious—that claim recognition and legitimacy

in public life. A group of people who, five decades ago, went to great lengths to mask their sexual identity from anyone who didn't share it now goes to great lengths to display it in every possible venue—at family gatherings and alumni reunions, in occupational associations and workplaces, at school and in places of worship, in massive parades and international athletic competitions. This is

quite extraordinary.

How did this happen? As someone who has researched, written about, and participated in our political movement for more than thirty years, I have a bias toward attributing the change to the power of organized collective activism. Lots of individuals saying "this is intolerable and has to change" and then banding together to do something about it has been vital.

AIDS, too, has had something to do with it. Within a few concentrated years it drove out of the closet huge numbers of us, who in turn built a vast network of organizations, engaged with a broad range of institutions, and made demands of public officials. AIDS proved a much more effective mobilizer of people than either the call of sexual freedom or the lure of smashing patriarchy.

But when I put my activist bias aside, the only way really to understand the remarkable transformation in queer life since the 1950's is to move beyond specific events, campaigns, and motivators—beyond Stonewall, Anita Bryant, AIDS. Instead, I have to acknowledge that over the last half-century we have been carried along in the wake of some deep and broad transformations in the patterns of everyday life in the U.S. Think, for a minute, of 1950's television: *Father Knows Best*, *Leave It to Beaver*, *The*

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Donna Reed Show—all those happy white families, living in nice houses, with mom tending the home and dad at work. Pregnancy out of marriage was a scandal to be hidden away. Divorce was a shameful failure. Childlessness was a pitiable tragedy. In this environment, faggots and dykes were beyond the pale, regarded as deviant and dangerous.

Starting in the 1960's, all this began to change. Divorce became increasingly commonplace. Even with greater access to abortion, large numbers of women had children outside of marriage. The number of single-parent households grew. Cohabitation of unmarried men and women became so widespread that the Bureau of the Census began to categorize and count the phenomenon. Women's participation in the paid labor force skyrocketed. Birth rates sank to replacement levels. The living arrangements of heterosexual Americans became bewilderingly varied. Over the course of a lifetime an individual might move in with a partner, break up with that partner and find another, get married, have a child, get divorced, cohabit with someone else who also had a child (or didn't), break up again, cohabit again, marry again, and become a stepparent. Throughout this saga, all the adults involved were working for a living.

A succinct way of describing these changes is this: *Since the early 1960's, the lives of many, many heterosexuals have become much more like the imagined lives of homosexuals.* Being heterosexual no longer means settling as a young adult into a lifelong coupled relationship sanctioned by the state and characterized by the presence of children and sharply gendered spousal roles. Instead, there may be a number of intimate relationships over the course of a lifetime. A marriage certificate may or may not accompany these relationships. Males and females alike expect to earn their way. Children figure less importantly in the lifespan of adults, and some heterosexuals, for the first time in history, choose not to have children at all.

These changes are not aberrational, not temporary, and not reversible. Neither a decline in morality nor the cultural turbulence of the 1960's explains them. They were not caused by a media culture that exploits sex. Instead, these changes are joined at the hip with the revolutionary growth in economic productivity and technological innovation to which capitalism has given rise and that now have their own momentum. These new "lifestyles" (a word woefully inadequate for grasping the deep structural foundations that sustain these changes) have appeared wherever capitalism has long historical roots. The decline in reproductive rates and the de-centering of marriage follow the spread of capitalism as surely as night follows day. They surface even in the face of religious traditions and national histories that have emphasized marriage, high fertility, and strong kinship ties.

If you need more evidence that the new shape of social life is not a passing heterosexual phase, look at the pathetic failure of efforts to reverse these trends. Since the mid-1970's, the most dynamic and aggressive force in American politics has been the evangelical Christian Right. It has the numbers, the money, the organization, the passion. It can send people into voting booths like no other group in the U.S. Evangelical conservatives have made issues of family and sexual morality the centerpiece of their message and their mobilizations. Because of them, abortions are harder to get, an abstinence-only message dominates sex education, and pre-marital counseling has become the rage.

Yet the birth rate remains low, the young are still having sex and cohabiting, and divorce is commonplace.

Grasping the revolutionary change in the lives of heterosexuals in the last half-century lets us put a whole different spin on the transformation in the status of gays and lesbians in the U.S. in the same time period. The huge steps toward visibility, toward acceptance, toward integration, toward equality—and they have been huge—have come, fundamentally, because the life course of heterosexuals has become more like ours. We've made gains not because we've shown heterosexuals that we are just like them, or because we've persuaded them to respect our "differences," but because many of them have become so much like us that they find us less threatening, less dangerous, less strange. In other words, for the last several decades, our lives have been flowing with the powerful current of social and cultural change. We have been swimming with history, not against it.

And then along comes same-sex marriage. Or, rather, along come some yearning couples, plus a band of activists to support them, single-minded in their pursuit of marriage equality. They confuse ordinarily intelligent queers by purveying the line that full dignity, full respect, and full citizenship will come only when gays and lesbians have achieved unobstructed access to marriage.

It doesn't surprise me that, on balance, the results have been grim. Had we tried to devise a strategy that took advantage of the force of historical trends, we would, as a movement, have been pushing to further de-center and de-institutionalize marriage. Once upon a time, we did. In the 1980's and early 1990's, imaginative queer activists invented such things as "domestic partnership" and "second-parent adoption" as ways of recognizing the plethora of family arrangements that exist throughout the United States. AIDS activists pressed for such things as universal health insurance that would have decoupled perhaps the most significant benefit that marriage offers. (A great irony: universal health care, which has seemed so remote in the conservative era that Reagan ushered in, could more successfully have been fought for state-by-state than could same-sex marriage.)

I don't think it's too much to ask that our organizational leadership, especially at the national level, pursue intelligent strategies. Nor is it too much to ask that they have the courage to say "this isn't working" and make a major course correction. We're already going to have to live with the negative results of their misjudgments for a long time. Please stop throwing good money after bad. And, please, make history be something that works for us instead of racing into the wind against history.

POSTSCRIPT: Since I drafted this essay, the Washington State Supreme Court has issued a ruling upholding the state's ban on same-sex marriage. Gay leaders have once again expressed shock and anger at the decision and have pledged to keep fighting for marriage equality. Fortunately, the same day as the Washington decision, a group of queer activists who are mostly outside the network of "mainstream" GLBT organizations have released a document, "Beyond Same-Sex Marriage: A New Strategic Vision for All Our Families and Relationships," that calls for a shift in direction. Over 200 activists and intellectuals have signed it (full disclosure: I'm one of the signatories). Could this be a new beginning?

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