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### **Same-Sex Marriage and its Alternatives**

The fight for gay marriage is one of the most hotly debated topics in current politics. Throughout the numerous debates and the numerous sides one may take, an interesting and highly theoretical debate exists between radical liberals who want to replace the oppressive marriage system with a better alternative and less radical liberals who are in favor of gay marriage but see alternatives to marriage as unequal. To radical liberals, gay marriage is a step in the wrong direction because it enforces the status quo of marriage, and the system should instead be revamped entirely. Mainstream liberals see that the alternatives to marriage that exist do not currently give equal rights to gay and lesbian couples, and see same-sex marriage as the path to equality. We can draw parallels to these view points by looking at the ideals of the homophile movement, which correlate to the fight for gay marriage, and by looking at the ideals of the historical gay liberation movement, which correlate to the fight for alternatives to marriage. The radical fight for creating an alternative to marriage that includes benefits for non-standard households is appealing, but is it realistic? Though there has yet to be a country to strike down the marriage system completely, both gay marriage and alternatives already exist in both the United States and abroad. By investigating such models, one is better able to determine what has been and will be successful. After examining the systems already in place, a poll of the MIT population along with information from national polls, can be used to determine what changes to the marriage system could be realistic.

## **The History of Gay Activism: The Homophile Movement and Gay Liberation**

Before one can fully understand the arguments about gay marriage and its alternatives, one must first understand the history of the different LGBT movements in the United States. Before the radical gay liberation movement of the late 1960's and 70's, there was a more conservative and less widespread homophile movement. The homophile movement was never a mass movement like liberationist movements, and its aim was to increase tolerance of homosexuality and to decriminalize it. It began in Europe in the late 1800's and later spread to the United States. The movement emphasized that homosexuals were congenial and harmless by nature. The small societies and groups that made up the homophile movement, including the Mattachine Society and the Daughters of Bilitis, fought to promote the image of the homosexual as a model citizen, exactly like everyone else except for a "biological abnormality." The culture at the time of the homophile movement in the 1950's was one of intolerance and oppression of homosexuals, which made political organization nearly impossible. While many criticize the homophile movement for being a conservative movement with limited achievement, homophile organizations set the stage for gay liberation by petitioning governments, voicing their opinions to political candidates, producing and distributing newsletters, and conducting statistical surveys on homosexual behavior, despite the dangers that were associated with being labeled as a homosexual at the time.

Along with other counter-culture revolutions in the 1960's, came the gay liberation movement. In June of 1969, police raided a gay and drag bar, the Stonewall Inn, and were met with resistance that triggered an entire weekend of riots. The Stonewall riots are often seen as the symbolic start of gay liberation, the spark that incited people to

act on their increasing dissatisfaction with the conservative and quiet homophile movement. Gay liberationists took a radical approach of advocating a distinct gay identity and refusing to conform to the status quo. Unlike the homophiles, they refused to accept mainstream culture and, like other counter-culture movements in the 1960's, fought for change through physical protests such as street battles with the police and university classroom sit-ins. The gay identity of the gay liberation movement did not want to be recognized as "normal" by everyone else but instead sought to overthrow the oppressive social institutions that pathologised homosexuality.

It is clear that historically, gay liberationists had no interest in obliging to the rules of mainstream society, and the current fight for gay marriage is contradictory to the ideals of the early movement. The liberationists of the 1970's would have preferred to fight for less rigid alternatives to the marriage system. Conversely, the ideals of the homophile movement are more in line with the fight for gay marriage in its fight for assimilation and acceptance in main stream culture, while the fight for alternatives would have been seen as too disruptive to society and ultimately discriminatory.

### **Same-Sex Marriage: Pro and Con**

For the majority of straight liberal people, there seems to be no legitimate reason to be against gay marriage. Some suggest that allowing same-sex couples to marry would undermine the traditional definition of marriage and diminish its sanctity. However, should the label really be so important and restrictive? Why not give gay couples the same basic rights that straight couples have been receiving for centuries? Mainstream gay people also seem to have no qualms about gay marriage; it only makes sense for gay and

straight couples to have equal access to equal benefits. Many use supplemental arguments such as a separation of church and state in our government; just because religious fanatics are morally opposed to gay marriage doesn't mean that our legal system should discriminate against gay people in civil marriage. With numerous rights and benefits associated with marriage, it does not seem fair to deny these to gay and lesbian couples. However, in Michael Warner's essay, *The Trouble With Normal*, and in Paula Ettelbrick's *Since When Is Marriage a Path to Liberation?*, they both argue that gay marriage is, in reality, setting the gay liberation movement back. The argument is not that we should be fighting against gay marriage, but that we should be fighting against marriage as an oppressive institution.

The assumption that everyone wants to get married is incorrect. Our culture breeds people to think that they will grow up and get married, but what is so important about marriage that keeps us in line with this system? It seems that many people do not look beyond themselves and their partners when they consider why they want to get married and what it means. In our survey of over 200 people within the MIT community, many cited similar reasons to get married, such as to represent their love and commitment to a significant other and to raise a family. However, Warner notes that marriage "is never a private contract between two persons. It always involves the recognition of a third party – and not just a voluntary or neutral recognition, but an *enforceable* recognition."<sup>1</sup> Why is this justification of the state necessary? For many people, the justification of the state gives married couples legal rights and benefits that non-married couples do not have. However, one might be skeptical of how closely the state regulates this supposed declaration of love. The state is funneling people into procreative marriages

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<sup>1</sup> Warner, Michael. "Beyond Gay Marriage", *The Trouble With Normal*, p. 117.

by providing benefits, all of which could be given without a contract of marriage. Warner notes that “health care and tax equality are social justice issues and should be extended to single people.”<sup>2</sup> Benefits that involve intimate connections, such as parenting rights and immigration rights do not need to be limited to marriages but instead could be expanded, for example, to domestic partnerships and common law relations. Furthermore, benefits for property sharing “are specific to households rather than romantic couples and could be broadened to cover all cohabiting arrangements.”<sup>3</sup> Marriage appeals to many people because all these benefits can be attained together through marriage. However, as many scholars have noted, the catch is that marriage is a requirement to receive these benefits, and marriage is not necessarily right for everyone. The system of state sanctified marriages could easily be revised to include alternative families and living arrangements.

Take a minute to rethink the fight for gay marriage and one will find that it is a fight to support a system that is totally out of line with gay liberation. Paula Ettelbrick, in *Since When Is Marriage a Path to Liberation?*, notes that “steeped in a patriarchal system that looks to ownership, property, and dominance of men over women as its basis, the institution of marriage has long been the focus of radical-feminist revulsion.”<sup>4</sup> Marriage is a system that gives basic benefits only to those who follow it, so by encouraging gay marriage, you disadvantage anyone who does not fit into the strict model of marriage. The fight for gay liberation emphasizes that gays and lesbians often do not conform to mainstream society, but that the community should be supported and accepted despite any differences. Ettelbrick explains that if activists continue to argue that “we should be

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<sup>2</sup> Warner, Michael. “Beyond Gay Marriage”, *The Trouble With Normal*, p. 119.

<sup>3</sup> Ibid, p. 119.

<sup>4</sup> Ettelbrick, Paula. “Since When Is Marriage a Path to Liberation?” *OUT/LOOK National Gay and Lesbian Quarterly*. From Sullivan, Andrew. *Same-Sex Marriage: Pro and Con*, p. 123.

treated as equals because we are really just like married couples and hold the same values to be true, we undermine the very purpose of our movement and begin the dangerous process of silencing our different voices.”<sup>5</sup> Alternate models to marriage already exist in other countries, as will be discussed in subsequent sections, and have managed to function acceptably well in those societies. While other countries have progressed toward a more just system, the United States has taken steps in the opposite direction, giving even more rights explicitly to married couples, for example, the Family and Medical Leave Act of 1993. Authors such as Warner and Ettelbrick worry that the fight for gay marriage is only solidifying the unfair system that is already in place.

The fight for alternatives to gay marriage is in line with gay liberationist thought, just as the fight for gay marriage is in line with the ideals of the homophile movement. Though there are many reasons not to support marriage as an institution, should we completely move away from the fight for gay marriage? Though Ettelbrick argues that gay marriage “would further outlaw all gay and lesbian sex that is not performed in marital context,”<sup>6</sup> could the fight for gay marriage set the foundation for a larger fight to revamp the system? D’Emilio argues that the homophile movement set the stage for Stonewall and the gay liberation movement in the essay *Then and Now: The Shifting Context of Gay Historical Writing*. Just as the more conservative homophile movement was a precursor to the more radical gay liberation movement, maybe one needs the fight for gay marriage before a more radical change can occur. The fight for state recognition of alternative family or living arrangements could build off of progress from the fight for gay marriage by generating more widespread acceptance of gay people in general.

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<sup>5</sup> Ettelbrick, Paula. “Since When Is Marriage a Path to Liberation?” *OUT/LOOK National Gay and Lesbian Quarterly*. From Sullivan, Andrew. *Same-Sex Marriage: Pro and Con*, p. 124.

<sup>6</sup> *Ibid*, p. 125.

Legalizing gay marriage can be seen as a symbol of the increasing nation-wide acceptance of homosexuals and recognition of the discriminatory nature of current laws, which ideally would allow for a more effective fight for alternatives to marriage and gay liberation ideals.

### **Same-Sex Marriage: The Legal Situation in the United States**

At present, people may make the decision to get married for a number of reasons. Some cite love, others security, but a considerable advantage for the married is the large bundle of legal and fiscal rights and responsibilities which are granted as part of the marriage package. In the United States, the benefits associated with marriage currently include:

1. a variety of state income tax advantages, including deductions, credits, rates, exemptions, and estimates;
2. public assistance from and exemptions relating to the Department of Human Services;
3. control, division, acquisition, and disposition of community property;
4. rights relating to dower, curtesy, and inheritance;
5. rights to notice, protection, benefits, and inheritance under the Uniform Probate Code;
6. award of child custody and support payments in divorce proceedings;
7. the right to spousal support;
8. the right to enter into premarital agreements;
9. the right to change of name;
10. the right to file a nonsupport action;
11. post-divorce rights relating to support and property division;
12. the benefit of the spousal privilege and confidential marital communications;
13. the benefit of the exemption of real property from attachment or execution;
14. the right to bring a wrongful death action.<sup>7</sup>

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<sup>7</sup> Warner, Michael. "Beyond Gay Marriage", *The Trouble with Normal*, p. 117-118.

Many argue that, with the exception of rights related to divorce, all of these entitlements could and should be applied to any couple or committed relationship – e.g. unmarried same-sex couples with or without children, unmarried straight couples with or without children, co-habiting siblings or committed friends, households with more than two primary caretakers of children, etc. – and many benefits, such as health care and tax benefits, should be extended to all people, whether they are in a relationship or not. Why should the married be privileged? The government’s primary intentions are to urge people into procreative marriages by offering numerous benefits for doing so. However, this puts unmarried people, and especially homosexual couples who may like to get married but by law cannot, at a severe disadvantage.

A large portion of the population views this privileging of the heterosexual couples who can get married as discrimination against same-sex couples. Advocates for gay marriage cite the Equal Protection Clause of the Fourteenth Amendment, demanding that same-sex couples also be granted the right to marry if they choose to do so. While most states and countries do not permit same-sex marriages, a percentage have legalized same-sex civil unions or domestic partnerships that extend varying amounts of the benefits of marriage to same-sex couples who apply for such arrangements.

In the United States, however, the federal Defense of Marriage Act (DOMA) passed in 1996 defined marriage specifically as the union of one man and one woman. Signed by Bill Clinton, it alleged that no state must recognize marriage between two people of the same sex even if their union is recognized in any other state. Additionally, it specified that the federal government may not recognize same-sex or polygamous marriages for any purpose, even if recognized by a state. Forty states currently have their



own DOMAs as well, in the form of a state constitutional amendment or statute.

Opponents to DOMA assert that the act is a violation of the Equal Protection Clause and the Due Process Clause of the Fourteenth Amendment. They have attempted to present their arguments to the U.S. Supreme Court but the court has declined to review their case.

DOMA was passed because legislators feared that some states would attempt to legalize same-sex marriage sometime in the near future and that such legislation would disrupt society and the status quo. Actually, Massachusetts did not legalize same-sex marriage until 2003 when the ruling in the case of *Goodridge v. Department of Public Health* declared restricting marriage to heterosexual couples as unconstitutional. The first issuance of a marriage license to a same-sex couple was on May 17, 2004. As the first and presently only state to legalize same-sex marriage in the United States, 1,000 applications for same-sex marriage were processed on that first day it was legalized in 2004. There were 6,200 same-sex marriages in the first year after the state constitution was amended, but only 1,900 in the second year. (Compare these statistics with the 36,000 heterosexual marriages performed in Massachusetts each year.) Of the 8,100 same-sex marriages that have been performed since the legalization in 2004, 64% of the couples have been lesbians.<sup>8</sup>

The small number of same-sex marriages occurring the state (relative to the yearly statistic of opposite-sex marriages) may simply be a reflection of the percentage of the Massachusetts population that is gay. According to the U.S. Census, 12.3% of the Boston adult population identify as gay, lesbian, or bisexual, the fifth highest percentage among

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<sup>8</sup> “Same-sex marriage in Massachusetts”, [www.wikipedia.org](http://www.wikipedia.org).

**Figure 1**

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## **Cities with highest percentages of gays, lesbians, bisexuals**

Among the nation's 50 most populated cities, Seattle has the second-highest percentage of adults identifying themselves as gay, lesbian or bisexual.

**Cities with the 10 highest percentages of gay, lesbian or bisexual residents:**

RANK	CITY	PERCENTAGE
1	San Francisco	15.4
2	Seattle	12.9
3	Atlanta	12.8
4	Minneapolis	12.5
5	Boston	12.3
6	Oakland, Calif.	12.1
7	Sacramento, Calif.	9.8
8	Portland	8.8
9	Denver	8.2
10	Long Beach, Calif.	8.1

Sources: U.S. Census; the Williams Institute

THE SEATTLE TIMES

the nation's 50 most populated cities (see Figure 1)<sup>9</sup>. Given that the annual average of same-sex marriages performed in the state is 4,050 (8,100 over approximately two years), that is 11.25% of the 36,000 heterosexual marriages performed each year, which is proportional to the approximate population percentage of gay adults in Massachusetts.

The declining number of same-sex marriages performed each year in Massachusetts may be a result of the rising opposition manifesting as an active effort to amend the state constitution to ban same-sex marriage and only permit civil unions. Alarming, the proposition was passed at the first constitutional convention but was defeated at the second. Alternatively, the declining numbers may reflect an increasing anti-marriage sentiment (or perhaps indifference) among the gay community. According to our survey of the MIT community, of the eight people who identified as gay, three said

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<sup>9</sup> Turnbull, Lornet, "12.9% in Seattle are gay or bisexual, second only to S.F., study says", *Seattle Times*, November 16, 2006.

they intended to get married, two said they did not, and three said they were unsure. The one gay respondent who was from Massachusetts said he did not intend to get married because he feels that marriage is an oppressive heterosexual institution and that even the fight for gay marriage is a political movement run primarily by liberal heterosexuals, which he resents.

Although no other states in the U.S. have legalized same-sex marriage, some do provide rights for same-sex couples that include most of the benefits associated with marriage by allowing civil unions or domestic partnerships. California was the first state to legalize domestic partnerships in 1991 and eventually extended all of the rights of marriage to couples in domestic partnerships by 2003 with the passage of an expanded domestic partnership bill. Domestic partnerships can be applied for by both same-sex couples and opposite-sex couples. Typically the couple must have been living together for a specified minimum duration of time before applicable for a domestic partnership. The couple will not qualify if either partner is already in a marriage, common-law marriage, or civil union.

Connecticut and Vermont permit civil unions to same-sex couples which are explicitly defined as providing all of the same rights and benefits as a marriage. Hawaii, New Jersey, Maine, and the District of Columbia have legalized domestic partnerships extending some reciprocal benefits to same-sex partnerships but not as many benefits as provided in California. States currently proposing the legalization of same-sex marriage are Maine, New York, and Rhode Island.

There are 27 states in the U.S. that have prohibited same-sex marriage by a state constitutional amendment. Oregon, Mississippi and Montana bar same-sex marriages

only, while the others also ban civil unions and domestic partnerships. Ohio even prohibits granting any benefits whatsoever to same-sex couples. Every state marriage amendment voted on by the people has passed, except in Arizona. The percentage of votes in favor of the amendment has ranged from 48% in Arizona to 86% in Mississippi.<sup>10</sup> In 2005, Nebraska was the first state to rule that the ban on same-sex marriages, civil unions, and domestic partnerships was unconstitutional because it violated the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution because it permitted civil unions and domestic partnerships of opposite-sex couples but not same-sex couples. However, a unanimous Eighth Circuit Court of Appeals reversed the decision. An additional 15 states (as well as Puerto Rico) have prohibited same-sex marriage by a statute. In New Mexico, New York, and Rhode Island, marriage is legally undefined.<sup>11</sup>

### **The History of Same-Sex Marriage and its Alternatives: A Global Perspective**

Denmark was the first country to legalize same-sex civil unions nationwide in 1989, giving all of the same rights as marriage to couples in these “registered partnerships”, as they are called, with four exceptions:

1. registered partners cannot adopt, with the exception that one partner can adopt the biological children of the other
2. registered partners cannot have joint custody of a child, except by adoption
3. laws making explicit reference to the sexes of a married couple do not apply to registered partnerships
4. regulations by international treaties don't apply unless all signatories agree<sup>12</sup>

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<sup>10</sup> “Marriage Amendment Summary”, [www.domawatch.org](http://www.domawatch.org).

<sup>11</sup> “Same-sex marriage in the United States”, [www.wikipedia.org](http://www.wikipedia.org).

<sup>12</sup> “Civil unions in Denmark”, [www.wikipedia.org](http://www.wikipedia.org).

Denmark will not issue registered partnerships to foreigners from states or countries which would not legally recognize the partnership. In the 1990s, Norway, Israel, Sweden, Greenland, Hungary, Iceland, and France legalized same-sex civil unions as well. Most of these countries offer partnerships or civil unions to both same-sex and opposite-sex couples, although opposite-sex couples maintain the additional option of marriage.

In France, the *pacte civil de solidarité* (“civil pact of solidarity”) referred to as PACS was passed in 1999 following a large controversy. PACS is a civil union between two adults (of same or opposite sex) that helps them organize their life together by offering benefits, such as filing joint taxes, but not nearly as many as associated with marriage. PACS was an improvement and alternative over the *certificate de concubinage notoire* which provided minimal rights and responsibilities and didn’t address issues of property or taxes at all. The differences in rights granted with concubinage, PACS, and marriage reflected tiered levels of commitment and obligation for couples involved. In 2004, LGBT groups challenged PACS as an avoidance of the same-sex marriage debate. However, the number of applications for PACS has increased every year except in 2001, while the number of marriages in France has decreased each year since 2000.<sup>13</sup> Thus a growing number of people are inclined to apply for the alternative partnership over marriage, despite the lack of benefits associated with PACS. This may imply that people are gradually rejecting marriage, which can be both indicated by and a result of high divorce rates. Even one-tenth of PACS have been dissolved. Although, when compared with the current divorce rate in France of 43% of marriages, the PACS unions seem to be a significantly better signifier of “solidarity” in relationships. In our survey, a common problem foreseen with introducing marriage alternatives in the U.S. was a worry that

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<sup>13</sup> “Pacte civil de solidarité”, [www.wikipedia.org](http://www.wikipedia.org).

people would view these alternatives as less of a commitment than marriage, and consequently would only use them temporarily, until they found a permanent partner to marry. However, these French statistics suggest that the lack of commitment associated with the alternative models may be precisely why they are so attractive and ultimately longer-lasting.

It was not until 2001 that same-sex marriage was first legalized. The Dutch were the first to include same-sex couples in their marriage laws, modifying their Civil Code with the statement “*Een huwelijk kan worden aangegaan door twee personen van verschillend of van gelijk geslacht.* (A marriage can be contracted by two people of different or the same sex.)”<sup>14</sup> In the Netherlands, 2,400 same-sex couples were married in the first nine months, although only 1,500 were married in all of 2003. Those opposed to the legalization of same-sex marriage in the area suggest that the declining rates of same-sex marriages have proven the legislation unnecessary, since civil unions (for both same-sex and opposite-sex couples) had already been legal prior to the amendment (since 1998). “You don’t change an institution with such a long history from one day to the next just to satisfy the whim of one group of people,” said Marten van Mourik, a professor in the Netherlands and opponent to the same-sex marriage laws. “Marriage is a relationship between a man and a woman intended to produce children. You can’t get around that.”<sup>15</sup>

Mourik’s view is obviously bigoted. The African-American Civil Rights Movement is prime example of large-scale change achieved by the political struggling of an oppressed group. The fight for equal rights by gay activists is no different. “Separate but equal” offers of marriage-like alternatives are secondary to marriage and do not

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<sup>14</sup> “Same-sex marriage in the Netherlands”, [www.wikipedia.org](http://www.wikipedia.org).

<sup>15</sup> Sterling, Toby. “The Global View of Gay Marriage”, CBS News, March 4, 2004.

represent equal rights. And the same-sex marriage debate was hardly a “whim” in the Netherlands. As early as the mid-1980s, gay activists had been pressuring the Dutch government to permit same-sex marriage. Now that they have achieved their goal, it is rather inhumane for Mourik to advocate revoking their rights. Even the radicals who don’t support gay marriage would not agree with Mourik’s statement because it is the epitome of the oppressiveness of marriage. The definition of marriage that Mourik gives is extremely rigid and not necessarily even true. There are many couples who get married without the intention of having children. Who is Mourik to say that the legalization of same-sex marriage is unnecessary or not working when it is clear that there is something fundamentally wrong with the institution of marriage itself since the divorce rate is so high?

In fact, between 1998 and 2001, one third of the civil unions approved in the Netherlands were for opposite-sex couples. This suggests that a sizeable fraction of heterosexual people considered rejecting the institution of marriage all together, in line with the liberationist goals of the 1970s. In 2000 when the proposition to extend the term “marriage” to the civil unions was presented to Parliament, a majority of 109 versus 33 voted in support of the bill in the Lower House while only the 25 Christians in the Upper House of 75 seats voted against it. Although the Christian Democratic Appeal is the largest party in Parliament at present, they have not made any attempt to repeal the law. Although fundamentalist religious groups strongly oppose the introduction of same-sex marriages, the Protestant Church of the Netherlands decided that individual churches can decide whether or not to bless same-sex relationships in the eyes of God. The local governments, however, are obliged to perform civil same-sex marriages but the personnel

are permitted to refuse if they are morally opposed only if they were hired previous to the amendment (i.e. if their contract did not require them to perform same-sex marriages at the time of hire). This was also a commonly suggested compromise among the respondents of our MIT survey advocating a separation of church and state: let civil marriages be recognized by the state but religious marriages be approved on an individual basis.

Belgium was the next country to legalize same-sex marriages nationwide in 2003, followed by Spain and Canada in 2005, and South Africa in November of 2006.

Since the first legalization of same-sex marriages, many countries have still opted to only legalize civil unions. These countries include Germany, Portugal, Finland, Croatia, Luxembourg, New Zealand, the United Kingdom, Andorra, the Czech Republic, and Slovenia. Switzerland's legislation will become effective in 2007. In Israel, Hungary, Croatia, and the Czech Republic, the civil unions are called "common-law marriages" although independent of the duration of cohabitation for the couple. Common-law marriages are typically between opposite-sex couples who have lived together for a minimum length of time and intend to consider themselves to be husband and wife. However, as in the countries mentioned above, common-law marriage has been used to describe essentially a domestic partnership arrangement between same-sex couples that is not legally recognized as a "marriage" but connotes a parallel societal status (in theory).

In the United Kingdom, the Civil Partnership Act of 2004 legalized civil unions termed "civil partnerships" in which same-sex couples have the same rights and responsibilities as couples in civil marriages. To apply for a civil partnership, partners must be of the same sex and at least 16 years of age. If under 18 years old, parental



consent is required (except in Scotland). The application will be rejected if either partner is already in a marriage or civil partnership. Foreigners must reside in the UK for at least seven days prior to applying for the partnership and must remain for an additional 15 days before the civil partnership is actually formed. In 2004, Parliament passed a Gender Recognition Act allowing transsexual people to change their legal gender, but require them to dissolve any existing marriage first. (For couples who wish to remain together, under special provisions of the act they may dissolve their marriage and enter into a civil partnership the next day.) However, not everyone is satisfied with the legalization of civil partnerships. Gay rights groups such as OutRage! and The Queer Youth Alliance object to the failure of the same-sex marriage legislation and some even say that having a separate system for same-sex couples can be “compared to the Apartheid”<sup>16</sup>. While legalizing civil unions or partnerships is the government’s attempt to provide same-sex couples with “separate but equal” rights (which are never really equal as demonstrated by the Civil Rights Movement of the 1960s) this discrimination is certainly intolerable although not necessarily comparable to the Apartheid. The extension of some rights to homosexuals is certainly better than having none, and probably purports a more complete recognition of equality for homosexuals in the future. Notably, all five of the countries which now permit same-sex marriages had legalized civil unions first.

Unfortunately, many areas of the world still strongly oppose granting any rights at all to LGBT communities. In 2005, Uganda and Latvia amended their constitutions to specifically ban same-sex marriages. Italy, a Roman Catholic country, does not recognize any form of gay coupling because of the Vatican’s strong stance against homosexuality. In Japan, homosexuality is no longer considered a mental illness but many homosexuals

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<sup>16</sup> “Gay Rights in the United Kingdom”, [www.wikipedia.org](http://www.wikipedia.org).

still feel pressured to enter into sham marriages to protect themselves from discrimination.<sup>17</sup>

It seems that there will always be at least some opposition to any “solution” proposed regarding same-sex marriage. The very conservative and religious people will object to providing any rights to same-sex couples because oftentimes these narrow-minded groups associate homosexuals with uninhibited sex, and “sex negativity” is still a widespread notion that dictates most appropriate social conduct and makes all sex considered taboo unless “performed within marriage for procreative purposes and if the pleasurable aspects are not enjoyed too much.”<sup>18</sup> A portion of the LGBT community will object to legalizing civil unions arguing that they are inferior to marriage because “separate but equal” is not equal. The radical faction of the queer community will object to legalizing same-sex marriage because marriage is a normalizing institution established by a heterosexual society. In the radical ideal, the government would not be involved with marriage at all and relationships would simply be established between people on their own accord and unregulated by the state.

However, since no country as of yet has completely abolished the institution of marriage in favor of a radical system indiscriminate of gender or cohabitation situation, it does not seem likely that the counter-culture liberationist goals of undermining the traditional concept of marriage are realistic for the near future. Although many countries have successfully instituted alternatives to marriage for same-sex couples, a traditional, civil and/or religious marriage always remains an option for heterosexual couples, thus creating an unequal dynamic.

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<sup>17</sup> Sterling, Toby. “The Global View of Gay Marriage”, CBS News, March 4, 2004.

<sup>18</sup> Rubin, Gayle. “Thinking Sex”, *The Lesbian and Gay Studies Reader*, p. 11.

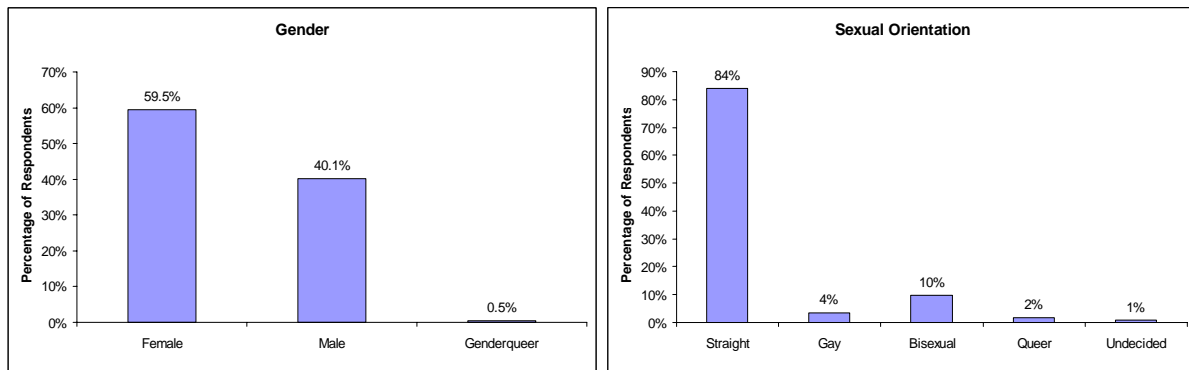
Most of the homosexual community supports the fight for the legalization of same-sex marriage, but in many of the countries that already permit same-sex marriage, the number of same-sex couples getting married seems to be decreasing. This may be a reflection of a growing liberationist sentiment within the gay community rejecting all gender-normalizing institutions, such as marriage. Perhaps marriage in general – that is, for both heterosexual and homosexual couples – is becoming trivialized by the increasing number of divorces, proving that a large portion of couples who get married end up unhappily regretting their decision. Conversely, in counties with some form of civil unions available, the number of couples applying for them has generally been increasing each year. The fact that civil unions seem to be viewed by society as less committal specifically panders to the many commitment-phobic people who want to publicize or officiate their relationship but would feel trapped in a marriage. Additionally, nearly four times as many countries have legalized civil unions as opposed to same-sex marriages. Even in the U.S., seven states (including the District of Columbia) have legalized some form of civil union whereas Massachusetts is the only state to have legalized same-sex marriage. Thus it seems more likely that civil unions will become accepted before same-sex marriages are.

However, the mainstream LGBT activists will strongly oppose this conclusion as it is denying them complete equal rights, while the extreme radicals will still advocate a complete overhaul of the government-regulated marriage institution. Although revolutionizing the definition of marriage seems impossible, there are three more states (Maine, New York, and Rhode Island) which are actively attempting to legalize same-sex marriage at the present moment. Therefore, while civil unions are more prevalent both in

the U.S. and around the world, there may still be some hope for a larger contingent of married same-sex couples in the future United States, at least in the northeast.

### Survey Results: MIT's View on the Issues

A survey about marriage, same-sex marriage, and the alternatives was distributed to approximately 220 people in the MIT community. The graphs below represent the distribution of gender and sexual orientation among the respondents.



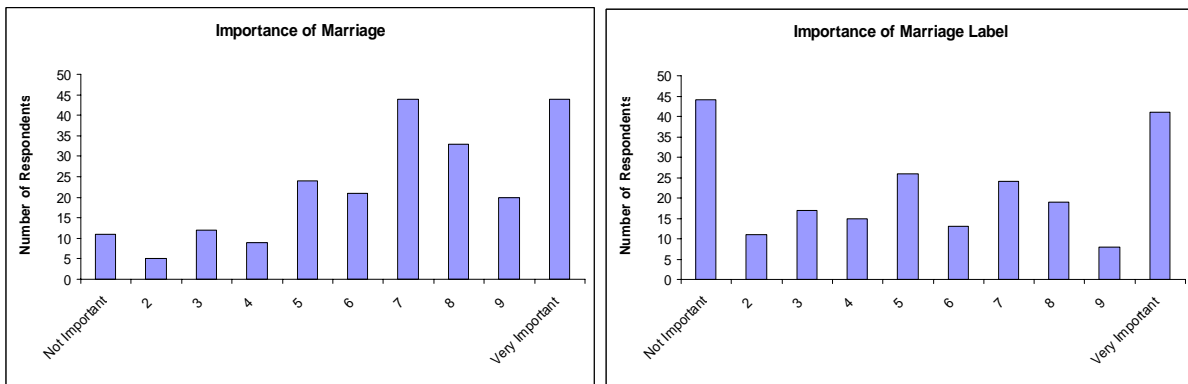
A surprisingly large percentage (78%) of respondents supported same-sex marriage. The 18% against it had various reasons for doing so. Most thought same-sex marriage would violate the definition of marriage as a union of one man and one woman. Many viewed same-sex marriage as immoral or unnatural or against God's plan. Others also viewed marriage as a religious institution, but thought that individual churches should be able to decide whether or not to honor the unions of same-sex couples. Closely related to the perception of marriage as religious was the implication that the government should not be involved at all. Other reasons included same-sex marriages would violate tradition, gay marriages aren't economically motivated or for procreation, civil unions are a preferable solution, and one person specifically mentioned the liberationist view of queer theory proposing a complete overhaul of the marriage institution.

A similar support ratio was given for same-sex civil unions: 79% in support with 19% against. Of those who supported civil unions, 35% said they would only support civil unions if same-sex marriage wasn't an option or if they were used as a step towards achieving full equality by the legalization of same-sex marriage. The rest supported civil unions because they believed homosexuals deserve equal rights (although many consider civil unions not equal to marriage) or because they support a separation of church and state. A prominent theme throughout these responses was a preference for viewing civil unions or civil marriages as the only matters with which the government should be concerned; marriage – often implied by definition – should be religious and thus individual places of worship should have the authority to decide whether to support and recognize a same-sex union or not, depending on the religious views. Of the 19% against civil unions, 54% gave arguments of “separate but equal” not actually being equal, while the remainder expressed anti-homosexual sentiments or a desire for the government to not be involved in any personal relationships at all.

In terms of a governmental decision, 94% said the United States Constitution should not ban same-sex marriage, but only 40% said it should legalize it. Contrary to most national statistics, which indicate a preference for regulation state-by-state, 72% of survey respondents said that the decision on same-sex marriage should *not* be a state decision, primarily expressing concerns about moving out of a state where same-sex marriage is legal and into a state where it isn't. But 69% did feel that the government should be involved in some way, in order to provide the benefits associated, even though 86% said they would still get married even if benefits weren't provided. Although these results seem somewhat contradictory, the general consensus suggests that people are not

seeking a constitutional amendment (because national agreement will be nearly impossible to achieve) but are not ready for marriage to be completely independent of government either.

Interestingly (considering the survey pool’s low age range), a large percentage of people believe marriage to be very important to them. On the scale of 1-10 provided (10 being very important), the percentages increased closer to 10 (see graph below). However, on a 1-10 scale rating the importance of the label “marriage”, there were approximately equal amounts of people who said it was not important at all (1) and very important (10). Apparently most people either have traditional labeling preferences ingrained in their mentality or else they do not find them significant at all.



Regarding the alternatives to marriage, the MIT population seemed to be split. The proposed advantages of offering an alternative model to marriage in society were countered by an almost equal amount of foreseen disadvantages. The respondents cited positive effects such as the extension of benefits to alternative households which are just as deserving and needy of the benefits granted to married couples, a larger selection of options (assuming marriage remains in place) for heterosexual couples who do not want to get married, a separation of church and state – if marriage becomes the religious alternative to the state-recognized civil union (or similar partnership), and the fact that it

would be a progressive step towards complete equality for homosexuals fighting for the right to get married. However, common problems foreseen include that alternative models would appear to have a lower level of commitment (although this has proven beneficial in countries such as France), social conservatives and religious fundamentalists would be strongly opposed (although we cannot please everyone), second-class marriages could be viewed as discriminatory (“separate but equal” argument), and people would scam the system for tax benefits if the laws were not very specific (although tax fraud is rampant under current conditions anyway).

Therefore, it seems that instituting an alternative to marriage, such as civil unions or domestic partnerships, would have many advantages to society and a few disadvantages that cannot be justified, for example that they are not exactly equal to marriage and would face opposition from the religious right. Since the conservatives will never support any changes being fought for by gay activists, the best we can hope for is pleasing both the supporters of same-sex marriage as well as the more radical faction of the LGBT community who advocate a less oppressive and normalizing alternative. Though Warner’s arguments are appealing, the results of our survey indicate that marriage is important to the majority of the population, even college students, which implies that eliminating marriage entirely does not seem realistic, at least for this generation. Advocates for gay marriage see civil unions as a step toward their goal of legalizing gay marriage, while advocates for alternatives to marriage can view civil unions as a step toward their goal of creating an alternative system. Why then, not fight to legalize both?

If both same-sex marriages and civil unions (for both heterosexual and homosexual couples) are legalized, the more fitting option for our society will be the one to prevail. As in France, PACS are on the rise as marriages are on a decline. We may observe a similar or opposite trend in the United States if the choice between the two is provided to everyone. All people who feel strongly about officiating their relationship under the title of marriage can do so, while other couples who find marriage oppressive or unfitting to their situation as well as alternative households who don't particularly qualify for marriage will be able to apply to the alternative system and still achieve the same benefits from the government. Although the radicals would view supporting gay marriage as counterintuitive to their goals, their promotion of a new alternative system to marriage does not have to, and in all likelihood will not, occur concurrently with the destruction of traditional civil marriage. The elimination of the old marriage system may come gradually if and when people become ready to leave it behind. Until then, the LGBT community should unite in fighting for whatever rights we can, particularly emphasizing support for both same-sex marriage *and* civil unions, so that traditionalists can be satisfied while an alternative structure that provides benefits to everyone can simultaneously improve the general social condition.