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Separate and Unequal: Marriage vs. Civil Unions

By Shannon D. Beach

The ongoing debate about gay and lesbian marriage alternatives is sometimes defined as "separate and unequal," on the basis that civil unions and domestic partnerships are viewed by many as illegitimate alternatives to marriage. Same-sex couples are denied more than 1,000 federal benefits and protections of marriage, as well as most of the state rights and responsibilities that are afforded by marriage. Currently, gay and lesbian couples who are joined in civil unions only receive legal protections and rights under their home state's law. Same-sex couples have no guarantee that these protections will travel with them to other states, as opposed to in a marriage, where couples receive legal protections and rights under both state and federal law and are recognized in every state in the nation and every country in the world.

At present, California, the District of Columbia, Hawaii, Maine, and New Jersey have domestic-partnership laws that provide some limited rights to same-sex couples. Vermont is the only state that issues civil unions, which provide all of the state-level rights and responsibilities of marriage (but none of the federal protection). Additionally, Massachusetts issues marriage licenses to same-sex couples, with some limitations. The benefits of these laws are limited to the residents of each particular state and are immediately lost upon going to another state.

The Rev. Matthew Johnson-Doyle, minister of High Plains Church, Unitarian Universalist (www.hpcuu.org), which is on record as fully supportive of marriage equality, said the following: "I believe in the equality of all people, regardless of their sexual orientation. A marriage, to me, is a covenant between two people who love each other. It does not matter to me if those people are two men, two women, or a man and a woman. When their covenant is acknowledged publicly, and is made sacred by their commitment, then it is marriage. When the government says that marriage is between a man and a woman, they are really saying that marriages between two men or two women are invalid, unworthy. That their love and covenant is a fraud. That's insulting, that's wrong, and that's none of the government's business. I think that all marriages between two consenting adults should be treated equally by the government... Equality under the law is more than just a constitutional requirement, it is a moral imperative."

The opposing side (of marriage equality) views same-sex marriage as a threat to the family, marriage, and mortality. Colorado Springs's faith based organization Focus on the Family has been unyielding about civil unions and gay marriage, saying in their position paper that: "Marriage is a sacred, legal, and social union ordained by God to be a lifelong, sexually exclusive relationship between one man and one woman. Focus on the Family holds this institution in highest esteem, and strongly opposes any legal sanction of marriage counterfeits, such as the legalization of same-sex marriage or the granting of marriage-like benefits to same-sex couples, cohabiting couples, or any other non-marital relationship." In the absence of the right to marry, same-sex couples can establish a handful of basic arrangements by naming each other in a will or a power of attorney. However, even these documents remain susceptible to challenges in court by unhappy family members. Legal documentation also costs significantly more to prepare than the cost of marriage licenses in most states and are more vulnerable to not being recognized in other states.

One critical aspect of marriage equality involves same-sex families with children. Unlike partners in heterosexual marriages, who become guardians of their stepchildren, gay and lesbian partners

frequently have to struggle for guardianship rights for their partner's children, or for the right to adopt foster children. There have been numerous reports that indicate a rise in gay and lesbian parenting since the 1990s. According to a 2000 Census conducted by the Urban Institute and the Human Rights Campaign, gay, lesbian, and bisexual parents in the United States are raising anywhere between one and nine million children. An estimated one out of three lesbian couples and one out of five gay male couples are raising these children.

Studies have consistently shown that children raised by gay and lesbian parents do just as well on all standard measures of child development as children raised by heterosexual parents. The nation's leading children's health, children's welfare, and mental health organizations- such as the Child Welfare League of America, the American Academy of Pediatrics, and the American Psychological Association - are aware of this and have issued statements that emphasize that parents' sexual orientation is irrelevant to their ability to raise children. Despite these studies and the support from professional associations, gay and lesbian families are not treated like other families under the law, according to a 2002 Human Rights Campaign Foundation report. Each state has its own separate laws governing adoption, custody, visitation, and surrogacy. In some states, lesbian and gay couples are outright banned from adopting. In some other states, the law unmistakably forbids discrimination on the basis of sexual orientation. Yet other states' adoption laws don't address sexual orientation at all, which leaves the question (of whether a couple or individual can adopt) up to an understanding of case law and, in most cases, the judge who hears the case. Since custody and visitation decisions are made strictly on a case-by-case basis, it is difficult to predict when gay and lesbian parents might win custody and when judges may discriminate against same-sex couples on the basis of the parents' sexual orientation. The handling of parenting disputes also varies often dependent on whether an individual is leaving a heterosexual relationship or a same-sex one.

Same-sex couples in long-term committed relationships in the United States also pay more in taxes and receive less in federal benefits than heterosexual couples. Despite paying payroll taxes, gay and lesbian partners receive no form of Social Security survivor benefits. After the death of a worker, pension plans pay survivor benefits only to the legal spouse of the participant, thereby excluding gay and lesbian partners from such pension benefits. Furthermore, a gay or lesbian surviving partner inheriting a 401(k) might end up paying up to 70 percent of it in taxes and penalties.

With regard to health benefits, most employers do not provide insurance coverage to the life partners of gay and lesbian employees. For those employers who do offer it, the employee must pay federal income taxes on the value of the insurance. When a gay or lesbian person is gravely ill, there are no legal documents that would make their partner eligible to take paid leave from work under the Family and Medical Leave Act, since this law applies only to married couples. Same-sex partners may also be denied the right to visit each other in the hospital if they are sick or injured. When elderly lesbian or gay people are in need of nursing home care, there are no legal documents that would offer them the right to Medicaid coverage without potentially causing their partner to be removed from their home.

In addition to the secondary status afforded to gay and lesbian families with children, along with the inequality of financial and health-related benefits for same-sex couples, current U.S. immigration law does not permit lesbian and gay citizens or permanent residents to petition for their same-sex partners to immigrate or become naturalized citizens. As a result, thousands of couples are forced to separate or to migrate to one of the 15 countries that offer more welcoming immigration laws.

In reviewing all of the differences between civil unions and gay marriage, it is important to note that the Federal Marriage Amendment, which is currently under review in Congress again, represents the only time in American history that the U.S. Constitution would single out one class of American citizens solely for discrimination, by barring same-sex couples access to the equal protections of marriage. Forty states today have either laws or state constitutional amendments

that ban marriage between same-sex couples. In the state of Colorado, proponents of a ban against same-sex couples accessing marriage benefits have expressed their intent to introduce a constitutional amendment on the 2006 statewide ballot.

To learn more about their plans, and the impact of a constitutional amendment on same-sex couples and their children, contact Citizens Project Executive Director Ellie Collinson to get more involved. For more information about marriage equality, please visit the Human Rights Campaign [website](#) and view their 2004 publication Answers to Questions about Marriage Equality. To view Focus on the Family's position paper on same-sex marriage and civil unions, [click here](#).

Voucher Debate Continues in Local School Districts

by Elizabeth Palmer, Alliance for Quality Public Schools

Should the universal right to taxpayer-supported public education include the provision of public funds for private school tuition? Who should evaluate the performance of our public schools and make decisions about public funding for schools? Can the voucher movement bring meaningful reform to our education system, or does it blur the line between freedom of religion and a taxpayer subsidy of evangelical endeavors? These were some of the hotly debated issues at the "Community Discussion on Public Education and the Voucher Movement" jointly hosted by Citizen's Project and the Alliance for Quality Public Schools at the Meadow Park Community Center May 12th.

Moderator Helen Upton of the Springs Community Action Network had her work cut out for her as passions ran high among panelists and audience members on all sides of the debate during the two-hour forum, which drew about 75 community members as well as local media. Panelists were Tom Binnings, board chair of the Shivers Academy of Art, Science and Technology, a charter high school serving primarily disadvantaged youth; Evie Hudak, School Readiness Coordinator for the State of Colorado's Department of Human Services, and a State Board of Education member; and local real estate developer Steve Schuck, an education-reform advocate and current or former board member of the Daniels Fund, the Independence Institute, and the Colorado Alliance for Reform in Education.

Significant debate centered on who should decide whether a school is failing to educate kids. Binnings noted that without an option such as Shivers Academy, many of his students would drop out of the system altogether. Hudak touted the value of public charter schools such as Shivers as an example of positive reform, while underscoring that expansion of parental choice through public charters does not drain funding from public schools as vouchers would. Schuck steadfastly maintained that individual parents must be empowered to judge the success or failure of public education and have the opportunity to take their business to the private sector at taxpayer expense if they so choose. None of the panelists addressed what role, if any, the majority of taxpayers who do not have school-aged children should play in decisions about neighborhood schools or public funds for private or religious schooling.

Debate also focused on what standards of reporting and accountability schools receiving taxpayer funds should be responsible for. Hudak asserted that freedom from the regulatory requirements of public education is one of the advantages of private enterprise, while Binnings noted that some of those requirements, such as the Annual Yearly Progress standards of the No Child Left Behind Act, can be prohibitive for schools catering to students who have done poorly in mainstream schools. Schuck contended that the current system of public education contains no measures of accountability for taxpayers, including student achievement.

The panelists agreed that while their approaches to education reform and parental choice vary greatly, as do those of the community, they have the best interest of children at heart. Further, all three panelists emphasized the importance of voters making informed choices at the ballot box, selecting and supporting candidates that represent their priorities in public education administration.

The subject of privatizing public education through vouchers is likely to be thematic in local discussion of education issues, especially with the approach of November's elections for several local school boards. Many current and hopeful school board members from local districts attended the debate, including six of the seven members of the highly contentious Colorado Springs School District 11 Board of Education.

For those interested in the subject of vouchers and their impact on the separation of church and state, Citizens Project has issued a brief position paper on religion in public schools. [Click here](#) to review it. BlackBeat Productions taped the event and will soon have DVD copies available for sale. BlackBeat's programs air on Channel 4 Sundays at 3 p.m. and on Channel 17 Fridays, Saturdays, and Sundays at 9 p.m.

Community Conversations-- Dr. Jim White

by Ellie Collinson

On the occasion of Jim White's retirement from the position of senior pastor at First Congregational Church, Citizens Project wishes to thank him for his tireless efforts to promote religious tolerance, equal rights, and the separation of church and state in our community.

Q: You moved here in 1989. What changes have you observed in the local community since that time? Did the community suddenly become very conservative?

A: It always was here. Historically the city was called "Little London" when William Jackson Palmer came here. It was a bastion of conservative ideas for the state from the first. It has continued to be so. The residents were opposed to alcohol, brothels, and such. All those things moved to Manitou Springs, Old Colorado City, somewhere else. So the city was to be a conservative, straightlaced community by intention from the very first, and it has kept that way. The second thing that seems to me that has happened is we now have a stronger military presence in Colorado Springs. First from Fort Carson and Peterson Air Force Base, and then in the 1950s from the addition of the Air Force Academy. It has been my experience that many of the retired officers living in our community have also added a conservative element to the city. Thirdly, something new was happening just when I arrived here - the influx of parachurch organizations. There have been religious groups here, such as The Navigators and Young Life, for a long time. But then you see in the early '90s more conservative religious groups coming, in particular Focus on the Family with the grant from the El Pomar Foundation that enticed them to come here. And so then it is has become a magnet for conservative religious groups and parachurch organizations. The city has become Vatican West, if you will. So that is part of the nature of our community, which has always been that way, but is more so in the last 10 or 15 years.

Q: Can you share a memory of your ministry when you felt you came into conflict with a predominant value in the community?

A: A great example was in 1992 when the city council had this open, gracious, accepting ordinance that they were going to pass including the acceptance of gay and lesbian people. But

there arose a great stink about it. I went to the hearing with a couple of members of my church, and said to the people assembled, "The United Church of Christ thinks you ought not deny rights to people on the basis of sexual orientation." But, my god, there must have been 200 people at the City Auditorium that were angry about this ordinance, and there were only 20 or 30 of us who were saying "We think this is a nice idea to not discriminate against people for housing or jobs or accommodations." That's when the big uproar came, so the city fired the Human Relations person and never passed the task force's resolution and, I think, that became the genesis for the agitation for Amendment 2. So that was a moment that I realized that really are folks out there not open to accepting people of a different sexual orientation.

Q: I've heard you are going to be joining the ACLU's local board. How do you respond to people who say you can't be religious and involved with the ACLU?

A: I've been a member of the ACLU for many years. I usually like where they come out on issues. I think they are fairly consistent with the teachings of Jesus, especially in regard to tolerance. But, see, I think we have a unique American experience with religion because of the disestablishment of religion. There is always this danger of reestablishment; it was true in the 19th century and the last century, and it is especially true today. And the ACLU says that we have to prevent that for the sake of religion more than for the sake of the state! Religion is healthier in America because of the separation of church and state. It is precisely because they are separated that religion in America is stronger.

Q: There is sometimes a tendency in this community to describe Christians as a monolith: that all Christians share specific values, or that all Christians are trying to impose their values on other people. How do you articulate the plurality of religion in this community to people?

A: My colleague Ben Broadbent has a bumper sticker with a fish symbol on it that says "Remember when this wasn't a sign of embarrassment?" I also love the bumper sticker that says "Christ, deliver me from the Christians." Well, there is a sense that fundamental evangelical Protestants are in a high-riding position right now. And I think they are convinced that they have a great truth to share and that their values will prevail. But I think we ought to remind ourselves that the fundamentalist evangelical perspective is not a majority perspective. There are so many Catholics that are not evangelical - they are perhaps the largest plurality in this community. There are so many mainline Protestants that have never acted like they want to dictate to the world about what should happen with the social issues that are out there. But there is an evangelical fundamentalist point of view that has reached ascendancy today. There are some high-profile supporters locally in the persons of Jim Dobson and Ted Haggard at New Life, both of whom I consider friends. They have some points of moral view that I disagree with; I have been in conversation with them for a long time and we just disagree. Usually pretty amicably. These are two charming, nice guys that have legitimate points of view that I think ought to be heard, but if some people interpret that as dominance, then I think we are in trouble. So I just want to remind us that conservative forces are not overwhelming us.

Q: You mentioned you are a friend of Jim Dobson and Ted Haggard. Has there ever been a policy issue that you agreed with them about?

A: We did a joint statement in the paper several years ago about the importance of tolerance and acceptance of all points of view. Dobson signed off on it, Bishop Hanifen, Rabbi Hirsch, all of us signed off on it. That was one time when we agreed. Actually, I can think of another. I personally am not happy about gambling in this state. Jim Dobson is not. Most religious leaders are not big gambling fans and so we have something we can agree on there. I've also noticed that Ted Haggard has lately been speaking like a "Greenie" and I say, "Hooray Ted! Welcome aboard!" So there are those kinds of issues you can focus on. I think there is latent recognition that economic justice for the poor is a concern of both liberals and conservatives. It is just that "genital issues" have become so big for conservatives, blocking out weightier Christian issues. My suspicion is

that many organizations are able to raise money by focusing there ... and so they do.

Q: How do you define the separation of church and state for yourself personally?

A: These are always murky lines, I think. I don't want to default on essential moral issues and leave them aside. Christians should not practice our religion separate from the world, though many have tried to separate things into two realms, "two kingdoms." Luther can go there. Orthodox believers take the point of view of not getting involved in politics at all. But such aloofness is not the Reformed tradition. Congregationalists have made some mistakes, as when they tried to set up theocracies. You could not participate in a New England town back then if you were not part of the Congregational church. And their establishment of religion lasted until the 1830s in Connecticut, I think. Well, we've had to get out of that. The irony of American religious history is that this very separation of church and state has forced religion to be more responsive to people, more relevant, more dynamic, and I just think that is a blessing that has come along. It is the first time there has been disestablishment since Constantine made the establishment in the 4th century. Ever since then we were thinking there could only be one religion and one political order. And now, because of the American experience, we know it is different and I say Hallelujah!