



THE LEGAL DEBATE OVER SAME-SEX MARRIAGE

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Should gay couples have the right to legally marry in the United States? That is the question currently being debated in many political, religious and legal circles.

U.S. federal law currently prohibits marriage between same-sex couples. But, gay rights advocates argue that preventing people from getting married -- whether they are gay or straight -- amounts to discrimination and violates human rights.

The legal battle

Since the Supreme Court threw out a Texas law banning sex between gay couples in June, issues of gay rights, including the marriage, have been in the spotlight.

The decision declared a victory for gay and lesbian couples and convinced some it was a good time to push for legalized marriage.

While advocates say they are only seeking equal rights under the law, many people, citing deeply held religious beliefs, contend marriage should only be allowed between a man and woman.

The issue is attracting much attention in Massachusetts, where the state Supreme Court is weighing whether several same-sex couples can legally marry.

In one case, a lesbian couple together for 16 years and raising a daughter, sued the state for refusing them a marriage license.

"We are not considered spouses. If Julie were to die, it is possible I would have to sell the house because I would have to pay tax on the inheritance, which most spouses would not have to do," explained one of the women.

Marriage licenses are granted by the states. None provides licenses to gay and lesbian couples, though Vermont allows "civil unions" that give gay couples the same state benefits as a married couple.

At the federal level, the government has said it is opposed to gay marriages. The 1996 Defense of Marriage Act, signed by President Clinton, defines marriage as "only a legal union between one man and one woman."

"No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same-sex that is treated as a marriage ... or a right or claim arising from such relationship," the law reads.

If Massachusetts does legalize marriage, gay couples hope the Constitution's "Full Faith and Credit Clause" will cancel out the 1996 law.

"Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state," the clause reads, in part, meaning that states are expected to uphold rights and privileges granted by a different state's law.

A cultural and religious issue

To many Americans, marriage represents a cultural and religious institution and not just a legal debate. President Bush, during a recent news conference, cited his religious beliefs in saying, "I believe a marriage is between a man and a woman."

The president also said his staff was looking for ways to legally classify the term "marriage" as the union between a man and woman only and Republican lawmakers are considering an amendment to the U.S. Constitution that would outlaw same-sex marriage.

"I very much feel that marriage is a sacrament, and that sacrament should extend and can extend to that legal entity of a union between -- what is traditionally in our Western values has been defined as between -- a man and a woman," Senate Majority Leader Bill Frist, R-Tenn., said in June.

A document released by the Vatican soon after President Bush's statement called on Catholic lawmakers to oppose any effort to legalize gay marriage.

Advocates of gay marriage counter that religious doctrine should not influence the creation of law, pointing to the Constitution's ban on an established religion -- often referred to as separation of church and state.

"I think that that's very problematic for democratic countries like our own, which are founded upon the separation of church and state in which the legislators' highest duty is to uphold the Constitution," Marianne Duddy, executive director of Dignity/USA, said.

Lawmakers say they will await the outcome of the Massachusetts decision before moving forward with a case for a Constitutional amendment.

By Kristina Nwazota, Online Newshour