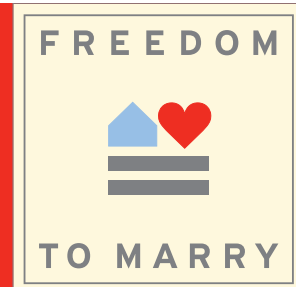


Marriage Makes a Word of Difference

Why We Can't Call it Something Else



BY EVAN WOLFSON

"What difference does the word make?"

It's a question often asked of same-sex couples seeking to end their exclusion from marriage—as if these couples had just dreamed up the idea that somehow marriage matters. "Why can't you call it something else?"

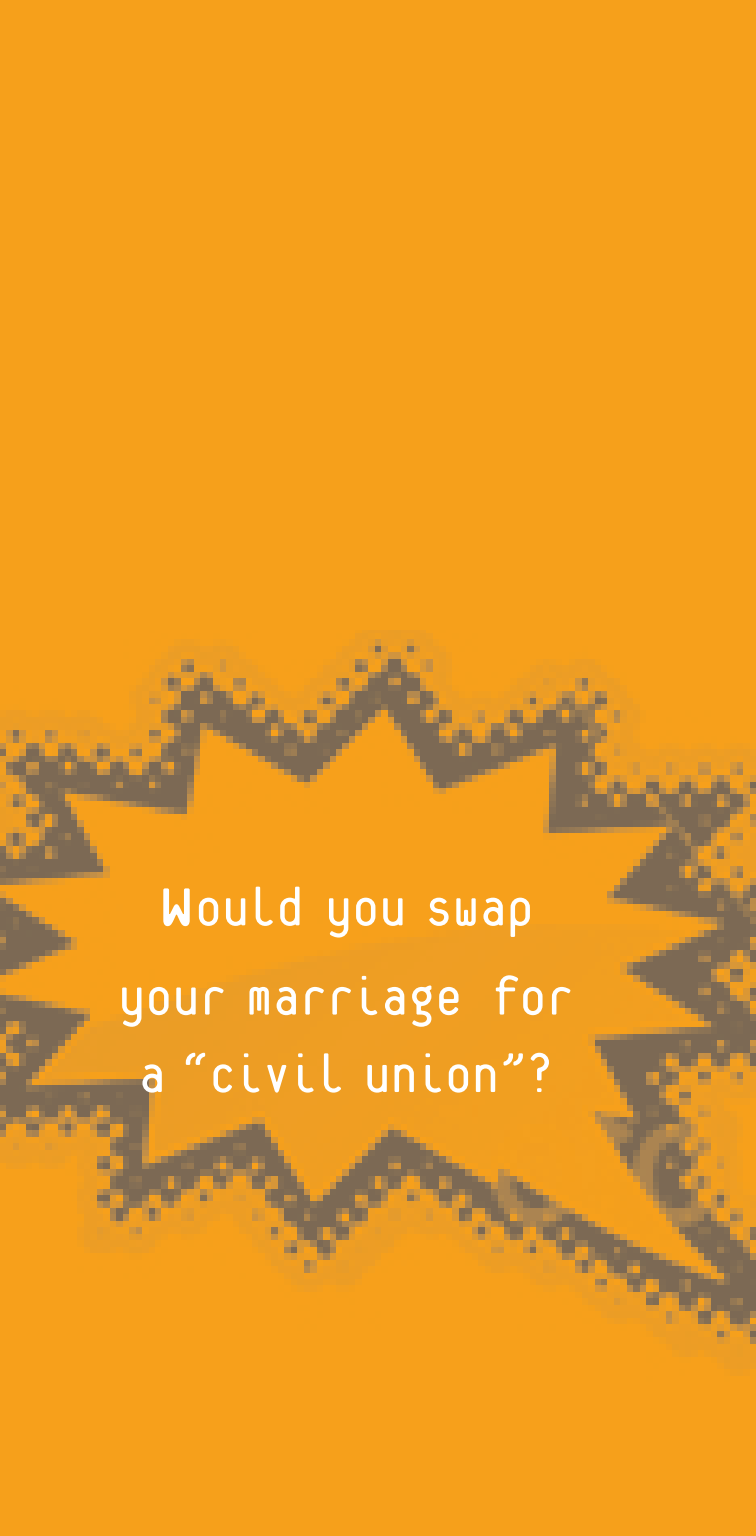
As Americans debate the freedom to marry, many are getting to a place of fairness by thinking anew. Others, however, find comfort in way stations, placeholders, and delays. The compulsion to "compromise" the freedom and equality of others is so common, so much a typical feature of civil rights history, that I dedicated an entire chapter of my book, *Why Marriage Matters: America, Equality, and Gay People's Right to Marry*, to the question, "Why Not Use Another Word?"

Words matter, of course. As *The Hartford Courant* noted in a recent editorial urging Connecticut's legislature and high court to move past the 2005 civil union bill to full marriage equality: "Mark Twain famously illustrated the difference between the right word and the almost right word by using as an example the difference between 'lightning' and 'lightning bug'... What's in a word? For those who want to marry and can't, plenty."

Marriage, as it happens, is not "just" a word. It is a status, created by the law, the very law America pledges equal justice under, to all.



what's in
a word?



Would you swap
your marriage for
a “civil union”?

The reason why any other status, call it what you will—civil union, domestic partnership, or *schmarriage*—is not adequate or fair is that one of the main protections that comes with marriage is, indeed, that status of marriage. When you say, “We’re married,” everyone knows who you are in relation to the primary person you’re building your life with. That clarity, security, and dignity—intangible though they may be—is precious and irreplaceable.

Every legislator debating a marriage bill or its alternative, every judge hearing a case brought by couples and kids excluded from marriage, every American wrestling with this question of fairness, should ask themselves these questions: Either civil unions and marriages are the same—in which case why do we need two lines at the clerk’s office?—or they’re not the same, in which case what is the government withholding from these couples and their kids, and why? Would you swap your marriage for a “civil union”? And if you say yes, have you checked with your spouse—and your mom?

Not only is there no good reason for the state to create two separate and unequal statuses and shunt some couples around back; in fact, the new legal mechanisms of civil union or domestic partnership fall far short of providing the tangible protections and responsibilities that families need. A recent *New York Times* story highlighted the ways in which New Jersey’s new civil union law is failing to deliver needed security for couples and kids; Garden State Equality, leading the NJ fight for full marriage equality, notes that the law has more than a 10 percent failure rate.

Why give families inadequate and incomplete piecemeal protections instead of the full measure? Why withhold what the one nationwide, universally understood, already existing system of protections and responsibilities would provide? That unique and established system is called marriage.

A record number of state legislatures this year considered bills to end marriage discrimination, and a record number, including Oregon, passed measures en route to marriage equality. Whether such stepping stones are called civil union, as in New Hampshire and in the bill under consideration now in Illinois, or broad domestic partnership, as in California or here in Oregon, is not all that important. Marriage, after all, is a civil union (a legal status triggered by a civil marriage license), but “civil union” is—deliberately, pointedly—not marriage, with its unique, full dignity and meaning.

Oregon’s term “partnership,” rather than the now easily invoked “civil union” (coined, amazingly enough, just seven years ago, and now already the default middle ground), perhaps better highlights the incompleteness. But, in fact, both civil union and domestic partnership are intended both to give and to withhold.

Both provide some protections for same-sex couples and their children, acknowledged to have parallel needs and dreams, but both deny these families full protection, security, and equality.

A word, a status, a system—marriage is all this and more. Marriage is a commitment, an aspiration, a highly significant personal lived experience, a bundle of personal, social, and spiritual meanings, and, at its best, a strengthener of couples, children, kin, communities, and country. It makes no sense to exclude loving couples already doing the work of marriage in their daily lives from the legal structure intended to reinforce that dedication, those meanings, and, at its heart, commitment and love.

For much of our nation’s history, women were denied the right to be lawyers. The Supreme Court itself upheld that exclusion, opining that each sex has its proper sphere and necessary roles, and the “paramount destiny [of women is to] fulfill the noble and benign offices of wife and mother. This is the law of the Creator.” Majorities sincerely believed that it was okay to withhold full participation in life choices, including the freedom to marry, based on a person’s race or sex. By tradition and “definition,” lawyers were men, and that, most believed, is how it had to be.



SAME RULES.
SAME RESPONSIBILITY.
SAME RESPECT.

But when, over the objections of traditionalists, religious leaders, and pandering politicians, our society eventually moved past such discrimination and allowed women to practice law, the sky didn't fall, and we didn't need to come up with a new word for lawyer. The definition of what it means to be a lawyer didn't change; we only needed to end an unfair exclusion. In the same way, marriage is not "defined" by who is excluded, and ending same-sex couples' exclusion will not redefine a word; it will share a precious good.

The right way to end exclusion from marriage is, yes, to *end exclusion from marriage*. In Oregon, that means undoing the cruel and un-Oregonian state constitutional amendment voters were rushed into enacting in 2004 before getting the full opportunity to meet same-sex couples and hear the personal stories—stories that prompted the legislature this year to enact partnership and get the state back on the road to fairness. Discrimination has no place in the Constitution or the law, no place in Oregon or the rest of America, and no place in marriage either.

We don't need a new word. We don't need a new status. We need to let committed same-sex couples share the same rules, same responsibilities, and same respect. Support the freedom to marry. That's the word. Word out.

Evan Wolfson is Executive Director of Freedom to Marry, the gay and non-gay partnership working to end marriage discrimination nationwide, and author of Why Marriage Matters: America, Equality, and Gay People's Right to Marry (Simon & Schuster, 2004). In 2004, Time magazine named Wolfson one of the "100 most influential people in the world."

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Discrimination

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