



NJ Proves Marriage, and Only Marriage, the Goal

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When the New Jersey Supreme Court unanimously found that excluding same-sex couples from the full rights and benefits of marriage violated that state's Constitution, it gave the state Legislature 180 days to allow such couples to wed or create a "parallel statutory structure" that grants all of the legal incidents of marriage to those couples, but goes by another name.

The plaintiffs in the New Jersey case and gay groups across the nation rejected civil unions or domestic partnerships as a response to the court's instruction, saying that only marriage would do.

Six years after the gay and lesbian community celebrated the enactment of civil unions in Vermont, marriage has become the default position in the queer community. And civil unions or domestic partnerships, once aggressively pursued by the community, are described in unflattering terms.

"These don't work to protect families," said Evan Wolfson, executive director of Freedom to Marry, a pro-gay marriage group. "Anything other than the full freedom to marry doesn't protect families so why would we settle for it?"

Like New Jersey's Supreme Court, Vermont's highest court had ordered that state's Legislature to allow gay and lesbian couples to marry or to create an alternative legal structure. Wolfson, one of the nation's leading gay marriage strategists, said the Vermont solution was wrong.

"We have six years of experience now," he said. "If you look at the polling in Vermont... a plurality supports marriage over civil unions because they have seen with their own eyes that it was a good step forward, at the time, a huge step forward, and yet not good enough. New Jersey doesn't have to repeat Vermont's mistake, but can benefit from Vermont's experience."

At a press conference held at the Episcopal Diocese of Newark on October 25, the day the ruling was released, the plaintiff couples who spoke clearly saw civil unions as inferior to marriage.

"When you hear the word marriage anybody who is married knows the commitment that goes behind that word," said Chris Lodewyck who appeared with Craig Hutchison, his partner of 35 years. "You need to say nothing further. Nobody knows what civil unions are, nobody knows what domestic partners are."

Diane Marini spoke of her experience with Marilyn Maneely, her partner of 14 years, after Maneely became seriously ill. The couple had registered under New Jersey's 2004 domestic partnership law.

"The handful of rights that were afforded by the state were greatly appreciated, but it wasn't marriage, it was never marriage," Marini said. "It gets very burdensome to have to explain who you are and what you are and what your relationship is."

The New Jersey domestic partnership law granted registered couples just 10 of the 850 rights given to married couples.

Maneely died in 2005 and she had willed her body to science. When her body was picked up, Marini was told that her approval was insufficient and one of Maneely's adult children had to approve the transfer.

"Before her body was taken out of the house I was told that my signature wasn't good enough," Marini said. "It shouldn't be that way, we should not be second-class citizens. We were in a long-term, committed relationship. We were there through thick and thin, through good times, bad times, through health and sickness."

David S. Buckel, marriage project director at Lambda Legal, the gay public interest law firm that handled the case, made a similar point at the press conference.

"Equality means you have the same choices that others have, not a different choice, an alternate status, an inferior status," he said.

The shift shows that the community leadership is now fully on board in the pursuit of marriage rights. The grassroots have largely, though not entirely, embraced gay marriage and sought it for years.

In a 1994 article in the Review of Law and Social Change, a New York University journal, Wolfson noted that the first efforts at winning gay marriage came in 1971 in Minnesota, 1973 in Kentucky, and 1974 in Washington State. All three cases were losses.

Wolfson also noted that at "The Wedding," held during the 1987 March on Washington, "thousands of lesbians and gay men... celebrated their relationships by exchanging personal vows before an officiant in front of the Internal Revenue Service building."

Similar numbers have been seen in response to recent advances. Massachusetts legalized gay marriage in 2004 and more than 8,000 gay and lesbian couples have married there since then.

When Gavin Newsom, San Francisco's mayor, allowed gay marriages in that city in 2004, some 4,000 couples were married there in roughly one month. Those marriages were ultimately nullified.

Also in 2004, Jason West, the mayor of New Paltz in Upstate New York, married 25 gay and lesbian couples before a restraining order reined him in. West told Gay City News in a 2004 interview that another 3,500 couples had put their names on a waiting list to get married.

Civil unions have been less popular. Since 2000, when Vermont passed its civil unions law, 1,286 Vermont couples have registered there though 8,058 couples from elsewhere in the country and around the world have also entered into such unions in that state.

Connecticut's civil unions law took effect in October of last year and 1,111 civil unions have been registered there through August of this year. There have been four dissolutions during that time.

Not everyone agreed that a consensus to support gay marriage has formed in the queer community.

Richard Kim, a professor at Skidmore College and a signatory on the Beyond Marriage statement, said that following successful efforts to ban gay marriage, "a majority" within the queer

movement "wants to hear about alternative arrangements," such as civil unions. Forty-one states ban gay marriage with state constitutional amendments, by statute, or both.

"You go to Creating Change and you get people who are mobbing the alternative-to-marriage panels," said Kim referring to the annual autumn conference produced by the National Gay and Lesbian Task Force. "I think it's easier now than it was a year ago and it was five years ago."

The Beyond Marriage statement, released in July, called on the queer community to seek "legal recognition for a wide range of relationships, households, and families." The statement was signed by more than 250 leading thinkers and activists.

In Wolfson's view, the consensus formed in 2003 when Canada legalized gay marriage.

"From that point on, all the leadership organizations, all the activists understood that if Canada can do it, we can make it happen here," he said. "From that point on, there has been a commitment from all the leadership organizations to doing this."