



## **Statement for Equality on the Political Issue of Same-Sex Marriage**

We, the board of directors of Protestants for the Common Good, offer here a specific contribution to current public debate about government's relation to marriage. We emphasize that our focus concerns this issue as a political question, that is, a question about what constitutional provisions and other laws are consistent with justice. Our conclusions are deeply informed by our faith commitments. *But we appeal to our faith here solely as grounds for an interpretation of democratic justice and do not address how marriage should be authorized within the Christian or any other religious community.*

We believe that the God of boundless love who, for us, is decisively revealed in Jesus Christ is also present to every member of the human community. This God redeems all the world and empowers every person to love God in return by loving all those whom God loves. We humans are meant to love our neighbor as ourselves, that is, to love every person as someone loved by God. Our life together, then, is meant to be a community of mutual love, through which all people flourish because we each receive from and give to the achievements of others.

In our society, those whose sexual orientation is to persons of the same sex have long been treated by the larger community in ways that violate the mutuality to which God directs us all, and we confess our own complicity, directly or indirectly, in the injustice and debasement they have suffered. All are called, we believe, to acknowledge this legacy of mistreatment and to help overcome it. Recognizing that response to this calling requires attention to many aspects of our life together, we believe that public deliberation might be advanced by viewing the issue of same-sex marriage solely insofar as it involves a democratic state's responsibilities.

As noted above, therefore, we do not seek in this statement to review or comment on differing understandings of marriage authorized by differing religious traditions or communities, for instance, as a sacrament or holy union. We intend in no way to criticize or approve any of these understandings, and we thoroughly affirm the freedom of every religion to sanction marriage in accord with its own beliefs. Our concern is solely with marriage insofar as it is authorized by the state and, thereby, includes civil benefits.

We conclude that the democratic civil order should treat heterosexual and same-sex couples equally, providing to each the same benefits it provides to the other. Thus, we do not call for a legal sanction of same-sex marriage unless the civil order sanctions heterosexual marriage. Civil equality would also be honored by deciding that marriage is a religious act to be performed by religious communities in accord with their own beliefs, and the state should provide equal benefits to both heterosexual and same-sex couples through the authorization of civil unions.

## **I. The proposed amendment to the United States Constitution defining the institution of marriage is contrary to the fundamental purpose of a democratic constitution.**

We believe that the kind of government proper to a common life aimed at mutuality is democracy at its best, in which every person is a member of “we the people” and, together as equals, the people rule themselves. Government by the people is rule through full discussion and debate in which all are free to participate as equals, and democratic respect for each other is the indispensable public form of the human mutuality to which God calls every person.

In order to ensure this kind of government, democratic constitutions provide the necessary framework for the people to discuss, debate, and decide on laws and policies that serve the common good. A constitution of this kind defines the rights that belong to all persons as equal participants in the democratic process and provides the political and legal procedures and institutions through which decisions of the people are taken, interpreted, effected, and revised. Roughly speaking, a democratic constitution sets the political framework in the way that Robert’s Rules of Order set the framework for the business of a meeting. Participation in the meeting does not require any specific belief about the business except that it should be decided through the proper order, and membership in “we the people” requires no specific political belief except commitment to the democratic way.

Based on this understanding of a constitution’s purpose, we oppose an amendment to the United States Constitution defining the institution of marriage, regardless of what view the proposed amendment includes. This kind of amendment neither defines a right that belongs to all citizens as political participants nor provides procedures and institutions through which the people’s decisions are taken, interpreted, effected, and revised. To the contrary, an amendment defining marriage would place within the necessary framework of democratic government a specific political belief that belongs to laws enacted by legislative bodies, which, so long as they are constitutional, the people are bound to obey but are always free to contest and revise through subsequent discussion and debate. In this respect, an amendment defining marriage would be like taking some piece of business to be decided at the meeting and writing it into the rules of order. That move is an unwise use of a democratic constitution and finally contrary to government by the people.

## **II. Unless a compelling public good is served, laws that give privileged standing to marriage between a man and a woman violate democratic equality.**

Deeper than the law itself is a devotion in the American society to equality as an element of justice. Applied to the law, this commitment requires, we understand, equal treatment of all citizens in the following sense: A law is fundamentally unfair and should be unconstitutional if it provides benefits to some citizens and not to others based solely on their natural or historically created differences, that is, differences not resulting from relevant choices the individuals have made. For instance, it is unjust to discriminate among citizens based solely on differences in race or gender or ethnic origin. Any such law treats members of “we the people” as if differences they did not choose make them morally better and worse, and thereby violates their fundamental equality.

A law that provides differing benefits based on natural and historically created differences is consistently democratic only when needed to serve some compelling public good. For instance, laws of military conscription may pass this test even though they differentiate on the basis of age. We also believe that some laws prescribing affirmative action are proper because they help to correct the effects of generations of institutionalized discrimination. Nonetheless, there is special reason to doubt that a law serves some compelling public good when it disfavors a minority that has been widely treated as somehow less than fully human.

On their face, laws that give privileged standing to marriage between a man and a woman violate democratic equality because a person's sexual orientation is, at least typically, beyond her or his control. Differences in sexual orientation are, at least typically, not the result of relevant choices the individuals have made. Moreover, there is special reason to doubt the justice of such laws because those whose sexual orientation is to persons of the same sex are a minority that has been widely treated as somehow less than fully human.

### **III. Arguments that laws giving privileged standing to marriage between a man and a woman serve a compelling public good are unconvincing.**

We recognize that some Christians and some other fellow citizens have argued that legal marriage restricted to heterosexual couples serves a public good by which the unequal treatment of same-sex couples is justified. As a contribution to public debate, we will mention four of these arguments and indicate why we now consider them unconvincing.

(1) Some have said that civil equality for heterosexual and same-sex couples reduces the basic form of intimate association to a committed, affectionate sexual relationship and thereby undermines a long-standing recognition that sex, procreation, and the raising of children should be united in the human community. But most citizens agree that understandings of marriage are not necessarily good merely because they have been long-standing; for instance, the traditional practice of male rule is now widely thought to be wrong. Moreover, we do not see how this reasoning can have force unless, as a conclusion, we should also disfavor the many heterosexual marriages that cannot or choose not to include children. To all appearances, intimate association in our current society and culture is a committed, affectionate sexual relationship—and, when that relationship results in children, a committed, affectionate, sexual, parenting relationship. We see no reason to believe that the possibility and integrity of a parenting relationship is undermined unless the law says or implies that procreation and the raising of children are essential to the basic form of intimate association.

(2) Some have said that civil equality for heterosexual and same-sex couples is unjust to children because it denies politically the importance of care by the procreating parents. We find it difficult to see how this conclusion follows. For a variety of reasons, as our civil order already recognizes, the welfare of children is often better served by nurture in single-parent homes or adoptive homes. We allow that, if all other things are equal, the union of procreation and care is desirable. But civil equality for heterosexual and same-sex couples does not deny this fact, any more than it is denied by legal equality for biological and adoptive parenthood. Justice to children requires recognition that care by both biological parents is important to nurture only if other favorable conditions are present, and in fact differing sets of circumstances are in differing cases equally beneficial. Thus, the law should

privilege or require only conditions—for instance, freedom from abuse; provision for health, safety, and growth; and education—that should never be absent.

(3) Some have said that civil equality for heterosexual and same-sex couples is unjust to other long-term caring relationships, such as a daughter or son living with and caring for her or his ailing parent or two people living together as companions but without a sexual relationship. We find it difficult to see how this consideration counts against legal equality for same-sex couples without also counting against heterosexual couples, unless there is another reason for giving special recognition to unions between a man and a woman.

(4) Finally, some have said that the family as a basic institution has been profoundly weakened by social and cultural forces, that the resulting dangers to social stability and welfare are severe, and that legal equality for same-sex couples will intensify the problem. We, too, are concerned with the well-being of families. But the difficulties facing the family as an institution are not caused by persons whose sexual orientation is to others of the same sex. Given that sexual orientation is, at least typically, not a choice, we do not see how legal privileging of heterosexual relationships aids the family against wider forces. To the contrary, we believe, the importance of the family to our common life will be reaffirmed if the committed, same-sex relationships that now exist and will exist are no longer denied equal recognition by the law.

#### **IV. The civil order should treat heterosexual and same-sex couples equally.**

Democratic justice requires equal treatment of all citizens unless differential treatment serves an overriding public good. Because we see no convincing argument that laws giving privileged standing to marriage between a man and a woman serve the public good, much less a public need sufficiently compelling to override discrimination against a minority that has been mistreated, we oppose such laws. Whether marriage itself should, in distinction from some form of civil union, be authorized only by differing religious communities in accord with their own convictions is, we repeat, a question we do not here address. But the legal authorization given to intimate associations should not discriminate between heterosexual and same-sex couples.

Aware that many of our fellow citizens currently disagree with us, we hope that this statement might help to change their minds, and we welcome their response to it. For our part, the community of mutual love to which God directs all people essentially depends on the political mutuality of “we the people” and, therefore, on laws that unite us as equals in pursuit of the common good.

*Adopted by the Board of Directors of Protestants for the Common Good on June 9, 2004.*