

Inside the Bell

What About Marriage?

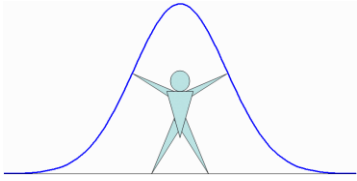
For quite a while, political dialogue has repeatedly returned to the subject of marriage. The focus has been the Defense of Marriage Act (DOMA) and the “right” of same sex individuals to marry. Opposing views are deeply entrenched in their respective positions and any coalescing of thought on the subject seems unachievable.

The origin of marriage is a social and religious rite that has evolved into law such that marriage has become spiritual and secular, social and legal. Why is government, at any level, concerned with marriage? What is the possible interest of government in the relationship between two, or more, people who choose to marry consistent with their conscience and the morals of their culture? I can imagine that government has an interest in protecting society from the dangers of sexually transmitted diseases and the procreation of siblings and first cousins. However, governments around the world have bestowed special status with legal rights and privileges exclusive to married individuals. These include the right of inheritance, tax advantages and medical decisions. Many of the individuals excluded from the ability to marry legally seek to obtain the special privileges available only to the married. Removing the exclusion usually focuses on gay and lesbian couples but also includes elderly siblings that seek to care for each other. Extending the definition of marriage to accommodate these individuals raises emotional responses from those who embrace the traditional, non-secular, definition.

In my opinion, government should not be involved in any aspect of marriage. A government license to marry is a major infringement on personal freedom and charging money for one could be considered by some to be discriminatory. Marriage should be the sole domain of the non-secular. Marriage is a rite of commitment between two persons and their respective Priest, Pastor, Rabbi, Imam, Ayatollah, Lama, Guru, Shaman, witch or best friend.

If government wants to encourage marriage and protect against inappropriate social contact for health reasons then the government’s only role should be to record the instances of marriage and collect the appropriate health and social information via a notarized statement of the “joining” of two persons for the purpose of applying the appropriate legal rights. The rite and the registration are separate actions and neither depends on the execution of the other. Marriage and Joining are separate decisions with separate requirements.

Calling the government registration a “Joining” separates the secular and religious actions and leaves the definition and use of the term marriage to the non-governmental agencies. There is precedent for using the term “Joining” to describe the legal union two individuals. The United States Government already



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recognizes the term in the IRS code with 1040 joint return filing status. With the creation of the concept of Joining, married couples are not required also to engage in a joining and may continue to file tax returns with single status and joined individuals may file joint tax returns without participating in the rite of marriage.

Changing the law, while not easy, is quite simple. Changing all references to marriage to joint or joining entails considerable research but little change in the law. This separation of marriage from government and the creation of a joining allows each couple to embrace a much, or as little, of the emotional and legal aspects of living together as comforts them.

Consideration must also be given to the dissolution of a joining. Joinings, like marriages, may not last forever. Undoing a legal joining is no different from current divorce action and requires few changes in the law. A legal divorce does not dissolve the marriage, just the joining. Dissolving the marriage is between the couple and their non-secular leaders as is the case with a Catholic annulment as a separate action from a legal divorce.

The above suggestion leaves considerable opportunity for abuse by social customs that differ greatly from the laws and customs of the country of residence. Nothing in the proposal bestows extralegal status to any non-secular rite or philosophy. The rights of individuals as codified in the laws of the country of residence still take precedence where religious law or customs may differ. It may be necessary to apply local, state and federal laws to the non-secular marriage to prevent physical abuse, the separation of belongings and the custody of children when a marriage fails.

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