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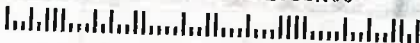
Why civil unions
aren't enough

By ANDREW SULLIVAN



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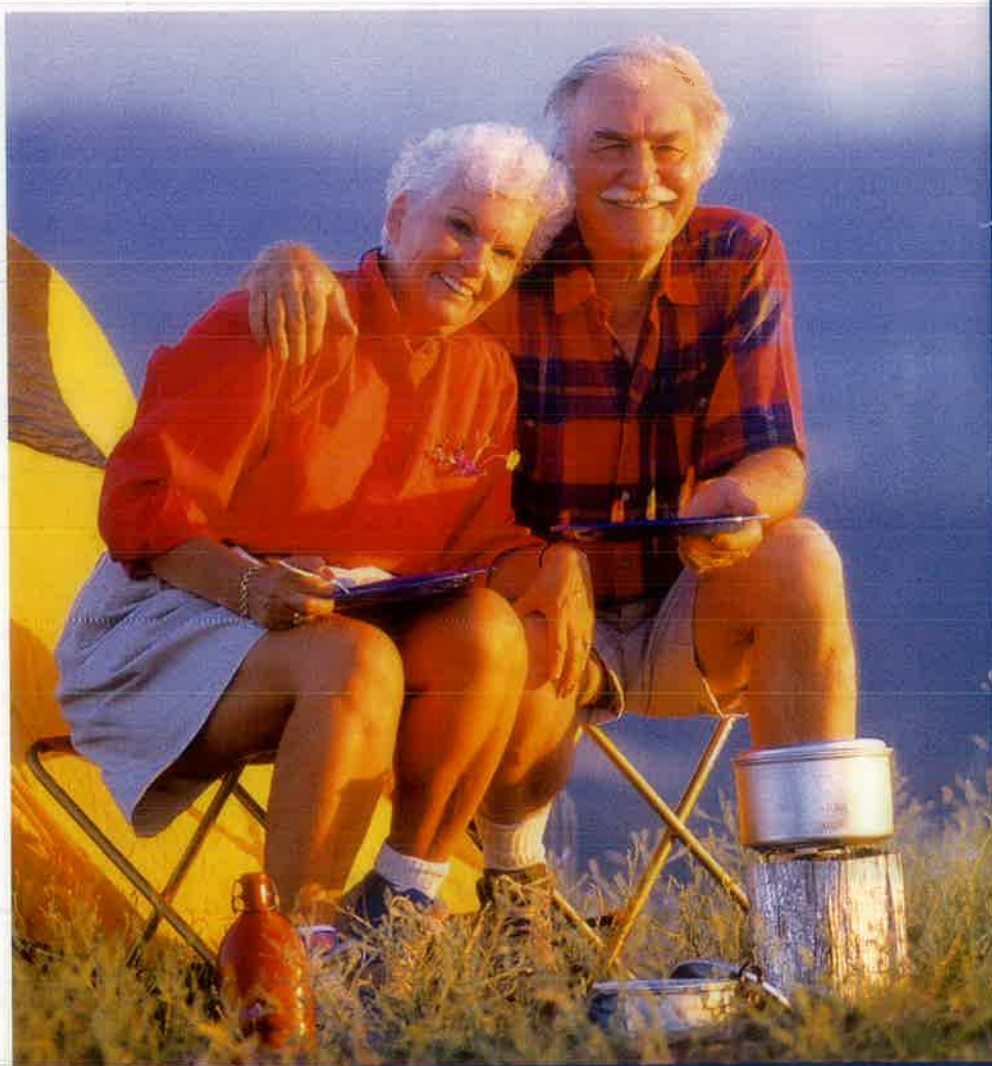
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ting. Cambodian textbooks now hardly mention the Khmer Rouge. On the recent twenty-fifth anniversary of the fall of Phnom Penh, Hun Sen did not commemorate the tragedy and instead urged Cambodians to look to the future, insisting that "history remains history that cannot be changed."

When it comes to the tribunal, the prime minister claims to be concerned that Cambodia's first real peace in three decades will be imperiled by the insistence of foreigners and opposition groups that old wounds be opened. But, while this may have been a sound argument against holding trials in 1997, when some 20,000 soldiers were still wearing Khmer Rouge uniforms, the Khmer Rouge has since crumbled. It's possible that if Khieu Samphan were arrested, his former underlings might stage a desperate terrorist attack, but diplomats insist the Khmer Rouge no longer possesses the capacity to make real war. In any event, given that only the Khmer Rouge's leaders will be put on trial, the likelihood of some kind of people's revolt on their behalf is slim.

The most popular explanation for Hun Sen's recalcitrance is that he is afraid of being indicted by the tribunal for having served in the Khmer Rouge. But Hun Sen defected to join the Vietnamese in 1977, and investigators have found no evidence implicating him in the executions. Another theory is that Hun Sen feels bound by secret deals he made with key Khmer Rouge leaders to get them to defect in the last few years. But, again, this seems unlikely: Cambodia's self-styled "Strongman" is hardly above a double-cross.

So if it's not personal, it's not about peace, and it's not the result of promises, why has Hun Sen so stubbornly resisted

an independent tribunal? Part of the answer lies in his longstanding mistrust of the United Nations. That mistrust is widely shared in Cambodia, where the United Nations set up a democratizing mission in 1991, spent \$2 billion, and, in the opinion of many Cambodians, left behind little besides steep price hikes and glossy election posters. Hun Sen's own disdain goes back even further. He still holds a grudge about the U.N. decision to withhold recognition from his regime in the 1980s and allow the Khmer Rouge coalition to hold the country's U.N. seat. "The United Nations never lifted a finger to stop the Khmer Rouge," Khieu Kanarith, Hun Sen's information minister, told me. "Now it wants to come in and steal the victory from this government."

But perhaps the best explanation is that Hun Sen is concerned that, even if he picks most of the court's judges, he may not entirely control its proceedings. The trials might both implicate his party allies and foster subversive ideas about legal accountability in the minds of his restive citizens.

Such legal trickle-down would be nice, but Cambodia's survivors are quite cynical. They figure Hun Sen will ultimately turn the tribunal into yet another fiefdom, thereby delivering only the usual lessons about the rule of law in Cambodia: that it doesn't exist. "I am thirty-six years old, and I have lived under six regimes in my life," explained Eam Thee, a moto-taxi driver in Battambang province who lost both his parents and all four of his siblings in the genocide. "And never—not under Sihanouk, Lon Nol, Pol Pot, the Vietnamese, UNTAC, or Hun Sen—have I been able to trust the Cambodian legal system. Why should I start now?" ■

Why "civil union" isn't marriage.

State of the Union

By ANDREW SULLIVAN

PERHAPS THE CURRENT moment was inevitable. Around one-third of Americans support civil marriage for gay men and lesbians; another third are strongly opposed; the final third are sympathetic to the difficulties gay couples face but do not approve of gay marriage as such. In the last ten years or so, there has been some movement in these numbers, but not much. The conditions, in short, were ripe for a compromise: a pseudomarital institution, designed specifically for gay couples, that would include most, even all, of the rights and responsibilities of civil marriage but avoid the word itself. And last week, in a historic decision, Vermont gave it to us: a new institution called "civil union."

Understandably, many gay rights groups seem ready to declare victory. They have long been uncomfortable with the marriage battle. The platform of this weekend's Millennium March on Washington for gay rights merely refers to security for all kinds of "families." The Human Rights Campaign, the

largest homosexual lobbying group, avoids the m-word in almost all its literature. They have probably listened to focus groups that included people like my mother. "That's all very well," she told me in my first discussion with her on the subject, "but can't you call it something other than 'marriage?'"

The answer to that question is no. Marriage, under any interpretation of American constitutional law, is among the most basic civil rights. "Separate but equal" was a failed and pernicious policy with regard to race; it will be a failed and pernicious policy with regard to sexual orientation. The many advances of recent years—the "domestic partnership" laws passed in many cities and states, the generous package of benefits finally granted in Hawaii, the breakthrough last week in Vermont—should not be thrown out. But neither can they be accepted as a solution, as some straight liberals and gay pragmatists seem to want. In fact, these half-measures, far from undermining the case for complete equality, only sharpen it. For there are no arguments for civil union that do

prits—"Duch," the commander of the infamous Tuol Sleng prison, and Ta Mok, perhaps the most brutal of the zone commanders—were arrested last year. Some, like Pol Pot, have died; many have changed their identities; a few notables have even joined Hun Sen's government, assuming senior posts like foreign minister and finance minister.

But now, after months of haggling (and, it often seems, stalling), Hun Sen and the United Nations are trying to complete a deal to establish a special tribunal of domestic and foreign judges and prosecutors to try some of the Khmer Rouge's worst offenders. The hope is that the process will meet international standards and justice will at last be served. The fear, made real by Hun Sen's antics thus far, is that the court's independence will be so compromised that it will betray the Khmer Rouge's surviving victims and make a mockery of the rule of law.

CAMBODIA'S JUSTICE SYSTEM lacks a basic infrastructure, trained lawyers and judges, and independence from the ruling party. As a result, the citizens suffer amid a deep culture of impunity. In one recent case, a police officer shot a karaoke singer in the head when she resisted his sexual advances, and he got away clean. More notoriously, a 1997 grenade attack on an opposition rally killed 16 people and wounded more than 100, and no one was arrested. Not surprisingly, a U.N. legal team recommended that a war-crimes tribunal modeled on Rwanda's and Yugoslavia's be established outside Cambodia—in Australia, Singapore, or the Philippines. But Hun Sen rejected the proposal, insisting that Cambodia would not allow itself to be treated like the "guard dog outside the courthouse." The prime minister seems willing to consent only to a tribunal that ensures that a majority of judges and prosecutors are Cambodians, whom he presumably will handpick and thus control. Foreigners will participate, but each round of negotiations curtails their authority further. Indeed, Massachusetts Senator John Kerry has just been dispatched to Phnom Penh to try to convince Hun Sen to allow the U.N.-appointed prosecutor to issue indictments independently.

All this makes Youk Chhang, who runs the Cambodian Documentation Center, anxious. "Without justice we cannot live in peace," he explains. Chhang speaks from personal experience. During the "genocide years," he not only lost his sister and his father but, as an eager 15-year-old, he egged on the killing of a man and woman who committed the crime of falling in love without official permission. He is haunted by his memory of heckling the young couple as they were beaten with bamboo sticks on the back of the neck and buried alive. Since the documentation center was established in 1995 with the help of a U.S. State Department grant and an initial partnership with Yale University, Chhang and others there have been assembling evidence of the atrocities committed during the Pol Pot era. At a minimum, the effort is intended to establish the basic facts of the genocide. But, as Chhang notes, by amassing what amounts to a treasure trove of evidence against the Khmer Rouge, it has made a trial more feasible—and thus has increased the political pressure to hold one.

The center's collection includes official party propaganda,

correspondence between Khmer Rouge officers, minutes from Khmer Rouge meetings, "confessions" from victims, and notebooks and personal records kept by Khmer Rouge officials. The documents provide a detailed picture of cadre activity at the district, regional, and village levels. The Khmer Rouge, like the Nazis, were pack rats. And each official, eager to demonstrate his loyalty and attentiveness, documented the movements of virtually every blade of grass in his area. "I think they reported back not just every day but every hour of every day," marvels Chhang.

Much of the correspondence is banal. Still, hearing directly from Khmer Rouge officials offers vast insight into the logic of the revolution. After blandly recording the number of hectares in need of cultivation, the moisture of the soil, and the reasons for delayed rice shipments, functionaries shift seamlessly to the need to "smash" those they refer to interchangeably as "CIA agents," "Vietnamese lackeys," and "class enemies." And, since it was the radical, agrarian revolution that demanded the violent purges, there was no disconnect between crop diversification and cutting the enemies "into three pieces to make fertilizer for planting banana trees."

The details contained in these documents will shock many Cambodians, as more than half of the population was born after Pol Pot's reign. The trials can thus help educate the next generation. But many of the Cambodians who express support for a tribunal do so because they have misguided expectations for what it will achieve. Some assume that crimes committed in Cambodia by the United States, China, and Vietnam will be prosecuted. Others expect that the Khmer Rouge soldiers who actually performed the killings will stand trial, rather than their higher-ups. And most hope the trials will tell them, at long last, why their countrymen went mad.

These trials are likely to disappoint. They will help establish how the crimes were planned and executed, but probably not why. And it is almost certain that the tribunal will prosecute only the most senior Khmer Rouge culprits, rather than the individuals who personally carried out the genocide. Even Chhang recently submitted a proposal to the national assembly to confine the tribunal's jurisdiction to two dozen or so defendants. Only if the prosecution is limited to the most senior perpetrators, he reasoned, will Hun Sen allow a tribunal to exist at all. Meanwhile, since the tribunal's most severe sentence will be life imprisonment, not death, even the party leaders who are tried will not get the punishment many Cambodians feel they deserve.

In some ways, it is surprising that Hun Sen, who prides himself on having vanquished the Khmer Rouge, does not leap at the chance to punctuate his victory with trials. A Khmer Rouge defector who became foreign minister when the Vietnamese dislodged Pol Pot in 1979, Hun Sen has long been a master of what one might call "skull politics." Once he became prime minister, he deflected criticism by drawing national attention to Pol Pot's terror. Schoolchildren were fed a graphic diet of carnage, and the media broadcast footage that, by exposing past horrors, served to highlight the vast "improvements" brought about by his regime.

However, once Hun Sen began wooing Khmer Rouge political bosses to join his government, he downplayed his predecessors' crimes and stressed reconciliation and forget-

not apply equally to marriage. To endorse one but not the other, to concede the substance of the matter while withholding the name and form of the relationship, is to engage in an act of pure stigmatization. It risks not only perpetuating public discrimination against a group of citizens but adding to the cultural balkanization that already plagues American public life.

This essay is not intended for those who believe that homosexual love is sinful or immoral, or who hold that homosexuality is a sickness that can be cured, or who claim that homosexual relationships are inherently dysfunctional; these are not the people pushing the civil-union compromise. With at least a veneer of consistency, these groups want no recognition for gay couples at all. No, the people heralding civil unions are generally sympathetic to homosexual rights. They are the allies that the marriage cause cannot afford to lose. They acknowledge the equal humanity of their gay friends and fellow citizens. But they need to see that supporting civil union while opposing marriage is an incoherent position—based more on sentiment than on reason, more on prejudice than principle. Liberals, of all people, should resist it.

The most common liberal argument for civil union but against marriage was summed up by First Lady Hillary Rodham Clinton in January. "Marriage," she said, when pressed to take a position, "has got historic, religious, and moral content that goes back to the beginning of time, and I think a marriage is as a marriage has always been: between a man and a woman." This statement, which is more elaborate than anything said by Vice President Al Gore or Texas Governor George W. Bush on the topic, is worth examining.

It has two aspects. The first is an appeal to the moral, historical, and religious content of an institution unchanged since "the beginning of time." But even a cursory historical review reveals this to be fragile. The institution of civil marriage, like most human institutions, has undergone vast changes over the last two millennia. If marriage were the same today as it has been for 2,000 years, it would be possible to marry a twelve-year-old you had never met, to own a wife as property and dispose of her at will, or to imprison a person who married someone of a different race. And it would be impossible to get a divorce. One might equally say that New York's senators are men and have always been men. Does that mean a woman should never be a senator from New York?

Equally, an appeal to the religious content of marriage is irrelevant in this case. No one is proposing that faith communities be required to change their definitions of marriage, unless such a community, like Reform Jewry, decides to do

so of its own free will. The question at hand is civil marriage and only civil marriage. In a country where church and state are separate, this is no small distinction. Many churches, for example, forbid divorce. But civil divorce is still legal. Many citizens adhere to no church at all. Should they be required to adhere to a religious teaching in order to be legally married?

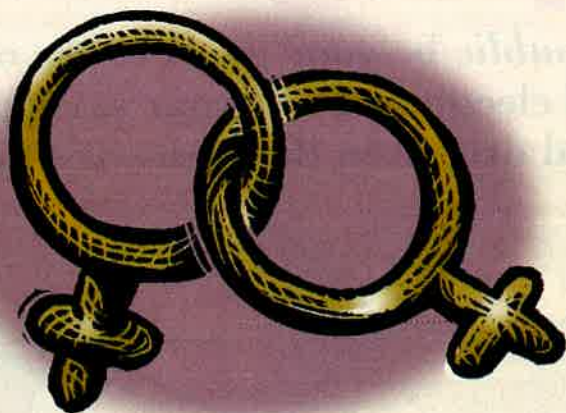
So, if we accept that religion doesn't govern civil marriage and that civil marriage changes over time, we are left with a more nebulous worry. Why is this change to marriage more drastic than previous ones? This, I think, is what Clinton is getting at in her second point: "I think a marriage is as a marriage has always been: between a man and a woman." On the face of it, this is a statement of the obvious, which is why formulations of this kind have been favorites of those behind "defense of marriage" acts and initiatives across the country. But what, on further reflection, can it possibly mean? There are, I think, several possibilities.

The first is that marriage is primarily about procreation. It is an institution fundamentally designed to provide a stable environment for the rearing of children—and only a man and a woman, as a biological fact, can have their own children within such a marriage. So civil marriage is reserved for heterosexuals for a good, demonstrative reason. The only trouble with this argument is that it ignores the fact that civil marriage is granted automatically to childless couples,

sterile couples, couples who marry too late in life to have children, couples who adopt other people's children, and so on. The proportion of marriages that conform to the "ideal"—two people with biological children in the home—has been declining for some time. The picture is further complicated by the fact that an increasing number of gay couples, especially women, also have children. Is there some reason a heterosexual couple without children should have the rights and responsibilities of civil marriage but a lesbian couple with biological children from both mothers should not? Not if procreation is your guide.

Indeed, if it is, shouldn't we exclude *all* childless couples from marriage? That, at least, would be coherent. But how would childless heterosexual couples feel about it? They would feel, perhaps, what gay couples now feel, which is that society is diminishing the importance of their relationships by consigning them to a category that seems inferior to the desired social standard. They would resist and protest. They would hardly be satisfied with a new legal relationship called civil union.

Another interpretation of Hillary Clinton's comment is that real marriage must involve the unique experience of a man attempting to relate to a woman and vice versa. Some

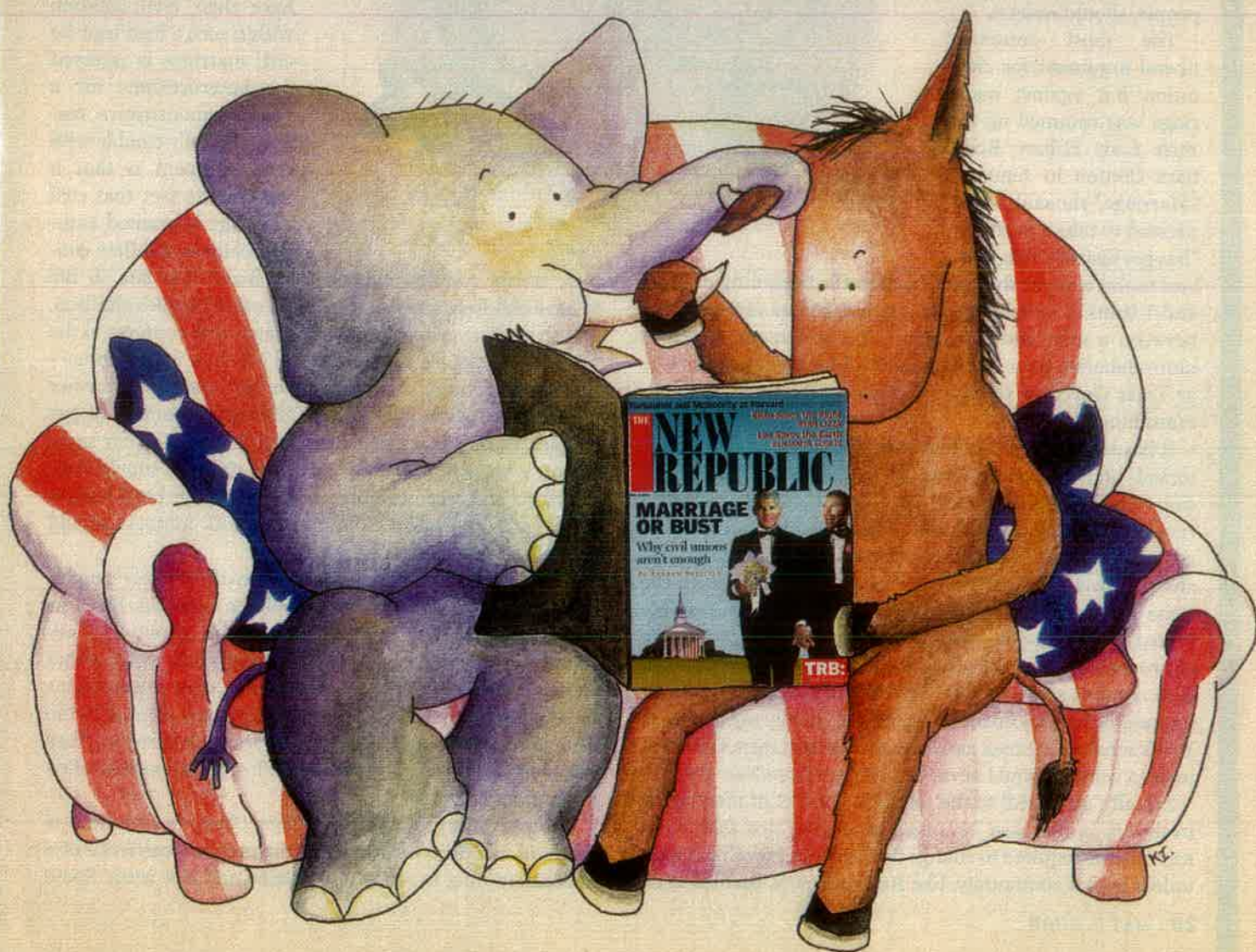


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theologians have even argued that a heterosexual relationship is a unique opportunity for personal growth, because understanding a person of the opposite sex is more daunting and enriching than understanding a person of the same sex. So opposite-sex marriage builds character and empathy in a way same-sex marriage does not and therefore deserves greater social encouragement. Opposite-sex marriage fosters the virtues—communication, empathy, tolerance—necessary in a liberal democracy.

Leave aside the odd idea that heterosexual relationships are more difficult than gay ones. The problem with the character-building argument is that today's marriage law is utterly uninterested in character. There are no legal requirements that a married couple learn from each other, grow together spiritually, or even live together. A random woman can marry a multimillionaire on a Fox TV special and the law will accord that marriage no less validity than a lifelong commitment between Billy Graham and his wife. The courts have upheld an absolutely unrestricted right to marry for deadbeat dads, men with countless divorces behind them, prisoners on death row, even the insane. In all this, we make a distinction between what religious and moral tradition expect of marriage and what civil authorities require to sanction it under law. It may well be that some religious traditions want to preserve marriage for heterosexuals in order to encourage uniquely heterosexual virtues. And they may have good reason to do so. But civil law asks only four questions before handing out a marriage license: Are you an adult; are you already married; are you related to the person you intend to marry; and are you straight? It's that last question that rankles. When civil law already permits the delinquent, the divorced, the imprisoned, the sterile, and the insane to marry, it seems—how should I put this?—revealing that it draws the line at homosexuals.

Indeed, there is no moral reason to support civil unions and not same-sex marriage unless you believe that admitting homosexuals would weaken a vital civil institution. This was the underlying argument for the Defense of Marriage Act (DOMA), which implied that allowing homosexuals to marry constituted an "attack" on the existing institution. Both Gore and Bush take this position. Both Bill and Hillary Clinton have endorsed it. In fact, it is by far the most popular line of argument in the debate. But how, exactly, does the freedom of a gay couple to marry weaken a straight couple's commitment to the same institution? The obvious answer is that since homosexuals are inherently depraved and immoral, allowing them to marry would inevitably spoil, even defame, the institution of marriage. It would wreck the marital neigh-

borhood, so to speak, and fewer people would want to live there. Part of the attraction of marriage for some heterosexual males, the argument goes, is that it confers status. One of the ways it does this is by distinguishing such males from despised homosexuals. If you remove that social status, you further weaken an already beleaguered institution.

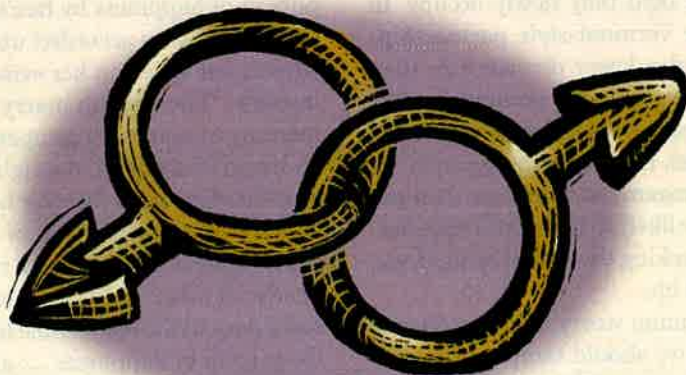
This argument is rarely made explicitly, but I think it exists in the minds of many who supported the DOMA. One wonders, for example, what Bill Clinton or Newt Gingrich, both conducting or about to conduct extramarital affairs at the time, thought they were achieving by passing the DOMA. But, whatever its rationalization, this particular argument can only be described as an expression of pure animus. To base the prestige of marriage not on its virtues, responsibilities, and joys but on the fact that it keeps gays out is to engage in the crudest demagoguery. As a political matter, to secure the rights of a majority by eviscerating the rights of a minority is the

opposite of what a liberal democracy is supposed to be about. It certainly should be inimical to anyone with even a vaguely liberal temperament.

Others argue that they base their opposition to gay marriage not on mere prejudice but on reality. Gay men, they argue, are simply incapable of the commitment, monogamy, and responsibility of heterosexuals. They should therefore be excluded as a group from an institution that rests on those virtues.

They suspect that if gay marriage were legal, homosexuals would create a new standard of adultery, philandery, and infidelity that would lower the standards for the population as a whole. But, again, this is to set a bar for homosexual marriage that doesn't exist for any other group. The law as it now stands makes no judgments about the capacity of those seeking a marriage license to fulfill its obligations. Perhaps if it did the divorce rate would be lower. But it doesn't, and in a free society it shouldn't. The law understands that different people will have different levels of achievement in marriage. Many will experience divorce; some marriages may not last a week, while others may last a lifetime; still other couples might construct all sorts of personal arrangements to keep their marriages going. But the right to marry does not take any of this into account, and failing marriages and successful marriages are identical in the eyes of the law. Why should this sensible and humane approach work for everyone but homosexuals?

Or look at it this way. Even if you concede that gay men—being men—are, in the aggregate, less likely to live up to the standards of monogamy and commitment that marriage demands, this still suggests a further question: Are they less likely than, say, an insane person? A straight man with multiple divorces behind him? A murderer on death row? A



president of the United States? The truth is, these judgments simply cannot be fairly made against a whole group of people. We do not look at, say, the higher divorce and illegitimacy rates among African Americans and conclude that they should have the right to marry taken away from them. In fact, we conclude the opposite: It's precisely *because* of the high divorce and illegitimacy rates that the institution of marriage is so critical for black America. So why is that argument not applied to homosexuals?

This, however, is to concede for the sake of argument something I do not in fact concede. The truth is that there is little evidence that same-sex marriages will be less successful than straight marriages. Because marriage will be a new experience for most gay people, one they have struggled for decades to achieve, its privileges will not be taken for granted. My own bet is that gay marriages may well turn out to be more responsible, serious, and committed than straight ones. Many gay men may not, in practice, want to marry. But those who do will be making a statement in a way no heterosexual couple now can. They will be pioneers. And pioneers are rarely disrespectful of the land they newly occupy. In Denmark, in the decade since Vermont-style partnerships have been legal, gays have had a lower divorce rate than straights. And that does not even take into account the fact that a significant proportion of same-sex marriages in America will likely be between women. If gay men, being men, are less likely to live up to the monogamy of marriage, then gay women, being women, are more likely to be faithful than heterosexual couples. Far from wrecking the neighborhood, gay men and women may help fix it up.

There remains the more genuine worry that marriage is such a critical institution that we should tamper with it in any way only with extreme reluctance. This admirable concern seems to me easily the strongest argument against equal marriage rights. But it is a canard that gay men and women are unconcerned about the stability of heterosexual marriage. Most homosexuals were born into such relationships; we know and cherish them. It's precisely because these marriages are the context of most gay lives that homosexuals seek to be a part of them. But the inclusion of gay people is, in fact, a comparatively small change. It will affect no existing heterosexual marriage. It will mean no necessary change in religious teaching. If you calculate that gay men and women amount to about three percent of the population, it's likely they will make up perhaps one or two percent of all future civil marriages. The actual impact will be tiny. Compare it to, say, the establishment in this century of legal divorce. That change potentially affected not one percent but 100 percent of marriages and today transforms one marriage out of two. If any legal change truly represented the "end of marriage," it was forged in Nevada, not Vermont.

BUT IF CIVIL UNION gives homosexuals everything marriage grants heterosexuals, why the fuss? First, because such an arrangement once again legally divides Americans with regard to our central social institution. Like the miscegenation laws, civil union essentially creates a two-tiered system, with one marriage model clearly superior to the

other. The benefits may be the same, as they were for black couples, but the segregation is just as profound. One of the greatest merits of contemporary civil marriage as an institution is its civic simplicity. Whatever race you are, whatever religion, whatever your politics or class or profession, marriage is marriage is marriage. It affirms a civil equality that emanates outward into the rest of our society. To carve within it a new, segregated partition is to make the same mistake we made with miscegenation. It is to balkanize one of the most important unifying institutions we still have. It is an illiberal impulse in theory and in practice, and liberals should oppose it.

And, second, because marriage is not merely an accumulation of benefits. It is a fundamental mark of citizenship. In its rulings, the Supreme Court has found that the right to marry is vested not merely in the Bill of Rights but in the Declaration of Independence itself. In the Court's view, expressed by Chief Justice Earl Warren in *Loving v. Virginia* in 1967, "the freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men." It is one of the most fundamental rights accorded under the Constitution. Hannah Arendt put it best in her evisceration of miscegenation laws in 1959: "The right to marry whoever one wishes is an elementary human right compared to which 'the right to attend an integrated school, the right to sit where one pleases on a bus, the right to go into any hotel or recreation area or place of amusement, regardless of one's skin or color or race' are minor indeed. Even political rights, like the right to vote, and nearly all other rights enumerated in the Constitution, are secondary to the inalienable human rights to 'life, liberty and the pursuit of happiness' ... and to this category the right to home and marriage unquestionably belongs."

Prior even to the right to vote! You can see Arendt's point. Would any heterosexual in America believe he had a right to pursue happiness if he could not marry the person he loved? What would be more objectionable to most people—to be denied a vote in next November's presidential election or to no longer have legal custody over their child or legal attachment to their wife or husband? Not a close call.

In some ways, I think it's because this right is so taken for granted that it still does not compute for some heterosexuals that gay people don't have it. I have been invited to my fair share of weddings. At no point, I think, has it dawned on any of the participants that I was being invited to a ceremony from which I was legally excluded. I have heard no apologies, no excuses, no reassurances that the couple marrying would support my own marriage or my legal right to it. Friends mention their marriages with ease and pleasure without it even occurring to them that they are flaunting a privilege constructed specifically to stigmatize the person they are talking to. They are not bad people; they are not homophobes. Like whites inviting token black guests to functions at all-white country clubs, they think they are extending you an invitation when they are actually demonstrating your exclusion. They just don't get it. And some, of course, never will.

There's one more thing. When an extremely basic civil right is involved, it seems to me the burden of proof should lie with

those who seek to deny it to a small minority of citizens, not with those who seek to extend it. So far, the opposite has been the case. Those of us who have argued for this basic equality have been asked to prove a million negatives: that the world will not end, that marriage will not collapse, that this reform will not lead to polygamy and incest and bestiality and the fall of Rome. Those who wish to deny it, on the other hand, have been required to utter nothing more substantive than Hillary Clinton's terse, incoherent dismissal. Gore, for example, has still not articulated a persuasive reason for his opposition to gay marriage, beyond a one-sentence affirmation of his own privilege. But surely if civil marriage involves no substantive requirement that adult gay men and women cannot fulfill, if gay love truly is as valid as straight love, and if civil marriage is a deeper constitutional right than the right to vote, then the continued exclusion of gay citizens from civil marriage is a constitutional and political enormity. It is those who defend the status quo who should be required to prove their case

beyond even the slightest doubt.

They won't have to, of course. The media will congratulate George W. Bush merely for conceding that the gay people supporting his campaign are human beings. Gore will be told by his pollsters that supporting the most basic civil right for homosexuals would be political suicide, and he will surely defer to them. That is politics, and I have learned to expect nothing more from either candidate. But the principle of the matter is another issue. To concede that gay adults are responsible citizens, to concede that there will be no tangible damage to the institution of marriage by their inclusion within it, and then to offer gay men and women a second-class institution called civil union makes no sense. It's a well-meaning surrender to unfounded fear. Liberals of any stripe should see this. The matter is ultimately simple enough. Gay men and women are citizens of this country. After two centuries of invisibility and persecution, they deserve to be recognized as such. ■

Out for a Buck

LATER THIS MONTH, when Vermont becomes the first state to legalize civil unions, who'll be celebrating? Gays and lesbians, yes. Advocates of true equality regardless of sexual orientation, sure. But put out some caviar for a less likely beneficiary: the marriage industry. It will be celebrating Vermont's gain for civil rights, all right—all the way to the bank.

Entrepreneurs in the Green Mountain state are particularly giddy. Vermont innkeepers have been looking forward to this for two years, ever since the Institute for Gay and Lesbian Strategic Studies, a national think tank, released a study claiming that the legalization of gay marriage would bring the state more than \$40 million a year in tourism revenue. Indeed, when the Vermont House debated a bill legalizing same-sex unions last January, 46 innkeepers even signed a letter urging state legislators to pass it.

Now that the bill is about to become law, Randy Guy, manager of central Vermont's Chester House Inn, has created a website, GayWeddingGuide.com, where fellow gay-friendly innkeepers from around the state can advertise their services. So far 54 establishments have signed on. "Inn-keeping is a tough business," explains Guy. "In this state you have to go after new markets, and I think people see this as a big market."

Especially if, as the wedding industry hopes, the rest of the country follows Vermont's lead. Last August, Cartier began advertising its "Trinity Ring"—a piece with three bands symbolizing love,

fidelity, and friendship—in *Out* magazine. While the jeweler did not bill it specifically as a wedding ring, the implication was clear. At the end of January, Encore Studios, which supplies wedding invitations to more than 4,000 stores nationwide, introduced a special gay-themed wedding invitation, complete with its own logo: two interlocking rings inside a triangle. Now Encore is advertising its invites on RainbowUnions.com, a website created ten months ago and devoted entirely to same-sex unions.

But all this pales compared to what happened on Valentine's Day, when TheKnot.com, the Internet's largest wedding-related website, announced it was partnering with PlanetOut.com, the Internet's largest gay-oriented website. The partnership means TheKnot.com will provide PlanetOut.com with content and links. It also means TheKnot.com will create a separate gay boutique, complete with a gift registry and a comprehensive library of professional advice—covering everything from how *not* to invite your homophobic relatives to whether a lesbian couple can legitimately sign a *ketubah* (Jewish marriage contract). "We realized that there was a whole world of people not being accommodated," says Michael Wolfson, cofounder of TheKnot.com and, coincidentally, the brother of Evan Wolfson, director of the marriage project at the Lambda Legal Defense and Education Fund.

A few wedding-industry companies still won't market to gays, fearing it would alienate their straight clientele. But it's

the ones seizing the new market who are cleaning up. Take the "cake topper" business. Wilton Industries, a top producer of those little clay figurines that sit atop wedding cakes, does not offer same-sex toppers. "We're actually a pretty conservative company," explains one Wilton spokesperson. Enter Kim Lipscomb, owner of Magical Day Cake Toppers, a small firm based in Alpharetta, Georgia. Last year Lipscomb expanded her figurine showcase to include same-sex couples, which she makes by jerry-rigging two single-sex pieces together. Now, due to a recent boom in sales, she plans to step up production and offer the couples in different styles and sizes. "We'll even offer any ethnicity you want," she adds.

Lipscomb hopes that, by getting in early, she'll make a name for herself in the gay community, which has an estimated buying power of roughly \$300 billion. And timing is crucial, according to self-proclaimed gay-marketing guru Grant Lukenbill, author of *Untold Millions: Secret Truths About Marketing to Gay and Lesbian Consumers*, who argues that the gay community often affords brand-of-choice status to the first company that targets it. Lukenbill points to American Airlines, Apple Computer, Absolut Vodka, and Subaru, all of which launched intensive advertising campaigns in publications like *The Advocate*, a leading gay magazine, as far back as 15 years ago and are still reaping the economic rewards.

The race for market share, Lukenbill says, goes to the swift. Take mineral water: "Naya water has got it, but Perrier got involved only months too late." Wilton Industries, beware.

JAKE HALPERN

Stanley Kauffmann on Films Links and Antagonisms

ONCE IN A while a film appears that is more interesting as an occasion than as a picture. Such was *The Graduate* (1967), which, however it may have faded as cinema, remains a milestone in American screen candor about sex. Now here is **Black and White** (Screen Gems), which has some filmic troubles but which may turn out to be a marker in race relations. Its subject, unarticulated but punchily dramatized, is envy: the envy of young whites for the ease and freedom of blacks. Obviously these whites would not be envious of impoverished, oppressed blacks; the whites are attracted here to hip-hop black musicians and the circle around them. The white youths in this film come from comfortable homes; the blacks are well-off, too. The theme isn't economic justice but cultural jealousy. For at least a century, jazz has been a strong link between American blacks and whites (a link, of course, with many peoples around the world). *Black and White* centers on linkage of a different temper, social as much as musical, nurtured by this new music.

The director-writer was James Toback, who has been trying for years with such films as *Fingers* to score sensationally—that is, to make a picture that would sizzle through its daring. Now he has succeeded. At once the term “writer” must be modified. Some of the sequences in the picture were done conventionally: lines were written and the actors learned them. But, as Toback himself has said, in many scenes—especially those with black musicians—he merely let the actors know what he wanted to happen and let them improvise. No one could sit down and compose this dialogue of broken phrases, repetitions, flyaways, and overlaps, especially when so much depends on emphases and intonations. These improvisations sometimes make the dialogue dense, but they certainly give it a buzz.

And this method meant inevitably that much more film was shot than was used. This is always true to some extent: here the extent had to be greater. It takes nothing away from Toback to say that *Black and White* seems to owe much to its edi-

tor, Myron Kerstein. It was the director who chose to begin shots with a moving camera—something that happens often here—but presumably it was the editor who arranged those shots in ways to make the film *course*. A fixed camera is used sparingly, mostly for long shots. In most of the intimate scenes, including some intense close-ups, the film itself seems to be in motion.

Its shape and flow are the picture's prime assets. The rhythm of the editing accommodates the rhythm of most of the music we hear, not in mimicking, Mickey-Mouse fashion, but in pulse. More: the film's nearly incessant motion underscores its adventurousness, as if it were consciously advancing into new territory.

The setting is in and around New York. At the start two teenage white girls are having sex with a black man in Central Park. One of the girls is then seen joining her family for dinner in their luxe home (with a black servant) and getting into an argument with her father who, among other matters, dislikes the gold tooth that she slips on with her black friends and doesn't always slip off at home. Obviously this is not standard parent-and-adolescent trouble.

This scene is intercut with a scene in a recording studio where black musicians are trying to arrange a recording date. A good deal of the subsequent action is set in the huge home of Rich, a black mob and music chief, where black people, mostly musicians, hang out, along with young white people—especially girls. The whites try to behave and sound and dress like their black friends. The blacks accept them, because the females are attractive and available and the males are servile.

One of the black men is a basketball star (played by Allan Houston of the Knicks); and a main plot strand is his collusion with an undercover cop to throw a game for fifty thousand dollars. (The cop's scheme seems much less a sting operation than sheer entrapment.) This leads to a crime in which a young white man is involved, and this leads to a blackmail attempt by the cop that is left uncompleted in the picture.

Brooke Shields, with dreadlocks, plays a filmmaker who is shooting a documentary about these people as their stories move along. (Why they permit it is not explained.) The filmmaker's husband, played by Robert Downey Jr., a Toback veteran, is gay. Both husband and wife make (unaccepted) moves on Mike Tyson—yes, that Tyson—who seems to be on hand in Rich's home as, for the most part, a fount of equanimity.

Several well-known black musicians are in the cast, but none of them is an especially effective actor, which is also true of the pleasant Houston. Ben Stiller, as the tricky cop, is the best actor in the picture. But even while *Black and White* is rolling, it seems to be telling us that what the actors say and do, though often sharp, is less important than the film's very existence, its record of a phenomenon. Whether *Black and White* represents a social step forward or backward or sideways is a subject for prophecy, not criticism.

The Last September (Trimark), adapted from Elizabeth Bowen's novel, repeats the *Mrs. Dalloway* problem. The Virginia Woolf novel suffered on film because there is no way to transmute Woolf's prose cinematically, and the armature of the story, even with much of her dialogue, is insufficient. Bowen is not quite in Woolf's class; still, she is a very considerable stylist, and, again, what can film do with her prose? “They stood shaking hands and laughing in the yellow theatrical sunshine.” “They heard an early bugle shivering in the rain.” A film can give us only the sunshine and the bugle, leaving us to supply, if we can, perception of the theatricality and the shiver.

Bowen, who was Irish, tells here the story of the Anglo-Irish dilemma in 1916, when armed conflict broke out between Irish rebels and British troops, with the Anglo-Irish figuratively in-between. The setting is a large country house in County Cork, presumably much like the one that she wrote about in her family history. The central story is of a romance between the young Anglo-Irish woman who lives in that house, niece of the owners, and a rebel who had been her schoolmate. Matters are complicated by the devotion to her of a British captain.

The screenplay was written by John Banville, the well-known Irish novelist and critic, and was directed by Deborah Warner, noted in the English theater. For both Banville and Warner, this is a film debut, and for both the result is damp. Banville has tried to prune and heighten