

# MAKING THE CASE FOR MARRIAGE EQUALITY IN IRELAND

MARRIAGEQUALITY POSITION PAPER  
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**MARRIAGEQUALITY**



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## Foreword

**Marriage functions as a gateway to a number of rights and duties. Broadly speaking these cover financial interdependence and emotional ties (e.g. right to make decisions jointly about children's welfare or for one's partner if incapacitated or right to be in same place in the case of partnerships between people of different nationalities).**

There is an implicit right to marry under the Irish Constitution, while the right to marry is explicit under the European Convention on Human Rights.

Despite this, both common law (i.e. the body of rules developed by judges through case law that we inherited from the U.K.) and legislation, in the form of the Civil Registration Act 2004, effectively ban marriage for gay and lesbian people.

Heretofore the main vehicle for overcoming this inequality has been to propose some form of civil partnership legislation.

But any civil partnership scheme creates a separate and unequal institution. In short, to legislate for civil partnership is to ascribe second-class citizenship to gay and lesbian people.

Throughout this debate the Constitution has been presented as an obstacle to full marriage for gay and lesbian couples. We are told that civil partnership is the only constitutionally sound option available to them.

But we don't know whether this is true. In the *Gilligan and Zappone vs Revenue Commissioners* case Judge Dunne emphasised that the people's will had been recently expressed through the Civil Registration Act 2004.

So, why not simply change that law by introducing a straightforward amendment providing that people of the same sex have the capacity to marry each other?

This change could be made at 24 hours notice. If the constitutionality of the law is questioned the onus will be on the courts either to go with majoritarian consensus and uphold the legislation or strike it down and impose their own understanding of marriage on the people acting through their elected representatives.

Further, the Constitution is relatively easy to change and can be done at a few months notice if the political will is there, as we saw with the citizenship referendum in 2004. All-party consensus would surely bolster chances of success.

A constitutional referendum may be necessary but this is not certain. Instead of presenting it as a *fait accompli* politicians should find out by amending the 2004 legislation and seeing what happens.

**Judy Walsh**

## Executive Summary

Marriage Equality believes that providing equal access to civil marriage for lesbian and gay couples is the only option for achieving equality for lesbians and gay men in Ireland. This is important to ensure that lesbian and gay couples and their families have the right to make choices in their lives, just as heterosexual couples do.

Gaining marriage equality will provide lesbians and gay men with rights and responsibilities that are currently only available to heterosexual couples. This will open up choices and possibilities for lesbian and gay relationships to be recognised, respected and equally valued.

### *Equality of rights to marriage under the Constitution and in law*

Marriage provides a number of legal benefits, rights, responsibilities and protections under the Constitution and in civil law. These rights associated with marriage that are not available to lesbian and gay couples, include social, economic and familial rights in areas such as: social welfare, taxation, life insurance and pensions, inheritance and property, maintenance of children or dependents, housing and family home rights, employee related benefits in cash or in kind, parental leave, next-of-kin in relation to life-threatening decisions, court cases and testifying against a partner, protection of children, adoption and fostering, and immigration and residence rights.

To deny these rights to lesbian and gay couples and their families, denies the visibility, protections and rights that come with marriage to lesbian and gay relationships and to their children. This is despite the reality today that lesbian and gay relationships and families exist and that children grow up healthily and happily in lesbian and gay families.

### ***Why is marriage equality different from civil unions, civil partnerships and domestic partnerships?***

This paper argues that marriage equality, in the form of civil marriage, is substantively different from civil partnerships / unions and domestic partnerships. Civil marriage, through a registry office or non-church ceremony, affords a special position under the Constitution and is only available to heterosexual couples.

Marriage Equality believe that lesbians and gay men should have the right to marry, and that special legislation, such as civil partnerships or civil unions, that are separate from marriage means that lesbian and gay couples and their families are treated as special categories with fewer rights and a lack of recognition. Failure to provide full marriage equality means that lesbians and gay men do not have the full civil rights protections that are often taken for granted by heterosexual people and their families.

### ***Why is marriage equality a relevant issue for contemporary Ireland?***

Recent surveys show that people in Ireland are ready for full civil marriage rights for lesbians and gay men. There is a general acceptance of the right to marriage equality.

There have also been a number of studies, private member's Bills and legislative proposals that have put marriage equality on the agenda. For example, the government's Working Group on Domestic Partnership (Colley Report) recommended, in 2006, that marriage equality was the only measure that could guarantee full equality. However, the government's forthcoming Bill on same-sex relationships will provide only for civil partnership, with a menu of limited rights through a non marital scheme of recognition. This will not give lesbians and gay men the full rights associated with civil marriage, nor equal status.



Some commentators have argued that complete marriage equality would require an amendment to the Irish Constitution, and that this is a reason why full marriage rights should not be pursued. However, Marriage Equality do not believe that there is a requirement for Constitutional change, that the Constitution does not define marriage as being between a man and a woman, and that the Constitution's definition of the family easily encompasses same-sex relationships.

### ***Making the arguments for marriage equality***

Opponents of marriage equality argue that extending marriage rights to other family forms undermines the status of the family, that the institution of marriage is universal and deeply rooted in the Christian heritage, and that lesbian and gay families are not seen as appropriate families for rearing children.

This paper counters these arguments by showing that extending marriage rights to lesbian and gay couples would end discrimination against them and strengthen the institution of marriage and the family. Marriage equality will also more effectively recognise the reality and diversity of Irish society, which includes the existence of lesbian and gay couples and families. By arguing for civil marriage, lesbian and gay relationships will be recognised by the State in civil law. Since there is a separation of religious and secular institutions of marriage, it is access to civil marriage that Marriage Equality is pursuing. Entry into marriage as a religious institution is up to the religious institutions to decide who can and cannot have a religious ceremony.

Lesbian and gay families, through marriage, should be equal to heterosexual families in the protections provided in marriage and for children. Marriage today is more than procreation; it is a reflection of love and commitment between two people. If marriage is only for procreation then how does this argument apply to heterosexual married people who do not have children or who are infertile?

### ***What rights to marriage equality exist in other jurisdictions?***

The right to civil marriage for lesbian and gay people exists in seven jurisdictions: the Netherlands, Belgium, Spain, Canada, South Africa and the US state of Massachusetts. In these countries no distinction is made between same-sex couples and opposite-sex couples in access to marriage, parental rights and adoption. Rights to civil partnership/union exist in a larger number of countries, with variations in legal rights from one country to another. The right to joint or second parent adoption and family rights by same-sex partners exists in Sweden, Denmark, Germany and the UK, as well as those countries that have provided for civil marriage.

### ***Conclusions***

The paper concludes by arguing that equal access to marriage is the only way that lesbians and gay men in Ireland can have equality. Anything less than this undermines the right to full participation in society, to choice, dignity, respect and equality.

# 1. Introduction

This paper makes the case for equal access to civil marriage for lesbian and gay couples and discusses the main arguments why marriage equality is the best option for achieving equality for lesbians and gay men in Ireland.

Having the right to a civil marriage is about giving lesbian and gay couples access to equality in Ireland. Anything less than that undermines equality for lesbians and gay men and is a denial of their relationships and parenting roles. Without these rights it is easy to see why the opposite can be true in that the lack of recognition and inequality gives lesbian and gay relationships a secondary status and invisibility. These rights are important to how lesbian and gay relationships are valued at a societal level. Marriage also provides certain social, material and familial protections that are currently not given to lesbian and gay couples and families in Ireland.

Marriage equality means that everyone can be treated equally in the family and in marriage, irrespective of their sexual orientation. Giving rights to civil marriage is also a reflection of the increasing diversity of families in Ireland today, and the importance of giving respect and recognition to the validity, dignity and rights of lesbian and gay couples and families. This is not only important to how society is seen to value and affirm lesbian and gay relationships, but also to ensuring that everyone has the right to make choices about their own personal relationships, including the right to marry.

Marriage equality is about giving equal rights to marriage for lesbian and gay couples on the basis that lesbian and gay people and heterosexual people are equal in the law.

Marriage Equality grew out of an initiative introduced to support the case of Katherine Zappone and Ann Louise Gilligan to have

their Canadian marriage recognised in Ireland. Marriage Equality argues that lesbians and gay men should have the right to marry, in a civil registry office, and gain the same legal rights associated with marriage for themselves and their families.

## *2. What are the rights that are associated with marriage?*

It is often assumed that gay and lesbian people enjoy the same civil rights and protections as everyone else. Despite equality legislation in Ireland, this is not the case in relation to the right to marry. Lesbian and gay relationships do not have the same benefits, legal protections and obligations that exist in civil marriage. Therefore, same-sex partners do not have the same rights that married people enjoy, nor do they have the choice about entering into marriage. Nor do they or their children have the protections provided in the Constitution for married couples.

Marriage offers many legal benefits and responsibilities that protect married couples and their families. In particular married people's relationships have constitutional protection and recognition. This is in contrast to rights given through civil unions or civil partnerships, which do not give marriage equality, or protection and recognition under the Constitution.

In this section we discuss the rights associated with marriage. In comparison, civil partnerships or civil unions tend to include a shorter list of rights and often exclude specific areas in relation to for example, taxation or children, including adoption rights. Most crucially, the rights associated with civil partnerships or civil unions tend to be treated as separate rights from those contained in marriage, with separate legislation and administrative provisions. The danger is that these rights can be taken away or minimised, whereas marriage rights have Constitutional protection. Marriage Equality believe that lesbian and gay relationships should be equal in law to heterosexual relationships, with equality of rights, Constitutional protection and recognition.

The main areas covered in marriage rights include:

- Social welfare
- Taxation
- Life insurance, pensions and benefits such as spousal and survivor social security benefits
- Rights linked to inheritance and property
- Maintenance
- Rights associated with housing and the family home
- Employee related benefits in cash or in kind in areas such as education, transport, health insurance etc.
- Parental leave and *force majeure* leave
- Rights of next-of-kin in life damaging and life threatening decisions
- Court cases and testifying against a partner
- Children and rights to parenthood
- Adoption and fostering
- Immigration and residence

### ***Social Welfare***

Married partners are entitled to Widow's or Widower's (Contributory) Pension and Widowed Parents Bereavement Grant. Currently lesbians and gay men are treated as independent from each other in the granting of social welfare payments; whereas married people are treated as one financial unit.

### ***Taxation***

Married couples have the right to make *Joint Assessment or Separate Assessment Choice for Married Couples for Income Tax purposes*. Double tax credits and allowances may be divided equally or shared or can be allocated to the spouse that earns the most, thereby saving on tax. These tax benefits include Married tax credit, Age tax credit, Blind Person's tax credit, and Incapacitated Child tax credit. Currently there is no tax payable on any transactions between married people e.g. Inheritance



*"If I had a choice, it would be marriage. I appreciate that bringing in civil unions in Ireland would be a baby step, that people get used to it and change happens slowly. But I do have this personal feeling that civil partnerships are kind of legislating inequality, which makes me angry."*

tax, Gift tax (CAT), Capital Gains tax, or Stamp Duty. This exemption does not apply to unmarried partners. So any gifts given or received between partners are subject to taxation on the market value of the gift. Any transfer of property between partners is subject to stamp duty and may also be subject to gift tax (CAT) and Capital Gains tax.

### ***Life Insurance and Pensions***

Many policies specify that only a spouse may be nominated as a beneficiary under a Life Insurance or Pension Policy. Unmarried partners, therefore, have no entitlements to the proceeds of these policies.

### ***Inheritance***

Marital status affects rights in relation to inheritance from a partner. For people who are not married inheritance rights only exist if there is a bequest in a valid will or inheritance by survivorship (i.e. if you own property as joint tenants the survivor automatically inherits from the deceased joint tenant). Married partners have the right to a Legal Right Share of the deceased spouse's estate even if there is no will, the will is invalid or there is a will but the deceased leaves less than the Legal Right Share to the surviving spouse.

Married spouses pay no inheritance tax (CAT) on anything they inherit from their deceased spouse. Unmarried surviving partners are taxed at 20% on everything inherited above €24,841 (2007 threshold figure). This includes the value of any property inherited e.g. the home that the couple have lived in (subject to some exemptions based on residency tests).

## ***Maintenance***

There is a legal responsibility on both spouses to maintain each other in accordance with their means. There is no such responsibility between unmarried partners. When a married couple separates they can come to a voluntary arrangement in relation to maintenance or can apply to court for a legally binding Maintenance Order. Unmarried couples may make informal agreements when they separate; however, as they have no rights to maintenance in law they have no access to the courts to enforce these agreements or to apply for Maintenance Orders.

A biological or adoptive parent has a legal duty to maintain his or her children in accordance with their means; however, a parent who is not a biological parent has no such duty. Therefore, when an unmarried couple separates, a non-biological parent cannot be compelled by the courts to pay any maintenance for the child or children that he or she may have parented. Informal agreements may be made but they cannot be enforced by the Family Law Courts.

## ***Rights associated with housing and the family home***

Married partners are protected against their spouses mortgaging or selling the family home without their consent under the Family Home Protection Acts. Under the Residential Tenancies Act, 2004 a married spouse is automatically deemed to be a successor to the tenancy and therefore inherits the right to a five year tenancy. An unmarried opposite sex partner who has cohabited with the Tenant as husband and wife in the dwelling for a period of at least 6 months ending on the date of the Tenant's death is deemed to be a successor to the tenancy and therefore inherits the right to a five year tenancy. This does not apply to same-sex partners.



### *Rights associated with employers benefits*

Employers often offer health insurance, travel allowances and other benefits to employees and their spouses but not to their unmarried partners. These are not available to lesbian and gay spouses, although some companies do provide benefits for lesbian and gay couples and cohabiting partners.

### *Parental leave and force majeure leave*

Currently married and heterosexual cohabiting couples with children have the right to parental and *force majeure* leave. Lesbian and gay couples only have the right to *force majeure* leave.

- The Parental Leave Act 1998 amended by the Parental Leave (Amendment) Act 2006 entitles each parent to 14 weeks unpaid parental leave. The leave must be taken before the child is 8 years of age, or 16 years of age in the case of children with disabilities.
- The 2006 Act extended *force majeure* provisions to include persons in a relationship of domestic dependency, including same-sex partners. These provisions allow an employee to leave with pay from his or her employment for urgent family reasons, owing to the injury or illness of a child or adoptive child and other immediate family members. During an absence on *force majeure* leave an employee is regarded as being in the employment of the employer, and retains all of his or her employment rights.
- The Adoptive Leave Act entitles an adopting mother or a sole male adopter to 24 weeks adoptive leave. There is also the option to avail of a further 16 weeks unpaid additional leave.

### ***Rights of next-of-kin in life-damaging and life-threatening decisions***

Marriage gives rights in the event of life-damaging and life-threatening decisions, and particularly at the time of end of life decisions. In times of crisis a spouse may have hospital visitation rights and can make medical decisions in the event of illness or death. Lesbians and gay men are legally unable to make medical decisions for a same-sex partner in the case of an emergency. In some cases, the family of the person needing emergency treatment steps in and ignores the wishes or rights of that person's partner. In death even, when there is the existence of wills and durable powers of attorney, a family can challenge a will, overturn a custody decision, or exclude lesbians and gay men from a funeral or deny the right to visit a partner's hospital bed or grave. In the circumstances of a spouse's death the surviving spouse has a right to make funeral arrangements; this right does not exist for lesbian and gay partners.

### ***Court cases and testifying against a partner***

In common law, communications between a husband and wife are privileged. This means that in general spouses cannot be obliged to reveal in court the subject of conversations with each other. The *in camera* rule applies to all family law court proceedings between spouses, so they are heard in private and are confidential.

Lesbian and gay partners can be compelled to testify against their partner or provide evidence against them in the event of a prosecution. This is not the case for legally married couples. Where there are court cases, the testimony given by a partner can be deemed to be irrelevant by a hostile judge, since it can be viewed as that of a stranger and has no weight in law. Similarly, if a partner is imprisoned, rights to visit the partner can be denied by a hostile family or a homophobic judge, since there is no law allowing for this.

*“The biggest thing that I’ve discovered is that people are dumbfounded when they discover that this is an issue for us. They are like, ‘what do you mean? You’re married.’ They just don’t understand how in this day and age, in a modern society, that it could possibly be a problem.”*

### **Children and adoption rights**

A child who grows up with married parents benefits from the fact that his or her parents’ relationship is recognised by law and receives legal protections. Spouses are generally entitled to joint custody of the children of the marriage, access upon separation or divorce and are obliged to pay maintenance for the children. They are also automatically joint guardians.

There is no provision for appointing a non biological parent as a child’s guardian except through a will. Non-biological parents have no rights to guardianship or custody but may apply to the courts for access if they have acted *in loco parentis*. The court may take the guardian’s wishes into account in making a decision.

Married couples are the only family grouping entitled to adopt as a couple. In some countries, including Ireland, there are no specified rights to adoption for lesbians or gay men, including the right to family adoption, in the case of a child of a partner in a lesbian or gay family. Joint or second parent adoption rights by same-sex partners currently exists in the Netherlands, Spain, Belgium, Sweden, Denmark, Germany and the UK.

In Ireland joint adoption is in practice favoured for heterosexual married couples and legal guardianship of a child can only be awarded to biological parents. This means that lesbian and gay couples are unable to provide their children with legal protections enjoyed by heterosexual married couples with children. This has implications for a second parent with no parental rights in areas such as health and education. In Ireland the numbers of adoptions are relatively small. In 2004 there were 273 adoptions and in 2005 there were 253 adoptions. Of these 253 adoptions in 2005 the vast majority (191) were family adoptions i.e. people adopting their own children (step-parents); 62 were children placed in care by the HSE of which 16 were foster care children adopted by foster parents. Sixteen orders were for children placed for adoption overseas and there were 403 declarations of eligibility for 'foreign adoptions' outside the state.

### *Immigration and residence*

Currently lesbians and gay men whose relationships are recognised in other countries are unable to have their relationships recognised under Irish law. In a European context this effectively restricts lesbians and gay men who are married in another jurisdiction from moving freely across Europe, which denies them a real right of free movement as embodied in EU treaties. For example, a married couple in the Netherlands or Spain could not claim the rights associated with marriage if they move to Ireland, even though they are EU citizens.

In addition, lesbian and gay couples unless one of them is an EU national resident in Ireland, do not have access to the same rights under immigration and residence law as opposite sex married couples do even if they have been in duly attested long-term relationships. In some jurisdictions, for example, in the Netherlands and Spain, rights to immigration and residence are the same as those for married couples. In Ireland, government proposals on civil partnerships and forthcoming legislation on

*"I'm not going to settle for being classified as something else. Brian is my husband, we are married."*



Photo by Emily Quinn

Immigration, Residence and Protection do not deal with these issues.

### ***Numbers***

The exact number of lesbian and gay relationships is not known. There are many barriers to gay and lesbian visibility. Real fears of homophobia and a sense of a lack of rights and respect means that lesbians and gay men experience great difficulty at times in disclosing their sexual orientation.

The 2006 Census identified 121,000 cohabiting couples (a rise from 77,000 in 2002). There is no doubt that the small number of those who declared themselves to be in same sex co-habiting relationships is due to the fact that most census data collectors are personally known, especially in rural areas and smaller towns, and a large number of lesbians and gay men continue to choose to remain invisible due to fears of threats and possible violence from the wider community. The figures in the census must be seen as a significant under-estimation of the true number of cohabiting same-sex relationships, particularly because the Census does not specifically ask a question about sexual orientation. Census data from other countries does, and in those countries they show an increase in the numbers of recorded same-sex couples, including same-sex couples who parent and are engaged in parenting.

## Why is marriage equality different from civil unions, civil partnerships and domestic partnerships?

Marriage equality is substantively different from civil partnerships and civil unions. Civil partnerships/unions provide separate rights to same-sex partners but do not give the full rights associated with marriage under the Irish Constitution. MarriageEquality is campaigning for the right to civil marriage for gay and lesbian people, not the right to marry in a church of any denomination.

### *Definitions*

**Civil marriage:** (marriage which takes place in a registry office or other non-church venue). Civil marriage is currently available only to opposite-sex couples and affords them a special position arising from the Irish Constitution. MarriageEquality believe that access to civil marriage should be available to same-sex couples. Extending civil marriage for same-sex couples and their families would provide equality, recognition and legal protection currently enjoyed by opposite-sex couples. Currently marriage equality has been granted to same-sex couples in seven jurisdictions across the world

**Civil partnership or civil union:** this enables same-sex partners to register their relationships through a civil registration scheme. The partnership is formally registered with the State. In all cases civil partnership schemes have provided lesser rights and standing for same-sex couples than those rights provided through marriage and in some states the right to joint custody of children and adoption rights are excluded. Those in civil partnerships or civil unions are not afforded the same protections as married couples. It is therefore a separate institution that is distinct from marriage. Currently a civil partnership scheme exists in Northern Ireland, under the

Civil Partnership Act which came into force in 2005. This is not marriage.

**Domestic partnerships:** these cover rights and responsibilities for opposite-sex, same-sex and non-conjugal relationships (covering, for example, two siblings cohabiting in mutual economic and social dependency). This provides fewer rights even than civil unions/partnerships. Domestic Partnership is not marriage.

*“The government proposal is presumably that there will be a separate institution of civil partnership for same sex couples,” says Brian, “with a separately defined set of rights and responsibilities, independent of marriage. That’s like saying we should be happy with crumbs from the table”...*

It is important to stress that civil unions/partnerships are different from civil marriage. Rights associated with civil partnerships/unions vary from one jurisdiction to another, and although they may confer some of the rights that are similar to marriage, none provide complete equal marriage rights. Unless lesbians and gay men have equal marriage rights they will not have equality of status or equality of rights in Ireland. The Massachusetts Supreme Judicial Court proceedings summed this up by arguing that:

A civil union is not the same as civil marriage, just as the United Kingdom’s granting the vote to women in 1918, but only at the age of 30, was not the same as the existing right of men to vote at the age of 21.



There is a danger that the terms civil union/partnerships and civil marriage become interchangeable. For this reason spelling out the differences is important to understanding why marriage equality is the only equality option for legislation in Ireland.

MarriageEquality believes that the right for lesbians and gay men to marry should not be treated as a special right, with separate legislation and separate institutions. Rather, lesbians and gay men should be entitled to the same marriage choices and rights as heterosexual people, with the right to marry the adult of their choice. Failure of the State to provide for this right denies lesbians and gay men civil rights protections that are often taken for granted by heterosexual people and their families.

## **Why is marriage equality a relevant issue for contemporary Ireland?**

### *Attitudes to gay marriage in Ireland*

Recent surveys, including research by MarriageEquality, show that people in Ireland are ready for full civil marriage rights for lesbians and gay men. They are generally accepting of gay relationships and comfortable with and ready for civil marriage. Most people surveyed see only limited visibility given to gay and lesbian issues and specifically to same sex marriage, but many are aware of gay and lesbian relationships and partnerships and some even think that gay men and lesbians can already get married and so think there is no problem. There is an awareness and acceptance that one of the significant changes in Irish society over the last decade has been in family and other relationships, including different family forms, such as couples cohabiting before marriage, single parents, mixed families with different siblings and an acceptance of gay and lesbian couples. This positive endorsement of the diversity of relationships is seen to reflect the diversity of modern Ireland where people are entitled to make choices about their relationships. Generally the

greater visibility given to gay and lesbian people in society and in the media in Ireland and internationally has helped to raise awareness and acceptance of gay people and gay relationships.

Many people do not understand the difference between civil partnership and civil marriage. However, when the terminology is explained to people there is widespread support for gay marriage on the basis that civil partnership confers fewer rights, is a separate institution and is essentially unequal, compared to marriage, in areas such as legal and tax status, but also in terms of societal status and standing. Therefore, creating a separate and lesser institution such as civil partnership is viewed as discrimination. Generally, people felt that there needed to be more clarity regarding definitions and that the public need to be better educated about the fact that access to civil marriage is separate from church marriage, in order to avoid confusion.

### *The long road to marriage equality*

In Ireland there is no recognition of same-sex marriage or civil unions, however, the Government has made a commitment to introduce the Heads of a Bill for Registered Civil Partnership by March 2008. The Bill will only deal with same-sex relationships through a non-marital scheme of recognition, either in the form of a civil partnership or a civil union. These provisions fall far short of full marriage rights

The 2006 All-Party Oireachtas Committee on the Constitution considered a range of issues including the definition of the family and the rights of lesbian and gay couples to marry. However, it concluded that there should be no changes made to the Constitution and opted for legislation on civil partnership registrations for all cohabiting couples in areas such as succession, maintenance and taxation rights. However, in a manner thought by most right-thinking individuals to be discriminatory, it also recommended that recognition of cohabiting partners should only cover heterosexual couples.

Also, the Law Reform Commission of Ireland in December 2006 published a report on qualifying cohabitees, defined as unmarried same-sex or opposite-sex couples, and similarly evaded the issue of whether Constitutional change would be required or not and concluded that application for the rights of cohabitees in a marriage-like relationship of two years could be determined by application through the courts, rather than automatically guaranteed through marriage.

In January 2006, the Taoiseach endorsed the Oireachtas Committee report recommending civil partnerships by stating that:

Our sexual orientation is not an incidental attribute. It is an essential part of who we are and what we are. All citizens, regardless of sexual orientation, stand equal in the eyes of the law. Sexual orientation cannot, and must not, be the basis for second-class citizenship. Our laws have changed, and will continue to change to reflect this principle.

Although the Taoiseach's statement states that lesbians and gay men are equal in the law, this is not the case in relation to marriage. The proposed legislation on civil partnerships certainly does not accord this equality to lesbians and gay men.

The Government's Working Group on Domestic Partnership (Colley Report) went on to recommend, in 2006, that marriage equality was the only full equality measure. However, they considered that there might be constitutional issues to be considered. They went on to say there should be full civil partnerships for same-sex couples with equivalence to the Civil Partnership Act 2004 in Northern Ireland. This option would give cohabiting couples, who register their relationships, rights somewhat similar but not equal to those of marriage. This option does not extend full marriage rights and would be covered in separate legislation. A further set of options were

presented in the report including Limited Civil Partnerships, which provides for some rights such as the right to apply for maintenance in the event of a relationship break-up, but not the same tax benefits associated with marriage. A further option for a Presumptive Scheme provides protection for a vulnerable partner, in same-sex or opposite sex relationships, in the event of the death of a partner or relationship breakdown where there is no other formal recognition of their relationship.

There have been two proposals for legislation, which have provided the possibility for a comprehensive set of rights for same-sex couples, although not full marriage rights. To date these have been the most progressive proposals for legislation and go further than that proposed by the Government. However, neither the Norris Bill of 2004 nor the Labour Party Bill of 2006 reached the Statute book. The Norris Bill, presented in the Seanad, covered the recognition of unmarried same-sex and opposite-sex civil partnerships. It stated that there should be full equality of rights. A vote on the Bill was adjourned indefinitely. The Labour Party Bill was a Private Member's Bill presented to Dail Eireann by Labour T.D. Brendan Howlin. The Bill was subsequently voted down by the Government in 2007.

There have also been a number of reports from statutory bodies, government agencies and NGOs advocating legal recognition of lesbian and gay partnerships, including the 2002 report of the Equality Authority on *Equality for Lesbians, Gays and Bisexuals*, which recommended that legal recognition be given to same-sex partnerships and that there should be equality with married couples in the areas of adoption, inheritance and taxation. The report of the NESF in 2003 on *The Implementation of Equality Policies for Gay, Lesbian and Bisexual People*, also recommended that equal rights for same-sex couples should be put in place. Recommendations for legal recognition of all lesbian and gay relationships and partnership rights have also been made by the Human Rights Commission's 2006 *Report on de facto*

*Relationships* which recommended the legal recognition of all *de facto* relationships, and the Irish Council for Civil Liberties 2005 report on *Equality for All Families*. *Equality for All Families* called for a legal basis to be given to partnership registration and revisions to the Constitution on civil marriage and the family, with a right to marry irrespective of sexual orientation.

### ***Does gay marriage require a change in the Irish Constitution?***

There have been a number of discussions about whether same-sex marriage requires an amendment to the Constitution and there are mixed views about whether the introduction of rights to gay marriage requires constitutional change.

Extracts from the Irish Constitution in relation to the family:

*The State recognises the family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law. (Article 41.1.1)*

*The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State. (Article 41.1.2)*

*The State pledges itself to guard with special care the institution of marriage, on which the family is founded, and to protect it against attack. (Article 41.3.1)*

In the 2006 judgement in the case of *Zappone & Gilligan Vs Revenue Commissioners*, the High Court stated that marriage in Ireland has been interpreted in the Constitution as being between a man and a woman and that therefore the Revenue Commissioners were not breaching the rights to the recognition of foreign same-sex marriages, in this case the Canadian marriage of two lesbian Irish citizens, Katherine Zappone and

Ann Louise Gilligan. Counsel for Zappone & Gilligan argued that the Constitution was a living document and that it had been changed many times to reflect social change and understanding. They argued that the couples' marriage should be recognised in Ireland because of their right to equal treatment under Article 40.1 of *Bunreacht na hÉireann*. Furthermore, they argued that the couple have the human right to marry under the Constitution. The case is currently being appealed and waiting for a date from the Supreme Court.

Marriage Equality believes that there is no requirement for Constitutional change in Ireland because the Constitution's definition of the family can easily encompass same-sex families. This position has been argued by eminent barristers and legal experts. Neither the Constitution nor more recent tax laws specifically define marriage as being between a man and a woman.

The Government's view has been to evade the issue and opt for lesser rights associated with civil partnerships that do not confer marriage rights. When the Labour Party's Bill on civil unions was being debated in 2007 the Minister for Justice, Equality and Law Reform Brian Lenihan T.D., stated in relation to the Bill that: "It is no light thing to say that this risks impugning the provisions of Article 41.3.1, which states that 'the State pledges itself to guard with special care the institution of marriage, on which the family is founded, and to protect it against attack'". Similarly, the 2006 All-Party Oireachtas Committee on the Constitution stated that there should be no changes made to the Constitution as this would be likely to fail.

However, there is no real substance to these positions since the Constitution has not been tested in this respect, rather it has simply been assumed that this contradicts *Bunreacht na hÉireann*. Neither does the Constitution specify that marriage is between a man and a woman.

*“I think that people need to separate all the complexities around legislation from the idea of what is fair and unfair,” says David. “People need to separate their own religious issues from it and consider it as an issue over what is fair for the people of Ireland. This is supposed to be a modern, cutting-edge country, after all.”*

## Making the arguments for marriage equality

Having the right to choose to marry is a fundamental right provided for in all societies. Marriage confers citizens with certain financial, familial and societal rights and responsibilities. However, being denied this right to marriage means that people are treated as second class citizens with lesser rights; having lesser rights impacts on people's dignity and sense of themselves, as well as their capacity to participate and contribute to society to their full potential. The South African Supreme Court's same-sex marriage case (*Fourie*) sums up the reason why same-sex marriage is the only way forward:

[M]arriage and the capacity to get married remain central to our self-determinations as humans...The capacity to choose to get married enhances the liberty, the autonomy and the dignity of a couple committed for life to each other.

MarriageEquality believes that same-sex marriage does not damage nor undermine the institution of marriage and the family. In fact it strengthens marriage by recognising marriage in a wider context, but most crucially extending rights of marriage to same-sex couples gives lesbian and gay men the right to the recognition and validation of their relationships and families, and to choices that they currently do not have. This will not only help to create a more equal, cohesive and inclusive society, but also a better society that values the diversity of its population. The reality is that there are many same-sex families in Ireland today and it is therefore important that rights to full protection and the right to their family be given equal status in the law.

The Government has stated that the Heads of its Bill, to be published in 2008, will provide for "a significant degree of equality" for same-sex couples. The Government's position of providing lesser rights, compared to marriage, seriously undermines the principle of equality. Equality is not something



that can be introduced on a piecemeal basis or on a partial basis.

The wording of the Bill submitted by the Labour Party in 2007 provides for the rights and duties of marriage as similarly applying to civil unions. To date this has been the most progressive piece of proposed legislation and although it would have provided for the full rights and responsibilities associated with marriage, it provides for this in separate legislation, rather than extending existing marriage rights to all people, irrespective of their sexual orientation and would not extend the full protected status of the married family to gay and lesbians in civil unions.

Marriage Equality argues for lesbian and gay marriage on the basis that unequal treatment based on a person's sexual orientation is discrimination. Sexual orientation is one of nine grounds in the Irish Employment Equality Acts 1998 and 2004 and the Equal Status Acts 2000 and 2004, the Acts promote equality of opportunity and prohibit discrimination, sexual harassment, harassment and victimisation in access to goods and services and employment. The two other grounds that are relevant to marriage equality are family and marital status, which prohibit discrimination against a person because of their marital or family status, also apply to lesbian and gay relationships.

As a result Marriage Equality considers marriage to be intrinsic to equality and a fundamental civil right. By disallowing marriage between consenting lesbian and gay partnerships, gay people are denied their rights and are consequently discriminated against in access to goods and services, rights associated with taxation and associated benefits, property and inheritance, in the area of family reunification in immigration law regarding the rights of foreign partners, and in relation to rights accorded through next-of-kin relationships, along with denial of family rights to children of lesbian and gay families.

If a society does not reflect its social makeup it is likely to lack cohesion and stability. For this reason it is important to stress that same-sex marriage is part of contemporary society that values and respects all of its members. Just because a practice or institution is rooted in tradition does not make it right; there are examples of traditional practices that have been outlawed because they were considered to be unacceptable in a modern society and/or discriminated against certain groups.

Many lesbians and gay men and civil and human rights groups and bodies have made it clear that it is unacceptable for lesbians and gay men to be treated as second-class citizens. Not only is it unacceptable but it is dangerous for the individuals involved, contributes to social exclusion and may even damage family life of the children living in these families. They see that not being allowed the choice to marry is the result of discrimination and a lack of recognition of lesbian and gay identity. In this sense many lesbians and gay men believe that being excluded from having a choice to participate in one of the core institutions of society is an expression of discrimination and inequality and is simply unjust and unfair.

## *Dispelling myths about same sex marriage*

Some opposition to marriage equality is based on arguments of the primacy of heterosexual marriage. It is argued that by giving lesbian and gay relationships the same status in marriage as heterosexual relationships undermines the institution of marriage and is damaging to children. Assumptions are made that marriage exists to raise children and/or that homosexuality is unnatural; often it is seen to be connected solely to sex. These arguments disregard the importance of many lesbian and gay relationships that are both long term and based on expressions of love and commitment, just as heterosexual relationships are.

Opponents of marriage equality argue that marriage is a universal institution and that marriage exists primarily to protect and nurture children, rather than as a recognition of a sexual or loving relationship. They argue that the rights associated with marriage, for example, to tax allowances, pension rights and inheritance rights, exist primarily to protect children. They reject marriage solely as an institution of love and partnership, since the primary role of marriage is to nurture and protect children.

**MYTH 1. *The institution of marriage is a universal institution deeply rooted in Ireland's Christian heritage; extending marriage rights would be undermining to these traditions***

The argument that lesbian and gay relationships are against religious teachings and Christian heritage needs to be countered. Civil marriage is not a religious marriage, and to undertake a civil marriage in Ireland today does not require a religious ceremony. Civil marriage ceremonies for heterosexual couples are increasingly popular in Ireland, many taking place in registry offices or in more recent times in other designated non church locations and give legal and State recognition to marriage. There are also many examples across the world and

in Ireland of an acceptance in Christian Churches of lesbian and gay relationships. It is unacceptable for the Catholic Church to impose moral judgements that are used to deny people their rights and which support unfairness towards lesbians and gay relationships.

Religious or moral arguments against gay marriage refer to the sanctity of marriage as a heterosexual institution with specific cultural, religious and traditional meanings attached to it. However, many of these teachings are located within specific cultural and historical contexts that bear little relation to modern day social contexts.

Although marriage may be recognised as a religious institution by some groups, this view neglects the reality of modern day marriage, which is rooted in civil law and is secular and a function of the State. Moreover, many people arguing against gay marriage from a religious perspective also recognise and support the rights of same-sex couples to marriage within a civil context, rather than a religious context. MarriageEquality argues a social and civil, rather than a religious, case for marriage.

The separation of the religious and secular institutions of marriage is vital in this discussion. The rules of access to church marriage (of whatever denomination) are drawn up, appropriately, by each church institution itself. However, civil marriage rules are drawn up by the State and allow access to marriage via a non church route. The State must provide access for those who wish to marry and ensure that no citizen is unfairly excluded from access to civil marriage. Some religious denominations allow same-sex marriage, some bless same-sex unions.

## **MYTH 2. *Extending marriage rights to other family forms reduces and undermines the status of marriage***

The truth is that lesbian and gay people already have families and children; they live in families and should not be discriminated against. Rather than the extension of access to marriage undermining the status of marriage it would strengthen marriage as an institution and also strengthen and support all families.

Those who present the view of the primacy of heterosexual marriage question the view that the State should support family forms other than marriage and recommend that the special status of marriage – between a married mother and father - should be preserved.

This position ignores the reality of life since not all married heterosexual couples are 'mother and father'. Many married couples choose not to or simply have never had children and so are not mothers and fathers. The diversity of family life is protected by Irish equality legislation and is a recognition of the reality of Irish life. Those who ignore the rights of existing family forms (lone parents, same sex families, separated people, cohabiting couples) are actually calling for discrimination against the men, women and children who live in these modern family forms. People may not 'like' the emergence of new family forms and may 'regret' the demise of more traditional family forms. These opinions should not dictate the denial of equality of rights, entitlements and duties to all family forms.

Those that argue that marriage should be between a man and a woman are prejudicing and denying the rights of lesbians and gay men. The arguments against lesbian and gay marriage have not been upheld in courts of law in a number of jurisdictions. An increasing number of courts are ruling that there is no legal, constitutional or social reason why marriage equality should

not exist. In most jurisdictions, including in Ireland, marriage is not specifically defined as being between a man and a woman, although in some jurisdictions, including in US Federal law, attempts have recently been made to specify that marriage is an institution between a man and a woman, in order to take away rights to marriage equality. In contrast, in South Africa, a recent constitutional court judgement ruled that marriage could be same-sex or opposite sex, and in several countries a neutral term was given to marriage in order to open it up to lesbian and gay couples.

Opponents of marriage equality argue that the diversity of family forms in contemporary Ireland is not enough of a reason to extend rights to different family forms. The truth is that equality legislation already exists, establishing rights of lesbians and gay men not to be discriminated against in relation to employment, goods and services. Those who oppose lesbians' and gay men's access to marriage are proposing a continued discrimination and unfair treatment of people who want to get married and have the protections and status afforded to other long-term committed married couples and their families.

There is also evidence to suggest that marriage equality can strengthen marriage as an institution. In Massachusetts<sup>1</sup> the divorce rate continues to be lower than other US States, the introduction of same-sex marriage rights has not undermined the institution of marriage.

Rather than threaten marriage, lesbian and gay marriage can help to build the stability and strength of marriage as

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<sup>1</sup> In 2004 the Massachusetts divorce rate was 2.2 per 1000 residents per year, compared to US national average of 3.8 per 1000. In contrast those US states that have opposed same-sex marriage and that are the most hostile to divorce are in fact those that have the highest divorce rates.

an institution. Extending married rights to same-sex couples can help to create a more inclusive and equal society, that strengthens the choices available to everyone to marry. Because cohabiting heterosexual couples already have the choice to marry, Marriage Equality believes that this choice should be extended to lesbians and gay men as well.

**MYTH 3. *Lesbian and gay families are not seen as appropriate families in which to raise children***

Opponents of marriage equality argue that adults and children living in families based on marriage experience better educational, emotional and financial outcomes, compared to other family forms. This argument is used to suggest that the State and society should continue to favour marriage over other family forms, particularly in protecting the best outcomes for children. How can those who offer this argument against same sex couples getting married, justify preventing the children of lesbian and gay relationships from accessing the positive outcomes that marriage provides?

Neither is it a sustainable argument to say that marriage is only for procreation. The assumption that marriage is only for procreation is as offensive to lesbians and gay couples, as it is to infertile heterosexual couples or those that choose not to have children. There are a large number of studies that show that there are no substantive differences between the experiences of children raised in lesbian and gay families and those in heterosexual families. Similarly, growing up in a lesbian or gay family has also been shown to have no impact on the sexual orientation of children when they become adults.

A crucial factor, borne out by studies on family psychology, is that the effective rearing of children is connected to the need for children to grow up in a loving and nurturing family environment, with parents who are committed to the well-

being of children. Lesbian and gay parents make very successful parents. They should be accorded rights and gain recognition for their roles, which can be conferred through marriage rights. Moreover, there is little or no evidence of children raised in lesbian or gay families being adversely affected at a social or psychological level, other than those related to acceptance by society of their family and of homophobia in the outside world that can impact on children.

In particular, the argument that marriage exists for the purpose of family procreation in a heterosexual partnership neglects to recognise that modern-day technology enables gay couples to have their own biological children. Furthermore, this argument equally does not hold up when consideration is given to the role of sex in marriage between infertile couples, after the menopause, or in the cases of heterosexual married couples who are infertile and who used reproductive technologies to facilitate pregnancy.

In today's society many people have children outside of marriage and marriage is very much a reflection of love and commitment between two people. One of the arguments against gay marriage is that marriage should be for those who have children. This argument fails to recognise that lesbians and gay men do have children, that significant numbers of people do not have children in marriage and that modern day marriage is not based solely on procreation. Similarly, there is a reality that many lesbians and gay men have been and continue to be parents and that a denial of this fact results in the neglect of a significant part of the social fabric of modern day Ireland, along with denying the children of these families the rights and protections which accrue to children of married parents.

A recent ruling in the European Court of Human Rights provides important case law in the area of adoption rights. In the *E.B. v France* case, the judgement of the European Court of



Human Rights on 22 January 2007, stated that the exclusion of individuals from the application process for adoption of children because of their sexual orientation is discriminatory and is in breach of the European Convention of Human Rights.<sup>2</sup>

This means that it is not permissible to discriminate against an individual on the basis of her/his sexual orientation in the process of applying to adopt a child. The Court had previously ruled that in 1999 in the case of *Mouta v Portugal*, that the sexual orientation of a parent is irrelevant when determining who should have custody of a child. Whilst there is no automatic right to adopt a child and that applications to adopt a child are based on the merits of the potential parent, the judgement of the European Court of Human Rights makes it clear that lesbian, gay and bisexual individuals cannot be excluded from applying to adopt a child.

Those who oppose access to marriage by same-sex couples argue that married couples receive tax allowances, pension rights and inheritance rights, largely because of the need to protect children. The truth is that gay and lesbian families, with and without children (just like heterosexual married couples) exist. Children and committed partners require the supports of the State given through the institution of marriage. Anything less than this protection is discrimination and unequal treatment of families and denies people the right to a family life, on an equal footing with heterosexual families.

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<sup>2</sup> The Court concluded that the decision refusing the applicant authorisation was incompatible with the Convention and that there had been a violation of Article 14 of the Convention, taken in conjunction with Article 8. The Court considered that the State, which had gone beyond its obligations under Article 8 in creating such a right for single people to adopt, could not then take discriminatory measures when it came to applying it. The applicant alleged that, in the exercise of her right under the domestic law, she had been discriminated against on the ground of her sexual orientation, which was a concept covered by Article 14. Article 14 of the Convention, taken in conjunction with Article 8, was therefore applicable in the present case.

## What rights to marriage equality exist in other jurisdictions?

### *Marriage equality*

The right to same-sex marriage exists in seven jurisdictions: the Netherlands, Belgium, Canada, South Africa, Spain and the US state of Massachusetts. In Canada and Spain the legal status of same-sex marriage is the same as opposite-sex marriage, whilst South African legislation has been enacted to harmonise marriage laws. Same-sex marriages carried out abroad are recognised in Israel, Aruba and the Netherlands Antilles.

**Netherlands:** Same-sex marriage was introduced under the Marriage Act of 2001, which states that “A marriage can be contracted by two people of different or the same sex” (Article 1). Prior to that, in 1998, registered partnerships had been introduced for same-sex and opposite-sex partners. Same-sex marriage confers the same rights and responsibilities as opposite-sex marriage. However, a non-biological parent has the right to be a second parent only after she/he has been through the process of adoption. Same-sex partners, like opposite-sex partners, have the same rights regarding residence and nationality, whereby at least one partner must have Dutch nationality or residence. Although same-sex marriage is not recognised in Dutch Antilles and Aruba the Dutch Supreme Court has ruled that a Dutch same-sex marriage should also be recognised in Dutch Antilles and Aruba. Statistics from the Netherlands reported that by March 2005 approximately 6600 same-sex couples had married.

**Belgium:** Same-sex marriage, with some restrictions, was introduced on 30 January 2003. Couples are allowed to marry if at least one of the spouses has lived in the country for a minimum of three months. By 2005, 2442 same-sex marriages had taken place. In 2006, the legal co-parenting of same-sex

couples was introduced in law, allowing the same-sex spouse of the biological parent to become the legal parent.

**Canada:** Same-sex marriage became legal in Canada on 20 July 2005, following the passing of the Civil Marriage Act. Prior to that a number of provincial and territorial court cases ruled that the bans on same-sex marriage were unconstitutional. This led to same-sex marriage being legalised in eight out of ten provinces and one of three territories. The Department of Citizenship and Immigration Canada recognises same-sex marriages carried out in Canada and other countries between Canadian citizens or permanent residents and immigration applicants. It also allows same-sex civil union partners for family-class immigration. Proof of legitimacy and cohabitation for at least a year are required.

**Spain:** On 3 July 2005 same-sex marriage was legalised in Spain, following legislation passed in June 2005. The law covers all of the rights of married people, including adoption rights. In addition, following a subsequent amendment to recognise children born in a lesbian marriage, this meant that non-biological mothers no longer had to go through a lengthy adoption case in order to gain parental rights. Sixty-six per cent of the population supported the 2005 law, despite opposition from the Catholic Church. The same-sex marriage law enables a Spanish citizen to marry a non-Spaniard irrespective of whether that person's home country recognises the marriage. The law states that one spouse must be Spanish or where two non-Spaniards marry they both have to be legally resident in Spain. In the first year around 4500 lesbian and gay couples were married in Spain, and between 2005 and 2007, 3340 same-sex marriages were recorded in those registries with computerised records, a figure that is seen to under-represent the full number of same-sex marriages.

**Israel:** In Israel the High Court of Justice has issued a ruling recognising same-sex marriages performed in other countries. The case was taken by five male Israeli couples married in Canada. However, because all marriages taking place in Israel are religious marriages, it is considered unlikely that recognition will be given to same-sex marriages inside Israel.

**USA:** Currently Massachusetts allows full marriage equality for gay and lesbian people. On May 17th, 2003, Massachusetts became the first state in the United States of America to give same-sex couples the right to marry as a result of *Goodridge v. Department of Public Health*. Since that day, over 10,000 couples have entered into legal marriage, gaining all the state rights and protections - from hospital visitation rights to shared health care benefits - that come with it.

**South Africa:** In a 2004 case, the definition of marriage as being the spouses as "wife" or "husband" as specified under the 1961 Marriage Act was overturned in *Fourie v. Minister of Home Affairs*, Case No. 232/2003 (Supreme Court of Appeal of South Africa, November 30, 2004). The case declared that "under the Constitution the common law of marriage has been developed to include same-sex unions." The Constitutional Court gave Parliament one year to develop same-sex marriage and that this had to be the principle of equality regarding material and symbolic equality. Even without legislation same-sex couples can marry under the common law and the Marriages Act as of 1 December 2006. The rule also states that marriage should be retained in the legislation. As Justice Albie Sachs stated in the 2005 Constitutional Court judgement the South African Parliament was required to ensure that

whatever legislative remedy is chosen must be as generous and accepting towards same-sex couples as it is to heterosexual couples, both in terms of the intangibles as well as the tangibles involved. In a context of patterns of

deep past discrimination and continuing homophobia, appropriate sensitivity must be shown to providing a remedy that is truly and manifestly respectful of the dignity of same-sex couples.

In 2006, Parliament drew up a Civil Union Bill, which gives civil unions the same rights as married rights.

In **Northern Ireland**, as with the rest of the UK, civil partnerships provide similar rights to marriage, with ceremonies performed by a marriage registrar. They provide for benefits and legal rights, including tax exemptions, joint property rights, next-of-kin status and shared parenting rights and responsibilities. Within the first nine months of the introduction of civil partnerships 15,657 same-sex civil partnerships had been registered in the UK (by December 2006). This far exceeded the government's estimation that there would be up to 22,000 civil partnerships by 2010. However civil partnership couples do not have the same rights as married couples in UK.

## Conclusions

This paper has shown that having equal access to marriage is the only way that lesbians and gay men can have equality in Ireland today. We have also shown that many of the arguments made by opponents of marriage equality do not hold up. Lesbian and gay marriages will not undermine marriage and the family. In contrast, marriage can provide lesbian and gay families with recognition and rights that can help to strengthen marriage, and also provide protection and rights for children and lesbian and gay parents.

The key issue is that everyone should have equality of access to marriage and that a person's sexual orientation should not be a basis for discrimination and the denial of equality. Equality of access to marriage gives lesbian and gay people choices, rights and duties, which are currently available to heterosexual people. In addition, many countries are either introducing or are moving towards marriage equality for lesbian and gay relationships. Equality of access to marriage rights for lesbian and gay couples has been introduced successfully in countries such as Spain; there is no reason why this cannot be done in Ireland.

Marriage equality not only benefits the inclusion and cohesion of a society but also gives rights to everyone to choose to participate in the major institutions underpinning society. It also gives rights and responsibilities to lesbian and gay relationships and families that can strengthen the legitimacy, visibility and rights of all people and all families. This is the basis for equality and it mirrors the type of society that people in Ireland today recognise and support.

For this reason lesbian and gay people, and many of their heterosexual friends and families, believe that full equality is the only way forward. Anything less is not acceptable as this undermines the right to full participation in society, to choice, to dignity, to respect and to equality.



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**Quotes used in text are taken from GCN, February 2008.**

Civil Marriage for Gay and Lesbian People

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