


gay marriage

**WHY IT IS GOOD FOR GAYS,
GOOD FOR STRAIGHTS,
AND GOOD FOR AMERICA**



"Cool, articulate, poignant . . . This is a powerful book, clear, tolerant and persuasive. . . . Rauch's book should become obligatory reading for all."

—*The Economist*

Jonathan Rauch

Gay Marriage

*Why It Is Good for Gays, Good for Straights,
and Good for America*

Jonathan Rauch

An Owl Book

Henry Holt and Company

New York



Henry Holt and Company, LLC
Publishers since 1866
115 West 18th Street
New York, New York 10011

Henry Holt® is a registered trademark of Henry Holt and Company, LLC.

Copyright © 2004 by Jonathan Rauch
All rights reserved.

Distributed in Canada by H. B. Fenn and Company Ltd.

"Do You Love Me?" from the musical *Fiddler on the Roof*
Words by Sheldon Harnick, music by Jerry Bock
Copyright © 1964 (Renewed) Mayerling Productions Ltd.
(Administered by R&H Music) and Jerry Bock Enterprises
for the United States and Alley Music Corporation, Trio Music Company,
and Jerry Bock Enterprises for the world outside of the United States.
Used by permission. All rights reserved.

Library of Congress Cataloging-in-Publication Data

Rauch, Jonathan, 1960—

Gay marriage : why it is good for gays, good for straights, and good for
America / Jonathan Rauch.—1st ed.

p. cm.

Includes index.

ISBN-13: 978-0-8050-7815-2

ISBN-10: 0-8050-7815-0

1. Same-sex marriage—United States. 2. Civil rights—United States.
3. United States—Social life and customs. 4. United States—Politics
and government—2001— 5. United States—Social policy—1993— I. Title.

HQ1034.U5438 2004
306.84'8—dc22

2003068554

Henry Holt books are available for special promotions and premiums.
For details contact: Director, Special Markets.

First published in hardcover in 2004 by Times Books
First Owl Books Edition 2005

Designed by Fritz Metsch

Printed in the United States of America

1 3 5 7 9 10 8 6 4 2

Contents

Introduction: The Imagination Gap	1
1. What Is Marriage For?	11
2. Accept No Substitutes	29
3. How Gays Will Benefit	55
4. How Straights Will Benefit	72
5. How Marriage Will Benefit	86
6. Married, Without Children	104
7. Anything Goes	123
8. Men Behaving Badly	138
9. The Debt to Tradition	159
10. Getting It Right	172
11. A Golden Anniversary	192
Index	197

Introduction:

The Imagination Gap

Try to imagine life without marriage. If today you are married, imagine that tomorrow, as though in a Kafka tale, you wake up to find that your marriage has never occurred. Moreover, your marriage *cannot* occur. There is no one for you to marry, or at least no way for you to marry the person you love. Your spouse may still be with you but now is not your spouse at all, but your “partner,” or your girlfriend or boyfriend or companion or live-in lover or significant other or just, so to speak, your squeeze. You are not exactly sure how to introduce this person. You and your companion may think of yourselves as married, but your friends and family and coworkers may not see you and your partner (or is it companion? or lover? or friend?) as married, and certainly the government and the law do not. Then again, perhaps you are single. Without the special bonds of marriage, and without the familial and social and legal support which marriage conveys, your relationship broke up during a bad patch a few years back. Now you are unattached, possibly looking for someone—someone whom you know you cannot marry. You are no longer a single person looking to marry or between marriages. You are between “relationships.” That is not the same thing. Your future has changed, probably not for the better.

Now push your imagination a step further. Erase marriage not just from your present but from your past. Imagine looking back on a childhood and youth without the prospect of marriage. From the dawn of adolescence, when you first felt the beat of love in your breast, you have known that you would never marry anyone you felt passion for. Your first kiss was a kiss without hope of marriage. Your first date was a date without hope of marriage. When you discovered sex, it, too, was without hope of marriage. True love means, first and foremost, a love which ends in lasting marriage. For you, true love in that sense is not possible, and never has been possible, and you have grown up assuming it would never be possible. Your heart, now, is not the same heart. It has changed, and perhaps not for the better.

And now, if I may try your patience, push your imagination still further, to the outer limits of strangeness. Imagine not only yourself without marriage: imagine a whole community, a whole culture, without marriage. In your community, no one is married, no one has ever been married, no one ever will be married, and everyone has grown up from childhood taking the absence of marriage for granted. What is this community, your world, like? More unstable than the one you were accustomed to before your Kafkaesque metamorphosis, no doubt: probably less healthy, less happy; perhaps full of sex but not as full of love. It is a world of fragile families, a world marked by heightened fear of loneliness or abandonment in old age, a world in some respects not civilized, because marriage is the foundation of civilization.

Over time, many people in your marriageless world, possibly with you among them, succeed in forming and sustaining enduring attachments, and that success, against considerable odds, is a credit to human resilience. But, without society's help and encouragement, finding and forming lasting bonds has been hard. Even if, over time, most people in your marriageless world manage to pair off and act married, without marriage their rela-

tionships and their world are not the same. The law sees only individuals, never couples; the larger society is not sure what to make of these so-called partners. Their world remains incomplete, unfinished.

I think it is difficult, probably impossible, for most heterosexuals to imagine life without marriage. If, on the other hand, you are gay, you have not had to exercise your imagination much at all. For generations, homosexuals have come of age understanding that their love separated them from marriage instead of connecting them to it. They lived in a world turned upside down. As hard as it is now for heterosexuals to imagine life without marriage, that is how hard it was, until comparatively recently, for homosexuals to imagine life *with* marriage. If homosexuality has long seemed grotesque and threatening to heterosexuals, and if heterosexual convention has often seemed cruel and oppressive to homosexuals, the main reason is not the difference in sexual orientation as such but, rather, the marriage gap, which is really an imagination gap. Neither side could imagine the other's world. To be homosexual meant not to be married. To be married—happily and honestly married—meant not to be homosexual.

One of my childhood memories is of a day when, as I sat on the piano bench in the family room, it dawned on me that I would never be married. I have a distinct recollection of that moment. I did not discover or learn that I would never be married; I merely recognized that I knew it. That day was a long time, I think about fifteen years, before I understood I was homosexual. Throughout my childhood and youth, I had no notion of sexuality, but I did understand that marriage was not for me. Much later, after struggle and delay, I established caring relationships, but by that time I had grown up seeing life through the weird prism of marriagelessness. I assumed things would never change. I would never have two wings and fly, and I would never be married.

During the last decade of the twentieth century, a miracle happened, although some would call it a nightmare. In the early 1990s, gay people started talking as never before about getting married, and a lawsuit in Hawaii, where a same-sex couple sought a marriage license, forced the country to listen. The lawsuit failed (Hawaii foreclosed it by amending the state constitution), and the initial public reaction ranged from panicky to dismissive. Most states passed laws against same-sex marriage, and so did Congress. Some Americans kept listening, however. Polls showed that young people were not nearly so opposed to same-sex marriage as were their elders. A sprinkling of churches began to conduct gay wedding ceremonies (not legally binding, of course). The law edged toward same-sex marriage, too. Vermont's Supreme Court ordered legal parity for gay and straight unions, and the state responded with "civil unions" for homosexual couples. Some European countries moved in the same direction, with the Netherlands adopting full-blown gay marriage in 2001. The idea of gay marriage, though still politically hopeless, began to seem at least less bizarre.

Then, in 2003, something else happened. It was as if a trigger had been pulled and a gunshot was fired in a quiet room. A Canadian court ordered the province of Ontario to recognize same-sex marriages. Only days later, the United States Supreme Court struck down sodomy laws, in a decision—*Lawrence v. Texas*—which conservatives widely (and wrongly) believed would soon lead to the legalization of gay marriage by the federal courts. Gay activists used the sodomy decision as grounds to file suit in Arizona demanding a marriage license. (They lost.) Other Americans sued for U.S. recognition of Canadian gay marriages. Conservatives panicked. Some of them said not just that same-sex marriage might happen but that it was practically a done deal. Gay marriage, wrote Ramesh Ponnuru in *National Review*, was "not quite inevitable." In the same magazine's online edition, Maggie Gallagher, a conservative columnist, gave notice of the apocalypse. "We are poised to lose the gay-

marriage battle badly," she said. "It means losing the marriage debate. It means losing limited government. It means losing American civilization." As if in answer, in November the Massachusetts Supreme Judicial Court declared the exclusion of gay couples from marriage to be in violation of the state's constitution, and ordered gay marriage starting in six months. "The marriage ban works a deep and scarring hardship on a very real segment of the community for no rational reason," ruled the court. "We construe civil marriage to mean the voluntary union of two persons as spouses, to the exclusion of all others." Even for friends of same-sex marriage, things seemed to be moving disconcertingly fast.

Massachusetts began issuing fully legal marriage licenses to gay couples. It was the beginning of what promised to be a political and social conflict of years' duration. Suddenly, and sooner than almost anyone had expected, the imagination gap snapped shut. Hardly anyone had been ready to imagine same-sex marriage. Now everyone must imagine it.

What might gay marriage do? That depends on the answer to another question, one which has received remarkably little systematic thought: What is marriage for? This book is an effort to answer both questions.

Same-sex marriage would be good for homosexuals. So I believe and so I will argue here. This book, however, is devoted to a larger proposition: that same-sex marriage is win-win-win. It is good for homosexuals, good for heterosexuals, and good for the institution of marriage: good, in other words, for American society. Far from opening the door to all sorts of scary redefinitions of marriage, from polygamy to incest to who knows what, same-sex marriage is the surest way to shut that door. Far from decoupling marriage from its core mission, same-sex marriage clarifies and strengthens that mission. Far from hastening the social decline of marriage, same-sex marriage shores up the key values and commitments on which

couples and families and society depend. Far from dividing America and weakening communities, same-sex marriage, if properly implemented, can make the country both better unified and truer to its ideals.

No doubt, same-sex marriage would tend to normalize homosexuality—for homosexuals. (Not many straight people will be marrying someone of the same sex.) That, to my mind, would be a very good thing, because homosexuality is normal—for homosexuals. The main and great benefit of same-sex marriage, however, would be its normalization of marriage. Marriage depends for its success on its uniqueness and its universality. Those, in turn, depend on two principles. One is "If you want the benefits of marriage, you have to get married." The other is "Marriage is for everyone—no exclusions, no exceptions." Gay marriage reinforces both principles. It makes marriage not just *a* norm (the one for heterosexuals) but *the* norm (for everybody). In doing so, it offers the best hope of stopping the proliferation—aided, perversely, by the anti-gay-marriage movement—of marriage-like and "marriage-lite" alternatives.

Like change of any sort, same-sex marriage would entail costs as well as benefits. It would do harm as well as good. The trick, here as always, is to maximize the good and minimize the harm. That is why this book is devoted to a second proposition: there is a right way and a wrong way to move to same-sex marriage. The right way is gradually, one state at a time. Same-sex marriage will work best when people accept and understand it, whereas a sudden national enactment, if somehow it were to happen, might spark a culture war on the order of the abortion battle. Activists of the left and of the right join forces in insisting on an all-or-nothing approach (although one side wants all and the other wants nothing), but a middle way will be better by far. The United States is blessed with a federalist system which allows the states to experiment independently and learn from success and failure. Thus the

United States, probably alone among the countries of the developed world, is positioned to get gay marriage right.

As I hope you have gathered, I come to this as a true believer in the special importance and unique qualities of the institution of marriage. For all its failings in particular cases, and for all the stress it has borne lately, marriage is *the* great civilizing institution. No other institution has the power to turn narcissism into partnership, lust into devotion, strangers into kin. What other force can bond across clans and countries and continents and even cultures? In *Romeo and Juliet*, it was not the youths' love which their warring and insular clans feared; it was their marriage.

Unlike some people, therefore, I wouldn't support same-sex marriage as a matter of equal rights if I thought it would wreck opposite-sex marriage. Same-sex marriage is a big change. Advocates of gay marriage are trying to change the way things have been for—well, forever. I accept that the burden of proof is on my shoulders. My promise to you is to make my case as rigorously as I can, to resist cutting corners, and to confront the arguments against gay marriage in their strongest form. If you catch me in a cheap shot, I apologize. I further promise to challenge the opponents' arguments rather than their motives. The philosopher Sidney Hook once said: "*Before* impugning an opponent's motives, even when they may rightly be impugned, answer his arguments." That is the spirit in which this book is written. Some gay-marriage opponents may be bigoted or homophobic or otherwise out to get gay people, but most of them are motivated by a sincere desire to do what's best for their marriages, their children, their society. One thing above all, then, I promise to remember: this is *marriage* we're talking about. We must act carefully. We must think carefully.

This book is primarily for two kinds of people. If you are gay, it tries to show how marriage can change us—you and me, but especially the gay generations coming after ours—for the better. I'm well aware that not all gay people share my view of marriage and of the central part it plays in the good life. Although at times my enthusiasm may seem to suggest otherwise, in no way do I believe that marriage should be mandatory or that single people should be scorned or disrespected. My view, rather, is that marriage will give us the opportunity to become better people, by bestowing upon us the full responsibilities of adulthood.

If, on the other hand, you are not gay but are willing to approach marriage with a moderately open mind and some sympathy for gay people, this book tries to show that same-sex marriage is not only fair but also wise, not merely compared with its real-world alternatives but in its own right. I certainly don't expect you to agree with all that I say. In fact, I expect and hope you will push back. Whether or not same-sex marriage is actually enacted, it has already sparked a more serious and more thoughtful discussion of what marriage is all about than America has seen in many years. I will be happy merely to contribute something worthwhile to the discussion. This is not a book about gay marriage; it could not be just that and hope to succeed. This is a book about marriage.

Finally, a word to my nonaudience. Some readers will be anti-gay activists looking for ammunition against same-sex marriage. Fair enough, up to a point, and inevitable. Some people believe that homosexuality is wrong, period; some believe that real homosexuals (persons for whom opposite-sex love and marriage simply aren't options) don't actually exist; and some are, for whatever reason, beyond persuading that marriage can ever be anything other than the union of male and female. I can't expect to reach such readers. I can, however, make one request of them, which is to remember this: *standing still is not an option*. There is no going back to 1950. Homosexuals are increasingly open and ordinary

and will not retreat into the closet. The days when homosexual unions—marital or nonmarital—were invisible are gone, and gone for good. Homosexual relationships will enjoy increasing social recognition and respect even outside marriage. If your first choice is for the whole gay thing to go away, remember that children can demand their first choice or nothing, but adults must often deal in second choices. If you can never accept same-sex marriage as just or moral, I ask you nonetheless to consider: If gay marriage is outlawed, what will come in its place? The world is changing, and marriage, like it or not, is changing, too.

What Is Marriage For?

When I was six years old, I went with my family from Phoenix, where I was born and raised, to visit New York. I remember only a little about that trip, apart from a visit to the Statue of Liberty, but seeing *Fiddler on the Roof* on Broadway remains vivid. It was my first play and a great play to boot, and Tevye's dream frightened me half to death, but another, more tender scene also stayed with me.

Tevye is a poor milkman in a Jewish shtetl (village) in czarist Russia. Life there is hardscrabble and traditional, and he is at first scandalized and then grudgingly helpful when his children break with custom by rejecting arranged marriages and insisting on marrying for love. Shaken, Tevye one day asks his wife, Golde: "Do you love me?"

The question strikes Golde as bizarre. "Do I *what*?" she sings. "Go inside, go lie down. Maybe it's indigestion." Tevye is undeterred and presses the question. "You're a fool!" his wife replies.

"But do you love me?"

"After twenty-five years," she grumbles, "why talk about love right now?" Still he insists: "Do you love me?"

"I'm your wife."

For Golde this is the answer. Or as much of an answer as she needs. She has done her job as a spouse; why would he want more? But Tevye sings on: "But do you love me?"

"Do I love him?"

And now, at last, she gives her answer:

*For twenty-five years I've lived with him,
Fought with him, starved with him,
Twenty-five years my bed is his.
If that's not love, what is?*

"Then you love me!" says Tevye.

"I suppose I do."

"And I suppose I love you, too."

The 1960s were the dawn of the era of love. Love was in the air, love was all around, all we needed was love, what the world needed now was love sweet love, love would keep us together, we should make love not war, we emblazoned LOVE on postage stamps and honored it with statues in public squares. Probably not coincidentally, it was also the age when the American divorce rate soared, to levels never before seen. Love was up, marriage was down. If the light of love dimmed in your marriage, or if it shined in new directions, then follow your heart. You and your partner and your children and everyone would be happier.

That was the air I breathed as I grew up, and yet even a six-year-old was capable of recognizing, in *Do You Love Me?*, a different and in some respects wiser view of love. Later on in my life, some years after my parents divorced (when I was twelve), it occurred to me to wonder: Did Tevye and Golde know something that many of us might have forgotten?

What is marriage for? That ought to be the easiest question in the world to answer. So many people get married, so much cultural

experience has accumulated, and so many novels and dramas and counselors and manuals and “Dear Abby” columns crowd the world. Yet, until recently, when the gay-marriage debate forced the issue, hardly anyone gave much thought to the question. Such answers as were given were shallow or incoherent, especially at first. Gay activists said: Marriage is for love and we love each other, therefore we should be able to marry. Traditionalists said: Marriage is for procreation, and homosexuals do not procreate, therefore you should not be able to marry. That pretty well covered the spectrum. Secular thinking on the matter has been shockingly sketchy.

In its religious dress, marriage has a straightforward justification. It is as it is because that is how God wants it. As the Vatican said in 2003, “Marriage is not just any relationship between human beings. It was established by the Creator with its own nature, essential properties and purpose.” Depending on the religion, God has various things to say about the nature and purpose of marriage. Modern marriage is, of course, based on traditions which religion helped to codify and enforce. But religious doctrine has no special standing in the world of secular law and policy, although it certainly holds and deserves influence. Moreover, a lot of what various religions say about marriage is inconsistent with or downright opposed to the consensus view of marriage today. The biblical patriarchs were polygamous and effectively owned their wives; in any number of religious traditions today, equality within marriage remains anathema. The law allows routine divorce and remarriage, something Jesus unequivocally condemned. If we want to know what marriage is for in modern America, we need a sensible secular doctrine.

You could try the dictionary. If you did, you might find something like: “**marriage** (n). The formal union of a man and woman, typically recognized by law, by which they become husband and wife” (*Oxford American College Dictionary*). Not much help there. Or: “**marriage** (n). The state of being married; a legal contract,