Policy Issues Affecting Lesbian, Gay, Bisexual, and Transgender Families

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Anti-gay bias and its correlate, heterocentrism (or heterosexism), are central to American culture and have an aspect of tradition that cannot be denied. The United States is not unique; anti-gay bias and homophobia are central to cultures across the globe. But while one must acknowledge the connection between anti-gay beliefs and traditional culture, it is also important to understand that anti-gay bias is something that anti-gay movements produce, amplify, mobilize, and deploy for specific political purposes.

The gay marriage issue is central in contemporary U.S. politics largely because anti-gay activists of the religious right have deployed it since the early 1970s as a divisive social issue. They have been especially vigorous and successful in this endeavor for most of the last decade. In consequence, forty states have banned state recognition of same-sex marriages, and Congress passed a ban on federal recognition, the Defense of Marriage Act, in 1996. More recently, anti-gay activists and members of Congress have also threatened to use the Federal Marriage Amendment to short-circuit state efforts to legalize gay marriage. As discussed in chapter 3, this amendment would ban same-sex marriage and prohibit courts from granting more limited forms of recognition, such as hospital visitation rights, domestic partner health benefits, and allowances for second-parent adoption.

The majority opposition to marriage equality for same-sex couples—manifested in opinion polls as well as in anti-gay family legislation—must therefore be understood not only as the expression of traditional anti-gay and heterosexist values but also as the product of a political movement among the conservative and reactionary, theocratic religious right, which has long opposed any form of legal protection or legal equality for gay people. Today, this movement spends hundreds of millions of dollars a year to convince...
voters and elected officials to oppose any policies that provide for the needs of gay men and lesbians. In some cases, anti-gay groups promote policies that exclude or stigmatize gay people even as they decline to acknowledge their existence. The anti-gay project of the religious right—or, more accurately, the Christian right—is central to its broader theocratic agenda of banning abortion, opposing sex education, ending no-fault divorce, and promoting religion and a particular form of religious orthodoxy in a wide range of policy arenas.

This chapter examines the recent political history of the struggle for marriage equality by same-sex couples and the backlash evoked by such advances as the Massachusetts high court ruling of 2003 legalizing marriage for gay couples. It examines the Massachusetts-based Coalition for Marriage, a network of national and local religious right groups that seeks to ban not only marriage but any form of partner recognition for gay couples in Massachusetts. The Coalition for Marriage has sought to convince the Massachusetts legislature to undercut the Massachusetts Supreme Judicial Court’s ruling and adopt an antimarriage amendment that would be placed on the ballot for popular vote. Finally, this chapter examines the role that the debate about marriage played in other states in 2004 and in the 2004 presidential election.

The terms religious right and Christian right are frequently used but less frequently defined. Didi Herman defines the Christian right as “a broad coalition of profamily organizations (e.g., Focus on the Family, Concerned Women for America, Traditional Values Coalition) that have come together to struggle for their socio-political vision in the public sphere.” She continues, “These organizations, and their activist leaders, are predominantly committed to a conservative, largely premillennial, Protestant Christianity.”¹ John Green defines the Christian right as “a social movement concentrated among Evangelical Protestants and dedicated to restoring ‘traditional values’ in public policy.” He notes that “[o]pposition to gay rights was one of the original pillars of the Christian Right.”² In Massachusetts, Michigan, and elsewhere, leaders of the Roman Catholic Church are increasingly joining anti-gay coalitions led by evangelical Protestants.³ Since
the mid-1970s, anti-gay organizing, especially attempts to repeal or pre-
emptively ban sexual orientation nondiscrimination laws, has been a central
focus and strategy of these Christian right groups.4

Abortion remained the central domestic policy issue for the religious right
into the 1980s. Also in the 1980s, an increasing number of cities, counties,
and states passed sexual orientation nondiscrimination laws (also called gay
rights laws). The gay and lesbian community responded vigorously to the
AIDS epidemic and anti-gay violence, developing strength within the Dem-
ocratic Party and a corresponding anti-gay reaction within the Republican
Party. The promotion of safe schools initiatives and gay-straight alliances to
support gay youth, public funding of “homoerotic” art, and other develop-
ments evoked a new surge in anti-gay activism in the late 1980s and early
1990s.5 Anti-gay organizing appeals to anti-gay sentiment, which is deeply
rooted in American culture.6 According to Jean Hardisty, a leading scholar
of the Christian right, anti-gay organizing supports “the right’s movement
building,” helps build “internal movement cohesion,” and allows right-
wingers “to rally the movement, raise money and win recruits.”7 But anti-
gay politics is not solely cynically instrumental; it also reflects a “sincere be-
belief that homosexuality is an abomination because it is a sin against God.”8

Appeals to anti-gay sentiment have been quite successful in terms of fund-
raising. As a result, the Christian right is able to wield significant political
influence in support of its agenda.

Because it was the first state to legalize marriage for gay couples, Massa-
chusetts emerged in the mid-2000s as a key site of political struggle between
the gay rights movement and the Christian right. Among the national groups
active in the anti-gay movement in Massachusetts are Concerned Women
for America, Focus on the Family, the Family Research Council (originally
formed as a lobbying group for Focus on the Family), and the Traditional
Values Coalition. Local groups include the Black Ministerial Alliance of
Greater Boston, the Massachusetts Catholic Conference (representing the
commonwealth’s four Roman Catholic archdioceses), the Massachusetts
State Council of the Knights of Columbus, the Bay State Republican Coun-
cil, and the Catholic Action League of Massachusetts. The Massachusetts
Family Institute, a leading opponent of marriage and other legal protections
for gay couples, is a state affiliate of Focus on the Family. All of these groups
are members of the Coalition for Marriage, a network of anti-gay groups
opposing legal protections for gay couples in Massachusetts.
OPPOSITION TO SEXUAL ORIENTATION NONDISCRIMINATION LAWS

In addition to opposing any form of partner recognition for same-sex couples, all fifteen member organizations of the Coalition for Marriage also oppose sexual orientation nondiscrimination laws. This includes opposing the law passed by the Massachusetts legislature and signed into law in 1989. At that point, Massachusetts was only the second state to pass a gay rights law. Today, seventeen states have such laws.

The coalition opposes these laws because its members “do not believe that a person’s sexual behavior is comparable to other protected categories such as race or sex—characteristics that are inborn, involuntary, immutable, innocuous and/or in the Constitution.” Lou Sheldon, chairman of the Traditional Values Coalition, which is a member of the Coalition for Marriage, wrote in a February 2003 report to coalition members:

We are not tolerant of behaviors that destroy individuals, families and our culture. Individuals may be free to pursue such behaviors as sodomy, but we will not and cannot tolerate these behaviors . . . In short, we believe in intolerance to those things that are evil; and we believe that we should discriminate against those behaviors which are dangerous to individuals and to society.

The Bay State Republican Council “oppose[s] efforts to include sexual orientation as a category for preferential treatment status under civil rights statutes.”

Gay rights laws enjoy bipartisan support from U.S. voters. In a study of public opinion conducted during the 2000 presidential election, 56 percent of Republicans, 70 percent of Independents, and 75 percent of Democrats supported sexual orientation nondiscrimination laws. According to a 2003 Gallup poll, nearly nine in ten Americans support the principle of sexual orientation nondiscrimination, if not the laws required to enforce this practice.

Nonetheless, most of the national anti-gay groups have made an industry out of opposing legal equality for gay and lesbian people. Over the past three decades, they have launched more than one hundred anti-gay ballot initiatives and referenda to repeal or prevent sexual orientation nondiscrimination laws, safe schools programs that support gay youth, same-sex partner recognition, and, most recently, same-sex marriage. During these campaigns, they deploy defamatory tactics to attack gay and lesbian people...
and gay rights legislation. For example, in 1978, anti-gay groups sought to ban gay people from teaching in California, and in the mid-1980s, two California referenda sought the internment of people with AIDS. In fact, Lou Sheldon, now head of the Traditional Values Coalition, led the 1978 anti-teacher campaign and supported the AIDS internment initiatives.

**OPPOSITION TO SAME-SEX PARTNER RECOGNITION THROUGH DOMESTIC PARTNERSHIP AND CIVIL UNIONS**

The Coalition for Marriage also “opposes[s] the creation of civil unions or domestic partnerships.” When Massachusetts acting governor Jane Swift extended limited domestic partner benefits to some state employees, the Massachusetts Family Institute denounced this as “special rights for a particular group,” claiming:

> These are not equal rights since the decision is only for homosexual couples . . . Our nation, as well as this commonwealth, was founded on equal rights as asserted through our founding documents. Allowing special rights for a particular group denies these principles and has damaging and far reaching consequences.

Of course, in 2001, when Governor Swift extended these benefits, gay couples were not allowed to marry under Massachusetts law.

The Massachusetts Family Institute ridicules domestic partner health insurance—offered to employees in long-term, committed relationships—as “sex partner subsidies to homosexual employees.” This characterization of same-sex couples as mere “sex partners” is deeply offensive, especially to life partners who have been together for decades. The Bay State Republican Council “oppose[s] granting homosexuals special privileges, including marriage, domestic partnership benefits, and child custody or adoption.” But allowing gay and lesbian people to protect their families through having joint legal custody of their children or through the right to be considered as adoptive parents does not constitute “special privileges.” Rather, it is simply equal treatment under the law.

**OPPOSITION TO JUDICIAL REVIEW AND THE COURTS’ ROLE IN THE U.S. DEMOCRACY**

Anti-gay groups often imply that their proposals would allow domestic partnerships, which provide some of the benefits of marriage to gay couples, and
civil unions, which can provide a separate form of equality at the level of state policy but none of the federal benefits of marriage. Yet these same groups oppose domestic partnership and civil unions. The Coalition for Marriage argues that the people and the legislatures should have the right to decide on rights for same-sex couples, but when the Boston City Council passed a domestic partnership law, coalition organizations sued and successfully got the domestic partnership program struck down.

In the wake of the Massachusetts Supreme Judicial Court ruling in Goodridge v. Dept. of Public Health, many groups of the religious right have cried “judicial tyranny,” portraying legislatures as more democratic than courts. For example, the Catholic Action League (a member of the Coalition for Marriage) called for the Massachusetts legislature to impeach and convict for “abuse of office” the four justices who voted for marriage equality for same-sex couples, so the governor could appoint new justices “who will respect their oath of office.” Yet when they disagree with a legislative action, Christian right groups have no qualms about challenging such laws through the courts. Such was the case with the American Center for Law and Justice, founded by the Christian Coalition’s Rev. Pat Robertson, which filed a lawsuit on behalf of the Catholic Action League of Massachusetts to strike down Boston’s municipal domestic partnership policy in 1998–99. The Center for Marriage Law and the Alliance Defense Fund, two other members of the Coalition for Marriage, filed a similar lawsuit against domestic partnership benefits in Portland, Maine.

OPPOSITION TO SAFE SCHOOLS PROGRAMS USING FALSE CLAIMS THAT GAY PEOPLE ARE PEDOPHILES

The safe schools program in Massachusetts is a national model for making schools safe for gay and lesbian youth, the children of gay and lesbian parents, and those who are perceived to be gay, bisexual, or gender variant. It was adopted because of the harassment and violence that these youth face in school, which leads to higher dropout rates and a higher risk of suicide. Groups in the Coalition for Marriage oppose this program. The Family Research Council argues that gay and lesbian youth are not any more likely to be harassed in school and that reports of gay teen suicides are exaggerated, and the Web site of the Massachusetts Family Institute includes a
link to an article titled “The Gay Youth Suicide Myth,” by Peter LaBarbera, an advocate of conversion therapy. During the 2004 campaign to ban same-sex marriage in Oregon, activists of the religious right claimed that legalizing marriage for gay couples would lead to teaching young children about gay sex. Anti-gay activists who claimed, falsely, that such efforts were underway in Massachusetts implied that the efforts followed the high court decision in favor of marriage. In fact, it was in the early 1990s that Massachusetts Republican governor William Weld launched the first statewide safe schools initiative aimed at combating suicide and other problems facing gay and lesbian youth. This initiative did not involve teaching young children about sex; it instead allowed high school students to create gay-straight alliances and involved other interventions to make schools affirming places for gay and questioning youth and for children of lesbian and gay parents.

The Family Research Council, Peter LaBarbera, the Traditional Values Coalition, and others have long argued that gay people seek to abuse children. The Traditional Values Coalition’s report “Homosexuals Recruit Public School Children” claims that “homosexual militants” have an ongoing “campaign to legalize sex with children” and are “pushing for aggressive recruitment programs in public schools.” The report maintains that “[s]ex with children—even grammar school kids—is a primary goal of homosexual activists.” It warns: “As homosexuals continue to make inroads into public schools, more children will be molested and indoctrinated into the world of homosexuality. Many of them will die in that world.”

In fact, gay activists do not seek to legalize sex with children of grammar school age. All the major gay rights organizations support age-of-consent laws that treat heterosexual sex and homosexual sex equally. Gay people oppose child sexual abuse and support laws that help prevent and punish such abuse.

The claim that homosexuals are more likely to molest children has been definitively refuted by peer-reviewed social science research. A study in the Journal of the American Medical Association noted that 90 percent of pedophiles are men and that 98 percent of these individuals are heterosexual. In fact, the limited research indicates that gay men and lesbians are less likely than heterosexuals to sexually abuse children. Two studies that examined the sexual orientation of convicted child molesters found that less than 1 percent of molesters in one study and 0 percent in the other were gay or lesbian.
Many of the national and local anti-gay groups oppose parenting by gay people, claiming that such parenting harms children. Focus on the Family claims that “same-sex parenting situations make it impossible for a child to live with both biological parents, thus increasing their risk of abuse.” In a full-page advertisement placed in the Boston Globe on January 23, 2004, Focus on the Family implied that gay marriage would lead to gay parenting in the future, ignoring that it would protect existing lesbian and gay families raising children.

Same-sex marriage advocates and the Massachusetts Supreme Judicial Court are asking our state and nation to enter a massive, untested social experiment with coming generations of children. We must ask one simple question: Is the same-sex ‘family’ good for children?

Given that, according to the 2000 U.S. Census, at least eight thousand children are being raised by two lesbian or two gay parents in Massachusetts, parenting by same-sex couples is not some “massive, untested social experiment.” It’s the lived reality for thousands of Massachusetts residents. That lesbian couples are more likely to be raising children than gay male couples and have more to gain from the family protections offered by marriage may explain why nearly two-thirds of the same-sex couples who married in Massachusetts during the first year of legal gay marriage were lesbian couples.

Maggie Gallagher, an anti-gay marriage activist and syndicated columnist whose commentary is posted on the Web site of the Massachusetts Family Institute, testified at two U.S. congressional hearings against same-sex marriage following the introduction of the Federal Marriage Amendment. She also testified against same-sex marriage in front of the Massachusetts legislature (her testimony is posted on the Massachusetts Family Institute’s Web site). In summer 2003, as the Christian right was whipping up sentiment against gay marriage, Gallagher wrote that legalizing same-sex marriage “would mean the law was neutral as to whether children had mothers and fathers” and that “(m)otherless and fatherless families would be deemed just fine.” Such claims go against a large body of social science research, which confirms that children raised by gay or lesbian parents are not disadvantaged relative to their peers.

Boston’s Catholic archbishop Sean O’Malley warned in 2003 that legal-
izing gay marriage “would worsen the breakdown of the American family and exacerbate the problems of poverty, child abuse, and human suffering already wrought by ‘widespread cohabitation and galloping divorce rates.”\(^{36}\) Earlier in the same year, the Vatican issued a statement accusing gay and lesbian parents of “doing violence” to their children by virtue of being gay.\(^{37}\) Again, there are no data to support claims that an increase in gay and lesbian parenting will lead to greater “poverty, child abuse, and human suffering.” U.S. Catholics are still reeling from the child sex abuse epidemic involving at least 4 percent of all Catholic priests in the United States and 7 percent of priests in the Boston archdiocese. Almost eleven thousand children were allegedly sexually abused by 4,392 priests in the United States from 1950 to 2002.\(^{38}\) One reporter noted, “Abuse victims and their advocates said the [Boston] archdiocese’s report understated the problem and reflected only part of the cases of sexual abuse.”\(^{39}\) This systemic and widespread abuse ruined many lives. Many have described the Catholic hierarchy’s practice of covering up the abuse and shuffling abusive priests from parish to parish, without warning to the parishioners, as criminally negligent. Patrick McSorley, one of Father John Geoghan’s 150 victims and an outspoken critic of the church hierarchy’s handling of the problem, killed himself in February 2004 at age twenty-nine. It is unfounded and reckless for leaders of the Catholic Church, especially of the Boston Archdiocese, to charge that parenting in gay and lesbian families will cause an increase in child abuse and human suffering and do violence to children.

If one takes the claims of Focus on the Family, Maggie Gallagher, and the Catholic Church hierarchy to their logical conclusion, one must ask what is the appropriate policy conclusion—to take children away from gay and lesbian parents? Already there are many thousands, if not millions, of children being raised by gay, lesbian, and bisexual parents. Legislators and members of the media should ask these anti-gay activists if they think the state should step in and take these children away from their parents.

**OPPOSITION TO BENEFITS AND SERVICES FOR SAME-SEX PARTNERS OF VICTIMS OF THE SEPTEMBER 11 TERRORIST ATTACKS**

Several national anti-gay groups opposing marriage equality in Massachusetts and across the United States sought to prevent gay survivors of those killed in the terrorist attacks on the United States on September 11, 2001,
from getting benefits and services from the September 11 Victim Compensation Fund and the American Red Cross. Just a month after three thousand people were killed in the worst terrorist attacks in U.S. history—attacks that involved the simultaneous hijacking of four airplanes—Robert Knight of Concerned Women for America’s Culture and Family Institute accused “homosexual activists” of “trying to hijack the moral capital of marriage and apply it to their own relationships,” which he characterized as “counterfeit marriage.”

In the wake of September 11, New York Republican governor George Pataki issued an executive order instructing the State Crime Victims Board to grant same-sex partners of the September 11 attacks the same benefits as married spouses of victims. Pataki, New York City mayor Rudolph Giuliani, and New York state’s attorney general Elliot Spitzer wrote President Bush, urging that gay and lesbian partners of victims be eligible for the federal fund administered by the U.S. Department of Justice. Focus on the Family’s James Dobson said, “Pataki diluted the definition of ‘family’ by giving gay partners the same access to terrorist relief benefits that married couples have.” Focus on the Family also criticized Pataki’s actions as advancing the “gay agenda.” After the American Red Cross decided to provide services to gay surviving partners of September 11 victims, Concerned Women for America criticized the group’s “broad and inclusive definition of family.”

Forty-five members of Congress wrote Attorney General John Ashcroft, urging the federal government to adopt a policy similar to that promoted by Governor Pataki in New York State. Concerned Women for America’s Culture and Family Institute criticized the letter, claiming that lawmakers and “homosexual activists” were exploiting the “tragedy to ask Ashcroft to pave way for ‘domestic partner’ benefits.”

Lou Sheldon of the Traditional Values Coalition accused gay activists of “taking advantage” of the national tragedy to promote their agenda. Sheldon urged that relief assistance be “given on the basis and priority of one man and one woman in a marital relationship.” Such a policy would have also left out unmarried opposite-sex partners of September 11 victims. “We don’t devalue the loss of these innocent people,” Sheldon insisted, explaining, “But we think this is not the time to institutionalize such ‘partnerships’ and put them on the same level as marriage.” Peter Sprigg of the Family Research Council also accused gay and lesbian people of “taking advantage of the grief and compassion that Americans do feel.” He concluded, “To redefine the family based on our grief over the losses that people may
have experienced as a result of the terror attacks would be bad law and bad policy."

Perhaps as a result of these objections, the initial interim regulations issued by the Department of Justice in December 2001 and the final regulations issued in March 2002 did not explicitly recognize same-sex partners. They instead left it up to states to determine who is eligible for victim’s compensation under the federal fund. However, most states do not provide any legal recognition to same-sex partners, even those in committed, long-term or lifelong relationships.

EXTREME CLAIMS

Comparing Advances in Civil Rights for Gay and Lesbian People to Terrorism

Several leading anti-gay groups have compared gay rights advances to terrorism. Lou Sheldon of the Traditional Values Coalition compared the June 2003 U.S. Supreme Court ruling striking down sodomy laws to the September 11 terrorist attacks. He compared either gays or the Supreme Court to the terrorists who struck that day.

This is a major wake-up call. This is a 9/11, major wake-up call that the enemy is at our doorsteps. This decision will open a floodgate. This will redirect the stream of what is morally right and what is morally wrong into a deviant kind of behavior. There is no way that homosexuality can be seen other than [as] a social disorder.

Concerned Women for America warned in a September 2003 press release that same-sex marriage “pose[s] a new threat to US border security.” The release called a legally married Canadian same-sex couple trying to enter the United States as a married couple “the latest pair of ‘domestic terrorists.’” Former Boston mayor and U.S. ambassador to the Vatican Raymond Flynn, now a professional Christian right/anti-gay activist, reacted to the Massachusetts high court ruling by calling the issue of gay marriage “a ticking time bomb in America for the last several months that has exploded in Massachusetts.” He claimed, “The voice of the American people is about to be heard.” Family Research Council president Tony Perkins also used the analogy of a time bomb when he criticized President Bush for not going far enough in his 2004 State of the Union address.
Sixty-four days ago the Massachusetts State Supreme Court tossed a cultural time bomb into the public square when they mandated the Legislature to create homosexual marriages. Disappointingly, in his State of the Union address, President Bush promised to help the families of America—after the bomb goes off and the damage is done.52

GAYS + DEMOCRATS = A DOMESTIC AL-QAEDA

The Massachusetts Family Institute posts a lot of right-wing commentary on its Web site, including a column by Ann Coulter titled “Massachusetts Supreme Court Abolishes Capitalism!” and a piece by Dennis Prager titled “San Francisco and Islamists: Fighting the Same Enemy.”53 Prager compares “secular extremism” to “religious extremism,” arguing: “One enemy is led from abroad. The other is directed from home.” Prager continues: “The war over same-sex marriage and the war against Islamic totalitarianism are actually two fronts in the same war—a war for the preservation of the unique creation known as Judeo-Christian civilization.” Claiming that “the Left” is ignoring the threat of anti-American terrorism from groups active in the Muslim world, Prager says this is because “the Left is preoccupied first with destroying America’s distinctive values.” He continues, “So, if the Islamists are fellow anti-Americans, the Left figures it can worry about them later.” Warning that legalizing same-sex marriage represents “the beginning of the end of Judeo-Christian civilization,” Prager concludes: “This civilization is now fighting for its life—as much here as abroad. Join the fight, or it will be gone as fast as you can say ‘Democrat.’”54

CLAIMS OF ANTI-CATHOLICISM

The Massachusetts Knights of Columbus posts a letter on its Web site from former Boston Mayor Ray Flynn, now president of Your Catholic Voice. Flynn warns: “your Church and your family are under attack . . . [A]nti-Catholicism is alive and well here in Massachusetts! Anti-Catholicism is, tragically, still an acceptable form of prejudice in America today.”55 Despite Flynn’s alarmism, legalization of same-sex marriage—which is recognized in many Protestant and Jewish faith traditions—is no more anti-Catholic than is the legalization of divorce for heterosexuals. “We are part of a pluralistic society and in no way pretend to force our religious preferences on other people,” Catholic archbishop Sean O’Malley said at “The Summit of October to Save Marriage,” organized by the Massachusetts Family Institute
in Wayland, Massachusetts, in October 2003. But in fact that is exactly what O’Malley is trying to do. Pointing this out and challenging it is not a manifestation of anti-Catholicism. Charges of anti-Catholicism have particular resonance in Massachusetts, one of the most Catholic states in the country, where anti-Catholic bias interacted with anti-immigrant nativism in the 1800s and early 1900s.

AN INORDINATE FOCUS ON HOMOSEXUALITY

Although many of the national anti-gay groups purport to advocate a “pro-family” agenda, they pay much less attention to many pressing family problems. Three of the national religious right groups have Web sites that allow users to search all of the documents available on the site. Searches using a few keywords yielded revealing results.

The Family Research Council, a group that has $5 million in revenue a year and claims it “shapes public debate and formulates public policy that values human life and upholds the institutions of marriage and the family,” had 203 documents on its Web site containing the term homosexual but only 37 with poverty, 26 with domestic violence, 18 with health insurance, and 2 with child support. Concerned Women for America, a “public policy women’s organization” with $12 million in revenue a year, had 602 documents on its Web site that contained the term homosexual but only 97 with health care, 80 with poverty, 70 with divorce, and six containing child support. The Concerned Women for America Web site had only 71 documents containing the term rape, 19 with domestic violence, and none with pay equity. This is especially striking given a June 2003 survey of over three thousand women conducted over two years by Princeton Survey Research Associates, which revealed that the top concerns of American women were domestic violence/sexual assault and equal pay for equal work. Focus on the Family, a religious right behemoth with $126 million in revenue a year and more than one thousand employees, had the word divorce in 841 documents, homosexual in 740 documents, poverty in 212 documents, domestic violence in 85 documents, health insurance in only 36 documents, and child support in a mere 20 documents.

A BROADER REACTIONARY AGENDA

Many anti-gay, Christian right groups claim to represent the people against “judicial tyranny.” But in fact, many leading groups advocate a reactionary
political agenda that is not supported by a majority of Americans. For example, many of these organizations also oppose affirmative action, reproductive choice, immigration, teaching evolution in schools, the failed Equal Rights Amendment that would have banned sex discrimination (passed by Congress in 1979 and ratified by thirty-five states before the seven-year ratification period expired), and military combat service by women.

Dr. Ron Crews, president of the Massachusetts Family Institute since 2001, served as a Republican state representative in Georgia from 1992 to 1998, when his bid for reelection failed because of his hard-right views. He blamed his loss on “homosexual activists who moved into my district just to be able to vote against me.” Crews sponsored the Georgia Defense of Marriage Act when it passed in 1996, and he sought legislation allowing “covenant marriage,” which would have made divorce more difficult by requiring spouses to enter counseling, prove adultery or abuse, or live apart for two years before being allowed to divorce. He was a leader in the fight to ban late-term abortions and also lobbied the Georgia Department of Education to teach creationism in the classroom, without success. Following his defeat for reelection in 1998, Crews served as legislative director for the Georgia Christian Coalition.

**OPPOSITION TO NO-FAULT DIVORCE: ADVOCATING THE REQUIREMENT OF MUTUAL CONSENT FOR DIVORCE**

The Family Research Council promotes an end to no-fault divorce and advocates the requirement of mutual consent for divorce, as well as “covenant marriage” laws now in effect in Louisiana, Arizona, and Arkansas. Covenant marriages are much harder to enter into and harder to dissolve. When Tony Perkins, now head of the Family Research Council, was a Republican state representative in Louisiana, he drafted the first covenant marriage law, passed in 1997. A Family Research Council document states:

> after consulting with . . . a group of pastors in his district . . . he drafted a bill that only allowed for divorce in what they saw as the biblically licit cases of adultery and abandonment. Perkins said he wanted to start with a high standard, the biblical ideal for marriage, because he knew that he would have to compromise in the legislative process.

It is important to note that Perkins’s bill does not list spousal abuse as a “biblically licit” reason for divorce.
The Family Research Council praises “state marriage promotion efforts,” including “restricting no-fault divorce.” Arguing that “abandoning fault divorce was a huge mistake,” Brigit Maher of the council endorses “legislation to restrict no-fault divorce, which require[s] mutual consent, longer waiting periods, or classes for divorcing parents before a divorce can be obtained.” Concerned Women for America’s Jan LaRue also denounces no-fault divorce as a reason why many people support marriage equality for gay couples.

The biggest problem we have in getting people, especially younger ones, to understand why marriage is devalued by the existence of a counterfeit is that much of the public does not value marriage at all. Adultery is no big deal. No-fault divorce is tolerated. Absentee fathers and mothers devalue marriage.64

While it is not clear if the Massachusetts Family Institute supports an end to no-fault divorce, its Web site contains links to the national groups just noted that do. The institute’s Massachusetts Marriage and Family Report 2002 calls on “public policy opinion leaders” to “encourage policies that discourage divorce without counseling.”65

OPPOSITION TO FEMINISM

Phyllis Schlafly is one of several conservative leaders and pundits whose “timely commentary” is posted on the Massachusetts Family Institute’s Web site. She helped defeat the Equal Rights Amendment in the mid-1980s. A book titled Feminist Fantasies—linked at the bottom of Schlafly’s essay “Will Massachusetts Abolish Marriage?”—claims:

No assault has been more ferocious than feminism’s 40-year war against women, and no battlefield leader has been more courageous than Schlafly. In a new book of dispatches from the front, feminism’s most potent foe exposes the delusions and hypocrisy behind a movement that has cheated millions of women out of their happiness, health, and security.66

Schlafly’s Eagle Forum works closely with Concerned Women for America and other members of the Coalition for Marriage through the closely named Coalition to Protect Marriage and through other coalitions. The Coalition to Protect Marriage sponsored Marriage Protection Week in October 2003. Archbishop Sean O’Malley spoke at a Massachusetts event on October 2,
2003, that was organized by the Massachusetts Family Institute and the Coalition to Protect Marriage.67

National anti-gay groups advocate many reactionary policies. The Traditional Values Coalition, Focus on the Family, Concerned Women for America, and Phyllis Schlafly’s Eagle Forum oppose reproductive choice, the teaching of evolution in public schools, and comprehensive sex education. They also promote prayer in public schools.68 The Family Research Council supports a school prayer amendment to the U.S. Constitution and would like to abolish the Department of Education.69 Concerned Women for America also seeks the abolition of the Department of Education.70 Phyllis Schlafly opposes statehood for the District of Columbia and Puerto Rico (predominantly African American and Latino jurisdictions), supports making English the official language of the United States, and opposes the combat service of women. She brags about her leading role in defeating the Equal Rights Amendment.71 She also opposes President Bush’s immigration reform proposal, singling out Mexican immigrants in particular for her vitriol.72

OUTSPENDING GAY RIGHTS GROUPS BY AT LEAST A SIX-TO-ONE MARGIN

Anti-gay groups portray gay people and gay activists as politically powerful, well-funded elites. For example, Andrea Sheldon, executive director of the Traditional Values Coalition, slammed President Clinton for speaking at a Human Rights Campaign dinner in 1997, denouncing “an American President kissing up to the wealthiest extremists of the left.”73 The Family Research Council recently wrote: “The Human Rights Campaign and the other groups in the homosexual lobby have very deep pockets. Big corporations, elite foundations, and Hollywood celebrities underwrite the homosexual lobby with tens of millions of dollars every year.”74

In fact, the financial resources of the nine member organizations of the Massachusetts-based Coalition for Marriage for which income data are available dwarf the revenues of national and local gay rights advocacy organizations by a margin of at least six to one ($168 million compared to just $25 million).75 These groups range from Focus on the Family, with $126 million in revenue in 2002, to the Massachusetts State Council of the Knights of Columbus, with $593,512 in revenue in 2002. It is important to note that the Massachusetts Family Institute, with just over $400,000
### TABLE 3. Annual Income of Coalition for Marriage Member Organizations versus Members of MassEquality

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<th>Coalition for Marriage members for which income data is publicly available (9)</th>
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<td>Black Ministerial Alliance of Greater Boston</td>
<td>bmaboston.org</td>
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<td>mafamily.org</td>
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<td>Morality in Media Massachusetts</td>
<td>moralmedia.net</td>
<td>1,247,956</td>
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<td>Massachusetts State Council, Knights of Columbus</td>
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<table>
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<tr>
<th>National and local members of MassEquality, the Massachusetts marriage equality coalition</th>
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<tr>
<td>Human Rights Campaign/HRC Foundation</td>
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<td>National Gay and Lesbian Task Force/NGLTF Foundation</td>
<td>thetaskforce.org</td>
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<td>Gay and Lesbian Advocates and Defenders</td>
<td>glad.org</td>
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<td>Greater Boston Parents and Friends of Lesbians and Gays</td>
<td>pflag.org</td>
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<td>Bay State Democrats</td>
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<td>Gay and Lesbian Labor Activist Network</td>
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<td>3,000</td>
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<tr>
<td>Jewish Alliance for Law and Social Action</td>
<td>jewishalliance.org</td>
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<tr>
<td>Religious Coalition for the Freedom to Marry</td>
<td>rcfm.org</td>
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<tr>
<td>Citizens for Participation in Political Action</td>
<td>cppax.org</td>
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<td>National Organization for Women, Massachusetts Chapter</td>
<td>massnow.org</td>
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<td>Western Massachusetts LGBT Political Alliance</td>
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<td>National Log Cabin Republicans</td>
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<td>ACLU of Massachusetts</td>
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<td>Bisexual Resource Center</td>
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**Note:** Information retrieved from http://www.guidestar.org (IRS Forms 990) on October 1, 2004, unless otherwise noted.

*The revenue listed is for fiscal year 2001 of the Traditional Values Coalition Education and Legal Institute only. Financial data on the broader Traditional Values Coalition is unavailable.

b Fiscal year 2002–3 audited financial statements.

c2003 income.


fIbid.

gConversation with Gretchen Frasier, board president, March 5, 2004.

hConversation with Steve Driscoll, board cochair, March 5, 2004.


lConversation with Patricia Sanders, director, March 8, 2004.

mConversation with Stacy Roth, executive director, March 8, 2004.

nConversation with Carol Rose, executive director, March 8, 2004.

in revenue in 2002, is a member of the Family Policy Councils of Focus on
the Family, which had $126 million in annual revenue at its disposal to use
in Massachusetts. The Coalition for Marriage organizations for which data
were not available also have enormous resources and clout, including the
Massachusetts Catholic Conference, the Catholic Action League of Mass-
achusetts, the Center for Marriage Law, and the Traditional Values Coali-

<table>
<thead>
<tr>
<th>Thirteen Sponsors of Marriage Protection Week for which income data is publicly available</th>
</tr>
</thead>
<tbody>
<tr>
<td>Focus on the Family</td>
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<tr>
<td>Prison Fellowship</td>
</tr>
<tr>
<td>American Family Association</td>
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<tr>
<td>Concerned Women For America</td>
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<tr>
<td>Family Research Council</td>
</tr>
<tr>
<td>Free Congress Foundation</td>
</tr>
<tr>
<td>National Coalition for the Protection of Children and Families</td>
</tr>
<tr>
<td>Eagle Forum</td>
</tr>
<tr>
<td>Americans United for Life</td>
</tr>
<tr>
<td>American Values</td>
</tr>
<tr>
<td>Traditional Values Coalition</td>
</tr>
<tr>
<td>American Cause</td>
</tr>
<tr>
<td>Citizens for Community Values</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Thirteen largest national gay rights advocacy organizations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human Rights Campaign/HRC Foundation</td>
</tr>
<tr>
<td>Lambda Legal Defense and Education Fund, Inc.</td>
</tr>
<tr>
<td>Gay and Lesbian Alliance Against Defamation, Inc.</td>
</tr>
<tr>
<td>National Gay and Lesbian Task Force/ NGLTF Foundation</td>
</tr>
<tr>
<td>LLEGO (National Latino/a Lesbian and Gay Organization)</td>
</tr>
<tr>
<td>Parents and Friends of Lesbians and Gay Men</td>
</tr>
<tr>
<td>Victory Fund/Foundation</td>
</tr>
<tr>
<td>Servicemember's Legal Defense Network</td>
</tr>
<tr>
<td>National Center for Lesbian Rights</td>
</tr>
<tr>
<td>International Gay and Lesbian Human Rights Commission</td>
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<tr>
<td>Freedom to Marry Collaborative</td>
</tr>
<tr>
<td>National Youth Advocacy Coalition</td>
</tr>
<tr>
<td><strong>Total</strong></td>
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</table>

*Note: Information retrieved from http://www.guidestar.org (IRS Forms 990), unless otherwise noted.

a2000 revenues.
b2001 revenues.
cFiscal year 2002–3 audited financial statement.
d2003 approved budget.

tion outside its Education and Legal Institute. If the revenue and assets of these groups were added to the $168 million they report, gay and pro-gay groups would be at an even more extreme disadvantage than the six-to-one ratio we can definitively state.

As evidence of their significant resources, the Family Research Council launched a $2 million advertisement campaign on February 27, 2004, to thank President Bush for his support of the Federal Marriage Amendment. The council purchased full-page advertisements in several major U.S. newspapers, including the *New York Times*, the *Washington Post*, and *USA Today*. This campaign used more resources than the entire 2003 operating budget of Gay and Lesbian Advocates and Defenders, the group that litigated *Goodridge v. Dept. of Public Health*.

**MEMBER ORGANIZATIONS OF THE COALITION FOR MARRIAGE**

**Alliance Defense Fund**
The Alliance Defense Fund is a national group that, according to its mission statement, “provides the resources that will keep the door open for the
spread of the Gospel through the legal defense and advocacy of religious freedom, the sanctity of human life, and traditional family values.”

Bay State Republican Council
The Bay State Republican Council is a grassroots group formed in 2001 that promotes the election of Republican candidates in local, state, and federal elections.

Black Ministerial Alliance of Greater Boston
The Black Ministerial Alliance is a forty-year-old organization representing eighty African American churches in the Boston area.

Catholic Action League of Massachusetts
The Catholic Action League of Massachusetts is an advocacy and public policy group.

Center for Marriage Law
The Center for Marriage Law is affiliated with the Columbus School of Law at the Catholic University of America in Washington, D.C., and is dedicated, according to its Web site, to strengthening “the institution of marriage and to affirm[ing] the definition of marriage as the union of one man and one woman.”

Concerned Women for America
Concerned Women for America is a religious advocacy group based in Washington, D.C., and dedicated, according to its mission statement, to protecting and promoting “biblical values among all citizens.” It has played a leading role in dozens of anti-gay ballot campaigns.

Family Policy Councils of the United States
The Family Policy Councils are a loosely affiliated coalition of state groups under Focus on the Family, such as the Massachusetts Family Institute.

Family Research Council
The Family Research Council, a spin-off from Focus on the Family, is a Christian advocacy group based in Washington, D.C. It has been active in dozens of anti-gay ballot campaigns.

Focus on the Family
Focus on the Family is a national, Colorado-based Christian advocacy and media group whose mission is “to cooperate with the Holy Spirit in disseminating the Gospel of Jesus Christ to as many people as possible.” It has
been active in dozens of anti-gay ballot campaigns. It is the largest Christian right, anti-gay group, with an annual budget of $125 million and more than one thousand employees.

**Massachusetts Catholic Conference**
The Massachusetts Catholic Conference is the lobbying and public policy arm of the four Roman Catholic dioceses of Massachusetts.

**Massachusetts Citizens for Life**
The Massachusetts Citizens for Life is an advocacy group opposed to legal abortion, human cloning, and euthanasia.

**Massachusetts Family Institute**
The Massachusetts Family Institute, the state affiliate of the Colorado-based Focus on the Family, has coordinated the fight in Massachusetts to amend the state's constitution to define marriage as the union of one man and one woman.

**Massachusetts State Council, Knights of Columbus**
The Knights of Columbus is a Roman Catholic fraternal group.

**Morality in Media Massachusetts**
Morality in Media promotes “decency in the media” and “strongly upholds traditional family values and Judeo-Christian precepts.” It is an affiliate of the Christian Coalition.78

**Traditional Values Coalition**
The Traditional Values Coalition is a national organization made up of forty-three thousand churches. The coalition is rabidly anti-gay and heavily focused on anti-gay politics. Nine of its “Top Ten Reports” on its Web site are fully or partly about homosexuality; the tenth is about transgender issues. Seven of the ten reports have the word *homosexual* in their title. The coalition has also been active in dozens of anti-gay ballot campaigns.

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**RECENT HISTORICAL CONTEXT:**

**THE EMERGENCE OF MARRIAGE AS A CENTRAL POLITICAL ISSUE IN THE 1990s**79

In June 2003, in *Lawrence v. Texas*, the U.S. Supreme Court struck down archaic laws in thirteen states banning private, consensual sexual intimacy. (The impact of archaic sex laws in two additional states, Massachusetts and
Michigan, was in dispute at the time of the ruling.) Widely known as “sodomy laws,” nine of these thirteen laws banned certain practices regardless of whether the couple engaging in them was heterosexual or homosexual. In the other four states, the laws banned certain sexual practices only for homosexual couples. But even in the nine states where laws targeted both opposite-sex and same-sex couples, the laws were in practice disproportionately deployed against gay couples.

The majority ruled that sodomy laws violated the Constitution’s privacy provision; the court did not directly address the issue of state recognition of same-sex marriages. However, both gay rights proponents and opponents interpreted the majority’s decision as hinting at future support for marriage equality. Justice Anthony Kennedy, writing for the majority, ruled that the state cannot single out gay people for harassment and discriminatory treatment simply because of “moral disapproval” of homosexuality. Kennedy wrote of “respect” for gay couples and warned that “the state cannot demean their existence.” The court also described gay relationships as a “personal bond” involving much more than just sex. Kennedy said that reducing gay couples to “sex partners,” as anti-gay organizations and defenders of sodomy laws often do, is offensive in the same way that describing a husband and wife as nothing more than sex partners would be offensive. However, Kennedy noted that the case against the Texas sodomy law “does not involve whether the government must give formal recognition to any relationship homosexual persons seek to enter.” In her concurrence, Justice Sandra Day O’Connor agreed that the “traditional institution of marriage” was not at issue.

Despite these majority caveats, Justice Antonin Scalia angrily argued just the opposite in his dissent, in which he was joined by Chief Justice Rehnquist: “Today’s opinion dismantles the structure of constitutional law that has permitted a distinction to be made between heterosexual and homosexual unions, insofar as formal recognition in marriage is concerned.” Anti-gay activists and politicians vocally agreed. Quickly, the Lawrence decision became portrayed in the mainstream media as a precursor to legalization of gay marriage. Republican senator Rick Santorum of Pennsylvania warned that “the greatest near-term consequence of the Lawrence v. Texas anti-sodomy ruling could be the legalization of homosexual marriage.” Rev. Jerry Falwell warned, “it’s a capitulation to the gay and lesbian agenda whose ultimate goal is the legalization of same-sex marriages.”

Gay rights activists also found implications in Lawrence for marriage
equality. Of legalized same-sex marriage, Lambda Legal Defense and Edu-
cation Fund’s Patricia Logue, cocounsel in the Lawrence case, said, “I think
it’s inevitable now,” adding, “In what time frame, we don’t know.” 85 Lawrence
lead attorney Ruth Harlow, also with Lambda, said, “The ruling makes it
much harder for society to continue banning gay marriages.” 86

The Lawrence decision and court rulings in Canada and Massachusetts in
favor of marriage equality (discussed in chap. 3) were, of course, welcomed
by advocates for equal rights for LGBT people. They were also denounced
by anti-gay politicians and organizations, including the leading groups of
the religious right. Conservatives and would-be theocrats joined together
to mobilize resentment and reaction against the Lawrence and Goodridge
rulings, prime examples, in their view, of judicial tyranny and liberal judicial
activism. They promoted dozens of state anti-gay family laws and amend-
ments, as well as two federal initiatives: the anti-gay Federal Marriage
Amendment and the Marriage Protection Act, a bill that would strip federal
courts of the power to rule on the issue of same-sex marriage. Such efforts
are just the latest round of a concerted, decade-long campaign to ban mar-
riage for same-sex couples in state and federal law. The broader anti-gay
movement has been around almost as long as the modern gay rights move-
ment: the first anti-gay ballot measure repealed a sexual orientation non-

The first ballot measure to target marriage for same-sex couples was
proposed in Idaho in 1994. The Idaho initiative would have banned mar-
nriage for gay couples as well as many other legal protections, such as sexual
orientation nondiscrimination laws. While the anti-gay movement has pro-
moted anti-gay ballot measures as an organizing and fund-raising strategy
for three decades, it was not until the mid-1990s that it started promoting
anti-gay marriage and other anti-family ballot questions.

Hostility toward gays was a central theme of the Republican Convention
in August 1992. Pat Buchanan denounced “the amoral idea that gay and les-
bian couples should have the same standing in law as married men and
women.” He also ridiculed Clinton’s support for gay equality to a receptive
crowd, many of whom held signs reading “Family Values Forever, Gay Rights
Never.” Buchanan advocated a “cultural war” against secular humanism and
those advocating tolerance for various differences. At least six other speak-
ers spoke against gay people, gay rights laws, and same-sex marriage. Vice
President Dan Quayle alluded to gays in his acceptance speech: “Americans
try to raise their children to understand right and wrong, only to be told that
every so-called ‘lifestyle’ is morally equivalent. That is wrong.” Finally, Republican National Committee chairman Rich Bond explained to the press: “We are America. These other people are not America.”

The Republicans’ strategy failed, however. A New York Times poll right after the convention found that only 23 percent of voters considered homosexuality an important election issue. Bill Clinton’s mantra “It’s the economy, stupid” was a better indicator of the sentiment of voters still trying to escape the depths of a recession. Campaign aides resisted the desire of many in the Republican Party to make Clinton’s support for lifting the military ban a campaign issue, fearing further backlash like that evoked by the rhetorical excesses of the Houston convention. Clinton won the 1992 presidential election partly due to the fund-raising support and votes of a newly energized gay voting bloc. Three in four gays voted Democratic, and only 14 percent voted for incumbent president George Herbert Walker Bush.

THE 1996 ELECTION AND THE FEDERAL DEFENSE OF MARRIAGE ACT

After the Hawaii Supreme Court ruled in 1993 that it was impermissible under the state constitution to deny three lesbian and gay couples the right to obtain a marriage license, anti-gay activists and politicians made gay marriage a central issue in the 1996 presidential campaign. Just before the Iowa caucuses, the first primary election event, they held a rally denouncing same-sex marriage. Nearly every Republican candidate attended and signed a pledge to “defend” heterosexual marriage against the threat allegedly posed by the three same-sex couples in Hawaii who had sued the state for the right to marry.

The developments in Hawaii and the Republican presidential candidates’ anti-gay rhetoric quickly transformed mainstream state and national politics. Gay marriage emerged as a central wedge issue in the campaign. Throughout 1996, newspapers and talk radio hosts railed against gay marriage—even such liberal editorial boards as that of the Boston Globe. Six in ten Americans polled expressed disapproval of same-sex marriage.

It was against this backdrop that Congress passed the 1996 Defense of Marriage Act, which barred federal recognition of same-sex marriages and allowed states to refuse to recognize same-sex marriages from other states. After it passed Congress, President Clinton not only signed the legislation...
but bragged about doing so, in advertisements run on Christian radio stations. Clinton’s expression of opposition to lesbian and gay marriage and his decision to sign the Defense of Marriage Act into law in October 1996 prevented gay marriage from becoming a major campaign issue in the final weeks of the 1996 presidential campaign.


VERMONT’S HIGH COURT RULING AND THE 2000 ELECTION CAMPAIGN

Throughout the primary race for the 2000 nomination, which started in mid-1999, all ten of the Republican candidates opposed any form of legal protection for gay people, such as nondiscrimination laws. Echoing the 1996 anti-marriage rally on the eve of the Iowa caucuses, six of the Republican candidates signed an anti-gay pledge on the eve of the Iowa straw poll in August 1999, pledging to oppose domestic partner benefits, education to fight anti-gay harassment and violence in the schools, adoption by gay people, and other issues.

In December 1999, the marriage issue arose again in the wake of the Vermont Supreme Court’s ruling that the state must provide to same-sex couples every benefit and protection it provides to married heterosexual couples. Democratic candidates Bill Bradley and Al Gore, who sought the gay community’s vote, applauded the decision, while the Republican candidates denounced it. Christian right activist Gary Bauer called the ruling “worse than terrorism.”

Throughout 2000, Governor George W. Bush of Texas continued to articulate anti-gay positions when asked. In South Carolina, he told a Christian radio station that if elected president, he probably would not appoint gays to his administration, because “[a]n openly known homosexual is somebody who probably wouldn’t share my philosophy.” As governor, Bush defended Texas’s sodomy law as “a symbolic gesture of traditional values,” opposed sex education, and sought to tax condoms as a vice. Throughout 1999 and 2000, Bush spoke out against gay adoption, same-sex marriage, hate crimes legislation, nondiscrimination laws, and sex education.
Despite this, the Log Cabin Republicans reportedly spent five hundred thousand dollars campaigning for Bush’s election in 2000.

Vice Presidential nominee Dick Cheney pleasantly surprised many when he said in a debate with Democratic senator Joseph Lieberman that same-sex partners should be able to enter into relationships and that states should be able to decide whether or not to recognize such relationships. However, such states’ rights, usually a core tenet of conservative philosophy, were restricted by the federal Defense of Marriage Act, which Cheney and Bush support.

Despite Bush and Cheney’s bottom-line adherence to anti-gay policy positions, the 2000 Republican Convention set a markedly different tone from its predecessors. In general, speakers eschewed anti-gay rhetoric, although anti-gay language was kept in the Republican Party platform. This language opposed marriage and other forms of partner recognition for gay couples, gays in military service, and sexual orientation nondiscrimination laws.

MARRIAGE AND THE 2004 ELECTION

The 2004 Democratic Presidential Candidates:
The Most Pro-Gay Field Ever

The ten Democratic presidential candidates who ran in 2003 and 2004 were by far the most pro-gay field of candidates ever. All of the Democrats supported most of the key issues of concern to LGBT people: sexual orientation nondiscrimination laws, HIV/AIDS prevention and treatment, lifting the ban on gays in the military, hate crimes laws, domestic partnerships, and gay-supportive education policy. The few differences among the candidates regarded marriage and civil unions.

Three of the ten candidates—former U.S. senator and ambassador Carol Moseley Braun (IL), Congressman Dennis Kucinich (OH), and the Rev. Al Sharpton—supported full marriage equality for same-sex couples. The other seven candidates did not unequivocally support marriage equality. Five of these—Senator John Edwards (NC), Representative Dick Gephardt (MO), Senator John Kerry (MA), Senator Joseph Lieberman (CT), and Senator Bob Graham (FL)—repeatedly expressed their opposition to marriage for same-sex couples. At the same time, most spoke out against the Federal Marriage Amendment, which Rep. Marilyn Musgrave (R-CO) had intro-
duced to amend the U.S. Constitution to define marriage as between a man and a woman and to prevent legislatures or courts from mandating more limited benefits, such as civil unions or domestic partnerships (see chap. 3). They also made supportive comments in the wake of the Massachusetts court ruling. Democratic nominees Kerry and Edwards both spoke out against the Federal Marriage Amendment; when it came up for a vote in July 2004, just before the Democratic National Convention, they skipped the vote but said they would have voted against it had they been present.

The other two candidates, retired general Wesley Clark and former Vermont governor Howard Dean, did not say they opposed marriage for gay couples. However, on numerous occasions, when asked if they support marriage, they answered that they support civil unions. They also expressed support for the recent Massachusetts ruling in favor of marriage equality, saying it reflected concern for “rights” (Clark) and “equality” (Dean) for all Americans, regardless of sexual orientation.105

Bush on Marriage Equality106

For much of 2003 and into early 2004, Bush sent mixed messages about the Federal Marriage Amendment. For example, in July 2003, Bush said of the amendment: “I don’t know if it’s necessary yet . . . [W]hat I do support is a notion that marriage is between a man and a woman.”107 However, later that month, Bush announced his intention to introduce legislation that would go beyond the restrictions expressed by the Defense of Marriage Act and further codify the ban on same-sex marriage.108

In October 2003, Bush endorsed Marriage Protection Week, a series of anti-gay marriage events sponsored by the leading national Christian right groups.109 Bush repeatedly denounced the November 2003 Massachusetts Supreme Judicial Court ruling legalizing marriage for same-sex couples110—for example, in his January 2004 State of the Union address.111 On February 4, 2004, the Massachusetts Supreme Judicial Court ruled that civil unions would not provide equality to same-sex couples, and it reaffirmed the right of gay couples to marry under the Massachusetts Constitution’s equality and due process guarantees. Bush called the ruling “deeply troubling” and reiterated his statement from his State of the Union address.112 Later that month, he called gay marriages in San Francisco “troubling.”113 Finally, in late February 2004, Bush officially endorsed an anti-gay marriage amendment, calling on Congress to quickly pass such a measure.
Bush on More Limited Forms of Partner Recognition

In 2000, President Bush said, “In the private sector [domestic partner benefits] are perfectly fine.” On the governmental level, he said, the decision should be left up to cities and states. However, as governor of Texas, Bush took no initiative to offer domestic partner benefits to state employees or to create a domestic partner registry for Texas residents. Bush has not indicated whether or not he supports domestic partner benefits for same-sex partners of federal employees. Such a bill was introduced into the Republican-controlled Congress in 2003, cosponsored by conservative Democratic senator Joseph Lieberman (D-CT), but Bush has not done anything to help move it toward passage.

When White House press secretary Scott McClellan was asked how the president feels about the “concept of civil unions as an alternative to gay marriage,” McClellan responded that Bush supports the Defense of Marriage Act, which “states that other states don’t have to recognize the civil unions or same-sex marriages of other states.” He then concluded, “So his position is very clear in support of that.” Texas, which Bush used to lead as governor, does not offer civil unions to same-sex couples. Bush endorsed Marriage Protection Week in October 2003, during which elected officials were asked to sign a pledge opposing not only marriage but also domestic partnership and civil unions for gay couples. Yet a week before the November 2004 election, Bush said he supported the right of states to offer civil unions for same-sex couples, and that he disagreed with the GOP platform’s opposition to civil unions. This monumental flip-flop reversed Bush’s earlier endorsement of Marriage Protection Week and the federal amendment, both of which sought to ban civil unions. The media failed to note this glaring inconsistency, and Bush came across as moderate and reasonable on gay issues.

In the 2000 debate with Senator Joseph Lieberman, Vice President Dick Cheney defended the right of gay couples to protect their relationships and defended states’ rights to devise whatever form of partner recognition they might choose. However, in early 2004, Cheney reversed this position and endorsed President Bush’s call for a constitutional amendment banning same-sex marriage, which would prevent such court rulings as the one in Vermont that prompted the state legislature to create civil unions. In August 2004, Cheney yet again reversed himself, saying that he personally thought individual states should be able to grant whatever recognition they deemed appropriate to same-sex couples. He said that he personally disagreed with
the president’s support for the Federal Marriage Amendment. Strikingly, in a campaign in which Senator Kerry was harshly denounced as a “flip-flopper,” no mainstream media outlet or pundit pointed out the inconsistency of both Bush’s and Cheney’s positions on same-sex partner recognition.

The 2004 Republican and Democratic Platforms on Marriage and Same-Sex Couples

While there are many key issues on which the two major U.S. political parties disagree, their attitudes toward policy issues affecting lesbian and gay people represent one of the most striking areas of disagreement. Since 1980, the two parties have headed in sharply divergent directions in terms of platform language regarding gay issues. This is in large part because gays became an integral part of the Democratic Party base, while anti-gay activists of the religious right became ascendant in the Republican Party, particularly following the creation of the Christian Coalition after Rev. Pat Robertson’s failed run for the presidency in 1988.

The 2004 Republican and Democratic platforms differed sharply on gay issues, including whether to offer legal protections to lesbian and gay couples. The Republican platform opposed any benefits for same-sex couples; supported the Federal Marriage Amendment and the court-stripping Marriage Protection Act; and claimed that being raised by heterosexual, married parents was essential to the “well-being” of children. It also denounced “judges with activist backgrounds in the hard-left” who “threaten America’s dearest institutions and our very way of life.” While the Democratic Party platform did not take an explicit position on the issue of marriage for same-sex couples, it did call for “full inclusion of gay and lesbian families in the life of our nation” and for “equal responsibilities, benefits, and protections for these families.” The Democrats denounced “President Bush’s divisive effort to politicize the Constitution by pursuing a ‘Federal Marriage Amendment’” and said states should be able to “define” marriage, as they had for two centuries.

ANTI-GAY MARRIAGE AMENDMENTS TO STATE CONSTITUTIONS

On November 2, 2004, eleven states passed anti-gay marriage amendments, eight of which also threaten more limited partner benefits for both gay and
straight couples.Margins of victory ranged from Mississippi’s overwhelming approval of an amendment by 82 to 18 percent to Oregon’s more narrow margin of 57 to 43 percent. Voters in Missouri and Louisiana also approved anti-marriage amendments in August and September 2004.

According to 2000 U.S. Census data on families of same-sex and unmarried opposite-sex couples, at least 2.2 million residents in thirteen states are likely to lose the right to provide legal protections for their families as a result of the passage of antifamily state constitutional amendments there in 2004.\textsuperscript{119} Nine of the thirteen state amendments go beyond banning marriage and also ban or threaten any form of partner recognition, such as domestic partner health insurance, civil unions, inheritance rights, and second-parent adoption. This means that thousands of same-sex partners and opposite-sex unmarried partners may be stripped of their domestic partner benefits, including health coverage. Some states now have both an anti-marriage law and an amendment. As this book went to press, at least two dozen states were considering anti-gay family amendments between 2006 and 2008.

**CONCLUSION**

Marriage equality for same-sex couples is a central wedge issue in U.S. politics largely because anti-gay activists and Republican Party leaders sought to make it one. The 2004 election was the fourth presidential election in which gay rights controversies became central. Although three prominent 2003 court cases—\textit{Lawrence v. Texas}, \textit{Goodridge v. Dept. of Public Health}, and the Ontario ruling that Canadian same-sex couples should have the right to marry under the nation’s charter of rights—helped galvanize LGBT people to pursue the goal of marriage equality, this occurred against a backdrop of over thirty years of vigorous anti-gay activism by the right.

The U.S. Constitution guarantees “equal protection of the laws” for all Americans—not just for heterosexual Americans. There are many basic rights that, if put up for a popular vote, would not win majority support. Many of the most basic freedoms critical to our political system—church-state separation, \textit{Miranda} rights, freedom of the press—would not necessarily win majority approval in many parts of the country. Putting basic rights up for a majority vote is neither moral nor in the best traditions of this country. Denying loving and committed couples equal legal protections for their relationships and their children is not moral.

The reaction against marriage equality for same-sex couples will continue
for the foreseeable future, but already about five thousand lesbian and gay couples have married in Massachusetts, and the sky has not fallen there. Activists are preparing for a likely ballot fight to protect the right to marry in Massachusetts and will continue to fight against antifamily amendments across the country. Meanwhile, given the centrality of gay rights controversies in the 2004 election and the three previous presidential contests, it is likely that marriage and other legal controversies will remain a central fault line in U.S. politics for years to come.