Guide to Critical Analysis

This guide is intended to help you evaluate the controversial topics provided in EBSCO’s *Australia/New Zealand Points of View Reference Centre™*. Using this analysis will enhance your ability to read critically, develop your own perspective on the issue of gay marriage, and write or debate an effective argument on the topic.

**Before You Read**

- In a single sentence, state what you currently think is the controversy surrounding gay marriage.
- On the opening screen, Browse by Category, click on ‘Social Issues’, and then click on ‘Gay Marriage’.
- View the Result List of four records on the Points of View tab that includes this guide.

Each topic in *Australia/New Zealand Points of View Reference Centre™* has three main Points of View essays. While there may be many opinions on the issue, these essays are designed to provide a base from which you may engage in further analysis:

- The _B_Overview provides general background information on the issue.
- The _B_Point essay presents one opinion on the issue in a persuasive position essay.
- The _B_Counterpoint essay offers an alternative or opposite view of the issue.

**As You Read**

Reading all three essays will enable you to better understand the controversy, providing a foundation from which you can broaden your knowledge of the topic.

- **Read** the Overview, Point and Counterpoint essays. You will be able to move between the Overview, the Point and the Counterpoint essays by clicking on the coloured rectangles in the sidebar featuring the Points of View icon.
- **Take notes** on the main ideas. Start by printing out the essay and highlighting the main ideas and circling key words.
Vaccinations

- **Review the terms** in the Understanding the Discussion section of the Overview.
- **Organize your ideas.** Click on the article ‘Organize Your Ideas Visually’ on the sidebar. Use one of the graphic organizer templates provided to break the essay down into its main points.

**Judge Fact and Opinion**
Click on the sidebar article titled ‘Judge Fact vs. Opinion’ and review.

**FACTS**

- Facts are statements that can be proved true or false.
- Facts tell what actually happened.
- Facts tell what is happening now.
- Facts state something that can be easily observed or verified.

**OPINIONS**

- Opinions are statements that cannot be proved true or false because they express a person’s thoughts, beliefs, feelings or estimates.
- Opinions express worth or value.
- Opinions tell what should or should not be thought or done.
- Opinions are based on what seems true or probable.

Note the difference between the following facts and opinions:

**Example 1:**

**Fact:** The Australian Government Attorney-General’s Department has confirmed that federal law will be amended to allow same-sex couples to remain married in situations where the marriage was originally registered between a male and a female, and one partner changes sex through medical therapy.

**Opinion:** If same-sex marriage is permitted for transgender couples, it should be allowed for all Australians.

- In this example, the opinion suggests what ‘should be’ thought about federal law concerning transgender couples and what all same-sex couples ‘should be’ permitted to do.

**Example 2:**

**Fact:** In 2004, a definition of marriage as ‘a union of a man and a woman’ was inserted into Australia’s Marriage Act.
Opinion: Allowing same-sex marriage will lead to the erosion of marriage as an institution.

- In this example of an opinion, ‘will lead to’ suggests a probable outcome of same-sex marriage based on a personal belief or value judgment.

Example 3:

Fact: The United Nations Human Rights Commission Article 26 of the International Covenant on Civil and Political Rights guarantees to all persons equal and effective protection against discrimination on any ground.

Opinion: Denying same-sex couples the right to marry perpetuates and institutionalises social prejudices against homosexual people.

- In this example, the opinion suggests the probable result of denying same-sex marriage rights based on a personal belief.

Example 4:

Fact: In 2004, the New Zealand Parliament passed the Civil Union Act providing for the civil union of same-sex and opposite-sex couples.

Opinion: While civil unions are permissible, it is in society’s best interest to protect traditional notions of marriage and family.

- In this example, the opinion that civil unions are ‘permissible’ is based on personal estimation, and what constitutes a ‘society’s best interest’ is a value judgment.

Based on the criteria listed above, select:

- Three fact statements from the Point essay on gay marriage
- Three opinion statements from the Counterpoint essay on gay marriage

Looking Deeper into Gay Marriage

You will see several links in the Related Items box on the right hand side of the screen. Exploring these added features will enhance your understanding of the topic you’re studying.

- Click on one of the photos in the Related Items and record your reaction to the picture you chose. Did viewing this picture change your current view on gay marriage? How?
- Under the ‘What Experts Say’ tab, click on the link and read the article provided. Is the author of this article promoting the same argument put forth in the Point or the Counterpoint essay? If the writer is supporting a new viewpoint on the topic, what is it?
The Result List also offers many other kinds of research articles, such as Periodicals, Newspapers and Reference Books. Click on one of these tabs and read one of the articles. What source tab did you use and what is one benefit of using this type of source? What is one drawback? What new information did you learn from reading this article?

You Decide

Based on the readings and review of the Related Items offered, consider the Point and Counterpoint essays in light of your own set of personal values.

- Reflect on which arguments about gay marriage you accept: Point, Counterpoint, or a completely different argument. For you, what is the single most compelling argument regarding gay marriage, and why?

Write an 800- to 1,000-word essay response to the above question that contains a thesis statement and two to three supporting arguments. See ‘Write a Thesis Statement’ and ‘Write a Persuasive Essay’ on the sidebar for tips on how to write your essay.

- Use facts from other resources found in Australia/New Zealand Points of View Reference Centre, other than the Overview, Point, and Counterpoint essays. See ‘Judge Fact vs. Opinion’ on the sidebar to help determine the value of the information you find.
- Investigate some of the sources cited in the Bibliography at the end of each Point of View essay to see what kind of sources those authors consulted.
- For website information, first review the article titled ‘Evaluate a Website’ on the sidebar. Use the information you find there to guide your decisions on which site’s information would add value to your essay.
- Suggest ways in which the controversy surrounding gay marriage could be resolved.

See these other Points of View ‘How To’ topics for additional help. They can be found on the sidebar of each essay.

- Write a Topic Sentence
- Take Good Notes
- Go From Notes to Outline
- Organize Your Ideas Visually
- Write a Conclusion
- Cite Sources
- Create a Bibliography
- Write a Research Paper
Debate It

- Debate the issue. To create an effective debate, refer to the tips offered in the ‘Use Strategy in Debate’, ‘Give an Oral Presentation’, and ‘Start a Debate Club’ articles in the sidebar.
- Have someone else read either the Point or the Counterpoint essay on gay marriage. Imagine you are facing this person in a debate setting. Take notes on the points (contentions) you would make to oppose the arguments (rebuttals).
- When the speaker is finished, respond to the arguments presented with opposing arguments, pointing out any contradictions you may have heard.
Overview

Same-sex de facto relationships are recognised in Australia, and de facto spouses are assigned practical legal rights and obligations that are similar to those assigned in marriage. However, same-sex marriage is specifically prohibited under Australian law by legislation passed in 2004 that defines marriage as the union of a man and a woman. Supporters of gay marriage argue that precluding same-sex couples from marriage is discriminatory. Opponents to gay marriage argue that it is in society’s better interest to protect traditional notions of marriage and family. Australian law pertaining to same-sex relationships has evolved in recent years, reflecting the differences between marriage and a de facto relationship. In New Zealand, federal law provides for the civil union of same-sex couples.

Understanding the Discussion

Civil Union: A legal union of a couple, sanctioned by a government authority.

De Facto: The literal translation from Latin is ‘from the fact’, meaning ‘in reality’ or ‘in fact’. A de facto husband or de facto wife lives with his or her partner in a marriage-like arrangement, but is not married.

Marriage: The legal and/or religious ceremony that formalises the decision of a couple to live together as spouses. In Australia, by legal definition, this is limited to marriage between a man and a woman.

Marriage Celebrants: State-authorised persons who perform religious or secular marriage ceremonies.

Opposite-Sex Couple: A de facto couple where the members are of different genders (e.g. a man and a woman).

Same-Sex Couple: A de facto couple where both members are of the same gender (e.g. a man and another man, or a woman and another woman).

Spouse: Either member of a married couple: the husband or the wife.

History

Under Australian law, there are two commonly used legal terms that describe relationships where two people live together as a couple. The first is ‘marriage’, which is performed by an authorised celebrant in either a religious or civil ceremony. Celebrants can include ministers of religion or civil representatives that have no religious affiliation. Religious or non-religious, marriage celebrants are required to be officially registered, and undergo education and ongoing professional development to maintain their registration.
Marriage confers certain rights and obligations to a couple under the law. For example, the Australian immigration system recognises kinship (family ties) between married immigrants and their spouses. Marriage also legitimises children who are born of a marriage. Under Australian legislative provisions, children whose parents are not married are, technically, considered illegitimate. While legitimacy may be a somewhat outdated legal concept in general society, the Marriage Act 1961 (the act of Parliament that governs the rules of marriage in Australia) specifically references legitimacy of children through marriage.

‘De facto’ is another legal term used to describe a relationship where two people live together as a couple, but where they are not married. In most instances of common law, de facto couples enjoy similar rights and obligations as married people. According to the Australian Government Attorney-General’s Department, ‘A person is in a de facto relationship with another person if the couple are not legally married, are not related by family and have a relationship as a couple living together on a genuine domestic basis.’ To determine if two people are in a de facto relationship, the Attorney-General advises that a combination of the following factors is taken into consideration:

- the duration of the relationship;
- the nature and extent of their common living arrangement;
- whether a sexual relationship exists;
- the degree of financial dependence or interdependence, and any arrangements for financial support between them;
- the ownership, use and acquisition of their property;
- the degree of mutual commitment to a shared life;
- the care and support of children (if they have any), and;
- the public aspects of the relationship (whether the relationship is known to friends and family etc.).

As of December 2008, Australian law provides that ‘de facto relationship’ is a gender neutral term that applies to both same-sex and opposite-sex couples. This formal broadening of definition resulted from a national inquiry into discrimination against people in same-sex relationships by the Australian Human Rights Commission (AHRC). In June 2007, the AHRC tabled its parliamentary inquiry entitled Same-Sex: Same Entitlements. The report references the United Nations Human Rights Commission Article 26 of the International Covenant on Civil and Political Rights, which states:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground...

The AHRC inquiry audited Commonwealth legislation relating to financial and work-related entitlements. The inquiry found that a significant number of Australian federal laws breached the rights of same-sex couples and/or their children. The inquiry resulted in the Same-Sex
Relationship Act, which was passed by Parliament in November 2008, to amend eighty-four federal laws in a wide range of areas. The areas included taxation, superannuation (pension), social security, aged care, child support, immigration, and veterans’ affairs. The Same-Sex Relationship Act also provides that couples can register their de facto status on ‘relationship registers’ at the state or territory level. Relationship registration removes the burden from same-sex and opposite-sex couples of needing to repeatedly prove their de facto status for legal purposes. Should a couple fulfill the relationship registration requirements, they are provided with a registration certificate. They may then furnish the certificate, as needed, to government departments and other relevant parties as evidence of their de facto relationship. Relationship registration is currently available in Tasmania, Victoria and the Australian Capital Territory (ACT). Besides state governments, some local government authorities also provide relationship registration.

However, the Same-Sex Relationship Act did not address marriage. The Australian Constitution provides that the Australian Federal Parliament has the power to make laws with respect to marriage. In 2004, Philip Rudd (the attorney-general for the Liberal Party of Australia that was in government at the time) proposed the Marriage Amendment Bill 2004. This inserted a definition of marriage into the Marriage Act, such that, ‘Marriage means the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.’ In other words, the amendment proposed that it would be illegal for same-sex couples to marry in Australia. A further amendment also confirmed that same-sex marriages performed under the law of another country would not be recognized in Australia.

Philip Rudd told Parliament that the purpose of the reform was to counter court applications to recognise same-sex marriages that had been performed in other countries, and to respond to ‘significant community concern about the possible erosion of the institution of marriage.’ The Australian Christian Lobby strongly supported the amendments, arguing that marriage brings stability to society through the commitment of one person to another, and by providing an appropriate family model for raising children. The bill was supported by the Australian Labor Party (ALP), but was opposed by the Australian Greens and Australian Democrats. They disagreed with Philip Rudd’s assessment of community concerns, and counter-proposed amendments that acknowledged same-sex relationships. Australian Greens senator Bob Brown pointed to a Galaxy Research poll in which the majority of respondents indicated that they supported gay marriage. He also called attention to the fact that gay marriage co-exists with Christian religion in Spain, where the majority of people identify as Catholics. The Australian Greens and Australian Democrats’ counter-proposals were not adopted, and the Marriage Amendment Bill 2004 was passed by Parliament in August of that year.

Gay Marriage Today

The Australian Capital Territory (ACT) State Government (comprising Ngunnawal Country and Canberra) made a number of attempts to legalise same-sex civil unions, before finally passing legislation to do so in 2012. Like marriage, a civil union is performed by a civil celebrant or registrar, but it offers legal protection at only the state level. At a federal level, and in states
where civil unions are not offered, the legal status of civil unions would not be recognised. Many gay and lesbian supporters argue that civil unions do not provide equality and fairness for same-sex couples under the law. They contend that marriage establishes kinship, and that married spouses have considerably more power than civil union partners in scenarios such as immigration, inheritance, and divorce, as well as the perceived dignity and wide social recognition that marriage attracts. With a rising tide of public opinion supporting gay marriage in Australia, the ACT was able to pass legislation legalising same-sex marriage in October 2013. Prime Minister Tony Abbott announced a High Court hearing on the constitutionality of law soon after its passing, and cautioned any same-sex couples planning on marrying under the law to wait for the court to rule on its constitutional validity. While Abbott has expressed opposition to marriage equality in the past, he insisted that the challenge brought against the ACT law was on strictly legal, not moral, grounds. In December 2013, the High Court ruled that the ACT same-sex marriage laws unconstitutional, holding that only the Federal Parliament has the power to legislate same-sex marriage in Australia.

The debate over gay marriage in Australia reflects similar debates occurring in some other countries. As of late 2015, same-sex marriages were recognised in the Netherlands, Argentina, New Zealand, Belgium, Spain, Portugal, Iceland, Brazil, Sweden, France, South Africa, Canada, Norway, Denmark, Uruguay, Mexico, Finland, Ireland, Luxembourg, England, Wales, Scotland, and the United States.

The civil union of some gay celebrities has garnered a great deal of attention to the gay marriage issue. Sir Elton John was one of the first high profile UK celebrities to enter into a civil union with a same-sex partner after the Civil Union Act was enacted there in 2005. Likewise, changes to civil union laws in California in 2008 attracted media attention, such as when celebrity Ellen DeGeneres wed her Australian-born partner, Portia de Rossi. In May 2008, the California Supreme Court found that the law prohibiting same-sex civil unions violated equality rights provided by the state’s constitution. As a result, same-sex marriage became legal in California. However, in November of the same year, Californian voters approved a constitutional amendment (known as Proposition Eight), that overturned the Supreme Court’s ruling. As a result, same-sex marriage became illegal in California. In June 2013, however, the Supreme Court ruling on *Hollingsworth v. Perry* found Proposition Eight to be unconstitutional. The court overturned the amendment, allowing gay marriages to resume in California. Same-sex marriage was legalised throughout the country in 2015 by the Supreme Court decision in *Obergefell v. Hodges*.

Australian Marriage Equality (a lobby group that represents the interests of same-sex couples) argues that legal inequity perpetuates and institutionalises social prejudices against homosexual people. Official party policy of the ALP and Australian Liberals is to protect the traditional concept of marriage and family, while the Australian Democrats and Australian Greens support legal equity for same-sex relationships. In August 2015 a group of MPs from multiple parties, led by Liberal Warren Entsch, introduced a marriage equality bill to Parliament. The weekend before its introduction, thousands rallied in Melbourne to urge MPs to vote in favour of it. However, supporters were not optimistic that the bill would ever reach a vote, in
part due to Abbott’s opposition. Before the bill’s introduction, Abbott told members of his Coalition party that they would have to resign from the frontbench if they were to vote in favour of marriage equality.

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By Kylie Grimshaw Hughes

Kylie Grimshaw Hughes has a Bachelor of Arts degree with Honours in Labour Studies and Politics from the University of Adelaide and a Master of Arts degree in Communication Studies from the University of South Australia. Her honours and master’s theses are in the fields of sociology, political science and cultural studies, and her degree qualifications are complemented by professional certifications in training and financial services. She currently lives in the United States, where she works as a business consultant and freelance writer.
Point: Gay Marriage Should Be Legal

Thesis: Australia should legalise gay marriage in order to give same-sex couples the financial and legal benefits that are immediately available to heterosexual couples upon marriage. By discriminating against same-sex couples in the area of marriage, Australia is breaching its human rights obligations.

Summary: By entering into a marriage, a couple immediately gains many financial and legal benefits. Marriage is also a celebration of a couple’s love and is seen as a symbol of the degree of commitment that couple has towards each other. Same-sex couples are denied both formal recognition of their relationship and the choice to express their love in the same way as heterosexual couples. Although the Government has recently amended eighty-four Commonwealth laws to give same-sex couples the same rights as unmarried heterosexual couples in areas such as taxation and employment, marriage continues to be defined as being exclusively between a man and a woman. Making a person’s ability to marry dependent on his or her sexual orientation is discrimination and fosters inequality in the Australian community.

Australia’s Recognition of Same-Sex Relationships

In 2001, the Netherlands became the first country to legalise same-sex marriage. Same-sex marriage is now also available in Belgium, Canada, South Africa, Spain, Sweden, Norway, and in parts of the United States. In 2004, the Australian Government amended the Marriage Act 1961 to explicitly define marriage as ‘the union of a man and a woman’ and to state that same-sex marriages performed in a foreign country are not recognised in Australia. Therefore, under Australian law, no same-sex couple can be considered legally married.

Although Australian same-sex couples cannot be married, the Australian Government has made moves to recognise same-sex relationships. The same-sex reform package, which passed through Parliament in November 2008, reforms eighty-four Commonwealth laws to remove discrimination against same-sex couples. These reforms mean that same-sex couples and their families are now treated in the same way as heterosexual de facto couples in the areas of tax, superannuation, social security, Medicare, aged care, child support, immigration, citizenship and veteran’s affairs. Essentially, the reforms changed the definition of ‘de facto’ in many pieces of legislation to include same-sex couples and therefore ensure that same-sex couples are entitled to receive the benefits available to opposite-sex de facto couples.

Although the majority of Australian laws treat married couples and de facto couples in the same way, the fundamental difference between marriage and a de facto relationship is that marriage provides conclusive proof of a relationship. An opposite-sex couple has the choice to marry whenever they choose, and to then immediately receive the benefits that marriage entails. In contrast, to be considered a de facto couple, a couple must generally prove that they have been in a de facto relationship for a certain period of time, that their relationship is genuine, and that they live together permanently. Currently, only the ACT, the Northern Territory, Tasmania and Victoria have a Relationships Register, which allows de facto partners...
to register their relationship. This gives couples in these states and territories a greater level of control over when they will be considered to be in a de facto relationship. However, registering a relationship is not the same as entering into a marriage, and only provides proof of a relationship in certain contexts. Throughout Australia, a marriage certificate provides a couple with conclusive proof of their relationship and can be obtained by marriage at any point in that couple’s relationship. Opposite-sex couples have the choice whether to marry or be considered a de facto couple, whereas same-sex couples do not.

**Gay Rights Are Human Rights**

There are also strong reasons under International Law why Australia should legalise same-sex marriage. By discriminating against same-sex couples, Australia is in breach of its human rights obligations. Australia has ratified the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC). The right to equality and freedom from discrimination is a norm of international law, and because Australia has ratified these instruments, Australia is bound by them. Article 26 of the ICCPR provides that:

> All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The United Nations Human Rights Committee (UNHRC) has noted that the reference to ‘sex’ in article 26 should be taken to include sexual orientation and that therefore the prohibition of discrimination in article 26 includes discrimination on the basis of sexual orientation. Same-sex couples are denied the right to marry based on their sexual orientation. Therefore, the fact that opposite-sex couples have the right to immediately formalise their relationships through marriage whilst same-sex couples do not, is discrimination. The ICCPR also references marriage as a right. Article 23 of the ICCPR states that the ‘right of men and women of marriageable age to marry and to found a family shall be recognised’. The provision does not expressly state that marriage is between a man and a woman, and thus there is scope for arguing that the provision covers same-sex marriage.

**All Love is Equal**

Marriage entails a formal recognition by the state of a couple’s relationship. Refusing to recognise same-sex couples in this way sends a message to the rest of the community that same-sex relationships are inferior or unequal to opposite-sex relationships. In our society, marriage is often seen as the ultimate expression of love and commitment that a couple can make to each other. Same-sex couples are denied the choice to make this symbolic commitment to each other, which could contribute to broader negative community attitudes towards same-sex attracted people. Some common stereotypes of same-sex attracted people...
are that they lack commitment and are not family oriented. Not allowing same-sex couples access to marriage perpetuates these stereotypes. If one of the ways that society measures a couple’s commitment and love is by whether or not they marry, and same-sex marriage is illegal, then it is impossible for a same-sex couple to “measure up” to an opposite-sex couple.

Recent research shows that children of same-sex couples show no difference in their ‘sex role identification, level of happiness, level of social adjustment, sexual orientation, satisfaction with life or moral and cognitive development’ (Cooper, 2005, p.166) when compared to children of heterosexual couples. There is, however, some evidence that marriages (as an institution) are more stable and long lasting than de facto partnerships, and that they therefore provide a better environment for raising children (Cooper, 2005, p.167). Legalising same-sex marriage would provide more stability for children of same-sex couples. Furthermore, allowing same-sex marriage may shift community attitudes towards what constitutes a ‘family’. This is because, in our society, marriage is often viewed to be the foundation of ‘family’. Legalising same-sex marriage would positively affect the children of same-sex couples by recognising the reality of those family environments and providing affirmation that their families are equal to families with opposite-sex parents.

Ponder This

1. Of the three main points made in this essay, which point was the most convincing as an argument for legalising gay marriage? Why?
2. Does the author make any arguments which are not adequately supported by evidence? What supporting evidence would be needed to make this argument more effectively?
3. How does the author demonstrate the positive impacts for gay couples if gay marriage was legalised? Are there other positive impacts that the author has neglected to discuss?
4. Review the final paragraph of this essay. Find a traditional argument against gay marriage that the author turns to support her point. Explain how the author accomplishes this, and whether it’s a convincing.
5. Consider word choice and phrase construction. What words or phrases are particularly effective? Why do they work?

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Books


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By Angela Smith

Angela Smith has completed an Honours degree and Graduate Certificate in Gender Studies from the University of Melbourne. Ms Smith’s area of study has included sexual politics, sexuality and the law, and gender theory.
Counterpoint: Gay Marriage Should Not Be Legalised

Thesis: Marriage is a traditional religious and state-sanctioned commitment between a man and a woman. Traditionally, legally, and theologically, gay marriage is not acceptable and should therefore not be allowed.

Summary: Very few countries permit same-sex marriage, despite current campaigns the support it. Many religious groups, political parties, and individuals view marriage as distinctly between a man and a woman. Thousands of years of religious and political history support this understanding of marriage. The Catholic Church and branches of Judaism and Islam--three of the more prominent religions in Australia--do not support gay marriage. Other Christian churches in Australia have differing views on homosexuality and gay marriage, many of which do not support it.

In 2004, the Federal Government passed a law confirming that marriage was only sanctioned between a man and a woman. While few other countries have legalised gay marriage, some have legalised civil unions. This allows for some recognition of same sex relationships, without changing the meaning of marriage. In 2008, the Federal Government passed legislation that gave same-sex couples the same rights as unmarried heterosexual couples, but ‘marriage’ still remains exclusively heterosexual. As of May 2009, three states/territories in Australia, Tasmania, Victoria and the Australian Capital Territory, have registers where people in a relationship (homosexual or heterosexual) can have their relationship formally acknowledged.

Gay Marriage

Gay marriage has only become an issue over the last couple of decades. As lesbian and gay men have gained more legal rights in many countries, many have campaigned for legal and equal recognition of their relationships in the most traditional of institutions--marriage. In different cultures, marriage has evolved differently. In most countries, marriage is a state-sanctioned commitment between a man and a woman. Some people may choose to have their marriage sanctioned by their faith as well, by having a priest, rabbi, imam or other religious official perform the ceremony. But for legal purposes, a marriage must be registered in the country where you get married, or in which you live.

In Australia, same-sex marriage is not legal and, in 2004, was officially restricted to being a union strictly between a man and woman (Farouque 2006). As of July 2009, people in a same-sex relationship have the same legal rights as heterosexuals who are in de facto relationships, and in many cases, the same rights as married couples. There are some differences in legal rights in relation to specific states’ laws and adoption rights.

Religion

The main opposition to same sex marriage comes from religious groups. Many of the governing bodies of religious groups do not approve of homosexuality at all, let alone the cementing of
same-sex relationships in a formal manner. Homosexuality is often seen as contrary to the ideas of families and the primacy of heterosexuality. As marriage is a vital rite of passage in many religions, religious leaders see the possibility of legal gay marriage as an undermining of their faith.

The Vatican, the governing body of the Catholic Church, stands firmly against same-sex marriage. For the Catholic Church, marriage is meant to be between a man and a woman and this forms the basis of a strong family and the rightful situation in which to raise children. Other Christian faiths, including the Anglican Church, debate the possibility of same-sex marriage, with most churches stating that they are against it. The Australian Christian Lobby (ACL) is concerned that changing families in such a radical way would undermine the very fabric of society. Their concern is very much located in how children are raised and in what environment; children not having a married father and mother as role models are of great concern to them. Dr. James Dobson, from the American Christian organization Focus on the Family, sees marriage and homosexuality as in direct opposition, arguing that allowing gay marriage would in fact destroy the notion of the traditional family (Dobson 2009).

Islam and Judaism also have prohibitions against same-sex marriage. As these religions are not as centrally organized as many Christian churches, their positions vary. Orthodox Jews are against gay marriage and relationships, while progressive Jewish synagogues can perform same-sex marriages. These are in the minority, and the decision to do this has caused tension within the Jewish community. Whatever the religion, same-sex marriages are not recognised legally in Australia (Cohen 2008).

State

Very few countries have legalized same-sex marriage. Of those who have, most have only occurred in the last decade. This means that for centuries before, there has been no need for legally-sanctioned same-sex relationships.

The current Australian government, which is often seen as a progressive government, has firmly stated that it will not legalise same-sex marriage (Madigan 2007). The government has ensured that people in a same-sex relationship do not face discrimination in relation to many government processes, but it has protected the institution of marriage.

Like Australia, the United States federal government has not legalised gay marriage, nor is it likely to happen at a national level. However, there are states in both countries that do recognise gay marriage. In the US, there has been a large amount of conflict over states that have legalised gay marriage, and how much of the population actually supports it. Despite a decision by the California Supreme Court in May 2008 ruling that gay marriage was legal, a statewide vote in November of the same year firmly rejected state recognition for same-sex marriage (Monroe 2008). As California is one of the more progressive areas of the US, it shows how little support the concept is likely to gain nationwide.
Closer to home, the Tasmanian, Victorian and Australian Capital Territory registers that same-sex couples can sign provide an acknowledgment of their homosexual relationships, but do not dilute the sanctity of marriage itself. This does not change the legal status of their relationship, but allows for some recognition. This ensures the sanctity of marriage, without being discriminatory.

**Tradition**

Setting aside the legal controls on marriage, there are private arguments against it as well. Libertarian and social conservative Jennifer Roback Morse argues against same-sex marriage, but not for religious or party political reasons, but because she sees marriage as a distinct and time-honoured tradition. If it is allowed to shift and change, then its significance will be lost. Once marriage is not just between a man and a woman, the door is left open for group marriage and other arrangements (Duffy 2005). It will then become a civil contract, just like any other. Once the gravity and uniqueness of marriage has been ruptured, there is no point in having it at all.

There are other societal concerns about the raising of children in non-heterosexual relationships. By allowing same-sex marriage, there is a concern that this lifestyle will flourish and children will lack adequate role models. Many people wish to protect the concept of the family, and want to ensure that every child grows up with male and female influence, as part of a stable heterosexual union.

**Civil Unions**

Rather than appropriating or changing a heterosexual institution, some countries have found a middle ground in civil unions or partnerships. The United Kingdom (UK) and New Zealand have passed laws permitting civil unions between people of the same sex. In 2006, support for civil unions being available to lesbians and gay men was at 50 percent (Farouque 2006). This suggests that civil unions are far more palatable to the general public than altering marriage.

With equal legal rights and an alternate option to marriage, there is no need to change the nature of the time-honoured tradition of marriage.

**Ponder This**

1. Does the author seem to leave out or sidestep any important issues in the debate? Discuss.
2. Has the author argued, convincingly, as to the unique nature of marriage? How would you strengthen the argument that heterosexual marriage is a unique institution that needs to be protected?
3. Do you feel that the author clearly defined what state-sanctioned rights were allowed those participating in civil unions and those who are married? How could that have been presented in a way that equated civil unions and marriage?
4. The author asserts marriage is a time-honoured tradition. How does she support this assertion, and what effect does it have on her argument? Explain.

5. These essays and any opinions, information or representations contained therein are the creation of the particular author and do not necessarily reflect the opinion of EBSCO Information Services.

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By Madelaine Imber

Madelaine Imber completed her Master’s in Education by research at the University of Melbourne in 2009. She has taught English and Literature in high schools for a number of years. She currently teaches adult students working towards their Victorian Certificate of Education. She is also a freelance education writer.

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