

By Maggie Gallagher

Ron Paul, the de facto head of the libertarian wing of the GOP, has argued it is a state's right to define marriage as it chooses. Here's the case for why states should choose to support the traditional understanding of marriage and repeal same-sex marriage.

1. Government did not create marriage and has no business redefining it.

Government did not create marriage and has no business redefining it. Government's job is to protect marriage and help it fulfill its unique mission, not change its meaning to accommodate the latest politically correct notion.

The government has been involved in marriage because marriage has been seen as key to protecting children—both by preventing out of wedlock births and by encouraging mothers and fathers to stay together and raise their children.

That this is the state's interest in marriage was not an argument made up in order to oppose gay marriage; to the contrary, it has been repeatedly expressed explicitly by courts, it is the explicit reason the majorities of state courts have rejected a right to same-sex marriage.¹ If encouraging mothers and fathers for children is a key part of marriage's public purpose, then same-sex couples simply do not fit. They are not marriages and government should not force the wider society, or third parties, to change their views on marriage to accommodate the views of the fashionable left.

All of us are free to live as we choose, none of us have the right to redefine marriage, which is a pre-political institution the government protects and supports because it is so key to the future of the whole society in terms of creating and protecting children.

2. When marriage declines, government expands.

We are currently facing a marriage crisis in this country. Redefining marriage is a bad idea in the middle of a crisis that is generating an expanding welfare state, creating huge tax burdens, and hurting children.

According to a study by economist Benjamin Scafidi, "The Taxpayer Costs of Divorce and Unwed Childbearing," the failure of traditional marriages to form or last cost the taxpayers at least \$112 billion each and every year.²

Gay people are not responsible for this family fragmentation, of course. But asking government to step in and redefine marriage is a risky experiment in a time when we should be reinforcing to the next generation that children need a mother and father.

3. Gay marriage has no economic benefits.

Gay marriage advocates have repeatedly claimed that gay marriage will lead to an economic boom (or conversely that traditional understandings of marriage will cost jobs). Four of the top five states in GDP growth all have constitutional amendments defining marriage, according to the Census Bureau.³ While only six states have same-sex marriage, of the fifteen states with the worst business environment for small business, fully five have gay marriage.⁴

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The *Washington Blade* recently admitted that predictions of revenue from gay marriage in D.C. were simply off the mark.⁵

4. The Slope Really Is Slippery

If libertarians accept the premise that redefining marriage is a basic “freedom” or an individual right, then libertarians would be required to accept all people’s definitions of marriage, not just gay people or liberals’ understanding of marriage. It is hard to understand why Muslims, or anyone else, should not have the freedom to marry as they choose, whether it is polygamously or polyamorously.

Marriage loses its shape and purpose by being transformed into an individual freedom. If it is just a private and personal decision the logic leads not to gay marriage, but to the abolition of marriage as a legal status.

Libertarians should not support this latter outcome, because the costs to children, taxpayers and society of the breakdown of marriage are just too large.

Everyone has the right to live as we choose. The rights to live with the person we love, and to raise our natural children, are protected already under the federal constitution.

House Bill 437 is compromise legislation that provides legal supports for gay people and their families without redefining marriage, inserting government and its power into the middle of a cultural debate without the consent of the people of New Hampshire.

¹ For example, see *Conaway v. Deane* 932 A.2d 571 (Md. 2007)(“All of the cases infer that the right to marry enjoys its fundamental status due to the male-female nature of the relationship and/or the attendant link to fostering procreation of our species. . . . Thus, virtually every Supreme Court case recognizing as fundamental the right to marry indicates as the basis for the conclusion the institution’s inextricable link to procreation, which necessarily and biologically involves participation (in ways either intimate or remote) by a man and a woman.”); *Hernandez v. Robles*, 855 N.E.2d 1 (N.Y. 2006)(“the Legislature could rationally decide that, for the welfare of children, it is more important to promote stability, and to avoid instability, in opposite-sex than in same-sex relationships. Heterosexual intercourse has a natural tendency to lead to the birth of children; homosexual intercourse does not. Despite the advances of science, it remains true that the vast majority of children are born as a result of a sexual relationship between a man and a woman, and the Legislature could find that this will continue to be true. The Legislature could also find that such relationships are all too often casual or temporary. It could find that an important function of marriage is to create more stability and permanence in the relationships that cause children to be born. It thus could choose to offer an inducement-in the form of marriage and its attendant benefits-to opposite-sex couples who make a solemn, long-term commitment to each other”); *Andersen v. King County* 138 P.3d 963 (Wash. 2006)(“Nearly all United States Supreme Court decisions declaring marriage to be a fundamental right expressly link marriage to fundamental rights of procreation, childbirth, abortion, and childrearing.”); *Citizens for Equal Protection v. Bruning*, 455 F.3d 859 (8th Cir. 2006)(“This ‘inextricable link’ between marriage and procreation reasonably could support the definition of marriage as between a man and a woman only, because it is that relationship that is capable of producing biological offspring of both members (advances in reproductive technologies notwithstanding).”).

² Institute for American Values, et al., *The Taxpayer Costs of Divorce and Unwed Childbearing*, April 15, 2008 at http://www.marriedebate.com/pdf/ec_div.pdf.

³ U.S. Census Bureau, “Gross Domestic Product by State in Constant (2000) Dollars—Percent Change, 2006-2008” *Statistical Abstract of the United States* at <http://www.census.gov/compendia/statab/2012/ranks/rank28a.html>.

⁴ Raymond J. Keating, “Small Business Survival Index 2011” Small Business & Entrepreneurship Council, November 2011 at <http://www.sbecouncil.org/uploads/SBSI2011%5B1%5D.pdf>.

⁵ Mark Lee, “D.C. Marriage Law Engages Fewer Than Predicted” *Washington Blade*, December 1, 2011 at <http://www.washingtonblade.com/2011/12/01/d-c-marriage-law-engages-fewer-than-predicted/>.