

Defending Marriage

A Memo to President-elect Obama

Thomas M. Messner and Jennifer A. Marshall

CHANGE
We
BELIEVE IN

FAMILY AND RELIGION

Fostering the permanent institutions of family and religion to maintain ordered liberty in American society.



This product is part of the Family and Religion Initiative, one of 10 transformational initiatives in our Leadership for America campaign.



214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400 | heritage.org

I believe that marriage is the union between a man and a woman.

—Barack Obama, Saddleback Presidential Candidates Forum, August 17, 2008¹

I do not support gay marriage. Marriage has religious and social connotations, and I consider marriage to be between a man and a woman.

—Barack Obama, Response to 2008 Human Rights Campaign Presidential Questionnaire²

PRESIDENT-ELECT OBAMA, you have stated on more than one occasion that marriage is a relationship between a man and a woman.³ You have also explained that you do not favor same-sex marriage.⁴

We agree with you that marriage should be defined as a relationship between a man and a woman.

Societies through the ages have considered marriage to be a relationship between a man and a woman that forms the cornerstone of families and the ideal place for having and raising children.⁵ Societies have a strong interest in marriage because “procreation [is] fundamental to the very existence and survival of the [human] race.”⁶ Societies also have a strong interest in marriage because, as you have suggested, having both a mother and a father is important when it comes to raising children.⁷ For these reasons, it is fitting and proper to define marriage as a relationship between one man and one woman and to resist any attempt by courts to remove this issue from democratic deliberation.

In addition, redefining marriage to include homosexual unions poses serious threats to the religious liberties of people who continue to

believe, as you do, that marriage is a relationship between a man and a woman. This understanding of marriage is an

1. Senator Barack Obama, interview with Rev. Rick Warren, Saddleback Presidential Candidates Forum, August 17, 2008, at <http://transcripts.cnn.com/TRANSCRIPTS/0808/17/se.01.html> (January 12, 2009).
2. Senator Barack Obama, response to 2008 Human Rights Campaign Presidential Questionnaire, at <http://a4.g.akamai.net/f/4/19675/0/newmill.download.akamai.com/19677/anon.newmediamill/pdfs/obama.pdf> (January 12, 2009). The Obama–Biden Web site provides hyperlinks to this document.
3. See Senator Barack Obama, interview with Rev. Rick Warren, Saddleback Presidential Candidates Forum; response to 2008 Human Rights Campaign Presidential Questionnaire; and interview with MTV, November 1, 2008, at <http://www.mtv.com/news/articles/1598407/20081101/story.jhtml#> (January 12, 2009).
4. Obama, response to 2008 Human Rights Campaign Presidential Questionnaire and interview with MTV.
5. “For thousands of years, on the basis of experience, tradition, and legal precedent, every society and every major religious faith have upheld marriage as a unique relationship by which a man and a woman are joined together for the primary purpose of forming and maintaining a family.” Matthew Spalding, “A Defining Moment: Marriage, the Courts, and the Constitution,” Heritage Foundation *Backgrounder* No. 1759, May 17, 2004, at <http://www.heritage.org/Research/LegalIssues/bg1759.cfm>. “[T]he institution of marriage has systematically provided for the regulation of heterosexual behavior, brought order to the resulting procreation, and ensured a stable family structure in which children will be reared, educated, and socialized.” *Morrison v. Sadler*, 821 N.E.2d 15, 25 (Ind. App. 2005). In light of this history, it is not surprising that “a core meaning constitutive of the marriage institution has nearly always been the union of a man and a woman.” Monte Neil Stewart, “Marriage Facts,” *Harvard Journal of Law & Public Policy*, Vol. 31 (2008), pp. 313, 321, at <http://marriagelawfoundation.org/publications/Harvard%20Facts.pdf> (January 12, 2009).
6. *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535, 541 (1942).
7. In remarks you made on the occasion of Father’s Day, you described the family as “the most important” of “all the rocks upon which we build our lives” and called on listeners “to recognize and honor how critical every father is to that foundation.” You described fathers as “teachers and coaches,” “mentors and role models,” “examples of success,” and “the men who constantly push us toward [success].” You then said, “too many fathers also are is [sic] missing—missing from too many lives and too many homes.” “Remarks of Senator Barack Obama: Apostolic Church of God,” Chicago, Ill., June 15, 2008, at http://www.barackobama.com/2008/06/15/remarks_of_senator_barack_obam_78.php (January 12, 2009). Your message that children need both a father and a mother corresponds with social science data supporting the same conclusion. For example, an independent and nonpartisan research center called Child Trends published a study in 2002 finding that “research clearly demonstrates that family structure matters for children, and the family structure that helps children the most is a family headed by two biological parents in a low-conflict marriage.” Kristin Anderson Moore, Susan M. Jekielek, and Carol Emig, “Marriage from a Child’s Perspective: How Does Family Structure Affect Children, and What Can We Do about It?” *Child Trends Research Brief*, June 2002, at <http://www.childtrends.org/files/MarriageRB602.pdf> (January 12, 2009).

important religious belief for many Americans,⁸ but the freedom to express this belief will come under growing pressure as courts, public officials, and private institutions come to regard the traditional understanding of marriage as a form of irrational prejudice that should be purged from public life.⁹ Defending the legal definition of marriage as a relationship between a man and a woman, in addition to serving the fundamental public interests set forth above, would also check these threats to religious liberty and help to ensure that believers are not forced “to leave their religion at the door before entering into the public square.”¹⁰

In light of your view that marriage is a relationship between a man and a woman, and for the reasons stated above, we respectfully urge you to adopt the following policies.

- **Resist any attempt to repeal the Defense of Marriage Act of 1996 (DOMA).** DOMA defines marriage as a relationship between a man and a woman for purposes of federal law.¹¹ In addition, although it leaves each state free to define marriage however it likes, DOMA also affirms that no state is required to recognize a same-sex marriage from another state under the Full Faith and Credit Clause of Article IV of the U.S. Constitution.¹²

In the past, you have described DOMA as an “abhorrent law.”¹³ We strongly urge you to amend this view consistent with your stated position that marriage is a union between a man and a woman.

8. During your presidential campaign, you said that, “for me as a Christian... [marriage] is also a sacred union.” Obama, interview with Rev. Rick Warren.

9. See Thomas M. Messner, “Same-Sex Marriage and the Threat to Religious Liberty,” Heritage Foundation *Backgrounder* No. 2201, October 30, 2008, at <http://www.heritage.org/research/family/bg2201.cfm>.

10. Senator Barack Obama, “Call to Renewal Keynote Address,” Call to Renewal Conference on Building a Covenant for a New America, June 28, 2006, at http://www.barackobama.com/2006/06/28/call_to_renewal_keynote_address.php (January 12, 2009). You have stated, and we agree, that “[s]ecularists are wrong when they ask believers to leave their religion at the door before entering into the public square.” *Ibid.*

11. See 1 U.S.C. § 7.

12. See 28 U.S.C. § 1738C.

13. As a candidate for the U.S. Senate in 2004, in a letter you wrote to the *Windy City Times*, you described DOMA as an “abhorrent law.” Barack Obama, Letter, *Windy City Times*, February 11, 2004, at <http://www.windycitymediagroup.com/gay/lesbian/news/ARTICLE.php?AID=4018> (January 12, 2009).

- **Voice support for democratic measures, like Proposition 8 in California, that define marriage as a relationship between a man and a woman.**

Voters in a majority of the states share your view that marriage is a union between a man and a woman and have democratically amended their state constitutions to protect that choice.¹⁴ Constitutional amendments like these are important democratic checks on activist courts that sometimes seek to impose their own vision for marriage on a particular society.

Voters in California, for example, recently passed Proposition 8, a ballot measure that amended the California Constitution to define marriage as a union between a man and a woman. Proposition 8 effectively overturned a recent decision of the California Supreme Court that, in striking down a previous democratic ballot measure that had statutorily defined marriage as a union between a man and a woman, imposed same-sex marriage on an unwilling state.

Although you believe marriage is a union between a man and a woman and have said you do not favor same-sex marriage, you also have openly opposed Proposition 8 and similar efforts to amend constitutions in other states.¹⁵ You have even gone so far as to denounce Proposition 8 as “discriminatory.”¹⁶

Your opposition to democratic measures like

Proposition 8 is incompatible with your stated support for traditional marriage. Even advocates of same-sex marriage admit that your contradictory positions “can’t be squared as a matter of logic.”¹⁷

Furthermore, denouncing Proposition 8 as “discriminatory” reinforces a growing contempt in certain parts of our society for people who bring their faith to bear on their politics, especially in matters relating to marriage.¹⁸ Such contempt threatens to fuel the hatred and bigotry that has been directed against individuals and institutions that supported Proposition 8 and should be renounced in the clearest possible terms.¹⁹ To the extent that, as President of the United States, you decide to involve yourself politically in marriage debates at the state level, you should support efforts to defend marriage as a relationship between a man and a woman.

Conclusion

You have said repeatedly that you believe marriage is a relationship between a man and a woman. You have also said that you are not in favor of same-sex marriage. Consistent with your stated positions on these issues, you should resist any attempt to repeal DOMA and support democratic measures, like Proposition 8, that seek to preserve marriage as a relationship between a man and a woman.

14. “There are 30 states that have constitutional amendments protecting traditional marriage, including the three states (Arizona, California, and Florida) that passed constitutional amendments in November 2008.” Alliance Defense Fund, DOMAwatch.org, at <http://www.domawatch.org/index.php> (January 12, 2009).

15. You stated, “I oppose the divisive and discriminatory efforts to amend the California Constitution, and similar efforts to amend the U.S. Constitution or those of other states.” Letter from Barack Obama to the Alice B. Toklas LGBT Democratic Club, San Francisco, Cal., June 29, 2008, at http://obama.3cdn.net/b7c073b7316f922514_q6m6y7so7.pdf (January 12, 2009).

16. *Ibid.*

17. Dale Carpenter, “Obama and Gay Marriage,” Independent Gay Forum, July 17, 2008, at <http://www.indegayforum.org/news/show/31562.html> (January 12, 2009).

18. See Messner, “Same-Sex Marriage and the Threat to Religious Liberty.”

19. Individuals who supported Proposition 8 have been pressured out of their jobs; their businesses have been targeted for reprisals; churches have been vandalized; a copy of The Book of Mormon has been set on fire on the steps of a Mormon church; and suspicious white powder has been sent to Mormon temples. See Ryan Messmore and Thomas M. Messner, “Protecting and Strengthening Religious Freedom: A Memo to President-elect Obama,” Heritage Foundation *Special Report* No. 36, December 16, 2008, at <http://www.heritage.org/Research/Religion/sr36.cfm>.

Thomas M. Messner is a Visiting Fellow in, and **Jennifer A. Marshall** is Director of, the Richard and Helen DeVos Center for Religion and Civil Society at The Heritage Foundation.

This paper is also available online at:
www.heritage.org/Research/Family/sr46.cfm