

# SAME-SEX MARRIAGE

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**WHAT ARE WE** to think of gay marriage in the 2020s? Since Denmark adopted a law on registered partnership in 1989, same-sex marriage has been legalised in twenty-seven sovereign jurisdictions, and civil unions are recognised in many western democracies (Felter and Renwick 2019). Parallel to this, counter reactions are gaining strength both as grass-root movements in the fundamentalist hinterlands of liberal democracies and as official politics in authoritarian states. Is same-sex marriage a worthy cause for our times, or rather a Trojan horse of persistent sex and gender structures and western cultural and political hegemony?

Depending on legislation, an individual couple can choose to marry or register a civil union for a number of reasons related to recognition (Honneth 1995). A ceremony and the signing of a contract is a performative speech act, which is both evidence of, and generates recognition on, a number of levels that may vary in importance for each couple: the emotional recognition from the community, a need that has resulted in marriage ceremonies for centuries regardless of legislation; the moral recognition from the families of origin, which might grant the couple and its offspring a place in the extended kinship system; the legal recognition from the state, which might give them leverage in negotiating matters of residence permits, child custody or social security; and the spiritual recognition of a god or supreme being, which is crucial to some and unimportant to others. However, on an aggregated level, what does same-sex marriage do, or fail to do, for society?

Place matters. The struggle for state-sanctioned same-sex unions does not necessarily carry the same meanings or implications in the West as it does in Eastern Europe, Asia, Latin America, or Africa. In some regions, the successful quest for same-sex marriage is sometimes described as the queer community's final surrender to heteronormativity, whereas in others, the political campaign for legal recognition of same-sex relations is hailed as a spearhead in the fight against oppressive regimes. Historically, laws on civil unions or gender-neutral marriage have undoubtedly made non-normative sexual and emotional relationships visible and helped change attitudes. They have forced bigoted local governments to acknowledge the existence of sex and gender diversity and made life safer for children in queer families. But they have also been part of a process of domesticating the queer, mainstreaming non-heterosexual relations, and precluding other forms of sexual and gendered existence.

Time matters. What was first presented as a leftist project in the Danish Folketing in 1968 and the Swedish Riksdag in 1972, aimed to either abolish or reform marriage and replace or supplement it with a registration open to both same-sex and different-sex couples. The Danish proposal also suggested that groups of people in communal living arrangements [*storfamiljer*] should be able to register, a vision deemed too radical by the Swedish socialists. Over the years, however, the radical argument evolved into a rather conventional equal-rights rhetoric that did not challenge marriage as an institution or hegemonic norms of monogamous coupledness. In addition, debates within the movements showed that the support for gay marriage was not unanimous. In 1972, the Norwegian national lesbian and gay organisation decided *not* to work for it since it would privilege couples over the unmarried. Lesbian feminists in many countries also found it difficult to reconcile their ideological critique of marriage itself with fighting for a same-sex version of it (Rydström 2011).

Thus, the issue has two dimensions. On the one hand, there is an individual aspect with bearings on queer subjectivation and the struggle for recognition in an ethical community. On the other, it concerns the institution of same-sex marriage in society, and whether it has the

potential to challenge, or even transform, patriarchal norms. For the individual, the possibility of public recognition of less common forms of sexual and emotional attachments involves the right to ontological existence – regardless of whether one chooses to marry or not. For as Judith Butler argued in *Antigone's Claim* (2000), relations that are denied legitimacy remain culturally unintelligible:

What emerges is a melancholia that attends living and loving outside the liveable and outside the field of love, where the lack of institutional sanction forces language into perpetual catachresis, showing not only how a term can continue to signify outside its conventional constraints but also how that shadowy form of signification takes its toll on a life by depriving it of its sense of ontological certainty and durability within a publicly constituted political sphere. (Butler 2000, 78)

The absence of public recognition may thus have detrimental effects on the queer subject's very existence, and the fact that a growing number of jurisdictions on all continents grant legal existence to same-sex couples has undeniably widened the frames of possible cultural understandings of loving relations and parenthood.

Nevertheless, more needs to be done. Even though the dichotomous sex and gender structures inherent in civil-union laws are dissolved, to a certain extent, in the gender-neutral marriage laws that gradually replace them, their rigid structure still gives privilege to a rather narrow conception of the ideal couple. We must consider that the most significant transformation in the fields of gender and sex since Butler wrote her essay is the transgender turn in queer politics (Halberstam 2018). The conceptual chasm described by David Valentine (2007), which construed the homo/hetero binary, on the one hand, as exclusively a matter of sexual and emotional desire, and transgender or intersex positions, on the other, as solely concerning gender, is being bridged by more recent discourses that bring transgender and intersex existence back into the realm of queer, or, conversely, reopen the monolithic gay and lesbian identities to a fluidity of gender positions.

The hatred thrown upon the idea of legal recognition of non-heterosexual couples is proof enough that it provokes and challenges heteronormative and gender-binary patriarchal society. However, a just society must strive for further diversity and present a variety of life-organising options for the people who live and love in the shadowy limbo of non-signification described by Butler. For even if an individual choice to marry or register one's civil union may reflect a rather dull wish to emulate heterosexual matrimony, the institution of registered partnership as such destabilises marriage and challenges the stale structures of the nuclear family, thus acting as a liberating force for all. What is worth fighting for are both more including, less rigid understandings of what constitutes a loving relationship or parenthood, and more creative legal frameworks regulating kinship.

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