

American Conservatism / By Andrew Sullivan

The State of Our Unions

It didn't take long for many social conservatives to ponder the long-term implications of the Supreme Court's recent decision to strike down all antisodomy laws in the U.S. Moves are afoot to advance a constitutional amendment that would bar any state's legalization of same-sex marriage; next week is "Marriage Protection Week," in which the alleged danger of *Lawrence v. Texas* will be highlighted across the country. This push toward blanket prohibition, however, sidesteps a basic point about the post-*Lawrence* world. Whatever you feel about the reasoning of the decision, its result is clear: Gay Americans are no longer criminals. And very few conservatives want to keep them that way. The term "gay citizen" is now simply a fact of life.

In retrospect, this might be the most significant shift on the question of homosexuality in a generation. For if homosexuals are no longer criminals for having consensual private relationships, then they cannot be dismissed as somehow alien or peripheral to our civil society. Moreover, the social transformation of the last decade cannot simply be gainsaid: A poll this week for USA Today found that 67% of the 18-29 age group believe that gay marriage would benefit society. The public as a whole is evenly split on that issue. Many of the people favoring a new tolerance are Republicans and conservatives. And this is inevitable. When the daughter of the vice president is openly gay, it's hard to treat homosexual citizens as some permanent kind of Other, as a threat to civil order and society.

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But if conservatives have now endorsed the notion of homosexuals as citizens, they haven't yet fully grasped the implications of that shift. Previously, social policy toward homosexuals was a function of either criminalization or avoidance. People who are either in jail or potentially subject to criminal sanction are already subject to a social policy of a sort. You may disagree with it, but it's social policy on the same lines as that toward drug users or speeders. It's a form of prohibitionism. But when all illegality is removed from gay people, as it has been, that social policy surely has to change.

So what is it? What exactly is the post-*Lawrence* conservative social policy toward homosexuals? Amazingly, the current answer is entirely a negative one. The majority of social conservatives oppose gay marriage; they oppose gay citizens serving their country in the military; they oppose gay citizens raising children; they oppose protecting gay citizens from workplace discrimination; they oppose including

gays in hate-crime legislation, while including every other victimized group; they oppose civil unions; they oppose domestic partnerships; they oppose . . . well, they oppose, for the most part, every single practical measure that brings gay citizens into the mainstream of American life.

This is simply bizarre. Can you think of any other legal, noncriminal minority in society toward which social conservatives have nothing but a negative social policy? What other group in society do conservatives believe should be kept outside integrating social institutions? On what other issue do conservatives favor separatism over integration? We know, in short, what conservatives are against in this matter. But what exactly are they for?

Let me be practical here. If two lesbian women want to share financial responsibility for each other for life, why is it a conservative notion to prevent this? If two men who have lived

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together for decades want the ability to protect their joint possessions in case one of them dies, why is it a conservative notion that such property be denied the spouse in favor of others? If one member of a young gay couple is badly hurt in a car accident, why is it a conservative notion that his spouse not be allowed to visit him in the intensive-care unit? In all these cases, you have legal citizens trying to take responsibility for one another. By doing so, by setting up relationships that do the "husbanding" work of family, such couples relieve the state of the job of caring for single people without family support. Such couplings help bring emotional calm to the people involved; they educate people into the mundane tasks of social responsibility and mutual caring. When did it become a socially conservative idea that these constructive, humane instincts remain a threat to society as a whole? And how do these small acts of caring actually undermine the heterosexual marriage of the people who live next door?

Some will argue that these and many other benefits and responsibilities can be set up in an ad hoc fashion. You can create powers of attorney, legal contracts and the like, if you really need to. These arrangements can be enormously time-consuming and complex, and they don't always hold up in courts of law, of course. But even

if they did, isn't it a strange conservative impulse to make taking responsibility something that the government should make harder rather than easier? One of the key benefits of marriage, after all, is that it also upholds a common ideal of mutual support and caring; it not only enables such acts of responsibility but rewards and celebrates them. In the past you could argue that such measures were inappropriate for a criminal or would-be criminal subgroup. But after *Lawrence*, that is no longer the case. The question is therefore an insistent one: On what grounds do conservatives believe that discouraging responsibility is a good thing for one group in society? What other legal minority do they or would they treat this way? If a group of African-Americans were to set themselves up and campaign for greater familial responsibility among black couples, do you think conservatives would be greeting them with dismay and discouragement or even a constitutional amendment to stop them?

It is one thing to oppose gay marriage (some, but not all, conservative arguments against it are reasonable, if to my mind, unconvincing). But it is another thing to oppose any arrangement that might give greater security, responsibility and opportunity to gay couples. At times, the social conservative position is almost perversely inconsistent: Many oppose what they see as gay promiscuity; but even more strongly, they oppose any social measures that would encourage gay monogamy, such as marriage. What, one wonders, do they want? In this, they actually have lower standards for non-legal citizens than they do for incarcerated criminals: Even murderers on death row have the constitutional right to marry, where the institution could do no conceivable social good. But for millions of citizens currently excluded from such incentives for responsibility, conservatives are prepared even to amend the Constitution to say no.

If this debate is to move forward, a few simple questions therefore have to be answered: What is the social conservative position on civil unions? What aspects of them can conservatives get behind? What details are they less convinced by? These are basic public policy questions to which social conservatives, for the most part, have yet to provide an answer. It's well past time they did.

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This is part of an occasional series.