

The casualty of America's same-sex marriage fight: civil unions

As same-sex marriage gains acceptance, civil unions are disappearing. There goes our secular alternative to marriage



Cyril Ghosh

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As US states legalize same-sex marriage, civil unions are disappearing.
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In recent years, same-sex marriage has made several advances both at the federal and at the state levels. But a steady and simultaneous erosion of civil unions has accompanied these advances. National trends suggest that if marriage equality is harmonized across the 50 states, there is a chance we may see the demise of civil unions altogether. But what if heterosexual or homosexual couples preferred civil unions to marriage?

Their choices would be rapidly diminishing. Connecticut, for example, started giving same-sex couples the right to enter into a civil union in 2005. But in 2008, the Connecticut Supreme Court, in *Kerrigan v Commissioner of Public Health*, found the granting of civil unions to same-sex couples while denying them marriage rights to be a violation of the equal protection clause of the Connecticut Constitution. With this ruling, not only did the court effectively institute same-sex marriage in the state, it also paved the way for the demise of civil unions. The following year, the Connecticut legislature passed a law to guarantee "equal protection under the state constitution for same-sex couples." According to this law (pdf), by 1 October 1 2010 all civil unions entered into in Connecticut prior to that date got automatically converted into marriages (except in cases where the civil union was being dissolved or was otherwise in dispute). In addition, Connecticut would no longer perform civil unions.

Civil Unions in Vermont and New Hampshire have met with similar fates. Since January 2010, when it first started allowing same-sex marriages to be performed in the state, New Hampshire phased out civil unions altogether. All existing civil unions would be converted to marriage. Vermont had allowed civil unions since 2000, the first state in the country to do so. But since 2009, when it became a marriage equality state, Vermont has stopped performing any new civil unions. Delaware and Rhode Island have also discontinued civil unions ever since they started to recognize same-sex marriage last year and existing civil unions are being converted into marriages. Illinois has so far resisted any push to phase out civil unions even though it will allow same-sex marriage starting in the summer of 2014. But Illinois is unusual in this regard.

The story is even bleaker for advocates of opposite-sex civil unions. As of today, heterosexual couples that want to enter into a civil union may only do so in a handful of states like Illinois, Hawaii, and Colorado.

There are a number of good reasons why both heterosexual and homosexual couples may wish to enter into a civil union instead of a marriage. For example, for many couples, civil unions provide a secular alternative to marriage that aligns with their values. Some may not be ready for a commitment like "marriage" – a word that's laden with history and tradition. Others may not wish to enter into a marriage contract because they believe the institution carries distinctly religious connotations. They may also see marriage as a patriarchal institution (pdf) and be ideologically opposed to it. Finally, many couples that have been married and divorced may not be ready to marry again, even though they might want to codify their relationship with their current partners and lovers in some way.

For all these reasons, many progressive couples around the world and regardless of their sexual orientation favor civil unions over marriage. The *New York Times* reported in 2010 that in France, for every three marriages there were two civil unions (called *pacte civil de solidarité* in France). Not only that: the overwhelming majority of these civil unions were among heterosexual couples. But the story remains lamentably different in the United States, where, despite all the LGBT-rights advances we have seen in the recent past, most of the 50 states do not allow heterosexual civil unions.

Last year, the Supreme Court opened the door for the federal government to recognize same-sex marriages in *United States v Windsor*. Just days later, the octogenarian Edie (Edith) Windsor, the plaintiff in *Windsor*, led the *New York* pride parade as thousands of LGBT people and their allies celebrated the occasion with her. In recent weeks, LGBT rights advocates across the country have been celebrating the fact that states like Virginia, Oklahoma, Utah, Kentucky, and Nevada have each come closer to marriage equality.

To be sure, *Windsor* is a great step forward for the gay rights movement in America and for marriage equality in all 50 states. But for some couples, civil unions are equally important. And if one of the indirect consequences of *Windsor* is the erosion of civil unions everywhere, allowing gay marriage nationwide will signal progress only for some.