

Marriage Matters

European Perspective

Does Marriage Matter?

- * Yes.
- * Human Right – although not extended to same sex couples..see Sheila Quinn’s paper.
- * Matter of discrimination and equality.
- * Maintaining Inequality when parallel civil status is created – different language issue marking out sexual orientation... discrimination for both same and opposite sex.
- * Marriage as an institution... and how it has changed over the years in terms of the rules governing it – race, age, religions, equality of women and men in it. Changes. Inclusion of lgt.

But marriage is not the only issue

- * Bullying, hate crime, discrimination, prejudice, stereotyping won't go away just because we get marriage in a country.
- * Marriage is not the human right that lgbt people in some countries are advocating as they have other more pressing issues to work on – e.g. assembly, association, criminalisation, unequal ages of consent
- * Equally important is good equality and anti discrimination legislation, good social policies supporting the positive implementation and making the rights a lived reality.

Council of Europe

- * Rulings of the Court on marriage – admission of family life of same sex couples, but states don't have to allow for marriage..providing a separate, parallel civil status is acceptable. Margin of appreciation is wide on this.
- * Recommendations and Resolutions of Council of ministers, PACE etc..focus on discrimination in private and family life, and note the growing number of states with some civil status, but the lack of consensus. Slow burn.
- * Commissioner for Human Rights – reports and standards and studies. Very important support. Two recent publications.

European Union

- * Mutual Recognition of civil status, papers and judgments. Com 2010 Green Paper. This will be an important step at European level – to have rights, responsibilities of legal civil status in one country recognised in another. Proposed for 2013 is ‘recognition of certain civil status records ..so that legal status granted in one MS can be recognised and have the same legal consequences in another.’
- * ILGA-Europe – strategic litigation. Robert Wintemute’s doc on www.ilga-europe.org
- * Employment and pay and pensions all within competence.
- * Horizontal directive would provide leverage for number of other areas that are privileged in marriage – health care.. More important for other countries – but would harmonise conditions.
- * High degree of awareness of the discrimination, prejudice and programmes to counter that supported.

Fundamental Rights Agency

- * Research
- * Reports
- * Supportive commentary
- * Implementation of the Charter of Fundamental Rights commentary and recommendations to the Commission.
- * Links with Council of Europe work on lgbt equality and human rights.

LSVD/Germany

- * Political decision for LSVD and then Germany
- * Go for marriage
- * Become 8th country in Europe
- * Reduce the margin of appreciation within Council of Europe
Work... leadership
- * Case of discrimination in relation to tax code and
- * Rights of the child in relation to adoption/discrimination on grounds of sexual orientation. Link to work of ILGA-Europe on strategic litigation.