



ANSWERS TO QUESTIONS ABOUT **MARRIAGE EQUALITY**

A PUBLICATION OF THE HUMAN RIGHTS CAMPAIGN FOUNDATION



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A Message from the Human Rights Campaign Foundation President

The fight for marriage equality for same-sex couples is quite possibly the most conventional, family-friendly equal rights struggle ever. At its core, this debate is simply about day-to-day life, where two people who are connected at the soul want to protect one another with basic legal rights and safeguards like Social Security, health insurance and the unquestioned right to visit one another in the hospital.

Even so, for many Americans, questions about marriage equality are complicated. And that is why the Human Rights Campaign Foundation has published this pamphlet to help build understanding and compassion.

Maybe you support marriage equality, or maybe you're still unsure in your own heart about the issue. Either way, taking time to read this information and discuss it with your family and friends will help to continue to change the dialogue around marriage equality — and that is the best way to open hearts and minds.

Polling shows that today's youth and college students support marriage equality at unprecedented levels — more than any previous generation. One day in the near future, people will look back on today's same-sex couples and families and ask with raised eyebrows, “Why wouldn't two people, who have spent their lives committed to one another, be granted the same human rights that most other Americans take for granted?”

History bends not only toward fairness and equality, but also toward common sense. Marriage strengthens couples and families, who in turn help strengthen their communities, one at a time — leading ultimately to a stronger, more robust nation. We will reach a time in this country when we value and protect all families equally.

In the meantime, it is our job and our privilege to help answer tough questions, and that is exactly what we have set out to do.

A handwritten signature in black ink that reads "Joe Solmonese". The signature is fluid and cursive, with the first name "Joe" being particularly prominent.

Joe Solmonese
President, Human Rights Campaign Foundation



Photo: Mark Murrain/HRC

There are more than **750,000** same-sex couples living in the United States, according to the most recent figures from the U.S. Census.

Source citation: Williams Institute report on the 2005 American Community Survey
www.law.ucla.edu/williamsinstitute/publications/SameSexCouplesandGLBpopACS.pdf

10 facts

1. Same-sex couples live in 99.3 percent of all counties nationwide.
2. There are an estimated 3.1 million people living together in same-sex relationships in the United States.
3. Fifteen percent of these same-sex couples live in rural settings.
4. One out of three lesbian couples is raising children. One out of five gay male couples is raising children.
5. Between 1 million and 9 million children are being raised by lesbian, gay and bisexual parents in the United States today.
6. At least one same-sex couple is raising children in 96 percent of all counties nationwide.
7. The highest percentages of same-sex couples raising children live in the South.
8. Nearly one in four same-sex couples includes a partner 55 years old or older, and nearly one in five same-sex couples is composed of two people 55 or older.
9. More than one in 10 same-sex couples include a partner 65 years old or older, and nearly one in 10 same-sex couples is composed of two people 65 or older.
10. The states with the highest numbers of same-sex senior couples are also the most popular for straight senior couples: California, New York and Florida.

These facts are based on analyses of the 2000 Census conducted by the Urban Institute and the Human Rights Campaign. The estimated number of people in same-sex relationships has been adjusted by 62 percent to compensate for the widely reported undercount in the Census. (See “Gay and Lesbian Families in the United States: Same-Sex Unmarried Partner Households” at www.hrc.org.)

Why?

Why same-sex couples want to marry.

Many same-sex couples want the right to legally marry because they are in love — many, in fact, have spent the last 10, 20 or 50 years with that person — and they want to honor their relationship in the greatest way our society has to offer, by making a public commitment to stand together in good times and bad, through all the joys and challenges family life brings.

Many parents want the right to marry because they know it offers children a vital safety net and guarantees protections that unmarried parents cannot provide. And still other people — both gay and straight — are fighting for the right of same-sex couples to marry because they recognize that it is simply not fair to deny some families the protections all other families are eligible to enjoy.

Currently in the United States, same-sex couples in long-term, committed relationships pay higher taxes and are denied basic protections and rights granted to married straight couples. Among them:

- ❖ **Hospital visitation.** Married couples have the automatic right to visit each other in the hospital and make medical decisions. Same-sex couples can be denied the right to visit a sick or injured loved one in the hospital.
- ❖ **Social Security benefits.** Married people receive Social Security payments upon the death of a spouse. Despite paying payroll taxes, gay and lesbian partners receive no Social Security survivor benefits — resulting in an average annual income loss of \$5,528 upon the death of a partner.
- ❖ **Immigration.** Americans in bi-national relationships are not permitted to petition for their same-sex partners to immigrate. As a result, they are often forced to separate or move to another country.
- ❖ **Health insurance.** Many public and private employers provide medical coverage to the spouses of their employees, but most employers do not provide coverage to the life partners of gay and lesbian employees. Gay and lesbian employees who do receive health coverage for their partners must pay federal income taxes on the value of the insurance.
- ❖ **Estate taxes.** A married person automatically inherits all the property of his or her deceased spouse without paying estate taxes. A gay or lesbian taxpayer is forced to pay estate taxes on property inherited from a deceased partner.
- ❖ **Family leave.** Married workers are legally entitled to unpaid leave from their jobs to care for an ill spouse. Gay and lesbian workers are not entitled to family leave to care for their partners.

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- ...❖ **Nursing homes.** Married couples have a legal right to live together in nursing homes. The rights of elderly gay or lesbian couples are an uneven patchwork of state laws.
- ...❖ **Home protection.** Laws protect married seniors from being forced to sell their homes to pay high nursing home bills; gay and lesbian seniors have no such protection.
- ...❖ **Pensions.** After the death of a worker, most pension plans pay survivor benefits only to a legal spouse of the participant. Gay and lesbian partners are excluded from such pension benefits.

Why?

Why civil unions or domestic partnerships aren't enough.

Comparing marriage to civil unions or domestic partnerships is a bit like comparing diamonds to rhinestones. One is, quite simply, the real deal; the other is not. Consider:

- ❖ Opposite-sex couples who are eligible to marry may have their marriage performed in any state and have it recognized in every other state in the nation and every country in the world.
- ❖ Couples who are joined in a civil union or domestic partnership have no guarantee that its protections will travel with them to other states.

Moreover, even couples who have a civil union or domestic partnership and live in a state that recognizes these relationships receive only second-class protections in comparison to their married friends and neighbors. While they receive state-level protections, they do not receive any of the more than 1,100 federal benefits and protections of marriage.

In short, civil unions or domestic partnerships are not separate but equal — they are separate and unequal. And our society has tried separate before. It just doesn't work.

MARRIAGE FOR OPPOSITE-SEX COUPLES:

- State grants marriage licenses to couples.
- Religious institutions are not required to perform marriage ceremonies.
- All states recognize marriages of opposite-sex couples from another state.
- Couples receive more than 1,100 federal benefits.

MARRIAGE FOR SAME-SEX COUPLES:

- State grants marriage licenses to couples.
- Religious institutions are not required to perform marriage ceremonies.
- Couples receive state-based legal protections and rights that are identical to those of opposite-sex couples.
- Some states recognize marriages of same-sex couples from another state.
- If DOMA were overturned, couples would receive more than 1,100 federal benefits.

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CIVIL UNIONS AND DOMESTIC PARTNERSHIPS:

- State grants civil union/domestic partnership licenses to couples.
- Couples receive legal protections and rights under state law only; in some instances, these protections and rights are more limited than those that married couples receive.
- Civil unions/domestic partnerships are not necessarily recognized by other states and are not recognized by the federal government.
- Religious institutions are not required to perform civil union/domestic partnership ceremonies.
- If DOMA were overturned, couples would see no change in their status.

Q + A

Answers to Questions
People are Asking

“I believe God meant marriage for men and women. How can I support marriage for same-sex couples?”

Many people who believe in God — as well as fairness and justice for all — ask this question. They feel a tension between religious beliefs and democratic values that has been experienced in many different ways throughout our nation’s history. That is why the framers of our Constitution established the principle of separation of church and state.

That principle applies no less to the marriage issue than it does to any other. Indeed, the answer to the apparent dilemma between religious beliefs and support for equal protections for all families lies in recognizing that marriage has a significant religious meaning for many people, but that it is also a legal contract. And it is strictly the legal — not the religious — dimension of marriage that is being debated now.

Granting marriage rights to same-sex couples would not require leaders of Christian, Jewish, Islamic or any other religious leaders to perform these marriages. It would not require religious institutions to permit these ceremonies to be held on their grounds. It would not even require that religious communities discuss the issue. People of faith would remain free to make their own judgments about what makes a marriage in the eyes of God — just as they are today.

Consider, for example, the difference in how the Roman Catholic Church and the U.S. government view couples who have divorced and remarried. Because church tenets do not sanction divorce, the second marriage is not valid in the church’s view. The government, however, recognizes the marriage by extending to the remarried couple the same rights and protections as those granted to every other married couple in America. In this situation — as would be the case in marriage for same-sex couples — the church remains free to establish its own teachings on the religious dimension of marriage while the government upholds equality under law.

A growing number of religious communities bless same-sex unions, including Reform Judaism, the Unitarian Universalist Association and the Metropolitan Community Church. The Presbyterian Church (USA) allows ceremonies to be performed but they’re not considered the same as marriage. The Episcopal Church, United Church of Christ and the United Synagogue of Conservative Judaism allow individual congregations to set their own policies on same-sex unions.

“This is different from interracial marriage. Sexual orientation is a choice.”

“We cannot keep turning our backs on gay and lesbian Americans. I have fought too hard and too long against discrimination based on race and color not to stand up against discrimination based on sexual orientation. I’ve heard the reasons for opposing civil marriage for same-sex couples. Cut through the distractions, and they stink of the same fear, hatred, and intolerance I have known in racism and in bigotry.”

— *Rep. John Lewis, D-Ga., a leader of the black civil rights movement, writing in the Boston Globe, Nov. 25, 2003*

Decades of research all point to the fact that sexual orientation is not a choice, and that a person’s sexual orientation cannot be changed. To whom one is drawn is a fundamental aspect of who we are.

In this way, the struggle for marriage equality for same-sex couples is just as basic as the successful fight for interracial marriage. It recognizes that Americans should not be coerced into false and unhappy marriages but should be free to marry the person they love — thereby building marriage on a true and stable foundation.

“Won’t this create a free-for-all and make the whole idea of marriage meaningless?”

Many people share this concern because opponents of LGBT equality have used this argument as a scare tactic — but it is not true. Granting same-sex couples the right to marry would in no way change the number of people who could enter into a marriage (or eliminate restrictions on the age or familial relationships of those who may marry). Marriage would continue to recognize the highest possible commitment that can be made between two adults, plain and simple.



Photo: Mark Murrmann/ARCC

Organizations that Support Same-Sex Parenting

- American Academy of Child and Adolescent Psychiatry
- American Academy of Family Physicians
- American Academy of Pediatrics
- American Bar Association
- American Medical Association
- American Psychiatric Association
- American Psychoanalytic Association
- American Psychological Association
- Child Welfare League of America
- National Adoption Center
- National Association of Social Workers
- North American Council on Adoptable Children
- Voice for Adoption

“I strongly believe children need a mother and a father.”

Many of us grew up believing that everyone needs a mother and father, regardless of whether we ourselves happened to have two parents, or two good parents.

But as families have grown more diverse in recent decades, and researchers have studied how these different family relationships affect children, it has become clear that the quality of a family's relationship is more important than the particular structure of families that exist today.

In other words, the qualities that help children grow into good and responsible adults — learning how to learn, to have compassion for others, to contribute to society and be respectful of others and their differences — do not depend on the sexual orientation of their parents but on their parents' ability to provide a loving, stable and happy home, something no class of Americans has an exclusive hold on.

That is why research studies have consistently shown that children raised by gay and lesbian parents do just as well as children raised by straight parents in all conventional measures of child development, such as academic achievement, psychological well-being and social abilities.

That is also why the nation's leading child welfare organizations, including the American Academy of Pediatrics, the American Academy of Family Physicians and others, have issued statements that dismiss assertions that only straight couples can be good parents — and declare that the focus should now be on providing greater protections for the 1 million to 9 million children being raised by gay and lesbian parents in the United States today.

“How could marriage for same-sex couples possibly be good for the American family – or our country?”

“We shouldn’t just allow gay marriage. We should insist on gay marriage. We should regard it as scandalous that two people could claim to love each other and not want to sanctify their love with marriage and fidelity.”

— *Conservative columnist David Brooks,*
writing in the New York Times, Nov. 22, 2003

The prospect of a significant change in our laws and customs has often caused people to worry more about dire consequences that could result than about the potential positive outcomes. In fact, precisely the same anxiety arose when some people fought to overturn the laws prohibiting marriage between people of different races in the 1950s and 1960s. (One Virginia judge even declared, “God intended to separate the races.”)

But in reality, opening marriage to couples who are so willing to fight for it could only strengthen the institution for all. It would open the doors to more supporters, not opponents. And it would help keep the age-old institution alive.

As history has repeatedly proven, institutions that fail to take account of the changing needs of the population are those that grow weak; those that recognize and accommodate changing needs grow strong. For example, the U.S. military, like American colleges and universities, grew stronger after permitting African Americans and women to join its ranks.

Similarly, granting same-sex couples the right to marry would strengthen the institution of marriage by allowing it to better meet the needs of the true diversity of family structures in America today.



Photo: Mark Murrain/HRC

When gay or lesbian people grow old and are in need of nursing home care, there is no legal document that can give them the right to Medicaid coverage without potentially causing their partner to be forced from their home.

“Can’t same-sex couples go to a lawyer to secure all the rights they need?”

Not by a long shot. When a gay or lesbian person gets seriously ill, there is no legal document that can make their partner eligible to take leave from work under the federal Family and Medical Leave Act to provide care — because that law applies only to married couples.

When gay or lesbian people grow old and in need of nursing home care, there is no legal document that can give them the right to Medicaid coverage without potentially causing their partner to be forced from their home — because the federal Medicaid law only permits married spouses to keep their home without becoming ineligible for benefits.

And when a gay or lesbian person dies, there is no legal document that can extend Social Security survivor benefits or the right to inherit a retirement plan without severe tax burdens that stem from being “unmarried” in the eyes of the law.

These are only a few examples of the critical protections that are granted through more than 1,100 federal laws that protect only married couples.

In the absence of the right to marry, same-sex couples can only put in place a handful of the most basic arrangements, such as naming each other in a will or a power of attorney. And even these documents remain vulnerable to challenges in court by disgruntled family members.

“Won’t this cost taxpayers too much money?”

No, it wouldn’t necessarily cost much at all. In fact, treating same-sex couples as families under law could even save taxpayers money because marriage would require them to assume legal responsibility for their joint living expenses and reduce their dependence on public assistance programs such as Medicaid, Temporary Assistance to Needy Families, Supplemental Security Income disability payments and food stamps.

Put another way, the money it would cost to extend benefits to same-sex couples could be outweighed by the money that would be saved as these families rely more fully on each other instead of state or federal government assistance.

For example, two studies conducted in 2003 by professors at the University of Massachusetts, Amherst, and the University of California, Los Angeles, found that extending domestic partner benefits to same-sex couples in California and New Jersey would save taxpayers millions of dollars a year.

Specifically, the studies projected that the California state budget would save an estimated \$8.1 million to \$10.6 million each year by enacting the most comprehensive domestic partner law in the nation. In New Jersey, which passed a domestic partner law in 2004, the savings were projected to be even higher — more than \$61 million each year.

(Sources: “Equal Rights, Fiscal Responsibility: The Impact of A.B. 205 on California’s Budget,” by M. V. Lee Badgett, Ph.D., IGLSS, Department of Economics, University of Massachusetts, Amherst, and R. Bradley Sears, J.D., Williams Project, UCLA School of Law, University of California, Los Angeles, May 2003, and “Supporting Families, Saving Funds: A Fiscal Analysis of New Jersey’s Domestic Partnership Act,” by Badgett and Sears with Suzanne Goldberg, J.D., Rutgers School of Law-Newark, December 2003.)

“Where can same-sex couples marry today?”

In 2001, the Netherlands became the first country to extend marriage rights to same-sex couples. Belgium passed a similar law two years later. Spain followed suit in July 2005, and in December 2005, the South African Supreme Court ruled that the country had to extend the rights of marriage to same-sex couples by the end of 2006. Some of these countries, however, have strict citizenship or residency requirements that do not permit American couples to take advantage of the protections provided. In 2003, Ontario became the first Canadian province to grant marriage to same-sex couples, and in July 2005, Canada’s federal government passed a law extending marriage equality nationwide.

In November 2003, the Massachusetts Supreme Judicial Court recognized the right of same-sex couples to marry, giving the state six months to begin issuing marriage licenses to same-sex couples. It began issuing licenses May 17, 2004.

In October 2008, the Connecticut Supreme Court recognized the right of same-sex couples to marry. Connecticut began issuing licenses to same-sex couples Nov. 12, 2008.

On Nov. 4, 2008, California voters approved Proposition 8, which amends the state constitution to prohibit marriage by same-sex couples. The amendment overrules a May 2008 decision by the California Supreme Court recognizing marriage equality. California continues to provide rights and responsibilities to registered domestic partners.

In April 2009, the Iowa state Supreme Court unanimously ruled that the equal protection provision of the Iowa Constitution guarantees gay and lesbian couples the same right to marry as straight couples. Gay and lesbian couples began applying for marriage licenses on April 27, 2009.

Also in April 2009, the Vermont Legislature voted to recognize marriage for lesbian and gay couples, overriding the governor’s veto of the legislation. Same-sex couples began marrying in the state on Sept. 1, 2009.

In June 2009, New Hampshire Gov. John Lynch signed legislation recognizing marriage equality for same-sex couples. The marriage bill will take effect Jan. 1, 2010.

Follow the latest developments in these and other states at the HRC Marriage Center (www.hrc.org/marriage).

Other nations have also taken steps toward extending equal protections to all couples, though the protections they provide are more limited than marriage. Croatia, Denmark, Finland, France, Germany,

Iceland, Israel, New Zealand, Norway, Portugal, Slovenia, Switzerland, Sweden and the United Kingdom all have nationwide laws that grant same-sex partners a range of important rights, protections and obligations.

Beginning in December 2005, same-sex couples in the United Kingdom have been able to apply for civil partnership licenses to certify their relationships before the government. These licenses provide same-sex couples hospital visitation rights, pension benefits, the ability to gain parental responsibility for a partner's children and other rights granted to opposite-sex couples.

“What protections other than marriage are available to same-sex couples?”

At the federal level, there are no protections at all available to same-sex couples. In fact, a federal law called the “Defense of Marriage Act” says that the federal government will discriminate against same-sex couples who marry by refusing to recognize their marriages or providing them with the federal protections of marriage.

Some members of the U.S. Congress have tried to go even further by attempting to pass a federal marriage amendment that would write discrimination against same-sex couples into the U.S. Constitution. This was defeated twice, in 2004 and 2006.

Some states offer civil unions, which provide important state benefits but no federal protections, such as Social Security survivor benefits. There is also no guarantee that civil unions will be recognized outside these states. Forty states also have laws or state constitutional amendments explicitly prohibiting the recognition of marriages between same-sex partners.

Domestic partner laws have been enacted in several additional states. The benefits conferred by these laws vary; some offer access to family health insurance, others confer co-parenting rights. Some offer a broad range of rights similar to civil unions.

12 things

Every family deserves equal protections. How can I help?

- 1** Talk to your friends and family members about the importance of marriage for same-sex couples and their children. Recent polls of the LGBT community show that many LGBT people have not yet talked to parents, siblings or other family members about the discrimination they face. Nothing moves the hearts and minds of potential straight allies more than hearing the stories of someone they know who is lesbian, gay, bisexual or transgender. For more information, download "Talking about Marriage Equality" from HRC's Online Action Center.
- 2** Visit HRC's Wedding Registry. Make a donation in honor of a loving couple or register your own wedding or commitment ceremony.
Visit www.hrcactioncenter.org/actioncenter/WeddingRegistry.html.
- 3** Sign the Million for Marriage petition at www.millionformarriage.org and ask 10 friends and family members to do the same.
- 4** Urge your elected officials to oppose any state constitutional amendment to ban marriage for same-sex couples. Make a personal visit if you can. HRC's field team can help you. E-mail field@hrc.org.
- 5** Sign up for HRC's Mobile Action Network. Receive text alerts about state and federal legislation and how you can take action. Text HRC to 30644 to join the Mobile Action Network or visit www.hrcactioncenter.org/actioncenter/txtsignup.html.

you can do

- 6** Share your story about why marriage equality matters to you and send it to HRC's Family Project at family@hrc.org. Personal stories are what move hearts and minds.
- 7** Write a letter to the editor of your local newspaper saying why you support marriage for same-sex couples.
- 8** Next time you hear someone say marriage is only meant for straight couples, speak up. If you hear this on a radio program, call in. If you hear it on television, call or send an e-mail. If it comes up in conversation, set the record straight.
- 9** Host a house party to educate your friends and family about marriage equality. Invite a diverse group and inspire the group to write letters to Congress and your state government. Visit www.hrc.org/houseparty to receive a house party kit.
- 10** Meet with clergy and other leaders in your community and ask them to join you in speaking out in support of marriage equality. Let HRC know the results. E-mail field@hrc.org.
- 11** Become a member of HRC and support our work on behalf of marriage equality. Visit www.hrc.org.
- 12** Register to vote and support fair-minded candidates. Go to www.hrc.org/register tovote

ADDITIONAL NATIONAL RESOURCES

Human Rights Campaign: www.hrc.org

The Human Rights Campaign is the nation's largest national organization working to advance equality based on sexual orientation and gender expression and identity to ensure that lesbian, gay, bisexual and transgender Americans can be open, honest and safe at home, at work and in their communities. The list below includes organizations of particular interest to people following the marriage issue.

OTHER IMPORTANT RESOURCES INCLUDE:

American Civil Liberties Union: www.aclu.org

ACLU works in courts, legislatures and communities throughout the country to defend and preserve the individual rights and liberties guaranteed by the Constitution and laws of the United States.

Freedom to Marry Collaborative:

www.freedomtomarry.org

A gay and non-gay partnership working to win marriage equality.

Children of Lesbians and Gays Everywhere

(COLAGE): www.colage.org

Fosters the growth of daughters and sons of LGBT parents by providing education, support and community and advocating for their rights and rights of their families.

Dignity USA: www.dignityusa.org

Works for respect and justice for all LGBT persons in the Catholic Church and the world through education, advocacy and support.

Family Equality Council: www.familyequality.org

A national education and civil rights organization that advances the well-being of LGBT parents and their families through mutual support, community collaboration and public understanding.

Federation of Statewide LGBT Advocacy

Organizations: www.equalityfederation.org

The LGBT advocacy network of state/territory organizations committed to working with each other and with national and local groups to strengthen statewide advocacy organizing and secure full civil rights in every U.S. state and territory.

Gay & Lesbian Advocates & Defenders: www.glad.org

The LGBT legal organization that successfully brought the case that led to the civil union law in Vermont and the recognition of marriage equality in Massachusetts.

Gay & Lesbian Victory Fund: www.victoryfund.org

Committed to increasing the number of openly gay and lesbian public officials at federal, state and local levels of government.

Lambda Legal: www.lambdalegal.org

A national legal group committed to achieving full recognition of the civil rights of, and combating the discrimination against the LGBT community and people with HIV/AIDS, through impact litigation, education and public policy work.

Log Cabin Republicans: online.logcabin.org

Operates within the Republican Party for the equal rights of all Americans, including gay men and women, according to the principles of limited government, individual liberty, individual responsibility, free markets and a strong national defense.

Marriage Equality USA: www.marriageequality.org

Works to secure the freedom and the right of same-sex couples to engage in civil marriage through a program of education, media campaigns and community partnerships.

National Center for Lesbian Rights: www.nclrights.org

A national legal resource center devoted to advancing the rights and safety of lesbians and their families through a program of litigation, public policy advocacy, free legal advice and counseling and public education.

National Black Justice Coalition: www.nbjcoalition.org

An ad hoc coalition of black LGBT leaders who have come together to fight against discrimination in our communities, to build black support for marriage equality and to educate the community on the dangers of the proposal to amend the U.S. Constitution to discriminate against LGBT people.

National Gay & Lesbian Task Force: thetaskforce.org

Dedicated to building a national civil rights movement of LGBT people through the empowerment and training of state and local leaders, and research and development of national policy.

Parents, Families & Friends of Lesbians & Gays

(PFLAG): www.pflag.org

Promotes the health and well-being of LGBT people, their families and friends through support, education and advocacy with the intention of ending discrimination and securing equal civil rights.

Soulforce: www.soulforce.org

An interfaith movement committed to ending spiritual violence perpetuated by religious policies and teachings against LGBT people through the application of the principles of non-violence.

Universal Fellowship of Metropolitan Community Churches: www.mcccchurch.org

A worldwide fellowship of Christian churches with a special outreach to the world's LGBT communities.