



## Will Providing Marriage Rights to Same-Sex Couples Undermine Heterosexual Marriage?

M. V. Lee Badgett

**Abstract:** This paper analyzes data regarding the impact on heterosexual marriages of laws in five European countries that provide marriage or marriage-like rights to same-sex couples. The data provide no evidence that giving partnership rights to same-sex couples had any impact on heterosexual marriage. Specifically, heterosexual marriage rates and divorce rates in Denmark, Norway, Sweden, Iceland, and the Netherlands displayed no significant change in trends after implementation of rights for gay couples; longstanding trends in nonmarital birth rates showed no sign of acceleration attributable to passage of partnership laws; and nonmarital birth rates showed the same changes in countries with and without partnership laws. Finally, because the United States gives many more incentives for heterosexual couples to marry than European countries, any effects of passage of gay marriage or partnership laws in this country would be even less likely to have an impact on the status of heterosexual marriage.

**Key words:** gay; lesbian; partnership; Scandinavia; Netherlands

Since the November 2003 court ruling in *Goodridge et al. v. Department of Public Health* allowing same-sex couples to marry in Massachusetts, a new debate on expanding the right to marry has exploded across the United States. While this debate involves many issues, one particularly controversial question is whether heterosexual people would change their marriage behavior if same-sex couples were given the same marital rights and obligations.

As a way to understand what might happen, some writers (Eskridge, 2002; Sullivan, 2001) have looked to the experience of those Scandinavian countries that have pioneered in giving a marriage-like status to gay and lesbian couples. Denmark adopted such a *registered partnership* law in 1989, Norway in 1993, Sweden in 1994, and Iceland in 1996.<sup>1</sup> Same-sex

couples who register as partners in these countries receive most of the rights and responsibilities of marriage. Since then, three other countries (France, Germany, and Finland) have also created a new status for same-sex couples, and two (the Netherlands and Belgium) opened marriage to same-sex couples. Different-sex couples are also allowed to register as partners in three countries: France, the Netherlands, and Belgium.

What can we learn from the experience of these countries about how giving gay couples the right to marry affects heterosexual marriage patterns? On the one hand, the fact that Danish marriage rates increased slightly (Statistics Denmark, 2003b) after the passage of partner recognition laws has led some observers

1. Denmark: Act on Registered Partnership (No. 372, 7 June 1989); Norway: Act on Registered Partnerships (No. 40, 30 April 1993); Sweden: Registered Partnership Act

(1994: 1117, 23 June 1994); Iceland: Act on Registered Partnership (No. 87, 12 June 1996). For English translations and further information on these acts, see Boele-Woelki & Fuchs (2003).

Correspondence concerning this article should be addressed to M. V. Lee Badgett, Department of Economics, Thompson Hall, University of Massachusetts, Amherst, MA 01003. E-mail: [lbadgett@econs.umass.edu](mailto:lbadgett@econs.umass.edu)

(e.g., Eskridge, 2002) to conclude that gay couples may help to resuscitate the institution of marriage.

On the other hand, Stanley Kurtz (2004, February 2, 2004, May 25, 2004, May 31, 2004, June 3) of the Hoover Institution claims that allowing gay couples to marry or have marital rights has undermined the institution of marriage in Scandinavia and the Netherlands. This second argument has been widely cited in the United States, including in hearings before the U.S. Congress (Marech, 2004). A similar charge has emerged from a group of Dutch scholars regarding the Netherlands, in particular (Van Mourik, Nuytinck, Kuiper, Van Loon, & Wels, 2004). However, the claim that giving marital rights to gay couples will undermine heterosexual marriage is based on the consistent misuse and misinterpretation of data.

The argument that granting legal status to same-sex partnerships serves to undermine heterosexual marriage rests on the following four claims, none of which can be substantiated:

1. In those European countries that allow same-sex couples to register as partners, marriage and parenthood have become separated, and married parenthood has become a minority occurrence.
2. The separation of marriage and parenthood in those countries allowing same-sex marriage or partnerships is disastrous for children because of higher rates of relationship dissolution among cohabiters than among married spouses.
3. Allowing gay marriage accelerates the separation between marriage and parenthood.
4. If the U.S. allows gay couples to marry, heterosexual people in the U.S. will adopt European-style family dynamics, resulting in a similar undermining of the institution of heterosexual marriage.

In fact, none of these claims fits the actual evidence regarding the Scandinavian and Dutch experience and the U.S. context. A closer look at the data from national statistical agencies reveals a very different picture:

- Divorce rates in these countries have not risen since the passage of partnership laws, and

marriage rates have remained stable or actually increased, suggesting that heterosexual marriage has not been undermined by enactment of such legislation.

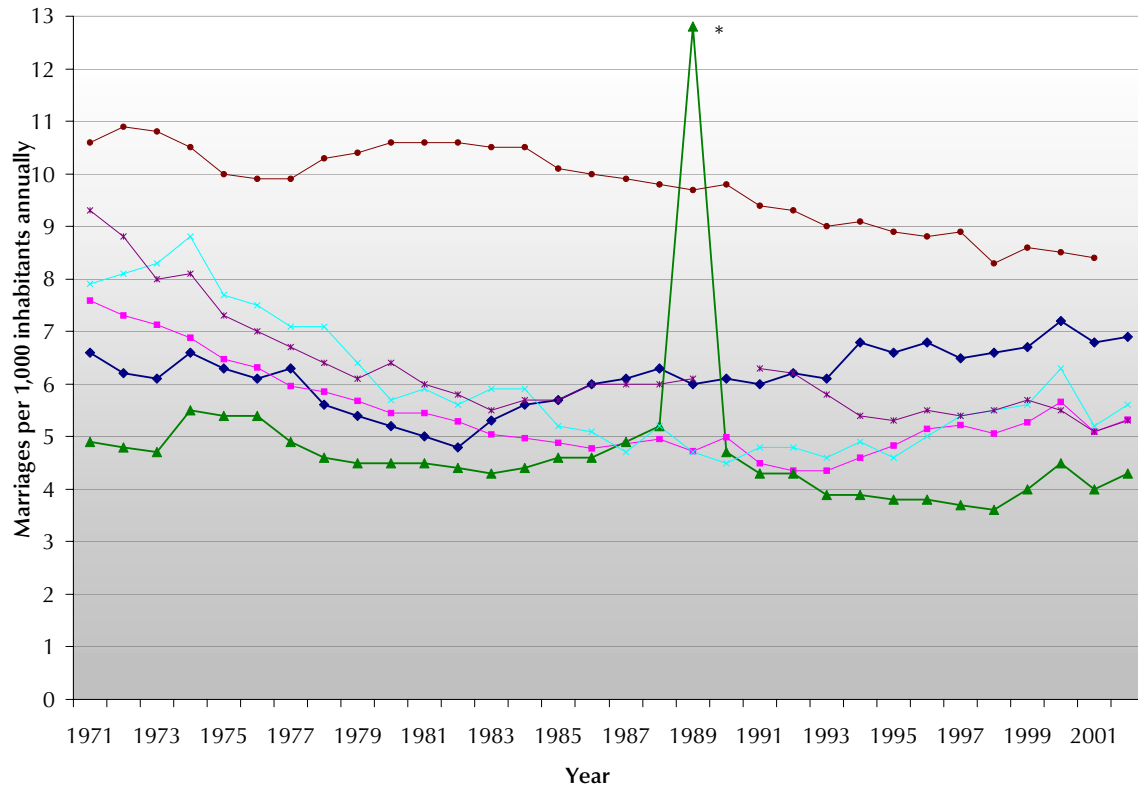
- The majority of parents in these countries are married. Further, the average Scandinavian child spends more than 80% of his or her youth living with both parents—more time than the average American child.
- Non-marital birth rates have not risen faster in Scandinavia or the Netherlands since the passage of partnership laws. Although there has been a long-term trend toward the separation of sex, reproduction, and marriage in the industrialized West, this trend is unrelated to the legal recognition of same-sex couples. Non-marital birth rates changed just as much in countries without partnership laws as in countries that legally recognize same-sex couples' partnerships.

### **Married Parents Are Still the Majority in Scandinavia**

Marriage and childbearing have become less directly connected over time in many European countries, including Scandinavia (Kiernan, 2001). But as we shall see, this separation hardly qualifies as the death of marriage, and it cannot be shown to result from the passage of same-sex partner laws.

In fact, Denmark's long-term decline in marriage rates turned around in the early 1980s, and the upward trend has continued since the 1989 passage of the registered partner law, as shown in Chart 1 (Centers for Disease Control, 2002, 2003; Statistics Denmark, 2003b; Statistics Iceland, 2003; Statistics Netherlands, 2004a; Statistics Norway, 2003a; Statistics Sweden, 2003; U.S. Bureau of the Census, 2000). Now the Danish heterosexual marriage rates are the highest they have been since the early 1970s. The chart also shows that the most recent marriage rates in Sweden, Norway, and Iceland are also higher than they were in the years before the partnership laws were passed. According to Dutch demographers, the slight dip since 2001 in marriage rates in the Netherlands is the result of a recession-induced cutback on weddings (J. Latten,

Chart 1: Marriage rate comparisons, 1971-2002



\* "Sharp...deviation in Swedish marriage... trends occurred in 1989...in response to near-abolition of the public widow's pensions for women who were not married at the beginning of 1990" (Andersson, 1998).

Country (year implemented same-sex partner registration)

- ◆ Denmark (1989)
- ▲ Sweden (1994)
- ◆ Netherlands (1998) \*\*
- ◆ Norway (1993)
- ◆ Iceland (1996)
- ◆ U.S.

\*\* Data missing for some years for the Netherlands.

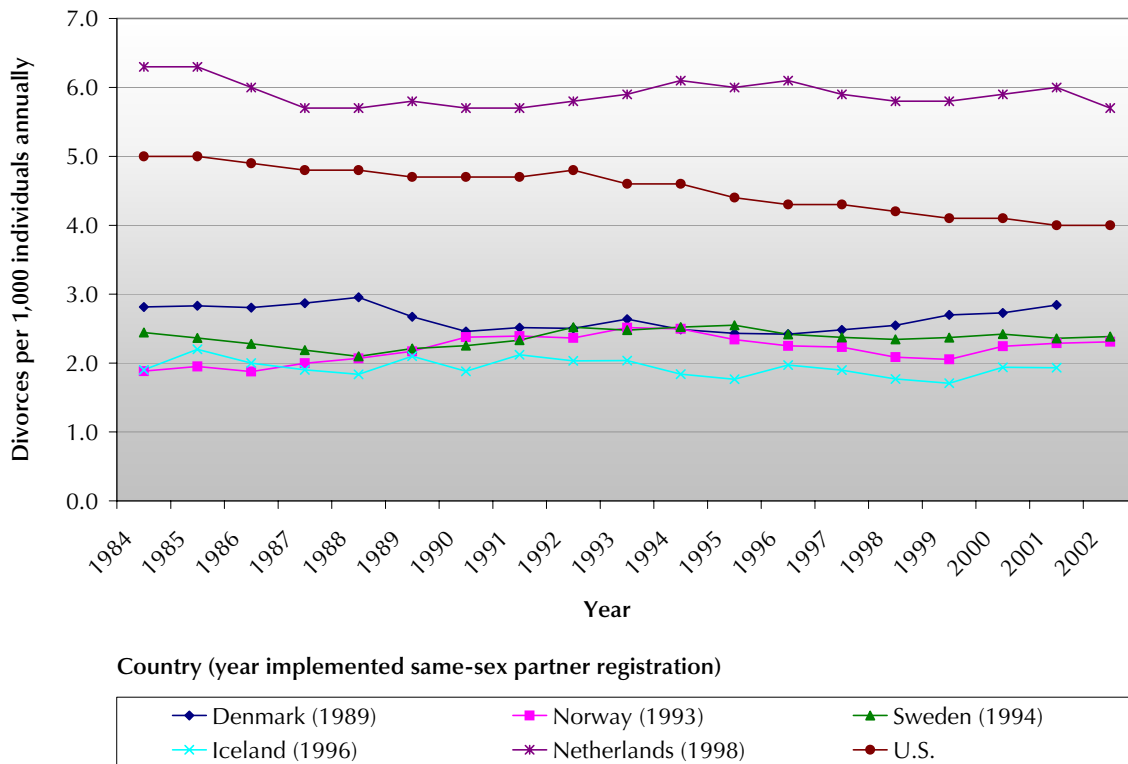
personal communication, March 12, 2004) and of births (J. Garssen, personal communication, June 18, 2004). The actual number of marriages in the Netherlands has gone up and down in the last few years, and these fluctuations began even before the legalization of same-sex marriage.

No research suggests that recognizing same-sex couples' relationships actually caused the increase in marriage rates; however, based on the marriage rates in Chart 1, heterosexual couples in those countries were

clearly not deterred from marrying by the legalization of same-sex couples' rights.

Divorce rates also show no evidence of harm to heterosexual marriage resulting from passage of partnership laws. In fact, divorce rates have not changed much in Scandinavian countries in the last two decades (Chart 2) (Centers for Disease Control, 2002, 2003; Statistics Denmark, 2003b; Statistics Iceland, 2003; Statistics Netherlands, 2004b; Statistics Norway, 2004a; Statistics Sweden, 2003; U.S. Bureau

Chart 2: Divorce rate comparison, 1984-2002



of the Census, 2000). Danish demographers have even found that marriages in the early 1990s appear to be more stable than those in the 1980s, since the proportion of marriages divorcing within five years has decreased (Statistics Denmark, 2003a).

Cohabitation rates are indeed on the rise, though, as is the likelihood that an unmarried cohabiting couple will have children. In Denmark, the number of cohabiting couples with children rose by almost 25% in the 1990s (Kurtz, 2004, February 2, ¶ 9). Roughly half of all births in Norway, Sweden, and Denmark are to parents who are not married, as Kurtz has noted (2004, February 2, ¶ 9). From these figures, he concludes that “married parenthood has become a minority phenomenon” (2004, February 2, ¶ 11).

A focus on parents’ marital status at birth, however, gives a misleading view of the position of marriage in these countries. In fact, the majority of

families with children in Scandinavia and the Netherlands are still headed by married parents. In 2000, for instance, 78% of Danish couples with children were married couples (Statistics Denmark, 2004). If we also include single parent families in the calculation, a married couple headed almost two-thirds of families with children. In Norway, 77% of couples with children are married, and 61% of all families with children are headed by married parents (Statistics Norway, 2003b, 2004d). And 75% of Dutch families with children include married couples (Statistics Netherlands, 2004c). By comparison, 72% of families with children are headed by married couples in the United States (U.S. Census Bureau, 2001). In other words, marriage is not a minority phenomenon in Scandinavian countries and the Netherlands if we include all families with children rather than looking only at the marital status of the parents of newborn

babies.

How can this marriage majority coexist with high nonmarital birth rates and cohabitation rates? The main reason is that in Scandinavia and the Netherlands most cohabiting couples marry after they start having children (Kiernan, 2001). In Sweden, for instance, 70% of cohabiters marry after the birth of the first child, most of them within five years. In the Netherlands, while 30% of children are born outside of marriage, only 21% of children under one live with unmarried parents, and by age five, only 11% live with unmarried parents (J. Garssen, personal communication, June 18, 2004). As a result, high rates of married couple parenting and rising marriage rates in Scandinavia are not incompatible with high nonmarital birth rates.

### The Impact on Children

Kurtz (2004, February 2) claims that the rise in nonmarital births will hurt children because unmarried couples are more likely to break-up than married couples. While it is true that unmarried Scandinavian cohabiters' unions are more likely to dissolve than are marriages, even when children are present, when cohabiting parents marry in Scandinavian countries, as most eventually do, they are not more likely to divorce than are couples who were married when they had their children (Kiernan, 2001).

As a result, children in Scandinavian countries still spend most of their lives with their parents living together.<sup>2</sup> In fact, they spend more time living with both parents than kids in the U.S. do. Gunnar Andersson (2002) has calculated how much time the average child spent living with both parents in the same household in the 1980s, the most recent period that allows comparisons across countries.<sup>3</sup> Of the countries he examines, the lowest average is in the United States, where the time spent with both parents is 67%. The highest is in Italy, where it is 97%. In Sweden the average is 81%; in Norway it is 89%; and in Finland it is 88%. In other words, combining the time that parents

are cohabiting and married demonstrates that children are spending the vast majority of their young lives with their parents in the Scandinavian countries.

### Did Gay Marriage Widen the Split Between Parenthood and Marriage?

No one would argue that marriage plays the same role in Scandinavia and in other parts of Europe that it once did. Kurtz (2004, February 2, ¶ 26) himself recognizes that changes in marriage in Scandinavia were in many ways cause rather than effect of the legal recognition extended to gay couples. In fact, he acknowledges that the preexisting high rates of cohabitation and the changing role of marriage in Scandinavia probably made it more likely that those countries would be the innovators in giving marriage-like rights to gay people. The decline of religious practice and belief, the rise of the welfare state, rising female employment, advances in contraception and abortion, and the improving economic status of women—all long-term trends in Scandinavia and the Netherlands—probably contributed both to the rise in cohabitation and to the equalizing of rights for gay and lesbian people.

In a recent study (Badgett, 2004), I compared the cohabitation rates (and other variables) in the nine countries that recognize same-sex partners with the rates in other European and North American countries that do not. Results showed that cohabitation rates were higher in the partner recognition countries before the passage of same-sex partner laws. Since higher cohabitation rates came first, it would be inappropriate to blame partnership laws for more cohabitation.

But Kurtz also makes the subtler claim that registered partnerships “*further* undermined the institution” and that “gay marriage has widened the separation” (2004, February 2, ¶ 2) between marriage and parenthood. In other words, things were already bad but gay marriage made it worse.

However, this argument does not hold up either, because the nonmarital birth rate began rising in Scandinavian countries in the 1970s, long before any legal recognition of same-sex couples took place, and it has actually slowed down in Scandinavia in recent

2. Data for the Netherlands are not available for these measures.

3. These Family and Fertility Studies that Andersson analyzes are also used by Kiernan in the work cited earlier.

years.<sup>4</sup> For example, from 1970 to 1980, a full decade before Denmark adopted its partner registration law in 1989, the Danish nonmarital birth rate tripled, rising from 11% to 33%. It rose again in the following decade, but by a much smaller amount, to 46% in 1990, before ending its climb. After passage of its partnership law in 1989, Denmark's nonmarital birth rate did not increase at all (see Table 1). In fact, it actually decreased somewhat after that date.

Norway's big surge in nonmarital births also occurred well before the passage of its registered partnership law in 1993. In the 1980s, the percentage of births to unmarried parents rose from 16% to 39% (Statistics Norway, 2003). In first half of the 1990s, the nonmarital birth rate rose more slowly, leveling off at 50% in the mid-1990s.

Kurtz (2004, February 2) argues that the main impact of partner registration laws in Norway was to discourage couples from marrying after the birth of their first child. But the data (Statistics Norway, 2004c) on second, third, and later babies born to unmarried parents tell the same story as the overall trend. In 1985, 10% of second and subsequent babies had unmarried parents, a number that tripled to 31% by 1993, when Norway passed its registered partnership law (Statistics Norway, 2004c). In the subsequent decade, from 1994 to 2003, the number only rose to 41%, where it appears to be leveling off. The percentage of first births to unmarried parents did not increase at all from 1994 to 2003. If the partnership law had further encouraged nonmarital births of first or later children, as Kurtz has argued, then these rates should have increased faster after 1993, but in fact the increase slowed down (for second and later births) or stopped (for first births).

The Netherlands shows a slightly different pattern, but here, too, there is no correlation between recognition of same-sex partnerships and rising rates of nonmarital births. Despite high rates of cohabitation, the Dutch have traditionally been much less likely than Scandinavians to have babies before marriage, with fewer than one in ten births occurring with unmarried parents prior to 1988 (Coleman & Garssen, 2002;

Sprangers & Garssen, 2003). Kurtz (2004, June 3) argues that legal recognition for same-sex couples kicked Holland into the Scandinavian league with respect to nonmarital parenting. It is true that the Dutch nonmarital birth rate has been rising steadily since the 1980s, and sometime in the early 1990s the nonmarital birth rate started increasing at a somewhat faster rate (Eurostat, 2004). But that acceleration began well before the Netherlands implemented registered partnerships in 1998 and gave same-sex couples the right to marry in 2001.

Another helpful perspective results from comparing trends regarding nonmarital births in those countries that have a partner registration law with those that do not. If legal recognition of gay partnerships in fact leads to an increase in nonmarital births, then we should see a bigger increase in countries with those laws than in countries without them. However, the calculations presented in Table 1, based on data from Eurostat (2004), show this was not the case. In fact, during the 1990s, the eight countries that recognized registered partners at some point in that decade saw an increase in the average nonmarital birth rate from 36% in 1991 to 44% in 2000, for an eight percentage point increase,<sup>5</sup> while in the EU countries (plus Switzerland) that did not recognize registered partners, the average rate rose from 15% to 23%, also an eight percentage point increase. Thus, the average change in rates was exactly the same in countries that did and did not adopt partner registration laws, demonstrating that partner registration laws do not lead to greater increases in nonmarital birth rates.

Even if we distinguish two kinds of countries—separating out those like the Netherlands with traditionally low nonmarital birth rates from those like Norway with traditionally high rates—we see that there is no connection between partnership recognition and the increase in nonmarital births. The same rapid rise in nonmarital births that that we see in the Netherlands in the 1990s also occurred in other European countries that initially had low nonmarital birth rates. For

4. Nonmarital birth rates in the next few paragraphs and Table 1 are primarily from Eurostat for the 1990s (Eurostat, 2004).

5. Finland did not pass its partner registration law until 2001, so it is included in the non-partnership countries for this comparison.

Table 1: Nonmarital birth rates\*

	Year											
	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Belgium	12.6	13.6	14.6	15.8	17.3	19.1	21.0					
Denmark	46.5	46.4	46.8	46.9	46.5	46.3	45.1	44.8	44.9	44.6	44.6	44.6
Germany	15.1	14.9	14.8	15.4	16.1	17.1	18.0	20.0	22.1	23.4	25.0	
Greece	2.4	2.6	2.8	2.9	3.0	3.3	3.5	3.8	3.9	4.0		
Spain	10.0	10.5	10.8	10.8	11.1	11.7	13.1	14.5	16.3	17.7		
France	31.8	33.2	34.9	36.1	37.6	38.9	40.0	40.7	41.7	42.6	43.7	
Ireland	16.9	18.0	19.9	20.8	22.3	25.3	26.8	28.7	31.1	31.5	31.2	31.1
Italy	6.7	6.7	7.4	7.8	8.1	8.3	7.0	9.0	9.2	9.7		
Luxembourg	12.2	12.7	12.9	12.8	13.1	15.0	16.8	17.5	18.7	21.9	22.3	23.2
Netherlands	12.0	12.4	13.1	14.3	15.5	17.0	19.2	20.8	22.8	24.9	27.2	29.1
Austria	24.8	25.2	26.3	26.8	27.4	28.0	28.8	29.5	30.5	31.3	33.1	33.8
Portugal	15.6	16.1	17.0	17.8	18.7	18.7	19.6	20.2	20.9	22.2	23.8	25.5
Finland	27.4	28.9	30.3	31.3	33.1	35.4	36.5	37.2	38.7	39.2	39.6	39.9
Sweden	48.2	49.5	50.4	51.6	53.0	53.9	54.1	54.7	55.3	55.3	55.5	56.0
UK	29.8	30.8	31.8	32.0	33.6	35.5	36.7	37.6	38.8	39.5	40.1	40.6
Czech Rep	9.8	10.7	12.7	14.6	15.6	16.9	17.8	19.0	20.6	21.8	23.5	25.3
Estonia	31.2	34.0	38.3	40.9	44.1	48.1	51.6	52.2	54.0	54.5	56.2	56.3
Cyprus	0.8	1.1	0.8	1.0	1.4	1.5	1.6	2.1	2.2	2.3		3.5
Latvia	18.4	19.6	23.0	26.4	29.9	33.1	34.8	37.1	39.1	40.3	42.1	43.1
Lithuania	7.0	7.9	9.1	10.9	12.8	14.3	16.5	18.0	19.8	22.6		27.9
Hungary	14.2	15.6	17.6	19.4	20.7	22.6	25.0	26.6	28.0	29.0	30.3	31.4
Malta	2.0	2.3	2.2	2.9	4.6	5.9	7.4	8.2		10.9	12.9	
Poland						10.2	11.0	11.6	11.7	12.1	13.1	14.4
Slovenia	26.4	27.7	28.0	28.8	29.8	31.9	32.7	33.6	35.4	37.1	39.4	40.2
Slovakia	9.0	9.8	10.6	11.7	12.6	14.0	15.1	15.3	16.9	18.3	19.8	21.6
Bulgaria	15.5	18.5	22.1	24.5	25.7	28.1	30.0	31.5	35.1	38.4	42.0	42.8
Romania			17.0	18.3	19.8	20.7	22.2	23.0	24.1	25.5	26.7	26.7
Iceland	56.4	57.3	58.3	59.6	60.9	60.7	65.2	64.0	62.4	65.2	63.0	62.3
Liechtenstein	7.7	14.7	7.7	8.4	10.1	10.4	14.0					13.2
Norway	40.9	42.9	44.5	45.9	47.6	48.3	48.7	49.0	49.1	49.6	49.7	50.3
Switzerland	6.5	6.2	6.3	6.4	6.8	7.4	8.1	8.8	10.0	10.7	11.4	11.7

\* The nonmarital birth rate is the number of births to unmarried mothers divided by the total number of births.

\*\* European countries on which Eurostat collects data.

example, during the 1990s nonmarital birth rates rose in Ireland, Luxembourg, Hungary, Lithuania, and several other eastern European countries—all countries that do not allow same-sex couples to marry or register. More specifically, from 1990 to 2002, increases in the nonmarital birth rates in these countries were the following: the Netherlands, 12.0% to 29.1%; Luxembourg, 12.2% to 23.2%; Ireland, 16.9% to 31.1%; Hungary, 14.2% to 32.2%; Lithuania, 7.0% to 27.9%; and Slovakia 9.0% to 21.6%.

Only one piece of evidence, which relates to the remaining difference between the legal rights of same-sex and different-sex couples, supports Kurtz's argument that partnership registration laws created a new wedge between parenthood and marriage. Contrary to what many observers believe, Scandinavian parliaments did not provide same-sex couples with the exact same rights as heterosexual couples. Quite deliberately, the various Scandinavian parliaments chose to provide legal ties for same-sex couples through creation of a special new legally defined relationship, instead of through the simpler path of extending the right to marry to same-sex couples. In addition, the parliaments denied same-sex couples the right to adopt children (including their nonbiological children raised from birth) or to gain access to reproductive technologies. Thus, Scandinavian governments did create a wedge between marriage and reproduction, but they did so by design and they did so only for same-sex couples. Despite some loosening of these prohibitions over time, same-sex registered partners in these countries who want to have children still face legal hurdles that heterosexual married couples do not (Minot, 2000).

### **The Impact of Gay Marriage in the U.S.**

In the end, the Scandinavian and Dutch experiences suggest that there is little reason to be concerned that heterosexual people will flee marriage if gay and lesbian couples are granted right to marry. This conclusion is likely to be even more true in the United States, where couples have many more tangible incentives to marry. Scholars of social welfare programs (e.g., Esping-Andersen, 1999) have noted that the U.S. relies heavily on employment status and

family membership as bases for providing income and support to individuals. In the United States, unlike Scandinavia, marriage is often the only route to survivor coverage in pensions and social security, and many people have access to health care only through their spouse's employment (U.S. Bureau of the Census, 2002). Over 60% of insured people get insurance through their own employer or a family member's employer. Scandinavian states, on the other hand, are much more financially supportive of families and individuals, regardless of their employment, family, or marital status (Esping-Andersen, 1999).

One could certainly argue that U.S. systems provide inadequately for unmarried parents and perhaps unfairly for single individuals. But as long as such systems remain in place, the lack of alternatives for support together with the tangible benefits of marriage provide powerful incentives for heterosexual couples to marry, regardless of whether or not same-sex couples are also allowed to marry.

### **Conclusion**

Overall, there is no evidence that giving partnership rights to same-sex couples had any impact on heterosexual marriage in Scandinavian countries and the Netherlands. Marriage rates, divorce rates, and nonmarital birth rates have been changing in Scandinavia, Europe, and the United States for the past thirty years. But those changes have occurred in all countries, regardless of whether or not they adopted same-sex partnership laws, and these trends were underway well before the passage of laws that gave same-sex couples rights.

Furthermore, the legal and cultural context in the United States gives many more incentives for heterosexual couples to marry than in Europe, and those incentives will still exist even if same-sex couples can marry. Giving same-sex couples marriage or marriage-like rights has not undermined heterosexual marriage in Europe, and it is not likely to do so in the United States. ♦

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