

## Robert Bork on Gay Marriage

Excerpted from "Stop Courts From Imposing Gay Marriage: Why We Need a Constitutional Amendment," by Robert Bork at [www.opinionjournal.com](http://www.opinionjournal.com), August 7, 2001. Judge Bork is a former Supreme Court nominee, and is now a fellow at the American Enterprise Institute. As he explains:

Of all the contested terrain in the culture war, the subject of homosexual rights is the most awkward to discuss. Almost all of us know homosexuals who are decent, intelligent and compassionate people, and we have no inclination to wound them.

Yet "gay rights" have come to the fore and we must have a discussion, free of *ad hominem* accusations, about whether homosexual acts and relationships are to be regarded as on a par with the marital relationship of a man and a woman. The immediate problem is the homosexual activists' drive for same-sex marriage.

The activists want it as an expression of moral approval of homosexual conduct. Many Americans have no desire to impose criminal sanctions on homosexual sodomy. Nevertheless, it is clear that most Americans do not want to create special rights for homosexuals or to consider their behavior morally neutral.

For that reason, the activists have concentrated their efforts on courts, knowing that judges have pushed, and continue to push, the culture to the left. One of the last obstacles to the complete normalization of homosexuality in our society is the understanding that marriage is the union of a man and a woman.

Traditional marriage and family have been the foundations of every healthy society known in recorded history. Only in the past few decades of superficial liberal rationalism has marriage come under severe attack. The drive for same-sex marriage ordered by courts is the last stage of the assault. The Federal Marriage Amendment is an attempt, and perhaps the only hope, to preserve marriage as an institution of incalculable value.

Many court watchers believe that within five to 10 years, the U.S. Supreme Court will hold that there is a constitutional right to homosexual marriage, just as that court invented a right to abortion. The chosen instrument will be the Equal Protection Clause of the 14th Amendment. After all, if state law forbids Fred to marry Henry, aren't they

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denied equal protection when the law permits Tom and Jane to marry?

To head off the seemingly inexorable march of the courts toward the radical redefinition of marriage, the Alliance for Marriage has put forward the proposed Federal Marriage Amendment: "Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution or the constitution of any state, nor state or federal law, shall be construed to require that marital status or the legal incidents thereof be conferred upon unmarried couples or groups."

We would hope that if people understand the principle behind the amendment, they would not try to contrive counterfeit forms of marriage. If courts are prevented from ordering same-sex marriage, or its equivalent, the question of arrangements less than marriage is left where it should be—to the determination of the people through the democratic process.

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