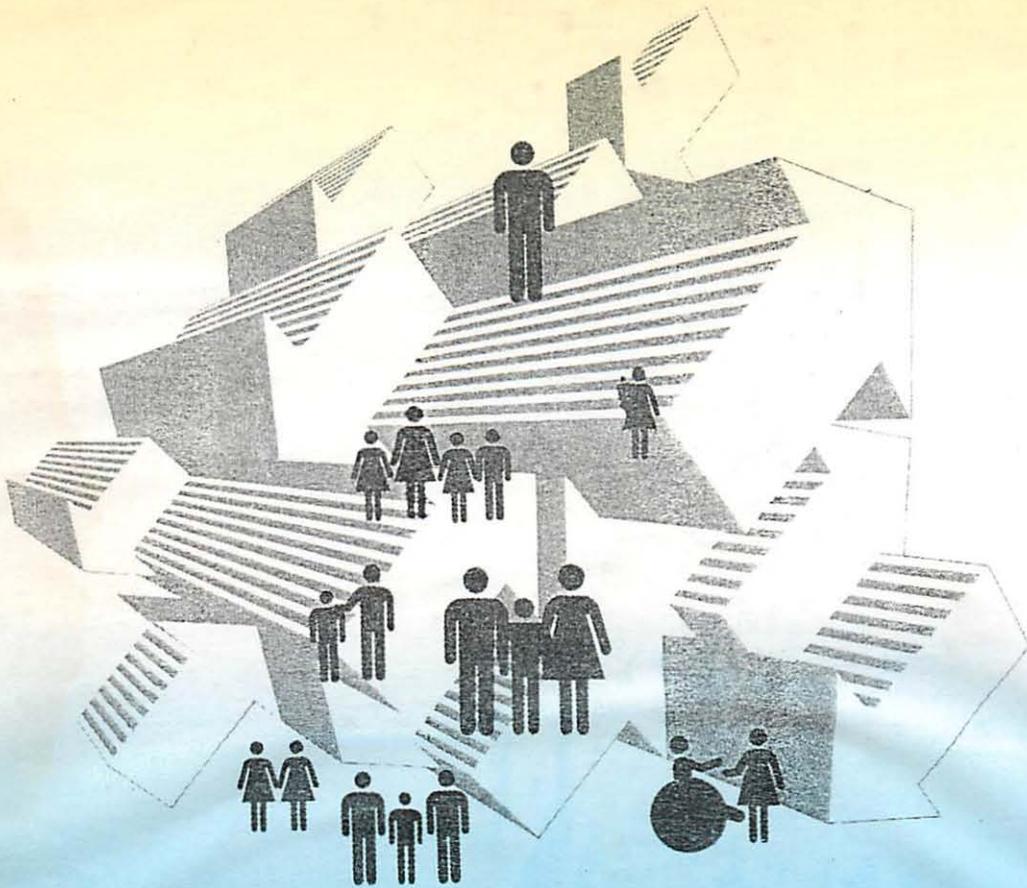


DOMESTIC PARTNERSHIPS  
ONE OF MANY DIVERSE FAMILY FORMS

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SENATE BILL 3113  
AND RELEVANT SUPPORTING DOCUMENTS



# **SPECTRUM INSTITUTE**

*A Non-Profit Corporation Promoting Respect For Human Diversity*

March 7, 1996

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*Thomas F. Coleman  
Executive Director  
Family Diversity Project*

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## **An Open Letter to the People of Hawaii:**

This legislative session is a defining moment for civil rights in Hawaii. It takes courage to vote on a controversial bill in an election year. Members of the Senate have demonstrated true leadership by voting in favor of S.B. 3113. Hopefully, members of the House will do the same.

Senate Bill 3113 provides safe passage through a political and legal minefield. It respects the will of the majority of Hawaii residents who want to limit marriage to male-female relationships. It keeps a healthy distance between church and state, by allowing each religious denomination to decide for itself whether or not to sanctify same-gender unions. It also honors Hawaii's tradition of respect for diversity and equal rights for all by creating a new secular institution of domestic partnership so that same-sex couples are given the benefits and obligations the law confers on "immediate family."

The Attorney General needs a comprehensive domestic partnership act to strengthen the state's case in *Baehr v. Miike*. Constitutional law professor Jon Van Dyke predicts that if the Legislature does nothing, the Supreme Court will mandate same-sex marriage in Hawaii. However, he believes that the court would accept a domestic partnership act as satisfying the equal protection clause of the constitution and would dismiss the case as moot if the Legislature passes such an act this year. The Governor supports domestic partnership and has indicated that he would sign such a bill if one is sent to him.

Although most members of the public want to retain a narrow definition of "marriage," they also support a broad and inclusive definition of "family." In this respect, S.B. 3113 is consistent with public opinion. Domestic partnership benefits are also supported by a large, and growing number of businesses. These benefits are now offered by companies such as Apple Computer, Blue Cross of Massachusetts, Dayton Hudson Stores, Home Box Office, Levi Straus, MCA/Universal, New York Times, and Xerox Corporation. It is also noteworthy that, despite protests from the religious right, the Disney Corporation initiated a domestic partner benefits program for its employees last year.

This informational booklet has been produced by the Family Diversity Project of Spectrum Institute, by the American Association for Personal Privacy, and by Gary Bennett and Paul Moscherosh. We believe that it contains all of the information that anyone should need to make an informed decision regarding the merits of S.B. 3113.

**SPECTRUM INSTITUTE**  
**Open Letter to People of Hawaii**  
**March 7, 1996**  
**Page Two**

Gary and Paul are a prime example of why a domestic partnership act is necessary. They have lived together as a family unit for 25 years. Both served their country honorably in the military service. Gary and Paul have worked hard all their lives. They are law-abiding citizens who pay more than their fair share of taxes, who vote, who help their neighbors in times of trouble, and who participate in community activities. Now, as Gary and Paul spend their retirement years in Hawaii, they just want to be treated fairly.

Gary and Paul are not asking the Legislature to legalize same-sex marriage. On the other hand, they believe that their civil rights should not be put to a popular vote in the current atmosphere of hostility, misunderstanding, and fear. They are simply asking the Legislature to pass a domestic partnership act as a way of eliminating unjust discrimination.

Gary and Paul, and hundreds of domestic partners living in Hawaii, deserve the same respect and dignity as other contributing members of society. Current law treats same-sex partners who live together in long-term committed family relationships as if they were strangers. S.B. 3113 would correct this gross injustice.

Whether S.B. 3113 is favorably passed out of the House Judiciary Committee, or whether it is removed from committee by a rule waiver on the House floor, we hope that when members of the House of Representatives cast their votes on this bill, that history will record the representative from your district as having voted in favor of this landmark civil rights legislation.

The enactment of S.B. 3113 will keep Hawaii in the forefront of equal rights. It will set a precedent that other states can voluntarily replicate, without the political turmoil and litigation that court-mandated gay marriage will generate. Passage of S.B. 3113 will also place Hawaii in a leadership position internationally, along with several European nations that also have passed domestic partnership legislation in recent years.

In the spirit of aloha, we trust that you -- the people of Hawaii -- will urge your representatives in the Legislature to adopt S.B. 3113.

Very truly yours,



THOMAS F. COLEMAN

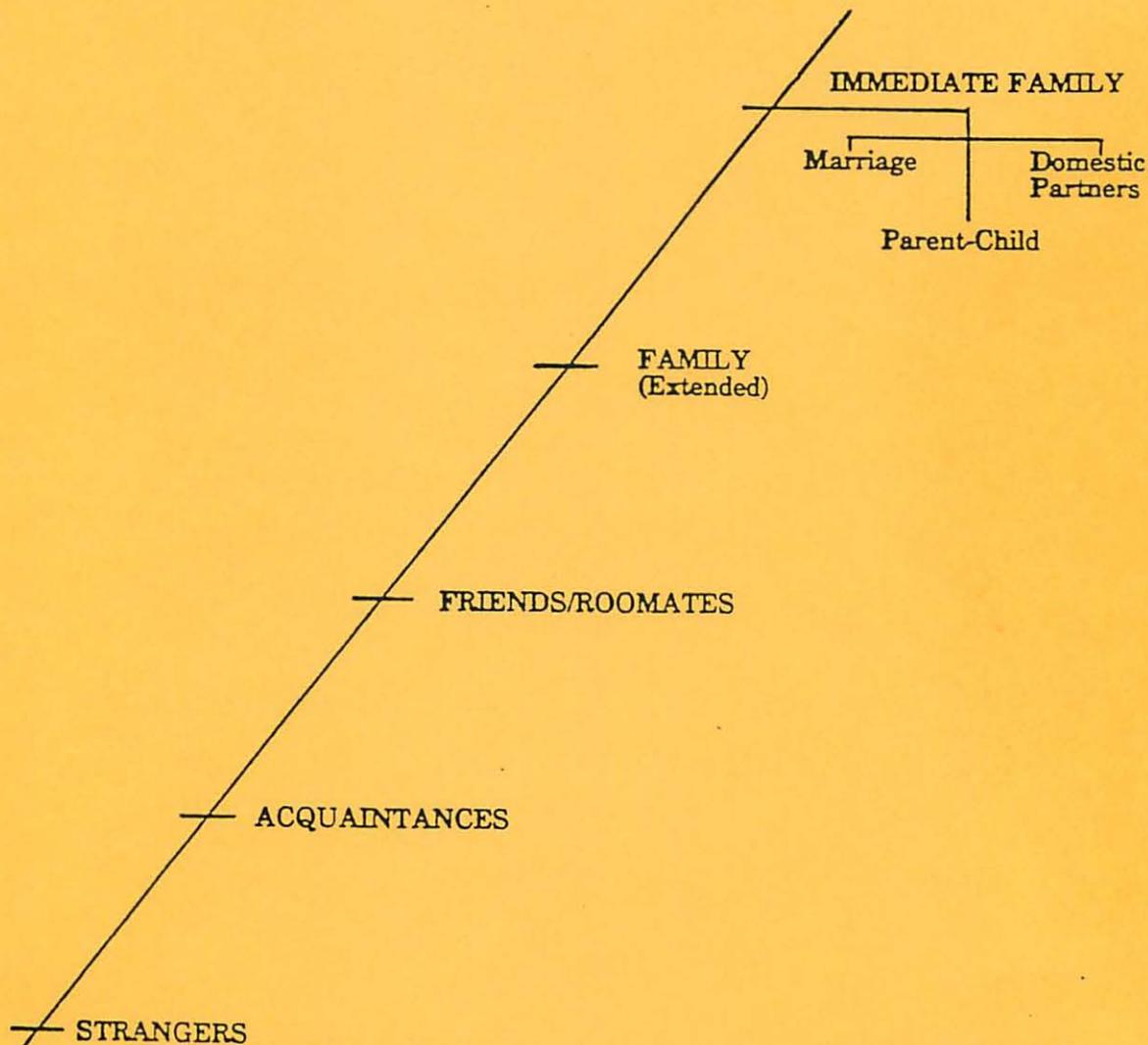
## A SPECTRUM OF RELATIONSHIPS: FROM STRANGERS TO IMMEDIATE FAMILY

Today, same-sex partners who have lived together in a committed relationship for 15, 20 or even 25 years are treated by Hawaii law as if they are strangers to each other. This is unjust from both a social and an economic perspective. Such long-term couples are currently denied a wide variety of legal protections and benefits.

Senate Bill 3113 would correct this injustice by allowing same-sex partners who live in Hawaii to register as domestic partners. S.B. 3113 would not disturb current marriage law which limits marriage to opposite-sex couples. However, S.B. 3113 would treat registered partners as "immediate family" members, and confer upon such couples appropriate legal obligations and benefits.

Jon Van Dyke, constitutional law professor at the University of Hawaii, predicts that the Hawaii Supreme Court will accept the Legislature's decision to limit marriage to male-female relationships, so long as same-sex partners are given equal civil rights as "immediate family". However, if the Legislature does nothing, and thereby retains the existing status of "strangers" for same-sex couples, he warns that the Supreme Court is sure to legalize same-sex marriage.

S.B. 3113 is a moderate approach that respects the will of the majority to limit marriage to opposite-sex couples, while satisfying the constitution's requirement for equal protection of the law.





**MAJOR OPTIONS OF  
HAWAII LEGISLATURE  
in 1996/1997**

**ACTION**

**LIKELY RESULT**

- |   |  |
|---|--|
| 1. Do nothing   | 1. Same-sex marriage is mandated by court order  |
| 2. Pass a limited domestic partnership act (granting only some rights and duties)   | 2. Same result as number one.  |
| 3. <b>Pass a comprehensive domestic partnership act (recognizing domestic partners as primary family units similar to married spouses)</b>                | 3. <b>Supreme Court may accept this as satisfying equal protection clause by granting all benefits and burdens under state law "with all deliberate speed"</b> |
| 4. Legalize same-sex marriage by passing a new statute  | 4. Won't happen due to strong public opposition  |
| 5. Eliminate marriage as a civil institution, remove marriage benefits and obligations from the law, and leave marriage solely as a religious institution | 5. Won't happen due to lack of public support because people are accustomed to and expect civil marriage and benefits under civil law                          |
| 6. Put same-sex marriage issue on the ballot as a proposed constitutional amendment for the voters to decide  | 6. Probably won't happen because it needs support from two-thirds of the members of each house, and many members feel this approach is ugly and divisive       |

## TEN REASONS FOR CREATING AN INSTITUTION OF DOMESTIC PARTNERSHIP AS A COÓRDINATE OF MARRIAGE

1. **Federalism.** Domestic partnership makes use of a time-honored feature of our constitutional system -- federalism -- and uses it in the public interest as well as for the benefit of both same-gender and opposite-gender relationships. And it does this while meeting all the requirements of the Hawaii Constitution.

2. **Intergovernmental Conflicts.** Domestic partnership ends the threat of serious interstate and state/national conflicts by providing a "laboratory" for the nation, which will enable it to determine in an orderly manner over time whether the legalization of same-gender unions will remain an isolated experiment in one state only -- as has been the case with Nebraska's unicameral legislature -- or whether the Hawaii example can serve to develop a national consensus, which could eventually lead to the enactment of domestic partnership laws throughout the nation. This is the way legal and social change has always been effected in the American federal system.

3. **Legislative flexibility.** Domestic partnership gives future Hawaii legislatures the ability to assess the legalization of same-gender relationships on its own distinctive merits and enables them to make any necessary changes. Most important, it allows legislators to reach the ultimate decision as to whether the separate system of domestic partnerships should be continued as an independent institution or melded into marriage.

4. **A new jurisprudence.** Domestic partnership provides an opportunity for the courts to fashion a jurisprudence peculiarly adapted to same-gender unions untrammelled by opposite-gender marriage precedents, and, in so doing, prevents the possibility of distorting the existing jurisprudence of marriage which is based entirely on opposite-gender couples. The legalization of same-gender marriage involves much more than the mere inclusion of a new class of couples within the institution of matrimony. It represents the addition of two new classes -- same-gender male couples and same-gender female couples. Each of these two new classes differs greatly from opposite-gender couples, and even more so from each other.

5. **Refusal to consummate.** Refusal or inability to consummate a marriage is a common ground for annulment throughout the Anglo-American legal world. It remains a ground for annulment in Hawaii. The courts have taken centuries to define what particular sexual act on the part of each spouse constitutes consummation, so that only the refusal or inability to engage in that specific sexual act creates the ground for annulment. But what specific sexual act will constitute ground for annulment in the case of a same-gender male relationship? And of what value would such a definition have for same-gender female relationships? Here the absurdity of attempting to force same-gender unions into the procrustean bed of marriage becomes manifest. Problems such as these can never arise within a system of domestic partnership because the statute creating it would contain a specific provision that, in developing a body of jurisprudence for domestic partnership relationships, courts would not have to apply marriage-law precedents if doing so would create absurd results or produce inequitable consequences.

6. **Legal age for marriage.** The Hawaii Commission on Sexual Orientation and the Law recommended a minimum age of eighteen for entering into a domestic partnership relationship.<sup>1</sup> By contrast, existing Hawaii marriage law permits persons as young as fifteen to marry. By passing a comprehensive domestic partnership statute, the legislature can avoid the serious public policy issues resulting from the legal recognition of same-gender teen-age couples as young as fifteen, some of whom might even be visitors from other states.

*(continued over leaf)*

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<sup>1</sup> Commission on Sexual Orientation and the Law, *Draft Report* (Honolulu, 27 November 1995), Appendix E, p. E-3.

7. **All deliberate speed.** A domestic partnership system will enable the Hawaii legislature and judiciary to act in accordance with the well-established principle of "all deliberate speed" without foreclosing any of their ultimate options. "All deliberate speed" was specifically crafted for judicial rulings which demand social or political changes that run drastically counter to the weight of inherited custom or current public opinion. It provides the mechanism for immediate compliance with the constitutional mandates stemming from *Baehr v. Lewin*, while simultaneously handling the social and political eruption created by that decision "with all deliberate speed."

8. **An institution for Hawaiians.** Domestic partnership enables the legislature to structure an institution fitted for the needs of Hawaiians in Hawaii without having continually to "look over their shoulders" to consider the effects of their actions on other states or foreign countries. This will further its ability to evaluate the effects of legalizing same-gender relationships within the state of Hawaii and defuse the political climate by eliminating the possibility of being confronted by outsiders who might wish to capitalize on the idea of same-gender marriages as a tourist attraction or as a means to instigate political confrontation on the mainland.

9. **A completely secular institution.** The current Hawaii marriage law has never been completely desecralized. In its use of terms such as "solemnized", "rite", and "celebration" it has never fully divested itself from its religious/Christian roots. It is noteworthy that representatives of the Mormon Church and from evangelical and fundamentalist Christian bodies testified before the Commission on Sexual Orientation and the Law against legalization of same-gender marriage so as to retain the Christian character of the current law. Much of their testimony maintained that "same-gender relations were against God's will and therefore should be banned."<sup>2</sup> Buddhists, however, who represent the second largest religious denomination in Hawaii, do not believe in God. They testified before the same commission that legal recognition should be given to "stable relationships between loving people regardless of whether those loving people are of the same gender."<sup>3</sup> Clearly, the existing Hawaii marriage statute reflects aspects of the Christian belief system. Whether or not these violate the constitutional divide between church and state entrenched in both the Hawaii and federal constitutions need not be addressed here. What is evident is that the law is not reflective of the diverse religious character of the Hawaiian people, and, as such, it does not meet contemporary standards of governmental neutrality toward all religions. Legalization of same-gender relationships within the existing Hawaii marriage law will not cure this defect, even though it would meet all of the constitutional requirements of *Baehr v. Lewin*. A domestic partnership system will not only comply with that decision, but will create a thoroughly secular institution, free from sectarian residues.

10. **Civil rights leadership.** Domestic partnership involves a process in keeping with Hawaii's recognized position in the van of the American civil rights movement, yet avoids the pitfalls which follow from precipit and abrupt efforts at social change. In so doing it would enable Hawaii to capitalize on its religious, racial and ethnic pluralism, and further its stature as a leader in the nascent world movement for civil rights.

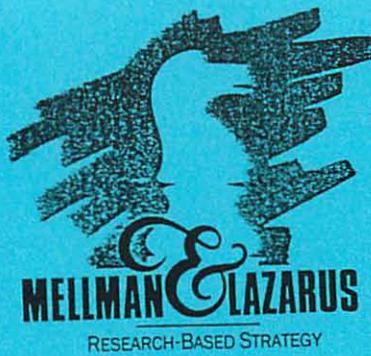
Princeton, New Jersey  
29 December 1995

Dr. Arthur C. Warner, Director  
American Association  
for Personal Privacy

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<sup>2</sup> *Draft Report*, p. 33 & note 120.

<sup>3</sup> *Ibid.*



## MassMutual American Family Values Study

Results of Focus Group and Survey Research

### See other side

for results of survey in which the overwhelming majority of people reject a definition of "family" that is limited to blood, marriage, or adoption, but instead define family as a group who love and care for each other.

### The Study:

The Mass Mutual American Family Values Study integrates two complementary research techniques. To gain an overview of Americans' views on family and family values, we conducted four focus groups, two in Baltimore, Maryland, and two in Denver, Colorado. The focus groups were followed by a statistically valid survey of 1,200 randomly selected American adults conducted by telephone between June 20 and 27, 1989. Results for the sample as a whole are accurate to within 3 1/2 percentage points.

### **Executive Summary**

#### Americans are family centered:

Family is the central element in the lives of most Americans. Most Americans (81%) listed the family as one of their top two sources of pleasure in life. "Providing for myself and family" was also listed by more than half of our sample (51%) as one of their two greatest causes for worry. Others worry about declining family values (17%) and declining moral values (23%).

Further, many Americans accept the view that the root cause of our nation's pressing social problems can be found in the family. When asked to explain the incidence of crime and other social problems in the U.S., the largest group of respondents (20%) selected "parents failing to discipline their children." The next most frequent answer, "declining family values," was the choice of 17%.

#### What family means:

Family is defined by Americans in emotional, rather than legal or structural terms. When offered three choices, only about one in five (22%) chose to define family in a legalistic way as "a group of people related by blood, marriage, or adoption." Nearly three quarters (74%) define family as "a group who love and care for each other." In the eyes of our respondents, the family performs two principal functions: 1) family is the base for caring and nurturing, and 2) family is the place where values are taught and learned.

CENSUS BUREAU ESTIMATES OF SAME-SEX DOMESTIC PARTNERS IN HAWAII

In 1990, the Census Bureau gave unmarried adults who live together the option to identify themselves as "roommates" or as "unmarried partners." Only 602 same-sex couples who live in Hawaii selected the "unmarried partner" category. Thus, by requiring a one year residency requirement, Senate Bill 3113 will affect the status of only a few hundred same-sex couples at most, and as a result, the domestic partnership act will have an insignificant fiscal impact on the state.

UNMARRIED-PARTNER HOUSEHOLDS, BY STATE: 1990

STATES	TOTAL HHLDS	UNMARRIED-PARTNER HOUSEHOLDS						OTHER HHLDS
		Total	Opposite Sex	Same Sex				
				Total	% of unmarried partner hhlts	Both male	Both female	
ALABAMA	1,506,009	27,628	26,559	1,069	3.87	386	683	1,478,381
ALASKA	189,700	11,667	11,402	265	2.27	130	135	178,033
ARIZONA	1,371,885	60,649	58,312	2,337	3.85	1,236	1,101	1,311,226
ARKANSAS	891,665	17,992	17,486	506	2.81	247	259	873,673
CALIFORNIA	10,399,700	495,223	458,621	36,602	7.39	23,275	13,327	9,904,477
COLORADO	1,285,119	50,515	48,445	2,070	4.10	1,069	1,001	1,234,604
CONNECTICUT	1,230,243	44,528	42,440	2,088	4.69	1,152	936	1,185,713
DELAWARE	247,163	10,130	9,918	212	2.09	136	76	237,033
DISTRICT OF COLUMBIA	249,034	11,709	9,496	2,213	18.90	1,750	463	237,325
FLORIDA	5,138,360	209,387	200,895	8,492	4.06	4,721	3,771	4,928,973
GEORGIA	2,366,575	69,870	66,268	3,602	5.01	2,063	1,439	2,296,705
HAWAII	356,748	15,473	14,871	602	3.89	378	224	341,275
IDAHO	361,432	10,230	10,052	178	1.74	79	99	351,202
ILLINOIS	4,197,720	134,868	128,668	6,200	4.61	3,736	2,484	4,062,832
INDIANA	2,064,246	67,714	65,779	1,935	2.86	1,006	929	1,996,532
IOWA	1,065,243	30,852	30,239	613	1.99	277	336	1,034,391
KANSAS	946,253	22,898	22,251	647	2.83	361	286	923,355
KENTUCKY	1,379,610	32,245	31,383	862	2.67	394	468	1,347,365
LOUISIANA	1,498,371	44,117	42,786	1,331	3.02	685	646	1,454,254
MAINE	465,729	23,371	22,557	814	3.48	251	563	442,338
MARYLAND	1,749,342	75,096	72,068	3,028	4.03	1,399	1,629	1,674,246
MASSACHUSETTS	2,244,406	78,828	73,634	5,194	6.59	2,523	2,671	2,165,578
MICHIGAN	3,424,122	124,089	120,700	3,389	2.73	1,617	1,772	3,300,033
MINNESOTA	1,648,825	59,817	56,765	3,052	5.10	1,442	1,610	1,589,008
MISSISSIPPI	910,574	20,932	20,239	693	3.22	237	436	889,642
MISSOURI	1,961,364	55,905	53,974	1,931	3.45	1,081	850	1,905,439
MONTANA	306,919	9,731	9,445	286	2.94	101	185	297,188
NEBRASKA	602,858	15,533	15,078	455	2.93	218	237	587,325
NEVADA	467,513	25,496	24,883	613	2.40	318	295	442,017
NEW HAMPSHIRE	411,387	19,684	19,026	658	3.34	210	448	391,703
NEW JERSEY	2,794,316	95,387	91,825	3,562	3.73	1,878	1,684	2,698,929
NEW MEXICO	543,825	24,530	23,680	850	3.47	300	550	519,295
NEW YORK	6,634,424	238,087	224,339	13,748	5.77	8,211	5,537	6,396,347
NORTH CAROLINA	2,517,098	67,425	65,449	1,976	2.93	803	1,173	2,449,673
NORTH DAKOTA	241,802	5,338	5,235	103	1.93	44	59	236,464
OHIO	4,089,312	120,209	116,532	3,777	3.14	1,943	1,834	3,969,003
OKLAHOMA	1,207,235	27,001	26,093	908	3.26	386	522	1,180,234
OREGON	1,105,562	50,246	47,983	2,263	4.50	881	1,382	1,055,116
PENNSYLVANIA	4,492,958	141,830	137,067	4,763	3.36	2,416	2,347	4,351,128
RHODE ISLAND	377,080	12,972	12,475	497	3.83	304	193	364,108
SOUTH CAROLINA	1,258,783	32,890	31,823	1,067	3.24	467	600	1,225,893
SOUTH DAKOTA	260,059	7,287	7,240	47	0.64	26	21	252,772
TENNESSEE	1,853,515	42,103	40,763	1,340	3.18	699	641	1,811,412
TEXAS	6,079,341	174,393	166,322	7,871	4.51	4,802	3,069	5,904,949
UTAH	537,196	11,466	11,065	401	3.50	244	157	525,730
VERMONT	210,633	12,313	11,943	370	3.00	149	221	198,320
VIRGINIA	2,294,722	70,963	67,896	3,067	4.32	1,791	1,276	2,223,759
WASHINGTON	1,875,508	86,772	82,428	4,344	5.01	2,353	1,991	1,788,736
WEST VIRGINIA	688,737	15,836	15,529	307	1.94	155	152	672,891
WISCONSIN	1,824,252	69,311	67,309	2,002	2.89	1,011	991	1,754,941
WYOMING	169,309	5,116	5,086	30	0.59	2	28	164,193
UNITED STATES TOTAL	91,993,582	3,187,772	3,042,642	145,130	4.55	81,343	63,787	88,805,810

Source: 1990 Decennial Census - Summary tape File 4, PB12

# 'The Family' Has Many Definitions

*A proposed UN observance could cloak the real problems facing women and families*

By **Stephanie Coontz**

**C**OMMENTATORS have expressed perplexity over the controversy touched off by a United Nations proposal to create an "International Year of the Family." The misgivings of many women about this project have been interpreted as hostility toward family life or dogged insistence on doctrinaire feminism.

The fact is, however, that many people besides feminists have good cause to be suspicious of programs or policies that insert a definite article in front of the word "family."

Historically and cross-culturally, there is no such thing as "the family." Family structures and norms vary tremendously. Some groups consider extended families the proper family form; oth-

ers insist on the primacy of the nuclear unit and its freedom from interference by kin. Some societies sanction plural wives or husbands; among others children are regularly fostered out.

Modern American notions that a child should stay with his "own" family sound selfish and fragmenting to cultures that stress social parenting and child exchange. As a Naskapi Indian once told missionaries who urged him to restrict his wife's independence to be sure of each child's legitimacy: "Thou hast no sense. You French people love only your own children; but we love all the children of the tribe."

Different groups in America have constructed and sanctioned distinctive families, and many have learned to their sorrow what happens when another group's concept of "the family" is institutionalized in public policy or elevated to a cultural ideal. At

the end of the 19th century, working-class family arrangements came under sustained attack from reformers who believed, in one leader's words, that to create a "true home" it was often necessary to "break up an unworthy family."

In the early 1900s new housing laws and public regulations forced the poor to adopt restricted, nuclear families, while "Americanization" programs in the schools exhorted immigrant youths to repudiate the traditions of their elders.

Right up through the 1960s many people were denied welfare or discriminated against in housing and employment if state officials deemed their family arrangements improper. Ethnocentric, often arbitrary definitions of what constitutes "the" family still work against prospective adoptive parents, opponents in child custody cases, and clients in the social-service network.

Preoccupation with "the" family, moreover, is often an excuse to ignore broader social and economic dilemmas. The cliché that "the family" is fragmenting directs attention away from the fact that the world is fragmenting.

**A** MAJORITY of developing countries have lower per capita food consumption and higher poverty rates today than they did 20 years ago, and the gap between rich and poor nations has been widening steadily. Even within our own country, income inequality has increased dramatically since the 1970s.

The result: One in 5 American children - 1 in 2 black American children - is poor; a half million more children than usual died last year in the developing world because of deepening poverty associated with the international debt crisis. This is a social challenge requiring international cooperation and exertion, not simply a problem for "the family."

There are two main drawbacks to focusing on "the family" in the coming period.

First, causal connections tend to be wrongly inferred between family changes and economic problems. Many people, for example, blame poverty and child neglect on divorce, desertion, or unwed motherhood. But 54 percent of the increase in family poverty in America since 1979 has occurred in families with both spouses present, with only 38 percent concentrated in single-parent families. Economists Peter Gottschalk and Sheldon Danziger have calculated that the poverty rate in 1982 was only about 1.8 percent higher than it would have

been without any of the demographic changes since 1967. Internationally, the case is even more cut and dried: Economic and political decisions, not family ones, have produced the rising tide of misery and impoverishment.

American blacks are uncomfortably familiar with the victim-blaming associated with false inferences about "deviant" families. Black poverty has often been attributed to failure to maintain "the family." But numerous researchers have shown that black family arrangements, far from being pathological, are reasonable attempts to cope with the fact that black men have faced rising unemployment rates and steady marginalization in the economy since at least 1954.

While all young men have experienced a fall in real annual income since 1974, young black men's real earnings have dropped 50 percent. Reversing these trends and countering the resurgence of racism in America would do much more to help black families than spending a year celebrating "the family."

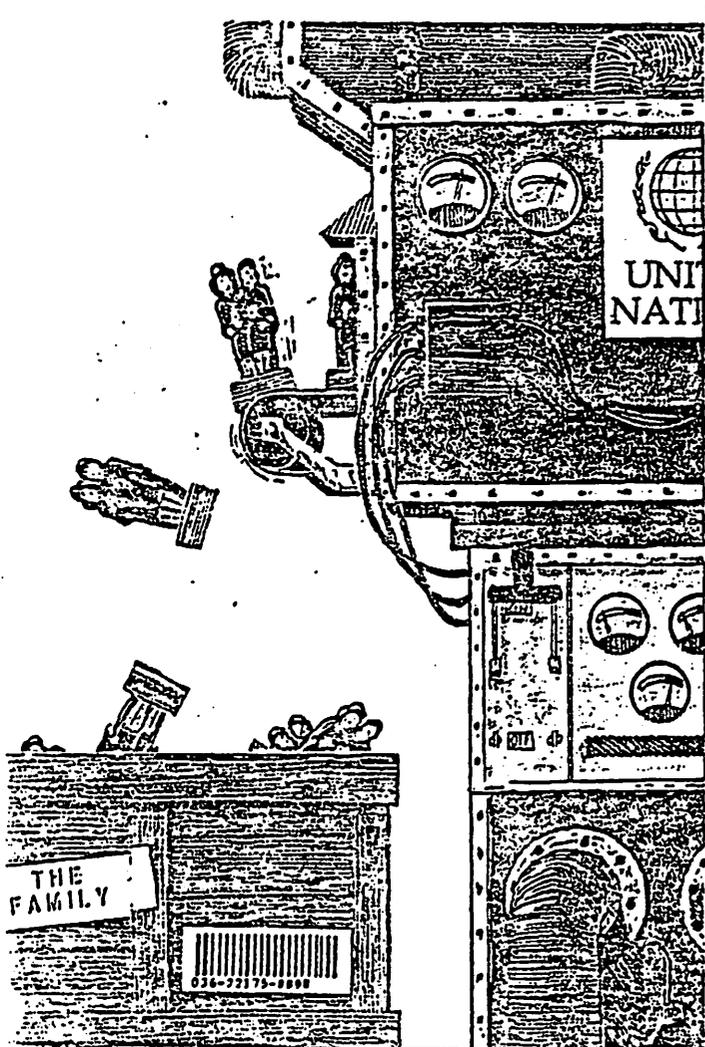
Second, emphasis on strengthening "the family" often substitutes for acknowledging "her social responsibilities for the dependencies created by a worsening economic climate.

An international focus on "the" family in this era of international economic and social crises would be adopted by many nations only as part of an attempt to bury the casualties of their social policies in families. Since women tend to be the people within families charged with caring for dependents, it is hardly unreasonable for many to fear that this would have grave repercussions on their role and image. Many governments are likely to be tempted to avoid dealing with the dependencies associated with the international debt crisis and worsening economic or environmental trends by assigning women the job - all in the name of fostering "the family."

Women, half the world's population, already put in two-thirds of the world's work hours, while being counted as only one-third of the world's work force and taking home just one-tenth of the world's income.

It is not at all doctrinaire to worry that a year celebrating "the family" as an ideal could worsen the lot both of women and families, as they exist in their real variety and complexity.

■ *Stephanie Coontz, a historian at the Evergreen State College in Olympia, Wash., is author of "The Social Origins of Private Life: A History of American Families, 1600-1900."*



# It's Fundamentally Christian to Reject Politics of Hate

■ **Campaign '96:** No one should condone, even by silence, the persecution of homosexuals.

By JIMMY CARTER

It is admirable for Americans to promote our personal beliefs through either religious or political processes. But when we attempt to use our government to force others to worship as we do or treat those who differ as secondary citizens, then we violate the basic tenets of a democracy.

As a conservative Baptist, I am deeply concerned about divisive arguments that have driven wedges between people. We Christians can buttress our arguments on almost any subject with Bible scriptures and then claim that our conclusions should be applied universally. These attitudes can lead to condemnation or even persecution of those who are different.

Beginning about 20 years ago, some Christian leaders concluded a union with the more conservative wing of the Republican Party. But even if the political marriage of fundamentalist Christians had been with Democrats, this would have been a conflict with my own belief in separation of church and state.

Now leaders of the highly organized Christian right have successfully injected into America's political debate some divisive religious questions. The most vivid examples involve sexual preferences, which obviously have highly personal and emotional overtones. Tragically, these issues have moved to the forefront of the 1996 presidential election scene.

Since almost all Protestants now condone divorce as an acceptable way of life and rarely mention fornication or adultery, it is much easier and more convenient for heterosexual Christians to focus on homosexuality, refusing to acknowledge that this is a sin never mentioned by Jesus. From the New Testament, it is clear that leaders of the early church treated homosexual acts the same as fornication, adultery and many

other transgressions. The apostle Paul makes it plain that homosexual tendencies, along with many other temptations, should be resisted: "Be not deceived; neither fornicators, nor idolaters, nor adulterers, nor effeminate, nor abusers of themselves with mankind, nor thieves, nor covetous, nor drunkards, nor revilers, nor extortioners, shall inherit the kingdom of God." (1 Corinthians 6:9). Then he goes on to say that all these acts had been totally forgiven. "And such were some of you; but you are washed, but you are sanctified, but you are justified in the name of the Lord Jesus, and by the Spirit of our God."

The driving issues in the early Republican primary contests have made a strange and disturbing shift from economic and budget items to divisive social issues, notably abortion and homosexuality. In the early caucus contests, pressures from the more extreme religious activists have pushed almost every candidate to demagoguery, emphasizing vicious attacks on gay men and women ostensibly based on the teachings of Jesus Christ. An even more disquieting claim is that AIDS is God's punishment on someone who has sinned and that the sufferers should be treated accordingly. Jesus had similar encounters with lepers, who were also looked upon as condemned by God and capable of contaminating their neighbors. Christ set an example for us by reaching out to them, loving and healing them.

Other Christians and the general public must not condone, even by silence, these obnoxious attitudes, increasingly promoted among a few demagogic religious and political leaders. In addition to the direct punishment of many American citizens, undisputed acceptance of a premise that originates within the religious community tends to authenticate it among those who have their own personal prejudices.

We must make it clear that a platform of "I hate gay men and women" is not a way to become president of the United States.

*Jimmy Carter was president of the United States from 1977 to 1981. He can be reached by e-mail at <76702.2062@compuserve.com>.*

# SPECTRUM INSTITUTE

*A Non-Profit Corporation Promoting Respect For Human Diversity*

## MISSION STATEMENT

Single people constitute a majority of the adult population in most major cities throughout the nation, and soon will be a majority in many states. Despite their large, and growing numbers, unmarried adults often face unjust discrimination as employees, tenants, consumers, and as ordinary citizens. Spectrum Institute believes that single people deserve respect, dignity, and fair treatment.

Spectrum Institute fights laws and business practices that discriminate against people who are not married. Our work benefits people who are single by choice or by necessity, such as seniors who are widowed, people with disabilities who will face a cutoff or reduction in benefits if they marry, people who have separated or divorced because their marriages were abusive or otherwise unsatisfactory, young people who have deferred marriage so that they may finish college or establish a career first, and people who are gay.

Spectrum Institute works on several fronts simultaneously to eliminate marital status discrimination and to protect personal privacy rights:

**Employment.** Most people believe in the concept of "equal pay for equal work." Unfortunately, single workers receive much less pay than married workers, when employee benefits are taken into consideration. That is why Spectrum Institute promotes the use of "cafeteria style" benefits plans, where each employee receives the same credits, which the worker may then use in the way that suits his or her personal or family needs. While a married worker may need health benefits for a spouse and child, and a single worker may want more retirement benefits or may need day care for an elderly parent, another employee may need benefits for a domestic partner. Benefits plans should be flexible.

**Housing.** Spectrum Institute fights landlords who refuse to allow two unmarried adults to rent an apartment or a home together. Tenants who are responsible and creditworthy should not suffer housing discrimination by landlords who insist that they will only rent to married couples. Spectrum recently participated in a national roundtable sponsored by the American Association of Retired Persons (AARP) which developed a report and recommendations supporting the rights of seniors and older adults who live in nontraditional households.

**Consumers.** Spectrum Institute encourages businesses to eliminate discrimination against unmarried consumers. We wrote a report for the California Insurance Commissioner condemning higher rates for single adults, many of whom are seniors, merely because of their marital status. We succeeded in getting the Automobile Club of Southern California to give a membership discount to the "adult associate" of a primary member, a discount that was formerly available only to a spouse. We prodded airline companies to broaden their discounts to include "companion" fares and programs such as "friends fly free" in place of marketing strategies previously limited to spousal or family discounts.

**Privacy Rights.** Nearly half of the states still have laws that criminalize the private intimate conduct of consenting adults. Spectrum Institute fights for the privacy rights of all adults, regardless of marital status or sexual orientation. We participate in court cases to encourage judges to declare these laws unconstitutional. We also conduct educational forums and network with government agencies and private organizations to protect the privacy rights of members of society who may be vulnerable to abuse or neglect, such as children, people with disabilities, and seniors.

## SPECTRUM INSTITUTE SUPPORTS DOMESTIC PARTNERSHIP RIGHTS

Spectrum Institute supports the right of single people to form the family unit of their choice, including a nonmarital family such as a domestic partnership. The term "domestic partnership" generally refers to two unmarried adults who are living together as a family, in which the partners have voluntarily assumed joint responsibility for their common welfare and necessities of life.

More than five million households in the nation consist of two unrelated adults who are living together. In 1990, the Census Bureau gave these adults the option of designating themselves either as "roommates" or as "unmarried partners." More than three million couples chose the "unmarried partner" label. Those selecting this category included men and women of every race and ethnicity. These partnerships were formed by adults of all ages who were single, divorced, or widowed. Nearly 70% of the unmarried partner households involve opposite-sex relationships, about one-third of which have minor children at home. The other 30% consist of same-sex partners, some of whom are also raising children.

Because unmarried partnerships are not business relationships, the term *domestic* partnership has been used to describe them. In effect, domestic partnerships are one of the many diverse types of family structures that exist today, such as married couples with or without children, stepfamilies, single-parent families, foster families, guardianship families, and adoptive families.

It makes a great difference whether domestic partners are considered as family units or merely as roommates. Society treats family relationships differently than it does people who are unrelated. The closer the relationship, the more benefits society extends. That is why *primary* family relationships, such as husband and wife or parent and child, are given many advantages and legal rights that are not available to strangers, acquaintances, friends, or even to extended family members. Such preferred treatment is afforded to immediate family members because society wants to promote social and economic stability, which is what happens when two people assume legal and financial responsibilities for each other. To put it another way, for every right there is a correlative responsibility. The more obligations two people assume, the more benefits society confers on them.

In *Braschi v. Stahl Associates*, a landmark case on the definition of family that involved an eviction proceeding, New York's highest court concluded:

*"The term family . . . should not be rigidly restricted to those people who have formalized their relationship by obtaining, for example, a marriage certificate or adoption order. [It] . . . should not rest on fictitious legal distinctions or genetic history, but instead should find its foundation in the reality of family life. In the context of eviction, a more realistic, and certainly equally valid, view of family includes two adult lifetime partners whose relationship is long term and characterized by an emotional and financial commitment of interdependence. This view comports both with our society's traditional concept of 'family' and with the expectations of individuals who live in such nuclear units."*

Many private businesses now recognize domestic partners as family units on the same par with other primary family relationships. These employers provide benefits to help employees meet their family obligations. Health, dental, vision, leave, and pension benefits are provided to employees and eligible family dependents. Up until 1984, the only dependents who qualified for such benefits were the spouse and the child of an employee. In the past decade, however, more than 400 employers, including the states of New York and Vermont, including large cities such as New York, San Francisco, Los Angeles, and Seattle, and including many large corporations, such as Levi Straus, MCA/Universal, and hotels such as Hilton, Marriott, and Sheraton, have included domestic partners in their benefits plans. Just as an employee supplies proof of dependent eligibility with a marriage or birth certificate, proof of domestic partnership eligibility must also be shown. To qualify, the couple must sign an affidavit provided by the employer, in which they affirm that they live together and are responsible for each others welfare.

Outside of an employment context, no state government offers a way for domestic partners to register as a family unit and thus receive some benefits similar to spouses. The California Legislature passed such a bill in 1993, but Governor Pete Wilson vetoed it despite support for the bill by AARP and other seniors groups. In 1996 the Hawaii Legislature may create such a registry, and extend all of the benefits of marriage to registered couples. Once one state takes such a forward step, others may soon follow. If lawmakers hear from domestic partners, the pace of reform may pick up speed.



# HAWAII CIVIL RIGHTS COMMISSION

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February 22, 1996, 9:00 a.m. ←  
State Capitol Auditorium

To: The Honorable Rey Graulty, Chairman and Members of  
the Senate Committee on Judiciary

From: Amefil Agbayani, Chairperson, and Commissioners  
Hawaii Civil Rights Commission

Re: S.B. Nos. 3112, 3113, Proposed S.D. 1, and 3114

The Hawaii Civil Rights Commission was created for the purpose of establishing a uniform procedure for the enforcement of the State's discrimination laws in employment, housing, public accommodations, and access to state and state-funded services. The Commission carries out the Hawaii Constitutional mandate that no person shall be discriminated in the exercise of their civil rights. Art. I, Sect. 5.

Last session, the Civil Rights Commission testified in opposition to the legislation which resulted in Act 5, SLH 1995, which created the second Commission on Sexual Orientation and the Law (CSOL) because it felt that the original CSOL could complete its work if replacement commissioners were appointed. Nevertheless, despite our opposition, the Commission supports the findings and conclusions of the second CSOL which urge the passage of a law to allow same-sex marriage or to allow domestic partnerships.

Therefore we support S.B. No. 3112, and S.B. No. 3113, proposed S.D. 1, except for the drop dead clause in Section 9.

Passage of a domestic partnership law, without the drop dead clause, would assist the State in demonstrating a compelling state interest in Baehr because then the main difference in treatment would be related to terminology--marriage to describe opposite-gender relationships and domestic partnership to describe same-gender relationships. In S.B. No. 3113, proposed S.D. 1, in Section 4, we recommend for purposes of clarity that the words "including domestic partnership" be added to the definition of the term "marital status" in H.R.S. § 378-1 instead of H.R.S. § 368-1.

The Commission strongly objects to any proposed constitutional amendments to regulate the institution of marriage and therefore opposes passage of S.B. No. 3114. Amending the Constitution will turn the issue an emotional popularity contest instead of a reasoned debate into whether public policy should encourage and support committed and caring relationships, regardless of the gender of the couple in that relationship.

Our society encourages and supports long-term commitments where a couple agrees to care for and support one another. We recognize that society is well-served when two persons commit to care for and support one another and arrange a division of labor which is best suited to their skills and abilities. The law bestows many benefits upon those who in good faith enter into such relationships and encourages the couple to contribute to the relationship by ensuring an equitable division of resources when the relationship ends, by death or otherwise.

However, the law supports only the marriage relationships of

opposite-gender couples. It does not support same-gender couples who have made similar commitments to one another and seek the same rights and benefits given to married couples. There is no rational basis, much less a compelling state interest, to exclude committed couples of the same-gender from the legal protections and benefits granted to opposite-gender couples who can choose to marry.

Our Constitution and laws should foster the equal treatment of persons who make a life-long commitment to one another regardless of gender. The CSOL report clearly shows that married couples receive many benefits from society based upon the status of being married. Such benefits should not be denied to committed same-gender couples.

Much of the opposition relies upon moral or religious reasons to justify denying committed same-gender couples the right to marry. Our society, which is founded upon the principles of pluralism, should not selectively prohibit committed relationships for those who freely choose them merely because the choice would offend the moral or religious sensibilities of others. In our society, there is room for difference and room to respect our differences.



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Judy M. Weightman

Executive Director  
Vanessa Y. Chong

DATE: February, 16, 1996  
TO: Senate Committee on Judiciary  
FROM: Vanessa Y. Chong\* for the Coalition for Equality and Diversity  
\*Executive Director, ACLU  
\*\* Coalition membership list attached  
RE: S.B. 3113, SD1: Support SB 3113 Without Amendment

HEARING  
DATE: Thursday, February 22, 1996, 9:00 a.m., State Capitol

The Coalition for Equality and Diversity appreciates the efforts of the committee to move the state toward greater equality through consideration of domestic partnership.

A domestic partnership proposal, while more limited, would reduce some of the discrimination faced by gay and lesbian couples by extending to them the same state rights and privileges enjoyed by all married couples. This kind of proposal advances rational and non-discriminatory attitudes toward all people regardless of sexual orientation. The Coalition continues to believe, however, that legal recognition of same sex marriage would provide full equality.

We support SB 3113 without amendment. The original bill is more faithful to the concepts of equality and fairness.

Thank you for the opportunity to testify.



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