

Are civil unions a 600-year-old tradition?

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A compelling new study from the September issue of the *Journal of Modern History* reviews historical evidence, including documents and gravesites, suggesting that homosexual civil unions may have existed six centuries ago in France. The article is the latest from the ongoing “Contemporary Issues in Historical Perspective” series, which explores the intersection between historical knowledge and current affairs.

Commonly used rationales in support of gay marriage and gay civil unions avoid historical arguments. However, as Allan A. Tulchin (Shippensburg University) reveals in his forthcoming article, a strong historical precedent exists for homosexual civil unions.

Opponents of gay marriage in the United States today have tended to assume that nuclear families have always been the standard household form. However, as Tulchin writes, “Western family structures have been much more varied than many people today seem to realize, and Western legal systems have in the past made provisions for a variety of household structures.”

For example, in late medieval France, the term *affrèment* – roughly translated as brotherment – was used to refer to a certain type of legal contract, which also existed elsewhere in Mediterranean Europe. These documents provided the foundation for non-nuclear households of many types and shared many characteristics with marriage contracts, as legal writers at the time were well aware, according to Tulchin.

The new “brothers” pledged to live together sharing ‘un pain, un vin, et une bourse’ – one bread, one wine, and one purse. As Tulchin notes, “The model for these household arrangements is that of two or more brothers who have inherited the family home on an equal basis from their parents and who will continue to live together, just as they did when they were children.” But at the same time, “the *affrèment* was not only for brothers,” since many other people, including relatives and

non-relatives, used it.

The effects of entering into an *affrèment* were profound. As Tulchin explains: “All of their goods usually became the joint property of both parties, and each commonly became the other’s legal heir. They also frequently testified that they entered into the contract because of their affection for one another. As with all contracts, *affrèments* had to be sworn before a notary and required witnesses, commonly the friends of the *affrérés*.”

Tulchin argues that in cases where the *affrérés* were single unrelated men, these contracts provide “considerable evidence that the *affrérés* were using *affrèments* to formalize same-sex loving relationships. . . . I suspect that some of these relationships were sexual, while others may not have been. It is impossible to prove either way and probably also somewhat irrelevant to understanding their way of thinking. They loved each other, and the community accepted that. What followed did not produce any documents.”

He concludes: “The very existence of *affrèments* shows that there was a radical shift in attitudes between the sixteenth century and the rise of modern antihomosexual legislation in the twentieth.”

Source: University of Chicago

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