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Message to Ottawa: Gay marriage is settled, right?

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This spring will mark 10 years since the Ontario Court of Appeal allowed the first legal same-sex marriages in Canada. For most Canadians, same-sex marriage is a settled issue. The latest census data confirmed the growing diversity of Canadian families. That's why it's puzzling that the federal government has recently spent public money fighting the recognition of gay relationships in Canada.

The issue is how Canadian law and authorities should treat same-sex couples who have contracted a civil partnership in the United Kingdom. Unlike Canada, the U.K. doesn't have marriage for same-sex couples. Rather, in 2004, it introduced civil partnerships for gay and lesbian couples as a form of relationship recognition that is materially the same as marriage in everything but name.

The question reached an Ontario court after the relationship breakdown of two Canadian men joined by a U.K. civil partnership. Returned to Canada, one filed for divorce and sought spousal support. The other argued that they could not be divorced in Canada on the basis that they were not spouses under Canadian law.

Fortunately, the judge held that the two men were married for the purposes of Canadian law. She said

that to find otherwise would be to perpetuate discrimination.

What's baffling is that the federal government intervened to oppose recognizing the U.K. civil partnership in Canada. It argued that the men should return to the U.K. and launch proceedings there because their relationship effectively didn't exist in Canada.

To be sure, same-sex unions can raise complex legal issues. A country that doesn't allow same-sex relationships may refuse to recognize the status of couples joined elsewhere. So may a state within a federation. The patchwork of gay marriage laws in the U.S. has caused headache and heartache for many gay men and lesbians and their families.

In addition, not every form of relationship recognition is tantamount to marriage. It's fair to be cautious about imposing obligations to which the partners hadn't consented. But in this case, the Canadian government's rightful path was straightforward.

Canadian law and policy recognize same-sex marriage. The U.K.'s Parliament has defended civil partnership for same-sex couples as equal to marriage. Canadian courts recognize the marriage of a straight couple married in the U.K. There is no reason why Canadian law shouldn't recognize the union of a gay couple with a U.K. civil partnership.

The Ontario government recognized that viewing the two men as spouses was appropriate. But the federal government supported the sole alternative. Since neither federal law nor Ontario law has a civil union or civil partnership, refusing to recognize the marriage would view the men as strangers one to the other.

It's troubling that this case fits into a bigger picture of the federal government's ambivalence toward same-sex marriage. Last year, Ottawa's lawyers argued similarly that the marriages of foreign gay men and lesbians performed in Canada were invalid.

In response to media pressure, the government changed its tune. It promised to legislate quickly to secure the status of such marriages. The justice minister introduced a bill nearly a year ago. But it hasn't received a minute of debate.

That the federal government spent public dollars to oppose the recognition of this relationship is a reminder that "separate but equal" is never truly equal. More than that, it raises questions about this government's commitment to upholding the substantive equality of gay and lesbian families in Canada, a key part of supporting families.

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