

## Marriage and Homosexuality

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The question this paper addresses is whether marriage should be redefined to accommodate homosexual couples. The Australian Marriage Act of 1961 includes the words: *Marriage means the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.* Does this definition need to be redefined so that members of the gay community are able to enter into relationships, formally recognised by church, state and wider society, that are marriages?

This topic should be approached with great caution. Not out of concern for reactions to a controversial issue, but because this is a real pastoral issue. Some members of our congregations are gay, many of us know family or friends who are homosexual and will be immediately and personally impacted by discussions around this topic. Far too often the church has been anything but loving or gracious towards the gay community.

This paper is in response to a request to reflect on reasons why marriage should **not** be redefined to accommodate homosexual couples (or, phrased positively, why the current definition of marriage should be preserved) and, the intention is not to be anti-anything or anyone. The goal is to be pro-marriage, as we currently understand it. But of course in the real world to be for something inevitably sets you at odds with other positions. It is impossible to be for everything. So whilst the reader might judge the outcome of this paper differently, the intention at least, is not to cause offense or inflict pain on anyone in any way.

Sherif Girgis, Ryan Anderson and Robert George are three American Law Professors (one of writing out of Princeton, two out of Harvard). Their helpful book, *What is Marriage?* without any religious agenda, explores this issue from a purely legal and social point of view. Their opening sentence: "What we have come to call 'the gay marriage debate' is not directly about homosexuality, but about marriage. It's not about whom to let marry but about what marriage is." That idea is central to intelligible arguments for preserving the current definition of marriage.

Former Regius Professor of Pastoral and Moral Ethics at Oxford University, Oliver O'Donovan, now teaching at the University of Aberdeen, identifies two clearly discernible views of marriage current in our society. The first of these views is what he calls the *legal, covenantal or conjugal* view, and this sees marriage as a *union* between a man and a woman. We could spend hours debating what is meant by the term union, but perhaps could make the assumption that it involves the exclusive sharing of two people's whole selves: mind, emotions, purpose, energy, activity and bodies towards three purposes that are often described, in the Christian tradition, as the 'goods' of marriage: *companionship, childbearing* and *contributing* to the wider society. These goods are central to the Christian and Hebrew narrative of creation. Companionship: 'it was not good for the man to be alone.' Childbearing: 'Be fruitful and increase in number, fill the earth.' Contribution to the wider society: 'rule over the earth and care for it.' These goals are described in a context of the divine action:

So God created human beings in his own image, in the image of God he created them; male and female he created them.” (Gen 1:27)

Obviously the word marriage isn't used anywhere there, but Genesis 2:24 describes the marriage reality “For this reason a man will leave his father and mother and be united to his wife and the two will become one flesh.” In his plain teaching on marriage in Mark 10:6-9, Jesus clearly linked these verses with the concept of marriage, “Jesus replied, ‘But at the beginning of creation God made them male and female. For this reason a man will leave his father and mother and be united to his wife and the two will become one flesh.’” After quoting those passages from Genesis, Jesus added the words, “So they are no longer two but one. Therefore, what God has joined together, let no one separate.”

This idea of God joining man and woman together has led many to think of marriage in *covenantal* terms. Marriage is a gift of God, created by God, larger than and previously existing to its participants, into which people are called, and into which they enter by their own consent. This is the language and concept of covenant. The promise made between husband and wife is a covenantal vow which contains the seed of commitment to all who may be born into that union, namely children, and they are enveloped by the covenant created by their parents.

It is worth noting these goods of marriage significantly predate Christianity as does the concept of marriage itself. Rob Bos' very helpful treatment of the subject in his paper, *Views of Marriage in the UCA (Report on a Consultation Process, 2013)* illustrates this as he describes traditional understandings of marriage amongst the First Peoples of Australia. These three goods of marriage can be clearly seen in the descriptions he gathered of pre-European family unions amongst indigenous people.

Ah yes, but their view of marriage is really quite different to the view we hold now. Shouldn't we be saying marriage is essentially a socially-constructed institution, able to be shaped and moulded by different cultures in different ages?

The answer to that question is both yes and no. Girgis, Anderson and George accurately point out that whilst marriage is a socially-constructed institution, it is not completely socially-constructed. It is only partially socially-constructed. It is one of the few social institutions to transcend recorded history and all cultures. Why? Because in addition to having social and religious dimensions, it also has a biological dimension. Marriage is not a political or social invention, but rather a social reinforcement of biological reality.

Germain Grisez Emeritus Professor of Ethics at Emmitsberg University: “Though a male and female are complete individuals with respect to other functions – for example nutrition, sensation and locomotion, with respect to reproduction they are only potential parts of a mated pair, which is the complete organism capable of reproducing sexually. Even if the mated pair is sterile, intercourse, provided it is the reproductive behaviour characteristic of the species, makes the copulating male and female one organism.”

Dr Katherine Young, Professor of Religion at McGill University has done an extensive survey of major world religions and small scale cultures and world-views. She says, "From my study of world religions and the worldviews of small-scale societies, I conclude that marriage is a culturally approved opposite-sex relationship intended to encourage the birth and rearing of children and is correspondingly necessary for the preservation and well-being of society. As such, marriage is a universal norm."

Aristotle recognised this when he said the family is something that precedes and is more necessary than the state. Peter Reynolds who writes out of Georgetown University comments: "The family recipe of mother, father and child is as old as civilisation and has stood the test of time. Tradition must be changed when it fails or becomes antiquated. Marriage has done neither."

This suggests we should stop short of redefining marriage because marriage is about something much deeper than civil equality. It is about natural reality: male, female, offspring; and the covenant relationship with envelops them. Society did not create this. G.K. Chesterton "This triangle of truisms, father, mother and child cannot be destroyed. It can only destroy those civilisations which disregard it."

In contrast to the legal, covenantal or conjugal view of marriage, Oliver O'Donovan describes a second view of marriage which he calls a *populist, contractual or revisionist* view of marriage that has been quietly forming in Western society in the last 50 years as the church has declined in influence and popular media has assumed the primary role of defining social attitudes.

In this view, marriage is a contract (not a covenant) entered into by two parties and like most contracts is only valid as long as both parties are satisfied with the benefits they extract from the agreement. The central focus here is the enjoyment and satisfaction of the contracted parties. Everything else is optional. Of the three goods of marriage: companionship, childbearing and contribution to the wider society; only the first, companionship, is assigned a primary value.

We don't have to think too hard to identify the social factors that have contributed to the popularisation of this revisionist view: contraception, no fault divorce, legalised abortion, IVF, surrogacy . . . not to mention the implicit and sometimes explicit values communicated through many Hollywood movies and virtually every Australian television drama series. In this revisionist view, marriage is no longer prioritised as the foundation of a family but has become an essentially adult-centric institution. Brad Wilcox calls this the 'soul mate' model of marriage in which feelings trump commitment. Wilcox comments: "When marriage is viewed as a soul mate model it becomes a couple-centred vehicle for personal growth, emotional intimacy and shared consumption that depends for its survival on the happiness of both spouses. It is viewed as a luxury a couple can choose and not essential to children and family."

As a result of this revised understanding of marriage and the corresponding actions it produces, Western society is now reeling under the emotional, financial and social cost of marriage and family breakdown on an unprecedented scale, along with the secondary social

problems this creates: poverty, delinquency, educational dropout rates, proliferation of crime. These are of course most felt amongst the poorest in our society who would be most helped by the financial and practical benefits that marriage offers.

Support for the revisionist position is strong. After all, many people have problems with fertility these days. Some choose not to have children. The rights of the marrying couple surely are the primary thing in a marriage.

Christopher Akehurst writes, "Marriage in the traditional manner involves responsibility to other people even if they are not yet born." Bertrand Russell writes, "It is through children alone that sexual relations become of importance to society, and worthy to be taken cognizance of by a legal institution."

It could be reasonably argued that we are only entertaining a redefinition of marriage because, the church in the West has failed to provide an intelligible marriage ethic in the face of the revisionist agenda. Marriage is in a mess. No one is pretending it is not. But it is in a mess, not because it has never worked and needs to be changed, but because our understanding of it has already subversively been changing in the collective mind of the culture. Formally redefining marriage at this point in time will simply legalise the change that many would assert has already been so destructive.

Normalising society's current assumptions will further separate the relational, the procreational and the communal dimensions of marriage, accelerating the decline of revisionist-marriage-related problems, particularly affecting the most vulnerable members of our community, namely children.

In describing her reasons for opposing a redefinition of marriage in Canada, Margaret Somerville, Samuel Gale Professor of Law at McGill University in Montreal writes, "My reasons go to the nature of marriage as the societal institution that symbolises and protects the inherently reproductive relationship that exists between a man and a woman and thereby establishes children's rights regarding their biological origins and the family structure in which they are reared."

William May writes: "Marriage *unites* a man *and* a woman *and* any children born from their union. This is what marriage is and what it does. It expresses God's plan for creation but is not dependent on belief in God. Redefining marriage moves the emphasis away from the right of the child to have a relationship with both mother and father and puts it on the adult's right to have a child, no matter what. As soon as we talk about the right of an adult to have a child, we have commoditised human life and turned a child into a possession." Tragically, that has already happened in many heterosexual contexts. It must not be promoted in new contexts as well.

No one questions, for a moment, the sincerity or commitment to relationship of gay couples seeking to change the essential nature of marriage from a union between a man and a woman to a union between any two parties. And of course if the procreational priority is removed then it need not just be two parties. It is worth pointing out in passing that many

of the countries that have redefined marriage are now responding to legal requests for polygamous relationships as well as other types of unions. Sincerity is not enough.

No doubt that the majority of Australians frame this issue as one which addresses discrimination against same sex couples. Those arguing not to redefine marriage, however, would assert that the current Australian Marriage Act doesn't discriminate against anyone. It rightly regulates those relationships by which children are conceived and protects those children's right to access the biological reality that they have a mother and a father.

Discrimination must be avoided at all costs, but it is important that we define discrimination carefully. The danger we face is, in this day and age, almost every act of *differentiation* is assumed to be an act of *discrimination*. A homosexual relationship *is* different to a heterosexual relationship. It can be similar in many ways, but is also fundamentally different. It is not inherently, intrinsically unjust to treat difference differently.

Non-discrimination against same-sex couples is what the Australian federal parliament worked towards achieving in 2008 when over 80 pieces of legislation were amended by a bi-partisan majority protecting the rights of gay couples in relation to property, relationship, inheritance and many other matters. This has already happened.

We cannot get away from the reality that every human being, born by whatever means, has a biological mother and father. Consider the common desire we all have to know, to be cared for and loved by the man and woman from whom we originated. This longing cannot always be fulfilled for a whole variety of reasons – but the longing remains even when it is denied. Do we have the right to create a child with the intention of depriving him or her of knowing and being cared for by the child's mother or father or both? Does the government have a right to legislate that?

Many would question, is this really such an important issue? In the paper already referred to, Robert Boss quoted a participant in his study as saying, "the notion of a child growing up needing both a father and mother in order to become a well-adjusted person is a myth." The example was then cited of this person's father born in the early 1880's and raised by a widowed mother and her sister. I agree with the example given but I'm not sure it is relevant to the question before us. That is a completely different context to a child being raised by a same sex couple.

Robert Oscar Lopez is a Professor of English at California State University. He was raised through the 1970's by a lesbian couple and has written at length about his years of struggle in that environment. Both his 'mothers' were very loving and very caring and did a great job with their parenting, but Lopez indicates it has taken him the better part of his adult life to unpack and make sense of the unnatural socialisation he experienced in his formative years. Although not legally married, his 'mothers' acted as though they were and communicated that to their son who has subsequently identified the discrimination and disadvantage he experienced without access to male role models and the profound socialisation that is unconsciously internalised when both genders are equally acknowledged. An absence of male role models can happen in any single parent home, but the difference was that in Lopez's context 'men weren't necessary'. This was never stated, but was the assumed

reality. It wasn't denied he had a biological father out there somewhere, but he was told 'he had everything he needed' in the love of his two female parents. You can imagine the impact that would have on the forming identity of a young boy. Not only did it take him 28 years to discover that he wasn't gay, as he'd been subconsciously socialised to believe, but he is still, in his forties, trying to understand the identity confusion created by a world view that ran contrary to biological reality.

The Civil Marriage Act of 2005 which legalised same-sex marriage in Canada demonstrates the uniqueness of this situation. It required the term 'natural parent' on all birth certificates to be replaced by the term 'legal parent'. Instead of 'father' and 'mother' a newborn now has 'legal parent 1' and 'legal parent 2.' In other words "the adoption circumstance, which used to be the exception, that the child's parent is established by legal fiat not biological connection becomes the norm for all children in Canada."

There are many studies looking at the impact of same-sex relationships on children. In 2005 the American Psychological Association tabled 59 studies, which overwhelmingly indicated there is no detrimental psychological and social effects on children when raised by same-sex couples. This seemed conclusive until Mark Regnerus, Professor of Sociology from the University of Texas, noticed two problems with the research methodology in many of these studies. One, they often determined outcomes for the children of same-sex couples by asking questions of the parents. Secondly, they usually asked kids about their own outcomes at an age when they were unlikely to have a frame of reference to make that assessment and they were questioned when their parents were present. Concerned about the bias this might create, Regnerus then designed and ran a qualitative study where he explored outcomes with 243 adults who had previously been raised in same-sex contexts. Distance from the experience allowed them to speak freely. Life experience allowed them to reflect with greater objectivity and a better developed frame of reference. The results were overwhelmingly negative. Obviously a lot more work needs to be done in this area, but we must resist too quickly changing that which has been functional and foundational for humanity in order to accommodate the desires of a small percentage of the population. The rights of the most vulnerable, our children, need most protection.

So let me finish with the words of Archbishop Timothy Dolan who is the Catholic Archbishop of New York. His words capture the spirit of this piece: "This is not about denying people rights. This is about upholding a simple truth about the human condition. Marriage is not simply a religious construct. The cross-cultural history of civilisation affirms that marriage is between a man and a woman open to children and intended for life. Family is the first society, the first economy, the first school, the first civilising and mediating institution and first government. So let us do our best to witness to the truth, encouraging our married couples to be loving, radiant lights to the world." The world surely needs this light.