

# Revising Marriage?

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## Why Marriage is the Union of a Man and a Woman

### Introduction

Many Christians will be aware of the campaign for so-called marriage “equality”. A bill currently before the Australian Parliament aims to change the current definition of marriage to allow same sex couples to marry. This would represent a radical revision of the public understanding of marriage as a social institution, and a radical challenge to the Christian understanding of marriage. Federal Parliamentarians have been asked to “gauge their constituents’ views on ways to achieve equal treatment for same sex couples including marriage”.

What are our views as Christians on this issue? And why should we engage in the political debate? This paper seeks to answer these questions, setting out the case in favour of retaining the current Federal law which defines marriage as *the union of a man and a woman to the exclusion of all others, voluntarily entered into for life*. The paper has four aims:

1. to clarify the current position with respect to a bill currently before the Federal Parliament to change the law of marriage;
2. to present the Biblical and theological understanding of marriage;
3. to consider the historical understanding of marriage between a man and a woman; and
4. to examine the arguments advanced in favour of same sex marriage.

The case to retain the current definition of marriage as between a man and a woman is thoroughly defensible, and one that Christians should strongly support in public debate. Further, many of the arguments and principles set out below will assist all Australians who do not wish to see untried novelty introduced into marriage and family, the basic foundation of human society.

### 1. The current political status with respect to marriage law

In 2004, the common law definition of marriage as *the union of a man and a woman to the exclusion of all others, voluntarily entered into for life* was codified in the *Marriage Act 1961* with bipartisan support from both the Federal Coalition and the ALP. This was a response to concerns that the definition would be challenged in the courts.

The Greens’ *Marriage Equality Amendment Bill 2010* was reintroduced into the Senate on 29 September 2010 for the purpose of replacing the current definition of marriage with: *marriage means the union of two people, regardless of their sex, sexual orientation or gender identity, to the exclusion of all others, voluntarily entered into for life*. The inclusion of “gender identity” extends the current discussion to people whose situation deserves separate consideration. “Gender identity” includes medical disorders of sexual development including what are sometimes called “intersex conditions” in children at birth and the psychological condition called “gender dysphoria”.

In November 2010, the ALP supported a Greens motion calling on all Parliamentarians, “consistent with their duties as representatives, to gauge their constituents’ views on ways to achieve equal

treatment for same sex couples including marriage.” The issue is set to come before the ALP national conference in December 2011 with the possibility of current ALP policy being changed to support same sex marriage, opening the way for a change in the marriage law. The Greens may also attempt to force debate on the issue before this time.

## **2. The Biblical and theological understanding of marriage**

We are concerned for the future of marriage because the Bible shows it to be foundational to a healthy society. Over many generations Christians have reflected on the teaching of Scripture in relation to marriage and have developed a distinctive view. Although marriage exists in all human cultures, the Christian tradition has particular insights into its nature and purpose. Our confidence in the view we advocate stems from our faith in a God who created all things and designed our sexuality as men and women for the relationship of marriage.

Not all Australians share all elements of a Christian understanding of marriage, but we hold much in common. The majority of Australians have a moral framework informed by their Christian heritage, and all humankind possesses a sense of the natural law given by God in Creation. Sin affects sensibilities in relation to natural law, but it shows through at many points in personal conscience and in human culture. Thus Christians present a distinctive view of marriage, yet one which resonates with the broader community.

Sexual differentiation as male and female is an aspect of all humans made in God’s image (Genesis 1:26-27). On the basis of sexual differentiation God established marriage as a unique, exclusive relationship between a man and a woman. Jesus affirmed that marriage is established by God and is a lifelong relationship between a man and a woman which requires sexual faithfulness (Matthew 19:4-6).

The Bible describes marriage as a covenant (Proverbs 2:17; Ezekiel 16:8; Malachi 2:14) reflecting the mutuality of the relationship. Various Biblical passages celebrate the joy and intimacy of married sexual love (e.g. Proverbs 5:15-19; Song of Songs) and there are many Biblical affirmations of the blessings and comfort of marriage. The “bone and flesh” statement of Genesis 2:23 echoes other such statements in the Old Testament (e.g. Genesis 29:14) emphasising the claim of kin upon kin, and the way in which kin offer each other strength (“bone”) and are faithful despite and during weakness (“flesh”). The Bible celebrates a long “honeymoon” (Deuteronomy 24:5); marriages lasting to old age (Genesis 23:2; 35:7); simple marital joys (Proverbs 5:18; 12:4; 18:22; 19:14, 31); and relief from meaninglessness through marriage (Ecclesiastes 9:9). The New Testament ideal of marriage is of a relationship of love, of giving and receiving throughout life (e.g. Ephesians 5:22-33).

Marriage offers a special intimacy and communion (Genesis 2:20-25), and it is the relationship in which children are to be born and raised. God’s design is that sexual union is not only an expression of the communion of marriage but also the way in which children are conceived. Sexual union is a tangible expression of married unity, an expression of mutual care, honesty and openness, and an affirmation of acceptance and intimate knowledge of each other at the deepest level. The obvious connection between sexual union and procreation is central to current discussions about marriage. It is because of this connection that marriage is essential to the common good and so should be subject to state laws. The introduction of same sex marriage completely severs the connection. It is difficult to see any reason why the law should take an interest in same sex relationships, beyond regulating relevant property concerns.

A sexual relationship has its place and purpose within marriage alone. The human body, with its sex, and its masculinity and femininity seen in the account of Creation, is not only a source of fruitfulness and procreation, but a part of the whole natural order. From the beginning, it includes the nuptial

attribute – that is, the capacity of expressing love in which a person becomes a gift and, by means of this gift, fulfils the meaning of his or her being and existence. Man and woman were made to be a perfect gift to each other.

A central message of Christianity, expressed most fully in Christ on the Cross, is that human beings find fulfilment in being a gift to others. Marriage is the paradigm of human love in being a complete, permanent, exclusive, mutual gift of self that goes beyond the spouses in outreach to others through its fruitfulness and commitment to nurturing children. The universal vocation to give oneself in love takes many forms, including committed celibacy as a witness to the Kingdom of Heaven (Matthew 19:12) and the many other ways in which we express love for one another and for our Creator.

The vocation to give oneself in love is shared by people of same sex orientation, and finds expression in the many ways in which we give of ourselves in ways other than in marriage, including friendship and contribution to our community. There is a distinguished and much loved history of creative contribution to our culture by people known to be of homosexual orientation, whereby they give themselves in love to others and in that way live in accordance with the universal likeness to God. However, marriage is a particular type of giving that reflects God's plan for sexuality including the complementarity of man and woman, their openness to the divine gift of procreativity, and the nurturing of children.

Marriage is an analogy of God's triune existence. All people are made in the image and likeness of God, and God is not one person but Father, Son and Spirit in perfect relationship to one another; in which each perfectly loves the other, each is a perfect gift to the other, and their love is fruitful. In marriage, a man and a woman made in God's image and likeness live in communion, freely giving themselves completely to each other in a reciprocal relationship and in a way that is fruitful.

We are made to serve God in his world and act as stewards and keepers of his creation, and marriage is central to human culture as we do that. It is an essential element of the creation design of humanity. There are two obvious connections between marriage and the fulfilment of God's purposes. One is the mutual help of husband and wife. Man and woman, together, stand beside each other in the tasks and challenges of life. The other is the bearing and raising of children through whom human culture will continue and develop. Thus, for Christians, marriage is the foundational human relationship from which all other institutions develop – including family, community and nation.

The Bible speaks not only of God's good purposes in creation but also of the corruption of human life through sin. It shows how sexuality and marriage are tragically affected by sin. The most immediate result of the "original sin" is that Adam and Eve fear being naked before each other, an illustration of the loss of trust, peace and fellowship caused by sin (Genesis 3:7). A further result is that childbirth becomes difficult and that the man and woman are in competition for control and possession in marriage (Genesis 3:16). Just as the Bible contains many narratives which celebrate the blessing of marriage, it also has many which show dysfunctional, unhappy and abusive marriages. These are understood as part of the tragic effect of sin on the human condition – and on marriage, the key institution of human culture.

Because human sexuality is corrupted, the Bible speaks against a wide range of sexual sins. Most obviously, adultery is prohibited in the Ten Commandments. Other passages deal with sex before marriage (Deuteronomy 22:13-21), prostitution (Deuteronomy 23:17; Leviticus 19:29; 1 Corinthians 6:15-16), homosexuality (Leviticus 18:22; 20:13; Romans 1:26-27; 1 Corinthians 6:9) and a range of other vices (e.g. Leviticus 20:10-21). Often the New Testament refers to *porneia*, a general term for sexual immorality which covers all sexual activity outside marriage (Mark 7:21; Acts 15:20; Romans 13:13; 1 Corinthians 7:2; Galatians 5:19; Ephesians 5:3; Colossians 3:5; 1 Thessalonians 4:3). According to the Bible, homosexual activity is just one of several sexual sins. The Apostle Paul discusses sexual sin (1 Corinthians 6:12-20) and stresses that a Christian's body is for the Lord, and so

how it is treated matters spiritually. Paul also teaches that sexual sin is a sin “against your own body” which hurts the self as well as others.

Disordered sexuality is also an effect of sin. This includes all orientations which open people to sexual temptation outside of, marriage. For some people these may be very deep and powerful. The temptations and orientations are not sin of themselves; it is the indulgence of temptation in fantasy and action that is sin.

The Old Testament allowed for divorce, recognising that the realities of human relationships meant that divorce, though not ideal, was sometimes necessary (e.g. Deuteronomy 24:1-4). The Old Testament also regulated polygamy (Leviticus 18:18). Christian tradition has continued to recognise that divorce is necessary in some circumstances. Like divorce, polygamy was never viewed in the Bible or Christian tradition as ideal, but rather as a cultural practice which needed regulation. In the New Testament, the creational norm of monogamous marriage is strongly reaffirmed (Matthew 19:3ff, Ephesians 5:28-33; 1 Timothy 3:2,12; Titus 1:6), and this became the norm in Western culture.

Another element of the disordering of sexuality is the existence of gender disorders. These include chromosomal disorders such as intersex conditions or androgen insensitivity syndrome. Similarly some people suffer from congenital adrenal or gender identity disorders. The latter, recognised as a dysfunctional state by the American Psychiatric Association, is a persistent discomfort about one’s assigned sex or a sense of inappropriateness in the gender role of that sex and often involves significant distress or impairment in social, occupational, or other important areas of functioning.<sup>1</sup> Each of these conditions is a likely source of distress for those who have them, and for friends and family. Those affected should receive the best possible help which aims for a wise and compassionate resolution. Medical and surgical intervention may be needed to normalise ambiguous physiology. However, for Christians, such cases are further evidence of the fallen state of the world. They do not require us to abandon the claim that humans are gendered and that gender is the biological and psychological underpinning of marriage.

Jesus was not married or sexually active. He recognised that some are called to a life of committed celibacy for the sake of the Kingdom of Heaven (Matthew 19:12). Similarly, Paul seems not to have been married (1 Corinthians 7:8; 9:5) and recommended a life of celibacy for some (1 Corinthians 7:7-10, 29-34, 40). On the basis of the example and teaching of Jesus and Paul, Christians celebrate and support both marriage and single life. Christian history has many examples of those who have intentionally foregone marriage and remained single as a witness to the Kingdom to come, where there will be neither husband nor wife (Mark 12:25), and thus as a gift to God and others.

However, for most Christians marriage is an important part of their calling. In the New Testament we read of the witness of the marriage partner (1 Peter 3:1-6), the need to raise godly children (Ephesians 6:4) and the role of homes as a basis for church and mission (Acts 12:12; 16:40; 18:26; Romans 16:5; 1 Corinthians 16:19; 3 John 8; Philemon 2). Marriage and family life are important contexts in which the disciplines of discipleship are lived out, and several New Testament letters include instructions about marriage (Colossian 3:18-19; Ephesians 5:22-33; 1 Peter 3:1-7).

The Bible also uses marriage as a metaphor for God’s relationship with his people. The Old Testament portrays Yahweh as Israel’s husband, and in the New Testament Christ is the husband of the church. Jesus describes himself as the long awaited bridegroom (Mark 2:19-20). Theologian Stanley Grenz observes that:

As a man and a woman enter into and then maintain the marital union, they offer a picture of the great mystery of salvation – the union of Christ and the believing community. In so far as

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<sup>1</sup> American Psychiatric Association *Diagnostic Services Manual IV*.

the marriage partners relate to each other properly ... they portray the mystery of Christ's self-sacrifice for the church and the church's submission to Christ.<sup>2</sup>

There are three important implications of this Biblical teaching for Christians in Australia today. First, we need to recognise that the Christian view of sexuality and marriage is not universally shared by Australians. Most agree with parts of the Christian view, including that marriage is for a man and a woman, but many do not feel compelled to live out the full Christian meaning of marriage. The Christian view is counter-cultural.

Second, we need to commit ourselves to living by God's revealed pattern, in the light of our redemption in Christ. Churches should be communities in which marriage is honoured (Hebrews 13:4) and in which everyone is supported to live a life of sexual self-control, leaving behind the old ways of immorality and license. In this we rely on God's grace, recognising the long and difficult task many Christians face in living faithfully for God in a society which has little sympathy for the Christian sexual ethic. As we live this way, we bear witness to God's creation order and redemptive project.

Third, we should seek to promote patterns of sexual life and marriage which reflect God's ways, and seek opportunities to advocate the Christian sexual ethic in community and public life. We do not expect to see a reversal in the pattern of casual sexual relationships so common in our society. Nor are we under the illusion that returning to patterns of marriage which are closer to the Biblical pattern makes people Christians or makes Australia a Christian nation. However, living according to God's design is good for all people, so we promote the Biblical patterns out of love for our neighbour. Every Christian and church should consider how this is best done in their particular circumstances. We are convinced that Christians should encourage governments to follow these principles to the extent that they can in a secular society. Same sex marriage should not be legalised since God's order of marriage is a social good which protects the identity, security and flourishing of children, as the following section demonstrates.

### **3. The argument from human ecology: the link between marriage and children<sup>3</sup>**

Marriage is shaped by the needs of our common humanity. Despite varying cultural expressions, it has come to be seen as the union of a man and a woman who make a permanent and exclusive<sup>4</sup> commitment to each other, of the type that is fulfilled by bearing and rearing children together.

This concept of marriage is consistently found across cultures throughout history.<sup>5</sup> Marriage involves a comprehensive union of spouses, and norms of permanence and exclusivity. These combine to create a special link to children, for their sake, that protects their identity and nurture by a mother and father. These elements taken together reflect the current understanding of marriage, and demonstrate the inadequacy of the revisionist understanding.

By describing marriage as a comprehensive union of spouses, we mean a sharing of lives and resources, a union of minds and wills, and hence the requirement of consent for forming marriage. But we also mean something more: the bodily union of a man and a woman whereby the two become "one flesh". If two people want to unite in the comprehensive way proper to marriage, they must, among

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<sup>2</sup> Stanley J Grenz, *Sexual Ethics: An Evangelical Perspective* (Louisville, KY: Westminster John Knox Press, 1997), p 63.

<sup>3</sup> This material draws on Sherif Gergis, Robert P George & Ryan T Anderson, "What is Marriage?" *Harvard Journal of Law and Public Policy* 34.1 (2010), pp 245-287.

<sup>4</sup> It was not always "exclusive," as the widespread historic practice of polygamy testifies. It has been the unique contribution of Christianity that wherever Christianity has spread, so the practice of polygamy has disappeared over time.

<sup>5</sup> This is not to say matters such as customs and rituals have not changed over time. It is simply to say that marriage has always been understood in every society throughout recorded human history as between a man and a woman.

other things, unite organically – that is, in the bodily dimension of their being through sexual intercourse.

With one exception a person is complete within themselves as to bodily organs and their functions: heart, lungs, stomach and so on. In other words, to fulfil any of these functions a person does not require a contribution from anyone else. The one biological function for which individual adults are naturally incomplete is sexual reproduction. In sexual intercourse, but not in any other form of sexual contact, a man's and a woman's bodies coordinate by way of their sexual organs for the common biological purpose of reproduction. In this way they perform the first step of the complex reproductive process. Their bodies become *one* by coordinating for the biological good of the whole, thereby securing future generations at the same time as they are giving unique expression to their love for each other.

This way of viewing marriage has become less persuasive only because widespread contraception has masked the link between marital sexual activity and the rearing of children. That in turn conveys the impression that all modes of sexual expression seem equivalent. But marriage remains deeply and uniquely oriented to bearing and rearing children. By contrast, two men or two women cannot achieve the same kind of union, since there is no child-oriented outcome or function toward which their bodies may coordinate. Same sex partnerships lack essential and natural orientation to children: they cannot be sealed by the generative act.

A child's relationship to both mother and father is inherent to marriage. Children conceived by other means may find themselves with people in parental roles who are in a same sex relationship, but such relationships are not the origin of the child. It is possible for children to be nurtured in such a household, but however good that nurturing, it will not provide the biological link and security of identity and relationship that marriage naturally demands and confirms.

Marriage also provides children with a role model of the human love of their parents relating as man and woman. Its complementarity ensures the unilateral love of each parent to the child and the necessary differences between motherly and fatherly love. In contrast, the revisionist case incorrectly asserts that there is no necessity for a child to experience both fathering and mothering within the family.

Neither marriage breakdown, the early death of a parent, the adoption of children, de facto relationships, nor the practice of step-parenting negates these arguments. The complications and tragedies of an imperfect world do not justify the redefinition of marriage.

Given the natural orientation of the marital relationship to children, it is not surprising that the best available sociological evidence indicates that children fare best on virtually every indicator of wellbeing when reared by their wedded biological parents. Studies that allow for other relevant factors, including poverty and genetics, suggest that children reared in intact homes fare best on the following measures:

- *Educational achievement*: literacy and graduation rates;
- *Emotional health*: rates of anxiety, depression, substance abuse and suicide;
- *Familial and sexual development*: strong sense of identity, timing of onset of puberty, rates of teen and out-of-wedlock pregnancy, and rates of sexual abuse;

- *Child and adult behaviour*: rates of aggression, attention deficit disorder, delinquency and incarceration.<sup>6</sup>

The bodily union integral to marriage creates stable and harmonious conditions suitable for children. Consider the conclusions of the reputedly progressive research institution Child Trends:

[R]esearch clearly demonstrates that family structure matters for children, and the family structure that helps children the most is a family headed by two biological parents in a low-conflict marriage. Children in single-parent families, children born to unmarried mothers, and children in stepfamilies or cohabiting relationships face higher risks of poor outcomes ... There is thus value for children in promoting strong, stable marriages between biological parents ... [I]t is not simply the presence of two parents ... but the presence of two biological parents that seems to support children's development.<sup>7</sup>

In contrast to the current understanding of marriage, the revisionist view asserts that marriage is the union of two people (whatever their sexual identity or orientation) who commit to romantically loving and caring for each other and to sharing the burdens and benefits of domestic life, so long as love and mutual care remain. It is essentially a union of hearts and minds, enhanced by whatever forms of sexual intimacy both partners find agreeable. In this revisionist view, the couple also has a right to rear children, however conceived. The procreative element intrinsic to marriage is replaced by an expectation that children may be acquired optionally, by acts of the will, not of the body. According to this understanding, the State should recognise and regulate marriage because it has more interest in romantic partnerships than in the concrete needs of children.

#### 4. Arguments advanced in favour of same sex marriage

The current debate is about the function and purpose of the law in relation to marriage, and not a discussion regarding personal motivation and attitudes. We ought to deal fairly with persons of homosexual orientation and their needs. In the same spirit we do not accept *ad hominem* attacks on defenders of traditional marriage spiced by the use of pejoratives such as “homophobe” and “bigot”.

At the heart of the argument for same sex marriage lie revisionist propositions that same sex marriage harms no-one, and that to deny homosexual couples marriage is a denial of “natural justice”. But under the current reform proposals, marriage would be totally changed. Marriage would not be about securing the rights of children, but rather meeting the needs of adults. It would place adult sexual choice and emotional commitment at its centre. Under these (rarely articulated) conditions, there is no valid reason why marriage rights should not be granted to polyamorous or any other type of sexual relationship. Indeed, it is unclear why sexual activity should be the focal point of legislation – why should long term housemates or inseparable golfing partners not likewise seek recognition at law for their relationships?

The revisionist case reduces marriage to a matter of choice and love between adults. For the most part, advocates have avoided discussion of the deeper meaning of marriage, insisting instead that the change will result in minimal impact. But if the definition of marriage is changed, that will affect all people (children in particular), because “marriage” will primarily serve the interests of adults.

<sup>6</sup> For the relevant studies, note the “Ten Principles on Marriage and the Public Good,” signed by some 70 scholars, which corroborates the philosophical case for marriage with extensive evidence from the social sciences about the welfare of children and adults. See pp 9-19 in *Marriage and the Public Good: Ten Principles* (The Witherspoon Institute, 2008), available at [http://www.winst.org/family\\_marriage\\_and\\_democracy/WI\\_Marriage.pdf](http://www.winst.org/family_marriage_and_democracy/WI_Marriage.pdf).

<sup>7</sup> Kristin Anderson Moore et al., “Marriage from a child's perspective: How does family structure affect children, and what can we do about it?” *Child Trends Research Brief*, June 2002, pp 1–2, 6, available at <http://www.childtrends.org/files/MarriageRB602.pdf>.



Marriage is a public matter, not a private matter. Revisionists, by advocating so strongly for change, tacitly acknowledge this. It is not therefore simply a matter of allowing a freedom for ourselves. It is a matter of determining what best promotes human flourishing.

In respect of the argument around ending discrimination, it is wrong and misleading to depict the case for same sex marriage as a case for ending discrimination or for equal legal recognition of relationships. The Federal Parliament amended 84 pieces of legislation after the 2010 election to place homosexual rights and entitlements on the same basis as those of others people. The Australian Marriage Equality website<sup>8</sup> itself admits that, following these amendments, the Marriage Act is the only legislation requiring change – this is not an issue of substantive discrimination. Homosexual couples in New South Wales, Victoria, Tasmania and the Australian Capital Territory may already register their same sex partnerships on a relationships register that provides public recognition and affirmation of their relationship. The push for same sex marriage is therefore largely ideological, because there is clearly no intention in any jurisdiction that same sex couples be subjected to any substantial discrimination on entitlements.

No one is done a real injustice when we positively honour and uphold marriage as it is currently understood. We honour those men and women who are united in lifelong, complementary, faithful and procreative relationships by calling them “married”. In a liberal democracy, persons may form other types of relationships, but “marriage” is a term reserved for a particular kind of relationship that brings with it certain obligations to others beyond the two parties. That marriage has come under stress from a variety of causes over the past 50 years, such as no fault divorce, is no reason to radically alter its core nature and its aspirational value to society as *the union of a man and a woman to the exclusion of all others, voluntarily entered into for life*.

The motion calling on Federal Parliamentarians to canvass their constituents on same sex marriage noted “a growing list of countries that allow same sex couples to marry including the Netherlands, Belgium, Norway, Spain, Canada and South Africa”. This is hardly a formidable list, given there are 192 member countries of the United Nations. Significantly, the French Constitutional Council (often considered to act as France’s supreme court) recently upheld the legislature’s refusal to name same sex relationships as marriage. It held that France’s Parliament has the freedom to retain marriage as currently understood.

The Council ruled that a refusal of same sex marriage does not violate the French Constitution. French lawmakers, it said, had agreed that the “difference in situations between same sex couples and couples made up of a man and a woman can justify a difference in treatment concerning family rights”.

In June 2006, the European Court ruled that the region’s human rights convention “did not oblige a State to grant a same sex couple access to marriage” as marriage has “deep-rooted social and cultural connotations”. Similarly, after a legislative experiment with same sex marriage driven by the California Supreme Court in 2008, the people of California voted against the revisionist concept of marriage in a Constitutional referendum which passed the *California Marriage Protection Act*.

These recent rulings acknowledge that no one is disadvantaged when a society retains a distinctive name for these lifelong, faithful, exclusive and potentially procreative relationships between men and women which are oriented towards securing cognitively and spiritually the biological relationship that may result in the bearing and nurturing of children.

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<sup>8</sup> <http://www.australianmarriageequality.com/wp/twelve-reasons-for-marriage-equality/>



The Australian Greens' motion also noted that there was "widespread support for equal marriage in the Australian community". This statement needs qualification. While the reporting of opinion polls shows public support for same sex marriage, it needs to be recognised that the majority of such polls are commissioned and framed by advocates for same sex marriage. Meanwhile, public opinion is being formed in an environment of strong media support for same sex marriage and the mistaken understanding that homosexual persons remain disadvantaged in entitlements.

The largest newspaper poll on the issue of same sex marriage was conducted in February 2011 by the Fairfax Media Group. It garnered 34,667 votes with 55 percent in favour of same sex marriage and 45 percent opposed. While there was no doubt voting by organised interest groups, the poll result highlights the fact that Australians are deeply divided over the issue, and parliaments need to be careful in proceeding with legislation on sensitive and controversial issues.

Democracy does not mean government by opinion polls or government by majority opinion. Democratic principles require government for the people and by the people. Our parliamentary representatives have obligations to govern *for the people* and to protect minorities, even against majority opinion. They have a particular obligation to protect children. The current definition of marriage has a place in the law for the purpose of supporting the exclusivity and faithfulness of those biological relationships that result in children for the sake of those children, and for providing a paradigm to set a comparative standard for the complexity of relationships in which children might otherwise find themselves.

Now to consider specific arguments advanced in favour of same sex marriage.

#### **4.1 What's the harm in same sex marriage and why should the State care?**

The harm lies in three directions. Same sex marriage will weaken the social institution of marriage, obscure the value of complementary parenting as the ideal, and threaten moral and religious freedom. Each of these will be dealt with in detail since the answers encapsulate much of our argument against same sex marriage.

##### **4.1.1 Extending marriage to same sex couples will weaken marriage**

The State's favoured conception of marriage (embedded through legislation) matters because it affects society's understanding of and support for the institution. Proponents of same sex marriage want the right to marry to ensure the final and complete endorsement of their status both in law and public opinion.

In redefining marriage, the law would teach that marriage is fundamentally about adults' emotional unions, not complementary bodily union or children, with which marital norms are tightly intertwined. Since emotions can be variable, viewing marriage essentially as an emotional union would tend to increase marital instability – and it would blur the distinct value of friendship, which is a union of hearts and minds.

Moreover, and more importantly, because there is no reason that primarily emotional unions (any more than ordinary friendships in general) should be permanent, exclusive, or limited to two, these norms of marriage would make less and less sense. Less able to understand the rationale for these marital norms, people would feel less bound to live by them. And less able to understand the value of marriage itself as a certain kind of union, even apart from the value of its emotional satisfactions, people would increasingly fail to see the intrinsic reasons they have for marrying or staying with a spouse absent consistently strong feeling. In other words, a mistaken marriage policy would distort people's understanding of the kind of relationship that spouses are to form

and sustain. And that would likely erode people's adherence to marital norms of permanence, monogamy and exclusivity that are essential to the common good.

We note in passing the Greens' *Marriage Equality Amendment Bill 2010* which in substituting *the union of two people, regardless of their sex, sexual orientation or gender identity* for the current definition *the union of a man and a woman*, still retains *to the exclusion of all others, voluntarily entered into for life*. Having made the substitution, the claim that marriage is *to the exclusion of all others, voluntarily entered into for life* has been considerably, if not fatally, wounded. The question must be asked in relation to the Greens' definition: why should the State have an interest in the relationship being exclusive and for life? What has that got to do with the role of the State? Are those matters not essentially of a private nature?

What makes these public matters in traditional marriage is the orientation to bearing children. The potential outcome makes it in the interests of the community to promote security, exclusivity and permanence for the sake of children. What happens to marriages when children are or may be involved matters for the State because the State has *parens patriae* responsibilities for children. Recording marriage, ensuring that there is indeed full knowledge and consent, and discouraging people from taking this lightly or failing their obligations to themselves and hence to the child, are important roles for the State in the best interests of the child and his or her brothers and sisters. Recording death and divorce is important, as is the recording of the births of children and their natural parents and, in the complexity of assisted reproductive technology, the use of donors and surrogates. It is worth pointing out that these technological practices fragment parenting, and in that way risk children. In gaining a committee of parents, the child loses a definite origin and identity in the love of his or her parents, and secured relationship to and nurturing by both their natural mother and father.

In making these claims, we do not ignore the fact that marriage has been placed under strain through other social and legal developments. Easy divorce, for example, has worn down the ties that bind spouses to something beyond themselves and thus more securely to each other. Endorsing same sex marriage would mean cutting some remaining but most important threads.

While the law has a function in picking up the pieces from failed relationships and inadequate consideration for children, it also has a responsibility to establish an environment where these outcomes are less likely. We need the paradigm of marriage to preserve the ideal with its full meaning and relatedness to children. If the law loses that link, its role in relation to marriage would be pointless. The next step would be to demand that the law have nothing to do with marriage because there would be no reason for the State to be involved in private matters between adults.

The attraction of the marital norms is the deep (if implicit) connections in peoples' minds between marriage, bodily union and children. Enshrining the revisionist view would not just wear down but tear out this foundation, and with it any basis for reversing other recent trends and restoring the many social benefits of a healthy marriage culture.

Those benefits apply to children and spouses/parents alike. Because children fare best on most indicators of health and wellbeing when reared by their wedded biological parents, the further erosion of marital norms would adversely affect children, forcing the State to play a larger role in their health, education, and formation more generally. As for adults, those in the poorest and most vulnerable sectors of society would be hit hardest by the weakening of marriage. Protecting and supporting marriage is an economic advantage in the rearing of children. Supporting marriage as a relationship between parents or potential parents is in the interests of the State.

#### **4.1.2 Same sex marriage obscures the value of complementary parenting by a mother and a father as the ideal**

If same sex relationships were recognised as marriages, the idea that the union of husband and wife is the most appropriate environment for the bearing and rearing of children would be lost. The notions that children need both a mother and father; that men and women on average bring different gifts to the parenting enterprise; and that boys and girls need and benefit from fathers and mothers in different ways, would also vanish.

The result would be to reinforce all those tendencies in society that currently most harm the flourishing of children, the loss of social pressures, and incentives for husbands and wives to remain with each other and their children. To the extent that children are not reared by both parents, they are prone to suffer in the ways identified by social science that we have previously alluded to.

In addition, the social benefits of parenting by a mother and a father entail a degree of risk not shared by same sex parents but borne for the benefit of society, including the risk of unwanted pregnancy and abortion. To equate same sex marriage with marriage in law reinforces inequality since the risks and benefits remain the same regardless of the law.

#### **4.1.3 Same sex marriage threatens moral and religious freedom**

The inevitable outcome of the State endorsing same sex marriage through legislation would be the State being forced to view those defending traditional marriage as bigots who make groundless and invidious distinctions. In a very short time, as has already been demonstrated in the United States and Britain, activists would wield antidiscrimination laws as weapons against those who cannot in good conscience accept the revisionist understanding of sexuality and marriage. In the state of Massachusetts, Catholic Charities was forced to give up its adoption services rather than, against its principles, place children with same sex couples. In California, a District Court held that a student's religious speech against homosexual acts could be banned by his school as injurious remarks that "intrude[s] upon the work of the schools or on the rights of other students". In the United Kingdom, some Christian bed & breakfast owners have been taken to court, fined and vilified for refusing to accept bookings from homosexual couples.

In Australia, faith-based organisations are already under considerable pressure from the various State antidiscrimination bodies to justify staff selection policies that favour persons adhering to the faith commitments of the institution, despite that right having been guaranteed by United Nations instruments<sup>9</sup>. Currently, if an individual or organisation wishes to treat a homosexual couple as "married", they are free to do so under the law. But if the law is changed to enable homosexual couples to marry, then it will require all persons and organisations to recognise and accept such "marriages" even where individuals and groups hold reasonable and conscientious beliefs to the contrary. Revision of the marriage law will challenge previously law-abiding citizens to subvert the law so as to act in accordance with their reason and conscience. Any such change to marriage law along the lines proposed would further constrain the personal freedom of citizens and their scope to act in accordance with conscience.

If marriage law is altered to include homosexual couples there will be obvious and considerable follow-on effects. The various instruments of State are likely to eventually require schools and faith-based organisations to provide relationship programs and resources which are in keeping

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<sup>9</sup> For example, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and other international instruments.

with marriage as described under the law. By way of example, “John marries James” books are likely to become mandated resources in school libraries.

The implications are clear: if marriage is legally redefined, believing what every human society once believed about marriage (namely, that it is a male-female union) will increasingly be regarded as evidence of malice, prejudice, injustice, and even hatred. If marriage is redefined, then that is what we are going to have to teach and affirm to our children and in our schools. Why should a minority lifestyle so influence curriculum? Why should teachers be prevented from teaching that marriage is primarily about children?

#### **4.2 Why should the State have a vital interest in marriage?**

Marriage is a matter of direct public interest, as the record of almost every culture attests. It is worth legally recognising and regulating. Societies rely on families to produce what they need but cannot: good citizens with an appreciation and experience of the natural relationships which are modelled and represented between both the immediate and extended family. Like respect for authority, the ability to respect and manage the diversity of community is learnt first in the differences of gender and expectation in the natural family, which all the time naturally develops character under the influence of both a mother and a father. Strengthening the marriage culture not only means marriages open to and welcoming of children, but also improves children’s chances of becoming upright and productive members of society. In other words, our main reason for rejecting the revisionist view of marriage is the deep link between marriage and children. Sever that connection, and it becomes much harder to show why the State should take any interest in marriage at all.

The State has a vital interest in marriage, including the economic advantages of secure marriages. A study by the US based Brookings Institute found that the retreat from marriage was associated with an increase of \$229 billion in welfare expenditures from 1970 to 1996.<sup>10</sup>

#### **4.3 Why limit the change in the marriage law to monogamous couples?**

The argument for same sex marriage, to the extent that there is one, relies on the assumption that any distinction is an unjust discrimination. But if the campaign for the Greens’ substitution of *the union of two people, regardless of their sex, sexual orientation or gender identity* for *the union of a man and a woman* was successful, by the same revisionist logic we would be discriminating against those seeking open, temporary, polygamous, polyandrous, polyamorous, and even incestuous<sup>11</sup> or bestial unions. After all, people can find themselves experiencing sexual and romantic desire for multiple partners (concurrent or serial), closely blood-related partners, or for that matter, nonhuman partners. On the basis of the same sex advocates’ logic there is no basis for this discrimination, more so when they will not accept such discrimination against themselves.

Of course, it will be claimed that that this is a red herring – that no-one is clamouring for recognition of polyamorous unions, and that advocates of the status quo are invoking an alarmist “slippery slope” argument. But public policy must be considered in the light of consequences. Such predictions would

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<sup>10</sup> Isabel V. Sawhill. 1999. “Families at Risk.” In H. Aaron and R. Reischauer, *Setting National Priorities: the 2000 Election and Beyond*. Washington: Brookings Institution, c.f. *Marriage and the Public Good: Ten Principles* signed on 17 July 2006 by some seventy scholars from universities such as Harvard, Princeton, Cornell, Oxford, Notre Dame, Chicago and McGill. <http://www.protectmarriage.com/files/WitherspoonReportonMarriage.pdf>

<sup>11</sup> It was reported in a number of British newspapers on 13 December 2010 that Switzerland was considering repealing its incest laws because they were “obsolete”. While it is difficult at the present time to see such a law being approved, it remains a fact that such a law has been proposed by a Green member of the Swiss Parliament. See <http://www.telegraph.co.uk/news/worldnews/europe/switzerland/8198917/Switzerland-considers-repealing-incest-laws.html>.

seem quite reasonable in this case, given that prominent figures like Gloria Steinem, Barbara Ehrenreich and Helen Razer have already demanded legal recognition of “multiple-partner” sexual relationships. In relation to same sex marriage, Australian writer Helen Razer said, “I wonder how is this going to play out, particularly for the many gay couples who have spent years finessing a feasible polygamy.”<sup>12</sup>

Nor is discussion in academia lacking of such possibilities. The Australian Broadcasting Corporation ran an article in March 2011 titled *Marriage needs redefining*<sup>13</sup>, which argued for the legalising of these relationships – an article attracting 305 comments, many very supportive of the author’s claims. In 2009, *Newsweek* magazine reported that there are more than 500,000 such relationships in the United States alone.<sup>14</sup>

The statement of more than 300 “LGBT and allied” scholars and advocates, *Beyond Same Sex Marriage*<sup>15</sup>, calls for the legal recognition of sexual relationships involving more than two partners. Someone like Andrew Sullivan, a prominent advocate of same sex marriage, thinks that the “openness” of same sex unions could provide a pattern to enhance the relationships of husbands and wives, “openness” being a euphemism for sexual infidelity. There are many similar expressions in the literature. For example, Professor Ellen Willis, another revisionist, opines “conferring the legitimacy of marriage on homosexual relations will introduce an implicit revolt against the institution into its very heart”.<sup>16</sup> This same ultimate aim was clear in the emergence of a polyamory float in the 2011 Gay Mardi Gras and the annoyance of polyamorists that the political theme of the march only demanded marriage for two gays and not for more than two people of any sex, and that it did not demand that marriage be changed so that it was not monogamous or for life.

#### 4.4 Why not spread traditional norms to the homosexual community?

Some may argue that redefining marriage would have the positive effect of increasing the number of stable, monogamous, faithful sexual unions to include many more same sex couples. There are good reasons to think this is unlikely to happen.

First, if marriage is understood as revisionists understand it – that is, as an essentially emotional union that has no principled connection to bodily union and the bearing and rearing of children by biological parents – then marital norms, especially the norms of permanence, monogamy, and fidelity will make less sense. In other words, those making this objection are right to suppose that redefining marriage would produce a convergence – but it would be a convergence in exactly the wrong direction.

Abolishing the traditional concept of marriage would tend to erode the basis for the norms of permanence, monogamy, and fidelity in *any* relationship. Public institutions shape our ideas, and ideas have consequences; so removing the rational basis for a norm will erode adherence to that norm – if not immediately, then certainly over time.

Second, leading advocates of same sex marriage as demonstrated in our answer to the previous question regularly make calls for the legal recognition of sexual relationships involving more than two partners. As Sherif Girgis *et al* conclude:

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<sup>12</sup> See <http://www.smh.com.au/opinion/society-and-culture/homosexuality-is-a-bore-now-so-many-gays-are-wedded-to-a-rickety-institution-20110302-1beqk.html>. Also see this 2003 US article: <http://www.weeklystandard.com/Content/Public/Articles/000/000/002/938xpsxy.asp?nopager=1>.

<sup>13</sup> See <http://www.abc.net.au/unleashed/44576.html>.

<sup>14</sup> See Jessica Bennett, “Only You. And You. And You: Polyamory—relationships with multiple, mutually consenting partners—has a coming-out party,” *Newsweek*, 29 July 2009, available at <http://www.newsweek.com/2009/07/28/only-you-and-you-and-you.html>.

<sup>15</sup> *Beyond Same-Sex Marriage: A New Strategic Vision For All Our Families & Relationships*, (26 July 2006), [http://beyondmarriage.org/full\\_statement.html](http://beyondmarriage.org/full_statement.html).

<sup>16</sup> Ellen Willis, “Can marriage be saved? A forum,” *The Nation*, 15 July 2004, at 16, 16.

So there is no reason to believe, and abundant reason to doubt, that redefining marriage would make people more likely to abide by its norms. Instead, it would undermine people's grasp of the intelligible basis for those norms in the first place. Nothing more than a Maginot line of sentiment would be left to support belief in sexual fidelity and hold back the change of attitudes and mores that a rising tide of revisionists approvingly expects same sex marriage to produce.<sup>17</sup>

#### **4.5 Doesn't the traditional concept of marriage sacrifice some people's fulfilment for others?**

This objection is best considered by disclosing its hidden assumptions:

First: *Fulfilment is impossible without regular outlets for sexual release.*

Second: *Meaningful intimacy is impossible without sex.*

Third: *Fulfilling relationships require legal recognition.*

Fourth: *Homosexual orientation is such that any State which does not actively accommodate it equally in every sense necessarily harms or disregards a class of human beings.*

In respect of the first assumption that *fulfilment is impossible without regular outlets for sexual release*, the days are long since past when the State will prevent any likeminded people from making their own private arrangements.

However, the State cannot give same sex unions what is truly distinctive of marriage. That is, it cannot make them actually comprehensive, oriented by nature to children, or bound by the moral norms specific to marriage. At most the State can call such unions marital, but such designation would not – because, in moral truth, it cannot – make them so; and it would, to society's detriment, obscure people's understanding about what truly marital unions do involve. In this sense, it is not the State that keeps marriage from certain people, but their circumstances that unfortunately keep certain people from marriage. This is so, not only for those with exclusively homosexual attractions, but also for people who cannot marry because of, for example, prior and pressing family obligations incompatible with marriage's comprehensiveness and orientation to children, inability to find a mate, or any other cause. Those who face such difficulties should in no way be marginalised or otherwise discriminated against, and they deserve our support in the face of what are often considerable burdens. But none of this establishes the first mistaken assumption, that fulfilment is impossible without regular outlets for sexual release – an idea that devalues many people's way of life.

In contradiction to the second assertion that *meaningful intimacy is impossible without sex*, what we wish for people unable to marry because of a lack of any attraction to a member of the opposite sex is the same as what we wish for people who cannot marry for any other reason: rich and fulfilling lives. In the splendour of human variety, these can take infinitely many forms. In any of them, energy that would otherwise go into marriage is channelled toward ennobling endeavours: deeper devotion to family or nation, service, adventure, art, or a thousand other things. But most relevantly, this energy could be harnessed for deep friendship, and we must not nor are entitled to conflate depth of friendship with the presence of sex.

The third assumption, that *fulfilling relationships are impossible without legal recognition*, is baffling (but not rare) to find in this context. Even granting the second point, legal recognition has nothing to do with whether homosexual acts should be banned or anyone should be prevented from living with anyone else. This debate is not about private behaviour. Instead, public recognition of certain relationships and the social effects of such recognition are at stake. Some have described the push for

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<sup>17</sup> Sherif Girgis, *op. cit., supra*, p 278.

same sex marriage as an effort to legalise or even to decriminalise such unions. But one can only decriminalise or legalise what has been banned, and these unions are not banned<sup>18</sup>. Rather, same sex unions are simply not recognised as marriages.

The fourth assumption, that *homosexual orientation is such that any State which does not actively accommodate it equally in every sense necessarily harms or disregards a class of human beings*, draws an arbitrary distinction between homosexual and other sexual desires that the State may not sanction. It often leads people to suppose that traditional morality unfairly singles out people who experience same sex attractions. It does not. Traditional morality sees in every person, a person of dignity whose welfare makes demands on every other being that can hear and answer them. In some it sees desires, for a range of reasons not limited to same sex orientation that cannot be integrated within the comprehensive union of marriage.

#### **4.6 Isn't homosexual orientation only natural?**

This is probably the weakest argument because it is irrelevant to the issue. We are not arguing about whether homosexual sexual activity should be permitted or not. The law does not prohibit same sex relationships. The issue is whether there is any need for the law to be involved at all in private relationships that do not beget children.

#### **4.7 What about children in same sex households?**

Revising marriage to include same sex relationships would not advantage children in same sex households in any substantive way because the law already protects the relationship between the child and the substitute parents, and from that relationship they draw the same entitlements as other families.

There are many variations of households that nurture children, including those that can only have occurred through the use of technology. In all circumstances in which children are nurtured the State has a *parens patriae* interest in the welfare of children. The State therefore has an interest in relationships that cause children to come to be. It has an interest also in reproductive technology to protect the rights of children to have an identity and to know, have access to and be nurtured by their mother and father as far as that is practicable. Marriage offers the best security for those rights and should therefore be protected and given its full meaning, including its capacity to procreate and to provide both mother and father to the child. For the sake of children, the State therefore has an interest in promoting marriage as a relationship between a man and a woman entered into for life and to the exclusion of all others, and for using that relationship as the paradigm when circumstances fail children.

Where children come to be outside that paradigm, it is important that the State acts to ensure that the child has an identity and that the information about the natural parents of the child is registered and available. At an appropriate time the State should ensure that the child is made aware of that information and has access to the natural parents, while the child's relationship to substitute parents remains recognised and protected.

The notion of "substitute parent"<sup>19</sup> does not have a necessary basis in the relationship between parents, but in their relationship to the child and their consent and commitment to being a parent to the child. With the changes to adoption law to permit unmarried or single people to adopt, the relationships that may or may not exist between the child's substitute parents have no essential link to the child in law. For that reason in law they are private because the State

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<sup>18</sup> By contrast, bigamy really is banned; it is a crime.

<sup>19</sup> "Substitute parent" is a phrase that has been introduced into the law to mean a parent other than a biological parent.



lacks a reason to legislate to promote relationships between same sex couples over any of the many other kinds of relationship between adults where children are to be found, other than marriage. The relationship, where it exists, between a child's natural parent and a substitute parent, or between a child's substitute parents, is essentially different from marriage as the type of relationship that may generate a child. The marriage relationship in the latter case is essential to the child's identity because the couple's relationship extends to include the child who is biologically, psychologically and spiritually an embodiment and symbol of their unity. In substitute parenthood there is no such connection between the child and any relationship between substitute parents. The relationship of a substitute parent is to the child and that is a relationship that needs to be protected for the sake of the child. The State therefore has an interest in registering and protecting it.

#### **4.8 Why should religious people impose their views on everyone?**

The Church, like any other group within a democratic society, has a right to express a view on matters of public policy. In relation to marriage the Church has a special interest in all vulnerable people and especially children. It is entirely the prerogative of Christians as citizens of the State to express their views in the public square with the intention of influencing public policy. It is readily acknowledged that a distinctively Christian view on public policy is just one of many, and in a democracy Christians have as much right as any other group to bring it forward.

### **5. Conclusion**

This paper responds to proposals to change the current definition of marriage to allow same sex couples to marry, and is addressed to Christian ministers of religion and others who are interested in theology. We have sought to achieve two aims. First, we believe that this issue is not just a religious issue, and that revising the law would affect people of all faiths and none. On that basis the paper explains why revising the law would so change the meaning of marriage that marriage would be about adults only and not about children.

Second, Christianity is a large part of our culture, and Christian witness to the Word of God is crucial for the well-being of our nation and for the common good of our citizens. For that reason, in section 2, we provide a clear expression of common Christian beliefs about marriage as a biological, psychological, cognitive and spiritual reality. Marriage has its origins in the beginning of humankind, where man and woman were created equally in the image and likeness of God and as a unique and complementary gift for each other.

Our goal was to address these matters as clearly as we could, and avoid making statements that might unnecessarily cause offence. We believe firmly that we ought to deal fairly with every member of the human family and their needs, including people of homosexual orientation. We want to avoid name-calling or resorting to speculation about motives or personal attitudes.

From a theological perspective, male and female sexuality is a divine gift designed by God to be a union of difference that assures a child of both a mother and a father. The divine plan located procreation within the exclusive and permanent relationship between a man and a woman in order to protect children. The loving union of spouses in one flesh is a witness to God's love in their complete gift of self to each other and their openness to cooperating with him in procreation.

The revisionist argument has been presented as a matter of justice, of ending discrimination against people in same sex relationships. However, the issue is much more than that. Revising the marriage law would have grave implications for religious freedom, directing the way in which language may be used by imposing a new legal definition of what marriage means. This is not a matter that we can simply ignore while concentrating on our own efforts to evangelise.

We argue that marriage as it is now defined is not unjust. In the last few years Australian Parliaments have moved to legislate comprehensively to remove discrimination so that same sex couples have substantially the same entitlements to freedom and to services as any other. However, marriage is different from other relationships because it has the capacity to generate children. It is not just about adult romance but about securing children.

Marriage is inextricably linked to children, protecting their identity and providing for their nurture by both a mother and a father. The State would have no interest in the permanence and exclusivity of marriage apart from the fact that marriage may produce children.

Marriage protects the rights of children to an identity as citizens, and to knowledge of, access to and nurturing by a mother and a father. Through marriage, children are irrevocably related to both parents and receive their biological, intellectual and spiritual inheritance from that loving union. Revising marriage would cause harm because it would no longer be the paradigm for nurturing children, and the reality of parenthood would be fragmented into genetic, gestational and social parenting roles, with no one being the reality of what marriage provides – a mother and a father related to the child in every way.

In the absence of marriage, the law serves to protect children who are not the result of marital love by defining the relationship of a child to substitute parent(s) and also the child's legal rights in relation to those others who contributed to the generation of the child. But marriage is the paradigm for procreating children because it links the child to both biological parents and at all levels.

If the legal definition of marriage is revised so that it is no longer about relationships that may produce children, then our schools will be obliged to teach the revisionist concept. It is one thing to say that the law has nothing to do with what two men or two women do in their private life, but it is quite another to change the law to promote those relationships in our schools. Why should a minority lifestyle so influence the curriculum? Why should teachers be prevented from teaching that marriage is primarily about children?

The function of retaining marriage is to positively honour those men and women who are united in lifelong, complementary, faithful and procreative relationships by calling them "married". In that way the law protects and upholds an ideal for the generation and nurturing of children. Marriage is not just about adults, it is about being open to the possibility of becoming a parent to a child who is then an embodiment of their love for each other, a living sign and symbol of their love for each other.

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