

MARRIAGE IS NOT A CIVIL RIGHT

by Laurie Higgins, Director of School Advocacy

There exists no such thing as “same-sex” marriage. Although marriage licenses are being issued by some state governments to homosexual couples, there are in reality no homosexual marriages—never were, are not now, never will be. Marriage is an institution ordained by God in Genesis: “For this reason a man will leave his father and mother and be united to his wife, and they will become one flesh,” and reaffirmed by Jesus in Matthew 19:4-6.

All societies throughout recorded history have publicly recognized the institution of marriage as a sexually complementary public institution. The government’s obligation is merely to recognize legally what marriage actually is. The government has no business creating an entirely new—and destructive—institution and then attaching to it the name of marriage.

What is Marriage?

David Blankenhorn defines marriage as “socially approved intercourse between a woman and a man, conceived both as a personal relationship and as an institution, primarily such that any children resulting from the union are—and are understood by the society to be—emotionally, morally, practically, and legally affiliated with both of the parents.”

Marriage is not solely or centrally about love. It is centrally concerned with children and their connection to their biological parents. The state has no interest or investment in whether couples love each other. If marriage were solely or even centrally about love and had no connection to children, the state would have no interest in or business being involved with marriage.

Adopted children are not being raised by their biological parents and yet society recognizes those families, so why not legally recognize families led by homosexuals?

Adoption historically understood, was not the ideal context for children, but rather a benevolent way for society to accommodate the failures or tragedies in life that leave some children without the nurturance of their biological families. We as a society should not sanction the *deliberate* creation of children who will not be raised by either their mothers or fathers.

Society allows marriages for couples who are infertile or who choose to remain childless, so why not permit homosexual marriages that cannot produce children.

The government sanctions the *type* of relationship that has the capacity to produce children. The government is not interested in compelling procreation, but rather in supporting the type of relationship that procreates.

What are the current requirements for government-sanctioned marriage?

Except in a very few states in which activist judges have overruled the will of the people, the current requirements for government-approved marriages include the following:

- Numbers of partners—marriage is limited to two partners, therefore no polygamous marriages.
- Consanguinity—partners cannot be closely related by blood, therefore no incestuous marriages.
- Minimum age—partners must be of major age, therefore no pedophilic marriages.
- Sexual complementarity—partners must be of opposite sexes, therefore no homosexual marriages.

What are the justifications for these requirements or criteria?

Society has concluded that the requirements regarding numbers of partners, consanguinity, minimum age, and sexual complementarity best serve the needs of children and therefore best serve the needs of society.

Why is the state involved in sanctioning marriage? The state is involved in marriage for two inter-related reasons:

1. The state wants to encourage, support, and sustain that institution which best serves the needs of children.
2. The state is concerned about what institution best serves the needs of children because that which best serves the needs of children, best serves the needs of a healthy society.

Is access to marriage a civil right?

No, access to marriage is *not* a civil right. Our civil rights are very specific rights that are accorded to individuals because of their status as humans. These rights are based on universal characteristics, not on feelings, desires, “orientations,” or volitional conduct.

Our civil rights are the following: *freedom of religion; freedom of speech; freedom of press; freedom of assembly; the right to vote; the right to life; freedom from involuntary servitude; the right to equality in public places; the right to due process of law; the right to equal protection under the law.*

Marriage is an institution, not a civil right. The government can legitimately define an institution and limit its membership in accordance with that definition.

Do current marital requirements violate civil rights?

Current marital requirements do not violate civil rights. Every individual who fulfills the requirements or conditions that society has deemed essential to the institution of marriage has equal access to marriage.

What homosexuals are actually demanding is that they be permitted to *redefine* marriage—to eliminate one of the conditions that society views as central to marriage: sexual complementarity.

Similarly, polyamorous people who love more than one person cannot redefine marriage by eliminating the criterion of numbers of partners.

And incestuous couples cannot redefine marriage by eliminating the criterion regarding close blood kinship.

And those who believe they are in love with minors cannot eliminate the criterion of minimum age.

None of these groups of people are being denied their civil rights even though they cannot get married. They are being prevented from unilaterally redefining marriage which is a public institution that affects the civic good.

Is the sexual complementarity requirement equivalent to anti-miscegenation laws (i.e. Are laws that ban “same-sex marriage” equivalent to laws that banned interracial marriage?)

Laws that permit only heterosexual marriages are not equivalent to laws that banned interracial marriage because “sexual orientation” is not equivalent to race.

Laws banning interracial marriages were based on the erroneous belief that whites and blacks are by nature different, when, in fact, whites and blacks are *not* by nature different.

Laws that permit only heterosexual marriages are based on the true belief that men and women are by nature different.

Therefore, it is not only permissible, but essential that laws that regulate marriage take into account the very real differences between men and women.

Thomas Sowell explains that “The argument that current marriage laws ‘discriminate’ against homosexuals confuses discrimination against people with making distinctions among different kinds of behavior. All laws distinguish among different kinds of behavior.”

A black man who wants to marry a white woman is seeking to do the same action that a white man who wants to marry a white woman seeks to do. A law that prohibits an interracial marriage is wrong because it is based on who the person *is*, not on what he seeks to do.

But, if a man wants to marry a man, he is seeking to do an entirely different action from that which a man who wants to marry a woman seeks to do. A law that prohibits homosexual marriage is legitimate because it is based not on who the person *is* but rather on what he seeks to *do*. Any man may engage in the act of marrying a woman (if she is of age and not closely related by blood).

How would the elimination of the sexual complementarity requirement affect society?

Those who favor legalized polygamy, legalized incest, and a reduction in the legal marrying age will have a precedent to use in their similar quests to be allowed to legally marry the person or persons whom they “love.”

Once societies sever marriage from both gender and child-rearing, its cultural value diminishes. David Blankenhorn warns that there will likely be “lower marriage rates, higher rates of divorce and non-marital cohabitation, and more children raised outside of marriage and separated from at least one of their natural parents.” We need only look at the Netherlands to see the validity of Blankenhorn’s warning: Stanley Kurtz explains that in the years that “the debate over the legal recognition of gay relationships came to the fore in the Netherlands, culminating in the legalization of full same-sex marriage in 2000” non-marital heterosexual co-habitation and out of wedlock births increased dramatically.

Legalizing homosexual unions “would require explicit public endorsement of the idea that a child really does not need mother and a father” (Blankenhorn).

Public, and eventually private, schools would be required when teaching about families, to include resources about and descriptions of families led by homosexuals

Fundamental First Amendment speech and religious rights will be diminished. If same-sex marriage is legal, expressions of disapproval of homosexuality or homosexual marriage will be viewed as discriminatory and will be legally prohibited. ■

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