

Marriage is **Not** a Civil Right

When discussing the need to oppose the redefinition of marriage, there is no reason to modify the word “marriage” with “traditional” because there is in reality only one kind of marriage. 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, aren’t now, never will be. 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.

Do not be deceived by the beguiling words of homosexuals who claim that all they really seek are civil unions. “Civil unions” are the Trojan horses that will usher in the destruction of marriage and the natural family. Homosexuals will not be satisfied with civil unions or domestic partnerships or any other legal formulation designed to protect privileges normally reserved for marriage. Homosexuals want the legal advantages, protections, and privileges as well as the symbolic cultural approval that accompanies “marriage.”

A firm understanding of the nature and purposes of marriage will make clear the urgent need to oppose any and all efforts to redefine this essential, organic, cultural institution that is *recognized*—not *created*—by the state:

1. What *is* marriage?

An excellent definition of marriage comes from David Blankenhorn: “In all or nearly all human societies, marriage is 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” ([The Future of Marriage](#)).

Marriage is not solely or centrally about emotional attachments or sexual attraction. It is centrally concerned with children and their connection to their biological parents.

2. Some will argue that 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 biological mothers or fathers.

3. Some will argue that society allows marriages for couples who are infertile or who choose to remain childless, so why not permit homosexual marriages that cannot produce children.

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The government sanctions marriages for 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.

4. 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.

5. 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.

6. Why is the state involved in sanctioning marriage?

The state is involved in marriage for two inter-related reasons: The state wants to encourage, support, and sustain that institution which best serves the needs of children. And 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.

The state has no interest and no investment in whether couples love each other. If marriage were solely or even centrally about emotional affiliation, love, or sexual attraction, and had no connection to children, the state would have no interest in or business being involved with marriage.

When homosexuals claim that they are emotionally and sexually attracted to only their own sex, they are tacitly admitting that men and women are by nature different. If men and women weren't by nature different, then there would be no reason to prefer one over the other. And if men and women are different by nature, then a union composed of two people of the same sex is by nature fundamentally different from a union composed of two different sexes. Most of society agrees with this proposition and believes that a union composed of two people of different sexes is better for children and better for society.



7. Is access to marriage a civil right?

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

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As Matt Kinnaman writes, “Marriage is an institution, not a civil right.” Rights are inalienable, which means that the government cannot legitimately grant them or take them away. The government merely protects them.

In contrast, the government can legitimately define an institution and limit its membership in accordance with that definition. Kinnaman offers a state legislature as an example of an exclusionary institution. He makes the case that only those who fulfill certain criteria may be members of a state legislature. And yet, even though many who want to be members of this institution are excluded, no one suggests that they are being denied their civil rights. His point is that civil rights are not the same as access to or membership in an institution. Civil rights are not simply all things that we find desirable.

Kinnaman goes on to explain that “the gay marriage movement is confusing the civil rights struggles against slavery, racism, and totalitarianism with something very different—their desire to redesign history’s most important cultural institution.”

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 a very particular institution, and access to marriage is a privilege; it is not a *civil* right. Moreover, despite what homosexuals and their supporters claim, everyone may, indeed, marry as long as they fulfill the legal criteria that define marriage.

8. Do current marital requirements violate civil rights?

No, 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.

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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.

9. 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?)

No, laws that permit only heterosexual marriages are in no way equivalent to laws that banned interracial marriage because “sexual orientation” is in no way 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.

Moreover, 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).

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

There will be dire consequences too numerous to discuss, but here are just a few:

- 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.”
- As studies have found, in those countries that have legalized same-sex unions, heterosexual marriages decline. Once societies sever marriage from both gender and child-rearing, its cultural

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value diminishes. 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” (Blankenhorn).

- 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.

The term “homosexual marriage” is an oxymoron. Homosexual marriages are tragic mockeries of real marriages. Homosexual marriages do not and cannot exist no matter what legal document the government issues homosexual couples. Georgetown University lesbian law professor, Chai Feldblum delivered a paper in which she asserted that when homosexual marriages are legalized, which she argues is both necessary and inevitable, conservative people of faith will lose religious rights. What just forty years ago was utterly unthinkable and remains utterly reprehensible—legalized same-sex marriage—is just over the horizon in every state. Christians need to understand that the stakes are too high for any of us to remain silent any longer. ■

