

# BACKGROUND

No. 2775 | MARCH 11, 2013

## Marriage: What It Is, Why It Matters, and the Consequences of Redefining It

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### Abstract

*Marriage is based on the truth that men and women are complementary, the biological fact that reproduction depends on a man and a woman, and the reality that children need a mother and a father. Redefining marriage does not simply expand the existing understanding of marriage; it rejects these truths. Marriage is society's least restrictive means of ensuring the well-being of children. By encouraging the norms of marriage—monogamy, sexual exclusivity, and permanence—the state strengthens civil society and reduces its own role. The future of this country depends on the future of marriage. The future of marriage depends on citizens understanding what it is and why it matters and demanding that government policies support, not undermine, true marriage.*

This paper, in its entirety, can be found at <http://report.heritage.org/bg2775>

Produced by the Richard and Helen DeVos Center for Religion and Civil Society

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At the heart of the current debates about same-sex marriage are **three crucial questions**: What is marriage, why does marriage matter for public policy, and what would be the consequences of redefining marriage **to exclude** sexual complementarity?

Marriage exists to bring a man and a woman together as husband and wife to be father and mother to any children their union produces. It is based on the anthropological truth that men and women are different and complementary, the biological fact that reproduction depends on a man and a woman, and the social reality that children need both a mother and a father. **Marriage pre-dates government. It is the fundamental building block of all human civilization.** Marriage has public purposes that transcend its private purposes. This is why 41 states, with good reason, affirm that marriage is between a man and a woman.

Government recognizes marriage because it is an institution that benefits society in a way that no other relationship does. Marriage is society's least restrictive means of ensuring the well-being of children. State recognition of marriage protects children by encouraging men and women to commit to each other and take responsibility for their children.

### KEY POINTS

- Marriage exists to bring a man and a woman together as husband and wife to be father and mother to any children their union produces.
- Marriage is based on the truth that men and women are complementary, the biological fact that reproduction depends on a man and a woman, and the reality that children need both a mother and a father.
- Marriage is society's least restrictive means of ensuring the well-being of children. Marital breakdown weakens civil society and limited government.
- Government recognizes marriage because it benefits society in a way that no other relationship does.
- Government can treat people equally and respect their liberty without redefining marriage.
- Redefining marriage would further distance marriage from the needs of children and deny the importance of mothers and fathers; weaken monogamy, exclusivity, and permanency, the norms through which marriage benefits society; and threaten religious liberty.

While respecting everyone's liberty, government rightly recognizes, protects, and promotes marriage as the ideal institution for childbearing and childrearing.

Promoting marriage does not ban any type of relationship: Adults are free to make choices about their relationships, and they do not need government sanction or license to do so. All Americans have the freedom to live as they choose, but no one has a right to redefine marriage for everyone else.

In recent decades, marriage has been weakened by a revisionist view that is more about adults' desires than children's needs. This reduces marriage to a system to approve emotional bonds or distribute legal privileges.

Redefining marriage to include same-sex relationships is the culmination of this revisionism, and it would leave emotional intensity as the only thing that sets marriage apart from other bonds. Redefining marriage would further distance marriage from the needs of children and would deny, as a matter of policy, the ideal that a child needs both a mom and a dad. Decades of social science, including the latest studies using large samples and robust research methods, show that children tend to do best when raised by a mother and a father. The confusion resulting from further delinking childbearing from marriage would force the state to intervene more often in family life and expand welfare programs. Redefining marriage would legislate a new principle that marriage is whatever emotional bond the government says it is.

Redefining marriage does not simply expand the existing understanding of marriage. It rejects the anthropological truth that marriage is based on the complementarity of man and woman, the biological fact that reproduction depends on a man and a woman, and the social reality that children need a mother and a father. Redefining marriage to abandon the norm of male-female sexual complementarity would also make other essential characteristics—such as monogamy, exclusivity, and permanency—optional. Marriage cannot do the work that society needs it to do if these norms are further weakened.

Redefining marriage is also a direct and demonstrable threat to religious freedom because it marginalizes those who affirm marriage as the union of a man and a woman. This is already evident in Massachusetts and Washington, D.C., among other locations.

Concern for the common good requires protecting and strengthening the marriage culture by promoting the truth about marriage.

## What Is Marriage?

***Marriage exists to bring a man and a woman together as husband and wife to be father and mother to any children their union produces.***

At its most basic level, marriage is about attaching a man and a woman to each other as husband and wife to be father and mother to any children their sexual union produces. When a baby is born, there is always a mother nearby: That is a fact of reproductive biology. The question is whether a father will be involved in the life of that child and, if so, for how long. Marriage increases the odds that a man will be committed to both the children that he helps create and to the woman with whom he does so.

Marriage connects people and goods that otherwise tend to fragment. It helps to connect sex with love, men with women, sex with babies, and babies with moms and dads.<sup>1</sup> Social, cultural, and legal signals and pressures can support or detract from the role of marriage in this regard.

Maggie Gallagher captures this insight with a pithy phrase: “[S]ex makes babies, society needs babies, and children need mothers and fathers.”<sup>2</sup> Connecting sex, babies, and moms and dads is the social function of marriage and helps explain why the government rightly recognizes and addresses this aspect of our social lives. Gallagher develops this idea:

The critical public or “civil” task of marriage is to regulate sexual relationships between men and women in order to reduce the likelihood that children (and their mothers, and society) will face the burdens of fatherlessness, and increase the likelihood that there will be a next generation that will be raised by their mothers and fathers in one family, where both parents are committed to each other and to their children.<sup>3</sup>

***Marriage is based on the anthropological truth that men and women are complementary, the biological fact that reproduction depends on a man and a woman, and the social reality that children need a mother and a father.***

1. John Corvino and Maggie Gallagher, *Debating Same-Sex Marriage* (Oxford, U.K.: Oxford University Press, 2012), p. 94.

2. *Ibid.*, p. 116.

3. *Ibid.*, p. 96.

Marriage is a uniquely comprehensive union. It involves a union of hearts and minds, but also—and distinctively—a bodily union made possible by sexual complementarity. As the act by which a husband and wife make marital love also makes new life, so marriage itself is inherently extended and enriched by family life and calls for all-encompassing commitment that is permanent and exclusive. In short, marriage unites a man and a woman holistically—emotionally and bodily, in acts of conjugal love and in the children such love brings forth—for the whole of life.<sup>4</sup>

Just as the complementarity of a man and a woman is important for the type of union they can form, so too is it important for how they raise children. There is no such thing as “parenting.” There is mothering, and there is fathering, and children do best with both. While men and women are each capable of providing their children with a good upbringing, there are, on average, differences in the ways that mothers and fathers interact with their children and the functional roles that they play.

Dads play particularly important roles in the formation of both their sons and their daughters. As Rutgers University sociologist David Popenoe explains, “The burden of social science evidence supports the idea that gender-differentiated parenting is important for human development and that the contribution of fathers to childrearing is unique and irreplaceable.”<sup>5</sup> Popenoe concludes:

We should disavow the notion that “mommies can make good daddies,” just as we should disavow the popular notion...that “daddies can make good mommies.”... The two sexes are different to the core, and each is necessary—culturally and biologically—for the optimal development of a human being.<sup>6</sup>

**Marriage as the union of man and woman is true across cultures, religions, and time. The government recognizes but does not create marriage.**

Marriage is the fundamental building block of all human civilization. The government does not create marriage. Marriage is a natural institution that predates government. Society as a whole, not merely any given set of

spouses, benefits from marriage. This is because marriage helps to channel procreative love into a stable institution that provides for the orderly bearing and rearing of the next generation.

This understanding of marriage as the union of man and woman is shared by the Jewish, Christian, and Muslim traditions; by ancient Greek and Roman thinkers untouched by these religions; and by various Enlightenment philosophers. It is affirmed by both common and civil law and by ancient Greek and Roman law. Far from having been intended to exclude same-sex relationships, marriage as the union of husband and wife arose in many places, over several centuries, in which same-sex marriage was nowhere on the radar. Indeed, it arose in cultures that had no concept of sexual orientation and in some that fully accepted homoeroticism and even took it for granted.<sup>7</sup>

As with other public policy issues, religious voices on marriage should be welcomed in the public square. Yet one need not appeal to distinctively religious arguments to understand why marriage—as a natural institution—is the union of man and woman.

**Marriage has been weakened by a revisionist view of marriage that is more about adults’ desires than children’s needs.**

In recent decades, marriage has been weakened by a revisionist view of marriage that is more about adults’ desires than children’s needs. This view reduces marriage primarily to emotional bonds or legal privileges. Redefining marriage represents the culmination of this revisionism and would leave emotional intensity as the only thing that sets marriage apart from other bonds.

However, if marriage were just intense emotional regard, marital norms would make no sense as a principled matter. There is no reason of principle that requires an emotional union to be permanent. Or limited to two persons. Or sexual, much less sexually exclusive (as opposed to “open”). Or inherently oriented to family life and shaped by its demands. Couples might live out these norms where temperament or taste motivated them, but there would be no reason of principle for them to do so and no basis for the law to encourage them to do so.

In other words, if sexual complementarity is optional for marriage, present only where preferred, then almost

4. Sherif Girgis, Ryan T. Anderson, and Robert P. George, *What Is Marriage? Man and Woman: A Defense* (New York: Encounter Books, 2012).

5. David Popenoe, *Life Without Father: Compelling New Evidence That Fatherhood and Marriage Are Indispensable for the Good of Children and Society* (New York: The Free Press, 1996), p. 146.

6. *Ibid.*, p. 197. See also W. Bradford Wilcox, “Reconcilable Differences: What Social Sciences Show About the Complementarity of the Sexes & Parenting,” *Touchstone*, November 2005, p. 36.

7. Girgis et al., *What Is Marriage? Man and Woman: A Defense*.

every other norm that sets marriage apart is optional. Although some supporters of same-sex marriage would disagree, this point can be established by reason and, as documented below, is increasingly confirmed by the rhetoric and arguments used in the campaign to redefine marriage and by the policies that many of its leaders increasingly embrace.

## Why Marriage Matters for Policy

***Government recognizes marriage because it is an institution that benefits society in a way that no other relationship does.***

Virtually every political community has regulated male–female sexual relationships. This is not because government cares about romance as such. Government recognizes male–female sexual relationships because these alone produce new human beings. For highly dependent infants, there is no path to physical, moral, and cultural maturity—no path to personal responsibility—without a long and delicate process of ongoing care and supervision to which mothers and fathers bring unique gifts. Unless children mature, they never will become healthy, upright, productive members of society. Marriage exists to make men and women responsible to each other and to any children that they might have.

Marriage is thus a personal relationship that serves a public purpose in a political community. As the late sociologist James Q. Wilson wrote, “Marriage is a socially arranged solution for the problem of getting people to stay together and care for children that the mere desire for children, and the sex that makes children possible, does not solve.”<sup>8</sup>

***Marriage is society’s least restrictive means of ensuring the well-being of children. Marital breakdown weakens civil society and limited government.***

Marriage is society’s least restrictive means of ensuring the well-being of children. Government recognition

of marriage protects children by incentivizing men and women to commit to each other and take responsibility for their children.

Social science confirms the importance of marriage for children. According to the best available sociological evidence, children fare best on virtually every examined indicator when reared by their wedded biological parents. Studies that control for other factors, including poverty and even genetics, suggest that children reared in intact homes do best on educational achievement, emotional health, familial and sexual development, and delinquency and incarceration.<sup>9</sup>

A study published by the left-leaning research institution Child Trends concluded:

[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>10</sup>

[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.<sup>11</sup>

According to another study, “[t]he advantage of marriage appears to exist primarily when the child is the biological offspring of both parents.”<sup>12</sup> Recent literature reviews conducted by the Brookings Institution, the Woodrow Wilson School of Public and International Affairs at Princeton University, the Center for Law and Social Policy, and the Institute for American Values

8. James Q. Wilson, *The Marriage Problem* (New York: HarperCollins Publishers, 2002), p. 41.

9. For the relevant studies, see Witherspoon Institute, “Marriage and the Public Good: Ten Principles,” August 2008, pp. 9–19, [http://www.winst.org/family\\_marriage\\_and\\_democracy/WI\\_Marriage.pdf](http://www.winst.org/family_marriage_and_democracy/WI_Marriage.pdf) (accessed March 4, 2013). “Marriage and the Public Good,” signed by some 70 scholars, corroborates the philosophical case for marriage with extensive evidence from the social sciences about the welfare of children and adults.

10. Kristin Anderson Moore, Susan M. Jekielek, and Carol Emig, “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, p. 1, <http://www.childtrends.org/files/MarriageRB602.pdf> (accessed March 4, 2013) (original emphasis).

11. *Ibid.*, p. 6.

12. Wendy D. Manning and Kathleen A. Lamb, “Adolescent Well-Being in Cohabiting, Married, and Single-Parent Families,” *Journal of Marriage and Family*, Vol. 65, No. 4 (November 2003), pp. 876 and 890.

corroborate the importance of intact households for children.<sup>13</sup>

These statistics have penetrated American life to such a great extent that even President Barack Obama refers to them as well known:

We know the statistics—that children who grow up without a father are five times more likely to live in poverty and commit crime; nine times more likely to drop out of schools and twenty times more likely to end up in prison. They are more likely to have behavioral problems, or run away from home, or become teenage parents themselves. And the foundations of our community are weaker because of it.<sup>14</sup>

Fathers matter, and marriage helps to connect fathers to mothers and children.

Social science claiming to show that there are “no differences” in outcomes for children raised in same-sex households does not change this reality. In fact, the most recent, sophisticated studies suggest that prior research is inadequate to support the assertion that it makes “no difference” whether a child was raised by same-sex parents.<sup>15</sup> A survey of 59 of the most prominent studies often cited for this claim shows that they drew primarily from small convenience samples that are not appropriate for generalizations to the whole population.<sup>16</sup>

Meanwhile, recent studies using rigorous methods and robust samples confirm that children do better when raised by a married mother and father. These include

the New Family Structures Study by Professor Mark Regnerus at the University of Texas–Austin<sup>17</sup> and a report based on Census data recently released in the highly respected journal *Demography*.<sup>18</sup>

Still, the social science on same-sex parenting is a matter of significant ongoing debate, and it should not dictate choices about marriage. Recent studies using robust methods suggest that there is a lot more to learn about how changing family forms affects children and that social science evidence offers an insufficient basis for redefining marriage.

#### **Marital breakdown costs taxpayers.**

Marriage benefits everyone because separating child-bearing and childrearing from marriage burdens innocent bystanders: not just children, but the whole community. Often, the community must step in to provide (more or less directly) for their well-being and upbringing. Thus, by encouraging the marriage norms of monogamy, sexual exclusivity, and permanence, the state is strengthening civil society and reducing its own role.

By recognizing marriage, the government supports economic well-being. The benefits of marriage led Professor W. Bradford Wilcox to summarize a study he led as part of the University of Virginia’s National Marriage Project in this way: “The core message...is that the wealth of nations depends in no small part on the health of the family.”<sup>19</sup> The same study suggests that marriage and fertility trends “play an underappreciated and important role in fostering long-term economic growth, the viability of the welfare state, the size and

13. See Sara McLanahan, Elisabeth Donahue, and Ron Haskins, “Introducing the Issue,” *Marriage and Child Wellbeing*, Vol. 15, No. 2 (Fall 2005), <http://futureofchildren.org/futureofchildren/publications/journals/article/index.xml?journalid=37&articleid=103> (accessed March 4, 2013); Mary Parke, “Are Married Parents Really Better for Children?” Center for Law and Social Policy *Policy Brief*, May 2003, [http://www.clasp.org/admin/site/publications\\_states/files/0086.pdf](http://www.clasp.org/admin/site/publications_states/files/0086.pdf) (accessed March 4, 2013); and W. Bradford Wilcox et al., *Why Marriage Matters: Twenty-Six Conclusions from the Social Sciences*, 2nd ed. (New York: Institute for American Values, 2005), p. 6, [http://americanvalues.org/pdfs/why\\_marriage\\_matters2.pdf](http://americanvalues.org/pdfs/why_marriage_matters2.pdf) (accessed March 4, 2013).
14. Barack Obama, “Obama’s Speech on Fatherhood,” Apostolic Church of God, Chicago, June 15, 2008, [http://www.realclearpolitics.com/articles/2008/06/obamas\\_speech\\_on\\_fatherhood.html](http://www.realclearpolitics.com/articles/2008/06/obamas_speech_on_fatherhood.html) (accessed March 4, 2013).
15. See Jason Richwine and Jennifer A. Marshall, “The Regnerus Study: Social Science and New Family Structures Met with Intolerance,” Heritage Foundation *Backgrounder* No. 2726, October 2, 2012, <http://www.heritage.org/research/reports/2012/10/the-regnerus-study-social-science-on-new-family-structures-met-with-intolerance>.
16. Loren Marks, “Same-Sex Parenting and Children’s Outcomes: A Closer Examination of the American Psychological Association’s Brief on Lesbian and Gay Parenting,” *Social Science Research*, Vol. 41, No. 4 (July 2012), <http://www.sciencedirect.com/science/article/pii/S0049089X12000580> (accessed March 4, 2013).
17. See Children from Different Families, <http://www.familystructurestudies.com/> (accessed March 4, 2013).
18. Douglas W. Allen, Catherine Pakaluk, and Joseph Price, “Nontraditional Families and Childhood Progress Through School: A Comment on Rosenfeld,” *Demography*, November 2012.
19. Social Trends Institute, “The Sustainable Demographic Dividend: What Do Marriage and Fertility Have to Do with the Economy?” 2011, <http://sustaindemographicdividend.org/articles/the-sustainable-demographic> (accessed March 4, 2013).

quality of the workforce, and the health of large sectors of the modern economy.”<sup>20</sup>

Given its economic benefits, it is no surprise that the decline of marriage most hurts the least well-off. A leading indicator of whether someone will know poverty or prosperity is whether, growing up, he or she knew the love and security of having a married mother and father. For example, a recent Heritage Foundation report by Robert Rector points out: “Being raised in a married family reduced a child’s probability of living in poverty by about 82 percent.”<sup>21</sup>

The erosion of marriage harms not only the immediate victims, but also society as a whole. A Brookings Institution study found that \$229 billion in welfare expenditures between 1970 and 1996 can be attributed to the breakdown of the marriage culture and the resulting exacerbation of social ills: teen pregnancy, poverty, crime, drug abuse, and health problems.<sup>22</sup> A 2008 study found that divorce and unwed childbearing cost taxpayers \$112 billion each year,<sup>23</sup> and Utah State University scholar David Schramm has estimated that divorce alone costs local, state, and federal-level government \$33 billion each year.<sup>24</sup>

Civil recognition of the marriage union of a man and a woman serves the ends of limited government more effectively, less intrusively, and at less cost than does picking up the pieces from a shattered marriage culture.

**Government can treat people equally—and leave them free to live and love as they choose—without redefining marriage.**

While respecting everyone’s liberty, government rightly recognizes, protects, and promotes marriage as the ideal institution for childbearing and childrearing. Adults are free to make choices about their relationships without redefining marriage and do not need government sanction or license to do so.

Government is not in the business of affirming our love. Rather, it leaves consenting adults free to live and love as they choose. Contrary to what some say, there is no ban on same-sex marriage. Nothing about it is illegal. In all 50 states, two people of the same sex may choose to live together, choose to join a religious community that blesses their relationship, and choose a workplace offering joint benefits. There is nothing illegal about this.

What is at issue is whether the government will recognize such relationships as marriages—and then force every citizen, house of worship, and business to do so as well. At issue is whether policy will coerce and compel others to recognize and affirm same-sex relationships as marriages. All Americans have the freedom to live as they choose, but they do not have the right to redefine marriage for everyone else.

Appeals to “marriage equality” are good sloganeering, but they exhibit sloppy reasoning. Every law makes distinctions. Equality before the law protects citizens from arbitrary distinctions, from laws that treat them differently for no good reason. To know whether a law makes the right distinctions—whether the lines it draws are justified—one has to know the public purpose of the law and the nature of the good being advanced or protected.

If the law recognized same-sex couples as spouses, would some argue that it fails to respect the equality of citizens in multiple-partner relationships? Are those inclined to such relationships being treated unjustly when their consensual romantic bonds go unrecognized, their children thereby “stigmatized” and their tax filings unprivileged?

This is not hypothetical. In 2009, *Newsweek* reported that there were over 500,000 polyamorous households in America.<sup>25</sup> Prominent scholars and LGBT (lesbian, gay, bisexual, and transgender) activists have called for “marriage equality” for multipartner relationships since at least 2006.<sup>26</sup>

20. H. Brey Cannon, “New Report: Falling Birth, Marriage Rates Linked to Global Economic Slowdown,” *UVA Today*, October 3, 2011, <http://www.virginia.edu/uvatoday/newsRelease.php?id=16244> (accessed March 4, 2013).
21. Robert Rector, “Marriage: America’s Greatest Weapon Against Child Poverty,” Heritage Foundation *Special Report* No. 117, September 5, 2012, <http://www.heritage.org/research/reports/2012/09/marriage-americas-greatest-weapon-against-child-poverty>.
22. Isabel V. Sawhill, “Families at Risk,” in Henry J. Aaron and Robert D. Reischauer, eds., *Setting National Priorities: The 2000 Election and Beyond* (Washington: Brookings Institution Press, 1999), pp. 97 and 108. See also Witherspoon Institute, “Marriage and the Public Good,” p. 15.
23. Institute for American Values et al., “The Taxpayer Costs of Divorce and Unwed Childbearing: First-Ever Estimates for the Nation and for All Fifty States,” 2008, <http://www.americanvalues.org/pdfs/COFF.pdf> (accessed March 6, 2013).
24. David G. Schramm, “Preliminary Estimates of the Economic Consequences of Divorce,” Utah State University, 2003.
25. Jessica Bennett, “Only You. And You. And You,” *Newsweek*, July 28, 2009, <http://www.thedailybeast.com/newsweek/2009/07/28/only-you-and-you-and-you.html> (accessed March 6, 2013).
26. Ryan T. Anderson, “Beyond Gay Marriage,” *The Weekly Standard*, August 17, 2008, <http://www.weeklystandard.com/Content/Public/Articles/000/000/012/591cxhia.asp> (accessed March 6, 2013).

If sexual complementarity is eliminated as an essential characteristic of marriage, then no principle limits civil marriage to monogamous couples.

Supporters of redefinition use the following analogy: Laws defining marriage as a union of a man and a woman are unjust—fail to treat people equally—exactly like laws that prevented interracial marriage. Yet such appeals beg the question of what is essential to marriage. They assume exactly what is in dispute: that gender is as irrelevant as race in state recognition of marriage. However, race has nothing to do with marriage, and racist laws kept the races apart. Marriage has everything to do with men and women, husbands and wives, mothers and fathers and children, and that is why principle-based policy has defined marriage as the union of one man and one woman.

Marriage must be color-blind, but it cannot be gender-blind. The color of two people's skin has nothing to do with what kind of marital bond they have. However, the sexual difference between a man and a woman is central to what marriage is. Men and women regardless of their race can unite in marriage, and children regardless of their race need moms and dads. To acknowledge such facts requires an understanding of what, at an essential level, makes a marriage.

***We reap the civil society benefits of marriage only if policy gets marriage right.***

The state has an interest in marriage and marital norms because they serve the public good by protecting child well-being, civil society, and limited government. Marriage laws work by embodying and promoting a true vision of marriage, which makes sense of those norms as a coherent whole. There is nothing magical about the word "marriage." It is not just the legal title of marriage that encourages adherence to marital norms.

What does the work are the social reality of marriage and the intelligibility of its norms. These help to channel behavior. Law affects culture. Culture affects beliefs. Beliefs affect actions. The law teaches, and it will shape not just a handful of marriages, but the public understanding of what marriage is.

Government promotes marriage to make men and women responsible to each other and to any children they might have. Promoting marital norms serves these same ends. The norms of monogamy and sexual exclusivity encourage childbearing within a context that makes it most likely that children will be raised by their mother and father. These norms also help to ensure shared responsibility and commitment between spouses, provide sufficient attention from both a mother and a father to

their children, and avoid the sexual and kinship jealousy that might otherwise be present.

The norm of permanency ensures that children will at least be cared for by their mother and father until they reach maturity. It also provides kinship structure for interaction across generations as elderly parents are cared for by their adult children and as grandparents help to care for their grandchildren without the complications of fragmented stepfamilies.

If the law taught a falsehood about marriage, it would make it harder for people to live out the norms of marriage because marital norms make no sense, as matters of principle, if marriage is just intense emotional feeling. No reason of principle requires an emotional union to be permanent or limited to two persons, much less sexually exclusive. Nor should it be inherently oriented to family life and shaped by its demands. This does not mean that a couple could not decide to live out these norms where temperament or taste so motivated them, just that there is no reason of principle to demand that they do so. Legally enshrining this alternate view of marriage would undermine the norms whose link to the common good is the basis for state recognition of marriage in the first place.

Insofar as society weakens the rational foundation for marriage norms, fewer people would live them out, and fewer people would reap the benefits of the marriage institution. This would affect not only spouses, but also the well-being of their children. The concern is not so much that a handful of gay or lesbian couples would be raising children, but that it would be very difficult for the law to send a message that *fathers matter* when it has redefined marriage to make *fathers optional*.

This highlights the link between the central questions in this debate: What is marriage, and why does the state promote it? It is not that the state *should not* achieve its basic purpose while obscuring what marriage is. Rather, it *cannot*. Only when policy gets the nature of marriage right can a political community reap the civil society benefits of recognizing it.

Finally, support for marriage between a man and a woman is no excuse for animus against those with same-sex attractions or for ignoring the needs of individuals who, for whatever reason, may never marry. They are no less worthy than others of concern and respect. Yet this same diligent concern for the common good requires protecting and strengthening the marriage culture by promoting the truth about marriage.

## The Consequences of Redefining Marriage

***Redefining marriage would further distance marriage from the needs of children and deny the importance of mothers and fathers.***

Redefining marriage would further disconnect child-bearing from marriage. That would hurt children, especially the most vulnerable. It would deny as a matter of policy the ideal that children need a mother and a father. Traditional marriage laws reinforce the idea that a married mother and father is the most appropriate environment for rearing children, as the best available social science suggests.

Recognizing same-sex relationships as marriages would legally abolish that ideal. It would deny the significance of both mothering and fathering to children: that boys and girls tend to benefit from fathers and mothers in different ways. Indeed, the law, public schools, and media would teach that mothers and fathers are fully interchangeable and that thinking otherwise is bigoted.

Redefining marriage would diminish the social pressures and incentives for husbands to remain with their wives and biological children and for men and women to marry before having children. Yet the resulting arrangements—parenting by single parents, divorced parents, remarried parents, cohabiting couples, and fragmented families of any kind—are demonstrably worse for children.<sup>27</sup> Redefining marriage would destabilize marriage in ways that are known to hurt children.

Leading LGBT advocates admit that redefining marriage changes its meaning. E. J. Graff celebrates the fact that redefining marriage would change the “institution’s message” so that it would “ever after stand for sexual choice, for cutting the link between sex and diapers.” Enacting same-sex marriage, she argues, “does more than just fit; it announces that marriage has changed shape.”<sup>28</sup> Andrew Sullivan says that marriage has become “primarily a way in which two adults affirm their emotional commitment to one another.”<sup>29</sup>

Government exists to create the conditions under which individuals and freely formed communities can thrive. The most important free community—the one on which all others depend—is the marriage-based family. The conditions for its thriving include the accommodations and pressures that marriage law provides for

couples to stay together. Redefining marriage would further erode marital norms, thrusting government further into leading roles for which it is poorly suited: parent and discipliner to the orphaned; provider to the neglected; and arbiter of disputes over custody, paternity, and visitation. As the family weakened, welfare programs and correctional bureaucracies would grow.

***Redefining marriage would put into the law the new principle that marriage is whatever emotional bond the government says it is.***

Redefining marriage does not simply expand the existing understanding of marriage. It rejects the truth that marriage is based on the complementarity of man and woman, the biological fact that reproduction depends on a man and a woman, and the social reality that children need a mother and a father.

Redefining marriage to include same-sex relationships is not ultimately about expanding the pool of people who are eligible to marry. Redefining marriage is about cementing a new idea of marriage in the law—an idea whose baleful effects conservatives have fought for years. The idea that romantic-emotional union is all that makes a marriage cannot explain or support the stabilizing norms that make marriage fitting for family life. It can only undermine those norms.

Indeed, that undermining already has begun. Disastrous policies such as “no-fault” divorce were also motivated by the idea that a marriage is made by romantic attachment and satisfaction—and comes undone when these fade. Same-sex marriage would require a more formal and final redefinition of marriage as simple romantic companionship, obliterating the meaning that the marriage movement had sought to restore to the institution.

***Redefining marriage would weaken monogamy, exclusivity, and permanency—the norms through which marriage benefits society.***

Government needs to get marriage policy right because it shapes the norms associated with this most fundamental relationship. Redefining marriage would abandon the norm of male–female sexual complementarity as an essential characteristic of marriage. Making that optional would also make other essential characteristics of marriage—such as monogamy, exclusivity, and

27. For the relevant studies, see Witherspoon Institute, “Marriage and the Public Good.” See also Moore et al., “Marriage from a Child’s Perspective,” p. 1; Manning and Lamb, “Adolescent Well-Being in Cohabiting, Married, and Single-Parent Families”; McLanahan et al., “Introducing the Issue”; Parke, “Are Married Parents Really Better for Children?”; and Wilcox et al., *Why Marriage Matters*, p. 6.

28. E. J. Graff, “Retying the Knot,” in Andrew Sullivan, ed., *Same-Sex Marriage: Pro and Con: A Reader* (New York: Vintage Books, 1997), pp. 134, 136, and 137.

29. Andrew Sullivan, “Introduction,” in Sullivan, ed., *Same-Sex Marriage*, pp. xvii and xix.

permanency—optional.<sup>30</sup> Weakening marital norms and severing the connection of marriage with responsible procreation are the admitted goals of many prominent advocates of redefining marriage.

**The Norm of Monogamy.** New York University Professor Judith Stacey has expressed hope that redefining marriage would give marriage “varied, creative, and adaptive contours,” leading some to “question the dyadic limitations of Western marriage and seek...small group marriages.”<sup>31</sup> In their statement “Beyond Same-Sex Marriage,” more than 300 “LGBT and allied” scholars and advocates call for legally recognizing sexual relationships **involving more than two partners.**<sup>32</sup>

University of Calgary Professor Elizabeth Brake thinks that justice requires using legal recognition to “denormalize[] heterosexual monogamy as a way of life” and “rectif[y] past discrimination against homosexuals, bisexuals, polygamists, and care networks.” She supports “minimal marriage,” in which “individuals can have legal marital relationships with more than one person, reciprocally or asymmetrically, themselves determining the sex and number of parties, the type of relationship involved, and which rights and responsibilities to exchange with each.”<sup>33</sup>

In 2009, *Newsweek* reported that the United States already had over 500,000 polyamorous households.<sup>34</sup> The author concluded:

[P]erhaps the practice is more natural than we think: a response to the challenges of monogamous relationships, whose shortcomings...are clear. Everyone in a relationship wrestles at some point with an eternal question: can one person really satisfy every need? Polyamorists think the answer is obvious—and that it’s only a matter of time before the monogamous world sees there’s more than one way to live and love.<sup>35</sup>

A 2012 article in *New York Magazine* introduced Americans to “throuple,” a new term akin to a “couple,” but with three people whose “throuplehood is more or less a permanent domestic arrangement. The three men work together, raise dogs together, sleep together, miss one another, collect art together, travel together, bring each other glasses of water, and, in general, exemplify a modern, adult relationship. Except that there are three of them.”<sup>36</sup>

**The Norm of Exclusivity.** Andrew Sullivan, who has extolled the “spirituality” of “anonymous sex,” also thinks that the “openness” of same-sex unions could enhance the bonds of husbands and wives:

Same-sex unions often incorporate the virtues of friendship more effectively than traditional marriages; and at times, among gay male relationships, the openness of the contract makes it more likely to survive than many heterosexual bonds.... [T]here is more likely to be greater understanding of the need for extra-marital outlets between two men than between a man and a woman.... [S]omething of the gay relationship’s necessary honesty, its flexibility, and its equality could undoubtedly help strengthen and inform many heterosexual bonds.<sup>37</sup>

“Openness” and “flexibility” are Sullivan’s euphemisms for sexual infidelity. Similarly, in a *New York Times Magazine* profile, gay activist Dan Savage encourages spouses to adopt “a more flexible attitude” about allowing each other to seek sex outside their marriage. *The New York Times* recently reported on a study finding that exclusivity was not the norm among gay partners: “‘With straight people, it’s called affairs or cheating,’ said Colleen Hoff, the study’s principal investigator, ‘but with gay people it does not have such negative connotations.’”<sup>38</sup>

30. See Girgis et al., *What Is Marriage?*

31. See Maggie Gallagher, “(How) Will Gay Marriage Weaken Marriage as a Social Institution: A Reply to Andrew Koppelman,” *University of St. Thomas Law Journal*, Vol. 2, No. 1 (2004), p. 62, <http://ir.stthomas.edu/cgi/viewcontent.cgi?article=1047&context=ustlj> (accessed March 6, 2013).

32. BeyondMarriage.org, “Beyond Same-Sex Marriage: A New Strategic Vision for All Our Families and Relationships,” July 26, 2006, [http://beyondmarriage.org/full\\_statement.html](http://beyondmarriage.org/full_statement.html) (accessed March 6, 2013).

33. Elizabeth Brake, “Minimal Marriage: What Political Liberalism Implies for Marriage Law,” *Ethics*, Vol. 120, No. 2 (January 2010), pp. 302, 303, 323, and 336.

34. Bennett, “Only You.”

35. *Ibid.*

36. Molly Young, “He & He & He,” *New York Magazine*, July 29, 2012, <http://nymag.com/news/features/sex/2012/benny-morecock-throuple/> (accessed March 6, 2013).

37. Andrew Sullivan, *Virtually Normal: An Argument About Homosexuality* (New York: Vintage Books, 1996), pp. 202–203.

38. Scott James, “Many Successful Gay Marriages Share an Open Secret,” *The New York Times*, January 28, 2010, <http://www.nytimes.com/2010/01/29/us/29sfmetro.html> (accessed March 6, 2013).

A piece in *The Advocate* candidly admits where the logic of redefining marriage to include same-sex relationships leads:

Anti-equality right-wingers have long insisted that allowing gays to marry will destroy the sanctity of “traditional marriage,” and, of course, the logical, liberal party-line response has long been “No, it won’t.” But what if—for once—the sanctimonious crazies are right? Could the gay male tradition of open relationships actually alter marriage as we know it? And would that be such a bad thing?<sup>39</sup>

We often protest when homophobes insist that same sex marriage will change marriage for straight people too. But in some ways, they’re right.<sup>40</sup>

Some advocates of redefining marriage embrace the goal of weakening the institution of marriage *in these very terms*. “[Former President George W.] Bush is correct,” says Victoria Brownworth, “when he states that allowing same-sex couples to marry will weaken the institution of marriage.... It most certainly will do so, and that will make marriage a far better concept than it previously has been.”<sup>41</sup> Professor Ellen Willis celebrates the fact that “conferring the legitimacy of marriage on homosexual relations will introduce an implicit revolt against the institution into its very heart.”<sup>42</sup>

Michelangelo Signorile urges same-sex couples to “demand the right to marry not as a way of adhering to society’s moral codes but rather to debunk a myth and radically alter an archaic institution.”<sup>43</sup> Same-sex couples should “fight for same-sex marriage and its benefits and then, once granted, redefine the institution of marriage completely, because the most subversive action lesbians

and gay men can undertake...is to transform the notion of ‘family’ entirely.”<sup>44</sup>

It is no surprise that there is already evidence of this occurring. A federal judge in Utah allowed a legal challenge to anti-bigamy laws.<sup>45</sup> A bill that would allow a child to have three legal parents passed both houses of the California state legislature in 2012 before it was vetoed by the governor, who claimed he wanted “to take more time to consider all of the implications of this change.”<sup>46</sup> The impetus for the bill was a lesbian same-sex relationship in which one partner was impregnated by a man. The child possessed a biological mother and father, but the law recognized the biological mother and her same-sex spouse, a “presumed mother,” as the child’s parents.<sup>47</sup>

Those who believe in monogamy and exclusivity—and the benefits that these bring to orderly procreation and child well-being—should take note.

#### ***Redefining marriage threatens religious liberty.***

Redefining marriage marginalizes those with traditional views and leads to the erosion of religious liberty. The law and culture will seek to eradicate such views through economic, social, and legal pressure. If marriage is redefined, believing what virtually every human society once believed about marriage—a union of a man and woman ordered to procreation and family life—would be seen increasingly as a malicious prejudice to be driven to the margins of culture. The consequences for religious believers are becoming apparent.

The administrative state may require those who contract with the government, receive governmental monies, or work directly for the state to embrace and promote same-sex marriage even if it violates their religious beliefs. Nondiscrimination law may make even private actors with no legal or financial ties to the government—including businesses and religious organizations—liable

39. Ari Karpel, “Monogamish,” *The Advocate*, July 7, 2011, [http://www.advocate.com/Print\\_Issue/Features/Monogamish/](http://www.advocate.com/Print_Issue/Features/Monogamish/) (accessed March 6, 2013).

40. Ari Karpel, “Features: Monogamish,” *The Advocate*, July 7, 2011, <http://www.advocate.com/arts-entertainment/features?page=7> (accessed March 7, 2013).

41. Victoria A. Brownworth, “Something Borrowed, Something Blue: Is Marriage Right for Queers?” in Greg Wharton and Ian Phillips, eds., *I Do/I Don’t: Queers on Marriage* (San Francisco: Suspect Thoughts Press, 2004), pp. 53 and 58–59.

42. Ellen Willis, “Can Marriage Be Saved? A Forum,” *The Nation*, July 5, 2004, p. 16, <http://www.highbeam.com/doc/1G1-118670288.html> (accessed March 6, 2013).

43. Michelangelo Signorile, “Bridal Wave,” *Out*, December 1993/January 1994, pp. 68 and 161.

44. *Ibid.*

45. Julia Zebley, “Utah Polygamy Law Challenged in Federal Lawsuit,” *Jurist*, July 13, 2011, <http://jurist.org/paperchase/2011/07/utah-polygamy-law-challenged-in-federal-lawsuit.php> (accessed March 6, 2013).

46. Jim Sanders, “Jerry Brown Vetoes Bill Allowing More Than Two Parents,” *The Sacramento Bee*, September 30, 2012, <http://blogs.sacbee.com/capitolalertlatest/2012/09/jerry-brown-vetoes-bill-allowing-more-than-two-parents.html> (accessed March 6, 2013).

47. For more on this, see Jennifer Roback Morse, “Why California’s Three-Parent Law Was Inevitable,” Witherspoon Institute *Public Discourse*, September 10, 2012, <http://www.thepublicdiscourse.com/2012/09/6197> (accessed March 6, 2013).

to civil suits for refusing to treat same-sex relationships as marriages. Finally, private actors in a culture that is now hostile to traditional views of marriage may discipline, fire, or deny professional certification to those who express support for traditional marriage.

In fact, much of this is already occurring. Heritage Foundation Visiting Fellow Thomas Messner has documented multiple instances in which redefining marriage has already become a nightmare for religious liberty.<sup>48</sup> If marriage is redefined to include same-sex relationships, then those who continue to believe the truth about marriage—that it is by nature a union of a man and a woman—would face three different types of threats to their liberty: the administrative state, nondiscrimination law, and private actors in a culture that is now hostile to traditional views.<sup>49</sup>

After Massachusetts redefined marriage to include same-sex relationships, Catholic Charities of Boston was forced to discontinue its adoption services rather than place children with same-sex couples against its principles.<sup>50</sup> Massachusetts public schools began teaching grade-school students about same-sex marriage, defending their decision because they are “committed to teaching about the world they live in, and in Massachusetts same-sex marriage is legal.” A Massachusetts appellate court ruled that parents have no right to exempt their children from these classes.<sup>51</sup>

The New Mexico Human Rights Commission prosecuted a photographer for declining to photograph a same-sex “commitment ceremony.” Doctors in California were successfully sued for declining to perform an artificial insemination on a woman in a same-sex relationship. Owners of a bed and breakfast in Illinois who declined to

rent their facility for a same-sex civil union ceremony and reception were sued for violating the state nondiscrimination law. A Georgia counselor was fired after she referred someone in a same-sex relationship to another counselor.<sup>52</sup> In fact, the Becket Fund for Religious Liberty reports that “over 350 separate state anti-discrimination provisions would likely be triggered by recognition of same-sex marriage.”<sup>53</sup>

The Catholic bishop of Springfield, Illinois, explains how a bill, which was offered in that state’s 2013 legislative session, to redefine marriage while claiming to protect religious liberty was unable to offer meaningful protections:

[It] would not stop the state from obligating the Knights of Columbus to make their halls available for same-sex “weddings.” It would not stop the state from requiring Catholic grade schools to hire teachers who are legally “married” to someone of the same sex. This bill would not protect Catholic hospitals, charities, or colleges, which exclude those so “married” from senior leadership positions.... This “religious freedom” law does nothing at all to protect the consciences of people in business, or who work for the government. We saw the harmful consequences of deceptive titles all too painfully last year when the so-called “Religious Freedom Protection and Civil Union Act” forced Catholic Charities out of foster care and adoption services in Illinois.<sup>54</sup>

In fact, the lack of religious liberty protection seems to be a feature of such bills:

48. Thomas M. Messner, “Same-Sex Marriage and the Threat to Religious Liberty,” Heritage Foundation *Backgrounder* No. 2201, October 30, 2008, <http://www.heritage.org/research/reports/2008/10/same-sex-marriage-and-the-threat-to-religious-liberty>; “Same-Sex Marriage and Threats to Religious Freedom: How Nondiscrimination Laws Factor In,” Heritage Foundation *Backgrounder* No. 2589, July 29, 2011, <http://www.heritage.org/research/reports/2011/07/same-sex-marriage-and-threats-to-religious-freedom-how-nondiscrimination-laws-factor-in>; and “From Culture Wars to Conscience Wars: Emerging Threats to Conscience,” Heritage Foundation *Backgrounder* No. 2532, April 13, 2011, <http://www.heritage.org/research/reports/2011/04/from-culture-wars-to-conscience-wars-emerging-threats-to-conscience>.

49. For more on this, see Messner, “Same-Sex Marriage and the Threat to Religious Liberty.”

50. Maggie Gallagher, “Banned in Boston,” *The Weekly Standard*, May 5, 2006, p. 20, <http://www.weeklystandard.com/Content/Public/Articles/000/000/012/191kgwgh.asp> (accessed March 6, 2013).

51. For example, see *Parker v. Hurley*, 514 F.3d 87 (1st Cir. 2008).

52. *Walden v. Centers for Disease Control*, Case No. 1:08-cv-02278-JEC, U.S. District Court, Northern District of Georgia, March 18, 2010, <http://www.telladf.org/UserDocs/WaldenSJorder.pdf> (accessed March 6, 2013).

53. Becket Fund for Religious Liberty, “Same-Sex Marriage and State Anti-Discrimination Laws,” *Issue Brief*, January 2009, p. 2, <http://www.becketfund.org/wp-content/uploads/2011/04/Same-Sex-Marriage-and-State-Anti-Discrimination-Laws-with-Appendices.pdf> (accessed March 7, 2013). See also Messner, “Same-Sex Marriage and Threats to Religious Freedom,” p. 4.

54. Thomas John Paprocki, letter to priests, deacons, and pastoral facilitators in the Diocese of Springfield, January 3, 2013, <http://www.dio.org/blog/item/326-bishop-paprockis-letter-on-same-sex-marriage.html#sthash.CPXLw6Gt.dpbs> (accessed March 6, 2013).

There is no possible way—none whatsoever—for those who believe that marriage is exclusively the union of husband and wife to avoid legal penalties and harsh discriminatory treatment if the bill becomes law. Why should we expect it be otherwise? After all, we would be people who, according to the thinking behind the bill, hold onto an “unfair” view of marriage. The state would have equated our view with bigotry—which it uses the law to marginalize in every way short of criminal punishment.<sup>55</sup>

Georgetown University law professor Chai Feldblum, an appointee to the U.S. Equal Employment Opportunity Commission, argues that the push to redefine marriage trumps religious liberty concerns:

[F]or all my sympathy for the evangelical Christian couple who may wish to run a bed and breakfast from which they can exclude unmarried, straight couples and all gay couples, this is a point where I believe the “zero-sum” nature of the game inevitably comes into play. And, in making that decision in this zero-sum game, I am convinced society should come down on the side of protecting the liberty of LGBT people.<sup>56</sup>

Indeed, for many supporters of redefining marriage, such infringements on religious liberty are not flaws but virtues of the movement.

## The Future of Marriage

Long before the debate about same-sex marriage, there was a debate about marriage. It launched a “marriage movement” to explain why marriage was good both for the men and women who were faithful to its responsibilities and for the children they reared. Over the past decade, a new question emerged: What does society have to lose by redefining marriage to exclude sexual complementarity?

Many citizens are increasingly tempted to think that marriage is simply an intense emotional union, whatever sort of interpersonal relationship consenting adults, whether two or 10 in number, want it to be—sexual or platonic, sexually exclusive or open, temporary or permanent. This leaves marriage with no essential features, no fixed core as a social reality. It is simply whatever consenting adults want it to be.

Yet if marriage has no form and serves no social purpose, how will society protect the needs of children—the prime victim of our non-marital sexual culture—without government growing *more* intrusive and *more* expensive?

Marriage exists to bring a man and a woman together as husband and wife to be father and mother to any children their union produces. Marriage benefits everyone because separating the bearing and rearing of children from marriage burdens innocent bystanders: not just children, but the whole community. Without healthy marriages, the community often must step in to provide (more or less directly) for their well-being and upbringing. Thus, by encouraging the norms of marriage—monogamy, sexual exclusivity, and permanence—the state strengthens civil society and reduces its own role.

Government recognizes traditional marriage because it benefits society in a way that no other relationship or institution does. Marriage is society’s least restrictive means of ensuring the well-being of children. State recognition of marriage protects children by encouraging men and women to commit to each other and take responsibility for their children.

Promoting marriage does not ban any type of relationship: Adults are free to make choices about their relationships, and they do not need government sanction or license to do so. All Americans have the freedom to live as they choose, but no one has a right to redefine marriage for everyone else.

The future of this country depends on the future of marriage, and the future of marriage depends on citizens understanding what it is and why it matters and demanding that government policies support, not undermine, true marriage.

Some might appeal to historical inevitability as a reason to avoid answering the question of what marriage is—as if it were an already moot question. However, changes in public opinion are driven by human choice, not by blind historical forces. The question is not what will happen, but what we should do.

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55. Ibid.

56. Chai R. Feldblum, “Moral Conflict and Liberty: Gay Rights and Religion,” *Brooklyn Law Review*, Vol. 72, No. 1 (Fall 2006), p. 119, [http://www.brooklaw.edu/~media/PDF/LawJournals/BLR\\_PDF/blr\\_v72i.ashx](http://www.brooklaw.edu/~media/PDF/LawJournals/BLR_PDF/blr_v72i.ashx) (accessed March 6, 2013).