

Should the Traditional Understanding of Marriage as the One-Flesh Union of a Man and a Woman Be Abandoned?

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With regard to the question, “Should the traditional understanding of marriage as the one-flesh union of a man and a woman be abandoned?” my initial response is to ask, *which* tradition and *whose* tradition are we speaking of, given the fact that there is no singular biblical or unequivocal Christian marriage tradition? As a Christian ethicist, I recognize the power of the biblical image of one-flesh union. Historian Mark Jordan puts the matter this way: “The idea of ‘one flesh’ can be quite beautiful,” but he adds, “it has not been taken as the Christian ideal in all its beautiful strictness.”¹ The image certainly evokes the bonding power of intimacy, including sexual intimacy, and yet Christian theologians have long argued whether a marriage must be “consummated.” In addition, can a “one-flesh” marriage be dissolved and, if so, on what grounds? Should divorced or widowed persons be free to remarry? Some have insisted that mutual consent outweighs consummation in making a marriage. Others have emphasized the public declaration of vows rather than the making of private promises. “So ‘one flesh,’” Jordan concludes, “is not the complete logic of Christian monogamy and indissolubility.”²

Given that, I turn to Adrian Thatcher, who in his recent study, *Marriage After Modernity: Christian Marriage in Postmodern Times*, discusses “one-flesh unions” alongside four other biblical models: marriage as covenant, as “dubious necessity,” as “worldly concession,” and as “passionate mutual

¹ Mark D. Jordan, *The Ethics of Sex* (Malden, MA: Blackwell, 2002), 130.

² *Ibid.*

love.”³ Given this diversity of biblical models, why, I ask, should the emphasis be placed on marriage as one-flesh union? This question gains importance as we consider Thatcher’s critique of “one flesh” marriage historically concretized as a patriarchal institution. Patriarchal marriage naturalizes power and status inequalities within a gender hierarchy with a husband-provider and dependent wife forming a “next of kin” unit, each having exclusive rights presumably to each other’s bodies, but united in such a way that the husband remains in charge and the wife is subsumed under his authority. Though marriage partners may be spiritually equal, they are not so in other respects. “Marriage then is too easily a loss,” writes Thatcher. “The new one flesh created by marriage has too often been *his*. Without a *mutual* contribution to the married relationship, an entire ‘gender-sex system’ is encouraged in which wives exist through their husbands and subordinate their interests to those of men. Such relationships are clearly unjust.”⁴

My initial response to the question at hand, then, is to say that, religiously and ethically speaking, the notion of one-flesh union has been called into question, if not jettisoned, long before the topic of marriage for same-sex couples is ever raised. The doctrine of marital unity known as coverture has already been discredited in the U.S. as a legal and moral principle. No longer does the common law turn a married couple into one person, the husband, who becomes the legal and political representative of his wife, in effect disenfranchising her as a moral agent and citizen in her own person. To be sure, coverture has also had an economic dimension. Upon marrying, a woman’s assets were assigned to her husband, and her resources, along with her labor and future earnings, became his property. As historian Nancy Cott summarizes, “By consenting to marry, the husband pledged to protect and support his wife, the wife to serve and obey her husband. The body of marriage was understood to rest on this economic skeleton as much as on sexual fidelity.”⁵

Although there is cultural nostalgia about this model, patriarchal marriage has been displaced by two forces which together make its return unlikely. One is the capitalist market economy that necessitates dual-income families. The other is the feminist movement and the transformation of women’s self-understanding, as well as men’s. “One of the greatest casualties of the patriarchal family structure,” ethicist Christine Gudorf points out, “[has been] the marital relationship itself.” Patriarchal power dynamics work against the fostering of interpersonal intimacy. “When one person has

³ Adrian Thatcher, *Marriage After Modernity: Christian Marriage in Postmodern Times* (Sheffield, England: Sheffield Academic, 1999), chapter 3.

⁴ *Ibid.*, 95.

⁵ Nancy F. Cott, *Public Vows: A History of Marriage and the Nation* (Cambridge, MA: Harvard University Press, 2000), 12.

power over another—and the greater the power, the more profound the effect—trust becomes difficult. The powerless party is unlikely to fully trust the powerful party, and therefore avoids complete vulnerability.⁶ Without mutual vulnerability, mutual respect, and mutual power fairly shared between the intimates, intimacy is compromised. As Gudorf explains, “To merge with someone of superior power is dangerous, for we can disappear completely, be swallowed up by the other—which has been women’s experience of the legal, political and economic consequence of marriage historically understood as ‘two in one flesh.’”⁷ Only late in the twentieth century, with the dismantling of marital rape exemption laws, was one of the last vestiges of coverture discarded. Women’s right to bodily integrity and self-determination, including a *married* woman’s self-possession and freedom from coerced sex by her marital partner, is at long last affirmed as a legal principle throughout the U.S. and Canada.

Because the institution of marriage is embedded in an oppressive history of power and abuse, I suggest that whenever Christians, especially socially privileged Christians, enter into debate about marriage, they consider beginning with confession and repentance, given the fact that so often they have been on the wrong side of a number of marriage controversies. At various moments in U.S. history, a Christian majority has refused to allow slaves to marry, defended women’s status as property of their husbands, questioned the need for laws against marital rape, and as recently as the late 1960s, opposed legalizing interracial marriage. Additionally, for centuries Christian theologians have promoted marriage as a patriarchal ownership arrangement and touted this model as ethical, even sacramental. Therefore, perhaps it would be wise to listen and learn from those who may have fresh insights on these matters. That includes gay, lesbian, bisexual, and transgender persons, inside and outside the church, who have gained moral wisdom by managing to love well, sustain intimate partnerships, and build community “against the odds” within often hostile social and religious environments.

In considering whether the civil right to marry should be extended to same-sex couples, I operate with several assumptions. First, marriage is a changing, ever-evolving institution with a history, some of which has been oppressive. Second, marriage *should* change to better accord with the best of civic and religious values. Change in social relations is often precipitated by a deepening recognition of and respect for the humanity of others. Respecting their personhood requires honoring and protecting their human

⁶ Christine E. Gudorf, “Western Religion and the Patriarchal Family,” in *Perspectives on Marriage: A Reader*, ed. Kieran Scott and Michael Warren (New York: Oxford University Press, 2001), 296.

⁷ *Ibid.*

rights, including the freedom of intimate association. Third, I wager that answering the question of whether to support or oppose marriage equality for same-sex couples depends, to a great extent, on the criteria and interpretive framework utilized for moral and theological discernment. My suggestion is to adopt a justice lens about these matters and pursue a twofold agenda: first, to aim at correcting injustice, in this instance the oppression of gay, lesbian, bisexual, and transgender persons, including the denial of their civil and human rights; and second, to promote the conditions so that gay people, among others, can flourish, not only in terms of meeting their basic needs but also in terms of exercising their basic human capacities, including the desire to enter into and sustain intimate affiliation with a significant other as one's life partner and next of kin.

In contrast to definitions of marriage that emphasize gender difference, gender inequality, and gender hierarchy, I define marriage as the covenanted or vowed union of two persons as committed life partners or, in Daniel Maguire's words, as "the highest form of interpersonal commitment and friendship achievable between sexually attracted persons."⁸ Two men or two women fit this definition, as does a man and a woman. In addition, the goods of marriage, which include companionship, mutual trust and fidelity, economic sharing, and the nurturing of children, are values central for same-sex, as well as different-sex, couples, many of whom are parenting children and caring for elder and other dependent family members. Philosopher Richard Mohr suggests that we focus on marriage as a "lived moral reality," which he defines as "intimacy given substance in the medium of everyday life, the day-to-day." Because gay and lesbian couples are, in fact, "doing the work of marriage" and acting as if married, it is appropriate to grant those committed partnerships legal standing and protection, for the benefit of the couples and society.⁹

Beyond the reimagining of marriage as an intimate partnership between equals, the other cultural shift that makes same-sex marriage imaginable

⁸ Daniel Maguire, "The Morality of Homosexual Marriage," in *Same-Sex Marriage: The Moral and Legal Debate*, ed. Robert M. Baird and Stuart E. Rosenbaum (Amherst, NY: Prometheus, 1997), 62.

⁹ Richard D. Mohr, *A Moral Perfect Union: Why Straight America Must Stand Up for Gay Rights* (Boston, MA: Beacon, 1994), 41. Mohr notes that historically, the institution of civil marriage has been marked by "major gender-based differences," including the obligation of a husband to provide for his wife's material needs, his control of her property (with or without her consent), and his entitlement to sex (a husband by legal definition could not rape his own wife). These and other gender-based differences have been reevaluated as unjust and, therefore, discarded either by judicial or legislative means. He concludes that "now that gender distinctions have all but vanished from the legal content of marriage, there is no basis for the requirement that the legal form of marriage unite members of different sexes. The legal definition of marriage—'union of one man and one woman'—though doggedly enforced in the courts, is a dead husk that has been cast off by marriage as a living legal institution" (37).

is the rethinking of sexuality and sexual ethics. Sexuality, the capacity for physical, emotional, and spiritual connection and communion with one another, is a defining characteristic of human beings. Because the human need to love and care for one another in intimate relationship is constitutive of personhood, the freedom of intimate association between adult peers merits moral respect, as well as the community's protection. Legal scholar Carlos Ball, drawing on Martha Nussbaum's moral liberalism framework, argues that

Lesbians and gay men, like everyone else, pursue and express their humanity, in part, through their intimate relationships, including sexual ones. . . . If we morally strip lesbians and gay men of their same-gender sexuality, and thus deny that they have needs and capabilities for meaningful physical and emotional intimacy along with everyone else, we fail to recognize them as human beings.¹⁰

The morally *relevant* point is the shared human need and capacity for physical and emotional intimacy, which for many is most fully expressed in a sexually intimate relationship. The morally *irrelevant* point is the gender of the intimate partners. As Ball concludes, those in the cultural majority who are increasingly supportive of gay rights do so “because they are seeing enough of themselves reflected in the homosexual ‘other’—not, of course, in the more superficial sense of being attracted to someone of one's own gender, but in the deeper sense that the attraction (whatever its object) is driven by common needs, capabilities, and vulnerabilities that we share . . . as human beings.”¹¹ Being gay is not only one way of being human, but also one way of being “normally” human and complete as a person.

Rethinking marriage and sexual ethics includes, therefore, challenging heterosexual exclusivism, the institutionalized notion that the only acceptable sexual expression is heterosexual, marital, and procreative. A revised ethical paradigm recognizes a diversity of human sexualities, that sexual orientation is morally neutral, and that the ethical focus belongs not on identity but on conduct and the character of relationships. Same-sex love and intimate relationships are morally comparable to heterosexual love and intimate relationships, something many clergy, myself included, have witnessed in performing covenant ceremonies for same-sex couples. Granted, two men or two women exchanging vows may look different from a heterosexual couple “getting married,” but they are engaged in the identical practice of making promises, seeking the support of their community, and receiving a blessing.

¹⁰ Carlos A. Ball, *The Morality of Gay Rights: An Exploration in Political Philosophy* (New York: Routledge, 2003), 104–5.

¹¹ *Ibid.*, 57.

In its November 2003 *Goodridge v. Department of Public Health* decision, the Massachusetts Supreme Judicial Court ruled to end that state's marriage exclusion and grant same-sex couples the freedom to marry civilly. The law should affirm the dignity and equality of all persons, the Court said, and the creation of second-class citizens is forbidden. This ruling reflects the understanding that marriage is both a mark of first-class citizenship and a basic human right, so precious that even incarcerated inmates on death row have a constitutionally protected right to marry. Moreover, the Massachusetts court argued that a marriage ban "works a deep and scarring hardship" on same-sex couples "for no rational reason." Therefore, for the purposes of law, the court defined marriage as "the voluntary union of two persons as spouses, to the exclusion of all others."

The Goodridge decision marks a change in the history of marriage, but as the court observed, marriage equality for same-sex couples "does not disturb the fundamental value of marriage in our society." In this regard, the recognition of same-sex marriages as legally valid is a conservative move, part of the ongoing effort to guarantee basic rights and freedoms for all citizens in a pluralistic society in which some families are formed by same-sex couples. Broadening access to marriage rights, benefits, and responsibilities is, above all, a means to acknowledge the humanity of gay persons. When the Vermont Supreme Court in late 1999 declared unconstitutional that state's ban against same-sex marriage, it made its own public confession this way: "The past provides many instances where the law refused to see a human being when it should have." In recognizing that gay people also love, form families, and would benefit from the protections and entitlements that civil marriage provides, the court concluded, "When all is said and done, [this is] a recognition of our common humanity."¹²

For religionists, this affirmation of the full humanity of lesbian, gay, bisexual, or transgender persons and advocacy for securing their human rights marks a dividing line. On one side stand those who divide the human community according to sexual orientation and grant heterosexuality special status and privilege. On the other side are those who recognize, in Daniel Maguire's words, that "the desire for a significant other with whom we are uniquely conjoined is not a heterosexual but a basic human desire."¹³ This does not mean that either marriage or sex is necessary for human fulfillment, but it does mean that it is wrong, arbitrary, and cruel to exclude an entire class of persons from these routes to intimacy, shared pleasure, and mutual commitment.

¹² *Baker v. State* 98, Vt. 032 6 (1999), cited in Gay and Lesbian Advocates and Defenders, "Civil Unions in Vermont," http://www.glad.org/GLAD_Cases/civil_unions.shtml.

¹³ Maguire, "The Morality of Homosexual Marriage," 59.

Supporting marriage equality also requires candor about how much contemporary Christian moral wisdom about sexuality and family matters stands in *discontinuity* with received tradition. Today, many Christians insist that *good sex* is not necessarily procreative, but rather should be ethically principled and pleasurable for both partners. Today, many Christians insist that *good marriages* are not male dominant, but rather exhibit flexibility about roles, power sharing, and ongoing negotiation to strengthen both partners and the relationship itself. Today, many Christians insist that *good families* do not fit a single pattern, but take a variety of forms, including not only marital families, but also those headed by single parents, blended families, and families of choice.

At the same time, affirming marriage equality is grounded in the very traditional Christian mandate for pursuing justice and compassion in all things. Supporting the freedom of same-sex couples to marry demonstrates a willingness to live gracefully with difference, this time sexual difference, in an increasingly multicultural, religiously pluralistic society. This marriage debate affords a most welcome opportunity to correct injustice and also draw a larger picture of love, commitment, and family such that same-sex couples and their families are intentionally included and honored. Because the outcome of this social debate is not yet determined and so much is at stake, we should not be surprised by the intensity of the conflict. After all, enlarging human freedom is always a profound moment, exhilarating for some, fearful for others.¹⁴

¹⁴ An expanded version of this paper appears as “The Queering of Marriage,” *Liturgy* (forthcoming).

What the Point Isn't A Response to Marvin M. Ellison

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I thank Dr. Ellison for his clear presentation.¹ It gives me sorrow but no surprise that we disagree. [I am a little surprised about *why* we disagree. You would think, from his presentation, that Dr. Beckwith and I were here to defend rape, oppression, or the ownership of women by men. We are not. We are here to defend marriage as one-flesh union, which does not, in Christian tradition, mean any of those other things.²]

Dr. Ellison asks, “*Which* tradition and *whose* tradition are we speaking of . . . given the fact that there is no singular . . . Christian tradition about marriage?”³ Given the fact, he says. It is not a fact. According to Dr. Ellison, Scripture offers five models of marriage: one-flesh union, covenant, passionate mutual love, dubious necessity, and worldly concession. We are expected to believe (a) that all five are offered by Scripture as normative, and (b) that they oppose instead of complement each other. Both claims are false. Marriage is one-flesh union, covenant, *and* mutual love, among other things. Love, of course, is a commitment to the true good of the other; though it may also be passionate, passion is not a moral duty. Marriage as “dubious necessity” is a dubious distortion of the fact that St. Paul, who thinks of marriage so highly that he compares it with the relation between Christ and His Church, thinks lifelong consecrated celibacy is better still. Finally, marriage as “worldly concession” is nowhere in the Bible presented as normative.

¹ Marvin M. Ellison, “Should the Traditional Understanding of Marriage as the One-Flesh Union of a Man and a Woman Be Abandoned?” *Philosophia Christi* 7 (2005): 7–13.

² The bracketed passage was included in my oral delivery but was not included in the printed version of my remarks delivered to panelists ahead of time.

³ Ellison, “Should the Traditional Understanding of Marriage Be Abandoned?” 7.

Let us leave aside Dr. Ellison's red herrings, however, and consider instead his begged questions. According to Dr. Ellison, respect for personhood requires recognition of "human rights, including the freedom of intimate association." Actually our debate is not about whether Dr. Ellison should have freedom to have a homosexual relationship, is it? He has that freedom already. What he wants is power to distort the definition of someone *else's* relationship. By whose authority does he exert such power? Dr. Ellison replies, "Why, by the authority of the Supreme Judicial Court of Massachusetts, which says so in *Goodridge v. Department of Public Health*." Yes, I know what the court says in *Goodridge*. In fact I joined an *amicus curiae* brief in that case. But when these arrogant jurists say, "Let us make man in our image, after our likeness," I am compelled to reply, "You are too late. Man has already been made."

That brings me to the deepest of the issues that divide Dr. Ellison and me. For these remarks, I would like to personally address brothers and sisters who suffer the burden of same-sex desires, with whom I hope to live eternally, in heaven.

The traditional Christian view regards marriage as part of God's plan of Creation. What the activist must argue is that homosexual liaisons are included in the creational design and are therefore eligible for His blessing. [Please note that we are *not* asking whether *persons* who suffer from same-sex desires can be blessed by God; of course they can. But to say that same-sex matings are included in the creational design is simply preposterous.⁴] This position is incoherent. Let us be clear: creation order is not about our genes. Genes may carry defects. When it was discovered that some people suffer genetic predispositions to alcoholism, we did not conclude that God had made them for drunkenness; we loved them too much for that. If it were ever discovered that some people suffer genetic predispositions to homosexuality then neither should we conclude that God made them for sodomy; we should love them too much for that. Creation order is not about our genes but about our design.

Surely anyone who took the idea of design seriously would agree that the human design is heterosexual. We are neither amoebas, protozoa, nor fungi. We neither bud nor divide, but have babies. The physical joining of both sexes is necessary for procreation; there is no reason why we should even have sexual powers apart from it. In my own presentation, I will also explain why the psychological complementarity of the sexes is necessary to their partnership, and why coupling same with same produces disastrous emotional and physical results. What I will show is that these facts are *natural consequences* of our sexual design. To speak of our sexual nature apart

⁴ The bracketed passage was included in my oral delivery but was not included in the printed version of my remarks delivered to panelists ahead of time.

from them is like speaking of the heart's design apart from pumping blood, or of the eyes' design apart from seeing. To say that sodomy is the divinely ordained purpose of the sexual powers *for the homosexual* is like saying that pain is the divinely ordained purpose of the nerve endings *for the masochist* or that getting a high is the divinely ordained purpose of the lungs *for the kid with a bottle of paint thinner*.

Besides all these things is the fact, which everyone really knows, that the Designer has given our bodies a language of their own—that our bodies *say* things by what we do with them. Bone speaks to bone, organ to organ, flesh to flesh. You cannot make a slap in the face mean something friendly. You can *use* a kiss to betray, but even this is possible only because a kiss, in itself, declares affection. What does it *mean*, then, when a man puts the part of his body which represents new life and joy into the cavity of another man's body which represents decay and expulsion? At the most basic of all possible levels it means "Life, be swallowed up in death." We cannot overwrite such meanings with other meanings just because we want to.

Those who speak of making homosexual vows *before God*, then, are trying to have it both ways. Although they affirm God by their words, they deny Him by their actions. To deny the design of Creation is to deny the Creator whose design it is. This is incompatible with Christian faith. Brothers and sisters, love does not allow me to be indifferent to what destroys you—[nor should it allow *you* to be indifferent to what destroys you.⁵] I beg you to abandon death, and enter life.

⁵ The bracketed passage was included in my oral delivery but was not included in the printed version of my remarks delivered to panelists ahead of time.

Legal Neutrality and Same-Sex Marriage

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Professor J. Budziszewski and I are defending the position that the traditional understanding of marriage as the one-flesh union of a man and a woman should not be abandoned. Although we are fully aware that most of our fellow citizens, in fact, a vast majority of them, agree with us that marriage is a union between a man and a woman, we also realize that some of them do not believe that this understanding of the nature of marriage, the one we believe in fact is true, ought to have a privileged place in our laws. In other words, these citizens, though agreeing with us on what marriage is, maintain that the state ought to be neutral on this question, and permit its citizens to marry whomever they choose, regardless of gender, according to the dictates of their own conscience, religion, and so forth. It is that point of view that will be the focus of my comments.

So, whereas my colleague defends traditional marriage per se, I offer in my comments a different sort of argument, one that presses the point that on matters such as the one over which we are debating, there can be no legally neutral ground. In other words, the state, regardless of what position it may take on the nature of marriage, will place in its laws as a result of taking a position, a particular understanding of human nature, gender, and the good life that either implies or asserts that there is a correct way to think on these matters and that if you manifest your disagreement in particular acts or speech, the law will punish you in one way or another.

In order to better understand the case I am making, I need to define the point of view that I am critiquing, *philosophical liberalism*. It is the view that because reasonable people disagree on fundamental questions of the nature of reality, knowledge, human beings, and the good life, the state ought not to embrace any one of these views as correct. Its more sophisticated proponents include legal theorist Ronald Dworkin and the late philosopher John Rawls, both of whom have offered important political theories in

order to defend a political regime in which there is wide philosophical and religious disagreement among its citizens and yet a justified system of laws that does not collapse into moral relativism.¹ As understood and embraced in popular culture, philosophical liberalism accentuates the fact of *pluralism*, that there exists a plurality of different and contrary opinions on matters religious, philosophical, and moral. From this fact, many in our culture conclude that one cannot say with any confidence that one's view on religious, philosophical or moral matters is better than anyone else's view. Given that, it is a mistake to claim that one's religious, philosophical, or moral beliefs are exclusively correct and that fellow citizens in other religious, philosophical, and moral traditions, no matter how sincere or devoted, hold false beliefs. Thus, it is wrong to hold that political or moral positions derived from one's religious, philosophical, or moral tradition ought to be the proper subject of laws that constrain another's liberty.

This is why Ron Reagan, the son of the late U.S. president Ronald W. Reagan, can tell a national television audience in his speech before the 2004 Democratic National Convention that many who oppose embryonic stem cell research "are well-meaning and sincere," but this is based on nothing more than belief, "an article of faith," to which of course they "are entitled." However, asserts Reagan, "it does not follow that the theology of a few should be allowed to forestall the health and well-being of the many."²

This cast of mind was manifested in the comments of 2004 Democratic presidential candidate John Kerry, a Catholic who *believes* that human life begins at conception but does not think this belief should be reflected in our laws. This approach works because a "belief," in this philosophical taxonomy, never can in principle count as an item of knowledge that may defeat the deliverances of another person's equally subjective "belief." This is why Kerry, a U.S. senator, can scold Pope John Paul II for "crossing the line" when a document issued by the Vatican suggests that Catholic politicians, such as Kerry, not support legislation that would allow homosexual unions, for "to vote in favor of a law so harmful to the common good is gravely immoral." Kerry, in his reply, offers the requisite affirmation of faith—"I believe in the church and care about it enormously"—followed by the requisite disclaimer that it is, after all, just religion and has nothing important to say about anything of any consequence—"But I think that it's important to not have the church instructing politicians."³ Apparently, however, politicians may instruct the church about what it should consider important.

¹ Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge, MA: Harvard University Press, 2000); John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993).

² Ron Reagan, "Text of Tuesday Speech," *Houston Chronicle*, July 27, 2004, <http://www.chron.com/cs/CDA/printstory.mpl/ec/demconv/2705448/>.

³ Quoted in Steve Waldman, "By Their Fruits: How to Be a Catholic President in the 21st Century," *Slate*, March 11, 2004, <http://slate.msn.com/id/2096910/>.

Philosophical liberalism is a creed whose commitment to “openness” *seems* to prohibit our entertaining of the possibility that there is any such thing as an absolute good, true, and beautiful that may be reflected in our laws. The operative term is *seems*, for the philosophical liberal, as I will argue, embraces a doctrine with its own cluster of assumptions about the order and nature of things and how our laws ought to reflect them. This is why the proponent of philosophical liberalism is not the celebrant of diversity he portrays himself to be. Consider an example from popular culture.

In 1997, in her acceptance speech for an Emmy for cowriting the “coming-out” episode of *Ellen*, Ellen DeGeneres said, “I accept this on behalf of all people, and the teenagers out there especially, who think there is something wrong with them because they are gay. There’s nothing wrong with you. Don’t ever let anybody make you feel ashamed of who you are.”

There are many who, after hearing or reading Ellen’s speech, applauded her for her liberal sensibilities, concluding that the actress is an open and tolerant person who is merely interested in helping young people to better understand their own sexuality. If you think this way, you are mistaken. Ellen’s speech is an example of what I call “passive-aggressive tyranny.” The trick is to sound “passive” and accepting of “diversity” even though you are putting forth an aggressively partisan agenda, implying that those who disagree with you are not only stupid but harmful. In order to understand this, imagine if a conservative Christian Emmy award winner had said this: “I accept this on behalf of all people, and the teenagers out there especially, who think there is something wrong with them because they believe that human beings are made for a purpose and that purpose includes the building of community with its foundation being heterosexual monogamy. There’s nothing wrong with you. Don’t ever let anybody, especially television script writers, make you feel ashamed because of what you believe is true about reality.” Clearly this would imply that those who affirm liberal views on sexuality are wrong. An award winner who made this speech would be denounced as narrow, bigoted, and intolerant. She would never work again in Hollywood.

Ironically, Ellen’s Emmy speech does as much to those with whom she disagrees. By encouraging her viewers to believe there is nothing wrong with homosexuality, she is in fact saying that there is something wrong with those who don’t agree with this prescription. This condemnation is evident in the script of the show for which Ellen won an Emmy. In that famous “coming-out” episode, the writers presumed that one is either bigoted or ignorant if one thinks that Ellen’s homosexuality is not normative, that one is incapable of having a thoughtful, carefully wrought case, against homosexuality. Such hubris is astounding, since it not only presumes that Ellen’s detractors are wrong but that they are stupid, irrational, and evil and should

not even be allowed to make their case. They are, in a word, diseased, suffering from that made-up ailment, “homophobia.”

Ms. DeGeneres, of course, has every right to think those who don’t agree with her judgments on human sexuality are wrong. The problem, however, is that she and her more sophisticated colleagues of more cerebral and refined cultural influence present their judgments as if they were not judgments. They believe their views to be in some sense “neutral.” From their perspective they are merely letting people live any way they choose. But this is not neutral at all. It presupposes a particular and controversial view of human nature, human community, and human happiness. It assumes that only three elements, if present, make a sexual practice purely self-regarding and not of any interest to the wider community: adult consent, one’s desire, and that it doesn’t interfere with another’s sexual practice (that is, “it doesn’t hurt anybody”). This, of course, is not so obvious. Consider, for example, the phenomenon of wound sex. According to psychiatrist and philosopher A. A. Howsepian, there are consenting adults within our population who engage in this practice, which may involve the sexual penetration of surgically created orifices, such as an opening made for a colostomy bag.⁴ Now, given the three elements mentioned above, there does not seem to be any reason in principle why the state ought to interfere with, or pass negative judgments on, such unions.

Consider another example. Imagine that we had discovered that the killers of Matthew Shepard, the young man who was brutally murdered several years ago because he was gay, died as a result of his consenting to engage in a private activity that he knew would result in his own death. That is, suppose that Mr. Shepard had asked his killers to torture him until he died, because it would bring him the most exquisite orgasm imaginable. Imagine that Mr. Shepard’s ordeal in this imaginary case was identical to what occurred in the real case, except that in the fictional account Mr. Shepard desires the ordeal because of a certain end that he has in mind. Now, as a Christian theist firmly committed to the natural law tradition, I do not believe that the evil of the killing is lessened by Mr. Shepard’s consent. This is because either consenting to participate in your own killing for mere orgasmic pleasure or being killed without your consent for another’s pleasure, treats a human being who is intrinsically valuable as merely a means to physical pleasure. Degrading a victim does not become less degrading because the victim happens to consent to his own degradation. The fact that the victim consents and the act *is* sexual seems to have no bearing on the soundness of our judgment that the act in question is deeply immoral and that the state ought not to coerce its citizens to celebrate it.

⁴ See A. A. Howsepian, “Fetophilia: A Study in the Metaphysics of Pregnancy,” *Philosophia Christi* 7 (2005): 199–206.

Consider a third, less provocative, example. Imagine that identical twin brothers over the age of eighteen travel to Massachusetts and request a marriage license. Could the civil servant in charge of issuing these licenses have any grounds to reject their request? I suppose she can appeal to any laws on the books in Massachusetts that forbid incestuous relations and/or marriage between close relatives, and there is no doubt that identical twins are very close relatives, for they were once womb-mates. But it is not precisely clear why the three elements of sexual permissibility could not be employed in this case to declare the anti-incest laws unconstitutional.

So, here's the problem: on what principled ground could someone who accepts the three elements of sexual permissibility not accord these unpopular sexual practices the full protection of our laws? Of course, one could say that these practices are the result of disordered desires that the law either ought to severely condemn or at least not countenance. But that ground of principle is not open to one who grounds her jurisprudence on the three elements of sexual permissibility, for that ground of principle is precisely what had to be jettisoned to justify the legal imprimatur on homosexual practice in the first place. And it is that premise—that there is no disordered sexual practice as long as all the participant adults consent—that is a necessary condition for the state treating same-sex marriage as morally indistinguishable from traditional marriage. After all, traditional marriage is consummated at the completion of male-female copulation, but that implies that same-sex couples literally cannot consummate their union. However, if it is in principle wrong (or *irrational* as the Supreme Court opines⁵) for the state to recognize a proper function of sexual organs in self-regarding acts, as philosophical liberalism asserts, then consummation is no longer a necessary condition for a couple to be married. In fact, it is downright irrational and discriminatory to suggest otherwise. But the implications of this premise are not only daunting for our public life, but show the incoherence of philosophical liberalism.

(1) It instructs the nation's citizens that marriage is not a natural institution that the state recognizes, but rather, an institution socially constructed that cannot in principle be limited by what marriage actually is, because its actual nature is what we will it to be. Instead of marriage being an institution we may freely enter and to its nature submit, it is an institution whose nature we freely shape and submit to our will. Therefore, "laws recognizing gay marriage," as philosopher Michael Pakaluk argues, "imply the falsity of the view that marriage is an objective reality prior to the state." There are several implications that follow from this. For example, Pakaluk points out

⁵ See *Lawrence v. Texas*, 539 U.S. 558 (2003). The Court writes: "The Texas statute furthers no legitimate state interest which can justify its intrusion into the personal and private life of the individual" (578).

that “parental authority must stand or fall with marriage.” For “if the bond of husband and wife is not by nature, then neither is the government of those who share in that bond over any children that might result.” Consequently, “laws recognizing gay marriage imply, similarly, that parents have no objective and natural authority over their children, prior to the state.”⁶ This would mean that parents would have no natural right, no actual moral grounds, to object to the public schools teaching their children lessons about human sexuality that are contrary to the lessons taught in church and home. The state, of course, may grant an exception to these “backward” parents, but not because they have a prelegal obligation to care for and nurture their children in shaping their character and directing their moral compass. Rather, the state may consider it politically wise to tolerate these families and their religious traditions. But it would not be as a matter of principle based on the order and nature of things.

Ironically, if this view of marriage were dominant in our legal culture when the Supreme Court rejected the prohibition of interracial marriage in the case of *Loving v. Virginia* (1967), the moral grounds for its opinion would have been lost.⁷ That is, in order for the Court to have concluded that forbidding interracial marriage is wrong, it would have to know what marriage is. But if marriage is merely a social construction and not a natural institution, the state of Virginia could have argued, like contemporary same-sex marriage proponents, that marriage is merely a social construction subject to our will and nothing more. It is only because the Court knew that marriage is between a man and a woman that it could say that *race*, like height, geography, or place of residence, is not a relevant characteristic for two people to marry.

(2) Hadley Arkes points out that a legal regime which does not withhold endorsement of same-sex unions sets into motion a certain moral logic that will likely result in the condemnation and marginalization of those, especially traditional Christians and Jews, who resist this endorsement in their communities and institutions. For example (this is my example, not Arkes’s), a philosophy department at an Evangelical Christian college that refuses to hire “married” same-sex couples while receiving federal funds, may, according to this moral logic, have its government funding withdrawn because it would be engaging in unlawful discrimination based on marital status. This is why Arkes refers to one congressional bill that would have banned discrimination against homosexuals by private businesses, as the “Christian and Jewish Removal Act,” “for it promises to purge serious Christians and Jews from the executive suites of corporations, universities,

⁶ Michael Pakaluk, “Homosexuality and the Common Good,” in *Homosexuality and American Public Life*, ed. Christopher Wolfe (Dallas: Spence, 1999), 189–90.

⁷ *Loving v. Virginia*, 388 U.S. 1 (1967).

and law firms.”⁸ After all, why would a university hire a Christian philosophy professor who holds “discriminatory” views if the espousal of such views could put the school at risk of civil or criminal litigation? Arkes tells of the case of “the wife of a shop owner in Boulder, Colorado, [who] had given a pamphlet on homosexuality to a gay employee. For that offense, she was charged under the local ordinance on gay rights, and compelled to enter a program of compulsory counseling.”⁹ Imagine if “same-sex marriage” were to become legal in every jurisdiction in the United States. Does anybody seriously doubt that recalcitrant social conservatives, serious Christians, Jews, and Muslims, who resist this change in any public way, would receive the swift and certain punishment of the law?

In conclusion, a regime’s understanding of the nature of marriage is wholly contingent upon a cluster of beliefs about human nature and gender, not to mention the good, true, and beautiful. If this were not so, then proponents of same-sex marriage would have no metaphysical ground for their position. But, as we have seen, a necessary condition for the permissibility of same-sex marriage is for the state to declare that the notion of proper function of sexual organs is irrational. The Supreme Court has already provided this condition last year in *Lawrence v. Texas*, declaring that Texas’s antisodomy law does not even pass the Court’s rational basis test.¹⁰ Moreover, if same-sex marriage were to become legal, it would result in the criminalization and social condemnation of the actions of serious religious believers. Regardless of what one may think of same-sex marriage, a government that affords it the approval and protection of its laws is instructing its citizens on what they ought to believe is good, true, and the beautiful. This is hardly a legally neutral position.

⁸ Hadley Arkes, “Homosexuality and the Law,” in *Homosexuality and American Public Life*, ed. Christopher Wolfe (Dallas: Spence, 1999), 165. For more on the “Employment Discrimination Non-Discrimination Act,” or EDNA, see <http://www.pflag.org/education/civil-rights.html>.

⁹ Hadley Arkes, “A Culture Corrupted,” *First Things*, November 1996, <http://www.first-things.com/ftissues/ft9611/articles/arkes.html>.

¹⁰ See note 5.

Heterosexism Is the Moral Scandal

A Response to Francis J. Beckwith

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In responding to Professor Beckwith's paper, I have four points.¹

First, although he posits marriage as a natural, prepolitical institution, this institution has changed significantly, even with respect to gender. Elements of marriage once considered essential, such as a husband's rule over his wife and prohibitions against divorce, have been questioned, judged unjust, and altered. *Which* marriage tradition is he speaking of as natural and outside the nature-culture-history matrix?

Second, although he speaks of legal neutrality, the state has been anything but neutral with regard to promoting and subsidizing the heterosexual marital family to the exclusion of other intimate and family forms. In a pluralistic society, what legal rights, responsibilities, and protections would Professor Beckwith assign to those participating in civil unions, domestic partnerships, and other cohabitation arrangements?

Third, the depiction of gays and lesbians as family outlaws unfit for intimate life reflects anxiety about the changing situation of families. This caricature also deflects attention from the nonconformity of many *heterosexuals* to conventional sexual and family norms. Gay men and lesbians have become the cultural repositories—the moral dumping ground—for heterosexual dis-ease about sex and sexuality. Until those in the cultural majority get honest and take responsibility for their own confusions, pain, and struggles, sexual minorities will be scapegoated and disenfranchised as the culturally despised. This is a moral scandal of the highest order.

¹ Francis J. Beckwith, "Legal Neutrality and Same-Sex Marriage," *Philosophia Christi* 7 (2005): 19–25.

My final comment is about Professor Beckwith's presumptive association of homosexuality with sexual perversion. His disdain for the moral personhood of gay men and lesbians is especially palpable in the section of his paper in which he morphs Matthew Sheppard's murder into a cautionary tale about supposed gay eroticism. What kind of moral logic is this when a philosopher-teacher feels entitled to reimage the torture-murder of a young college student, substitute his own "fictional account," and thereby encourage his audience to entertain the absurd and sick fantasy "that Mr. Sheppard had asked his killers to torture him until he died, because it would bring him the most exquisite orgasm imaginable?"² The suggestion that "Mr. Sheppard desire[d] the ordeal because of a certain end that he has in mind" or consented to "participate in his own killing for mere orgasmic pleasure" is more than irresponsible.³ It signals an acute absence of moral compassion and a willingness to stand with the victimizers, not the victims of antigay violence. If my complaint is not clear, just for a moment consider the moral impropriety of a white scholar in religion proposing to a group of other white scholars in religion that they voyeuristically view James Byrd as somehow the victim of his own erotic thrill-seeking.

Although Professor Beckwith dismisses homophobia as "that made-up ailment,"⁴ it is not difficult to detect a heterosexist bias at work. In fact, what is most noticeably missing from his analysis is any passion for justice with respect to marriage, either in terms of correcting the deficits of marriage as a patriarchal institution or in terms of expressing respect for those outside the heterosexual norm. Because there can be no authentic love without justice, this omission is far from inconsequential.

² Ibid, 22.

³ Ibid.

⁴ Ibid.

In Support of Same-Sex Marriage

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A forum for the exchange of ideas on the topic of same-sex marriage represents a rare opportunity. Far too often, gay-affirmative thinkers and those who—for lack of a better term—have moral qualms about homosexual sexuality treat each other as straw figures. But, face to face, we might discover we have more in common than we might think. At the same time, face to face, it seems much more difficult, I would hope, for one person to tell another that his or her love is not equal in dignity to one's own. Today, I want to argue that marriage is an important, indeed a sacred, institution, worthy of being fortified; moreover, even perhaps more importantly, that the extension of the right to marry, both in the secular and the religious domain, to gay men and lesbians is a way of shoring up a threatened institution. The refusal to do so—and/or the provision of what many of us call “marriage-lite” alternatives—are, by contrast, ways by which it will be further weakened. I will also go further, arguing that the barring of same-sex couples from the institution of marriage is at variance with the best and deepest impulses of American democracy, not to mention arguably an affront to a love which is of God.

When channel-surfing at the time the Senate began debate on the proposed Federal Defense of Marriage Amendment, I chanced to hear one speaker speak of one-man-one-woman-one-flesh marriage as having been the norm for thousands of years throughout the world. A knowledge of history is the best way of disabusing ourselves of the presumption that our folkways are somehow writ into the nature of things, etched in stone. It should perhaps need not be mentioned that many cultures, ancient Israel included, have been polygamous. Nor have all cultures expected that sex be restricted to the spouse. Abraham sires a child by Sarah's handmaid, and the ancient Roman citizen could use his genitals with a wide range of partners, as long as he did his family duty. Against such a background, the Christian monogamous pair must be seen as an innovation. But even if the heterosexual married couple became the norm in Christian history, the meaning

and significance of marriage has proven a historical variable. For Paul, marriage is the escape valve for the pent-up pressure for sex. For Augustine, sex involves a dangerous eclipse of the vision of God, and marriage provides a safe and rationally justifiable context for such erotic indulgence.¹ The idea of the companionate marriage appears in Calvin, and one can trace its expansion in popular culture particularly in the eighteenth and nineteenth centuries. For the first time in Christian history, marriage becomes religiously necessary under the impact of the nineteenth century American “cult of true womanhood”—since a woman is now seen as the mediatrix for male access to God, while an unmarried woman is failing in her godly calling to Christianize a man.²

Perhaps then, we can ask ourselves, what marriage can and should mean in our own day. Let me begin on a personal note. In the 1980s, the man whom I had lived with in a legally undefined relationship for almost ten years, died. I would have relished the opportunity to have been able to decide whether we were serious enough about one another to, so to speak, “make it legal.” I would have relished the social support that derives from ceremonially bonding with another in marriage—that our holidays, for example, would be spent together, and not individually with our respective natal families. Even more to the point, had we been married, we would not have had to include in our wills the clause that guaranteed our respective families that they could take anything of ours at our demise that legal advice said alone could help to prevent the will from being challenged in court. Without such a clause, I would have been protected from the pain of watching the apartment we had shared ransacked and emptied within twenty-four hours of my friend’s death. At least I was not denied the right to visit him or to be by his side when he died as others have been. Those who can marry those whom they love cannot know what it is to live under the societal curse of a relationship that has no legal or sacred standing.

Irrespective of what marriage might mean to gays and lesbians—and what it means to all of us at the personal level—it seems to me that there are two important ways of answering the question, “What is marriage for?” each leading to the same conclusion, that society stands to gain from the extension of marriage to same-sex couples. The social philosopher and political commentator Jonathan Rauch presents a forceful argument that society has

¹ Sex is ideally to be indulged in only in the service of procreation and within the context of marriage. However, I think seeing in Augustine the idea that marriage exists for the well-being of the child would be anachronistic.

² The phrase “cult of true womanhood” derives from Barbara Welter, *Dimity Convictions: The American Woman in the Nineteenth Century* (Athens, OH: Ohio University Press, 1976). For the development of the idea of “gendered theology” alluded to here, see Kathy Rudy, *Sex and the Church: Gender, Homosexuality, and the Transformation of Christian Ethics* (Boston: Beacon, 1997), chapter 2.

a vested interest at stake in encouraging marriages of people who are destined to remain childless, because such marriages are important for society in and of themselves.³ Society benefits when its youths, particularly its young men, are tied down, and their energies—otherwise wastefully expended in possibly less-than-socially constructive ways—focused by the necessity of caring and providing for a household. Marriage domesticates us all . . . not that we are animals that need taming, but we are people who benefit from focus and responsibility, even as society benefits to the degree its citizenry shoulders responsibility. Military training has traditionally been seen as a domesticator of youth. However, marriage is the chief organ whereby its citizenry burdens itself with responsibility. Moreover, about the couple bound together in matrimony is a whole cluster of societal expectations that tends to reinforce, indeed enforce, the ties that bind, especially when the individuals might be tempted seek to behave as if they were not so bound.

Secondly, and perhaps more importantly, marriages are contracted, “for better for worse, for richer for poorer, in sickness and in health . . .” ‘til death does the couple part. Marriage is society’s first line of defense against the onslaughts of “the slings and arrows of outrageous fortune.” Caring for one’s spouse, especially in times of sickness, is one of the chief responsibilities of the married partner. No doubt the sense that there is a safety net should one fall accounts in part for the greater longevity of married individuals. But independent of an individual’s life expectancy, society benefits from having a nurse ready-to-hand.

Absent a spouse, the burdens of contingency crushingly falls upon people who have more immediate problems of their own (relatives, friends, neighbors), and then upon charities and welfare programs that are expensive and often not very good. From the broader society’s point of view, the unattached person is an accident waiting to happen.⁴

To be sure, society also has a significant interest in trying to ensure that children are raised within stable married households. However, in Rauch’s

³ Jonathan Rauch, *Gay Marriage: Why It Is Good for Gays, Good for Straights, and Good for America* (New York: Times Books/Henry Holt, 2004). This book represents a thoughtful expansion of ideas he first sounded in a widely reprinted article from *The New Republic*. See, for example, Rauch, “For Better or Worse,” in *Same-Sex Marriage: Pro and Con*, ed. Andrew Sullivan (New York: Vintage, 1997), 169–80; and “Who Needs Marriage?” in *Beyond Queer: Challenging Gay Left Orthodoxy*, ed. Bruce Bawer (New York: Free Press, 1996), 296–313.

I freely admit that Rauch’s approach and argument underlines much of what I have to say about the “goods” of marriage in general, and same-sex marriage in particular. George Chauncey’s new book, *Why Marriage? The History Shaping Today’s Debate Over Gay Equality* (New York: Basic Books, 2004) came into my hands after this essay had been substantially drafted.

⁴ Rauch, “Who Needs Marriage?” 308.

line of argument, society has a significant stake in encouraging marriage among its citizenry independent of the question of children. In his telling analogy, just because shirts protect arms does not mean that armless people should go shirtless. Shirts have significant functions other than the protection of arms. Society seems implicitly to recognize the fact. After all, marriages are not dissolved when the children fly the coop or they prove reproductively infertile—nor do we object when those who are heterosexual, but sterile, through biological accident or by reason of age, marry.

What is interesting about the contemporary moment is the number of Protestant thinkers, desperate to find a way of justifying the preservation of marriage as an affair of one man and one woman, who are reaching back behind Calvin to seize upon the old Catholic notion that procreation is *the* reason for marriage.⁵ Let me grant for the moment that this might be the case. In such a line of thinking, society has a stake in encouraging marriage among even the sterile portion of the population for the sake of the effect on children. Whether it is ideal that sex be restricted to marriage or sex is—as I believe it more and more is in society at large—one of the ways people discover love, society—together with society’s children—would benefit from a culture in which marriage is seen as the appropriate *terminus ad quem* of love. This would help to ensure that the children that resulted from love would not be born out of wedlock.

Whether we adopt this line of thinking, or the former one of Rauch, society stands to benefit from encouraging even sterile persons among us to marry. People might marry for any number of reasons, but in general they marry out of love. So, one of the best ways of encouraging marriage is to foster a cultural climate in which marriage is seen as the appropriate consequence of love. Now, I submit that what applies to sterile heterosexuals applies equally as well to homosexuals. Society is one of the big losers when marriage is not encouraged to be the appropriate consequence of love. By denying that love between homosexuals can or should result in marriage, society is weakening the important linkage that would make love and marriage go together “like horse and carriage.” *By refusing the equation for some, we weaken the force of the equation for all.* By the same token, society suffers when married spouses are not there to be the first line of defense when illness and other evils hit.

Among certain segments of the population can be heard regularly sounded the idea that same-sex marriage should be disallowed in order to make sure that every child has a mommy and a daddy. The argument doesn’t wash. Individuals within a same-sex couple are biologically incapable of

⁵ Actually, in contemporary Catholic thinking, procreation is one of the two “purposes” of marriage, the other being “unity.”

reproducing with one another. The chief ways by which children might come into a same-sex marriage would be either by adoption or, in the case that one of the partners had proved reproductive in a former heterosexual relation, through custody. I am tempted to concede that it might be best, even for incipiently homosexual children, to grow up within a heterosexual marriage—although the evidence is not yet in, and I suspect that it would be better for a child to grow up in a same-sex marriage than be lost for years in the foster system. But let us note, marriage does not in and of itself qualify a couple either for the right to adopt nor for custody. Even married heterosexual couples must prove themselves adoption-worthy in order to adopt. I see no reason why there would be any difference for same-sex couples. Indeed, depending on the evidence, we might even place the bar higher in the case of the latter. The point is, the right to adopt is not implicit in the fact of being married. Likewise, decisions with regard to custody are to be made in the best interest of the child. And, depending on the evidence, I see no reason why in a case involving a homosexual couple and a heterosexual couple vying for custody, barring other evidence to the contrary, the heterosexual couple might not be construed as having on that basis alone a plus. Once again, same-sex marriage would not automatically result in children produced outside the same-sex relation being raised within a homosexual home.⁶ Thus, same-sex marriage, as a matter of practice, would not necessarily undermine societal preference—if such preference prove justifiable—for children to grow up within heterosexual marriages rather than homosexual ones.

So let me sound my thesis once again. I believe marriage is an important, indeed a sacred, institution. And I am arguing that one of the most significant ways that we can shore up what is today a threatened institution is by extending the right of marriage to gay men and lesbians. The culture of marriage will be sustained when we allow not simply that any one man be allowed to marry any one woman he wants and any one woman marry any one man she might want, but that each of us be accorded the right to marry any one person that we might want—assuming, of course, the will to marry is mutual! In turn, I believe the continued denial of that right, or the provision of marriage alternatives for gay and lesbian persons—what some of us refer to as “marriage-lite”—are both ways by which we further weaken marriage in our society. By refusing same-sex marriage, we commit the sin of omission; that is, we fail to yoke love and marriage in a universal way.

⁶ Of course, there is always the possibility that a gay man might sire a child using a “surrogate mother” and a lesbian might conceive by means of donor sperm. As far as I know, we do not remove a child thus conceived from their “single” parents who choose to form a committed relation with a person of the same-sex. In such cases, it would seem that it would be in the best interest of the child that their biological parent “marry,” even if homosexually, for then two would share legal responsibility for the child.

Alternatively, should we choose to codify alternative ways of coupling, the so-called civil unions, for example, we will be undermining the importance of marriage, in effect saying, “See, there are other less binding, less ‘sacred’ ways of living together—which are unburdened by the same set of social expectations as marriage.” What would prohibit heterosexuals the right to a civil union rather than a marriage? In effect, why bother about being married when it is easy to settle for something less? Beyond this, I think there is something lamentably insidious at work in this refusal, and this provision of alternative legal unions I want to address at a later point. At the moment, I want to consider possible objections to the claim that allowing same-sex marriages is a way of bolstering the institution of marriage.

Society, it seems to me, has no real stake in making sure that people who marry in fact marry out of love. It might prefer that a married couple who might procreate love one another because a household in which the spouses love one another is probably healthier for children than one in which the spouses have bound together for any number of other reasons. However, society does not insist that couples love one another in order to obtain a marriage license. Certainly, it insists on no evidence thereof—even if we might try to conceive what such evidence might be. Nevertheless, in our culture, most people do marry out of love. Whatever society’s interest in marriage, individuals tend to opt for marriage in search of certain kinds of emotional satisfaction. In Calvin’s terms, they are seeking a “helpmate.” And so the argument goes, if we allow people to “marry” in accordance with their “loves,” what is to prohibit us from sanctioning all sorts of relationships? If we admit same-sex marriages, have we not started down the slippery slope to “polyamory”? Note, however, the same-sex marriage movement is not asking that gay men and lesbians be allowed to marry all whom they might love . . . merely, to marry one person whom they love. The presumption that, lurking behind such allowance, is a deluge by which all sorts of loves would then need to be countenanced overlooks the possibility that there might be reasons for the social preference given to two-person marriages that arguments for other forms of loving relations lack—or that there might be independent grounds for withholding legal and religious legitimacy from those other forms of loving relatedness.

It seems to me, there are at least two such arguments. The first is a pragmatic one, namely, that in contemporary culture two-person marriages possesses a (potential) stability that polyamorous relations lack. As Stanley Kurtz has observed, polygamy (and by extension polyandry) are successful in the context of cultures in which the people involved are not bound together by emotional intimacy.⁷ They might “marry” polyamorously for financial

⁷ Stanley Kurtz, “Beyond Gay Marriage,” *Weekly Standard*, August 4, 2003.

support, or for sex, or to procreate But in cultures like our own, where people marry out of love and are therefore seeking emotional intimacy, the potential for jealousy makes three or more a crowd. It is only where emotional bonding is minimal that the threat of jealousy is minimized. Where people seek out emotional intimacy with a spouse, jealousy is kept at bay only by “forsaking all others.” In other words, where emotional intimacy is at stake, stability in relatedness is purchased at the price of exclusivity.

A second more religiously flavored argument can be mounted in support of the preferential treatment of two-person marriages. If indeed we can speak of the intentionality of sex, as I think we can, then all sex I would argue aspires to the intensity of the one-on-one and the scope of the orgy. In coupled sex, the other is both him- or herself and a representative of all others.⁸ Thus, in coupled sex, one can be “in touch” as it were both with one other and with all others, while in group sex one can be “in touch” with many only at the sacrifice of being emotionally in touch with anyone in particular to any significant degree. The same holds true, I believe, when we are talking about intimate relations between people. By marrying one, I am potentially relating in a positive way to all, whereas in situations of polyamory, I am relating to many only by the sacrifice of intimacy with any one in particular. Such a line of thinking could give significant new force to the idea of the sacramentality of Christian marriage for, since marriage would be a way of bonding with the group in and through bonding with an individual, Christian marriage would echo Christ’s “marriage,” his loving commitment, to the ecclesial collective.

While lesbians are stereotypically notorious for the level and constancy of their commitment to one another, men are widely reputed to be incapable of such constancy unless constrained by the expectations of a wife. Men, so the argument goes, are genetically programmed to cast their seed widely, and inhibit themselves only because of the influence of their wives. Marriage between men would thus prove to be problematic at best. The import here is that, to the extent that men are incapable of maintaining or unwilling to maintain a relationship of mutual monogamy, wouldn’t calling their relationship a marriage weaken an institution that depends upon marital fidelity? I do confess that, among men that I know who are

⁸ Although he develops the idea to a quite different effect, cf., Roger Scruton, *Sexual Desire: A Moral Philosophy of the Erotic* (New York: Free Press, 1986), 163. For my earlier development of the line of thinking outlined here, see Ronald E. Long, “Towards a Phenomenology of Gay Sex: Groundwork for a Contemporary Sexual Ethic,” in *Embodying Diversity: Identity, (Bio)Diversity and Sexuality*, ed. J. Michael Clark and Michael L. Stemmeler (Las Colinas, TX: Monument, 1995), 69–112. For my much more mature and important development of the theme in support of the committed couple, see Ronald E. Long, “Himmlischer Sex: Die moralische Autorität eines unmoelichen Traums,” *Werkstatt Schwule Theologie* 11 (2004): 198–214.

in relationships (relationships that are not countenanced by law or religion, by the way, and are thus lacking in significant social support), many have found ways to “play around” outside the relation. On the one hand, I cannot but think that it might be a gain if marital infidelity ceased to be—in the words of Rauch—the “deal breaker” it so often is.⁹ However, and this is the more important point, I am not sure that men are any more willing to tolerate infidelity in their male partners than women. Those couples who I know who “play around” do so only by establishing rules so that such “playing around” does not threaten the relationship itself. They might insist that no dalliance be with the same person more than once, etc., or more usually, that any such dalliance be shrouded in secrecy. It seems to me the pop psychology that emphasizes male sexual profligacy fails to appreciate the force of the so-called double standard. Men might want to play around, but they seem to be threatened if their partners play around on them. What that indicates to me is that men are burdened by conflicting demands. On the one hand, they might want to sow their seed. On the other, they are threatened by a loss of relationship. Widowers die much more quickly after the death of a spouse than do widows. And men evidence a decidedly difficult time psychologically in recovering when they have been divorced. Where two men apply their infamous double standard to one another, I suspect it is the drive to relatedness, rather than the desire to sow their seed, that wins out—particularly if it is accompanied by a vow rendered in public. In short, I suspect married men—whether they be in a heterosexual or a homosexual one—are equally sensitive to the potential destructiveness of marital infidelity, and are equally tempted to dally anyway. My conclusion, married homosexual men would be no more or less likely to cheat on their spouses than are married heterosexual spouses, and marriage is equally workable—and equally troubling—for them both.

At this point in my argument, it is time to return to an issue I brought up earlier. Above, I argued that the extension of the right to marry to same-sex couples was a way of supporting a marriage-positive culture, and said that it could be pitched to those who thought society had a stake in the goods of marriage beyond that of procreating and to those who thought that marriage was “for” procreating. I do suspect that many of my contemporaries who argue that marriage exists for the sake of procreation are really casting about for an argument by which they can exclude homosexual love from such a sacred institution as marriage. Let me see if I can ground my suspicion in argument.

In his recent book on same-sex marriage, Jonathan Rauch isolates a variety of propositions that might unpack the claim that marriage exists for

⁹ Rauch, *Gay Marriage*, 145.

the sake of children.¹⁰ The most salient of these can be put in a number of ways but, most generally, the claim is that marriage is a form of bonding which, in order to be what it is, must be “open to the possibility of children.” This claim, as Rauch rightly points out, represents “. . . not a child-centered view of marriage at all; it is a sex-centered view. It regards marriage’s legitimacy as coming not from the presence or welfare of children but from the way the children got there.”¹¹ Further reflection reveals the real point of the claim, however. Biologically speaking, men without testes or postmenopausal women cannot procreate, yet no one who endorses the claim about marriage really wants to forbid such people from marrying. I suppose it can be argued that, by some miracle, a postmenopausal woman might conceive or a man without testes might somehow produce sperm, with the result that, as long as their sex involved a penis in vagina, the relationship is “open” to procreation, if only by some freak of nature, that is, by some miracle. However, what is really being claimed is that marriage is to be reserved for those people who have penis-in-vagina sex as part of their sexual repertoire. In other words, marriage is for people who have heterosexual, not homosexual, sex. That is to say, the argument is not really about procreation. It is about the exclusion of homosexual sex (and thereby homosexual love) from marriage. It is neither prochildren, nor pro-procreation; it is but antihomosexual. The idea is really meant to buttress the claim that marriage is too sacred an institution to be polluted by homosexual sex and/or homosexual love is insufficiently dignified to be recognized as the kind of sacred bond for which marriage is the societal stamp.

It is precisely at this point that a line of thinking opened up by the philosopher Richard M. Mohr becomes relevant. In a powerful article that pulls no punches, Mohr argues that the exclusion of homosexuals from marriage—as well as the provision of “separate but equal” civil unions or domestic partnerships—are both violations of the principle of equality for in the language of everyday life they “add insult to injury.”¹² Mohr distinguishes three different applications of the term “equality.” For some purposes, the word “equality” is invoked as a matter of procedural justice: whatever laws there are on the books are to be applied equally to all. Sometimes we speak of “equality” as a matter of distributive justice, by which we mean “equality of opportunity.” Mohr argues that, strictly speaking, distributive justice involves a kind of “injury, where “injury” is a kind

¹⁰ Ibid., chapter 6.

¹¹ Ibid., 111.

¹² Richard D. Mohr, “Equal Dignity Under the Law,” *Gay and Lesbian Review*, September–October 2004, 30–5. This essay is an excerpt from his forthcoming book *The Long Arc of Justice: Lesbian and Gay Marriage, Equality, and Rights* (New York: Columbia University Press, 2005).

of deprivation or inhibition of access. But “injury,” he argues, can be morally and legally acceptable in some cases. In his reading, affirmative action involves an acceptable level of injury. Although unspoken, I believe implicit in the argument is the idea that denial of access is acceptable *if* the limitation of access provides an unambiguous demonstrable social good. We need not agree with him that affirmative action in fact involves such a justifiable social good to allow him his point in principle. However, his real point is that “injury” is *never acceptable* if it involves a violation of the third sense of equality, which he calls “non-insult” or “non-degradation.” In his words, “[a] differential distribution violates equality [in the relevant sense] only if the distribution draws on or enhances society’s perception that one of the groups is worthy of less moral regard than the other.”¹³ And “insult” signals “. . . that some group is held in morally lesser regard independently of any action that puts a member of the group in the group.”¹⁴ It is on these grounds that most separate-but-equal schema fail the test of equality.

Where does this leave us with the question of same-sex marriage? Whatever “goods” might be served by the exclusion of gay couples from marriage, those goods are at best “arguable” and not “unambiguously demonstrable.” Indeed, it has been the burden of my argument, as well as that of Rauch, that gay marriage can only serve the good of both straights and gays. But it is finally on the basis of the violation of the third principle of equality on which both the exclusion of gay and lesbian couples from marriage—or the provision of marriage civil unions and domestic partnerships to them as alternatives—founders. Such exclusion connotes that either gay love is not worthy enough to be “sanctioned” by marriage or that gay love pollutes the sanctity of the institution of marriage. However much groups may tout that they love the sinner, even as they hate the sin, the exclusion of gay couples and lesbian couples from the institution of marriage belies their protestations of Christian charity. The whole point of reserving “marriage” for heterosexual couples is—in Mohr’s graphic language—“insult.” It is a way of institutionalizing the lesser regard in which homosexual loves—and thereby homosexual persons—are held.

There is yet a further point to be made in this regard. Homosexual inclinations, nor even homosexual “acts,” are sufficient for a gay identity. To be gay, as distinct from merely homosexual or even simply a man or woman who might have sex with other men or women, involves the refusal of complicity in a social practice that would hold such love to be something other than sacred. As I have repeatedly argued, a gay person is one who holds that to think of their love as anything other than on a moral par with heterosexual love is to commit a kind of moral suicide, for it would involve a kind of

¹³ *Ibid.*, 33.

¹⁴ *Ibid.*

self-betrayal, the de-secration of that which defines him or her as a person and which a gay person cannot but hold sacred. In the words of religion, that such love is of God! I cannot but assume that there are those in this audience who cannot think of gay sex and gay love as anything other than ungodly. But note this is a religious dispute, one that is not only between religious communities, but involves fault lines within major denominational groupings. Whatever course individual faith communities may decide to take, to use the instrumentality of law to deny same-sex marriages is to deny the freedom of religion guaranteed by the Bill of Rights, and to institutionalize one religious persuasion over another, another violation of American democratic principle.

Marriage, Sex, and the Jurisprudence of Skepticism

A Response to Ronald E. Long

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I very much appreciate Professor Long's comments.¹ He offers an argument for same-sex marriage that is compelling and thoughtful. He shows concern for persuading those with whom he disagrees, and meets his challengers head-on by appealing to moral notions that are deeply embedded in our social fabric. These are virtues of character in Professor Long and his work that I would be pleased to find in myself and my work even if my emulation were only half as good as the original.

Because my time for rebuttal is only five minutes, and because many of the points in Professor Long's argument have been critiqued in J. Budziszewski's initial presentation, I will offer brief comments to only two of Professor Long's points.

(1) He argues that because marriage seems to have had a changing character historically; therefore, same-sex marriage would be nothing more than another innovation propelled by present realities and understandings that our predecessors had not grasped. There are several problems with this argument.

(a) *Incorporating same-sex marriage does not follow from the apparent changing character of marriage.* One could grant Professor Long his premises but still reject his conclusion. After all, if difference of opinion over a subject means that no one has ever been correct about it, one could announce that one disagrees with this principle and thus reject it on its own grounds.

¹ Ronald E. Long, "In Support of Same-Sex Marriage," *Philosophia Christi* 7 (2005): 29–39.

(b) *The changing character of marriage proves our point.* In none of the cases cited by Professor Long is the fundamental ground of marriage rejected. That is, whether the marriage is polygamous, monogamous, open to concubines, intended only for procreation, etc., the basic teleology of the union remains the same, one-flesh communion between a man and a woman. A man may have more than one wife and still be married, but he may not have less than one wife and still be married.

(2) Professor Long argues that the prohibition of same-sex marriage excludes him and his partner, as well as similarly situated homosexuals, from an institution to which they are entitled by virtue of the sincerity and commitment of their love. Such exclusion is unjust, and therefore should be remedied by changing the law in order to grant a public imprimatur to such couplings. I have several responses to this argument

First, such an imprimatur would result, as I argued in my initial comments, with the marginalization of millions of Professor Long's fellow citizens who have serious and thoughtful concerns with a state that will no doubt criminalize their beliefs as nothing more than irrational prejudice motivated by animus. This hardly seems like the regime of tolerance that we are often promised is the inevitable result of a democratic civilization that celebrates diversity. It will be a regime in which the pejoratives of homophobe, narrow-minded, fundamentalist, etc., will receive the backing of the government as labels that may be ascribed to one's fellow citizens for no other reason than that they happen to believe that it is true that marriage is an institution with a particular unchanging nature, a sexual community that includes one man and one woman. If you don't think that this is a possible future, let me bring to your attention the recent comments by several political pundits who have described the reelection of President Bush and the overwhelming passage of the eleven referenda that banned same-sex marriage as the beginning of a theocracy forced on us by the ignorant bigots in the "red states," which one writer referred to as "Jesus land." Apparently, honey is not the only thing that attracts flies.

Second, to establish the claim that one has been treated unjustly regarding marriage, one must establish three things: (1) the nature of what one is being denied, (2) that what one is being denied is a good, and (3) that one is entitled to that good. But Professor Long admits in his comments that marriage's nature is elusive, ever changing, and not able to be known in any definitive way. But such skepticism about our knowledge of what marriage is works against his case. For if marriage is not something that we can know, then we cannot know that it is good, and then there is no known thing to which one is entitled. If I claim, for example, to be entitled to an inheritance, but I don't know whether I had a relative who died and willed me the money or whether the currency, if it exists, is not Monopoly money, it would be wrong for me to say that my not receiving the inheritance is unjust.

Third, no one doubts the sincerity and commitment of Professor Long's love for his partner. That is not what this debate is about. It is about the nature of a particular institution and whether it has a nature we can know and whether that knowledge may be embodied in our laws and by virtue of those laws limit the members who may enter that institution. It seems to me that sincerity and commitment, though perhaps necessary conditions for marriage, are not sufficient to enter it. For example, I loved my grandmother, and I lived with her for three years while I was studying for my PhD in New York City. And yet, our love was not diminished because it did not result in penetration or because our living arrangement was not declared "marriage" by the state or because Fordham University did not offer her the equivalent of spousal benefits as part of the fellowship I received. Familial affections that do not result in sexual liaisons may be just as, and sometimes more powerful than, the affections between husband and wife. This is because marriage is not reducible to affections, no matter how powerful or intoxicating. For those affections may be present when there is no marriage. To take this example further, friendships between men and between women, even ones attended to by intimate relations, may be deeply moving, resulting in life-long commitments, but it does not follow that they ought to be described as marriages.

But suppose we were to grant these latter unions the status of marriage, as Professor Long has suggested; what precisely would be our grounds for doing so? If it's sincerity and commitment, that doesn't work for the reasons already stated. But why limit it to two individuals? Why not three or four? Professor Long responds that deep love cannot be found in such ensembles when compared to the profound depth of two people alone in erotic rapture. But how does he know that? Someone who expresses deep skepticism about the nature of marriage is not in the best position to start pronouncing moral judgments about what he knows about the legitimacy of other possible marital arrangements that may involve relations as diverse and wide-ranging as polygamy, bisexuality, bestiality, or incest. I know that such liaisons may make your skin crawl, but that's how people once felt about homosexuality and were told that they harbored irrational prejudices fueled by animus. Who really knows that tomorrow's *Lawrence v. Texas* will not be *Rover v. Wade*, an opinion accompanied by ACLU briefs citing the now-infamous review essay by the eminent Princeton ethicist Peter Singer, "Heavy Petting"?

Once we detach marriage from the natural teleology of gendered persons and try to replace it with one that is a social construction more fitting to what we desire to be true, we have, ironically, put in place a skepticism concerning what we can know about the human good that undermines gay rights itself. Let me explain. Although we know of people who desire or

willingly embrace ignorance, we believe these people *ought* to desire knowledge and wisdom. In fact, many gay rights activists attack their opponents by accusing them of being backward and ignorant, implying that the natural purpose of the human mind is to acquire knowledge and be wise. But if a human person is a socially constructed being with no overarching purpose or *telos*, why would ignorance be wrong if someone desired it and believed himself or herself to be “born that way”? So, if the natural teleology of the body (or person) is inadequate to convince the proponents of same-sex marriage that their position is incorrect, then they must abandon the natural teleology of the mind, which they consistently employ to scold their opposition, for the latter is as well-established philosophically as the former.

The Illusion of Gay Marriage

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See, I have set before you this day life and good, death and evil.
Deuteronomy 30:15 (RSV)

I propose to defend the traditional understanding of marriage, but let me be clear from the outset what kind of defense this will be. I don't know if I can persuade you not to redefine marriage. Probably not. What I can do is point out that the redefinition of marriage would not achieve what its advocates think it would.

To be helpful, words must square with things. Things do not change natures just because we change the words by which we refer to them. We might decide to call dogs "cats," but we would not thereby succeed in turning dogs into cats, because dogs and cats are different kinds of realities. In the same way, we might decide to call same-sex liaisons "marriages," but we would not thereby succeed in turning these liaisons into marriages because they too are different kinds of realities.

You might think that if what I say is true, and the characteristics of things are not changed by the words that we use for them, then it makes no difference what words we use for them. Not so. It does make a difference. Although we cannot change dogs into cats, we can confuse ourselves by calling dogs cats. In the same way, although we cannot change same-sex liaisons into marriages, we can confuse ourselves by calling them marriages. Since marriage is not just any sort of reality, but a reality into which human persons voluntarily enter, the right ordering of which is crucial to their happiness in this life, it is important that we *not* be confused—that we understand what kind of reality it is that we are entering so that we can care for it properly. Otherwise we will dissipate ourselves in futility and vexation, wondering why nothing hangs together.

I

The traditional Christian understanding of marriage is a mutual and binding promise between one man and one woman, before God, to enter into a procreative and unitive bond, with each other alone, for life. Every word in this definition is indispensable. The promise is mutual because the parties must both agree. It is binding because it creates inviolable duties. They promise because they commit their wills. A man and woman are required because that which marriage establishes cannot subsist between two persons of the same sex, as I hope to make clear. The promise is enacted before God because human marriage was His idea, a part of the plan of Creation; therefore the parties seek His blessing and are answerable to Him for unfaithfulness. We speak of the parties' entrance into marriage because they do not invent it around themselves; rather they choose to take upon themselves a preexisting possibility. We call marriage a procreative partnership because marriage is the unique source of families, the unique way in which we participate in the continuation of the species, the only thing we know that gives a child a fighting chance of being raised by a mom and a dad. Indeed that is why law protects it, for you will note that the law does not protect my relationship with my lunch partner, or define my duties toward my fishing buddy. We call marriage a unitive partnership because in joining, the man and woman become one flesh—there are still two bodies, but they function as the complementary parts of a single procreative organism. We say they have a bond because this union, this organism, is not merely sentimental, metaphorical, or euphemistic; rather it is the concrete reality in which the other dimensions of their intimacy are consummated. They enter marriage with each other alone because polygamy and unfaithfulness confuse and undermine not only their own relationship but their relationship with the resulting children. Finally, the marriage is for life because although many things may impair it, only death can truly sever it. The procreative partnership persists even after the children are grown, because then the spouses help their children establish their own new families, and when their powers at last fail, their children in turn take care of them.

The fact that same-sex unions violate the terms of this traditional Christian understanding is trivially obvious, but convinces no one. The reason it convinces no one is that the traditional understanding is precisely what homosexual activists protest. Yet although they consider it wrong, they say it is not *very* wrong; they say, in fact, that the traditional understanding of marriage is defective in only one respect. It keeps them out, and they—in their view quite reasonably—want in. If only it were corrected to let them in, then it would be all right.

Let's take them at their word and see what kind of correction would be required. I think we will find that a whole series of corrections is necessary, raising grave questions about what is left at the end.

II

It may seem as though the only thing we have to do in order to satisfy the simultaneous demands of logic, reality, political correctness, and unappeasable desire, is delete those words *man and woman* from the definition of marriage. That is what most people think "gay marriage" is about. They imagine that homosexuals are demanding access to the same thing that heterosexuals enjoy. But of course, if marriage is a procreative partnership, then homosexuals are in principle unable to enjoy it, and conversely, if they are able to enjoy it, then it is not a procreative partnership. So we have to delete the word *procreative* too.

Many of you will ask, "So what?" Contraceptives have made us accustomed to the idea that sex and marriage have nothing to do with procreation. Moreover, it is a philosophical commonplace of our times that things have no natural purposes, that the purposes of things are in the eyes of their beholders, that you can't get an *ought* from a natural *is*. It takes a certain double-mindedness to believe such things. If we go to the doctor because of emphysema, it never occurs to us to suppose that the purpose of breathing might be in the eye of the beholder, that you can't get an *ought to breath* from the *is designed for breathing*, and that therefore it might be just as good to use lungs for sniffing glue as it is to use them for respiration. Nor do we doubt that the purpose of the heart is to circulate the blood, that the purpose of the eyes is to see, that the purpose of the esophagus is to take in nourishment—or that these purposes are binding upon us. Why do we make an exception for the sexual powers?

Some object that the purpose of sex is not procreation but pleasure. It is certainly true that sex is pleasurable, but the exercise of *every* voluntary natural power is pleasurable. It is pleasurable to take a deep breath. It is pleasurable to flex a muscle. It is pleasurable to eat. By activist reasoning, then, the purpose of breathing, flexing muscles, and eating is also pleasure. It would seem to follow that if I can get greater eating pleasure by consuming a meal, purging, and consuming a second meal, I ought to do so. Nonsense. Pleasure may motivate me to eat, but the purpose of eating is nutrition, and it is the purpose, not the pleasure, which regulates when I should eat and when not. So also with sexual intercourse.

As I say, I do not expect to convince most of you about procreation; we live in an antilife culture, and the reason we are confused about homosexuality is that we are already confused about heterosexuality. I merely point

out that if you strike that word “procreation” from the definition of marriage, you are no longer talking about the same reality as before. Now let’s see what other changes in the definition this last change requires.

III

After excising reference to procreation from the definition of marriage, the definition becomes “a mutual and binding promise between two people, before God, to enter into a *unitive* bond, with each other alone, for life.” The idea of procreation is gone, but the idea of union remains. This definition is probably what most people *think* they mean when they speak of “same-sex marriage.” For that matter, it is probably what many confused people have in mind when they speak of traditional marriage.

The problem is that such a definition isn’t what it appears to be. Although it seems to eliminate all reference to procreation, really it eliminates only *explicit* reference to procreation. An *implicit* reference to procreation is contained within the idea of a genuinely unitive bond.

For remember my comment about the word “unitive” in the traditional definition of marriage: The man and woman become complementary parts of a single organism with two personalities. In the case of all other biological functions, only one body is required to do the job. A person can digest food by himself, using no other gullet but his own; he can see by himself, using no other eyes but his own; he can walk by himself, using no other legs but his own; and so with each of the other functions and their corresponding organs. It’s true that we can’t live *well* without other people, and so we are rightly called social; we can, however, simply live. Each of us can perform every vital function by himself. Except one. The single exception is procreation.

What this means is that among human beings the male and female sexual powers are radically incomplete and designed for each other. If we were speaking of respiration, it would be as though the man had the diaphragm, the woman the lungs, and they had to come together to take a single breath. If we were speaking of circulation, it would be as though the man had the atria, the woman the ventricles, and they had to come together to make a single beat. Now it isn’t like that with the respiratory or circulatory organs, but that is exactly how it is with the generative organs. The union of opposites is the only possible realization of their procreative potential; unless they come together as a single organism, as one flesh, procreation does not occur.

This union of biological opposites is what the unitive dimension of marriage is about; each spouse contributes what the other lacks. Therefore, in order to make the previous changes in the definition of marriage work, the

definition must be changed yet again. We must replace the word “unitive” so that no one can say marriage requires biological complementarity.

IV

If biological complementarity is gone, then only psychological complementarity is left. Very well; then the definition of marriage becomes “a mutual and binding promise between two people, before God, to enter into a bond *which promises psychological complementarity*, with each other alone, for life.”

At this point we reach a puzzle. What *is* “psychological complementarity”? We know what it is in the case of a man and woman, for the difference of the sexes is not merely physical. In conjugal union, their hearts and minds and spirits *cooperate* with their bodies. The spouses are united not only in their bodily dimension, but in every dimension. This unity also helps prepare them to be parents, and the hope of children, in turn, joins them in solidarity with every past and future generation. But where is the psychological complementarity of a pair of men or a pair of women?

Some people claim that the union of psychological opposites does not require difference of sex, because people can be psychologically different in other ways too. One young lesbian wrote to me,

I was born and raised in [America]. My girlfriend spent the first 13 years of her life [overseas]. That in itself is a difference. We have very different personalities—I’m vocal and emotional, she’s quiet and analytical. We look very different—I weigh, literally, almost twice as much as she does. We are of different religions—I’m a Vodoun/Witchcraft syncretist, she’s a Gnostic Christian.

The claim under examination is that although homosexual liaisons lack the sexual sort of complementarity or balance, they may enjoy other sorts. But this misses a crucial point. Homosexual liaisons don’t just lack sexual balance; they *aggravate* sexual *imbalance*. A man and woman can provide to each other what each by nature lacks. By contrast, two mutually sexualized men, or two mutually sexualized women, can only reinforce what each by nature already has. Rather than balancing each other’s sexual tendencies, they reinforce each other’s sexual tendencies. Male sexuality is outward-directed. [I am not claiming that men are naturally *promiscuous*: promiscuity is a *perversion*, due to the Fall, of our natural outward-directedness. What I mean by outward-directedness is this.¹] An unmarried man pursues

¹ The bracketed passage was included in my oral delivery but was not included in the printed version of my remarks delivered to panelists ahead of time.

the beloved; a married man protects the home and beloved from external threat. By contrast, female sexuality is inward-directed. An unmarried woman makes herself attractive to pursuit; a married woman establishes her home on the hearth. When you pair the outward-directed man and the inward-directed woman, they are in equilibrium. But what happens when you sexually couple the outward-directed man with another outward-directed man? The gay subculture manifests exactly what theory predicts: explosive promiscuity. For analogous reasons, when you sexually couple the inward-directed woman with another inward-directed woman, you get implosive emotional dependency. This may be the most important reason why the rates of mental illness are also so much higher among homosexuals than among heterosexuals.

V

If we excise even reference to psychological complementarity from the definition of marriage, then what do we put in its place? Perhaps we can get some help from considering one of the things that the man and woman promise each other in the traditional wedding vow. Forsaking all others, they promise to *love* each other until death—love being an enduring commitment to the true good of the beloved. So perhaps the definition of marriage should be revised to read as follows: Marriage is “a mutual and binding promise between two people, before God, *each to pursue the true good of the other, with each other alone, for life.*”

The difficulty is that no matter how much the parties to a homosexual liaison may wish to pursue each other’s true good, that is just what they cannot do, for precisely the reasons just explained: their relationship is psychologically dyscomplementary. But the problem can be seen in the physical dimension too. Neither male nor female homosexual behavior is particularly healthy; male homosexual practices are especially damaging because the male reproductive organ and the male bodily openings are not made for each other. It is hard to see what is “loving” about acts which cause chronic tearing, stretching, bleeding, choking, death, disease, and pain, and which are so unsuited to our bodies that they introduce fecal contamination into the bloodstream. And we wonder why disease rates are so high.

For both reasons—psychological and physical—a promise to pursue a homosexual relationship is more like a promise to pursue each other’s true harm than like a promise to pursue each other’s true good.

VI

If we remove the idea of commitment to the true good of the other from the definition of marriage, what is left is love in the merely sentimental sense—the emotional tenderness the parties may have for one another. The definition of marriage now becomes “a mutual and binding promise between two people, before God, to enter into a bond of *affection*, with each other alone, for life.”

Unfortunately, no promise can guarantee the affections. You can bind the will, but you cannot bind the emotions. They do not submit to us in that way. No one can promise to go on feeling the way that he feels, for life.

Speaking of things like promises, the so-called committed gay relationship is a myth. When activists say “let me tell you about my committed relationship,” don’t believe them. To quote from the National Association for Research and Therapy of Homosexuality, “Although long-term gay male relationships do, indeed, exist, studies consistently show them to be promiscuous. In fact, gay researchers and writers most typically say that a sexually open arrangement is essential to a gay male relationship’s survival.”² Other research confirms that homosexuals with partners don’t stop cruising, they just cruise less.³

The argument is sometimes offered that if only homosexuals *were* allowed to “marry,” they would *become* more like heterosexuals; their bonds, though not lifelong, would at least be more enduring than they are now. The most well-known advocate of this view is gay activist Andrew Sullivan, who says that the extreme instability of homosexual relationships is due to social disapproval.

I suggest that no one really believes this, including gay activists themselves. In the final chapter of his book *Virtually Normal*, even Sullivan lets the cat out of the bag. It turns out that he doesn’t expect so-called gay marriage to change *homosexual* behavior so much as to change *heterosexual* behavior. According to Sullivan, social approval of homosexual liaisons would be good for straight culture because gays can teach straights something. And what can they teach them? There is “more likely to be a greater understanding of the need for extramarital outlets between two men,” says

² National Association for Research and Therapy of Homosexuality, “Psych Association Promotes Misinformation,” September 30, 2002, <http://www.narth.com/docs/bulletin01/05.html>.

³ Summarizing the findings of Alan R. Bell and Martin S. Weinberg, Louis Berman reports that “Gays who are ‘close-coupled’ . . . don’t abandon cruising; they do less cruising” (Louis Berman, “Long-Term Gay Relationships,” in *NARTH Collected Papers* (Encino, CA: NARTH, 1996).

Sullivan, “than between a man and a woman.”⁴ Recognition of the need for extramarital “outlets” is supposed to be something good. In another book, *Love Undetectable*, Sullivan releases an even bigger cat from the bag, for as he explains in a letter to *Salon* magazine, the book defends “the beauty and mystery and spirituality of sex, *even anonymous sex*.”⁵

By the time we reach this stage of redefinition—a stage which, logically and empirically, we cannot avoid—the game is over. A promise to remain in an affectionate relationship *with outlets*, and *for just as long as it shall last*, is a promise of exactly nothing. There is no remaining ground for distinguishing marital from nonmarital sexual relationships. The redefinition of marriage turns out to be the destruction of marriage.

Thank you.

⁴ Andrew Sullivan, *Virtually Normal: An Argument about Homosexuality* (New York: Alfred A. Knopf, 1995), quoted in Elizabeth Kristol, “The Marrying Kind,” review of *Virtually Normal*, by Andrew Sullivan, *First Things*, January 1996, 45–7; also available at <http://www.firstthings.com/ftissues/ft9601/kristol.html>.

⁵ Andrew Sullivan, letter to the editor, *Salon*, December 15, 1999, <http://ww2.salon.com/letters/1999/12/15/sullivan/index.html> (emphasis supplied). See also Andrew Sullivan, *Love Undetectable: Notes on Friendship, Sex, and Survival* (New York: Alfred A. Knopf, 1998).

Of Argument and Aesthetic Distaste A Response to J. Budziszewski

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“Come, let us reason together,” says the prophet Isaiah. Reasonable discussion among reasonable men and women is shattered when we forget our calling is to speak what we take to be the truth in love rather than in provocation and insult. What reason except provocation can there be when one of us in a wholly gratuitous way chooses to reimagine the conditions under which a young man was murdered to score a wholly hypothetical point? Yet that is what Professor Beckwith has chosen to do. For his part, I wonder if Professor Budziszewski realizes the extent to which his melodramatic words insult and wound.¹ Augustine had said, tell me what you love, and I will tell you who you are. A gay person is not simply a homosexual, but one who recognizes his or her loving impulses towards members of the same-sex as so deeply definitive of his or her personhood that disowning them would be an act of self-betrayal. So when the learned professor can imagine homosexual love consummating itself in nothing other than tearing or bleeding or stretching or choking, he is in fact deploying scientifically questionable claims to impugn the moral integrity of gay and lesbian persons.

However, if we leave the melodrama of his words aside, in his defense, it must be admitted that, unless he can make the case that homosexual sex is inherently and inescapably unhealthy, his entire edifice is threatened with collapse. For what is his argument, but that society cannot sanction a form of “love” which is so manifestly unhealthy because, in his vision, it so egregiously dares to tinker with Mother Nature . . . excuse me, what he avers is the design of nature’s creator.

¹ J. Budziszewski, “The Illusion of Gay Marriage,” *Philosophia Christi* 7 (2005): 45–52.

One cannot help but doubt the reliability of the “science” of any group that can exceed the bounds of probability to advance claims about what “all” homosexuals do or do not do, the kind of research Professor Budziszewski employs as evidence in the last paragraphs of his paper. But in the limited time and space available, I want to concentrate on his claims about the essential unhealthiness, indeed inherent destructiveness, of homosexual sex, for here he seems to be repeating like a mantra—whether he realizes it or no—the dubious “research” findings of Paul Cameron, a man “[t]hrown out of the American Psychological Association for violating ethical principles, and repudiated by the American Sociological Association for posing as a sociologist.”² Professor Budziszewski speaks of “choking.” I suppose he has in mind the supposed practice of near-asphyxiation for the sake of a more intense orgasm. The only instance I have ever heard of it being practiced was when the preppy murderer claimed that that was the kind of sex he was having when he murdered his victim in New York’s Central Park some years ago—and that was an instance of heterosexual sex! By using the language of “stretching” and “tearing,” I can only assume that Professor Budziszewski is thinking of anal sex, the kind of sex he sets up as definitive or homosexual practice even as he holds penis-in-vagina as paradigmatic for heterosexual sex. In so doing, of course, he disregards the myriad other ways in which human beings—both heterosexual and homosexual—make love, employing as they often do the hands or mouth and tongue. Not all homosexuals practice anal sex, nor do all heterosexuals refrain from it. Indeed, the phrase “backdoor sex,” I believe, has a heterosexual provenance, and I am told by pastors that it is one of the newer styles of heterosexual birth control. “Marriage” does not sanction the form of sex anymore than the law regulates what kind of sex married partners may indeed indulge in.

But let us follow Professor Budziszewski’s fixation with anal sex for the moment. It is in his imagination that anal sex is associated with stretching, tearing, and bleeding. In fact, an intestinal fistula is not usually the consequence of anal penetration by a penis—nor is bleeding and tearing. Indeed, any man of a certain age knows from experience that he can open up to the probing digits and/or instruments of his physician, and that not to his detriment, but to his good. Tearing and bleeding is more regularly a part of a woman’s loss of virginity than it is of anal sex, and is therefore of the two

² Didi Herman, *The Antigay Agenda: Orthodox Vision and the Christian Right* (Chicago: University of Chicago Press, 1997), 77. Ms. Herman goes on: “With some exceptions CR [Christian Right] antigay disease assertions find their empirical origins in publications of Cameron’s Family Research Institute. His data is cited by, among others, the American Family Association, the FRC, Colorado for Family Values, and Stanley Monteith, a physician appearing as an expert in *The Gay Agenda* videos . . . Cameron’s claims include that 75% of gay men regularly ingest fecal material, that 70–78% have had a sexually transmitted disease and that all are wildly promiscuous” (77–8).

the more violent. Shall we therefore refuse to honor heterosexual sex with the accolade “marriage” because of its violence? By the same token, vaginal sex is no defense against HIV infection of the blood from infected ejaculate and enjoys no privileging on that account.

If the claim that anal sex is disproportionately unhealthy is revealed to be lame, as I believe it to be, then Professor Budziszewski must fall back upon the argument that homosexual sex is nevertheless unnatural because it is essentially deformed. I do not ordinarily concern myself with defending the morality of homosexual sex. I simply allow to homosexual men and women the moral high ground. They know better than others what their homosexual impulses mean, and the consequences of it for their lives. But it does seem to my limited experience that contemporary ethico-religious objections to homosexual sex are of two sorts. One strategy refuses the dictates of biology in the name of scriptural or other “godly” warrant. “True freedom,” writes the antigay author David Neff, “is found in growing toward what God, not biology, calls us to be.”³ To argue against Neff and his ilk would require a consideration of the nature of biblical authority, a task which is beyond the scope of this response and is, any in case unnecessary, since Professor Budziszewski exemplifies the alternative strategy, the argument from nature. Here he argues on the basis of a natural teleology of body parts. Again, his view is purchased at the expense of a certain blindness to empirical circumstances. Many a pubescent young man can attest that his erect penis fits naturally between his pillow and the sheets, just as many a sex shop customer can attest that his penis fits quite comfortable in masturbatory sleeves made explicitly for that purpose. However, Professor Budziszewski would have it that there is an especially natural fit between penis and vagina not shared by the above; the penis and vagina have evolved to complement one another for the purposes of procreation. In his own preferred language, the penis is so fitted to the vagina that it can be taken by a certain kind of religious thinker as “designed” and “intended” for vaginal intercourse in the interest of reproduction. But that much might be conceded without conceding the further additional idea, that the use of penis or vagina for any other purpose is therefore an inhumane violation of their intended role in the great scheme of things. Budziszewski’s appeal to the teleology (intentionality?) of the body is extremely limited. The opposable thumb evolved so as to make the hand a thing adapted for grasping. Does this mean that it is an “improper use” of my digits to type with them? The mouth that exists to eat with can also be used to kiss with. The mouth that is used for kissing can also be used to smile with . . . or to frown with. So too, the tongue, so essential to the acts of ingestion and speaking that it is

³ David Neff, “Two Men Don’t Make a Right,” *Christianity Today*, August 1993, 15.

seemingly “designed” therefore can also be used to give pleasure to penis or clitoris. Why should what is true of the fingers, the mouth, and the tongue, not also be possible for other bodily appendages and orifices . . . especially if the claim of essential unhealthiness of the use be shown to be dubious, if not indeed spurious? If I have neglected the notion of “design,” then let me invoke the words of the evangelical thinker John Richardson: “You can use a screwdriver to open a paint tin but that is not the natural use of a screwdriver.”⁴ Unlike Richardson, however, I would add that, just because a screwdriver may have been “designed” for tightening or loosening screws, it does not follow that using it to open a can of paint is therefore immoral or wrong. Human intentionality more often than not takes precedence over natural “intentionality” where ethics is involved.

Although I think the moral force of the biblical injunctions against homosexual sex can be and should be undermined,⁵ I think the Biblicists have the better theological argument here. The problem of Budziszewski’s approach from a theological perspective is that the kind of appeal to natural teleology that he makes blurs the important distinction between “laws of nature” and the “will of God.”⁶ When the Thomist argues that grace perfects nature, it doesn’t mean that grace leaves nature alone, but that it takes it up and subsumes it in a more humane and godly order. The resurrected body is not simply a natural body governed by the rules of nature but a body exempted from the requirements of natural necessity. To take the matter out of the theological context, it is the role of humans to take nature and use it for humane and godly purposes that may quite simply have nothing to do with the purposes for which a natural thing may have evolved or been “designed.” The language of “design” here improperly implies that use of an object for other than its “evolved” purpose is an intentional violation of a system established by a cosmic legalist, the god of eighteenth-century deistical thinkers, perhaps, but certainly not the god of the classical Christian tradition.

⁴ John Richardson, *What God Has Made Clean: If We Can Eat Prawns, Why Is Gay Sex Wrong?* (New Malden, England: The Good Book Company, 2003), 21, quoted in Stephen Bates, *A Church at War: Anglicans and Homosexuality* (New York: St. Martin’s, 2004), 45.

⁵ I think the way in which the biblical endorsement of slavery has been effectively discredited is a case in point for how the biblical injunctions can be undermined in the name of the truth of spirit. For a considered and accessible representative account of how this can be done, see Gray Temple, *Gay Unions: In the Light of Scripture, Tradition, and Reason* (New York: Church Publishing, 2004), 35–100.

⁶ For the distinction, cf. John Macquarrie, *Three Issues in Ethics* (New York: Harper & Row, 1970). The entire chapter “Rethinking Natural Law” is relevant here, but see especially pages 107–8. For this author’s own earlier struggles with the notion of God as Creator, and the articulation of a position to which he has now returned, see Ronald E. Long, “God Through Gay Men’s Eyes: Gay Theology in the Age of AIDS,” in *AIDS, God & Faith*, ed. Ronald E. Long and J. Michael Clark (Las Colinas, TX: Monument, 1992), esp. 16–17.

The argument that male and female are psychological complements one of another, but male-male (and female-female) couples are psychologically dyscomplementary and therefore their unions are unworkable, is likewise open to challenge. Indeed, it seems to me that heterosexual couples could learn a thing or two about sticking it out from their homosexual counterparts who, without benefit of law or clergy, manage to stay together despite the lack of social support, indeed in defiance of social pressure that would pull them asunder. The psychological differentiation of male and female upon which Professor Budziszewski makes predictions about homosexual infidelity is naïvely reductionistic at best. In particular, his allegation that male couples are inherently psychologically unstable is really reducible to the claim that males are constitutionally incapable of loyalty or fidelity—and that would hold whether they be coupled heterosexually or homosexually. Does he really want to claim that? I would argue that human motivation, and specifically male motivation, is more psychologically complex than Professor Budziszewski would make it out to be. The male is not simply the drive to sow his seed. Most humans, gay males included, can be persuaded to sacrifice—when sacrifice they must—if the home they decided they truly desire is at stake. In addition, a man's word and a man's promise, especially when given in public, still counts for something even in this day and age—even when that man is gay. I cannot see the insistence that gay men will not—indeed cannot—be true to marriage vows once taken is anything other than failure of imagination expressive of a willful denial of the full humanity of homosexual men, the prejudice that underlies Professor Budziszewski's entire enterprise.

More could be said about Professor Budziszewski's argument, not the least about the way, by proceeding from definition, he implies that what is but a social convention is a natural reality. But what would be the point of going on in this vein? When I first read Professor Budziszewski's paper, I was enraged, and my anger put me in touch with something that I think is at the heart of his presentation. To put the matter bluntly, it is my judgment that, as an argument, the paper is philosophically weak, psychologically reductionistic, and theologically questionable, making injudicious—not to mention insulting—use of dubious science. But argument, I am convinced, is not really what is going on. What the paper amounts to is personal disgust at the idea of homosexual sex expressing itself, indeed masquerading, as—or perhaps in search of—reflective argument. The form may be philosophical, but the substance is personal aesthetic distaste. And such aesthetic preferences cannot be allowed to function as the basis of our social practices, no matter how widely shared. It is the responsibility of democratic government to ensure and protect the rights of the minority even over

against the will of the majority, particularly when that will is expressive of simple aesthetic disgust.

I think that what is at the heart of Professor Budziszewski's concern is his fear that the recognition of same-sex marriage would grant societal imprimatur for the idea that it is acceptable to be homosexual, and he would prefer to live in a world without homosexuality, or at least one in which the homosexually-inclined are encouraged by the power of church and state to resist their homosexual impulses. The world, however, can be rid of homosexuality only if homosexual persons cease being homosexuals or somehow otherwise disappear from the public scene. Gay men and women are part of the social fabric. They are not going away. Mounting evidence is that reparative therapy is highly ineffective, should it even be desirable. More importantly, most gay men and lesbians would no more choose to change than would the heterosexually inclined. As the song has it, "if this is wrong, I don't want to be right." Professor Budziszewski would prefer that homosexual persons live lives of self-loathing, a self-loathing buttressed by societal refusal to grant their relationships legal—not to mention religious—standing. However, justice requires that we heed the person-defining self-descriptions of those whose lives and loves might seem totally distasteful from our own perspective. Modern democracy was invented as way whereby men and women of different creeds and tastes could live together amicably and justly. The issue of same-sex marriage is, I repeat, nothing less than one of social justice and true equality.