

What Marriage Is . . . and What It Isn't - by Robert P. George

In **CERC**

Marriage is the kind of good that can be chosen and meaningfully participated in only by people who have at least an elementary understanding of it and who choose it with that understanding in mind.

Marriage is an all-encompassing sharing of life. It involves, like other bonds, a union of hearts and minds — but also, and distinctively, a bodily union made possible by the sexual-reproductive complementarity of man and woman. Hence it is ordered to the all-encompassing goods of procreation and family life, and it calls for all-encompassing commitment, one that is pledged to permanence and sexual exclusivity and fidelity. Marriage unites a husband and wife holistically, not merely in an emotional bond but also on the bodily plane in acts of conjugal love and in the children such love brings forth — for the whole of life. Marriage is a form of relationship — indeed, *the* form of relationship — in which a man and a woman unite in a bond that is naturally ordered to, and would be fulfilled by, their conceiving and rearing children together. And those who enter into this form of relationship — the human good of marriage — are truly and fully participants in it even where their bond is not blessed with the gift of children.

To be in such a relationship — a bodily as well as emotional union whose distinctive features and norms are shaped by its orientation to, and aptness for, procreation and the rearing of children — is intrinsically, not merely instrumentally, valuable. So marriage, though it bears an inherent (rather than incidental) link to procreation, is not properly understood as having its value merely as a means to the good of conceiving and rearing children. That is why, historically and rightly, infertility is not regarded as an impediment to marriage. True bodily union in acts fulfilling the behavioral conditions of procreation is possible even where the nonbehavioral conditions of procreation happen not to obtain. Such union can provide the foundation and matrix of the multilevel sharing of life that marriage is.

These insights into the nature of marriage as a human good require no particular theology. They are, to be sure, consistent with Judeo-Christian faith, yet ancient thinkers untouched by Jewish or Christian revelation — including Aristotle, Plato, Socrates, Musonius Rufus, Xenophanes, and Plutarch — also distinguished conjugal unions from all others, as do many nonbiblical faiths to this day. Nor did animus against particular persons or categories of persons produce this conclusion, which arose in various cultures long before the modern concept of "sexual orientation."

Nevertheless, today many are demanding the redefinition of marriage as something other than a conjugal partnership. Indeed, several jurisdictions in the West, including a number of European nations and several American states, have redefined marriage to eliminate the norm of sexual complementarity. In truth, what they have done is abolish marriage as a legal category and replace it with something quite different — legally recognized sexual-romantic companionship or domestic partnership — to which the label *marriage* has been reassigned. So, strictly speaking, we are talking not so much about a redefinition as an abolition of marriage.

When marriage is understood as a conjugal relationship — that is, as a comprehensive (emotional *and* bodily) union oriented toward procreation and the providing of children with both a mother and a father — it is easy to make sense of its core features as historically understood in Western and other cultures. But eliminating the norm of sexual complementarity removes any ground of principle for these features. After all, if two men or two women can marry, then what sets marriage apart from other bonds must be emotional intensity or priority. But nothing about emotional union or intensity requires it to be permanent, as opposed to deliberately temporary. Nothing beyond mere sentiment or subjective preference would require it to be sexually "closed" as opposed to "open," or limited to relationships of two persons, as opposed to three or more in "polyamorous" sexual ensembles. There would be no ground for understanding marriage as a sexual partnership, as opposed to one integrated around any of a range of possible nonsexual shared interests or commitments (for example, playing tennis, reading novels, supporting a certain sports team). Nor would there be any basis for understanding marriage as a relationship that is inherently enriched by family life and shaped by its demands. Yet these have always been defining features and norms of marriage — features

and norms that make marriage unlike other forms or companionship or friendship (and unlike in *kind*, not just in degree of emotional intensity).

These considerations buttress my point that what is at stake in contemporary debates about the definition and meaning of marriage is not whether to "expand" marriage to enlarge the pool of people "eligible" to participate in it. What is at stake is whether to retain and support marriage in our law and culture or to jettison it in favor of a different way of organizing human relationships.

Marriage law shapes our actions by promoting a vision of what marriage is and, therefore, what its norms and requirements are. In almost all Western jurisdictions, marriage has been deeply wounded by a culture of divorce, the widespread practice of nonmarital sexual cohabitation, the normalization of nonmarital childbearing, and other practices. None of these had to do with same-sex partnerships or homosexual conduct, nor were or are people who are attracted to persons of the same sex responsible for them. It was the impact of these practices on the public understanding of marriage that weakened people's grasp of marriage as a conjugal union and made the otherwise inconceivable idea of same-sex "marriages" conceivable. Still, abolishing marriage as a legal category and reassigning the label *marriage* to sexual-romantic domestic partnerships would complete the rout, making it all but impossible to carry out the reforms needed to restore the conjugal understanding of marriage and with it a vibrant and healthy marriage culture. The more we equate marriage with what amounts to a form of sexual-romantic companionship or domestic partnership, the more difficult it will be for people to live by the stabilizing norms specific to true marriage. This is the lesson of the past forty-five years. Unless we restore a sound understanding of marriage and rebuild the marriage culture, the erosion of marriage ideals will continue to harm everyone — children, spouses, societies as a whole — but especially the poorest and most vulnerable. By rewriting the parenting ideal, abolishing conjugal marriage as the legal norm would undermine in our mores and practice the special value of biological mothers and fathers. Moreover, by marking support for the conjugal view as "bigotry," it would, as we are already seeing in Europe, the United States, and elsewhere, damage religious liberty and freedom of speech and association.

It is important to bear in mind that under *any* marriage policy some bonds, some types of intimate relationship, will remain unrecognized, and thus some people will remain legally unmarried (however much they would like their relationships to count as marriages under law). So we need to be able (and ought) to meet people's concrete needs apart from civil marriage. Moreover, if we reject equating marriage with companionship — and marriage licenses with generic approval — we will see that conjugal marriage laws deprive no one of companionship or its joys and mark no one as less worthy of fulfillment. True compassion means extending authentic community to everyone, especially the marginalized, while using marriage law for the social goal it serves best — the goal that justifies regulating such intimate bonds in the first place: to ensure that children know the committed love of the mother and father whose union brought them into being.

Just as compassion for same-sex-attracted people does not require redefining marriage, neither does preserving the conjugal view mean making them scapegoats for its erosion. It certainly isn't about legalizing (or criminalizing) anything. In all fifty of the United States, two men or women can have a wedding (if they happen to believe in same-sex marriage) and share a domestic life. Their employers and religious communities are legally free to recognize their unions. At issue here is whether governments will effectively coerce many other actors in the public square to do the same. And also at issue is whether government will expand. Robust support for marital norms serves children, spouses, and hence our whole economy, especially the poor. Family breakdown thrusts the state into roles for which it is ill-suited: parent and discipliner to the orphaned and neglected, and arbiter of disputes over custody and paternity.

Redefining Means Undermining

Advocates of redefining "marriage" as sexual-romantic companionship or domestic partnership to accommodate same-sex relationships are increasingly confirming the point that this shift erodes the basis for permanence and exclusivity in *any* relationship.

University of Calgary philosophy professor Elizabeth Brake, for example, supports what she calls "minimal marriage," in which "individuals can have legal marital relationships with more than one person, reciprocally or asymmetrically, themselves determining the sex and number of parties, the type of relationship involved, and which rights and responsibilities to exchange with each."

Judith Stacey, a prominent New York University professor who is in no way regarded as a fringe figure, testified before Congress against the Defense of Marriage Act. During her testimony, she expressed hope that the redefinition of marriage would give marriage "varied, creative, and adaptive contours...[leading some to] question the dyadic limitations of Western marriage and seek...small group marriages."

In their statement "Beyond Same-Sex Marriage," more than three hundred "LGBT and allied" scholars and advocates called for legally recognizing sexual relationships involving more than two partners. Such relationships are by no means unheard of: *Newsweek* reported in 2009 that there were more than five hundred thousand in the United States alone. In Brazil, a public notary has recognized a trio of people as a civil union. Mexico City has considered expressly temporary marriage licenses. The Toronto District School Board has taken to promoting polyamorous relationships among its students.

What about the connection to family life? Writer E. J. Graff celebrates the fact that recognizing same-sex unions would change the "institution's message" so that it would "ever after stand for sexual choice, for cutting the link between sex and diapers." Enacting same-sex marriage "does more than just fit; it announces that marriage has changed shape."

What about sexual exclusivity? Andrew Sullivan, a self-styled proponent of the conservative case for same-sex marriage, has now gone so far as to extol the "spirituality" of "anonymous sex." He welcomes the fact that the "openness" of same-sex unions might erode sexual exclusivity among those in opposite-sex marriages.

Similarly, in a *New York Times Magazine* profile, same-sex-marriage activist Dan Savage encourages spouses to adopt "a more flexible attitude" about sex outside their marriage. A piece in *The Advocate*, a gay-interest newsmagazine, supports my point still more candidly: "Antiequality right-wingers have long insisted that allowing gays to marry will destroy the sanctity of 'traditional marriage,' and, of course, the logical, liberal party-line response has long been 'No, it won't.' But what if — for once — the sanctimonious crazies are right? Could the gay male tradition of open relationships actually alter marriage as we know it? And would that be such a bad thing?"

Other advocates of redefining marriage have explicitly proclaimed the goal of weakening the institution. Former president George W. Bush "is correct," writes journalist Victoria Brownworth, "when he states that allowing same-sex couples to marry will weaken the institution of marriage....It most certainly will do so, and that will make marriage a far better concept than it previously has been." Michelangelo Signorile, another prominent advocate of redefining marriage, urges people in same-sex relationships to "demand the right to marry not as a way of adhering to society's moral codes but rather to debunk a myth and radically alter an archaic institution." He says they should "fight for same-sex marriage and its benefits and then, once granted, redefine the institution of marriage completely, because the most subversive action lesbians and gay men can undertake...is to transform the notion of 'family' entirely."

Those wishing to overturn the traditional understanding of marriage as a male-female partnership increasingly agree that redefining marriage would undermine its stabilizing norms.

A Culture of Marriage

A standard revisionist response to the defense of conjugal marriage like the one I am here proposing is the claim that, even if the traditional position is, from the moral viewpoint, true, it is nevertheless unfair for the law to embody it. For example, my friend and colleague Professor Stephen Macedo argues that if disagreements about the nature of marriage "lie in...difficult philosophical quarrels, about which reasonable people have long disagreed, then our differences lie in precisely the territory that John Rawls rightly marks off as inappropriate to the fashioning of our basic rights and liberties." So Macedo and others claim that law and policy must be neutral with regard to competing understandings of marriage and sexual morality.

This claim is deeply unsound. The true meaning, value, and significance of marriage are fairly easily grasped (even if people sometimes have difficulty living up to its moral demands) in a culture — including, critically, a legal culture — that promotes and supports a sound understanding of marriage. Furthermore, ideologies and practices that are hostile to a sound understanding and practice of marriage in a culture tend to undermine the institution of marriage in that culture. Hence it is extremely important that governments eschew attempts to be neutral with regard to marriage and embody in their laws and policy the soundest, most nearly correct, understanding.

The law is a teacher. Either it will teach that marriage is a reality in which people can choose to participate but whose contours people cannot make and remake at will, or it will teach that

marriage is a mere convention that is malleable in such a way that individuals, couples, or, indeed, groups can choose to make of it whatever suits their desires, goals, and so on. The result, given the biases of human sexual psychology, will be the development of practices and ideologies that truly tend to undermine the sound understanding and practice of marriage, together with the development of pathologies that tend to reinforce the very practices and ideologies that cause them.

The Oxford philosopher Joseph Raz, a liberal who does not share my views regarding sexual morality, is rightly critical of forms of liberalism, including Rawlsianism, that suppose law and government can and should be neutral among competing conceptions of moral goodness. He has noted, for example, that "monogamy, assuming that it is the only valuable form of marriage, cannot be practiced by an individual. It requires a culture which recognizes it, and which supports it through the public's attitude and through its formal institutions." Of course, Raz does not suppose that, in a culture whose law and public policy do not support monogamy, a man who happens to believe in it somehow will be unable to restrict himself to having one wife or will be required to take additional wives. His point, rather, is that, even if monogamy is a key element in a sound understanding of marriage, large numbers of people will fail to understand that or why that is the case — and therefore will fail to grasp the value of monogamy and the point of practicing it — unless they are assisted by a culture that supports, formally by law and policy, as well as by informal means, monogamous marriage. What is true of monogamy is equally true of the other elements of a sound understanding of marriage.

In short, marriage is the kind of good that can be chosen and meaningfully participated in only by people who have at least an elementary understanding of it and who choose it with that understanding in mind. Yet people's ability to understand it, at least implicitly, and thus to choose it, depends crucially on institutions and cultural understandings that both transcend individual choice and are constituted by a vast number of individual choices.