

Same-Sex ‘Marriage’: Evolution or Deconstruction of Marriage and the Family?

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The campaign to redefine marriage has recently gained such momentum—with now three and soon four Bills before the Commonwealth Parliament—that many think it is inevitable; this can leave those with misgivings feeling that they are already losers in a done deal. Some think it’s the inexorable progress of liberty and equality—which leaves the doubters ‘on the wrong side of history’. In this context supporters of classical marriage are presumed to have no real arguments to offer. So in this paper I want to offer some reasons—not decrees from on high or from the past, not expressions of hatred or prejudice—but *reasons* I hope anyone can understand. I also hope you find these reasons persuasive and helpful in proclaiming and witnessing to true marriage among your families, friends and colleagues. But even if you disagree with me on this matter, I at least hope to help you understand why Australian law has always held, and many people still hold, that marriage is for people *of opposite sex*.

I will examine five common slogans in this debate—that it’s all about justice, that sexual differences don’t matter, that it’s all about love, that it’s all about the numbers, and that it doesn’t affect me. Along the way I will be offering some reasons for preserving the classical understanding of marriage rather than redefining it to include same-sex ‘marriage’ (SSM).¹

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 - 1. I distinguish ‘same-sex marriage’ (SSM) from ‘opposite-sex marriage’, but with inverted commas implied around the word ‘marriage’ within the expression ‘same-sex marriage’ and no inverted commas implied around the word ‘marriage’ within the expression ‘opposite-sex marriage’, since whether SSM is truly marriage is precisely what is at issue.

1. 'It's All about Justice!'

Recently, *Sydney Morning Herald* journalist Michael Kozoi wrote that all opposition to SSM stems from hatred, pure and simple.² But if that were true, then all the recent high-profile converts to SSM were previously homophobes or liars, including Barack Obama, Hillary Clinton, Penny Wong and others. If they weren't in fact bigots when they previously thought and said marriage was for a man and woman, then it shouldn't be presumed that those who now hold that view are bigots either.

In reality, of course, we all know and love someone with same-sex attraction. We recognise that people of the same sex can love each other, sometimes deeply; that they express this in ways that seem similar to the ways married men and women express their love; and that some people want to commit to this in a public ceremony. They are usually good-willed people who feel they are missing out on something precious. Because we want the best for them, we feel the tug of the view that everything that makes opposite-sex couples happy should be open to them too. We want no more of the discriminatory or violent treatment that such people often suffered in the past and sometimes still suffer.

After all, God made every person unique and irreplaceable as his beloved images in this world, and if God loves people with same-sex attraction, so must the Church. The *Catechism of the Catholic Church* and the recent bishops' pastoral letter, *Don't Mess with Marriage*, teach that every human being, regardless of race, religion, age, sex or sexual orientation deserves our reverence; that all forms of unjust discrimination must be opposed; that everyone is entitled to justice and compassion; and that the challenges of healthy and chaste friendships are for every human being, whatever their attractions.³ If Christians haven't always talked that way or walked their talk, we should repent and do better in future.

But when it comes to what the law is or should be, *not all differential treatment is necessarily unjust*. Women's hospitals are closed to men; programs for Indigenous Australians are targeted to Indigenous Australians; primary schools enrol only children. These different treatments aren't *discriminatory* because the differences upon which they are based are reasonable ones. Women, children and Aborigines merit particular assistance. So if our marriage laws recognise and support man-and-woman unions *for good reasons* the preservation of those laws will not necessarily be unjust to other kinds of friendship. Under any marriage law some relationships won't be recognised as 'marriage'—

2. Michael Kozoi, 'We Should Call Arguments Against Marriage Equality What They Really Are—Hatred', *Sydney Morning Herald*, 6 July 2015, www.smh.com.au/comment/we-should-call-arguments-against-marriage-equality-what-they-really-are--hatred-20150706-gi5ybd.html.

3. *Catechism of the Catholic Church*, 2358; Australian Catholic Bishops Conference, *Don't Mess with Marriage: Pastoral Letter on the 'Same-Sex Marriage' Debate* (2015).

siblings, mere cohabiters, 'throuples' etc.—but unless we know what marriage is, we can't judge whether this restriction treats all citizens justly. To put it another way: we all support marriage equality—treating all real marriages equally. The question is: *What is a real marriage?*

2. 'Sexual Differences Don't Matter!'

Until recently the answer to the question *what is marriage* was obvious: every serious culture, religion, philosophy and legal system in the world understood marriage as 'the union of a man and a woman, to the exclusion of all others, voluntarily entered into for life'. So it is that *a man and a woman* undertake not merely to live together but 'to have and to hold' as 'husband and wife', that is, to do what husbands and wives do, including engaging in acts of love-making that are potentially life-making.

But if marriage is a natural institution that pre-exists Church and state, why *should* governments get involved at all? For one reason only: *because the 'marital acts' that bring children into the world also seal and express the 'marital unions' that provide for the long-term nurture of those children.* Marriage binds those whose love-making is life-making both to each other as husband and wife and to those children as mother and father. The benefits to children of having the contributions of both a Mum and a Dad, committed to each other and to them over the long haul, are well-established in human experience and social science research.⁴ In that sense, marriage is the best Department of Population, Health, Education, Welfare and Crime Prevention we've ever come up with! Other friendships may do other good things and be

4. See e.g. P. Amato, 'The Impact of Family Formation Change on the Cognitive, Social, and Emotional Well-Being of the Next Generation', *Future of Children* 15 (2005): 75–96; B. Ellis et al., 'Does Father Absence Place Daughters at Special Risk for Early Sexual Activity and Teenage Pregnancy?' *Child Development* 74 (2003): 801–21; T. Finn, 'Social Science and Same-Sex Parenting', *National Catholic Bioethics Quarterly* 13 (Autumn 2013): 437–44; C. Harper and S. McLanahan, 'Father Absence and Youth Incarceration', *Journal of Research on Adolescence* 14 (2004): 369–97; L. Marks, 'Same-Sex Parenting and Children's Outcomes: A Closer Examination of the American Psychological Association's Brief on Lesbian and Gay Parenting', *Social Science Research* 41 (2012): 735–51; E. Marquardt, *Family Structure and Children's Educational Outcomes* (New York: Institute for American Values, 2005); S. McLanahan and G. Sandefur, *Growing Up with a Single Parent: What Hurts, What Helps* (Cambridge, MA: Harvard University Press, 1994); M. Regnerus, 'How Different Are the Adult Children of Parents Who Have Same-Sex Relationships? Findings from the New Family Structures Study', *Social Science Research* 41 (2012): 752–70; W. Wilcox et al., *Why Marriage Matters: Twenty-Six Conclusions from the Social Sciences*, 2nd ed. (New York: Institute for American Values, 2005); W. Wilcox, 'Reconcilable Differences: What Social Sciences Show about the Complementarity of the Sexes and Parenting', *Touchstone* 18 (November 2005): 36–45; M. Somerville, 'Children's Human Rights and Unlinking Child–Parent Biological Bonds with Adoption, Same-Sex Marriage and New Reproductive Technologies,' *Journal of Family Studies* 13 (2007): 179–201; K. Young and P. Nathanson, 'Redefining Marriage or Deconstructing Society: A Canadian Case Study', *Journal of Family Studies* 13 (2007): 133–78; D. Sullins, 'Emotional Problems among Children with Same-Sex Parents: Difference by Definition', *British Journal of Education, Society and Behavioural Science* 7 (2015): 99–120.

worthy of support, but only marriage unites a man and a woman and directs their complementary sexual-reproductive natures to the having and rearing of children. And that is why, uniquely of all human relationships, states have an interest in their success.

The Catholic Church, following the clear teaching of the Old Testament, of Christ Jesus and of the apostle Paul, has always taught that marriage is that unique institution whereby ‘a man leaves mother and father and cleaves to his wife so that the two become one flesh’⁵ and so may ‘be fruitful and multiply’.⁶ Recent popes have explored the rich significance of our sexual differentiation as male and female and of marriage as a comprehensive bodily, emotional and spiritual union—one that brings and holds together people and values that otherwise have a tendency to fall apart: men and women, sex and love, love-making and life-making, babies and parents. St John Paul II, for instance, elaborated a contemporary ‘theology of the body’ in which the long tradition about sex being for marriage and marriage being for man and wife was shown to be rich in argument and profound in implications.⁷

In his recent, much-praised encyclical on caring for the environment, *Laudato Si*, Pope Francis also suggests we must accept ourselves in our bodily being, our masculinity and femininity; accept the Creator’s gifts specific to our own sex and to the opposite sex; and encounter someone different and find mutual enrichment in bringing those gifts together in marriage.⁸ The difference between, and complementarity of, man and woman is the anthropological reality ‘at the foundation of marriage and the family’; marriage should not, this Pope suggests, be the subject of endless manipulation according to passing ideological fads.⁹

5. Gen 2:24; Mark 10:1-16; Eph 5:21-32.

6. Cf. Gen 1:27-28. For examples from the tradition, see the notes in Congregation for the Doctrine of the Faith, *Considerations regarding Proposals to Give Legal Recognition to Unions between Homosexual Persons* (2003).

7. John Paul II, *Familiaris Consortio* (On the Christian Family in the Modern World, 1981); *Man and Woman He Created Them: A Theology of the Body*, trans. M. Waldstein (Boston: Pauline Books and Media, 2006). This work builds on a tradition including: B. Ashley, *Theologies of the Body* (Braintree, MA: John XXIII Medical-Moral Research and Education Center, 1985); P. Brown, *The Body and Society: Men, Women and Sexual Renunciation in Early Christianity* (New York: Columbia University Press, 1988); R. García de Haro, *Marriage and the Family in the Documents of the Magisterium: A Course in the Theology of Marriage*, 2nd ed. (San Francisco: Ignatius, 1993); J. Medina Estévez, *Male and Female He Created Them: On Marriage and the Family* (San Francisco: Ignatius, 2003); K. Wojtyła, *Love and Responsibility*, trans. Grzegorz Ignatik (Boston: Pauline Books and Media, 2013). Benedict XVI made some related points in: *Deus Caritas Est* (On Christian Love, 2005), 3–9. There is an enormous literature commenting on John Paul II’s thought in this area, including books by D. Ascì, B. Guevin, R. Hogan, J. Kippley, J. LeVoir, A. Percy, M. Prokes, K. Schmitz, W. Schu, Angelo Scola, M. Shivanandan, V. Walsh and C. West.

8. Francis, *Laudato Si* (On Care for Our Common Home, 2015), 155.

9. Francis, *Address to Participants*, International Colloquium on the Complementarity between Man and Woman, sponsored by the Congregation for the Doctrine of the Faith, 17 November 2014, 1; ‘Pope reiterates view that same-sex marriage is “anthropological regression”’, *Zenit*, 3 January 2014, www.zenit.org/en/articles/pope-reiterates-view-that-same-sex-marriage-is

Of course, this ancient wisdom that marriage is inherently opposite-sex is not peculiar to Catholics: Christians share it with Jews and Muslims; the three great Abrahamic religions share it with the other world religions of the ancient world and since; the world religions share it with more local ones, for example, Australian Aboriginal and Pacific Islander religions; and religious traditions share it with most secular philosophies, legal systems and cultures.¹⁰ Though customs around marriage vary between cultures and over time, there is remarkable consistency about these four dimensions of marriage: that it unites people of *opposite (but complementary) sex*; that this union is intended to be *faithful* ('to the exclusion of all others'); that this union is potentially *fruitful* ('to have and to hold' each other as 'man and wife' do and so to be open to children); and that this union is *final* ('till death do us part'). In almost every case a fifth dimension has been that this union be regarded as *sacred*.

3. 'It's All about love'

Over the last few decades there have been some very real advances in appreciation of romance and intimacy in marriage, in respect for the dignity of women and children, in the sharing of lives and responsibilities between spouses, and in the theology and pastoral care of marriages. Yet even as our understanding of relationships has been enriched in these ways, modernity has found itself in a mess about marriage. In just a few decades we've moved from a situation where almost everyone in the West got married and stayed married, to one where most people of marriageable age are *not* married: they live singly or in a series of more temporary relationships. Eventually one of these relationships may settle into being a sort of 'de facto' marriage. At some point, perhaps when a couple are thinking of having children, they may decide to solemnise it. But after years of try-before-you-buy and habitual non-commitment, many find they cannot sustain actual marriages once entered. Some try again—and fail again. Many eschew child-bearing altogether; some want children but in limited numbers, later in life, after achieving other goals. Many children now grow up without ever experiencing the love and care of a mother and father committed to each other and to them over the long haul; that makes them in turn less likely to aspire to and achieve stable marriage themselves. We all know and love people who have suffered from family breakdown; every serious social scientist and thoughtful economist understands the costs of this. Theories abound about the whys and

-anthropological-regression; 'Pope Francis to Schoenstatt Movement: Marriage Never Been Attacked So Much as Now,' *News.va*, 27 October 2014, www.news.va/en/news/pope-francisco-schoenstatt-movement-marriage-neve; Elise Harris, "What Is Being Proposed Is Not Marriage": Pope Calls for Defense of Family', *CNA/EWTN News*, 26 October 2014, www.catholicnewsagency.com/news/what-is-being-proposed-is-not-marriage-pope-calls-for-defense-of-family-12766/. Cf. 'Same-Sex Marriage: Irish Vote "Defeat for Humanity" Says Vatican Official', *BBC News*, 27 May 2015, www.bbc.com/news/world-europe-32900426.

10. Cf. CDF, *Considerations regarding Proposals*, 2.

wherefores of all this, but the *what* is undeniable: *never before in history have we been so unsuccessful at marrying.*

If we are not as good at entertaining and sustaining marriages as we were in the past, it is surely significantly because we are at least ambivalent about the defining dimensions of marriage as *faithful, fruitful* and *final*. So too the notion of marriage as a *sacred* act has been abandoned by many. And now another dimension, the *sexual complementarity* of marriage—the very thing that points beyond the union itself towards family life—is also being questioned. All that may be left at the end of this half-century-long unpicking of marriage will be an emotional-sexual bond that places the wishes of adults for long-lived intimacy above all else.

Some will say: no problem. Marriage in their eyes is merely a very flexible label for an institution with no intrinsic meaning; like Humpty Dumpty they think a word like ‘marriage’ means precisely whatever they want it to mean. Five of the nine judges in the recent US Supreme Court case said as much: marriage is constantly evolving and really a matter of self-identification and social convention.

Reflecting such a ‘marriage is what you make it’ approach, there have been many experiments in recent years. In 2004 the French President approved Christelle Demichel’s ‘wedding’ to her deceased boyfriend, a policeman killed two years before by a drunk driver.¹¹ About ten posthumous marriages are now registered each year in France.¹² In the same year a former soldier, Erika La Tour, fell in love with the Eiffel Tower and, after a ‘wedding’ ceremony, took Eiffel as her surname.¹³ The French experiments continue: in 2013 the mayor of Saint-Jean-de-Fos conducted the ‘wedding’ of a woman to a medieval bridge—the menacingly-named Pont du Diable in Céret.¹⁴ Before you make comments about the French, the ‘bride’, Jodi Rose, was an Australian!

Meanwhile, there have been numerous cases of people purporting to marry themselves in Britain, China, Holland and Australia;¹⁵ or trying to wed dead

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11. P. Broughton, ‘Wedding Joy for Bride Who Wed Dead Groom’, <http://www.telegraph.co.uk/news/worldnews/europe/france/1455148/Wedding-joy-for-bride-who-wed-dead-groom.html>.
 12. ‘French Woman Marries Boyfriend One Year After He Died’, *Daily Telegraph*, 16 November 2009, www.telegraph.co.uk/news/worldnews/europe/france/6581612/French-woman-marries-boyfriend-one-year-after-he-died.html.
 13. A. Simpson, ‘Woman with Objects Fetish Marries Eiffel Tower’, *Telegraph*, 4 June 2008, www.telegraph.co.uk/news/newstopping/howaboutthat/2074301/Woman-with-objects-fetish-marries-Eiffel-Tower.html.
 14. S. Malm, ‘Rock-solid love: Australian woman marries a bridge in France - and even gets the mayor’s blessing’, <http://www.dailymail.co.uk/news/article-2356774/Australian-woman-Jodi-Rose-marries-bridge-France--gets-mayors-blessing.html>.
 15. Re Grace Gelder: C. Huang, ‘London Woman Marries Herself after Being Single for Six Years’, Aol.com, 6 October 2014, www.aol.com/article/2014/10/06/london-woman-marries-herself-after-being-single-for-six-years/20973249/; re Liu Ye: ‘Chinese Man Married Himself’, *Culture Town*, 10 March 2013, <http://culturetown.org/chinese-man-married-himself/>; re Sammy Power: S. Fuda, ‘Ex Sydney Radio Host Sammy Power Has Married Herself—Yes Herself—in a Bizarre Ceremony to Celebrate Life,’ *Daily Telegraph*, 8 July 2014, www.dailytelegraph.com.au/entertainment/sydney-confidential/ex-sydney-radio-host-sammy-power-has-married-herself-yes-herself-in-a-bizarre-ceremony-to-celebrate-life/story-fni0cvc9-1226980818126.

people,¹⁶ buildings, vehicles or other inanimate objects,¹⁷ virtual objects,¹⁸ or non-human creatures.¹⁹ In 2010, for instance, a young Toowoomba man, Joseph Guiso, took part in an emotional wedding ceremony with his labrador in the presence of family and friends.²⁰ In the same year the *Daily Telegraph* reported that a Korean man had married his pillow.²¹

It goes without saying that some of these people should be seeing a doctor rather than a wedding celebrant and that there is much more to a marriage than a wedding ceremony. Clearly, lines can be drawn between marrying persons and marrying objects. But the hyper-emotionalised approach to marriage finds some of these developments hard to resist. In the United States, for instance, there is now a campaign for legalised polyamory. The *National Geographic* channel recently ran a sympathetic series on polygamy in America, Cambridge University Press in the United States published a book *In Defense of Plural Marriage*, and only last year the *New York Times* ran a sympathetic op-ed piece entitled 'Is Polygamy Next?'²²

My point in raising these aberrations in contemporary conjugality is *not* to equate them with SSM: not at all. It is, rather, to point out that what most SSM advocates and most SSM opponents have in common is a view that these are *not* marriages. 'All you need is love' really isn't enough. And if we agree on that,

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16. Nick Enoch, 'Died and Groom: Grief-Stricken Bridegroom Marries DEAD Girlfriend in Grim Thai Ceremony', *Daily Mail*, 18 January 2012, <http://www.dailymail.co.uk/news/article-2087909/Grief-stricken-bridegroom-Chadil-Deffy-marries-DEAD-girlfriend-grim-Thai-ceremony.html#ixzz3faqC6BKO>.
 17. Eija-Riitta Berliner-Mauer 'married' the Berlin Wall: Richard Alleyne, 'Woman Married to Berlin Wall for 29 Years', *Telegraph*, 27 May 2008, www.telegraph.co.uk/news/newstopping/howaboutthat/2035996/Woman-married-to-Berlin-Wall-for-29-years.html; See also: www.spiegel.de/international/spiegel/objectophilia-fetishism-and-neo-sexuality-falling-in-love-with-things-a-482192.html.
 18. K. Lah, 'Tokyo Man Marries Video Game Character', *CNN*, international ed., 17 December 2009, <http://edition.cnn.com/2009/WORLD/asiapcf/12/16/japan.virtual.wedding/>.
 19. Uwe Mitzscherlich 'married' his cat: 'German Man Marries His Dying Cat', *BBC News*, 3 May 2010, <http://news.bbc.co.uk/2/hi/8658327.stm>; Charles Tombe 'married' a goat: "'Man Marries Goat' Captivates Millions", *Telegraph*, 3 May 2007, www.telegraph.co.uk/news/worldnews/1550479/Man-marries-goat-captivates-millions.html; Bimbala Das 'married' a snake: <http://timesofindia.indiatimes.com/india/Orissa-woman-marries-snake/articleshow/1609295.cms>.
 20. Joseph Guiso 'married' a dog: 'Puppy Love: Man Marries Dog', *Toowoomba Chronicle*, 1 December 2010, www.thechronicle.com.au/news/man-marrys-dog-city-first-toowoomba/710538.
 21. 'South Korean Lee Jin-gyu "Marries" Pillow Lover Fate Testarossa', *Daily Telegraph*, 16 March 2010, www.dailytelegraph.com.au/lifestyle/south-korean-lee-jin-gyu-marries-pillow-lover-fate-testarossa/story-e6frf00i-1225841359729.
 22. <http://channel.nationalgeographic.com/channel/polygamy-usa/>; Ronald Otter, *In Defense of Plural Marriage* (New York: Cambridge University Press, 2015); See also: M. Cook, 'Polygamy Comes Out of the Closet', *MercatorNet*, 17 December 2013, www.mercatornet.com/conjugality/view/13280; F. Deboer, 'It's Time to Legalize Polygamy', *PoliticoMagazine*, 26 June 2015, www.politico.com/magazine/story/2015/06/gay-marriage-decision-polygamy-119469.html#.VZYCr_mqqko.

then we agree that we need some concept of *what marriage is*, what its ends, limits and scope are.²³

4. *'It's All about the Numbers!'*

The intensification of the campaign to redefine marriage to include SSMs has been due to a number of factors, including:

- populist ones: opinion polls suggesting between 60 per cent and 72 per cent of Australians favour change²⁴
- party political ones: the wedge politics *within* the major political parties has been as important as that *between* them
- commercial ones: the decision by major corporates to throw big bucks at the campaign, as happened in Ireland²⁵
- cultural ones: 'Anglos' and a few Latin nations seem especially interested in SSM
- international ones: in particular, developments in Ireland and the United States.

It has been argued by SSM advocates that 'conservative Catholic' Ireland's overwhelming vote in favour of SSM proves the tide of history has decisively turned and everyone should now get on board. But hold on ... First, it is hard to recall when progressives last asserted that we should follow Ireland's legislative lead: would they also favour its rather restrictive abortion and divorce regimes? Would we normally follow the polling result of a country whose total population is smaller than Sydney's? Secondly, how 'conservative' and 'Catholic' Ireland really is today is a complex matter, as that country has experienced rapid secularisation following entry into the EU and the clergy abuse crisis; the factors favouring social change in Ireland may make the 'if it can happen in Ireland, it will happen everywhere' line dubious. Thirdly, just how overwhelming was support for this measure in Ireland? While it's true that 62 per cent of those who voted, voted in favour, what is rarely mentioned is that only 60 per cent of voters turned out for the poll: whatever those low polling numbers indicate, barely more than a third—only 36 per cent—of eligible voters actually voted *for* legalising SSM in that country.²⁶ Fourthly, if even 100 per cent of voters thought that only

23. As Pope Francis has observed, if marriage is viewed simply as a commitment to give and receive emotional satisfaction, then it can be reconstructed at will; but call it what you like, the new invention will not really be marriage: *Evangelii Gaudium* (On the Proclamation of the Gospel in Today's World, 2013), 66, http://w2.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium.html.

24. E.g. Lisa Cox, 'Poll Shows Growing Support for Same-Sex Marriage', *Sydney Morning Herald*, 15 July 2015, www.smh.com.au/federal-politics/political-news/poll-shows-growing-support-for-samesex-marriage-20140714-3bxaj.html.

25. Conservative estimates put one American activist lobby's investment in the Irish plebiscite alone at A\$150m.

26. www.referendum.ie/; M. Cook, 'What Lies Ahead for Marriage in Ireland?' *MercatorNet*, 25 May 2015, www.mercatornet.com/conjugality/view/what-lies-ahead-for-marriage-in-ireland/16212.

Catholics can marry or that Irish people can marry their whisky bottles, that surely wouldn't settle the matter: we would still have to ask: *What is marriage?*

The US Supreme Court decision in *Obergefell v. Hodges*, which found a right to SSM hidden in the US Constitution's due process and equal protection clauses, is also said to be a pointer for us.²⁷ Again I wonder ... first, because instead of citizens or MPs making this law, an unelected elite of nine judges did so; that's not the way Australians, at least, like to decide such important matters.²⁸ Indeed, the most recent polls suggest more Americans now oppose the court's decision than support it, and that support for SSM has declined as a result of the Supreme Court's flouting of democracy.²⁹ As Chief Justice Roberts put it:

This Court is not a legislature. Whether same-sex marriage is a good idea should be of no concern to us. Under the Constitution, judges have power to say what the law is, not what it should be ... Today, however, the Court takes the extraordinary step of ordering every State to license and recognize same-sex marriage ... The majority's decision is an act of will, not legal judgment. The right it announces has no basis in the Constitution or this Court's precedent ... As a result, the Court invalidates the marriage laws of more than half the States and orders the transformation of a social institution that has formed the basis of human society for millennia, for the Kalahari Bushmen and the Han Chinese, the Carthaginians and the Aztecs. Just who do we think we are?³⁰

What's more, only the barest majority—five out of the nine judges—favoured overturning the definition of marriage in most American states. Of course, the Supreme Court majority might be more enlightened than the citizens and legislators of those states, but it has not always been so: that same court long defended slavery, minimal worker protection, and racial segregation, and still

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27. *Obergefell v. Hodges* 576 U. S. (2015). Critiques include: 'After *Obergefell*: A First Things Symposium', *First Things*, 27 June 2015, www.firstthings.com/web-exclusives/2015/06/after-obergefell-a-first-things-symposium; 'The Supreme Court Has Legalized Same-Sex Marriage: Now What?' *National Review*, 27 June 2015, www.nationalreview.com/article/420420/same-sex-marriage-obergefell-supreme-court; M. J. Franck, 'Thanks for Everything, Justice Kennedy', *Public Discourse*, 29 June 2015, www.thepublicdiscourse.com/2015/06/15235/; S. Girgis, 'After *Obergefell*: The Effects on Law, Culture, and Religion', *Crisis Magazine*, 20 July 2015, www.crisismagazine.com/2015/after-obergefell-the-effects-on-law-culture-and-religion.
 28. J. Albrechtsen, 'A Social Revolution Left in the Hands of Lawyers', *Australian*, 8 July 2015, <http://www.theaustralian.com.au/opinion/columnists/a-social-revolution-left-in-the-hands-of-lawyers/story-e6frg7bo-1227432812080>.
 29. Dominic Bouck, 'More Americans Oppose *Obergefell v. Hodges* than Support It', *First Things*, 20 July 2015, www.firstthings.com/blogs/firstthoughts/2015/07/more-americans-oppose-obergefell-v-hodges-than-support-it; M. Gallagher, 'Another New Poll: Support for Gay Marriage Falls, Religious Liberty Concerns Skyrocket', *Pulse*, 20 July 2015, <http://thepulse2016.com/maggie-gallagher/2015/07/20/another-new-poll-support-for-gay-marriage-falls-religious-liberty-concerns-skyrocket/>.
 30. 576 U. S. (2015) 2–3, 11, 23, Roberts, CJ, dissenting.

supports the death penalty, negligible gun control, and abortion on demand, even when a majority of citizens have inclined to a more enlightened view. The legal arguments in the majority judgement are in fact so weak that it embarrasses some SSM advocates.³¹ We might also ask why the few countries favouring SSM, rather than the vast majority of nations *not* tilting in that direction, get all the air time. Senator Eric Abetz recently observed that the Austrian legislature's overwhelming vote against SSM (110 MPs to 26) went more or less unreported in Australia, while prominence was given to the Yes vote on Pitcairn Island, a country with a population of forty-eight!³² Far from being some sort of outlier, Australia's current marriage law reflects international law and the laws of the overwhelming majority of nations (172 of the UN's 193 members).³³

5. 'It Doesn't Affect Me!'

Some people would say: This doesn't really affect me. Governments can decide who is married civilly and churches who is married religiously. Just as secular marriage doesn't endanger religious marriage, so SSM won't undermine opposite-sex marriage. It's really no big deal, so why don't believers just zip it?

Well, first, because Catholics and other Christians are not members of a cult, living in some closed-bracketed community quarantined from the rest of corrupt humanity. Our ability to live marriage well is itself much affected by whether there is a healthy marriage culture around us. As marriage has been unpicked in various ways over the past few decades, Catholics and other believers have not been immune to the effects.

What's more, our vocation is to be in and for the world, like leaven helping it rise up to God. As the Second Vatican Council famously said, 'The joys and hopes, griefs and anxieties of the people of this age are the joys, hopes, griefs and

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31. E.g. C. Cooke, 'A Few Thoughts on Today's *Obergefell* Supreme Court Decision', *National Review*, 26 June 2015, <http://www.nationalreview.com/corner/420381/due-process-gay-marriage-gay-marriage-decision>.
 32. E. Abetz, 'The Fight for Same-Sex Marriage in Australia Is Far from Over', *Sydney Morning Herald*, 1 July 2015, www.smh.com.au/comment/comment-eric-abetz--on-gay-marriage-20150701-gi26gi.html.
 33. The United Nations' *Universal Declaration of Human Rights* couches most rights in terms of 'Everyone has ...' or 'No one shall ...' However the right to marriage is couched as 'Men and women ... have the right to marry and found a family' (art. 16). Only with respect to that right is male-female sexual differentiation made explicit because it is predicated on the view that marriage is (only) between a man and a woman. As of 3 July 2015, *Wikipedia* listed twenty-two countries in which SSM is or will be performed legally: Argentina, Belgium, Brazil, Canada, Denmark, Finland, France, Iceland, Ireland, Luxembourg, Mexico (states thereof only), Netherlands, New Zealand, Norway, Portugal, Slovenia, South Africa, Spain, Sweden, United Kingdom, United States and Uruguay. See also 'At a Glance: Same-Sex Marriage around the World', *SBS News*, 7 October 2014 (updated 29 June 2015), www.sbs.com.au/news/article/2014/10/07/glance-same-sex-marriage-around-world: this list does not include Mexico, which is included in Wikipedia's list: hence I have counted twenty-one nations.

anxieties of the followers of Christ'.³⁴ Because such things as marriage matter so much to ordinary people, they must matter to the Church. At a time when so many people are so confused about marriage, when many are afraid or uninspired to marry at all, or find sustaining a marriage difficult, or grow up without ever knowing a stable marriage-based family, this would be the worst time for Christians to be silent about marriage. With humility and compassion, never hatred or holier-than-thou-ness, we must propose true marriage not just for our sake but for everyone's.

My next reason for thinking we should stay involved in this debate is that, for all the 'no big deal' talk, marriage is in fact 'a big deal', something very precious and worth preserving. When men and women get together in this particular way, even people with not much faith, they almost always surround it with ceremony because they know something-bigger-than-ordinary-life is going on here and want Someone-bigger-than-ordinary-people to bless it. They understand that there is a mystery at stake that is deeper and hopefully more enduring than passing emotions and fading passions. By a strange natural and supernatural mathematics the *one plus one* that makes *two* in an ordinary couple makes *one* in a married couple: for individually men and women are sexually and reproductively incomplete; only by uniting 'as one flesh' do they become complete in this respect. That *one-flesh union* consummates their promises and brings children into the world. Of course some marriages are infertile; most marital acts are so. Everyone's always known this too, but the point was that for every marriage that does bring a child into the world, that child has a Mum and a Dad. So *one plus one equals two* for a courting couple, but by vows and one-flesh union it then makes *one*; then as a result of that one-flesh 'marital' union uniquely suited for life-making, their one plus one may make *three* and maybe *four* and more ...

Thirdly, I have argued that by knowing *what real marriage is* we will understand why it is not arbitrary or discriminatory to regulate and support it in various ways. What is *unjust and untruthful* is to say in our laws that there is nothing distinctive about male and female, husband and wife, father and mother, or nothing important about bringing the two halves of humanity together in marriage. It is *unjust* to children to say having a Mum and a Dad shouldn't matter. It is *discriminatory* against those already married, or those who would like in future truly to marry, to redefine marriage in a way that reduces it to emotions and sex.

Advocates of SSM claim that those who favour opposite-sex marriage will be unaffected by this change and that any legislation will include religious 'exemptions'. Yet that already frames religious liberty as toleration by an

34. Vatican Council II, *Gaudium et Spes* (Pastoral Constitution on the Church in the Modern World), 1: www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat_ii_const_19651207_gaudium-et-spes_en.html.

enlightened majority of an eccentric minority. What's more, some Greens MPs have opposed any such provisions for religious bodies or openly admitted that any exemptions will be temporary, just to get SSM laws across the line.³⁵ Everywhere SSM has been legalised, people have been vilified, denied business or employment, even prosecuted for not cooperating in SSMs. Ministers of religion may be protected, but that's a tiny proportion of believers. Christian colleges and wedding venues have been obliged to accommodate same-sex couples. Catholic adoption agencies have been forced to place children with same-sex couples or close. Christian employers have been required to extend spousal benefits to 'same-sex spouses'. Health professionals have been punished for denying AI or IVF to 'same-sex spouses'. Teachers have been required to teach, and parents forced to put their children in, classes that promote SSM and homosexual activity.³⁶ Further examples of harassment and discrimination in the name of this latest political correctness abound.³⁷ Several of the judges in the recent US Supreme Court case admitted religious liberty was seriously at risk.³⁸

Let us imagine that the Australian SSM movement would be uniquely tolerant of those with a different view, consider the case of the Deputy Chief Psychiatrist of Victoria who in 2012 was forced to resign his position on that state's Human Rights and Equal Opportunity Commission. His crime: he had told a Senate Inquiry that children do better on average with a Mum and Dad

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35. The Australian Greens declare: 'For years, the Greens have said that blanket exemptions from national equality laws for religious organisations—particularly for those receiving government funds to provide a service, like schools, hospitals and shelters—is unfair and contrary to the values of a caring society': <http://greens.org.au/LGBTI>. The NSW Greens say, 'The Greens will work to ... remove religious exemptions from the NSW Anti-Discrimination Act': <http://nsw.greens.org.au/equality>.
36. References to these and other cases in Australian Catholic Bishops Conference, *Don't Mess with Marriage: Pastoral Letter on the 'Same-sex Marriage' Debate* (2015).
37. R. Reno, 'The Public Square: Rewriting Nature's Law', *First Things* 243 (May 2014): 3–4, and K. Kersten, 'Legislative Bullying' in the same edition: 21–2. In 2014 the City of Coeur d'Alene, Idaho, threatened Christian ministers who refused to perform same-sex weddings with 180 days' imprisonment or fines of \$1000 per day's delay: 'Christian Ministers Told to Perform Same-Sex "Weddings" or Face Jail', *National Catholic Register*, 20 October 2014, www.ncregister.com/daily-news/christian-ministers-told-to-perform-same-sex-weddings-or-face-jail/#ixzz3GjoITjVL. In Denmark, gay couples now have the right to marry in any church they wish irrespective of the views of the priest who has charge of the church: R. Orange, 'Gay Danish Couples Win Right to Marry in Church', *Telegraph*, 7 June 2012, www.telegraph.co.uk/news/worldnews/europe/denmark/9317447/Gay-Danish-couples-win-right-to-marry-in-church.html. See also B. O'Neill, 'Breathtaking Conformity', *MercatorNet*, 12 April 2013 (originally published in *Spiked*), www.mercatornet.com/articles/view/breathtaking_conformity.
38. See R. T. Anderson, 'Will Marriage Dissidents Be Treated as Bigots or Pro-Lifers?' *Federalist*, 14 July 2015, <http://thefederalist.com/2015/07/14/will-marriage-dissidents-treated-bigots-pro-lifers/>; S. P. Bailey, 'Here Are the Key Excerpts on Religious Liberty from the Supreme Court's Decision on Gay Marriage', *Washington Post*, 26 June 2015, www.washingtonpost.com/news/acts-of-faith/wp/2015/06/26/here-are-the-key-excerpts-on-religious-liberty-from-the-supreme-courts-decision-on-gay-marriage/.

rather than being in a single or same-sex parent family.³⁹ People hosting or speaking at an Australian Christian Lobby conference on marriage last year were subjected to such intimidation and vilification—including being labelled as Ku Klux Klan and neo-Nazis—that some speakers stayed away.⁴⁰ Recently the SSM lobby in Tasmania has threatened the Catholic Archbishop with an anti-discrimination suit merely for distributing the bishops' pastoral letter on the subject.⁴¹ Without doubt the legalisation of SSM would seriously threaten religious liberty in this country.⁴²

Fifthly, I think we should resist encroachments by government into the private sphere. We don't want politicians or bureaucrats telling us who we should love or how or for how long or who we should have sex with. The only friendship governments and bureaucrats properly get involved in is opposite-sex marriage because it is the nursery of the next generation and so dramatically affects the community's future.

Finally, most advocates of SSM say they simply want what others have got—stripped of unnecessary elements such as sexual-reproductive complementarity and orientation to children, and then re-mythologised as *romance aspiring to longevity*, celebrated with public ceremonial and given legal recognition. But in this paper I have argued that to admit SSM would not be to broaden the group of those to whom marriage is open but rather to change altogether what it is we call *marriage*; that this is not the further evolution of marriage but its further hollowing out, not liberation of that institution from the confines of religion and prejudice so much as deconstruction of that institution. Ironically, in trying to widen the pool of those who have access to it civilly, we actually deny everyone a chance at the real thing.

Conclusion: Be Not Afraid

The push to redefine marriage in Australia is not the done deal some think it is, and those who resist it are not all bigots without reasons to offer, as some suggest. Too much of the supposed 'debate' over the issue so far in Australia has been sloganeering, emotional spin and almost unprecedented public bullying of opponents. The real debate has hardly begun and we should resist being

39. F. Farouque, 'Anti-Gay Marriage Professor Quits Equal Opportunity Board', *Age*, 15 May 2012, <http://www.theage.com.au/victoria/antigay-marriage-professor-quits-equal-opportunity-board-20120515-1yo4i.html>.

40. T. McIlroy and B. Westcott, 'Hyatt Hotel Defends Booking for Australian Christian Lobby's Anti-Gay Marriage Conference', *Sydney Morning Herald*, 22 October 2014, <http://www.smh.com.au/act-news/hyatt-hotel-defends-booking-for-australian-christian-lobbys-antigay-marriage-conference-20141021-1196rn.html>.

41. A. Shanahan, 'Same-Sex Lobby Threatens Catholic Archbishop over Booklet', *Australian*, 4 July 2015, <http://www.theaustralian.com.au/national-affairs/state-politics/same-sex-lobby-threatens-catholic-archbishop-over-christian-booklet/story-e6frgczx-1227427550649>.

42. See D. Laycock and A. Picarello, eds, *Same-Sex Marriage and Religious Liberty: Emerging Conflicts* (Lanham, MD: Rowman and Littlefield, 2008).

railroaded into this social change too quickly. That said, I must confess some admiration of the highly motivated and well organised minority,⁴³ who have so effectively used the media, corporations and law to press this change on the general public. I only wish that the ‘silent majority’ of Australians, who enjoy the benefits of real marriage, would stand up for that institution with a similar passion and effectiveness.

Some think the way to shore up all friendships is to treat them as marriages. Perhaps this is because modernity has forgotten how to love. That sounds odd in a culture saturated with love songs and talk of ‘making love’. Yet the most common ‘How to?’ and ‘What is?’ questions asked of the *Google* search engines are ‘How to love?’ and ‘What is love?’⁴⁴ Modernity struggles with any kind of love that goes beyond feelings and intimacy: the cross-shaped, self-giving, Easter Day sort of loving rather than the heart-shaped, self-pleasing, Valentine’s Day sort of loving. I believe that the SSM debate highlights the crucial importance of recovering *healthy non-marital friendships*—self-giving, other-directed, generous and chaste. We must learn again the arts of loving. These habits of heart are no monopoly of the married, but the truly married are models for the rest of us of persevering in loving despite radical differences, of commitment and self-sacrifice for the sake not just of personal or even mutual goals but of yet-to-be-met children and a yet-unknown future society.

Marriage is a precious patrimony of humanity, just too important to be treated as anyone’s plaything. The further deconstruction of marriage is not inevitable—nothing is, except death and taxes—nor is it desirable. So *do not be afraid* to spread the good news about marriage and family. Speak the truth, always in love. God bless your efforts in supporting this great cause.

43. Persons identifying as ‘LGBTI’ account for less than 2% of the Australian population and only 0.7% of all Australians who identify as being in any form of ‘couple relationship’ are a same-sex couple. The issue rates very lowly in terms of the importance Australians put on it: unprompted, only 1% of Australians identify redefining marriage as an important issue. Even GetUp’s own recent survey of over 30,000 supporters ranked it at the bottom of their list, with only around 2% identifying it as an issue of any importance.

44. www.dailymail.co.uk/news/article-2246275/Google-Zeitgeist-2012-Skyfall-Whitney-Houston-Justin-Bieber-Selena-Gomez-internet-searches.html.