



## Marriage

### *In Society's Moral Crosshairs*

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ONE CURSORY LOOK ACROSS THE MORAL LANDSCAPE OF AMERICAN CULTURE WOULD INFORM EVEN THE MOST CASUAL OF OBSERVERS THAT “PROGRESS” IS PERHAPS THE GREATEST THREAT TO SOCIETY. WOMEN ARE ALLOWED TO KILL THEIR UNBORN CHILDREN, THE TEN COMMANDMENTS ARE PROHIBITED FROM HANGING ON COURTROOM WALLS, AND NOW THE DEBATE RAGES AS TO WHETHER MARRIAGE—ONE OF THE OLDEST, MOST SACRED INSTITUTIONS KNOWN TO MANKIND—IS REALLY ONLY FOR ONE MAN AND ONE WOMAN. SOME APPLAUD THESE MORAL MILESTONES AS THE MARKERS OF PROGRESS, BUT OTHERS DECLARE THAT THEY ARE THE MARKERS OF A SOCIETY ON THE BRINK OF SELF-DESTRUCTION.<sup>1</sup> HOW COULD A SOCIETY EXPECT ANYTHING LESS WHEN IT KILLS ITS FUTURE GENERATION (AT AN AVERAGE RATE OF 1.2 MILLION CHILDREN A YEAR<sup>2</sup>), ELIMINATES THE MORAL FRAMEWORK FOR LAW AND ORDER, AND LAUNCHES A FULL FRONTAL ATTACK ON THE VERY MECHANISM THAT PROPAGATES MANKIND AND LAUNCHES SOCIETY INTO THE FUTURE? IT MAY LOOK LIKE SMOOTH SAILING FOR THE “FORWARD-THINKING” SOCIETY, BUT DESTRUCTION LIES AHEAD, UNDETECTED BY THOSE WHO EMBRACE THE GLORY OF THIS SO-CALLED PROGRESS.

### **The Advent of Same-Sex “Marriage”**

While abortion rights and the systematic elimination of religion from public life certainly continue to challenge the moral footing of American culture, in recent years, society’s moral crosshairs have settled on the sacrosanct institution of marriage. With the sexual revolution of the 1960s and the onset of no-fault divorce in 1970,<sup>3</sup> it is no wonder the Nation has taken a moral nosedive, particularly

when it comes to marriage and the family. The greatest threat to marriage and morality in this country today, however, is not one-stop divorce or even 1960s-era sexual promiscuity; it is the advent of homosexual “marriage.”

In the 1990s, the homosexual rights movement began a targeted campaign to gain recognition, rights, and even special treatment for a lifestyle based on behavior that, in light of basic biology, can be (and once was<sup>5</sup>) classified as sexually deviant. With the approval of same-sex “marriage” as both its goal and bench-

mark for success,<sup>6</sup> this vocal minority has been hard at work to insert its agenda into the media, politics, education, religion, and even the workplace as a means of garnering public acceptance and support. To some extent, their hard work has paid off: the “gay couple” is a sitcom staple;<sup>7</sup> sex education now includes *homosexual-sex* education;<sup>8</sup> public school libraries stock children’s books depicting homosexual relationships;<sup>9</sup> and many anti-discrimination policies now protect individuals on the basis of their sexual orientation and gender identity.<sup>10</sup> Perhaps most notably, however, homosexual couples are *legally* permitted to “marry” in six states and the District of Columbia. Since the Hawaii Supreme Court’s morally unprecedented same-sex “marriage” ruling in 1993,<sup>11</sup> a total of nineteen jurisdictions, including D.C., have now given some form of state approval to same-sex unions. For instance, six states plus D.C. now issue marriage licenses to same-sex couples; eight states permit civil unions; and seven states and D.C. have enacted some form of domestic partnership law.<sup>12</sup>

With statistics like these, one could naturally assume that same-sex unions are, in fact, largely accepted in American society, and that it is probably only a matter of time before the rest of the states follow suit and pass their own marriage redefinition laws to include same-sex couples. But are these statistics really an accurate reflection of popular opinion in America regarding homosexual “marriage”?

The answer necessarily lies in the fact that, of the relatively few states that have redefined marriage to include same-sex unions, *not one* has done so as a result of letting the people of that state decide.<sup>13</sup> As a result, marriage redefinition in this country has yet to be the product of public opinion, but has consistently resulted from legislative action or judicial overreach. In fact, statistics tell us that when the definition of marriage is put to a popular vote, same-sex “marriage” always loses.<sup>14</sup>

Accordingly, and in direct response to the war waged upon traditional marriage, thirty states across the country have passed amendments to their state constitutions to protect marriage.<sup>15</sup> With marriage amendment passage rates sitting at an average of 67.3 percent,<sup>16</sup> the people have spoken: marriage is only for one man and one woman. This fact likely explains why state ballot initiatives are consistently

met with resistance from the homosexual lobby, producing protests and even death threats against traditional marriage proponents.<sup>17</sup> While North Carolina is not among the states where marriage is currently protected by a constitutional amendment, its citizens have the chance to change that this coming May.

## Marriage Protection Comes to North Carolina

After an eight-year battle to be heard, North Carolinians will finally have a voice on the issue of marriage. In September 2011, the North Carolina General Assembly voted overwhelmingly in favor of a measure to allow the *people*—not judges, politicians, or a vocal minority—of this State to weigh in on the definition of marriage.<sup>18</sup> This measure is not a mere opinion poll, however. The bill, **SB 514—Defense of Marriage**, is a ballot initiative that grants the citizens of North Carolina the opportunity to vote on whether to enshrine the State’s current law defining marriage into the State Constitution. The law currently states that:

[a] valid and sufficient marriage is created by the consent of a male and female person who may lawfully marry, presently to take each other as husband and wife.<sup>19</sup>

It goes on to clarify that:

[m]arriages, whether created by common law, contracted, or performed outside of North Carolina, between individuals of the same gender are not valid in North Carolina.<sup>20</sup>

In the primary election scheduled for May 8, 2012, North Carolinians will be able to take the necessary step of strengthening the State’s stance on marriage by voting on the following proposal:

Constitutional amendment to provide that marriage between one man and one woman is the only domestic legal union that shall be valid or *recognized* in this State.<sup>21</sup>

The General Assembly’s consideration of SB 514 was met with protests, campus vigils, and rallies organized by homosexual activists.<sup>22</sup> Such activism notwithstanding, the General Assembly voted to “let the people decide.”<sup>23</sup>

It is important to realize that even though the State has already statutorily defined marriage as between one man and one woman, recent case law demonstrates that such defense of marriage laws simply do not provide the same level of protection from legal challenge that a constitutional amendment will.<sup>24</sup> For instance, in 2009, Iowa’s Defense of Marriage Act (DOMA), which defined marriage as between one man and one woman, was struck down as unconstitutional by the Iowa Supreme Court.<sup>25</sup> And in other states, laws upholding the traditional definition of marriage were overturned because they

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violated state anti-discrimination laws prohibiting discrimination on the basis of sexual orientation and gender identity.<sup>26</sup>

## The Need for Traditional Marriage

What makes traditional marriage worthy of constitutional protection in the first place? Laws are often updated and legal concepts refined to reflect the changing values of society. Why not do the same for marriage? Quite simply, there are a host of factors that set marriage apart, rendering it inviolable and sacrosanct.

Even the best arguments for redefining marriage to include same-sex unions fail on one crucial point: marriage, as a sacred and unique institution that predates even the earliest of governments, is not subject to redefinition.<sup>27</sup> Some believe that marriage finds its source in God, while others believe it was birthed by ancient civil society. What can be agreed on, however, is that marriage is not a creature of the State.<sup>28</sup> As such, its character and nature are not subject to the politician's pen or to the judge's gavel. As the Alliance Defense Fund (ADF), whose attorneys comprise a portion of the legal team defending California's marriage amendment, Proposition 8, recently stated:

The definition of marriage as the union of one man and one woman is an objective reality that predates the existence of federal and state government. It is not an arbitrary arrangement that the government is at liberty to redefine as it pleases. The duty of the law then is to recognize and support this reality for the common good and protection of society as a whole.<sup>29</sup>

Even if marriage *could* be redefined, it would be foolish to do so. Society should carefully reconsider tinkering with the mechanism for advancing itself into the future as one of the basic premises of social science is that the family is the building block of society.<sup>30</sup> But it is not just any kind of family that will do the trick; it is a family built on the marital bond of one man and one woman. Traditional marriage is the only social institution that *naturally* creates the next generation, thus launching mankind and society into the future.

As marriage scholar David Blankenhorn notes:

[a]cross history and cultures . . . marriage's *single most fundamental idea* is that every child needs a mother and a father.<sup>31</sup>

Indeed, while traditional marriage is necessary for the survival of society, it is also *good* for society in view of the positive physical and moral impact it has on children. Studies show that when traditional marriages fail or do not happen at all, children are at risk. According to *"Marriage and the Law: A Statement of Principles,"* a nonsectarian manifesto of sorts supported by over 100 legal and family scholars:



children raised outside of intact [traditional] marriages have higher rates of poverty, mental illness, teen suicide, conduct disorders, infant mortality, physical illness, juvenile delinquency, and adult criminality.<sup>32</sup>

It further states that such children:

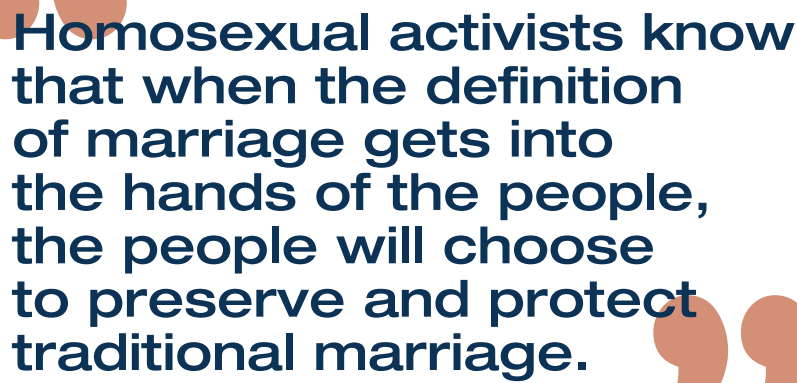
are more likely to drop out of school, be held back a grade, and launch into early and promiscuous sexual activity, leading to higher rates of sexually transmitted diseases and early, unwed parenthood.<sup>33</sup>

Confirming these findings, Child Trends, a non-partisan child research organization, has concluded that, "the family structure that helps children the most is a family headed by two biological parents in a low-conflict marriage."<sup>34</sup>

As one scholar notes, "[t]he intergenerational and long-term benefits of marriage to society are profound and irreplaceable."<sup>35</sup> Were marriage redefined to include same-sex unions, it would only stifle these benefits to the detriment of children, adults, and society. In other words, it would subordinate the needs of the next generation and society as a whole to the sexual whims and desires of a minority whose stated goal is "to transform the notion of 'family' entirely."<sup>36</sup>

## Threatening Religious Liberty

Protecting traditional marriage by enshrining it in the State Constitution is not only socially beneficial, but it is also necessary to protect religious liberty. When the state sanctions a morally controversial lifestyle such as homosexuality, it will inevitably draw itself into conflict with the religious and moral beliefs of its citizens. Such conflict, however, is not hypothetical, and its outcomes are already well-documented. For example, in Massachusetts, where same-sex "marriage" is legal, a religious adoption organization was forced to close its doors after refusing to place children with homosexual couples.<sup>37</sup> In New Mexico, a Christian photographer who declined to photograph a lesbian couple's "com-



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mitment ceremony” for religious reasons was found guilty of violating the state’s anti-discrimination laws and was ordered to pay almost \$7,000.<sup>38</sup> Importantly, even though same-sex “marriage” is not legal in New Mexico, the State’s non-discrimination laws prohibit discrimination on the basis of sexual orientation and gender identity (and the New Mexico State Constitution, like North Carolina’s, does not contain a marriage protection amendment.)<sup>39</sup>

As the case involving the New Mexico photographer demonstrates, *any* state endorsement of the homosexual lifestyle will have an adverse impact on religious freedom. Laws that prohibit discrimination on the basis of sexual orientation and gender identity, for instance, harm religious freedom by “penalizing private citizens with dissenting viewpoints on marriage, family, and sexuality.”<sup>40</sup> Moreover, as Thomas Messner of the Heritage Foundation points out:

political support for nondiscrimination laws usually, if not always, precedes political support for same-sex marriage.<sup>41</sup>

Such laws have even been used by activist judges to overturn their state’s marriage laws on discrimination grounds.<sup>42</sup> Conversely, same-sex “marriage” could effectively activate anti-discrimination laws to the detriment of religious freedom, as well. According to a 2008 report by the Becket Fund for Religious Liberty, over 350 state non-discrimination provisions would be triggered if same-sex “marriage” were legalized in the United States.<sup>43</sup> As such, the report noted that these newly triggered provisions could:

be used to bring lawsuits against religious individuals and organizations that refuse to: hire same-sex individuals, perform same-sex wedding ceremonies or rent their church facilities for that purpose, or rent housing to same-sex couples.<sup>44</sup>

While North Carolina’s own anti-discrimination laws do not currently protect individuals on the basis of sexual orientation or gender identity, recent movements in the State indicate that this may not be the case for long. In 2009, North Carolina enacted the

“School Violence Prevention Act,” which protects *students* from bullying for any reason, but also added a list of possible motivating characteristics which included “sexual orientation” and “gender identity.”<sup>45</sup> Marking the first time that a North Carolina state law has contained these terms, this “anti-bullying bill” provides just enough state endorsement of the homosexual lifestyle to give its proponents a foot in the door. Another pro-homosexual effort includes the N.C. State Bar’s recent attempts to insert protections for individuals on the basis of sexual orientation and gender identity into the Preamble of its professional rules.<sup>46</sup> These, and other similar efforts around the State,<sup>47</sup> demonstrate that North Carolina must act now to preserve its policy on traditional marriage.

Unfortunately, despite the fact that religious liberty is the first freedom guaranteed protection by the Bill of Rights, it is increasingly subordinated to the demands of the homosexual movement. And this is exactly what the movement wants. According to Chai Feldblum, Commissioner of the U.S. Equal Employment Opportunity Commission, who is also a homosexual activist and lesbian, it is the key to the movement’s success. As Feldblum writes:

There can be a conflict between religious liberty and sexual liberty, but in almost all cases, the sexual liberty should win because that’s the only way that the dignity of gay people can be affirmed in any realistic manner.<sup>48</sup>

### The People’s Voice

The homosexual lobby most assuredly has its sights set on marriage. Indeed, the nationwide legalization of same-sex “marriage” would be the ultimate achievement in the battle for social endorsement of the homosexual lifestyle. With thirty states now constitutionally protecting marriage as a result of popular vote, however, homosexual activists know that when the definition of marriage gets into the hands of the people, the people will choose to preserve and protect traditional marriage. As such, whether it involves protesting state legislatures considering marriage amendments or challenging state defense of marriage statutes in court, proponents of same-sex “marriage” will do whatever it takes to prevent the voters from ever seeing a ballot initiative concerning the definition of marriage. Because every state that now sanctions some form of same-sex unions has done so as a result of liberal legislative agendas and judicial activism, the homosexual movement would prefer to do business with sympathetic politicians and judges, rather than the American people. Thanks to the efforts of the General Assembly and many others across the State, however, the people of North Carolina will have the opportunity to cast their vote on marriage. And while homosexual activists have proven themselves

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