

# Findings

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## The Essence of Marriage

### *Why It Is Only the Union of a Man and a Woman*

By Alysse M. ElHage



The Superior Court of New Jersey in Mercer County recently dismissed a lawsuit brought by seven homosexual couples seeking the "right" to marry. Superior Court Judge Linda Feinberg ruled that a right to same-sex "marriage" does not exist in the New Jersey Constitution and concluded that any changes in the definition of marriage should be left to the state legislature.<sup>1</sup> One month earlier, a three-judge panel of the Arizona Court of Appeals unanimously upheld Arizona's law banning same-sex "marriage." Writing for the majority, Judge Ann A. Scott Timmer wrote: "The history of the law's treatment of marriage as an institution involving one man and one woman, together with the recent, explicit reaffirmations of that view, lead invariably to the conclusion that the right to enter a same-sex marriage is not a fundamental liberty interest protected by due process."<sup>2</sup> While both cases are significant, the battle over the definition of marriage in the United States is far from over. In fact, attorneys with the Lambda Legal Defense and Education Fund, who represent the plaintiffs in the New Jersey case, have promised to appeal the lower court decision to the state supreme court.<sup>3</sup>

The fact that the homosexual rights movement has targeted marriage should come as no surprise. The family unit that is created when a man and a woman marry is the bedrock of civilization. It is the place where men and women come together in a complementary union, and it is where children are born or adopted, nurtured, and educated. It is within the family that little girls and little boys become women and men. And it is where children form the opinions and

values that shape the world in which they live, and determine the norms of future generations.

The importance of marriage to society cannot be overstated. As a team of family scholars concluded, "Marriage is an important social good, associated with an impressively broad array of positive outcomes for children and adults alike."<sup>4</sup> On the other hand, when marriages break down, or when marriage is stripped of its special character, everyone suffers. Because what happens in every family can impact society for better or for worse, what happens to marriage matters.

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A debate over the meaning and purpose of marriage, and how it should be legally defined for future generations is underway in the United States. At the heart of this debate are critical questions that must be answered: What is marriage? What is its central purpose? Why has marriage always been reserved to a man and a woman? The way we answer these questions as a state and as a nation will ultimately determine the future of marriage, the family, and society as a whole.

This paper will discuss the meaning and purpose of marriage, and why the union of a man and a woman is central to this purpose and best for society. It will also look at how changing the definition of marriage to include same-sex couples would weaken the institution of marriage, and what can be done to protect it.

### **Marriage: A Social Institution**

The *Merriam-Webster Dictionary* defines marriage as "the institution whereby men and women are joined in a special kind of social and legal dependence for the purpose of founding and maintaining a family."<sup>5</sup> To understand the role of marriage throughout history, it is important to examine the first part of this definition, which refers to marriage as an "institution."

Marriage between men and women has existed in nearly every human society for as far back as historians can trace.<sup>6</sup> It is as old as humanity itself. Three major world religions—Judaism, Christianity and Islam—look to the first two chapters of Genesis for their understanding of marriage as an "order of creation" instituted by God when He brought Eve to Adam as his suitable companion.<sup>7</sup>

This view of marriage as an age-old social institution is echoed in the studies of anthropologists. According to Edward Westermarck, an anthropologist who wrote a three-volume history of marriage and marriage customs:

*"even in primitive times, it was the habit for a man and a woman (or several women) to live together, to have sexual relations with one another, and to rear their offspring in common, the man being the protector and supporter of his family and the woman being his helpmate and the nurse of their children. This habit was sanctioned by custom, and afterwards by law, and was thus transformed into a social institution."<sup>8</sup>*

One of the universal features of marriage, according to McGill University researchers Paul Nathanson and Katherine Young, is that the "marital norm for every society has always and everywhere been heterosexual."<sup>9</sup> While homosexuality

existed and was even rampant in some cultures, heterosexual marriage has been the norm throughout history.

Even today, marriage is exclusively reserved to men and women in nearly every country in the world. In fact, same-sex "marriage" has only recently been legalized in the Netherlands in 2001, and Belgium in 2003.<sup>10</sup> In the United States, a federal law passed by Congress in 1996 specifically defines marriage as the union of one man and one woman.<sup>11</sup> Thirty-seven states, including North Carolina, have enacted similar laws.<sup>12</sup>

North Carolina's marriage protection law, which was passed by the General Assembly in 1996, states: "Marriages, 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>13</sup> This law was intended to strengthen the state's existing marriage law, which reads in part: "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>14</sup>

### The Purpose of Marriage

As a social institution, marriage has an intrinsic public purpose. This purpose is the reason why nearly every society has distinguished the marital union from other human relationships and protected it through laws and/or customs.<sup>15</sup> Throughout history, the public purpose of marriage has been about bonding men and women to each other and to their children, helping them to form a secure family unit.<sup>16</sup> The union of a man and a woman is not only central to this purpose but best for society.

### Made For Each Other

In *Men Are from Mars, Women Are From Venus*, John Gray wrote that men and women "almost seem to be from different planets, speaking different languages and needing different nourishment."<sup>17</sup> From our physical bodies and emotions to how we communicate, men and women differ in countless ways. Even our brains are wired differently.<sup>18</sup> These differences make the two genders uniquely suited to meet each other's needs, as well as the needs of society. Men and women were made for each other.

This is why the union of a man and a woman lends itself so perfectly to the purpose of marriage. There is something unique about being male or female, and marriage is a celebration of these differences. Within a marriage, men

and women complement each other by bringing together skills and strengths that the opposite sex partner does not have alone. William Bennett calls this the "natural complementarity" of the sexes.<sup>19</sup> They essentially become more complete together than they were apart. Gender differences also make it possible for a man and woman to naturally create another human being through their sexual union. In contrast, homosexual relationships are not a celebration of gender differences, and homosexual sex cannot produce human life. By redefining marriage to include same-sex couples, society would essentially be saying that gender does not matter.

### Society Needs Marriage

Another reason the union of a man and a woman is central to the purpose of marriage is that strong marriages benefit society. Consider how society benefits from fidelity within marriage. First, it protects husbands and wives from sexually transmitted diseases, in turn protecting society from the further spread of disease. Fidelity within marriage also protects children from being born to unwed parents and from becoming unwed parents themselves. This protects society because it means that more children will be raised by their mothers and fathers.<sup>20</sup>

Marriage between men and women protects society from another danger—too many single men. In general, unmarried men pose a significant threat to themselves and to others. In his famous book, *Men and Marriage*, George Gilder wrote that "the single man is poor and neurotic. He is disposed to criminality, drugs and violence. He is irresponsible about his debts, alcoholic, accident-prone, and susceptible to disease. Unless he can marry, he is often destined to a troubled and abbreviated life."<sup>21</sup> According to Gilder, the biggest danger of the unmarried male is his potential to commit crime. Single men are nearly six times more likely to be incarcerated than married men.<sup>22</sup>

Marriage seems to have a reforming effect on men.<sup>23</sup> For example, in one study of 500 chronic juvenile offenders, those who married and stayed married reduced their offense rate by two-thirds, compared to those who did not marry or have good marriages.<sup>24</sup> Gilder attributed the influence of marriage on men to women. "Once the man marries, he can change," he wrote. "He has to change, for his wife will not long have him if he remains in spirit a single man."<sup>25</sup>

Marriage has other benefits for men and women that also benefit society.

Married men have stronger work ethics and healthier habits—such as sleeping more and consuming less alcohol—than single or divorced men. They earn more money, live longer, and have stronger relationships with their children.<sup>26</sup>

Married women are less likely to be victims of domestic violence and to live in poverty than cohabiting or single women. Depression is less common among married mothers than among single or cohabiting mothers, and married women have healthier and longer lives.<sup>27</sup> Married women are also less likely to have abortions. In fact, unmarried women account for 80 percent of all abortions.<sup>28</sup>

Marriage between men and women is good for society, providing a broad range of benefits for both sexes. In this way, the union of a man and a woman fulfills the public purpose of marriage as no other human relationship can.

### Children Need Moms and Dads

In the Arizona Court of Appeals decision upholding the state marriage law, Judge Timmer wrote: "We hold that the State has a legitimate interest in encouraging procreation and child-rearing within the marital relationship, and that limiting marriage to opposite sex couples is rationally related to that interest."<sup>29</sup> The final reason the union of a man and a woman is central to the purpose of marriage is that it meets the needs of children.

Since it takes a man and a woman to naturally produce a child, it makes sense that it would also require a man and a woman to successfully raise a child. According to sociologists David Poponoe and Barbara Dafoe Whitehead:

*"children have a compelling stake in their parents' marriage. It is a source of social and economic advantage for them. It provides a reliable means of attaching their fathers to the family household over the long term. It brings together under one roof two people who have brought them into the world and who have a mutual interest in their wellbeing."*<sup>30</sup>

When marriages break down and increasing numbers of children are raised without one parent, everyone within society, whether single or married, feels the impact. After observing the fall-out from decades of rising divorce and out-of-wedlock birth rates, family scholars have reached a consensus: children raised by their two married parents in low conflict relationships are better off than children raised in other family structures.<sup>31</sup>

In general, compared to children raised in intact families, children in single parent families are more likely to experience poverty and do poorly in school.<sup>32</sup> They are also more likely to suffer emotional and behavioral problems, and are at an increased risk of serious abuse.<sup>33</sup> Adolescents raised by divorced or never married parents are more likely to use tobacco, alcohol or illegal drugs. Boys raised by single mothers are more likely to commit crimes and end up in jail. Finally, children raised by single parents have a higher risk of becoming young unwed parents, experiencing unhappy marriages or relationships, and divorcing themselves.<sup>34</sup>

When it comes to the best environment for raising children, there is no substitute for marriage. Men and women bring different and necessary skills to the task of parenting. While mothers tend to be more nurturing and expressive toward children, fathers are generally more authoritative, helping to establish and enforce rules.<sup>35</sup> Equally important, fathers and mothers model for their children what it means to be men and women, and husbands and wives. Two male homosexuals or two lesbians cannot naturally produce children through their sexual activities, nor can they provide children with both the mother and father they need to thrive. This fact has historically excluded homosexuals from marriage.

Of course, homosexual activists argue that some heterosexual married couples do not want children or are unable to have them. It is true that children are not a requirement of marriage. Family scholar Maggie Gallagher has addressed this issue.

*"Every marriage between a man and a woman is capable of giving any child they create or adopt a mother and a father. Every marriage between a man and a woman discourages either from creating fatherless children outside the marriage vow. In this sense, neither older married couples, nor childless husbands and wives publicly challenge or dilute the core meaning of marriage," she wrote.*<sup>36</sup>

It is interesting to note that in the few existing studies on children raised by same-sex couples, researchers compare them to children of divorced, heterosexual parents, instead of the children of married parents. One reason for this is that most children who are being raised by same-sex couples have experienced the breakup of their families through divorce.<sup>37</sup> According to the Center for Law and Public Policy, "Children of gay or lesbian parents do not look different from their counterparts

raised in heterosexual divorced families regarding school performance, behavior problems, emotional problems, early pregnancy, or difficulties finding employment."<sup>38</sup> As noted earlier, children of divorce are more at risk for a wide range of social problems.

Homosexual "marriage" would shift the central focus of marriage from children to adults, placing a stamp of approval on broken families. We would be saying that despite decades of social science evidence that proves otherwise, children do not need both parents to thrive. Margaret Somerville, a Canadian bioethicist, has warned that "same-sex marriage would be a major social experiment of unknown impact on one of the most vulnerable groups in our societies: children. Because it changes marriage in a fundamental way, it would affect all children, not just those in same-sex families."<sup>39</sup>

To claim that the debate over same-sex marriage is not about children is to ignore the intrinsic purpose of marriage as a social institution that provides the next generation with the mothers and fathers they need. Children are a major issue in this debate. They reap the benefits of good marriages that last, and they suffer the most when marriages dissolve or disappear altogether.

### **The Threat to Marriage**

Allowing homosexuals to legally marry would further weaken the public purpose of marriage, which is to bring men and women together to form stable families. The redefinition of marriage would trivialize gender differences, essentially saying through law that there is nothing unique about being male or female. It would also codify into law that moms and dads do not matter. Once homosexuals are given access to marriage, it will be easier for them to adopt, which will create even more fatherless and motherless families.<sup>40</sup>

Thus far, homosexual advocacy groups have failed to convince the public that they have a "right" to marriage. In fact, when the issue has been taken directly to the American people, it has been rejected again and again. For example, California voters overwhelmingly approved a ballot initiative in 2000 that defined marriage in their state as only between a man and a woman.<sup>41</sup> The same year, citizens in Nebraska voted 70.1 percent to 29.9 percent in favor of an amendment to their state constitution, banning "marriage" between homosexual couples.<sup>42</sup> Recent polls also indicate that the majority of Americans oppose same-sex "marriage."<sup>43</sup> For the most

part, homosexual rights activists have also failed to redefine marriage at the legislative level. Instead, they have taken their battle for marriage to the courts, where they appear to have a much better chance of convincing activist judges to impose so-called same-sex "marriage" on America.

The threat to marriage posed by the courts is very real. Often made up of unelected judges who are not answerable to the American people, the courts today are more willing to make laws, rather than fulfill their duty to interpret and apply them. This is exactly how homosexual rights groups were successful in Vermont. In response to an order from the Vermont Supreme Court, the state legislature passed a law in 2000 that legalized "civil unions." That law grants same-sex couples in Vermont nearly all the legal benefits of traditional marriage.<sup>44</sup> Homosexual activists were also successful in Canada in June 2003, when the Ontario Court of Appeals ruled that reserving marriage to one man and one woman is unconstitutional.<sup>45</sup> Also in June, the U.S. Supreme Court struck down a Texas law banning homosexual sodomy.

As noted earlier, the U.S. Congress and 37 states have attempted to preserve the traditional definition of marriage by passing marriage protection laws. But every state and federal marriage law in America is at risk in the courts, even those that specifically define marriage as between one man and one woman. In the Arizona case, for example, two homosexual men challenged that state's marriage protection law. Although the Arizona Court of Appeals rejected their claim, homosexual activists continue to bring challenges to other state marriage laws.<sup>46</sup> If they fail, they often take their case to a higher court until they get a favorable decision. The outcome of these legal challenges, for the most part, depends on the personal views of the justices who sit on the courts. As one supporter of same-sex "marriage" noted in an editorial in the *Detroit News*, it's all about "location, location, location."<sup>47</sup>

### **One Public Policy Solution**

What can be done to preserve the institution of marriage? One solution that has been put forward is an amendment to the U.S. Constitution, which would define marriage in the United States as the union of one man and one woman. A Federal Marriage Amendment, which has been introduced in Congress, is intended to do what many believe federal and state laws cannot—protect marriage from redefinition by the courts.<sup>48</sup> While it has strong

bipartisan support, a Federal Marriage Amendment faces an uphill battle. It must first be approved by two-thirds of the House and Senate, and then be ratified by three-fourths of the states.

## Conclusion

Since the beginning of history, marriage has been recognized as the union of a man and a woman in nearly every culture around the world. As a social institution with an intrinsic purpose, marriage was ordained for men and women. Through marriage, two individuals of the opposite sex are bound to each other in a complementary union that makes them each more complete. Within this sacred union, a man and woman have the ability to create and raise the children that ensure the continuation of mankind.

Changing the definition of marriage to include same-sex couples would seriously weaken the institution of marriage by stripping it of the very characteristics that make it special. This would reduce marriage to just another personal relationship that is primarily focused on the desires of adults instead of the best interests of children.<sup>49</sup> North Carolina legislators should take advantage of every opportunity to protect marriage and the family from redefinition. By preserving traditional marriage, we can ensure that future generations will reap the benefits of a universal institution that celebrates the differences between men and women, and provides children with the mothers and fathers they need.

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