

The Meaning of Marriage Matters, Part 3: Same-sex Marriage: Gender Complementarity vs. Gender Irrelevance¹

The tremors you felt on June 26, 2015, were aftershocks from the U.S. Supreme Court’s decision that the constitutional right to marry includes same-sex couples. As a result, same-sex marriage is now legal in all U.S. states (and 20 other countries).² This essay raises the question of what it means when marriage no longer solely means the union of a man and a woman.

As the Court admitted, marriage may be society’s most enduring and essential institution. As with any institution, changing the basic definition and social understanding of marriage will change the behavior of its members. The gender composition of marriage is now a private matter, a personal choice, and not a legal requirement or even a public expectation. “Whatever” is now the answer to the question, “What is the gender composition of marriage?” What does *whatever* mean? If there are benefits to this change for same-sex individuals and their families, are there also risks for heterosexual society that accompany this redefinition of marriage?

A Supreme Court Vision of Marriage

Before exploring these questions, however, it may help to clarify briefly what the five Supreme Court justices said about the institution of marriage in their opinion that legalized same-sex marriage. First, Justice Kennedy, who wrote the majority opinion, wanted to make clear that the Court treats marriage as a central social institution crucial to the well-being of individuals and the nation:

“From their beginning to their most recent page, the annals of human history reveal the

transcendent importance of marriage.”³

“This Court’s cases and the Nation’s traditions make clear that marriage is a keystone of our social order.”⁴

Also, the Court asserts that same-sex couples seeking marriage do so with respect for the importance of the institution:

“Far from seeking to devalue marriage, the petitioners seek it for themselves because of their respect—and need—for its privileges and responsibilities. And their immutable nature dictates that same-sex marriage is their only real path to this profound commitment.”⁵

The majority of the Court ruled to legalize same-sex marriage largely because of its high esteem for the institution. Nevertheless, the Court reasoned that the gender composition of marriage is not an essential element of marriage’s meaning and purpose. In effect, the Court removed gender or biological sex as a defining pillar, replacing it with sexual orientation or preference—sexual attraction and love—as a more fundamental structural post. The five justices argued that marriage has not been a fixed institution over time:

“The ancient origins of marriage confirm its centrality, but it has not stood in isolation from developments in law and society. The history of marriage is one of both continuity and change. That institution—even as confined to opposite-sex relations—has evolved over time.”⁶

The Court reasoned that, “changed understandings of marriage are characteristic of a Nation where new dimensions of freedom become apparent to new generations.”⁷ The Court majority asserted that times have changed and most people now accept homosexual relationships as morally equal to heterosexual relationships.

We think the Court’s understanding of the complex social history of marriage is selective, but certainly the five justices are correct that societies evolve and change in ways that sometimes make clear the need for important changes in human institutions more consistent with enlightened understanding. Nevertheless, just as not all historical elements of marriage were wise and good, not all social change is progress, and not all changes in our understanding of the meaning of marriage have resulted in unalloyed good. The Court curiously omits mention of more recent legal and social changes in the meaning of marriage and the complex consequences these changes have had for modern marriage.

For instance, the Court did not discuss how legally eliminating the concept of permanence from marriage in the 1960s and 1970s changed the meaning of marriage. While there were some specific benefits to no-fault divorce laws, which established an individual right to divorce for any reason at any time, the legal understanding of marriage as a permanent union was deleted. Now the law is indifferent to the notion that marriage is a life-long union. The freedom and ease of divorce helped some, but it changed the nature of marriage in ways that made marriage a more fragile institution for all, a less safe place to invest our hearts.

High divorce rates and other trends, such as non-marital childbearing, have thinned the

meaning of marriage. And they have changed how people behave in intimate relationships. Along with any personal good these changes may have facilitated, these trends also are linked to negative consequences for children, adults, and society.⁸ These are crucial omissions in the Court’s analysis of how marriage has changed.

Note that the Court assumes that its ruling merely opens and expands the institution of marriage to include same-sex couples without altering its fundamental meaning or function. The new members only enlarge the institution and add to its membership rolls. But the Court fails to acknowledge how changing a fundamental aspect of marriage—the union of a man and a woman—profoundly impacts its meaning, or how that meaning may be central to producing some of the most important benefits of marriage.⁹

So what is the enlightened essence of marriage, according to Justice Kennedy and the consenting justices? Scattered about the opinion is soaring but abstract rhetoric that provides some clues as to their perception of the remaining essence of marriage: it bestows adults with dignity and hope; it creates human synergy and togetherness; it molds identity; it embodies high ideals; it is the first bond of society and a fundamental societal institution. What is notably absent is any reflection on the traditional notion that marriage links a man and a woman together, whose sexual union creates life that is best nurtured by the investment of both the mother and the father.¹⁰

So the Court still sees the essence of marriage in grand and noble terms. Yet clearly they are also abstract terms. The language summons a picture of a grand open-air vista rather than a stately building

with walls and a roof; a vision rather than an institution. Supreme Court Justice Alito, in his dissenting opinion, summarizes the five justices' grand and abstract portrait of marriage this way: "Although the Court expresses the point in loftier terms, its argument is that the fundamental purpose of marriage is to promote the well-being of those who choose to marry."¹¹ Justice Alito continues:

"This understanding of marriage, which focuses almost entirely on the happiness of persons who choose to marry, is shared by many people today, but it is not the traditional one. For millennia, marriage was inextricably linked to the one thing that only an opposite-sex couple can do: procreate."¹²

Weakening the link between marriage and procreation allows the Court to exclude biological sex—gender complementarity—from the meaning of marriage. Something so central to its meaning for society and for individuals for countless generations is now deemed a vestige of the less enlightened past, irrelevant to the true essence of modern marriage.

Marriage as a Social Institution

Five Supreme Court justices (and many lower court justices) believe that gender has been drained of its meaning to marriage in modern society. Thus, eliminating gender from the legal definition will not change the essence of marriage in any substantive way. Respectfully, we disagree. A fundamental social institution has been redefined. Social institutions shape human behavior. They provide human relationships with meaning, norms, and patterns; they encourage and guide conduct. And when the definitions and norms of a social institution are altered, the human behaviors and interactions that the

institution shapes also change. Whether deemed good or bad, legally necessary or unnecessary, redefining marriage away from its historically gendered purposes will have significant consequences.

We don't claim prophetic-like insight into the future. We agree with Justice Alito's point in his dissenting opinion: "The long-term consequences of this change are not now known and are unlikely to be ascertainable for some time to come."¹³ This is because, "the process by which such consequences come about is complex, involving the interaction of numerous factors, and tends to occur over an extended period of time."¹⁴ Many people think removing gender from the legal meaning of marriage will have no effect. But like trying to imagine what it would be like day to day to live in a world without taken-for-granted things like gravity and friction, it will be hard to understand a change in something that we have hardly ever given a second thought to.

So even though it is too early to know exactly how redefining marriage to include same-sex couples will change marriage over time, we think there are some reasonable guesses. In trying to predict the future, our focus will not be on homosexuals but on heterosexuals, who will continue to make up all but a few percentage points of the married population. Same-sex couples who legalize their relationships may benefit from doing so, and if it brings greater stability and more social support to their children, it may benefit those children, as well. Still, as the history of no-fault divorce suggests, there are also reasons to expect that there will be unanticipated negative consequences to marriage from changing its gendered meaning. And importantly, one has to look beyond the effects on same-sex families to accurately gauge the full impact of a de-gendered understanding of marriage.

Justice Kennedy, and many justices in lower-court opinions, have asserted that, “it is unrealistic to conclude that an opposite-sex couple would choose not to marry *simply* because same-sex couples may do so.”¹⁵ They assert this even though we know that some heterosexual couples over the past 15 years chose *not* to solemnize their union with marriage vows because marriage was an “unjust” institution that excluded same-sex couples.¹⁶ Similarly, it seems likely to us that some traditionalists, offended at the secular redefinition of marriage, will eschew entering its state-sanctioned doors and will seek only a religious solemnization of their union. Still, as long as Justice Kennedy includes the word “simply” in that sentence, he may be right. The actions of a homosexual individual down the block or three cubicles over at work probably will not simply and directly affect heterosexuals’ actions toward marriage. But it isn’t that simple. And here Justice Kennedy’s arguments are simply simplistic. He and the assenting justices are thinking about marriage here only in private terms, not institutional terms.

Going back to a previous point, human institutions shape human thinking and behavior. That is what they are designed to do. When an institution changes—and in this case, changes in such a prominent way—it is reasonable and logical to expect that people will think and behave differently. To assert otherwise is to believe that meaning doesn’t matter or that gender already was an empty element of marriage. Neither of those beliefs is reasonable. Far from being a relic of history or a quaint custom that has outgrown its usefulness in modern society, gender is a crucial component of not only the meaning of marriage for most people, but also of how marriage produces its benefits for children and society.

Marriage and Masculinity

How might the de-gendering of marriage impact the institution of marriage? *Marriage has been an important way that adult men establish their masculinity in a way that benefits women, children, communities, and society.* The eminent, late family sociologist Steven L. Nock argued: “In their marriages, and by their marriages, men define and display themselves as masculine.”¹⁷ A de-gendered conception of marriage—a public rejection that biological sex is a defining pillar of marriage—may weaken the institution’s power to channel men’s generative masculinity in child- and family-centered ways.¹⁸ When maleness is an unnecessary and legally excluded feature of the institution—a luxury—then we are likely to see less of it in marriage. As a result, more children of heterosexual parents will be raised without the manifest benefits of marriage and its ability to get fathers involved day to day in their children’s lives.

Even in our progressive twenty-first century, marriage is the most important social mechanism we have to channel young men’s adult identity into other-oriented behaviors of sacrifice, generosity, and protection for their own children and even for all children in society. Marriage is a transformative act, but especially so for men, because of how it funnels men’s adult identity into service to their families and to society. *We believe any societal signal that men’s contributions are not central to children’s daily well-being threatens to further decrease the likelihood that men will channel their masculine identities into responsible fathering. And we believe that the official de-gendering of marriage sends just such a signal.* The state, in essence, now says the terms *husband* and *father* (and *wife* and *mother*) are relics. (Note that a number of states are removing these terms from their laws, replacing them with gender-neutral terms.)

Yes, gay men (and lesbian women) who so choose will now have clearer legal pathways to marriage and parenthood. But for the vast majority, marriage is sheared of its connection to the idea that gender is a defining pillar of the institution and that men are essential parts. We fear this will only add to the deinstitutionalization of marriage and the many problems that have flowed from that. Foremost among those problems is a decreasing likelihood that children will be reared by a father and a mother together.

But Do Fathers Really Matter?

Do men really matter to family life, or has twenty-first century enlightenment taught us that fathers are fungible even if marriage still matters? Two bodies of research give insight into this question of men's special contribution to parenting, looking at (1) what happens to children when fathers are largely absent from their children's day-to-day lives, and also at (2) how present and involved paternal parenting supports children's healthy development and well-being.

First, an enormous body of scholarship has tried to document what happens when fathers are not involved in meaningful ways in the day-to-day lives of their children. This research has shown consistently that children, generally, are at 2–3 times the risk of a wide range of problems growing up without regular involvement with their father.¹⁹ A second large body of scholarship looks directly at fathers' involvement in their children's lives and how that impacts their development and well-being. This body of research also finds consistent positive effects of men's day-to-day engagement in the lives of their children.²⁰ Fathers are not a luxury; they make vital contributions to children's lives.

Fathers and mothers bring similar capacities to the task of parenting. But like the complementarity of the left and right halves of the brain, they also seem to bring distinct capacities that provide crucial, complementary contributions to children's healthy development. Both mothers and fathers are needed to create life, and both are needed to facilitate the optimal nurturing of that life.

We want to be clear, however, that we are not asserting that fathers and mothers are non-overlapping contributors to child development. Clearly, mothers and fathers often do many of the same things, parent in similar ways, and often have similar impacts on their child's development.²¹ Our argument is not that fathers and mothers parent in ways fully distinct from the opposite-sex parent, or even, strictly speaking, that they make essential contributions to child development that the opposite-sex parent cannot make.

Still, the importance of complementary gendered parenting—the parenting of both a biological father and a mother—doesn't need to rest on a strong empirical base that shows fathers and mothers make unique, essential, non-overlapping contributions to their children's positive development. Our primary point is that fathering matters to children's healthy development and the legalization of same-sex marriage may change the meaning of marriage in ways that diminish men's motivations for involved fathering.

The law now has removed gender complementarity from the meaning of marriage. This ruling goes against the grain of our understanding of the ideal parenting environment for children's social, emotional, intellectual, and moral development. If the legalization of same-sex

marriage over time diminishes men's connection to marriage and fatherhood, it will mean more children growing up without a present and engaged father. As a society, this is not something we should naïvely embrace.

Endnotes:

¹ Contributing authors to this essay were: Alan J. Hawkins, Jason S. Carroll, Jenet J. Erickson, Dean M. Busby, & Mark H. Butler.

² For updated information on countries where same-sex marriage is legalized, see <http://www.freedomtomarry.org/landscape/entry/c/international>

³ *Obergefell v. Hodges* (slip opinion, June 26, 2015) at p. 3; 576 U.S. ____ (2015). Available at http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf

⁴ *Obergefell v. Hodges* (slip opinion, June 26, 2015) at p. 16; 576 U.S. ____ (2015). Available at http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf

⁵ *Obergefell v. Hodges* (slip opinion, June 26, 2015) at p. 5; 576 U.S. ____ (2015). Available at http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf

⁶ *Obergefell v. Hodges* (slip opinion, June 26, 2015) at p. 6; 576 U.S. ____ (2015). Available at http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf

⁷ *Obergefell v. Hodges* (slip opinion, June 26, 2015) at p. 7; 576 U.S. ____ (2015). Available at http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf

⁸ Sawhill, I. V. (2014). *Generation unbound: Drifting into sex and parenthood without marriage*. Washington D.C.: Brookings Institution Press.

⁹ Girgis, S., Anderson, R. T., & George, R. P. (2012). *What is marriage? Man and woman: A defense*. New York: Encounter Books.

¹⁰ Girgis, S., Anderson, R. T., & George, R. P. (2012). *What is marriage? Man and woman: A defense*. New York: Encounter Books.

¹¹ *Obergefell v. Hodges* (slip opinion, June 26, 2015), Justice Alito's dissenting opinion at p. 3; 576 U.S. ____ (2015). Available at http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf

¹² *Obergefell v. Hodges* (slip opinion, June 26, 2015), Justice Alito's dissenting opinion at p. 4; 576 U.S. ____ (2015). Available at

http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf

¹³ *Obergefell v. Hodges* (slip opinion, June 26, 2015), Justice Alito's dissenting opinion at p. 5; 576 U.S. ____ (2015). Available at

http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf

¹⁴ *Obergefell v. Hodges* (slip opinion, June 26, 2015), Justice Alito's dissenting opinion at p. 5; 576 U.S. ____ (2015). Available at

http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf

¹⁵ *Obergefell v. Hodges* (slip opinion, June 26, 2015), p. 26, italics added; 576 U.S. ____ (2015). Available at http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf

¹⁶ For instance, see Voo, J. (2007, September 19). Why do unmarried couples opt out of wedlock? Retrieved from

<http://www.cnn.com/2007/LIVING/personal/09/19/unmarried.couples/>; Moylan, B. (2014, August 28).

Brad and Angelina Getting Married Is a Slap in the Face to Gay Americans. Retrieved from <http://time.com/3208755/brad-pitt-angelina-jolie-gay-marriage/>

¹⁷ Nock, S. L. (1998). *Marriage in Men's Lives*. New York: Oxford University Press, p. 58.

¹⁸ Girgis, S., Anderson, R. T., & George, R. P. (2012). *What is marriage? Man and woman: A defense*. New York: Encounter Books.

¹⁹ Sawhill, I. V. (2014). *Generation unbound: Drifting into sex and parenthood without marriage*. Washington D.C.: Brookings Institution Press.

²⁰ Brotherson, S. E., & White, J. M. (2007). *Why fathers count: The importance of fathers and their involvement with children*. Harriman, TN: Men's Studies Press; Cabrera, N. J., & Tamis-LeMonda, C. S. (2013). *Handbook of father involvement: Multidisciplinary perspectives*. New York:

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²¹ Fagan, J., Day, R., Lamb, M. E., & Cabrera, N. J. (2014). Should researchers conceptualize differently the dimensions of parenting for fathers and mothers? *Journal of Family Theory & Review*, 6, 390–405.