

Timeless

Marriage and Public Policy



The Public Purpose of Marriage

Good people come from all backgrounds and circumstances. But at a public policy level, marriage maximises people's formation and serves our community in deep and enduring ways.

Governments regulate marriage for a public purpose

Much of the marriage debate is framed in terms of the love lives of individuals, but it is unusual for governments to regulate private lives. Marriage is regulated due to its importance as an intergenerational public policy, fundamental to the social good.

"You will never build a society on it. You will not build a nation on it."

- Paul Keating on same-sex marriage¹

"Intact and fully functional families constitute the least costly social welfare system yet devised by mankind."

- John Howard²

As social policy, marriage builds the healthiest and most stable communities

Due to the centrality of the family as a source of one's nature, nurture and identity, its role in forming citizens and communities is beyond quantifying.

Marriage is a source of rich benefits for men, women and children

Due to the complementary strengths of men and women with respect to each other, married men have better psychological and physical health and live longer.³ Married women enjoy the same benefits,⁴ as well as economic empowerment.⁵ Children are stronger across the spectrum of social indicators and virtues for being raised by their married, biological mother and father.⁶

Marriage and Children

There are good mothers and fathers in all kinds of circumstances. It is clear, however, that the preservation of the biological family is an essential and admirable goal of governments.

The erosion of the child-centred view of marriage has social justice implications

The best interests of children lie at the heart of public policy considerations through which they are impacted. This has long been a feature of family law legislation⁷ and international human rights covenants.⁸ When the rights of adults crowd out the rights of children in such considerations, the interests of the most vulnerable and the voiceless are immediately at risk.

The loss or absence of a biological parent is always tragic for a child

Adoptive parents do essential, admirable work that must be commended. Their children will always struggle with the absence of biological parents and family heritage. It is well understood that adopted children require lifelong support for this difficult reality.

Marriage protects the valuable biological link between child, mother and father

The endurance of marriage above other relationships serves the children of that marriage like no other arrangement can.

Social science shows that traditional marriage champions social justice for children

Children fare better on objective measures when raised by their biological parents and perform less well when raised by same-sex parents,⁹ or in any other family structure. The view that research shows “no difference” between same-sex and traditional marriage for children is deeply misleading and is robustly challenged by a growing body of good research.¹⁰

Some of the first children of same-sex parents are now able to reflect objectively on their experiences. Their stories must be taken seriously.

“Talk to any child with gay parents, especially those old enough to reflect on their experiences. If you ask a child raised by a lesbian couple if they love their two moms, you’ll probably get a resounding “yes!” Ask about their father, and you are in for either painful silence, a confession of gut-wrenching longing, or the recognition that they have a father that they wish they could see more often. The one thing that you will not hear is indifference.” - Katy Faust, child of lesbian mothers.¹¹

Adoption is restorative

Adoption brings a child in tragic circumstances into a position that mirrors, as closely as possible, what they have lost. Government policy in this area must always be restorative in effect. It should never perpetuate this kind of loss

Not every marriage produces children, but every child has a mother and a father.

When the best interests of the child are the centre of public policy, this is the relevant issue.

“Life has a natural flow, there are things that should not be changed... You are born to a mother and a father... The family is not a fad.”

– Dolce & Gabbana (gay fashion designers)¹²

“Same-sex marriage and parenting withholds either a mother or father from a child while telling him or her that it doesn’t matter. That it’s all the same. But it’s not. A lot of us, a lot of your kids, are hurting.”

– Heather Barwick¹³

Marriage and Freedom

“Freedom of religion, the paradigm freedom of conscience, is the essence of a free society.”

- High Court of Australia, per Mason ACJ & Brennan J¹⁴

Sections of the ‘equality’ movement are motivated by a radical intolerance

This claim is borne out in the unfortunate trend to demonise, intimidate and legally punish dissenting voices in jurisdictions where the movement has won significant legislative victories. This occurs despite the alternative beliefs being held peacefully, reasonably or in good faith.

The Memories Pizza Story¹⁵

When asked by a journalist if, hypothetically, they would cater a same-sex wedding, the owners said that they would have to abstain on conscientious grounds, although they would happily serve same-sex couples generally. The pizzeria suffered abuse, calls for boycotts and threats to burn the restaurant down. The owners went into hiding.

The Mozilla Story¹⁶

Brendan Eich is the creator of JavaScript and former boss of Mozilla, famous for Firefox. He made a \$1,000 donation of the California Proposition 8 campaign to preserve traditional marriage (which was won). After the Supreme Court overturned the win, he was forced to resign, with Mozilla’s Executive Chairwoman making a public apology for his conduct.

Same-sex marriage laws are a powerful tool to interfere with the freedom of conscience of ordinary citizens

The Barronelle Stutzmann Story

Baronelle is a Washington florist. She served her friends, a gay couple, for some years before they asked if she would do flowers for their wedding. After much consideration she spoke to the couple, explaining that her religious convictions meant she could not, although she would do anything else for them. The Washington Attorney-General and the couple sued Barronelle personally, and her business. She lost her case in March.¹⁷

Hundreds of bakers, florists, photographers, hoteliers, venue hosts, churches and pastors are finding themselves in similar positions. Some close down, others are “re-educated” by court order, and others are heavily fined in a personal capacity or threatened with imprisonment.

Many Christian businesses are deliberately targeted, including Memories Pizza, above.

As evidenced in the Barronelle Stutzman story, there is a material difference between unjust discrimination against a person because of who they are - ie “no gays” or “no blacks” and the desire not to be forced to participate in certain activities or ceremonies that conflict with one’s conscience. This is a most basic freedom; the freedom of conscience, belief and thought.

Marriage and Rights

“Not every differentiation of treatment will constitute unlawful discrimination”

- United Nations Human Rights Commission, General Comment 18 on the UCCPR.

Every Australian has the right to be married

Marriage equality demands that every Australian have equal access to marriage on equal terms. This is already the case in Australia. But there is disagreement over what marriage actually is. Just as every Australian has the right to be a business owner, a de facto partner, or a member of a community group, so everybody has the right to be married by fulfilling the relevant criteria.



Not every differentiation of treatment is unjust discrimination

The strength of the anti-discrimination movement has led to confusion about what constitutes unjust discrimination. Differentiations of treatment are a normal feature of all definitions, most government policies, and normal social life. This is recognised in international human rights law,¹⁸ though it has become unclear in Australia. Discrimination law was never thought to be capable of displacing sound public policy considerations or the exercise of fundamental freedoms.



Gay marriage and racism

A race-based definition of marriage would be unjust and racist because race is irrelevant to marriage. A gender-based definition of marriage is not unjustly discriminatory because gender is essential to marriage for sound and obvious reasons.

Further, there is no scientific evidence that people are born same-sex attracted. On the contrary, scientists acknowledge that sexuality is fluid, often evolving over time, and is determined by both biological and environmental factors.¹⁹ The LGBTIQ community celebrates sexual fluidity.

People were once being kicked off public transport, denied voting rights, removed from shops and forcefully segregated, black civil rights v gay marriage is a false comparison.

The Deconstruction of Marriage

Romantic interest is an arbitrary, problematic measure of public policy

Some groups practice polygamy and are pushing for the recognition of polygamous marriages.²⁰ There are also those who would lobby for polyamorous marriages.²¹ There is no sound reason to object to these pushes once marriage is opened to people in loving relationships. At recent gay and lesbian Mardi Gras in Sydney, a polyamory float has featured.

“We have led the way on many issues related to the liberalisation of legal status in adult consenting relationships, and we are open to further conversation and consultation on this issue.”

- Natalie Bennett (UK Greens Leader) on group marriages²³

“I have known homosexual people in a relationship of three... Human relationships are complicated, but these, I would respectfully suggest, are issues for the future.”

- Former High Court of Australia Justice Michael Kirby²²

Timeless

Man-woman marriage has served countless generations

For millennia, marriage has been a man-woman reality. It has served prosperous societies down through the ages and has been practiced faithfully by almost every generation. It is unclear why, in the past decade, we have claimed to know better.



Notes

Notes

Endnotes

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- ⁵ Daniel T Lichter, Deborah Roempke Graefe, J Brian Brown, 'Is Marriage a Panacea? Union Formation Among Economically Disadvantaged Unwed Mothers', *Social Problems*, Vol 50 No 1 February 2003, <http://www.jstor.org/stable/10.1525/sp.2003.50.1.60#authInfo>.
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- ⁷ See e.g. sections 60CA, 61DA, 65AA, 67V, 67L, Family Law Act 1975.
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- ¹⁴ *Church of the New Faith v Commissioner for Pay-roll Tax (Vic)* (1983) 154 CLR 120, 130.
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