Marriage:
Real Unity Requires Real Difference

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Introduction

Marriage, the institution at the core of all societies as it both directly and indirectly affects all individuals, has been challenged in the last decade and is currently being challenged in ways that are unprecedented. What is being called into question is not only who has a “right” to be married, but also the broader concerns of whom it affects, and who and what organizations must recognize it, what it says socially, legally, and anthropologically, and most importantly what its definition is. Defining marriage as anything other than “the state of being united to a person of the opposite sex as husband or wife in a consensual and contractual relationship recognized by law,”\textsuperscript{1} would certainly revolutionize the role of marriage in society today, but in doing so, distort our understanding of sexuality, gender, and relationships while also endangering and threatening the work of religious organizations that have long supported the role of marriage in society.

While the defining characteristics of the term “family” may be relative to each individual, whether in reference to an extended family, a sport’s team, a close childhood friend, or simply a person’s immediate biological family, the definition of marriage has been universally understood by all, up until recent times, as the union between one man and one woman. Calling this definition into question presents all members of society with the decision either to uphold the integrity of marriage as an institution that unites to serve one another and to bear fruit, or to change the institution completely, rewriting tradition and law so that marriage is between any two persons based on a mutual desire for commitment.
The thought that marriage should simply be simply based on and aimed towards an emotional commitment between two persons is not an attitude that has sprung up and presented itself overnight, but instead points to a developed attitude of selfishness and entitlement that has been learned over the years through many generations. In this individualistic attitude, the purpose of marriage shifts to merely gratifying the needs, desires, and passions of two individuals, instead of fostering a union that unites both body and mind in order to grow societies, benefit others, and fulfill the natural longing to be in a committed, stable relationship by which two can share a lifetime of emotion and experience.

While same-sex attraction and relations are also not a new phenomenon, the notion that they are lawfully permissible and acceptable is relatively new. In only the past ten years, society has made the jump from legalizing sex acts between two homosexual persons (in the Lawrence v. Texas case in 2003), to wanting to completely alter the meaning of marriage in societies in order to accommodate the personal sexual appetites of homosexually oriented people. Recognizing the equal dignity and respect homosexuals deserve, the states’ role according to David Crawford is still “to promote human flourishing, ‘the fullest development’ of the individual” that is possible. But can this development really be promoted based on an institution that says two people who wish to commit to one another with no other purpose or capability other than an emotional commitment will carry the same benefits and duties as those whose choice is not solely based on emotion, but is instead a true gift and an emptying of self?

The institution of marriage as it is defined by law remains of the utmost importance not only because the law shapes cultures, but also because law cultivates the virtues,
beliefs, and behaviors of a culture. Just as an individual action not only affects the individual but also the community in which that individual lives, so too marriage and its recognition affects not only the two intimately involved in the marriage, but also every member of society. Allowing same-sex marriages, or any other appendage to the institution of marriage, would be detrimental to civilization as it would corrupt the natural law and lead to the violation of consciences and religious freedoms.

To support this position, we will begin by looking at recent developments in the history of the same-sex movement and analyzing the arguments put forth by those seeking to recognize committed same-sex relationships as “marriage.” We will then consider the challenges that arise if same-sex marriage were to be legalized and suggest why a proper definition of marriage remains vitally important to both secular society and the Church. In conclusion, we will highlight the significance of “marriage,” properly understood, as an institution that flows from an anthropology, is promoted through law, and contributes to the social good.

**Same-Sex Movement**

This section will first address the arguments that have been presented in favor of same-sex marriage and why the redefinition of marriage is important to most homosexual persons. It will also look at why the Catholic Church is involved with marriage issues at all, and what threats the legalization of same-sex marriage presents to religious freedom as it relates to marriage and the family.

Just ten years ago *Lawrence v. Texas* made homosexual sex acts lawful, based on the right to privacy found under the Due Process Clause of the fourteenth amendment. In this
same year (2003) in *Goodridge v. Department of Public Health*, the Supreme Court granted Massachusetts the legalization of same-sex marriage licenses. Once this legal recognition took place, many states began to change their constitutional laws regarding marriage to define marriage as being between one man and one woman, in hopes of salvaging traditional marriage as we know it. To the contrary, the states of Vermont, Iowa, New Hampshire, Connecticut, New York, Washington, Maryland, Maine, and the District of Columbia have since changed their laws to accommodate same-sex marriages. The states of New Jersey, Hawaii, Illinois, and Delaware have chosen to accommodate those who wish to be in a committed homosexual relationship by allowing civil unions to take place. While these ten states have changed their marriage laws to include same-sex relationships, the Defense of Marriage Act enacted by President Bill Clinton in 1996 states that each state is not obligated legally to recognize a same sex marriage license that has been issued in another state. However, both Proposition 8, which amended California’s Constitution to define marriage as between a man and a woman, and the Defense of Marriage Act are currently being challenged in the Supreme Court as being unconstitutional as of March 27, 2013.

All of these changes concerning the definition of marriage and challenges to who is legally permitted to obtain a marriage license have had a great impact on both the homosexual and heterosexual communities, as well as on many religious organizations and church-affiliated businesses. While homosexual behavior has been around for centuries, the notion that the institution of marriage should change to accommodate these behaviors is relatively recent and is rapidly progressing as generations continue to grow up with the mentality that equality means sameness, and that freedom means individual choice without
any limitations whatsoever. As a society we have stopped conversing with those who have opinions and beliefs that are in opposition to our own, and therefore have come to no real logical understanding of the arguments from either opposing side; as a result, we have done away with any notion of truth as it relates to our nature as human beings.

Arguments in favor of the legal recognition of same-sex marriages vary from the emotional and psychological, to matters of financial and constitutional equality. Marriages, no matter what two people are involved, affect families; consequently, marriages affect the societies in which these families are living. There is a need, therefore, to look at the reason people choose to get married and why society recognizes individuals who choose to commit to each other in this unique way. In *Debating Same-Sex Marriage*, John Corvino argues that the homosexual community is fighting for recognition, not redefinition. They do not want something else created for them that sets them apart and makes them different, but instead want to be included in the right to marriage that everyone else under the Constitution is guaranteed. He believes they want their relationships to be recognized as marriages because marriages that are recognized by society are promoted, honored and reinforced through encouragement and support.

In opposition to Corvino’s argument that there is no desire for a redefinition of marriage, Joseph Raz, a philosophy professor from Oxford University, claims that the change in marriage laws to include homosexual couples will adversely affect marriage and the family. He writes,

One thing can be said with certainty [about recent changes in marriage law]. They will not be confined to adding new options to the familiar heterosexual monogamous family. They will change the character of the family. If these changes take root in our culture then the familiar marriage relations will disappear. They will not disappear suddenly. Rather they will be transformed into a somewhat different social form, which responds to
the fact that it is one of several forms of bonding, and that bonding itself is much more easily and commonly dissoluble.4

In his view, same-sex couples do not simply want recognition; they want to redefine marriage.

Revisionist advocate Victoria Brownworth gave direct proof of this motive to redefine the institution of marriage when she responded to former President George W. Bush by saying, “when he states that allowing same-sex couples to marry will weaken the institution of marriage ... It most certainly will do so, and that will make marriage a far better concept than it previously has been.”5 Another pro-gay marriage professor, Ellen Willis, writes, “Conferring the legitimacy of marriage on homosexual relations will introduce an implicit revolt against the institution into its very heart.”6 And The Advocate, a “gay interest” newsmagazine, promotes the same view in an editorial that states:

Anti-equality right-wingers have long insisted that allowing gays to marry will destroy the sanctity of “traditional marriage,” and, of course, the logical, liberal party-line response has long been “No, it won’t.” But what if—for once—the sanctimonious crazies are right? Could the gay male tradition of open relationships actually alter marriage as we know it? And would that be such a bad thing?7

The encouragement to the gay community seems to be to “fight for same-sex marriage and its benefits and then, once granted, redefine the institution of marriage completely, because the most subversive action lesbians and gay men can undertake ... is to transform the notion of ‘family’ entirely.”8 Contrary to the argument that same-sex will not affect, harm, or change any current institution whatsoever, this clear acknowledgment by gay activists that the legalization of gay marriage will in fact redefine the institution of marriage once the laws concerning marriage are changed is shocking.
A judge in California recently stated that marriage is “the name that society gives to the relationship that matters most between two adults.” Focusing merely on “what matters most” represents a shift in understanding from marriage as having to do with sexual complementarity, permanence, and exclusivity, to marriage being based only, or primarily, on an emotional union. This shift in mentality points to the fact that recognizing same-sex marriages changes the definition of marriage and how people think about marriage entirely.

Rather than using the loose definition of marriage as an important relationship between two adults, the notion of marriage as “a comprehensive union of persons,” is a more adequate and precise definition. This definition of marriage as a comprehensive union of persons sheds light on the truth of the uniting of persons both body and soul, not just emotions. There is a common end or goal in mind that by nature binds the two persons together. This unitive binding and complementarity will never be able to come to full fruition in a homosexual “marriage.” In opposition to the Californian judge’s view of what marriage means to society, Maggie Gallagher writes says that the critical public or “civil” task of marriage is to regulate sexual relationships between men and women in order to reduce the likelihood that children (and their mothers, and society) will face the burdens of fatherlessness, and increase the likelihood that there will be a next generation that will be raised by their mothers and fathers in one family, where both parents are committed to each other and to their children.

In this definition, an individual relationship is not being recognized by society, but instead the good of society as a whole is being taken into account when recognizing a marriage. It is not a selfish recognition, but a recognition that has the good of the future and of others in mind.
To be able to define one's committed relationship as a marriage appears desirable to homosexual couples due to the wish to be treated “equally,” along with the assurance of stability and legal benefits that heterosexual couples obtain when they receive their marriage license. Homosexual couples want their love for each other to be recognized as something not apart from anyone else’s love for another; instead they want it to be accepted universally and similarly to everyone else’s love. Such recognition by way of re-definition is important because they want to be socially accepted. Being able to have a civil union does not suffice, in this view, because it fails to provide the “separate but equal” mentality that the definition of “civil union” sought to provide.

Similar to the equality mentality among homosexuals is the desire for so-called “progression” in society. In an article providing “Rebuttals to Arguments for Same-Sex Marriage,” Brandon Vogt discusses the arguments in favor of a progressive view. First, since marriage has evolved and grown throughout history, so the alteration of the definition of marriage to include homosexual relationships would simply be another progressive step in history towards equality for all. This progression in understanding same-sex marriage has been likened to the civil rights movement, by equating homosexual couples to interracial couples. In this perspective, the denial of marriage between two persons, for any reason, is wrong; just as the laws were changed to conform to the progressive thinking in the 1960s, they should once again be changed to include homosexuals and be not discriminatory towards their rights. A more emotionally charged spin on this argument is that everyone should have the right to be with and marry simply whomever he or she loves.
Equality, in today’s society, has often been equated to sameness. During the civil rights movement, women sought to gain “equality” with men. They sought to be the same as men on almost every level, when in reality, this is not possible by nature. Women are equal to men in dignity, but inherently different in their nature. The same can be applied to the equality between homosexuals and heterosexuals. Homosexuals are equal in dignity, but different in nature. Vogt writes, “Equality means treating similar things similarly, but not things that are fundamentally different.”¹³ This distinction between equality and sameness is important when looking at the government and its laws because the government has always, in a sense, “discriminated” or made distinctions in its marriage laws. Contrary to the civil rights movement regarding racial differences and equality, there is no equality of persons issue in laws regarding marriage. The distinctions the law has made are solely based on the nature of marriage. George Weigel writes that governments have previously recognized the nature of marriage, one man and one woman, both for public policy and the good of the children and family life. He explains, “Does that recognition involve distinctions? Yes. Does it result in injustice? No.”¹⁴

When addressing this argument of everyone being able to marry whoever he or she desires, it is also important to recognize that the government has always had limitations on marriage for social reasons. The government has been invested in marriage in order to validate a man and woman who love each other for the stabilization of society and the family. For the state, marriage laws have never been about the two adults, but about the children. The notion that anyone should be able to marry whomever is a modern, self-absorbed idea that does not take into account the whole of society and the needs of others. This being said, people are able to enter into any relationship they so please, but to demand
that that relationship, whatever it may be, should have public and government recognition is not anyone’s inherent right.

Another view in favor of same-sex marriage is that it will not lead to any additional redefinitions. The claim that allowing same-sex marriage will lead to the legal recognition of incestuous relationships or polygamy, is rejected by the pro-gay community on the basis of their relationships being mutual, lifelong, care giving, and centered on achieving certain goods for society. In this view, same-sex marriage differs from these problematic relationships and is more like heterosexual marriages because of the challenges of commitment, care, childrearing, intimacy, and security that they both share and face.

Once again, the argument that changing the definition of marriage will not affect others loses sight of the fact that the redefinition of marriage will, in fact, muddle its real purpose and meaning, and weaken the institution as whole, making it difficult for people to take it seriously. It will affect public school education, affect the parenting of all heterosexual couples, and threaten religious liberty and all religiously affiliated organizations. Changing the laws of marriage to include same-sex marriages will open the doors for marriage to be redefined to include many more emotionally driven relationships. Vogt argues, “When sexual love replaces children as the primary purpose of marriage, restricting it to just two people no longer makes sense.” Who then is able to say that if three people love one another, and desire to commit to one another for the rest of their lives, they cannot get married? If a mother loves her son and wants to commit fully to him and he to her, should they too be given the right to marry? These radical examples of disordered desires have already begun to come to the surface and will do so even more if marriage is redefined.
Perhaps a more difficult argument to disprove in favor of homosexual marriages is that children will not be affected. Homosexual parents claim they are the same as heterosexual parents as it relates to their ability to foster and nurture children. In opposition of this claim, Child Trends, a left-winged research institution states, “It is not simply the presence of two parents, ... but the presence of two biological parents that seems to support children's development,” while a study presented in the *Journal of Marriage and Family* also shows that children who are raised by both biological parents are better off than those who do not. This naturally nurturing environment, however, is never an option for children who are placed with adoptive parents, whether they are heterosexual or homosexual. Proponents in favor of same-sex marriage argue that because adopted children do not have the advantage of being with their biological mother and father anyway, it does not matter if they grow up in a home with homosexual parents or heterosexual parents.

The response to this argument also points to the equality and sameness rebuttal mentioned earlier. It cannot be denied that men and women in their very nature are different. Mothers and fathers are different by nature, and therefore parent differently. In agreement with studies that have shown the underlying reality and importance of the differing attributes that each parent, male and female, offer children, sociologist David Popenoe from Rutgers University concludes,

The burden of social science evidence supports the idea that gender-differentiated parenting is important for human development and that the contribution of fathers to childbearing is unique and irreplaceable ... The two sexes are different to the core, and each is necessary—culturally and biologically—for the optimal development of a human being.
This being said, it seems that homosexual couples are not the same as heterosexual couples when it comes to child rearing, not because of any lack of love or care, but because of the natural capabilities of each gender. Human persons need the gifts that both mothers and fathers bring to the table for their emotional well being, their healthy sexual development, as well as for behavioral and educational reasons.

With these proposed arguments in support of same-sex marriage, we now turn to the Church's involvement in the debate. Whether or not the Church should be involved in the "marriage business" is a question being asked by many. The Catholic Church is closely concerned with marriages because they produce families, which is the unit through which most people define themselves and are recognized by others. The family unit is essential to the growth and development of human life. From a collection of individuals, nurtured by their families, societies take shape. Societies, in their efforts to provide and protect its members, create laws. From laws, beliefs are formed. From beliefs, behaviors are developed. From these beliefs and behaviors the interests and well-being of all human beings are affected. Thus, what affects persons and the people of a society is a concern for the Church because it is the people that make up the Church itself. It is the Church's responsibility to form its believers' consciences and to guide its people on a path to true happiness and joy.\textsuperscript{10}

The Church's concern with the definition of marriage derives from the fact that whereas natural law previously informed civil law, now it seems that civil law is becoming the sole governing force of the thoughts and behaviors of individuals. Any notion of objective truth and natural order has slowly been removed from society and from the family. Current issues concerning the family unit such as birth control, abortion, and
euthanasia have been challenged and debated over the past few decades, which points not only to the significance of family and the crucial place it holds in society and the Church, but also to the concern to defend and protect religious freedom. The ever-growing mentality of instant gratification, entitlement, and personal relativism can be directly related to the conflicts and threats members of the Church face today.

Still the Church remains respectful of democratic governance. As Blessed John Paul II said in his Ad Limina address to the United States Bishops in 1998:

> Your country prides itself on being a realized democracy, but democracy is itself a moral adventure, a continuing test of a people’s capacity to govern themselves in ways that serve the common good and the good of individual citizens. The survival of a particular democracy depends not only on its institutions, but to an even greater extent on the spirit which inspires and permeates its procedures for legislating, administering and judging.20

Blessed John Paul II reminds us that we cannot rely completely on the government and its institutions, but also must rely on the spirit with which these laws and regulations were made. This is to say, when discussing the right to freedom that our great country promises, one must also keep in mind the spirit in which that freedom was given to us. John Paul II says first and foremost, freedom is undeniably bound to truth and the dignity of the human person. The origin of our freedom is relational, and the relationships created within the family cannot be separated from the truth of the human person. It is in freedom that we find truth, where goodness is sought out, limitations are required, and community is involved.21 Freedom is commonly misunderstood as being presented with options and having the free will to choose whichever option he or she desires. Instead, freedom is having the ability to choose the good among the choices presented to us. Freedom, in recognizing the truth and dignity of the human person, requires the restriction and
limitation of the will when the will desires something contrary to the good that is presented.

As the notion of freedom becomes more and more distorted and the push for the legal recognition of same-sex marriage continues, various threats to both the community and the Church have already and will continue to present themselves. Thomas Messner, in *Same-Sex Marriage and the Threat to Religious Liberty*, lists three burdens and unavoidable conflicts. First “religious institutions that believe in traditional marriage could lose equal access to public facilities.” This includes the loss of many different types of government benefits and the forcing of classroom instruction to include teaching about homosexual relationships. For example, prior to when California’s same-sex marriage laws were in place, the state had already put into effect the prohibition of state agencies contracting with entities that differentiated between heterosexual and homosexual persons. Another example of the loss to public facilities due to not recognizing same-sex marriage within their organization is the Boy Scouts of America’s loss of their after school care facilities because of their “unwavering requirement” that their members “not advocate for or engage in homosexual conduct.” Although some organizations may be able to survive without government aid, services such as adoption agencies and hospitals may not be able to function without the benefits and support of government access.

The second burden is that religious organizations that hold firm in the belief of traditional marriage “will be subject to even greater civil liability under nondiscrimination laws that prohibit private discrimination based on sexual orientation, marital status or gender.” This includes adoption agencies, religiously affiliated landlords, and fertility banks. In 2008, Los Angeles Police Officer and Gospel Word of Life Apostolic Church Pastor,
Eric Holyfield, who was off duty and giving a church sermon for a deceased fellow officer, had a complaint filed against him stating that he “made disparaging remarks toward gays, lesbians, and adulterers” when he included Bible verses that spoke about homosexuality and other sexual misconduct. After this complaint from a fellow police officer who attended the service was filed, the officer who gave the sermon said he was demoted and denied promotion because of his expression of religious beliefs in a church setting.\textsuperscript{25} Robert Smith, an employee of the Washington Metropolitan Area Transit Authority, presents us with another example of injustice after appearing on a talk show and sharing his personal opinion of homosexual conduct being wrong, was fired by Maryland’s Governor, Robert Ehrlich, for being “insensitive” and not following the government’s goal of being “tolerant.” While both of these examples did not show any evidence of these persons not performing their jobs correctly, they were still persecuted for their personal beliefs in unjust ways.\textsuperscript{26}

The third burden Messner lists is that “the existence of nondiscrimination laws, combined with state administrative policies, can invite private forms of discrimination against religious individuals who believe that marriage involves a man and a woman and foster a climate of contempt for the public expression of their views.”\textsuperscript{27} One of perhaps the most concerning issues to many parents is the education of their children in the public school system. In Massachusetts, after the law had changed to include homosexual marriages, public school students in kindergarten were introduced to children’s books such as \textit{Who’s in a Family} and \textit{King and King} which both depict and affirm same sex relationships.\textsuperscript{28} To those families who still wish to teach their children that marriage is between a man and a woman, this secular instruction is of great concern, as it affects their parenting freedoms and the morals they wish to instill in their children.
Messner acknowledges that the reason why there is a conflict between religious liberties and gay marriage is due to the fact that marriage is intimately involved in civil law, while at the same time religious groups and institutions are deeply rooted in society. Other unavoidable conflicts that coincide with the burdens placed on religious institutions include burdens on access to government benefits and privileges, burdens on public employees who support traditional marriage, and increased civil liability under nondiscrimination laws for charitable services, church facilities, small businesses, professional services, religious landlords, and public speech about homosexuality. The reality of these burdens became clear to a wedding photographer who was forced to pay over $6,600 in legal fees as a result of declining to photograph a same-sex "commitment ceremony." These burdens and conflicts mentioned above are all preliminary effects of allowing same-sex marriages to take place without the accommodations necessary for the religiously affiliated.

In the conclusion of his article, Messner reiterates the fact that in having respect for religious freedom, there is respect for all other rights, for America’s “first freedom” is freedom of religion. The cases regarding religious freedom and same-sex marriage are not simply about protecting religious beliefs or allowing homosexual unions. “Homosexual relationships are legal and protected by law throughout America” since 2003. The real discussion at hand is whether there will continue to be protection of the fundamental right to religious freedom, or whether all organizations and institutions will be commanded, by law, to recognize and accommodate homosexual preferences. Whether or not a person has great faith or no faith at all, the religious liberties of every individual must be of deep concern and interest to every person belonging to the community.
This being said, it is quite reasonable to believe that both same-sex marriage and religious liberty claims have many similarities in their arguments. *What Same-Sex Marriage and Religious-Liberty Claims Have in Common* by Thomas C. Berg, lays out some fundamentally common concerns from both point of views. In respect to religious freedom and same-sex couples, conduct is at the core of their identity. To live and act in a way that demonstrates each respective group’s belief system is crucial. Both also stem from commitments to their respective truths. People of faith believe that they cannot leave their faith behind when entering society in the workplace, just as people of same-sex orientation believe that their orientation directs how they too interact with society.

But after seeing the similarities in claims from both sides, it becomes important to put these claims in perspective, comparing the weight of the burdens against one another. For example, after analyzing the burden on religious organizations versus same-sex couples in regards to finding a place to have a ceremony, it appears that it would be much easier for the couple to find a new place to have their ceremony than for the religious organization to either forfeit its beliefs. The state therefore, in choosing to legalize same-sex marriage, would be choosing to support one group of people, therefore accommodating only a fraction of society instead of seeking the good for all.

**Marriage**

After having looked at various opinions regarding the definition of marriage and the arguments for same-sex marriage, we must now take a step back and look at the history of the institution of marriage in America. So that one may understand more fully what the
institution of marriage was meant for, whom it was meant for, and what exactly it is, one must go back to its origins in the law as it relates to natural, divine, and civil laws. The Christian model of marriage is not a new understanding or development, but rather one that finds its roots in the legal tradition as it reflects the foundation of societies and the source of human development and divine order throughout human history.\textsuperscript{32} As Charles J. Reid Jr. writes, “to speak of Divine law is to speak at the same time of a law placed above the positive enactments of the state.”\textsuperscript{33}

Natural law has been understood as a law being “taught directly by God, through Scripture” and also a law which is “deduced by the human person through the use of reason.”\textsuperscript{34} Early American courts understood that no man-made law would contradict either of these understandings. It should also be noted that divine law appears as an important factor in the history marriage in American law. In 1876, the Supreme Court of New Hampshire described marriage as “the most intimate and confidential of all human relations, and has always been sanctioned and protected by both human and divine law.” The Supreme Court of Washington in 1892 stated that “the married state is a most commendable one, and ought to be encouraged in all legitimate ways, having, as it does, its origin in divine law.” Furthermore, in 1958 the New Jersey Supreme Court clarified, “The human race was created male and female with the manifest purpose of perpetuating the race. Marriage without sexual intercourse utterly defeats its purpose, as sexual intercourse except in the marital relation is contrary to the divine law.” All of these examples demonstrate the belief of the American legal system that marriage is a “divine institution,” and should be treated as such by all, regardless of personal opinion.\textsuperscript{35}
Regarding the legal history of regulating who may or may not marry, consider the statute that was put in place in 1954 which prohibits marriage between cousins. The purpose in prohibiting these familial marriages was:

To maintain the Divine Law forbidding the marriage of close relatives, for eugenic reasons, to preserve and strengthen the general racial and physical qualities of its citizens by preventing inbreeding, and to maintain the sanctity of the home and prevent the disastrous consequences of competition for sexual companionship between members of the same household or family.\(^{36}\)

As seen in this statute, divine law is of concern to the state, something that may come as a surprise to many when we see how any mention of divine law or laws of God are removed from discussion in our society today.

The understanding of marriage as a religious institution, belonging to the law of God but kept under the guidance of the state, is integrally part of our American history. It refers to the fact that in our judicial system it has previously always been recognized that the institution of marriage does not belong to man, but instead belongs to God. As Bronislaw Malinowski argues, “marriage is regarded in all human societies as a sacrament, that is, as a sacred transaction establishing a relationship of the highest value to man and woman. In treating a vow or an agreement as a sacrament, society mobilizes all its forces to cement a stable union.”\(^{37}\) Thus has marriage always carried religious significance, in all societies. Marriage is part of the law because it affects all in the community who are governed by the law. Marriage has never been a “personal” institution, but rather a participation of the community in the establishment and commitment of the uniting persons in accordance with God’s divine law.

Marriage is secondarily a legal issue, because the law teaches values. The government’s relationship to those whom it governs has always been to guide and direct
towards the good, the natural and the divine. It is in this light that we understand how marriage, though guided by law, was not a creation of the state, but existed prior to it, on its own accord. The laws that were subsequently put in place to govern and protect marriage have been in accordance with divine law. They are in place to help order the family, secure the rights and responsibilities of the spouse and their children, and foster a community in which further generations will define themselves.

Sadly, this is not the case we see today. Laws no longer embrace the responsibility they have to seek the greater good for the human person, in conformity with natural law. There has been a separation between law, marriage, and deeply cherished beliefs about right and wrong that will lead to the demoralization of our society if it continues down this path. The history of marriage as a public and legal institution is changing as the government fails to draw upon its history, anthropology, and tradition. Marriage is no longer being seen as a societal commitment, one that is rich with religious insight, but instead is being controlled by a government that no longer values the commitment, child rearing, and other essential functions of the reproductive process that teach lessons and values that ought be promoted by the law.\(^{38}\)

So that we may further understand what marriage is in light of what the human person is, let us look at what the human person’s most fundamental needs and desires are. The law, in accordance with the anthropological inclinations of the human person, has sought to teach values through the particular behaviors that it both allows and prohibits. Anthropologically speaking, the human person seeks to be in relationship. We seek to be a part of something greater than ourselves. It is because of this natural inclination that we
have held onto the institution of marriage with such reverence and solemnity in years past.\textsuperscript{39}

The human person, being made with bodily, emotional, and spiritual needs and desires, comes to know himself through the relationships he partakes in with others. Norris Clarke in his \textit{Explorations in Metaphysics} writes,

\begin{quote}
In every finite substance there is a more primordial relation of receptivity constitutive of its very being before it can pour over into action at all: namely, that it has received its very act of existence from another, ultimately from God, the Source of all existence. Thus we should describe every created being as possessing its own existence from another, in itself, and oriented toward others.\textsuperscript{40}
\end{quote}

Again, the human person is seen not as its own separate entity, but is seen in light of the relationship he or she has with God and with others. We are made whole by the formation of social units with which we place ourselves in, that then point to how we are identified in society.

This uniting of persons that every individual longs to obtain is not merely an emotional union, but an all-encompassing union, uniting both body and soul. We seek to be united with another person, totally and completely, permanently and exclusively. This permanence and exclusivity demands that there be a unifying activity, a unifying of goods, and a unifying commitment, a comprehensive union of persons that can only be present in a union between a man and a woman. This union between a man and woman is different than any other union because of its physicality. The state is not interested in what friendships we have, because those do not encompass the whole person, nor do they carry a structure that affects the whole of society.

When a man and women come together bodily, spiritually, and emotionally, they come together as one and point to something greater than themselves. They fulfill the
innate desire created in them to be part of a greater purpose and to be in relationship with one another. This bodily and deeply physical union of persons is perhaps the most specifically important attribute of the heterosexual relationship and of the fulfillment of the human person’s nature. In *What is Marriage*, the authors explain:

> Between two people, that sort of union is impossible through functions like digestion, for which individuals are naturally sufficient. But it is a remarkable fact that there is one respect in which this highest kind of bodily unity is possible between two individuals, one function for which a mate really does complete us: sexual reproduction. In coitus, and there alone, a man and a woman’s bodies participate by virtue of their sexual complementarity in a coordination that has the biological purpose of reproduction—a function that neither can perform alone. Their coordinated action is, biologically, the first step (the behavioral part) of the reproductive process. By engaging in it, they are united, and do not merely touch, much as one’s heart, lungs, and other organs are united: by coordinating toward a biological good of the whole that they form together. Here the whole is the couple; the single biological good, their reproduction.\(^{41}\)

Even when the physical act of sexual intercourse between man and woman does not result in the creation of another human being, it is the orientation of the two persons towards a common end that results in making this act a sufficient union of persons. This union, oriented toward a common good, has distinct behavior that can only be performed by a man and a woman with the purpose of making their love concrete. If the only goal of the persons acting in this way was to obtain pleasure, as it is in the homosexual sex act, there is no looking outside oneself to the common good of the community. This type of pleasure and emotionally driven action ceases to have objective meaning because its meaning is relative to the persons engaging in the action. Thus, it would not be a firm foundation for commitment or a family.

Marriage is also essential to the well-being of children. Children are consciously and unconsciously “discriminating” towards marriage in the fact that marriage to them means their biological parents.\(^{42}\) Pope Paul VI acknowledges the family as the unit that is to guide
children and raise them in the way that they see suitable. The Church is concerned with
marriage, because “It is the family—beginning with the sexual difference of the parents—
that teaches the child what it is to be human, what it is to love, and what it is to belong to a
society and to live in a culture.”\textsuperscript{43} Government is to respect the rights and duties of the
parents and must not impose on these rights given to them by God. In discussing the
government’s infringement on religious freedoms, Pope Paul VI in \textit{Dignitatis Humanae}
writes, “Religious freedom therefore ought to have this further purpose and aim, namely,
that men may come to act with greater responsibility in fulfilling their duties in community
life.” In response to this calling to seek the truth and to respond to the needs of the
community, it must be understood by all that the response must be done freely and without
force and with respect towards the government.

David Crawford explains how changing the definition of marriage to include same-
sex partners, will lead to the changing of the anthropology of sexuality and our
understanding of gender completely. When natural male masculinity is taken away and
replaced with feminine qualities in men and vise versa, and our government condones and
accepts this behavior as if it were in accordance with natural law, “the integrity and interior
relation of basic elements of the human being: the sexualized body, desire, freedom, and
love” are also taken away. If each individual is permitted to create his or her own
understanding of the human person, and of marriage, then both divine and natural law will
become relative and everyone will only been seen in light of his or her “orientation.”\textsuperscript{44}

Crawford goes on to reiterate the fact that in the state’s eyes, marriage is now only
seen as a contract that exemplifies an emotional, financial, and psychological bond between
two people. It is only concerned with the means and the liberty with which a person can be
gratified, instead of for a greater “end” and a better society. The state, in 2003 when homosexual sex acts became lawful, was removed from people’s private lives so they could live as they please. Now, instead, the majority of people are fighting for the government to come into their private lives, wanting their “emotional commitment” to be recognized publicly by all. This emotionally driven relationship, however, does not just affect two people who wish to be recognized, but instead greatly affects all those they come in contact with both directly and indirectly by way of rights, costs, and benefits while bringing duties and responsibilities, both legally and socially, to the persons in the relationship.\(^{45}\)

Another problem Crawford brings to light is the fact that the secular understanding of the sexuality of the human person has changed. It has shifted from the self-gift mentality to a pleasure-seeking mentality. Society thrives on doing away with pain and creating more pleasure, therefore slowly doing away with the traditional understanding of sexuality. This misunderstanding of sexuality then points to the fact that men and women need not define themselves as masculine or feminine, but merely by their chosen “orientation.” This reduction of the person to his or her orientation is directly linked to the reality that masculinity and femininity is no longer needed in a society where pleasure satisfies the definition of sexuality. Each person’s orientation therefore becomes relative to his or her desires; he or she is heterosexual or homosexual not based on their nature, but because of their orientation. “This means that desire is simultaneously dependent on the sexualized body, and yet oddly enough, separated from it” leaving us with an androgynous society.\(^{46}\)

Today’s modern thoughts on freedom and autonomy are such that if we have the ability to choose for ourselves, we are free to act on our desires however we want. Crawford rightly explains, “Freedom as pure spontaneity, undirected internally by truth,
nature, or desire, denies freedom in an intrinsic end other than itself.” This type of relative freedom is in direct opposition from true freedom, which chooses in light of the truth, with responsibility and the desire to do what is true and just. In Gaudentium et spes, the Second Vatican Council explained, “Man cannot give himself as a gift without the freedom of self-determination and self-possession. Paradoxically, this same freedom offers the possibility of making myself over to another as a gift, and in that self-bestowal Christ tells us our true freedom and fulfillment lies.” While homosexuals are able to desire the good for the other and sacrifice for one another, they can only do so as it relates to sexual pleasure and commitment. Only in this structure of complete freedom in love outlined above can the human person can obtain true joy, happiness, and fulfillment.

In Dignitatis Humanae, the Declaration on Religious Freedom, Pope Paul VI writes on the dignity of the human person, the responsibility to seek the truth, and the demand for free exercise of religious freedom in society. In actively participating in the laws and freedoms given to us by God, we remove ourselves from the possibility of coercion, by social groups or human power, to act in a way that violates our conscience. He reiterates that the role of the government is to provide for the common welfare of the people, not to prohibit religious acts or favor one group of people’s opinions. He warns, “Injury therefore is done to the human person and to the very order established by God for human life, if the free exercise of religion is denied in society, provided just public order is observed.”

Being the foundation not only for each individual family, but also laying the foundation for the values and good of the greater community, marriage has the ability to build and form a society of love and dignity or a society of relativity and disorder. Those who choose to partake in marriages recognized by society are not only choosing a life-long
commitment to each other, but are choosing to participate in the common good of all third parties. So that injury may not be done to the human person, the family, or society as a whole, it is imperative that marriage remain defined as between a man and a woman.

**Conclusion**

Having looked at the recent history and development of same-sex marriage, arguments in favor of legalizing same-sex marriage, arguments against the legalization of same-sex marriage, and the institution of marriage as it fulfills the human person’s inherent and natural needs and desires, it is obvious that the arguments being presented in favor of same-sex marriage are emotionally charged, relative, not in accordance with natural law, and do not lend to the true fulfillment of the human person.

With the same-sex agenda ever changing, or perhaps internally at odds, there is not only one issue at stake when we talk about changing the definition of marriage to include same-sex marriage. As Paula Ettelbrick, a liberal pro same-sex marriage woman puts it, “In arguing for the right to legal marriage, lesbians and gay men would be forced to claim that we are just like heterosexual couples, have the same goals and purposes, and vow to structure our lives similarly ... We must keep our eyes on the goals of providing true alternatives to marriage, and of a radical reordering of society’s view of reality” An almost completely opposing statement comes from Corvino when he writes, “Gay men and lesbians don’t want something new, a “special right”: they want marriage ... They love each other and want to build a life together; they want to signal their commitment to their family and friends; they want others to acknowledge them as the family unit that they understand themselves to be.”50
It is also evident that those in favor of same-sex marriage and those opposing it are not talking about the same thing when they speak about “marriage.” Not only does same-sex marriage have an inherently different meaning, but it is also not interested in the same thing that opposite-sex marriage is interested in. Those involved in same-sex relationships, built upon a sexually charged commitment, are not concerned with becoming united as one for the betterment of society, but instead are interested in a public recognition of their sexually orientation. For to be able to label themselves as “married” is only a desire for their love and sexual acts to be recognized and accepted as valid relationships by everyone.

At a protest in France on March 24, 2013, not only were there conservative Christians protesting the legalization of same-sex marriage, but also among the three hundred thousand gathered were also gay associations and homosexual persons. Their reason for protesting against the legalization of marriage to same-sex couples like themselves was not because they do not desire relationships with members of the same-sex or because they do not want to be treated equally, but because same-sex marriage goes against the nature of an institution that should not be changed to accommodate feelings. Marriage, unlike same-sex relationships, is concerned with emotional, spiritual, and unitive attributes present between a man and a woman. Rather than pointing inward, concerned only with itself, marriage is a turning outward; it is not concerned simply with public recognition but instead with recognizing the crucial role that the marriage plays in shaping society.

Nevertheless, the arguments for same-sex marriage as they relate the promotion of individual rights and the desire to treated equally do not take into consideration the underlying fact that “the family has never been about the promotion of rights, but instead about the surrender of them—by both the man and woman.” Laws have never been made
to follow what the people desire. If they had been, we would have a chaotic society filled with opposing laws and no true freedom, resulting in the lack of protection of the people from dangers they could not foresee, giving them full reins to act in a way that so pleases them. Laws, instead, were made to follow reality. They do not conform to what one person or a group of persons want. For example, it would be foolish for the legal drinking age to be lowered simply because all fifteen year-olds feel it their right to consume alcohol, and a necessity for them to be recognized by the public as fully mature and responsible enough to consume alcohol, when this is clearly not the case. However, because this law is in place, it does not mean that fifteen year olds are unequal to twenty-one year olds, but only that they are merely not the same.

The law strives to protect, and when looking at the institution of marriage, should be aimed at protecting the family and the human person according to divine and natural law. Charles Reid Jr. writes, "Where the state and its law fail—where they have grown so out of touch with human needs and emotions that it ceases to command loyalty, then it falls to the people to build their own communities responsive to their own values, independent of state authority." It has now become our job, as members of society and as families devoted to truth, to uphold the sanctity of marriage as we fight to preserve the religious liberties that our country was founded upon.

The Church, being deeply interested in the well-being of every human person and devoted to the truth and preservation of our country's religious liberties, recognizes homosexual persons as equal in dignity, but their sexual attraction as being disordered from natural law. However, having these disordered desires is not something unique to homosexual persons, but is unique to all human beings. If a married man with children had
the desire to give up everything he owned to the poor, this desire, although good in its intention, would still be disordered because of the fact that the man has a wife and children at home for whom he is responsible for feeding, clothing, etc. If this man were to act on his emotional desire to help others by giving them everything he owned, he would be endangering not only himself and his family, but also affecting the people and organizations that would then have to pay for his family’s food and shelter. In its effort to bring true happiness and fulfillment to every person, the Church teaches that we are to sacrifice and redirect, instead of surrender to our disordered desires. When talking about homosexual tendencies, the same principles apply. Persons who desire to have sexual relationships with other persons of the same sex are acknowledged and shown compassion to by the Church, but this still does not entitle them to legal recognition of their relationship as a marriage by law.

This issue of same-sex marriage is different than any other progressive issue in our country, not only because of the threats it presents to those not engaging in same-sex marriage, but also because of the fundamental nature of marriage. Changing this institution to include anyone other than one man and one woman will not only alter its nature, but also distort the meaning and societal attitude towards it. Marriage, an institution created and given to us by God, not man, should not be vulnerable to the states’ opinion of its rightful definition. The state should not, under any circumstance, be able to alter the meaning of marriage to mean anything other than the union between a man and a woman.
Notes

1 http://www.merriam-webster.com/dictionary/marriage
5 Girgis, What is Marriage?, 69.
6 Girgis, What is Marriage?, 70.
7 Girgis, What is Marriage?, 69.
8 Girgis, What is Marriage?, 70.
9 Girgis, What is Marriage?, 65.
10 Girgis, What is Marriage?
11 Girgis, What is Marriage?, 38.
13 Vogt, “Rebuttals to Arguments for Same-Sex Marriage,” 2.
15 Vogt, “Rebuttals to Arguments for Same-Sex Marriage.”
16 In re Dalip Singh Bir’s Estate.
17 Girgis, What is Marriage?, 43.
18 Girgis, What is Marriage?, 43.
19 Girgis, What is Marriage?, 59.
21 Shivanandan, “Relativism or Relativity,” 2.
34 Reid, “Marriage,” 163.
35 Reid, “Marriage,” 165.
36 Reid, “Marriage,” 165-166.
37 Reid, “Marriage,” 178.
38 Reid, “Marriage,” 186, 188.
42 Genovese, Marriage: The Dream that Refuses to Die, 91.
44 Crawford, “Liberal Androgyny.”
47 Shivanandan, “Relativism or Relativity,” 2.
48 Shivanandan, “Relativism or Relativity,” 3.
50 Corvino, Debating Same-Sex Marriage,” 6.
52 Genovese, Marriage: The Dream that Refuses to Die, 94.
Annotated Bibliography


This book is presents of the case for same-sex marriage and the case against it, and then the rebuttals of each side of the issue.


Crawford writes that legalizing gay marriage will be a reestablishment of our society on an “essentially gay anthropology.” The role of government is to promote human development, not pleasure-centered sexuality.


This chapter explains why freedom of religion poses a dilemma for both religions and the state, why it is a necessity, and why it is a potential threat to the authority of the law.


Gallagher asks why, if a person believes in gay marriage, should they accommodate or support those who oppose it. She lists four reasons why gay marriage supporters should also support religious liberty resolutions for those opposed to gay marriage: practical, civic, moral sympathy, and principle.


This article argues that there is no bargain between religious and the state if the United States allows same-sex marriage to be legalized; the redefinition will change the institution completely.


This book outlines two views of marriage, conjugal and revisionist. It talks about the interest of the state in marriage, the comprehensive union of marriage, what harm would be caused if gay marriage were to be legalized, and the necessity for regulation in the law.

Genovese writes about the history of marriage, its origins and purpose. She writes about the challenge Christians have when distinguishing between “equal but different.” She discusses the history of the family as an institution, relating it to the ordering of life through the next generation.


This article outlines burdens and unavoidable conflicts same-sex marriage presents religious liberty with. It lists ways that redefining marriage will affect religious liberty and says that religious freedom is a precondition for a civil and free society.


Possenti writes about the relationship between religion and ethics, which is the promotion of human dignity and fundamental rights and duties. He outlines three splits that have occurred: religious, cognitive or epistemological, and anthropological.


Explains that issues regarding birth, marriage, and death are prominent in today's society because the family holds an important place when it comes to religious freedom. Pope John Paul II defines freedom and faith and discusses personal autonomy as it relates to the fourteenth amendment.


Explains that if there is recognition of same-sex marriage, there must be religious accommodations, otherwise conflicts will multiply. Discusses multiple conflicts that have already risen as it relates to morality, law and the state.

This article talks about the conflicts between gay marriage and religious objectors, as well as the arguments that both sides have in common.


Berg presents several examples of how religious liberty has been infringed upon and political conflicts that stem from same-sex marriage being legalized.


Presents ten arguments for same-sex marriage and rebuttals refuting these arguments.


Weigel writes that the distinctions that are present in marriage laws are not a matter of injustice.