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## Commentary on social and moral issues of the day

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### Gay Marriage -- and Marriage

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*"...tampering with the unwritten and unfailing laws."*

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The feeling seems to be growing that gay marriage is inevitably coming our way in the U.S., perhaps through a combination of judicial fiat and legislation in individual states. Growing, too, is the sense of a shift in the climate of opinion. The American public seems to be in the process of changing its mind--not actually in favor of gay marriage, but toward a position of slightly revolted tolerance for the idea. Survey results suggest that people have forgotten why they were so opposed to the notion even as recently as a few years ago.

It is curious that this has happened so quickly. With honorable exceptions, most of those who are passionately on the side of the traditional understanding of marriage appear to be at a loss for words to justify their passion; as for the rest, many seem to wish gay marriage had never been proposed in the first place, but also to have resigned themselves to whatever happens. In this respect, the gay-marriage debate is very different from the abortion debate, in which few with an opinion on either side have been so disengaged.

I think I understand why this is the case: as someone passionately and instinctively opposed to the idea of homosexual marriage, I have found myself disappointed by the arguments I have seen advanced against it. The strongest of these arguments predict measurable harm to the family and to our arrangements for the upbringing and well-being of children. I do not doubt the accuracy of those arguments.\* But they do not seem to get at the heart of the matter.

To me, what is at stake in this debate is not only the potential unhappiness of children, grave as that is; it is our ability to maintain the most basic components of our humanity. I believe, in fact, that we are at an "Antigone moment." Some of our fellow citizens wish to impose a radically new understanding upon laws and institutions that are both very old and fundamental to our organization as individuals and as a society. As Antigone said to Creon, we are being asked to tamper with "unwritten and unfailing laws, not of now, nor of yesterday; they always live, and no one knows their origin in time." I suspect, moreover, that everyone knows this is the case, and that, paradoxically, this very awareness of just how much is at stake is what may have induced, in defenders of those same "unwritten and unfailing laws," a kind of paralysis.

Admittedly, it is very difficult to defend that which is both ancient and "unwritten"--the arguments do not resolve themselves into a neat parade of documentary evidence, research results, or citations from the legal literature. Admittedly, too, proponents of this radical new understanding have been uncommonly effective in presenting their program as something that is not radical at all but as requiring merely a slight and painless adjustment in our customary arrangements. Finally, we have all learned to practice a certain deference to the pleas of minorities with a grievance, and in recent years no group has benefited more from this society-wide dispensation than homosexuals. Nevertheless, in the somewhat fragmentary notes that follow, I hope to re-articulate what I am persuaded everyone knows to be the case about marriage, and perhaps thereby encourage others with stronger arguments than mine to help break the general paralysis.

Let us begin by admiring the case *for* gay marriage. Unlike the case for completely unrestricted abortion, which has come to be something of an embarrassment even to those who advance it, the case for gay marriage enjoys

the decided advantage of appealing to our better moral natures as well as to our reason. It deploys two arguments. The first centers on principles of justice and fairness and may be thought of as the civil-rights argument. The second is at once more personal and more utilitarian, emphasizing the degradation and unhappiness attendant upon the denial of gay marriage and, conversely, the human and social happiness that will flow from its legal establishment.

Both arguments have been set forth most persuasively by two gifted writers, Bruce Bawer and Andrew Sullivan, each of whom describes himself as a social conservative. In their separate ways, they have been campaigning for gay marriage for over a decade. Bawer's take on the subject is succinctly summarized in his 1993 book, *A Place at the Table*; Sullivan has held forth on the desirability of legalizing gay marriage in numerous articles, on his website ([andrewsullivan.com](http://andrewsullivan.com)), and in an influential book, *Virtually Normal* (1995).

The civil-rights argument goes like this. Marriage is a legal state conferring real, tangible benefits on those who participate in it: specifically, tax breaks as well as other advantages when it comes to inheritance, property ownership, and employment benefits. But family law, since it limits marriage to heterosexual couples over the age of consent, clearly discriminates against a segment of the population. It is thus a matter of simple justice that, in Sullivan's words, "all public (as opposed to private) discrimination against homosexuals be ended and that every right and responsibility that heterosexuals enjoy as public citizens be extended to those who grow up and find themselves emotionally different." Not to grant such rights, Sullivan maintains, is to impose on homosexuals a civil deprivation akin to that suffered by black Americans under Jim Crow.

The utilitarian argument is more subtle; just as the rights argument seems aimed mainly at liberals, this one seems mostly to have in mind the concerns of conservatives. In light of the disruptive, anarchic, violence-prone behavior of many homosexuals (the argument runs), why should we not encourage the formation of stable, long-term, monogamous relationships that will redound to the health of society as a whole? In the apt words of a letter-writer in *Commentary* in 1996:

[H]omosexual marriage . . . preserves and promotes a set of moral values that are essential to civilized society. Like heterosexual marriage, it sanctions loyalty, unselfishness, and sexual fidelity; it rejects the promiscuous, the self-serving, the transitory relationship. Given the choice between building family units and preventing them, any conservative should favor the former.

Bawer, for his part, has come close to saying that the inability of many male homosexuals to remain faithful in long-term relationships is a consequence of the lack of marriage rights--a burning sign of the more general stigma under which gays labor in our society and which can be redressed by changes in law. As it happens, though, this particular line of argument is already somewhat out of date and is gradually being phased out of the discussion. The toleration of gay styles of life has come about on its own in American society, without the help of legal sanctions, and protecting gay couples from the contempt of bigots is not the emergency Bawer has depicted. Quite the contrary: with increasing numbers of gay partners committing themselves to each other for life, in full and approving view of their families and friends, advocates of gay marriage need no longer call upon the law to light (or force) the way; they need only ask it to ratify a trend.

In brief, legalizing gay marriage would, in Andrew Sullivan's summary formulation:

offer homosexuals the same deal society now offers heterosexuals: general social approval and specific legal advantages in exchange for a deeper and harder-to-extract-yourself-from commitment to another human being. Like straight marriage, it would foster social cohesion, emotional security, and economic prudence.

The case is elegant, and it is compelling. But it is not unanswerable. And answers have indeed been forthcoming, even if, as I indicated at the outset, many of them have tended to be couched somewhat defensively. Thus, rather than repudiating the very idea of an abstract "right" to marry, many upholders of the traditional definition of marriage tacitly concede such a right, only going on to suggest that denying it to a minority amounts to a lesser hurt than conferring it would impose on the majority, and especially on children, the weakest members of our society.

Others, to be sure, have attacked the Bawer/Sullivan line more forthrightly. In a September 2000 article in

*Commentary*, "[What Is Wrong with Gay Marriage](#)," Stanley Kurtz challenged the central contention that marriage would do for gay men what it does for straights--i.e., "domesticate" their natural male impulse to promiscuity. Citing a number of academic "queer theorists" and radical gays, Kurtz wrote:

In contrast to moderates and "conservatives" like Andrew Sullivan, who consistently play down [the] difference [between gays and straights] in order to promote their vision of gays as monogamists-in-the-making, radical gays have argued--more knowledgeably, more powerfully, and more vocally than any opponent of same-sex marriage would dare to do--that homosexuality, and particularly male homosexuality, is by its very nature incompatible with the norms of traditional monogamous marriage.

True, Kurtz went on, such radical gays nevertheless support same-sex marriage. But what motivates them is the hope of "eventually undoing the institution [of marriage] altogether," by delegitimizing age-old understandings of the family and thus (in the words of one such radical) "striking at the heart of the organization of Western culture and societies."

Nor are radical gays the only ones to entertain such destructive ambitions. Queuing up behind them, Kurtz warned, are the proponents of polygamy, polyandry, and polyamorism, all ready to argue that their threesomes, foursomes, and other "nontraditional" arrangements are entitled to the same rights as everyone else's. In a recent piece in the *Weekly Standard*, Kurtz has written that the "bottom" of this particular slippery slope is "visible from where we stand":

Advocacy of legalized polygamy is growing. A network of grass-roots organizations seeking legal recognition for group marriage already exists. The cause of legalized group marriage is championed by a powerful faction of family-law specialists. Influential legal bodies in both the United States and Canada have presented radical programs of marital reform, . . . [even] the abolition of marriage. The ideas behind this movement have already achieved surprising influence with a prominent American politician [Al Gore].

Like other critics of same-sex marriage, Kurtz has himself been vigorously criticized, especially by Sullivan. But he is almost certainly correct as to political and legal realities. If we grant rights to one group because they have demanded it--which is, practically, how legalized gay marriage will come to pass--we will find it exceedingly awkward to deny similar rights to others ready with their own dossiers of "victimization." In time, restricting marriage rights to couples, whether straight or gay, can be made to seem no less arbitrary than the practice of restricting marriage rights to one man and one woman. Ultimately, the same must go for incestuous relationships between consenting adults--a theme to which I will return.

A DIFFERENT defense of heterosexual marriage has proceeded by circling the wagons around the institution itself. According to this school of thought, ably represented by the columnist Maggie Gallagher, the essential purpose of that institution is to create stable families:

Most men and women are powerfully drawn to perform a sexual act that can and does generate life. Marriage is our attempt to reconcile and harmonize the erotic, social, sexual, and financial needs of men and women with the needs of their partner and their children.

Even childless marriages protect this purpose, writes Gallagher, by ensuring that, as long as the marriage exists, neither the childless husband nor the childless wife is likely to father or mother children outside of wedlock.

Gallagher is especially strong on the larger, social meaning of heterosexual marriage, which she calls "inherently normative":

The laws of marriage do not create marriage, but in societies ruled by law they help trace the boundaries and sustain the public meanings of marriage. . . . Without this shared, public aspect, perpetuated generation after generation, marriage becomes what its critics say it is: a mere contract, a vessel with no particular content, one of a menu of sexual lifestyles, of no fundamental importance to anyone outside a given relationship.

Human relationships are by nature difficult enough, Gallagher reminds us, which is why communities must do all they can to strengthen and not to weaken those institutions that keep us up to a mark we may not be able to achieve through our own efforts. The consequences of not doing so will be an intensification of all the other woes of which we have so far had only a taste in our society and which are reflected in the galloping statistics of illegitimacy, cohabitation, divorce, and fatherlessness. For Gallagher, the modest request of gay-marriage advocates for "a place at the table" is thus profoundly selfish as well as utterly destructive--for gay marriage "would require society at large to gut marriage of its central presumptions about family in order to accommodate a few adults' desires."

JAMES Q. WILSON, Maggie Gallagher, Stanley Kurtz, and others--including William J. Bennett in *The Broken Hearth* (2001) -- are right to point to the deleterious private and public consequences of instituting gay marriage. Why, then, do their arguments fail to satisfy completely? Partly, no doubt, it is because the damage they describe is largely prospective and to that degree hypothetical; partly, as I remarked early on, the defensive tone that invariably enters into these polemics may rob them of the force they would otherwise have. I hardly mean to deprecate that tone: anyone with homosexual friends or relatives, especially those participating in longstanding romantic relationships, must feel abashed to find himself saying, in effect, "You gentlemen, you ladies, are at one and the same time a fine example of fidelity and mutual attachment--and the thin edge of the wedge." Nevertheless, in demanding the right to marry, that is exactly what they are.

To grasp what is at the other edge of that wedge--that is, what stands to be undone by gay marriage--we have to distinguish marriage itself from a variety of other goods and values with which it is regularly associated by its defenders and its aspirants alike. Those values--love and monogamous sex and establishing a home, fidelity, childbearing and childrearing, stability, inheritance, tax breaks, and all the rest--are not the same as marriage. True, a good marriage generally contains them, a bad marriage is generally deficient in them, and in law, religion, and custom, even under the strictest of moral regimes, their absence can be grounds for ending the union. But the essence of marriage resides elsewhere, and those who seek to arrange a kind of marriage for the inherently unmarriageable are looking for those things in the wrong place.

The largest fallacy of all arises from the emphasis on romantic love. In a book published last year, Tipper and Al Gore defined a family as those who are "joined at the heart"--"getting beyond words, legal formalities, and even blood ties." The distinction the Gores draw in this sentimental and offhand way is crucial, but they utterly misconstrue it. Hearts can indeed love, and stop loving. But what exactly does this have to do with marriage, which can follow, precede, or remain wholly independent of that condition?

It is a truism that many married people feel little sexual or romantic attraction to each other--perhaps because they have been married too long, or perhaps, as some men have always claimed, because the death of sexual desire is coincident with the wedding ceremony. ("All comedies are ended by a marriage," Byron wittily and sadly remarked.) Many people--in ages past, certainly most people--have married for reasons other than sexual or romantic attraction. So what? I could marry a woman I did not love, a woman I did not feel sexually attracted to or want to sleep with, and our marriage would still be a marriage, not just legally but in its essence.

The truth is banal, circular, but finally unavoidable: by definition, the essence of marriage is to sanction and solemnize that connection of opposites which alone creates new life. (Whether or not a given married couple does in fact create new life is immaterial.) Men and women *can* marry only because they belong to different, opposite, sexes. In marriage, they surrender those separate and different sexual allegiances, coming together to form a new entity. Their union is not a formalizing of romantic love but represents a certain idea--a construction, an abstract thought--about how best to formalize the human condition. This thought, embodied in a promise or a contract, is what holds marriage together, and the creation of this idea of marriage marks a key moment in the history of human development, a triumph over the alternative idea, which is concubinage.

LET ME try to be more precise. Marriage can only concern my connection to a woman (and not to a man) because, as my reference to concubinage suggests, marriage is an institution that is built around female sexuality and female procreativity. (The very word "marriage" comes from the Latin word for mother, *mater*.) It exists for the gathering-in of a woman's sexuality under the protective net of the human or divine order, or both. This was so in the past and it is so even now, in our supposedly liberated times, when a woman who is in a sexual relationship without being married is, and is perceived to be, in a different state of being (not just a different legal state) from a woman who is married.

Circumstances have, admittedly, changed. Thanks to contraception, the decision to marry no longer precedes sexual intercourse as commonly as it did 50 years ago, when, for most people, a fully sexual relationship could begin only with marriage (and, when, as my mother constantly reminds me, one married *for sex*). Now the decision can come later; but come it almost certainly must. Even with contraception, even with feminism and women's liberation, the feeling would appear to be nearly as strong as ever that, for a woman, a sexual relationship must either end in marriage, or end.

This is surely understandable, for marriage benefits women, again not just in law but essentially. A woman can control who is the father of her children only insofar as there is a civil and private order that protects her from rape; marriage is the bulwark of that order. The 1960's feminists had the right idea: the essential thing for a woman is to control her own body. But they were wrong that this is what abortion is for; it is, rather, what marriage is for. It is humanity's way of enabling a woman to control her own body and to know (if she cares to) who is the father of her children.

Yes, marriage tends to regulate or channel the sexual appetite of men, and this is undoubtedly a good thing for women. But it is not the ultimate good. A husband, no matter how unfaithful, cannot introduce a child who is not his wife's own into a marriage without her knowledge; she alone has the power to do such a thing. For a woman, the fundamental advantage of marriage is thus not to regulate her husband but to empower herself--to regulate who has access to her person, and to marshal the resources of her husband and of the wider community to help her raise her children.

Every human relationship can be described as an enslavement, but for women the alternative to marriage is a much worse enslavement--which is why marriage, for women, is often associated as much with sexual freedom as with sexual constraint. In the traditional Roman Catholic cultures of the Mediterranean and South America, where virginity is fiercely protected and adolescent girls are hardly permitted to "date," marriage gives a woman the double luxury of controlling her sexuality and, if she wishes, extending it.

For men, by contrast, the same phenomenon--needing to be married in order to feel safe and free in a sexual relationship--simply does not exist. Men may wish to marry, but for more particular reasons: because they want to have children, or because they want to make a woman they love happy, or because they fear they will otherwise lose the woman they love. But it is rare for a man to feel essentially incomplete, or unprotected, in a sexual relationship that has not been solemnized by marriage. In fact, a man desperate to marry is often considered to have something wrong with him--to be unusually controlling or needy.

Because marriage is an arrangement built around female sexuality, because the institution has to do with women far more than it has to do with men, women will be the victims of its destruction. Those analysts who have focused on how children will suffer from the legalization of gay marriage are undoubtedly correct--but this will not be the first time that social developments perceived as advances for one group or another have harmed children. After all, the two most important (if effortless) achievements of the women's movement of the late 1960's were the right to abort and the right--in some social classes, the commandment--to join the professional workforce, both manifestly harmful to the interests of children.

But with the success of the gay-liberation movement, it is women themselves, all women, who will be hurt. The reason is that gay marriage takes something that belongs essentially to women, is crucial to their very freedom, and empties it of meaning.

WHY SHOULD I not be able to marry a man? The question addresses a class of human phenomena that can be described in sentences but nonetheless cannot be. However much I might wish to, I cannot be a father to a pebble--I cannot be a brother to a puppy--I cannot make my horse my consul. Just so, I cannot, and should not be able to, marry a man. If I want to be a brother to a puppy, are you abridging my rights by not permitting it? I may say what I please; saying it does not mean that it can be.

In a gay marriage, one of two men must play the woman, or one of two women must play the man. "Play" here means travesty--burlesque. Not that their love is a travesty; but their participation in a ceremony that apes the marriage bond, with all that goes into it, is a travesty. Their taking-over of the form of this crucial and fragile connection of opposites is a travesty of marriage's purpose of protecting, actually and symbolically, the woman who enters into marriage with a man. To burlesque that purpose weakens those protections, and is essentially

and profoundly anti-female.

Radical feminists were right, to an extent, in insisting that men's and women's sexuality is so different as to be inimical. Catharine MacKinnon has proclaimed that in a "patriarchal" society, all sexual intercourse is rape. Repellent as her view is, it is formed around a kernel of truth. There is something inherently violative about sexual intercourse--and there is something dangerous about being a woman in a sexual relationship with a man to whom she is not yet married. Among the now-aging feminists of my generation, no less than among their mothers, such a woman is commonly thought to be a victim.

Marriage is a sign that the ever-so-slight violation that is involved in a heterosexual relationship has been sanctioned by some recognized authority. That sanction is also what makes divorce a scandal--for divorce cannot truly undo the sanction of sexual intercourse, which is to say the sanction to create life, with one's original partner. Even in the Jewish tradition, which regards marriage (but not love) in a completely unsacralized way, divorce, though perfectly legal, does not erase the ontological status of the earlier marriage. (The Talmud records that God weeps when a man puts aside his first wife.) This sanction does not exist for homosexual couples. They are not opposites; they are the same. They live in a world of innocence, and neither their union nor their disunion partakes of the act of creation.

This brings us back to the incest ban, with which marriage is intimately and intricately connected. Indeed, marriage exists for the same reason that incest must not: because in our darker, inhuman moments we are driven toward that which is the same as ourselves and away from that which is fundamentally different from ourselves. Therefore we are enjoined from committing incest, negatively, and commanded to join with our opposite, positively--so that humanity may endure.

Homosexuals are, of course, free to avoid the latter commandment--and those who choose to do so are assuredly capable of leading rich and satisfying lives. The same goes for all those non-homosexuals who have decided or been advised not to marry in certain circumstances--for example, if they wish to be members of celibate religious communities, or ascetic soldiers in a cause, or geniuses (as Cyril Connolly warned, "there is no more somber enemy of good art than the pram in the hall"). Men and women alike now spend more time as sexually mature adults outside of marriage than ever before, and some number of them live together in unreal or mock marriages of one kind or another. The social status of homosexuals is no better and no worse than that of anyone else who lives in an unmarried condition.

WHAT of simple compassion? What do we owe to our fellow-beings who wish, as they might put it, to achieve a happiness they see we are entitled to but which we deny to them? From those of us who oppose gay marriage, Andrew Sullivan demands *some* "reference to gay people's lives or relationships or needs." But the truth is that many people have many needs that are not provided for by law, by government, or by society at large--and for good reason.

Insofar as I care for my homosexual friend as a friend, I am required to say to him that, if a lifelong monogamous relationship is what you want, I wish you that felicity, just as I hope you would wish me the same. But insofar as our lives as citizens are concerned, or even as human beings, your monogamy and the durability of your relationship are, to be blunt about it, matters of complete indifference. They are of as little concern to our collective life as if you were to smoke cigars or build model railroads in your basement or hang-glide, and of less concern to society than the safety of your property when you leave your house or your right not to be overcharged by the phone company.

That is not because you are gay. It is because, in choosing to conduct your life as you have every right to do, you have stepped out of the area of shared social concern--in the same sense as has anyone, of whatever sexuality, who chooses not to marry. There are millions of lonely people, of whom it is safe to say that the majority are in heterosexual marriages. But marriage, though it may help meet the needs of the lonely, does not exist because it is an answer to those needs; it is an arrangement that has to do with empowering women to avoid even greater unhappiness, and with sustaining the future history of the species.

Marriage, to say it for the last time, is what connects us with our nature and with our animal origins, with how all of us, heterosexual and homosexual alike, came to be. It exists not because of custom, or because of a conspiracy (whether patriarchal or matriarchal), but because, through marriage, the *world* exists. Marriage is

how we are connected backward in time, through the generations, to our Creator (or, if you insist, to the primal soup), and forward to the future beyond the scope of our own lifespan. It is, to say the least, bigger than two hearts beating as one.

Severing this connection by defining it out of existence--cutting it down to size, transforming it into a mere contract between chums--sunders the natural laws that prevent concubinage and incest. Unless we resist, we will find ourselves entering on the path to the abolition of the human. The gods move very fast when they bring ruin on misguided men.

\* For a summary of the scant research on children raised in homes with same-sex parents as of six or seven years ago, see James Q. Wilson, "Against Homosexual Marriage," in *Commentary*, March 1996.

*Sam Schulman, here making his first appearance in Commentary, has written on politics and morals in the New York Press, the Spectator (London), and [JewishWorldReview.com](http://www.jewishworldreview.com).*

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