



Testimony
**Senate Subcommittee on H.3133
Constitutional Amendment
Defining Marriage**

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Defending Marriage in South Carolina: Legal Issues

By Byron Babione

South Carolina law recognizes that marriage is between one man and one woman. This does not mean that an amendment is unnecessary to protect marriage as it is recognized in this state.

1. Proponents of Same-sex Marriage Have Vowed a State-by State Litigation Strategy to Force Same-Sex Marriage on the Country.

It is the strategy of same-sex marriage proponents to litigate the validity of marriage in every state in the union, invoking each state's constitutional provisions of privacy and equal protection. The strategy is to shop for judges who are willing to embrace their views on marriage and who are willing to impose this view by judicial fiat. In light of this admitted strategy, a general law protecting marriage is not sufficient to protect marriage given that it is the admitted strategy of same-sex marriage proponents to challenge the general laws protecting marriage in every state. The proponents of same-sex marriage know that in every state there lurk judges willing to redefine marriage and impose same-sex marital unions on the people, against the will of the people. The belief that no current South Carolina judge would do such a thing overlooks the movement's long term commitment.

Most persons are surprised to learn that the campaign to expand marriage and marital benefits to same-sex couples began over thirty years ago. In 1971, a same-sex couple in Minnesota demanded to have their marriage recognized by Minnesota law. After litigation through the state court system, the U.S. Supreme Court in *Baker v. Nelson*, in a decision on the merits, ruled that Minnesota's recognition of marriage between one man and one woman only did not violate the federal constitution. After unsuccessful attempts in the political arena, same-sex marriage proponents hit the courts again. Since then, the highest courts in Hawaii and

Alaska redefined marriage against the legislative policy of the state. Both of those court impositions were overturned when the people of Hawaii and Alaska passed constitutional amendments undoing the judiciary's decreed social policy.

Proponents of same-sex marriage view general statutes as a weaker barrier to their objective because courts can strike them down. Here is where these proponents are willing to remain patient until an opportunity arises in the judicial landscape. That no current judge would strike down a general marriage statute does not mean it could not happen in the future.

Proponents of redefining marriage know that all they need to succeed is to persuade judges of their political viewpoint. Same-sex marriage proponents have enjoyed some success on this point—converting a minority political opinion into a mandatory legal imperative. On the other hand, to overcome a constitutional amendment, proponents of same-sex “marriage” must persuade their fellow citizens. On this point, they have enjoyed very little success. They would urge you now to settle for a general law protecting marriage because general laws are vulnerable to the judiciary—constitutional amendments are not.

A multitude of similar lawsuits have been filed in state courts around the country. Typically these suits allege that the definition of one man and one woman violates state constitutional privacy and equal protection provisions. This litigation has proved to be costly and lengthy. However, the most disconcerting aspect of this litigation is that it is postured so that the judiciary may impose marital policy on the people, rather allowing the people's representatives to decide marital policy. It is the people and the legislature who must remain supreme in defining state social policy. This understanding has always been the hallmark and virtue of the South Carolina General Assembly and its members. It should not be left vulnerable to a future judicial decision..

These state-by-state challenges by same-sex marriage proponents have occurred thus far in Alaska, Hawaii, Vermont, Massachusetts, Washington, Oregon, California, South Carolina, and New York, Arkansas, West Virginia, and Kentucky. Vermont's highest court actually ordered the legisla-

ture to create civil union status for same-sex marriage. The high courts of Alaska and Hawaii found their opposite-sex marriage laws in violation of the state constitutions. The people in both of those states demanded constitutional amendments to protect marriage and to reset the bounds of judicial power. It is well known that in Massachusetts, the states' high court, to the shock of many, usurped the legislature and rewrote the marriage laws to include same-sex marriage.

The people of California, anticipating that it would be required to recognize same-sex marriage from Massachusetts, by ballot initiative, codified that only marriage between a man and woman would be valid or recognized in California. California voters thought they had decided the issue. This general law was recently declared in violation of the California constitution by a state superior court judge in a poorly reasoned results-oriented opinion. The court found marriage to be unconstitutional as a pretext to replace the voter's policy with its own. This potential result could have been avoided had an amendment rather than a general law been passed. South Carolina has an opportunity to end this possible result by enacting a constitutional amendment to protect marriage. Make no mistake about it, given the admitted strategy of same-sex marriage proponents, sooner or later, the fate of South Carolina's marriage law will become subject to judicial pleasure. Passing this Amendment would prevent this.

On February 4, 2005, a trial court judge in New York ruled that the state's same-sex marriage laws violate the New York Constitution. Earlier this year three New York trial courts had ruled that the state's marriage laws did not violate the New York Constitution. In 1990 and 1993 two New York lower courts ruled that the New York marriage laws did not violate the constitution. Proponents of same-sex marriage, however, continued to shop for a judge who would invalidate the democratically defined definition of marriage. They finally found one. The point is that they will shop until the gavel drops, in their favor. This would not be happening if New York had a constitutional amendment protecting marriage. This should be reason enough to act now in passing a

constitutional amendment.

A marriage amendment avoids the potential for judicial lawmaking in an area of sensitive social policy, an area exclusively reserved for the legislature. The South Carolina General Assembly has the opportunity to make marriage bullet proof. Instead of using the penetrable armor of a general law to defend marriage, use the impenetrable armor of a constitutional amendment to preserve it and its blessings.

2. The State's Interest in Marriage is Responsible Procreation.

The state's primary interest in marriage between a man and a woman is to direct procreation within marriage so that legal responsibility for their potential children is assigned to their biological mother and father. That is, the state's interest is in "responsible procreation." See, *Morrison v. Sadler*, No. 49A02-0305-CV-447 (Ind. Ct. App. January 20, 2005). The state offers marital benefits to opposite sex couples to encourage them to marry so that in the event they have children, the legal responsibility for raising them will be presumed and assigned to the parents. In this way, the children are far less likely to become wards of the state.

Legally bounded parents encourage stability within the home, which promotes stability in society—clearly a compelling state interest. The state's purpose in marriage is to promote parental accountability and responsibility for raising children so that they get the Cosby's and not *Lord of the Flies*. Marriage is the mechanism to do this. The state's interest insures that children raised by their biological parents are raised by the parenting perspectives of the two sexes, rather than only one—a benefit confirmed by research and common experience.

An amendment would preserve marriage and the state's interest in it from a judicially imposed redefinition.

3. The Marriage Amendment Does Not Unfairly Discriminate.

Some have suggested that the state is trying to discriminate and harm homosexuals by passing a constitutional amendment protecting marriage. This argument is a disin-

genuous “straw man.” The primary state interests in limiting marriage to one man and one woman has nothing to do with a purpose to harm homosexuals and, in fact, does no harm to them. On the contrary, marriage operates to curb the results of irresponsible sex between persons of the opposite sex. This interest is shared by everyone in society regardless of their sexual orientation.

To sustain a claim that marriage laws under equal protection, they have the burden of showing that the state’s recognition of marriage between a man and a woman only is designed specifically and solely to harm an identifiable group. However, marriage between a man and a woman is not designed to harm anyone. Marriage precludes same-sex couples, not on the basis of sexual orientation, but because same-sex couples do not implicate or further the state’s interest in marriage. Indeed, an opposite sex couples with homosexual preferences are permitted to marry. Further, same-sex couples made up of two persons with heterosexual preferences are not permitted to marry. Marriage turns on whether the couple has the potential to procreate, not on their sexual preferences. It should also be noted that heterosexual bigamists, polygamists and heterosexual incestuous couples are not permitted to marry. These relationships do not implicate or further the state’s interest in responsible procreation which marriage is intended to address. To claim that marriage was conceived to specifically harm homosexuals is to uncover a conspiracy from the beginning of time.

4. Extending Marriage Benefits to Other Relationships Does Not Further the State’s Interest in Responsible Procreation.

There is no reason to extend marriage benefits to same-sex relationships because those relationships do not implicate the state’s primary interest in marriage—responsible procreation. Because same-sex couples do not procreate they do not implicate the state’s interest which would justify the state in extending marriage to those relationships. Alternative marital definitions, which courts have been all too willing to impose, confuse personal motivations for getting married with the state’s legitimate and primary interest in responsible procrea-

tion. A couple may want to marry because of the mutual love and commitment each one feels toward the other. However, the personal reasons for why people marry each other are not synonymous with the state's interest in marriage. The state does not attach tangible benefits to marriage as a kind of social welfare present to celebrate the sentimental attachment a couple may feel. The state's interest is practical—to insure responsible procreation.

An orderly society requires a mechanism for coping with the fact that sexual intercourse commonly and immediately results in pregnancy and childbirth. The institution of marriage is that mechanism. A society without the institution of marriage, in which heterosexual intercourse, procreation, and child care are largely disconnected processes, would be chaotic. Marriage connects these processes. In same-sex couples, these processes do not exist, and extending marriage to them does not serve the state's interest. See, *Baker v. Nelson*; *Morrison v. Sadler*, No. 49A02-0305-CV-447, slip op, (Ind. Ct. App, January 20, 2005); . *Wilson v. Ake*.

5. *Loving v. Virginia* Does Not Support Same-Sex Marriage.

Some marriage opponents have strained to analogize laws against interracial marriage to marriage between a man and a woman. This analogy fails on so many points it is difficult to know where to start. First, laws against interracial marriage were predicated on the notion of white supremacy. It was plainly race based. The 14th Amendment was specifically designed to eradicate race-based classifications. This does not turn on race or sex. The sexes here are treated alike, all that is necessary to satisfy equal protection. Second, there is no fundamental difference between people of a different skin color upon which the statute turned. Marriage, however, is predicated on an undeniable reality—that only an opposite sex couple will procreate. Opposite sex couples never procreate. In *Loving*, the miscegenation statute reflected an irrational prejudice. Marriage laws recognize a fundamental fact that occurs from the union of the sexes—procreation. Marriage laws are rationally related to the state's interest in re-

sponsible procreation. The state would do nothing to encourage responsible procreation among same-sex couples by allowing them to marry because they do not procreate.

Finally, when *Loving* was decided, State legislatures were in the process of repealing laws outlawing interracial marriage, not enacting them.

Far from supporting the opponents of marriage amendments, *Loving* totally undermines their position. *Loving* recognized the direct link between marriage and procreation. The miscegenation statute in *Loving* was designed to keep men and women of different races from procreating and having children. In fact, these laws worked against the state's interest in responsible procreation. In effect, it denied the marital home for children born of an interracial opposite sex relationship. This statute was not only invidiously discriminatory, it worked against responsible procreation.

The *Loving* case shows that racial equality in marriage is fundamentally different from same-sex marriage. The same-sex marriage proponents' claim of solidarity with African Americans in their struggle for racial equality fails on this point as well. The legal problem that permitted slavery to persist until the civil war was that there was no common understanding of who was a citizen and even who was a person. This confusion in the country culminated in the Civil War. That problem was rectified in the culture and through the 13th, 14th, and 15th Amendments. Marriage, like citizenship and personhood, is such a fundamental concept to our culture and institutions, it is worthy of constitutional recognition, definition, and protection.

6. A Constitutional Amendment is Necessary.

Proponents of homosexual marriage say that there is no need for a constitutional amendment protecting marriage. They are partly right. They are right that there *should* be no need since the issue has been settled by the people. They are flat out wrong that there is no need. The need for a marriage amendment is predicated on the fact that activist judges look down their noses at the legislature and the people. They think they know better. Frustrated that their personal political views do not persuade democratic majorities, but still con-

vinced of their greater wisdom; they invent an authority to impose that policy on the people who reject it.

Conclusion

While some do not anticipate judicial activism by South Carolina judges to overturn the general marriage law, the possibility can be completely removed by a constitutional amendment. A general law is not enough. ❖

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Defending Marriage in South Carolina: Practical Issues

By Joe Mack

With over 2000 churches and more than 720,000 members, South Carolina Baptists represent the largest denomination in the state. Our national organization has passed many resolutions on the topic of one man, one woman marriage and strengthening families, the most recent in 2003 and 2004. The South Carolina Baptist Convention has also passed numerous resolutions regarding these issues, the most recent in 2003.

Baptists, as well as members of other denominations, in our state want this bill, H 3133, reported out of the Judiciary Committee to the floor without amendments to ensure a referendum on the 2006 ballot.

In *Why Marriage is Worth Defending*, Sean Grindlay writes: “The permanent union of a man and a woman has proved to be the arrangement most conducive to the upbringing of children and the maintenance of a stable society.”

Maggie Gallagher, nationally syndicated columnist, highlights the problem with same-sex marriages. In *What Marriage is For*, she writes:

The problem with endorsing gay marriage ...is that it would require society at large to gut marriage of its central presumptions about family in order to accommodate a few adults' desires.

The debate over same-sex marriage, then, is not some sideline discussion. It is the marriage debate. Either we win—or we lose the central meaning of marriage. The great threat same-sex marriage poses to marriage as a social institution is not some distant or nearby slippery slope, it is an abyss at our feet. If we cannot explain why same-sex marriage is, in itself, a disaster, we have already lost the marriage ideal.

Same-sex marriage would enshrine in law a public judgment that the desire of adults for families of choice outweighs the need of children for mothers and fathers. It would give sanction and approval to the creation of a motherless or fatherless family as a deliberately chosen 'good.' It would mean

the law was neutral as to whether children had mothers and fathers. Motherless and fatherless families would be deemed just fine.

What happens when same-sex marriage is given equal status with heterosexual marriage in the law? Robert Knight, director of the Culture and Family Institute, lists the following ramifications:

- Businesses that decline to recognize non-marital relationships are punished through loss of contracts and even legal action. This is already occurring in San Francisco and in Canada.
- Children are taught in school that homosexuality is a normal, healthy, safe alternative to actual marriage.
- “Hate crime” laws are employed against people who reasonably insist that marriage is the union of a man and a woman.
- Corporate employee “diversity” programs step up their attack on traditional morality as a form of “bigotry.”
- Other groups, such as bisexuals and bigamists, will demand the right to redefine marriage to suit their own proclivities. Once the standard of one-man, one-woman marriage is broken, there is no logical stopping point.

Baptists affirm the biblical teaching that God designed marriage as a lifetime union of one man and one woman. We deny that the God-ordained institution of marriage is subject to redefinition as merely a civil institution or simply a private matter.

The *Baptist Faith and Message* declares: “Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God’s unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate com-

panionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race" (Article XVIII, "The Family").

Baptists also affirm that marriage has certain essential defining personal and social characteristics. We deny that a same-sex relationship can ever be the same as or equivalent to marriage.

- Marriage is the foundational institution of human culture (Genesis 2:18-22; Matt. 19:3-9; Eph. 5:22-33; Eph. 6:1; 1 Thess. 2:7, 11; 1 Tim. 5:4).
- Marriage provides the best environment for the personal, social, and economic well-being of children (Eph. 5:22-33; Eph. 6:1; 1 Tim. 5:8; Titus 2:4-6).

On the other hand, inherent within "same-sex marriage" are significant harmful social consequences.

- Same-sex marriage undermines commitment to genuine marriage. Studies of the state of marriage in the Scandinavian countries that have legalized "same-sex marriage" reveal that traditional marriage has been adversely affected by the redefinition of marriage. In some Norwegian counties traditional marriage has practically disappeared.
- "Same-sex marriage" is detrimental to society. By undermining commitment to genuine marriage, "same-sex marriage" weakens the family, which is the foundational social institution of culture.
- "Same-sex marriage" is inadequate as a family context for children. It does not provide children with an opportunity to observe and understand the uniqueness of both sexes and to develop their own sexual identity in relationship to a father and a mother.

- Same-sex marriage is destructive personally. Homosexual behavior has negative physical, social, and spiritual consequences.

Baptists affirm without reservation the biblical teaching that homosexual behavior is contrary to God's design. We deny the legitimacy of any attempt to characterize homosexuality as an acceptable or unchangeable alternative lifestyle.

Therefore, because of the clear biblical teachings about homosexuality and marriage, and the serious social consequences that homosexuality and "same-sex marriage" pose for our nation, we reject all attempts to legitimize "same-sex marriage." The efforts to legitimize "same-sex marriage" are misplaced and unwise attempts to redefine the historical, social, and moral foundation of human culture. Therefore, we urge all concerned citizens to resist these efforts with all due conviction. ❖

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Defending Marriage in South Carolina: Spiritual Issues

By Dr. Toney Parks

I would like to applaud Chairman Ford for starting this committee hearing this afternoon with prayer. When we look at the reasoning for our gathering this afternoon, (to discuss the issue of Same Sex Marriage) it makes me wonder to whom we are praying. Why are we praying? And for what are we praying? Whenever we offer up prayer, we are invoking the presence of God into our presence. The mere fact that we are discussing the matter of same sex marriage is offensive to God. The very idea of attempting to pass a legislation condoning same sex marriage is an attempt to redefine marriage.

Marriage has been defined as the joining together of two people of the opposite sex. The idea of marriage has always and always will be defined by God, the creator of heaven and earth. Any attempt to redefine marriage is an attempt to violate the intended order of society.

Marriage was created to serve as an example of God's love for humanity, family, and most of all the Church. Marriage has been and should continue to be defined as "the joining together of one man and one woman." Marriage was and is God's idea. This was God's way of ushering order into society, so that mankind would be able to experience the sovereignty of God.

God made man in his image and according to his likeness. The very creation of man from "dirt" is proof that we have no authority or power to question what He said was good. We don't have the right to legislate, or redefine any principle given by God.

God made man first, therefore man's purpose was and is to glorify (worship) God and enjoy him forever." The idea of same sex marriage is far from glorifying God. I am convinced that God would have nothing to do with this type of worship. Same sex marriage is far from worship! It is a violation of God's created order, and is an affront to God.

Everything God Made is Good!

Everything God made was good up until the point God made man. It was at this point that God said, it is not good for man to be alone (by himself). God recognized that every animal had a mate according to its likeness; however, there was no one suitable for man. It was at this point that God made a helpmate (woman) which translates as “suitable” for man as a companion.

It was at this point that God made Adam a mate of the opposite sex. That mate was a woman. This woman was compatible to the man; they had something in common with each other. They could identify with each other. Adam recognized that the woman that was taken from his rib was noticeably different.

Adam recognized that this woman was not of the same sex. He noticed that they were compatible, suitable for one another. Adam realized that his organs were noticeably different than the woman’s, they complemented each other and could meet each other’s physical, emotional and spiritual needs.

It was at this point that God instituted the monogamous institution known as marriage, which we know today as a relationship between a husband and wife. Without God’s involvement, we would not have such a sacred institution. Without specific male and female genders, what we know as procreation or reproduction of mankind would not exist.

Man’s bride was formed from one of his ribs, taken from his side. The woman (his Bride) was secured by the man, just as we (those who represent the church) are secured by Christ. The sanctity of the marriage bond illustrates the relationship that exists between Christ and the Church.

God announced that when a man leaves his father and his mother, and cleave unto his wife, they shall be one. Therefore, to allow any two people of the same sex to come together violates the spiritual, moral and creative intent of God, our creator. As leaders of society, we have a responsibility to govern society based on the divine blueprint, and foundation given by God. We have a responsibility to do what is in the “best interest” of mankind, not what is popular.

Same-Sex Marriages are Out of Order

Without two individuals of the opposite sex, being a man and a woman, there would be no civilization. The very existence of humanity is predicated on the idea of a man and woman, coming together as husband and wife. Opposite sexes were created by God, to provide suitable mates for companionship, compatibility, and procreation.

The order of nature, suggest that all animals have suitable mates, by which they reproduce their own kind. No two people of the same sex can procreate. If we were to permit same sex marriages, over a period of time, we would have more social problems than we have today. And if it became the norm, mankind would eventually cease to exist.

Social laws suggest that what one generation tolerates, another generation embraces. A few of the problems that we would experience are:

- A confusion in the distinction of the sexes and their roles.
- Instability in relationships.
- Children being raised in confused environments.
- More of a social burden placed on the local and state governments for economic assistance.
- A continued deterioration of the education, religious and family institution.
- The future of our military, and national defense is at state.

Not a Civil Rights Issue

Both God and our forefather agreed that “we are all created equal” and “in the image of God.” Jim Crow laws, segregation, racism, lynching and slavery were wrong then and it is wrong now.

Martin Luther King fought for righteousness, and used the Biblical principles, the “Word Of God” to protect the divine principles mandated by God. God’s laws are used throughout society to govern mankind. Why should we allow a spirit of immoral tolerance to infect the spirit of our nation.

As an African American, born and partially raised in Birmingham, Alabama, I find it difficult to equate same sex marriage with the plight of African Americans’ civil rights.

Slavery and the denial of civil rights were ethically, morally, and socially wrong. It was the civil rights laws that served to undo moral injustice to individuals of a civilized nation.

Same-sex marriage proponents are not being denied the right to marry individuals of the opposite sex. They are being denied the right to violate and change, social, and religious principles that govern the order of the American society.

As legislators, you have a responsibility to God and society, to govern according to the principles of our creator and make righteous laws that does not allow immoral sins of a group of individuals such as those present here today to be imposed upon our entire society.

Conclusions

- To deny same sex marriage does not violate an individual's, human rights; it protects the future of America's families and our country as a nation.
- America is a better country for doing what it did to protect the rights of African Americans.
- What will Same Sex Marriages Do? Let's not find out. ❖

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Defending Marriage in South Carolina: Sociological Issues

By Glenn T. Stanton and Oran P. Smith

In the debate over this legislation, we believe that there are at least ten relevant questions that must be answered.

1. How Will My Same-Sex Marriage Hurt Your Marriage?

This question is asked in nearly every public debate on this issue. Our opponents usually ask it, pointing to their partners and to themselves saying: “How will our marriage hurt your marriage?”

Here is how I would respond. We are not talking *only about you two*. We are talking about asking *everyone*—all of society—to dramatically and permanently alter their definition of family to say that male and female do not matter for marriage, family, and ultimately, for society. And saying male and female don’t really matter is harmful to *all of us*.

2. Where Does it Stop?

Andrew Sullivan, a regular contributor to *Time* magazine and Senior Editor at *The New Republic* writes: “The right to marry *whomever you want* is a fundamental civil right.” Really? What about Jonathan Yarbrough and Cody Rogahn? Who are these men? They were the first couple to stand in line on May 17, 2004 to get the first same-sex marriage license in Provincetown, Massachusetts. Being the first in line, the media was interested in talking to them about their big day. Here is what they said: “*We believe we can love more than one person at a time. For us, we have an open marriage.*”

What is next after same sex marriage? It looks like three men... or three women or two women and a man or... you get the picture. There is another question about *what IS next...*

a. *Is Speech Control Next?*

Could the statement, “children need a mother and fa-

ther” be deemed hate speech? Swedish Pastor Ake Green was threatened with jail for offending homosexuals for preaching from the Bible. Activists in Canada passed C-250 which carries a maximum two-year jail sentence for saying certain things about homosexuals. The attitude from government toward this issue in Canada and the Netherlands is very authoritarian and oppressive, *tolerating no dissent*.

b. What will happen in our schools?

Pictures in textbooks will be changed to show support of same-sex families. Our children’s reading books will show Suzie going to feed the ducks hand in hand with her two dads. But the ducks—because we can’t get away from nature—will be in male/female pairs. Consider a recent NPR story from Boston. An eight grade teacher there teaches her class about gay sex “thoroughly and explicitly with a chart.” When asked if parents complain about their eighth graders learning such explicit material, this teacher says, “Give me a break. It’s legal now.” This woman is teaching *children*. And *there is no logical stopping point*. When you tear marriage away from its moorings, the ship can drift anywhere.

3. Can’t We All Just Get Along by Having Religious Marriage and Civil Marriage?

Some ask, “Why can’t you just keep your religious idea of marriage, and just give us our own kind of civil marriage?” Well, marriage is more than a religious institution. It shows up in *all* civilizations...not just Christian or religious ones. Actually, marriage predates both the church and the state. It is a human institution and it involves both church and state.

However, if a couple marries at church, but doesn’t also go to city hall for a marriage license, they are not legally married, regardless of how beautiful the wedding...or how much money it costs. Churches are interested in making sure that marriages are healthy and strong. But city hall—as well as both state and federal governments—are interested in marriage for what it provides society.

Here’s what marriage scholar Maggie Gallagher writes:

There is scarcely a dollar that state and federal government spends on social programs that is not driven in large part by family fragmentation: crime, poverty, drug abuse, teen pregnancy, school failure, mental and physical health problems.

Every society needs men and women to cooperate in founding homes and raising children, and marriage is the way all societies accomplish this. Yes, marriage is a religious institution, but it is just as much, a social institution. And as such, the state has a deeply-vested interest in promoting marriage.

4. What Public Good Does Marriage Provide?

Is there a public purpose to marriage or is marriage merely a romantic relationship between two people? Marriage *is* a public institution—the fundamental institution that provides what society needs. It is always about producing and raising the next generation of humanity which society needs. If you don't believe this is a need, then look at the current depopulation trends in much of Europe. Governments there are realizing that a dearth of couples having babies raises many serious social and economic issues. And this need is universal. If you spin a globe, pick any place on earth and visit that place at any time in human history, you will find that they do marriage one way, *between men and women*.

Now there may be other diversities, such as number of spouses and division of labor. But marriage is *always* heterosexual. We have to ask ourselves...“Why do we find this global and historic universality of marriage?” Is it because the Jerry Falwells or the Pat Robertsons have gone everywhere, at every time and enforced marriage on all cultures? Is it because the Republicans have? Is it because the Baptist Convention has? No. Nature enforces and imposes marriage upon all human civilizations and it does so with very little tolerance. Marriage is the way that we celebrate diversity, the way we celebrate humanity, bridging the gender divide, and bringing male and female together into cooperative domestic relationships.

That's why we find it everywhere at every time. Human-

ity needs it. *There is no public need for the same-sex family.* If there were, societies would have created such families to meet the need. But they have not, because it does not meet a social need, but rather, the personal desire of a few adults.

Anthropologists tell us marriage—as a heterosexual institution—does four primary jobs. It is the only institution that provides these things and every society needs marriage to do them.

a. Marriage Socializes Men.

Anthropologists tell us that a society's most serious problem is the unattached male. Marriage is the answer. Natural marriage socializes men by channeling male sexuality and aggression in socially productive ways. And it is women who do this through marriage. But same-sex marriage will not socialize males because males do not socialize other males. The lack of monogamy and relational durability in gay male relationships is evidence of this. Same-sex marriage fails in this 1st purpose of marriage.

b. Marriage Regulates Sexuality.

By socializing men, marriage regulates sexuality. Marriage establishes sexual guardrails, which are a requirement for successful societies. We cannot survive with everybody doing whatever they want sexually. Every society must have rules, mores and standards about sexual behavior and marriage is how societies do manage human sexuality. Research is very clear that societies that weaken these sexual standards end up creating a whole host of serious and unexpected social and human well-being problems. There is no evidence that same-sex marriage would serve society in regulating sexuality and as such it fails this 2nd public purpose of marriage.

c. Marriage Protects Women From Exploitive Males.

When we do not have a social norm of monogamy, women become commodities, things to be collected, used, and then discarded. Marriage helps women by regulating sex. When women socialize men through marriage and parenthood, men are more likely to care for and respect their wives

and other women. Same-sex marriage fails the third purpose of marriage in its inability to protect women.

d. Marriage provides mothers & fathers for children.

Healthy children define a growing society. And marriage is the way we ensure the next generation grows up with the irreplaceable benefit of their *mother and father*. A loving and compassionate society comes to the aid of motherless and fatherless children, but no compassionate society intentionally subjects children to motherless or fatherless families. But this is what every same-sex home does and for no other reason, but to satisfy adult desire. So, same-sex marriage fails in fulfilling the fourth public purpose of marriage.

No society anywhere has been able to sustain itself with a buffet-like mentality of family where you simply go through the line, pick and choose what suits you and one choice is just as good as another.

5. Is It Healthy to Subject Children to Experimental Families?

You'll hear me say same-sex marriage and same-sex family together. We need to understand that the proposition for same-sex marriage *is* the proposition for the same-sex family. No society at any time—primitive or developed, ancient or modern—has ever raised a generation of children in same-sex homes.

Same-sex marriage will subject a generation of children to the status of lab rats in a vast, untested, social experiment. *The Lesbian Parenting Book*, was written by two doctors. What they have to say is telling and damning.

In founding lesbian homes, our children are not the only ones who may find themselves in uncharted territory.

Notice the words “uncharted territory.” Sounds like another word for “experiment.” They continue:

Many of our visions are new, even for us. It can be exhilarating, and sometimes scary, to be painting a new and different lesbian family tree.

“Scary” and “exhilarating.” Sounds like bungee jumping or a roller-coaster ride. It might be fun for adults, but certainly not appropriate for children. And here’s what they say about what it would mean to raise boys in lesbian homes. It is stunning.

It will be interesting to see over time whether lesbian sons have an easier or harder time developing their gender identity than do boys with live-in fathers.

Let’s not lose the significance of that. We are talking about children here. The best they can tell us is, “it will be interesting to see.” Concerning children, we need a little more assurance than that.

6. Haven’t Medical and Psychological Groups Said Same-Sex Parenting is Fine?

Whenever we debate this issue our opponents will always say: “Well you can say what you want, but the very august and reputable medical associations—all of them—have all come out in support of same sex-parenting.”

Well, I’m here to tell you that they are wrong. And I want to look at this very carefully and help you understand why. Here’s just one of the statements from one of these organizations: The American Academy of Pediatrics:

There is a considerable body of professional literature that suggest that children with parents who are homosexual have the same advantages and the same expectations for health, adjustment and developments as children whose parents are heterosexual.

Now how did the AAP—all the pediatricians—come to this decision? Did they gather all the wonderful, learned pediatricians together and carefully study the literature and mull through all the considerations, or did they do it another way? They did it another way.

They made this decision with a very small and select committee of nine (9) people. And once they made this statement, the reaction of the larger membership of the Academy was phenomenal! Consider this email, written by the lead author of the AAP’s study, and what it says about the larger membership’s response:

The AAP has received more messages, almost all of them critical, from members about the recent policy statement on co-parent or same-sex adoption than it has ever received on any other issue before. This is a serious problem, as it means that it will become harder to continue the work that we have been doing to use the AAP as a vehicle for positive change.

This is not science! It's not research or careful deliberation about the data! This is bold politics and activism...nothing more. This brings us to our next question

7. How Do We Know What Kind of Families Children Need?

Because of experience! Why do we think that this radical new experiment will somehow bring good things? No pediatrician or child development theorist would look at a child, see the problems that child has and say "*I know exactly what that child needs, I'm going to write a prescription for a same-sex home.*"

No. Every child development theory tells us that kids do best when they are raised by their own mothers and fathers. And it's interesting that even more liberal organizations are starting to understand this.

Child Trends, in a recent research brief, explains:

An extensive body of research tells us that children do best when they grow up with both biological parents.... Thus, it is not simply the presence of two parents, as some have assumed, but the presence of two biological parents that seems to support child development.

CLASP, the Center for Law and Social Policy, also finds:

Most researchers now agree that together these studies support the notion that, on average, children do best when raised by their two married, biological parents....

No child living in a two-parent same-sex home is, by definition, living with both biological parents. As result, every child living in such a home is living in a home that is less than best.

8. Is the Same-Sex Family About the *Needs* of Children or the *Wants* of Adults?

Consider the world's most famous lesbian mom: Rosie O'Donnell. We can learn a lot from her. In an interview on *Primetime Live* with Diane Sawyer a few years ago, the following exchange took place:

Diane: Does your little son, Parker, ever ask about his daddy?

Rosie: Of course he does, he's a six-year-old boy.

Diane: Well, what does he ask?

Rosie: Well, he asks, 'Why don't I have a daddy?'

Diane: What do you tell him?

Rosie: I say this, 'Because I'm the kind of mommy who wants another mommy.'

The child *needs* a daddy, but he is told "no" because the parent has *wants*. And it's interesting because many people say that marriage is about legal benefits and privileges....social security benefits and hospital visitation rights. But little Parker has never asked, "Mama, why can't we have all the rights and benefits and protections of marriage?" But Parker asks, "Mama, why can't I have a daddy?" And again, the answer is you can't have what you need because I want what I want.

Why does Parker want a daddy? Not because Rosie enrolled him in a fundamentalist day school where they indoctrinated him with that idea. You know, he's reminded of the lack of his father all over the place. He sees it in the fact that he's different from all the rest of the adults in his house. When he looks in the mirror, he wonders if he looks like his dad. When he takes a bath, physically and psychologically he's reminded that he's not like the women in his house.

Where is this adult male that is like me that I can emulate, that I can follow after? See how our entrance into the same-sex experiment today is similar to our entrance into the divorce experiment forty years ago. Dr. Judith Wallerstein, one of the world's leading divorce researchers, observes:

*We made radical changes in the family without realizing how it changes the experience of growing up. We embarked on a gigantic social experiment without any idea about how the next generation would be affected. If the truth be told, and if we are able to face it, the history of divorce in our society is replete with unwarranted assumptions that adults have made about children simply because such assumptions are congenial to adult needs and wishes.” Judith Wallerstein, et al., *The Unexpected Legacy of Divorce: A 25 Year Landmark Study*, (Hyperion, 2000), p. xxii.*

Today, we are making unwarranted assumptions about children simply because such assumptions are congenial to adults’ wishes. We must realize how embarking on this new gigantic social experiment will, as well, change the experience of growing up.

9. Does Gender Really Matter?

We come to this final question because the value of gender is what this issue really comes down to. Do male and female, mother and father, husband and wife, really matter?

Let us not miss what is being proposed here. If the same-sex family is just as valuable to the public good as natural marriage, then we are forced into a stark and troubling conclusion. If these two kinds of family are interchangeable—like vanilla or chocolate ice cream—and that is exactly what our opponents want us to believe, then male or female, mother and father, husband and wife, do not really matter. They become mere preference in the family and society, just like vanilla or chocolate.

For doesn’t the gay male family say that women are optional? And doesn’t the lesbian family further cement the idea that men are not necessary for the family? That’s exactly what many believe. But no.

Humanity is demonstrated in our complementary parts of male and female. And these really mean something. Our maleness our femaleness goes right to the very core of our being and every person here matters as a male or female. Each has something the other doesn’t have, but needs. And so, this is idea that male and female are replaceable is really

an anti-human message.

But, as gay leaders ask, “*Don’t you believe we can be loving parents?*” I have no doubt they could. But children actually need more than love. This is because the most loving, caring, compassionate two women in the world cannot be a dad to a little boy. Waking up at the crack of dawn to go fishing with mom and her lesbian life-partner just doesn’t have the same impact as going fishing with dad.

And the two most loving, compassionate men in the world cannot be a mama to a little girl. Love will not be enough to help two dads guide a scared, young girl through her first period or help her pick out her first bra. These men will have very little say because they’ve never experienced these things.

Likewise, what kind of message would two lesbian moms teach a little girl about loving a man? And how healthy would that message be? Would they be teaching that little girl that, yes, it’s a wonderful thing to go off and fall in love with a man? Many lesbians couldn’t teach that message because of their own experience. Children need a whole lot more than love from any two adults. They need their mothers and fathers.

The natural family celebrates diversity by giving children mothers and fathers and this diversity is critical. The same-sex family celebrates *sameness*. And any family that intentionally rejects either male or female—as the same-sex family does – cannot be viewed as good and virtuous in a society that esteems the unique value of both male and female.

10. Is Same-Sex Marriage Like Inter-racial Marriage?

They are nothing alike. Racism was about power and suppression, about keeping the races apart and that is wrong. Marriage is about bringing male and female together and that is good. Marriage has nothing to do with race. It has everything to do with a husband and wife working together to create and care for the next generation.

Striking down bans on interracial marriage *affirmed* marriage by saying that any woman has a right to marry any man. Same-sex marriage *redefines* marriage saying men and

women are optional for the family. And what is more, it is a very different thing for a child to say, “I have a black mother and a white father,” than “I have two moms and no father.”

There is no research that shows inter-racial parenting is developmentally harmful to children, but literally thousands of studies indicate that children are hindered developmentally when they are denied their mothers or fathers.

What is most troubling about this argument is it implies that people who value the necessary contributions men and women bring to marriage are bigots. This is a vile implication and has no place in civil discourse.

Conclusion

Let’s recap:

- ⇒ If we redefine marriage for this experiment, where do we stop?
- ⇒ Marriage serves a necessary public purpose and it does so as a heterosexual institution, serving both religious and civic needs.
- ⇒ Children should not be subjected to experimental families.
- ⇒ The professional medical organizations that have supported same-sex parenting don’t have enough research data to do so.
- ⇒ And thousands of studies show that children do best with married mothers and fathers.
- ⇒ Any family that says that male and female are optional is not a good human family, no matter how “loving” it might be.
- ⇒ Society needs natural marriage. It has no need for experimental families. This is because both male and female are essential for the family and society.

Let me end with a very relevant quotation from Alvaro de Silva in *Brave New Family*: “Let times change, let the weather change, but do not invent an adulterated family and drink from it as if it were the real nourishing thing.” ❖

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Talking Points

- Society grants benefits to marriage because marriage has benefits for society—including, but not limited to, the reproduction of the species in households with the optimal household structure for children (i.e., the presence of both a mother and a father). Marriage is the union of the two sexes, not just the union of two people.
- Marriage is not a creation of the law. Marriage is a fundamental human institution that predates the law and the Constitution. At its heart, it is an anthropological and sociological reality, not a legal one. Laws relating to marriage merely recognize and regulate an institution that already exists. The benefits of marriage do not flow simply from the presence of two people and government recognition of their relationship. Instead, they flow from the inherent complementarity of the sexes and the power of lifelong commitment. The first of these is rejected outright by homosexuals, and the second is far less common among them.
- The term "marriage" refers specifically to the joining of two people of the opposite sex. When that is lost, "marriage" becomes meaningless. You can no more leave an entire sex out of marriage and call it "marriage" than you can leave chocolate out of a "chocolate brownie" recipe. It becomes something else.

—Family Research Council

- The times demand Christian **courage**. These days, courage means that preachers and Christian leaders must set an agenda for biblical confrontation and not shrink from dealing with the full range of issues related to homosexuality. [E]ven as courage is required, the times call for another Christian virtue as well: **compassion**. The tragic fact is that every congregation is almost certain to include persons struggling with homosexual desire or even involved in homosexual acts. Outside the walls of the church, homosexuals are waiting to see if the Christian church has anything more to say after we declare that homosexuality is a sin.

—R. Albert Mohler

In Their Own Words

A middle ground might be to fight for same-sex marriage and its benefits and then, once granted, redefine the institution of marriage completely, to demand the right to marry not as a way of adhering to society's moral codes but rather to debunk a myth and radically alter an archaic institution.

—Michelangelo Signorile, "Bridal Wave," *Out* magazine, December/January 1994, p. 161.

[E]nlarging the concept to embrace same-sex couples would necessarily transform it into something new....Extending the right to marry to gay people—that is, abolishing the traditional gender requirements of marriage—can be one of the means, perhaps the principal one, through which the institution divests itself of the sexist trappings of the past.

—Tom Stoddard, quoted in Roberta Achtenberg, et al, "Approaching 2000: Meeting the Challenges to San Francisco's Families," *The Final Report of the Mayor's Task Force on Family Policy, City and County of San Francisco*, June 13, 1990, p.1.

It is also a chance to wholly transform the definition of family in American culture. It is the final tool with which to dismantle all sodomy statutes, get education about homosexuality and AIDS into public schools, and, in short, usher in a sea change in how society views and treats us.

—Michelangelo Signorile, "I Do, I Do, I Do, I Do, I Do," *Out* magazine, May 1996, p. 30.

Being queer is more than setting up house, sleeping with a person of the same gender, and seeking state approval for doing so. ... Being queer means pushing the parameters of sex, sexuality, and family, and in the process, transforming the very fabric of society. ... As a lesbian, I am fundamentally different from non-lesbian women. ...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 radically reordering society's view of reality.

—Paula Ettelbrick, "Since When Is Marriage a Path to Liberation?", in William Rubenstein, ed., *Lesbians, Gay Men and the Law* (New York: The New Press, 1993), pp. 401-405.

H. 3133
116th General Assembly

TO PROPOSE AN AMENDMENT TO ARTICLE XVII OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO MISCELLANEOUS MATTERS, BY ADDING SECTION 15, SO AS TO PROVIDE THAT A MARRIAGE OF ONE MAN AND ONE WOMAN IS THE ONLY LAWFUL DOMESTIC UNION THAT SHALL BE VALID OR RECOGNIZED IN THIS STATE.

A JOINT RESOLUTION

Must Article XVII of the Constitution of this State be amended by adding Section 15 so as to provide that in this State and its political subdivisions, a marriage between one man and one woman is the only lawful domestic union that shall be valid or recognized; that this State and its political subdivisions shall not create, recognize or give effect to a legal status, right or claim created by another jurisdiction respecting any other domestic union, however denominated; that this amendment shall not impair any right or benefit extended by the state or its political subdivisions other than a right or benefit arising from a domestic union that is not valid or recognized in this State; and that this amendment shall not prohibit or limit the ability of parties other than the state or its political subdivisions from entering into contracts or other legal instruments?

Yes

No

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word 'Yes', and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word 'No'.



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