

I have to admit to being a little perplexed as to why those who have been arguing for so long against any value in marriage, describing it in such terms as a ‘meaningless piece of paper’ are now elevating it to a basic human right. Laws have been changed to make co-habiting equivalent to marriage such that many couples, like our own Prime Minister, embrace that as the full expression of their love for another person and see no need to get married. Indeed, not being married to her partner has not even kept Julia Gillard from the top job in our nation because there is no longer, in our civil society, discrimination against those who are not married. So why suddenly elevate this ‘meaningless piece of paper’ that supposedly no longer carries significance in civil society to a basic human right? The apparent hypocrisy and double-speak of such is quite astounding.

It would appear that this sudden back flip serves only to further undermine the uniqueness of the institution of marriage within our society. An institution that, despite all the faults and failures of those who enter it, has still provided the basic structure and foundation of our community. Marriage is, and has been for a very long time, a unique and specific relationship – that between one man and one woman who commit to loving and honouring one another and together raising any children produced by their relationship.

And here is one of the fundamental reasons for marriage (and why it has always been far more than ‘just a meaningless piece of paper’) – for the sake of the children produced by the relationship. The plain facts are that children are produced from a man and a woman coming together and are not produced from two men coming together or two women coming together. A homosexual relationship does not and can not produce children. Every child needs a father and a mother to begin life (sperm, containing father’s DNA, + egg, containing mother’s DNA = life) and children do best in life if their own father and own mother continue in healthy relationship with one another and jointly raise their child.

Children raised in loving adoptive or foster homes still consistently report a loss in not having been raised by their own biological parents and generally long to find and re-connect with their own parents. Now that donor-conceived babies are growing into young adults they are beginning to alert us to the detrimental effects of this practice as well (as in this submission to the NSW Parliamentary committee

[http://www.parliament.nsw.gov.au/prod/PARLMENT/committee.nsf/0/996784755f12f19dca2574ea00187d5b/\\$FILE/Submission%2021.pdf](http://www.parliament.nsw.gov.au/prod/PARLMENT/committee.nsf/0/996784755f12f19dca2574ea00187d5b/$FILE/Submission%2021.pdf)

The institution of marriage defines, on a very basic level, what is needed to bring a child into this world and raise them well. That definition stands even in a world of very flawed individuals who fail terribly in living out their commitment to love one another. When the flaws of the individuals involved (or even death) prevent them from providing sufficiently what the child needs from their own father and mother then we, as a society, must provide the next best thing that we are able to provide for meeting the child’s needs. That ‘next best thing’ has been different at different times in our history but it has always proven to be a ‘next best thing’ not an equivalent or improvement on having the child raised by their own loving father and mother. Even when, in our ignorance, we thought we could improve on having children raised by their own mother and father through the stolen generation, history has proven how wrong such thinking was.

This does not limit a child’s needs to that which is provided within the nuclear family. Children benefit from being in close relationship with the whole range of relatives produced by successive generations of marriages raising children –grandparents, great-grandparents, uncles, aunts, cousins, nieces, nephews. Involvement in other community groups is also healthy for children – churches, schools, sporting clubs, drama groups, etc. The benefits of all these relationships, however, do not take away from the child’s need for their own father and mother.

The basic definition of what a child needs that is provided through the institution of marriage remains the ideal and standard by which all else is measured. This does not mean that children raised in other circumstances cannot do well or become productive members of our society – children raised in orphanages have done well, children raised by uncles, aunts or grandparents have done well, children raised in single-parent families have done well, children raised by adoptive parents have done well, children raised by a parent and step-parent have done well, children raised in foster care have done well, children raised by a parent in a gay or lesbian relationship have done well, even children from the stolen generation have done well. The extent to which all these ‘next best thing’ means of raising children have mimicked sufficiently being raised in a loving family with their own mother and father to enable the children from these situations to do well does not change the reality that the ideal environment for a child to grow up in is a loving family under the care of their own father and mother and that there is a real sense of loss for children who are deprived of this. It does not change the need to keep the definition of marriage as being between a man and a woman.

David Novak explains the essential link between the rights of the child and the traditional view of marriage:

“Since procreation combined with child rearing is the only truly public reason for marriage, I think marriage is essentially endorsed and structured by the state to best facilitate the procreation and rearing of children.

Moreover, parents have the *prima facie* right to raise the new persons they have brought into the world as their own children, and into this particular polity as its new citizens. The state should respect that parental right.

When not exercised by the parents who bear that right, the state should enforce the duty of these parents to at least make themselves known to their children and contribute to their physical support in whatever way possible, since these parents are responsible for their children coming into the world. Hence these children have a right, a justifiable claim, on their parents to fulfil their duty to them as much as possible.

Only in cases of gross parental neglect should the state transfer the rights and duties of natural parents to persons willing and able to raise these children to maturity *in loco parentis*.

I consider these rights of both parents and children to be natural, in the literal sense of their natal character, and natural in the sense of being pre-political and thus not entitlements from the state.

It is the children's natural claim upon the humanly instituted state to enforce their parents' natural duty to them. Think of a child's claim on a "deadbeat dad" or "deadbeat mother," which we expect the courts and the police to enforce if that is the only way to get compliance from such irresponsible parents.

And it is the parents' natural claim upon the humanly-instituted state to enforce their children's duty to care for them if they become disabled or infirm. Think of how many of us are disgusted when we hear of adult offspring who have abandoned their disabled or infirm parents when they could care for them or, at least, arrange for their care when the adult offspring themselves could not care for them.

In the case of children, this is the right of the now unborn child to be brought to birth - that is, not aborted *in utero* - and then raised by the two persons, the man and the woman, responsible for his or her conception, which is the event that marks the beginning of one's human being.

So, it would seem that a child can best exercise that right, that justifiable claim, when he or she is living in a family governed and cared for by his or her own father and mother. And a father and mother can best fulfil their parental duty when living together in the marital-familial relation of husband and wife.

Maintaining, preserving, and promoting the traditional institution of marriage is the state's way of best facilitating the exercise of the natural right of children and the natural duty of their parents.” (<http://www.abc.net.au/religion/articles/2011/11/30/3115445.htm>)

There are many wonderful and different social relationships. We give these different social relationships different names to distinguish each from others that might look like them in some ways, yet are different from them in more essential ways. This is NOT a matter of fairness, equality, human dignity or human rights, but of reality – different relationships are not the same, they are different. Grandparents and parents both love the child and may both do many things to love, care for and even provide for the child, but grandparents and parents are different relationships. Mothers and fathers both have a right and responsibility to care for their children but the relationship between the mother and her child is different to that between the father and his child (not many fathers have carried the child in their womb or breast-fed their baby). Marriage and friendship are alike in many ways but friendship is not marriage. Uncles and nephews have a different relationship to fathers and sons. Aunties and nieces have a different relationship to mothers and daughters. All these relationships are good, wonderful and valued in our society but that does not make them all the same relationship or mean that we should give all these different relationships the same name or legal standing. Just because some grandparents take on the role of the parent does not mean that grandparents and parents are not different relationships with different inherent rights and responsibilities. The exception does not make the rule null and void. It is not discrimination or inequality or a breach of human rights to define different relationships as being different and give them different names and different legal standing.

Marriage is a relationship between a man and a woman. A relationship between two men is not marriage, nor is a relationship between two women. A relationship between two men who care deeply about one another can be a familial relationship (eg father-son, uncle-nephew, cousins), it can be a friendship (as most are), it can be a homosexual relationship, but it cannot be a marriage because marriage is a specific relationship between a man and a woman. The same is true for a relationship between two women who care deeply about one another. Now there may be good reason to have names, and even legislation, to differentiate a casual homosexual relationship from a committed homosexual relationship, in which case ‘Civil Union’ seems to fulfil that role.

Since marriage is not the only relationship that involves two people caring deeply for one another, familial relationships are not the only relationships that involve two people caring deeply for one another and sexual relationships are not the only relationships that involve two people caring deeply for one another there may be some value in our society recognising and affirming relationships between persons committed to supporting one another, regardless of their gender or whether the relationship is sexual. A ‘Civil Union’ may be one way of doing this, but these seems to be specifically for people in a sexual relationship and not all persons committed to supporting one another are in a sexual relationship, many just share a deep friendship. Friends don’t have a political lobby group behind them yet to fight for their rights when the person they care about is hospitalised or dies. No person, when someone to whom they are more committed than anyone else is, needs to have the grief and loss compounded by having to prove that he or she is authorised to make the funeral arrangements. We need laws and guidelines to prevent this, and public awareness of how to access the procedures to ensure that they are not put in this terrible position.

‘The Case for Equal Marriage’ (<http://www.australianmarriageequality.com/case.htm>) argues that:

“Many same-sex couples wish to marry. They want to do so for the same reasons as their opposite-sex counterparts - to publicly proclaim and celebrate their love and commitment, to protect their children,”

In answer to their first argument for changing the definition of marriage: People who want to publically proclaim and celebrate their love and commitment to one another are free to do so now. It does not take a redefinition of marriage to enable them to organise a celebration. The public celebration and proclamation of love and commitment is a personal matter, not a legislative matter. We don't need legislation to enable people to celebrate a 21<sup>st</sup> Birthday party (even if it does include a parent's public proclamation of their love and commitment to their child who has just 'come of age'). Neither do we have engagement legislation but that has not stopped generations of Australians publically proclaiming and celebrating their love for one another at engagement parties. Do the homosexual lobby group really want government legislative interference in how they celebrate their love?

Secondly, defining what is not marriage as marriage does not protect children. Children are protected by a society that recognises their right to know and be raised by their own biological parents wherever possible but also ensures that others take care of them if their own parents are unwilling or unable to do so. The example given: “When a child is hurt on a school trip, and the biological parent is unavailable, the co-parent does not want to have to convince a schoolteacher that the relationship is valid.” This is not about the protection of children but the comfort of adults. All that the school teacher needs to know is that the person who is coming to care for the child is authorised to do so – that has NOTHING to do with whether or not that person is in a sexual relationship with the child's biological parent. It has nothing to do with whether the person coming to school is married to the child's biological parent. We do not need to change the definition of marriage to have someone involved in a child's life care for them if they are hurt on a school trip. Marriage certificates are not needed for school enrolment or for a parent to let the school know that another responsible adult is authorised to attend school, collect their child from school or make decisions concerning their child if they cannot be contacted.

As one who has spent the last 30+ years working with, and advocating for children in both professional and voluntary capacities I have seen all too often adults espouse whatever they think will make them feel better as “being in the best interests of the children”. “My children need me to be happy” is too often used as a justification for inflicting on children things that are not in their best interests. Our responsibility as a society is to provide protection, as much as we are able, to the most vulnerable members of our society – to those whose development is most greatly affected by our actions – to the next generation – to our future. Children are not given choice in the circumstances of their conception or the environment in which they are raised. We who have that choice need to consider carefully what impact our choices will make on our children and not try to justify depriving the children on the basis of “our rights”. “Our rights” do not and should not override our children's rights. Principal 2 of the Declaration of the Rights of the Child (<http://www.undemocracy.com/A-RES-1386%28XIV%29.pdf>) states that:

The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially **in a healthy and normal manner** and in conditions of freedom and dignity. **In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.**

Principal 6 states:

... **He (the child) shall, wherever possible, grow up in the care and under the responsibility of his parents ... a child of tender years shall not, save in exceptional circumstances, be separated from his mother ...**

This basic right of a child to grow up in the care and under the responsibility of his/her own parents should be the paramount consideration when considering any legislation that could impact on that right. We all know that in our imperfect world, filled with very imperfect human beings, many children are denied that right – but that does not excuse enacting any legislation that will negatively impact on that right.

On a personal note: When I was 7 my parents divorced. In the divorce I lost not only my father but the one adult with which I had an emotional bond. My mother could be diagnosed with Aspergers and lacked the social skills to be able to form an emotional bond with any of us (I am the eldest of 4 children). Her lack of social skills also meant that we were not exposed to other adults who could meet our emotional needs. So my parent's divorce was a huge loss and grief for me. I was not, however, allowed to have such grief or sense of loss. My mother's story was that "it was the best thing that happened to us" and we had to speak and live that story. This suppression of my deepest feelings and needs as a 'horrible, unacceptable monster' that had to be chained and locked behind thick impermeable walls if it could not be eliminated completely did even more harm than the loss of my father which that need was crying out for. It robbed me of any sense of who I really was or any right to think or feel what I thought or felt. If you had asked me as a child I probably would not even have admitted to missing my father, because such feelings were totally unacceptable and had to be buried below consciousness. On the outside everything looked fine and I appeared to be succeeding at school etc, but on the inside I was dying / I was dead to my own thoughts, opinions and feelings.

One of my great concerns about the push to try to 'normalise' families headed by other than the child's own mother and father is the way that places on the children of these families that same need to suppress their grief, loss and need of their own mother and father. In our crazy, mixed up world many children will suffer that loss of either their own mother or their own father, or both, but to compound that loss by structuring our society and laws to deny the reality of the loss is a detrimental step that we do not need to take as a society. For years we tried to do that with adoptions – and the adoptees have NOT thanked us for it. The stolen generation have not thanked us for it. Donor conceived babies are now rising up as young adults and not thanking us for it. There is no reason to assume that children raised by "two mothers" or "two fathers" as though these were their own two parents will raise up and thank us for it once they reach adulthood.

Yes, we need to recognise that children grow up in all sorts of different families. But we also need to recognise the losses and grief's involved in not having your own mother and father in that family. We do the children no favours by trying to pretend as a society that all families are 'equal' and denying the very real emotional and identity losses suffered by children who are denied the right to grow up under the care and responsibility of his/her own mother and father. It is only in acknowledging these losses that we can help the child work through the loss in establishing their own identity. It is only by acknowledging these losses that we can work on employing the most effective means of mitigating against the losses by helping the child develop other relationships to help fill some of the unmet needs associated with the loss. It is only in acknowledging these losses that we can help the child search out the information they need about their own father and/or mother to gain some sense of their own heritage (for identity and cultural reasons) and genetics (for health reasons).

If both partners in a marriage (that is, the joining together of one man and one woman) fulfil the commitments of their marriage they provide for the needs and right of their children to grow up in the care and under the responsibility of their own parents. The fact that many marriage partners are imperfect human beings who do not fulfil their marriage commitments does not take away from the fact that the institution of marriage provides for the rights of the children of that marriage to grow up in the care and under the responsibility of their own parents. A committed homosexual relationship does not provide for that basic right of the children so a committed homosexual relationship is not

marriage. By biological definition any children under the care of a homosexual couple are not under the care of both their own mother and father. A marriage can provide children with the opportunity of growing up under the care and responsibility of their own mother and their own father. A homosexual relationship cannot provide children with that opportunity – it is not a marriage. It may be a committed relationship, it may have love and lots of good feelings in it, the people involved in the relationship may derive many wonderful benefits from the relationship – but it is not a marriage.