Marriage à la mode:

Answering the Advocates of Gay Marriage

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Welcome to "Marriage à la mode." The title refers not to marriage with ice cream, of course, but to marriage according to the current fashion. Given the latter, it is no accident that gay people are now hoping to marry. Their claims are merely the most recent expressions of pervasive assumptions about marriage among straight people. We will discuss not only the demand for gay marriage in particular, therefore, but also the current state of marriage in general (along with historical and cross-cultural notions of marriage). The context for this case study is Canadian,[1] but almost everything we say should be of interest to American readers as well.

Our method is both dialogical and comparative. One of us is a man, the other a woman; one is Jewish, the other gentile; one is gay, the other straight; one specializes in Western civilization, the other in Eastern civilizations; and so on. As a result of our collaboration, we have been able to gather a great deal of evidence to support our responses to the arguments made by advocates of gay marriage.

Before discussing those, however, we are going to discuss an underlying assumption about heterosexuality. Though unstated, the arguments based on it are quickly becoming conventional wisdom in the most influential academic and political circles. Opposing it, therefore, always involves counter-intuitive and "politically incorrect" arguments. The burden of proof has landed on us in fact, therefore, even though it should in theory be on those who want change.[2]

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Most people, both gay and straight, assume that heterosexuality is a given of nature. And, in one way, that is true. But we argue - and this is a matter of fundamental importance - that heterosexuality must nonetheless be deliberately fostered and supported by a distinctive culture.

Much of what is accomplished in animals by nature - this is often known as "biology," "genetics," "instinct," and so on—-must be accomplished in humans by culture. Although no particular culture is genetically encoded, the ability and need to create culture is genetically encoded. We are equipped and even driven by nature, paradoxically, to be cultural beings. This has made us more flexible than animals, which rely entirely (or almost entirely in the case of a few non-human primate species) on nature. This, in turn, has greatly facilitated our adaptation to new circumstances or environments and thus fostered human survival. Culture is not a superficial veneer on something more primitive and basic, in short, but a defining and fundamental feature of human existence; if it were somehow removed, the result would not be a functioning organism, whether human or non-human. Apart from any other handicap would be its inability to reproduce successfully. Why? Because mating, or copulating, which really is largely governed by a biological drive, is not synonymous with the complex behaviors required by family life within a larger human society. (Consider, for instance, everything that adolescents must learn.) So sexual behavior is governed not only by nature but also by culture.

Because heterosexuality is directly related to both reproduction and survival, and because it involves much more than copulation, every human society has had to promote it actively (although some have also allowed homosexuality in specific circumstances).[3] And marriage is the major way of doing so. It has always required a massive cultural effort involving myths or theologies,[4] rituals,[5] rewards, privileges, and so on. Heterosexuality is always fostered as a cultural norm,[6] in other words, not merely allowed as one "lifestyle choice" among many. Some norms vary greatly from one society to another, to be sure, but others—-along with the very existence of norms—-are universal. So deeply embedded in consciousness are these that few people are actually aware of them. The result, in any case, is a "privileged" status for heterosexuality. Postmodernists are not wrong in identifying it as such, but they are wrong in assuming that any society can do without it.[7] Not surprisingly, comparative research reveals a pattern: Marriage has universal or nearly universal[8] features and variable ones.[9]

Its universal features include the fact that marriage (a) encourages procreation under specific conditions; (b) recognizes the interdependence of men and women; (c) defines eligible partners; (d) is supported by authority and incentives; (e) has a public dimension; and (f) provides mutual support not only between men and women but also between them and children. Its nearly universal features are (a) an emphasis on durable relationships between biological parents;[10] (b) mutual affection and companionship;[11] (c) family (or political) alliances; and (d) an intergenerational cycle (reciprocity between young and old). These features assume the distinctive contributions of both sexes, transmit knowledge from one generation to another, and create not only "vertical" links between the generations but also "horizontal" ones between allied families or communities.

As for the many variable features of marriage, these include endogamy (marrying within a group) or exogamy (marrying outside it); marrying up in status or marrying down; arranged marriage or chosen; dowry (from the bride's family) or bride price (goods given or services performed by the groom); sexual equality or hierarchy; many children or few as the ideal; extended family or nuclear; residence with the bride's family, with the groom's, or neither; divorce allowed or prohibited; and so on. Alternatives to marriage are celebrated in some societies (as in the case of celibate monks, for instance, or shamans) and tolerated in others (such as single people or gay couples) but only when the larger society is in no danger of failing to reproduce itself.

We conclude that every society needs a public heterosexual culture,[12] specifically marriage, to foster five things: (a) the birth and rearing of children (at least to the extent necessary for demographic continuity) in culturally approved ways; (b) the bonding between men and women in order to provide an appropriate setting for maturing children and to ensure the cooperation of men and women for the common good; (c) the bonding between men and children so that men are likely to become active participants in family life;[13] (d) some healthy form of masculine identity—-that is, an identity based on at least one distinctive, necessary, and publicly valued contribution to society (responsible fatherhood being one obvious example); and (e) the transformation of adolescents into sexually responsible adults.

Given the prevalent but misleading assumptions about heterosexuality, ones that underlie all of the claims made by advocates of gay marriage, it is clear to us that this public debate is really about that and not about homosexuality. We do not argue that there is anything wrong with the latter. Nor do we argue that there is anything wrong with gay relationships. What we do argue is that heterosexuality—-which is to say, marriage between men and women—-must be publicly fostered by culture and supported by law.

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We turn now to the twenty-one most common arguments, most of them closely interrelated, that are made by advocates of gay marriage.

Argument 1: Marriage is an institution designed to foster the love between two people. Gay people can love each other just as straight people can. Ergo, marriage should be open to gay people: The second statement is true, and the third follows logically from it. Because the first statement is false, however, this line of reasoning makes no sense. Marriage is a complex institution. Fostering the emotional gratification of two adults is only one of its functions—-and not the most important one from a cross-cultural or historical perspective. (As it happens, this exclusive focus on emotional gratification coincides with declining birthrates and increasing divorce rates in almost every Western society.) We do not want to prevent gay people from loving each other and living together. The only question is whether they should do so in the specific context of marriage.

 Argument 2: What's all the fuss about? Gay people are a small minority. Allowing them to marry would mean nothing more than a slight alteration to the existing institution and even add support for it: This argument is disingenuous, to say the least. If the alteration were so slight, after all, why would (some) gay couples insist on access to marriage? The question is worth asking, because gay couples in Canada already have most of the benefits[14] conferred by marriage and more can be added. Ostensibly, only the word "marriage" is at stake.

As for adding support to the institution of marriage, which has already been severely weakened in many ways—-secularization, easy divorce, respectable cohabitation—-that contention is dubious. It is true that (some) gay people are motivated by the current straight ideal of settling down to bourgeois domesticity. But that sentimental ideal, whether held by gay or straight people, is a very impoverished one compared to the ideals associated with marriage in many communities, including our own not so long ago (notwithstanding the occasional need for reform). Gay marriage, with its focus on "love," might add support to this impoverished ideal of marriage, sure, but only at the cost of undermining support the its primary functions (along with its richer and deeper ideals).

Besides, the political rhetoric here is about expansion and inclusion. And these notions are, by definition, never static. If "love" were the only significant feature of marriage, after all, then why stop with love between two people (whether gay or straight)? Why not expand the notion to include three or more? Polygamy—-we will return to that topic—-would

hardly be unprecedented in human history. Due to political expediency (since most people in our society dislike the idea of polygamy), that possibility is never taken seriously by advocates of gay marriage. (Nonetheless, some churches have already their support for "polyamory."[15] Some retort, for instance, that very few people would actually demand the legalization of polygamous relationships. And other ones could be added to the list (see below). True, but that would be utterly irrelevant, by sheer logic, if it could be shown that marriage were a human right. And that is precisely what advocates of gay marriage intend to show. In that case, the government—-any government—-would be morally bound to make accessibility universal. Not many people have considered the implications, in short, of what looks like a very simple argument for the expansion of marriage to include gay people. We will discuss in more detail, toward the end of this paper what would probably change if gay marriage were legalized.

Argument 3: Not all straight couples have children, but no one argues that their marriages are unacceptable: Actually, that is an oversimplification. Consider the case of infertility. Some religious traditions have seen that as a basis for divorce or annulment. Others have allowed the husbands of infertile women to take additional wives (nowadays, surrogate mothers)[16] or allowed the wives of infertile husbands to sleep with other men (nowadays, sperm donors).[17] These measures mitigate the suffering of married people in unusual circumstances but not by undermining marriage itself as the norm. Consider also the case of post-menopausal women. In much earlier times, very few women survived past the age of childbearing. Late marriages, therefore, seldom occurred. These are now more common but remain exceptions. Even so, they support the symbolism of marriage, in short, and thus serve communal needs. It is true that one function of marriage is to bring men and women together in the interest of producing future generations, after all, but another function is to bring them together in the interest of social stability—-that is, to prevent social fragmentation (the two most obvious and symbolically important fragments being those of men and women). In this sense, even childless marriages (between men and women) contribute directly and significantly to the achievement of a fundamental requirement of every society. Gay childless marriages, on the other hand, would not. Consequently, they would dilute the symbolism of marriage. Advocates of gay marriage find it convenient to ignore all this, arguing as if marriage had no communal dimension.

Some married couples are now childless by design, however, rather than by default. As exceptions, even they do not seriously undermine the symbolism of marriage. But incorporating them into a new norm, created by legalizing gay marriages (which cannot produce children), would do precisely that.

Finally, it is worth remembering that childless couples by design sometimes change their minds or have "accidents." For that reason (along with the need for demographic survival), every society must assume that most couples will have children. Marriage is based primarily on this and other communal needs, not individual ones.

Argument 4: Some gay couples do have children and therefore need marriage to provide the appropriate context: This claim reverses the other one by accepting the premise that marriage is the ideal context for children. The problem is that gay marriage would provide that context in name only. Our point here is not that gay couples are less able to love their children than other couples; they are neither more nor less able to do that. Nor is it that gay couples would teach their children to be gay; the mere fact of being gay, from our point of view, is not problematic in any case. The point is that children require more than love from their parents, whether gay or straight.

One thing that they surely require is at least one parent of each sex. (We say "at least one," because an extended family—with aunts, uncles, and grandparents—is much closer to the ideal than an isolated nuclear family.) That is because the sexes are not quite interchangeable. Though much more similar than dissimilar, both sexes are distinctive. Boys cannot learn how to become healthy men from even the most loving mother (or pair of mothers) alone. And girls cannot learn how to become healthy women from even the most loving father (or pair of fathers) alone. The need for fathers is particularly acute for boys, moreover.[18] Like girls, they must separate from their mothers. Unlike girls, however, they must also switch the focus of their identity from one sex to the other. Many psychological and sociological studies to support these claims.[19]

And the problems they reveal apply not only to gay parents but also to straight single parents. Yes, there have always been single parents due to death, divorce, or desertion. But these were the exceptions. Now that divorce has become so common, the phenomenon has changed. Single parenting—-usually by mothers and sometimes by choice—-has become a "lifestyle." The message to fathers and their children is that men have no distinctive, necessary, and publicly valued function in family life. And the psychological and sociological results of fatherless children on a massive scale (see below) are not exactly encouraging. Advocates of both gay and single parents often argue that the problems just

mentioned can be fixed by bringing home friends or relatives to serve as "role models." But can these transient visitors adequately replace the enduring presence within a family of adults of both the same sex and the opposite sex? Advocates of gay and single parents can hardly demonstrate that.

Some argue that the men seen on television or in the movies, even pop stars, can function as "role models." Indeed, they can. But are these healthy ones? Very, very few men in popular culture would ever be as helpful in this respect as the late Mr. Rogers. Are we really prepared to settle for the likes of Homer Simpson and Michael Jackson, say, or the Terminator and anyone else who happens to represent macho cool at the moment? The welfare of children is an afterthought for advocates of gay marriage and single parenting, not something that takes priority over their own interests.

Some gay people become parents while still involved in straight relationships. Others do so in the context of gay relationships. Lesbian couples, for instance, often resort to sperm banks and artificial insemination. New reproductive technologies can look very attractive to those who want children but not even token relationships with the opposite sex. Legalizing gay marriage would certainly increase interest in these technologies and probably lead to demands for access to them in order to equalize their ability to have children. But these technologies present many moral and legal problems.

At the heart of this argument, however, is that the children of unmarried gay couples suffer from prejudice. Aha! Finally, a reference to children! But wait. If these children suffer from prejudice, it is almost certainly because their parents are gay and not because they are unmarried. We should eliminate prejudice against gay people, by all means, but legalizing gay marriage would hardly do the trick. Not at a time when the stain of "illegitimacy" has all but disappeared. For the past forty years, single parents—-especially single mothers—-have been glorified on talk shows and in countless made-for-television movies as victims who, according to the lingua franca of identity politics, nonetheless become "survivors." There is no longer anything unusual, much less illicit, about children who have only one parent. And now, given the fact that gay people may either adopt or resort to reproductive technologies, there is nothing all that unusual about children who have two mothers or two fathers. Whatever other problems the children of gay parents might have—-and they do have some significant ones—-this is surely not one of them. Redefining marriage to ease the pain of having unmarried parents, in short, would be like using an atomic bomb to kill a fly.

Finally, there is something to be said for the importance for children of living with both biological parents. Many adopted children make strenuous efforts to find or at least discover the identity of their biological parents and thus something important about their own identities. And its works the other way, too, especially for fathers. Men with biological ties to future generations, after all, are likely to invest in the future of society.[20] It is one thing to admire adoptive parents for replacing unavoidably absent parents (motivated by altruism on behalf of children) but another thing to argue that adoptive parenting should be considered an "alternative lifestyle" (motivated by the desire of adults).

Argument 5: Marriage and the family are always changing anyway, so why not allow this change? Well, yes, of course, institutions change. Whether they always change in beneficial ways is another matter entirely. Unless we adopt the mentality promoted by countless ads and commercials—-every product is "new and improved"—-we must at least imagine the possibility that some changes might be for the worse. There is no logical connection, in short, between either "new" and "improved" or "changed" and "better." Marriage has changed for the worse in many (though not all) ways, over the past forty years. It has been so severely weakened, at any rate, that many straight people dismiss as "nothing more than a slip of paper."[21]

And whether institutions change in all ways is yet another matter. Some features of marriage have not changed, which means that they are universal and therefore, presumably, both necessary and beneficial. Marriage has always been supported by the highest authorities and always been publicly witnessed, making every marriage a matter of communal importance—-which is to say, one that serves more than individual needs. These cultural norms are so pervasive and so enduring that they might as well be due to nature itself. We play with them at our peril.

At the very least, people should be aware that they are considering one of the most serious experiments in human history. People are not like rats in a lab; utopian experiments that go wrong have often caused suffering on a colossal scale. New problems often replace old ones, at any rate, unforeseen factors suddenly become evident, and it is very hard to reverse trends once they become culturally embedded in worldviews. Some societies pull through after centuries of chaos. Others, seeking quick fixes, do not.

Argument 6: Marriage and the family have already changed, so why not acknowledge the reality? This cynical variation of claim 5 is used by those who find it inexpedient to argue about whether these changes are beneficial or harmful. What matters, they believe, is merely that these changes have already occurred. In that case, it would surely make political sense to adjust accordingly. Maybe so, but would it make any moral sense?

Is this the appropriate time, moreover, to accept change uncritically? When marriage is not merely changing but disintegrating? And children are most at risk. As we say, their needs are hardly ever taken seriously in the debate over gay marriage; they have become bystanders in a debate over the rights of adults.

Argument 7: Children would be no worse off with happily married gay parents than they are with unhappily married straight ones: This comparison is false, because it involves the best of one scenario with the worst of another. A legitimate comparison would compare either the best of both or the worst of both. Once again, we suggest that the best of marriage (providing at least one parent or other adult of each sex) is better than the best of gay marriage (which provides two parents of the same sex and none of the other one).

Argument 8: Given global overpopulation, why would anyone worry about some alleged need to have more children in any case? Even though some countries are indeed overpopulated, others are not. Like most Western countries, for instance, Canada has a rapidly aging population.[22] Both the birth rate and the death rate are declining. This will have serious consequences for future generations. And even though many people are unaware of demographic struggles, those who belong to minority communities[23] or those that consider themselves demographically threatened[24] are very much aware.

To argue that immigration would solve the problem of an aging population—-immigrants, presumably, will continue to have children and require no governmental encouragement—-is to imply that they should be exploited as breeders. We would have to encourage immigration on a colossal scale. But how many immigrants would tolerate—-how many would even immigrate to—-a society that fails to uphold their ideals of marriage, which have been based on the long-term bonding of men and women to provide the ideal setting in which to bring up children?

Argument 9: Marriage should change, whether it already has or not, because patriarchal institutions are evil: This claim is both insidious and overtly ideological. That is because it uses the rhetoric of legal reform (allow gay people to enter mainstream institutions such as marriage) to mask the underlying goal of social revolution (create a new society by destroying institutions such as marriage). A good case can always be made for reforming institutions in this way or that. And our society has reformed marriage many times, most recently to improve the position of wives. But there is a big difference between reform and revolution. The claim under discussion here is that heterosexuality makes marriage patriarchal, which is an ideological code word for evil. To solve that problem, the heterosexual basis of marriage must be destroyed. Legalizing gay marriage could do the trick by redefining marriage beyond recognition. The result would still be called marriage, but it would in fact be another institution.

Argument 10: Gay marriage has had historical and anthropological precedents: Actually, it has had not even one precedent as the norm of any society.[25] Some societies have allowed exceptions to the norm, yes. And some rulers—-chiefs, kings, or emperors—-have defied all norms to symbolize their omnipotence. But the marital norm for every society has always and everywhere been heterosexual.

Research on gay marriage, so far, has been done mainly with advocacy in mind: supporting and finding precedents for it. By academic standards, this material reveals several important problems—-both substantive and methodological. Some precedents are ambiguous, because they are merely analogies to marriage. Gay love is said to be like marital love, an initiation ritual into same-sex warrior bonding is said to be like marriage, and so on. Other precedents are taken out of context. It is true that some Amerindian societies allowed men to marry other men. But, judging from the information that has been recorded, these societies made sure that only a few men were allowed to do so or that their husbands had already married women and produced children so that demographic survival was not endangered. As for Nero and Elgabalus, Roman emperors, they married men but in a context-—Rome's degenerate aristocracy in which murder was rampant and even a horse could be made a senator—-that few people today, gay or straight, would find edifying. Do we really need to take moral instruction from these guys? Many precedents are irrelevant, moreover, because they refer only to gay relationships, not to gay marriage. These are not the same and are not now, in any case, being challenged. Sometimes, moreover, evidence is indirect. Sometimes arguments are made from silence. Sometimes, important information is even ignored—-such as subsequent banning of gay marriage.

Even if there were anthropological and historical precedents, however, these would be utterly irrelevant from a moral perspective. Just because something has been done in some other society at some other time, after all, does not mean that it should be done in our society at this time.[26] One obvious example should make this clear. Slavery has been practiced in many societies. Should we therefore consider re-establishing that institution? Doing so would be a moral non sequitur, to say the least.

Argument 11: Banning gay marriage is like banning interracial marriage: Actually, it is not. This argument is based on a reductive analogy between racism and heterosexism. Almost all people today would agree that the state should have no right to prevent interracial marriage, and some now argue for the same reason that it should have no right to prevent gay marriage. Both racism and heterosexism are forms of prejudice. Both are due to a combination of ignorance and malice. Both are evil. But the analogy is seriously flawed, because it assumes that all those who oppose gay marriage, like all those who oppose interracial marriage, are bigots. Some are, but others are not.

Marriage between people of different races was indeed banned in the American South because of racism. But that was one example of a larger phenomenon. We refer to endogamy, marriage only with those from inside the community. And endogamy is not always caused by racism. Sometimes, for instance, it is caused by religion—-that is, by the urge to perpetuate a religious culture. (These societies ban interreligious marriage but usually accept marriage to converts, regardless of their racial or ethnic origins). In any case, endogamy is a cultural variable. Many societies practice exogamy, after all, marriage only with those from outside the community. Endogamy cannot be considered a universal feature of marriage and should not, therefore, be required by law in a diverse society. Marriage between men and women really is a universal feature, both historically and anthropologically. It has been the universal norm. And for a good reason: bringing men and women together for both practical and symbolic reasons. The prejudice of some people notwithstanding, in short, there can be a morally legitimate reason for maintaining the heterosexuality of marriage.

Besides, how many advocates of gay marriage would argue by means of the same analogy in favor of polygamous or other forms of marriage? Some would, no doubt, but not many.

Argument 12: Women were once victims of unjust discrimination; gay people are still victims of it; ergo, justice requires the elimination of discrimination for gay people too. And we agree! But is denying gay people access to marriage the same as denying women access to education, say, or jobs? To make the analogy work, you must argue that denying marriage to gay couples by definition is the equivalent of denying something to women by definition. What can women not have by definition? Only one thing: a penis. (Similarly, men cannot have one thing by definition: a womb.) Are gay people really ready to claim that the state owes women (or men) transsexual surgery? This would be surprising in view of the fact that women (and men) themselves have not made the claim.

Argument 13: The case for gay marriage is more "poignant" than the case against it: This argument was made by a judge on Ontario's Superior Court of Justice. Robert A. Blair supported gay marriage even after admitting that good arguments had been made against it. For him, emotion was more important for legal decisions than reason; how we feel is more important than what we think. "The evidence put forward by these participants," he wrote, "does not reflect the same personal poignancy as that of the applicants."[27] This is hardly surprising in the age of Oprah Winfrey.

Argument 14: Gay marriage is necessary for the self-esteem of a minority: Given that mentality, it is easy to understand the driving force behind this demand for gay marriage: the idea that people have some moral (and should therefore have some legal) right to state recognition for their personal identity. This is the heart of the matter because of its implications for democracy. Every democracy, by definition, consists of both a majority and one or more minorities. To argue that life is intolerable merely by virtue of being in the minority is, ironically, to undermine the very foundation of democracy. One analogy should make this point clear.

Jews have lived as minority communities for a long time and managed to maintain their collective self-esteem despite prejudice or persecution far more severe and pervasive than anything that gay people must endure today. How could they achieve that? Because self-esteem originates within both the individual and the community. In other words, self-esteem, like human rights, can be neither conferred nor denied by the state. Jews expect the state to provide them with protection from anti-Semitic violence, yes, but not with psychological or even symbolic therapy as victims of minority status. It is true that not every individual Jew has managed to develop a healthy Jewish identity, a problem that Jewish communities have always faced by taking responsibility for promoting their own intellectual, moral, and spiritual resources. Besides, Jews who do have identity problems are usually those who have been most fully accepted by the

larger society, not those who remain marginal. Canada is a secular state, moreover, but Jews live happily enough even in some officially Christian states such as Britain.

Besides, this argument merely foists the problem of inadequate self-esteem onto another group: single people. If marriage were so vital to self-esteem, after all, anyone who is either unable or unwilling to marry would be more isolated than ever and, to follow the argument in favor of gay marriage, more likely to experience self-loathing than ever before.

Argument 15: Anyone who opposes same-sex marriage is homophobic: This argument amounts to verbal terrorism. By "homophobic" is meant prejudice and hostility, although this word actually connotes the neuroticism of a phobia. The implication is that only evil or sick people can possibly disagree with any claim made by gay people. So much for the possibility of rational debate. (Never mind that not even all gay people are in favor of gay marriage.)

Moreover, this is an ad hominem argument. It is easy to trivialize arguments by attacking the personal integrity of those who make them. That way, you need not deal with the argument itself.

Argument 16: Exceptions could be made for religious communities that disapprove of gay marriage, or religious communities could simply add their rites to those of the state: Both possibilities, actually, are of dubious value. Either way, after all, the argument for gay marriage is based on a notion of human rights. It rejects what advocates consider unjust discrimination. Exceptions would make no moral sense at all in that context, let alone legal sense. Because Western nations uphold both the human right to religious freedom and the human right to equality, conflict would be very likely. Exceptions might be politically expedient for the time being, sure, but no religious community would be able to withstand for long the charge of violating human rights by refusing to solemnize gay marriages. And that charge would inevitably be made. Guess which one is most likely to trump the other.[28]

Legalizing gay marriage would open up another legal conflict. Any religious community that takes a stand against gay marriage is likely to face public harassment, the hostility of popular culture, and so on. Where would the line be drawn between the human right to freedom of speech and the human right to religious freedom?

But freedom of religion means much more than the right to refrain from performing alien rituals. Even if religious communities could maintain that right, they would hardly be able to maintain other ones. Public schools would teach their children that gay marriage is no different from any other kind, for instance, and even religious schools could be forced to do so. We must add here that, when it comes to differentiating between the promotion of heterosexuality (which could be understood as an ideal for the majority) and the condemnation of homosexuality (which can amount to the promotion of hatred for a minority), these communities have a very bad track record. And freedom of religion, like any other right in a liberal democracy, is never absolute.

Argument 17: To sustain an "ethic of caring and responsibility," we must include gay people in every institution: Every ethical system, of course, is by definition one of "caring and responsibility." No community has ever knowingly adopted an "ethic of non-caring and irresponsibility." The claim under discussion is that we do so precisely by refusing to marry gay couples. Which might be true if no other interests were involved. In that case, there could be no moral excuse for denying gay people something given to other people. But other interests are involved, including not only those of children and those of society at large but also those of many religious communities. Forty years ago, divorce laws were changed to help the few who were trapped in seriously troubled marriages. Divorce is now as common as marriage itself. Worse, we have replaced one problem with many others. We have not only severely weakened marriage but also, as a result, greatly increased the number of divorces, the number of single-parent families, and the number of children dependent on social-service agencies. This is "caring and responsibility"? The fact is that we have no better understanding of what might happen as a result of legalizing gay marriage than we did about making divorce easier. To find out, we would have to conduct a massive experiment on the people of generations to come. That might involve "caring" in a purely sentimental sense, but it surely would not involve any sense of moral responsibility.

Argument 18: Norms of any kind at all are discriminatory: This argument is somewhat more sophisticated than the others. Most people in democratic societies place a high value on equality, and rightly so. Discrimination can infringe on equality. Therefore, they assume, discrimination is inherently evil. The truth, however, is more complicated.

Consider the word "discrimination." It is almost always used in public life with the heavily negative connotation of malicious and prejudicial discrimination against this or that group. There are some telling exceptions, though, such as a

reference to someone with "discriminating taste" in art. In that case, the word connotes discernment, refinement, or intelligence. And with good reason.

In any case, there could be no such thing as culture—-by that, we refer not only art or some other expression of elite culture but also popular culture and everything else in human existence except whatever is genetically determined—-without the ability to make distinctions. We could not exist as human beings, in other words, without establishing collective priorities, choices, preferences. We cannot have it all, or do it all, either individually or collectively. We must select some possibilities because of their real or perceived value to most people, which means that we intentionally or unintentionally de-select other possibilities (although we might tolerate some as legitimate possibilities for minorities).

In one sense, discrimination in the ordering of society is unfair. It intrudes on our commitment to perfect equality. But the human condition does not permit perfect equality, which is why so many religious traditions insist that the ideal of perfection can exist only in some realm beyond time and space—-that is, in the Garden of Eden, the Messianic Age, the World to Come, the Kingdom of God, the Heavenly Jerusalem, the Pure Land, Vaikuntha, or whatever else religious people have called paradise. Unfortunately, many of the political ideologies that emerged in the nineteenth and twentieth centuries have insisted that, on the contrary, perfection can be attained here and now. In trying to establish their ideological utopias by force, or at least the force of law, they often created hideous dystopias instead. What they lacked was not necessarily a noble vision but a basic understanding of human nature and the limitations imposed on us by human finitude (a problem compounded by their belief that ends can justify means).

If discrimination in the case of marriage were evil, we suggest, then it would surely be the lesser of two evils. In the long run, gay people have as much to gain as straight people from the strengthening of marriage as currently defined. If society is in trouble, after all, it is in trouble for everyone-—both straight and gay. Gay people have as much to lose as straight people, therefore, by weakening it.

Argument 19: Almost everyone believes in equality. How can we have that if gay citizens are denied a right given to other citizens? This is the most sophisticated argument, because no one can dispute either the value of equality or the fact that gay people are denied it in connection with marriage.

Everyone agrees that equality under the law is a good thing. But for it to be more than a pious pipedream or a utopian ideal, at least some allowance must be made for the fact that nature itself knows nothing of equality. Equality is a laudable human ideal, moreover, but no ideal can ever be completely or perfectly attained. Every moral and legal code must be based partly on the universal need to live with ambiguity and paradox—-or, putting it another way, to balance the conflicting needs of individuals or individual communities with those of society as a whole.

Consider the needs of those who cannot have children on their own and therefore resort to new reproductive technologies. These have the potential to do far more than help a few sad couples. They have the potential to pit men and women against each other.[29] Moreover, they have the potential to greatly increase the demands of gay people. If they are going to have children of their own (as distinct from adopted ones), many of them will have to make use of these technologies. The gay demand for marital inclusiveness, in short, would almost inevitably include their demands for reproductive inclusiveness.[30]

If we were to argue that equality permits no exceptions, moreover, then we would be both intellectually and morally obliged to oppose current laws against polygamy or even incest. But consider these analogies more closely. They are not nearly as far-fetched as they might seem at first. Polygamy—-this usually takes the form of polygyny (many women) but sometimes the form of polyandry (many men)—-has been common both historically and cross culturally. Most polygamous societies have found ways to mitigate obvious problems. They have restricted the number of spouses, restricted the institution to those who can afford more than one household, specified the amount of attention that must be paid to each spouse, and so on. It is by no means outlandish, therefore, to suggest that the demand for polygamous marriage would follow directly from the demand for gay marriage—-especially in view of the fact that some Muslims and Mormons would approve. But would our society be able to provide as many protective structures as other societies to polygamous families? Given its predilection for individual freedom and chafing at even the restraints involved in marriage as we know it now, that seems unlikely.

Many people could probably tolerate polygamous marriage, at least in theory, but very few would be prepared to tolerate incestuous marriage. Nonetheless, there are now those who advocate removal of what they call the "last taboo." (Most

refer to consenting adults, although one gay groups advocate sex between men and boys.)[31] And they argue convincingly that public disgust and horror over even consensual incest is no less prejudicial than public disgust and horror over gay sex. Because serious genetic deterioration requires generation after generation of inbreeding in isolated populations, it cannot be said that any one instance of sibling marriage, say, would have deleterious effects on the offspring. The problem with incest is not inherent in the single act, it could be argued, but in social repercussions such as guilt, secrecy, intimidation, shame, and so on (or physical ones if small children are involved). A claim for incestuous marriage, too, could be expected after the legalization of gay marriage. In fact, it would follow from precisely the same logic. Only politically expediency would allow advocates of gay marriage to deny that.

Besides, it is not true that the law prevents gay people from marrying. It does prevent them from marrying each other, to be sure, just as it prevents them from marrying blood relations. Nonetheless, it makes marriage accessible to anyone seeking a partner of the opposite sex (except for a blood relation).[32] And this is not a recent development. Throughout history, those who now call themselves "gay" have married without any attempt at deceiving either religious officials or magistrates. Until very recently, after all, no one had ever heard of "sexual orientation." It was generally understood that some people, including some who married and had children - people who were not innately different from others - occasionally had sexual relations with people of the same sex.[33]

Advocates of gay marriage would now discredit these "marriages of convenience." Gay people who marry straight people (or even gay people of the opposite sex), they say disparagingly, are hiding behind the trappings of conformity. At best, their marriages are about social status rather than "love." At worst, they are based on deception rather than "authenticity." But there is no reason to assume any of these things. Many people, both gay and straight, have married either partially or wholly for reasons other than the idealized ones. (Economic and political alliances come to mind.)[34] And not all of these people have been dishonest with each other about their intentions. The fact is that these marriages, like others, can serve important communal needs. At the very least, they affirm the symbolism of marriage as an institution that brings men and women together in the interest of society as a whole. There is no reason to assume, moreover, that the children of these marriages are psychologically disadvantaged (unless interpersonal deception is involved). They can still have a parent of each sex, after all, which is more than can be said for the children of two men or two women.

Argument 20: Winning the struggle for gay marriage is important for the cause of gay liberation: It might be, or it might not be. Any victory heightens group morale, it is true, but this victory could be very problematic in at least two ways.

For one thing, not all gay people want to marry, even though most would want the opportunity to choose. But some gay people, like some feminists, see marriage as an inherently oppressive patriarchal institution and want no part of it. At best, they say, it would confine gay people by encouraging their outward conformity to alien standards. At worst, it would discourage gay people from exploring and expressing their own distinctive sexual models and from living together unencumbered by legal obligations.

Moreover, it could lead to more resentment from some other segments of society. If religious communities were ever forced to solemnize gay marriages, many would certainly react with hostility. This would no longer be a matter of tolerating what other people do, after all, but of being forced to participate. And religious communities are not as peripheral as many secular people imagine. Even though some Christian and Jewish communities are open to liberal or radical social change, many others are not. And the same could be said of recently arrived religious communities: Islamic, Sikh, Hindu, and others.

Argument 21: Okay, okay, but what about majority rule in democratic countries? Most Canadians approve of gay marriage, according to polls, or will in the near future. It's just a matter of time, so why not save money on court cases and get the job done? Democracies are always about majorities and minorities, true. And if most people agree to legalize gay marriage, then that fact must be taken seriously. But counting heads has nothing whatsoever to do with right and wrong, wisdom and folly. (And remember that there is a reason why we have representative democracies rather than direct ones; unlike the ancient Greeks, we elect people - leaders - with the task, and presumably the skill, to think more carefully than most people about the complex problems affecting public policy.) After all, as history clearly shows, majorities can make stupid or even sinister choices. This would be worth considering whether most people approve or disapprove of gay marriage. But so can minorities, especially in this age of identity politics. Democracy is based on the assumption that minorities will organize politically in their own self-interest, to be sure, but not the assumption that they will disregard the needs of society as a whole.

Usually, cultural norms are associated with majorities. But we have just argued that the majority might or might not be morally justified. In this case, we suggest, it is justified. Why? Because it is not merely the majority's passing whim or prejudice. It is based on countless centuries of human experience all over the world. Sometimes, marriage legislation should be reformed, but in connection with its variable features and not its universal ones.

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So far, we have discussed the arguments for gay marriage. We turn now to the kinds of argument and what they say about the mentality of our own society, let alone of a future one that would be based even more heavily on similar assumptions. This mentality did not originate with gay people. In fact, it had already become pervasive among straight people long before the debate over gay marriage. But redefining marriage accordingly would surely legitimate it officially and thus lead directly to the creation of a radically new kind of society. Would it be better - more just, more tolerant, more durable - than the old one? Not, we suggest, if it is based on a culture that values, as this one does, the following features: (a) radical individualism; (b) hedonism;[35] and (c) anti-intellectualism.

Radical individualism: We refer here to radical individualism (coupled, ironically, with a form of radical collectivism).[36] This is not the kind of individualism that emerged in the eighteenth century and was expressed most effectively by those who wrote the American Constitution. For them, individual liberty was embedded firmly in a context of communal responsibility. Personal liberty was not synonymous, in short, with personal license or even personal interests. By now, individualism has been very distorted. It has come to mean that "anything goes" (as long, presumably, as no one is personally injured). The larger interests of society, in short, no longer function as constraints. And this indifference to society as a whole is made clear by those who defend gay marriage. Allowing gay people to marry, they say, would be beneficial to gay individuals (and, by extension, to the gay community). How could that, they ask, harm straight individuals (and, by extension, the straight community)? But advocates of gay marriage have made no serious attempt to consider the possible harms and object to those who want more time to assess the evidence from other periods or other cultures.[37]

Hedonism: The "philosophy" that underlies radical individualism is based on the pleasure principle. We refer not to the mere affirmation of personal pleasure, which is encouraged not only in secular societies but also in many religious ones, but to the glorification of personal pleasure as an end in itself. (We would call this mentality "self-indulgence" except for the fact that many people in this affluent age consider it a respectable way of life and not the result of personal weakness.) Alcoholism and drug addiction are serious crimes, to be sure, but they are no longer primarily signs of poverty and ignorance (much less of personal inadequacy). Very often, they are signs of status and fashion. Celebrities move in and out of rehab as often as they move in and out of marriage and are applauded for talking about their inner struggles (and thus their inner courage) on talk shows such as Oprah or on "news" shows such as Entertainment Tonight and Access Hollywood. As a result, these problems are normalized and trivialized. Rappers who have not been through rehab (or jail) have no "street cred" and thus no claim to authenticity. Divorce, moreover, is no longer acknowledged by everyone as a serious social problem. For many people, on the contrary, it has been reinterpreted as a personal problem or even as an opportunity for personal growth. Anyone can think of other examples. The point here is that many people no longer feel constrained by anything - not the safety or interests of others and sometimes not even legal considerations - in their relentless search for personal pleasure (often known as "self-realization"). There have always been hedonists, of course, but hedonism has seldom been tacitly accepted or even publicly celebrated by so many people.

Anti-intellectualism: It is not easy to legitimate hedonism, even though elite members of society have always tried to do so. Consider the following lines from Wall Street (Oliver Stone 1987): "Greed is good, greed is right, greed works!" When Gordon Gekko (Michael Douglas) said that to a crowd of brokers and bankers, millions of viewers cheered. And they have not stopped cheering. Those lines clearly expressed the "spirit" of an age, one that has not significantly changed - not even after the events of 11 September 2001. But expressing something is not the same as legitimating it. For that, the academics must be called in. Who would legitimate self-indulgence? No one would. But our society has turned all political debates into demands for rights and based these demands, at least partly, on the need for "self-esteem." In other words, feeling good about yourself (and whatever group provides you with personal identity) trumps any rational

argument about the needs of society as a whole. As politicians have learned, this strategy can be used effectively to get votes. Even though many academics promote it¾William Eskridge in the case of gay marriage, for instance, but also his feminist and other ideological counterparts¾they are in fact promoting anti-intellectualism. Not surprisingly, they reply to critics in terms of postmodernism, a philosophy that denies the existence of truth. This is the dark side of identity politics. (There is a bright side, of course, because the groups involved do have serious grievances, and because equality really is a worthy goal.) Given this lack of respect for reason, let alone intellectual integrity, it is hardly surprising to find that many citizens are already prepared to be believe that "change" is a synonym for "progress," and that anyone who opposes an innovation should be ridiculed for "fear of change."

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But wait. What does any of this have to do specifically with gay marriage? If gay marriage were truly a mere variant of marriage as understood throughout human history—-an institution that fosters close ties between men and women, parents and children, families and society—-it might not present many problems. Gay people are not significantly different, after all, from straight people. But the demand for gay marriage comes at a time and in a cultural context that fosters a cross-culturally and historically unprecedented definition of marriage even among straight people. Over and over again, advocates of gay marriage say precisely what straight people have been saying about marriage for decades: that it is strictly about public recognition for the love between two individuals. When that emotional bond ceases to exist, of course, then so does the marriage. Children have very little to do with marriage (except for those who either have produced or will produce children in order to satisfy their personal desires as individual adults). And society as a whole has nothing at all to do with it. Legalizing gay marriage in these circumstances, therefore, gives public and legal legitimation to both. And not only for gay people but for all people. The likely results would include social fragmentation by weakening the bonds between (a) individuals and society; (b) parents and children; and (c) men and women.

Individuals and society: By implication, society includes the state. At issue here is the future of a healthy liberal democracy. The latter depends on a balance not only between rights and responsibilities but also between those of individuals or communities and those of the larger society, those of the majority and those of minorities, and so on. Therefore, it depends also on the ability of citizens to debate positions with arguments based on reason rather than assert them with ideological ranting. And that, in turn, depends on their ability to think clearly. We have already observed, however, that anti-intellectualism is rampant at all levels of society. At the elite level, it is fostered by academics, with their own ideological interests, under the guise of postmodernism. At the popular level, it is fostered by a galaxy of therapists and pseudo-therapists who proclaim the supreme importance of feeling good about yourself. This situation has already damaged public discourse by fostering polarization and sexual and racial lines. Legitimating gay marriage by using the facile and tendentious arguments cited here would strongly reinforce the trend.

One scenario would be the dissolution of society as such - that is, as a unified whole. It would devolve into a collection of adults focused exclusively on their own rights as individuals and tolerating governance only as way of protecting these from other individuals).[38] Individuals would come together for copulation and companionship, of course, but enduring bonds would be seen as unnecessary restrictions on personal freedom. Their children would be either shunted from one home to another, depending on arrangements made primarily to suit the changing desires of adults, or reared in institutions run by the state. Marriage has never before been so heavily associated with the wants and needs of adults as individuals. On the contrary, it has always been heavily associated with the needs of both children (expressed as the ideal of interdependence between men and women for the sake of children) and with those of the community (expressed as the ideal of interdependence between men and women for the sake of society as a whole).

Parents and children: At first glance, it would seem that gay marriage and gay parenting would symbolically strengthen the bonds between all parents and children. On closer examination, that scenario seems very unlikely. It should be clear to everyone by now that advocates of gay marriage are interested primarily or even only in the interests of gay adults. This is inadequately disguised by disclaimers. Yes, some gay people want children enough to make use of surrogacy or other reproductive technologies.[39] And yes, some gay people have children anyway from straight relationships. But the primary beneficiaries are still adults, not children. Which is why advocates of gay marriage try to argue that children would at least be no worse off with gay parents than with straight ones (or better off with good gay parents than with bad straight ones). The social-science evidence is sometimes ambiguous, but we do know by now that two parents are better for children than one, that families with both mothers and fathers are better for children than those with only mothers or only fathers, and that biological[40] parents have some advantages over adoptive ones. That these facts are either ignored or trivialized by advocates of gay marriage - and of single parents, by the way, whether gay or straight -

says something about concern for children in our time.

At the moment, most parents would be ashamed to neglect their children (or at least afraid of the legal consequences). Even now, though, they are relying more openly and more heavily on the state than ever before to protect the interests of children. Not every parent appealing to the court for custody, after all, is motivated entirely or even primarily by "the best interest of the child." And an increasing number of parents demand access, for whatever reason, to day-care facilities for infants. These phenomena have many causes, some of them economic conditions beyond the control of any parent. It is a fact, nonetheless, that the state (along with or in direct connection with cadres of professional psychologists and social workers) has taken over many functions formerly assumed by parents.

To be more specific, we could expect some demographic changes for the worse. The Canadian birthrate is already falling below replacement level, as it is in almost every Western country, but the situation could get much worse. Why? Because, as we say, no public support would be available to encourage the creation or rearing of children by straight couples. And we could expect even more absentee fathers. Why? Because this would be a society preoccupied by the primacy of equality, by the rights of adults over those of children, and by the notion that men and women are interchangeable. In that society, the importance of fathers in family life would be even more obscure to most people than it already is.

Men and women: Now all of this would introduce a new level of polarization between men and women, in short, whether gay or straight. It could be argued - and we do elsewhere[41] - that our society is becoming more and more fragmented along sexual (but also racial, ethnic, religious, and ideological) lines. One possible result, in the long run, could be a society that is polarized into separate communities of men and women, whether gay or straight.[42]

Inherent in the arguments put forward by advocates of gay marriage, for instance, are two assumptions of interest here. One is that gender can be explained adequately as nothing more than a "social construction," which has been popular among feminist and gay activists for decades (and for which support is drawn from postmodernism). The other is that reproductive technologies should be used to compensate for sexual differentiation. With both assumptions in mind, it is possible to argue that men and women are interchangeable. (Early feminists argued that men and women were all but interchangeable, for instance, and thus that women should be allowed to do everything that men were allowed to do.) With the same assumptions in mind, however, some feminists argue that men and women should be considered autonomous -in other words, that neither sex should need the other. Taking that to its logical conclusion would mean creating sexually segregated communities, or separate communities for men and women (thus reversing the massive cultural effort of every human society at all times and in all places).

Now consider this from the perspective of men. On purely biological grounds, it could be argued that men have a minor function in the life cycle; they contribute sperm cells and nothing more. On cultural grounds, though, it has always been argued (whether explicitly or implicitly) that men can, should, and must contribute in other ways. In return, society provides men with a culturally defined identity—-that is, as we say, public recognition for at least one distinctive, necessary, and publicly valued contribution made specifically as men. Our research has shown that when most men lack a healthy identity, already a disturbing fact of life for many men in our society, the result is destructive not only for men themselves but also for women, children, and thus for society as a whole. No other society has ever tried to cut men out of family life, but ours has already (whether knowingly or not) taken several steps in that direction: glorifying single mothers, providing sperm banks for gay or straight single women,[43] and creating reproductive technologies that bypass men. Redefining marriage would be one more step, a big one, in the same direction.

Sexual polarization is already a fact, but it could get worse. Consider the soaring rate at which young men, unlike young women, not only drop out of school but also commit suicide.[44] We need no fortune-teller to see that massive social problems, more widespread than the ones we already have, are likely to emerge whenever and wherever boys or young men are unable to feel deeply involved in either the family or society as a whole - or, to put it another way, in the future of society. Over the past few decades, we have seen a resurgence of machismo in its most toxic form. To many boys and men now, it seems clear that even a negative identity is better than no identity at all.[45] This alone should give us pause in contemplating the future. Because fatherhood is the one remaining source of a healthy masculine identity, legalizing gay marriage (in addition to tolerating single parenthood) could leave men with a major problem. We are referring to the marriages of gay (or even straight) women, in this case, which would legitimate the notion that fathers are unnecessary (although single-motherhood-by-choice creates the same problem).[46]

Even though we suggest that the results of legalizing gay marriage would become evident only after several decades, and even though we suggest that these would be more subtle than blood flowing in the streets, we will almost certainly be accused alarmist rhetoric. And, given historical precedents of societies in the midst of major change, we could refer to even more alarming possibilities. But remember that every morally responsible analysis of social policy must include consideration of the risks. Naiveté is no more a virtue than cynicism is.

We cannot predict the future of this experiment. As we say, people are not like rats in a lab. Mistakes are much more costly. And unforeseen things are just as likely to happen because of social engineering as they are because of any other kind. We try to fix every problem, but we usually end up replacing one with another. Forty years ago, as we have noted, it seemed like common sense that changing the divorce laws would be an act of compassion for the few but one that would make little or no difference to the many. That was naive, to say the least. Now, we know better. It changed us in ways that no one could have imagined. For better or worse - better for some, worse for many others - we now live in what Barbara Dafoe Whitehead has called a "divorce culture."[47]

Most people like to consider their society a tolerant one, and this is certainly laudable. But no society could endure if tolerance were taken to its ultimate conclusion: the belief that "anything goes." In addition to tolerance - otherwise known as "love," "caring," or "compassion" - every society must be guided by wisdom. And that requires citizens to be just as reasonable as they are tolerant. That would be what we call "sustainable tolerance."

10,308 words

10,652 words

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[1] What follows is based on (a) our research, commissioned by Canada's Department of Justice; (b) an affidavit that was based on this research and produced for the federal government (Katherine K. Young, affidavit for Halpern et al. v. Canada (A.G.) et al. and MCCT v. Canada (A.G.) et al., Ontario Superior Court of Justice (Divisional Court), 12 July 2002, court files 684/00 and 39/2001; and Egale v. Canada (A.G.), British Columbia Supreme Court, 3 October 2001),; and (c) our presentation to the House of Commons Standing Committee on Justice and Human Rights. (Katherine K. Young and Paul Nathanson, "Questioning Some of the Claims for Gay Marriage," presentation to the House of Commons Standing Committee on Justice and Human Rights, Ottawa, 20 February 2003).

[2] We, too, want change (though not the one being proposed by gay people). Marriage is in bad shape, after all. Because we are not arguing for change here, however, the burden of proof here is not on us.

[3] It is worth noting that any society could have used culture to mitigate the tendency of most people toward heterosexuality. In other words, any society could have encouraged gay marriage and still reproduced itself. Women could always have found ways of procuring sperm, for instance, and men could always have abducted children or hired surrogates. But this approach has never been adopted as a norm.

[4] According to Judaism, for instance, men (though not women) are divinely commanded to marry. A primary motif in Jewish theology is that of the "marriage" between God and Israel; this becomes a primary liturgical motif during shabbat (the sabbath).

[5] Among Orthodox Jews, for instance, only married men are entitled to wear the tallit (prayer shawl). Something similar is true of Hinduism. Most Hindu men have had to marry, although a few exceptions have been allowed. We could give dozens of other examples. Our point is that the use of culture in this way could be construed as "privileging" heterosexuality and therefore attacked as "politically incorrect."

[6] To the extent that norms affirm some forms of behavior but not others, they indeed discriminatory. But is every form of discrimination evil? No society could allow that murder, for example, is just another "lifestyle" and thus acceptable in a context of "diversity" or "pluralism." We discriminate against murder, because the collective good requires us to do so. That is an extreme example, to be sure. Gay relationships are not evil. Even so, the state has no obvious or compelling reason to promote them. It does have at least four obvious and compelling reasons to promote marriage as it has been known (see below). Our point is this: Just because norms establish a majority does not mean that they persecute minorities. Otherwise, no liberal democracy could exist. Without some forms of discrimination—ones that are based on collective need rather than on prejudice or malice—how could we exist either as individuals or as societies? We must make choices, preferring one thing over another. That lies at the very heart of culture and therefore of human existence.

[7] Sexual orientation is not entirely a "cultural construction" and therefore subject to eternal deconstruction and reconstruction. Heterosexuality has a partially biological foundation in most people, for instance, but, nonetheless, it functions effectively only when supported by religious or other cultural institutions. In other words, important aspects of it must be taught within a larger cultural context—more specifically, within a moral one. But homosexuality, too, has a partially biological foundation. We do not believe that gay people should be harmed by cultural guidance provided for the majority. Therefore, we argue that cultural institutions, including religious ones, should avoid negativity toward the gay minority even as they support the straight majority. Many have already taken steps to do so.

[8] Major civilizations include both universal and nearly universal features, which is why both categories must considered in connection with modern societies.

[9] Data for this analysis are drawn from both large-scale and small-scale societies; the latter are different in some ways from the former. See Susan G.E. Frayser, Varieties of Sexual Experience: An Anthropological Perspective on Human Sexuality (New Haven: HRAS Press, 1985). Every culture's definition of marriage contains not only universal and nearly universal features but also variable ones. From one perspective, the variables make its definition distinctive. But focusing on the definition of marriage in any one society makes it hard to know which aspects are distinctive, or local, and which are universal or nearly universal. Patterns emerge only when two or more societies are compared. When only one society is considered, in other words, the variables can mask the universals. It could be argued that focusing on universals and nearly universals produces the methodological problem of "essentialism." But that is a false problem for three reasons. First, there really is an empirical basis for the existence of these features. Second, using inductive reason to discern patterns is a fundamental characteristic of scholarship. And third, any phenomenon so common as to be universal or nearly universal surely reveals something basic in the human condition. Because the most common biological tendency for human beings is heterosexuality—our species reproduces sexually, which has an evolutionary advantage over the asexual reproduction of some other species—and because heterosexual culture (especially marriage) is the necessary complement of heterosexual biology, every human society has actively fostered it.

[10] Because of the long time it takes infants to mature, cooperation is necessary to ensure their survival. As a result, most societies have encouraged durable relationships between biological parents and children at least until the latter reach maturity. In some small-scale societies, however, the community distributes resources to everyone and assigns everyone the responsibility of protecting the young; durable relationships between biological parents is less important, therefore, than it is in large-scale societies (where the family is the basic social unit). But most people by far live in large-scale societies, such as ours, so durability is as important as the universal features.

[11] Most societies have recognized that mutual affection and companionship facilitate bonding between men and women, but others have recognized that these are fragile bonds and therefore preferred arranged marriages (although they usually encourage affection and companionship as well).

[12] The politically inconvenient fact is that society needs a specifically heterosexual contribution more than any homosexual counterpart (which does not mean that the latter should be either ignored or attacked). Therefore, the need to provide cultural support for heterosexuality is greater than for homosexuality.

[13] Traditionally, every society has used symbols and rituals to foster the bonding between men and children. One reward for Jewish fathers, for instance, is being able to participate in rituals with their sons. Examples include brit milah (circumcision on a son's eighth day), pidyon ha-ben ("redeeming" a first-born son, on his thirtieth day, by replacing him with a monetary donation to the "temple"), and bar mitzvah (the first time that he is called to read the Torah in synagogue). Indebted to the ancestors, Hindu men (and women) are obliged to have children who will perform their

funeral rituals later in life.

[14] This is not true in the United States. Access by Americans to medical benefits, for instance, depend on marital status. This problem could be solved, however, without taking the radical step of redefining marriage.

[15] Martin Finucane, "'Responsible Non-Monogamy' Defended: Those Who Practise Polyamory Seek Greater Acceptance in Unitarian Church," Montreal Gazette, 9 July 2003: A-19.

[16] People have resorted to surrogacy since ancient times. India's Mahabharata (circa 600 BCE-600 CE) describes a case. An infertile princess tells her slave woman to lie with Krishna. They have a child, Vidura, and Krishna rewards the slave by freeing her. (Mahabharata: the Book of the Beginning, trans. J.A.B. van Buitenan [Chicago: University of Chicago Press, 1973]: 236).

[17] Male infertility was solved in the Indian epic the Mahabharata either by niyoga (a wife sleeping with a man other than her husband to produce a child) or by turning a blind eye to women (such as Sarmistha, Hidimba, Ulupi, and Citrangada) who seduced men for the sake of having children (Arti "Poison, Snake, the Sharp Edge of a Razor, Yet the Highest of Gurus: Defining Female Sexuality in the Mahabharata" doctoral dissertation, McGill University, Montreal, 2000: 265-255). The latter was sometimes described as temporary marriage (Dhand 271).

[18] See David Blankenhorn, Fatherless America: Confronting Our Most Urgent Social Problem (New York: Basic Books, 1995). Even when other factors (such as race and intelligence are) are accounted for, it remains true that boys without fathers are approximately twice as likely (and boys who grow up in stepfamilies are approximately three times as likely) as other boys to end up in jail by their early thirties. See Cynthia Harper and Sara McLanahan, "Father Absence and Youth Incarceration," paper presented at the annual meeting of the American Sociological Association, San Francisco, August 1998.

The same is true of teenagers. See Chris Coughlin and Samuel Vuchinich, "Family Experience in Preadolescence and the Development of Male Delinquency," Journal of Marriage and the family, 58.2 (1998): 491ff.; R. J. Sampson and J.H.Laub, "Urban Poverty and the Family Context of Delinquency: A New Look at Structure and Process in a Classic Study," Child Development, 65 (1994): 523-540; Robert J. Sampson, "Urban Black Violence: The Effect of Male Joblessness and Family Disruption," American Journal of Sociology, 93 (1987): 348-382; Ross L. Matsueda and Karen Heimer, "Race, Family Structure and Delinquency: A Test of Differential Association and Social Control Theories," American Sociological Review, 52 (1987): 171-181; George Thomas and Michael P. Farrell, "The Effects of Single-Mother Families and Nonresident Fathers on Delinquency and Substance Abuse," Journal of Marriage and the Family, 58.4 (1996): 884ff.

[19] See, for instance, Lingxin Hao, "Family Structure, Private Transfers, and the Economic Well-Being of Families with Children," Social Forces, 75 (1996): 269-292; Frank F. Furstenberg and Andrew Cherlin, Divided Families: What Happens to Children When Parents Part (Cambridge: Harvard University Press, 1991); Adam Shapiro and James David Lambert, "Longitudinal Effects of Divorce on the Quality of the Father-Child Relationship and on Fathers' Well-being," Journal of Marriage and the Family, 61 (May 1999): 397-408; Rebekah Levin Coley and P. Lindsay Chase-Lansdale, "Stability and Change in Paternal Involvement among Urban African American Fathers," Journal of Family Psychology, 13.3 (1999): 416-435.

Moreover, children not living with both of their married parents—that is, mothers and fathers—are at greater risk of being physically or emotionally damaged. See S.J. Creighton, "An Epidemiological Study of Abused Children and Their Families in the United Kingdom between 1977 and 1982, Child Abuse and Neglect, 9 (1985): 441-448; M. Daly and M.I. Wilson, "Some Differential Attributes of Lethal Assaults on Small Children by Stepfathers versus Genetic Fathers," Ethology and Sociobiology, 15 (194): 207-217; M. Daly and M.I. Wilson, "Violence against Stepchildren," Current Directions in Psychological Science, 3 (1996): 77-81; C.D. Siegel et al., "Mortality from Intentional and Unintentional Injury among Infants of Young Mothers in Colorado, 1982 to 1992," Archives of Pediatric and Adolescent Medicine, 150.10 (1996): 1077-1083; Martin Daly and Margo Wilson, "Evolutionary Psychology and Marital Conflict: The Relevance of Stepchildren," in Sex, Power, Conflict: Evolutionary and Feminist Perspectives, ed. David M. Buss and Neil M. Malamuth (London: Oxford University Press, 1996): 9-28; Martin Daly and Margo Wilson, "Child Abuse and Other Risks of Not Living with Both Parents," Ethology and Sociobiology, 6 (1985): 197-210; Leslie Margolin, "Child Abuse by Mothers' Boyfriends: Why the Overrepresentation?" Child Abuse and Neglect, 16 (1992): 541-551.

See also Linda J. Waite and Maggie Gallagher, The Case for Marriage: Why Married People Are Happier, Healthier, and Better off Financially (New York: Doubleday, 2000); Linda J. Waite and Frances Goldscheider, New Families, No Families: The Transformation of the American Home (Berkeley: University of California Press, 1991); and Barbara Dafoe Whitehead, The Divorce Culture: Rethinking Our Commitment to Marriage and Family (New York: Knopf; Random House, 1997).

[20] Statistically, moreover, adults are less likely to neglect or mistreat their own children than stepchildren. See note 17.

[21] See Judith S. Wallerstein, Julia Lewis, and Sandra Blakeslee, The Unexpected Legacy of Divorce (New York: Hyperion, 2000); Sara McLanahan and Gary Sandefur, Growing up with a Single Parent: What Hurts, What Helps (Cambridge: Harvard University Press, 1994); and Paul R. Amato and Alan Booth, A Generation at Risk: Growing up in an Era of Family Upheaval (Cambridge: Harvard University Press, 1997); Norval Glen, "Values, Attitudes, and the State of American Marriage, in Promises to Keep: The Decline and Renewal of Marriage in America (Lanham, Md.: Rowman and Littlefield, 1996) 15-33.

[22] Americans do not yet have that problem; they are breaking even (due at least partly to the fact that some immigrants have many children).

[23] Obvious examples would include the Jewish communities of both Canada and the United States, which have low rates of birth but high rates of assimilation and intermarriage.

[24] An obvious example of this in Canada would be Quebec, which is one reason Premier Bernard Landry has offered extra financial benefits to those who have children (thus infuriating feminists, who believe that this degrades women).

[25] For the most comprehensive articulation of these claims, see William N. Eskridge, "A History of Same-Sex Marriage," Virginia Law Review, 79 (1993): 1419-1513 and his affidavit for Halpern v. Canada (A.G.) (2002), 60 O.R. (3d) 321. For rebuttals see Young, "Questioning"; Peter Lubin and Dwight Duncan, "Follow the Footnote, or the Advocate as Historian of Same-Sex Marriage," Catholic University Law Review, 47 (1998) [pages?]; and his affidavit for Halpern v Canada.

[26] We, too, refer historical and anthropological precedents: the universal and nearly universal features of marriage. These should be taken very seriously on practical grounds, even though they need not, at least on theoretical grounds, determine the present and future.

[27] See Halpern v Canada (A.G.) (2002), 60 O.R. (3d) 321. In paragraph 5, Justice Blair wrote that the "evidence put forward by [the pro-family and religious interveners] does not reflect the same personal poignancy as that of the Applicants."

[28] At the moment, Canada's Supreme Court is considering the constitutionality of a draft bill on gay marriage. One line reads as follows: "Whereas, in order to reflect values of tolerance, respect and equality consistent with the Canadian Charter of Rights and Freedoms, access to marriage for civil purposes should be extended to couples of the same sex ... and whereas everyone has the freedom of conscience and religion under the Canadian Charter of Rights and Freedoms and officials of religious groups are free to refuse to perform marriages that are not in accordance with their religious beliefs...." This logic is both unclear and problematic. It goes like this: the current definition of marriage is intolerant; it is associated with religion (at least historically); ergo, religion is intolerant. But why grant any community the freedom to practice intolerance? Inevitably that freedom will be contested. This process has already begun with the public ridicule of religion - communal conscientious objectors should consider the way that individual conscientious objectors have been ridiculed in wartime - but it will end with lawsuits. As for children, they will learn one thing in public schools and the opposite in their churches, synagogues, mosques, or whatever. Teachers will have to presume unjust discrimination in any reference to marriage as an institution that brings men and women together - that is, one that fails to include gay people. As a result of recent rulings in Canada, textbooks are already being revised accordingly. One result will be an increase in the demand for religious schools. But one result of that, in turn, will be an increasingly fragmented society. The gay lobby has already announced [?], in fact, that its new focus will be activism at the local level (John MacFarlane, "Focus Shifting for Gays: National Forum," Montreal Gazette, 20 May 2003: A-1).

Finally, consider how all this will affect academics doing research on marriage. How will they find grants for research on

the effects of redefining marriage? Who will publish research that "unjustly discriminates" against gay people unless it supports the new definition of marriage? Because academics have already been intimidated - a problem one of us has experienced (Lisa Fitterman, "McGill Profs Square off over Same-Sex Marriages," Montreal Gazette, 3 February 2003: A-1-2; Joslyn Osenberg, "Same-Sex Marriage Debate Comes to Campus: Campus Activists Condemn Two McGill Profs Testifying against Queer Couple," McGill Daily, 29 January 2001: 2) - they will be even less likely to speak out in the future (especially those without tenure) than they are now. If sexual orientation were protected by "hate laws," moreover, research would be shut down altogether.

[29] All cultures have had to acknowledge biological differences between the sexes. Women can give birth and lactate, after all, and men cannot. Equality, therefore, must be created by culture. If culture defines equality as sameness, then the most obvious way to create it would be, in effect, to eliminate biological asymmetry. With new reproductive technologies, both existing and coming, this could actually be done. Parthenogenesis (fertilizing eggs without sperm) would eliminate men altogether, thus obviating the need for equality in the first place. The advent of ex utero techniques or even artificial wombs, on the other hand, could eliminate the need for women to gestate. Stated in these terms, the prospect looks less appealing than many people would have imagined; either eliminate one sex to create equality or eliminate the distinctive feature of one sex to correct for the other's biological inequality. Even now, the Feminist International Network of Resistance to Reproductive and Genetic Engineering is agitating against developing an artificial womb and the legalization of surrogacy (which would give men some control over reproduction) but to maintain artificial insemination (which gives women control over reproduction).

[30] It would become very easy on political grounds for gay couples to argue that they are "differently situated" when it comes to reproduction and therefore demand that the state provide them with reproductive services such as government-sponsored sperm banks for gay women and either surrogacy[30] or ex-utero technologies for gay men. Failure to provide these would lead almost inevitably to charges of systemic discrimination against gay people. And gay people would be by no means the only ones to make reproductive demands. The door would be open to everyone seeking reproductive autonomy through technology. Even now, more and more straight single women are choosing to have children but not husbands. All they have to do is go to sperm banks.

Women, whether gay or straight, now have greater access to reproduction than men, thanks to their natural ability to gestate and to the prevalence of sperm banks. For the past several decades, feminists have campaigned for reproductive autonomy and power. For women, of course, not for men. Already under pressure from feminist lobby groups, for instance, Canadians are moving in the direction of banning surrogacy[30] and any other technology on the drawing boards, such as an artificial womb, that might give men the same reproductive autonomy that women demand for themselves. And many American feminists would like to move in the same direction. But what of men? When gay men find themselves with fewer reproductive possibilities than gay women, they will almost certainly file charges of systemic discrimination against them. But straight men could well come up with demands of their own. Many already believe that marriage, even common-law marriage, is becoming too risky in view of current laws governing divorce, custody, and child support. Why not redefine the family with their own interests in mind? Why not demand access by single men, for instance, to surrogacy?

[31] See the North American Man/Boy Love Association at <http://www.nambla.de/>.

[32] It is worth noting here that no advocate of gay marriage has yet advocated the repeal of discriminatory laws that prohibit incest or even just polygamy.

[33] Religions have various attitudes. Some ignore it as long as the general reproductive needs of society are met; others consider it wrong but not worthy of serious punishment. And still others consider it sinful and worthy of serious punishment but use scriptural injunctions mainly as deterrents. The bottom line is society's need to reproduce itself.

[34] Apart from rearing children, marriage can involve social mobility from one class to another or from one clan to another, the transfer of property from one clan to another, the continuity of family lineage or ethnic community, the perpetuation of religious traditions, and so on.

[35] Gay people invented neither hedonism nor radical individualism. Although the gay movement has been associated

with hedonism - not because all gay people are hedonistic but because the most visible gay people are those most closely associated with the bar scene, the drugs, and so on - his mentality had never been unknown to straight people and is now at least as pervasive among them as it is among gay people. Nor did gay people invent radical individualism. Although they have adopted it successfully, this political strategy had already become pervasive in the straight world. The campaign for gay marriage was inconceivable, in fact, until both hedonism and radical individualism had already prevailed in the larger society. The chickens have come home to roost, as it were, and straight people have only themselves to thank for any dire consequences.

[36] We refer not to nationalism, which is about society as a whole, but to what is often called "identity politics." Underlying the demand for individual rights, after all, is a qualification that usually remains hidden by political or ideological rhetoric: that this is about rights for the individuals of specific groups. The debate over gay marriage, for instance, is ultimately about gay rights, not merely individual rights. But the rhetoric of individual rights, per se, has become our legal lingua franca.

[37] "The AGC [Attorney General of Canada] points to no-fault divorce as an example of how changing one of the essential features of marriage, its permanence, had the unintended result of destabilizing the institution with unexpectedly high divorce rates. This, it is said, has had a destabilizing effect on the family, with adverse effects on men, women and children. Tampering with another of the core features, its opposite-sex nature, may also have unexpected and unintended results. Therefore, a cautious approach is warranted" (Court of Appeal for Ontario, 10 June 2003, paragraph 133, in Halpern v. Canada,). The Court of Appeal replied bluntly: "We reject the AGC's submission as speculative" [paragraph 134).

[38] Closely related to that scenario is a more extreme (but by no means impossible) one: anomie. That word refers literally to the absence of law. In a larger sense, it refers to the absence of social cohesion and sense of collective purpose. We have already referred to social fragmentation. The signs of social decay, at least the early warnings, are everywhere in Western countries. Consider only the high rates of divorce, the millions of abandoned wives and fatherless children, and the prevalence of addictions. Not one of these problems, alone, would destroy a society. Nor would the immediate results of legalizing gay marriage. But so many problems, most of them closely linked, should give us pause. So far, every society has disintegrated for one reason or another. Some are overtaken by more vigorous ones (almost always more brutal). Others collapse due to internal paralysis (usually marked by, among other things, the dissolution of family life). Still others mutate under pressure (which is what transformed ancient Roman society into medieval Christian society and then the latter into modern society). We have no reason to assume, in any case, that our society will endure forever.

[39] Long before gay men were being lauded by journalists for resorting to surrogacy, straight women were doing the same thing by way of artificial insemination. At the moment, surrogacy is still under a legal cloud in Canada. But that could change just as easily and quickly as the definition of marriage.

[40] See note 18.

[41] See note 42.

[42] Don Browning writes that "one of the consequences of modernity has been to aggravate the problem of male responsibility - what I have called the 'male problematic.' This is the threat of modernity to loosen further the already archaic and fragile tie of males to offspring and their offspring's mothers" (Marriage and Modernization: How Globalization Threatens Marriage and What to Do about It [Grand Rapids, Mich.: Eerdmans, 2003]: 75-76).

[43] To cite only one recent example of how this "choice" is glorified in popular culture, consider the Canadian soap opera called Train 48, in which Liz tells fellow commuters that, after two disastrous marriages, she has decided to have a child (using a sperm bank) without bothering to marry again. Although a few raise questions about her decision, not one of them rejects it on moral grounds (her needs taking precedence over those of the child). That would be considered intolerant and therefore despicable.

[44] For the suicide rates of men and women, see 2001 Annual Report (Ottawa: Statistics Canada, 2002) 46; see also Elizabeth Thompson, "Quebec Leads Provinces in Suicides: Rate among Our Men Is More Than Triple That of Quebec's Women, Study Finds," Montreal Gazette, 18 September 2002: A-14. For the school dropout rates of men and women, see "Labour Force Statistics" [undated], B.C. Stats [visited] 3 October 2002, <http:// www.google.ca/

search?q=cache:QXSi7q6ueEsC:www.bcstats.gov.bc.ca/pubs/lfs/lfs>

[45] For more on this, see Paul Nathanson and Katherine K. Young, Spreading Misandry: The Teaching of Contempt for Men in Popular Culture (Montreal: McGill-Queen's University Press, 2001), the first volume of our trilogy on men; we are now at work on the second volume, Legalizing Misandry: A Quiet Revolution Based on Contempt for Men.

[46] See chapter 4, "Bypassing Men," in Spreading Misandry.

[47] Barbara Dafoe Whitehead, The Divorce Culture (New York: Knopf; Random House, 1997). Some social and political experiments, of course, are successful. Representative democracy is surely the most obvious example. There were those who warned that the American experiment would never work, for instance, or felt vindicated when the Civil War seemed to be ending it. Though flawed, nonetheless, American democracy has endured. So it will not do for us to make glib pronouncements about this new experiment. But the analogy is somewhat superficial. Even though representative democracy was a novum in the eighteenth century, democracy itself was not. It had been tried, albeit on a limited basis, in ancient Greece. Many small-scale societies, moreover, have tried informal versions of it. But gay marriage and its implications for both family and society, as we have observed, really would be unprecedented. In theory, it could work. In theory, after all, almost anything could work.

4,388 words