

Why many Christians support normative¹ marriage as a matter of public justice

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Jim Reiher, a former colleague at Tabor College Melbourne, has argued that Christians, who might even believe that homosexual practice is sinful, should still support gay marriage² in the wider community as a matter of justice³. Contrariwise, I shall contend that supporting normative (i.e., heterosexual) marriage (Nm) is a matter of public justice. To retain heterosexual marriage as the public norm may seem to do injustice to a few, but changing the legal position does not resolve supposed injustice to a few for it does injustice to many. Moreover, the likely costs to marriage itself and the rest of society should the present, state definition of marriage⁴ be changed to include same-sex (SS) couples would be unsustainably and unjustifiably too high.

1. Justice: the State and Public Justice

Reiher is correct to say that this issue should be decided on the basis of justice, but he fails to focus his attention on *public* justice. The reason attention should be called to this specific type of justice is that the Australian state is the institution responsible for answering the SSm question within the Australian community through its federal parliament primarily (and with the interpretive, adjudicative office of the High Court). And, the decision about SSm calls for the state to make a judgement on the basis of *public* justice.

1 Normative means related to a norm or standard. Heterosexual marriages are normative because they comply with norms or standards exhibited universally: they are founded in the biologic dimension of life, exhibit copulatory and procreative behaviour, and evidence matrimonial, committed love.

2 I've used 'same-sex marriage' (SSm) rather than Reiher's 'gay marriage' because the former is more inclusive.

3 Last year, Jim published an article on his website entitled, Why Some Christians Support Gay Marriage In The Wider Community. See <http://jimsphilosophy.com/current-affairs/271-christians-support-gay-marriage>.

4 (Australian) Marriage Act of 1961 (amended 2004).

The question of justice is central to much of the usually intense debate about SSm with SSm supporters claiming that basic civil rights are being denied SS people. That contention raises the issue of the core meaning of justice. Chojnowski, in a digest of the teaching from the classics, summarises this meaning as "'to everyone their [his] due'" (2002). However, we still have to examine specifically *public* justice and what that might mean for marriage (re)definition.⁵

The view expressed here that the state is primarily called to do justice among its citizenry is based on the views of the Dutch theologian, journalist, and statesman Abraham Kuyper (1837-1920). Kuyper recognised the important idea of *sphere sovereignty*, that the various societal spheres of a nation are governed by their own intrinsic, individual structure as domains of limited sovereignty.

Following Kuyper's lead, Herman Dooyeweerd (1894-1977) constructed a philosophical social theory in which each sphere or social community (e.g., marriage, family, church, school and education, the state, business enterprise, media, higher learning institution, trade union, professional association, other voluntary associations, etc.) is understood as arranged on one level under God and its authority is not mediated through any other sphere (Baus, 2011, April 22).

In this framework, the state does not bear a whole-part relationship with other spheres by enclosing them within itself (Dooyeweerd, 1978) as in fascist states of left and right. This societal view is non-hierarchical with each societal sphere having a particular and unique calling before God and yet with all spheres being interrelated.

⁵ Jim Reiher seems to imply that justice is primarily about 'equality' and while that is part of its meaning, it is not the core meaning (Dooyeweerd, 1969, II, 134).

Dooyeweerd (1969) uses 'retribution' as the core or 'nuclear meaning of justice' (II, 134) declaring that retribution fits well as long as it is remembered that justice is *not* a psychological, drive-instinct reaction but a *juridical* 'idea'; accordingly, justice is *not* associated with a judge or the police taking punitive or restitutive action motivated largely by emotional responses to the particular offence, crime or situation in question.⁶

In *The Christian Idea of the State* (1978) Dooyeweerd argued at length that the state is founded in 'power', a near universal view of the nature of the state. However, most theorists stop there and choose to formulate a theory of the state that is only about state power. Contrariwise, Dooyeweerd goes further saying that the state's 'qualifying' function is *public justice*. He says, 'here [in the state] is not talk of a private community of law, as in the other societal relationships, but a public one, subject to the jural principle of the common good' (1978, 42).

The state does not just exercise power but exercises power in the service of public justice.⁷ Unlike other spheres (families, schools, churches for example, which should also be involved in doing justice within their fields), the state's orbit involves all other spheres but only in respect of justice in public matters. Additionally, Chaplin (2011), in an illuminating work on Dooyeweerd, has further clarified and refined notions of Dooyeweerd's ideas about the state with reference to civil society (public space). His detailed work is reviewed by Koyzis (2011) who sums up this development with these helpful words:

6 It should be remembered that state justice will involve the criminal and civil law and the courts deal with giving due retribution to offenders and to those who might be damaged by offences committed.

7 Dooyeweerd, a lawyer and legal scholar, constructed his own Christian philosophy to allow for a more comprehensive investigation of his chosen area.

In Chaplin's understanding, public refers not to a specific community such as the state, but to a space shared by all individuals and communities, including the state, insofar as they relate to each other. Within this space, the multiple communities making up society are inextricably interdependent. . . . *The state's central task is therefore to adjudicate these public interdependencies* (italics mine).

Hence, according to Chaplin's thinking, the state's task with regard to SSm is to resolve the current dispute between SS individuals and the present marriage community. And part of the debate centres around the question of the correct and proper way for the state to exercise its powers in the light of public justice.

2. Marriage within the ambit of public justice

A) defining marriage

i) three criteria

Regardless of the participants in any debate on the same-sex marriage (SSm) issue, implicit or explicit opinions, beliefs and/or theories about the nature of marriage will be present. For example, an explicit definition of marriage was given before the Indiana House Judiciary Committee by Anderson recently in these words:

Marriage exists to unite a man and a woman as husband and wife to then be equipped to be mother and father to any children that that union produces. It's based on the anthropological truth that men and women are distinct and complementary. It's based on the biological fact that reproduction requires a man and a woman. It's based on the sociological reality that children deserve a mother and a father (2014).

In this concise summary, Anderson states the distinctive features of the marriage relationship that undeniably set it apart from the same-sex relationship (SSr). In matrimonial⁸ marriage, the complementarity of the sexes is a necessary precondition to copulation which occurs when the primary sex organs of persons are brought together in sexual intercourse.

8 Matrimony is derived from the Latin '*mater*' and the suffix '*monium*' meaning action, status.

The sexual act has the potential for procreation leading to a mother (*mater*) status for the wife. In speaking of intercourse in these terms, we remember that two *persons* are intimately united in this love-making act. Marriage, on these terms, is 'a comprehensive sharing of life that integrally includes the bodily union made possible by the sexual-reproductive complementarity of man and woman' (George, 2013). Such gender complementarity is also foundational to the right⁹ of children to be raised whenever possible by their biological parents (Moschella, 2014). What must not be lost to sight is that conjugal marriage has wider social ramifications in its procreative ability for birthing a new generation (Joseph, 2011).

When the proposed SSm is considered in the light of Anderson's three criteria of complementarity, reproduction and the rights of any children born within wedlock, it necessarily fails comprehensively to offer itself as 'marriage' at all. That failure naturally leads SSm supporters to repudiate these three criteria as being necessary for marriage. For them, marriage does not have to be a relationship between a male and a female (obviously); it doesn't have to be able to produce children; and doesn't have to consider the rights of children adopted or born of one partner through surrogacy, etc. Furthermore, for them, it isn't considered to be a socially-oriented relationship either.

ii) a popular but unfounded objection

With respect to the birth of children, proponents of SSm often point out that some normative marriages (Nms) do not always have children because of choice, age, unknown causes, sterility or genetic inheritance reasons. Although presented as a knock-down argument to the definition of Nm as given above, it is no such thing.

9 The right of children to be raised by their own parents is a right that is neglected by those favouring SSm.

In the first place, Nm is the ethical reality of persons entering the marriage institution as husband and wife that *typically* leads to families where the wife becomes a mother to her children and the husband the father to the children. *Potentially* that's so for every heterosexual couple who has sexual intercourse and *only* for heterosexual couples is the biological link between the man and the woman, and the children typically born of their sexual union, given immediate status.

Second, human relationships of all types are notoriously difficult to define which is also the case for even common entities (e.g., furniture, various animals, and even human-kind itself) (Korn, 2013). The difficulty also arises because of the supposition that such things can be defined in the abstract when it is most important to consider the specific context in which the need for definition arises. In this debate, the specific context in which the need for definition arises is the question of how marriage is to be defined *by the state*. But, the fertility or otherwise of a sexual union is not an issue for the state with the state never asking any question about the couple's intention to have children. The state operates under the principle *de minimis non curat lex*, (i.e., 'the law is not concerned with trifles') or 'the law is only made for what usually obtains' (Novak, 2011). Nevertheless, states remain committed to defend and support marriage, specifically Nm, because from that specific group alone emerge the children of the next generation who are bonded by blood ties to their parents.

Keyes (theMETALDOVE, 2009, October 19) makes a similar point incisively stressing the notion of marriage as a relationship which *in principle* is associated with procreation regardless of a particular couple's choices, ages, infirmities or any other barrier. He does not allow his interviewer to move away from this point of law which is what the question of the propriety of SSm is about. Such SSm cannot in principle

procreate and the potential for the birth of children is the principal reason the state has an interest in marriage in the first place.

iii) a revisionist definition of marriage

Girgis, Anderson, and George, (2012) have termed this understanding of marriage the 'revisionist' view of marriage which they define as 'in essence, a loving, emotional bond, one distinguished by its intensity—a bond that needn't point beyond the partners, in which fidelity is ultimately subject to one's own desires (p. 1-2).

This definition of a revisionist type of marriage establishes the SSr primarily in the intensity of a passionate-love (Eros) bond. Such a definition couched in terms of passionate intensity raises the immediate question for SSm advocates of how intense the bond has to be to qualify as a 'marriage'. The SS bond also sees its purpose as not needing to transcend the bond between the partners (unlike Nm), and understands faithfulness being related to the appetites of the partners alone.¹⁰ This view of marriage is one that has been constructed in order to mimic Nm but is, at its best, a strong, fervent *friendship* with homoerotic play attached.

In any case, any belief that romantic-passionate love is the essential mark of marriage is narrow and limited to recent Western thinking. For many arranged marriages are conducted in India, Pakistan, China, the UK, the USA and in Australia too that are not born of or sustained by passionate-love but initially parental choice and then by cultural-religious ties. Some of these marriages may never demonstrate western ideas of romantic love. Yet, it cannot be said that these unions are not actual marriages.

¹⁰ Spouses in some Nms would have to concede that their marriages today also evidence some of these characteristics too. However, whether they *ought to* is a debatable question.

iv) Reiher's efforts to define 'marriage'

a) *the straw man*

However, it still remains for those supporting SSm to define and defend the SSr they wish to bring into the legal concept of marriage. Under Reiher's heading, **Let's get past the 'definition of marriage' question** (Reiher's quotation marks), he attacks a soft target, a straw man who believes that marriage has only ever been 'one man-one woman for life'. He confronts such a belief by arguing for five propositions: 1) marriage existed before Christianity began; 2) even in the Bible, different models of marriage are found; 3) even in the New Testament different models in the church of the first century; 4) Adam and Eve in Genesis show variations from today's practice; and 5) throughout Christian history, different attitudes to marriage can be found.

In his first point of discussion, he is trying to establish what no actual person who knows anything about Bible history contests! Even the long-ago Sunday school pupil knows that Abraham had one wife and a concubine; that Jacob had two wives; that David and Solomon were married to numbers of different woman which all occurred before the birth of Christianity. Elizabeth Gilbert becomes his source for instances of varied 'models' of marriage under this head. Such exotic forms of marriage as 'ghost' marriages in China seem to convince Reiher at least that SSm ought to be countenanced today or that, at least, these bizarre past practices carried out in countries far from us, should inform our practice today. However, just because an aberrant form of marriage appeared in China and then was practised even up to the 19th century only says that Nm and anti-normative forms of marriage can exist. For clearly, the notion of a Nm presupposes the choices of two people who together vow their love and fidelity to each other before witnesses.

The use of 'different models' in points two and three above lacks clarity because what Reiher is actually speaking about are variations of Nm; the variation is the difference between monogamy and polygyny! The difference between these two forms of marriage is that in monogamy, one Nm is found; in polygyny (or polyandry), more than one heterosexual marriage is found! In any case, whatever was practised or allowed in the early church is not to say it was normative, correct or right; God, through Moses, allowed divorce but only because the Hebrews' hearts were 'hard' said Jesus (Mtt 19.8). We cannot make the leap from 'what is' 'or what was' to 'what ought to be' or to "what may be" automatically. That's traditionalism, a philosophy which I would think Reiher is doing his best to avoid.

The church's tolerance of this or that marriage form doesn't thereby make it correct either but even less, does it give anyone encouragement to build a case for changing the concept of *marriage* itself so that it embraces both Nm and SSrs. Reiher is showing different forms of Nm from which he is wanting to infer that SSm is all right but his deduction is flawed.

Let's be clear again about what Reiher wants to establish in his paper which is stated in his paper's second paragraph as point 1: 'Whatever your personal views about homosexuality, whether you think it is fine or whether you think it is sinful, you still can support gay marriage in the wider community' (Reiher, 2013). Nothing he discusses under these five points of disagreement with his straw man does anything to support SSm; how can variations and even positive developments in Nm which he documents support a case for Christians to support SSm?

His arguments around Adam and Eve illustrate my contention. He grasps at incidental aspects of their marriage initiation (e.g., no wedding ceremony; just a moving

in together etc.) and misses the heart ('and [he] shall cleave to his wife; and they shall become one flesh') which is Jesus' commentary on what the occasion signifies (Matt 19.1-10). Hence, Reiher conflates wedding ceremony and marriage itself. A wedding is an initiation into the marriage institution, not marriage itself. Also he misses the significance of the recorded action of the Lord God in *bringing* the woman to the man. This marriage-to-be was made *in the presence of the Lord Himself* and in this first wedding ritual, Adam and the woman have become, 'the man and his wife' (Gen 2.25).

Reiher's treatment of this Genesis passage employs a literalistic hermeneutic to embarrass his straw man opponent. Reiher is trying to show that 'marriage' has varied but again, all he has shown is that marriage initiations have varied over the centuries but failed to show that marriage itself has shown any variation in its heterosexual character, polyandry and polygyny notwithstanding.

b) 'who says what marriage is and isn't?'

Reiher's question above finally does touch on a definition of marriage with the elaboration,

Different cultures treat marriage differently. And the same culture over time will also treat marriage differently. Cultures decide 'what marriage looks like'. They always have, and always will. Our own 'Christian culture' has changed its view over the centuries. For a long time, we looked down on marriage and promoted celibacy. For many centuries women were deemed to be property that moved from one man (the father) to another man (the husband). Women were not legal entities after marriage and could not own property if married. This was normal Christian practice for centuries.

It might firstly be pointed out that Catholics elevated marriage to the degree that it was finally declared to be a sacrament which is hard to reconcile with the charge of 'looking down' on marriage. In any case, one can see that this paragraph adds nothing to an argument for SSm. All he's shown, even allowing his sweeping generalisations

about the 'Christian culture' (– was this culture really Christian or just nominally so? –) to stand, is that *incidental* features of married life, marriage law governing weddings, and attitudes to women have changed over the centuries. However, the heterosexual-child bearing structure of marriage did not. He is attempting to establish something with which most orthodox Christians are more than happy to agree.

But what is important to note is that he's still provided no definition of marriage as he understands it; he only says that 'cultures decide "what marriages look like". They always have, and always will'. This seems to be an apologia for allowing some impersonal force called 'culture' to decide the matter for all of us. But in our culture, it's the state that is charged with the establishing and supporting of public justice and with registering of marriages. Therefore, the state has to make a judgement through its parliamentary procedures, and judiciary (as required), as to what relationships it will recognise and endorse as *marriages*. And, all Christians should take an active part in ensuring, along with others who are not Christians but nevertheless like-minded, that a view of marriage that will lead to promotion of human flourishing is maintained.

In this section, Reiher comes close to abandoning the bankruptcy that is involved in supporting SSm. He says, 'some might argue that even though there have been different models for marriage they have always been of the kind that would allow offspring No matter what the form of marriage, it was always heterosexual'. He gives this 'anthropological argument' the status of being 'the only real argument that can be put forward against gay marriage: if a society embraces forms of marriage that can not produce children, then it is strategically undermining itself'. However, his retreat from the foolishness of SSm was only apparent because he dives behind the cover of population birth control provided, allegedly, by permitting SSm!

Perhaps the historical observation that throughout all the cultures of the world that much more often than not, marriage involving heterosexual coupling has been chosen as being at the heart of marriage itself points to the reality that a society's marriage form is more than a 'culture' just choosing to opt for a random form of marriage. The observation might incline one to consider that marriage's form was in place earlier than the judgements of 'culture', that marriage itself is a structural lineament of our world, *given* in the very existence of mankind itself.¹¹ I am not suggesting a form of Christian Platonism with ideal forms above and inferior shadows in the temporal world. Rather that God gave humans marriage as a bounded potential within the temporality of their lives with a calling to enter it and to develop it over time.

Of course, what Reiher might be wanting to suggest is that marriage is on a progressive arc and SSm is the next phase of marriage's evolution. But, his argument is that because Nm has had changes in its incidental characteristics or in the way it has been initiated that this implies a case for SSm. However, it does nothing of a kind; the SS bond is fundamentally different from the Nm bond with no physical sexual union and no potential for procreation within the relationship. SSm assumes marriage to be no more than a passionate bond chiefly summed up by the demonstration sign at the beginning of Reiher's article: 'Let me marry who [sic] I love'.

B) marriage and public justice

The 'marriage equality' slogan has been effective as a catch cry. It has given supporters of SSm a phrase that appears to suggest that the SSm is a legitimate 'civil rights' issue and can be argued on the basis of the principle of equality before the law.

To the average citizen this slogan implies a semblance of a rational-moral foundation

¹¹ Roman Catholic thought and some Protestant traditions express this notion in terms of 'natural law' theory. The Reformed tradition on the whole, understands this 'givenness' of societal forms as being based on the divine word or command, a view deriving from Augustine.

for SSm. After all, who would want to deny certain citizens their civil right to be judged equally with others?

Reiher adopts the same language of equality and rights but this rhetoric surrounding the slogans does not stand up to closer scrutiny. Implicit in the SSm campaigning is the claim that marriage is a 'civil right' but that claim cannot be substantiated. To invoke 'civil rights' in this debate is irrelevant because marriage is *not* a civil right even though that is voiced in many forums as if it was a settled fact.

In a detailed analysis of this question of marriage as a right, Skillen (2004) concluded that although the state rightly¹² makes laws about marriage that does not mean marriage is a civil *right*. That is, although marriage is a civil *matter* and is regulated by civil law that does not make marriage a civil right. When, we examine the civil rights movement of the 1950-1960s in the United States, a movement agitating for equal rights for black Americans under the Constitution, we can readily see the great difference between that campaign and the present operation to allow SS people to legally marry. Brown (2012, May 22) says,

Skin color has no intrinsic moral quality, and there is no moral difference between being black or white (or yellow or red). In contrast, romantic attractions and sexual behaviors often have moral (or immoral) qualities, and there is no constitutional “right” to fulfill one’s sexual and romantic desires.

Also, skin color cannot be hidden, whereas a person’s sexual orientation is, generally speaking, not outwardly recognizable (unless it is willfully displayed). Put another way, blacks do not have to “come out,” since their identity is self-evident, whereas gays and lesbians have to come out (or act out) for their identity to be clearly known.

¹² Some civil libertarians and others believe that marriage should be taken away from the state altogether.

At this point, it should be noted that the state cannot create marriage (any more than it can create other fundamental societal spheres in existence).¹³ Western states merely register and confirm that a marriage has been entered into voluntarily.¹⁴ (A detail that Christian churches throughout the centuries have always been concerned to maintain (e.g., Book of Common Prayer, 1662, section 21).)

Marriage licensing by the state is analogous to driver vehicle licensing in that a car licence is a matter of civil law but one has to fulfil various stipulations (e.g., age, passing an approved driving test, physical-mental health) in order to get a licence. Clearly, a vehicle licence, although a civil matter, is not thereby a civil *right*. Likewise, one cannot be married to another unless one meets particular qualifications for becoming married or unless *persuasive reasons are offered for a change in the qualifications*.

However, some (but by no means all) homosexuals will say they want the present laws changed so that homosexuals can enter the marriage institution. In so doing, they concede that marriage's foundation as it presently exists and has existed for millennia, has to be changed as an institution in order for them to enter it. And, they are asking the state to use its power to change the present public character of the marriage institution itself to incorporate two different kinds of relationships within the same institution: a complementary, integral physical union will be forced to share the marriage institution with a homogeneous, similar arrangement.

In calling on the state to carry out this change, it shouldn't be lost to view that inherent in this process is the use of state power to operate beyond its sphere of doing

¹³ How can it be imagined that marriage is a creature of the state when marriage existed before the state?

¹⁴ Neither for that reason is it a creature of the church. Churches don't marry people, those betrothed to each other do the marrying. The church merely assembles witnesses to the marriage.

public justice. The state is founded in power, coercive power that no other societal sphere possesses. The state can punish those who disobey its laws with large fines and imprisonment.

That fact alone should raise a warning flag for all who believe that state power¹⁵ should be limited and remain within its mandate to use its power to establish and maintain public justice. The consequences of getting a government to exercise its power to change radically other societal institutions can only bode ill for the future of less dictatorial statecraft in Western governments. Wearne (2010) even suggests that the so-called 'progressives' in this SSm debate could be more readily dubbed 'reactionaries'¹⁶ in disguise. Hence, no state should not be encouraged to 'create' its own form of 'marriage' unless *a genuine public injustice is being done* within its jurisdiction, *can be so demonstrated to exist* by paying due respect (i.e., justice) to the nature of marriage itself. The contention of this paper is that no such public injustice is being done in Australia to homosexual couples who wish to marry, and cannot be demonstrated to exist.

Preliminary to the justice question, Skillen (2004) says that the SSm debate concerns whether the laws that now govern marriage, in particular who can enter marriage, are good or bad, right or wrong. Importantly therefore,

to join that debate one must appeal, by moral argument, to grounds that transcend the law as it now exists. In that regard, the question of marriage is not about a civil right at all. It is about the nature of reality and interpretations of reality that precede the law (Skillen, 2004).

15 In various debates on various matters, the principle of the 'separation of church and state' is invoked on the basis that the state has to be protected from the inroads of the church. Originally, the principle was also designed to curb the power of *state* encroachment upon the church.

16 In effect they are seeking to return to the absolutism of past revolutionary states in France and the Soviet Union which exemplified the consolidation of power in the hands of executive governments that showed little regard for public justice for all groups.

i) reality and its interpretations

Such a topic as 'the nature of reality and interpretations of reality' (Skillen, 2004) is beyond the compass of this article. However, I will respond in outline form to Skillen's brief comment which makes an exceptionally significant point that cannot be ignored in the question of SSm. The disagreements over the nature of marriage are not surface issues but are deeply rooted in profoundly held convictions about the reality we inhabit and about our interpretations of it.

First, we need to ask the question of the nature of the reality in which we live. We might believe that we live in a reality where the categories of right and wrong, good and bad, logical and illogical, error and truth, harmony and disharmony, justice and injustice are more than just subjective perceptions and conceptions (Lewis, 1952). Or, one where persons have the same, universal categories within them so that they are able to perceive and act within the world but never able to know the 'thing in itself' as Immanuel Kant conjectured. Or one where persons have no common categories and are never able communicate unless they negotiate among themselves as to what reality is going to mean for them? (Jacoby, 2013, August 21).

Along with others, I acknowledge that humans appeal to these 'moral' categories instanced above as if they mean something beyond just saying 'we like this' or 'we feel this is good', or even, 'we all agree that this is wrong'. Additionally, I regard these norms ('oughts') as correlated with a supra-human, 'law-side' of creation (Skillen, 2003).¹⁷

ii) equality

Skillen (2004) insists that the principle of equality before the law for all citizens *in itself* cannot establish the nature of marriage. He illustrates his point in offering a case

¹⁷ Christians would believe that that law has been authored by Almighty God, the Creator revealed in Jesus Christ.

where two business partners apply to a court to be treated as a marriage because they want to be and should be, because of their constitutional right to equality. But no court, Skillen contends, would accept this argument because,

the civil right of equal treatment *cannot constitute social reality by declaration*. Civil rights protections function simply to assure every citizen equal treatment under the law depending on what the material dispute in law is all about. Law that is just must begin by properly recognizing and distinguishing identities and differences in reality in order to be able to give each its legal due (Skillen, 2004, italics mine).

As has been stated above, the major reason the state is directly involved in the registering and supporting of marriage is because marriages are able to produce offspring from within the conjugal bond; the state has an interest to encourage and support the marriage institution because it provides a stable nurturing pair for future generations. This provision of a new generation who are principally cared for and supported by blood relatives is a public good.

Therefore, the fundamental question for lawmakers to ask is, why should the state consider SSrs as qualifying to be recognised in law as marriages? The clear answer to that question is, it shouldn't recognise SSrs as so qualifying because the core structure of marriage found universally is a heterosexual conjugal bond; the structure of the SSr is mono-sexual or 'genderless' (Stewart, 2006). On what basis then, can these two different relationships be understand as 'equal'? It is a legal and empirical error of the most basic type to allow SS relationships into the same category as marriage and can only mean 'a variety of conundrums, contradictions, and anomalies will inevitably arise' (Skillen, 2004).

However, a pertinent question for lawmakers is, does the state have any interest in SSrs *qua* SSrs? As we know, the state has no interest in friendships, companionships, or house-mates which it demonstrates by not registering or privileging

these voluntary associations.¹⁸ And when we examine SSrs they also present as companionships or friendships that exhibit the addition of homoerotic play (not sexual intercourse because sexual intercourse is impossible between same-sex partners). So the question remains, why then should the state interest itself in SSrs? The obvious answer is, it shouldn't.¹⁹

C) the Bible and public justice

Interestingly, in his second section, **A topic too big for one article** he purposely avoids getting into discussion about specific Scriptures (the sex 'terror texts' as he calls them) which condemn homosexuality. Scripture does roundly condemn all homosexual activity without exception. However, except in a tangential way, the Scriptures' rejection does not directly influence of the cogency of the case against SSm on the basis of public justice. The reason it doesn't was given in Ridgway (2014) and to some extent in this response as well.

While I appreciate Reiher has set himself a more 'humble goal' and wants to pursue 'achievable ends' involved with 'promoting tolerance and love that stems from relationship and understanding', nevertheless for Christians, he does his cause ill service by avoiding discussion of his so-called 'terror texts' and ending this section with the words, 'let's agree to love all people, treat all equally, and treat all with justice'. The problem with this trite moralism is that his main terms which is not defined are heavily loaded with social liberal content.

18 However, one wonders whether a non-sexual friendship or companionship might apply to adopt a child in NSW which allows LGBTrs to adopt children. After all, these non-sexual relationships are being discriminated against at the present time by some states in preference to LGBTrs.

19 Second, the European Court of Human Rights in Strasbourg did not judge marriage to be a civil right when it declared that gay marriage is not a human right, and concluded that the 'European Convention on Human Rights does not require member states' governments to grant same-sex couples access to marriage' (Bowater, 2012, March 21). The 'court of human rights [found] that there was no violation of human rights for Austrian couple denied the right to marry' (Buyse, 2010).

Reiher begins his paper with the words of Jesus, 'And as you wish that others would do to you, do so to them' (Luke 6.31, ESV). Presumably, his exposition of this text is supposed to show why some Christians support SSm. Even viewing his argument in the most charitable light is to find it seriously lacking. He talks more about what the text means for him, a type of 'reader response' reaction I suppose, because he gives no careful interpretation of the verse that he is using as a proof text to justify his stand. If he is actually saying what he thinks the text means *for him and that's all*, then all we need do is note his subjective view and move on. But, it appears that he presents this responses as a general apologia for all those Christians who support SSm. However, nothing he says calls for general support for SSm by the wider Christian as I will endeavour to show. Neither does what he says provide sufficient Biblical support for his own affirmation of SSm.

He elaborates on this verse thus:

It means that I would also treat people with different world-views, or different lifestyles, equally and with respect. Because that is what I would want them to do to me.

I might not agree with another person's lifestyle choices, or with their belief system, but that does not matter. I would treat them equally and with tolerance and dignity, because that is what I would want them to do with me.

First, Reiher fails to say anything about the *context* of the Lukan passage which is often called 'the sermon in [on] the plain' (Lk 6.17-49, KJV). Jesus had just chosen the 12 disciples in the preceding verses, and begins to address *them* (v 20) with blessings and to recite 'woes' (vv20-23; 24-26) relevant to what *they* are going to confront. Jesus then introduces the centre of his teaching in the passage: 'love your enemies and do good to them which hate you' (vv27, 35). The 'Golden Rule' allows Christ's 12 disciples to receive direction as to *how* they are to treat their enemies. Christ Jesus gave this instruction *to* his disciples of the first century but of course it is also given *for* us now. However, the verse should be treated in the context of loving our enemies even in our

time and not willy-nilly applied to the notion of SSm where the connection is tenuous at best.

Second, his invocation of the politically correct, 'equality', 'tolerance', 'dignity' is anachronistic and fails because he hangs his whole support for SSm on a contentious view of justice as equality. His view is a common one and it's invalid. Although equality does form a more limited part of the meaning of justice, it is not the primary meaning as Dooyeweerd authoritatively has shown. Justice in state terms has to do with 'retribution' or 'recompense' (Basden, 2004). Even so, Reiher's equally/equality notion states that each person should be treated by the state *the same* as any other person regardless of sexual orientation *with respect to marriage*. Hence, if those of same-sex orientation want to marry they should be able to on the basis of *equal treatment*. But, such a human-formed principle is not an absolute but is relative (related) to its applicably context and also, needs to be considered along with other principles.

One of those principles is harmonisation of differing interests in the question of marriage. Therefore, the application of justice requires that other stakeholders' interests be taken into account in the state's adjudication of the matter. What will the entrance of SSrs into the bonds of marriage mean for marriage as it now stands, for present married couples, and particularly for children seem to be questions that is largely neglected in the present debate. That absence of consideration of the different interests involved marks a failure to judge whether others have rights that ought to be evaluated in this important social question.

Another serious problem with Reiher's interpretation of the Lukan passage, couched in the terms of the late 20th and early 21st century SSm debate in the West is that it does not accord with Jesus' own practice as given in the New Testament nor with

the New Testament apostolic teaching in general. Jesus' teaching and practice, should be a definitive guide to the meaning of his words. Do we see him treating those who opposed him with anything like 21st century 'tolerance' and 'dignity'? In fact, he pronounced seven woes upon the scribes and Pharisees (Mt 23) calling them 'hypocrites! 'For you are like whitewashed tombs, which outwardly appear beautiful, but within are full of dead people's bones and all uncleanness' (v27). None of this Matthean chapter sounds anything like 'tolerance' towards these groups and I don't think it can be construed as treating them with 'dignity' either in our post-modern sense (see also Lk 10.12-16).

When we look at the Christian early church apostles and deacons we see a similar pattern. Ananias and Sapphira who lied to God and the Holy Spirit, according to the word of Peter, were struck down dead as a result (Acts 5.1-11). Stephen the deacon is stoned (Acts 7) by enraged listeners who had just heard him say,

You stiff-necked people, uncircumcised in heart and ears, you always resist the Holy Spirit. As your fathers did, so do you. Which of the prophets did your fathers not persecute? And they killed those who announced beforehand the coming of the Righteous One, whom you have now betrayed and murdered, you who received the law as delivered by angels and did not keep it (Acts 7.51-53).

The problem also lies in our hyper-modernisation of 'tolerance' (McDowell and Hostetler, 1998) 'equality', and 'dignity', which have been moulded by the present *zeitgeist* of the relativity of all ideas (except it seems, socially liberal ones). The spirit of the age venerates 'tolerance' as the exemplary virtue because it accepts all opinion as relative. 'One is as good or as bad as another', it is said and, 'therefore none has the whole truth' and therefore, 'we ought to be tolerant towards all ideas'; except it should be quickly added, the opposing idea that all ideas are not in fact equal! Social-liberalism can only exist by affirming that its ideas are superior to those of conservatives or 'right-wingers' or whatever pejorative name it may care to use. This

'Clayton's' tolerance is intellectual suicide because its absolutist position is demolished by its own incoherent principle. And for Christians, followers of Jesus Christ, who said, 'I am the way, and the truth, and the life' (Jn 14.6) tolerance of untrue ideas (without expressing some opposition appropriately) is impossible (e.g., Acts 20.28; 2 Pet 2.1-22; 1 Jn 4.1; Jude 13-16).

Reiher is averse to anything mildly connected with 'discrimination' but fails to realise that *positive forms* of discrimination are necessary for the integrity of all societal institutions. Discriminatory laws are already in place that none of us would dream of contesting that treat all sorts of groups 'less than equally'. For example, two 10-year olds can't marry under present law, a 30-year old woman can't marry a 12-year old boy either, and neither can a father and his daughter marry: these couples are treated less than equally as opposed to others. However, we all accept that such *discrimination* against such applicants for marriage is proper and fit governance of marriage law for the betterment of general society. Even under a SSm law, two brothers or sisters wouldn't presumably be allowed to marry. That's discrimination based on out-dated Nm case law!

At this point, the reader can see how equality has become the major right, for some minorities at least. Homosexuals in particular are the present darlings of the media, the arts, the ABC, the left-progressive wing of the Liberal Party, the Labor Party's left, the Greens, some businesses, many educators, parts of the judiciary, Universities, and so on. However, it should be remembered that the recognition of rights takes place in the context of other people's rights and the rights of institutions to exist. He concludes his opening section with,

If I was [sic] in a minority group, I would not want to be persecuted or harassed. I would not want to be persecuted or harassed. I would not want laws made against me so that I

was treated less than equally in society.

None of us likes the thought of being persecuted or harassed for what we are. However, this is happening to Christians in many parts of the world now so it's not unique to the SS-attracted group. In Australia, laws exist to protect SS—attracted people and the powerful weapon of the charge of 'homophobia'---a virtually, meaningless accusation because of its lack of specificity—is used even if someone just writes that he or she doesn't agree with SSm.

Reiher further implies that laws have been made against gays that treat them less than equally. If that is what he is alleging then I think he's missing the fact, that firstly, the concept of SSm is very recent and a large number of regulations have now been passed to make Australia less discriminatory with regard to homosexuals.

Although it is true that the Australian 2004 Amendment, to the Marriage Act of 1961 was an attempt to keep marriage as it had been since European White Settlement in 1788 as Nm it was supported by the major political parties of the time and was passed in the light of the continental European movement to legalise SSm which the government of that time sought to oppose. We also know that since that time, even within a number of state and territory legislatures and the Federal Senate, all 13 efforts to effect changes to what is to be deemed a marriage have failed.

Secondly, SSm has been a highly divisive issue and simple appeals to 'marriage equality' for homosexual and bisexual communities has not presented itself as an overwhelming reason for the law makers of this country who at the present time remain divided on the issue. Nothing compels the belief that SSm ought to be legislated in the way that equal rights for Afro-Americans did in the 1950s and 60s. Reiher alleges that it

is disobeying Jesus to not support equal rights for gays but doesn't see that in doing that, he makes no mention of other people's rights or of other institutions' rights. It seems to be all one-way traffic for him.

In fact, if I take this teaching of Jesus seriously, I end up concluding that I have to support equal rights for gays. It is disobeying Jesus to do otherwise. So yes, I support the rights of gays to be legally married. Other Christians who think about 'doing to others as you would have them do to you' also support gay marriage.

Reiher finishes his appeal by urging Christians to think their position in society under the heading, ***Wrapping up this definition of marriage and allowing gays to marry***. He wants Christians to:

assume for the sake of discussion, that the ideal Christian marriage is one man and one woman for life. What then? Does that mean that we Christians need to insist that even non-Christians live by our beliefs and ideals'.

And he goes on:

This compels us to ask another set of questions: Are we meant to make others live by our standards and rules, and use power to enforce it? Or are we meant to be demonstrating a better way? Do we think we have to use power to rule societies and establish a kind of Medieval Christendom in the world today? Or is the Kingdom of God within us, and Jesus' kingdom 'not of this world'?

His emphasis is upon the word *Christian* as if just Christians practise Nm but this seriously misrepresents the true picture as any cursory reading on polygamy will show ('polygamy' 2014, February 20). Other religions within cultures that are highly differentiated (e.g., India, China, South America) to those less-developed technologically (e.g., parts of Africa) also practise monogamy. So to say that monogamy is solely a 'Christian ideal' is plainly wrong. Furthermore, some secularists argue that SSm is wrong-headed (*Bradlaugh*, 2009, April 29).

Second, Reiher seems to imagine that Christians *qua* Christians are even able to 'insist' that their views are carried out in the political realm. I cannot imagine how he can think this because many Christians are excessively quiet about what they believe

with respect to SSm. They certainly cannot 'force' their views on others in the political realm because our contemporary polity doesn't allow for this even if Christians wanted to do it. It is probably true to say that historically Australian civil law has been influenced by the Christian faith (but that occurrence of religious faith having an influence on nations in the East is also found).

However, it is also true to say that the influence of the Christian faith on Australian civil society has declined markedly over the last 50 years according to work done by Anglican Bishop Tom Frame (Lord, 2013), and therefore the belief that Christians can force their opinions on others appears to be exaggerated. We must bear in mind that Australians identifying as having no religion outnumbered Anglicans according to the 2011 census figures (Lord, 2013)!

Thirdly, what can Reiher be suggesting with the rhetorical question, 'Does this mean that we Christians need to insist that even non-Christians live by our beliefs and ideals?'. He seems to be implying a type of 'world-flight' position for Christians in society for when one accepts that the Kingdom of God is only 'within us'²⁰ and 'not of this world' as he suggests --and these are contested phrases as I'm sure he knows-- then Christians don't have much to offer the non-Christian world except as a type of passive witness for a culturally-irrelevant 'way of life'.

²⁰ Jesus made this remark to Pharisees and it hardly seems likely he was telling them that the Kingdom was 'within' *them*. It is more likely that Jesus was saying that the Kingdom was 'among' them and that they were too blind to recognise it in his own person (Lk 17.21). However, the Kingdom comes within, among and around the People of God.

What he's recommending it seems is that Christians note what SSm advocates say about marriage (viz., that marriage is committed love between two people regardless of gender) and allow these novel beliefs about marriage to be legislated for a largely quiescent Australian nation to its detriment. So Christians who hold the 'Christian ideal' (as he's termed it) of marriage should from now on remain mute and allow social liberal ideals full rein.

However, wouldn't that be letting those with other belief-systems about what marriage should be like full licence to shape marriage as they wish? And how responsible would that be as Christian citizens? I would contend that it would be extremely irresponsible and certainly wouldn't be following in the footsteps of those Evangelical Christians such as Bishop Wilberforce and the Clapham Sect who challenged the English nation in the matter of slavery and other moral and social issues of their day (Bloy, 2013).

He's in effect recommending, that Christians not let their deeply held beliefs about marriage play any part in the public sphere but retreat into their ghettos of non-involvement in civic life while advocates of various options of what has been a heterosexual institution take over the public square. Christians and others will fade from public life and retreat into their private worlds because it will be too dangerous for them to take an active role in public life.

What is concerning about this situation is that it raises the issue of whether those opinions which will be disenfranchised by this change in legislation will be protected by law or whether as has happened in other countries²¹ (and already in ours) will be heavily disadvantaged just for being a Christian and holding to their views which, in

²¹ One immediate concern that arises under this new polity is the protection given to those disagreeing with it and facing the possible loss of employment because of their convictions.

some cases, will be punishable by law.

D) tradition

Traditional practice gets maligned today particularly in the SSm debate. Tradition is an easy target for scorn and rejection because: 'we today know so much more than those ignorant people back in history who are now dead and gone'. We forget that today's culture is built on all that has gone before us and that to reject the past wholesale is to saw off the branch we are all standing upon. This attitude towards tradition derives from the 17th-18th century (Age of Reason and the Enlightenment) where individualism and scientific reason were enthroned. Tradition was downgraded and even destroyed if possible.

Present contemporary thought is often contemptuous of what was believed in past ages saying, 'Look at the opinions they held on interracial marriage for one thing. And Christians – and most of society let's face it – disapproved of divorce and certainly of remarriage, doesn't that prove that we can't allow the past to dictate what we do today?' All it shows, of course, is that tradition shouldn't be the only factor we take into consideration and neither should it be made into an absolute. (But, neither should *change* be absolutised either.) Some traditions endure and should endure because of their continuing applicability to present times; others, less so. We should fight to keep the former and seek to reform the latter.

Obviously, in terms of our subject, SSm will bring about a wholesale change in normative marriage effectively putting two different relationship types in the one category. This outcome results in an incoherent legal category and is bound to result in consequences that are unpalatable. Change should only be in the service of the greater thriving of human life and SSm does not provide that. The Netherlands which made SSm legal in 2001,²² and before that had civil unions from 1998, has left the

²² Brought in when the Christian Democrats, incidentally, were not in government and who voted against it.

country all these years later with evidence of 'lingering hostilities' according to van de Wiel (n. d.) and 'homophobia still remain[ing]' (Euronews, 2013, April 1) along with five times the number of attempted suicides among homosexuals than heterosexuals in the 16-25 year-old group. This same country boasting the legalisation of SSm for the longest time of any country has had an extremely small uptake of SS marriages since its inception (20% of gays versus 80% of 'straights' in the period 2001-2011). So, the often-expressed claim that SSm will lead to a stronger marriage institution has not been fulfilled in this country.

3. Australian society will be different after SSm's introduction

Reiher assures us under his *Wrapping up this definition of marriage and allowing gays to marry* heading that if SSm were allowed not much would be different in Australian life but his naivety is shown in the following words,

[Australia] would not look all that different to how it looks today, from a big picture kind of view. The church would go on with its business. Society would continue. Life would not be all that different.

Of course, 'the sky won't fall in' the day after SSm's is passed into legislation because 'the sky has already began to fall in' some time ago according to comments made by White, (2013) in which she says,

Many people are scratching their heads and asking how we have suddenly found ourselves at the point where two men can be "married," a woman can be called a "husband" and a man, a "wife," and children are reduced to political bargaining chips in the adoption wars, when it seems just yesterday we were only talking about equal rights. Since when do "equal rights" mean deconstructing, dismantling, these foundational social concepts?

If we read them closely, however, the activists themselves have begun to explain it in quite straightforward terms. For them, it has never been about "equal rights" but about the re-writing of our entire social order. The "gay rights" movement has always been, in Peter Tatchell's [well-known UK gay activist] own words, "revolutionary, not reformist."

Like 'no-fault' divorce, a culture does not always witness any immediate

consequences of new legislative actions. But, gradually the 'no-fault' divorce legislation became part of the culture and has found its way into marriage, family and step-family counselling, family law practices, the increase in child homicides, the estrangement of fathers from their biological children, and even church law and practice. One has to be open to the real possibility that it will be the same with legalising SSm.

Although, it could be said that this new legislation will simply update marriage so as to reflect the realities of present 21st century marriage with its serial monogamy and high *de facto* populations, one has to ask, are these modern features of today's marriage scene a good thing for vulnerable children who are dependent on the care and protection of parents? All the empirical evidence suggests no (FamilyFacts, 2013).

A) marriage itself will be undermined by its redefinition

In fact, redefining marriage will hurt everyone else's marriage because specifically, it will reorient an institution that has primarily been oriented towards 'the needs of children' and we might add that children are among the most vulnerable in our present community, to one that is concerned with 'the desire of adults' (Anderson, 2014). That is a substantial change. It's going to be a destructive change for many children who are already suffering in an easy divorce society, and a very bad thing for families and extended families.

Reiher thinks that SSm is about mere words. He says:

And Christians would have to accept that they had lost some kind of exclusive 'branding rights' regarding the word 'marriage'. Christians would have to qualify what they were talking about from then on, when it came to that issue. They would have to say: 'modern contemporary marriage. . . ' when discussing things like gay marriage. And they would have to say something like: 'traditional or Christian marriage' when discussing what they believe to be marriage for Christians. Is that a disaster? Is it asking too much of the church? Of course not.

He's so enamoured of this 'branding rights' term that he treats his language

change example as just a surface structure. But of course it isn't. The language he suggests which demonstrates, - and he's correct in this-- that we now have two sorts of 'marriage' in society, is not trivial or unimportant and in fact, undermines his argument for SSm. He's now admitted that two different sorts of marriages will now exist (at least in language) and if so, he's also admitted that the agenda of SSm advocacy is not reformist in character but is radical in nature. That is to say, the implications of changing the law to allow SSm are not surface changes but deep structural changes as the very constitution of marriage itself will be irrevocably changed.

The language that Reiher suggests for use by Christians and others ('traditionalists') points to a seismic shift that will have occurred in public policy by deed of the introduction of this new form of 'marriage' being insinuated into the category of normal marriage. Reiher's two terms, moreover, beg the question of the inherent, impossibility of SSm. SSm is an oxymoron because no same-sex partners can marry each other.

However, Reiher's suggestions open up the larger issue of social protection of significant minority opinion fuelled by profound differences in religious and worldview outlooks. The fond hopes of liberal democracy that all differences can be locked away in private spaces is about to come crashing down when such a manifestly public institution as marriage is reconstructed so radically in meaning and practice so as to include SSrs. No doubt, at a popular level, many people might think that not much has changed if SSm is introduced. Given that the populace has already been softened up by so much propaganda about 'marriage equality' and the 'justice' of 'gay' rights and the evil of 'homophobia' on television news, drama, and talk shows that is not so surprising. It's also not surprising given that it is unpleasant for most of us to swim against the current of 'popular' opinion.

In Australia, many people other than Christians are supportive of normative marriage as it now exists in Australia as shown in the Vote Compass result which recorded 36% support for 'traditional' marriage as opposed to SSm (NewsABC, 2013, August 29). A similar result was also found in the Essential Report (2013).

And, not just Christians will lose their so-called 'branding rights' but so too will Orthodox Jews, Muslims, Baha'is and those not confessing any formal religion that object to 'marriage' being divided in the way that Reiher suggests above. Moreover, we can even find secularists such as *Bradlaugh* (aka John Derbyshire) (*Bradlaugh*, 2002, January 28) on the *Secular Right* website who though committed to a moderate Humean humanism, also arguing against SSm using some of the arguments used in this answer to Jim Reiher.²³ Other secularists opposing SSm are Kolasinski (2004, February 27), Greenblatt (2013), and Bolt (2011, December 5).

B) public character of marriage means changes to our society

Reiher's confidence that nothing much will change is insensitive to the fact that marriage is not a private contract but a *public* institution. Therefore, the change will have effects on the state, the family, schools and the programs they offer, and free speech.

i) the state

Why can it be said that the state will change after its introduction of SSm? In 1961, the state did not *create* anything except a statute that recognised what was *de facto* the case. In 2004, the Amendment to the Marriage Act of 1961, merely clarified what normal marriage was as accepted in the original Act of 1961. Again, the state did

²³ A further argument that I haven't used is *Bradlaugh's* 'anti-majoritarianism' observation that many opponents of Nms have at the same time unqualified support for minorities (2002, Jan 28) but not all minorities (e.g., neither conservative Roman Catholics nor Evangelical Christians) enjoy such support. Only particular minorities and marginalised people are supported.

not create anything; all it did was to spell out what the Parliament agreed was the evident meaning of the Act of 1961.

But if the state allows SSm it should be clearly understood that the state will now have created by its own powers a form of marriage never legally seen before in Australian society. And if the state creates SSm that means SSm is a political form of marriage (while Nm remains a pre-political marriage form). Calilhana (2012) criticising a NSW Liberal Party MLC who voted for SSm because she believed that 'the state should not be defining our relationships' said that:

The “philosophical view” of the Liberal Party, . . . on the question of “homosexual marriage” must merit any Liberal Party member’s *total opposition*. To begin with, a fundamental redefinition of marriage in Australian law to legalise “homosexual marriage” redefines every marriage and has the immediate effect of severing the inherent biological link between marriage and children. The change to the institution is not cosmetic but complete, to bear no resemblance to its role, function and purpose in society (italics mine).

One finds it difficult to follow the logic of the NSW Liberal Party MLC on her decision to support the NSW state Liberal government in its efforts to redefine marriage and at the same time, contradictory to argue that the state should not be 'defining our relationships' (Calilhana, 2012). Surely, it is self-evident that she is criticising the very practice that she is now involved in upholding.

Of great concern to all those who believe that the state is not the creator of marriage but the institution which is charged to recognise it and protect normative marriage, is that by this move to produce this new hybrid form of marriage (Nm combined with SSm), the state has stolen into the business of now being a definer of what marriage will be. That that new situation now obtains is shown by empirical observation: for two markedly, dissimilar forms of human relationships will now reside under the banner of 'marriage'. One existed before the modern state appeared and now we have another form of 'marriage' with a strikingly different character and goal from its

predecessor.

ii) family

The family is a pivotal 'natural' community in societies. One of the bigger problems we have in Australia as in the US is having fatherless families as shown in many studies listed by Muehlenberg (2013a, 2013b) for example. But, then how can redefining marriage which implies that fathers are unnecessary for family life assist the process of getting fathers to stay with their families? The advent of genderless 'parents' will be an upsetting development for all children within those families.

Anderson (2014) added that given the birth of a child, the mother will necessarily be close by; 'that's a fact of biology'. But the crucial question is whether the father will be! Marriage is the institution of nurture within human society to ensure that a mum and a dad as well, will be available to support and care for the infants and children born to the human couple. Tamper with its definition and the foundation of marriage and family will be weakened further. Of course, this might not happen in the first decade but we shouldn't hold our breath because given some time--just as happened with fault-free divorce-- we'll all see the effects and they won't be positive ones.

In the US today, 40% of American children overall are born out of wedlock with 29% white, with 50% Hispanics and 70% Afro-Americans in this category (FamilyFacts, 2014). These situations may lead to fatherless families as happened in President Obama's own case. Indeed, as a social liberal, he added his concerns about America's fatherless children in an address to the (predominantly black church), the Apostolic Church of God in which he said,

But if we are honest with ourselves, we'll admit that what too many fathers also are is missing—missing from too many lives and too many homes. They have abandoned their responsibilities, acting like boys instead of men. And the foundations of our families are weaker because of it.

You and I know how true this is in the African-American community. We know that more than half of all black children live in single-parent households, a number that has doubled—doubled—since we were children. We know the statistics - that children who grow up without a father are five times more likely to live in poverty and commit crime; nine times more likely to drop out of schools and twenty times more likely to end up in prison. They are more likely to have behavioral problems, or run away from home, or become teenage parents themselves. And the foundations of our community are weaker because of it (Real Clear Politics, 2008, June 15).

The state's interest in marriage has nothing to do with people's romantic love life; it's more centrally to do with the fact that heterosexual love has the potential of bringing human life into being and marriage ties fathers to the lives of those children and their mother. Anderson says,

Virtually every political community has regulated male–female sexual relationships. This is not because government cares about romance as such. Government recognizes male–female sexual relationships because these alone produce new human beings. For highly dependent infants, there is no path to physical, moral, and cultural maturity—no path to personal responsibility—without a long and delicate process of ongoing care and supervision to which mothers and fathers bring unique gifts. Unless children mature, they never will become healthy, upright, productive members of society. Marriage exists to make men and women responsible to each other and to any children that they might have.

That's a public service to the whole society because more stable family life with the biologically-related father present is likely to promote less poverty, less crime, less leaving school without adequate qualifications, and less of the young in gaol. This

conclusion is supported by the extensive work of Fagan, Rector, Johnson and Peterson (2002) who with 29 charts show how the decline of marriage has been significantly correlated with child poverty in state after state in the US.

While I recognise the rhetorical importance of the phrase 'branding rights' for Reiher, I think it's grandiloquence without substance. In fact, Reiher concedes that marriage as between a man and a woman existed long before 'Christianity' as we know it did so, from whence comes his phrase 'branding rights'. Christians, like other people the world over, just recognise the reality of marriage as given in their Hebraic heritage and also as practised by the Roman occupiers of Palestine in the first century AD. All Christians have done is recognise a ubiquitous 'natural' institution and been wise enough, along with many other religions, to see the value of it as a good gift of the creator.

iii) school

As the Australian society becomes fully oriented to notion that homosexuality is completely normal (which is the implication in the drive for SSm), then the state turns to its schools to 'educate' the new generation because it wants to ensure that social liberalism continues as a viable force as the next generation matures.

Bullying has always been a problem in schools and in other spheres as well (including the workplace, the church and the family lamentably) (Stevenson, 2000, May 31). But, it's become a bigger issue now with more multi-ethnic, and multi-religious issues coming to the fore in schools. Pupils are faced with differences now that the pupils of the 50s and 60s of the last century didn't have to worry about. And, of course, the issue of same-sex attraction is a large issue as well.

Schools are being pressurised by the state—in the hope of removing bullying and stamping out 'homophobia'—to educate their pupils in the truth that SS attraction, and gayness is to be unquestioned and supported (Sydney Morning Herald, 2010, October 21). In Perth, Western Australian, it is reported that draft guidelines in Western Australian schools have been proposed to tackle homophobia (Robertson, 2014, February 9). These guidelines have been drawn up by the WA Equal Opportunity Commission, the WA Education Department along with groups such as Gay and Lesbian Community Services WA and the Uniting Church. A truly representative sample of public opinion? It's disappointing that someone of the public stature of The Rev. Dr Margaret Court and others of her persuasion weren't included to provide some diversity on this controversial subject. In Victoria, the ALP opposition is planning to extend a plan already operating in government schools so that state secondary schools will be required to institute plans for 'a statewide Safe Schools Coalition to tackle homophobia in the classroom' (Tomazin, 2014, February 2). (At present, schools only need to enter such programs voluntarily.)

What is concerning about this subject is that the school (staff, pupils and parents) is getting drawn into a private question that is of the state's own making. How is it the business of the state to look into pupils' current judgements about their existing sexuality? Why should the school be dragged into this area of pupils' lives? Is there no privacy any more about one's sexual inclinations which in the adolescent years may be one way in one year and completely changed the very next year?

In this same report staff members who are gay/lesbian and have partners will be encouraged to bring their partners along to school social events in an attempt, I take it, to suggest that such relationships are normal. So we have impressionable, young

people being influenced by their teachers towards the acceptance of SSRs as normal. By these means, the state schools become a launching pad for acceptance of the normality of minority sexualities. Now, the usual liberal pattern is to eschew the teaching of morality but this is clearly a blatant example of doing that very thing.

None of these developments is novel in terms of Western states over the past decade or so. It parallels what happened in the American state of Massachusetts in the earlier 2000s where life changed markedly for parents and children at school. Camenker (2012) and in an update Camenker (2013) outlines how the introduction of SSm led to an almost immediate attack on the minds of high school pupils. (In the US, they waited until SSm was legal but, in Australia, it's all part of the softening up process of the school-aged generation that can be moulded to the liberal social agenda in sexual behaviour.)

iv) free speech

'Free speech' may be imperilled by the change. We have already witnessed one such public case where in 2012, in a glaring example of 'heterophobia' in the field of 'human rights'(!) of all places, a Professor Kuruvilla George, Victoria's deputy chief psychiatrist no less, and a member of the *Victorian Human Rights and Equal Opportunities Commission*(!) had his fitness for his position attacked by the Greens' Senator, Sarah Hanson-Young, Labor's shadow Attorney-General, the Hon. Martin Pakula, and others.

George's 'transgression' was that he dared to sign his name to a document sent by 150 doctors to the Australian Senate pointing out the health implications of SSm (Smith, 2012). This topic was one on which one would expect he was well-qualified to render an opinion (even though it was a private opinion). They justified their opposition to his continuing place on the Commission on the grounds that Professor George was not 'neutral enough' to carry out his position. Strangely, nobody heard anyone query how those on the Commission who opposed George could themselves not fall under a similar charge for their bent towards the social liberal agenda.

They were as neutral as George but their neutrality was deemed 'more equal than his was'. In any case, Professor George resigned showing how strong Victoria's stand for individual rights are when they contradict the powerful juggernaut of left-leaning ideology. George received no protection of his right to free speech in his capacity *as an expert* because his judgement did not coincide with those pursuing a so-called 'emancipation' agenda for Australian society. Heterogeneity (diversity!) is always scorned when it doesn't suit the political agendas of powerful elites.

4. Conclusion

This essay argues the case for supporting normative marriage as a matter of public justice, as well as showing how marriage and other selected spheres or rights within our society will be seriously compromised with the introduction of SSm. Along with this line of argument, I have answered many of the specific points raised in Jim Reiher's article on same-sex marriage.

References

- Anderson, R. T. (2013). Marriage: what it is, why it matters, and the consequences of redefining it. The Heritage Foundation. Retrieved February 24, 2014, from <http://tinyurl.com/m5pqq05y>
- Anderson, R. T. (2014). Marriage matters, and redefining it has social costs. The Witherspoon Institute, Public Discourse. Retrieved January 20, 2014, from <http://tinyurl.com/n4hnwpg>
- Basden, A. (2004). The juridical aspect. The Dooyeweerd Pages. Retrieved February 18, 2014, from <http://www.dooy.salford.ac.uk/juridical.html#politics>
- Baus, G. (2011, April 22). Dooyeweerd's conception of societal sphere sovereignty. [Video file]. Retrieved from <http://www.youtube.com/watch?v=mB44Mrq-sIA&feature=c4-overview-vl&list=PL083BD24DE7A4559E>
- Bolt, A. (2011, December 5). Column - Once they start at same-sex marriage, where will they stop?. *Herald Sun*. Retrieved March 10, 2014, from <http://tinyurl.com/77bvp3s>
- Bloy, M. (2013). William Wilberforce and the Clapham Sect. The Peel Web. A web of English history. Retrieved February 7, 2014, from <http://www.historyhome.co.uk/peel/religion/relig3.htm>
- Bowater, D. (2012, March 21). Gay marriage is not a human right, according to European ruling. *The Telegraph*. Retrieved February 19, 2014, from <http://www.telegraph.co.uk/news/religion/9157029/Gay-marriage-is-not-a-human-right-according-to-European-ruling.html>
- Bradlaugh* (2009, April 29). A secular case against gay marriage. *Secular Right: Reality and Reason*. Retrieved January 29, 2014, from <http://secularright.org/SR/wordpress/a-secular-case-against-gay-marriage/>
- Brown, M. (2012, May 22). Why gay is not the new black. *Townhall.com*. Retrieved February 23, 2014, from http://townhall.com/columnists/michaelbrown/2012/05/22/why_gay_is_not_the_new_black/page/full
- Buyse, A. (2010, June 24). Strasbourg court rules that states are not obliged to allow gay marriage. *theguardian.com*. Retrieved January 29, 2014, from <http://www.theguardian.com/law/2010/jun/24/european-court-of-human-rights-civil-partnerships>
- Calilhana, G. (2012, August 23). Gay marriage and the growth of state intervention. *Quadrant*. Retrieved March 4, 2014, from http://quadrant.org.au/magazine/2012/09/gay-marriage-and-the-growth-of-state-intervention/#_ftn20
- Carmenker, B. (2008, updated 2012). What same-sex 'marriage' has done to Massachusetts: It's far worse than most people realize. *MassResistance: Pro-family activism that makes a difference*. Retrieved March 7, 2014, from http://www.massresistance.org/docs/marriage/effects_of_ssm_2012/index.html#mandates
- Chaplin, J. (2011). *Herman Dooyeweerd: Christian philosopher of state and civil society*. Notre Dame, IN: University of Notre Dame Press.
- Chojnowski, P. (2002, January 15). The virtue of justice and its limitations. *lifeissues.net*. Retrieved February 10, 2014, from http://www.lifeissues.net/writers/cho/cho_03justice.html

- Cooper, D. L. (n.d.). Surprising history of holy matrimony in the Roman Catholic Church. Catholic Wedding Information. Retrieved January 27, 2014, from http://www.catholicweddinginfo.com/surprising_history_of_holy_matrimony_in_the_roman_catholic_church.html
- Dooyeweerd, H. (1969,). *A new critique of theoretical thought*. (Vols I-IV). (D. H. Freeman & W. S. Young, Trans.). Philadelphia, Penn: Presbyterian and Reformed Publishing Company.
- Dooyeweerd, H. (1978). *The Christian idea of the state*. Nutley, NJ: The Craig Press.
- Essential Report (2013). Same sex marriage. Essential Media Communication. Retrieved February 25, 2014, from <http://essentialvision.com.au/tag/same-sex-marriage>
- Euronews (2013, January 1). Reflecting on 12 years of gay marriage in the Netherlands. Retrieved February 25, 2014, from <http://www.euronews.com/2013/04/01/reflecting-on-12-years-of-gay-marriage-in-the-netherlands/>
- Fagan, P, Rector, R Johnson, K and Peterson, A. (2002). The positive effects of marriage: A book of charts. The Heritage Foundation. Retrieved January 21, 2014, from <http://tinyurl.com/mj8v7ky>
- FamilyFacts.org (2014). Marriage and family charts. The Heritage Foundation. Retrieved February 25, 2014, from <http://www.familyfacts.org/charts/marriage-and-family>
- George, R. (2013). *Talking on What is Marriage?*. Interviewed by Zachary Young [in person] <http://www.nationalreview.com/article/366385/talking-what-marriage-interview>, December 16, 2013.
- Jacoby, R. (2013, August 21). Stanley Fish turned careerism into a philosophy. *New Republic*. Retrieved February 18, 2014, from <http://www.newrepublic.com/article/114224/stanley-fish-careerism>
- Joseph, B. (2011). Why my generation is wrong about gay marriage. The National Forum. Online Opinion. Retrieved March 10, 2014, from <http://www.onlineopinion.com.au/view.asp?article=12607&page=2>
- Korn, R. (2013). Problems with word definitions. Responsible Thinking. Retrieved February 3, 2014, from <http://www.truthpizza.org/main.htm>
- Koyzis, D. T. (2011). Illuminating civil society. Comment: Public theology for the common good. Retrieved February 25, 2014, from <http://www.cardus.ca/comment/article/2516/illuminating-civil-society/>
- Lewis, C. S. (1952). *Mere Christianity*. London, Geoffrey Bles.
- Lord, J. (2013). The future of Christian faith in Australia. Updated. Retrieved from The Australian Independent Media Network. An Information Alternative. Retrieved January 21, 2014, from <http://theaimn.com/2013/12/31/the-future-of-christian-faith-in-australia-updated/>
- Morse, J. B. (2012). The limited government/libertarian case for man woman marriage. Retrieved March 4, 2014, from <http://tinyurl.com/owm8ugo>
- Moschella, M. (2014). The rights of children: Biology matters. The Witherspoon Institute, Public Discourse. Retrieved February 24, 2014, from <http://tinyurl.com/nynyxn5>
- Muehlenberg, W. (2013a). The facts of fatherlessness, part one. Retrieved January 22, 2014, from <http://tinyurl.com/mjatbej>
- Muehlenberg, W. (2013b). The facts of fatherlessness, part two. Retrieved January 22, 2014, from <http://www.billmuehlenberg.com/2013/05/17/the-facts-on-fatherlessness-part-two/>

- NewsABC (2013, August 29). Vote Compass: Majority of voters back gay marriage. Retrieved February 8, 2014, from <http://www.abc.net.au/news/2013-08-29/vote-compass-gay-marriage-euthanasia-abortion/4918494>
- Novak, D. (2011). Same-sex couples have no right to marry. ABC, Religion and Ethics. Retrieved January 21, 2014, from <http://tinyurl.com/d2pv26g>
- Obama, B. (2008, June 15). Obama's speech on fatherhood by Barack Obama given on Father's Day at The Apostolic Church of God, Chicago, IL. Real Clear Politics. Retrieved January 21, 2014, from http://www.realclearpolitics.com/articles/2008/06/obamas_speech_on_fatherhood.html
- On the good of marriage. (n. d.). Augnet. Retrieved January 27, 2014, from <http://www.augnet.org/?ipageid=1355>
- 'polygamy' (2014, February 20). Wikipedia: The Free Encyclopedia. Retrieved February 26, 2014, from <http://en.wikipedia.org/wiki/Polygamy>
- Reiher, J. (2013). Why some Christians support gay marriage in the wider community. Jim's Philosophy: Australian and World Politics, Current Affairs and Religion. Retrieved February 9, 2014, from <http://jimsphilosophy.com/current-affairs/271-christians-support-gay-marriage?tmpl=component&print=1&layout=default&page=>
- Ridgway, I. R. (2014). Same sex marriage—A legal error based on an empirical mistake. All of Life Redeemed -Asia. Retrieved March 2, 2014, from <http://www.allofliferedeemed.asia/news/new-article-on-same-sex-marriage/>
- Skillen, J. W. (2003). Philosophy of the Cosmomic Idea: Herman Dooyeweerd's Political and Legal Thought. The Political Science Reviewer. The Colson Center Library. Retrieved March 7, 2014, from http://www.mmisi.org/pr/32_01/skillen.pdf
- Skillen, J. W. (2004). Same-Sex "Marriage" is not a civil right. Center for Public Justice. Retrieved February 7, 2014, from [http://www.cpjustice.org/stories/storyReader\\$1178](http://www.cpjustice.org/stories/storyReader$1178)
- Smith, P. (2012, May 15). Gay marriage opponent quits equality job. *Australian Doctor*. Retrieved February 10, 2014, from <http://www.australiandoctor.com.au/news/latest-news/gay-marriage-opponent-quits-equality-job>
- Stevenson, M. (2000, May 30). Bullying: Kids have always treated each other this way. *Democracy In America*, [Blog post]. Retrieved March 5, 2014, from <http://www.economist.com/blogs/democracyinamerica/2010/03/bullying>
- Stewart, M. N. (2006). Genderless marriage, institutional realities, and judicial elision. *Duke Journal of Constitutional Law and Public Policy*, 1(1), 1-78. Retrieved from <http://scholarship.law.duke.edu/djclpp/vol1/iss1/1/>
- Taylor, E. L. H. (1969). *The Christian philosophy of law, politics, and the state*. Nutley, NJ: The Craig Press. Retrieved February 18, 2014, from <http://tinyurl.com/krdkvzb>
- theMETALDOVE (2009, October 19). Allen Keyes on gay marriage. Video file. Retrieved from <http://www.youtube.com/watch?v=KrD8zvCUtWc>
- Tomazin, F. (2014, February 2). Victorian ALP plan to support gay students that "come out". *The Age*. Retrieved March 5, 2014, from <http://www.theage.com.au/victoria/victorian-alp-plan-to-support-gay-students-that-come-out-20140201-31u56.html>
- van de Wiel, L. (n.d.). Lingering hostilities: How The Netherlands never really stopped talking about same-sex marriage. Retrieved March 1, 2014, from <http://tinyurl.com/lbqerkl>