

The Heterosexual Revolution

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THE last week has been tough for opponents of same-sex marriage. First Canadian and then Spanish legislators voted to legalize the practice, prompting American social conservatives to renew their call for a constitutional amendment banning such marriages here. James Dobson of the evangelical group Focus on the Family has warned that without that ban, marriage as we have known it for 5,000 years will be overturned.

My research on marriage and family life seldom leads me to agree with Dr. Dobson, much less to accuse him of understatement. But in this case, Dr. Dobson's warnings come 30 years too late. Traditional marriage, with its 5,000-year history, has already been upended. Gays and lesbians, however, didn't spearhead that revolution: heterosexuals did.

Heterosexuals were the upstarts who turned marriage into a voluntary love relationship rather than a mandatory economic and political institution. Heterosexuals were the ones who made procreation voluntary, so that some couples could choose childlessness, and who adopted assisted reproduction so that even couples who could not conceive could become parents. And heterosexuals subverted the long-standing rule that every marriage had to have a husband, a wife, and a single role in the family--and a completely different one. Gays and lesbians simply looked at the revolution heterosexuals had wrought and noticed that with its new norms, marriage could work for them, too.

The first step down the road to gay and lesbian marriage took place 200 years ago, when Enlightenment thinkers raised the radical idea that parents and the state should not dictate who married whom, and when the American Revolution encouraged people to engage in "the pursuit of happiness," including marrying for love. Almost immediately, some thinkers, including Jeremy Bentham and the Marquis de Condorcet, began to argue that same-sex love should not be a crime.

Same-sex marriage, however, remained unimaginable because marriage had two traditional functions that were inapplicable to gays and lesbians. First, marriage allowed families to increase their household labor force by having children. Throughout much of history, upper-class men divorced their wives if their marriage did not produce children, while peasants often wouldn't marry until a premarital pregnancy confirmed the woman's fertility. But the advent of birth control in the 19th century permitted married couples to decide not to have children, while assisted reproduction in the 20th century allowed infertile couples to have them. This eroded the traditional argument that marriage must be between a man and a woman who were able to procreate.

In addition, traditional marriage imposed a strict division of labor by gender and mandated unequal power relations between men and women. "Husband and wife are

one," said the law in both England and America, from early medieval days until the late 19th century, "and that one is the husband."

This law of "coverture" was supposed to reflect the command of God and the essential nature of humans. It stipulated that a wife could not enter into legal contracts or own property on her own. In 1863, a New York court warned that giving wives independent property rights would "sow the seeds of perpetual discord," potentially dooming marriage.

Even after coverture had lost its legal force, courts, legislators and the public still cleaved to the belief that marriage required husbands and wives to play totally different domestic roles. In 1958, the New York Court of Appeals rejected a challenge to the traditional legal view that wives (unlike husbands) couldn't sue for loss of the personal services, including housekeeping and the sexual attentions, of their spouses. The judges reasoned that only wives were expected to provide such personal services anyway.

As late as the 1970's, many American states retained "head and master" laws, giving the husband final say over where the family lived and other household decisions. According to the legal definition of marriage, the man was required to support the family, while the woman was obligated to keep house, nurture children, and provide sex. Not until the 1980's did most states criminalize marital rape. Prevailing opinion held that when a bride said, "I do," she was legally committed to say, "I will" for the rest of her married life.

I am old enough to remember the howls of protest with which some defenders of traditional marriage greeted the gradual dismantling of these traditions.. At the time, I thought that the far-right opponents of maritalequality were wrong to predict that this would lead to the unraveling of marriage. As it turned out, they had a point.

Giving married women an independent legal existence did not destroy heterosexual marriage. And allowing husbands and wives to construct their marriages around reciprocal duties and negotiated roles -where a wife can choose to be the main breadwinner and a husband can stay home with the children -was an immense boon to many couples. But these changes in the definition and practice of marriage opened the door for gay and lesbian couples to argue that they were now equally qualified to participate in it.

Marriage has been in a constant state of evolution since the dawn of the Stone Age. In the process it has become more flexible, but also more optional. Many people may not like the direction these changes have taken in recent years. But it is simply magical thinking to believe that by banning gay and lesbian marriage, we will turn back the clock.

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