

# Marriage

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Currently in our society, it is legal for any group of consenting adults to live together and have sex together in any combination they mutually agree upon. This enrages homophobic and bigoted people, but their tantrums against personal freedom have very little force. The one remaining way they still have some impact is on the question of which combinations of people can legally be married.

Historically, the social and legal institution known as marriage served several purposes. One purpose was to make a woman the property of a man, giving him control over her, and giving him sole sexual rights. Another purpose was to make a man the protector of his woman or women; they needed protection from other men. Another purpose, following from “sole sexual rights” and “protection from other men”, was to enable a man to identify his children, and to require him to support his children. Another purpose was to join property, or to join kingdoms. For some, marriage changed the sin of sex into the blessed obligation to produce children beneath the gaze of a judgemental and vengeful god. We now see most of these purposes of marriage as primitive or barbaric, and we have progressed from them; unfortunately they remain current in other parts of the world.

I have nothing negative to say about the current form of marriage in our society as a social institution. A wedding can be a wonderful ceremony and celebration, with friends and family. There is social value to a statement of commitment that marriage partners make to each other in front of their community, and equally a statement of commitment from their community to help the marriage partners when they need help. I consider it a human right for people who love each other to be allowed to live together. If that's marriage, may it last forever.

But marriage is not just a social institution. Marriage is also a set of legal rights and legal obligations. Depending on the jurisdiction, marriage may give you an income tax deduction; it may give your spouse the right to immigrate; it may give you the right to adopt children; it may decrease your health insurance premiums; it may give pension rights to a surviving spouse; it may give each spouse equal legal right to all property they own, and responsibility to pay all debts they incur. Finally and most importantly, married parents are both responsible for the care and support of their children.

People sometimes get married purely for legal reasons, such as the right to immigrate, or for a tax advantage. The legal rights and responsibilities of marriage are why the question of who can legally marry whom is of interest. It seems to me that if marriage gives legal rights and responsibilities to a heterosexual couple, it should also give the same rights and responsibilities to any couple, and to any group. Any restrictive definition of marriage is discriminatory.

My proposal is that we retain marriage as a purely social institution, and get rid of all legal implications. I don't like giving some people legal rights and responsibilities that others do not have, and I don't like giving people purely legal reasons for getting married.

Where I live, there is a tax advantage to being married: spouses can average their income to avoid a higher rate. So can a “common law partner”, defined as “not legally married but living

together in a conjugal relationship for at least 12 months”. The advantage in having a marriage certificate is just to avoid the one year waiting period. This advantage is not a good reason for maintaining the legal status of marriage. If marriage were to lose its legal status, all marriages become “common law”, and we can decide whether the appropriate waiting period is 12 months, 0 months, or something in between. Personally, I would prefer tax laws that are less complicated, more uniform, and don't grant special status on the basis of personal relationships. Whether a relationship is “conjugal” should not be the tax department's business.

An immigration right can be granted to anyone in a “close” relationship with a citizen, where “close” may mean a variety of things. But it does not include a “marriage of convenience”, a marriage made for the purpose. So marriage is not the relevant criterion; closeness is.

Any group of people should be allowed to create a property union if they choose to, and be allowed to keep their property separate if they choose to, regardless of whether they call themselves married.

Children should and do have a legal right to care and support. A child's mother and father have both the legal right and legal responsibility to provide that care and support in the first instance, whether or not they are married. A parent can waive their right by making other arrangements for the child. A parent can forfeit their right by not fulfilling their responsibilities. It is quite common now for a child to live in a situation other than with married parents; nontraditional parent arrangements (single parent, same sex couple, multiple parents) can be just as good for a child. My point is that the laws concerning the care and support of children already have nothing to do with marriage.

It seems to me that we have no good reason for continuing to make “marriage” a legal term.

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