

# The Flawed Institution: Australian Marriage and the Same-Sex Debate

By [Dr. Binoy Kampmark](#)

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*It's a pretty curious thing to see: marriage being defended at all. Like slavery, and not necessarily inconsistent with it, marriage is an institution. It embraces codes. It imparts obligations, duties, and rights. And it creeps up on you.*

In Australia, flawed campaigns are being waged in its name. This has been occasioned by an absence of parliamentary will. Abdicating a responsibility that was clearly given to them by the High Court of Australia in the 2013 case between the Commonwealth and the Australian Capital Territory, parliamentarians will be waiting for the results of a postal plebiscite that should not be taken for granted by anybody. The farce will then continue on what form of bill will be voted upon, if, indeed, there will be a bill put forth at all.

Taking this survey into account (the wording by the Turnbull government on this is intentional) is, however, hard to take seriously. Lacking the austere gravitas and purpose of a referendum, it only promises to take the temperature of the Australian populace, a reading of that confused patient known as the public.

Then there is the nagging question of whether the plebiscite will even go ahead. A sword of Damocles hangs over its very legality, and the holder of that weapon – the High Court of Australia – may yet find against it. Advocates against it have argued that such a measure cannot bypass parliamentary will.

As for the arguments for marriage, these have been variant and even idiosyncratic. Conservatives groups for gay marriage argue that you strengthen it by virtue of expanding it. The more, it seems, the merrier. The stance is outlined by Nick Greiner, former New South Wales premier.[1]

Those in favour of not enlarging the tent – such as Senator Matt Canavan – embrace the erroneous notion that an ancient institution should not be changed in terms of gender. What has been done for millennia must be right. (He forgets that the same arguments could be used in apologies for genocide, slavery and domestic violence.)

The good senator is somewhat confused in insisting that the institution needs more than love. It would be far more accurate to say that property and securing it against challengers has been the traditional role of marriage. Love tended to be found outside it.

The issue of marrying for love is a charmingly recent phenomenon. It was very much the understanding in European aristocratic circles that marriage would only ever be to keep the line of succession safe. If you so happened to be a Hapsburg operating the levers of power five hundred years ago, you would also see marriage as a means of acquiring other

properties (states, possessions, colonies).

The issue of children raises other fascinating points. For Canavan, the bond between males and females called for “a special word and a special institution” because of its link to breeding.[2] A strict reading of marriage as a breeding machine puts those heterosexual couples who don’t wish to add to their global carbon footprint at odds with the religiously minded. Marriage entails issue, and blessed are the breeders, despite adding to population bomb. Even on that score, same-sex couples can have children, even if a heterosexual element is still required to supply the, to put it indelicately, raw matter.

As for the issue of miracles, nothing could be less so. Offspring tend to be an automatic affair that only promises to disappear when the process of reproduction becomes sexless, a dry, mess free laboratory matter sketched in such dystopian delights as Aldous Huxley’s *Brave New World*.

The campaign has also given a foretaste of the nastiness to come. The pro-marriage conservatives insist that children who are raised in any environment that is not hetero-normative are bound to have a few screws loose.

Again, we have a problem of false attribution of value: since the conventional marriage produces children, it follows that it is good. This is hardly a good argument when stacked up against those dysfunctional children who come from that euphemised context of a “broken home”. Broken homes also produce broken children, and heterosexual couples can be damn good at it.

Advocates for the status quo have also brought the issue of freedom of religion into play. But this is a deceptive and disingenuous way of introducing discrimination via the backdoor. Traditional anti-discrimination statutes would thereby be circumvented by the bigoted notion that you could refuse to hold a service or bake a wedding cake for a gay couple.

The novelty of this debate is seeing how advocates from the Left perspective have marched in favour of same-sex marriage when marriage itself has lost its appeal to many progressives. The only argument left, then, is the equality of choice: same-sex couples should be perfectly entitled to enter into a flawed, anachronistic institution should they wish to. We should all be entitled to make our own mistakes.

*Dr. Binoy Kampmark was a Commonwealth Scholar at Selwyn College, Cambridge. He lectures at RMIT University, Melbourne. Email: [bkampmark@gmail.com](mailto:bkampmark@gmail.com)*

Notes

[1] <http://www.smh.com.au/federal-politics/political-news/liberals-and-nationals-for-yes-new-samesex-marriage-campaign-to-be-launched-20170827-gy54au.html>

[2] <http://www.smh.com.au/federal-politics/political-news/love-is-not-enough-for-marriage-says-turnbull-government-mp-as-yes-campaign-fires-back-20170830-gy7opj.html>

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Kampmark](#)

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