

John Corvino and Maggie Gallagher

Debating Same-Sex Marriage.

Oxford and New York: Oxford University Press, 2012.

281 pages

\$16.95 (Paper: ISBN 978-0-19-975631-5)

This book is part of Oxford University Press's Point/Counterpoint Series. The format resembles a public debate: each author makes a lengthy case for his or her position and then each offers a response to the other. Corvino and Gallagher have made numerous public appearances doing just this kind of exchange, so they are well aware of each other's views and objections. This past experience helps to minimize time wasted in working through misunderstandings and talking past one another. Another strength of the book is that the authors genuinely respect each other (they have even become friends through their joint appearances) while strongly disagreeing and vigorously attacking each other's position. For these reasons, the book would serve well in courses on applied ethics or critical thinking as an example of how to wrestle with difficult issues while showing respect for one's opponents and interpreting their views charitably.

But is this issue, in fact, a difficult one? For many people, the answer about whether to institute same-sex marriage (SSM) seems obvious, and the failure to see how obvious it is simply results from bigotry or religious dogma. However, for others, the opposite answer is just as obvious, and the failure to recognize it results from a refusal to recognize fundamental sexual norms or from wanton disregard of traditional values. After reading this book, people in both camps should at least admit that the issue is not so straightforward and that there are arguments worth taking seriously on both sides. Those who have been thus far undecided on the issue will find plenty of resources for thinking through it more thoroughly.

Corvino begins the exchange with a brief argument in favor of SSM. It is broadly consequentialist: same-sex couples should receive the right to marry because marriage is a social institution that binds individuals into a long-term relationship of mutual care. This kind of relationship is good not just for the individuals involved but also for the broader society, because married couples have a range of rights and privileges that sustain their commitment to each other and their ability to care for each other; the more people have this kind of relationship, the better off society is. Marriage would also support and enhance the ability of same-sex couples to care for the children that many of them are currently raising or hope to raise. Corvino's argument, then, shows that the beneficiaries of SSM go well beyond the potential spouses. This feature of his argument should hold appeal for traditional-minded opponents of SSM, and it reflects his conviction that marriage is ultimately more than a contract between two consenting adults—it is an institution that creates families.

Apart from appealing to likely consequences, Corvino also contends that allowing same-sex couples to marry is a matter of basic justice, insofar as it expresses the state's recognition of such relationships as deserving of equal treatment by the law. He also frequently makes a parity argument by pointing out other kinds of couples who currently have the right to marry despite not being able to fulfill the functions of marriage commonly cited as essential to the institution by SSM opponents. For example, heterosexual elderly couples are allowed to marry even when they are no longer able to conceive a child. So either they should not be allowed to marry, or marriage must

have some other legitimate purpose besides reproduction, in which case same-sex couples should be given the same right.

Having offered his case in favor of SSM, Corvino devotes the rest of his essay (which is most of it) to defeating common objections. In these sections he addresses: the historical record on forms of marriage in different eras and societies; appeals to the supposed ‘definition’ of marriage; claims by SSM opponents that children will suffer a range of detriments; and natural law arguments that draw on a specific and restrictive sexual teleology. His reasoning is careful and precise, and it shows a philosopher’s facility with conceptual analysis as well as a good familiarity with the empirical literature. His presentation is engaging, too, as he fleshes out his points with plenty of emotionally affecting stories.

Like Corvino’s, Gallagher’s case is a mix of consequentialist arguments and appeals to marriage’s symbolic social value, and her presentation is rigorous and engaging. Refreshingly, she shows how opposition to SSM can be more intellectually substantive than the timeworn ‘Adam and Eve, not Adam and Steve’ quip or simplistic appeals to religious authority (Gallagher mentions religion only to discuss the prospect of religious groups facing unjustifiable discrimination because of their opposition to SSM). Unfortunately, Gallagher’s main essay suffers from a few drawbacks. It sometimes becomes very repetitive (she even offers a lengthy quotation from a *New York Times* article about non-exclusivity in gay relationships (132), only to repeat a slightly shorter version of it nine pages later). And she shows a tendency to substitute rhetorical questions in lieu of argumentation (a particularly lengthy barrage occurs on p. 147).

Moreover, her thoughts are not as clearly organized as Corvino’s. She shifts between arguing for marriage’s symbolic value, marriage’s intrinsic nature, and the likely consequences of changing the legal status of marriage, without always signaling that these are distinct issues. In her defense, however, she seems to think that these three issues are inextricably linked. That is, her thesis is that marriage has a symbolic value that, when protected as an institution, brings important social benefits. It ‘works’ only insofar as it reflects fundamental differences between men and women and the necessity for both in the generation and upbringing of children. As she repeatedly asserts, children need mothers and fathers, which is to say that each child needs his or her own biological mother and biological father. Marriage establishes expectations and social pressure on parents (especially males) who would otherwise be less inclined to provide care and support for their offspring. Expanding the right to marry shifts the meaning of the institution from one focused on the generation and care of children to companionship for adults. Gallagher fears that this shift will erode the expectations and incentives for heterosexual males to fulfill their paternal obligations, which will lead to increased burdens on mothers and psychological harm to fatherless children. She also contends that instituting SSM will lead to social and/or political pressure on groups of people who do not accept it as genuine marriage; she cites several cases in which people who opposed SSM lost jobs, professional licenses, or tax exempt status because they were discovered to have conscientious objections to homosexuality and/or SSM (126-8; 162-9).

While the authors maintain a respectful attitude and offer thoughtful analysis of the opposing viewpoints, there are points at which the exchange between them is less than ideal. For example, Corvino resorts to ad hominem criticisms. Gallagher acknowledges that these are not ‘mean-spirited’ (208). Still, she rightly identifies them as such and points out that such criticisms do not affect the truth of her conclusions (student readers will thus get a quick reminder of a key point in informal logic). On the other hand, Gallagher consistently misses Corvino’s main (and

strongest) point: that marriage has multiple functions, none of which seem to be absolutely necessary for a relationship to be worthy of matrimony. People marry for all sorts of reasons; perhaps some of them are bad reasons. But there is no clear single purpose for marriage, if we understand ‘purpose’ to refer to the intentions and motivations of actual people who choose to marry. Even if the generation and care of children is the most important function of marriage as a social institution, it does not follow that it is necessary for *each individual* marital relationship.

One issue that both authors would have done well to address more substantially is how granting the legal status of marriage coheres with general principles of justice and legitimate expectations of state neutrality in a pluralistic society. If marriage were simply a means to strengthen families, then SSM would likely not be such a bone of contention; the issue could perhaps be settled by empirical social research. The rub, however, is in the fact that marriage is not simply a tool—it has symbolic significance. But in granting it to any couple, the state acts on behalf of its citizens. Does anyone (gay, straight, polyamorous, whatever) deserve, as a matter of justice, to have their relationships publicly sanctioned? If so, why? Is it possible for the state to satisfy this right while also respecting the consciences of those who oppose homosexuality or same-sex marriage, given that SSM would be an explicitly *public* status? Corvino comes close to addressing this issue (79-83), although he focuses more on criticisms of marriage as an institution that entrenches unjustifiable forms of inequality. Answering the above questions about marriage’s expressive value, though, would clarify the ultimate moral rationale for SSM. On the other hand, it might show that governments should not be involved with certifying any marital relationships in the first place.

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