

Forum Digest for Lectures 23 and 24 (lecture release date was May 28th)

Children and the Telos of Marriage

Some have endorsed something like the following argument:

- 1) Having children is part of the purpose of marriage.
- 2) Same sex couples can't have children.
- 3) So, same sex couples can't fulfill the purpose of marriage (from 1-2).
- 4) If a couple can't fulfill the purpose of marriage, the state should prohibit them from getting married.
- 5) So, the state should prohibit same sex couples from getting married.

If you endorse premise (1) and take 'having children' to entail the couple biologically parenting a child together, it will then follow that premise (2) is true. However, if we interpret (1) in this way, it is unclear why we should believe it. Those who defend it must either accept, or explain why they do not need to accept, the further (counter-intuitive?) implication that sterile heterosexual couples can't fulfill the purpose of marriage. By extension, if you think that the state should prohibit same sex marriage on this basis, you must explain why it shouldn't also prohibit sterile marriages, which will include banning any post-menopausal heterosexual woman from getting married.

By contrast, if you endorse premise (1) but interpret 'having children' loosely, to include having children through adoption and/or artificial insemination, it will follow that premise (2) is false.

Children and Exclusive Relationships

Some suggested that one reason for endorsing (1) is that marriage between a husband and a wife is supposed to be an exclusive relationship and the rationale for exclusivity is undermined if the couple does not have children. If you believe this, you need to ask yourself whether people who don't want children are irrational if they aren't indifferent to whether or not their partner remains loyal. Note that if exclusivity is an appropriate norm for relationships, especially relationships with children, a same sex couple could satisfy this norm if they had an exclusive relationship.

Romance, Same-Sex Marriage and Polyamorous Marriage

Some argued that if you make romance the basis of marriage and defend same sex marriage on that basis, you are thereby committed to defending romantic polyamorous marriage. The logic seems intuitive but note that someone who believed that exclusivity and romance are intertwined might deny that polyamorous marriages can be genuinely romantic. This means that the logic of defending same sex marriage on the basis of romance, does not automatically commit one to defending polyamorous marriage.

Marriage versus Children

Note that the question of whether same sex couples should be allowed to get married is actually separate from the question of whether they should be allowed to have children (and, if so, by what means). Many will answer 'yes-yes' or 'no-no' but people can also answer 'yes-no' or 'no-yes'.

Some who thought that same sex marriage will lead to polyamorous marriage worried that same sex parenting would lead to polyamorous parenting. Note that, firstly, you could favor (say) a right for gay couples to adopt without favoring a right of a polyamorous trio to adopt, and secondly, thus polyamorous families could come into existence even if their marriages aren't legally recognized.

Discussion vs. Justification

In determining whether moral and religious arguments should be welcome in the public sphere, or citizens should attempt to put them aside, it is worth distinguishing two different roles that such arguments might play in public discourse. First, one might bring in one's religious views or views about the good life into the public sphere for the purpose of discussion. One's primary goal in doing so would be to persuade others to adopt one's beliefs and values. Second, one might bring in one's religious views or views about the good life in order to justify some state action, such as banning abortion or permitting prayer in public schools. Many individuals in the discussion forums have pointed to the positive effect of discourse that draws on religious views and views about the good life -- pointing to this very course as an exemplar of such discussion -- but it is important to recognize that it does not immediately follow that such views should be used to justify state action.

Why exclude religious views and views about the good life?

The majority of the posts in the discussion forum have not only taken the view that one should be able to draw on one's religious views (or views about the good life) in order to justify state actions, but that it is overwhelmingly obvious that this is the case. One way to push against the obviousness of this view is to consider a case at the extreme: imagine that a religious majority started imposing stringent rules of conduct with disregard for the views of the various religious minorities in its

societies. When a person in the minority asked the majority to justify their decisions, the majority appeals to a sacred text that can only be seen by members of that religion. Most people would find such a response inadequate. The response could not serve as a justification for the law because the members of the minority could not share in the reasoning behind the law. The political liberal worries that drawing on religious views and views about the good life is always like this, in the sense that those in disagreement with the particular religion or the view about the good life cannot share in their opponents reasoning. The two groups are drawing on different premises, and so any justification that stems from a religious view or view about a specific conception of the good life will fail to justify the law to every member of the society. It is this vision, one of a society in which every member is able to affirm the law from her own common reason, toward which the political strives. Whether such a vision is desirable or possible are difficult questions, but you should at least consider the force of the view before dismissing it too quickly.

The Asymmetry Objection: Disagreements about the Good Life vs. Disagreements about Justice

While many of the disagreements that we have discussed in the course have drawn on specific views about the good life, many of the disagreements have been disagreements about justice. This raises the following question: if views about the good life cannot serve as reasons for state action because individuals disagree about the good life, how can our views about justice serve as reasons for state action, given that we also disagree about justice? Any satisfactory answer to the question, if there is one, must be able to explain why the kind of disagreement in each case is different. Are disagreements about the good life (say, religious disagreement) different than disagreements about justice? If so, how?

The Right vs. the Good

It is important in engaging with this week's material to remain very clear about what the distinction is between the "right" and the "good," especially in responding to the challenge questions. If we think that conceptions of right are just as contested as questions of what constitutes the good, then that might lead us to take the position that such questions cannot be cleanly separated in the way that theorists like Rawls and Nozick would prefer. Thus, bear in mind that those who advocate for the good being prior to the right, like Aristotle (or utilitarians), think that justice cannot be determined without reference to some conception of the best way to live a human life, which requires answering questions about what marriage ought to look like, for example (or, in the case of utilitarians, what leads to maximum aggregate happiness (pleasure minus pain)). Those like Rawls, Nozick, and Kant who view the right as prior to the good attempt to answer questions about justice or right by setting up impartial rules that do not pass judgment on how we ought to live (or what maximizes aggregate happiness). However, as one of the challenge questions suggests, even those rules, in determining how and when redistribution is acceptable (for example), may also be answering questions about how we ought to live. The degree of contention over those questions may suggest that calm agreement on boundaries is not possible.