

Book Reviews

Clare Chambers, Against Marriage: An Egalitarian Defense of the Marriage-Free State, New York: Oxford University Press, 2017, 226 pp.

In the last few years we have witnessed a remarkable change in social and political attitudes about marriage. After decades of campaigning, the cause for same-sex marriage has scored a string of success. Today, same-sex marriage is legally performed and recognized (nationwide or in some parts) in Argentina, Australia, Belgium, Brazil, Canada, Colombia, Denmark, Finland, France, Germany, Iceland, Ireland, Luxembourg, Malta, Mexico, the Netherlands, New Zealand, Norway, Portugal, South Africa, Spain, Sweden, the United Kingdom, the United States, and Uruguay. Though not legal *per se* in Armenia, Estonia, and Israel, same-sex marriage performed abroad is legally recognized in these countries.

At the same time, the institution of marriage has come under intense scrutiny from political philosophers working within a broad liberal tradition. These philosophers agree with the advocates of same-sex marriage that it is unjust to make marriage available to opposite-sex couples while excluding same-sex couples. But some of these philosophers give only their heavily-qualified support to the same-sex marriage campaigners' fundamental goal—which is to give same-sex couples access to something that closely approximates the current institution of marriage. According to these political philosophers, marriage, in its current form, is incompatible with liberal principles of justice. Thus, on their view, marriage should ideally be either radically reformed or completely abolished. With her *Against Marriage*, Clare Chambers leads the latter group and provides an extremely rich, lucid, and timely argument against state-recognized marriage.

Chambers opens her book with the claim that it is “for everyone, regardless of marital status” (1). Indeed, one of the book's strengths is that the arguments presented can be appealing to all five groups she lists at the outset: “the happily married,” “the happily unmarried,” “the unhappily married,” “the unhappily unmarried,” and “children, whose social wellbeing should not depend on their parents' marital status” (1). But, as Chambers also warns, “this book is *not* for everyone regardless of political conviction” (1). Her argument is driven by a commitment to egalitarianism arising from the feminist belief that “society is deeply gendered, in a way that harms women, and [that] this is wrong” (2). So, social conservatives or religious fundamentalists who wish to retain a particularly sexist and

heterosexist organization of intimacy are likely to be, at best, untouched by the arguments of the book. Nonetheless, anyone with some egalitarian commitments will find plenty of interesting material to dwell on.

The book has two parts, each with three chapters. Part I, entitled *Against Marriage*, defends the negative thesis: state recognition of marriage in any form should be abolished. Canvassing a broad range of philosophical literature on marriage, Chambers argues that state-regulated marriage, both as it currently exists and even when radically transformed, violates core principles of liberalism: those of equality and liberty.

Chapter 1 argues that marriage violates liberalism's commitment to equality by, at best, ignoring and, at worst, perpetuating the sexist and heterosexist foundations of marriage. Marriage is sexist both symbolically and materially. The marriage ceremony wrongs women symbolically when they are expected to wear a white dress to symbolize their virginity and purity, when the father "gives away" his daughter to her husband, and when the minister (or priest) tells the new husband that he can kiss his bride as if she no longer has to consent to such things. Materially, marriage is problematic because of an all-too-common unequal division of labor within marriages, the difficulty for women to remove themselves from abusive marriages, and the continued financial imbalance between men and women which is usually exacerbated in divorce settlements. Moreover, marriage is heterosexist because, in most jurisdictions still, it only permits marriage between one man and one woman. Chambers also argues here that civil unions (or other reformed versions of marriage) "maintain inequality between partnered and unpartnered people" of all sexualities (42).

State-recognized marriage also violates liberty, Chambers argues in Chapter 2, by promoting a particular conception of the good without sufficiently weighty public reasons for doing so. It does so in part because it offers advantages to married couples not available to unmarried couples, such as tax breaks, pension/insurance benefits, visitation rights, and immigration status. Hence, people might choose marriage not because they really want to, but in order to achieve benefits that would not be available to them otherwise. This violates the liberal principle that the state ought to remain neutral between different conceptions of the good life.

In Chapter 3, Chambers considers several liberal justifications for state-recognized marriage including arguments based on the idea (i) that marriage helps to convey social meaning and thus enables better communication, (ii) that marriage can promote gender equality, (iii) that marriage fosters care, (iv) that marriage promotes social stability, and (v) that marriage is necessary for child protection. In each case, Chambers contends, the arguments fail to show that state-recognized marriage is both a necessary and an acceptable means of achieving the public good in question.

Part II of the book, *The Marriage-Free State*, sets out the positive thesis: since in an ideally just state there is no state-recognized marriage, personal relationships still need to be regulated "so as to protect vulnerable parties, including but not only children; so as to regulate disputes over such matters as joint property; so as to establish the rights and duties of third parties; and so as to appropriately direct state benefits and taxes" (115). Personal relationships should be regulated, Chambers holds, in a piecemeal

way based on the practices people engage in. This form of regulation distinguishes Chambers from others who argued for the abolition of marriage.

In Chapter 4, Chambers considers and rejects relationship contracts as a replacement for state-recognized marriage. Though relationship contracts give significant freedom for people to regulate their relationships in a way that best fits their individual needs, they too can undermine both liberty and equality. The parties to the contract, particularly women, may not be free and equal at the moment of making the contract, or they might end up unfree and unequal by agreeing to certain terms, or both. Moreover, relationships contracts can prove to be difficult and even undesirable to enforce: after all, if relationship contracts are to be legally enforceable, the state is invited to intervene on any matter on which the parties have chosen to contract. This would be giving far too much power to the state with respect to our private lives.

In Chapter 5, hence, Chambers makes her own original contribution regarding the question how personal relationships should be regulated in a marriage-free state. She argues that intimate relationships between citizens should be regulated (1) in a *piecemeal* rather than holistic fashion; (2) with a focus on relationship *practices* rather than status; and (3) with the freedom to *opt out* of default regulations rather than to opt in. Such a regulation would mean that there would not be any particular “relationship status,” such as traditional marriage, Tamara Metz’s Intimate Care-Giving Union, or Elizabeth Brake’s Minimal Marriage, that would provide a predetermined set of rights and benefits. Instead, regulations about care, cohabitation, economic and emotional interdependence, and parenting would exist independently from one another. This avoids the assumption that all the goods of being in a relationship are to be achieved in one relationship. The emphasis on relationship practices rather than on relationship status as well as the requirement to opt out instead of to opt in are meant to restrict anyone from passing on any value-judgment and to protect those who, for whatever reason, lack the relevant status.

While arguing against state-recognized marriage, Chambers acknowledges the importance of religious and secular marriage ceremonies and practices to some (perhaps many) citizens, both straight and gay. Rather than critiquing or devaluing the desire to be married (as some marriage critics do), she accepts this desire as legitimate and seeks to accommodate it. Thus, in Chapter 6, Chambers distinguishes the marriage-free state from the marriage-free society and considers the circumstances under which the state might be justified in intervening in private marriages. Here Chambers clearly distinguishes her own position from a libertarian one by focusing on the state’s role in preventing harm to vulnerable parties (such as women and children) and on ensuring that objectionable discriminatory practices are prohibited in the private sector too. Chambers skillfully argues, for example, that religious exemptions from anti-discrimination legislation cannot be upheld by reference to freedom of association. When women are excluded from priesthood and lesbian and gay Catholics are excluded from the rites of marriage, their freedom of association is hindered: they become outsiders, “people who must be excluded for the comfort and bonds of others” (180). However, unlike private clubs, where adults who join them are

aware of the group's commitments, Chambers reminds us, religions are "a lot more like states and other public institutions" (183). They have, in other words, a profound effect on people's lives from birth: some women, gays, and lesbians have been members of their religious communities from childhood. Thus, they are insiders to a community that actively and unjustly harms them by excluding them on the basis of belonging to a certain group (women, gay, and lesbian) for which they had no choice. Similarly, religious law governing marriage (and divorce), such as Jewish religious law that is still upheld by Conservative and Orthodox Jews, must not allow some members to live under a religious authority that harms them without their consent. "The state must do whatever it can," Chambers argues, "to ensure that women and other vulnerable people are not trapped in oppressive religious marriages" (199). Religious freedom, Chambers concludes, cannot include the right of religious leaders to discriminate against members of their *own* religion.

Throughout the book, Chambers displays an impressive familiarity with both feminist and non-feminist scholars of marriage and the family, both critics and advocates of marriage, representatives of a variety of liberal theoretical approaches, as well as with religion and culture. Chambers is also masterful at anticipating and responding carefully to potential objections to her arguments and proposals. Moreover, as a philosopher, Chambers is thoughtful, precise, and meticulous; as a feminist, she is concerned, compassionate, and attentive to the complexity and diversity of people's lives. Nonetheless, there are certain worries about some of her key points.

While there is much to agree with in Chambers' critique of the institution of marriage, there is at least one important concern about her negative argument. The foci of Chambers' argument against state-recognized marriage is, among others, a concern about the unjustified stigmatization (or as she terms it, borrowing from the work of Pierre Bourdieu, "symbolic violence") of single and unmarried people. It is vague, however, what the stigmatization consists in. One possibility is that it involves the negative beliefs some (perhaps most) members of society have about being single or unmarried. If this is so, it is unclear that it is the business of a politically liberal state to eradicate such beliefs. After all, a neutral, liberal state should not be taking sides on disputed questions about what is a good life; that is, individuals should have the autonomy to decide for themselves what is of value. If the state should not be encouraging marriage in any way, it should not be encouraging being single or unmarried either.

Another possibility is that the stigmatization Chambers identifies involves unjustly discriminating against single or unmarried people, or in some other way infringing on their civil and political rights. In this case, a politically liberal state should certainly aim to protect them from such injustices. Yet, it is unclear that the abolition of marriage is necessary or effective to achieve this end. Even without state-recognized marriage, some citizens will still be coupled and others will continue to be single; the latter might well be stigmatized or discriminated against in a marriage-free state.

Although equally informed by her thoughtfulness and attentiveness, Chambers' central proposal—namely, that personal relationships should be regulated through a series of piecemeal regulations governing various rela-

tionship practices—invites some questions too. I am highly sympathetic to her argument against “bundling” different relationship practices: according rights and benefits to all and only those relationships in which economic, affective, domestic, sexual, and reproductive care are intertwined makes a vast array of other relationships invisible, leaving those who may be most in need of support without state protection. Piecemeal regulation of relationship practices may not, however, be as easy as Chambers suggests. Will this approach achieve its desired egalitarian end of securing both liberty and equality without intruding on people’s privacy? Chambers suggests that:

The state does not need to know a great range of details about people’s private lives so as to determine whether they meet the criteria of being in A Relationship. It simply needs to know whether some particular relationship practice applies. In some cases this will be a matter of objective fact: are the people parents? Or, are they both names on the deeds of a property? Or, does one have caring responsibilities for the other? (155)

Liberal states, Chambers rightly notes, typically have procedures in place to determine the answers to these questions; however, these procedures may not always be so determinate or just.

Imagine a now lesbian woman, happily partnered but unmarried, with children from her ex-husband, taking care of children from her new partner, and living in an extended family. Who are the parents to whom in this scenario? Who has caring responsibilities? With the advancement of medical technology even biological parenthood is now in question. Imagine two women seeking IVF treatment at the same hospital. Only one of them becomes pregnant as a result of the IVF treatment, and at some stage during the pregnancy it is revealed that, due to a mistake, the fetus is the other woman’s genetic offspring. The fetus is carried to term by the gestational mother. Or, thanks to mitochondrial replacement therapy and the existence of gestational procreators, a child can have up to four different biological procreators—three genetic and one gestational. Again, who are the parents?

Conflicts in such cases have been settled differently in different jurisdictions; this indicates that when family configurations and methods of reproduction are complex, decision procedures may fall short of providing definitive answers. Even where existing state procedures deliver a *definitive* answer, we cannot assume that those procedures or results are thereby *just*. Indeed, the primary argument of *Against Marriage* is that procedures for allocating rights and responsibilities in state-recognized marriage regimes are fundamentally *unjust* both to many who are married and to many who are not.

Against Marriage is certainly a wonderful addition to a growing philosophical literature on marriage. A review, unfortunately, cannot possibly do justice to all the thought-provoking and rich material found in the book. Hence, I shall conclude by saying that, despite some worries, Chambers’ arguments against state-recognized marriage are powerful, thorough, and timely, as are her critiques of the most influential alternatives found both in philosophy and legal theory. Chambers’ articulate style, philosophical rigor, and respect for her philosophical interlocutors through a fair treatment of their positions make *Against Marriage* an excellent model of how philosophy can be accessible to both professional philosophers and those

with no philosophical training. *Against Marriage* is surely going to compel its readers to think deeply whether the institution of marriage is still viable and about how the regulation of adult personal relationships may have to be altered to meet the demands of justice.

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Tim Crane, The Meaning of Belief: Religion from an Atheist's Point of View, Cambridge: Harvard University Press, 2017, xiv + 207 pp.

While not intended as an academic treatise on religion, Tim Crane's *The Meaning of Belief* is a thoughtful, interesting reflection on the nature of religious belief in contemporary life. The book is clearly and fluidly written, as one would expect from Crane, and its main theme will be refreshing to those who are weary of the cliché-ridden debates between the New Atheists and their theistic interlocutors. Crane's central thesis is that many of his fellow atheists incorrectly identify religion with a mere set of cosmological and moral propositions, falsely leading them to believe that religious people will tend to change their minds after exposure to the right philosophical or scientific arguments. The book is very rich, and it would be impossible to name all its virtues without resorting to a laundry list; I recommend the title for its expansiveness alone. However, I found Crane's overall argument unconvincing.

Crane asks, "What is religion, and how does it move people?" and accurately responds that a strict, universal definition of religion is probably impossible (2–4). He endorses Durkheim's claim that religions are best understood by following how they developed historically, and then provides his own definition of religion: "Religion, as I am using the word, is a systematic and practical attempt by human beings to find meaning in the world and their place in it, in terms of their relationship to something transcendent" (6). He elaborates upon these points in the next two chapters in terms of "the religious impulse" and the phenomenon of "identification."

One puzzling aspect of this first chapter is Crane's insistence upon the theoretical and practical value of his own definition of religion, despite his admission that religion probably does not have an exhaustive or universal essence. He seems to vacillate between a hard realism, which (apparently) prevents one from calling "socialism, communism, environmentalism, scientism, humanism, secularism, and atheism" religions ("[W]hat would be the point of this?" Crane asks (24)) and a softer anti-essentialism which allows that there is likely no single essence of religion. Crane recognizes that religion is a historically-conditioned category that may not have been used as a concept through much of history; in the end, however, he clearly settles into a realist mode. I wish he had better explained and justified this move. Why is it best to act as if that there is some real phenomenon which lies behind the bundle of characteristics (systematicity, practicality, mean-