

Law, Social Justice, and Marriage: An Anti-Essentialist View

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What we today define as “traditional marriage” was essentialist and grounded in a profound sexism that we have since overcome, making marriage and family life much more egalitarian and just in comparison to the past. Reviewing this sexism—as well as the racism we find in the anti-miscegenation laws—and understanding why we no longer practice them officially will help readers to understand the problems with essentialist views of marriage in general, and help us to perceive the wisdom of removing the homophobic elements from the institution of marriage. I offer an alternative lens—non-essentialism—for describing marriage and family, one that frees us from the rigid thinking of the past, which has resulted in so much preventable human suffering by arbitrarily limiting our humanity and our ability to form healthy relationships with one another. *[Article copies available for a fee from The Transformative Studies Institute. E-mail address: journal@transformativestudies.org Website: http://www.transformativestudies.org ©2016 by The Transformative Studies Institute. All rights reserved.]*

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At the forefront of the culture wars today in the United States is the issue of same-sex marriage or “marriage equality.” Advocates of marriage equality eschew the term “same-sex marriage” or “gay marriage” as it denotes a separate kind of institution, something “not really” marriage.

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