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**The Just Response  
to Marital Misrecognition**

1. *Introduction*

Marriage is considered oppressive to heterosexual women either for practical reasons such as reinforcing the gendered division of labour or due to symbolic harms (Okin 1989; Bourdieu 2001). Thus, heterosexual women are better off when unmarried. On the other hand, marriage is considered oppressive to homosexuals because they are unjustly denied the right to marry (Bevacqua 2004). Hence, homosexuals are worse off when unmarried. Chambers (2013) reconciles these two conflicting feminist critiques of marriage by concluding that although the very existence of the institution of marriage causes oppression, it is better to be married than not if the institution already exists. “[J]uxtaposing marriage’s oppressiveness to women and to homosexuals fails to compare like with like: marriage is oppressive to women as compared to a world without marriage; it is oppressive to deny homosexuals marriage only in so far as that institution does exist” (Chambers 2013, 131-132). Following this conclusion, she constructs her argument on the justness of the marriage-free state.

Similarly, in this paper, I initiate my inquiry on marital inequality by examining the marriage’s oppressiveness to homosexual individuals and I conclude it with a defence for the abolishment of marriage. I expand on Chambers’ thesis by benefitting from the arguments deriving from recognition theory and theories of reconciliation and transitional justice. I examine what constitutes the just response to marriage inequality or marital misrecognition and critically assess the justness of the commonly accepted solution, i.e. the introduction of same-sex marriage. In the

following section, I shall try to take a moral picture of the wrongdoing of the heteronormatively constructed institution of marriage on homosexuals by relying on the message of moral insignificance. In the third section, I shall argue that the just response against the humiliation that homosexuals experienced lies partly in granting due recognition to the victims in a retrospective fashion. In the fourth section, I shall stress how de-recognizing the institution of marriage is an indispensable part of the just response to marital misrecognition. The latter will constitute an alternative defence for Chambers' marriage-free state thesis.

## 2. *Heteronormatively constructed marriage and marital misrecognition*

Marriage as the legal acknowledgement of the union of two people has historically been conceptualized heteronormatively. This primordially is to say that marriage has been understood, at least in the Western culture, as a union between a man and a woman, and hence, it has essentially excluded same-sex unions. The injustice that is generated by the heteronormatively constructed marriage has been argued extensively and sophisticatedly in the literature (Card 1996; Okin 1989; Young 1997). Yet, the task I am taking up in this section is to reveal the essential harm that the heteronormative conceptualization of marriage inflicts on gay people through the spectacles of the recognition theory.

Heteronormatively constructed marriage unjustly denies certain rights to homosexuals: principally, the right to marry, and consequently, the rights which are gained because of marriage (these include, for instance, tax reductions based on marital status and next-of-kinship rights). Exclusion from such rights on the basis of sexual orientation inflicts symbolic harm as well as practical harm. Being denied the legal right to participate in the institution of marriage illustrates that homosexuals are not ascribed to equal status with their heterosexual fellow citizens. The moral and political agency of homosexuals is misrecognized since they are banned from composing state-recognized unions.

Misrecognition is usually a backdrop to human rights violations. Yet, the wrong of misrecognition is not equal to the wrong in these rights violations. It is, at least partially, the result of the message it conveys about the status of the person, regardless of the violated rights (Margalit 1996).

Disqualifying homosexual couples for marriage and the attribution of unequal status between same-sex and opposite-sex couples conveys the message of the inferiority of the agency of homosexuals. Therefore, the problem in marital misrecognition is not solely the violation of rights, it is rather a conscious denial of acknowledging homosexuals' equal moral, legal and political agency.

Terry Donahue, a former All-American Girls Professional Baseball player and her partner Pat Henschel, have been in love since the late 1940s. They kept their relationship hidden during the initial 65 years of their companionship. They were disguised as cohabiting cousins initially due to the high prospect for persecution and later on because of the fear of unacceptance. They came out in 2009 and got married in 2015. The exchange of their vows and rings initiated a legal recognition of what has existed in faith and love for almost 70 years. The registrar wedded the old couple and added that they do not need to call each other cousin anymore; they may call one another beloved wife at last (*A Secret Love* 2020).

Terry and Pat were denied, among others, the right to marry. They experienced structural and systematic exclusion from certain rights due to their sexual orientation. In Honneth's (1995) recognition theory, *self-respect* stands for one's sense of having the capacity of being morally autonomous and responsible. One is recognized in this sense when she is taken as a morally responsible and equal rational agent and ascribed to the same moral accountability with others. Self-respect should be enabled by a just legal system that protects agents' status as the bearers of rights. Bereaving homosexuals of the right to marry and not recognizing their unions express disregard on the acknowledgement of the value of their judgement. The wrongdoing is essentially about taking homosexuals as if they are less than a legal and political agent or depriving them of the agential powers to which they are entitled. Typically, any acts that manifest disregard for the moral accountability of others misrecognize their moral and political agency (Honneth 1997). Such morally injurious harm is exemplified by the discrimination of gay people in the legal system.

Bereaving gays of the right to marry not only results in denying them to participate in marriage –and hence, misrecognizing them in terms of self-respect– but it is also conducive to lacking the entitlement for the rights that are associated with being a legal spouse. These rights include next-of-kinship rights and the economic benefits based on mar-

ital status such as tax cuts, social security and pension benefits. Ferdi Özbeğen, an openly gay Turkish singer with Armenian and Cretan origins, legally adopted his partner, Hilmi Mutlu in 1999 when no states had recognized same-sex unions (Eğin 2015). The law did not permit the adoption of a minor by a single or gay man. Yet, there were no such restrictions against the adoption of an adult. Özbeğen chose to grant Mutlu the legal status of next of kin via adoption to obtain some of the rights that a legal spouse would have. Even this heretic solution mishit some of the rights which are gained through marital status such as the aforementioned economic benefits. This solution invoked certain rights and duties regarding inheritance rights or a say in medical emergencies, however, it did not render the partner eligible to the social benefits that married couples enjoy.

According to Honneth (1995), *self-esteem* considers one's sense of being capable of contributing to the common good of society. Recognizing one in the sense of being socially worthwhile is generated by solidarity. The moral injuries which represent a disregard for the capability of individuals to contribute to social goods misrecognize them in terms of self-esteem. Such moral injurious disrespect can take subtle forms such as not greeting someone or grave forms such as social stigmatization (Honneth 1997). Bereaving homosexuals of the rights that are associated with being a spouse results in the expression of disregard about the significance of their capabilities. Their unions are seen so socially worthless that they are excluded from, say, the economic benefits such as tax cuts, social security and pension benefits which opposite-sex couples enjoy. The value that same-sex unions can add to social goods is disregarded. Thus, homosexuals are misrecognized in terms of self-esteem. Even Özbeğen and his 'adopted partner' could not escape being harmed regarding self-esteem.

Many Western societies have confronted marital misrecognition by introducing same-sex marriage. One intuitively thinks that the introduction of same-sex marriage solves the aforementioned problems. When same-sex unions are recognized by the state, homosexuals will no longer be left bereft of the right to marry and the associated rights. Legal modifications for the elimination of unequal treatment indisputably pave the way for more inclusive and egalitarian social institutions. However, the change in the legal aspect does not essentially translate into the dimin-

ishment of the inflicted injustice *in toto*. Under the aforementioned rubric of morally injurious disrespect and corresponding harms, marital misrecognition victimizes homosexuals in terms of self-respect and self-esteem. It constitutes symbolic harm as well as practical harm. The wound caused by the symbolic harm requires a backward-looking moral remedy even if the continuation or recurrence of the marital misrecognition is eliminated with the introduction of same-sex marriage.

Comedian Rob Anderson (2020) criticizes the archetypical white gay man's approach to gay rights by satirically claiming that the words "gay rights" are pronounced as "This was fully completed in 2015 when gay marriage became legal in the US and Obama put rainbow lights on the White House and there is nothing else to do. OK, bye!". Reflecting the exact truth is not the job of comedy. Yet, many a true word is spoken in jest. As the joke rightfully criticizes the oversimplification of gay rights to same-sex marriage, I argue that just response to marital misrecognition should not be reduced to the introduction of same-sex marriage. Such injustice requires more than making the institution narrowly more inclusive. Indeed, it necessitates backward-looking remedies and forward-looking measures. Furthermore, the introduction of same-sex marriage takes for granted the justness of the institution of contemporary marriage without scrutinization and seeks the solution only in the partial elimination of exclusion. As opposed to this commonly accepted solution, I will construct my argument on the just response to marital misrecognition on the basis of societal transformation and reconciliation.

### *3. Recognizing the victims of marital misrecognition*

As the discussion in the previous section illustrates, the exclusion of homosexual individuals from the institution of marriage results in the misrecognition of their agency and their status as a meaningful contributor to the social good. The just response to marital misrecognition should address these moral, psychological and practical harms. However, I believe only a backward-looking solution cannot sufficiently deal with marital misrecognition and fail to guarantee the non-recurrence of such harm since heteronormatively constructed norms and practices are ingrained in the society. The just response should include granting due

recognition to the victims in a retrospective fashion and providing societal transformation in a prospective fashion. Indeed, certain features of marital misrecognition and their parallelism to transitional circumstances corroborate the necessity for societal transformation.

Marital misrecognition is a specific case of queer injustice that is the various forms of injustice from which the people who have non-heterosexual sexual orientations and/or non-cisgender gender identities suffer due to the ascriptive features of their sexual orientation and/or gender identity. Queer people are victims of longstanding heteronormatively constructed norms, practices and institutions. As in other cases of queer injustice, marital misrecognition is consolidated and imbricated through pervasive structural inequality and normalized political and collective wrongdoings (Murphy 2017).<sup>1</sup>

Pervasive structural inequality regards the general interactions among citizens or between citizens and state officials. Institutional norms, or political rules in a simpler sense, shape the limits within which the political agents interact. When those are established unjustly, they violate the principle of equality. Such inequality is structural when it is a fundamental part of the basic structure of society. Structural inequality is pervasive when institutions are defined by unequal terms and inequality proliferates among each institution. Marital misrecognition exemplifies such inequality as the institution discriminates on the basis of sexual orientation. On the other hand, rights violations of marital misrecognition are political wrongdoings in the sense that they are committed in pursuit of a political objective. They reflect a collective conviction on how political society should be shaped. They are collective in the sense that

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<sup>1</sup> I should clarify that I do not consider marital misrecognition a transitional situation. It does not comply with Murphy's other two transitional circumstances, i.e. serious existential uncertainty, and fundamental uncertainty about authority. I think a recognition theoretical reconstruction of transitional justice theory might allow us to consider queer injustice as a transitional context. Yet, I am not taking up that task, either. For now, I confine myself with underlining that marital misrecognition signifies a situation which requires remedies for past injustice and societal transformation. I apply Murphy's relational societal transformation theory to non-transitional and stable democratic societies in the case of marital misrecognition.

they are planned and perpetrated by some groups against other groups. They cannot be seen as a simple aggregation of individual wrongdoings. These wrongdoings are normalized when they are descriptively seen as a banal fact of life. Heteronormatively constructed institution of marriage which also pressures the individuals to conform to the socially acceptable norms results in such wrongdoings that are the basis of marital misrecognition. This parallelism between the societal conditions of marital misrecognition and the cardinal transitional circumstances proves the need for societal transformation as the forward-looking aspect of the just response to marital misrecognition. This constitutes one of the reasons why the introduction of same-sex marriage is not a sufficient remedy against marital misrecognition.

As mentioned previously, the victims of marital misrecognition have sound physical, psychological and moral reasons to feel humiliated. Due recognition is something we owe to these victims because of psychological and moral reasons. I believe the easiest way to ground this claim is Margalit's negative justification for non-humiliation. The negative justification lies in the fact that "human beings are creatures capable of feeling pain and suffering not only as a result of physically painful acts but also as a result of acts with symbolic meanings" (Margalit 1996, 85). Misrecognition is human suffering in the psychological realm and no one should be exposed to mental cruelty. Apart from the normative reason for the provision of due recognition to the misrecognized victims that is grounded in the justification of non-humiliation, I believe we also have a practical reason: although the ramifications of the many rights violations cannot be undone, we might reverse the humiliation.

Haldemann (2008) suggests a responsive, direct, and interpersonal model for recognizing the victims of misrecognition. Granting due recognition, in this model, relies on a mode of communication that is expressive of approval and affirmative attitude towards the victims. The recognition model envisages the criterion of responsiveness which lies in the affirmative communicative process of truth-telling. It values the narrative of the victim and hearkens to her sufferings. The wrongdoer acknowledges the moral injury they caused and grants acknowledgement to the victim's reality. On the other hand, the criteria of directness and personal interaction focus on the direct and special relations which the wrongdoing puts the victim and the wrongdoer. The former refers to the wrongdoer's accep-

tance of responsibility and lack of justification for the act of misrecognition and their direct recognition to the victim. The latter indicates that the wrongdoer should address the victim in an interpersonal and reactional vein since the act of misrecognition is relational wrongdoing (Miller 2009).

Recognition is best described as a verbal act in which the speaker expresses that he morally regrets doing what he did. In recognizing his wrongdoing, the offender takes the victim's side, accepts responsibility, and admits the absence of good reasons for his harmful acts (Haldemann 2008, 700).

This simplistic and dyadic model which foresees the recognition of the victim in a relational setting between the victim and the wrongdoer is suitable to the cases that appear in isolation such as a criminal offence in a small community. Political wrongdoings are characterized by many complexities and our particular case of marital misrecognition also lacks some of the clearly defined features, such as an identifiable wrongdoer, which a mundane criminal offence has. Nonetheless, these complexities do not change the essence of granting due recognition. The relational dimension of this simplistic model could be maintained also in theorizing a recognition model for the resolution of political and public wrongdoings. Due to the structural nature of the wrongdoing, the state should be included both as the wrongdoer and as the representative of society. The recognizing model emerges as an event in the public domain through the inclusion of the state. The intervention by the state which appears as the legal embodiment of the society brings along "a communal, authoritative condemnation of [...] [the act of misrecognition] that serves to recall and reaffirm the victim's moral and civic worth." (Haldemann 2008, 704). *Apropos*, I think the recognition model after marital misrecognition should be grounded in the following principles: (i) vindication, (ii) victim-centredness (iii) truth-revealing, and (iv) confrontation and moral censure.

The recognition model, as its name suggests, aims at recognizing the victim. Therefore, it should pursue a vindicatory solution instead of a vindictive one. The remedy to the injustice should lie in turning the wrong into right instead of seeking revenge for the wrong. The vindicatory function occurs through conveying the message of reaffirmation of the victim's worth as a person. This ritualistic public event should officially address the equal status of misrecognized homosexuals.

The vindicatory motivation brings along victim-centredness. The model envisages the fundamental position given to the misrecognized victim and makes her role central in the solution. The victim's active participation essentially serves the purpose of validation. The model aims at revealing the entire truth about the act of misrecognition through the testimony of the victim. It provides a safe platform for the misrecognized and disempowered victim, to tell the truth about the injustice they have been subjected to. This would lead to creating true historical narratives.

The recognition model should require the state to claim accountability for marital misrecognition. By doing so, the state accepts the lack of moral justification for the act of misrecognition and, in return, directly offers validation to the victim and their truth. Consecutively, the state should also displace a contemptuous judgment, a moral censure regarding the act of misrecognition on behalf of society. Previous unjust actions of the state and the society are exposed to a scornful social conviction – although revenge is not sought – and the victim's misrecognition is officially disdained. Hence, the recognition of the victimized homosexuals should be a public event in which the state as the wrongdoer accepts the unjust treatment and grants equal legal status to homosexuals as the representative of the society.

#### *4. De-recognizing the misrecognizer: An alternative defense for the marriage-free state*

As mentioned previously, I object that the introduction of same-sex marriage solely constitutes the just response to marital misrecognition. First, it is incapable of justly dealing with the past injustice in the absence of a ritualistic public event that confirms the moral value of the previously misrecognized group. As I argued in the previous section, moral validation of the victims requires the construction of a narrative and moral censure regarding the injustice; it cannot be achieved exclusively through making the institution of marriage narrowly more inclusive. Second, the introduction of same-sex marriage is also incapable of justly dealing with the misrecognition prospectively. Although it successfully eliminates the possibility of the recurrence of the injustice against homosexual couples, and therefore, it is partially responsive to the problem we are dealing with, it fails to construct

an institution of marriage that is inclusive towards all sexual minorities. Since it necessarily embraces the concept of marriage without due moral investigation, it maintains a concept of family that is committed, sexually intimate, monogamous and formed by two adults. Pressing for a solution to the problem of marital misrecognition on the basis of expanding the traditional option of dyadic, heterosexual, monogamous coupling may make homosexual practices socially acceptable whereas it leaves the institution exclusive regarding other identities and practices (Card 1996). Such a solution is not compatible with the goal of recognition since it “violates the claim that individuals have to equal and individualized esteem-based recognition for their particular traits, abilities and achievements, and thereby impairs individuals’ ability to fully realize themselves.” (Zurn 2012, 74). In light of these considerations, it is not plausible to have a non-humiliating institution of marriage by making the current misrecognizing one narrowly more inclusive. Is it, then, right to leave the misrecognizer institution intact?

Zurn (2012) answers negatively by pointing out that the injustice inflicted by marital misrecognition should not be oversimplified to the exclusions. Contemporary marriage, he argues, brings together legal entitlements regarding care relationships and societal norms on the practices of sexuality and child-raising since it is a *complex* and *tightly coupled* institution. Complexity means that marriage intersects with various institutions including economic, religious, and legal ones and norms of intimacy, sexuality, and parenting whereas being a tightly coupled institution stands for the high level of impact between these institutions whenever they interact with each other.

One might claim that these features of contemporary marriage undermine the point I try to raise. One might argue that if marital misrecognition occurs due to the practical and symbolic harm that is related to the exclusion of homosexuals; and if marriage is a complex and tightly coupled institution which means that it intersects with various institutions and has a high level of impacting those institutions it intersects with, how can we plausibly argue that legal modification regarding the introduction of same-sex marriage is not the just response against marital misrecognition? Following the aforementioned premises, the introduction of same-sex marriage should initiate a chain reaction by eliminating the legal exclusion and result in the demise of moral humiliation and the aforementioned forms of misrecognition. Nonetheless, the institution of marriage is also *insistent* in the sense that it normalizes the pressure on individuals to conform to the so-

cially acceptable norms that the institution endures and reproduces (Zurn 2012). For instance, although the status of women in marriage has become equal to that of men, women still suffer from the oppressiveness of marriage today (Card 1996; Chambers 2013; Okin 1989; Young 1997). “[A]lthough the normative infrastructure of contemporary marriage is structured around the ideals of full sex and gender equality, the social institutions of marriage undermine the achievement of such equality and so ought to be substantially restructured.” (Zurn 2012, 70).

Justly dealing with marital misrecognition requires a Janus-faced approach. On the one hand, there is the past humiliation that needs to delicately be taken care of. As discussed previously, the recognition of the victim plays a crucial role in establishing marital justice in a backward-looking way. On the other hand, there is the forward-looking aspect that is the societal transformation to establish a non-humiliating and decent society. Pervasive structural inequality and normalized political wrongdoing cannot be fought against only with the legal modifications to make the institution more inclusive. Instead, the just response against marital misrecognition should transform the society in such a way that it should prevent the recurrence of misrecognition and build trust between the state and formerly misrecognized sexual minorities. Considering the previously mentioned features of contemporary marriage, the cultivation of trust between the state and victims necessitates the de-recognition of the institution of marriage.<sup>2</sup>

Unsurprisingly, the relationship between the state and the misrecognized gays is not characterized by trust since the state has been the continual perpetrator of injustices against sexual minorities for centuries. Apart from other forms of queer injustice, marital misrecognition sows discord and distrust in the political relationship between homosexuals and the state. The relational transformation we seek within the just response to marital misrecognition requires converting deep distrust into trust.

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<sup>2</sup> Similar to my argument, Zurn (2012) claims that marital misrecognition cannot be solved through affirmative recognition because of the characteristic features of the institution. Instead, it requires de-recognition. In relation to the complexity and tightly-coupledness of contemporary marriage, he suggests decoupling and decomplexifying reforms. Therefore, he believes de-recognition of the contemporary marriage should lie in reforming the institution in terms of complexity and tightly-coupledness.

Trust can be defined as a reactive attitude of optimism about the goodwill and the competence of the trusted; he will, if relied upon, be moved directly and favourably by the thought that he has been counted on and prove trust responsive (Jones 1996; Murphy 2010; 2017):

[T]rust refers to an attitude of optimism about the competence and good will of the trusted as well as the expectation that the trusted will prove trust responsive if relied on. The content of trust is relationship specific in the sense that competence and goodwill are defined in terms of salient for a given role (e.g., parent, friend, technician, politician). The attitude of optimism reflects confidence in the ability of the trusted in a specific domain (e.g., moral, social, or technical). To trust is not to have particular belief, but rather to have a certain outlook or perspective on the object of our trust (Murphy 2017, 135-136).

However, goodwill and benign behaviour are not realistic expectations for the damaged political relationships that are characterized by distrust. Such features can be expected to emerge in default political trust which is the end goal of the societal transformation. The members of a decent society in which misrecognition is not the norm should perform certain patterns of behaviour with the expectation that the fellow citizens have reasons to behave in certain ways, deriving from the commitment to shared norms and values. Moreover, fellow citizens are aware that they are liable to be held responsible in case they fail to satisfy the expectations and receive reactive attitudes. This is the ideal representation of civic/political trust (De Greiff 2012). As the social ontological account of recognition theory (McQueen 2019; Schuppert 2014) defends, fellow citizens should enjoy the recognitional normative status of being autonomous and free rational agents by obtaining the legitimate reason-giver and reason-taker status in a shared space of reasons and by standing behind or owning their actions and behaviours. Under those circumstances, goodwill and benign behaviour can reasonably be expected among the citizens and between citizens and the political authority. Yet, we still need to examine how the transformation from distrust to trust occurs.

In the most basic sense, trust is a relational attitude among people. It emphasizes how the truster looks at the trusted and how she can reasonably expect him to behave as he is relied upon. It is reliance with further defining denominators. When we trust, we rely on someone to do

something and we react towards his performance of exceeding or failing to satisfy our expectations. Therefore, trust results in the reactive attitudes of gratitude or resentment (Holton 1994). This practical stance towards the trusted, that is the expression of gratitude or resentment, means that we hold him responsible for complying with the action he was relied on. The ground for our reactive attitude is the shared normative values. We do not simply present resentment to any failure to satisfy our expectations. What distinguishes normative expectations from mere reliance, empirical regularity or confident predictive assumptions is that the truster takes a stance towards the trusted; she expects *of* him, not *from* him (Walker 2006). Then, trust is reliance with normative expectations, that is the trusted is expected to behave as relied on and with the awareness that he is liable to be held responsible in case he fails to satisfy the expectations. Yet, which normative expectations should reasonably be projected to emerge between homosexuals and the state in light of marital misrecognition?

The societies characterized by misrecognition exemplify consistent unilateral violation of the expectations on compliance with the shared normative principles. Trust between reconciling parties should be seen as a reliance with the expectation that the trusted will behave in a certain way because of the reasons that derive from commitments to the shared norms and values of the newly emerging social order and reconciliation. In these cases, the values of the future society and the reasonable prospect for reconciliation are being constituted and dependent on how past moral wounds are being healed and how the transition from misrecognition to decency is initiated. Therefore, trust should be cultivated through and in relation to the injustice.

Then, on which grounds should the misrecognized homosexuals reasonably be expected to trust the state? The initial reason for the trust cultivation is embedded in the backward-looking aspect of the just response to marital misrecognition. The role of the state in the recognition model, that is hearkening the victims' sufferings, claiming responsibility in the misrecognition and expressing moral censure on the unjustified harm, demonstrates a commitment to justly dealing with the misrecognition. The victims are wronged and the official narrative acknowledges this fact and initiates the transformation. Second, the introduction of same-sex marriage furthers the congruence to the rule of law and proves that the

discriminatory law and practice against homosexuals on marriage is legally eliminated. The victims of marital misrecognition can rightfully participate in state-recognized care-based unions.

Contrary to these affirmative reasons for trust cultivation after marital misrecognition, I argue that there is one normative and one practical reason which deem trust cultivation ungrounded. As previously discussed, contemporary marriage is a complex, tightly-coupled and insistent institution. It affects and is historically affected by various institutions and societal norms and it normalizes the pressure on individuals to conform to the socially acceptable norms that the institution endures and reproduces. The misrecognition in terms of self-esteem occurs due to these features of marriage. The aforementioned affirmative reasons for trust cultivation does not suffice to provide a robust ground for facilitating trust in the absence of the de-recognition of the institution of marriage. This is why I suggest the abolishment of the institution of marriage instead of an attempt to fix it. On the contrary, Zurn defends making the institution less complex, less tightly-coupled, and therefore, less insistent:

[W]hat we are aiming for is a set of social relations allowing for a fair bit more heterogeneity in terms of accepted practices, meanings and relationships, a set less insistently normalizing to a hegemonic core or paradigm of marriage and the family, and hence uncoupled from many of the traditionally tight linkages between sex, gender, sexuality, sexual practices, religion, economic distributions, legal rights, state welfare provision, community, procreation, and parenting. [...] [T] here are two different forms of derecognition I'm concerned with. 'Decoupling' derecognition aims to wholly disassociate legal rules and practices covering marriage or marriage-like relationships from other social institutions marriage had been traditionally coupled with. 'Decomplexifying' derecognition, on the other hand, seeks to separate out various components of the single legal regime of contemporary marriage and institutionalize different legal regimes to deal with the diverse parts heretofore bundled together in the single status of marriage (Zurn 2012, 76-77).

If such decomplexifying and decoupling reforms could successfully materialize, this suggestion would satisfy the normative reason. Although I believe the feasibility constraint would limit the likelihood of such reforms, I construct my objection against the decomplexifying and

decoupling reforms on the practical reason which deems trust cultivation ungrounded. The practical reason for the misrecognized homosexuals to refrain from trusting the state is that the institution of marriage, as is, cannot respond to their needs.

Recognition theory explains as a critical theory how everyday experiences of individual misrecognition translate into social change through the struggle for recognition. The individual comprehension of the connection between their experiences of misrecognition and their membership in a given social group sets the basis for the engagement in the struggle for recognition. If the individual motivation for social change succeeds under favourable conditions, the society is moved towards a better realization of the ideal of mutual recognition (Honneth 1995; Zurn 2012). As foreseen by the theory, misrecognized queer people have been entering into different forms of solidarity-based unions and caring relationships throughout the struggle for recognition. The presence of different focal points for handling different aspects of caring within this solidarity-based community, together with more liberal and progressive perspectives on sexual life (Balzarini *et al.* 2019), proves the necessity for unpacking the bundle of caring aspects that are engrained in the institution of marriage today. Any holistic regulation of caring relations would be insufficient because they create a status that entitles people to a bundle of legal rights and duties (Chambers 2013). This is why I do not think the just response to marital misrecognition can be decomplexified and decoupled institution of marriage (Zurn 2012).<sup>3</sup> Instead, as Chambers defends, we should scatter those aspects of caring that are engrained in marriage in several piecemeal regulations so that care-giving relationships could be under legal attention without assuming a legal spouse status that bundles all the rights and duties. Only then, previously misrecognized homosexuals should trust the state because first, the misrecognition in terms of self-esteem would be solved definitely by the piecemeal regulations; and second, their practical needs are taken into consideration when deciding on how to regulate care-based relationships.

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<sup>3</sup> Other suggestion on the holistic regulations of caregiving relations include minimal marriage (Brake 2012) and intimate care giving unions (Metz 2010).

## 5. Conclusion

In this paper, I initially examined the harms that are inflicted on homosexuals by marriage inequality through the lenses of psychic/developmental account of recognition theory. Homosexuals are wronged by being misrecognized in terms of self-respect and self-esteem. They have been subjected to pervasive structural inequality and normalized political and collective wrongdoing. I argued that the introduction of same-sex marriage cannot constitute the just response to marital misrecognition because it is irresponsible to the psychological and moral harm that the victims suffered from the past injustice and it is incapable of providing the needed societal transformation. Instead of this commonly accepted solution, I favoured backward-looking remedies and forward-looking measures. The just response to marital misrecognition is constituted by the recognition of the victims and the provision of societal transformation that sits on, at least, two pillars, that are the introduction of same-sex marriage and facilitating political trust between the misrecognized and the misrecognizer. My discussion on political trust demonstrated that societal transformation can only be achieved when the institution of marriage is de-recognized and replaced by piecemeal regulations regarding care-based relations.

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