

19 December 2014

Neil O'Brien
Head of Compliance
Broadcasting Authority of Ireland
2-5 Warrington Place
Dublin 2

RTÉ Ref: BAI 2014/2496
BAI Ref: 143/14

Re: A Complaint by Paul Moloney concerning *Saturday with Brian Dowling* broadcast on RTÉ 1 Radio on 01.11.14

Dear Mr O'Brien,

RTÉ wishes to make the following submission in response to the above complaint by Mr Moloney.

The Broadcast

The broadcast was a live studio discussion of constitutional change to allow legislation for same-sex marriage.

The Complaint

The complaint alleges infringement of Rule 4.19 of the BAI Code of Fairness, Objectivity and Impartiality.

RTÉ Response

The discussion on constitutional change in respect of marriage included a range of opinions on the topic, both for and against such a change.

The complaint alleges that a reference by the presenter to publications of The Iona Institute infringed Rule 4.19 of the above Code.

Addressing a question to one of the panelists, Senator Rónán Mullen, the presenter said:

"And just on one point, Rónán, I want to ask you, when this debate gets up and running in the weeks and months ahead, is the issue around the position of children in a gay parenting marriage compared to a biological union, is that going to become a big issue in your view particularly around – I know that groups like The Iona Institute have cited research that suggests that those children who might be from gay parenting unions that they would be disadvantaged vis a vis their educational situation, vis a vis they might be prone to or statistically more subject to being abused physically, mentally or sexually – do you think those issues are going to form part of this campaign?"

In doing so, the presenter, as part of his role in facilitating and developing the discussion on behalf of the listener, was referencing at least two publications by The Iona Institute, an organisation which has a prominent role in the debate on constitutional change in respect of marriage. As can be seen from the attached copies of these publications, his references were accurate.

For example, the publication 'Child abuse by family structure' states:

"Research shows that the family in which children are least likely to be abused is the family headed by married, biological parents, that is, by a child's natural mother and father.

"This is demonstrated by one of the most comprehensive studies ever conducted on this topic, namely a report to the US Congress in 2010 called the Fourth National Incidence Study of Child Abuse and Neglect."

The publication 'MADE FOR CHILDREN' states:

"Those who claim that same-sex couples and married opposite-sex couples should be treated identically must demonstrate that there is no advantage to children in encouraging men and women to marry. They must also demonstrate that children have no right to be raised by their own mother and father, even as a matter of first principle.

"Only after demonstrating that there is no relevant difference between opposite-sex couples and same-sex couples, especially from the point of view of children, and that the right to a mother and father where possible does not exist, can same-sex marriage be justified."

In that context, the publication goes on to cite research claiming to show that children not raised by married opposite-sex couples are disadvantaged, including educationally:

"Do Mothers and Fathers Matter?: The Social Science Evidence on Marriage and Child Well-Being by Maggie Gallagher & Joshua K. Baker

Institute for Marriage and Public Policy, 27th February 2004

Summary:

Marriage is an important social good associated with an impressively broad array of positive outcomes for children and adults alike.

The authors conclude that children in intact married homes are less likely to

- suffer child poverty,
- suffer sexual and physical child abuse,
- suffer physical and mental ill-health,
- misuse drugs
- commit crime,
- suffer educational and employment disadvantage,
- become divorced or unwed parents themselves.

Communities where good-enough marriages are common have better outcomes for children, women, and men than do communities suffering from high rates of divorce, unmarried childbearing, and high-conflict or violent marriages."

The presenter did not endorse or support the views expressed by The Iona Institute in these publications or the research cited by the Institute in the publications. Asking the panelist if the views expressed by the Institute in such publications were likely to become issues in the developing debate on constitutional change, he accurately attributed them to the organisation responsible for publishing them.

The presenter did not, as the complaint alleges, make "the factual claim that there is research and that it suggests gay people are the worse parents." As indicated in the verbatim transcript above and the attached audio recording, and confirmed by the attached publications of The Iona Institute, he said, as a matter of accurate fact, that "groups like the

Ionainstitute have cited research" and went on to ask, "do you think those issues are going to form part of this campaign?". His clear attribution of the citation of research did not misrepresent the facts in any way, and therefore could not have misled listeners or resulted in any misunderstanding.

Indeed, the presenter's question to the panelist could be seen as an example of the principle captured in Rule 22 of the BAI Code of Fairness, Objectivity & Impartiality in News & Current Affairs:

"It is an important part of the role of a presenter of a current affairs programme to ensure that the audience has access to a wide variety of views on the subject of the programme or item; to facilitate the expression of contributors' opinions – sometimes by forceful questioning; and to reflect the views of those who cannot, or choose not to, participate in content."

RTÉ believes there are no grounds to uphold this complaint.

Yours sincerely,



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RTÉ

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Attached: BAI-143-14_RTEBAI-2014-2496_Saturday-With-Brian-Dowling-011114_Same-sex-marriage-item [MP3 file]

'Child abuse by family structure'

http://www.ionainstitute.ie/assets/files/Child%20abuse%20by%20family%20type_web.pdf

'MADE FOR CHILDREN'

http://www.ionainstitute.ie/assets/files/MADE%20FOR%20CHILDREN_web.pdf

Child abuse by family structure

Why we should promote marriage to protect children



Introduction

The forthcoming children rights referendum correctly focuses public attention on the all-important topic of child welfare.

As everyone with an interest in this issue acknowledges, child welfare depends on far more than an amendment to the Constitution, no matter how well that is worded.

For example, a crucial issue is the level of resources made available to the State's child welfare services.

Another is the provision of proper training for those working in such services. Yet another is to ensure our child welfare and protection services are run as well and efficiently as possible.

But another is the family structure in which children find themselves, that is, married, unmarried, single parent etc because levels of child abuse vary greatly according to family structure.

Abuse by family type: The protective effect of marriage

Research shows that the family in which children are least likely to be abused is the family headed by married, biological parents, that is, by a child's natural mother and father.

This is demonstrated by one of the most comprehensive studies ever conducted on this topic, namely a report to the US Congress in 2010 called the Fourth National Incidence Study of Child Abuse and Neglect.

The table below, from that report, shows in very clear terms that by far the safest place for a child is to be with his or her biological married parents.

For example, children raised by their married, biological parents are 20 times less likely to be sexually abused than children raised by a lone parent and a partner not related to the child.

The natural conclusion to be drawn from this is that we ought to do much more to support and strengthen the married, biological family.

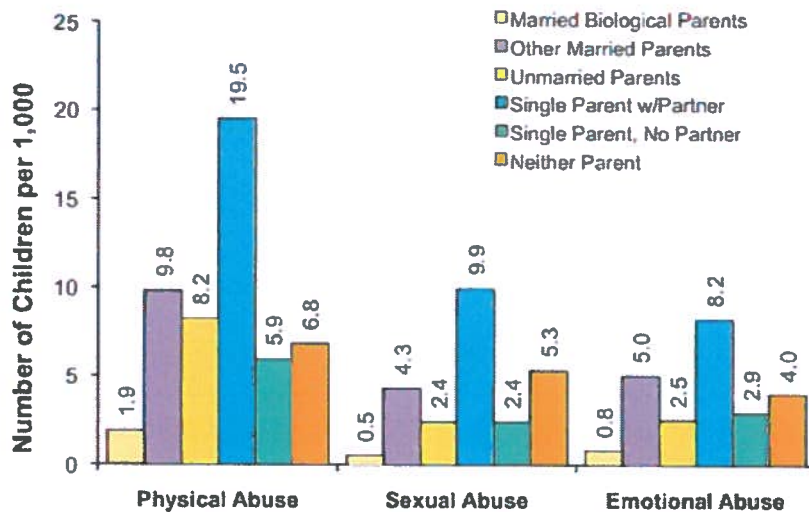


Table: Incidence of Harm Standard Abuse by Family Structure and Living Arrangement.
From the Fourth National Incidence Study of Child Abuse and Neglect. Report to US Congress 2010.

The number of Irish children being raised outside marriage

According to Census data from the CSO, as at 1986, just 12 percent of Irish children under the age of 18 were being raised outside the marital family. As at Census 2011, this had soared to 28 percent, or 455,000 children in total.

This has to be a cause for concern especially when we consider that apart from the issue of abuse, children raised by their married, biological parents are also more likely to fare well emotionally, educationally etc than children raised in other families, although there will be many exceptions.

A research brief from Child Trends, a non-partisan research centre in the US, has this to say about the importance of marriage:

"Research clearly demonstrates that family structure matters for children, and the family structure that helps the most is a family headed by two biological parents in a low-conflict marriage... There is thus value in promoting strong, stable marriages between biological parents".

(From 'Marriage from a Child's Perspective: How Does Family Structure Affect Children and What Can we Do about it?')

The near silence in Ireland about this research is very striking especially in view of the fact that we claim to be far more concerned about child welfare than in the past.



By far and away the safest place for a child is in a home raised by their married, biological parents. Therefore, we should promote marriage for the sake of children.

The unavoidable conclusion: if we wish to protect children, promote marriage

Given the facts about marriage, it is quite clear that if we are serious about protecting children, then we must be much stronger and more forthright in promoting marriage and in reversing the trend that is seeing ever more Irish children being raised outside marriage.

In fact, it is the single best thing we can do for children.

This is not a question of condemning parents who are not married.

Instead we have to learn new ways of promoting marriage that are not judgemental. We owe this to our children.

About the Iona Institute

The Iona Institute promotes the place of marriage and religion in society. We defend the continued existence of publicly-funded denominational schools. We also promote freedom of conscience and religion.



The Iona Institute

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Made for children

Why the institution of marriage has special status



Introduction

The marriage of a man and a woman has a special position in Irish society and in the Irish Constitution. It is the only form of human relationship that has the status of a social institution. This special status is now deemed by some people to be inherently discriminatory in that it "discriminates" against all other types of families, including same sex couples.

This short paper will briefly set out the argument in favour of giving opposite-sex marriage continued special status. It will set out the reasons why it deserves the standing of a social institution and it will explain why this special treatment is not discrimination and why the claim that it is, is a misapplication of the principle of equal treatment.

Part One

Made for children: Why marriage has special status

THE MARRIAGE of a man and a woman is a unique form of relationship. Out of all human relationships, sexual or otherwise, only it can provide a child with a mother and a father who have made a formal, public commitment to one another.

Studies demonstrate (see part two below) that children tend to fare best when raised by their biological parents in a low-conflict marriage. There are obviously exceptions, but this is the general rule. Therefore, from the point of view of children and from the point of view of society, there is a rational,

evidence-based reason for encouraging marriage through giving it special support and recognition. It is in the interests of children that as many as possible are raised by their own biological parents in marriage (apart obviously from those cases where married parents abuse or neglect their children or otherwise can't cope).

With the best interests of children in mind, society cannot afford to be indifferent to, much less celebrate, the growing number of children who are now being raised outside the marital family. Obviously this calls for sensitivity because there are many reasons why children find themselves in different family forms and obviously all families in need must receive appropriate support.



But the percentage of children who are not being raised by their own two married parents has increased very quickly in the last two decades. As at 2006, it stood at 26 percent of all children, a figure that has more than doubled from 12 percent in 1986. The current figure is only slightly below the equivalent figure for the US and the UK.

To repeat, many children are deprived of a parent through circumstance and these children must receive support. Nonetheless, social policy should be aimed at ensuring that as many children as is reasonably possible are raised by a married mother and father.

Marriage is a social institution, not just a private relationship

MARRIAGE IS not simply a private arrangement. It is also a social institution. As mentioned, no other form of relationship – friendship for example – is given the status of an institution.

When we describe marriage as a social institution we mean that it receives certain rights, benefits, obligations as well as recognition that are unique to it. It is these that make it an institution.

As mentioned, the marriage of a man and a woman receives this status because marriage is uniquely pro-child. Marriage as a social institution has evolved mainly for the benefit of children.

This is not the same as saying that marriage exists only for children, or that people marry simply in order to have children. People marry because they love each other. But children are the main reason why marriage receives special support and even though some married couples can't or won't have children, the vast majority of married couples will have at least one child during their lives together.

Giving marriage special status is not discrimination

THE PRINCIPLE of equal treatment says that similar situations should be treated in similar ways, but that it is acceptable to treat different situations in different ways.

In fact, it would be irrational to treat situations that are different in the same way and contrary to good public policy.

Because of its uniquely pro-child nature it makes sense to treat marriage in a unique way. Both logic and the facts require it.

A further word on the meaning of discrimination as commonly understood is in order here. When people complain of discrimination, they mean unjust discrimination. It is unjust to treat similar situations differently, for example, to refuse a suitably qualified person a job simply on the basis of their race or sex if their race or sex is irrelevant to that job.

'It is in the interests of children that as many as possible are raised by their own biological parents in marriage.'

However, everyone would agree that an 80 year old couple would be unsuitable candidates to adopt a child. No-one would suggest that they be treated the same as a 30 year old couple who also wanted to adopt.

The reason is obvious. The age of the 80 year old couple is relevant in this situation. A 30 year old couple is young enough to adopt a child whereas an 80 year old couple is not. This difference justifies treating the 80 year old couple and the 30 year old couple differently. This is not considered unjust discrimination by anyone.

Applying this principle to marriage, the reason, for example, that marriage and cohabitation are not given the same treatment in Irish law is because they are different in relevant and pertinent ways. A cohabiting couple is normally deliberately avoiding making a formal, public commitment to one another, as is their business.

In addition, cohabitation is much less stable than marriage. According to the British Millennium Cohort study one in four children of cohabiting parents witnessed the break-up of their family before the age of five, compared with one in 10 children of married couples.

Therefore it is not discrimination to treat marriage and cohabitation differently.

Likewise it is not discrimination to treat the marriage of a man and a woman differently from a same-sex relationship. Crucially, a same-sex couple cannot give a child a mother and a father.

'Crucially, a same-sex couple cannot give a child a mother and a father.'

Those who claim that same-sex couples and married opposite-sex couples should be treated identically must demonstrate that there is no advantage to children in encouraging men and women to marry. They must also demonstrate that children have no right to be raised by their own mother and father, even as a matter of first principle.

Only after demonstrating that there is no relevant difference between opposite-sex couples and same-sex couples, especially from the point of view of children, and that the right to a mother and father where possible does not exist, can same sex marriage be justified.

It is also out-of-bounds to denounce as 'bigots' and 'homophobes' those who have perfectly rational, evidence-based reasons for believing that there is a relevant difference between opposite and same-sex couples. No such denunciation is aimed at those who believe there is good reason to treat marriage and cohabitation differently.

Part Two

The evidence for marriage

In this section we take quotes from a number of studies and publications testifying to the benefits of marriage for children.

■ Marriage from a Child's Perspective: How Does Family Structure Affect Children, and What Can We Do about it?

A Child Trends Research Brief (ref ED467554)
by Kristin Anderson Moore, Susan Jekielek and Carol Emig, June 2002

Excerpt:

Research clearly demonstrates that family structure matters for children, and the family structure that helps the most is a family headed by two biological parents in a low-conflict marriage ... There is thus value in promoting strong, stable marriages between biological parents.

■ Growing Up with a Single Parent: What hurts, What Helps



by Sara McLanahan and Gary Sandefur, 1994

Excerpt:

If I were asked to design a system for making sure that children's basic needs were met, we would probably come up with something quite similar to the two-parent ideal...The fact that both parents have a biological connection to the child would increase the likelihood that the parents would identify with the child and be willing to sacrifice for that child, and it would reduce the likelihood that either parent would abuse the child ...

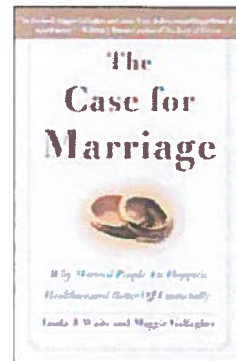
**Child Poverty in Perspective:
An Overview of Child Wellbeing
in Rich Countries**

UNICEF Report Card 7, 2007

Excerpt:

At the statistical level there is evidence to associate growing up in single-parent families and stepfamilies with greater risk to well-being – including a greater risk of dropping out of school, of leaving home early, of poorer health, of low skills, and of low pay.

**The Case for Marriage
Why Married People Are Happier,
Healthier and Better Off Financially**



by Linda Waite and Maggie Gallagher
October 2001

A reviewer writes:

Professor Linda Waite's outstanding book restates and reconfirms the overwhelming evidence in favour of marriage as the best of all available family structures.

**Do Mothers and Fathers Matter?:
The Social Science Evidence on Marriage
and Child Well-Being**

by Maggie Gallagher & Joshua K. Baker
Institute for Marriage and Public Policy,
27th February 2004

Summary:

Marriage is an important social good associated with an impressively broad array of positive outcomes for children and adults alike. The authors conclude that children in intact married homes are less likely to

- suffer child poverty,
- suffer sexual and physical child abuse,
- suffer physical and mental ill-health,
- misuse drugs
- commit crime,
- suffer educational and employment disadvantage,
- become divorced or unwed parents themselves.

Communities where good-enough marriages are common have better outcomes for children, women, and men than do communities suffering from high rates of divorce, unmarried childbearing, and high-conflict or violent marriages.

'The family structure that helps the most is a family headed by two biological parents in a low-conflict marriage.'



■ Marriage Facts

by Monte Neil Stewart

President of the Marriage Law Foundation
Harvard Journal of Law and Public Policy
1st July 2008:

Excerpt:

Ever stronger current, rigorous social science studies have ever more firmly established that family form matters and that children receive maximum private welfare when they are raised by a married mother and father in a low-conflict marriage ... This evidence has troubled many in the academy who believe that all family forms are normatively equal.

■ Marriage and the Public Good: Ten Principles

by the Witherspoon Institute, June 2006

by Maggie Gallagher

University of St Thomas Law Journal, Fall 2004

Excerpt:

Marriage ... Is the only institution that can both (a) produce the next generation of babies and (b) connect these babies to both their father and the mother ... Getting men and women into stable marital unions was understood to protect the interests of children and society in a stable social order ... Babies are most likely to grow into functioning adulthood when they have the care and attention of both their father and their mother ... The weight of social science evidence strongly supports the idea that family structure matters and that children do best when raised by their own mother and father in a decent, loving marriage.

■ Fathers' involvement and children's developmental outcomes: a systematic review of longitudinal studies

by Anna Sarkadi

Department of Women's and Children's Health, Uppsala University, Sweden

Robert Kristiansson

Centre of Clinical Research, Västerås County, Sweden

Frank Oberklaid

Centre for Community Child Health, Royal Children's Hospital, Melbourne, Australia

Sven Bremberg

National Institute of Public Health, Östersund, Sweden

Acta Paediatrica, Volume 97, Issue 2 Page 153-158, Feb 2008

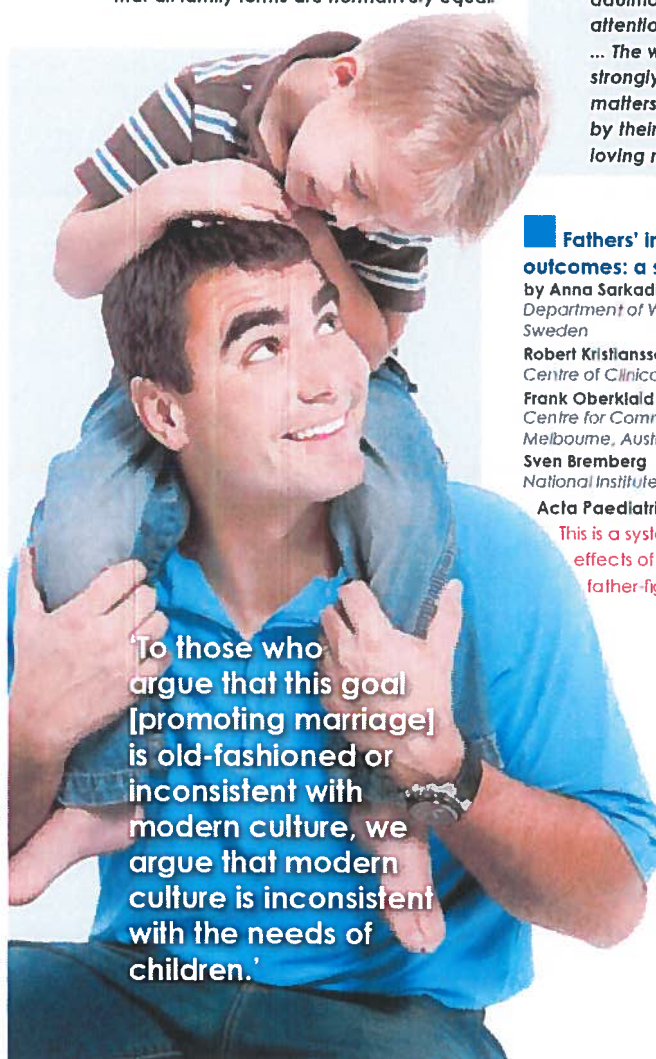
This is a systematic review of existing research into the effects of father involvement (both biological fathers and father-figures) on children's developmental outcomes.

Excerpts:

There is evidence to support the positive influence of father engagement on offspring social, behavioural and psychological outcomes.

High father engagement in poor families (with stable marriages) predicted lower incidence of delinquency during the early adult years for both sexes.

Current institutional policies in most countries do not support the increased involvement of fathers in child rearing.



'To those who argue that this goal [promoting marriage] is old-fashioned or inconsistent with modern culture, we argue that modern culture is inconsistent with the needs of children.'

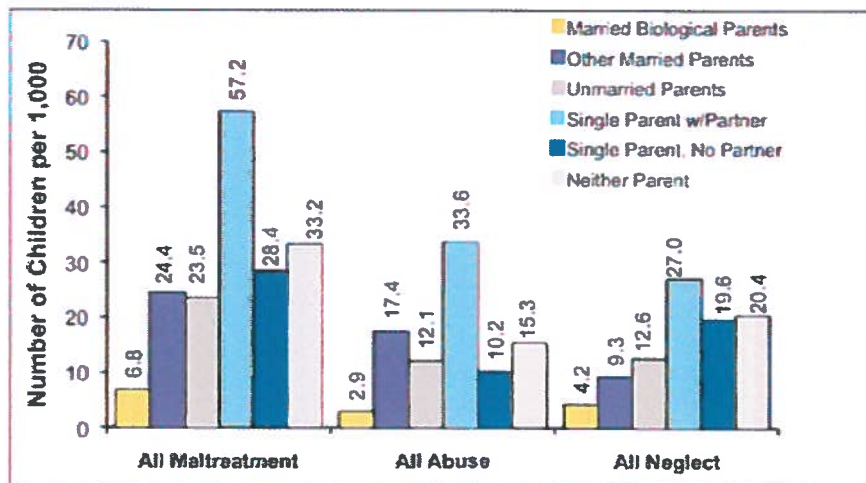


Figure 5-1. Incidence of Harm Standard Maltreatment by Family Structure and Living Arrangement.
 'Harm' comprises all maltreatment, abuse and neglect
 'All Abuse' comprises physical abuse, sexual abuse and emotional abuse
 'All Neglect' comprises physical neglect, emotional neglect and educational neglect

Fourth National Incidence Study of Child Abuse and Neglect (NIS-4)

Report to US Congress, 2010

by Sedlak, Andrea J., Mettenburg, Jane, Basena, Monica, Petta, Ian, McPherson, Karla, Greene, Angela, and U. Spencer

Excerpt:

The rate of Harm Standard abuse for children living with two married biological parents (shown in yellow above) ... is significantly lower than the rate for children living in all other conditions of family structure and living arrangement ... The rates in the highest and lowest risk groups differ by more than a factor of 11.

Creating an Opportunity Society

by Ron Haskins and Isabel Sawhill

The Brookings Institute in the US

The book, published in 2009, examines economic opportunity in the United States and explores how to create more of it. It recommends pro-marriage policies as one key way to help the poor, especially their children, climb out of poverty.

Excerpt:

There is a growing consensus that having two married parents is the best environment for children. Marriage brings not only clear economic benefits but social benefits as well, enabling children to grow up to be more successful than they might otherwise be ... To those who argue that this goal [promoting marriage] is old-fashioned or inconsistent with modern culture, we argue that modern culture is inconsistent with the needs of children.



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