

Responding to Australian same-sex marriage proposals

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It is always difficult to address same-sex issues without being sidelined as homophobic or out-of-date, or without appearing to unfairly single out those people who identify as gay, lesbian or bisexual. In all such conflicts, Christians need to own the glaring failures we carry in ourselves, and the inadequacies we bring to our churches.

But we can accept homosexual people without agreeing with them on everything. As a debate about extending marriage to same-sex relationships gathers pace, we may disagree with the proposal respectfully and carefully. We can continue to work at doing so well, even when the disagreement has been badly handled in the past.

We have never intended for these briefings to become dominated by a limited set of conservative 'hot button' issues. We don't particularly want to keep addressing them. But a response is in order when someone else proposes to change to the law.

In this case, recent media and political discussion in Australia means that we are compelled to carefully restate our opposition to proposals for same-sex relationships to be given the title 'marriage', which is now reserved in Australian law to 'the union of a man and a woman to the exclusion of all others, voluntarily entered into for life' (*Marriage Act 1961*, §§ 5, 46).

The current situation

Prime Minister Gillard has indicated that her government has no intention to alter these words. Consistent with this undertaking, there doesn't appear to be any plans by the Government to bring or support a Bill to legalise same-sex unions as marriage. This concurs with current ALP policy, which has been upheld at ALP National Conferences in the past.

However, it has been reported by journalist Paul Osborne that 'Labor's national conference had been brought forward six months to December 2011 in order to debate gay marriage and separate it from the election cycle'.

In the meantime, a resolution was recently passed by the House of Representatives requesting parliamentarians to gauge their constituents' views on the so-called 'issue of marriage equality'. Here it is:

*Motion resolved by the Commonwealth House of Representatives
(18 November 2010):*

'This house:

- (1) notes that there is:
 - a) a growing list of countries that allow same-sex couples to marry including the Netherlands, Belgium, Norway, Spain, Canada and South Africa; and
 - b) widespread support for equal marriage in the Australian community; and
- (2) calls on all parliamentarians to gauge their constituents' views on the issue of marriage equality.'

Depending on parliamentarians attempts to 'gauge their constituents' views', and on the outcome of the ALP National Conference, it is possible that legislation could be introduced under this Labor Government to change the current definition of 'marriage' in the *Marriage Act 1961*.

The 'story' of marriage

The Parliamentary motion above loads the dice in favour of same-sex marriage by calling it 'the issue of marriage equality', because everyone likes 'equality'. This focus upon equality, and an underlying presumption in favour of personal autonomy, tends to dominate our discussions of marriage. Where a proposal is thought to extend equality and personal autonomy, it is hard for other considerations to seem important.

Same-sex couples currently enjoy equitable treatment in all aspects relevant to de facto couple status. The current ability in NSW, Victoria, Tasmania and the ACT to register same-sex partnerships on a relationships register provides public recognition and affirmation of their relationships.

The push for same-sex marriage is therefore now largely ideological, because same-sex couples are not disadvantaged without it (unless we accept that it is homophobic not to give homosexual people further recognition).

No one is done a real injustice when we positively honour and uphold marriage as currently understood. We currently honour those who are united in lifelong, opposite sex, faithful and procreative relationships by calling them 'married'. In a liberal democracy, others can form other types of relationships; but 'marriage' is a term of honour reserved for a particular kind of relationship.

Until recently, a marriage was understood to be a gender complementary, sexually exclusive, procreative and child-oriented lifelong relationship. The deep story of how it came to be so is complex. On the one hand, some aspects of marriage seemed obvious where societies sought a stable environment in which to raise children. But other aspects of it (such as lifelong, one-to-one faithfulness) arose from, or were at least amplified by, the Judeo-Christian revelation of a faithful God who bound himself to one people – a revolutionary concept in ancient contexts that were much given to polygamy.

But over the years, successive Western societies have seen each element of marriage become open to renegotiation by couples:

- Historically, marriage was regarded as procreative and child-oriented. Marriage was understood as a stable environment for the raising of children in a secure relationship with a mother and a father. But the prevalence of contraception and abortion – and *right and proper* efforts to uphold the children of single parents – have reduced children to a kind of after-market marital option. Child-rearing is no longer regarded as basic to marriage. (This comment should not be taken to reflect badly upon the involuntarily childless. In Christian thought, the absence of children in a marriage does not imply a 'lesser' marriage. Christian thinkers have consistently opposed claims for divorce, often levelled by a man against a woman, based on childlessness.)
- Marriage was regarded as lifelong – an expression of the kind of faithfulness God extended to ancient Israel. In this milieu, divorce was reserved for the most severe cases of breakdown and hardship. A general expectation of lifelong faithfulness often had the effect of motivating struggling couples to resolve conflict, and so to heal and grow their relationship. But a progressive expansion in what is regarded as 'breakdown' and 'hardship' has eroded marriage's lifelong claim. We often now regard marriage as lasting only 'as long as it

works' or 'as long as we love each other'. In short, lifelong faithfulness is no longer seriously regarded as essential to marriage.

- Marriage has generally been regarded as sexually exclusive. This element of it remains somewhat intact, except when those who propound 'open' marriages, or who conduct affairs, often now only receive a snigger. There is no real reason to expect that sexual exclusivity will remain a defining feature of Western marriage.
- Marriage was historically regarded as gender complementary. The logic of this complementarity was partly that men and women actually do 'complement' one other in mysterious and difficult to quantify ways; and partly that children do best in the presence of a loving mother *and* a loving father, who bring to the child an ongoing experience of differently gendered adults. But Western society has recently decided that gender difference is unimportant, as reflected (among other things) in adoption law that permits same-sex parenting. The decision to sideline gender difference in marriage will extend this trend, and strip away the final historical distinctive of marriage.

Each time one of these elements of marriage is removed, Western society crosses a kind of Rubicon. When gender difference is also removed, there is no reason to exclude any imagined candidate for 'marriage'. In the United States, legalisation of gay marriage has led to calls for polygamy to be legalised, since polygamy can also be based on loving, consensual relationships. In December 2010, it was reported in Swiss and British newspapers that the upper house of the Swiss parliament is considering a law decriminalising incest (sex between consenting family members), saying that the laws are now 'obsolete' (since procreation is optional). Daniel Vischer, a Green party MP, was reported as saying that there was nothing wrong with two consenting adults having sex, even if they are related. On this logic, there remains little basis to exclude 'marriage' for minors, or between groups of friends, or for any combination where consent can be demonstrated.

The point here is simply to observe the inevitable logic of post-Christian society. Christians should not be too shocked by each of these erosions. In a way, they are to be expected. Christians don't have any radical new arguments other than to continue to praise this particular and special relationship – that lifelong, opposite sex, faithful, procreative adventure we currently call 'marriage'.

It follows that we will also continue to ask our neighbours: 'are you so sure that each element of marriage – lifelong sexual exclusivity, child-oriented procreativity and gender complementarity – is unimportant?' The environmental movement has helpfully reminded us of how foolish it is to evade our relationship to the natural environment. Likewise, Christians regard these elements of marriage as naturally inherent to our humanity, so that a society only fools itself when it attempts to pretend them away.

Interestingly, a French decision in January 2011 seems to echo some of this thinking. The French Constitutional Council (often considered to act as France's supreme court) upheld the legislature's refusal to name same-sex relationships as marriage. It held that France's parliament has the freedom to retain marriage as currently understood. The case was brought by lesbian partners Corinne Cestino and Sophie Hasslauer, who wanted France to follow other EU states. (The European Court of Human Rights had previously said that countries are free to legislate on the issue; and Spain, Belgium, Portugal

and Sweden legislated for marriage between same-sex partners after it was legalised in the Netherlands in 2001.)

The Council ruled that a refusal of same-sex marriage does not violate the French constitution. French lawmakers, it said, had agreed that the “difference in situations between same-sex couples and couples made up of a man and a woman can justify a difference in treatment concerning family rights”. In June 2006, the European Court ruled that the region’s human rights convention “did not oblige a state to grant a same-sex couple access to marriage” as marriage has “deep-rooted social and cultural connotations”.

In other words, this ruling acknowledges that no one is disadvantaged when a society retains a distinctive name for these lifelong, opposite sex, faithful and procreative relationships. In Western history, Christian insights that each element is important have sprung from the Bible, and have been confirmed in social experience by creating (generally) safe zones for extraordinary relationships of care, particularly for children.

Lifelong, gender complementary, sexually exclusive, procreative and child-oriented marriage may be difficult, but it remains important. We need more laws that are friendly to it as-is, not laws that will further corrode it. In contrast, ‘marriage equality’ simply demands that all who want to be called ‘married’ should be given what they want. But such a move will effectively destroy marriage as a meaningful element of our common life.

Where to from here?

The good news is that whatever our society decides to do, Christians will continue to inhabit lives either of celibate singleness, or of that lifelong, gender complementary, sexually exclusive, procreative and child-oriented thing we now call ‘marriage’. Given enough decades, others will want it back. But if other relationships are denoted as ‘marriage’, there will be some social friction along the way.

In response to the Parliamentary motion above, the best course of action is to continue to respectfully engage with our political representatives by:

- calmly and thoughtfully responding to the 18 November motion (in a way which does not accuse the Federal government of planning to legislate for same-sex marriage);
- expressing opposition to same-sex marriage being legalised in Australia; and
- explaining why marriage, as currently understood, needs to be upheld and protected in Australia.

Also, the Australian Christian Lobby has launched a campaign called **man+wife4life!**, calling on politicians to respect and defend the current definition of marriage in the Marriage Act. You may like to sign their petition in support of marriage being defined as between one man and one woman (www.makeastand.org.au/campaign/index.php?campaign_id=39).

We have also listed some recommended reading relating to marriage in general, rather than specifically about same-sex marriage. It will help you engage by promoting and praising the positive framework for marriage, rather than simply by opposing the proposals we disagree with.

- **Andrew Cameron and Rebecca Belzer**
(for the Social Issues Executive, Anglican Diocese of Sydney)

Sources and Further Reading

Social Issues Executive briefings and booklet:

#011: 'The dreams and realities of marriage',

http://www.sie.org.au/briefings/the_dreams_and_realities_of_marriage

#012: 'What makes a marriage',

http://www.sie.org.au/briefings/what_makes_a_marriage

#070: 'The Queen and the humanity of marriage',

http://www.sie.org.au/briefings/the_queen_and_the_humanity_of_marriage

#072: 'The churches and sexual wholeness together',

http://www.sie.org.au/briefings/the_churches_and_sexual_wholeness_together

#075: 'Living together: conservative Christians and same sex relationships',

http://www.sie.org.au/briefings/living_together_conservative_christians_and_same_sex_relationships

#076: 'Beyond homophobia, toward new terms of debate', SIE briefing,

http://www.sie.org.au/briefings/beyond_homophobia_toward_new_terms_of_debate

Family: A Christian Approach, http://www.sie.org.au/pdf/reports/SIE_Family-a_Christian_approach.pdf.

Ash, Christopher, *Marriage: Sex in the service of God*. Leicester, IVP, 2003.

Hall, Allan, 'Switzerland considers repealing incest laws', *Telegraph* 17 December 2010,

<http://www.telegraph.co.uk/news/worldnews/europe/switzerland/8198917/Switzerland-considers-repealing-incest-laws.html>

Hughes, Selwyn, *Marriage as God intended*. Kingsway Publications Ltd, 1984.

Kostenberger, Andreas J, *God, Marriage and Family: Rebuilding the Biblical Foundation*. Crossway, 2004.

Osborne, Paul, 'Bitar to stay on as ALP national secretary', *ninemsn* 19 November

2010. Online: <http://news.ninemsn.com.au/national/8144236/bitar-to-stay-on-as-alp-national-secretary>.

Roberts, Christopher Chenault. *Creation and covenant: the significance of sexual difference in the moral theology of marriage*. New York: T&T Clark International, 2007.

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