

# Writings on Marriage

The Journal of the Bishop's Task Force on Marriage  
*Convention Edition*

Edited by Greg Jones

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Writings on Marriage  
Journal of the Bishop's Task Force on Marriage  
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*Cover illustration* is adapted from diocesan seal -- two persons in the stern are being married, four persons amidships are rowing, and one person in the bow is celebrating.



*My brothers and sisters in Christ:*

It happened in an incredible, ordinary, mundane moment. Soon after the execution of Jesus, two of his disciples were walking away from Jerusalem, confused, downcast, lost. As they were walking they talked with each other, about Jesus, about the hope they once had in him, about the hope now dashed on the altar of reality. “We had hoped,” one said, “that he was the one to redeem Israel.”

Luke tells this story in the 24th chapter of his Gospel. His way of telling it is probably a message in itself. For it was as these two struggling disciples were in deep conversation with each other about deep matters of faith and life, that Jesus himself, now risen from the dead, joined them and became part of the conversation. They didn’t realize that it was Jesus alive. They simply thought him a stranger. Only later, when they invited this stranger to break bread with them that evening, did they realize that the stranger in their midst was Jesus, alive.

It was in the midst of their conversation with the Scriptures, with each other, with their situation and world that the Risen Christ became present, even when they didn’t know it. The experience later led some of them to say with some amazement: “Were not our hearts burning within us while he was talking to us on the road, while he was opening the scriptures to us?” (Luke 24:32)

The essays in this journal are part of a conversation among disciples of Jesus about matters of faith and life that matter deeply: marriage, family, relationships, commitments, ties that bind, God-given human community, the possibilities of God’s dream and vision for human life

and well-being. They are a conversation between followers of Jesus walking on a journey, hoping to hear and experience something of God's deep and passionate dream and desire for the human children of God and all creation.

This work is in direct response to a resolution of the 193rd Convention of the Diocese of North Carolina. I am deeply indebted to Greg Jones, the task force members and the contributors to this theological journal on Holy Matrimony. My prayer is that this will be a resource for teaching and conversation among us a diocese, as a church, indeed, as a culture.

But my deeper prayer is that as we listen to Holy Scripture, to the wisdom of Christian tradition, to the stories of each of us in this conversation, the Stranger will walk with us and talk with us as he did centuries ago on a road between the city of Jerusalem and the village of Emmaus. May the conversation and journey continue.

*Keep the faith,*

+Michael B. Curry

Bishop of North Carolina

November 19, 2009

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# FOREWORD

Gail Fennimore<sup>Φ</sup>

I have been married for 34 years. Sometimes my marriage has been more joyful than other times, but my commitment to my husband, and the covenant we entered into has never wavered. Being a layperson with no formal theological training, my initial reading of the essays, articles, and sermons presented in this journal filled me with amazement: at the naiveté of my preparations for marriage many years ago; and then at the dumb luck I have had in applying many of the ideas and ideals discussed in the following pages.

My exploration of the theology of marriage started at the last diocesan convention when I served on the Committee on Faith and Morals. The committee was assigned a resolution concerning the role of the church in marriage. The hearing room was packed, the testimony was lively and impassioned, and it became clear to the whole committee that, instead of recommending passage, rejection or amendment of a particular resolution, study would be the most important next step. An alternative resolution asking the bishop to form a task force to study and report back was passed by convention. Bishop Curry and Greg Jones should be applauded for pulling together such an esteemed group of scholars (myself excluded) to share their thoughts on Christian marriage. As you will notice, *all but two* of these writings were produced this year by Episcopalians resident in the Diocese of North Carolina, demonstrating a wealth of talent that is close at hand.

There are several common themes in these works: marriage as a sacrament; marriage as an exploration of our relationship with God;

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<sup>Φ</sup> Gail Fennimore is a physical therapist and member of the Church of the Holy Comforter in Charlotte. She is an active laywoman, leading in various roles within The Episcopal Church, notably as past-president of the diocesan ECW and parish vestrywoman.

marriage as a vehicle for reaching the fullest expression of ourselves, and marriage as a legal vehicle for order in our society.

I hope you enjoy your journey within these writings. For those of us who are called to relationship in marriage, we must bring our imperfections, child-like trust, fierceness for justice, needs, wants and longings before our partner to become more fully ourselves. It is one way to breathe in the breath of God and share the love He offers.



# INTRODUCTION AND ESSENTIALS

Greg Jones<sup>Φ</sup>

At the 193<sup>rd</sup> Convention of the Episcopal Diocese of North Carolina in January of 2009, a resolution was passed calling on Bishop Curry to name a task force charged with studying the theology of marriage, the relation of Church and State regarding marriage, and to report back to the 194th convention. Bishop Curry named me to be the chair of the task force, and he appointed its membership.

Since then, we have been hard at work considering the Church's theology of marriage and the relationship between Church and State as regards marriage. I agreed to chair the task force with a particular vision in mind of how we should proceed, and to what end. It had been my vision that we would produce a publishable volume of good Christian theology and reasoned commentary on these questions, which would be printed by the Diocese, and given to every delegation at the next convention. We have done that work, and here it is.

The writings in this journal range from academic to sermonic to informal reflective pieces. Each piece stands on its own, and there is no need to read this journal in linear fashion. Though there is a kind of order to the ordering. The journal begins with essential theological values of Christian marriage, and concludes with legal/statal questions, and how they may be seen to connect.

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<sup>Φ</sup> The Rev. Samuel Gregory Jones ('Greg') is Rector of St. Michael's in Raleigh. A trustee at the University of the South and the General Theological Seminary, he is author of *Beyond Da Vinci* (Seabury Books, 2004) and "On the Priesthood," *Anglican Theological Review* (February, 2009).

## Shared Understandings

It had also been my expectation that our work would represent a wide array of theological perspectives and a diverse agenda. But, while the task force has both lay and ordained, academic and non-academic theologians, male and female, 'liberal' and 'conservative' and 'moderate' members on it - we just aren't that far apart in terms of how we understand Christian marriage, or how much we all respect and honor it as a gift.

My sense has been that the members of the task force share more in terms of our understanding of Christian marriage than we differ. In particular we all seem to agree that marriage for Christians is a *complex economy of commitments*<sup>1</sup> - social, spiritual, private, and public. We believe this is described in the doctrine and discipline of The Episcopal Church regarding Holy Matrimony, and we uphold and affirm this vision. We understand Christian marriage to be a public and solemn covenant between two persons in the presence of God and involving the Church and society at large.

In my own year of study, I have come to believe that the Church teaches marriage to be a sacramental action which conveys spiritual grace through socio-physical bonds and commitments which involve God, spouses, Church, *and* the world beyond the household. I believe the writings of the members of the task force attest to this - as do the writings of other contributors to this journal.

Of course, there are controversial questions about which the task force is not of one mind. As well, there are a number of issues we left undiscussed, in the interest of very limited time. Among those are the vital questions of divorce and remarriage, the rearing of children, pastoral care to marriages in difficulty, and so forth. However, of the controversial questions where we do not all agree, the following three are most noteworthy:

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<sup>1</sup> I made up the phrase 'complex economy of commitments.' The word 'economy' derives from the Greek word for household.

1. Is marriage a form of relationship which may include faithful Christians who are LGBT?<sup>2</sup>
2. Should the Church cease to solemnize marriages, leaving that to be done by secular officials, and should the Church simply offer to bless civil marriages?
3. Should the Church offer a "ritual-only" form of marriage in which a couple is not legally married also?

The first point is likely the most controversial, and in the view of many, also the most important for the Church to discuss and, eventually, decide what to do about it. While this task force is not necessarily in agreement about what the Church should do in this regard - it is important to identify one major point. The task force members shared essentially the same vision of Christian marriage, with the single major difference of opinion being about whether or not this shared vision of Christian marriage could include Christians who are gay. The analogy being to Holy Orders: we do not have separate orders for male or female persons - but rather we ordain persons of either sex to be deacons, priests and bishops. Similarly with marriage, no one on the task force argued for a separate or alternative form of Christian marriage - but some did argue for the eventual inclusion of Christians who are gay into what we currently understand Christian marriage to be.

The second point of wider controversy - whether or not the Church should cease to solemnize marriages and simply offer blessings of civil marriages - was interestingly not that controversial on the task force. Indeed, while some indicated a sympathy for the continental European system of marriage - in which the Church blesses what is already solemnized by a secular official - nobody demonstrated a great degree of advocacy for this. This is interesting because in the wider Church

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<sup>2</sup> LGBT means "Lesbian, Gay, Bisexual, Transgendered" and is often seen to be a preferred signifier for discussing non-heterosexual persons. This journal will also use the word 'gay' inclusively to mean LGBT, following the New York Times and Washington Post style guide.

and world there are those who advocate for the separation of what is seen as the sacred and contractual/legal aspects of marriage. Some who do argue for this are often identified as "liberal" or "progressive" within the Church, though clearly not all who self-identify as "liberal" or "progressive" favor separating the sacred from the contractual aspects of the marital covenant. In the non-Church sphere, a growing movement has also called for the *State* to "get out of the business of marriage." Yes, not the Church, but the State. Across the political spectrum from David Frum to Michael Kinsley, from David Boaz to Wendy McElroy, advocates of "marriage privatization" argue that the State has no business involving itself in people's private marital issues.<sup>3</sup>

Contrary to a sentiment sometimes expressed in the Episcopal Church that "we need to get the Church out of the marriage business," or the inverse sentiment expressed by certain libertarian, individual anarchist, small government conservative or private morality liberals that "we need to get the *State* out of the marriage business," most on the Bishop's task force are in favor of the Church *continuing* to define, solemnize and bless marriage *entirely* within the context of the Church - and *allowing* the State to recognize and uphold the legal and contractual implications of what we do. By solemnizing a marriage in the context of the Church, in which vows, promises, and blessings are all exchanged between the congregation and the couple, the result is a vision of marriage which integrates the contractual, legal, societal, public, and spiritual aspects of the covenant of marriage. For those on the task force who believe that LGBT persons should be included into marital relationships, the concern was expressed that the secular legal requirements be changed to include them through the political process, so that the Church could continue to solemnize as well as bless fully-dimensional marriages.

The third point of debate - whether or not the Church should offer 'ritual-marriage' which has no legal dimension - was somewhat more interestingly debated on the task force. Certainly, there are increasing numbers of cases in which persons are effectively penalized by legal marriage - OR - they are not permitted to legally be married. This is

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<sup>3</sup> David Frum is a conservative Republican intellectual. Michael Kinsley is a liberal Democrat intellectual. David Boaz is executive vice president of the libertarian Cato Institute. Wendy McElroy is an "individual anarchist."

often the case with persons receiving widow/widower benefits, OR, also with LGBT persons who live in states where they may not form any type of legal marriage or civil union. The concern here is this - we all agree that Christian marriage is a form of utter mutuality and self-giving between two persons, and that as such, the covenant element of marriage is one which applies in all directions both spiritual and physical, corporeal and ethereal, legal and financial. If persons engage in a form of marital covenant - such as a 'ritual only' type of relationship - which has no legal or financial bonds, it raises serious questions as to the fullness of the covenant at all.

One member of the task force who is in a same-sex union described how his partner and he sought the maximum degree of legal and financial commitments available within the current laws, to be done in concert with their ritual covenant-making within the Christian community. They believed that the making of maximum commitment to other - in all spheres of life - is central to any Christian nuptial theology or practice. The words, "with all that I am and all that I have" come to mind in this regard.

### **The Essentials of Christian Marriage**

Again, apart from these areas where the task force was not of one mind, all of us did seem to share a common starting place for our nuptial theology. I believe that visible in the writings on marriage found in this journal is a common thread through each. This is a thread which is not new at all in Christian thought, and is not particular to Episcopalians either. No, it is a thread about the essence of Christian marriage which one may discern in the centuries-old writings of Martin Bucer, as well as in the contemporary writings of Walter Cardinal Kasper.

Though separated by five centuries - and the Protestant/Roman Catholic divide - both Bucer *and* Kasper share a rather modern theological perspective on marriage: each asserts that the essential theological significance of marriage develops from intimate sexual relationships of partnership, fidelity and fellowship - even *before* one

considers other important householding questions involving property, dependents, descendants, etc.<sup>4</sup>

To be sure, in the West beginning in the 19th century at least, we may trace the rise of what is often called 'companionate marriage.'<sup>5</sup> Bucer perhaps anticipated these modern trends in the middle of the 16th century when he suggested to the framers of the second Book of Common Prayer that the list of the goals of marriage be reordered, putting "the fellowship of mutual fidelity" ahead of procreation and the avoidance of fornication.<sup>6</sup> They didn't take him up on the suggestion. The American prayer book *dropped* the traditional three goals of marriage in 1789 altogether. In 1979, the new Prayer Book restored three goals - but they now are defined as mutual joy, mutual help and comfort, and for the Godly procreation and rearing of children.

Walter Cardinal Kasper orders the goods of marriage similarly in his excellent book *Theology of Christian Marriage*.<sup>7</sup> While certainly upholding and cherishing the traditional goods of marriage as having to do very much with the raising of children, as well as the faithful merging of property and clan, Kasper nonetheless begins his theology of marriage by looking at what it might be about *before* questions of procreation and property enter in. Perhaps following Bucer's lead - or perhaps merely sharing the modern sense of where marital theology must begin - Kasper begins with what the Book of Common Prayer identifies as the marital good of 'mutual joy.'

Kasper begins his theology with what the relationship between the two married persons has to do with God and God's will for human beings. This also happens to be the same place where all of our task force members choose to begin their theology of marriage as well. As you

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<sup>4</sup> Kasper writes "the point of departure for Christian thinking about marriage today should be the aspect of mutual love and faithfulness," in *Theology of Christian Marriage*, (Crossroad, 1983) p. 14.

<sup>5</sup> Stacey J. Oliker, *Best Friends and Marriage: Exchange Among Women*. Berkeley: University of California Press, 1989.

<sup>6</sup> H. J. Selderhuis, *Marriage and Divorce in the Thought of Martin Bucer*, (Thomas Jefferson University Press, 1999) p.114.

<sup>7</sup> Walter Cardinal Kasper, *Theology of Christian Marriage* (Crossroads, 1983).

read the articles and sermons which follow - I invite you to consider the following six claims for a theology of Christian marriage which I have distilled from Kasper's work:

1. Theologically understood, the essence of marriage is not natural but relational. The relationship is defined by the mutual embrace of each partner's whole person. As such, the starting point for our thinking about Christian marriage is mutual love and faithfulness.
2. Human persons have dignity because they exist for their own sakes, as creatures of God in God's own image. To be sure, an individual man or woman (whether married or not) is 'fully' human - there are no 'partial persons.' However, human fulfillment does cry out for the acceptance and affirmation of our personhood by others. Human fulfillment is developed in relationships of personal love, in which one says to another, "I want you to be; it is good that you are." In Jesus' teaching, the love of God and the love of neighbor speak to this.
3. People exist bodily and in relationship to creation. Our bodily and world-relational existence therefore is deeply marked by our sexuality - in terms of sexual identity and sexual expression. Human sexuality is fulfilled only within the context of personal bonds. Without these personal bonds, sexuality can result in the disintegration and loss of dignity of the human person.
4. The bodily nature of the human person further means that marriage cannot be purely personal or private. A minimum of physical, social and economic requirements are needed if a marriage is to be successful. As demonstrated in the law, the prophets, and the words of Jesus, 'love includes justice' - meaning that partners in marriage are called and required to give each other his or her due. Without this justice, love would be dishonest and empty. It is in this way that marriage requires both personal and public obligations.
5. The bond of faithfulness in marriage is not to be seen a yoke whereby individual liberties are restrained, but as a mantle under which mutual self-giving in the presence of God is celebrated.

6. In marriage, the partners commit themselves to an unconditional existence whose end is unseen. In this way, marital faithfulness is a form of Christian obedience in faith to God - whose love is likewise unconditional and whose ends are likewise unseen. As the ground of Christian marriage is the definitive and unconditional love of human beings by God, a marriage which holds this sort of love as its basis is a relationship in which divine transcendence may be experienced.



# LITURGY FOR LIVING

Charles Price & Louis Weil<sup>Φ</sup>

## From *Liturgy for Living*, (1979)

Marriage is a relationship between a man and a woman for the creation and nurture of new life, and for mutual support and enjoyment. It is established by an act of intention in accordance with some custom and tradition. It constitutes families as the basic unit of society, the context for expressing the deepest of human relationships, and the normal structure within which children are born and raised. It is a completely human institution, which can be distinguished from the mating of

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<sup>Φ</sup> Charles P. Price and Louis Weil, *Liturgy for Living*, The Church's Teaching Series, Volume 5 (Seabury, 1979) reprinted with permission. This chapter includes the section from the classic 1979 text by the late Charles Price and Louis Weil, and an expansion of that piece by Professor Weil written this year for this journal. Charles P. Price was a distinguished professor on the faculty of the Virginia Seminary for many years. Professor Price was also a long-time member of the Standing Liturgical Commission, and made significant contributions to the 1979 Book of Common Prayer as well as texts for the 1982 Hymnal. Louis Weil retired this year as James F. Hodges Professor of Liturgics at the Church Divinity School of the Pacific in Berkeley, California. His ministry has included missionary and academic work in Latin America. In his work as a teacher of liturgy he has lectured on five continents. He was a member of the Standing Liturgical Commission from 1985-1991.

animals. Some animals, too, apparently establish a relationship of relative permanence in order to raise their young. In this case as in so many others, it is impossible to make an absolute distinction between the realm of the human and that of other creatures. Yet there is an absolutely crucial difference. The marriage of a man and a woman, though rooted in the natural urges of sex, is transformed by will and culture.

It would obviously take us far beyond the limits of this book to examine marriage customs of different cultures and different times. They vary widely. At the beginning of Old Testament history, for example, the patriarchs practiced polygamy, as has been done in many cultures outside Israel. Jacob married two wives - Leah and Rachel - and, in accordance with the widespread custom of the day, and apparently with God's blessing, took two concubines as well - Bilhah and Zilpah (Gen. 30:1-13). Solomon's seven hundred wives are legendary (1 Kg. 11:3). One may even suspect some Oriental hyperbole!

Within the Old Testament, the understanding of human sexuality and marriage deepened under the influence of two leading Old Testament convictions: that creation is good, and that God's covenant with his people sets the standard for all relationships within the covenant, including the relationship between husbands and wives. In the first place, sex is a good part of God's good work. In the second place, husbands and wives are to be related to each other with loyal love (*hesed*) of the same quality as God's loyal love to Israel.

The story of creation in the first chapter of Genesis puts an extraordinarily high value on human sexuality. We read: "God created man in his own image, in the image of God he created him; male and female he created them" (Gen. 1:27). Sexual union is created to be one means by which human beings realize and participate in the image of God. (It is not the only one, to be sure. Marriage is not necessary to salvation.) Sexuality is therefore a matter of greatest concern for the Christian faith.

On the other hand, what is designed to be a great good is often, in sin-ridden human life, a source of evil and distortion. The corruption of the best is the worst, as a familiar proverb puts it. Our sexuality is no exception. It brings soaring joy. It can also bring frustration and

bitterness. In the biblical understanding of the conditions of human existence after the Fall, the relationship between man and woman comes under the curse which affects all things. What was designed as a blessing and as an expression of deepest human mutuality becomes, time and time again, a frustration and an opportunity for one partner to dominate the other. "...Your desire shall be for your husband, and he shall rule over you," the Genesis account reads (3:16).

Under these circumstances, the understanding of marriage in Israel grew with the developing knowledge of God's ways with his people. It came to be recognized that the sexual bond between husband and wife was most secure, satisfying, and fulfilling when it was maintained in the context of a relationship marked by the kind of loyalty and faithfulness which God showed to Israel.

Loyal love (*hesed*) is the decisive factor in the biblical understanding of marriage. An examination of Old Testament laws, for example, would show that if a man had sexual relations with a woman married to someone else or with one engaged to be married, both man and woman were put to death. If the woman were not married or engaged, the man had to pay her father a sum of money and marry her, but the couple were not punished as criminals, (cf. Dt. 22:23-29). The violation of a pledge makes the difference.

Today, we surely find these laws grotesquely severe, and we probably regret that their provisions did not fall more equally on man and woman. Nevertheless it is clear that in its time, the Old Testament sought to uphold faithfulness in marriage; and when God taught the prophet Hosea about God's faithfulness to the covenant by requiring him to be faithful to Gomer, "a worthless woman," faithfulness (*hesed*) began to be grasped as a man's responsibility in marriage, as well as a woman's (Hos. 1:2-4; 3:1-5).

## **Marriage In the New Testament**

The New Testament develops these Old Testament insights. Jesus himself regarded marriage not only as monogamous but as life-long. In his view, a husband should not be able to rid himself of his wife simply

by giving her a "bill of divorce," as contemporary Jewish practice was. No, said Jesus,

"For you hardness of heart he [Moses] wrote you this commandment. But from the beginning of creation, 'God made them male and female.' 'For this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh.' So they are no longer two but one flesh. What therefore God has joined together, let not man put asunder." (Mk. 10:5-9)

This teaching not only establishes the permanence of the marriage bond in Christian understanding, but also underlies the Christian conviction that the relation between husband and wife is, humanly speaking, their primary relationship and takes precedence over all other human relationships, including those to parents and the parental family. All other ties become subordinate to the new one established by the marriage vow. This aspect of Christian marriage brings it into conflict with many alternative understandings of marriage, where the parental family, usually the husband, occupies first place, and the new relationship is subordinate.

Two thousand years of Christian experience have taught us that despite the best of intentions, some marriages are not healthy. Some way has to be provided to dissolve them. In these cases, the break-up of a marriage may be the least of evils, but it is a defeat for the Christian vision of what marriage can be. A couple who undertake Christian marriage must intend it to be permanent when they exchange their vows.

They are also bidden to model their married love on the love of God for his people. The obligation to do so has rarely been more movingly expressed than in the Letter to the Ephesians:

Wives, be subject to your husbands, as to the Lord. For the husband is the head of the wife as Christ is the head of the church....Husbands, love your wives, as Christ loved the church and gave himself up for her...Even so husbands should love their wives as their own bodies. (Eph. 5:22-23; 25-28)

Many modern Christians will especially regret the lack of mutuality between man and woman expressed in this passage. Many of us today would say that husbands and wives should be subject to *each other* and should give themselves to *each other*, as Christ loved the church and gave himself up for it. We believe that this mutuality is an implication of Christian love, which has gradually become clear as Christian people have lived into the meaning of the Christian mystery.

In any case, there can be no mistake that the model for Christians of love in marriage is Christ's total self-giving - his *agape*. When Christians try to understand the implication of Christ's life for their lives, they realize that his steadfast love for his church involves, in the case of marriage, the complete loyalty of the man to the woman, and of the woman to the man, for life. The chief reason which Christians have for claiming that marriage is an exclusive and permanent relationship is the unswerving faithfulness, revealed by Christ, which God has for his people. When this religious conviction weakens, our understanding of marriage will be correspondingly insecure. The love of God in Christ, *agape*, which is faithful to death, redeems sexual love, *eros*, and makes it capable of bearing the meaning it was designed in creation to have; capable of making the union of male and female to be the image of God. This capacity of Christian marriage to be a communicating symbol of God's own life is so potent that marriage is commonly called a sacramental act.

## **The Development of Christian Marriage Rites**

There is no service of marriage recorded, or even mentioned, in the Bible.<sup>8</sup> Even after Christianity moved into the Gentile world, there was no special Christian marriage service. In the second century Ignatius required a couple seeking marriage to get the Bishop's permission, and Tertullian in the third century indicated that a couple's marriage would be blessed at a celebration of the Eucharist. In each case the implication is that the actual marriage ceremony took place in accordance with existing local customs. That ancient practice expresses the consistent teaching of Western churches ever since. A couple pledge themselves to

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<sup>8</sup> Editor's Note: The Wedding in Cana from John 2 makes no mention of the service of marriage itself, but focuses rather on the wedding *reception* and first miracle of Our Lord.

each other and observe the legal requirements of the place where they live when they do so. The church then blesses the union.

Until well into the Middle Ages, there was no expectation that a Christian marriage should take place in a church. The first full description of a Christian marriage liturgy is found in the ninth century. When the church at last did take over the marriage ceremony, it really functioned as the civil authority, church and state being coterminous at this period of history. The priest was understood to function as a *witness* of the couple's vows as well as the church's representative to bless the couple. The marriage rite itself embodied local customs. Some of the features of the Prayer Book service most familiar to Episcopalians originated in northern England. The father's giving away of the bride, for example, belongs in this category. The giving of a ring as a symbol of the vow is a widespread European custom, but it is by no means universal.

Since the eighteenth century, the principle of separation of church and state has gained ascendancy in Western Europe and North America. As a result of the American Revolution, there is no religious establishment among us. Ordained Christian ministers are nevertheless regularly permitted to function as civil officers in this one instance, officially witnessing the exchange of the vows in accordance with a license issued by the state. Thus in the United States a marriage ceremony can still take place altogether in the church building. On the other hand, the revolutions which occurred in many European nations during the nineteenth century established a wider gulf between church and state. In France, for example, there now must be two complete ceremonies: a civil ceremony at a town registry and the blessing of the marriage in the church. The practice of early Christianity has virtually been reestablished.

## **The Celebration and Blessing of a Marriage**

In the new Prayer Book, the liturgy for a wedding is entitled "The Celebration and Blessing of a Marriage." The two parts of the title correspond to the two parts of the ceremony which have characterized Christian marriage from the beginning: the exchange of vows and the

blessing. The whole rite is embedded in a service of the Word identical with the Proclamation of the Word of God at the Eucharist.

The service begins with an exhortation which affirms the biblical teaching about marriage which we have already examined, and states the purpose of the marriage bond:

The bond and covenant of marriage was established by God in creation, and our Lord Jesus Christ adorned this manner of life by his presence and first miracle at a wedding in Cana of Galilee. It signifies to us the mystery of the union between Christ and his Church ....

The union of husband and wife in heart, body, and mind is intended by God for their mutual joy; for the help and comfort given one another in prosperity and adversity; and, when it is God's will, for the procreation of children and their nurture in the knowledge and love of the Lord (p. 423).

*The Declaration of Consent* follows, in which each partner promises the other "to live together in the covenant of marriage . . . and forsaking all others, be faithful unto him (or her) as long as you both shall live." Marriage is presented as a covenant relationship which is exclusive, lifelong, and taking precedence over any other human relationship ("forsaking all others. . .").

The congregation then promises to uphold the couple in this relationship, expressing by this commitment the often overlooked fact that the expectations of a community have a great deal of influence on the stability of a marriage.

The "giving away" of the bride has become optional. It is a vestige of a time when women were considered to be property.

After the lessons, which introduce some of the biblical material which we have discussed, the couple make their promises by taking each other's right hand and repeating the age-old words: "...to have and to hold from this day forward, for better for worse, for richer for poorer, in sickness and in health, to love and to cherish, until we are parted by death." These mutual vows constitute the marriage.

It has become possible for both husband and wife to give rings as a symbol that "with all that I am, and all that I have, I honor you." This mutual exchange is a further sign of the complete equality of the man and the woman. Since the exchange of rings is in origin local and not universal custom, provision is also made to allow some other symbolic exchange at this point (p. 437).

The concluding *Prayers* and *Blessing* take the place of the Prayers of the People in a regular service of the Word. The blessing of the couple by the officiating priest constitutes the irreplaceable action of the church at this service. The exchange of the Peace brings the marriage service to a close. The couple first exchange the peace with each other, and then in a custom of growing popularity, may move through the congregation to greet with the peace those who have come to share this celebration. The Eucharist may follow, in accordance with ancient tradition.

The new Prayer Book provides a service titled "The Blessing of a Civil Marriage" (pp.433-434). It is a sign of the fact that in our society, as in many others in the western world, civil marriages are becoming more frequent.



## Updating A Text on Marriage, (2009)

The text on marriage in *Liturgy for Living* that Charles Price and I wrote some thirty years ago restates the received tradition regarding marriage as an institution of the Church. Looking back from 2009 over this text, what I find is not errors which need to be corrected, but rather, at certain points, a need to expand what the text says, that is, to develop some of the implications of the text in ways which, in the 1970s, we could hardly have imagined.

I want to focus on what seems to me to be the prime example of this. It occurs in the first paragraph of that article, in which we wrote that marriage “constitutes families as the basic unit of society, the context for expressing the deepest of human relationships, and the normal structure within which children are born and raised.” This statement strikes me now as wonderfully innocent, implying as it does that there is a single definition of ‘family’. The question which this phrase would raise today is, “And how do you define family?” For many in our society, the answer would be “a father, mother, and their children,” a response which would have been generally accepted in the 1970s without question. But for others in our society, that model of ‘family’ does not fit their real life situation.

The variations on the traditional model are numerous, but certainly one very common model today is the single-parent family, and even that with variations. Many children are raised by one parent because of the death of the other parent, or, of course, because of divorce. It is true that in many cases, even after a divorce, both parents remain actively involved in the care of their children. But in other cases, one parent has disappeared from the scene, and the remaining parent has not remarried. Yet no one would suggest that a single parent and child do not constitute a family.

Another variation on the single-parent family occurs when a man or woman has chosen to remain single and yet desires to have children. Back in the 1980s, this model was predominantly associated with professional women. Now, census figures indicate that the number of single-parent households headed by men has grown tremendously since then.

Yet another aspect of an expanded concept of family is found in what are generally called “consensual unions.” I began my ordained ministry in Puerto Rico in the early 1960s, and I soon learned that in some parts of the island there was a very large percentage of such unions alongside those which were legally and/or religiously sanctioned. These unions were often very stable family units involving lifetime commitment. These were accepted within the culture, and the children of these unions were, by government mandate, legally legitimate. This pattern had developed centuries earlier during the colonial period when efforts at evangelization were often focused in urban centers. Remote areas of the island would be visited by clergy only rarely, and so such “common law marriages” were accepted as the social reality with the usual legal supports.

Such consensual unions have becoming increasingly common in American society in recent decades, and if one inquires as to the reasons for this, the responses are very diverse.

It is amazing how such unions have come to be accepted as ‘normative’ for young couples even by rather conservative parents. It is often explained that this is a kind of ‘stage’, and testing of the relationship which, if it works out, will lead to marriage. But some of these unions last for many years and include the rearing of children without any inherent sense that a marriage license is needed. Again, one may find examples of many variations on this pattern, but certainly what was once the stigma of “living in sin” has given way in many parts of the country to a much more sympathetic acceptance of yet another model of ‘family’ in our society.

### **Same-Sex Marriage**

When we listen to advocates of same-sex marriage, a characteristic appeal is made to an inherent right to form family units which in an increasing number of states are legally recognized and in which, very often, there is a profound desire for children. In addition to roughly a half-dozen states in our country, several nations in Europe have now legalized policies by which same-sex marriages may take place. In such places, this is seen as a matter of civil rights, quite apart from any religious perspective to the question.

This does not, of course, settle the question for the churches. It is evident that there is wide disagreement within all of the Christian denominations as to whether such a development is acceptable. The point to be made, however, is that whether or not a person or a denomination accepts or does not accept same-sex marriage, those marriages are likely to enjoy increasing legal sanction. Among Christians, the debate on this issue is likely to go on for a very long time.

### **Sacrament and Vocation**

Given the passionate emotions which this question is raising in American society, as well as within the churches, it seems to me that two fundamental aspects of Christian faith and practice should be kept in focus as the dialogue goes on.

The first is 'marriage as sacrament.' The reformed churches of the 16th century tended to restrict sacrament as a category to only baptism and eucharist. In spite of that, Anglicanism has continued to speak of the other rites, including marriage, in sacramental terms. What does this contribute to this particular question? The definition of sacrament is, of course, familiar to all of us, "an outward and visible sign of an inward and visible grace." On this point it is important to listen to the voices of couples united in the traditional model of male and female who witness to the reality of the grace in their lives which has been God's gift to them through their marriage. Even those of us who are not married can witness to the experience of grace in our lives which has come to us through close friendships. To extend this a bit further, anyone who has had close acquaintance with a gay or lesbian couple, a couple who are committed to Christian faith, has seen the fruit of that grace embodied in that relationship, often in heroic mutual support. For me this manifests "the nature of sacrament" just as clearly as we might see it in heterosexual marriage or in close friendship. In other words, that same-sex marriage can be recognized as "an occasion of grace."

The second is 'marriage as vocation.' I have long taught that marriage for Christians must be looked at in terms of vocation. In other words, I am insisting that the commitment of marriage is an act of faith, and pertains to our understanding of who God is calling us to be. In that sense, marriage is grounded in our baptismal identity. Our close

relations with others, for example, through marriage and friendship, are the context for the living out of our baptismal faith. To say this, of course, is to say that marriage is for me more than “an ordinance rooted in creation.” It is the context for the living out of our baptismal commitment. But at the same time more must be said. The living out of our baptismal commitment pertains to every aspect of our lives and involves all of our relationships with other persons. Again, the witness of gay and lesbian couples who profess Christian faith is that their relationship bears this same significance, that God has touched their lives through their love of the other person.

It seems to me that the role of the Church in general, and of clergy in their preaching, teaching and counsel, is to nourish these two dimensions of our significant relationships: to see them as the embodiment of ‘sacrament’ in the particularities of our lives, and to understand that it is through those relationships that we discern the person that God is calling us to be.

Having now the chance to expand the framework for what I believe marriage to be, I continue to say that marriage can still be affirmed as “constituting families as the basic unit of society, the context for expressing the deepest of human relationships, and the normal structure in which children are born and raised.”

# SACRAMENTAL UNITY

Anne Hodges-Copple<sup>Φ</sup>

## *A Wedding Sermon*

Think of all the roads traveled to get to this point today: Today, our friends Chris and Pat stand at an amazing intersection, a crossroads of sorts. It has been a difficult path, full of twists and turns, cutbacks and even setbacks. But it is not just the two of you who stand at a crossroads today. Here today are those of us who have found their own way over time, over distances, over joys and over sorrows to be with you on this holy occasion.

There were the roads that brought the two of you together. Pat from Philadelphia and Chris from Winston-Salem: Yankee aristocrat and good old southerner – that’s quite an intersection right there. But there have been other intersections; other events and people that have intersected your lives, brought you to various difficult crossroads and even crises. Sometimes various intersections of vocation and health, of life and work, could even bring you to cross purposes.

But above all it is God’s grace that has brought you together – and back together – over and over. And it is God’s grace that brings the two of you and all of us together today.

We gather as a wide, diverse, interfaith community to witness your vows, to pledge our support and to ask God to bless your lives together. And as with so much of God’s most interesting work, what we are doing here today is a deep mystery. Who can really claim to fully understand the mystery of the union between Christ and his Church or the union between two people in heart, mind and body?

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<sup>Φ</sup> The author is Rector of St. Luke's Episcopal Church in Durham. This sermon text was preached but has been modified to protect the identities of the couple originally involved.

Let us consider this mysterious thing we are here to do, and how we perceive and experience it. For that's the great thing about mysteries: you don't explain them; you *explore* them. The more you *explore* God's mysteries, the more you may understand, and the more you wish to explore further.

So let's take a moment – not to explain – but to explore the sacramental nature of this blessing of Pat and Chris's union.

Sacramental theology is like a pair of special eyeglasses. When we put on our sacramental lenses we see a world infused with connections between the holy and the homely; where the ordinary is raised up to the extraordinary. Our sacramental vision helps us to see a mysterious holiness which enlivens our lives and the world around us.

By looking at the world sacramentally we are able to discern intersections of the Divine with the human; the Eternal and the transitory; the mortal and the incorruptible.

And while Christianity doesn't have a *monopoly* on the capacity of our frail and finite human nature to be caught up in the glory and grandeur and healing of the transcendent, what Christianity *does* claim is the ultimate expression of this intersection between our humanity and the Divine in the Incarnation. What *we* proclaim, among other things, is the intersection of God and human, glory and humility, king and servant. By the power of the Incarnation we are given to see that all life is imbued with holiness and all life is in need of God's sanctifying presence.

And this brings me to the second distinctive thing about looking at life sacramentally. If sacramental moments and occasions are those that reveal a life-changing encounter between the human and the divine, then these occasions are often scandalous to the world. Over and over the biblical witness reveals that the powers of this world often take offense when God acts in ways to bring us up short from our limited human perspectives.

Sacraments are scandalous because they cause the outward and visible realities – things like bread and wine and human beings – to be

subsumed into a deeper mystery. And corruptible vessels, oddly enough, are chosen by God to be agents of amazing grace.

But before we can be taken up into a sacramental way of life, we must in a sense be willing to die to an old way of life. In the sacraments of the Church there is always an element of dying that is a part of new life. It is hard, and it is frightening: try telling parents of a baby about to be baptized that in part baptism is a drowning ritual; try telling a couple who dares to join their lives together that they must be willing to die to their illusions of autonomy and independence.

The sacrament of the Incarnation is revealed in climactic and scandalous ways: a baby in a manger; a savior upon a cross; life out of death.

Sacramental thinking tells us that God acts in surprising, life-changing, paradoxical, and even scandalous ways. Sacramental seeing shows us that God takes the most unsuspecting people, connects them with life-changing experiences that often scandalize the rest of the world, and then uses these same people and their experience to usher in whole new levels of communion and community.

So let's put on our sacramental lenses and ask ourselves how the blessing of this couple in heart, body, and mind measures up as occasion where unity overcomes estrangement, where forgiveness heals guilt, and joy conquers despair.

Let's start with the notion of sacrament as scandal. As a means of the Grace which turns the world upside down in order to redeem it, given by the One whose death on the cross is itself the deepest scandal.

Chris and Pat: I have to say in terms of scandal I just don't think *you* two really measure up! Could there be two *less* scandalous people? Could there be two *more* traditional-Rite One types than you? From your preppy wardrobe to your gifts from the Metropolitan Museum of Art, you two could write the book on good taste and good manners.

But while you are both pillars of tradition, you are also agents of spiritual transformation. You value and uphold the wisdom of the past, just as you follow it to the crossroads of present and future. Embodying

sacramental thinking, you know that God is all about new creation – which is not a repudiation or rejection of tradition, but its fulfillment.

In the tradition of our Lord, who was often accused of ignoring or breaking the accepted laws and traditions of his day, Pat and Chris come together today to receive God's holy blessing, not to abolish the law but to give the law of God's love yet another marvelous fulfillment.

So, how is *this* nuptial occasion a sacred intersection where old is made new?

There is a whole lot of discussion in some parts of the world about how and in what sense “two shall become one” in holy union. And yet our biblical and liturgical tradition teaches us that unity – that is, reconciliation with God and within creation – is the deepest desire of God. In the seventeenth chapter of the Gospel of John, Jesus prays to his heavenly Father on behalf of the friends gathered with him at the last supper and also on behalf of those who will believe in Jesus through their words and witness:

“Sanctify them in the truth. Your word is truth...for their sakes I sanctify myself so that they also may be sanctified in truth. . . . I ask this on behalf of those who believe in me, that they all may be one.” [John 17:17ff]

That we all may be one.

It is perhaps the greatest purpose of the Church to bring all disciples together in the love of God and neighbor that we all may be one. It is through the sanctifying love of God and in grateful obedience to his will that we all may become one. And there is no one single model of a Christian household that has an exclusive or a superior claim upon what it means to be in communion with God and therefore in communion with one another.

Consider sisters in a convent, an apartment of college friends, a single mom with many children and few resources, a husband and wife with foster children, or a gay couple. To the degree they model their lives in imitation of Christ, in the power of the Holy Spirit and by the grace of



God, such households may join their lives in intimate connection to Jesus. That we all become one.

Such communion, such unity, is sheer gift and grace. And we should celebrate it, bless it, and give thanks for it wherever we find it.

Chris and Pat, let me leave you with this final scandalous image, odd as it may seem: According to the Gospel of John, Jesus celebrated his first miracle at a wedding in Cana.

How very odd. Not among the sick, the lame, the dying, but at a party. I think we might draw just a couple of concluding thoughts from that. First, Jesus loved a party . . . a gathering of friends . . . an intersection for celebration where we all come together with our various complicated pasts, our foibles, our baggage and our wishes for you for a wonderful future.

But a second observation is this: It is not that Jesus loved wine and lots of it. That would not be the conclusion to draw. Rather, Jesus takes what is wonderful in the first place, but still quite ordinary and common, something like water, or bread – or two ordinary human beings – and performs a miracle, a new creation. Water becomes wine. Two become one. We all, gathered here today, gathered with the saints past and present and yet to come, become one. Your old lives are filled today with something new, something abundant, something life-giving, something eternal. Isn't it wonderful to think that after so many years, well into the party, there is something more to come? In fact, the best is yet to come.

# LOVE

Stanley Hauerwas<sup>Φ</sup>

## *A Wedding Sermon*

Christians are required to love one another - even if they are married. That may be a cruel and even heartless demand, but it is nonetheless the way things are if you are a Christian. From Paul's perspective marriage is not necessarily the context that determines the character of love or our ability to love and be loved by another. Rather Paul seems to think we need to learn to be loved by God and so to love God, and then possibly ourselves, and if we have gotten that far we may even discover we can love our neighbor, who may be our enemy, which often turns out to be the necessary condition for those who are married to love one another.

But if that is true, why is I Corinthians 13 read so often at weddings? Is it because the people being married think I Corinthians 13 describes their love for one another? No doubt it is true that the characteristics of love described in I Corinthians 13 seem like good advice for making a marriage work. If your marriage is to be livable you will need to be patient, kind, free of jealousy and snobbishness, non-possessive, and, most of all, you cannot brood over past wrongs.

That seems like good advice. The problem, however, is that to turn I Corinthians 13 into advice for a successful marriage too easily underwrites the sentimentalities associated with romantic conceptions of marriage in our culture. Such a view of love assumes that we naturally know what love is and how to do it. But that does not seem to

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be what Paul thinks. Paul thinks love is a gift; one that comes through the training of the whole Church by the Holy Spirit.

Interestingly enough when Paul's descriptions of the character of love are abstracted from their ecclesial home and turned into general recommendations for those to be married, the result is a legalization of the gift of love. As a result love is transformed into a form of works righteousness. We assume it is up to us to give content to Paul's vague recommendations about the character of love and then we have to make what we have said love must be, work. So understood love is anything but good news. Even worse, the recommendations divorced from their theological home are not particularly helpful.

Think, for example, about Paul's claim that the love he commends does not rejoice in wrongdoing, but rejoices in truth. A love that rejoices in truth is not an everyday affair precisely because the everyday tempts us to love half-truths. We never lie more readily, I suspect, than to those whom we love. For our loves are often constituted by misperceptions of one another that we later learn are just that, that is, misperceptions. Yet we fear an acknowledgement of the illusions constitutive of our loves because such an acknowledgement would prompt the recognition that they are not, nor are we, who we thought we were when we said, "I love you."

So thank God the love Paul commends is not meant first of all to describe the love between those about to be married. Rather, just as the beatitudes are exemplified by Jesus, so the love Paul commends names Jesus. Faith, hope, and love abide, but love never ends. Only Jesus, the second person of the Trinity, is without a beginning and end. Thus Karl Barth's suggestion that we substitute the name Jesus every time I Corinthians 13 says love. "Jesus is patient, Jesus is kind, Jesus is not envious or boastful or arrogant or rude. Jesus does not insist on his own way; he is not irritable or resentful, he does not rejoice in wrongdoing, but rejoices in the truth. Jesus bears all things, believes all things, hopes all things, and endures all things."

Paul's great hymn of and to love is, therefore, not first about us. Rather the love about which he speaks is that which characterizes God's very life. Thus Barth's remark: "to say 'God is' is to say 'God loves.'" We can say God loves because the Father would have the Holy Spirit rest

on the Son so that we might participate in the very life of God. The love that is the Trinity was before we were, yet it is the same love that called us into existence. It is the love that assumed our flesh, even to be crucified by our sin, so that sin might be crucified by love. Love prevailed, overwhelming our sin, making possible our ability to love one another as Christ has loved us. Through love we have been made participants in God's very life.

It is good, therefore, we remember that Paul's hymn to love comes in the midst of his account of spiritual gifts. The Corinthian church is blessed by and torn apart by a variety of gifts. Some have the gift of healing, others the gift of miracles, another of prophecy, to others the gifts of discernment, and to others is given the gift of tongues, and still to others is given the gift to interpret what is said by those who have the gift of tongues. All are gifts of the same Spirit constituting a body that makes possible the recognition that we desperately need one another just as the eye needs the hand and the head needs the feet.

That we need one another may, moreover, be why I Corinthians 13 is rightly read so often at weddings. It is certainly rightly read at weddings if Benedict XVI is right about the character of love. In the first encyclical letter of his Papacy, *Deus Caritas Est*, Benedict XVI reminded us that to be a Christian is to be among those who have come to believe in God's love. According to Benedict, to be a Christian is not to believe in some lofty idea, but rather to encounter a person, to encounter Jesus, and thus to believe that "God so loved the world that he gave his only Son, that whoever believes in him should have eternal life."

Benedict acknowledges that we do have a problem of language about love that leads to many misuses of the word. We speak of love of country, love between friends, love of work, love of parents and children, love of neighbor and of God. That love can be used to describe quite different relations according to Benedict makes it hard to think that love might name a single reality. Yet Benedict says amid this multiplicity of meanings one particular love stands out: love between man and woman. The love between a man and a woman is crucial for our understanding of love, according to Benedict, because of its bodily character. That body, the Corinthian body, is the source of ecstasy, that

through renunciation and purification, we are put on a path towards the Divine.

Love is an ecstasy, not in the sense of intoxication, but rather love names the journey from a self curved in on itself to the recognition of another. Such a love Benedict boldly suggests is a dim prefigurement of the mystery of the Cross. For God's love for us is an erotic self-giving revealed by his passionate love for the people of Israel, but most determinatively found in the embrace we call the Incarnation. The embrace of very God and very Man has made it possible for us to share in the love that is Trinity. God is a bold bodily lover possessing our bodies so that we too might be love.

Benedict observes, therefore, we are rightly commanded to love one another. "Love can be 'commanded' because it has first been given." So we rightly command Steve and Wendy to love one another. For today they are for us I Corinthians 13. Today they are for us the Gospel. The vows they make to one another, the exclusive love they promise to give to one another, is a love in time that binds time. Through such love they will lose their lives, but in the process they will be redeemed. What a happy thing, therefore, they do for us. For the promise they make to love one another makes us all more than we otherwise could be because through their love the body of Christ, the Church, is built up.

# GOD-SENT PARTNERSHIP

Scott White<sup>Φ</sup>

## *A Wedding Sermon*

Jill and Michael, it is a great joy to be with you today and a privilege for me to preside at your wedding, though it does give me great pause that I've been at this long enough to now be performing the wedding of one who was once a member of my youth group.

We gather here today to witness and bless your marriage. In all honesty neither I, nor any other minister make your marriage happen today, rather you make your marriage happen in the vows and promises you make with one another-and with God. That is my role here, to pronounce the blessing of God that you have sought out. My role is to announce to you, to all witnesses assembled here and really to the world, that you have called upon God to be a part of your relationship and God has answered your call. Christians believe that God plays a vital role in marriage and we believe that God's role in this event started a long time ago and God's role will continue for a long time to come.

You have chosen for your wedding one of the most profound passages of all those suggested in The Book of Common Prayer—the passage from the book of Tobit. At first glance it comes across as merely a nice, romantic reading suitable for the sentiment of a wedding, but when we look closer we see that it is both an odd, yet profound passage for a modern wedding service.

First there is Sarah, now what we didn't hear in the brief passage just read but what we would learn if we read the whole book of Tobit is that Sarah had been married seven times previously but each time the

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<sup>Φ</sup> The Rev. Scott White is Rector of Good Shepherd in Rocky Mount, N.C. This sermon was preached in 2009, and the names have been changed.

groom had died on the wedding night—it took a lot of courage for Tobias to agree to marry this woman!

Second, we learn that the marriage of Sarah and Tobit is an arranged marriage, arranged not so much by their parents but by God. Their love for each other therefore was not strictly romantic in nature. Again, it may seem odd in these modern times to be extolling arranged marriages but what this narrative suggests to you and to me is that an authentic marriage is grounded in the life of the Spirit more than the desire for individual gratification. This is what Tobias means when he says that he takes Sarah to be his wife not out of lust.

Lust is a loaded word in our society but it's reference here is not merely sexual. It also speaks to the dynamics of power that exist in human relationships and especially in marriage. Here Lust signifies sexual passion, yes, but it also refers to the desire to control another person to further one's own selfish goals. It is treating the other person as an "thing" rather than as a child of the living God. Lust does not honor the other as a unique child of God with his or her own special calling and vocation in this life. A marriage grounded in lust therefore, in the desire for self-gratification, is one that will always crumble into dust. Yet a marriage grounded in God is one that, first and foremost sees the other as uniquely created by God, a person to be honored, respected, loved as God's beloved. When marriage is rightly grounded in God's will, it is one where honesty, forgiveness and godly passion finds a true home.

Lastly, there is prayer. To choose this reading for your wedding is to choose prayer as a binding of your love for other because that's what this passage is, it's a prayer. Tobias gets up from the wedding bed and kneels before God and prays for his marriage to be a true partnership that will last forever; a true partnership among husband and wife, where brought together by God, life and love can be openly shared as equals in the eyes of the one who has joined them together. Admittedly, equality of the sexes, as we understand it today is not the cultural context of Sarah and Tobias, but partnership is. Here Tobias' prayer is for a godly partnership with Sarah.

Partnership is the watchword for a solid marriage, a partnership of life, shared so well that no matter what challenges come your way, you will

be forced closer to each other and to God by them rather than pushed apart. Such is what Tobias means when he says that he takes Sarah not out of lust, rather he takes her as a God-sent partner.

It is a beautiful image for a world in desperate need of true partnership. Marriage is, indeed your marriage is, a vehicle that God makes happen for the nurture and salvation of your souls. Indeed, it is even a vehicle for the salvation of the world; for if we can do marriage right, we can do all our other relationships in the world right by the Kingdom of God.

Remember always that the power to love each other, come what may, does not come simply from within, but from the one who brought you together and binds you into a partnership fit for the Kingdom of God.



# FROM MARRIAGE TO HOLY MATRIMONY

Todd Dill<sup>Φ</sup>

Let me first say that I am not a scholar, or a great writer, or even a great thinker. I am a simple parish priest, shepherding a flock of wonderful disciples, doing my best to be faithful to God and the teachings of Jesus. I have been asked to write this reflection in large part because I have a traditional understanding of marriage. My hope and prayer is that this paper will help bear witness to the views of traditionally-minded members of this diocese and the Episcopal Church, who are faithful to the Lord and who seek to stay in the conversation with the rest of the Episcopal Church.

The Oxford Dictionary defines marriage as, “the formal union of a man and a woman, by which they become husband and wife.” This definition will thrill some, and anger others. One only needs to turn on the television in the morning or pick up the newspaper to experience the reality that the institution of marriage is under much scrutiny these days. Individual states, as well as several Christian denominations, (including our own) are in deep discussions over the institution of marriage, its place in society, and the Church’s role in this process.

I believe a clearer conversation must begin with the recognition that secular and Church perspectives on marriage are not one and the same. I believe there is a difference between marriage in general and Holy Matrimony as this Church understands it. The State of North Carolina, for example, is primarily concerned that those seeking a marriage license in this state are documented adult United States' citizens of the opposite sex, they make no other meaningful requirements of the applicants. Neither does the state make any requirements upon clergy who perform marriages either to do them at all, or to adhere to any

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<sup>Φ</sup> The Rev. Todd R. Dill is Rector of St. Margaret's Episcopal Church, Waxhaw, North Carolina.

particular form or rite or subscribe to a given definition of marriage philosophically, theologically or otherwise.

Indeed, apart from requiring who may be married in North Carolina – basically two adults of opposite sex with papers – the state makes no other statement about what marriage is understood to be, or who should solemnize it. It is entirely up to the Church to define what marriage is for us, and whether or not a couple is ready for it, and whether or not one of our clergy will solemnize it.

### **So What Do We Say That It Is?**

The great narrative of God's relationship with humanity gives us wonderful images and insights into God's design of Holy Matrimony. In Genesis we hear that "in the image of God He created them; male and female He created them. God blessed them, and God said to them "be fruitful and multiply." In Revelation, in the culmination of God's victory in Jesus Christ, we understand that the New Jerusalem "comes down from heaven from God, prepared as a bride adorned for her husband."

While there are numerous passages of the Bible that may be examined, (the BCP marriage rite suggests some 17 passages of Scripture as appropriate for the liturgy,) I believe that a few clear points emerge from Scripture regarding Holy Matrimony. I believe these are:

- marriage is to be centered on Christ, for the individuals and the couple together;
- a married couple's life together is to be lived out within a community of faith;
- marriage calls for love of other as self; mutual giving, sacrifice and servant hood; fidelity, honesty, and the expectation of and commitment to a life-long bond;
- it is an exclusive relationship between one man and one woman.

While this is not an exhaustive list, the qualities listed above begin to paint a picture of God's desire for us in the Sacrament of Holy Matrimony. I turn to scripture as a good example of this:

“Be subject to one another out of reverence for Christ. Wives, be subject to your husbands as you are to the Lord. For the husband is the head of the wife just as Christ is the head of the Church, the body of which he is the Savior. Just as the Church is subject to Christ, so also wives ought to be, in everything, to their husbands. Husbands, love your wives, just as Christ loved the Church and gave himself up for her, in order to make her holy by cleansing her with the washing of water by the word, so as to present the Church to himself in splendour, without a spot or wrinkle or anything of the kind—yes, so that she may be holy and without blemish. In the same way, husbands should love their wives as they do their own bodies. He who loves his wife loves himself. For no one ever hates his own body, but he nourishes and tenderly cares for it, just as Christ does for the Church, because we are members of his body. ‘For this reason a man will leave his father and mother and be joined to his wife, and the two will become one flesh.’ This is a great mystery, and I am applying it to Christ and the Church. Each of you, however, should love his wife as himself, and a wife should respect her husband.”  
*(Ephesians 5:22-33)*

Now, I know that this particular section of scripture can stir up all sorts of reactions, in part because it has been misused and distorted over the years by individuals and religious leaders in order to justify the mistreatment of wives. However, while I don't believe that Paul makes new demands upon wives from what the culture and time would have required, he does change the expectations of husbands. I expect that Paul's requirements of husbands in Ephesians 5:22-33 would have been met with much resistance from the men of the community. After all, at that time, men had all of the rights, power, and security; and society placed them under no obligation to treat their wives fairly. In other words, I believe Paul demands a much more mutual marital relationship than was then required by the wider society.

My point in suggesting this is that even in the oldest stratum of the New Testament, we have the example that the community that followed Jesus was held to a higher ethic of Holy union than the wider society's understanding of marital relationships. For those who followed Christ as Lord, husbands and wives alike were both called to relationships of mutual love, respect, and fidelity, and thus the follower

of Jesus would have had a much different looking relationship than that of his non-Christian neighbor.

The key for me in this passage is the very first verse, be subject to one another. Christ-like concern for the other is the primary characteristic of a successful relationship. It is the responsibility of the Church to uphold these very high standards, and we should be firm in our support of couples living together in committed, Christian union.

### **Doctrine and Discipline of the Episcopal Church**

We Episcopalians particularly depend on the Book of Common Prayer for our theological expression. What we pray is what we believe about God, and our relationship with the Father, Son, and Holy Spirit. Thus, it is no small thing for us that the Prayer Book quite clearly states the following:

Christian marriage is a solemn and public covenant between a man and a woman in the presence of God. In the Episcopal Church it is required that one, at least, of the parties must be a baptized Christian; that the ceremony be attested by at least two witnesses; and that the marriage conform to the laws of the State and the canons of this Church. (*BCP*, 422)

To be sure, these guidelines are but a starting point for our discussion about Matrimony. And in the case of individual marriages, our clergy are obligated to do more than ascertain whether or not this rubric is being followed alone. During counseling sessions, clergy are called to determine whether the couple understands that Holy Matrimony in this Church is primarily a covenant relationship between themselves and God. It is likewise the cleric's duty to explore with the couple: What does it mean to live in a union of heart, body, and mind intended by God for mutual joy? What does it mean to offer help and comfort in prosperity and adversity? What does it mean to raise children, if they are to be raised, in the knowledge and love of the Lord?

While the State focuses on the legal requirements to be married, our Prayer Book makes it very clear what our Church understands Holy Matrimony to be, and what our clergy in conjunction with the faithful community should be holding up for themselves and their married persons.

For this reason, among others, it is my strong understanding and belief that the Church should focus on marrying those persons who are active members of the Church - or seeking to become such. What else could be implied, after all, by the question asked during the ceremony “Will all of you witnessing these promises do all in your power to uphold these two persons in their marriage?”

I am convinced that we need to be clear that the Church is first and foremost engaged in Sacramental acts, not as ceremonial agents for what amount to little more than State-sanctioned contracts between two persons. Moreover, the Church itself must examine what it understands marriage to be from our own Christian context, and not from a wider secular one. And for us, Holy Matrimony, as opposed to marriage in general, is understood to be a live-giving sacrament primarily understood and expressed within the fellowship of those who call Christ Lord.

For this reason, I do not think the Church should attempt to make accommodation to changing secular definitions of marriage – either as they change through time, or from state to state. The central question before the Church is this: Do we modify the sacramental act and that to which it points theologically in the interest of inclusion – or is the sacramental act and that to which it points essentially true and complete as the Church has historically come to understand them - and therefore, those who would dress themselves in the sacramental act must conform to that to which it points? The Church is under no obligation to affirm anything of the State in regards to marriage. We are called to approach all questions of faith from a Christian point of view, and not from a world point view. We look to Scripture, reason, and tradition, and base our communal decisions on these three fonts of discernment, Holy Scripture being our primary guide.

The Church is about doing the work of Christ in God’s world, building up the Kingdom of God for His purposes, preparing for Jesus’ ultimate arrival, when the New Jerusalem arrives as a bride adorned for the bridegroom – to be joined forever through the love of Christ, and God’s final victory of the Cross consummated for all of eternity. It is this final victory of which we are assured that we experience here and

now through the Sacraments of Christ's Church, and most assuredly through the Sacrament of Holy Matrimony.

# MARRIAGE AND SANCTIFICATION

Gene Rogers<sup>Φ</sup>

The consideration of marriage theologically raises many questions - but the obvious essential question is: "What at its core is marriage for Christians all about?" One might seek to find the answer in the various ritual forms for marriage across the Christian churches - though it would be difficult to settle on a single "essential" feature. For Catholics, it is essential that one not have been married before to someone still living. For Protestants not. For Catholics and Protestants alike, the essential moment of the sacrament is the exchange of vows. That moment *does not occur* in the Eastern Orthodox Order of Marriage, or of Crowning. Although an Orthodox couple express their intention to be married, they express that intention to the priest rather than to each other, and the priest marries them, rather than their marrying each other, by announcing that they are crowned. In Judaism, what is essential is the *ketubah*, the marriage contract signed by witnesses - although many Jewish weddings take place without the parties knowing much or much caring what the *ketubah* says, and with no intention of carrying out its more interesting conditions. Of course there are further particulars essential to Muslim, Hindu, Zoroastrian, pagan, and civil marriages. And yet, it seems, that very few if any of us who do not hold any of these different essentials would assert that couples married in any of these traditions are not truly married. So, while it is clearly impossible to speak universally about what marriage *is* - there does appear to be a family resemblance across the various forms of marriage.

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Within the Christian tradition, to narrow the focus, there does appear to be a prominent feature of family resemblance among types of marriage, and I recognize that feature under the rubric of sanctification. Considering the theology of marriage in this way is particularly consistent with the tradition of the Orthodox Church, which regards marriage as a way of participating in the divine life not by way of sexual satisfaction but by way of ascetic self-denial for the sake of more desirable goods. Theologically understood, marriage is not primarily for the control of lust or for procreation. It is a discipline whereby we give ourselves to another for the sake of growing in holiness—for, more precisely, the sake of God.

In this respect marriage and monasticism are two forms of the same discipline, as the Orthodox writer Paul Evdokimov has argued. They are both ways of committing ourselves to others—a spouse or a monastic community—from whom we cannot easily escape. Both the monastic and the married give themselves over to be transformed by the perceptions of others; both seek to learn, over time, by the discipline of living with others something about how God perceives human beings.

Rowan Williams<sup>9</sup> has written, "Grace, for the Christian believer, is a transformation that depends in large part on knowing yourself to be seen in a certain way: as significant, as wanted. The whole story of creation, incarnation, and our incorporation into the fellowship of Christ's body tells us that God desires us, as if we were God, as if we were that unconditional response to God's giving that God's [Son] makes in the life of the Trinity. We are created [and we marry] so that we may be caught up in this, so that we may grow into the wholehearted love of God by learning that God loves us as God loves God."<sup>10</sup> Like all forms of ascetism, this is a high-risk endeavor. It can expose the worst in people—so that it can be healed.

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<sup>9</sup> See Canon Michael Hunn's piece in this journal which examines Rowan Williams' landmark 1989 essay, "The Body's Grace."

<sup>10</sup> Rowan Williams, "The Body's Grace", in *Theology and Sexuality: Classic and Contemporary Readings*, Eugene F. Rogers, Jr. ed. (Blackwell Publishing, 2002), pp. 309-321.



Sexuality, in short, is for sanctification, that is, for God. It is to be a means by which God catches human beings up into the community of God's Spirit and the identity of God's child. Monogamy and monasticism are two ways of embodying features of the triune life in which God initiates, responds to and celebrates love. Monasticism is for people who find a bodily, sexual sanctification first and foremost in the desirous perception of God. Marriage is for people who find themselves transformed by the desirous perception of another human being made in God's image. In a marital or monastic community, the parties commit themselves to practicing faith, hope and charity in a situation in which those virtues get plenty of opportunity to be exercised.

Marriage and monasticism are two ways in which Christians make their bodies fuller of meaning by donating them to concentric communities with an other and others. The narrower community is that of the spouses or the brothers/sisters. Larger ones include the local congregation, the witnesses at a wedding or a taking of final vows, the town, the Church, and the whole human race. But the most embracing community of all is that which it is the goal of both marriage and monasticism to promote, however distantly, their members growing inclusion, in this life and the next: the community of the Trinitarian life. Here it is marriage that is the root metaphor from which monasticism grows. For Jesus says, "the kingdom of heaven is like a father who gives a wedding feast for his son." (Mw 22:2) And marriage analogies abound in Christian texts and practices for the relationship of the human community with God. Thus we read:

- "I will betroth you to me forever...I will betroth you to me in faithfulness; and you shall know [who I am]." (*Hosea 2.19a-20*)
- "Why do [others] fast, but your disciples do not fast?" And Jesus said to them, "Can the wedding guests fast while the bridegroom is with them?" (*Matthew 9.14*)
- "Then the kingdom of heaven shall be compared to ten maidens who took their lamps and went to meet the bridegroom." (*Matthew 25.1*)
- "Hallelujah! For the Lord our God the Almighty reigns. Let us rejoice and exult and give him the glory, for the marriage of the Lamb has come, and his Bride has made herself ready...Blessed are

those who are invited to the marriage supper of the Lamb."  
(*Revelation 19.6-9*)

Throughout the Christian tradition, in many times and places, what you might call an *analogia nuptialis* is productive of much theology. As Karl Barth has said, "Because the election of Israel is real, there is such a thing as love and marriage." That is, God's love for God's people is the prime analogate, which marriage is to represent. Not only Catholics, but the Orthodox and even Protestants practice the *analogia nuptialis*.

The paradigm case of the *analogia nuptialis* is Jesus' eucharistic remark, "this is my body, given for you." It is Jesus' self-giving that the married and the monastic both imitate in institutional form. That self-giving is at once a celebration, a wedding feast, and, under separable conditions of finitude and sin, a sacrifice. Both because marriage and monasticism are meant to sanctify, and because they imitate the eucharistic sacrifice of Jesus, they are essentially *ascetic* practices. That, indeed, is one of the two main things that make marriage and monasticism two forms of the same practice. First, they celebrate community; second, they practice asceticism - the giving up of less significant goods to gain more significant ones, the pearl of great price.

True asceticism is not a denial but a use, even a heightening of desire. Jesus did not give up his life from lack of desire, but from the intensity of it: "God so *loved* the world." (Jn 3.16) Jesus did not descend from the cross, because he desired solidarity with the thief, because he so loved the thief: "This day you will be with me in paradise." (Lk 23.39-43)

The choice between marriage and monasticism depends on which leads to the right sort of vulnerability that will change the human being for the good. It is about the right sort of vulnerability before the face of what sort of other. "Grace," Rowan Williams has written, "is a transformation that depends on being perceived in a certain way, as desired, as wanted." The transformative perception par excellence is the one by which God perceives us as God would have us be. God sees Christ in us, that we may change. In the next life, we enjoy the beatific vision, according to Aquinas, not by the power of the one seeing, but by the power of the One seen – by God's causative perception of us. (Summa 1, 12, 13) People who find bodily satisfaction in God's loving perception of them, who can place their bodily selves in God's sight for

transformation into God's child, may be called to the monastery. Other people need the focus of a single human other for transformation; the one who, over time, loves them into growth, exposing their faults so that they may be healed. Given human sinfulness, this transformation is risky. To have the best chance of success - to be most hopeful and patient - Christians have traditionally believed that it needs singleness of focus, support of the community, and the promise of a lifetime. For this reason, the Church affirms marriage to be, at the very least, the public and solemn covenant between these persons made in the presence of God and before the nuptial witnesses, the Christian community, and the public community beyond.

Turning again to Matthew's Gospel,

"Jesus spoke to them in parables, saying, 'The kingdom of heaven may be compared to a king who gave a marriage feast to his son, sent his servants to call those who were invited to the marriage feast; but they would not come...Then he said to his servants...'Go therefore to the thoroughfares, and invite to the marriage feast as many as you find.' And those servants went out into the streets and gathered all whom they found, both bad and good; so the wedding hall was filled with guests. But when the king came in to look at the guests, he saw there a man who had no wedding garment; and he said to him, 'Friend, how did you get in here without a wedding garment?' And he was speechless. Then the king said to the attendants, 'Bind him hand and foot, and cast him out into the outer darkness; there men will weep and gnash their teeth.'"(Mt 22:1-3, 9-13)

The parable reminds us that the Christian community must respect and celebrate how the Holy Spirit sanctifies in a public, committed, interpersonal, and life-long way: in concrete, marriage-like practices, ascetic practices, disciplines – "the law of the Spirit of life in Christ Jesus" (Rom 8:2) – that lead the parties, Christians would say, into the sacrificial and glorious marriage of God and God's people. The marriage of God and God's people – Christ's donation of his body to be for others – ramifies in diverse ways through Christian practices, in marriage, in monastics in community, and in the faithful baptized gathered as one in eucharistic fellowship.

# ‘YOU HAVE TO BE CRAZY!’ THE PRIVILEGE AND PRICE OF COVENANT RELATIONSHIP

Jo Bailey Wells<sup>Φ</sup>

There is a thread that runs throughout the Old and New Testament in which human marriage finds its theological context. One might argue there are differing models of marriage visible in Scripture: patriarchs and monarchs practiced polygamy without impunity (including Abraham, Jacob, David, and Solomon); the Hebrew law prescribed remarriage within a deceased husband’s family to protect a widow (Deut. 25:5-10); Jesus challenged divorce (Mark 10:2-12; Matt. 5:31-32); Paul championed celibacy (1 Cor. 7:8-9, 32-35). Nevertheless, the context within which all marriage is understood relates fundamentally to the overarching relationship of God to his people, through the language of covenant.<sup>1\*</sup>

Our 1979 Book of Common Prayer explicitly articulates this covenant understanding of marriage. Consider, for example, the words of one of the nuptial blessings:

O God, you have so consecrated the covenant of marriage that in it is represented the spiritual unity between Christ and his Church: Send therefore your blessing upon these your servants, that they may so love, honor, and cherish each other in faithfulness and patience, in wisdom and true godliness, that their

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<sup>\*</sup> *The notes in this piece are endnotes for technical reasons beyond the capacity of the poor priest who edited, typeset and published it.* - Ed.

home may be a haven of blessing and peace; through Jesus Christ our Lord, who lives and reigns with you and the Holy Spirit, one God, now and forever. Amen. (p.431)

This chapter explores the scope, significance and limits of covenant language in the Judaeo-Christian tradition: how, in particular, it enriches and defines a Christian understanding of the bond of commitment between two parties traditionally termed ‘marriage’ and how it may appropriately be applied elsewhere. Our Church does not only invoke the concept of covenant for marriage; the Episcopal Church also speaks of the baptismal covenant; and more recently the Anglican Communion has explored the idea of an ecclesial covenant. What does the common Christian usage of covenant language have to do with the theology of covenant as it is developed through Old and New Testaments, and what does the biblical concept have to offer the Church today?

## **Covenant in Biblical Perspective**

The Old Testament term for ‘covenant’ (*berith* in Hebrew) is borrowed from everyday life, to describe a deal, agreement or contract. It becomes used, fundamentally, as a metaphor to describe the relationship of God to God’s people.

As with other metaphors for the divine-human relationship – father and son, or husband and wife, or king and subject, or shepherd and sheep – an everyday image is borrowed from one realm of life and applied illustratively to another, on the principal of analogy. In its new theological context, the concept of covenant takes on a life of its own – lending itself to imaginative development far beyond the original scope and significance of its origins. Consider, in particular, the book of Hosea which assumes a covenant theology in describing God as a lover who has been spurned by his bride, Israel. Hosea underlines the faithfulness of God: even though Israel has become a whore, yet God longs for her to return (Hosea 1:2; 11:8). The covenant is not broken, even though it is continually threatened.

The books of Exodus and Deuteronomy tell the story by which God initiated the covenant with Israel at Mount Sinai. It is rather like a love story, whereby God had patiently wooed his people. He had brought

them out of Egypt; he had sustained them through the desert. Now, prior to entering the long-promised land, God ‘gets down on one knee’ and asks Moses to communicate a gracious proposal:

“Thus you shall say to the house of Jacob, and tell the Israelites: You have seen what I did to the Egyptians, and how I bore you on eagles’ wings and brought you to myself. Now, therefore, if you obey my voice and keep my covenant, you shall be my treasured possession out of all the peoples. Indeed, the whole earth is mine, but you shall be for me a priestly kingdom and a holy nation...” (Exodus 19:3-6)

Notice how the initiative lies entirely with God, even though it is clearly bilateral. The biblical account underlines how God wishes to reveal himself to humankind in order to enter into relationship with them. The covenant with Israel is the means to that end, not just for Israel’s sake but through Israel to all nations. Covenant is oriented to relationship and particularly to God’s self-revelation.<sup>2</sup>

Where the story is retold in Deuteronomy, it is emphasized that this covenant is not a past action that related only to the original generation in the wilderness but a living reality for subsequent generations. That is to say, the covenant does not end in the way that most human covenants do. In Deuteronomy a later generation is addressed, as if it were the recipient of the covenant:

Not with our ancestors did the LORD make this covenant, but with us, who are all of us here alive today (Deuteronomy 5:3)

Indeed, the encounter with God that is so carefully described in Exodus 19 at Mount Sinai depicts a spatial architecture that mirrors the temple (as well as much subsequent church architecture), underlining that what the Sinai covenant describes in Exodus is not a one-time encounter belonging to the past, but the regular encounter of Israel with their God in worship. This covenant goes on forever.<sup>3</sup>

At the heart of the covenant are the ten commandments. At times the covenant is equated to the commandments:

[The LORD] declared to you his covenant, which he charged you to observe, that is, the ten commandments; and he wrote them on two stone tablets (Deuteronomy 4:13)

These are given so that the people ‘do not sin’ – to equip them to live up to the original lofty proposal, to be a holy nation. Even as obedience is invited (Ex.19:5; 20:20-21), it is underlined how these stipulations are life-giving, not life-destroying. Thus, the narrative frame by which they are introduced: ‘I am the LORD your God, who brought you out of Egypt’ (Exodus 20:2) – emphasizing the relationship of redeemer to redeemed, Lord to servant, Life-giver to creature. Obedience to the commandments is for Israel’s growth and development. The story of redemption is the grounds for which God asks for loyalty, for an exclusive choice – a choice which is ratified enthusiastically by the people ‘with one voice’ repeating their previous intention, “All the words that the LORD has spoken we will do” (Exodus 24:3).

As our Prayer Book puts it, Israel has discovered ‘the God whose service is perfect freedom’. As at a wedding, promises are made that are exclusive and binding at a special ceremony, following which there is eating and drinking. Then Moses heads up the mountain to receive the tablets of stone, which (like wedding rings) serve as a practical physical reminder of the promises made. Further, we may recognize the practice of covenant renewal, a sort-of ‘anniversary’ celebration for the sake of regularly remembering the promises made (Deut.27:1-10; Josh.8:30-35).

As many scholars have explored, the Sinai covenant – which becomes the overarching picture of God’s special relationship to Israel – incorporates all the key characteristics of any typical ancient treaty. The narrative we build from the Pentateuch includes an historical prologue, a list of covenant stipulations (the ten commandments), a ceremony of ratification (followed by regular reminding), a description of the witnesses present (here, heaven and earth) and a set of expectations regarding future blessings and curses that accompany either faithfulness or failure in keeping the covenant. While tracing all these elements of the ancient pattern, the notion of covenant in its new-found Israelite usage takes on a life of its own (while also shaping the life of Israel), such that its origins are rendered virtually irrelevant. ‘Covenant’ is re-defined, as the ‘marriage’ between God and his people. Even though we may also use legal language to describe it – for example, that it is

binding and inviolable – it is not primarily legal, but relational.<sup>4</sup> A covenant is no longer simply a contract.<sup>5</sup>

Most of the rest of the Old Testament relates to that faithfulness and failure, to the ups and downs of the divine-human journey together. Even at the ‘honeymoon’ stage, the relationship is threatened by unfaithfulness. That is how the book of Exodus depicts the incident of the golden calf (Exodus 32-34): before Moses had descended from Mt Sinai with the stone tablets, the people had forgotten the commandments and forsaken their promises. It is here that the unconditional nature of the covenant is explored. The situation begs the question: can the covenant bond be terminated? That is, will there be a divine divorce? Certainly God threatens to abandon Israel: so great is the anger. Yet he does not. In the face of the worst human depravity comes the most unconditional statement of divine mercy (Exodus 34:6-7) as well as the most emphatic demand concerning God’s uncompromising loyalty (Exodus 34:14). The occurrence of sin, destructive as that may be, does not imply an end to the covenant. Rather, it reinforces it: its privilege, its permanence, its exclusivity.

The fact that the possibility of failure is envisaged from the outset stands as a testimony to the fact that God understood human nature from the start, yet perseveres. Later in Israel’s history there is a rocky period resulting in a separation – the exile – but even this does not rupture the covenant. Although Jews would differ in their interpretation of the new covenant announced in Jeremiah 31:31,<sup>6</sup> Christians recognize in Christ an extension of the Sinai covenant to include non-Israelites.<sup>7</sup> Thus we find ourselves welcomed in to ‘the marriage made in heaven’ – that is, to the ongoing covenant between God and God’s people Israel. The New Testament describes the same covenant, now between Christ and his Church, the new Jerusalem. Consider the picture painted in the book of Revelation, describing the end times:

And I saw the holy city, the new Jerusalem, coming down out of heaven from God, prepared as a bride adorned for her husband... (Rev.21:2)



## Human Covenants

There is no carefully-nuanced definition of human marriage in Scripture. Yet the permanent, committed partnership of a man and a woman is clearly present, something regarded as a norm from Adam and Eve onwards, based on the pattern of creation (Genesis 2:24). It is taken for granted that this is the unit from which children are conceived (consider the domestic assumptions concerning the raising of children in Proverbs, for example), even though the modern concept of the nuclear family would have been alien. The problems associated with loss or failure in marriage are raised (the vulnerability of widows and orphans; the circumstances for divorce). The norm, however, is not something that is given any significant constructive exploration in Old or New Testament. Furthermore, it can be argued that both Jesus (by his example) and Paul (1 Cor. 7:32-35) challenges the very assumption of marriage in favor of promoting the ‘ministry’ of singleness.

Nevertheless, the concept of covenant for understanding the dynamics of committed relationship between two parties is well-developed in Scripture.<sup>8</sup> The term that was borrowed from the circumstances of everyday life – a treaty between senior and junior colleagues, a deal between two merchants – is applied to the fundamental relationship between God and Israel, and by extension, to Christ and his Church. It is the ‘marriage’ between God and God’s people that in turn becomes the context for the working-out of human covenants, which may take many forms, including marriage.<sup>9</sup>

As we have already explored above, a covenant represents a binding agreement between two otherwise-unrelated parties. The commitment is permanent and unconditional. It requires absolute loyalty (‘monogamy’). It is no private arrangement between the parties, but an oath formally established through a publicly recognized ritual, whereby the duties and privileges of kinship may be extended to another individual (or group). In this light, we may recognize how radical inclusive is the concept of covenant: enabling social ties beyond familial relationships, even extending to aliens.<sup>10</sup> The ritual involves spoken declarations, an expression of consent and the presence of witnesses under God.<sup>11</sup> Their task is to remind the two parties of their commitment, with an awareness of the opportunities and demands (the ‘blessings and curses’) that potentially ensue. Witnesses are those who

then bear responsibility for recognizing and supporting the covenant in the community where it is to be lived out. Failure to keep up to the demands of covenant does not deny the existence of a covenant: a covenant is not dissolved by error or failure, only by death.

Christians have come to understand baptism as a covenant, and this example helpfully illustrates the way in which the biblical notion of covenant is appropriated in the Church. Baptism is the ceremony that marks the personal recognition and participation in the covenant of God with humanity, even though the conceptual linkage is not found directly in Scripture, it involves the making of promises, the demands of commitment, the presence of witnesses and the anticipation of blessing. Even though the ritual directly hears promises only from one side – from the baptized (or parents and Godparents on behalf of the baptized) – it nevertheless marks a covenant between two parties given that it recognizes the story of salvation whereby God has already made commitment to his people.

In the same way, covenant provides a theological backdrop for shaping life-long human commitments. The linkage in Scripture is clear for marriage in particular (Eph. 5:21-30), and may also be applied to other forms of human commitment. That is, that God's covenant with his people provides the context within which we make covenant commitments one to another. A biblical perspective on human covenant recognizes the way in which, in our small corner, we seek to mirror and reflect the greatest covenant of all. If we love because Christ first loved us, so we can live in covenant because God in Christ first lives in covenant with us.

In the Old Testament God shows us what it means to make a covenant and keep it. Covenant becomes the means of growing in faithfulness, of living into the call to be 'a priestly kingdom and a holy nation' (Exodus.19:6). Jesus reaffirms this archetype. Although he does not use the term 'covenant' of marriage, in ruling out all divorce and remarriage, he makes obligatory for his followers the ideal of God's covenant with Israel, in which God is faithful even when Israel is faithless.<sup>12</sup>

In other words, the call to discipleship in the Judeo-Christian tradition demands so shaping our lives that we become covenant-keepers. That shaping we may call spiritual formation: it happens through the habits

of our lives in relation to God and neighbor. For Christians it is the natural – yet disciplined and necessary – response to baptism. Such discipleship, in the end, is not about what we do but who we are: where we fail and how we respond; how we see and where we are blind; what we give and where we resist; how we trust and how we are trustworthy. These are just the aspects covered, in the tradition of TEC, by the baptismal covenant. The sacrament of baptism is the Christian recognition and response to God's covenant.

As in baptism, so with other forms of covenant. It is on the principle of *imitatio dei* ('imitating God' – for example, [Lev. 11:44, 19:2, 20:26]), that human covenants are shaped to reflect the elements and characteristics of God's covenant, and through them that we ourselves are shaped to reflect more fully the image of God. That is, also, that through them we strive to be a window through which others may more fully understand God's covenant commitment and mercy.

This is the context in which I understand the gift of marriage. Scripture suggests it is the key context in which I may grow to understand how to live in covenant and thus grow into the reality of God's ultimate covenant. Though we may describe other forms of covenant – the covenants between business partners or between Churches – these do not mirror the features of God's covenant to the same extent. That which models an exclusive, permanent commitment of two parties represents the most direct, and personal, and particular outworking of the call to be covenant-keepers. Seen in this light, it seems to me unnecessary that the opportunity be confined only to conventional heterosexual marriage, even though I hesitate to use the term 'marriage' for any other kind of union. So long as it is done responsibly – as the marriage liturgy puts it, 'not... unadvisedly or lightly, but reverently, deliberately...' (BCP p.423) – it seems fitting to encourage all forms of covenantal relationship that seek to mirror and reflect the divine. Enabling God's people to fulfill the covenant call to be God's 'priestly kingdom and holy nation' is what ultimately matters; and this might most obviously include encouraging all who long to imitate God's rich-but-costly pattern of covenant commitment.

This is the purpose and experience of those who are called to make monastic commitments in the setting of a religious community. As with the Sinai covenant and with the covenant of marriage, vows are taken in

the presence of witnesses that are permanent and exclusive. The stakes are high: that is, the costs and benefits – the blessings and curses – are substantial. Yet we recognize here a high calling, and a means to holiness. That calling, and indeed the practices of holiness, require the community – the witnesses – who are charged with the responsibility of helping sustain the covenant they have witnessed in circumstances that intentionally limit the human options so as to discover the freedom of service to God. Brueggemann speaks of covenant relationships involving ‘revolutionary discipline, devotion and desire’.<sup>13</sup>

Whatever the context for the human covenants we may conceive – in baptism, in the partnership of two people, or in monastic vows – we are not at liberty to shape the nature and characteristics of God’s covenant. They are the givens – the graces – within which we exist as Christians, explored and presented in the biblical and ecclesial tradition in which we are planted. If we in our human relationships seek to inhabit that tradition and live up to our calling as the people of God, then the terms of our human covenantal commitments are similarly not negotiable. We may choose whether and with whom we partner: but the terms and conditions of that partnership – if it is to reflect God’s covenant – are not ours to negotiate. The self-giving cannot be quantified (unconditional and unending) while its locus is wholly defined and confined. As I say repeatedly to couples preparing for marriage, "You have to be crazy! You have no idea what you are letting yourselves in for." Covenant-making, in human terms, is a crazy idea. But it is not our idea: but God’s. Perhaps that is the only explanation for why so many strive for it.

## End Notes:

[1] I am working from the assumption that a constructive theological understanding of marriage, based on Scripture and interpreted by tradition, is the starting point for all contemporary liturgical and legal issues concerning marriage in the Church.

[2] See John H. Walton, *Covenant: God's Purpose, God's Plan* (Grand Rapids: Zondervan, 1994).

[3] There is but 'one, continually "new" covenant' in the Hebrew bible. See R. Rendtorff, *The Covenant Formula: An Exegetical and Theological Investigation* (Edinburgh: T&T Clark) 1998, p.78.

[4] In Old Testament scholarship, the idea that covenant simply means 'obligation' and is essentially one-sided has been largely abandoned in favor of the view that covenants establish kinship bonds involving mutual relations and obligations. For further reading: Scott Hahn, 'Covenant in the Old and New Testaments: Some Current Research (1994-2004)' in *Currents in Biblical Research* 3.2 (2005), pp.263-292.

[5] While a covenant certainly has an important legal aspect, the English term 'contract' conveys only the legal aspect to the exclusion of its social, familial, liturgical and other dimensions. For further reading on this, see M. Haran, 'The Be'it "Covenant": Its nature and ceremonial background' in Cogan, Eichler and Tigay (eds.), *Tehillah le-Moshe: Biblical and Judaic Studies in honor of Moshe Greenberg* (Winona Lake, IN: Eisenbrauns, 1997), and J. Dunnill, *Covenant and Sacrifice in the Letter to the Hebrews* (SNTSMS, 75; New York: Cambridge University Press, 1992).

[6] Note that in Jeremiah's covenant there is such internal unity of will between the human and divine parties that conventional notions of obligation, with attendant curses and blessings, simply do not apply. See D.N. Freedman and D. Miano, 'The People of the New Covenant' in Porter and de Roo (eds.), *The Concept of Covenant in the Second Temple Period* (JSJSup.71; Leiden: E.J. Brill), 2003, pp.7-26.

[7] Note that the fulfillment of the old in the new is neither abrogation nor termination; there is no replacement, but rather a renewal that is both restorative and transformative. In other words, here is no 're- marriage', but a reaffirmation of previous vows.

[8] Frank Moore Cross evidences the way in which marriage both in the biblical materials and the ancient Near East was a form of covenant. See his chapter 'Kinship and Covenant in Ancient Israel' in idem, *From Epic to Canon: History and Literature in Ancient Israel* (Baltimore: The Johns Hopkins University Press), pp.3-21.

[9] Hosea is the first to draw the daring analogy of the divine-human relationship to marriage (see Hosea 1). Malachi applies the word 'covenant' directly to marriage among the Israelites, not only describing God's marriage with Israel (in which Israel is faithless) but even pointing to the infidelity of a husband to his wife as impairing Israel's worship of God (Malachi 2:14-15). Paul extends the marriage analogy between YHWH and Israel to Christ and the Church in Ephesians 5. For a systematic

demonstration of the way in which marriage is understood as covenant not only in Mal.2:14 but consistently throughout the biblical texts, see G.P. Hugenberg, *Marriage as Covenant* (VTSup.52; Leiden: E.J. Brill), 1994.

[10] See F.M. Cross, 'Kinship and Covenant in Ancient Israel' (op. cit.), p.8.

[11] Haran explicates in detail the traditional ritual aspects of covenant-making. See M. Haran, 'The Berît "Covenant": Its nature and ceremonial background' in Cogan, Eichler and Tigay (eds.), *Tehillat le-Moshe: Biblical and Judaic Studies in honor of Moshe Greenberg* (Winona Lake, IN: Eisenbrauns, 1997), pp.203-19.

[12] See Mark 10:10. Paul F. Palmer notes that the seeming exception in Matt.19:9, 'except for immorality' is made after the scribes and Pharisees have left. Thus, if Jesus softened or accommodated his teaching, the critics were unaware of it ('Christian Marriage: Contract or Covenant?' in *Theological Studies*, 33:4 (1972), p.623).

[13] W. Brueggemann, *The Covenanted Self: Explorations in Law and Covenant* (Minneapolis: Fortress, 1999).

# I WANT YOU TO WANT ME

Michael Hunn<sup>Φ</sup>

In 1989 Rowan Williams gave the Michael Harding Memorial Lecture while he was serving as Lady Margaret Professor at Oxford. Long before he was consecrated Bishop of Monmouth or Archbishop of Canterbury, his place and role within the Church were clearly that of theologian and teacher. It was his place to think deep thoughts and write books the average Christian reader might find difficult. It was his place to play with theological concepts and ideas – to press the “cutting edge” – to advance human understanding of God. He was not likely worried about how his words that night would impact the Anglican Communion. Still, his words that night, later published under the title, “The Body’s Grace” have been called, “the best ten pages about human sexuality written in the twentieth century.”<sup>12</sup>

To be fair, “The Body’s Grace” does not set out to break new ground or set out an impenetrable theological argument. Williams was sketching out some lines of argument, exploring the general shape things might take if one were to think this way or that way. He did attack some commonplace arguments about sexuality in the Church. He did also take a position that night which led some to wonder if he was the right choice for Canterbury, and others to wonder why, as Archbishop, he wasn’t more supportive of the “liberal” side of things. The outline he gently put on paper might have served as a framework for a much larger conversation about human sexuality in the Church.

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<sup>12</sup> Eugene F. Rogers says this in his introduction to the “The Body’s Grace,” as found in *Theology and Sexuality: Classic and Contemporary Readings*, Eugene F. Rogers, Jr. ed. (Blackwell Publishing, 2002), pp. 309-321. All quotations in this piece are from “The Body’s Grace” are from this edition.

He begins in an unusual, but classically theological way, asking “why does sex matter?” The answer he gives sets out a line of conversation about sexuality which avoids many of the most common impasses and well worn battle fields which usually define the debate. Williams begins by saying that human beings are sexual creatures because our sexuality is the place in our lives where we have found whatever maturity we have managed to acquire. In short, we are sexual beings because sex is the place in our lives where we are most likely to grow up: to learn what it is to be human, in relationship with others. Sexuality is where we painfully and thrillingly discover our vulnerability and our power.

On the face of it, that might not seem a revolutionary thing to say about sexuality. But think of all the places he didn’t start! Williams didn’t begin with a Genesis description of the two becoming one flesh or with the idea that the purpose of sex is procreation. He didn’t begin with the marriage liturgy or the place of marriage as a Sacrament of the Church. And he didn’t begin with even a whiff of that Pauline theology of sexuality that lurks around every Christian conversation about sex: Paul’s opinion that those Christians who can abstain are best, but if you can’t abstain, it’s better for you to marry than burn with lust. There is so much Christian conversation about sex that is embarrassed to even be having the conversation. How often are we embarrassed because without even thinking too much about it, we hold fast to the idea that sex has no real holy purpose in our lives. Our sexual selves are the lustful, selfish parts that need to be controlled and regulated. Sex is the embarrassing part of us, the part we hope God won’t take much notice of.

But Rowan’s assertion that sexuality is the place in our lives where we learn how to love as grown up, mature Christian people opens up a whole new conversation about sex. And it is a Biblical conversation first and foremost because Rowan Williams points out how little there is in the bible that speaks of human sexuality in all the ways listed in the paragraph above. He is well aware of the texts in Genesis and Leviticus and the writings of Paul, but in “The Body’s Grace,” he makes note of the fact that the most common motif in the Holy Scriptures is God’s passionate, burning, often jealous, desire to be loved by his people. God is often described as a lover of Israel, steadfast and faithful when she is not. He is a jealous God, who is not interested in having the most powerful, beautiful, numerous or prosperous people, but is interested in



Israel. What God wants most is steadfast, genuine love from us. And God can't command it or control it, for it must be freely given if it is to be real. And so God waits for us and God woos us and God is faithful to us when we don't deserve it. These are the images that fill Holy Scripture and Williams thinks our sexual lives teach us how to grow up and love like God loves us.

This conversation about God's purpose for our sexuality invites us to see sex as a part of our life where *progress* might be made; where *learning* happens, where *grace abounds*. Williams wonders why Christians are so reluctant to see human sexuality as a matter of God's Grace. "What is less clear is why the fact of sexual desire, the concrete stories of human sexuality rather than the generalizing metaphors it produces, are so grudgingly seen as matters of grace, or only admitted as matters of grace when fenced with conditions." These "concrete stories," Williams knows, are not pretty. And he is well aware that a lot of the lessons learned while growing up are painful ones; where costly mistakes are made and people get *hurt*! Choosing a literary example to make this point, Williams describes a story of an abusive relationship in which a man tries to use a woman to meet his own sexual needs. Yet, even in a broken and obviously sinful sexual relationship like the one described in *The Raj Quartet*, by Paul Scott, grace can be found, healing can take place. Sarah Layton, the woman in the book, discovers her own body's grace as she realizes that she is wanted. Even though the man who wants to use her is not a nice person and her relationship with him is neither loving nor honest, she still learns something of her own worth as a human being by knowing she is a person worth wanting.

For Williams, this is what it means to grow up: to become aware of oneself as a person worth loving and also as a person who deeply wants to be loved by someone else. Our desire is part of the *image of God* in which we were made. We long to be longed for just as God does. As the old Cheap Trick song goes, "I want you to want me."<sup>13</sup> Our longing is for something that is beyond our control because what we want is something we can't force someone else to do for us. We want to find someone we can love, who actually wants to love us. All of our flirting and dating and teen heartache and grownup relationship mistakes; all

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<sup>13</sup> "I want you to want me," lyrics and music by Rick Nielsen, first released on Cheap Trick's 1977 album *In Color*.

the affairs and divorces and broken homes – all of these have a part in our growing up and figuring out how to love and be loved. And the Christian community is there to help us with this process. Williams writes, “The life of the Christian community has as its rationale...the task of teaching us to so order our relationships that human beings may see themselves as desired, as the occasion of Joy.” Our sexual relationships have a lot to teach us about finding and being found as *occasions of Joy!*

As Williams describes our sexual mistakes, embarrassments and wrong turns as part of the process whereby we learn to love, he also places our sexual lives within the context of the sin and redemption whereby we are saved by Jesus. What a refreshing idea this is! Sex is not a realm unrelated to salvation! How often do we assume that as long as two people are married, the sex they have is authorized and ok because they are married? How often do we assume that all sexual activity outside of marriage is fundamentally sinful, not “of God” and to be repented of and forgotten? Instead, Williams invites us into a deeper conversation in which the painful lessons we learn as we grow up are all a part of God’s teaching us to love him. When someone is unfaithful to us, we learn how to be faithful. When we break commitments or fall in love with someone who doesn’t love us, we learn the pain of unrequited love. We hurt and we hurt others, and in the process we (hopefully!) learn how to love in a mature and holy way. We might learn to love as God loves us: with passion and fidelity and steadfast love.

A love like that doesn’t just happen. It takes work between two people who have committed to love one another and are mature enough to be vulnerable and strong with one another. The God who loved the Israelites in the wilderness knew he couldn’t force the people to trust him: so he fed them, protected them, loved them – and when they broke his heart, he loved them still. Learning to love like that is what our sexual desires push us towards.

Love like this is also fraught with risk. In order to find out whether or not I might be truly loved by you, I must let you know that I hope that I might be loved by you. This, of course, is what flirting is all about: we try to manage the risk of heartbreak as we reveal our longing to be loved and our interest in loving another. But the risk will always be there if it is love with another person we are after. For this reason,

Williams says, “solitary sexual activity works at the level of release of tension and a particular localized physical pleasure; but insofar as it has nothing to do with being perceived from beyond myself in a way that changes my self awareness, it isn’t of much interest for a discussion of sexuality as a process and relation, and it says little about grace.” We find our body’s grace, (by the grace of God!) when our risky yearning is met by another’s wanting to be wanted by us.

Of course we’re not always innocent as doves. Williams knows that his theology of sex is going to need to include a definition of perversion. “Anything goes as long as no one gets hurt” is nothing like a Christian ethic, and Williams is not one to promote some sort of cultural relativism when it comes to sex. He knows the wickedness human beings are capable of, and how high the stakes are when it comes to sex. In “The Body’s Grace” Williams says, “sexual “perversion” is sexual activity without risk, without the dangerous acknowledgement that my joy depends on someone else’s, as theirs does on mine.” If control or power or coercion or force is used, that is perverse: not because a particular set of sexual deeds are fundamentally sinful, but because sin can happen anytime we try ignore the fact that love is mutual. “Asymmetrical sexual practices” such as rape, pedophilia, bestiality, “have some claim to be called perverse in that they leave one agent in effective control of the situation, one agent, that is, who doesn’t have to wait upon the desire of the other.” Williams’ definition of perverse sexual behavior, like his claim that sex is about growing up, invites us into a deeper and more difficult conversation than we are accustomed to when talking about sex in the Church.

Williams’ assertion that sexual perversion is sex without the acknowledgement that “my joy depends on someone else’s” means that perversion can happen within the context of a Christian marriage and it also suggests that it might be possible for a pure sexual encounter to happen between people who are not married. Marriage alone doesn’t sanctify all sex between the married people. A married couple must still learn to love one another over the years. This is the purpose of marriage, Williams argues in “The Body’s Grace”, that it gives time to the couple: the time they need to grow in love for one another; time for mistakes to be made and forgiven; time for misunderstandings and illnesses to be worked through and healed; time for love to grow. “When we bless sexual unions, we give them a life, a reality not

dependant on the contingent thoughts and feelings of the people involved; but we do this so that they may have a certain freedom to “take time” to mature and become as profoundly nurturing as they can. We should not do it in order to create a wholly impersonal and enforceable “bond”; if we do we risk turning a blessing into a curse.” Marriage doesn’t make sex pure and holy, it creates a place in which two people can grow into a pure and whole sexual relationship, with the support and encouragement of the Church.

Our tendency to assume that all married sex is good and holy because it happens after marriage is dangerous, Williams argues, because it allows Christian people a false sense of comfort. “Much more damage is done here by the insistence on a fantasy version of heterosexual marriage as the solitary ideal, when the facts of the situation are that an enormous number of ‘sanctioned’ unions are a framework for violence and human destructiveness on a disturbing scale; sexual union is not delivered from moral danger and ambiguity by satisfying a formal socioreligious criterion.” One cross we must bear, as followers of Christ is that our moral and ethical work needs doing every day. Our sexual decisions have mostly to do with how much we want our lives to *mean*, not which laws we satisfy. Marriage matters because “sexual faithfulness is not an avoidance of risk, but the creation of a context in which grace can abound because there is a commitment not to run away from the perception of another.”

This need Christian people have to live holy lives, the need we have to pay attention to how our joy is intertwined with the joy of those around us, is there because the relationships we have with other people are directly related to our relationship with God. William’s writes, “to be formed in our humanity by the loving delight of another is an experience whose contours we can identify most clearly and hopefully if we have also learned, or are learning, about being the object of the causeless, loving delight of God.” Every human person is walking that same road, whether we are gay or straight, married or single.

In “the Body’s Grace” Williams deliberately includes every human being in this process of growing up. We are all sexual creatures, after all, even those who live celibate lives. Williams says the Church has always needed the witness of its celibate Christians, not because they are holier than the rest of us but because, as celibates, they choose to focus their

entire need to be needed and loved upon God, and, in so doing, possess special perspectives and gifts to offer the Church. In particular, Williams says celibate Christians tend to have a more direct access to erotic images, language and understandings of God than others tend to because their erotic lives are focused on having their need to be loved met by God directly rather than receiving that love of God in and through loving another human being. “Even more important, there is that easy acceptance of the body, its needs and limitations, which we find in mature celibates like Teresa of Avila in her last years.”

We are all learning to love as we walk this earth together. Embedded within our hearts is a holy longing to be loved, to be wanted, for who we are *just because!* We are like that because God is like that and because God made us that way. “When looking for a language that will be resourceful enough to speak of the complex and costly faithfulness between God and God’s people, what several biblical writers turn to is sexuality understood very much in terms of the process of entering the body’s grace.” That process of yearning, seeking, wanting to be wanted, struggling with faithfulness, and enjoying relationship is the story of our human lives.

“The Body’s Grace” sketches the shape a conversation about human sexuality might take. In it, Rowan Williams challenges the Church to resist easy or pat answers which might shield us from the risk of a deeper theological exploration of sex and its place in a Christian life. It is not an essay about homosexuality so much as it is about God’s purpose of human sexuality for all people. The arguments he makes certainly open that conversation to people who love people of the same-sex, but they also challenge happily married heterosexual couples to reconsider the holiness of their marriages. He hopes to open an orthodox and careful theological conversation in the Church, by expressing his belief that, “a theology of the body’s grace which can do justice to the experience of concrete sexual discovery, in all its pain and variety, is not...a marginal eccentricity in the doctrinal spectrum.” As he draws his essay to a close Williams writes, “it is surely time to give time to this [theological conversation] when so much public Christian comment on these matters is not only nontheological, but positively antitheological.” It is unfortunate to note that sentence is as true in 2009 as it was when he wrote it twenty years ago.

# HUMPTY DUMPTY, AUGUSTINE AND MARRIAGE

Robert E. Wright<sup>Φ</sup>

“When I use a word,” Humpty Dumpty said in rather a scornful tone, “it means just what I choose it to mean – neither more nor less.”

“The question is,” said Alice, “Whether you can make words mean so many different things?”

“The question is,” said Humpty Dumpty, “which is to be master? – That’s all.”

This conversation between Humpty Dumpty and Alice in Lewis Carroll's classic *Through the Looking Glass* sounds in many ways like the arguments now being waged in Anglicanism over matters of human sexuality and ecclesiology. On one side are those who cite church canons regarding property held in trust within a hierarchical church, as well as the Nicene tradition of respecting diocesan and provincial boundaries. On the other side are those who cite Scripture and Tradition regarding who may be considered eligible for marriage and ordination. Each side, in a sense, is playing Humpty Dumpty, regarding how the church's authoritative texts are to be *interpreted* with regard to sexual ethics as well as the ecclesiology of the church.

## An Augustinian Hermeneutic

To be sure, now we all look through the glass darkly, but with Tradition and Reason as sources of illumination, we may more clearly look through the window of Scripture to see God's face. In particular, from

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our Tradition, St. Augustine sheds much light on our discernment. Perhaps the late 4th-early 5th century African bishop offers us a way out of the game Humpty Dumpty seeks to play, about who gets to be 'master' of what authoritative texts must mean to us. In particular, the Augustinian hermeneutic offers help as the church wrestles with marriage and our desire to faithfully interpret the Bible, as we also seek to include partnered Christians who are gay and lesbian into the sacramental life of the church.

In his treatise *On Christian Doctrine*, begun c. 396, Augustine wrote:

Whoever, therefore, thinks that he understands the divine Scriptures or any part of them so that it does not build the double love of God and of our neighbor does not understand it at all. Whoever finds a lesson there useful to the building of charity, even though he has not said what the author may be shown to have intended in that place, has not been deceived, nor is he lying in any way. (I.36.40)

Later he elaborates, situating the interpretation of Scripture in the context of the entire canon and not proof-texting:

For he who examines the divine eloquence, desiring to discover the intention of the author through whom the Holy Spirit created the Scripture, whether he attains this end or finds another meaning in the words not contrary to right faith, is free from blame if he has evidence from some other place in the divine books. For the author himself may have seen the same meaning in the words we seek to understand. And certainly the Spirit of God, who worked through that author, undoubtedly foresaw that this meaning would occur to the reader or the listener. Rather, He provided that it might occur to him, since that meaning is dependent upon truth. For what could God have more generously and abundantly provided in the divine writings than that the same words might be understood in various ways which other no less divine witnesses approve? (III.27.38)

The premise of Augustine's interpretive principle lies in the distinction between charity (*caritas*) and cupidity (*cupiditas*). As he defines these terms:

I call “charity” the motion of the soul toward the enjoyment of God for His own sake, and the enjoyment of one’s self and of one’s neighbor for the sake of God; but “cupidity” is a motion of the soul toward the enjoyment of one’s self, one’s neighbor, or any corporal thing for the sake of something other than God. (III.10.16)

In other words, the “master” of the text (to use Humpty’s term) is not the human author or those who would have interpreted his words in the historical, social, or cultural context within which they were written, but rather God himself who as Logos is the true author and whose words are always to be interpreted in terms of the law of charity. Of this principle he writes:

. . . every student of the Divine Scriptures must exercise himself, having found nothing else in them except, first, that God is to be loved for Himself, and his neighbor for the sake of God; second, that he is to love God with all his heart, with all his soul, and with all his mind; and third, that he should love his neighbor as himself, that is, so that all love for our neighbor should, like all love for ourselves, be referred to God. (II.7.10)

Later in the work, he explains that this interpretive principle may be applied as well to secular, even pagan, texts.

Augustine applies this principal in determining whether certain texts are to be interpreted literally or figuratively. He quotes the Apostle, “For the letter killeth, but the spirit quickeneth,” commenting, “That is, when that which is said figuratively is taken as though it were literal, it is understood carnally . . . He who follows the letter takes figurative expressions as though they were literal and does not refer the things signified to anything else.” As an example, Augustine notes that “if he hears of the Sabbath, he thinks only of one day out of the seven that are repeated in a continuous cycle . . .” and cites the scribes and Pharisees’ accusations against Jesus for performing healings on the Sabbath. (III.5.9-10)



## **An Expanded Interpretation of Marriage?**

Two remarkable resolutions passed by successive General Conventions of The Episcopal Church in 2000 and 2003, together with the legalization of same-gender marriage first in Massachusetts in 2004 and subsequently in several other states, have effectively changed the terms and the context of the church's debate over the blessing of same-gender unions. Whereas the conversation once tended to be about same-gender *partnerships*, envisioning them as alternative types of human relationship wholly other than 'marriage,' now people began to be asking whether or not *marriage* was what we were talking about for everybody - whether straight or gay.

The first, passed by the 73rd General Convention meeting in Denver, stated in part:

*Resolved*, That we acknowledge that while the issues of human sexuality are not yet resolved, there are currently couples in the Body of Christ and in this Church who are living in marriage and couples in the Body of Christ and in this Church who are living in other life-long committed relationships; and be it further

*Resolved*, That we expect such relationships will be characterized by fidelity, monogamy, mutual affection and respect, careful, honest communication, and the holy love which enables those in such relationships to see in each other the image of God; and be it further

*Resolved*, That we denounce promiscuity, exploitation, and abusiveness in the relationships of any of our members; and be it further

*Resolved*, That this Church intends to hold all its members accountable to these values, and will provide for them the prayerful support, encouragement, and pastoral care necessary to live faithfully by them . . .

The second, passed by the 74th General Convention meeting in Minneapolis, reaffirmed the resolve that defined the positive qualities of such relationships and added:

*Resolved*, That we recognize that local faith communities are operating within the bounds of our common life as they explore and experience liturgies celebrating and blessing same-sex unions.

I believe, these two resolutions point not to the formation of a new category of domestic partnership - which might be available to persons of any sexual orientation - nor do they represent an altogether new vision of marriage itself. Rather, they point to an evolved interpretation of *traditional* marriage, whereby it may begin to be understood as appropriate for same-gender couples as well as mixed-gender couples.

When one asks how this might be in light of Scripture and Tradition, it is here that I believe Augustine's hermeneutic of charity - when applied to biblical and traditional texts - is the key to this new understanding of how that may faithfully be.

For example, in Genesis' first creation account, we encounter the words: "So God created man in his own image, in the image of God he created him; male and female he created them." (Gen 1.27) In the second creation account, we encounter the words: "God said, 'it is not good that man should be alone, I will make him a helper as his partner.'" And, "then the man said, 'This at last is bone of my bones and flesh of my flesh.'" (Gen 2:18&23)

As a Christian who is gay, I interpret these passages to have little to do with purely physically determined *gender* complementarity, as much as with the *personal* complementarity that I know to be possible between two persons of the same gender who love each other intimately. Moreover, I see in these passages a calling to mutuality and partnership - as checks against solitude or selfishness, and the sacred vocation partnered persons have to accompany and serve each other faithfully. According to the Augustinian hermeneutic, I interpret these passages in light of how they reveal to me a godly form of life rooted in the love of God and of neighbor as self.

By the same hermeneutic, a reading of Matthew 22 demonstrates God's will for a principled inclusion to all sorts of persons to the wedding feast of God's Kingdom. Such a principled approach would apply not only to the guests, who are all invited but also expected to abide by a set of agreed groundrules ('the wearing of the wedding garment'), but also

the couple sealing their covenant with one another, with God, and with the community of faith.

In *On Christian Doctrine*, Augustine writes, “. . . every good and true Christian should understand that wherever he may find truth, it is his Lord’s” (II.18.28) Many now believe that The Episcopal Church is *called* to expand its understanding of marriage - not to make the word mean *many* things or just *any* thing - as Humpty Dumpty would do. No, many believe that under an Augustinian hermeneutic of charity, in which we believe the "love of God and of neighbor as self" is the master of our authoritative texts, we may understand marriage to be an honorable estate which includes persons of same-gender affection.

# SHELTER AND CONTEXT FOR TRUST

Evangelical Lutheran Church in America<sup>Φ</sup>

Trust is a quality of relationship that, while never perfected, is nurtured and reinforced over time. The trust and mutuality afforded by marriage can make marriage one of the most beautiful, abiding, and transformative forms of human relationship. Depth of care, matched to an intimacy of touch, creates relationships much stronger than simple and momentary erotic interest. Sexual intimacy, together with promises of fidelity and public accountability, nurtures bonds that allow people to thrive and provides a rich context for the care and support of children.

Marriage is a covenant of mutual promises, commitment, and hope authorized legally by the State and blessed by God. The historic Christian tradition and the Lutheran Confessions have recognized marriage as a covenant between a man and a woman, reflecting Mark 10: 6–9: “But from the beginning of creation, God made them male and female. For this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh. So they are no longer two, but one flesh. Therefore what God has joined together, let no one put asunder.” (Jesus here recalls Genesis 1:27; 2:23–24.)

Lutherans have long affirmed that the public accountability of marriage, as expressed through a legal contract, provides the necessary social support and social trust for relationships that are intended to be sustained throughout life and within changing and often challenging life situations. In this country, pastors carry both legal and religious responsibilities for marriage. In carrying out these responsibilities,

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<sup>Φ</sup> Excerpted from “Human Sexuality: Gift and Trust” - A Social Statement of the Evangelical Lutheran Church in America (ELCA) adopted with a vote of 676 (66.67 percent) to 338 (33.33 percent) on Aug. 19, 2009. The passing of the social statement on human sexuality required a two-thirds vote.

pastors hold and exercise pastoral discretion for the decision to marry in the Church. In the community of the Church they preside over the mutual promises made between a couple seeking the lifelong, monogamous, and faithful relationship of marriage.

Marriage requires constant care and cultivation. It is intended to protect the creation and nurturing of mutual trust and love as one foundation of human community. It is a binding relationship that provides conditions for personal well-being, the flourishing of the partner, and the possibility of procreation and the nurturing of children. It is also intended to be a blessing to the community and the world. Because of promises of fidelity and public accountability, marriage provides a context of love, trust, honesty, and commitment within which a couple can express the profound joy of relationship as well as address the troubles they encounter throughout life.

Christians believe that marriage is not solely to legitimate physical sexual intimacy, but to support long-term and durable communion for the good of others. It is a communion within which the play and delight of physical love are crucial expressions of the depth of trust, and in which lovemaking can be a tender and generous act of self-giving that tends to the joy and pleasure of the other.

The public character of marriage also implies a civil responsibility. Marriage is intended not only to protect the people who are married, but to signal to the community their intention to live a peaceful and mutually fulfilling life, even as they endeavor to strengthen the community in which they live. The public promises of marriage between a man and a woman, therefore, also protect the community by holding people accountable to their vows. Fidelity to promises blesses all who depend on this trust within and beyond the marriage.

The Christian commitment to marriage recognizes that sin enters all relationships, both within and outside the institution of marriage. All marriages fall short of intentions and difficulties are inevitable, both because of the different needs and desires of the two individuals, and because of sin, which places the anxious concern for self before the needs of the other. Infidelity to marriage promises betrays the intimate trust of the partner, the security of the family, and the public trust of the community.

Precisely because marriage is the place where deep human trust and needs abide, it also can be a place of great harm. Many experience neither love nor trust within marriage. Harming another emotionally, physically, or spiritually, including through the misuse or abuse of power, is a profound injury. It is also a betrayal and violation of the shelter and trust that are intended within the marriage relationship. Particular care must be taken to support and find safe haven for all who are at risk within a marriage. This includes those whose sense of self is destroyed or damaged within the marriage relationship and, therefore, whose ability to act or advocate for their own health and safety may be inhibited or lost.

This Church recognizes that in some situations the trust upon which marriage is built becomes so deeply damaged or is so deeply flawed that the marriage itself must come to a legal end (Matthew 19:3–12). This Church does not treat divorce lightly nor does it disregard the responsibilities of marriage. However, in such situations, it provides support to the people involved and all who are affected. Divorced individuals are encouraged to avail themselves of pastoral care, to be assured of God's presence, forgiveness, and healing, and to remain in the communion of the Church, recognizing the all-encompassing mercy of God.

This Church will provide supportive pastoral care to those who are divorced. Further, it believes that those who wish to remarry may gain wisdom from the past and may be assured of the Gospel's freedom, in the midst of brokenness and forgiveness, to enter into their new responsibilities in joy and hope. This Church will tend pastorally to the special concerns of blended families, to children of divorced parents, and to the particular tensions that may accompany family breakdown and transition.

Despite its awareness of the presence of sin and failure in marriage, the Christian tradition places great emphasis on the value of marriage for a husband and wife. It is in marriage that the highest degrees of physical intimacy are matched with and protected by the highest levels of binding commitment, including legal protection. It is in marriage that public promises of lifetime commitment can create the foundation for trust, intimacy, and safety.

Both the couple's intent in their lifelong promises and the civil requirements for marriage are important. Mutual promises of enduring care and fidelity, made before God, allow a couple to open themselves to each other. They permit the sharing of profound and tender affection as well as deep vulnerabilities and anxieties. The legal contract creates a public arrangement within which a couple may safely and equitably share their assets and resources, arrive at joint decisions, anticipate children, protect and nurture them, and plan for a shared future.

The Church's historical experience supports its confidence that solemn promises, made before a company of witnesses who ask for God's blessing on a man and a woman, have the power to create a unique framework within which two people, a new family, and the community may thrive. Consistent with that experience, this Church has confidence that such promises, supported by the contractual framework of civil law, can create a lifetime relationship of commitment and cooperation.

Recognizing that this conclusion differs from the historic Christian tradition and the Lutheran Confessions, some people, though not all, in this Church and within the larger Christian community, conclude that marriage is also the appropriate term to use in describing similar benefits, protection, and support for same-gender couples entering into lifelong monogamous relationships. They believe that such accountable relationships also provide the necessary foundation that supports trust and familial and community thriving. Other contractual agreements, such as civil unions, also seek to provide some of these protections and to hold those involved in such relationships accountable to one another and to society.

# MARRIAGE AND THE LAW

Hugh Stevens<sup>Φ</sup>

Marriage itself has never been simple,<sup>14</sup> but until recently marriage *laws* were.

Prior to 1996 the criteria for contracting legal marriages in the United States were prescribed exclusively by the various states; tended to be quite similar nationwide; and focused primarily on proof that the parties were of marriageable age (or, if not, that they had the requisite parental consent) and that neither was rendered ineligible to marry by reason of impotency, lack of mental capacity, or an existing marriage. Because marriage standards varied little across the country, states routinely treated marriages performed in other states as valid, even if they did not comport fully with their own laws.<sup>15</sup>

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<sup>14</sup> For a comprehensive and highly readable history of the cultural, social, economic and political complexities of marriage see *Marriage, a History: From Obedience to Intimacy, or How Love Conquered Marriage*, by Stephanie Koontz (Viking Press, 2005)

<sup>15</sup> During the late '50s and '60s, when the author was in high school in North Carolina, it was commonplace for young couples in need of "shotgun weddings" to slip across the border and marry in South Carolina, where the age of consent was lower than in North Carolina and surrounding states. Dillon, South Carolina was such a popular location for such "runaway" nuptials that it became known as the "Wedding Capital of the East."



The relative homogeneity among state marriage laws, and their general acceptability across state lines, began to erode in the 1990s after the supreme courts in Hawaii and Vermont interpreted their respective state constitutions to require that same-sex couples were entitled to the same rights and benefits of marriage that were afforded to opposite-sex couples, even if the state chose not to define these rights and benefits as marriage. Fearing that other courts would issue similar decisions, both the Congress and many state legislatures, including North Carolina's, passed "Defense of Marriage Acts" (DOMAs), which specifically defined marriage as a union between a man and a woman. In addition, several states amended their constitutions to prohibit same-sex marriage, hoping that such an explicit ban would prevent their courts from reading other constitutional provisions so broadly as to guarantee same-sex couples the right to marry. The divergence in state laws and policies concerning marriage widened and accelerated in 2003, when Massachusetts became the first state to authorize same-sex marriage.

Any discussion of "the theology of marriage" in the Episcopal Church necessarily occurs against a background of civil law, because marriage is the only rite, sacrament or ceremony of the Church that is defined and regulated not only by the Constitution and Canons<sup>16</sup> but also by state and federal statutes and by the constitutions of at least 30 states.<sup>17</sup> Neither state nor federal law purports to define or prescribe the criteria for baptism, communion, anointing the sick, reconciliation of a penitent or ordination, but state law sets limits on the ages, consanguinity and, in the majority of states, the genders of persons who may be married, and Congress has enacted a federal statute defining marriage. Section 1 of Canon 18 recognizes the anomalous regulatory duality affecting marriage by requiring that clergy "shall conform to the laws of the State governing the creation of the civil status of marriage, and also to the

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<sup>16</sup> Canon 18 of the Canons of the General Convention governs the solemnization of Holy Matrimony; Canon 19 sets out regulations concerning "Preservation of Marriage, Dissolution of Marriage, and Remarriage."

<sup>17</sup> Most of the state constitutional provisions are recent amendments that prohibit same-sex marriages (and, in many cases, "civil unions.")

laws of this Church governing the solemnization of Holy Matrimony.”<sup>18</sup>

Although the author holds to certain opinions (some firm, some not) concerning the wisdom, propriety or constitutionality of some of the laws described, this paper is not intended to condone or criticize them. Instead, it attempts to:

- summarize the standards and criteria for contracting a legal marriage in North Carolina;
- describe some of the key legal benefits that accrue to married couples;
- explain some of the legal and constitutional issues that arise out of the fact that some states authorize or recognize marriages that others do not;
- describe the nature and effects of state and federal “defense of marriage” laws; and,
- briefly discuss how state and federal marriage laws affect the relationship between the Church and the government.

## **1. Marriage in North Carolina.**

Historically, the criteria for a legal marriage, and the scope of the rights and benefits conferred on the parties to a marriage, have been governed by state law almost exclusively.<sup>19</sup> The federal constitution makes no mention of marriage, and Congress did not codify a definition of marriage for purposes of federal law until 1996. Therefore, a logical

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<sup>18</sup> I believe the conflation of “marriage” and “Holy Matrimony,” which the Canon carefully avoids, muddies and complicates the public dialogue. In recognition of the critical distinction between the two, the term “marriage” in this paper should be read as referring to a *legal* relationship only.

<sup>19</sup> An exception occurred between 1878 and 1890, when the federal government successfully prosecuted polygamists and their supporters in Utah and Idaho, which were then U.S. territories.

place to begin any discussion of marriage and the law in North Carolina is with legal standards for marriage enacted by the General Assembly.

**A. Age.** North Carolina law generally permits unmarried persons over the age of 18, and legally emancipated persons aged 16 or 17, to marry. N.C. Gen. Stat. § 51-2. Un-emancipated persons aged 16 or 17 may marry with the consent of a custodial parent or legal guardian. *Id.* A female aged 14 or 15 may marry if she is pregnant or has given birth to a child and she and the putative father agree to marry; likewise, a male aged 14 or 15 who is the putative father of a child, born or unborn, may marry the mother if she agrees. In either case, however, a district court judge must enter an order approving the marriage of a 14- or 15-year-old. The order must find as a fact and conclude as a matter of law that the underage party is capable of assuming the responsibilities of marriage and that the marriage will serve his or her best interest. N.C. Gen. Stat. § 51-2.1(a).

**B. Gender.** In 1996 the General Assembly passed a “Defense of Marriage” statute, which provides that marriages between individuals of the same gender are not valid in North Carolina. N.C. Gen. Stat. § 51-1.2. (See § \_\_\_\_, below.)

**C. Race.** North Carolina law prohibited marriage between persons of different races until June 12, 1967, the date on which the Supreme Court of the United States declared all anti-miscegenation laws unconstitutional in *Loving v. Virginia*, 388 U.S. 1. In 1977 the General Assembly formally declared that all interracial marriages were valid, provided that the parties had complied with all other requirements for a legal marriage. N.C. Gen. Stat. § 51-3.1.

**D. Capacity.** Section 51-3 of the North Carolina General Statutes declares that marriages are void or voidable under any of the following circumstances:

1. The parties are “nearer of kin than first cousins,” or are double first cousins;

2. Either party has a legal spouse living at the time of the marriage;<sup>20</sup>
3. Either party is “physically impotent” at the time of the marriage; or,
4. Either party is “incapable of contracting from want of will or understanding.”

The courts have applied the foregoing statute to invalidate marriages procured under duress or by undue influence.

### **E. North Carolina marriage licenses.**

Persons desiring to marry in North Carolina must obtain a license from a county Register of Deeds. The fee for a marriage license, which is valid anywhere in North Carolina, is \$50.00 and must be paid in cash. Applicants need not be residents of North Carolina, but they must provide proof of their ages and identities by presenting a valid driver's license; an unexpired state-issued ID card, a current passport, a current military ID, or a certified copy of a birth certificate.<sup>21</sup> Each applicant also is required to provide and verify his or her Social Security number by presenting a Social Security card or a W-2 form or pay stub displaying the full Social Security number. Persons who are not eligible for a Social Security card, such as citizens of foreign countries, must provide a sworn affidavit attesting to their status. Every marriage license includes a certificate of marriage that must be completed by the officiant and returned to the register of deeds within 10 days following the ceremony.

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<sup>20</sup> Marriage by a person who already has a living spouse constitutes bigamy, which is also a Class I felony under North Carolina *criminal* law. See N.C. Gen. Stat. § 14-183.

<sup>21</sup> An applicant who is age 20 or younger must present a certified copy of his or her birth certificate. Applicants who are 16 or 17 years of age also must present evidence of parental consent, and applicants age 15 must present a certified copy of a District Court order authorizing the marriage.

## **F. Solemnization of marriages in North Carolina.**

Under North Carolina law, marriages may be solemnized by magistrates or by ordained or licensed clergy of any religious denomination. State law also recognizes marriages solemnized in ceremonies of federally or state recognized Indian nations or tribes. N. C. Gen. Stat. § 51-1. Any person authorized to celebrate marriages who performs a marriage ceremony without first being presented with a valid marriage license, or who fails to complete and return the certificate of marriage that accompanies the license, is guilty of a Class I misdemeanor and subject to a \$200.00 penalty. N.C. Gen. Stat. § 51-7.

According to data compiled by the National Center for Health Statistics, approximately 68,000 marriages occurred in North Carolina during 2007, the last year for which complete data are available; this number represented an increase of approximately 3,400 over 2006 and 5,000 over 2005. Although North Carolina does not maintain specific data tracking the proportion of civil and religious ceremonies, an analysis of marriage fees by the Administrative Office of the Courts indicates that about 22,000 of the marriages performed in the state in 2007 were civil ceremonies performed by magistrates.<sup>22</sup> Regardless of whether the ceremony is civil or religious, it must be witnessed by at least two persons.

**(i). Civil and religious marriage ceremonies in North Carolina.** The data cited above suggest that more than two-thirds of marriage ceremonies in North Carolina are religious in nature – a percentage that appears to be well above the national average. In 2003 *USA Today* reported that the rate of civil marriage “is on the rise coast to coast” because “[f]ewer American couples who marry today see the need for religion’s approval.” Although there are no national data on how many marriages are performed by clergy versus civil authorities such as notaries, justices of the peace or magistrates, the newspaper’s analysis of statistics from the 18 states that track such data showed that the percentage of civil ceremonies in those states had risen from about 30% in 1980 to about 40% in 2003. The author of *American Couples*, University of Washington sociologist Pepper Schwartz, attributed the

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<sup>22</sup> Magistrates collect a \$20.00 fee for each civil marriage ceremony they perform.

trend to high divorce and remarriage rates, the increasing incidence of interfaith marriages, and “more personalized ideas of spirituality.”

**(ii). Cohabitation in North Carolina.** Data from a variety of sources clearly show that in recent decades cohabitation by unmarried couples has emerged as an important social and cultural institution, both as a predecessor to and as a substitute for marriage.<sup>23</sup> In 1960 the U.S. Census Bureau reported that 439,000 unmarried opposite-sex couples were living together in the United States; in 2008 that number had risen to 6.8 million. (“America’s Families and Living Arrangements: 2008”) Today in the U.S. one in three women chooses to live with her partner before marriage, compared to one in 10 in the 1950’s. Nearly half of individuals in their twenties and thirties are involved in a cohabiting arrangement. According to a Gallup poll published in 2007, 55% of Americans approve of men and women living together without being married; 57% of respondents to a 2008 poll said they consider an unmarried couple who have lived together for five years just as committed in their relationship as couple who have lived together in marriage for the same amount of time.

In 2005 the Associated Press reported that about 144,000 unmarried couples were living together in North Carolina. However many such couples there are, all of them potentially are subject to arrest and prosecution, because North Carolina is one of seven states that makes cohabitation by unmarried couples a crime. N.C. Gen. Stat. § 14-184 provides that “If any man and woman, not being married to each other, shall lewdly and lasciviously associate, bed and cohabit together, they shall be guilty of a Class 2 misdemeanor . . .”

North Carolina’s anti-cohabitation law came under attack after Deborah Lynn Hobbs, who was unmarried and had lived with her boyfriend for nine years, was hired as a dispatcher for the Pender County sheriff’s office in 2004. Two weeks later Sheriff Carson Smith told her she must marry her boyfriend, move out of their common

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<sup>23</sup> One index of cohabitation’s status as a cultural, social and economic phenomenon is the number of guidebooks devoted to the subject, such as *Living Together: A Legal Guide for Unmarried Couples*; *Shacking Up: The Smart Girl’s Guide to Living in Sin Without Getting Burned*; and *Happily Un-Married: Living Together and Loving It*.

home, or resign her position with his office. The sheriff did not file or threaten criminal charges against her under G.S. § 14-184. Ms. Hobbs resigned and then filed suit challenging the constitutionality of the anti-cohabitation statute. In 2006 Superior Court Judge Benjamin Alford declared the statute unconstitutional and enjoined the State from enforcing it, on the grounds that it violated Ms. Hobbs' right to substantive due process and was vague and overbroad. Attorney General Roy Cooper elected not to appeal Judge Alford's decision, leaving open the question whether it applies statewide or only in Pender County. Meanwhile the General Assembly has left the law unchanged.

## **2. State and federal benefits of marriage.**

North Carolina, like all states, confers some important legal rights on married persons, including significant tax advantages (such as the right to file joint state income tax returns); rights, preferences and presumptions in connection with the probate of estates and intestacy proceedings (when someone dies without a will); the right to support from their spouses both during the marriage and after it is dissolved; enhanced protection of jointly-owned property against creditors and judgments; and rights to be treated as family members in obtaining insurance coverage and making health care decisions.<sup>24</sup>

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<sup>24</sup> In its 2003 decision striking down Massachusetts' prohibition against same-sex marriage, the Supreme Judicial Court of that state noted that the following benefits and privileges were available only to married persons in Massachusetts: joint state income tax filing; tenancy by the entirety; extension of benefit of homestead protection to one's spouse and children; automatic rights to inherit property of deceased spouse who does not leave a will; rights of elective share and of dower; entitlement to wages owed to deceased employee; eligibility to continue certain businesses of deceased spouse; right to share medical policy of one's spouse; 39-week continuation of health coverage for spouse of person who is laid off or dies; preferential options under state's pension system; preferential benefits in state's medical program; access to veterans' spousal benefits and preferences; financial protections for spouses of certain state employees killed in performance of duty; equitable division of marital property on divorce; temporary and permanent alimony rights; right to separate support on separation that does not result in divorce; and right to bring claims for wrongful death and loss of consortium, and for funeral and burial expenses

Marriage also invokes significant federal benefits; according to a 2004 report released by the U.S. Government Accountability Office (GAO), there are at least 1,138 statutory provisions in which marital status factors in the determination of federal privileges, rights, and benefits.<sup>25</sup>

The scope and purpose of this paper do not warrant a detailed analysis of the rights and benefits that are available exclusively to married couples; suffice it to say that the consequences of the recognition or non-recognition of a particular relationship as a “marriage” has profound consequences, both legal and financial, for the parties to that relationship.

### **3. The rise of divergent state laws concerning marriage and marriage-like relationships.**

The confluence of two events in 2003 dramatically affected the climate surrounding the debate over marriage or marriage-like rights for gay and lesbian couples. On June 26, the Supreme Court issued its opinion in *Lawrence v. Texas*, 539 U.S. 558 (2003). In a 6-3 opinion delivered by Justice Anthony M. Kennedy, the Court ruled that a Texas statute making it a crime for two persons of the same-sex to engage in certain intimate sexual conduct violated the Due Process Clause of the Fourteenth Amendment. Although the *Lawrence* opinion expressly stated that the Court was not ruling on the constitutional status of same-sex marriage, Justice Antonin Scalia disagreed, arguing in dissent that the majority’s analysis inevitably leads to the conclusion that

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and punitive damages resulting from tort actions. *Goodridge v. Department of Public Health*, 440 Mass. 309, 323-24, 798 N.E.2d 941, 955-56.

<sup>25</sup> Although Congress did not define “marriage” for purposes of federal law until 1996, the proliferation of federal statutes *affecting* the rights and privileges of married persons bears out one writer’s observation that “. . . family law isn’t the bastion of state sovereignty it’s supposed to be. As some scholars have pointed out, [William Rehnquist]’s claim that family law is ‘truly local’ is wrong as a matter of history. Congress has meddled in this area for decades, through laws that address welfare, pensions, taxes, bankruptcy and immigration.” Emily Bazelon, “Trading Places Over Gay Marriage,” *The Washington Post*, November 23, 2003.



marriage must be available equally to homosexual and heterosexual couples. 539 U.S. at 604-05.

Then, on November 18, the Supreme Judicial Court of Massachusetts ruled that the state law barring same-sex marriage violated the equal protection clause of the state constitution and ordered the legislature to remedy the discrimination within six months. *Goodridge v. Department of Public Health*, 440 Mass. 309, 798 N.E.2d 941.

In her opinion for the majority in *Goodridge*, Chief Justice Margaret Marshall held that denying marriage benefits to same-sex couples violated the Massachusetts Constitution because it did not accomplish a legitimate government goal. Indeed, the court explained, the reasons the government offered for banning same-sex marriage - promoting procreation, ensuring a good child-rearing environment and preserving state financial resources - would not be promoted by prohibiting same-sex couples from marrying. Thus, according to the court, the only basis for the state's decision to exclude same-sex couples from the institution of marriage was a disapproval of their lifestyle. Because the court concluded that condemning a lifestyle is not a "constitutionally adequate reason" for denying marriage benefits, it held that the state must permit same-sex couples to marry.

In February 2004, the court ruled that offering same-sex couples civil unions instead of civil marriage would not pass constitutional muster under the standards enumerated in *Goodridge*. Since March, 2004, when same-sex marriage first became available, approximately 12,500 same-sex couples have married in Massachusetts.

The *Lawrence* and *Goodridge* decisions activated advocates on both sides of the legal and policy debate over same-sex marriage. On the one hand, they opened the door for courts in states other than Massachusetts to interpret the equal protection clauses of their state constitutions as mandates for same-sex marriage. At the same time, they roused opponents of gay marriage.

## **A. Same-Sex Marriage**

Encouraged by the Massachusetts court's decision in *Goodridge*, advocates for gay marriage began filing suits and/or pushing for

legislative action in other states. Until 2008, however, only one of these cases was even partly successful. In that case, *Lewis v. Harris* (2006), the New Jersey Supreme Court ruled that the state constitution's equal protection clause required the state to grant same-sex couples the same rights and benefits of marriage enjoyed by opposite-sex couples. The *Lewis* decision was not as broad as the Massachusetts decision in *Goodridge* because the court permitted the state legislature to decide whether to grant these rights by marriage or civil union. Soon after the ruling, the New Jersey legislature passed a measure allowing gay and lesbian couples to enter into civil unions but not to marry.

Other than the New Jersey suit, the decisions by state supreme courts went against gay marriage advocates until 2008. In 2006 and 2007, the highest courts in New York, Washington and Maryland found that their state constitutions do not guarantee same-sex couples the right to marry. All three courts ruled that whether to permit or recognize same-sex marriage is a policy matter that rests with the legislative and executive branches. The suits grounded in state constitutions finally began to bear fruit in 2008, when the highest courts of California and Connecticut ruled in favor of gay marriage.

In California, same-sex marriage was legal for five and a half months during 2008. On May 15 the California Supreme Court ruled that limiting marriage to persons of the opposite sex violated the California Constitution. Over the next few months approximately 18,000 same-sex couples were married in California, but in November, after a spirited and expensive public campaign, California's voters amended the state constitution by approving "Proposition 8," which provides that "Only marriage between a man and a woman is valid or recognized in California."<sup>26</sup> Advocates for same-sex marriage challenged the validity of Proposition 8, but the California Supreme Court rejected their claim in May, 2009; consequently, same-sex couples may register as domestic partners in the state, but cannot marry. The court did uphold the validity of the same-sex marriages contracted before Proposition 8 took effect. The California Supreme Court's rulings did not end the battle over California's prohibition of same-sex marriage. In May, 2009 two gay couples filed suit in federal court challenging

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<sup>26</sup> The California constitution has been amended more than 500 times through the proposition procedure since it was ratified in 1879.

Proposition 8 (and, by implication, all state laws that bar same-sex marriage) on grounds that such bans violate the equal protection guarantee of the Fourteenth Amendment to the United States Constitution.

In October 2008, the Connecticut Supreme Court ruled that the state's civil union law was discriminatory and unconstitutional, and that same-sex couples must be allowed to marry because "the segregation of heterosexual and homosexual couples into separate institutions constitutes a [constitutionally] cognizable harm."

In April 2009, Iowa and Vermont joined the ranks of states that grant full marriage equality to same-sex couples. In Iowa, the Supreme Court ruled unanimously that the state's law limiting marriage to opposite-sex couples was unconstitutional, whereas Vermont became the first state to enact marriage equality through legislative action when the state legislature overrode a governor's veto and legalized same-sex marriage in that state.

Maine's legislature passed a same-sex marriage bill in May, 2009. Governor John Baldacci, who previously had opposed same-sex marriage, signed it immediately upon its passage in the Senate. The governor said he had come to see same-sex marriage as a "question of fairness and of equal protection under the law," and to believe that "a civil union is not equal to civil marriage."

In June 2009, the New Hampshire legislature passed a same-sex marriage bill. Although Governor John Lynch personally opposes gay marriage, he signed the bill because it specifically provides that religious authorities are not required to officiate at same-sex ceremonies. "Today, we are standing up for the liberties of same-sex couples by making clear that they will receive the same rights, responsibilities – and respect – under New Hampshire law," Lynch said. The bill takes effect in January 2010.

## **B. Civil Unions**

Until recently Connecticut, Vermont, New Hampshire, and New Jersey offered same-sex couples relationship recognition in the form of civil unions – the legal equivalent of marriage in those states. With the

advent of full marriage equality in September 2009, Vermont no longer offers the option of civil unions. New Hampshire will abolish them in January, 2010, when its same-sex marriage law takes effect.

In Connecticut and New Jersey, same-sex couples can enter into civil unions that provide the same rights and responsibilities as marriage, including:

- rights under family laws, such as annulment, divorce, child custody, child support, alimony, domestic violence, adoption, and property division
- rights to sue for wrongful death, loss of consortium, and under any other tort or law concerning spousal relationships
- medical rights, such as hospital visitation, notification, and durable power of attorney
- family leave benefits
- joint state tax filing, and
- property inheritance when one partner dies without a will.

### **C. Domestic Partnerships**

“Domestic partnership” is another form of relationship recognition for same-sex couples, but what it means differs from state to state. In California, Nevada, Oregon, and Washington, domestic partnership is the legal equivalent of marriage; registered domestic partners have the same rights and obligations as legally married spouses under state law, including property rights and the right to receive support from one's partner after a separation. Although the District of Columbia does not explicitly grant domestic partners all of the same rights enjoyed by married couples, it is difficult to distinguish legally between the two types of domestic relationships.

New Jersey passed a domestic partner law in January of 2004 that offered limited rights to registered domestic partners. New domestic partnership registrations ended in January of 2008, when New Jersey began to offer civil unions that provide the same rights and responsibilities as marriage. However, couples who registered as

domestic partners before January 2008 maintain the same rights they had previously.

#### **D. Reciprocal Beneficiaries**

Reciprocal beneficiary laws in Colorado and Hawaii provide some marriage-like benefits. In Hawaii, any two state residents can register as reciprocal beneficiaries provided that they both are over 18 and are not permitted to marry. Couples who sign up gain some of the rights and benefits granted by the state to married couples, including hospital visitation rights, the ability to sue for wrongful death, and property and inheritance rights. In Colorado, reciprocal beneficiaries may own property jointly, inherit from a partner in the absence of a will, receive priority for appointment as a conservator, and receive a number of other rights similar to those of married couples.

#### **4. State and federal “Defense of Marriage” Acts**

As noted above, the recent divergence in state policies and laws respecting marriage and other domestic relationships – particularly the recognition by several states of same-sex marriage – led many states to adopt “Defense of Marriage” laws (“DOMAs”) or constitutional amendments prohibiting the recognition of same-sex marriages, even if they were legally contracted in another jurisdiction. North Carolina’s DOMA was passed in 1996 – seven years before Massachusetts became the first state to permit persons of the same gender to marry. That same year, Congress passed and President Clinton signed a federal DOMA defining “marriage” as “a legal union between one man and one woman as husband and wife” and declaring that the term “spouse” refers “only to a person of the opposite sex who is a husband or wife.” The Act provides that these definitions apply “[i]n determining the meaning of any Act of Congress, or of any ruling, regulation or interpretation of the various administrative bureaus and agencies of the United States.” 1 U.S.C. §7. The federal DOMA also provides that

No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex

that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship. 28 U.S.C. § 1738(c).

## **5. Legal and constitutional issues arising out of divergent state definitions of marriage and other domestic relationships.**

By denying recognition to same-sex marriages, civil unions and domestic partnerships that were legal in the states where they were contracted, DOMAs – both state and federal – raise serious and thorny legal and constitutional issues. Assume, for example, that a lesbian couple who were legally married in Massachusetts moves to North Carolina and then part ways. Does North Carolina’s DOMA preclude their obtaining a legal divorce here? Suppose they were married in Massachusetts and later divorced there, after which one of them moved to North Carolina. Does our state’s DOMA deprive our courts of authority to enforce a custody order or property settlement on behalf of the North Carolina resident? And do state DOMAs in general violate the “full faith and credit” clause of the federal constitution?

The federal DOMA raises other constitutional issues, including whether it impinges on a “fundamental right” (to marry) and whether Congress violated the Tenth Amendment and state sovereignty by legislating with respect to matters traditionally reserved to the states.<sup>27</sup>

At first blush it would seem that both the state and federal DOMAs run afoul of Article IV, § 1 of the United States Constitution, which provides that “Full Faith and Credit shall be given in each State to the public Acts, Records and judicial Proceedings of every other state” and that “Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved and the effect thereof.” Read literally, the requirement that states accord “full faith and credit” to each other’s laws clearly seems to mandate that North Carolina must grant persons who were legally married in another state, or who are

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<sup>27</sup> The Tenth Amendment provides that “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

parties to a legal civil union or domestic partnership contracted in another state, all of the rights and privileges afforded them by that state.

As it happens, however, the courts have not read the “full faith and credit” clause as requiring one state to give absolute deference to another’s laws. Rather, it has been construed to leave room for the application of traditional principles of conflicts of laws, including the concept that each state may decline to apply another state’s law that conflicts with its own legitimate public policies. Therefore, the courts have rejected challenges to both state and federal DOMAs grounded in the “full faith and credit” clause. *Wilson v. Ake*, 354 F. Supp. 2d 1298, 1303-04 (2005).

The courts also have rejected due process and equal protection challenges to the federal DOMA grounded in the contention that the right to marry without regard to the gender of the parties is a “fundamental right of all persons.” *Id.* at 1304-05 (citing *Baker v. Nelson*, 291 Minn. 310, 191 N.W.2d 185 (1971), *appeal dismissed*, 409 U.S. 810, 93 S. Ct. 37, 34 L.Ed.2d 65 (1972)).

For the foreseeable future, therefore, it appears that state laws and policies concerning marriage and marriage-like relationships will continue to vary widely, that same-sex couples who marry in one of the states that permit such unions will be denied concomitant federal rights available to heterosexual married couples, and that such couples who move across state lines also must be prepared to confront the effective loss of their marital status.

## **6. Marriage Laws and the Church**

Under the “free exercise” clause of the First Amendment, state laws may (and do) limit, but may not mandate, who can be legally married in ceremonies presided over by members of the clergy. In North Carolina, a priest, rabbi or minister cannot solemnize a same-sex “marriage” no matter how enthusiastically his or her religious body approves; nor can Massachusetts or Connecticut require a member of the clergy to preside over a same-sex marriage. This does not necessarily mean, however, that Church leaders or clergy should be dismissive or obtuse about the upheaval in the legal landscape surrounding marriage.

For one thing, dramatic changes in the law generally mirror, to some degree, shifts in cultural and societal tectonic plates. For another, wedding ceremonies are the only occasions when members of the clergy act both as agents of the Church and of the State. Both of these points should be cause for reflection about the relationships between the Church and its members and between the Church and government.

The Supreme Judicial Court of Massachusetts did not decide that the state's constitution mandated same-sex marriage as the result of the Commonwealth's constitution having been amended, because it hadn't. Rather, the court rendered its decision because gays and lesbians decided (or dared) that the time had come to assert a claim to rights and privileges that traditionally had been denied to them – something that simply could not have occurred in a era when homosexuality was not just stigmatized, but criminalized. By like sign, neither the United States Congress nor the North Carolina General Assembly was moved to enact a "Defense of Marriage Act" until same-sex marriage suddenly shifted from being a cockamamie notion to a genuine "threat." The point is not whether the decisions made by the Massachusetts court and by our General Assembly perfectly reflect the attitudes of everyone in either state; manifestly, they don't. The point is that although the Church is not *of* Massachusetts or North Carolina (or any other state), it is *in* those states and thus not only must comply with their laws, but also must be aware of, and respond to, their societal and cultural underpinnings.

For a priest in Massachusetts the issue is likely to be how to explain to gay or lesbian parishioners why the Church cannot or will not agree to marry them, even though the state has no objection. For a priest in North Carolina and the majority of other states, the dilemma may involve explaining to gay parishioners why he or she continues to solemnize marriages on behalf of a state that denies them marriage rights and privileges that are accorded heterosexual couples.

Some clergy and commentators on both sides of the gay marriage issue argue that freedom of religion would be enhanced by the formal separation between legal marriage and religious ceremonies, either by voluntary action on the part of religious bodies, or by having state governments "remove one of the final vestiges of theocracy" by defining marriage as a purely civil matter and removing clergy from the



list of persons authorized to solemnize legal marriages. See, e.g., Jonathan Lindsey, “On Marriage, Time to Separate Civil from Ecclesiastical,” Associated Baptist Press, 2009; Oliver Thomas, “Gay Marriage: A Way Out,” USA Today, August 4, 2008; “Gay Episcopal bishop says civil and religious marriage should be separate,” The Los Angeles Times, April 19, 2009.

The “Refuse to Sign” movement, which is spearheaded by John Tamilio and Tricia Gilbert of Pilgrim Congregational United Church of Christ in Cleveland, and which is supported by some Episcopal clergy, espouses the view that ministers should not sign marriage licenses issued in states that do not permit gays and lesbians to marry. [See <http://refusetosign.org/>]

At the other end of the spectrum are clergy who view *any* government involvement in marriage as theologically untenable, such as Pastor Matt Trewella of Mercy Seat Christian Church in Milwaukee, who has authored a pamphlet entitled “Five Reasons Why Christians Should *Not* Obtain a State Marriage License” wherein he professes to “marrying couples without marriage licenses for ten years.”<sup>28</sup> [See <http://www.mercyseat.net/>.]

A complete decoupling of civil and religious marriage would mean, of course, that candidates for a traditional “church wedding” would first have to undergo a separate civil ceremony in order to legalize their marriage.

Although this “two-step” marriage process would reflect the *legal* reality that “marriage” is a civil contract that has nothing to do with religious beliefs or practices, it undoubtedly would be perceived by many

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<sup>28</sup> Couples who “marry” in ceremonies that are performed without benefit of a marriage license (often called “covenant marriages”) expose themselves to serious legal issues involving taxes, inheritance, property ownership, child custody and myriad other subjects. The participants in one such ceremony explained their views about marriage in an elaborate hand-out. See <http://www.carolinahliberty.com/handouts/CovenantInfoBook2.pdf>

Americans not only as an inconvenience,<sup>29</sup> but also as a wrenching and unwelcome change to a relationship that traditionally has been and continues to be seen as grounded in divine law. Many commentators worry that such bifurcation would cause many couples to view Holy Matrimony as a ritualistic optional “add-on” to marriage, rather than as a powerful spiritual experience that defines their relationship.<sup>30</sup> Although this certainly is a valid concern on the part of Christians and others who view “marriage” as something much more than a civil contract, it is not clear what, if anything, the Church can or should do to preserve the linkage between civil marriage and Holy Matrimony, given the powerful forces that are pulling them in opposite directions.

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<sup>29</sup> Such dual ceremonies are commonplace in France, Germany and other countries where only civil marriages are recognized as creating legal rights and privileges.

<sup>30</sup> See, e.g., “Marriage: Its Relationship to Religion, Law and the State,” by Charles J. Reid, Jr., published as Chapter 6 of *Same-Sex Marriage and Religious Liberty* (Laycock, Picarello and Wilson, ed. 2008). Professor Reid argues that the civil and religious attributes of marriage are so inextricably intertwined that any attempt to separate them completely would seriously devalue marriage as a cultural and social institution.

## SIGNING MARRIAGE LICENSES? YES.

Anne Hodges-Copple

From the first time I was asked to officiate at a service of Holy Matrimony, some twenty-odd years ago, I have felt great ambivalence about signing a state-issued marriage license. Such an action seemed an uncomfortable mixing of Church and State. As the years have progressed, the issues have become even more perplexing. Among my questions are:

- As a priest, if I sign a marriage license, issued by the county clerk, am I acting as an agent of the State?
- If I refuse to sign such a license have I afforded some greater of measure of justice to all couples who seek God's nuptial blessing?
- If I sign a marriage license have I privileged some married couples over others?
- If I decline to sign a marriage license will I give couples a great “teachable moment” about the importance of separation between Church and State?
- Do I need to protect the Sacrament of Marriage from the tarnish of the State's interference?

For years I have thought that since I do not have any desire to be an agent of the State, and since my signing of the legal document might appear to represent the authority of the State, then maybe I should just stop signing such documents as a matter of conscience, though with regret for the inconvenience it would cause. But I have changed my mind.

I don't know the exact number of weddings I've performed in the 22 years since my ordination, but it's a lot. I have a bulletin board covered with pictures of just married, happy couples. And not all of these couples have been parishioners. I am often called by engaged couples

new to the area, looking for an officiant even though they have not quite settled on a church. During my years as the Episcopal Chaplain at Duke, I was often called after a couple booked Duke Chapel, the florist and the caterer and realized they needed to “book” a minister. This is sometimes irritating, but it is also a great opportunity for bringing an engaged couple to (or back to) a deeper engagement with God.

My helping a couple prepare for marriage is for me both a great privilege and a solemn undertaking. It's a great opportunity for evangelism and formation.

One thing I tell couples is that the only authority to conduct a wedding I care about is the authority given me as a priest of the Church. I explain that if they invite me to help them prepare for marriage, that means we will be talking about Jesus, about covenants and about sacraments. I explain that I will not be telling them what they must believe, but what the Church teaches. If all they really need is a marriage license and someone to conduct the service with as little mention of God and religion as possible, then I am happy to help them find such a person. It just can't be me.

So I was not at all alarmed or perturbed when the questions about clergy signing a marriage license was brought up for discussion at the 2009 North Carolina Diocesan Convention. I began with an inclination toward moving away from signing licenses, but, after further reflection, I now believe I can continue to sign them in good conscience.

When I took the time to look over the North Carolina marriage license, I realized that all my signature does is to declare that a particular marriage ceremony took place at a certain time, in a certain place between the two specific people indicated on the license. By signing the marriage license, I am merely informing the county clerk that on this day, in this place, these two people participated under the terms and conditions established by our Church to become married in the eyes of God.

It seems to me, that if the State chooses to recognize this completely religious act as a marriage for their purposes, that's the State's business. In the case of marriage, unlike baptism, anointing, or confession, the State is willing to recognize my authority as a priest of the Church to

make such a declaration of marriage. It is the State that is willing to take my word (signature) for it and, thereby, also recognize the couple as married, for the purposes of the State of North Carolina. I am actually grateful that I can go about my business as a priest of the Church and spare the couples I marry the added burden of appearing in front of an actual agent of the State and making what they want to consider holy vows in what is in fact a secular context.

I believe we should appreciate the clergyperson's signing of marriage licenses as a benevolent opportunity afforded by the State which chooses to uphold as valid what we define marriage to be, in at least most, though maybe not all cases. My willingness to sign a marriage license provides legal protections to the persons I marry which benefits them, and which the Church itself could never begin to enforce. The fact is that marriage laws, at their best, are intended to protect both parties, and especially the most vulnerable parties. In fact, the legal difficulties raised by the prospect of divorce provides a kind of check against a couple seeking to break up when the going gets rough. Maybe not the most elegant or pastoral of checks, but a deterrent all the same. The legal protections also serve to enforce justice, when, for example, a breadwinner abandons his spouse and children and seeks to pay no support. We may wish the Church could provide such protection. We should confess our failures to do all in our power to support these two persons in their marriage. But we are not compromising ourselves to appreciate the role the State plays in protecting marriage partners.

In the case of those who seek only a religious covenant, one framed solely along sacramental commitments and without a legal documentation - I say, "be careful what you ask for." Who will become the arbiters of property, the protectors of children and other important issues when such marriages fail? The priest? The congregation?

Now, of course, I realize that not everyone is granted the legal protections and benefits of State-recognized marriage. I recognize that many wish that same-sex couples should be so included. I am one of those. As I see it, there is much hard and valiant work being done to see that the dignity and full humanity of LGBT people are completely respected by Church liturgy and polity as well as by civil law. But I don't believe the decision by an individual, a diocese or a national Church to

cease signing marriage licenses is a particularly effective way to achieve this goal.

## **Conclusion**

The State of North Carolina may not dictate to the Church how we are to celebrate our sacraments. State law does define the terms of marriage the state will accept. In the past state law did not recognize the marriage of an inter-racial couple, and the current laws do not allow for same-sex couples. That does not mean that such couples have not known the nuptial blessing of God, mediated by a member of the clergy. Now, clergy who perform marriage ceremonies without signing a marriage license do run certain risks, as do couples who choose to marry without a marriage license. Caveat emptor.

However, in the case of those persons who are now eligible to receive a marriage license, if the State chooses to accept my attestation that a service of Holy Matrimony has taken place according to the terms and conditions of the Episcopal Church, then I accept this as both a sign of the State recognizing my religious freedom to perform the rites of my Church. Moreover, by having the vows, blessing, witnessing and of the essential elements of the complex covenant and contract which is a marriage take place within the context of the Church community, we are protecting and upholding what we believe marriage to be over and against secular/statal concepts.

Of course the struggle is that the State is not yet prepared to recognize the unions of gay couples as marriages, while at the same time some of those couples seek the Church's blessing. Until the time comes, and I hope it does, when the State does recognize the unions of gay persons as marriages, I believe the Church is correct to pursue its pastoral sacramental responsibilities internally.

As Christians, we are citizens of the Kingdom of God first, but citizens of the State as well. The exercise of these two complimentary and sometimes conflicting citizenships takes discernment and courage. But, in the case of signing a marriage license, we can exercise both citizenships with integrity.



