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A Religious Argument for Same-Sex Marriage

Gary Chamberlain

The issue of same-sex marriage has resulted in a culture war at national, state, and local levels. President Bush, urged by conservatives, recently called for a constitutional amendment declaring marriage a union between a man and a woman.¹ In his State of the Union address on January 20, 2004, Bush stated, “If judges insist on forcing their arbitrary will upon the people, the only alternative left to the people would be the constitutional process. . . . Our nation must defend the sanctity of marriage.”² This statement reflects the views held by many Americans on the legal, moral, and religious sanctioning of same-sex marriage. At the very least, President Bush set the process in motion for a constitutional amendment banning same-sex marriage.

In his remarks, President Bush was alluding to the Massachusetts Supreme Judicial Court’s ruling in November 2003 that gave same-sex couples the right to marry. Currently, thirty-eight states and the Federal Government have enacted Defense of Marriage Acts (DOMAs) defining marriage as between a man and a woman.³ Ohio’s recent DOMA legislation even included restrictive measures barring state employees from receiving benefits for either gay or straight domestic partners.⁴ The Massachusetts Court’s clarification⁵ on February 3, 2004, of its earlier November ruling further raised the stakes in the battle over same-sex marriage, which will certainly affect the upcoming elections in November 2004.

While these arguments, rulings, and opinions are developed in legal, moral, and social terms, many of the arguments against same-sex marriage

rest on widely-held religious perspectives, particularly within the Christian tradition. Although the positions of those opposed to same-sex marriage are couched in terms of “rights,” “Defense of Marriage Acts,” and even constitutional language, a fundamental view of marriage as a “sacred bond” between men and women lies beneath the surface of these perspectives. The word “sacred” adds an entirely new dimension to the discussion, and alters the grounds of interpretation. In this discussion, I will focus on arguments in favor of same-sex marriage through an examination of the history of marriage in the Christian tradition, an analysis of the contemporary situation, and an argument for same-sex marriage as a sacramental “sacred bond.”

In the public debate over same-sex marriage, Christian religious reactions have been as prominent as legislative responses. The Episcopal Church is still torn by the election and ordination last November of an openly gay priest, Reverend Gene Robinson, as Bishop of New Hampshire. Bishop Robinson noted that his ordination is “not about me,” but “about so many other people who find themselves at the margins.”⁶ The state’s current bishop, Douglas Theuner, heralded Bishop Robinson: “Because of who you are, Gene, you will stand as a symbol of unity in the church in a way none of us can.”⁷ At the same time, Bishop David Bena of Albany, New York, spoke for thirty-six dissenting bishops from the United States and Canada: “It is impossible to affirm a candidate for bishop and symbol of unity whose very consecration is dividing the whole Anglican communion.”⁸ Bena stated that Bishop Robinson’s lifestyle was “incompatible with scripture and the teaching of this church.”⁹

Within the Roman Catholic Church, the Vatican recently published a document arguing forcefully against any legal recognition of same-sex unions, particularly marriage. The document, entitled “Considerations Regarding Proposals to Give Legal Recognition to Unions Between Homosexual Persons,” does not put forth any new arguments, but instead reiterates the Church’s traditional positions opposing same-sex relationships

and upholding marriage as a sacramental union between a man and a woman. The arguments focus on: the “order” of sex acts to issue in (or be open to) procreation; marriage as a social institution designed to promote the common good through regeneration of society; and the dire consequences of social degradation that would follow the legalization of same-sex unions.¹⁰ Then, in September 2003, the U.S. Catholic Bishops’ Conference supported a federal marriage amendment to the Constitution.¹¹

Attempting to find a middle ground in the debates surrounding the issue of civil unions for same-sex couples in the Massachusetts state legislature in October 2003, Catholic Bishop Daniel Reilly argued for public benefits for those in non-traditional living arrangements. His position surprised many in the Catholic, as well as other Christian, communities. In arguing for distributive justice, Bishop Reilly distinguished between legal recognition of civil unions or same-sex marriage, which, he reiterated, the Catholic church strongly opposes, and access to the benefits that come with traditional marriage: “[s]ome argue that it is unfair to offer only married couples certain socio-economic benefits. That is a different question from the meaning of marriage.” Bishop Reilly went on to say that the Civil Union Bill “alters the institution of marriage by expanding whom the law considers to be spouses. Let’s not mix the two issues.”¹²

What is interesting about these positions on the nature of marriage, sex within marriage, and the consequences of same-sex marriage is the climate of fear they create and foster. For example, the Vatican document repeats the Congregation for the Defense of the Faith’s 1986 position on homosexuality: not only are homosexual acts considered morally wrong,¹³ but the homosexual condition itself is thought to be intrinsically disordered. The current Vatican document proceeds to focus entirely on the issues surrounding same-sex marriage, arguing that the “toleration of evil” in society is one thing, while “the legalization of evil is something far different.”¹⁴

Although fine legal and moral arguments have been made about the ahistorical understanding of the “nature” of marriage, the poor anthropology that adopts Western standards of marriage between one man and one woman, and the reductionist, literal use of scripture in these religious discussions, I will focus on historical and contextual factors.

MARRIAGE IN HISTORICAL CONTEXT

Marriage has assumed a variety of forms throughout history and in different cultures. Polygamy is still widely practiced in parts of Africa, and the traditions of the Hebrew Bible reveal a variety of marriage forms. In the early years of the Christian tradition, the church formally had little to do with the legality of marriage, focusing instead on the liturgical aspects of marriage that reflected the forms of the Roman Empire.¹⁵ Arguments that scripture and tradition affirm the holy nature of marriage as a union between one man and one woman simply cannot stand in light of the biblical and historical evidence.

It was only between the seventh and twelfth centuries that “Church authorities gained control of Europe’s marriages.”¹⁶ Even then, the church’s interests were primarily legal in nature. Clandestine marriages and men seeking divorce by feigning adultery were central concerns. Debates raged for centuries over the need for consent as the defining characteristic of a marriage, the nature of marriage as a sacrament, and the consequences of divorce.¹⁷

The conflict between Roman and Germanic traditions led to more church control of marriage; issues of what constituted marriage—and what constituted a sacrament of marriage—were gradually resolved over time.¹⁸ In the Catholic tradition, it was only in the late twelfth and early thirteenth centuries that marriage came to be viewed as one of the church’s seven sacraments.¹⁹ By contrast, three centuries later the Protestant tradition desacramentalized marriage.²⁰

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And finally, it is noteworthy that as late as the sixteenth century, the primary component of marriage was not procreation, but rather the “conjugal and legitimate union of man and woman, which is to last during life.”²¹ Only in the seventeenth to nineteenth centuries was this goal “pushed off into secondary consideration” and replaced by the primary goals of “procreation and nurture.”²² As this brief synopsis reveals, the meaning of marriage, as both institution and religious ceremony, has changed over the centuries, and many questions about its meaning remain unresolved to this day.

CONTEMPORARY PERSPECTIVES

Today, at least in most Western countries, marriage is regarded as a union of two people in a committed, faithful, long-lasting relationship. Some basic foundation supporting such a committed relationship between gay or lesbian persons who make similar pledges seems to exist in the United States. There is evidence that some 50 percent of gay men and 70 percent of lesbian woman are currently in such committed relationships.²³ In addition, contrary to the concerns of political conservatives and church leaders, a legal recognition of same-sex marriage would promote the “compelling state interests” of increasing stability, reducing discrimination, and strengthening the family.²⁴

Legislators, religious leaders, and the Vatican, among others, maintain that such recognition would undermine the meaning of marriage and harm the common good. I argue, however, that the recognition of same-sex marriages would undo stereotypes of gays and lesbians as promiscuous or unable to enter into and sustain long-lasting relationships. These stereotypes only contribute to the social and cultural forces that discourage gays and lesbians from being open about their relationships. The visible stability of same-sex marriages could conceivably reduce prejudice, as well as social, political, and economic discrimination against gays and lesbians. Consequently, same-sex marriages could contribute to the common good by

encouraging people to embrace all members of society, and not just the heterosexual majority.

The Vatican document further argues that one of the main purposes of marriage is the procreation and education of children. Furthermore, according to this argument, adoption into a same-sex family “would be violent for the children, as it would deprive them of a proper environment for their full human development. . . . Married couples ensure the succession of generations and, therefore, are eminently within the public interest.”²⁵

Given the diversity of families in the United States and elsewhere in the West, as well as the decision by millions of married heterosexual couples not to have children or to adopt, it would seem that gay and lesbian couples can and do provide a proper environment for child rearing. Many states encourage gay and lesbian couples to adopt hard-to-place children, although Florida passed legislation prohibiting such adoptions.²⁶ In addition, there is no evidence that children reared by gay or lesbian parents suffer in any way. Legal recognition of same-sex unions as marriages would both provide children with extra social securities and guarantee the rights of adoptive parents.

The Vatican’s statement also ignores the realities of contemporary forms of sexuality. In today’s society, “the overwhelming majority of sexual intercourse is knowingly, consciously and deliberately non-procreative.”²⁷ Whether in practice or in theory:

[i]f procreation of children is no longer the primary end of sexual intercourse in marriage, the prohibition of same-sex unions seems superfluous. Same-sex relationships possess the same capacity for love as do heterosexual romances. In fact, aspects for the mutuality and equality operative in gay and lesbian couples at their best could well be a model for heterosexual couples that still labor under a dominant/submissive model.²⁸

As long as marriage is afforded certain privileges and rights, such as inheritance, tax advantages, employee benefits, hospital visitation as family members, the transfer of assets, Social Security spousal benefits, the role of full parents, and other political and legal rights, then basic demands of justice compel the legalization of same-sex marriage. It is unjust to withhold privileges and rights from a couple who exhibit the same devotion, commitment, and fidelity as a heterosexual couple.

RELIGION AND THE SACRAMENTAL

Finally, a separate discussion involves marriage as a “sacramental” religious institution. A large part of the current debate surrounding same-sex marriage involves fundamental differences in religious perspectives on marriage. While only the Catholic tradition among the Christian churches recognizes marriage as one of its seven sacraments, all Christian traditions view marriage as sacramental. Marriage and other sacraments, such as Holy Orders, reconciliation, and anointing, are “rites of passage” that have existed in cultures worldwide for centuries. In the Christian tradition, a “sacrament” refers to a sign of God’s visible presence among us. What ceremony or ritual better reflects the nature of God than the tradition of marriage—a symbol of God’s unconditional love for us, and of our faithful pledge to love God?

If the same existential reality of love and commitment exists between same-sex couples as exists between heterosexuals, then it would seem such a union could be called “sacramental” at the very least. As Jack Dominican notes, the “inner world of richness” of sexual intimacy that fosters such deep “personal affirmation . . . reconciliation . . . sexual affirmation . . . hope . . . [and] thanksgiving . . . needs marriage.”²⁹ According to theologian Eugene Rogers, the analogy of same-sex relationships should not be to opposite-sex unions, but rather more profoundly to the relationships between God and Christ, and Christ and the Church:

Marriage, gay or straight, receives its sacramental character not independently but from the welcoming of the flesh . . . into the eucharistic community.³⁰ . . . Gay and lesbian relationships must exhibit not only the spiritual fruits of faith, hope, and charity, but must also exhibit them in sacramental form. Just as marriage gives form or rule to the sanctifying possibilities of heterosexual sex, so gay and lesbian people need sacramental forms.³¹

Therefore, unions that reflect and take part in marriage, as described above, are fully sacraments.

In summary, the social changes reflected in recent court and legislative decisions, as well as the turmoil in public opinion and the Christian churches, as demonstrated by the Vatican Congregation's document, offer fresh opportunities to examine marriage in a more realistic and authentic manner. Marriage should be a choice available to any couple—regardless of sexual orientation—who desires a committed, long-lasting relationship. The freedom of gay and lesbian couples to make this choice would indeed promote the common good, contribute to the flourishing and well-being of the social order, and reflect the religious view of marriage as a reflection of a God who is love.

The recognition of same-sex marriage as a legal, moral, and religious reality helps conserve the dynamics of what is meant by a “marriage union” and promotes the recognition of human relationships with full respect and dignity. Not only the legalization of same-sex marriage, but also its promotion and blessing in religious communities, would provide stability and support for the rich and rewarding relationships of faithful and committed couples.

¹ *Bush Proposes Constitutional Ban on Gay Marriage*, WASH. POST, Feb. 29, 2004, at A3.

² President George W. Bush, State of the Union Address (Jan. 20, 2004), available at <http://www.whitehouse.gov/news/releases/2004/01/20040120-7.html>.

³ Pam Belluck, *Massachusetts Gives New Push to Gay Marriage*, N.Y. TIMES, Feb. 5, 2004, at A1.

⁴ *Id.*

⁵ Opinions of the Justices to the Senate, 802 N.E. 2d 565 (Mass. 2004) (clarifying the court's earlier ruling in *Goodridge v. Dep't of Pub. Health*, 798 N.E. 2d 941 (Mass. 2003)).

⁶ Kevin Eckstrom, *Fractures Apparent at N.H. Ordination*, NAT'L CATHOLIC REP., Nov. 14, 2003, at 5.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Considerations Regarding Proposals to Give Legal Recognition to Unions Between Homosexual Persons*, CONGREGATION FOR THE DOCTRINE OF THE FAITH, June 3, 2003, ¶¶ 2–5 [hereinafter *Considerations Regarding Proposals*].

¹¹ *Bishop Brings Reason to Issue of Gay Benefits*, NAT'L CATHOLIC REP., Nov. 7, 2003, at 24.

¹² *Id.*

¹³ *Considerations Regarding Proposals*, *supra* note 10, at ¶ 4.

¹⁴ *Id.*

¹⁵ JOSEPH MARTOS, *DOORS TO THE SACRED* 358 (1991).

¹⁶ THEODORE MACKIN, *THE MARITAL SACRAMENT* 251 (1989).

¹⁷ *Id.*

¹⁸ MARTOS, *supra* note 15, at 372.

¹⁹ *Id.*

²⁰ *Id.* at 373–74.

²¹ THEODORE MACKIN, *WHAT IS MARRIAGE?* 198 (1982).

²² *Id.* at 201.

²³ Brent Hartinger, *A Case for Gay Marriage: In Support of Loving & Monogamous Relationships*, COMMONWEAL, Nov. 22, 1991, at 681–83, reprinted in *PERSPECTIVES ON MARRIAGE* 131 (Kieran Scott & Michael Warren eds. 1993).

²⁴ *Id.* at 134.

²⁵ *Considerations Regarding Proposals*, *supra* note 10, at ¶ 9.

²⁶ FLA. STAT. ANN. § 63.042(3) (West 2003).

²⁷ Jack Dominian, *Sex Within Marriage*, in *SEXUALITY AND THE SACRED* 264, 265 (James B. Nelson et al. eds., 1994).

²⁸ Jean P. Soto, *The Church and Marriage: Looking for a New Ethic*, in *MORAL ISSUES AND CHRISTIAN RESPONSES* 58 (Patricia Beattie Jung & Shannon Jung, eds., 7th ed. Wadsworth 2003).

²⁹ Dominian, *supra* note 27, at 270.

³⁰ EUGENE F. ROGERS, JR., *SEXUALITY AND THE CHRISTIAN BODY* 242 (1999).

³¹ *Id.* at 248.