

AUSTRALIAN EVANGELICAL ALLIANCE



**SAME-SEX RELATIONSHIPS
AND THE LAW**

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SUMMARY

A: A Discussion of Same-sex relationships and the Law

This paper discusses the Biblical, social and legal aspects of the debate about same-sex unions in the light of recent state, territory and federal legislative changes and proposals.

A Christian consideration of the issues involves support for two sets of convictions:

- The promotion of a biblical view of marriage and family in society
- The necessity to act justly for all, irrespective of their beliefs.

The possible options include:

1. *A redefinition of marriage* to include same-sex couples.
2. *The creation of civil unions* as an alternative, to be treated as marriage in every way.
3. *Relationship registration* which allows for recognition of a range of relationships (including same-sex relationships).
4. *Piece by piece modification of legislation*: achieving justice with regard to financial and other matters for same-sex couples by modifying individual pieces of legislation.
5. *Lifestyle demonstration*: the implications of the fact that church is called to demonstrate a biblical model of marriage and family.

The paper concludes

- that the re-definition of marriage to include same-sex unions, and the creation of civil unions as an alternative to marriage are both inappropriate.
- that the creation of a relationship register (which is not seen as an alternative to marriage) is an appropriate way of handling certain issues of justice relating to a variety of relationships, and possibly more effective than the alteration of individual pieces of legislation.

- that what is of primary theological importance, however, is the life of the church which is to live out marriage and family relationships in a positive and healthy manner in a context where justice is done for all.

B: A Statement on Marriage and Family

Marriage is defined primarily as a social institution. It is recognised by all the world's major religions, and all cultures and societies have from time immemorial recognised marriage as the union of male and female.

The Christian view of family and marriage is based upon an understanding of God's intentions for people as expressed in the scriptures and founded on the biblical account of the creation of man and woman. Marriage involves (1) a publicly recognised covenanting together for life, (2) between a woman and a man who live together in a relationship, (3) characterised by a commitment to love and nurture (4) sustained by fidelity, and (5) for the purpose of lifelong companionship, mutual interdependence and responsibility for each other, and potential procreation. (6) It is a symbolic of God's relationship to his people and Jesus Christ's relationship to his church. A family is a kinship group related by blood, marriage or adoption. It is within the covenantal bond of husband and wife that children are born and raised, cared for, and spiritually nurtured.

In public policy, governments have recognised the important role and unique needs of marriage and family, and have maintained a distinction and afforded differential treatment to marriage and family, as compared to other forms of cohabitation. It is in the interest of society and of government to promote healthy family structures through a recognition of their distinctive nature and role in society.

SAME-SEX RELATIONSHIPS AND THE LAW

The Situation

‘What’s in a name?’ Quite a lot when it concerns whether a ‘civil union’ is the same as a ‘significant relationship’ and whether either of those is the same as a ‘marriage’ as commonly understood and regulated under Commonwealth legislation.

Recent legislation passed in the ACT creates a civil union which, according to attorney-general Simon Corbell, is ‘different to a marriage but is to be treated in the same way as a marriage’. You can be excused if it seems confusing to say that something which is not marriage is to be treated exactly as though it were marriage. If something swims, flies, waddles and quacks it is probably a duck even if the owner calls it a dog. Consequently, the Federal Government has announced its intention to over-ride the ACT legislation on the basis that a civil union is marriage under another name. Apart from any philosophical or moral considerations it makes absolutely no sense for Australia to move to a situation where states and territories have different definitions of marriage. This would produce a chaotic situation for married people, children, many pieces of legislation and a whole range of social situations.

This legislation is related to broader questions about the adequacy of existing social relationships. The situation is made more complex by the presence of legislation concerning other forms of relationship. There are different interpretations as to what Tasmania’s Relationship Act 2003 (which creates a category of ‘significant relationship’) and the ACT’s legislation actually achieve. Some argue that the Tasmanian legislation effectively allows for same-sex marriage in the same way that the ACT legislation does, while others see significant legal and moral differences between significant relationships, civil unions and marriage.

Two significant facts

The presence of a variety of positions among Christians should not be allowed to disguise two significant facts.

- The first is that *churches are, in the main, strongly opposed to the creation of any form of same-sex relationship which has the same social or legislative standing as marriage between a man and a woman.*
- The second is that many, who retain a strong commitment to marriage as it currently understood, *also have a real concern for justice for same-sex couples in long-term relationships* and do not automatically oppose all forms of registered relationships.

Two fundamental convictions

A Christian consideration of the issues involved in dealing with these issues involves support for two sets of convictions.

The first involves *promoting a biblical view of marriage and family in society.*

- This means having a strong commitment to supporting a range of beliefs upholding marriage as a relationship between a man and woman; retaining a Biblical understanding of family; and affirming that it is best if children are brought up with a mother and a father.

- This usually means believing that civil law is appropriately used when it gives social and legal preference to marriage and behaviours associated with a Christian understanding of marriage and family.¹ Legislating to encourage certain forms of relationship for the community good ought not be seen as inappropriate. It is an approach taken by virtually all people except anarchists. The question to be determined corporately is exactly what is best for society.

The second involves *justice for all irrespective of their beliefs*.

- This involves a desire to recognise the rights of those who take an alternative view. There are situations where same-sex couples need to be protected and to have various financial and property rights. It should be obvious that individuals do not lose all rights by virtue of taking a stand contrary to that of the Christian faith. For example, as part of a long-term, committed same-sex relationship a lesbian woman cares for her dying partner. But after the death of her partner legal action taken by the dead woman's family to contest aspects of the will succeeds because of the lack of any formal relationship between the couple. In this, and many other situations, there is a justifiable need for the law to be involved.
- This view is often associated with the recognition that the law cannot and should not control everything. It cannot make people good or behave in every way that others may desire. This is part of living in a democratic and pluralist society. Legislation concerning marriage or any other activity, ought not be oppressive. There is a need to protect individuals while ensuring that their freedom does not adversely affect others, especially those less able to speak for themselves.

Two views of 'justice'

At the heart of the issue here is the definition of 'justice'. It is necessary to avoid two very different problems.

- The first suggests that 'justice' means *allowing people to do anything that they want*.
- The second suggests that 'justice' means *preventing, and perhaps punishing, people for doing anything and everything of which God disapproves*.

The first mistake is the tendency of our contemporary, liberal, democratic, pluralist culture to treat justice as a diminished form of equality which believes that any form of 'discrimination' is 'unjust'. So justice means 'treating everyone in exactly the same way' which really means 'allowing everyone to do and have whatever they want' providing that they do not hurt another individual. Potential 'hurt' is usually defined in very narrow, individualist terms, rather than in terms of what is good for a society. Ironically, this actually becomes the *absence* of any real 'justice' or 'judgment': there is little or no social 'judgment' on what is helpful for a society.

This is illustrated in the way that the word 'discrimination' has changed its meaning since the advent of various anti-discrimination acts of parliament. In common usage the word 'discrimination' has taken on pejorative overtones and has come to mean more than merely the process of 'differentiating' and is now automatically taken to mean 'to differentiate *unjustly*'. All such 'judgment' is thus viewed pejoratively even though, in fact, every society, in various ways, legally preferences certain states and behaviours.

There is a real need to *discern* what is socially helpful and what is not, and then, as far as possible, to socially and sometimes legislatively *differentiate* between them. This is consistent with a

¹ For more detail on the biblical understanding of marriage and family see EA's 'Statement on Marriage and Family' which follows.

biblical notion of justice which has strong associations of ‘differential treatment’ according to need and situation. Scriptural justice is not defined primarily either in *individual* terms or in *abstract* terms of fairness or equality, it means very practical, down-to-earth actions which take place to ensure that the weak are protected from abuse, that the poor have what they need, the stranger in the land is shown hospitality and that the socially disadvantaged are cared for. There is then, a need for every society to ‘discriminate’ in a positive sense and determine what is right socially and corporately - and not just personally and individually.

This does not mean that individuals do not have rights, but it also means that individual rights (in the sense of giving everyone, and every group, everything they want) are not absolute. There is a legitimate and ‘just’ discrimination in terms of certain social structures and relationships. The idea that ‘justice’ prevents a society from ‘differentiating’ in terms of relationships is thus a general mistake, and so making the specific judgment that marriage should remain as a relationship between a man and a woman is not an inappropriate one. It is a judgment that can be made on the basis of the corporate good of society,

The second mistake is almost the opposite of the first. It assumes that it is the responsibility of Christians to persuade the state, as far as possible, to only enact legislation which is in line with behaviours appropriate for Christians, which non-Christians should live by. Justice means passing a negative judgment on non-Christian behaviours including the practice of homosexuality. There is no biblical justification, it is argued, for homosexual behaviour and therefore no need to protect the rights of those who engage in that behaviour.

If the first mistake is to do too little, this mistake is to go too far. It assumes that ‘judgment’ in the present, through legislation and the courts, is the same as God’s ultimate judgment. But these can never be exactly the same while we live in ‘the present age’, in the tension between the reality of this world and the future kingdom of God. Doing justice in this present situation means at least three things.

Firstly, it means applying the words of Jesus, ‘do to others as you would have them do to you.’ Christians who believe that existing as a minority in a democracy ought not preclude being allowed, as far as is possible, to practice their personal and social religious beliefs, ought to offer the same liberty to others. A failure by Christians to preserve, as far as possible, the freedom of conscience of others while claiming the same liberty for themselves is inappropriate.

Secondly, it means not trying to make the law do what it cannot. There is an important and well-known theological principle here. It is the recognition that in the Christian life obedience to the law is inadequate for salvation because the law can never ‘make us good enough for God.’ At this point the law fails and salvation only comes through grace. This theological principle has an application in social life as well. It would be inconsistent for Christians to try and use the law to do what it cannot. The law can help prevent injustice and it can punish certain behaviours. But the law will not make anyone good. It will not, for instance, prevent homosexual behaviour and should not be used to try and do so.

This is not unrelated to the situation with regard to divorce. The Bible clearly expresses God’s displeasure with the breakdown of a marriage relationships and with divorce. Yet it is permitted in certain circumstances due to our hardness of heart (see Deuteronomy 24:1-4; Matthew 19:8-9). There is a biblical precedent for laws even when based on sinful circumstances.

Thirdly, it means caring for all people. Everyone is made ‘in the image of God’. All people deserve love and care. If a way can be found to help those who find themselves the victims of injustice then Christians ought to act. There are situations, for example, where homosexual people

find themselves the victims of domestic violence and need protection orders, something that may be facilitated by legislative recognition of their situation.

In between the extremes of not using the law sufficiently (on the basis of a defective view of justice as 'giving everyone what they want') and over-using it (on the basis that present judgment ought to be the same as God's ultimate judgment) there is scope for discussion about the particulars of the way that Christians should seek to influence the law in a pluralist, democratic society. This is not an easy issue and it is unlikely that there will be complete agreement.

The options

What approaches can be adopted in the present situation which would reflect a biblical view of marriage while, at the same time, give justice to all? Following are five options. The first four relate to specific policy positions regarding the legal situation which, generally, are distinct alternatives. This paper will argue that some of these four options are preferable to others.

The fifth option is a specifically Christian one, concerning the life of the church. It is not so much an alternative as an additional approach, one which most Christians would enthusiastically embrace alongside one of the more acceptable of the first four options.

However, it should be noted that for some Christians the fifth option is so important that it almost becomes an alternative to the first four.

1. Redefinition of marriage. Changing the definition of marriage to include same-sex couples is one proposal. For example, in 2004 Canada redefined marriage to include same-sex couples. However, in the same year the Australian federal government (which has the sole constitutional right to make laws about marriage) deliberately moved to prevent this and legislatively clarified the common law definition of marriage so that 'marriage means the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.' This clarification is consistent with the longstanding and widespread understanding of marriage and from a Christian point of view it is theologically appropriate.²

Any attempt to re-define a long-standing social and religious institution like marriage to include 'same-sex marriage' cannot be defended as a human right. Marriage is not a recent invention or a form of relationship found only in one culture. It is not just a word that can be re-defined in a variety of ways in different pieces of legislation. It is not the possession of politicians and law-makers and cannot be altered as though it was Rule 77(b) in the Football Rules of Play. Marriage was defined and established and has contributed to society over millennia precisely as a relationship between two people of opposite sex and an alteration to include same-sex marriages would contradict one of the basic principles on which it is founded. Changing the definition of marriage is not a desirable approach.

2. Civil unions: Another option means either states, territories or the federal government introducing legally recognised same-sex 'civil unions' as an alternative to marriage. This is the approach being taken in the legislation of the ACT government. Civil unions, as described in this way, are exclusively for people unable to marry under the federal Marriage Act – therefore this legislation is specifically for homosexual couples. But the point has already been made that if it is treated in exactly the same way as marriage then it is, in reality, a marriage. Thus, the objections noted in (1) above apply here also. Consequently, it is argued that the Federal Government should continue to over-ride any aspects of legislation concerning civil unions in states or territories which

² See the 'Statement on Marriage and Family' for notes on the way marriage is not primarily or originally a legal construction or possession, and for more on the biblical basis of a Christian understanding of marriage.

contradicts the concept of marriage as a union of a man and woman. If state legislation alters the definition of marriage then it has overstepped its constitutional limits and strayed into an area controlled by the federal government.

3. *Relationship registration*: The Tasmanian Relationships Act 2003 represents a third approach. It recognises two sorts of 'personal relationships':

- a 'significant relationship' between two adult persons who have a relationship as a couple (and who are not married to each other or related by family). This can be between a homosexual or a heterosexual couple.
- a 'caring relationship' between two adult persons (whether or not related by family) one or each of whom provides the other with domestic support and personal care (and who are not married or in a 'significant relationship')

Various legal rights are attributed to those in a 'personal relationship', relating to such issues as the ability to apply to a court for an order for property interests to be adjusted or maintenance to be paid; for the distribution of public sector superannuation funds and the right to apply for the adoption of a child who is already the child of one of the couple.

In the Tasmanian situation there are various differences between 'personal relationships' and both marriage and civil unions. While the relationships can be registered there is no ceremony associated with them; they are specifically distinguished from marriages and not seen as an alternative to marriage (in the way that civil unions are). After several years of this legislation being in force there has never been any suggestion that it is equal to marriage. Although same-sex couples can form these relationships they are more comprehensive and involve other forms of relationships as well.

The Opposition in the ACT parliament presented a similar form of 'relationship' legislation to counter the government's civil union bill, but it was defeated. A number of Christian churches and groups supported the relationship legislation. It is a means of offering justice on legal, financial, property and security matters for people in such relationships without altering the fundamental concept of marriage and family. It may also limit the push for further recognition of same-sex relationships as there are many same-sex couples who simply seek legal protection of various entitlements and who do not want to restructure notions of marriage and family.

Some, however, regard this as another version of a civil union which will create an alternative to marriage. There is also no doubt that some in favour of normalising same-sex relationships in law will promote this as an equivalent to marriage and will conduct their own ceremonies to go with it. There is nothing in law that can or should stop individuals and couples from living together, conducting ceremonies and if they choose to call this a form of 'marriage' in common, social discourse then that will be the situation (though in legal contexts the use of the term 'marriage' would be wrong). Although this may happen in association with relationship style legislation it is not, however, something that is brought about by this legislation. It is something that will happen anyway and is simply an implication of living in a free society. The legal definition of marriage need not be affected by this.

Christian support for this form of personal relationship legislation is appropriate. It provides some security and justice for various relationships (including same-sex relationships) without directly altering the common view of marriage and family.

But it must be recognised that such an approach is not problem-free. Some regard this form of registration as simply the thin end of the wedge with regard to larger social changes. And that may be right. As noted above, the Tasmanian legislation, for example, allows relationship partners to

adopt the biological children of their partners and further pressure to extend adoption rights is to be expected. However, this, and other pressure, is likely whether relationship registration or civil union legislation is introduced or not. In fact, same sex adoption was legal in West Australia and the ACT before the passing of any relationships registers or civil unions.

4. Piece by piece legislative modification: Another way of achieving justice with regard to financial and other matters for same-sex couples is to individually modify various pieces of legislation. In NSW changes to the Compensation Act, the Victims Compensation Act and the Criminal Procedures Act (amongst others) make reference to same-sex couples and allow compensation previously only due to heterosexual couples and allow victims of violence to take out domestic violence orders. This is also an appropriate approach to the justice issues. But, again, this is not to say that it will be a straightforward approach, and there is no doubt that there will be continuing debate especially about family and child related issues. Some would argue that amendments to other pieces of legislation to provide some legal entitlements to same sex couples are suitable as long as marriage itself is not extended to them. Others will say that each modification of existing legislation represents the erosion of marriage's privileged place in society and will eventually result in the loss of marriage itself.

5. Lifestyle demonstration: Christians are to be concerned about the nature of society as a whole, but in addition to that there ought to be no debate about the fact that Christians are called to live their own lives as individuals and as members of the church in a godly manner. The church is definitely called to demonstrate a biblical model of marriage and family. This will involve positive teaching and a healthy demonstration of marriage based on a relationship between a man and a woman. It will also include reference to the inappropriate nature of homosexual relationships and will also note that there is perhaps an even greater cause for concern about social, family relationships in terms of the many breakdowns in relationships between married, *heterosexual* couples. If Christians are concerned about marriage it is certainly essential for the church to demonstrate the possibilities for strong, healthy, life-affirming relationships and to address all the problem areas related to that.

This option is in a somewhat different category to the preceding four options which have all involved some form of public policy option for the *legal* recognition of same sex relationships. This present point is more about the personal witness of a Christian life and the corporate witness of the church and as such is not necessarily 'an alternative approach'. It can operate along with one or other of the previous stances and, indeed, should always be present and should be viewed as *the primary responsibility* of the church.

It is so primary that it possible for some Christians to argue that it can become an actual *alternative* to the other positions. That is, the life of the community is of such importance that further commentary on what the rest of society does may be seen to be superfluous. Christians certainly perceive their social responsibilities differently and some will be less activist in regard to changing social structures than others. This view does not necessarily derive from spiritual laziness but out of a strong conviction that the church must focus on its own life. It can be argued that the best thing that the church can do to change the world is to be the church.

In the present Australian situation a Christian pastor or priest who celebrates a wedding within a Christian service usually acts simultaneously as a civil servant of the government. But having *legal* and *Christian* definitions and practices operating hand in hand in this way is not the universal situation. There have been times when Christian marriage has been celebrated and lived out separately from the rituals, beliefs and legal niceties of the rest of society. And Christians have been comfortable with that and have been content to let the life of the church speak for itself without seeking to impose any view on the world. This can be, even for those who take a different

view, a powerful reminder that bringing in the kingdom of God is not within human control. Some would not be uncomfortable with a return to the situation where the life of the church is seen and understood independently of the life of the world.

It is probably fair to say, however, that in the present Australian context this view is a minority one. More Christians are involved in seeking to do the very best for the world in which they live by actively promoting views of life which are perceived as healthy and life affirming precisely because they are congruent with God's ways. The promotion of positive relationships is seen as an important part of a Christian's responsibility and this includes endeavouring to ensure that both Biblical marriage and Biblical justice are worked out in legal processes.

Conclusion

This paper has theologically reviewed the possible options which lie before the church with regard to same-sex unions.

- It has argued that both the re-definition of marriage to include same-sex unions, and the creation of civil unions as an alternative to marriage are inappropriate.
- It has also suggested that the creation of a relationship register (which is not seen as an alternative to marriage) is an appropriate way of handling certain issues of justice relating to a variety of relationships, and possibly more effective than the alteration of individual pieces of legislation.
- What is of primary theological importance, however, is the life of the church which is to live out marriage and family relationships in a positive and healthy manner in a context where justice is done for all.

STATEMENT ON MARRIAGE AND FAMILY

1. Cultural and social definition of marriage

Marriage is of critical importance as a social institution. Not everyone will marry but everyone is the child of a relationship between two people of the opposite sex. While the primary responsibility for the health and strength of individual lives and for marriage and family relationships does not lie with legislators, nonetheless lives and relationships can be helped, protected and enhanced by appropriate legislation. But it must be recognised that marriage is not a legal construction or possession. Marriage is a pre-existing social and, primarily, religious institution recognised by all major religious faiths and groups as existing uniquely between a man and a woman and it has only relatively recently been recognised by legislation.

All the world's major religions, and all cultures and societies have from time immemorial recognised marriage as the union of male and female. According to Rabbi David Novak,

“Jewish tradition teaches that marriage is a natural institution that religious traditions have elevated to the level of the sacramental without, however, changing its earlier pre-religious character. Judaism, Christianity, Islam and others, have reserved and protected a pre-existing institution that they did not invent. Each religious tradition believes that they have the right to insist that the state not radically redefine an institution that the state did not invent.”³

Islam also understands marriage to be fundamentally an opposite-sex union. Abdalla Idris Ali made the following statement about the significance of marriage in Islam.

‘We believe that a husband and wife are two pieces of the same whole and will not be spiritually fulfilled until they have united in pieces of the same whole and will not be spiritually fulfilled until they have united in marriage. Islam teaches us that a marital unit made up of a man and a woman is the best environment in which to raise children. We believe in the complementarity of parenting between the sexes.’⁴

World religions, each from their respective theologies and traditions, understand marriage to be in its essence the union of male and female. Each religion has, in its distinctive way, understood marriage to have religious significance. Yet the unitive understanding of the structure of marriage is not exclusively religious. It is shared by societies and cultures throughout the world and throughout time.

Dr. Katherine Young, professor of religion at McGill University, has done an extensive survey of small scale world cultures and religions (representative of large-scale cultures). Prof. Young and her research team found that the requirement that marriage partners be of the opposite sex is one of the core universal features of marriage across cultures and religions.

‘From my study of world religions (such as Judaism, Confucianism, Hinduism, Islam, and Christianity) and the worldviews of small-scale societies, I conclude that this institution (marriage) is a culturally approved opposite-sex relationship intended to encourage the birth (and rearing) of children, at least to the extent necessary for the preservation and well-being of society. As such, marriage is a universal norm.

From my comparative study of the world religions and the worldviews of small-scale societies I have also concluded that the following features of marriage are universal. Marriage is supported by authority and incentives, it recognizes the interdependences of maleness and femaleness; it has a public dimension; it defines eligible partners; it encourages procreation under specific conditions; and it provides mutual support not only between men and women but also between men and women and their children (the sharing of resources, apart from anything else, or transmission of property).

³ Interfaith Coalition for Marriage, *Halpern v. Ontario*, Ontario Divisional Court, para. 26, 28.

⁴ Abdalla Idris Ali, Director of the Center of Islamic Education in North America, in ‘Affidavit of Abdella Idris Ali’ *EGALE v. British Columbia*, para. 8-9.

Same-sex relationships are indeed worthy of respect. But “same-sex marriage” is an oxymoron, because it lacks the universal, or defining, feature of marriage according to religious, historical, and anthropological evidence. Apart from anything else, marriage expresses one fundamental and universal human need: a setting for reproduction that recognizes the reciprocity between nature (sexual dimorphism)⁵ and culture (gender complementarity).⁶

Marriage is not merely a religious institution. The uniqueness and important of marriage has been recognised by all societies. There is no known society which has consistently endorsed marriage between persons of the same sex as a norm.

2. Christian view of marriage

The Christian view of family and marriage is based upon an understanding of God’s intentions for people as expressed in the scriptures and founded on the biblical account of the creation of man and woman. Genesis 1 and 2 state that God created woman in response to man’s need for companionship as well as for a partner to carry out the mandate given by God in Gen. 1:28; “Be fruitful and increase in number; fill the earth and subdue it.” Thus marriage was established for the purposes of companionship, partnership in the task of procreation and for the fulfilling of a stewardship responsibility for the earth. It is the relationship upon which human society is founded and it is a biological psychological economic and social union.

The union of a man and a woman is the only physical relationship which can beget children and the covenantal nature of marriage provides a stable and caring environment for the raising of children by a parent of each sex. The uniting of man and woman is distinguished from other types of social interaction and is described in scripture as becoming “one flesh”.

Marriage involves (1) a publicly recognised covenanting together for life, (2) between a woman and a man who live together in a relationship, (3) characterised by a commitment to love and nurture (4) sustained by fidelity, and (5) for the purpose of lifelong companionship, mutual interdependence and responsibility for each other, and potential procreation. (6) It is a symbolic of God’s relationship to his people and Jesus Christ’s relationship to his church.

1. Publicly Recognised

The public recognition of marriage reinforces its vital social status. Marriage is the cornerstone of the family unit, which in turn is foundational to society. Public recognition implies not only social status, but also social responsibility.

2. Between a man and a woman

In marriage a man and a woman are united together and become one flesh. Male and female, together being made in the image of God, while different are yet complementary. It is the only union which has the possibility of procreation, the continuance of the species.

3. Characterised by a commitment to love and nurture

Marriage involves a commitment to love and nurture in an intimate and mutually supportive relationship characterised by mutual submissiveness and other-centred love.

4. Exclusive

The partners in a marriage relationship commit themselves to maintain the marriage for life. The marriage relationship is between a man and a woman which is exclusive in the emotional and physical intimacy it fosters. It should be characterised by fidelity.

5. Lifelong

Marriage is a type of covenant, that is, a publicly recognised pledge between a woman and a man to fulfil a lifelong commitment for the purposes of companionship and, potentially, partnership in procreation.

6. Symbolic of Christ’s Relationship to the Church

⁵ This term is often used in connection with the difference in size of male and female bodies; the difference is very significant in some species but not in others. I use it here in connection only with the simple fact of sexual reproduction.

⁶ Affidavit of Katherine Young, Submitted by the Attorney General of Canada in Halpern v. Ontario.

Marriage is a uniting of dissimilar entities, is symbolic of spiritual unity, and forms an example of co-humanity. The Apostle Paul refers to it as a great mystery (Eph. 5.32) which symbolises the relationship between Christ and the body of Christ, the Church.

It is also the prime relationship within which children are begotten and nurtured. It is the cornerstone of the family. While the form may vary marriage and family are embedded in every culture as gifts from God and are important for individual psychological development and well-being as well as the maintenance of healthy social relationships. Cultural variations do not mean that the notion of the family is purely subjective or a social construct or a human invention that can be re-formed at will.

Marriage and family have been given special status in law by governments because of their unique role in providing for a stable and committed relationship between women and men and a setting for the raising and nurturing of children.

3. Christian view of family and children

A family is a kinship group related by blood, marriage or adoption. It is within the covenantal bond of husband and wife that children are born and raised, cared for, and spiritually nurtured. Parents have a particular responsibility to care for their children but society as a whole also has the responsibility -

- to ensure that the social structures and the public policy which supports families, marriages and children are maintained and enhanced and
- to care for particular families, marriages and children in times of need.

The Bible teaches that the family is to provide physical, emotional and spiritual care for its members as it prepares them to serve God, other persons, and creation. It is a microcosm of society. Parents have the privilege and unique responsibility of leading their children to know God and his ways.

A family is a kinship group related by blood, marriage or adoption. According to scripture, the family is founded in the marital relationship. It is within the covenantal bond of husband and wife that children are born and raised, cared for, and spiritually nurtured.

1. Source of Care

Family is characterised by a unique commitment among members and unique responsibility to care for and nurture its members. While some children are born outside of a marital relationship, the responsibility for care and nurturing still extends to the biological parents.

As a kinship group, families can extend for generations and expand, as members marry into other families. Families are related by blood or familial ties. Families can also be extended through adoption.

2. Covenantal Bond

The Bible focuses on the relation between parents and children and on the covenantal bond of family. The task of families includes: the provision of basic life necessities for its members (1 Tim. 5:4,8); the education of its members (Ex. 12:16,13,14; Deut. 6:20, 31:7, Josh. 4:6), the provision of love and encouragement to its members (1. Cor. 7:15-16, Matt. 15:3-6; 1 Tim. 5:4-8, 16; Eph. 5:21-33, 6:1-9, Col. 3:18-4, Titus 2:3-10), and the preparation for service in the kingdom of God.

3. Modelling Faith

Specifically, the parental task involves being models of faith, teachers of norms and principles, informed caregivers, encouragers and examples of God's love. In parenting, both fathering and mothering are important. Families without fathers or mothers need special care giving (Job 29:13, Acts 6:1-7).

4. Microcosm of Society

The family is a microcosm of the covenant community, the Body of Christ, which is the major support system for families (Matt. 10, Luke 12). A task of the Church is to affirm and support marriages and families by affording to them spiritual direction and spiritual nurturing, as well as support in times of difficulty and hardship. As indicated above, special care giving is required when marriages or families break down.

4. Marriage and family in public policy

In public policy, governments have recognised the important role and unique needs of marriage and family, and have maintained a distinction and afforded differential treatment to marriage and family, as compared to other forms of cohabitation.

As marriage entails a covenantal commitment, it promotes social stability and good order. It promotes a depth of relationship which cohabitation outside of marriage cannot provide. By emphasising sexual fidelity, it operates as a force for the social regulation of sexuality.

In addition to the moral obligation of love, commitment and fidelity, marriage also involves financial obligations. It entails sharing assets and makes the spouses financially interdependent. Benefits have been granted to those in a married relationship not only because of the stability it affords to society, but also because of the level and nature of the obligations entailed by the relationship. Governments have been reluctant to extend the benefits to other forms of relationships which do not entail the same burdens and obligations. The unique characteristics of marriage as listed above make it the most desirable basis and context for the raising and nurturing of children.

It is in the interest of society and of government to promote healthy family structures through a recognition of their distinctive nature and role in society. Though there may be other forms of relationships in society, such as friendships, which fulfil some of the same functions as marriage and family, the distinctiveness of marriage and family must be retained so that their specific needs may be effectively addressed by government. Government policy should protect and promote marriage and family.

Legislation designed to ensure that marriage means ‘the union of a man and a woman to the exclusion of all others, voluntarily entered into for life’ is to be supported. This also necessitates preventing homosexual unions solemnised in other countries from being recognised as marriages in Australia and it also requires legislation to prevent intercountry adoption by same sex couples under multilateral or bilateral agreements or arrangements. This is consistent with a Christian understanding of marriage and family and is to be commended.

Any attempt to re-define a long-standing social and religious institution like marriage to include ‘same-sex marriage’ cannot be defended as a human right. Marriage is not a recent invention or a form of relationship found only in one culture. It is not just a word that can be re-defined in a variety of ways in different pieces of legislation. It is not the possession of politicians and law-makers and cannot be altered as though it was Rule 84(b) in the Football Rules of Play. Marriage was defined and established and has contributed to society over millennia precisely as a relationship between two people of opposite sex and an alteration to include same-sex marriages would contradict one of the basic principles on which it is founded.

Same sex relationships exist and have rights, and the extension of superannuation property rights to same-sex couples and others in significant relationships is appropriate but same-sex relationships are not marriages. Marriages are the appropriate context for the bearing and raising of children and, as a matter of care and justice for children, it is appropriate that adoption rights not be extended to same-sex couples. For further comment see the EA paper ‘A Discussion of Same-sex Relationships and the Law’.

SOURCES

This paper has used extensively, with permission, material prepared by a sister organisation – the Evangelical Fellowship of Canada: *When Two Become One: the unique nature and benefits of marriage* (2nd Edition) and material used in the submission of the Canadian Interfaith Coalition on Marriage and Family to the Supreme Court of Canada in the Matter Concerning the Proposal for an Act Respecting Certain Aspects of Legal Capacity for Marriage for Civil Purposes, dated 16th July 2003. For further material see www.evangelicalfellowship.ca.

INFORMATION ABOUT THE EVANGELICAL ALLIANCE

The Australian Evangelical Alliance Inc. (see www.ea.org.au) is a national fellowship of individuals, churches and organisations. Its National Director is Tom Slater. Its aim is to be a catalyst for Christian unity, cooperation and mission, and it has been operating in Australia since 1959. AEA is affiliated with the World Evangelical Alliance (see www.worldevangelical.org), an international fellowship embracing more than 150 million Christians in 110 countries.

In addition to being a link for around 350 Australian Christian organisations and a number of individual members the Australian Evangelical Alliance family of ministries includes -

- **Christian Management Australia** - CMA is a national, interdenominational membership association providing resources, training and encouragement for Christian churches and ministries in areas of management, governance, finances, staffing (see www.cma.au.com).
- **Missions Interlink** – a network of mission agencies and related organisations enabling them to act nationally in promoting cross-cultural mission, in sharing resources, and in planning joint initiatives.
- **Religious Liberty** - The Religious Liberty Commission is the Australian arm of the World Evangelical Alliance's RLC, which serves as a co-ordinating and networking team within the international advocacy community, on behalf of Christians persecuted for their faith.
- **Theology and Public Policy** - The purpose of the Theological Commission is to identify those issues that the church today must address and to apply to them the insights of Scripture and evangelical theology.
- **Insurance** - AEA provides members with a range of insurance products.
- **TEAR Australia** – an aid and development agency. TEAR supports some one hundred projects, through sixty-five partner organisations in twenty-six countries (see www.tear.org.au)

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