

Catholicism and Same Sex Marriage

Matthew Ogilvie

Abstract: *The Catechism of the Catholic Church (2358) states that homosexual people “must be accepted with respect, compassion, and sensitivity. Every sign of unjust discrimination in their regard should be avoided.” Notwithstanding the Church’s advocacy for the civil rights of all people, it holds it impossible to recognize same-sex marriage. The Catholic Church thus affirms its heritage and understanding of marriage while at the same time it supports the human rights of people in same-sex relationships. Such an approach places the Catholic position at an Aristotelian mean between the extremes of rank homophobia and uncritical homophilia. In this paper I would like to both explain the meaning of this doctrinal position and to contribute some of my own thoughts regarding the reasons and principles governing intimate human relationships and marriage.*

Key Words: same sex unions; marriage – theology; homosexuality; homophobia; civil rights; discrimination

This paper shall address broadly:

- Current arguments for same-sex marriage;
- the human rights of homosexual people;
- the question of whether same-sex unions can be considered “marriage”; and
- whether a negative answer to that question violates human rights.

I might clarify that my intention is to speak directly on same-sex marriage, so this paper will not address related issues such as civil unions, adoption of children, or the morality of sexual activity. I will only say, lest my presentation be misinterpreted, that my mind is clear as to the distinction between marriage and “civil unions” and that my remarks on the one should not be applied to the other unless explicitly stated.

Current Arguments

Typically, advocates of same sex marriage will characterize contrary positions as emanating from “religiously conservative and fundamentalist opponents,” who operate out of “fear” and “prejudice.”¹ Such *ad hominem* attacks mask the fact that the Catholic Church bases its convictions on scripture, tradition, reason, culture and history. Same-sex marriage advocates will also revel in the weight of numbers behind their cause.²

¹ Devon Lerner, “Why We Support Same-Sex Marriage: A Response From Over 450 Clergy,” *New England Law Review* 38.3 (2004): 528, 531.

² Cf. Lerner, “Why We Support Same-Sex Marriage,” 527.

Popularity, though, has never guaranteed validity, or as Henrik Ibsen states “The majority is always wrong; the minority is rarely right.”

When the Church’s position is engaged, same-sex marriage advocates point out that while Biblical texts may state that homosexual relations are sinful, the Bible’s face-value authority is today rejected on moral issues such as slavery, polygamy, animal sacrifice and capital punishment for adulterers.³ I agree that it vital to analyze texts according to their historical origins and cultural context and to recognize that some Biblical texts “contain some things which are incomplete and temporary.”⁴ However, the analysis of texts and the relativization of their moral authority should be done through a method that is both historical and critical. I have been disappointed then, to find Biblical texts on same-sex relations interpreted according to one’s “freedom to believe and feel as they will”⁵ but to have such interpretation done without any critical apparatus. While lack of critical method is not the exclusive domain of any one party to the same-sex marriage debate, the cause of intelligent argument is not advanced when, in the name of freedom and liberty, as has happened in this debate, texts are made to mean whatever the protagonist wants them to mean.

A more challenging argument comes from the position of human rights. Same-sex marriage advocates propose that the right to marry is one of the most fundamental of human rights and that denial of same-sex marriage is an unjust violation of that right. It is proposed that by denying marriage to same-sex couples, they are deprived of rights such as those concerning taxation, inheritance, medical visitation. This situation is likened to laws allowing slavery and prohibiting interracial marriage.⁶ I shall criticize this argument below, but for now shall note that it effectively confuses two questions. First, is same-sex marriage a civil rights issue? Secondly, if same-sex marriage is denied, does this denial necessarily deprive people of rights concerning taxation, inheritance and the like?

Unjust Discrimination

Turning to the Catholic position itself, I find it important to recall that the Catholic Church is opposed to unjust discrimination. Far from the media-driven image of the Church as being a homophobic Leviathan, the Church is very explicit in its support for the human rights of all people, including same-sex couples.

The Church understands human rights to be the requirements for living with dignity in human society. It asserts the universality of these rights and opposes their restriction to any one or other group in the community.⁷ A current example serves well to illustrate this point. Philip Wilson, Archbishop of Adelaide, South Australia has recently supported a bill before state parliament that would recognize the rights of same-sex couples concerning matters such as property, inheritance, superannuation, medical visitation and decision-making.⁸ In other parts of the world the Church has also made it clear that, while it

³ Lerner, “Why We Support Same-Sex Marriage,” 528.

⁴ Vatican II, *Dei Verbum*, no. 15.

⁵ Lerner, “Why We Support Same-Sex Marriage,” 529.

⁶ Religious Coalition for the Freedom to Marry, “Massachusetts Declaration of Religious Support for the Freedom of Same-Gender Couples to Marry,” <http://www.rcfm.org/declaration.htm>, accessed 17 July 2005.

⁷ Cf. National Conference of Catholic Bishops, *Economic Justice for All* (Washington, D.C.: United States Catholic Conference, 1986), v.

⁸ *Adelaide Advertiser*, 17 March 2005.

maintains the uniqueness and importance of marriage, it regards as sinful any unjust discrimination against homosexual people.⁹

While the Church's advocacy of human rights for homosexual people is world-wide, the significance of that support for persons in same-sex relationships varies from legislature to legislature. On the one hand, same-sex marriage has not been a significantly charged issue in Australia, because under the generic mantle of "partners" same-sex couples enjoy equal rights to such things as superannuation, hospital visitation, insurance and immigration sponsorship. On the other hand, the Catholic Church in the United States has seen the push for same-sex marriage complicated and driven by the denial of human rights to same-sex couples. Unfortunately, whether in the United States or elsewhere, Catholic support for the rights of same-sex partners has been misinterpreted as support for either legal or de facto marriage between persons of the same sex. To allay such concerns, I find it helpful to clarify that while the material relationship in question may be homosexual and thus morally unacceptable, what gives same-sex partners certain rights is not the material element but the formal relationship of interdependency between two persons. In other words, what forms the rights of persons in same-sex partnerships are a person's needs for such things as personal well-being, financial security and to have medical decisions made by the person most able to know one's wishes.

Same-Sex Marriage?

If the Catholic Church advocates human rights for persons in same-sex relationships, one may ask why it cannot recognize same-sex unions as constituting marriage. While in common with traditional marriage, same-sex unions may involve love, affectivity, monogamy and lifelong commitment, the two types of unions differ in essential features. The Catholic Church regards marriage as based on the sexual complementarity of woman and man. The marital union is intrinsically ordered towards family development and new life. The Catholic Church embraces the religious and cultural heritage of past millennia that understands that marriage to be pro-creative (which is different to merely reproductive) in the responsible creation, nurture and formation of children.

Same-sex unions cannot be equated with marriage because they are not based on male-female complementarity and in themselves are not ordered towards the growth of family and new life. Another way of putting the point is to say that marriage is a union that is ordered *intrinsically* to expanding family and emerging new life. In same-sex unions, development of family and new life are not naturally intrinsic to the relationship, but *extrinsic* additions to the union.¹⁰

In essence, then, the Catholic position is that while it upholds the human rights of same-sex partners and while it may support the legal protection of persons in same-sex unions, it cannot affirm that sex-sex unions constitute marriage. A key problem in understanding the Catholic Church's position lays in the shortcomings so prevalent in contemporary sexual theory. That is, sexual theory today too often treats only the material and efficient factors in sexuality (bodies and sexual activities) and pays scant attention to either the formal qualities or purpose and finality present in human affectivity and sexuality.

⁹ US Conference of Catholic Bishops, "Between Man and Woman" (2003); Mexican Catholic Bishops, *Commission on Homophobia* (2005); Congregation for the Doctrine of the Faith, *Considerations Regarding Proposals to Give Legal Recognition to Unions Between Homosexual Persons* (2003).

¹⁰ cf. USCCB, "Between Man and Woman," no. 3.

It is in such context that I find that a good number of arguments for same-sex marriage equate homosexual and heterosexual love on the (most often unthematized) assumption that what differs is only the material elements or genders of the sexual partners. One can argue, though, that heterosexual and homosexual love can be differentiated according to their quality, form and finality. Thus, one can say that what forms heterosexual "conjugal" love is the couple's union, their mutual pleasure and the reproductive and procreative qualities inherent in their love. Same-sex love, alternatively, is formed by the couple's union and mutual pleasure, with creation and procreation not being inherent to the relationship. Likewise, while same sex love is ordered intrinsically to the couple themselves, heterosexual conjugal love is ordered also to procreativity and family life.

It can be objected that many same-sex partners have begun families of their own. I recognize that reality and acknowledge the generosity and considerable courage of such partners. However, children of same sex partners, apart from never being the biological children of both partners, come not from the intrinsic essence of the relationship, but an extrinsic form added to the relationship. I would also voice my concern that many assisted production techniques used in giving children to same-sex partners change the role of medical personnel from facilitators to creators and thus risk undermining the subsidiary rights and nature of "family."

In short, I propose that same-sex relationships differ formally and finally from heterosexual relationships. From this point, my argument is that, even if homosexuality were not to be regarded as sinful, same-sex relationships could not constitute marriage as conceived strictly and formally by Christian tradition.

A Violation of Rights?

If the Catholic Church cannot recognize same-sex marriage, does this mean it violates the human rights of same-sex partners who otherwise may wish to be married? The first reason why this is not the case is because same-sex unions and marriage are different in kind and in essence. Additionally, the Church would argue that the benefits due persons in a same-sex union, by virtue of their interdependency, can be enjoyed without the need for legal marriage (as is the case in Australia). With regard to laws that deny human rights to same-sex couples, the Church would argue that change should occur in the civil law, not in the concept of marriage.

The Church has already practiced advocacy for the human rights of persons in same-sex relationships. Some fear that this advocacy compromises the Church's position on homosexuality. I think that if one's position is clarified by taking into account the formal and teleological elements of sexuality mentioned above, then there is no reason to think the integrity of one's Catholic faith would be compromised by maintaining the civil rights of people in same-sex relationships. I argue that fear of compromise in the Church's position is based upon a superficial understanding of human sexuality. While such superficiality may prevail and create confusion in the popular and political spheres, I find no reason to vulgarize Catholic moral theology. Instead, it seems even more imperative that moral theologians and pastors preach the evangel of human sexuality, and liberate the "safe sex" generation from the superficiality, commodification, idolization and fear of sex that dominates our culture.

More challenging to the Church's denial of same-sex marriage is the proposed analogy of same-sex rights with the civil rights of racial minorities.¹¹ That analogy is tenuous at best, given the opinion that race is something given a person and essential to their being, while sexual preference is a lifestyle decision made by individuals exercising their personal freedom. If one wishes to push the analogy of civil rights, it is revealing that the majority of African Americans are opposed to same-sex marriage and that, of the analogy between same-sex marriage and civil rights for blacks, one African American leader summed up his community's feeling by saying, "It's absolutely unrelated and I think it's rather offensive."¹²

I also argue that the analogy fails because one's homosexual orientation is not essential to or as formative of a person's human identity as is race. One's race or ethnic origins are unchangeable, given and constitutive of the human person. Sexuality or sexual preference, alternatively, are to a greater or lesser extent, at the will of individual persons and their conscious, moral decisions, and thus not constitutive in the same manner as race. I also note that the notion that homosexual orientation may constitute a human person's identity (and thus have bearing on human rights) is a relatively recent notion, having only surfaced in the twentieth century. That notion has been criticized from outside, but also from within. "Queer theory," for example (whatever may be its other merits) argues that sexual preference does not define the whole human person. If this is true, it would be invalid to put same-sex marriage rights on par with civil "race rights" because race is constitutive of one's personal identity.

Conclusion

The essence of this paper is that, in the first place, the Catholic Church teaches (and *must* teach) that the human rights of all people, including homosexual persons, must be upheld at all times. At the same time, the Catholic position is that same-sex unions cannot constitute marriage. I propose this is because same-sex unions do not have the formal and teleological elements constitutive of marriage.

I might say something about the future of this argument. I am, unfortunately, most pessimistic. On the anti-same-sex marriage side, one sees too many naïve citations of Scripture and tradition. There is often also a failure to recognize the human rights of persons in same-sex relationships, sometimes accompanied by the view that "sinners" forfeit their human rights. The anti-same-sex marriage party is also hampered by an abysmal lack of understanding of procreation. Too often "procreation" is equated with "reproduction." John Paul II attempted to rectify this lack of understanding, but it remains that this ignorance leaves many people unable to articulate the essential nature and finality of marriage and conjugal love.

On the pro-same-sex marriage side, one sees *ad hominem* propositions, and even *pro hominem* statements relying on weight of numbers and popularization. More concerning is that many same-sex marriage proponents have encouraged judicial activism in advancing their cause. In the United States, judicial activists have attempted to force legislative change in the face of clear and strong opposition by the majority of Americans. Such

¹¹ Lerner, "Why We Support Same-Sex Marriage," 527-528; Religious Coalition for the Freedom to Marry, "Massachusetts Declaration."

¹² Christine McCarthy McMorris, "Black Pastors Bridle at Gay Marriage," *Religion in the News* 7(2004), <http://www.trincoll.edu/depts/csrpl/RINVOL7No2/BlackPastorsGay%20Marriage.htm>; accessed 17 July 2005.

activism runs the risk of seeing the same-sex marriage debate descend into a battle between a would-be judiciary and the government of, for and by the people.

In the debate over same-sex marriage, it seems to me that an unmoving right will remain oblivious to the denial of human rights in their arguments, that they will remain ignorant of the Church's deeper understanding of matters such as human sexuality, and that they continue to employ vulgar arguments (such as the much labored "Adam & Eve, not Adam & Steve"). A shifting left, however, will remain enlivened by volkish popularism and animated by judicial activism. It will remain as enslaved to a vulgarization of human sexuality in a different direction, but to the same extent, as the right, and it will continue to prey upon the feelings of guilt generated in the opponents of same-sex marriage.

What will matter, though, are the balanced moderates who will seek to honor and advance their tradition while also advocating the human rights of all. They will be the ones who are willing to ask deeper questions of intelligibility: "What is human love and affectivity?" "What forms human sexuality and constitutes its meaning?" "What is the teleological impulse of human sexuality?" and "How do these constitute human marriage?" This is the systematic approach, that of asking for reasons and principles. It is more demanding, less spectacular, but the only hope for lasting resolution of this problem.¹³

Author: *Matthew C. Ogilvie, PhD is Director of the Philosophy and Letters Program and Assistant Professor of Systematic Theology in the Institute for Religious and Pastoral Studies at the University of Dallas. This paper is based on a presentation to the Symposium, "The State of Our Union: The Debate Over Same-Sex Marriage," presented by the Texas journal on Civil Liberties and Civil Rights, at the Eidman Courtroom, University of Texas School of Law, Austin, TX. March 24, 2005.*

¹³ Cf. Bernard Lonergan, *Collection*, ed. Frederick E. Crowe and Robert M. Doran, 2nd ed. (Toronto: University of Toronto Press, 1988), 245.