

Response to the Marriage Canon Commission  
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Although much could be said on the topic of Canon XXI, and the proposal to amend it, I here confine my comments to the questions posed by the Marriage Canon Commission.

*The theological significance of gender difference in marriage*

I do not believe that gender difference in marriage is of any theological significance. It is primarily of biological significance in traditional marriage. Marriage emerges from biology and culture. All human societies practice some form of marriage, in which the cohabitation of persons is recognized, solemnized and legitimized. In human history marriage has been variously coerced, or arranged, or freely chosen by the participants. It has been polygamous or monogamous. And it has been endowed with moral, ethical and religious significance. Gender roles in Western culture have changed over the course of time, as the understanding of women has shifted from being property to being persons, and as women's status has shifted from subservience to equality. These shifts have been driven largely by societal shifts in the moral, ethical and legal understanding of women. The same shifts are reflected in theological anthropology. However most theologizing about marriage that I am aware of assumes gender difference but does not dwell on any deep theological significance in that difference.

*The distinction between civil and Christian marriage*

Marriage in our society is a relationship that, when duly registered with civil authorities, carries with it certain legal rights and obligations. In fact, when not registered with civil authorities, we do not normally refer to the relationship as marriage (ignoring for the sake of argument the existence in some jurisdictions of "Common Law" marriage.) It is unclear what might be meant by "Christian marriage" in the Commission's questions. Is it a marriage between two practicing Christians? marriage solemnized in a church using Christian ritual? marriage as understood by Christian theologians?

Writing in an English context, Chancellor Mark Hill, QC, notes that the Church recognizes the validity of civil marriage. Thus, as Hill points out, "any service conducted after such a ceremony reflects the fact that the marriage has already taken place." (*Ecclesiastical Law*, second edition, Oxford: Oxford University Press, p 133) In Canada the same is true in the rite for the Blessing of a Civil Marriage in the *Book of Occasional Celebrations*, in which the validity of the civil marriage is implied by the reaffirmation of vows rather than taking some vow that is understood not to have been taken before.

Similarly, the state recognizes the validity of the solemnization of marriage in an ecclesiastical context, provided that civil requirements are met. Furthermore, Canon XXI s 5 requires compliance with civil law, which is affirmed in the rite for the solemnization of marriage in the *Book of Alternative Services*.

If there is a distinction between civil and "Christian" marriage, the two are inextricably commingled in Anglican practice, and the primary differences would appear to be venue and officiant. The relationship of the couple, however, is in my view theologically the same regardless how the marriage was confected, just as the civil effects of marriage are the same.

### *Difference between marriage and blessing of a relationship*

Contemplating only heterosexual marriage, the General Synod resolved in 2001 that the Church should not bless persons in common law marriages (resolution A080(a)). Although blessings of cohabiting same-sex couples began shortly after that decision, at the time it was legally impossible for the relationships to be recognized in law as marriage. This changed with a series of court decisions, and the coming into force of the *Civil Marriage Act 2005*. Several dioceses in the Anglican Church of Canada now make provision for the blessing of civilly-married same-sex couples, with a variety of rites in use in the various jurisdictions. In my view these blessings are equivalent to blessings of civilly-married heterosexual couples. In both cases the Church recognizes the validity of the civil marriage (and any denial of validity would be nugatory). In both cases, the Church offers a context of worship in which to invoke God's blessing on the couple and to celebrate that relationship with friends and family. In neither case does the Church purport to re-solemnize the marriage, to add a validity that was lacking, or to remedy some defect in the marriage. The only difference between solemnizing marriage in a church and blessing civil marriage is the mechanism by which, and the venue in which, the civil effects of marriage are acquired and registered.

### *Purpose of marriage*

Quoting the Preface to Canon XXI, the commission enquires about the theological significance of the purposes of marriage, which are enumerated as "mutual fellowship, support, and comfort, and the procreation (if it may be) and nurture of children, and the creation of a relationship in which sexuality may serve personal fulfilment in a community of faithful love." There are a number of things that are of interest in these statements of purpose. Of prime interest is that these three statements are all functional rather than theological. They might better be seen as marks of marriage rather than purposes.

It is interesting that the three marks of marriage as enumerated in the Preface represent a significant shift from the "causes for which matrimony was ordained" as outlined in the marriage rite in the *Book of Common Prayer*, which was the only rite for the Solemnization of Matrimony at the time Canon XXI was adopted in substantially its present form (including the Preface). The first - mutual fellowship, help and comfort - is essentially the same as the third cause in the BCP, but it is of note that the second, the procreation of children is conditional (and optional) in the Canon, but not in the prayer book. The most significant difference is in the third purpose of marriage in the Preface compared with the first cause in the marriage rite. Sexuality in the Preface is seen as a positive good, whereas in the prayer book it is a tolerated evil: "matrimony was ordained for the hallowing of the union betwixt man and woman." This toleration of sexuality is even more clear in the 1662 version of the marriage rite which declares that marriage "was ordained for a remedy against sin, and to avoid fornication; that such persons as have not the gift of continency might marry, and keep themselves undefiled members of Christ's body."

Twenty years after the Preface was drafted the same language about the three purposes (or marks) of marriage would find its way nearly verbatim into the *Book of Alternative Services*. However, there is little theological or uniquely Christian about any of these three purposes of marriage. These marks of marriage might be affirmed in any cultural or religious context. Indeed, the same consideration led Martin Luther to conclude that marriage is not a sacrament.

However, the Preface hints at a much higher, more obviously theological purpose of marriage, declaring that it "is a sign of the redeeming purpose of God to unite all things in Christ, the purpose made known

in the reunion of divided humanity in the Church.” (Preface, paragraph 2) The fundamental purpose of marriage qua sacrament is, in my view, to be an effectual sign of the presence of God’s redeeming love in the world, reflecting the relationship between God and his people and a foretaste of “the reunion of divided humanity”. A high theology of marriage will focus on and develop this theme as the true purpose of marriage.

It is a matter of controversy whether the relationships of same-sex couples can generally reflect what I characterize as the three marks of marriage. Even opponents of same-sex marriage may concede that same-sex couples can and do fulfil the first mark: mutual fellowship, help and comfort. It is true that same-sex couples cannot by themselves produce children, but some do adopt and raise children just as do some heterosexual couples whether due to infertility or choice. Opponents of same-sex marriage argue that same-sex sexual relations are intrinsically disordered or irretrievably sinful, and thus would deny that same-sex couples are capable of fulfilling the third mark of marriage, whilst proponents of same-sex marriage would take the contrary position.

However, in my view, what is under consideration at this time is not whether same-sex couples can live out the three marks of marriage legitimately or fruitfully. The fundamental question before us, I suggest, is whether we are prepared to recognize in same-sex couples the fulfilment of, or potential to fulfil, the high purpose of marriage as an effectual “sign of the redeeming purpose of God to unite all things in Christ”. If so, then I suggest that there is no particular shift in the theology of marriage at stake, but rather the extension of the application of the high purpose of marriage to include same-sex couples.