

Source¹

On not being convinced – A review of the report from the Theological Forum of the Church of Scotland.

Martin Davie • April 24, 2017

The questions raised by the report

The Theological Forum of the Church of Scotland exists to provide theological support for other Church of Scotland committees and for its General Assembly and to 'produce reports of its own for matters which arise in the Church.'

Its latest report, entitled 'An approach to the theology of same-sex marriage' has been released this week.² It concludes that the Forum 'does not believe there are sufficient theological grounds to deny nominated individual ministers and deacons the authority to preside at same-sex marriages.'^{3(c)}³

In line with this conclusion the General Assembly is being asked to 'Instruct the Legal Questions Committee to undertake a study of the matters which would require to be addressed in any new legislation permitting Ministers and Deacons to officiate at same-sex marriage ceremonies, with a view to presenting a Report to the 2018 General Assembly.' (Proposed Deliverance 5) In plain terms, what this means is the General Assembly asking for an immediate start to be made on the work needed to introduce same-sex marriages in the Church of Scotland.

¹ <https://mbarrattdavie.wordpress.com/2017/04/24/on-not-being-convinced-a-review-of-the-report-from-the-theological-forum-of-the-ch>

² It can be found on the Church of Scotland web site at: http://www.churchofscotland.org.uk/news_and_events/news/recent/Latest_report_from_Theological_Forum_published

³ Figures in brackets refer to the paragraph numbers in the report.

The conclusion reached by the Theological Forum goes against the Church of Scotland's traditional understanding of marriage as set out in Chapter XXIV of the *Westminster Confession* of 1646 which declares:

'Marriage is between one man and one woman: neither is it lawful for any man to have more than one wife, nor for any woman to have more than one husband at the same time.

Marriage was ordained for the mutual help of husband and wife; for the increase of mankind with a legitimate issue, and of the Church with an holy seed; and for preventing of uncleanness.'

Clearly if marriage is between 'one man and one woman' then there can be no such thing as same-sex marriage. It would be a contradiction in terms like a square triangle or a true falsehood. Only if this definition of marriage is broadened to include relationships between one and one man, or one woman and one woman, would it be possible to accept that there could be same-sex marriages and that it might be right to allow Church of Scotland ministers the authority to preside at them.

The questions that therefore arises are what arguments does the Theological Forum put forward for broadening the Church's definition of marriage to include relationships between two people of the same sex and are these arguments convincing?⁴

Part 1 of the report

Part 1 of the Forum's report looks at biblical interpretation under the heading 'The Use of Scripture.' This part sets out what it calls 'more

⁴ It has been suggested that what the report is arguing for is retaining the Church of Scotland's current doctrine of marriage while still allowing ministers to officiate at the weddings of same-sex couples. This is not what the report argues. It proposes a change in the Church's current understanding of marriage to one that would retain the idea of 'Consent within a covenanted relationship between two persons' (3b), but would not hold that those two people have to be a man and a woman.

conservative' and more inclusive' approaches to the use of Scripture in the debate over same-sex marriage.

For example, in paragraphs 1.4-1.5 it argues that there are two key 'more inclusive' arguments:

'The first is to say that Scriptural condemnations of same-sex sexual activity were framed in cultural contexts very different from our own and referred to individual acts rather than committed and faithful people willing to enshrine their relationships in vows before God. As committed and faithful partnerships between equal persons of the same sex were largely unknown in the ancient world, neither St. Paul nor any other biblical writer could have had such partnerships in mind when they condemned same-sex sexual activity.

Another more inclusive argument in favour of same sex relationships rests on a distinction between the written text of Scripture and the living Word of God, the latter being associated with Jesus Christ who speaks to us in our hearts and consciences. According to this argument, we owe our allegiance to Jesus Christ the Word made flesh rather than adherence to the literal words of Scripture, and, for that reason, if people believe that Jesus is now calling the Church to a new understanding of how faithfulness may be displayed in human relationships, this should be taken seriously as a contemporary form of obedience.'

It then goes on in paragraph 1.6 to argue that 'more conservative arguments':

'...rest on a different set of interpretive rules. For them, once it is ascertained that the biblical writers intended to condemn same-sex acts, the only appropriate response for the Church to make is to declare such activity to be contrary to God's intention for humanity, and thus prohibit same-sex marriage.'

As the report sees it, underlying these opposing arguments are two different approaches to the authority of Scripture. It declares in paragraphs 1.8-1.9:

'For those adopting a more conservative perspective, the authority of Scripture rests in obeying the *words of its text*. These words we-

re given by God through the scribes and prophets and transmitted faithfully by Israel until they could be written down. We abide by the authority of Jesus Christ speaking in Scripture by correctly ascertaining what Scripture's words meant in their original context, before conforming our doctrine and practice to them. It is not our duty to ascertain _why_ _God, speaking through the biblical writers, issued these commands, but only to ascertain the meaning of those commands and act upon them.

Those who adopt a more inclusive perspective also believe in the authority of Jesus Christ speaking in the Scriptures, and they also seek to understand the meaning of the words in their original context. What distinguishes them from more conservative readers, however, is their belief that Scripture's meaning is somewhat wider than particular words themselves. In order to understand a biblical command, we must not only understand the meaning of the words in their original context, but also understand the many ways in which Scripture tells us a developing story in which believing Gentiles were also invited to join the People of God. In the present context, this means asking what Paul meant when he declared that in Christ we are neither Jew nor Greek, neither male nor female, neither slave nor free.'

The report suggests that it would be a mistake to try to settle the argument between these two approaches with 'a 'victory' for one particular perspective.' in its view 'a wise and faithful reading of the Bible' requires both approaches. (1.11)

It also suggests that we need to remember that God can also speak to us outside Scripture and that in particular 'there are times when God speaks to us through the cries of God's people who long for inclusion and dignity.' (1.12)

There are three problems with this part of the report as a theological basis for broadening the definition of marriage.

First, it misrepresents the difference between the conservative and inclusive approaches to Scripture. It is simply not the case that those on the conservative side of the debate about marriage and sexuality do not think it appropriate to explore the reasons for God's commands or that they focus on individual texts at the expense of con-

sidering the overall biblical story. See, for example, Stanley Grenz *Welcoming but not affirming* (Westminster John Knox, 1998), Christopher West *Theology of the Body Explained* (Veritas 2008) and Glynn Harrison *A Better Story* (IVP 2016) as three among numerous texts that give the lie to this idea.

Secondly, although, as we have seen, it argues that it would be a mistake to grant 'victory' to either a conservative or an inclusive approach, in reality a decision has to be made between them in terms of what to believe and how to act. If one side says marriage can only be between two people of the opposite sex and the other says it can also be between two people of the same sex then a choice has to be made as to which is right and what the Church should therefore permit. 'Victory' has to be granted to one side or the other.

The problem is that Part 1 gives no guidance at all as to how to decide which side should be granted victory. It may be the case, as paragraph 1.13 claims, that those on both sides of the debate 'all esteem the living voice of Jesus Christ speaking in the Scriptures' and that the difference is about 'how these Scriptures are to be heard today.' What Part 1 does not tell us, however, is on what basis we should decide how the Scriptures should be heard today when people interpret them differently.

How do we decide between legitimate and illegitimate interpretations of Scripture? The report does not say and because it does not say it provides no basis for saying that the conclusion that the report itself reaches is the right one.

Thirdly, Part 1 does not tell us what it means in terms of the debate about marriage to affirm that 'God speaks to us through the cries of God's people who long for inclusion and dignity.' What the report presumably means is that God is saying that we should give heed to the cries of these people that they should be granted inclusion and dignity. However, it does not logically follow that in order to include people with same-sex attraction in the corporate life of the Church and wider society and to treat them with dignity we have to allow them to marry someone of their own sex.

In order to establish this point it would be necessary to show that

same-sex marriage is an integral part of inclusion and dignity. The report nowhere attempts to show this and so its argument that God speaks through the cries of those longing for inclusion and dignity does not lead to the report's conclusion that we should accept same-sex marriage.

Part 2 of the report

Part 2 of the report looks at three types of arguments for same-sex marriage. These are:

- (A) Arguments based on understandings of human rights
- (B) Analogical arguments which try to build outwards from traditional understandings of marriage
- (C) Fully theological arguments for the admissibility of same-sex marriage. (2.1)

Human rights arguments

In section 2.2 the report briefly summarises the development of the tradition of human rights in the Western world from the time of Constantine onwards and the criticisms of human rights theory offered by the American moral theologian Stanley Hauerwas and the Roman Catholic legal scholar Helen Alvares.

At the end of the section the report then declares that:

'This tradition provides one layer of an argument and from it we become more aware of discrimination and our failure to treat each other even-handedly. We recognise that as a Church we have often failed to recognise and protect the identity and Christian vocation of gay people and believe that the Church as a whole should acknowledge its faults.' (2.2.7)

This declaration fails to support the conclusion reached by the report for two reasons.

First, the report fails to explain how the Western tradition of human rights which it has summarised leads to the recognition that the

Church has ‘failed to recognise and protect the identity and Christian vocation of gay people.’ What is the evidence that supports this claim? The report does not say and therefore provides no basis for accepting that this claim is true.⁵

Secondly, even if one does accept that the claim is true and that the Church needs to acknowledge its past failures in its treatment of gay people it does not follow that the proper response to this is an acceptance of same-sex marriage. This only follows if it is in fact the case that being able to marry someone of the same sex is a necessary corollary of recognising and protecting the identity of gay people and enabling them to fulfil their Christian vocation. Once again the report does not explain why we should believe that this is the case.

Analogical arguments

In section 2.3 the report draws on the work of the American Roman Catholic Scholar Professor Jean Porter as set out in her paper ‘The Natural Law and Innovative Forms of Marriage: A Reconsideration.’⁶

Drawing on Porter’s expertise on the work of St. Thomas Aquinas and medieval moral theology in general, the section surveys the historical development of Christian thinking about marriage and suggests that we may be able to see an analogy between the extension of marriage to those who are unable to have children and its extension to those of the same sex. It argues that marriage:

‘...is more than simply the sexual act and it becomes clearer that though marriage has a paradigmatic form, this need not necessarily prevent extending the term to a group of other unions which cannot fulfil the reproductive purpose but can embody other aims of the institution. ‘Marriage’ is already extended to heterosexual couples who

⁵ This means that the report fails to provide any reason for the General Assembly to accept point 4 of the Proposed Deliverance which invites the Church ‘to take stock of its history of discrimination at different levels and in different ways against gay people and to apologise individually and corporately and seek to do better.’

⁶ Jean Porter, ‘The Natural Law and Innovative Forms of Marriage: A Reconsideration,’ *Journal of the Society of Christian Ethics*, 30, 2 (2010), pp. 79-97

know they cannot have children. We do this because we know that marriage is more than a framework for legitimate genital acts. It is also a framework for supporting the mutual and publicly declared love between two people. Just as it would be unjust to deny use of the term 'marriage' to people past childbearing, so it can seem unjust to deny the term 'marriage' to same-sex couples who intend to fulfil most of the range of 'marriage's' purposes.' (2.3.22-2.3.24)

The problem with this argument is that it fails to take into account the point made by Sherif Girgis, Robert George and Ryan Anderson in their 2011 paper 'What Is Marriage?' They point out that marriage as it has been traditionally understood in line with the teaching of Genesis 1 and 2 is a form of relationship that can encompass infertile couples, but cannot encompass couples of the same sex.

They begin their argument by noting that marriage is a uniquely comprehensive form of relationship:

'Marriage is distinguished from every other form of friendship inasmuch as it is comprehensive. It involves a sharing of lives and resources, and a union of minds and wills—hence, among other things, the requirement of consent for forming a marriage. But on the conjugal view, it also includes organic bodily union. This is because the body is a real part of the person, not just his costume, vehicle, or property. Human beings are not properly understood as non-bodily persons—minds, ghosts, consciousnesses—that inhabit and use non personal bodies. After all, if someone ruins your car, he vandalizes your property, but if he amputates your leg, he injures you. Because the body is an inherent part of the human person, there is a difference in kind between vandalism and violation; between destruction of property and mutilation of bodies. Likewise, because our bodies are truly aspects of us as persons, any union of two people that did not involve organic bodily union would not be comprehensive—it would leave out an important part of each person's being. Because persons are body-mind composites, a bodily union extends the relationship of two friends along an entirely new dimension of their being as persons. If two people want to unite in the comprehensive way proper to marriage, they must (among other things) unite organically—that

is, in the bodily dimension of their being.’⁷

They then go on to argue that organic union can only be achieved if two bodies unite for a common biological purpose and the only candidate that fits the bill is coitus oriented to sexual reproduction:

‘...for two individuals to unite organically, and thus bodily, their bodies must be coordinated for some biological purpose of the whole. That sort of union is impossible in relation to functions such as digestion and circulation, for which the human individual is by nature sufficient. But individual adults are naturally incomplete with respect to one biological function: sexual reproduction. In coitus, but not in other forms of sexual contact, a man and a woman’s bodies coordinate by way of their sexual organs for the common biological purpose of reproduction. They perform the first step of the complex reproductive process. Thus, their bodies become, in a strong sense, one—they are biologically united, and do not merely rub together—in coitus (and only in coitus), similarly to the way in which one’s heart, lungs, and other organs form a unity: by co-ordinating for the biological good of the whole. In this case, the whole is made up of the man and woman as a couple, and the biological good of that whole is their reproduction.’⁸

This kind of organic union can be achieved, they note, in sexual acts between men and women that do not lead to conception. However, they cannot be achieved in sexual acts between two people of the same sex:

‘...this union occurs even when conception, the bodily good toward which sexual intercourse as a biological function is oriented, does not occur. In other words, organic bodily unity is achieved when a man and woman coordinate to perform an act of the kind that causes conception. This act is traditionally called the act of generation or the generative act; if (and only if) it is a free and loving expression of the spouses’ permanent and exclusive commitment, then it is also a marital act.

⁷ S. Girgis, R. P. George and R. T. Anderson, ‘What is marriage?’ *The Harvard Journal of Law and Public Policy*, Vol 34, No 1, Winter 2011, p.253.

⁸ *Ibid*, p.254.

Because interpersonal unions are valuable in themselves, and not merely as means to other ends, a husband and wife's loving bodily union in coitus and the special kind of relationship to which it is integral are valuable whether or not conception results and even when conception is not sought. But two men or two women cannot achieve organic bodily union since there is no bodily good or function toward which their bodies can coordinate, reproduction being the only candidate.⁹ This is a clear sense in which their union cannot be marital, if marital means comprehensive and comprehensive means, among other things, bodily.¹⁰

They summarise their argument by providing a sporting analogy to illustrate the point they are making:

'... people who can unite bodily can be spouses without children, just as people who can practice baseball can be team-mates without victories on the field. Although marriage is a social practice that has its basic structure by nature whereas baseball is wholly conventional, the analogy highlights a crucial point: Infertile couples and winless baseball teams both meet the basic requirements for participating in the practice (conjugal union; practicing and playing the game) and retain their basic orientation to the fulfillment of that practice (bearing and rearing children; winning games), even if that fulfillment is never reached. On the other hand, same-sex partnerships, whatever their moral status, cannot be marriages because they lack any essential orientation to children: They cannot be sealed by the generative act.'¹¹

This argument by Girgis, George and Anderson shows why the argument put forward in the report that it is unjust to extend marriage to infertile couples but not to same-sex couples falls down. Just as it is

⁹ Footnote 16 notes that pleasure cannot fit the bill: 'Pleasure cannot play this role for several reasons. The good must be truly common and for the couple as a whole, but pleasures (and, indeed, any psychological good) are private and benefit partners, if at all, only individually. The good must be bodily, but pleasures are aspects of experience. The good must be inherently valuable, but pleasures are not as such good in themselves—witness, for example, sadistic pleasures.'

¹⁰ Ibid, pp.254-255.

¹¹ Ibid, p. 257.

not unjust to say that people who are physically incapable of the physical activity involved cannot play baseball, so it is not unjust to say that same-sex couples cannot marry because same-sex couples are inherently incapable of the organic bodily union oriented towards procreation which is at the heart of marriage. In terms of the language used in the book of Genesis the two cannot become 'one flesh' (Genesis 2:24).

Theological Arguments

In the final section of part 2 the report turns to what it calls 'the more thoroughgoing theological argument' (2.4.2) presented by Professor Robert Song of the University of Durham in his 2014 book *Covenant and Calling*.¹²

The report notes that Song contends that the coming of Jesus 'resituates' marriage:

Song argues that with Jesus, the entire notion of what it means to be human, to flourish, to live in relationship with God and our neighbours, is reoriented. '[F]ull humanity, full participation in the imaging of God, is possible without marriage, without procreation, indeed without being sexually active.' He argues that though one might think that the new eschatological order in Jesus might erase the created order, this is not so. He thinks in terms of resituating, not erasure. But 'marriage no longer carries the aura of inevitability.'

Jesus himself spoke about the need for new wine being placed in new wine bottles, and the impracticality of stitching new unshrunk cloth onto an old garment. These are images not of erasure but of resituating. Song writes, 'The coming of Christ resituates marriage. Not only does it make it evident that marriage may not be grounded un-theologically outside an understanding of God's covenant relationship with us, it also bursts the seams of marriage and points to a new eschatological order in which marrying and giving in marriage, and therefore procreation, are no longer part.' (2.4.8-2.4.9)

¹² Robert Song, *Covenant and Calling: Towards a Theology of Same-Sex Relationships*, London: SCM, 2014,

The report then goes on to suggest that the notion of marriage being re-situated allows us to consider the possibility of non-procreative unions (such as marriages between two people of the same sex).

‘We have seen with Jean Porter that marriages may have meaning apart from procreation. Song’s notion of eschatological re-situating allows us to reconsider same sex unions in a more strictly theological way. In creation, the purpose of male and female was for procreation. So, within that mind-set, sexual differentiation was for procreation. But if procreation is not now essential for the growth of the Kingdom of God and has in a sense been eclipsed, it is possible to consider unions which are not procreative, but which still bear witness to God as they echo God’s faithfulness and therefore God’s holiness.’ (2.4.10)

The report acknowledges that it might be objected:

‘...that if the coming of Christ opened up a new appraisal for non-procreative unions and so for covenanted sexual unions between persons of the same sex, then Paul might have been expected to have understood this rather than affirming the Genesis understanding of gender and sexuality in his condemnation of same-sex acts in Romans 1.’ (2.4.14)

Its response to this objection is that:

‘... God’s Word is found through as well as within Scripture, and Jesus himself promised that the Holy Spirit would lead the Church into further understanding (cf. John 16: 13). It is these new understandings that the General Assembly is attempting to discern in its consideration of the issue of same-sex marriages.’

There are three problems with this argument for same-sex marriages on the basis of Song’s idea of the re-situation of marriage.

Firstly, there is nothing in the gospels to suggest that the fact that marriage as we know it¹³ will not exist in the world to come means that what we are taught in Genesis about the nature and purpose of marriage in this world no longer applies.

¹³ As Glynn Harrison notes ‘The Bible does not teach that there will be no marriage in heaven. Rather it teaches that there will be *one* marriage in heaven- between Christ and his bride, the church. *A Better Story*, Kindle Edition, Loc.2086.

It is true that in all three Synoptic Gospels Jesus is recorded as saying that in God's eternal kingdom 'those accounted worthy to attain to that age and to the resurrection from the dead neither marry nor are given in marriage, for they cannot die anymore, because they are equal to angels and are sons of God, being sons of the resurrection' (Luke 20:35-36//Matthew 22:30 and Mark 12:25). It is explicitly stated in these passages that there will be no marriage and from this fact, and from the statement that those who have attained the kingdom will be 'like the angels' as Matthew and Mark put it, it is inferred that there will also be no procreation.

However, it is important to note that none of the three Synoptic passages which record this teaching of Jesus contain any suggestion that the importance of marriage in this life should be regarded as less important because of what will be the case in the life of the world to come. These passages are concerned with defending belief in the resurrection against the claim of the Sadducees that the Mosaic law concerning Levirate marriage in Deuteronomy 25:5-10 showed that resurrection was an impossible concept because it would involve, among other things, a wife being married to seven men simultaneously. What they are not concerned with is the status of marriage in this life.

Jesus' teaching about the nature and status of marriage in this life is found in his teaching about divorce in Matthew 19:3-12 and Mark 10:2-12. In these passages he teaches that marriage as ordained by God at creation, a permanent exclusive relationship between one man and one woman, remains unchanged. There is no suggestion that there is any change because of the coming of the kingdom.

Jesus also makes clear in Matthew 19 that the alternative to heterosexual marriage is sexual abstinence ('being a eunuch'). There is no hint of any non-procreative same-sex alternative form of marriage.

Secondly, the notion that procreation is not necessary 'for the growth of the kingdom of God' is unconvincing. It is true that the coming of God's kingdom does not take place because people have children. This is an idea which no one has ever suggested. The coming of God's kingdom takes place because Jesus becomes incarnate and dies and

risers for the salvation of the world.

However, this does not mean that procreation lacks eschatological significance. The promise to Abraham that he will have innumerable descendants (Genesis 15:5) is fulfilled in two key ways. It is fulfilled through conversion when those who are adults decide to become members of God's people and thus citizens of God's kingdom. It is also fulfilled when Christian parents beget children who are brought up to know and love God and become citizens of God's kingdom as a result.

The latter point is what is implied in the *Westminster Confession* when it talks about one of the purposes of marriage being to provide the Church 'with an holy seed.' This says that the point of Christians having children is to beget the next generation of the Church and thus further populate the kingdom. The same point is made more expansively in the homily 'Of the State of Matrimony' in the Church of England's *Second Book of Homilies*. It declares that one of the purposes for which marriage is ordained is:

'...that the Church of God and his kingdom, might by this kind of life, be conserved and enlarged, not only in that God giveth children, by his blessing, but also, in that they be brought up by their parents godly, in the knowledge of God's word, that this knowledge of God, and true religion, might be delivered by succession, from one to another, that finally many might enjoy that everlasting immortality.'¹⁴

The argument that procreation within marriage is unimportant in relation to the growth of the kingdom of God is thus mistaken. Christian marriages are one of the main means by which the kingdom is populated.

The converse is also true. As Mary Eberstadt argues in her book *How the West Really Lost God*, a good case can be made out for saying that the decline of the Church in the West has been the result of the collapse of traditional family structures. As she puts it 'family decline in turn helps to power religious decline.'¹⁵ What this means is that

¹⁴ Ian Robinson (ed), *The Homilies*, Bishopstone: Brynmill/Preservation Press, 2006, p.363.

¹⁵ Mary Eberstadt, *How the West Really Lost God*, West Conshohocken: Templeton

those who are really interested in the growth of the kingdom of God should be seeking to support and encourage the traditional family and in particular the importance of having children rather than downplaying their significance.

Thirdly, there is nothing objectionable in principle in the argument that the Holy Spirit guides the Church through the witness of Scripture to discern truths that are not contained in Scripture itself. Scripture does not address every specific issue and situation which the Church faces during the course of its history and so the Church requires guidance by the Spirit which goes beyond what Scripture explicitly says although in accordance with it.¹⁶

However, in any given case it needs to be shown that the Church is actually being guided to discern truth. This means a persuasive case needs to be made out as to why what we know on the basis of Scripture leads us to view a new issue or situation in one way rather than another. In relation to the issue of same-sex marriage a case would need to be made out as to why the witness of Scripture leads us to believe that the Church should celebrate same-sex marriages in those jurisdictions, such as Scotland, where they are legal. As we have seen, the report fails to make out such a case. The report fails to show that there is anything at all in Scripture that points us in this direction.

The report also fails to engage at all with the detailed biblical arguments against the acceptance of same-sex relationships contained in section 7 of the 2013 report of the Church of Scotland's *Theological Commission on Same-Sex Relationships and the Ministry*.¹⁷

Conclusion

In this paper we have looked at the arguments put forward by the Church of Scotland's Theological Forum for broadening the Church's definition of marriage to include relationships between two people

Press, 2013, Introduction.

¹⁶ Richard Hooker's *The Laws of Ecclesiastical Polity* develops this point in detail.

¹⁷ *Theological Commission on Same-Sex Relationships and the Ministry*, Edinburgh: APS Group, 2013, Section 7.

of the same sex. What we have discovered is that none of them is convincing.

This means that the body of the report does not support its conclusion that the Church of Scotland should begin the process that will lead to the authorisation of same-sex marriages in the Church of Scotland. The General Assembly should reject this report and the Deliverance based on it and should instead commission a new report with the mandate to engage seriously with the biblical evidence set out in section 7 of the 2013 report.

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