

## LEGALIZING SAME SEX MARRIAGE

The disputes about allowing or legalizing same sex marriage suffer from a lack of clarity about what marriage is. For in fact marriage could mean at least two things. It could mean what marriage should be by nature. Or it could mean what marriage now in fact is.

Let me begin with the first of these. That there is such a thing as what marriage is by nature can be seen from the following facts.

1. The sexual difference between male and female is a procreational difference.

The two sexes differ as they do for sake of the procuring of offspring.

2. The sexual act between male and female is a unitive one. It brings the two together in the most intimate of physical unions.

3. Male and female are equal in this act and this function. They have equal dignity.

4. The offspring born as a result of sexual union derive their physical origin from both their parents equally and are in need of long education from both of them equally.

5. The physical derivation of offspring in this way ties people together in a multitude of family relationships: parent, child, grandparent, uncle, aunt, cousin, and so forth. These relationships are of a unique kind and tie definite people to definite people in a way that is of immeasurable value throughout life, from cradle to grave.

6. As physical, people mark significant events in their lives and significant moments of commitment in physically manifest ways, using elaborate ceremonies to fix and display settled acts of intention and choice.

From these facts one can deduce that there is a kind of personal union of male and female that has these necessary characteristics.

It is heterosexual (from 1); exclusive (from 1 and 2); for life (from 2 to 5); communal or has a recognized social status (from 6). Hence, by the same tokens, it is not homosexual; not promiscuous; not contraceptive; not isolated or solitary.

Such a union I call natural marriage, or what marriage is by nature, because it is a union whose distinctive characteristics follow from the natural facts about human beings and how they come to be and to flourish.

On the other hand, marriage as it is now actually practiced, or the sort of unions that nowadays get called marriages and are given legal sanction as marriages, even when such marriages are confined to heterosexual unions, do not correspond to natural marriage as above described.

They are not for life, but can end in divorce and be replaced by second or third or more marriages; they permit the use of artificial contraceptives to prevent childbirth; they permit promiscuity, or sexual intercourse with persons other than the spouse; they permit abortion.

Such unions, while they may be called marriages, are not natural marriages. That they are heterosexual unions makes no difference. Natural marriage is characterized by several features. Heterosexuality is only one of these features. The other features must be present too, and if only one of them is lacking, there is no natural marriage.

So suppose that, instead of taking away, say, the features of permanence and exclusivity, as these so-called or merely civil marriages do, we were to leave these features and take away the feature of heterosexuality. Would the resulting union be any less a marriage?

Of course it would not be a natural marriage. But the other is not a natural marriage either. So if we are appealing to the natural notion of marriage to rule out same sex marriages, we must, to be consistent, rule out non-permanent and promiscuous heterosexual marriages too. Such heterosexual unions are no more natural marriages than homosexual unions are. Both fail to reach that measure, if for different reasons.

There is, therefore, a certain inconsistency, not to say hypocrisy, involved in trying to outlaw homosexual marriage while not also outlawing impermanent or promiscuous or contraceptive heterosexual marriage. We cannot outlaw one without outlawing the other, or allow one without allowing the other.

That, however, is what popular opinion wants to do. Popular opinion, therefore, is inconsistent if not hypocritical.

What should we do then? We have, it seems to me, only two serious options. Either we return to natural marriage and refuse to allow any union the name or privileges or duties of marriage that is not a natural marriage. Or we abandon natural marriage altogether and allow people to call marriage any sexual union that takes their fancy.

Thus not only could members of the same sex claim to be married, but so could members of different maturity or species. There could, therefore, be pederastic marriages, I mean marriages between adults and children. And there could also be pet marriages, I mean marriages between humans and their pet dogs or cats. There could, in addition, be polygamous marriages (whether heterosexual, homosexual, pederastic, or pet marriages).

Let me hasten to add that I do not personally favor this solution. But I think it is a solution that no one can consistently object to who wants to describe modern civil unions between heterosexuals as marriage.

Moreover I think it is the solution we should adopt in the immediate and short term, because it will have the beneficial effect of shocking people into realizing how far they have departed from natural marriage in the unions they now call marriages.

If the idea of natural marriage is ever to be restored in the popular mind, the ignorance and inconsistency that now infects the same sex marriage debate, and that vitiates the arguments of most of those who oppose it, need to be exposed.

What solution do I prefer instead? Well, ideally no union should be dignified with the name of marriage, whether civilly sanctioned or not, that is not also a natural marriage.

But if this would be impossible to legislate (as I think it would be), I would be in favor of abandoning the institution of civil marriage altogether. Let those who really want to get married, I mean who want a natural marriage, have recourse to some other social body, as the several religions, to sanction and ceremonially solemnize their marriage.

As for civil marriage, it should, if it is to be retained at all, be simply a legal contract guaranteeing to the relevant parties certain legally enforceable rights for as long as the contract is in force. What these legal rights are should be left to the parties themselves.

Perhaps there could be a standard civil contract which contained what most people would want from such a contract, and let this contract, if you will, even be called a marriage. But variations to the contract, or special versions of it made to order, should be available.

These contracts should, of course, be available also to those who want and have contracted a natural marriage. For there are certain legal or civil obligations that any

union of persons will naturally bring with it, and there is no reason that those with natural marriages should be prevented from receiving the benefits of the civil law.

The only point left, and it is one of the most important, is what to do about names. Which union, the natural or the civil, should be called marriage?

Well, in justice, only the natural one should be so called, because the civil sanctions for marriage were introduced for natural marriage so as to foster and protect it. But I think this name has become so divorced from its origin that there is little hope of restoring to it its natural meaning. So let marriage be the name for any union anyone cares to call marriage.

As for natural marriage, let it be called natural marriage. Or if that name lacks rhetorical force, let it be called familliage or heterriage or what you will.

Alternatively, why not have a competition for a new name? Send your suggestions to the author. The winner will receive the prize of having his suggestion added to the English Dictionary.