

MARRIAGE AND CIVIL PARTNERSHIP (SCOTLAND) BILL
SUBMISSION FROM THE FREE CHURCH OF SCOTLAND

The Organisation

The Free Church of Scotland is dedicated to bringing the Good News of Jesus Christ into public life and beyond. The Free Church is reflective of many within the Christian community who feel that in rejecting much of Scotland and Britain's Christian past, the baby has been thrown out with the bathwater. We believe there is a danger not primarily to the church, but rather to the wider society (especially the poor and the marginalised), when the historic values of Christianity are replaced by a confused and confusing morass of whatever happens to be the secular moral vogue of the day. It is for that reason that we wish to contribute towards this consultation. We are concerned that the debate has been framed in such a way (tolerant pro-gay marriage vs intolerant religious bigots) that there is in effect little chance of there being a rational, civilised and tolerant debate on what we believe is a vital subject for the future of this country.

The Consultation

The Free Church is not convinced this consultation is more than political camouflage – and thin camouflage at that. The parallel same-sex consultation by the Westminster Government suggests there is a 'done deal' by the ultra-liberal, secular establishment to push through these controversial proposals. While Downing Street is under compulsion from the Liberal Democrats to act, it is surprising to see a Scottish Government with a different background falling meekly into line. Nevertheless, given the social importance of the changes, the Free Church has decided to participate. It is for Scottish Ministers to show that the consultation is genuine, that they are prepared to listen to Scottish values and that they are not just a tool of the Conservative/Liberal Democrat Coalition in London.

Civil Partnerships for Same Sex Couples

These novel arrangements came into existence on a UK basis by the Civil Partnership Act 2004 after a sustained lobby by same sex campaigners. The Act has only been in existence for six years from 2005 and has resulted in a meagre response of 3,307 partnerships compared with 175,552 marriages during the same period.

The evidence is that that they have not had the pick-up expected by the lobbyists and have had little social impact apart from the initial novelty. It is too soon to make an assessment of the medium term impact made on society but as these are essentially bi-lateral contracts, they are private arrangements between consenting couples.

While it was argued at the time of the legislation that same sex couples did not have the taxation or succession benefits given married couples, any argument over human rights entitlement (if any) is satisfied by the Act. It is remarkable that given the short period that has elapsed since the primary legislation and the minimal take up of partnerships that the Scottish Government has found it necessary to consult on this issue with a view to legislation. It would appear to have succumbed to persistent lobbying and surprisingly can find legislative time on this issue despite the huge number of priority social and economic problems affecting the country and awaiting urgent attention by the Government.

The main issue is whether same sex couples should be allowed to have religious celebration of their private contracts. This runs the danger of offending against the principle that church and state should be kept separate. In mainland Europe frequently, marriage (and by extension civil partnerships) are constituted by registration by the State with religious celebration being an optional and non-essential addition to the occasion. Under the 2004 Act, partnerships are constituted and recognised by the state by registration. The parties can have any other ceremony or religious blessing in any location they wish following upon registration. They suffer no discrimination or hardship under the current arrangements and the Free Church believes there should be no further legislation. Any such would be a prodigal waste of legislative time for 450 people a year (and declining) when more urgent issues require the attention of Scotland's Parliament.

The Scottish Government is out of touch with reality when the Ministerial Foreword states:

“...we also hope that everyone will treat those with different or opposing views with courtesy and respect, within the very highest standards given of democratic discourse.”

In the vernacular: “nae chance”. By opening up this minefield on behalf of a tiny minority, as evidenced from the numbers from the Registrar General for Scotland mentioned above, the Government cannot be unaware that the same sex issue affecting the clergy in our largest church is causing distress. Equally, the gay rights lobby will not rest until all religious bodies, be they Christian, Muslim or other be compelled to conduct same sex partnerships (or marriages) under equality law. The Government speaks of opts-out and protections, but ultimately once the principle of religious celebration is conceded, such protections will melt away under incessant pressure. If the Government is arguing that on the grounds of justice and equality, same sex-marriages should be allowed, then it cannot consistently argue that churches should be allowed to ‘discriminate’. Despite the assurances that none will be compelled, we are not reassured. The vitriolic and over the top reaction to MSP John

Mason's entirely reasonable motion to the Scottish Parliament that what the Scottish Government were assuring us would be the case anyway (that religious organisations would not be compelled to act against their beliefs), is an indication of how necessary his motion is. For such a reasonable request to be described by an MP as a 'nasty little motion', is testimony enough that the Government's wish for a civilised democratic discourse was never likely to happen.

The Government cannot bind its successors. Nor can the Government influence the courts. It has already lost major appeals on human rights grounds to the UK Supreme Court and equality law will also be a source of litigation. The Scottish Parliament is not sovereign. Its acts are subject to judicial approval on human rights grounds. And even if the 'gay rights' lobby were prepared to tolerate non compulsory religious celebration as proposed by the Government (an unlikely prospect), the atheist and secular movements will be only too glad to cause discord for the Churches. We suspect that it will not be long before churches lose their charitable status for daring to go against the governing consensus.

Whilst we do not wish to affirm conspiracy or paranoia theories, it is already the case that some secular zealots have seen fit to attack Christians in the United Kingdom on their wearing of crosses and crucifixes. How many ministers, priests and imams or sheikhs will go to jail for non-compliance with a secular law that strikes at the heart of their faiths? Think twice before you enact this legislation. Martyrs to the faith have not been unknown in the past. Is this to be shadow on the future? This is not fanciful. MSPs have already been attacked viciously for daring to disagree with religious celebration of partnerships or marriage. The first stone has been thrown against free speech on this issue, even within the governing party.

We are aware of politicians, journalists and educationalists who dare not voice their own private opinion on this subject because of the sustained campaigns which will kick in against them, the minute they open their mouths. The gay rights lobby have sought to have candidates removed, websites banned and advertising removed, if any one dare to challenge their shibboleth. We find it interesting that the Scottish Government's Equality Unit has funded the three national LGBT organisations to the tune of £5.94m since 2001/2 whilst giving only £3.82m to religious groups. Christian groups received £595,223 of which £104,320 was given to the Iona Community, an organisation that is affiliated with the Lesbian and Gay Christian Movement. Given the role of the churches in fighting poverty and providing many public services we think that it is more than a little disproportionate that organisations which represent less than 2 per cent of the Scottish population should receive ten times as much as the Christian churches, who represent more than 50 per cent of the population. This money is then used to ensure that government policy is prejudiced towards the gay rights agenda and to demonise any who dare to question it.

Despite the proclaimed desire of both the Scottish and Westminster governments to 'consult', we are concerned that there will be little consultation, because the pre-suppositions of the gays rights lobby have already been accepted by the cultural and political elites of our culture. It is assumed (rather than rationally argued) that evidence of a tolerant 'liberal' society is that one is for gay marriage. The conclusion has been pre-determined before the consultation has even been had. This is hardly the action of a mature, reflective and tolerant democracy. It is little wonder that there has been little civilised and tolerant discourse.

Same Sex Marriages

The Government's perceived wish to give same sex couples the same status and rights as for opposite sex marriage (as they now charmingly describe it) is ill thought out and ultimately harmful. Of the 193 members of the United Nations, there are only 22 countries which have recognised same sex unions and 9 that have recognised same sex marriage. Whilst it may appear superficially attractive for some (witness David Cameron's boast that Britain would be at the forefront to homosexual rights) to appear to be leading the way in the world, in reality all that the Scottish Government would be doing is following a course of action which is entirely the product of a Western liberal elitist liberalism, which is in fact far from liberal. Whilst politicians might like to talk about how tolerant and liberal they are, thinking that there is little of consequence for them in going along with this headlong rush to 'redefine' marriage, they need to stop and reflect that in fact this is a major step which has potentially extremely destructive consequences.

We again ask if there is minimal demand for same sex partnerships, where then will come the numbers to warrant such a revolutionary change in society. The Government is again reminded that since the Civil Partnership Act came into force, there have been only 3,307 partnerships set against 175,552 marriages. 2 per cent is not a solid foundation for tinkering with something that has been the foundation of British and Scottish society for over 1,500 years. You do not mend 'Broken Britain' by breaking its very foundations.

The key question, which very few seem to have actually considered, is just simply to ask, 'What is Marriage?' and it is to that that we now turn.

Nature of Marriage in Society

We contend that when the Prime Minister, or the Scottish Parliament claim the right to 'redefine' marriage, they are claiming something to which they have no claim. They are in fact acting *ultra vires*. It as though they are claiming the right to pronounce the earth flat or the ability to make square circles. The meaning of marriage is straightforward. It

is the union between one man and one woman, for the threefold purpose of mutual companionship, the procreation and upbringing of children in a secure environment, and the good of society. If one accepts this traditional definition of marriage then by definition there can be no such thing as gay marriage – precisely because the procreation of children cannot be achieved by two people of the same sex. The secular state may wish to claim all sorts of powers, but the ability to enable two people of the same sex to have children, without the intrusion of a third or fourth party, is beyond even the power of the State!

When the Scottish Government claims that it has the right to redefine marriage, it is in fact doing nothing of the sort. It is simply undermining the Christian (and traditional) understanding of marriage to the extent that we believe it negates it completely. Once a government abrogates to itself the right to redefine marriage then there is of course no logical reason why any government should stop at same sex marriages. Why not redefine marriage so that polygamy is allowed? After all if the arrangement is between consenting adults who 'love' one another, what is the difference? And why stop there? Why not redefine marriage so that a brother can marry his sister, or a father his daughter? If marriage is not about pro-creation, and with the availability of modern birth control methods, then why should this not be allowed as well? The inevitable hysterical cry will come that we are equating gay marriage as being synonymous with polygamy and incest. We are not. We are just simply pointing out that the criteria being used in the current debate would, if accepted, be logically and equally applicable in these cases.

Human Rights to Same Sex Marriage

There is no human rights entitlement to same sex marriages. The position is clearly set out in the Consultation Document as follows:

a. **The Universal Declaration of Human Rights**

Article 16

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses.
- (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State

b. European Convention of Human Rights

Article 12

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing exercise of this right.

Nowhere in these fundamental statements of human rights is there any reference to same sex marriages. Same sex couples have thus no human right to marry. Indeed, the statements go further. The UN Statement links marriage of a man and a woman as a natural and fundamental group unit of society and declares that the family as thus defined is entitled to protection of society and the State. The reference to founding a family is echoed by Article 12 of the European Convention. This is common sense. The generating and rearing of children is essential to the survival of the human race, and vital in Scotland which has an ageing population. Marriage is essential to the human condition; same sex unions are a biological cul-de-sac.

If the Scottish Government goes ahead with its proposal, it will have no validity as an exercise of human rights. Indeed, by adulterating the concept of a marriage as a union of a man and a woman, it will be guilty of removal of the protection of the state in Scotland required of it by Article 16 of the Universal Declaration. Furthermore, what consideration has the Scottish Government given to the rights of millions of people who are married? Some, of course, will approve, many will not care and a huge number will find the legislation offensive. It is arguable that their human rights under international law will be breached by the Scottish Government. Will they be entitled to separate status? Will they be compensated? Indeed, if convicted criminals can obtain compensation for slopping out as a breach of their human rights, why should those who entered into regular marriage under international human rights law not receive compensation when their 'marriages' are redefined in terms that are not natural and which they do not recognise? Even if after many years, the Government emerges as victor, the cost in administrative and legal time together with legal aid on-costs will not be insignificant.

Religious Celebration of Same Sex Marriages

If unrest is anticipated over religious celebration of civil partnerships, then the comments made earlier on behalf of the Free Church apply with even greater force.

By issuing this consultation, the Scottish Government has effectively lit the blue touch paper. It should extinguish it before causing needless stress to itself and its successors. It is the beginning of wisdom to recognise that you attack the essential building block of society at your peril. The days when the Christian faith will be bullied into secular

submission are over. It may be that the Scottish Government does not really wish to return to a pagan society, or a pre-Christian-Greco Roman world, but we will believe that that will be the inevitable consequence. The secular myth of the continual progress of humanity towards an enlightened, liberal secular state is one, that despite all the evidence from recent history, is stubbornly held to, almost as an article of faith. We believe that this is blind faith and as such we are in danger of being led into the very opposite of what is intended.

We realise that there are many who would accept the basic arguments we are putting forward and who in their heart of hearts, do not agree with same sex marriage, and yet who will regard it as a relatively unimportant matter, and therefore not one to risk career or reputation over. They therefore, in order to appear 'enlightened, liberal and tolerant' will just go along with the prevailing cultural narrative. To such however we issue this plea – what if you are wrong? We offer three reasons as to why this matter is of such importance.

- 1) Past - This is not a new struggle. Dostoyevsky, always an astute observer of society, had one of his characters sum up the agenda of the self-styled radicals "Make haste and lock up the churches, abolish God, do away with marriage, destroy the right of inheritance, take up your knives," (The Possessed - The Devils). In different forms several societies of Right and Left in the 20th Century attempted to enact this 'radical' agenda, with disastrous consequences for humanity. We find it ironic that almost all politicians and political parties in Britain are rushing lemming like into something which in effects negates marriage – at least in the eyes of the State.
- 2) Present – We understand why politicians either want to enact this or at the very least are not prepared to oppose it. The modern narrative is one of enforced 'tolerance'. All the basic pre-suppositions are so fixed that to question them is to immediately be ostracized. We have seen this recently in the Conservative party – where it has been determined by the powers that be that the New Conservatism must be seen to be liberal, tolerant and that therefore any potential parliamentary candidate who does not accept the mantra and pre-suppositions of the current ruling cultural elite, will immediately be blackballed. The irony is of course that such a course of action is fundamentally intolerant, preventing any discussion and difference of opinion. We have even reached the stage where gay rights groups have succeeded in persuading major information and internet companies to censor groups who do not accept their point of view. For example Apple were persuaded to remove an app which was set up by The Manhattan Declaration. The Manhattan Declaration are not a group of right wing wacky religious fundies. They are a respected group of Christian leaders from different backgrounds. Yet their views are considered to be so extreme that they are

censored. Meanwhile pornography, extremist politics and violence are allowed. At some point someone is going to have to say – enough is enough. Diversity and tolerance are going to have to be practiced rather than just words used in the most Orwellian of fashions.

- 3) The Future – We do not believe that the attack on marriage or on Christianity will end with the Scottish or British Parliaments' 'redefining marriage'. As each new piece of legislation has failed to bring in the secular humanist 'Nirvana', its proponents have become more and more desperate and have pushed for more. We do not advocate any form of homophobia (and indeed regard the constant accusation of such as being little more than a smokescreen and bullying tactic, to try and enforce silence), and we repeat the Christian teaching that we are to love and respect all peoples, whatever their sexual orientation. However we are concerned at the way this issue is being used to demonise and attack Christianity, whilst at the same time being used to reshape and change society in a way which we believe is ultimately harmful. The gay rights groups, funded by the State, will continue to push for that State, not just to be 'tolerant' of gay marriage, but intolerant of any who do not accept their agenda. There will be more pressure for social 're-education' through popular media, the education system and the social welfare and political systems. The attack on the traditional understanding of marriage will not be the end of this assault on Christian morality and values. We urge our MSPs to take this into account and at the very least make an informed decision thinking about the long term consequences, rather than merely the short term sound bites and media pressure.

Conclusion:

“Scotland has chosen to believe in itself and our shared capacity to build a fair society. The nation can be better, it wants to be better, and I will do all I can as First Minister to make it better. We have given ourselves the permission to be bold and we will govern fairly and wisely, with an eye to the future but a heart to forgive.” _ Alex Salmond – Victory Speech – Kirkcaldy – May 2011

We applaud the First Minister's desire to make Scotland a better nation and a fairer society. We do not however think that instigating gay marriage and thus undermining even further the Christian foundations of this society will lead to a better or fairer nation. Indeed in our view, it will lead to further social disintegration, sexual confusion and greater intolerance, where any in public life or service, who dare to uphold the Christian view of marriage, will be ostracised and discriminated against. If the Scottish Parliament takes the step of redefining marriage rather than displaying boldness, fairness and wisdom, we believe it will demonstrate cowardice, injustice and folly. We therefore request that the Parliament do not take such a retrograde and reactionary step and we would ask you to refuse the request to redefine marriage.

In saying this we are not arguing that the current legislation on civil partnerships should be repealed. That is a route that the State has chosen to go down and it is not the issue at stake here. Indeed there are those who wonder what all the fuss is about – given that civil partnerships already give all the same legal rights as marriages. As indicated in our submission we believe it is important because of the wider agenda being pursued.

I believe this is of such a destructive nature to Scottish society that, rather than leaving the decision to a group of MSPs (who themselves are very susceptible to the threats to their careers and positions of political and media lobbying), this decision should be put to a referendum of the Scottish people. If our relationship with the rest of the United Kingdom warrants a referendum, then surely our relationship to over 1,500 years of Christian teaching on that most fundamental of society's institutions (marriage), merits the same treatment? Let the people have their say.

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Free Church of Scotland
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