

REFLECTIONS ON THE SYDNEY ANGLICAN SYNOD AND THE SAME-SEX MARRIAGE DEBATE

A major topic at this year's diocesan synod was the matter of same-sex marriage. The protagonists, having prepared themselves for the plebiscite debate, were somewhat deflated by the Federal Opposition's decision to block it. Nevertheless, a motion was passed directing the church, government, and Australian community on a range of matters attached to marriage.

The motion was reasonably straightforward and not overlaid with religious condemnations. It also included calls for respectful debate and courteousness in public engagement. Nevertheless, there are some problems.

First, is that a recent survey of Sydney Anglicans found that 15% were in favour of same-sex marriage and 13% undecided. The views of the Synod therefore do not reflect all people in the diocese. Secondly, many church leaders have taken such an aggressive stance against same-sex marriage that they have left themselves little manoeuvre room in debate and likely embarrassment should the law change. A result of this is that should same-sex marriages be enacted under the law that the diocese will have no option but to withdraw from the conduct of marriages on behalf of the state if it is to maintain its own integrity.

Historically, the Anglican Church of Australia grew out of the established Church of England and from the beginning of white settlement enjoyed a privileged position with the governing authorities. It has continued to be able to gain access to the ear of government when required. But things have changed.

Up to the 1950's most Australians not only identified themselves as Christian (around 90% of the population) but a large number were also regular church attenders (around 45%). By 2011 this had fallen to around 61% and 10% respectively, and these figures may be lower again now. Currently around 2.5% of the population attends an Anglican church regularly, which puts the church in a very marginal position with respect to the wider community.

The Anglican Church (among others) spends a lot of time talking to itself. Over the years it has increasingly become more self-obsessed, self-referential, and disconnected from the wider community. We may think we have something important to say, but the 97% who are not engaged with us have long moved on and lost interest. Instead, we have become defensive and obscurantist, seeking to retain social position on the one hand while 'laying down the law' on the other. Yet the church has also betrayed itself by scandals in the areas of the abuse of children, poor governance, negligent financial management, tribalism, and the cognitive and emotional dissonance created by much of its theology. It is an unsustainable position.

Finally, it strikes me that radical change in the church tends to come from marginal groups and individuals (such as Luther, the Wesleys, and the Tractarians) rather than from power blocs such as synods and bishops. It is usually a 'bottom up' approach that arises as a 'movement' rather than through a formal structure. Unsurprisingly, those in power are usually more wedded to maintaining the status quo than change. It is out of this context that the church has joined the debate on same-sex marriage.

The Primate (or head) of the Anglican Church in Australia recognises that the church does not have a singular view on same-sex marriage with respect to the wider community. He stated recently in respect to the possible plebiscite “it will be important that Christians - and others - vote according to their conscience and their view of what is best for society”. Indeed, this is as much as any one of us can do in a democracy.

Some Christians argue that same-sex marriages are bad because of what the Bible says. This position is based partly on a specific way of reading the Bible and partly on Church tradition. Others, with a different method of interpretation are not convinced of this argument. Nevertheless, three concerns arise; first is the consequence of imposing a particular Christian ideal upon non-Christians - be they people of other faiths or of no faith. Second is the issue of how to afford legal protection to same-sex couples and their dependants. Third, is the question of what is good about marriage and why it should it be denied to those who live in committed same-sex unions?

Historically, marriage has been a cross-cultural and cross-religious practice that serves to order relationships in society both between the contracting parties, their dependants, families, and the wider community. It should also be noted that marriage practices vary across the world and change over time, even within the Judaeo/Christian tradition.

Up to the sixteenth century European marriages usually occurred by legal consent between two parties before a notary, which was followed by a church blessing. The requirement for coterminous church and state recognition developed from around the seventeenth century, and then predominantly in the established churches of Protestant Europe where ministers of religion were authorised to act on behalf of the state. Many European countries continue to maintain a separation between the legal and religious actions in a marriage, with the state alone attending to the former.

In Australia, the number of religious marriages has halved over the past twenty years, with civil celebrations rising correspondingly to over 70%. More specifically, around 5% of all marriages are conducted by Anglican clergy, so the church should not overemphasise its importance in this matter.

The Commonwealth Marriage Act 1961 (as amended by the Howard Government in 2004) regulates the administration of marriages in Australia. The only matters pertaining to religion in the Act are limited to the authorisation of religious celebrants and the rites that they are to use. No preference is given to any particular religious or non-religious practice when operating within the law; however, there remains a variety of practices and rationales for the administration of marriages across different religious groups. Many have their own laws operating along-side those of the state, and not all religious groups recognise the validity of each other's marriage rites!

A small part of the international Anglican Communion has adopted the practice of blessing same-sex unions. The Synod of the Diocese of Sydney has been a major critic of this practice and argues that it has led to disunity in the church. In the light of this, there is a concern that parts of the church may be wanting the state to make a particular decision in this matter more for the purpose of managing internal church division than for ordering the wider society.

Recognising the social and legal complexity in the current debate as well as the forces for social change, is there a way forward that allows for both the maintenance of church institutional integrity while also acknowledging the possibility of change?

The French Napoleonic Code of 1804 sought to create a new civic legal system based on Roman law. Part of its intention was to remove feudal, royal and religious laws from the legal system and create a secular code established by a legislative process. The effect of this on marriage was to separate the activities of the state from the church. The legal aspect is governed by the state and requires a couple to register their union with the civic authority. Once this is done, a couple may then seek religious recognition of their marriage if they wish. In this way, the needs of the state and the church can be met at the same time, without the one interfering with the other.

Such a separation is proposed, including having all marriage-type relationships (both de jure and de facto) administered under one act of parliament. This would allow for equal standing under the law. The state can choose to provide for the marriage of same-sex couples if it wishes, but there would be no legal requirement for the churches to bless them.

Religious groups can maintain their own integrity by promoting the advantages of faith-based unions and administer marriages according to their particular traditions. Moreover, churches will still have the freedom to extend their marriage rites to same-sex couples if they choose; but this would be a decision that churches make for themselves rather than involving the wider community or under any state coercion.

In a western liberal democracy, the churches are institutionally part of the community and should play their part, but they are not there to assert undue power over the policies of government or try to dominate the rest of society. Even though it is not an Australian political doctrine, we would nevertheless expect that a degree of separation between church and state should be maintained. It could be a win-win.

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