

Defending Marriage and the Family Against Same-Sex Unions: What Should the Clay Say to the Potter?

May 16, 2004

by The Most Reverend John C. Nienstedt

Introduction

On September 11, 2001, I stood watching my television set as it recorded the second commercial airliner crashing into the second of the World Trade Towers. On one level of my consciousness, I was aware that terrorism was a threat to the stability of our society. Yet, in that moment, I realized that this action had permanently transformed the social fabric. This was a deliberate act of aggression, a battle line drawn in a smoke filled sky.

The late Archbishop Fulton J. Sheen spoke of the cataclysmic changes that have taken place in the Church and society every five hundred years. In the year 476 A.D., the Roman Empire collapsed and with it the basic framework of social stability. Around the year 1000, Europe experienced the invasion of the Muslims in the Holy Land (First Crusade – 1095 A.D., Fall of Jerusalem, 1187 A.D.) and a threat to her monolithic culture. On October 31, 1517, Martin Luther posted his 95 thesis and the Protestant Reformation began, shaking the very identity of not only religious consciousness, but the very self-identity of the European nations. Now, in the year 2000, we are

undergoing another major transformation in the Church and in society. Make no mistake about it: this is an exciting time to be alive. But, it is also a critical time for critical thinking. How we react to the events of our day and what we do to shape and form society will very much determine the next 500 years of human history and beyond.

I believe that the decision made by the Massachusetts Supreme Court on Tuesday, November 18, 2003, in extending the right of homosexual couples to civil marriage has, in effect, drawn a battle line in the cultural war to preserve the health and well-being of the family as the basic building block of a free and just society. The definition of family rests upon the civil understanding of marriage as a communion of two persons-in-one-flesh. This must be a union between one man and one woman.

I readily appreciate that the concept of marriage and family has been under assault for a number of years. The decline in the well-being of the family is all too apparent:

40% of this country's marriages end in divorce;

over 4.9 million heterosexual couples cohabit;

33% of all babies are born to unmarried mothers. ¹

¹ See George F. Will, "Why not Polygamy," the Journal, September 30, 2003, page 4a.

Yet somehow the far reaching implications of the majority opinion of the Massachusetts Court on that November day was a new focused attack on the social institution of marriage and on the society which is molded by that traditional definition.

On June 3, 2003, the Vatican Congregation for the Doctrine of the Faith released its own statement on the issue entitled, Considerations regarding proposals to give legal recognition to unions between homosexual persons.² In this document, the Church repeated the essential points of her teaching in rejecting the validity of homosexual unions. Likewise, the Holy See reminded Catholic politicians of their duty not to support legislation that would give civil recognition to same-sex unions since such legislation would be a denial of the truth of reality and, therefore, inherently an unjust response to the present situation.

Last November, the United States Conference of Catholic Bishops approved a document entitled, Between Man and Woman: Questions and Answers about Marriage and Same Sex Unions.³ The purpose of this document was to provide a catechetical tool, using both faith and reason, to

² See Vatican Doctrinal Congregation, "Same-sex Unions' Harmful to Society," Origins, vol. 33: no. 11 (August 14, 2003), 177-182.

³ U.S. Conference of Catholic Bishops, "Between Man and Woman: Questions and Answers About Marriage and Same-Sex Marriage Ruling," Origins 33:25, 433-434.

help Catholics and indeed all people of good will to understand the important distinctions which ought to form the current debate on this issue .

What I should like to do in this talk is to expand the horizon of the Church's teaching as expressed in the aforementioned documents and address four areas of concern:

1) What insights does Divine Revelation bring to this discussion?

Specifically I would like to review the truths that are binding on the conscience of those who profess adherence to a belief in God and more specifically a belief in the teachings of Jesus Christ;

2) What insights are gained by the use of reason alone?

In a secular culture, many will refuse to make reference to a Divine Being as the source of moral reasoning. So we must dialogue with them on the basis of human reason. How does that argument take shape?;

3) Why is it necessary for civil government to support the reality of marriage as a permanent union between one man and one woman?

This question responds to those who would take government out of the "marriage business" and relegate it to the churches;

4) Why is the exclusion of same-sex unions from the definition of marriage not a form of discrimination against homosexual persons?

In fact, since the cause of homosexuality has not been defined by science, there is every reason to believe that its origin is more the result of nurture than of nature. In that regard, we are not dealing with a civil rights issue, but rather one of behavior which, if controlled, can be reformed.

Often the Church is criticized for giving too much emphasis to matters of sexuality. Yet, there is no other aspect of human existence that so clearly defines the character of a person and how that person chooses to express his or her own identity.⁴ In many ways, a person is defined by his or her sexual relationships. For example, Is she married? Is he single? Is my daughter old enough to date? Is my son mature enough to get married? At the same time, many find moral prescriptions on sexuality to be nothing more than negative prohibitions (thou shalt nots). However, behind these negative prohibitions is a tremendous positive vision of the noble dignity and destiny to which human persons are called.

Admittedly, the Church has had problems with convincing her own membership to uphold in practice the sexual virtues that she professes. This

⁴ See Francis Cardinal George, "Priestly Celibacy: The deliberate decision of how to use sexuality as a gift for loving God," The Priest, vol. 59: no. 1 (January 2003), 9.

is because Catholics are sinners. But as sinners they are nevertheless susceptible to the forgiveness and mercy of a Divine Savior who is able to convert their hearts to follow his teaching in an effort to achieve the holiness to which he calls them. ⁵

That teaching has been revealed by the Son of God, but the fact that this information comes “from above” does not imply that the truth of its assertion is unavailable to reason alone. Rather, the Church teaches that it is precisely in the mystery of Christ and in his teaching that the natural dignity of the human person is fully revealed for every man or woman who has “ears to hear.”

To express this another way, a person of faith finds meaning in the truth which is God. If you will, this information is received by the person from “above.”

On the other hand, the philosopher seeks meaning from a perspective “below.” Using the gifts of reason, the philosopher reflects on concrete data to arrive at the truth of the world around him. Catholics believe that faith in its search for truth will not contradict reason, and faith will be verified by reason’s own findings.

⁵ See Francis Cardinal George, “Homily at Holy Name Cathedral,” August 3, 2003, [The Registrar](#), August 17-23, 2003, page 9.

Part 1 – Marriage as understood in Revelation

The Second Vatican Council (1962-1965) offered the Church and the world pastoral and theological reflections on many of the issues of our day, including that of marriage. In her Pastoral Constitution on the Church in the Modern World, the following assertion is made:

“The covenant, or irrevocable personal consent, of marriage sets up an intimate sharing of married life and love as instituted by the Creator and regulated by God’s laws. Thus, the human action in which spouses give themselves to each other and accept each other results in an institution which is stable by divine ordinance and also in the eyes of society. This sacred bond, aimed at the good of the couple and their children and of society, does not depend on human decision. It is God who is the author of marriage and its endowment with various values and purposes, all of which are of such vital importance for the continuance of the human race, the personal development and eternal destiny of the individual members of the family and the dignity, stability, peace and prosperity of the family itself and of human society as a whole. The institution of marriage and married love are, of their nature, directed to the begetting and upbringing of children and they find their culmination in this. Thus it is that a man and a woman, who are “no longer two but one flesh” (Mt 19,6) in their marital covenant, help and

serve each other in their intimate union of persons and activities, and from day to day experience and increase their sense of oneness. Such intimacy as a personal giving of two persons, as well as the good of their children, requires complete faithfulness between the partners, and calls for their union being indissoluble.”⁶

In clarifying and defending this teaching of the Church, the Scriptures provide a number of citations which speak to prohibitions on homosexual activity: Genesis 19:4-11; Leviticus 18:22 and 20:13; Romans 1:26-27; 1 Corinthians 6:9-11; 1 Timothy 1:8-11; Jude 7. Nowhere in the Bible are homosexual acts approved. While, reductionists try to excuse these Scriptural prohibitions as irrelevant in light of contemporary culture, it is simply unfeasible to justify the licitness of homosexual acts in light of the overwhelming Scriptural evidence. While not wishing to dismiss the significance of the admonitions given to us in Sacred Scripture, I do find it more helpful, however, to focus on a more recent theological development, namely our Holy Father Pope John Paul II's development of a “theology of the body”.

In a series of brief weekly audience addresses that he gave between 1979 and 1984, the Holy Father offers this “theology of the body” as means of

⁶ “Gaudium et Spes”, 48, found in the Decree of the Ecumenical Councils, ed. Norman P. Tanner, S.J., London, Sheed and Ward Limited, 1990, vol. 2, pages 1100-1101.

supporting the complementarity of male and female referred to by the Second Vatican Council and he demonstrates how it provides for a “nuptial” meaning of the human body.

The Holy Father begins his reflections, appropriately enough, with the words of Jesus as recorded in the Gospel of St. Matthew (19:3-8). The scene, you will recall, is a confrontation by the Pharisees over the question of divorce. They point to the proscriptions of Moses which allowed for the legality of divorce. Jesus replies that Moses only permitted that decree because of the people’s hardness of heart. Then he adds the words, “But it was not this way from the beginning.” (verse 8)

By “the beginning”, Jesus makes reference to the Book of Genesis 1:27 and 2:24, where God creates man in his own likeness as male and female . This “man”, obviously referring to human persons of both genders, is distinct from the rest of creation. Man is part of the natural world, but at the same time set apart. He and she are physical beings, but more than just an assembly of cells, tissues and organs. Man is a human person who has a soul and thus is an embodied spirit. As such, this embodied spirit reflects the very image and likeness of God. Through the body one finds revealed the deepest truth of the spirit.

The complementarity of male and female, then, points to their potential in becoming “two-in-one-flesh.” And so, Jesus tells the Pharisees, “So they are no longer two, but one. Therefore, what God has joined together, let no man separate.” (Mt 19:6)

The Holy Father then begins his reflections by offering an analysis of the way things were “in the beginning.” He refers to the experience of the solitude that Adam felt at the beginning of creation in not having someone who was his equal. With the creation of the first woman, Eve, that solitude was overcome. Adam exclaims, “This now is bone of my bones and flesh of my flesh. She shall be called “woman” for she was taken out of man.” (Genesis 2:23)

In their original innocence, Adam and Eve accepted even their own nakedness without shame. They walked in complete harmony with God and with one another. In this state, they experienced their bodies as being sacramental; that is to say, making visible the invisible love of God for them as a mated pair joined in a communion of persons.

The Pope goes on to point out that the author of Genesis reveals that it was upon this union of man and woman that God bestowed the blessing of fertility. Thus, one cannot understand Jesus’ answer to the Pharisees apart

from the truth that man and woman are “of one flesh union” and that this union is a sign (i.e. a sacrament) of God’s love. That union cannot, therefore, be merely a biological coupling, but rather is the fuller expression of mutual self-giving of the man to the woman and she to him. The Pope further reflects that in this union there is not so much a “loss of virginity” as a “rediscovery of the original virginal value of being a man and being a woman” in their “two-in-one-flesh” unity. In this unity, therefore, each person comes to know more fully the meaning of his or her respective self.

Such a communication of meaning, therefore, moves beyond the exterior significance of the self (as for example expressed in friendship) and becomes an expression of the interior mystery of the person. In the beginning, the Pope reasons, Adam and Eve shared a particular understanding of their bodies as “gifts.” This gift giving dimension is, in fact, the nuptial meaning of the body. Woman is not only a recipient of a gift, but is the gift herself. Man is not only the giver of the gift, but he is the recipient of the gift as well. Man and woman live for each other in marriage as gifts to each other expressed in and through the complementarity of their bodies. In such mutual self-giving, this mated pair mirror God’s creative love.

The context of this reciprocal self-giving provides the locus for an understanding that love between husband and wife is that unique

complementary expression of self-giving which is properly called the marriage act and through which is conceived another person who is both unique and unrepeatable, the very image of his or her parents. In their child, the parents rediscover themselves in their own shared humanity.

On the other hand, the body ceases to be a gift when it turns the other person into an object, using that body for self-gratification. The denial of the self-giving quality of the gift changes the nature of the communication. In this way, sin hides the perception of God's intended design, even though it does not change God's intention. After their sin, Adam and Eve found it more difficult to perceive the nuptial meaning of their bodies.

The Holy Father's reflection on the Book of Genesis leads to an appreciation of the human body as something much more than a well oiled machine of flesh and bones. The human person is a composite of body and soul (the very source of its unique personality) and, as such, the person experiences meaning in and through the flesh. The marriage act has a different meaning than the act let us say of anal intercourse or mutual masturbation between a husband and wife. These latter acts are aimed at self-gratification rather than self-giving. The male and female bodies may touch each other but not in the communion of such complementarity whereby they complete one another as God has intended. These acts, therefore, are

not acts of marriage since the mutual self-giving of the committed two-in-one-flesh is absent. The only context proper for the place of the unique gift of the two-in-one-flesh union is that which provides full complementarity as well as offering the possibility for the gift of new life. The Book of Genesis is clear that this is the manner in which God intended man and woman to unite as two-in-one-flesh, precisely the relationship that we call marriage.

In summary, then, the characteristics of masculinity and femininity, even prior to being engaged in sexual intercourse, express the body's language as being meant for mutual enrichment. ⁷

The nuptial meaning of the body, then, flows from the capacity of man and woman for self-giving which constitutes the most radical characteristic of their personhood. Since God, as creator who is himself substantially self-giving, makes man and woman in his own image, then it follows that their existence is only fulfilled in the act of self-giving to one another. ⁸

Within this understanding, the Pope concludes that the human body becomes a sacrament, making visible the invisible spiritual intention of God. Thus, the definition of the "Nuptial Meaning of the Body" lies in the fact that

⁷ See Jorge Arregui, "The Nuptial Meaning of the Body and Sexual Ethics," Issues for a Catholic Bioethic: Proceedings of the International Conference to Celebrate the 20th Anniversary of the Foundation of the Linacre Center, 28-31 July 1997, ed. Luke Gormally (London: Linacre Center, 1999), 119-132.

⁸ *Ibid.*, 130.

to be a person is to be someone whose self-fulfillment culminates in self-giving. As a vehicle for the person's being in the world, the human body takes on a nuptial character which is expressed in love, the gift of self on the part of a man or a woman which verifies the deepest meaning of their existence.

The Holy Father then goes on to point out that this "nuptial" context is the only appropriate context for the transmission of human life. As he has said elsewhere in reflecting on the role of the family:

"The only "place" in which this self-giving in its whole truth is made possible is marriage. The covenant of conjugal love, freely and consciously chosen, whereby man and woman accept the intimate community of life and love willed by God himself, which only in this light manifest its true meaning. The institution of marriage is not an undue interference by society or authority, or the extrinsic imposition of a form. Rather, it is an interior requirement of the covenant of conjugal love which is publicly affirmed as unique and exclusive, in order to live in complete fidelity to the plan of God, the creator." ⁹

Marriage, then, reflects by the very complementary nature of man and woman – a complementarity that is not just physical, but psychological and

⁹ Pope John Paul II, Apostolic Letter: Familiaris Consortio (November 22, 1981), 11.

spiritual – the intention of God himself. This understanding in faith gives answer to the question that St. Paul asks in addressing the Romans:

“Does the clay have a right to ask the potter why he shaped it the way that he did?” (Romans 9:20)

Point 2 – Marriage as Understood by Reason Alone.

The first section of this presentation has been devoted to an understanding of marriage from the perspective of Christian faith revealed by God through the law and the prophets and then most fully in the Person of Jesus Christ. In this perspective, the Sacred Scriptures as well as the teachings of the Church, are normative. One cannot profess to be a Christian while refusing to embrace those norms.

However, we are aware that many citizens living in this country do not share our perspective of faith. How then do we engage them in a discussion to discover the truth about marriage? And more to the point of today’s political debate, on what basis do we as a civil community gain a consensus on the definition of marriage that is to be defended in our laws?

The point of convergence in both cases is human reason as it reflects on the natural order of creation as well as human experience. Therefore, what I

hope to demonstrate in this section of my talk is that on philosophical grounds alone, unrelated to the insights provided by Revelation, marriage can be understood as inherently heterosexual and monogamous; that is to say, a union between one man and one woman.

The traditional understanding of marriage is that of:

“A two-in-one-flesh communion of persons that is consummated and actualized by acts which are reproductive in type, whether or not they are reproductive in effect (or motivated, even in part, by a desire to reproduce). The bodily union of spouses in marital acts is the biological matrix of their marriage as a multi-level relationship: that is, a relationship which unites persons at the bodily, emotional, dispositional, and spiritual levels of their being. Marriage, precisely as such a relationship, is naturally ordered to the good of procreation (and to the nurturing and education of children) as well as to the good of spousal unity and these goods are tightly bound together.”¹⁰

The distinctiveness we see in the marital unity of male and female persons is that they are not just two separate persons engaged in a reproductive act, as two animals might be. Rather, in the process of this act,

¹⁰ Dr. Robert P. George, “ ‘Same Sex Marriage’ and ‘Moral Neutrality’ ” (Proceedings of Fellowship of Catholic Scholars (1999), pp. 83-84.

the male and female persons become an “organic unit”. This is the oneness of their communion. Professor Germain Grisez explains it in this way:

“Though a male and female are complete individuals with respect to other functions – for example, nutrition, sensation, and locomotion – with respect to reproduction they are only potential parts of a mated pair, which is the complete organism capable of reproducing sexually. Even if the mated pair is sterile, intercourse, provided it is the reproductive behavior characteristic of the species, makes the copulating male and female one organism.”¹¹

It stands to reason then that not all reproductive-type acts are marital acts. Acts of sodomy or fellatio cannot unite two persons organically, therefore eliminating the possibility of a “two-in-one-flesh” bodily union.¹²

Indeed, persons can engage in such actions because they are committed to one another, because they derive pleasure and express affection by such actions, or because they believe they are being intimate through such expressions. However, they do not engage in the kind of action that unites them organically in a marital act.

¹¹ Germain Grisez, “The Christian Family as Fulfillment of Sacramental Marriage, paper delivered to the Society of Christian Ethics Annual Conference, September 9, 1995.

¹² See George, p. 85.

A marriage act to be such requires not only that the physical bodies are joined in “some fashion”, but that the intellectual, conscious and volitional aspects of the partners intend the ends of marriage itself. In other words, we are not speaking here of mere biological copulation, but of a human act that is willed toward a specific end or goal. Thus the question of pleasure, mutual affirmation or intimacy does not measure fully the dignity of the “two-in-one-flesh” bodily union.

“The central and justifying point of sex is not pleasure (or even the sharing of pleasure) *per se*. However, much sexual pleasure is sought – rightly sought – as an aspect of the perfection of marital union; the point of sex, rather, is *marriage itself* considered as a bodily (“one flesh”) union of persons consummated and actualized by acts which are reproductive in type. ¹³

Defending the unique status of sexual intercourse that takes place between a husband and wife as opposed to other sexual expressions, Michael Pakaluk argues in favor of the sign value of this “mated pair” as opposed to other relationships. He says it is correct to say that:

¹³ Ibid, page 85.

“When a man and woman engage in sex, the union of their bodies signifies the union of their selves.”¹⁴

Thus, sexual intercourse for the “mated pair” takes on a meaning of its own:

“A natural sign signifies something by resembling what it signifies. What is it in heterosexual intercourse which resembles a union of selves? There is this element: the reciprocal containment of the woman and the man. The man is inside the woman. His penis is inside her vagina, and the woman is inside the man. She is held in his embrace. This signifies the reciprocal containment in affection of the lover and the beloved. When two persons are united in love, each is within the heart of the other.”¹⁵

Pacalak goes on to say that homosexual intercourse fails to offer this “natural” sign because it lacks the aspect of “reciprocal containment.” No one gets inside another in homosexual intercourse. Neither the rectum nor the mouth is inside a human being, for the human body has the shape of a doughnut:

¹⁴ Michael Pakaluk, “Why is Homosexual Activity Morally Wrong?”, in Homosexuality: Challenges for Change and Reorientation, *Journal of Pastoral Counseling*, 28 (New Rochelle, New York: Iona College 1993), 53.

¹⁵ Ibid., 54.

“The gastrointestinal tract is a hole running through the body. Hence, oral or anal intercourse remains on the surface of the body, whereas the man’s penis penetrating the woman’s vagina brings about a real physical union.”¹⁶

This is why fellatio or sodomy lack the ability to achieve for two people a “two-in-one-flesh” union, precisely because these acts lack the physical and, therefore, psychological, emotional and spiritual penetration that is the defining characteristic of marital intercourse. Acts of oral or anal intercourse, therefore, remain on the level of mutual masturbation, which is inherently a self-gratifying, not a self-giving act. It is then logical to conclude that homosexual acts cannot signify a marital union because they do not unite those who engage in that act. From the order of nature then, one can by the use of reason conclude that homosexual activity cannot be described as marital intercourse. As reason demonstrates, therefore, marriage has a meaning prior to the wishes, desires or choices of any individual and that meaning cannot be realized by two persons of the same sex.¹⁷

Bishop Robert McManus has pointed out that in our contemporary society many people find it difficult to believe that something can always be morally

¹⁶ John F. Harvey, OSF, The Truth about Homosexuality: the Cry of the Faithful (San Francisco: Ignatius Press, 1996) 134.

¹⁷ Rev. Gerald Coleman, S.S., “Same -Sex Unions and Marriage: The Issues,” (Origins, February 12, 2004, vol. 33: no. 35, 592).

wrong irrespective of the circumstances or intentions involved. Many will not accept as self-evident the limitations which nature imposes: things are what they are and cannot be other. He further specifies his point:

“For example, although an elephant may have ears bigger than some birds’ wings, an elephant cannot fly. It is not in its nature to do so. Although both dogs and cats are animals and both can be enjoyed as pets, a dog cannot have kittens. It is not in the dog’s nature to do so. Although people of the same gender may establish close relationships and even live together for years, they cannot marry because the nature of the marital relationship demands the establishment of a life-long commitment between one man and one woman that is fundamentally open to the procreation and upbringing of children within a bond of sexual complementarity.”¹⁸

Trying to thwart one’s nature or natural inclination is to act against the dignity of one’s person. Man and woman are by their very natures made for each other so that they may extend their species in giving life and sustenance to children. As we shall see in the next sections, it is for the sake of the well-being of children that civil governments need to regulate laws and benefits that support marriage.

¹⁸ Robert J. McManus, S.T.D., “The Theology of Marriage and Same-Sex Unions,” *Linacre Quarterly*, vol. 70, no. 4 (November 2003), 273.

Point 3 – The Role of Law in the Social Ordering of Marriage.

This past February, Newsweek magazine gave coverage to the case of a LuAnn Kingston, who at the age of 15 was married to her first cousin, Jeremy Kingston in Bountiful, Utah. As a member of a society of “fundamentalist Mormons,” LuAnn never questioned her marriage to a man who was 24 years old, a close relative and, at the time, married to three other women. As it so happened in the intricate relationships of their family tree, Jeremy, LuAnn’s cousin and husband, was also her nephew.

Now since 1878 the U.S. Supreme Court (in Reynolds vs. U.S.) rejected the legality of polygamous marriage. The Court at the time observed that “there has never been a time in any State of the Union when polygamy has not been an offence against society, cognizable by the civil courts and punished with more or less severity.”

Yet in the more recent case of LuAnn Kingston, an elder of her family argues approvingly:

“I think if the person . . . believes it’s right, and it’s between two consenting adults, that’s entirely up to them.”¹⁹

¹⁹ Andrew Mure and Elise Soukup, “A Family’s Tangled Ties,” Newsweek (February 9, 2004), 55.

What's wrong with that line of argument? Did you notice that the same phrase has almost become a mantra of those who propose same-sex unions as well?

The fact is that the social reality of marriage is a public, not merely a private, institution. As such it makes a unique and essential contribution to the common good. The state has the role of ensuring the common good and, therefore, is obliged to enact laws that protect and safeguard the good of marriage. While the state did not invent marriage (which pre-exists Church or government), yet the state in its own self-interests ought to do all it can to strengthen marriage.

The family is the basic unit of any given society. Its well-being depends on the stability of the marital commitment that not only binds a man and woman together to pursue the good of each other, but also allows for an environment in which children may be welcomed and in which they may grow and mature. Therefore, while marriage is a deeply personal relationship, it has a highly public significance as well.

Civil law, of course, did not create marriage, but it does regulate and sustain marriage by:

“(a) defining who is married and (b) maintaining the basic norms of what marriage means, including sexual fidelity, mutual responsibility for children, and permanence.”²⁰

At the heart of the matter, marriage is about childbearing and the nurturing of children. Civil laws and benefits are designed especially to protect children born from a marriage between a man and a woman as well as to safeguard the woman from the risks and costs of childbearing.²¹

Research has shown that the context wherein a mother and father are married and stay married has been proven to be the best place in which children are raised.

“Children in single parent families, children born to unmarried mothers, and children in step families or cohabiting relationships face higher risks of poor outcomes . . .”²²

Again, it is logical to conclude from such research that the stable, permanent union of mother and father in a loving family context conforms most appropriately with the demands of nature. This is the way that marriage

²⁰ Maggie Gallagher, “Massachusetts vs. Marriage,” The Weekly Standard (December 1, 2003), 25.

²¹ Ibid., 23.

²² Ibid., 22.

and childrearing are meant to be lived. And the role of law is to support this way of life in the interests of the common good.

In its June 3, 2003 statement on the proposed unions between homosexual persons, the Vatican Congregation for the Doctrine of the Faith points out that the scope of civil law is more limited than that of the moral law:

“Every humanly created law is legitimate insofar as it is consistent with the natural moral law, recognized by right reason and insofar as it respects the inalienable rights of every person.”²³

The document then goes on to ask how a law can be contrary to the common good if it simply recognizes a defacto reality which does not appear to cause injustice. It then answers:

“In this area one needs first to reflect on the difference between homosexual behavior as a private phenomenon and the same behavior as a relationship in society foreseen and approved by the law to the point where it becomes one of the institutions in the legal structure. This second phenomenon is not only more serious, but also assumes a more

²³ See Vatican Doctrinal Congregation, 180.

wide-reaching and profound influence and would result in changes to the entire organization of society contrary to the common good.”²⁴

The law serves as a teacher and plays a critical role in shaping patterns of thoughts and behaviors (i.e. the influence of Roe vs. Wade). Young people are especially vulnerable to being persuaded by the values or lack of values enshrined in the law.

The claim is made by proponents of homosexual unions that not offering them the legal definition of marriage is a form of discrimination. The fact of the matter is that granting the legal status of marriage to such unions would discriminate against the reality of marriage and couples who are married. Unjust discrimination against homosexuals is wrong because it offends the inherent dignity of the human person. But the claim that the rights of marriage should be extended to relationships that are intrinsically non-marital by nature is fundamentally a lie, a contradiction of the truth.

The state has a right to extend benefits to married couples because their social commitment contributes to the common well-being of the social order. To grant such benefits to those who cannot and in fact are not able to enter into a marital union is to ignore the fact that those benefits are extended

²⁴ Ibid.

precisely to establish a nurturing environment for children, and not meant primarily to benefit the spouses themselves.²⁵ The reproductive potential of marriage makes a substantial contribution to the future good of society and that good is protected through the benefits that are conferred on a heterosexual couple who are committed in a stable, permanent relationship to each other and to the offspring of their marital union.

“The law cannot require a married couple to love one another, to have children or to stay together for life. But the law can and does require that marriage be modeled in accord with its inherent unitive and procreative nature, which means, as a matter of fact, the union of a male and a female.”²⁶

A recent survey taken up in Scandinavia, Sweden and Denmark, ten years or more after the legalization of same-sex unions, demonstrates that same-sex unions have, in fact, undermined the institution of marriage. The message is clear: marriage is an outdated reality. Subsequently, fewer couples marry and consequently more children are born out of wedlock. If one wishes to see where the slippery slope of this present discussion is going, the facts are there for the asking.²⁷

²⁵ Coleman, 593.

²⁶ Ibid.

²⁷ Stanley Kurtz, “The End of Marriage in Scandinavia,” The Weekly Standard (February 2, 2004), 26-33.

Finally, the recent appeal from the Boy Scouts U.S.A. to the Supreme Court should give us pause to consider how a change in the definition of marriage will impact religious freedom in this country.

The Boy Scouts four years ago successfully gained the high court's ruling that they did not have to hire openly homosexual scout leaders. Since then, the organization has been denied access to public meeting space as well as private and state funding. Their recent appeal to the Supreme Court was denied, allowing the discrimination they have experienced to continue.²⁸

While same-sex marriage proponents profess to be open to and tolerant of diverse stands, there is every reason to believe that, if such unions are approved in law, anyone disagreeing with that position will be labeled as biased or homophobic and be openly discriminated against. Religious institutions will be served with lawsuits if they refuse to compromise their teaching.²⁹

The potential for social harm, should same-sex unions be legalized as alternative forms of "marriage", would unquestionably bring harm to the present social order. In the words of Archbishop Sean O'Malley of Boston:

²⁸ "Court won't hear Boy Scouts discrimination case," The Journal [New Ulm] (March 9, 2004), 3A.

²⁹ Mary Ann Glendon, "For Better or for Worse?," The Wall Street Journal (February 25, 2004), Opinion Page.

“Redefining marriage will only serve to weaken the most venerable and crucial social institutions we have. The stakes are very high. The law is a powerful teacher. What do we want to teach our young people about marriage and family? It is not a question of “live and let live.” It is a question of right and wrong. A question of what kind of society do we want to pass on the future generations.”³⁰

Point 4 – The origin of homosexuality: more nurture than nature.

In this final section, I will address a question that has been used in this discussion to gain a significant amount of sympathy for persons with homosexual attractions. The common assumption is that a homosexual is born that way and has had no control over his or her feelings. In this regard, the Church’s teaching or, for that fact, any position that holds that homosexuality is less than “normal” is described as insensitive, unscientific and ultimately erroneous. The argument is made that since a person has been biologically predetermined, his or her self-expression is a matter of civil human rights.

In point of fact, several scientific studies have been undertaken and none can claim a clear genetic cause for this condition. The question of sexual orientation is just too complex to allow for black and white answers.

³⁰ Sean O’Malley, “Catholic Jurists and Lawyers: A Call to be Prophets,” Origins, vol. 33: no. 33 (January 29, 2004), 567.

For the sake of time, I will cite only two of the studies available for further study.³¹ The first study I wish to highlight is undertaken by J.M. Bailey and R. Pillard.³² They researched a pool of 171 co-twins and adoptive brothers of whom one or both had admittedly a homosexual orientation. In this study, there were 56 males who were identical twins of whom 52% were both homosexual, 54 males who were fraternal twins of whom 22% were both homosexual, and 57 males who were adoptive brothers of whom 11% were both homosexual. At first sight, it would appear that the higher incidence of homosexuality among identical twins would suggest a genetic link. Yet the researchers were less inclined to that conclusion. They pointed out that nearly half of that group of identical twins did not share the same orientation, suggesting that the genetic influences act in concert with biological, psychological and the social factors in the development of one's psychosexual makeup.

The second study was done by Dr. Dean Hamer and associates in an attempt to link male homosexuality with a small stretch of DNA on the X chromosome.³³

³¹

³² J.M. Bailey and R. Pillard, "A Genetic Study of Male Sexual Orientation," *Archives of General Psychiatry* 48 (1991): 1089-96.

³³ D. Hamer, Stella Hu, Victoria L. Mangnuson, Nan Hu, and Angela M.L. Pattatucci, "A Linkage between DNA Markers on the X Chromosome and Male Sexual Orientation," *Science* 261 (1993): 321-27.

This research involved 40 pairs of male siblings who had a homosexual orientation. 33 of the 40 possessed a common set of gene markers near the tip of the long arm of the X chromosome. However, the fact that 7 of the 40 pairs did not show the linkage raised a serious question for the team. The data points to genetic factors being controlling in some but not all the subjects from this group. Dr. Hamer concluded:

“Perhaps these men inherited different genes or were influenced by non-genetic physiological factors or by the environment.”³⁴

The conclusions from these and other studies would indicate that the genetic makeup of a homosexual person, at the most, predisposes him toward rather than predetermines his sexual orientation. Other environmental variables (such as parent-child relationship, poor self-esteem, negative social experiences or other environmental factors) come into play. The question therefore remains as to whether the orientation is affected more by nurture or nature.

Another massive study Homosexualities by Bell and Weinberg interviewed nearly one thousand homosexual men and women and discovered among

³⁴ S. LeVay and D. Hamer, “Evidence for a Biological Influence in Male Homosexuality,” Scientific American 271 (1994): 49.

them a diversity in lifestyle and personality types.³⁵ From their research, three broad categories of homosexualities emerge:

- 1) Compulsive Homosexuality – has origins in a child’s relationship to the mother at the time of individualism or initial ego-development. The desire to separate is hampered by a fear of abandonment, yet the pull to remain triggers a fear of engulfment. The homosexual act assuages the person’s anxiety from a deep-seated threat of isolation, helplessness and even disintegration.

- 2) Symptomatic Homosexuality – here the homosexual urge is a symptom of a more general personality problem caused by 1) unsatisfied dependency needs, 2) unresolved power or dominance needs, or 3) fear of heterosexuality. In this instance, the person is obsessively searching for affirmation.

- 3) Episodic Homosexuality – this instance is situational, variational or episodic. A good example might be a heterosexually oriented person who goes to prison where heterosexual activity is not possible. Others may act out of experimental curiosity or as a countercultural protest rather than from a psychosexual need or conflict.

³⁵ A. Bell and M. Weinberg, Homosexualities (New York: Simon and Schuster, 1978).

From the above analyses, one can conclude that the argument which would include same-sex unions within the civil definition of marriage as an issue of civil rights is clearly false, it has no basis in reality. Since a person is not genetically determined to be homosexual, the orientation pertains to the issue of behavior . . . and behavior can be controlled. The question then has to be asked: Do we as a society wish to give special status to a group characterized by a particular behavior? And if so, why not grant such status to other group behaviors?

Conclusion:

What I have tried to do in this presentation is to bring a sense of carefully reasoned discourse to what is perceived to be a highly volatile and polarized public question of redefining the traditional understanding of marriage to include same-sex unions. I conclude that such a proposal is not acceptable from the insights from Divine Revelation (Scripture and Tradition) or from the standpoint of reason alone. Furthermore, civil law has a responsibility for ensuring that marriage remain a union between a man and a woman for the sake of the common good. Civil government ought not to redefine marriage to include relationships that are not and cannot be equated with the reality of the marital state. Finally, the lack of evidence that homosexuality is genetically determined makes the social question one of legislating for a group's behavior rather than their inherent civil rights. While a homosexual

orientation or even behavior should never be the cause of discrimination, nevertheless it, likewise, should not be a reason for being codified in law as equivalent to the true significance of marriage. To do so would result in a clear form of discrimination, not against homosexuals, but against married couples themselves.

In conclusion, I return to Archbishop Sheen's observation that we, at the beginning of this new Millennium, stand at a most critical edge of social redefinition. Do we hold to tested truths of faith and reason? Or do we jump headlong into the field of human experimentation? To be sure, the odds are not in favor of preserving continuity with the past, so liberal and undisciplined have our mores become. But I believe that this is a battle worth fighting for – a conflict that will set the agenda for the next five hundred years, the future of our grandchildren, their grandchildren and yes even more generations to come.

Thank you for your attention.