



# The Tip of the Iceberg: Is it really just about Civil Partnerships?

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## Introduction: Liberals and Communitarians

There is a fascinating debate raging in political philosophy between so-called “liberals” and “communitarians”.<sup>1</sup> An important aspect of it is the question “What makes a self?” “Communitarians” have been very critical of the answer they say “liberals” give to this question. “Liberals”, they allege, have tended to see a “self” as something that I am, all alone, before you take into account any of my relationships with anyone else. “Communitarians” on the other hand, tend to want to see the question “Who am I?” as answered partly in terms of relationships that “make me *me*”, and to see the meaning of my selfhood as deriving from significant communities of such relationships, which provide the shared values and virtues I live by, worked out in community, and the frameworks of understanding which give my being its shape and direction, and allow me to find my way morally and even rationally. Liberals tend to think in terms of the right, and so of “rights”, and communitarians in terms of the good, and of hierarchies of “goods” which are only specifiable for individuals in the context of their belonging to a community which agrees on what is the “good”.

Anyone familiar with this debate will recognise that I’ve offered a huge and possibly distorting simplification of it. But this is an interesting way of looking at a number of social issues. For “communitarians”, one of the alleged problems with “liberalism” is that it has big difficulties seeing anything other than masses of individuals. Now we need to be clear<sup>2</sup> that that is actually a civilised and humane way of seeing people, because the response of liberal society is to confer “rights” on such individuals.

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<sup>1</sup> Mulhall, Stephen and Swift, Adam, Liberals and Communitarians: An Introduction, (Oxford: Blackwell, 1996) provides an excellent summary of this debate.

<sup>2</sup> It is worth noting that sensible “communitarians” like Charles Taylor, and some others, are clear on this matter to the extent that they disown the “communitarian” label.

The trouble, allegedly, is that this is the only way in which liberal society can understand individuals. An instance of this might be the banning of Islamic headgear - along with any other emblems of religions - in the French public school system. One liberal approach - specifically the French one - would say "But you've got all these other human rights - all the rights our society deems it necessary for you to have - as an individual, as a *citoyen*.<sup>3</sup> It is perfectly rational for the state to protect your rights, and those of others who do not share your private beliefs, by banning symbols of religious distinction."

To which the Muslim will likely reply "But these distinctions are part of my religion, and my religion is a part of who I am. It is constitutive of my self. I am not 'me' without the 'us' of Islam."

Now a perfectly good liberal response to that - and it's the usual British one - is to turn the wearing of religious symbols into the right of every individual human being. But it is still an individual human right. Certain aspects of an individual's identity - specifically those wrought in community, by the communal working out of the implications of what people believe, still don't "appear on radar". I wonder if the debate we're currently embroiled in within the Kirk doesn't exemplify this, in interesting ways. More worryingly, when pursued, I wonder if some of the positions taken in the debate on Civil Partnerships do not reveal disturbing aspects of religious (I won't say "theological") thinking among us.

## Civil Partnerships in Liberal Society

There are different ways of "doing" political liberalism. But there are common emphases. I think that it is this tenet that justice demands that rights be the same for everyone that has led to the (inevitable and good) emergence of Civil Partnerships. From a liberal point of view, they conserve the rights of the individuals within them: individuals who, for whatever reason - and the liberal state doesn't ask - are not going to be participating in the ancient (i.e. pre-liberal!) institution of monogamous heterosexual marriage, and who would otherwise as individuals be deprived of the benefits that that relationship confers.

In our society, there are advantages that accrue to individuals who bind their lives together in particular ways. In fact, people who choose to enter such bound-together, two-person relationships are both advantaged within them, and are protected from disadvantage when the relationship comes to an end, through divorce or death - thus the contribution that one made to the wealth-generation that such a relationship made possible, and also the life-possibilities foregone for the sake of the relationship, are recognised in the settlements which mark their termination, while next-of-kin status and qualified rights of inheritance including pensions, follow from such ties. Hitherto, the only such binding-together of lives that was recognised was the marriage tie.

A liberal society will quite possibly conclude that it is illiberal and therefore unjust that such advantages from life-connecting relationships should accrue to some sets of people (heterosexual married couples) whose lives are shared, but not others (e.g. individuals wishing to form stable homosexual couples). Of course, people who choose to stay single may have a legitimate beef about this - but staying single is their choice, whereas this issue turns around people who choose to bind their lives together as couples, with the life-consequences that this has. Some of these people-in-couples would have rights that others do not. Note that a liberal society is not here asking about the values or meaning that bind lives together, it simply imposes its own - liberal - principle that everyone should be entitled to equal justice. Justice in our kind of liberal society demands the recognition of the equality of all individuals, irrespective of sexuality, and leads to the recognition of gay

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<sup>3</sup> Citizen

individuals - along with all other individuals - as equal bearers of the rights a liberal society confers or recognises.<sup>4</sup>

But I would be amazed if that is exclusively how most people in stable homosexual couples saw things. I imagine - and have experienced - that they would speak of their relationships first of all in terms of love and commitment. The point is that these things do not appear on the radar screen of liberal society.

In other words, with Civil Partnerships, all that liberal society has done is provide an extension to a legal framework within which two people of both or either sex can join their lives and have access to certain rights equally, as individuals, with other individuals whose sexuality is different.

## Civil Partnerships and the Church

But the people who commit to such relationships clearly have entered into relationships which are constitutive of who they are. You don't have to be a thoroughgoing communitarian (or even stop being a liberal!) to acknowledge that. This is as true of gay people as it is of straight people. These are relationships within which there can be a committed, disciplined, and at times profoundly self-sacrificial love, as the people in them live out the values which they share - sometimes with each other, sometimes with and in communities to which one or both may belong.

And some of these people are Christian.

So they come to their community, the source of their shared values, worked out on the basis of a common, lived tradition - their Church.

Which in this instance is also our Church.

It seems to me that they are not coming asking the Church to create anything at all for them. They have made commitments to each other, because they love each other, and the state now provides a framework within which these commitments can be recognised in law - without the state asking what the values are behind these commitments, or what such a relationship might mean for those entering into it. This framework is, from the state's point of view, just a way for people living in a non married-heterosexual life-joining relationship to have that relationship "appear on the radar screen" of the liberal state, in the only way that the state can see it - as an individual human right.

But if these people are Christians, they will understand their love in terms derived from the Christian community, principally *agape*, the other-oriented, self-giving love of 1<sup>st</sup> Corinthians 13. So they come to the Church and ask the Church to see what the state cannot; a love that is, in fact, already there, but invisible to the state, which sees only the legal construct of a Civil Partnership. A commitment that isn't grounded in rights, or financial considerations, or pensions entitlements, or the ability to inherit, or just to function as next-of-kin. These things the liberal state has already given them, but it has

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<sup>4</sup> This appears to be precisely the tack that the South African Government is taking, and the understanding this implies, in its controversial Civil Unions Bill. From the AIIAfrica.Com website, dated 9 November: "The committee also took a Democratic Alliance (DA) suggestion that all references to gender or sexual orientation be removed from the bill. Instead, the legislation will simply apply to a union of consenting adults regardless of their sexual orientation. The committee has struggled in recent weeks with the bill because significant numbers in the ruling party shared the views of the religious community and traditional leaders that heterosexual marriages were devalued by allowing homosexual unions to use the same term. They have struggled to get in place a situation where homosexual couples could have a civil union that had the same rights in law but was not called a marriage."

done so without a clue as to what really binds their love together. As a liberal state it cannot take cognisance of these things. It is blind to the preciousness of these things.

So they come to the Church, source of their Christian values and identity, asking us "Can you not see?"

They ask the Church for two things - which touch two components, one of which is the area of competence of the state, and the other of which the state has not a clue.

Firstly, they ask us to bless a commitment which has already been given a legal form by the state as a "Civil Partnership". Civil Partnerships exist, whatever the Church thinks of them - and of course the Church is now precisely in the process of deciding what it does think of them. The discussions occurring in 2006 on the Declaratory Act anent Civil Partnerships are part of this very much larger process. We are being asked to call down God's blessing on something created in the secular sphere of the state. This is in many ways analogous to the Blessing of a Civil Marriage - though it clearly is not a marriage.<sup>5</sup> Note, too, that the Blessing of a Civil Marriage very precisely is not a wedding. It brings into the Church, and blesses, something which was created elsewhere, by the state.

## Why should we be asked to do this?

Well, the second thing that gay couples coming to us to ask for the blessing of their Civil Partnerships seek is something that the liberal state can not see on its radar - but we, the Church, are being asked if we can see it on ours. The loving, disciplined structure of faithful love which is being brought to us in relationships like these is actually anterior to the state's creation of the Civil Partnership. It is what made these couples enter their partnership in the first place. And they, as Christians, ask us simply to recognise it - the love which is already there, and which they believe is God-given, as all love is. *Ubi caritas, ibi Deus est*. Where love is, there is God. (This is what is being parodied on the other side of the argument when we are accused of wanting to be "nice" to "nice" gay couples, because they are "nice". See some of the contributions on offer.)

## The Church, Civil Partnerships, and Scripture

It is obviously - this is the juncture we have reached with the Declaratory Act - open to the Church to refuse to do both of these things. But we need to ask: what would the Church then be doing and saying?

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<sup>5</sup> It is a common, generalising misconception that gay people wish to be allowed to have, and have recognised, "gay marriages" - and to have the "scare quotes" removed from this expression! - so that they can claim to be "equal" (scare quotes again!) with heterosexual people, and their relationships "equal" to heterosexual marriage. As we can see from contextualising Civil Partnerships in a liberal political-philosophical understanding of society, in all the respects that matter in a liberal society, Civil Partnerships are "equal" - and therefore equal! - to marriages, and (as the South African example quoted above indicates) the matter can politically rest there. But it is also important to say that in those spheres which escape the cognisance of liberal society also, Christian gay people (of my acquaintance, at any rate) do not want to play at a same-sex parody of heterosexual marriage. They have committed relationships they wish to bring before God to be blessed, and also to bless him for the love he has given them in these relationships. But they are also aware that allowing the simple assimilation of these relationships to idealised models of heterosexual marriage, their precious subversive (and countercultural!) quality is lost - and this is something which cannot be valued in liberal society. Thus tender homosexual love subverts the oppression of loveless, authoritarian or otherwise oppressive relationships which have for centuries, along with deeply loving partnerships of wife and husband been shamefully and indiscriminately sanctioned as "Christian marriages". *Ubi caritas non est...* (How shall we complete that?) And the recognition that God is present where, and in ways, "Scripture" says he should not be (see Acts chapter 10) subverts our power-contaminated monolithic understandings of "Scriptural authority" and lets us see what it means to understand Christ, and not "the Bible" as the primary revelation of God.

If - to take the second thing first - the Church refuses to recognise the relationship bound by the state in Civil Partnership, it is saying that the love that binds lives together in committed relationships like these is a phantom, misled, conviction of love - and therefore a travesty of God-given love. Always, and in every circumstance.

And - to go back to the first thing - then it follows logically that the Church must refuse to bless. Even when such love is lived out in life-long faithfulness, even when it clearly far transcends the quality of love that exists in some merely formal (or worse!) heterosexual marriages, even when the love of two gay people binds them together in the sacrificial caring of one for the other, it is not merely an illusion of love, but it is sinful, not of God, conducive to destruction.

Surely, you might say, we would need very strong grounds to be so certain that something that looks so much like love is really nothing more than lust. More, certainly, than two verses from Leviticus, I would have to say. Or Paul's unconnected excursions into the murky realms of "natural law."

But others disagree. For them, the words of the Bible are God's words. All of them. Even passages which, for example, commend and endorse what we today would unhesitatingly call genocide. So Leviticus and Romans are as definitive as, say, 1<sup>st</sup> Corinthians 13 for our Christian understanding of love.

Now I would want to ask: did Paul ever have the opportunity to see a homosexual love reflecting the substance of 1<sup>st</sup> Corinthians 13 the way many of us have? Why does Paul make no reference to Leviticus? In what sense is Leviticus binding on us as Christians? What is the Book of Leviticus, when was it written, by whom, and for whom? There are many who would answer: "It doesn't matter. Paul's words are Biblical words. Leviticus is 'The Clear Teaching of Scripture'." They have different understandings to me of what the authority of Scripture is. They would probably hold that my understanding of the nature of Scripture is gravely deficient.

Which is fine, because truth to tell - "no offence", as the young adults in our YF are apt to say before laying on you an insight of eyewatering candour - I believe the same of theirs.

I do not believe, having studied the Scriptures at university for six years, (and taught them for five) and having for twenty-five years of ordained ministry "studied to acquit myself" as the ordination vows prescribe, that their view of what the Bible, in the providence of God, actually is, is correct. Nor do I believe that their account of the status and function of Scripture in Christian theology or lived Christian experience is correct. And it follows that I do not believe that the condemnation of homosexual love they derive from it, and apply across the board, even to faithful lifelong partnerships bound by solemn promises, is valid.

No offence...

Up to now, I have been allowed this. I have - to put it rather bluntly - been allowed actually to espouse, actually to believe, the reverently critical view of Scripture I was taught at university, and which has fed and nourished my faith. Just as they have been allowed to reject it.

Ministers have had this freedom of conscience - they as much as I. We belong to different communities within the society of the Church of Scotland. We work out our theologies in different shared contexts. But the real difference, I fear, is that it seems that they feel

that the Church of Scotland should be(come) a community which functions exclusively on their values, their understandings. I want a law - a Declaratory Act - that safeguards their conscience as much as it does mine. They seem to have no place for me. I want the Kirk to be a liberal church, with space for them and for me. I want the Kirk to be a "society of communities", which is what it already is. (I would also dearly wish it to be a "community of communities", which is what the Church is surely called to be.) I worry that they do not see the Kirk this way, and that they do not have a place for me in their Church - and therefore in their Kirk. Maybe I am imputing, but it would be nice to have a yea or a nay.

## Church and Society

Less unsettlingly, perhaps, but maybe even more interestingly - what is the Kirk doing with regard to society if she says that she will have no truck with the institution of Civil Partnerships, created by the liberal state? There is much that liberal states do and are that the Church has - or ought to have - enormous issues with. Sadly there is much that they do that the institutional churches swallow with a smile.

The Church of Scotland has worked with several models of relating to her society; certainly one constant has been the attempt to be true to a "prophetic" calling; to stand over against society, and point out dangerous trajectories away from the fullness of life that God wants for his people.

The prophetic calling of the Church is certainly to be "countercultural". But are we really only saying that we believe that the liberal state has it so badly wrong on this issue that we can simply refuse all truck with Civil Partnerships? And even if that is all we are saying - where would that place us? Are we to be in permanent opposition to liberal society on this point? With no possibility of revision? Perhaps...

Or are we really saying - and there are more than just noises to this effect from the other side of the debate - that we the Church have problems with liberal society as such?

In that case, we need to get our heads round one underemphasised aspect of our own identity. The Church of Scotland evolved to be the Parish Church of a liberal society. Are we now saying that liberal society as such is a Bad Idea? What would replace it? A society run according to our values? In other words - a theocracy? What if someone else gets to the control room first and we have to live under their theocracy? And more than that, what objection could we possibly have in principle, having rejected a liberal society, if that were to happen?

Or, writing off all hopes of influencing liberal society, do we just give up Scottish society as a bad job, and retreat to the Christian ghetto, to live in self-defined purity? I must admit that I was sorely tempted to ask in the Assembly debate how soon people thought it would be before the state changed its mind on Civil Partnerships! What I really wanted to know, though, was: how do we really think that all this will look after twenty, fifty, a hundred years of Civil Partnerships and full acceptance of gay people? And how the Church will look?

We are a broad church in a specific sense. The Kirk as a whole is broad in a way that her individual congregations are not, and this is good. I believe that, providentially, the Kirk has evolved into a "society of communities", and that this is one of the ways in which it is deeply homologous with Scottish society - of which it is, after all, still the Parish Church. The Church of Scotland herself has, since 1690 approximated, more at times, less at others, to a liberal society intersected by several communities.

Are we really now, as the Kirk, to look around at the communities which comprise us, pick one of them, and just become that?

Surveying the current debate, it is very hard to avoid the impression that this is just exactly what some people wish to have happen. The Church of Scotland very nearly acquired - from a counter-motion - a Declaratory Act on this issue last year which embodied an understanding of Scripture which I have never espoused, cannot rationally, morally or theologically believe, do not understand myself as a Reformed Christian as required to believe, and runs counter to the theology I was taught by fine scholars and men of God who were Ministers of the Church of Scotland. Had that alternative Declaratory Act been passed, I would have been subject in that area to a theological framework that I had not been taught by the Church, and to which I had never either subscribed, nor been required to. And, arguably, by accepting subjection to such an understanding of Scripture in that area, I would have morally subjected myself to it across the board.

And I couldn't have done that.

What the actual Declaratory Act as passed by the Assembly and handed down to the Presbyteries does is this: it recognises that the empirical Kirk is an "archipelago of conscience-communities"; a chain of islands of theological communities. It leaves these free, within defined limits, to dissent from the practice of the rest of the Church - and it is interesting to ask which island communities would be representing, and which dissenting from, the practice of the rest of the church (maybe "both and neither") - but which are also, in the conservatives' case, protected from the strictures of "political correctness", that rather blunt instrument with which liberal societies police what may be said in the public square. Speech and practice which might be labeled "homophobic" and which is certainly discriminatory against gay people would be protected as the legitimate expression of tender Christian conscience. And it would be protected by the liberal Church of Scotland, as the Parish Church of liberal Scottish society. As an "archipelago of conscience-communities". An empirical liberal Kirk made up of communities which "imagine" - and live - the Church by imagining and living the Christian (and Reformed, and Presbyterian) tradition. And acknowledge each other's existence. And communicate. And cross the dividing sea not on invasion barges for subjugation, but on saintly voyages which allow for communication and communion.

It is surely a measure of something that for some people this is not enough. But what that "something" might be is for the other side in this debate to articulate. That they have not done so is worrying. What place have they for us, who accept that this is how they see the issues, understand the faith, read their Bible, but simply cannot see these things in these ways ourselves?

What is their alternative to a liberal Church? And where would we fit in?

The present debate will soon be by. It will yield a situation which is either governed by the new Declaratory Act, or which is the *status quo ante* in which some people do one thing, some another, and no-one knows what will happen or how Courts of the Church will act. It will, for a while, be an archipelago of communities, either *de jure* if the Act carries, or *de facto* if it fails.

But one thing becomes clear when the Declaratory Act is viewed in the light of a liberal Church which is also an archipelago of different communities. The acute issue - right now - is the full inclusion of gay and lesbian people in the Church of which they are already members and in which they are a significant presence. The chronic issue may soon be the

ability of the Church adequately to recognise, let alone accommodate, "legitimate theological disagreement." In other words, the issue may soon become: what place do many of us really have in the Kirk?

And those of us forced to ask this question will be precisely those of us who are willing - desperately anxious - to find a place in the Kirk for those with whom we disagree radically. Who hold us in contempt for our "liberalism". The question we all need to be asking is "Where is Christ in all this?" Our position on this side of the argument is that we believe we see Christ where others do not - in theological positions that differ radically from ours, just as much as in committed, loving gay relationships - and we invite others to "come and see".

The position of those who disagree with us is that they do not see God where we say we do. And they know that we are wrong. I know which position seems more dangerous to me. And which seems truer to the Gospel. Which is why, theologically, I must have room for people who do not have room for me. And so must my Church.

Because actually, it is not mine. It is Christ's Church, it both is and isn't ours...

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