

Draft of Preliminary Report

of the

**Special Committee to Study Issues of Civil Union
and Christian Marriage**

to the

**219th General Assembly (2010)
Presbyterian Church (U.S.A.)**

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Introduction

As many of you as were baptized into Christ have clothed yourselves with Christ. There is no longer Jew or Greek, there is no longer slave or free, there is no longer male and female; for all of you are one in Christ Jesus (Gal. 3:27-28).

The Presbyterian Church (U.S.A.), like most mainline denominations, is wrestling with the issue of same-gender marriage. Responding to this struggle, the 218th General Assembly (2008) of the Presbyterian Church (U.S.A.) directed the Moderator “to appoint a special committee, representing the broad diversity and theological balance of the Presbyterian Church (U.S.A.), to study the following, including any policy recommendations growing out of the study:

- the history of the laws governing marriage and civil union, including current policy debates;
- how the theology and practice of marriage have developed in the Reformed and broader Christian tradition;
- the relationship between civil union and Christian marriage;
- the effects of current laws on same-gender partners and their children; and
- the place of covenanted same-gender partnerships in the Christian community.”

As members of Christ’s church, we differ profoundly; but can we also see that those who disagree with us are seeking to love one another with God’s grace, advance the radical inclusiveness of the gospel, and promote biblical faithfulness? Though we reach very different conclusions, can we rejoice that our church is willing to wrestle together prayerfully with the question: How do we extend the grace of God to all, calling all persons—regardless of sexual orientation—to repentance and conversion, so that all will experience God’s gracious intention for humanity?

In many ways, life in the body of Christ is not unlike a marriage: In the course of our life together, there are good days and bad days, good times and challenging times. There is great joy and wrenching pain. We talk, we laugh, we cry. We agree and we disagree, and occasionally we get angry and are tempted to walk away. But like any Christian marriage, in the body of Christ we know that the One who holds us together is more important than the arguments that threaten to tear us apart. That One is Jesus Christ, who said, “I give you a new commandment, that you love one another. Just as I have loved you, you also should love one another. By this, everyone will know that you are my disciples, if you have love for one another” (John 13:34-35).

For the sake of this report, the terms **civil marriage**, **expanded civil marriage**, **civil union/domestic partnership** and **Christian marriage** are used to define the variety of relationships that exist within our country at this time. The following is a summary of the similarities and differences between these relationships:

| | Civil Marriage | Expanded Civil Marriage | Civil Union/Domestic Partnership¹ | Christian Marriage in the PC(USA)² |
|----------------------------------|--------------------------------------------------------|--------------------------------------------------|----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| Structure | government-licensed contract between a man and a woman | government-licensed contract between two persons | contract between two persons recognized by an individual jurisdiction | covenant before God of a lifelong commitment between a man and a woman |
| Recognition | recognized by all states | not recognized in all states or federal level | not recognized in all states or federal level | recognized in all states ³ |
| Purpose | social institution that delineates a household | social institution that delineates a household | legal arrangement between two people; may include the delineation of a household | a gift of God to humankind for the well-being of the entire human family |
| Institution | commitment, publicly witnessed | commitment, publicly witnessed | commitment, publicly registered | lifelong commitment, publicly witnessed, acknowledged by the community of faith |
| Rights/Privileges | allows licit couples to create households | allows licit couples to create households | protects the rights of a couple | allows those who are married to “live out together before God their lives of Christian discipleship” (<i>Book of Order</i> , W-4.9001) |
| Responsibilities | couple accountable to each other and government | couple accountable to each other and government | couple accountable to each other and government | couple accountable to government and called to live out discipleship before God |
| State-sanctioned Benefits | social, legal, economic benefits | social, legal, economic benefits | social, legal, economic benefits | social, legal, economic benefits |
| Boundaries | | | | delineates the boundaries of legitimate sexual relationship for the full expression of love between a man and a woman |

¹ Both the term used and benefits conveyed vary from jurisdiction to jurisdiction.

² The various relationships between civil marriage and Christian marriage in other denominations of Christianity are too diverse and too much in debate right now to be helpful to this report, which seeks to answer these questions for the PC(USA). To be consistent with our definitions, we are using civil marriages, expanded civil marriages, and Christian marriages throughout this section.

³ PC(USA) marriages are required to fulfill the legal requirements of civil marriage (*Book of Order*, W-4.9001).

A Biblical and Historical Summary of the Laws and Theological Developments regarding Civil Union and Christian Marriage

Marriage is a gift God has given to all humankind for the wellbeing of the entire human family (Book of Order, W-4.9001).

Old Testament

The Old Testament assumes an ancient Semitic understanding of the institution of marriage as the basis for the family, the fundamental unit of Hebrew society. Marriage provides four benefits to humanity. First, procreation, the birth and nurture of children: examples can be found in Gen. 1:28; 9:1 (creation, after the flood); Gen. 15:1-6; 16:1-16; 21:1-7 (Abraham, Sarah, and Hagar); Gen. 29:1-30:24 (Jacob, Rachel, and Leah). Second, for companionship, mutual support, and affection, for example in Gen. 2:18-24 (Adam and Eve) and 1 Sam. 1:1-28 (Hannah). Third, as an economic partnership, providing financial support for the family, as in Prov. 31:10-31 (the virtuous wife) and the book of Ruth, which includes procreation as important. Fourth, as a political tool, to form alliances between nations and advance political careers, illustrated in 1 Sam. 18:17-27; 19:11-17; 25:44; 2 Sam. 3:13-15; 6:16-23 (Saul's daughter Michal and David) and 1 Kings 11:1-4 (Solomon and his wives).

The Torah (the five books of the Law) includes many laws regulating marriage and divorce. These include Ex. 20:14, 17 and Deut. 5:18, 21 (Ten Commandments), Lev. 18 (against incest), Lev. 20:8-21 (penalties for sexual sins), Num 5:11-31 (test for unfaithfulness), Deut. 22:13-21 (rules about virginity), Deut. 24:1-5 (divorce), and Deut. 25:5-10 (levirate marriage).

Marriage is often used, especially by the prophets, as a symbol of God's relationship to Israel. Most often, it represents the exclusive attachment of Israel to God, her husband. The repeated history of the people worshiping other gods, the gods of the people around them, is likened to adultery. The prophet Hosea marries a prostitute, symbolizing God's gracious love for Israel as Hosea forgives her. In Isa. 54:1-8 and 62:1-5, God restores God's forsaken wife, Israel. In Jer. 2:2, the prophet speaks to Israel as a young bride, while in 3:6-10 he represents the faithlessness of Israel as adultery. Ezekiel 16 is a very strong depiction of Israel's disobedience as the adultery of an unfaithful wife. It should be noted that some of these passages have been appropriated to excuse spousal abuse.⁴

New Testament

In John's gospel, Jesus' public ministry begins at a wedding feast in Cana, where he performs his first miracle (John 2:1-11). Throughout the Synoptic gospels, Jesus makes some significant statements about marriage:

- In Matt. 22:23-33 and the parallel passages in Mark 12:18-27 and Luke 20:27-40, Jesus addresses a question about a hypothetical widow of seven husbands, indicating that marriage is not part of life in the resurrection.

⁴ "Turn Mourning into Dancing! A Policy Statement on Healing Domestic Violence," 213th General Assembly (2001) of the Presbyterian Church (U.S.A.), < <http://www.pcusa.org/oga/publications/dancing.pdf>>.

- Jesus condemns divorce, restricting it further than provided by Jewish law, in Matt. 19:3-9 and the parallel passage in Mark 10:2-12.
- Jesus seems to indicate a preference for celibacy in his comment about eunuchs in Matt. 19:10-12, while acknowledging that this may not be best for everyone.
- Jesus uses marriage as an illustration in several parables: Matt. 22:1-14 (the wedding banquet); Matt. 25:1-13 (the wise and foolish bridesmaids); Luke 12:35-38 (the servants awaiting their master).

In the first-century church, marriage was an issue both because of the expected imminent coming of the kingdom of God and because the diverse marriage practices in the Greco-Roman culture posed a challenge to good order in the Christian community.

- Paul writes of the divine gift of marriage as an antidote against *porneia*, a Greek term covering a broad range of sexual misconduct (1 Cor. 7:2-6).
- Paul writes against divorce (1 Cor. 7:7-9, 32-40).
- Paul makes clear his preference of celibacy over marriage: “To the unmarried and to the widows I say that it is well for them to remain unmarried as I am” (1 Cor. 7:7-9, 32-40).
- Marriage is used elsewhere in the New Testament as a metaphor for the union of Christ with his church (Eph. 5:25-27, Rev. 19:6-8, and Rev. 21:9-10).

Toward the end of the first century, as the expectation of an imminent arrival of God’s kingdom faded and the church prepared itself to be a continuing human institution, several trends emerged, all of which are mentioned in 1 Timothy:

- Qualifications for church leaders (ministers) included being married, but only to one wife (3:2).
- Some parties within the church promoted celibacy as an ideal, even as a requirement for faithful Christians, but this was rejected by the orthodox leaders (4:1-6).
- Contrary to Paul’s earlier advice, young widows were encouraged to remarry for economic support, for procreation, and to avoid immorality and scandal (5:14).

The early interplay of church and state

As a social institution, marriage began with very little involvement from either religious or civil authorities. In ancient Rome, a couple was considered legally married if they agreed that marriage was the intent behind their cohabitation. In the mid- to late period of the Roman Empire, a marriage occurred when a woman’s right hand was given to her husband by her father,

a symbol of formalizing a contract,⁵ often accompanied by the giving of a ring. Because marriage alliances in the ancient world were based on money and power, they could be revoked as quickly as they were invoked, if some other marital alliance offered more of either.

With the birth of the early church at Pentecost, Christians began to understand themselves as set apart and distinct from the culture around them. In Ephesians and elsewhere, the ideas of mutual submission and love distinguished Christian marriage from many of the examples evident in their society.

Until AD 312, when the Roman emperor Constantine converted to Christianity, the Christian church was an underground and often persecuted movement that had little ability to influence official policies in the Roman Empire on matters like marriage. Nevertheless, church theologians (e.g., John Chrysostom and Tertullian, among others) showed a vital interest in the understanding and practice of marriage in the early Christian community. And, as Christianity became the official religion of the Roman Empire, laws enacted under Constantine and his successors began to reflect the influence of Christian views about marriage.

By the mid-fifth century, legal codes enacted since the rule of Constantine⁶ included many statutes on marriage, including:

- restrictions on divorce and remarriage,
- the prohibition of same-sex marriage, and
- the forbiddance of clergy to marry, though married men could become clergy.

The writings of Augustine (AD 354-430), in which both Protestant and Roman Catholic theologians find their heritage, are a primary source for Christian discussion on marriage and chastity. He describes marriage as a great good and expounds upon the three “goods” of marriage—offspring, exclusive fidelity, and the unbreakable bond between husband and wife.

After the disintegration of the Roman Empire in the West, control over marriage was taken up on a local level. The church was involved, but during the next several hundred years, local customs formed the basis of later canon law. Beginning about AD 800, the church asserted more and more authority over marriage as the Roman Catholic Church emerged as the most powerful institution in Western Europe. During this time:

- celibacy emerged as the norm for clerical and monastic life;
- marriage, although less holy than celibacy, was elevated to a sacrament and became a means of grace; and
- the church took control of regulating marriages and codified them in canon law.

In 1215, the Fourth Lateran Council decreed the absolute prohibition of “clandestine weddings”—the longstanding practice that if two people had privately consented to marry, it was so, whether those words were spoken out by the haystack or at the front of a cathedral. This

⁵ John Boswell, *Same-Sex Unions in Premodern Europe* (New York: Vintage Books), 209-210.

⁶ Matthew Kuefler, “The Marriage Revolution in Late Antiquity: The Theodosian Code and Later Roman Marriage Law,” *Journal of Family History*, 2007.

practice of “dual consent” created a situation in which two young adults might be married without their parents’ permission, and even against their parents’ wishes. For a marriage to be valid, the council ruled that the bride had to have a dowry, “banns” had to be published beforehand (allowing detractors to speak against the union), and the wedding had to take place in a church.⁷ Still, couples who married illicitly nevertheless had the same rights and obligations as a couple married in church: Their children were legitimate, the wife had the same inheritance rights, and the couple was subject to the same prohibitions against divorce.

Over the next several centuries, the Roman Catholic Church developed comprehensive canon law governing marriage, including proscriptions against incest, polygamy, bestiality, and sodomy. Provisions were made for the annulment of marriages formed through duress or fraud, as well as those between persons related by blood or family ties; the church also claimed the power to declare valid marriage bonds indissoluble. By the early sixteenth century, the church’s canon law was the predominant law governing marriage in the West.⁸

The Protestant Reformation

In the sixteenth century, the Protestant Reformation argued that Scripture alone (not tradition) is the basis of authority in the church. Protestants re-examined marriage and canon law in light of biblical teaching. As a result, in Protestant churches:

- marriage became a Christian vocation, and was considered good, although no longer considered a sacrament; and
- celibacy was no longer required of those called to pastoral ministry.

However, Protestants were divided over differing theological emphases on marriage and over the question of whether marriage should be regulated by the church or the state or some combination of the two:

- Martin Luther (1483-1546), the founder of the Protestant Reformation and Lutheran churches, increased the role of the state in the regulation of marriage. In Luther’s doctrine of the earthly and heavenly kingdoms, the civil magistrates acted as God’s vice-regents in the governance of marriage; civil marriage codes replaced canon law. Church leaders were expected to counsel civil authorities in the administration of that law.
- Henry VIII (1491-1547), King of England, broke with the Roman Catholic Church in order to obtain a divorce. Henry placed church authority under the monarchy and set in motion the English Reformation. The king regulated the church, and the church retained control of marriage, which was seen as a “little commonwealth” and the fundamental institution undergirding society.
- John Calvin (1509-1564), the most important leader of our Reformed tradition, was active in Switzerland and brought his legal background to his theology. Calvin stressed

⁷ Stephanie Coontz, *Marriage, a History: How Love Conquered Marriage* (New York: Penguin Books), 106-107.

⁸ John Witte, Jr., *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition* (Louisville: Westminster John Knox Press), 4.

marriage as a covenant among individuals, God, and the community. Calvin’s three reasons for marriage were mutual love and support, the birth and nurture of children, and protection from sexual sin. Regulation of marriage in Calvin’s Geneva was shared between church and state.

By 1600, four distinct patterns of understanding marriage and its relationship to church and state had developed in the West:

| Tradition | View of marriage | Relation of church and state |
|------------------|-------------------------|-----------------------------------------------------|
| Catholic | Sacrament | Church regulates marriage |
| Lutheran | Vocation | State regulates marriage |
| Anglican | Commonwealth | Church and state are one and regulate marriage |
| Reformed | Covenant | Church and state work together to regulate marriage |

Immigrants from all these faith traditions and more brought their assumptions and practices regarding marriage to America. The interplay of these patterns makes our American understandings of marriage complex.

Early America

In addition, Enlightenment thinking brought a fifth pattern into play—marriage as a social contract. The Enlightenment was an eighteenth-century philosophical movement that held human reason as applicable to all areas of life, including biblical studies. The Enlightenment stressed ideals of freedom, equality, and individual rights, and found fertile ground in the American colonies.

Over time this emphasis has resulted in marriage becoming more focused upon personal happiness and self-fulfillment. Marriage came to be seen more and more as a bilateral personal contract.

Increasingly, the state began to regulate these personal contracts. In the American colonies, marriages were required to be registered with civil authorities. While state supreme courts routinely ruled that public cohabitation was sufficient evidence of a valid marriage, by the latter part of the nineteenth century, states began to nullify such “common-law” marriages and exert more control over who was allowed to marry, including the prohibition of bigamy and a subsequent series of federal laws designed to prohibit the practice of polygamy. States prohibited marriages on the basis of a variety of conditions, including alcoholism, drug addiction, prior marriage, or lack of mental capacity. Significant among these prohibitions were interracial relationships.

“A basic civil right”

As societal attitudes about the nature of the marital relationship began to change, so did the government’s assertion of its authority to regulate marriage. For example, the U.S. Supreme

Court's 1967 ruling in *Loving v. Virginia*⁹ eradicated state laws prohibiting interracial marriage. In *Loving*, the Court ruled that Virginia's prohibition of interracial marriage violated the Fourteenth Amendment to the U.S. Constitution, stating:

Marriage is one of the "basic civil rights of man (sic)," fundamental to our very existence and survival.... To deny this fundamental freedom on so unsupportable a basis as the racial classifications embodied in these statutes, classifications so directly subversive of the principle of equality at the heart of the Fourteenth Amendment, is surely to deprive all the State's citizens of liberty without due process of law.¹⁰

With this ruling, the Court granted all adults the right to marry without consideration of race. By citing constitutional principles of Equal Protection and Due Process, the Court effectively limited the state's power to regulate marriage.

The Defense of Marriage Act (DOMA)

With the Supreme Court having declared marriage a fundamental civil right, both the church and the nation began to struggle with the question of whether the principles voiced in *Loving* extended to persons barred from marriage on the basis of their gender. Advocates of same-gender marriage argued that to be the case. Several states answered this question, "no."¹¹ A 1993 case in Hawaii signaled willingness by the judicial system to consider arguments for same-gender marriages under the principles expressed in *Loving* and other state civil-rights laws.¹²

In 1996, this struggle culminated in the U.S. Congress passing the Defense of Marriage Act (DOMA) by substantial majorities in both houses. This act defines marriage as a legal union between one man and one woman for purposes of all federal laws. It further provides that states in which same-gender marriage is not legal do not have to recognize a same-gender marriage from another state.

DOMA opponents have questioned the constitutionality of the act, specifically based on the Full Faith and Credit Clause of the Constitution, which states, "Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state." This clause has been interpreted to require all states to recognize marriages solemnized in any other.

⁹ 388 U.S. 1 (1967)

¹⁰ 388 U.S. at 11, citing *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942), citations omitted.

¹¹ As an example, *Baker v. Nelson* was a case in which the Minnesota Supreme Court ruled that Minnesota law "does not authorize marriage between persons of the same sex and that such marriages are accordingly prohibited," and that this limitation did not violate the U. S. Constitution. The plaintiffs appealed, and the U. S. Supreme Court, 409 U.S. 810 (1972), dismissed the appeal "for want of [a] substantial federal question." State courts have ruled that this action of the United States Supreme Court constituted a decision on the merits and establishes *Baker v. Nelson* as controlling federal precedent on the issue of same-gender marriage.

¹² *Baehr v. Lewin*, 74 Haw. 645, 852 P.2d 44 (1993), involved a same-gender couple's challenge to Hawaii's marriage statute based on the equal protection and due process clauses of the Hawaii state constitution. The Hawaii Supreme Court ruled that the claim had potential merit and ordered a trial court to consider the legal arguments presented.

Concerned with potential challenges to DOMA, specifically based on the Full Faith and Credit Clause, advocates have introduced legislation calling for a Federal Marriage Amendment to the U.S. Constitution (later known as the Marriage Protection Amendment). Passage of this amendment would effectively undermine any constitutional challenges to DOMA. The legislation has been introduced four times in Congress since 2003 and has failed each time to reach the two-thirds vote needed to pass.

Since 1993, legislative activity surrounding same-gender marriage at the state level has increased. Thirty-seven states currently have their own DOMAs; thirty-one of those states go further by having state constitutional amendments defining marriage as between one man and one woman.

In 2004, Massachusetts became the first state to expand civil marriage to same-gender couples. At the time of this writing, five additional states have done likewise (New Hampshire, Vermont, Maine, Iowa, and Connecticut). Several other states, including California, New Jersey, Washington, and Oregon, allow same-gender couples to enter into civil unions or domestic partnerships that provide some of the rights and privileges of marriage under state law.

Marriage in the PC(USA)

The changes in how American society has viewed marriage over the last two centuries has had an impact on the church in general and the Presbyterian Church (U.S.A.) in particular. The church has embraced an understanding of marriage that is an equal partnership between husband and wife. The church has also examined the issue of divorce. In the 1950s, the Presbyterian church loosened its restrictions on remarriage after divorce in cases other than adultery and desertion by amending the Westminster Confession of Faith to state:

The remarriage of divorced persons may be sanctioned by the church, in keeping with the redemptive gospel of Christ, when sufficient penitence for sin and failure is evident, and a firm purpose of and endeavor after Christian marriage is manifested (*The Book of Confessions*, 6.138).

Since the late 1970s, issues related to homosexuality have been debated in the Presbyterian Church (U.S.A.) and its predecessor denominations. Within the PC(USA) today, men and women of deep faith and personal commitment to Christ are struggling to discern how the church can respond in theological and biblical integrity and love to the changing patterns of marriage and sexual practice in American culture. That struggle leads to a variety of questions that many in the church are asking from various perspectives. Perhaps by addressing these questions together as a church, the PC(USA) will move closer to understanding the various viewpoints.

- How do we express Christ's love and care for our Christian brothers and sisters in intimate same-gender relationships?
- How does the church understand biblical texts such as Genesis 1 and 2, Matthew 19, Romans 1, and 1 Corinthians 6 that challenge our acceptance of persons in same-gender relationships?

- How would recognizing same-gender relationships affect our church's relationship with ecumenical partners and the global Christian community?
- If the church recognizes expanded civil marriage as Christian marriage, would marriages in our churches and society be affected?
- How can the church deepen our understanding of marriage, strengthen its practice, and help reduce the prevalence of divorce? How can the church support and encourage those who are single, as well?
- How can the church encourage and support its members to enter into lifelong, covenanted relationships? Is the increasing acceptance of sex outside of marriage true to the biblical witness?
- What is the theological rationale for Presbyterian ministers to solemnize civil marriages as agents of the state?

Where other faith traditions currently stand

The PC(USA) is one of several denominations and faith traditions that are confronting the issues raised by same-gender marriage. The following outline indicates the positions of several churches at the time this report was written.

- The Roman Catholic Church holds to its sacramental view of marriage, continuing to refuse to countenance divorce. "The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life and which is ordered by its nature to the good of the spouses and the procreation and education of offspring, has been raised by Christ the Lord to the dignity of a sacrament between the baptized."
- The Anglican commonwealth understanding of marriage is not strongly represented in the Episcopal Church today, which views marriage as a "sacramental rite." "Holy Matrimony is Christian marriage, in which the woman and man enter into a life-long union, make their vows before God and the Church, and receive the grace and blessing of God to help them fulfill their vows." There is great ferment within the Episcopal Church over whether to extend the marriage rite for use with same-gender couples.
- Standing outside the Western tradition, the Orthodox Church in America maintains its ancient, sacramental understanding of marriage between a man and a woman as a "Holy Mystery." It is not a juridical contract and is not entered with vows or oaths. It is, in essence, the "baptizing and confirming" of human love in God by Christ in the Holy Spirit. The Orthodox Church recognizes as a Christian sacrament only those marriages entered into by baptized communicant members.
- In the Anabaptist tradition—which at the time of the Reformation rejected the authority of the state over marriage—the Mennonite Church U.S.A. holds a covenant

understanding of marriage as a mutual relationship in Christ between one man and one woman for life.

- The United Methodist Church, an offshoot from the Anglican tradition, appears to have adopted an understanding of marriage as a contract. “We affirm the sanctity of the marriage covenant that is expressed in love, mutual support, personal commitment and shared fidelity between a man and a woman.”
- The Universal Fellowship of Metropolitan Community Churches [“the world’s first church group with a primary, positive ministry to gays, lesbians, bisexual and transgender persons” (www.mccchurch.org)] strongly supports marriage equality. “Metropolitan Community Churches believe that any person who wishes to enter into a civil marriage should have the right to do so and that religious communities should have the right to decide whether or not they will provide religious services to sanctify that marriage.”
- The Evangelical Lutheran Church in America affirms that “marriage is a covenant of mutual promises, commitment and hope authorized legally by the state and blessed by God. The historic Christian tradition and the Lutheran confessions have recognized marriage as a covenant between a man and a woman...” Currently, the ELCA “lacks consensus” on the matter of “lifelong monogamous same-gender relationships,” and “it encourages all people to live out the faith in the local and global community of the baptized with profound respect for the conscience-bound belief of the neighbor.”¹³
- Within the Reformed tradition, two bodies with whom the PC(USA) is in full communion take differing positions:
 - The United Church of Christ continues to view marriage as a covenantal union, but has qualified that view with a firm commitment to equality. “We also recognize and affirm that all humans are made in the image and likeness of God, including people of all sexual orientations, and God has bestowed upon each one the gift of human sexuality. Further, we recognize and affirm that, as created in God’s image and gifted by God with human sexuality, all people have the right to lead lives that express love, justice, mutuality, commitment, consent and pleasure.”
 - The Reformed Church in America restricts marriage to “the union of one man and one woman, to the exclusion of all others.” In 1996, they entered into a dialogue with the UCC, “encouraging the UCC to move toward a more biblically faithful understanding of human sexuality and a repeal of all policies condoning homosexual behavior.” The dialogue was held; although neither denomination changed its views, better understanding was the result. In recent years, the RCA held three years of dialogue after which they affirmed their position on marriage.

¹³ “Human Sexuality: Gift and Trust,” August 19, 2009, Evangelical Lutheran Church in America, <<http://www.elca.org/What-We-Believe/Social-Issues/Social-Statements-in-Process/JTF-Human-Sexuality.aspx>>.

There are many other denominations and independent Christian bodies, both in the United States and around the world, whose positions this report has not considered. Given their wide variety of theological views, ways of understanding and interpreting Scripture, and cultural context, similar diversity in their views of marriage, divorce, and same-gender relationships can be expected. The challenge facing the Presbyterian Church (U.S.A.) will be complicated by our desire to maintain communion with our brothers and sisters in the global church.

The Effects of Current Laws on Same-Gender Partners and Their Children

*God gave us marriage for the well-being of human society, for the ordering of family life, and for the birth and nurture of children.*¹⁴

Scripture and the confessions lift up marriage as a basic unit of ordered human society. Within the family structure, we find a biblical demonstration of the birth and nurture of children, which is essential for the continuation of the human race. It is held up as “an expression of hope and confidence in God’s providential care.”¹⁵

Together with the family, we as the body of Christ and as people of God have a responsibility for the “the shelter, nurture, and spiritual fellowship of the children of God” and a responsibility to the culture around us for “the exhibition of the Kingdom of Heaven to the world” (*Book of Order*, G-1.0200). So while we may hold differing interpretations of Scripture regarding same-gender relationships, there is still an obligation to understand and respond to the social implications of the situation in the society around us.

Having considered the basic legal structure and how it developed, it is worthwhile to consider the implications of this societal structure for families of same-gender partners and reflect briefly on the possible sociological effects these structures might have.¹⁶

Differences in the law can be viewed from varying sociological perspectives, remembering that laws are the result of a political process, which is an “allocation of public values,”¹⁷ and will vary according to value outlook, and also that proponents of each view believe that their position is rooted in Scripture. Those perspectives include:

Perspective 1: According to this perspective, laws that fail to give benefits equal to marriage to same-gender couples and their families violate the standards of social justice and equality.¹⁸ The differences in benefits result in legal, financial, and social hardships that create social justice issues that may affect children. Using the Equal Protection clause of the U.S. Constitution, the proponents of this perspective believe that there should be no difference made between relationships based on gender. In viewing same-gender parent families from a biblical perspective, those holding this view point to the different cultural settings between modern society and biblical times, especially in the role the extended family structure played in that era.¹⁹ From a sociological direction,

¹⁴ *Book of Common Worship* (Louisville, Kentucky: Westminster John Knox Press, 1993) 842.

¹⁵ *Christian Marriage: Supplemental Liturgical Resource 3* (Louisville, Kentucky: Westminster John Knox Press, 1986), 91.

¹⁶ James G. Pawelski et al, “The Effects of Marriage, Civil Union, and Domestic Partnership Laws on the Health and Well-being of Children,” *Pediatrics* 118, no. 1 (2006) <<http://pediatrics.aappublications.org/cgi/content/full/118/1/349>> (1 July 2006). While a bit older, this article had the space to cover this topic in more detail than available to the committee.

¹⁷ Walter E. Volkmer, *American Government*, 8th edition (Upper Saddle River, NJ: Prentice Hall, 1998), 4.

¹⁸ Matt. 22:39, Matt. 7:12, Amos 5:24

¹⁹ Ruth 4:13-17, Esth. 2:7

there is no clear evidence that children from same-gender parent families are at a developmental disadvantage.²⁰

Perspective 2: Proponents of this position believe that it does not violate social justice or equal protection to offer different benefits to same-gender couples than to a man and a woman who are married. They recognize that there are differences, but they do not believe that every relationship or contract must be accorded the same value, protection, or benefit. They consider that marriage between one man and one woman is not only foundational to the stability of society, but that it is the most protective venue for the nurture of children. To promote social stability and justice for children, they believe that the law should encourage relationships that are optimal by granting particular benefits to a man and a woman who marry.²¹

Perspective 3: For some, opposing the acceptance of same-gender marriage rises beyond a socio-political argument to an issue of conscience. For those who hold this view, all sexual activity outside of marriage between a man and a woman is unacceptable. They cannot, in good conscience, encourage behavior they believe to be explicitly proscribed by Scripture. By supporting legal benefits equal to marriage for same-gender couples, they believe that they are complicit in encouraging this behavior.²²

Census figures

Some perspective on the size of the populations involved is helpful. The task is not straightforward because information on same-gender partners has not been collected in past decennial census reports. However, a recent study by two researchers from the U.S. Census Bureau using data from the Bureau's 2007 American Community Survey²³ estimated that there are 753,618 same-gender couple households in this country. Approximately one-quarter, or about 191,419 of those households, have children under the age of eighteen.

For purposes of comparison, there were about 42 million households with children under the age of eighteen. Of those, 29 million households were "male-female parent" households, married and unmarried, and 13 million households were single-parent households. So while the number of same-gender partner households with children under the age of eighteen is statistically small (0.46%), at nearly 200,000, the number of households is still significant. The 2010 Census will be recording same-gender parent households, and these numbers will likely increase.

Federal legal structure

Since the Federal Government has adopted the Defense of Marriage Act (DOMA) and does not currently recognize any form of same-gender relationships, the federal benefits that may come from such recognition and considerations afforded to same-gender partners are significantly

²⁰ "Transforming Families," adopted by the 216th General Assembly (2004) of the Presbyterian Church (U.S.A.).

²¹ Gen. 1:27-28, Gen. 2:23-24, Mark 10:6-9, Eph. 5:21-6:4.

²² Heb. 13:4, 1 Cor. 6:12-7:17, Eph. 5:1-3.

²³ <<http://www.census.gov/population/www/socdemo/hh-fam.html#wp>>.

limited.²⁴ The extension of some benefits to same-gender partners of federal employees in June 2009 marks the only significant federal recognition of these relationships. Other extensions are being considered.

Most significantly affected by federal laws, principally DOMA, are:

- Tax code: The U.S. income tax code does not recognize any status but heterosexual marriage for the category of married on federal income tax returns. Given the complexity of the federal tax codes, the benefits, or penalties, of a married filing status are highly variable depending on a household's financial situation; still, it is clear that for low- to moderate-income families, couples who are able to file as married pay less federal tax than couples that are not able to file as married.²⁵

Also within the tax code are a number of individual benefits that a married couple receives. One example is the premiums paid for health insurance for a spouse and children. While these are exempt from federal taxes, the premiums an individual would pay for a domestic partner are not.

- Social Security and federal retirement benefits: Social Security and retirement plans provide certain benefits to the spouse of a deceased or disabled plan member. Again, based upon definitions in the federal DOMA and also in the Social Security Act, spousal benefits are limited to a spouse in a heterosexual marriage. A domestic partner or same-gender spouse would not be eligible for these benefits.
- Immigration laws: With no federal recognition of a same-gender spouse of a U.S. citizen, that individual is not eligible for legal permanent resident status ("green card") or work visa based on their marital status. If the individual is in the country without proper or expired immigration documents, he or she may be subject to deportation. It should be noted that this applies equally to same-gender couples married in the U.S. or married abroad in a country that allows these marriages.
- Recognition of same-gender marriage across state lines: The other provision of the federal DOMA is to declare that states need not recognize other states' same-gender marriages. While this has withstood several challenges in lower courts,²⁶ the U.S. Supreme Court has yet to hear an appeal of these cases.

²⁴ The frequently cited numbers for "benefits" of marriage in the federal laws derive from a 1997 Government Accounting Office report (<http://www.gao.gov/archive/1997/og97016.pdf>) that found 1049 federal laws in which "marital status is a factor," and a 2004 update (<http://www.gao.gov/new.items/d04353r.pdf>) that found there were then 1138 "federal statutory provisions" in which "marital status is a factor in determining or receiving benefits, rights, and privileges." Not all these benefits are of equal magnitude. An analysis of the 1997 report by the Institute for Marriage and Public Policy (<http://www.marriagedebate.com/pdf/iMAPP.GAO.pdf>) noted, "While there are important benefits to marriage in federal law, the majority of these 1,138 statutes now described as marriage benefits are more properly described as legal 'incidents' of marriage" conferring benefits or liabilities on couples or individual spouses depending on specific circumstances.

²⁵ Stephen T. Black, "Same-Sex Marriage and Taxes," *BYU Journal of Public Law* 22, no. 327 <<http://www.law2.byu.edu/jpl/Vol22.2/Black.pdf>>. Due to the complexity of the federal tax code, higher income married couples may have different tax burdens and benefits.

²⁶ citations to come.

Variety of state laws

States can be divided into five different configurations.²⁷

| | State Constitutional Prohibition (e.g., SC) | State DOMA (e.g., WA) | Civil Marriage (e.g., NM) | Civil Unions/ Domestic Partners (e.g., CA) | Expanded Civil Marriage (e.g., MA) |
|--------------------------------------------------|----------------------------------------------------|------------------------------|----------------------------------|---------------------------------------------------|-------------------------------------------|
| Constitutional language | yes | no | no | yes | no |
| DOMA | yes | yes | no | no | no |
| Restrictive state law | yes | maybe | yes | no | no |
| Civil Unions/ domestic partnerships | no | maybe | maybe | yes | no |
| Recognize other states' expanded civil marriages | no | no | no | no | yes |

Some of the states that recognize civil unions/domestic partnerships have granted benefits through these contracts that are equivalent to those benefits granted through marriage.²⁸

These rights fall into several broad categories.

- **Parental rights:** Without the recognition of a civil marriage/domestic partnership, many parental rights may be denied to one partner in a same-gender couple. These include joint or co-parent adoption and recognition of a child's relationship to both parents, as well as eligibility for foster parenting. This lack of a recognized relationship can have implications for the ability to direct medical care for a child, eligibility for public housing or subsidy programs, and ability to extend employer health insurance to a partner and dependents.

²⁷ The current status of a particular state can be found at <http://www.ncsl.org/IssuesResearch/HumanServices/SameSexMarriage/tabid/16430/Default.aspx> or <http://marriage.about.com/cs/mariagelicens/a/samesexcomp.htm>.

²⁸ There is discussion about whether most, if not all, of these civil protections afforded by marriage can be secured by appropriate legal agreements. While some argue that this can be accomplished [Glenn T. Stanton and Bill Maier, *Marriage on Trial* (Downers Grove, IL: Intervarsity Press, 2004), 20], others, including Palewski (p. 356), assert that only very limited protections can be secured and those have not been fully tested in court cases.

- **Partner rights:** The list of rights and benefits not available to an unmarried partner is even more extensive. Not only can it include the lack of health insurance and Medicare benefits, as well as the inability to direct medical care and survivor benefits, it can extend into many economic and commercial areas that married couples take for granted. Examples include the ability to have joint credit, own property as a married couple with special legal protections and tax benefits that provide creditor protection as a married couple. A number of legal benefits and processes are also unavailable—the protection against being forced to testify against a spouse in court, the ability to structure a dissolution of the relationship through a court supervised divorce including child custody and visitation rights following the dissolution, and the right to sue for wrongful death of a partner.
- **Tax code:** The details of the state and local tax codes vary too widely to make any significant comments about the benefits or penalties that marriage brings. In general, the state tax laws are roughly parallel to the federal laws and, more often than not, low- to middle-income married couples would receive more favorable treatment than similar unmarried couples. In addition, as noted before, married couples would generally receive more favorable treatment regarding the taxation of the self-employed, family businesses, and inheritance laws.
- **Health benefits:** Health care has been the focus of much current legislative activity to secure medical coverage for same-gender partners and the non-biological children of the insured partner.²⁹ Other benefits that may not apply to same-gender partners include family medical leave, ability to direct care for a child or partner, and taxable status of insurance premium or benefits for a partner or child.

Challenges to conducting current research

While it is possible to describe the differences in the law regarding same-gender relationships, including differences in benefits that might arise due to the law between heterosexual marriage and same-gender relationships, it is difficult to make definitive statements on the sociological effects of these laws on same-gender families and their children. It is important to acknowledge that research on this specific topic encounters some significant challenges.

The journal of the American Academy of Pediatrics offers a comprehensive review of the literature related to the psychosocial aspects of same-gender parents and their children, including the challenges to conducting and evaluating this research³⁰:

- Most children presently in a family with same-gender parents were born into a previous heterosexual relationship, which means that divorce or separation must be considered in such children's development.³¹

²⁹ Linda J. Waite and Maggie Gallagher, *The Case for Marriage* (New York: Broadway Books, 2000), 20.

³⁰ Pawelski, p. 358ff.

³¹ Pawelski, p. 358, 359.

- Studies may be influenced by sample selection, sample size, investigator bias, and measurement.³²
- Children growing up with same-gender parents may be in that family a relatively short time, thereby reducing the available population for study.³³
- As community attitudes change and same-gender marriage finds greater acceptance, outcomes in current and future studies of children being raised in such families can be expected to differ from earlier studies.³⁴

In general, the studies reviewed find little difference between the children of same-gender parents and the children of parents in an opposite gender relationship. Researchers who are critical of these studies usually fault them on methodological grounds, citing many of the challenges listed above.³⁵ However, researchers generally agree that this is a developing area of research and that more definitive results must await longer-term studies on children raised exclusively in a same-gender parent family unit.

³² Pawelski, p. 359.

³³ Pawelski, p. 360.

³⁴ Pawelski, p. 359.

³⁵ Stanton and Maier, pp. 79-89.

The Relationship between Civil Union and Christian Marriage

Relationship between civil and Christian marriage

To understand the relationship between civil unions and Christian marriage, we must first understand the relationship between civil marriage and Christian marriage as defined in the *Book of Order* of the Presbyterian Church (U.S.A.). As we have seen in the definitions at the beginning of this document, these two general categories of marriage are treated very differently. Civil marriage and extended civil marriage function as a state-licensed *contract* entered into between two consenting adults. Christian marriage, as defined in the *Book of Order* is a *covenant* through which “a man and a woman are called to live out together before God their lives of discipleship” (W-4.9000).

Contractual nature of civil marriage

Civil marriage and expanded civil marriage both function as marriage as a *contract* between two persons. That contract is licensed by the state as long as the parties can demonstrate that they meet particular criteria that the state government sets as boundaries. These boundaries may include residency, identification, premarital counseling, evidence that neither party is currently in a civil marriage, medical testing, consanguinity, and age. In those states that license civil marriage (most U.S. states), difference in gender is also a state-required boundary. In those states that license expanded civil marriage (just over ten-percent of U.S. states), people of the same biological sex may be licensed by the state to enter into the civil contract of marriage.

As noted above, for the purposes of the state, civil marriage determines the delineation of the household and a person’s next-of-kin, primary parental rights and responsibilities, and other benefits granted by states to those in licensed civil marriages (e.g., filing taxes together, joint home-ownership, etc.).

Covenantal nature of Christian marriage in the Book of Order

A necessary criterion of Christian marriage in the PC(USA) is that it meets the requirements of civil marriage. However, Christian marriage also involves a *covenant* before God to live out together lives of Christian discipleship.

Covenant (*berith, diatheke*) is one of the most used words in the Christian Scriptures. Most scriptural references are to the covenant between God and God’s people, including, in the New Testament, the new covenant in Christ’s blood. However, there are several examples of covenants between individuals before God. Most of these are treaties of peace or alliances of war (such as the Mizpah covenant of Genesis 31 or the covenant between David and the people in 2 Sam. 5:3). There are also examples of covenants of friendship and love between individuals (see 1 Sam. 18:3; 20:8; 23:18; Psalm 55). Interestingly, only twice is the marriage relationship referred to directly as a covenant and in both, that relationship has been broken (Prov. 2:17; Mal. 2:14-15). *A common factor in these kinds of covenant is a vow that the parties of the covenants*

*make to one another with God as the witness and judge.*³⁶ The strength and sacrality of these covenants is this: If one breaks covenant, one breaks not only a vow to another person, but also a vow that one has made to and before God.

For a Christian couple, this covenant to live out their discipleship together in lifelong commitment should strengthen the civil contract licensed by the government. Therefore, in Christian marriage, as defined by the PC(USA), a couple must be able to demonstrate sufficient “Christian understanding” to be able to enter into such a covenant (W-4.9002b). Thus, while the state empowers every minister of the Word and Sacrament to officiate on its behalf in any civil marriage, the *Book of Order* instructs ministers of the Word and Sacrament not to conduct any covenant ceremony of Christian marriage that they feel is “unwise.” Further, the importance of this Christian covenant is such that the *Book of Order* provides an opportunity for a couple whose civil marriage has already been licensed by the state to make such a covenant (W-4.9006).

A comparison of civil unions and marriage

In comparison to civil marriage, expanded civil marriage, or Christian marriage as defined in the *Book of Order*, civil unions alone do not have a significant connection to the larger social dimensions of what it means to be married. Civil marriage, expanded civil marriage, and Christian marriage all understand the relationship so recognized as more than a private arrangement that some civil authority wishes to encourage. It is this larger social dimension of marriage that is lost in the newer contract of civil union.

Marriage is entangled with civil authority, social culture, and religion in the United States, which has contributed to the thorny difficulties of sorting out our conflicts over the social shifts of the last thirty years. But this intertwining is also a great strength of marriage in the United States as—in the midst of our radical individualization—it preserves an indivisible institution that connects government, society, and religion.

Institutions like marriage and parenthood are not simply mechanisms to fulfill individual needs and aspirations. They are also thick, multi-layered realities that speak to the needs for meaning and identity within human community.³⁷

Both those who wish to expand marriage to include same-gender couples and those who wish to defend marriage as it has been understood in the past value this larger social dimension of marriage to the point that civil unions cannot adequately substitute for marriage. Those who wish to expand marriage are not simply looking for state and/or federal benefits. The struggle is not just to be able to visit in hospitals, share health care or custody of children. Same-gender couples desire to belong—to be accepted in the larger society. Benefits that are conferred without the larger social dimensions of marriage are not an adequate redress to their grievance.

³⁶ God as Judge is particularly evident in the case of the Mizpah covenant and in the covenant between Ruth and Naomi in Ruth 1.

³⁷ Dan Cere, *The Future of Family Law: Law and the Marriage Crisis in North America* (New York: Institute for American Values, 2005), 40.

Those who defend marriage as it has been understood see the compromise of civil unions as a dangerous and myopic redefinition of marriage that loses its social dimensions and encourages the impermanence of these arrangements. They would argue that marriage is the only significant institution supported by civil authority that protects children as they grow; the impermanence of parental relationships is one of the major causes of a host of ills that beset the most vulnerable and weakest among us. European experience has demonstrated that diluting marriage into a private contract for the sake of one population can dilute it for the whole population.³⁸

While there may be significant, small populations for whom a civil union is a useful contract,³⁹ civil unions cannot serve to make peace between those who view homosexual practice differently.

Mirroring the civil disagreement in the church

What has exacerbated the civil argument in many instances is the fact that the church has reflected (and at times further complicated) the division that is so evident in the civil argument. Without rereading the theological arguments behind them, it seems incumbent that the various positions be outlined in order to what next steps might be prudent.

Some say marriage is a gift of God that can only be defined within the context of a relationship between a man and a woman. For many, blessing a relationship they believe to be forbidden by Scripture is not acceptable and is an unloving gesture. For them, this is fundamentally an issue of conscience and faithful scriptural interpretation.

Some say marriage is a gift of God that need not only be defined within the context of a relationship between a man and a woman. For many, not blessing a relationship they believe to be allowed by Scripture and given by God is not acceptable and is an unloving gesture. For them, this is fundamentally an issue of conscience and faithful scriptural interpretation.

There are those within the church who argue that civil unions give the church leverage to advocate for legal rights and protections for same-gender couples without having to acknowledge the blessing of a Christian marriage for the couple. Still others believe that the church should “get out of the marriage business,” relinquishing all civil authority to conduct marriage.

Whatever solution is proposed, it is clear that the conflict over marriage in the church, as a part of the ongoing conflict over homosexual practice, is not a matter that can be solved by simple compromises. This conflict is a crisis of conscience—on all sides.

³⁸ <<http://www.washingtonpost.com/wp-dyn/content/article/2009/02/13/AR2009021303365.html>>.

³⁹ For example, two elderly people who need to share insurance or pensions or mutual custodial living arrangements. Alternatively, two elderly people may wish to be blessed within the church without the civil contract. This is beyond the scope of this paper.

What is the Place of Covenanted Same-Gender Partnerships in the Christian Community?

But now in Christ Jesus you who once were far off have been brought near by the blood of Christ. For he is our peace; in his flesh he has made both groups into one and has broken down the dividing wall, that is, the hostility between us. He has abolished the law with its commandments and ordinances, that he might create in himself one new humanity in place of the two, thus making peace, and might reconcile both groups to God in one body through the cross, thus putting to death that hostility through it. So he came and proclaimed peace to you who were far off and peace to those who were near; for through him both of us have access in one Spirit to the Father. So then you are no longer strangers and aliens, but you are citizens with the saints and also members of the household of God, built upon the foundation of the apostles and prophets, with Christ Jesus himself as the cornerstone. In him the whole structure is joined together and grows into a holy temple in the Lord; in whom you also are built together spiritually into a dwelling place for God. (Eph. 2:13-22)

The Presbyterian Church (U.S.A.) is not ours; it belongs to Christ. In his book, *Life Together*, Dietrich Bonhoeffer states:

We belong to one another only through and in Jesus Christ. What does this mean? It means, first, that a Christian needs others because of Jesus Christ. It means, second, that a Christian comes to others only through Jesus Christ. It means, third, that in Jesus Christ we have been chosen from eternity, accepted in time, and united for eternity.⁴⁰

We all come to Christ as sinners, as strangers, whether we are in worship the week we are born or come to know Christ in our youth or old age. But once in Christ, we are inextricably linked to one another—not by affinity, comfort, or culture, but first and foremost because we belong to Christ. It is Christ who sets a place for us at the table; it is Christ alone who calls.

With Christ's call comes the forming of Christ's mind in each believer. In Christ, no matter who we are, what condition we are, we come to understand our essential humanity, which Christ redeems from the shadows of sin. Christ alone knows us—it is through the mind of Christ alone that we truly come to know others.

Christ is the center of our life individually and of our life together. From the moment we are called forth from nothing and formed in the womb, through the moment in time when we hear and, Lazarus-like, rise from sin and follow, to the moment when we are united with Christ in a death like his and a resurrection like his, Christ is calling us. We are not our own. We have been bought with a price.

Our current situation

The Presbytery of Denver's overture to the 218th General Assembly (2008) of the Presbyterian Church (U.S.A.) proposed a developing compromise that would cool the conflict over homosexual practice to the point that both sides could disagree in peace without impinging on

⁴⁰ Dietrich Bonhoeffer, *Life Together* (New York: Harper & Row Publishers, 1954), 21.

one another's liberty of action or liberty of conscience. This two-tiered form of recognition of committed relationship (one tier labeled "civil union" or "domestic partnership" and the other tier labeled "civil marriage," defined as between one man and one woman) has rapidly collapsed in the states that attempted to maintain it. In church and society, the conflict over homosexuality and the definition of marriage has hardened and deepened.

This insoluble conflict seems to mock the hopes and prayers of our brothers and sisters who first reported to the 190th General Assembly (1978) of the United Presbyterian Church U.S.A. that "the church's grappling with the issue of homosexuality has already energized its membership in a remarkable awakening of prayer and theological study. Our study should continue with the aim of reaching harmony in our diverging positions on homosexuality and other critical issues. Our prayer should now be concentrated upon this process of internal reconciliation...." History's trajectory, looking at the thirty years that separate us from those hopes and prayers, has not been a gradual harmony, but an increasingly strident and rigid disharmony that threatens to once more tear the Presbyterian Church (U.S.A.) asunder.

What is the place of covenanted same-gender partnerships in the Christian community? The Presbyterian Church (U.S.A.) cannot agree. But the Presbyterian Church (U.S.A.) is not ours. It is Christ's. We did not choose Christ; Christ has chosen us, and appointed us—each and every one—to go and bear fruit that will last in this part of Christ's vineyard. We have no right to destroy what is not ours. Knowing this, we believe that it is our Christ-given duty to stay at the table, especially when we disagree.

Resources of our tradition

We come to Christ's table freely, and with the clear understanding that no one, save Christ himself, can compel us. We are Presbyterians—an expression of Christ's Church defined (at least in name) by our polity: our way of living and working together to discern and abide by the will of God. We rely not on hierarchical human power to compel or coerce, but upon the Spirit of God to form the mind of Christ in each believer. We trust that the Spirit is working—even when the way is not clear—to reshape and reform us according to God's word. This radical freedom is expressed in our historic principles of church order, drawn from the Westminster Confession of Faith, as "God alone is Lord of the conscience and hath left it free from the doctrines and commandments of men⁴¹ (sic) which are in anything contrary to his Word, or beside it, in matters of faith or worship" (*Book of Order*, G-1.0301).

We recognize that with this radical freedom comes a radical responsibility—our freedom to live out our convictions has consequences not just for us, but for the whole body as well. We will be held accountable to Christ before the God of history for how we act, how we live, how we love. We hold

that truth is in order to goodness; and the great touchstone of truth, its tendency to promote holiness, according to our Savior's rule, 'By their fruits ye shall know them.' And that no opinion can be either more pernicious or more absurd than that

⁴¹ The words "men" and "man's" throughout this 18th-century quotation should be understood as applying to all persons.

which brings truth and falsehood upon a level, and represents it as of no consequence what a man's opinions are. On the contrary, we are persuaded that there is an inseparable connection between faith and practice, truth and duty. Otherwise, it would be of no consequence either to discover truth or to embrace it. (*Book of Order*, G-1.0304)

The tension between our freedom and the consequences of our actions has meant that our common life is marked by much quarreling. Our fighting is not just a sign of our love of debate, but of the seriousness with which we take the gospel and our understanding of the consequences of our actions. But if we come to see our brothers and sisters with whom we disagree as our—or worse yet, Christ's—enemies, we have denied the unifying power of Christ's redeeming, reconciling love. So,

while under the conviction of the above principle we think it necessary to make effectual provision that all who are admitted as teachers be sound in the faith, we also believe that there are truths and forms with respect to which men of good characters and principles may differ. And in all these we think it the duty both of private Christians and societies to exercise mutual forbearance toward each other. (*Book of Order*, G-1.0305)

It is to this principle of our common life that we appeal, recognizing that Christ is our peace, and no longer regarding each other from a human point of view. We must love, support, and trust each other as we search for Christ's truth in order to model what it means to be the body of Christ for each other and for the world. The pain of this living sacrifice will have to be evenly distributed and shared across the whole body until Christ the Head brings clarity, which may not come quickly. And even when clarity may come, we must accept and understand that it will be followed by the next conflict. We must find a way to be the body of Christ, not by seeking a peaceable uniformity, but by embracing our Christ-given duty to exercise mutual tolerance and forbearance in those places where we, people of good faith, do differ.

Our covenant

Jesus prays that his followers “may all be one,” as he is one with the Father, “so that the world may know that you have sent me and have loved them even as you have loved me” (John 17:20-26). Through the sacrament of Baptism in the name of the triune God, we have indeed become one with Christ and with one another, as members of Christ's body, the Church. Thus, we all have been brought into a covenant relationship with one another, a covenant perhaps encapsulated by a new commitment: Those whom *Christ* has joined together, let no one separate.⁴²

Throughout our time of prayerful deliberation—and sometimes difficult disagreement—the members of the PC(USA) Special Committee to Study Issues of Civil Union and Christian Marriage have been blessed and challenged by a profound sense of our unity in Christ. Because of that deep awareness of our communion in Christ's body, the Church, our time together has

⁴² Our experience of the unifying power of Christ during our deliberations led us to Jesus' words so often used in wedding services, which we paraphrase with a Christological interpretation.

been marked by a remarkable degree of mutual respect, commitment to one another, and Christian love. We can only attribute these gifts to the living presence of Christ among us, and to the transforming power of the Holy Spirit.

The following covenant grows out of the gifts of unity, respect, commitment, and love that we have received, all welling up from our baptism in Christ. We long to share this experience of communion in Christ with our sisters and brothers throughout the church. Therefore, we commend this covenant for use in the Presbyterian Church (U.S.A.), particularly when governing bodies meet together to discuss divisive issues.

Those Whom Christ Has Joined Together, Let No One Separate

We acknowledge and confess that the Presbyterian Church (U.S.A.) displays Calvin's marks of the true Church (the gospel is rightly preached and heard, and the sacraments are rightly administered). Christ has chosen each one of us here, and has called us to this place. *Those whom Christ has joined together, let no one separate.*

By the grace of the Lord Jesus Christ, with the love of God, and in the communion of the Holy Spirit, we covenant together:

- to honor the truth that Christ has called and God works through each member;
- to listen to one another with openness and respect;
- to support and pray for each other and for one another's ministries;
- to earnestly seek and carefully listen to each person's discernment of God's will found in the Scriptures;
- to struggle together with perseverance to find God's will for us even when the way is difficult;
- to love one another even when we disagree, and to commit ourselves to the reconciliation of any broken relationships we have with one another;
- to honor who we are as Presbyterians by respecting the fallible discernment of the body, bearing in mind that individual conscience cannot be thus bound.

Agreement, disagreement, and mutual forbearance

Exercising the “mutual forbearance” to which we are called:

1. We agree that Christ calls all kinds of persons into fellowship with him, regardless of race, sex, occupation, ethnic origin, sexual orientation, or any other worldly condition, and that congregations are to welcome all persons who respond in trust and obedience to God’s grace in Jesus Christ and who desire to become part of the membership and mission of his church.⁴³
2. We acknowledge that the 218th General Assembly (2008) acted to “renew and strengthen the long-standing Presbyterian Church (U.S.A.) commitment to equal protection under the law for lesbian and gay persons and the 216th General Assembly (2004)’s affirmation of the right of same-gender persons to civil union and, thereby, to all the benefits, privileges, and responsibilities of civil union.”⁴⁴
3. We confess that we are brothers and sisters bound together in Christ, and that while these conversations are difficult and intense, our disagreements do not negate our unity. Threats of departure or coercive ways of achieving uniformity are ultimately unhelpful and do little more than draw lines and force us to become more deeply entrenched in our positions and prejudices.
4. We agree that God alone is the source of all blessings. By the grace of God and through the power of God’s Spirit, individuals and congregations are able to bless God, receive God’s blessings, and praise God’s glory. Contrary to popular piety, neither a minister nor the church blesses a person or a relationship. When ministers conduct services of blessing, they bear witness to the blessing of God on that couple and testify publicly to that blessing in the congregation of believers.
5. We agree that Christian marriage is not a “right” conferred upon anyone, but a gift given to us by God to nurture and form human beings into the kind of sacrificial, self-giving love that we see in Jesus Christ. To speak of someone’s “right” to be married is to confuse God’s free gifts with human entitlements.
6. We acknowledge that our interpretations of Scripture lead us to different conclusions regarding homosexual behavior and same-gender partnerships. We all confess that Scripture holds out a transforming hope of radical change in Jesus Christ that requires us to be dead to sin and alive to all that is good. However, for some of us, that makes faithful, mutually loving, marriage-like unions of same-gender couples unacceptable; for others of us, that makes faithful, mutually loving, marriage-like unions of same-gender couples acceptable.

⁴³ *Minutes*, 190th General Assembly (1978) of the United Presbyterian Church in the United States, p. 261ff; and *Minutes*, 119th General Assembly of the Presbyterian Church in the United States (1979), p. 362ff.

⁴⁴ Item 04-13, 218th General Assembly (2008).

7. We acknowledge that there is no consensus within either the scientific community or the Christian community about the roots of homosexual orientation. Is sexual orientation coded into our DNA, or is it influenced by our environment? Since we do not have agreement regarding those questions, let us lay them aside and move forward.
8. We acknowledge that current law, in which clergy act as agents of the state, is a source of confusion. On behalf of the state, ministers are granted the authority to officiate at marriages, and yet no authority is granted them to dissolve such unions. Some argue that the church should relinquish its state-sanctioned power to marry. Others feel that, even in confusion, it should be retained to further the cause of the gospel.
9. We acknowledge the presence of same-gender partners in our communities and congregations. Together, we are members of the body of Christ and joined by the reconciling work of Christ. As the body of Christ, we affirm the call of the church, in its ministry and mission, to offer to all persons God's gracious provision of redemption and forgiveness, calling all persons into loving obedience to God's will.

Conclusion

There continues to be a struggle in the Presbyterian Church (U.S.A.), a struggle mirrored by the members of our committee.

- We find that our church is united in our gratitude for God’s word that is authoritative for us and for the theological heritage that has formed and informed us, but deeply divided about the conclusions that we draw from these sources of wisdom. We are left with honest and sincere disagreements, yet with a conviction that any solution should not caricature our sisters and brothers with whom we disagree.
- We see no agreement in the laws around this issue, on any level of government, and these very laws have changed even as we have embarked on this study. We have reached no consensus on a faithful response to the changing nature of civil marriage.
- We find that there are a significant number of children of same-gender households, and the reported numbers will likely increase in the next U.S. Census. Our responses as a church to the questions raised have real consequences in the lives of children.
- We find that the compromise suggestion of civil unions/domestic partnerships offers no true solution to the struggle around same-gendered partnerships. Civil unions/domestic partnerships provide neither the state-sanctioned benefits nor the societal acceptance that marriage (expanded or not) offers.

There continues to be struggle, but there are also important points of unity in the Presbyterian Church (U.S.A.), unity mirrored by the members of our committee.

- The church is not ours. It belongs to Christ, and we are part of the church solely by the grace of God. Thus, it is inappropriate for us to seek to answer definitively what “the place” for any of our sisters and brothers in Christ might be in Christ’s church. Rather we confess that, apart from anything we have done, Christ has prepared a place for every one of us.
- Every one of us is called to mutual forbearance in how we practice our lives of faith together.
- Together, we are the body of Christ, called to live into our Christ-reconciled life together, acting in a manner that lives out our confession “Those whom *Christ* has joined together, let no one separate.”

We now offer to the church the work that we have done together. That work takes two forms—a report and a call to covenant. We commend this report to you, our sisters and brothers. But far more than this, we entreat the Presbyterian Church (U.S.A.) to affirm the covenant relationship into which Christ calls all of us by praying through and seeking to live into the covenant life that Christ provides for us, a covenant life marked by reconciliation.

In truth, this is only the most current in a long series of disagreements and differences of opinion with which the Presbyterian Church (U.S.A.) has been or will be confronted. The nature of our polity predisposes us to debate and struggle with each other, always striving to discern the mind of Christ for our life together. But we have weathered these debates before and we will face them again in years to come.

The question before us is not what issue will define us at any given moment, but whether the Presbyterian Church (U.S.A.) can acknowledge that our unity in Christ supersedes any other claim or argument clamoring for our attention. Our hope and prayer is that this current debate provides an opportunity to reflect upon and renew our relationships in the body of Christ and our call to ministry together.

Whatever actions the 219th General Assembly (2010) of the Presbyterian Church (U.S.A.) takes, we commend to you this covenant as a way to remember that it is Christ who calls us, Christ who redeems us, and Christ who reconciles us to one another in covenant faithfulness.

Those whom *Christ* has joined together, let no one separate.

Members of the Special Committee to Study Issues of Civil Union and Christian Marriage

The Reverend Clayton F. Allard
The Reverend Emily J. Anderson
The Reverend Earl Arnold
Elder Luis Antonio De La Rosa
Emily W. Miller
Elder Katina Miner (through August 2009)
The Reverend Margaret Aymer Oget
Elder Stephen L. Salyards
The Reverend Tracie Mayes Stewart
The Reverend Jim Szeyller (Moderator)
The Reverend William Teng
Elder Lisa Cooper Van Riper
The Reverend Derrick Weston