Religion, Culture and Gender Guides

The purpose of the Guides is to showcase the work of Manchester students on the theme of Religion, Culture and Gender in Britain, and provide creative, informative and critically informed resources on this theme.
The same sex marriage bill in Scotland
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Introduction:
The purpose of this Guide is to provide an initial point of information for teachers and students who are teaching/studying at 6th form level topics to do with religion, culture and gender. Along with the main body of information, a glossary is included which briefly defines main concepts and terms (look for words in red). For further study, I have included a bibliography with annotations so that you, the reader, can more easily navigate to sources which will be of use for you.

This Guide will be focusing on the topic of Religion, Culture and Sexuality and more specifically on the theme of same-sex marriage. I will be using the case study of the Marriage and Civil Partnership (Scotland) Bill which is currently progressing through the Scottish Parliament. I will seek to explore the issues and concerns brought about by this change in legislation and of the theme of same-sex marriage in general. I will be looking at the definition of marriage and where it originated from, and how this definition has influenced ‘traditional’ views of marriage and. I will thus seek to put into context the concerns and issues of the Christian Church in relation to the case study and then discuss views of the gay and lesbian community.

Case Study
On November 20th 2013 the Marriage and Civil Partnership (Scotland) Bill passed the first round of voting in the Scottish Parliament.¹ The Bill is an amendment to the already existing Civil Partnerships Act of 2004 which was the first piece of legislation legally recognising the partnership of a same sex couple. Civil partnership offered some but not all the same rights as marriage. This new Bill will give same-sex couples the same legal recognition and protection as it does to heterosexual couples.

The journey of the Marriage and Civil Partnership (Scotland) Bill publicly started in May 2011 when four out of the five political parties in Scotland stated that they had included an equal marriage commitment in their manifestos. Following a public consultation a draft of the bill was written and published. A second consultation was made and consequent revisions made. On June 26th 2013 the bill was introduced to the Scottish Parliament and assigned to the Equal Opportunities Committee. The committee advised Parliament to accept the bill. November 20th saw the Parliaments debate of the committee’s report and was voted upon; 98 MSPs (Member of the Scottish Parliament) were for the bill, 15 against, 5 abstentions, and 9 were not present. This first stage saw heated debates with many MSP speaking and giving their views.

This Marriage and Civil Partnership (Scotland) Bill has been controversial because of a number of issues. In this bill, religious institutions can ‘opt-in’ to perform marriage ceremonies for same-sex couples where this was previously not allowed. The Church of Scotland has been concerned that their ministers would be labelled as homophobic and legally sanctioned if they opted-out, however safety precautions have been put in place to protect those figures who do not which to perform

same-sex marriage ceremonies. There are also concerns as to whether the government is correct and has the right to redefine marriage, and thus there have been debates as to the definition of marriage.

For more information:

http://www.scottish.parliament.uk/parliamentarybusiness/Bills/64983.aspx


The Guide

*What does marriage mean and where does it come from?*

The definition of marriage in Scotland, thus far, has been defined as "The relationship of husband and wife and the legal status of married persons is constituted by marriage, which is the voluntary union of one man and one woman for the duration of their joint lives, unless judicially terminated earlier." This definition was based on common law as had been administered by the ecclesiastical courts prior to the Reformation.

The United Kingdom has had some form of Christianity within its borders since 400CE. However it was the medieval period which saw how much the Christian church became an integral part of everyday life in the community. They acted as schools, market places, meeting places and entertainment venues. Thus it seems unsurprising that Christianity came to be involved with structuring the law. Thus we must look at where Christian views stem from; simply speaking, ecclesiastical law is based on what is written in the Bible. Christians believe that the Bible is the divine word of God. The following passages have been used to construct current understandings of marriage and relationships:

**Genesis 1:27-28a**

“So God created humankind in his image, in the image of God he created them; male and female he created them. God blessed them, and God said to them, “Be fruitful and multiply…”"

This passage states the belief that humans, both men and women, were created by God. It has been held that the main purpose of a union between man and woman was for the purpose of procreation. This has been deemed the first “order of creation;” to multiply their numbers by having children.

**Genesis 2:23-24**

“Then the man said, “This at last is bone of my bones and flesh of my flesh; this one shall be called Woman, for out of Man this one was taken.”

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3 Ibid, p.52

Therefore a man leaves his father and his mother and clings to his wife, and they become one flesh.”

This presents the first marriage of human beings; it is interpreted as a monogamous marriage of man and wife, a woman. This marriage is viewed as a covenant, a mirror of the relationship between God and humans. This union is the sphere in which sexual relations are permitted in Jewish and Christian thought. In Judaism, the laws governing marriage had looked to this passage as normative.

Leviticus 18:22

“You shall not lie with a male as with a woman; it is an abomination”

Leviticus is considered one of the law books in the Old Testament; it sets out what is and is not allowed with regards to God’s law. Leviticus chapter 18 states explicitly what is and is not allowed with regards to sexual relations. Thus in this passage, it in essence says that homosexual relations are wrong. It is believed to go against the intention of creation as set out in Genesis.

Early Christian thinkers had a huge impact on how the view of marriage has developed over the centuries. David Hilborn writes that the most influential thinker was St. Augustine who believed that marriage was primarily for creating children and as companionship for men and women. What was so significant about Augustine was that some of his teachings were included in public prayer books at the time of the Reformation. One example which Hilborn cites is Augustine’s views on the priority of marriage was preserved in the Common Book of Prayer:

First [marriage] was ordained for the procreation of children, to be brought up in the fear and nurture of the Lord, and to the praise of his Holy name. Secondly, it was ordained for a remedy against sin, and to avoid fornication...Thirdly, it was ordained for the mutual society, help and comfort, that one ought to have of one another.

How has this influenced the ‘traditional’ view of marriage today?

Rosemary Radford Reuther states that the traditional view of marriage is a heterosexual monogamous marriage (with a male bread-winner and a female housewife). The influence of Christian biblical writings, like the passages above, can be seen on this statement. Marriage is constituted by the exclusive union between a man and a woman. This view of marriage filters down into the roles of each person within a marriage; according to Reuther has meant that stereotypically the man makes the money and the woman looks after the home. However this ‘scenario’ is not necessarily as common as it was perhaps in the 1950s. Hilborn says that our lifestyle is radically

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5 Ibid., p. 182
6 Adrian Thatcher, Marriage after Modernity: Christian Marriage in Postmodern Times (Continuum, 1999), p. 68
7 Kaiser, Toward Old Testament Ethics, p. 196
different from that of our ancestors (hunter-gatherer ancestors), that we do not need to live as they did; women staying at home because they were the caregivers, and men because they were physically bigger would get food, i.e. breadwinner. However these normative views have been challenged, for example: the availability of contraception. It allows women to not have a 30 year cycle of bearing and caring for children; women can now work and raise a family. This option could be said to restrict a natural part of a woman’s role in life, and it also can be said that it gives a woman more options in a society full of possibilities. It therefore seems that “The key issue for a modern theology of marriage is whether these anatomically-based distinctions [women as homemakers, men as hunters and defenders of the tribe] need any longer determine the patterns of society and family life.”

How does this apply to the case study?

In the definition of marriage between a man and women, there is no allowance for any other sexual orientations; it challenges the normative view of marriage within society which boils down to procreation. A heterosexual marriage has been an example of, propagated and could be seen to have reinforced gender roles within society. If society has been based on gender roles then marriage and family are a micro-public of society. Same sex marriage challenges society because it creates a new micro-public which on the outside is seen as different.

Jeffrey Heskins in his book *Unheard Voices* speaks about his experiences a pastor in a church in South East London during the 70s and 80s performing marriage ceremonies for homosexual couples. He notices that “experiences of and attitudes towards homosexuality were relative to culture and context.” In response to the view that same-sex partnership ceremonies diminish the meaning of marriage, Heskin’s cites quotes from same-sex couples who believe they have to work harder at their relationship to prove themselves “a bona fide couple” (original italicization). Thus the marriage bill can be seen as a site of recognition, legitimacy. It will also provide social security, protection of the relationship, rights to property and belongings in case a spouse dies because the partner will be considered immediate family in the eyes of the law. There are some views among scholars that by including same-sex relationships under the term marriage will make heterosexual marriage less sexist. That same sex marriage is a site for equality, whereas in contrast, others believe that it is a site for continues oppression of women.

**Glossary**

**Act:** In the legal sense, it is the product – usually in the form of a written document – of a decision which has resulted from a legislative or juridical body.

**Bill:** in the legal sense, it a draft of a proposed law to be presented to a governing body for approval.

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10 Hilborn, "For the Procreation of Children." p.30
12 Ibid., p.119
Civil Partnership: is the legal union of two people of the same sex, it is similar to marriage status but does not have all the same laws attached to it.

Covenant: is a strong binding agreement between two parties. In the Bible, a covenant usually refers to the promise God made to the human race.

Common Book of Prayer: this is the name for asset of books which were published in 1549 during the English Reformation in the break from the Roman Catholic Church and they include complete orders of service for daily, Sunday services and special occasions such as baptism, marriage, confirmation et.

Common Law: is a legal system which has been developed by judges through the use of court cases and decisions made at those cases. In reference to marriage, common law marriage is a marriage that is agreed by both partners but has not been legally recognised by the state.

Ecclesiastical: comes from the greek word ekklesia which means ‘church’ or ‘assembly.’ Today the word ecclesiastical refers to something pertaining to a church.

Heterosexual: refers to persons who are attracted to the opposite sex.

Homosexual: refers to persons who are attracted to the same sex.

Marriage: will refer to the union of two persons which usually entails legal obligations to each other. Please see section above on What does marriage mean and where does it come from?

Protestant: is a denomination of Christianity in the West which was founded on teachings of the Reformation.

The Reformation: was a religious and political movement across Europe in the 16th-century which attempted to reform practices of the Catholic Church but instead ended up forming the Protestant Church.

Annotated Bibliography
   - This article presents a legal view on marriage and divorce in Scottish Law. It is useful because it provides a background and explanation of how Scotland views the laws dealing with marriage. As it was written in 1977 there is not a mention of same-sex marriage because at this time it was not legal. However as said it provides good background knowledge. It is an article from Legal Journal, thus it does not deal with aspect of religion, however inferences can be drawn as to the influence of religion on the laws which have been made.

   - Hardings article presents the negative views held by homosexual people and couples of civil partnership. She uses the information from in-depth interviews to analyse the relationship between law and civil partnerships. It provides an interesting look at the ‘other side of the coin’ so to speak, in that it presents views that civil partnership as well
as being a site for the recognition of homosexual relationships, it can also be a site for regulation by government.

- *Unheard Voices* is a first person account of a pastor's experiences working in a church in South East London which performed same-sex marriage ceremonies in the 1970s and 80s. Heskins presents his views and experiences during his time as a pastor at this church over 20 years. Heskins looks at the variety of views held towards same-sex marriage which had arisen during his time in the church. He takes an anthropological perspective and actively seeks to understand and suggest ways that society can understand same-sex marriage/unions.

- *Man and Woman Made* is a collection of essays edited by Susan Derber which cover a broad spectrum of topics to do with marriage. It is written from a largely Christian perspective covering a range of disciplines such as historical, theological, and anthropological. It offers personal experience and how the scholars have applied theory to their own lives.

- Kaiser’s book is a good starting point for understanding the Old Testament influence on Christian thought. As it does not only deal with marriage, only a chapter or so of the book is directly relevant for study, but provides easy to understand information.

- Polikoff's article is written in an American context but that does not detract from its usage. The article is useful for further study with regards to gender within marriage and how this effects the law. Polikoff presents and well reasoned argument, and analyses the views of a number of scholars. She presents her own views and leans towards the belief that same-sex marriage make marriage in general, a more equal for both homo- and heter-sexual couples.

- Radford Reuther is a feminist scholar who presents a feminist reading of family. Her book is a useful point of information because she tracks the development of family within the context of Christianity from its first century beginnings to the 21st century. She seeks to understand how family works and to suggest ways in which family work better in contemporary society by investigating its origins. As such she discusses same-sex partnerships and how they have influenced and been influenced by Christianity in a modern context.

- Thatcher offers a liberation theological view of Christian marriage. He seeks to offer a new way of looking at marriage for the modern context. This book is useful if looking for a theologically grounded exploration into cultural views of marriage and how they have been culturally conditioned. Thatcher seeks to answer questions on the premis the
marriage and family are in trouble. He speaks with an American context in mind, but again the conclusions Thatcher draws can be used to examine family in a British context.

Cited Works