

Response to David Quinn's paper on "The Future of Marriage and the family law in Ireland" by Bishop Richard Clarke
ICC AGM 02/04/08

I would like to thank David Quinn for his useful, if rightly alarming treatment of the present situation in Ireland with regard to marriage, family law and the upbringing of children. I am not in serious disagreement with anything he had to say. I would want to complement one or two points and perhaps approach them from a rather different trajectory.

Look at the past – there are lessons to be learnt from history. It's very easy to assume that the past was both standardized and consistent. In particular, the Christian past was where things were done well and done coherently. Nothing could be further from the truth, particularly when it comes to marriage.

1. In the first Christian centuries, pagan converts to Christianity were of course very often already married when they became Christians. Initially, therefore, these marriages posed no special problems for the church. The marriages of these pagan converts were brought within the Christian sphere of life *by their baptism*, not by Christianising their marriage. The synod of Elvira (early fourth century) accepted that the marriages of baptized Christians were celebrated like those of unbaptized pagans. The church simply accepted the subjection of her members to the Roman legislature, and matrimonial cases were also brought before the civil law courts;
2. From the beginning, the Christian church tried to surround the civil and family marriages of her faithful with pastoral care. She wished to protect them from pagan influences of a harmful kind, and in particular from sacrifices to false gods. Ignatius of Antioch (late 1c./early 2c.) pointed out that it was appropriate for the faithful to contract a marriage only "after the bishop's approval" (*Letter to Polycarp*). But the aim was not to create a separate marriage procedure for Christians. It was much more a question of the pastoral care of marriage between Christians, and of a Christian spiritual understanding of marriage, so that (as Ignatius added to his statement above) "marriage may be according to the Lord and not according to desire.". Clerical intervention was regarded only as desirable pastorally and did not include a legal or sacramental action of any kind. Marriage "in the presence of the Church" was just not a known concept in the early centuries.

3. It was probably only in the eleventh or twelfth centuries that the western Church began to take any real jurisdictional control over marriage. Various things do however emerge during the mediaeval period which we should regard as of importance to our understanding of the marriage of Christians. Well before the time that the Church began to Christianise the marriage ceremony, Pope Nicholas I - "if the consent be lacking in a marriage, all other celebrations, even should the union be consummated, are rendered void". THE PROMISE OF LOVE – THE RELATIONSHIP. Again we must emphasise that there was no uniformity throughout Christendom, or anything approaching the social mores we take to be the Christians "standard" today. Even where there was a mass (very much as an optional add-on to the witnessing of the marriage outside the church building, the mediaeval newly married might very often be joined at the altar by their children, born to them prior (obviously) to the marriage. Indeed this was a way of legitimising children, and making the first-born a legal heir. Although the Church in the later Middle Ages might certainly have disapproved of a couple living together as man and wife before it had ratified the vows, it had to acknowledge that the vows done properly without any church ceremony constituted a valid marriage and could not penalise any such couple if it could be established that they had freely consented to marriage and had taken vows. Indeed, there appeared to be so many marriages taking place even without witness or any ceremony in the 16c that the Council of Trent decreed in 1563 that marriages should be celebrated in the presence of a priest and at least two witnesses.

4. Records of Llansantffraid in the Ceiriog Valley in North Wales - Between 1769 and 1799, 60 percent of all births were noted as being within conjugal arrangements which, although not formally solemnised in a church, were nevertheless sufficiently public and stable as to have the father's name recorded. The same researcher (John Gillis) would argue that well into the twentieth century, there was in that sort of rural area no serious social disgrace in having had an informal marriage, outside church or chapel.

What does this background say to us? Yes, we need to be careful in suggesting that it is only today that societal concepts of the "married relationship" outside the Church (and even inside the Church) are untidy and non-standardised.

David Quinn rightly speaks about the primacy of the care and proper upbringing of children. I agree. No-one has a basic human right "to bring up children" – children are not commodities / they are not
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toys which everyone must be allowed have for themselves. They are people for whom we must always do the best we can. I agree that the best place for the upbringing of children is within the stable relationship of marriage (and I think that marriage is, even in a secular understanding of the matter, the most stable of foundations for the full relationship of man and woman). With regard to the upbringing of children within a same gender parent relationship, I would need a great deal of persuasion to convince me that this will normally give the same balanced nurture for a child than the traditional model of father and mother. (Having said that there are some same gender couples I know to whom I would more entrust the care a child well ahead of plenty of married couples I know.) I suppose I would say that in exceptional circumstances one would not rule out giving the care of a child to a same gender couple but I do not think that it can or should be enshrined as a right for any couple, whether same gender or otherwise. As I have said before, children are not commodities and the upbringing of children is not a fundamental human right.

What I think we can learn from the unfolding history of the western Church's relationship with marriage is that we should see the relationship as primary and the free thoughtful consent for lifelong union as the starting point – the activity within marriage is secondary.. And Ignatius was surely spot on when he saw that the care of married couples and the care of their families in a pastoral relationship –and I stress, not a hectoring / bullying relationship but a pastoral relationship is a primary duty of the Christian Church. How many of our traditions do it well today – has there ever been more need that we do it well?