

Is it time to separate church and state in marriage?

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By Norman Bonney

One fact that the on-going debate over equal marriage has highlighted is that current marriage laws in England and Wales are of Byzantine complexity. They grant the power to many, but not all, religious organisations to register marriages on behalf of the state – along with their respective religious ceremonial. Establishment, and the inclusion of religions as partners of the state has caused major hurdle for the Government trying to enact legislation to enable equal marriage.

The UK government has now proposed the introduction of civil marriage for same sex couples in England and Wales, in addition to existing rights to civil partnership registration. It will also allow civil marriage to be registered along with religious rites by those authorised religious organisations which choose to do so.

Religious organisations will, in effect, have a right not to undertake religious celebration and the associated registration of marriage for same sex couples but the Churches of England and Wales will be excluded from conducting such business.

So we now end up with the absurd situation that the church of the state will, in England, not abide by the law of the land that the government proposes for society generally and for other religious organisations.

Additionally, religious organisations that register marriage on behalf of the state will now have the ability to pick and choose which of the varieties of marriage that they will choose to administer and celebrate and they will be legally protected against possible charges of discrimination for refusing to conduct same sex marriages.

Given that two in three couples now choose civil ceremonies to register their marriage, it would seem appropriate to now consider a complete overhaul the laws concerning marriage by requiring all marriages, of whatever type, to be registered firstly and separately in a civil ceremony by the civil registration authorities in non-religious premises.

Newly married couples or civil partners would then be free to negotiate their own subsequent celebrations or blessings with any religious organisation or other organisation as they wish.

Under this approach, religious organisations and denominations would be free of any regulation of their activities by the state with respect to the celebration of marriage so long as they acted within the law.

One country that already separates church and state in marriage is France. Under French law, only civil marriage performed by a French Civil Authority is legally recognised. A similar approach to marriage is taken in Belgium, the Netherlands and Turkey. If they wish, married couples are then free go to a church, mosque, synagogue, or other religious institution to have an optional religious ceremony. This can, but need not be, on the same day.

Of course, some UK citizens also already do this. Many mosques in the UK are not officially registered for the solemnisation of marriages, and therefore many Islamic weddings, for example, take place after a civil ceremony has been performed.

Likewise, as humanist marriages in England are not recognised in law, some couples choose to marry quietly in a register office and have a humanist celebration afterwards.

Adopting a French style approach in the UK would remove existing and future religious privileges and exemptions with respect to the recognition of marriage, and a genuinely secular system of marriage registration would be achieved.

Professor Norman Bonney is a social and political scientist, and member of the NSS council of management.

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