

# The Proposal

Giving marriage back to the  
people

Helen Wilkinson

DEMOS

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# Contents

<b>Acknowledgements</b>	<b>vi</b>
<b>Introduction</b>	<b>1</b>
<b>The end of marriage?</b>	<b>3</b>
<b>Changing values and the married state</b>	<b>6</b>
<b>Why care? The public policy interest</b>	<b>12</b>
<b>Policy options</b>	<b>15</b>
<b>The marriage ceremony</b>	<b>20</b>
<b>The secret history of marriage</b>	<b>32</b>
<b>Lessons from overseas</b>	<b>38</b>
<b>The proposal: giving marriage back to the people</b>	<b>44</b>
<b>A new culture of marriage and new forms</b>	<b>46</b>
<b>Appendix</b>	<b>51</b>
<b>Further Reading</b>	<b>55</b>
<b>Notes</b>	<b>56</b>

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## **The Proposal: Giving marriage back to the people**

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**Helen Wilkinson, January 1997**

# Introduction

Each Valentine's Day flowers, chocolates and sexy underwear are bought by couples to accompany declarations of undying love. While florists and oyster sellers enjoy a temporary boom, news-paper articles confidently report that romance is alive and well.

But although as a society we are still in love with the idea of being in love,<sup>1</sup> our capacity to nurture lifelong commitment through marriage has diminished sharply. The divorce rate is at an all time high. The first time marriage rate is at its lowest level since 1889. Permanent cohabitation patterns are taking shape among a younger generation.

One response to these trends is to lament the lack of commitment of today's couples – and to argue that if only children were taught the virtues of marriage the trends would be reversed. Others call for tax incentives and bonuses to encourage people into wedlock, or to make exit from unhappy marriages more difficult.

I argue here that none of these responses would be likely to work, because they ignore the reasons why marriage has fallen into crisis. I argue that there is a strong case for marriage, as a glue of relationships and a means for couples to make a public commitment. But I also argue that regardless of any educational or economic policies, the institution and rituals of the marriage ceremony itself need to change if it is to regain its popularity with a new generation and help them to make realistic commitments.<sup>2</sup>

The marriage ceremony as currently regulated by the state leaves the choices too narrow, too antiseptic and too alien to inspire confidence. Drawing on a range of initiatives and innovations already taking place, I argue for marriage to be given back to the people so that it can better reflect their values, and set out a series of practical measures that could be taken to bring marriage into the next century. This Project Report shows:

- why marriage is in crisis
- how it has been affected by the wider changes in peoples' values and lives
- why we should care about the institution of marriage
- what policy proposals have been suggested to bolster marriage and why they are deficient
- why the marriage ceremony is important and how our current rules and rituals for it came into being
- the historical lessons showing just how varied marriage has been in the past, and how often the public have fought to define it for themselves
- what lessons can be learned from overseas in reform of the marriage ceremony
- what can be done now to reform marriage



# The end of marriage?

The sheer pace of change, and the turbulence in modern relationships in Britain today, has led many people to conclude that the institution of marriage is in crisis.

## **The right to exit**

First, people are leaving marriages.<sup>3</sup> Between 1961 and 1991 Britain experienced a six-fold rise in the divorce rate.<sup>4</sup> We now have the highest divorce rate in Europe with four out of ten marriages predicted to end in divorce.<sup>5</sup> People are also divorcing sooner. One tenth of women married in 1951 were divorced by their silver wedding anniversary (25 years); the same proportion marrying a decade later had divorced by their fifteenth year of marriage while a tenth of women marrying in 1987 had divorced by the end of their fourth year of marriage.<sup>6</sup> In 1993 over half of all divorces were granted to people who had not reached their tenth wedding.<sup>7</sup> Already, as many as one in four children in England and Wales are expected to have their parents divorce before they are sixteen.<sup>8</sup>

These trends are not unique to Britain. They have parallels in other advanced industrialised countries. Although there are national differences, the upward trend in divorce rates can also be seen in Austria, Switzerland, Scotland and West Germany.<sup>9</sup>

### **Lack of entry into the institution**

The second symptom of crisis is the decline in the numbers of people opting for marriage. In Britain, the marriage rate has halved since the 1970s<sup>10</sup> and each successive generation becomes less likely to marry. Whereas 95 per cent of women born in Western Europe in 1950 will marry at some point in their lifetime, only 78 per cent of women born in 1960 are expected to do so.<sup>11</sup> Similar patterns are apparent among ethnic minority groups.<sup>12</sup>

Of the people who are marrying, over one third are doing so for a second time.<sup>13</sup> But it is the decline in the number of first time marriages that is the most worrying trend. The first time marriage rate is now at its lowest level since 1889.<sup>14</sup> High rates of divorce mean that marriage no longer seems to be a reliable institution, making people wary of marriage itself. In one study, 30 per cent of unmarried mothers cited the fear of divorce as a disincentive to marriage.<sup>15</sup>

The declining marriage rate is also an international phenomenon.<sup>16</sup> Marriage rates have fallen by 20 per cent on average since 1965 in Northern and Western Europe.<sup>17</sup>

### **The rise of cohabitation**

The third symptom is the rise in cohabitation. In the UK, the last four decades have seen a four-fold increase in the numbers of people cohabiting.<sup>18</sup> Almost 50 per cent of women born in 1960 have cohabited compared to 19 per cent born in the 1940s and 4 per cent born in the 1920s.<sup>19</sup> And whereas cohabitation was pio-neered by the middle classes in the 1960s, today the class difference has all but disappeared. Whereas 65 per cent of women born between 1950–62 who cohabited went on to marry this is expected to be true of only 56 per cent of those born in 1962.<sup>20</sup>

Since cohabitation re-emerged in the 1960s it has been perceived as a prelude to or a practice run at marriage. But there are now signs of more permanent cohabitation following trends in other European countries, such as Sweden, and further afield, in Australia for example.

### **The growth of single culture**

Perhaps as one symptom of the instabilities in relationships and family life described above, not only are more and more people choosing to live together rather than marry, there are also more people expressing a preference for the single life. It is among the non-pensionable age groups that we have seen the highest rate of growth over the past 30 years. In 1995, 37 per cent of single households were under 55 and 15 per cent were in the 55–64 age group and the market research group Mintel estimates that by the year 2000 there will be 8 million single person households, with the fastest increase being among men.<sup>21</sup>

### **Grounds for optimism**

It is easy to conclude from these trends and statistics that marriage is dying. But in spite of all these trends, marriage is still popular. Eighty-two per cent of young people between sixteen and seventeen years old still expect to marry.<sup>22</sup> And compared to our European partners, Britain is a nation of marriers as well as being the least likely nation to agree that marriage is out of date, with just 14 per cent of people agreeing with this statement.<sup>23</sup> Moreover, despite the trends described above, it is important to remember that most ‘illegitimate’ babies are born to ordinary cohabiting couples, many of whom go on to marry. Most people are still marrying, still having children and still just about managing to sustain long term relationships. Even after breakups many people want to remarry or settle down again, and people enter relationships almost as quickly as they exit from them. One survey found that while in a single year 3 per cent of children experienced parental separation, 2.5 per cent saw the arrival of a stepparent or the return of a natural parent.<sup>24</sup> These are all important qualifications to what often seems to be apocalyptic evidence of decline. But what are the forces which are undermining the married state?

# Changing values and the married state

Behind the trends outlined above is a shift in values. As the historian Lawrence Stone clearly states: ‘The traditional sequence of the chaste courtship, followed by the formal engagement announced in the newspapers, followed by the public wedding in a church, followed by consummation, followed by pregnancy, is now no longer the norm.’<sup>25</sup>

## **Freedom and individuality**

In the 1990s, there is no norm, no standard linear progression from one stage to the next. People have sex before marriage, live together before marriage and increasingly have families outside of marriage. Some marry in church. Others in mosques, synagogues, and Hindu temples. Others opt for interfaith marriages, and many more for civil marriage. People exit unhappy marriages, divorce and remarry.

What these changing patterns of behaviour tell us is that many of the social taboos which locked people into early marriage have lost their potency and marriage has in turn become less of a given. These changes have led to a broader cultural shift away from tradition and promoted more liberal and individualistic attitudes.<sup>26</sup> One important cause of this shift in values was the culture of freedom ushered in by the 1960s, which broke the umbilical cord between sex, marriage and motherhood.

Many young people we have interviewed believe that sexual freedom is one of the crucial differences between their parents' and their generations. As one woman in her early twenties put it: 'Our parents' generation tended to get married younger ... because a lot of women wouldn't have sex until They were married so men couldn't get them up the aisle quick enough.'<sup>27</sup> In the light of these attitudes, it is perhaps not surprising that young peon-pie today are more likely to play the field, to have numerous partners and to settle down later than previous generations.<sup>28</sup>

We have been struck throughout our discussions by the marked reluctance to consider marriage until a much later date. When asked, 'Do you want to get married?', one young woman's comment – 'No I don't think so, it ties you down too much; maybe when I'm 30 or something' – was fairly typical. A parallel qualitative study in Australia found that postponement was a recurring theme. Marriage was still considered to be desirable, and no doubt a feature of their future life, but the vast majority were happy to keep it at arm's length. As one young Australian interviewee said: 'I can't see myself getting married until my late twenties. I want to live first.'<sup>29</sup>

A younger generation which has a much more liberal attitude to pre-marital sex has also thrown off the moral taboo about living together. Fewer than one in ten young people feel that living together outside marriage is wrong compared with more than one in three in the oldest age cohorts. The British Social Attitudes survey for 1989 found that 59 per cent of 18 to 24 year olds would recommend that people should cohabit before marriage compared to just 25 per cent of 55–59 year olds.<sup>30</sup> As one young woman put it: 'I would never marry without living together first.'

Child-rearing outside of marriage is now widely accepted, removing yet another motivation for marriage. Less than half of under 25 year olds surveyed in 1989 thought that people who want children ought to get married, whereas 90 per cent of those over 55 thought that they should.<sup>31</sup> And for a growing number of people marriage is but one lifestyle choice among many. One study of cohabiting mothers in the UK found that 23 per cent of the interviewees saw living together

as a viable alternative to marriage precisely because it gave them greater freedom and autonomy without legal ties.<sup>32</sup>

The breaking of these social taboos for heterosexual couples has in turn facilitated greater visibility of lesbian and gay couples for whom living together and coming out is less of a problem than it was even a decade ago.<sup>33</sup> In the last 20 to 30 years gays have become a more normal part of British society, particularly in cities like London and Manchester which have far higher proportions of gays than other areas. Attitudes are changing steadily: 16–24 year old men are more likely to report having been attracted to someone of the same gender,<sup>34</sup> and among the public, the proportion seeing homosexuality as morally wrong has fallen from 74 per cent in 1987 to 64 per cent in 1993, with younger generations tending to be more tolerant.<sup>35</sup>

### **From traditional roles to partnership**

Attitudes to marriage and relationships are changing in other ways too. There is a clear move towards greater equality in the home and an unravelling of the old gender division of labour. Just 8.4 per cent of women under 25 agree that ‘a husband should earn, and the wife should stay at home’. The shift to shared management of the household finances continues and young women are becoming less willing to bear the burden of household finances. In principle, young men and women believe that couples should take responsibility for household chores, although there is still a lag between attitudes and actual behaviour.<sup>36</sup> There is also much greater flexibility in attitudes to parenting with strong support for the idea that fathers should play a full role in parenting and with as many as 78 per cent of women under 25 rejecting the idea that ‘family life suffers if the mothers works full-time’. Although young mothers still take prime responsibility for childcare, they are nevertheless considerably more likely to depend on a husband or partner for childcare than older mothers.

We can see the extent of this shift away from the traditional model of marriage in surveys. In 1955 couples still stressed the efficient fulfilment of the roles of breadwinner and homemaker as the most important

thing in marriage; by 1970 both men and women said that the key was for men and women to love each other.<sup>37</sup> By the mid 1980s studies showed that faithfulness, mutual respect, understanding and tolerance were the most cited qualities. Good housing, shared religious and political beliefs and similar social backgrounds had become less important.<sup>38</sup> In the 1990s there has been yet a further shift: our own qualitative research confirms that couples now place much more weight on emotional intimacy, mutual affection, friendship and sexual fulfilment.<sup>39</sup>

Sociologists have characterised this shift as being from ‘marriage as an institution’ to ‘marriage as a relationship’.<sup>40</sup> The survey *Value change in Europe and North America*, made the same conclusion after finding that the emotional value of marriage was weighted in all countries as the most important.<sup>41</sup> The implication is that marriage becomes more personal; less of an economic and more of an emotional relationship, and less tied into kinship. To Philippe Aries, the French sociologist, it means that we are entering a new phase in the history of marriage, and people’s relationships to each other – ‘not exactly of the private, rather of the intimate and the spontaneous.’<sup>42</sup>

But perhaps there is a further shift? The relationships that young people are forming today not only seem less bound by traditional roles and more focused on love and respect; we may also be seeing the advent of flexible and androgynous relationships which are predicated on the idea of partnership.<sup>43</sup> Slowly but surely, we are evolving to a new model of partnership between men and women in their relationships – friendship and mutual respect seem to be the key. In this respect, heterosexual young couples today seem to be sharing many of the qualities that characterise gay and lesbian relationships today, and have in the past, in which friendship, mutual support and negotiation are all important. Jeffrey Week’s study of lesbian and gay families, *Families of choice*, found remarkable similarities between heterosexual and homosexual groups, particularly in terms of their emphasis on friendship and negotiated partnership.<sup>44</sup>

For lesbians and gays this is hardly surprising. As Dr Elizabeth Stuart, in her book *Daring to speak love’s name*, argues: ‘Although some

gay and lesbian lovers have internalised the idealisation of marriage to such a degree that they have felt the need to model their own relationships on it, with a rigid division of roles, many gay and lesbian people are suspicious of marriage, and prefer to understand and work out their relationships in terms of friendship.<sup>45</sup> This perhaps explains why within lesbian and gay communities in the UK and elsewhere, there is a vigorous debate about the idea of ‘registered partnerships’, which is a model already followed in a number of countries alongside debates about same sex marriage.<sup>46</sup>

### **New values: the search for identity and authenticity**

It would be easy to characterise all of these changes as symptoms of a far-reaching swing away from tradition and traditional sources of authority, particularly the state and mainstream religions. But it would be wrong to conclude from this that ‘freedom’s children’, the generations born since the 1960s who have inherited both the freedoms and some of the costs, have become selfish individuals and have given in to unfettered individualism.

For alongside a rejection of many of the values held dear within the traditional institution of marriage – the swing away from traditional gender roles and away from traditional religion – we can also see the outlines of a new model of marriage in which partnership, diversity and individuality are recognised and valued. As Theodore Zeldin, author of *An intimate history of humanity*, has persuasively argued, the high rate of relationship breakdown within marriage can be interpreted as an effect of rising standards, with people (particularly women) expecting and demanding more from their partnerships.<sup>47</sup>

But it is equally clear that people now need encouragement to move on to a new phase. Demos’ research with MORI *Socioconsult* and also with Synergy Brand Values, both of whom have tracked the changing pattern of values in the UK and else-where,<sup>48</sup> confirms that a number of new values are rising in importance which are held most strongly among the young; values which will become central to British society in a generation or two. Within this cluster of emerging values – the



desire for autonomy, authenticity, and meaningful everyday life experiences – we find a search for new forms of connection, attachment and belonging, a search for new meanings and genuine relationships that are honest, simple and straightforward.

In our *Socioconsult* survey, we found that 96 per cent of men under 25 and 97 per cent of women under 25 agree that ‘everyone has to find out for themselves what sort of life they want to lead’, partly to bring their own personality, values and belief system to bear. Eighty-five per cent of men and 87 per cent of women agree that it is up to everybody to work out their own set of references. Eighty per cent of men under 25 and 84 per cent of women under 25 want to do things which develop and express their personality and 76 per cent of men and 77 per cent of women say that they like to be surrounded by things that reflect their personality.<sup>49</sup>

But that’s not all. We are also witnessing a rise in spirituality and the salience of religious beliefs in parallel with a long term decline in the membership, influence and authority of the Church of England, Catholicism and Judaism.<sup>50</sup> INFORM, an information network for religious movements, estimates that there are 600 ‘new religious movements’ operating in Britain<sup>51</sup> and debates on the Rites UK Internet mailing list provide qualitative evidence of people’s search for new meanings and forms of belonging.<sup>52</sup>

# Why care? The public policy interest

How should we respond? One school of thought argues that instead of resisting change, we should celebrate divorce as the ‘great liberator’,<sup>53</sup> recognise that cohabitation is simply an alternative lifestyle choice, that serial monogamy is the norm and positively extol the virtues of single life. In our view, however, we have good reasons to care about the crisis of confidence that has hit marriage. These are some of the reasons.

## **Wedlock and well-being**

There is now a body of evidence which finds a correlation between *successful* wedlock and adults’overall well-being. Glenn Stanton’s compendium of 130 published empirical studies in this area concludes that married people live longer, and are generally more emotionally and physically healthy than the unmarried.<sup>54</sup> There also consistently appears to be more alcoholism and problem drinking among the unmarried than the married and empirical evidence dating back to the nineteenth century appears to show that the highest suicide rates occur among the divorced, the widowed and the never married, while the lowest are found among the married.

His literature review also suggests that the married consistently show lower mortality rates than the single, widowed or divorced; that married people spend fewer days in bed due to acute illness than

singles; that the separated and divorced also experience particularly high mental health risks; and that no part of the unmarried population – separated, divorced, widowed, or never married – describes itself as being as happy with life as the successfully married. A recent survey in the UK reinforces these findings: single people were more likely to say that they suffered loneliness, depression and ill-health than couples in relationships.<sup>55</sup>

Successful marriage can also be in the best interests of children. Much of the available evidence suggests that cohabitation invites a different sort of commitment, which is a problem given that almost one third of babies are now born outside of wedlock.<sup>56</sup> One study in the UK found that cohabitees were four times more likely to split up than married couples,<sup>57</sup> another found that cohabiting couples' sexual behaviour was more similar to people who were single, separated or divorced than to married couples.<sup>58</sup> These studies are reinforced by other studies internationally. Research by Professor Ailsa Burns for example of Macquarie University in Australia found that unmarried couples with children were ten times more likely to split up than married couples with children.<sup>59</sup>

### **The costs of relationship breakdown**

High rates of relationship breakdown also directly impact on the taxpayer. One estimate puts the public costs of divorce and separation on the government at £4 billion each year, and rising numbers of lone parents add to spiralling social security costs.<sup>60</sup> Less often noted are the indirect costs of relationship breakdown, particularly on individuals' overall well-being. There is now overwhelming evidence of the negative effects of divorce on individuals, which are second only to the death of a spouse in amount of stress caused.<sup>61</sup> Employers too bear the burden of lack of mental and physical well-being. One estimate puts the burden on companies at £200 million a year through absenteeism and impaired work efficiency<sup>62</sup> while another puts the cost of marital breakdown on a typical British organisation through absenteeism and lost productivity at over £5,000 a year for each divorcing individual.<sup>63</sup>

The children of divorced parents can also suffer. Research has shown that children whose parents separate are more likely to experience educational, health and behavioural deficits than children in stable families, and are also more likely to be brought up in poverty and to divorce themselves when they become adults.<sup>64</sup>

Cohabiting relationships are four times more vulnerable to relationship breakdown than married couples. Cohabiting mothers and housewives also have additional strains because they have no automatic rights to a share of the property and the assets, and the years many spend at home child-rearing and looking after the home are not necessarily compensated financially.<sup>65</sup> For cohabiting fathers, the costs are less financial and more emotional. In the event of relationship breakdown, many unmarried fathers find that, unlike married fathers, they do not have automatic parental rights to access and custody. Children who are born to cohabiting couples also suffer similar problems to children brought up by divorcing parents, but often with additional strains.

# Policy options

There have been two main suggestions for revitalising marriage. The first focuses on financial incentives to encourage people to opt into, and stay in, the institution. The second focuses on the manner in which people divorce. More recently, attention has focused on a third option – educating children in the belief that that marriage is the cornerstone of social stability through moral teachings in school. Unfortunately, all three suggestions are either flawed or unlikely to tackle the fundamental reasons why this institution is in decline.

## **Financing marriage**

To date, the most prominent policy response has been to focus on encouraging people to marry and stay married by building incentives and penalties into tax and benefits such as increases in the married couples' tax allowance,<sup>66</sup> tax perks or bonuses for ten successful years of marriage.<sup>67</sup> New Labour's response (albeit not official Labour policy) has been to advocate a state 'dowry' for couples as an incentive to marriage and the strengthening of family life.<sup>68</sup>

But the evidence suggests that such incentives are sticking plasters too marginal to have any substantial effect.<sup>69</sup> The economic importance of marriage (particularly to women) is widely recognised to be in decline.<sup>70</sup> Where marriage was once the main source of economic security (and still is for some women), women's rising participation in

the labour force means that this is no longer so. Right across the world, women's financial need for marriage declines as they go out to work and as their pay rises relative to men's.

The same factor explains why women are delaying the age at which they marry (in the UK, for example, the average age of marriage for men was 22, and 20 for first time brides in 1971, compared to an average of 27 and 26 respectively today),<sup>71</sup> and also why declining numbers of women are choosing to marry in the first place. Research also shows that those countries with most jobs for women tend to have the highest divorce rates. In one study mothers who had been employed for four fifths of the time since the birth of their first child were twice as likely to get divorced as mothers who do not work after childbirth.<sup>72</sup>

To have any effect, the financial incentives created through the married couples' tax allowance would have to be so substantial that they would be politically implausible. Even the idea of pump priming marriage through a state dowry of some £5,000<sup>73</sup> has its, own limitations, because it would not even cover the costs of the traditional UK white wedding which has been put at between £10,000 and £12,000.<sup>74</sup> Similarly, the tax carrot for marriage provided by the married couples' tax allowance is only £268.50 a year, which according to one source amounts to just one twentieth the cost of the average wedding.<sup>75</sup>

Marginal increases in the married couples' tax allowance would have little effect, especially among those people for whom the economics of marriage are genuinely an issue. In one study those cohabiting mothers who would have liked to marry but did not because of the cost were more likely to have an unemployed partner, were themselves likely to have no qualifications and were less likely to be in paid work. They were therefore unlikely to qualify for the married couples' tax allowance anyway.<sup>76</sup>

An overly economic analysis is misleading in other ways. For a start, it is hard to explain why women in the UK initiate the great majority of divorces when it is they who tend to lose out most economically. As we have seen already, other forces are clearly having an influence on people's desire both to enter marriage and to exit unhappy marriages. It is significant that the only detailed study of long

term cohabiting mothers in this country found that the three main reasons why they had not married were the fear of divorce, the high cost of weddings and their objection to the institution of marriage itself. Few cited the absence of financial incentives, although interestingly the high cost of weddings was a clear disincentive for some.<sup>77</sup>

But most fundamental of all, and what has been most striking about Demos' focus group discussions, is young people's lack of confidence in marriage as an institution. As the first generation to really feel the impact of the epidemic of divorce, they have become a generation of insurers and hedgers. One woman in our 25–34 year old focus group drew a comparison between herself and her mother when asked: 'Do you think relationships have changed?'. Her response? 'I think now women wait until it's the right one, instead of just reaching a particular age. By the time my mum was my age she'd been married, had two children and was divorced, and she was only 27'. Others are openly questioning whether a commitment to lifelong marriage is viable in an age when people are living so much longer.

None of this is to deny that economic factors have no effect on marriage rates. History shows us that they clearly do. The marriage boom of the 1950s and 1960s was clearly helped by general prosperity (and the ease with which people could move away from their parents into their own marital home) just as the biggest falls in marriage in the early 1990s were in those regions most affected by the recession.<sup>78</sup> So too high rates of unemployment among young people and the phenomenon of postponed adulthood (in part because greater numbers are going on to higher education) all contribute to an 'extended adolescence' and to delays in settling down because people want to make sure that they are both economically independent and secure before settling down. But incremental and piecemeal tinkering with the tax and benefits system or state dowries look far too marginal to have a substantial effect.

## **Controlling exit**

Others suggest that we need build in delays to stop quickie divorces and reintroduce fault-based settlements. Such changes are often

recommended on the basis that they 'would help to create clear standards of marital conduct and provide incentives for the standards to be observed'.<sup>79</sup> Ruth Deach, the Principal of St Anne's College, Oxford has recently joined this highly charged debate arguing that the marriage contract as it currently stands is meaningless because people do not fulfil their commitments and are not obliged to. She favours a new marriage contract in which both couples agree and sign up to a set of obligations which can then in some manner be enforced if divorce is the final outcome.<sup>80</sup>

The weaknesses of this approach are evident. Divorce is often the final rubber stamp on a relationship that has to all intents and purposes already ended. Moreover, what literature exists suggests that while there may well be clear evidence of a link between successful wedlock and well-being, the effect of keeping people within unhappy marriages is also bad for their health and particularly for their children.

But perhaps the greatest weakness of this approach is that the focus is on regulating the terms of exit, rather than looking at ways of encouraging people to opt in.

### **Educating for marriage**

More recently the government-backed National Forum for Values in Education and the Community, set up in January 1996 by the Schools Curriculum and Assessment Authority (SCAA), has been looking at the issue of moral education in schools. The first draft of the report in September 1996 came under pressure from family groups who were concerned at the absence of firm moral guidelines in terms of right and wrong behaviour. Cornelia Oddie, Deputy Director of Family and Youth Concern, was quoted as saying: 'If we are to try to restructure our society sanely we have to put marriage back on the agenda. If it is left out of personal, social and sex education in schools it will be detrimental to society in the long term.'<sup>81</sup>

Within a couple of months the public consultation document had been revised to say that 'we as a society should support marriage as the traditional form of family', although there was an additional compromise



clause which stated that ‘the love and commitment required for secure and happy childhood can be found in families of other kinds’. Gillian Shephard, Secretary of State for Education and Employment, was reported as saying that she would like to see more of an emphasis on family values, arguing that the institution of marriage must be the cornerstone of moral teachings at school. And Dr Nicholas Tate, Chief Executive of the SCAA, went on the record stating that areas with low levels of marriage and high rates of divorce suffered greater social and educational problems, concluding that ‘the challenge to the education system is whether it can help to create a system in which children aspire to lifelong marriage *and are more likely to achieve it*.’<sup>82</sup> [emphasis added]

The weakness of this approach is perhaps betrayed by Dr Tate’s final words. Even if marriage could be encouraged through moral exhortation in schools (and this itself is surely debatable in the light of changing values), such moral lectures will do little to equip the current generation of teenagers to handle and manage their relationships better. It’s clear that people need a new set of skills – negotiating skills, ways of making deals and compromises, and conflict resolution skills – that owe more to a boardroom or wartime negotiating table than to romance, if today’s partnerships are to work more effectively. It’s equally clear that these need to be taught and learnt and that schools (and extracurricular activities) need to be better designed to help people develop interpersonal skills, relationships and friendships. Relate Marriage Guidance, for example, has already recognised the challenges facing the next generation and has set up an arm called Relateen. But more emphasis needs to be given within schools to partnership education as a core component of personal and social education. Without this, moral preachings about the importance of lifelong marriage are likely to prove futile.

# The marriage ceremony

What then of the act of marriage itself, and the rituals and processes that surround the wedding day? Although attitude surveys consistently show that young people expect marriage to be a weakened institution by the year 2000, the majority of young people still aspire to form lifelong and monogamous relationships, and marriage is still an ideal for most young people.<sup>83</sup>

The act of marrying itself has a number of virtues. It encourages couples to make commitments to each other and articulate a shared vision of the future together (which is important in an era of widespread cohabitation and parenthood outside of marriage). Throughout the ages the act of marrying has performed an important social role and has represented continuity. More pertinent to today, the ceremony and the commitments couples make to each other (and indeed to their children) give emphasis to the importance of good communication in promoting successful stable relationships.<sup>84</sup>

With the cooperation of Care for the Family, a charity advocating family life in the UK, we have been able to draw on their two surveys which asked people who had been married for some time about the quality of their marriage and what advice they would give to younger couples today. The results are instructive, confirming the importance of communication as one of the key factors making or breaking relationships.<sup>85</sup> Twenty per cent of their sample thought that friendship and companionship was the most important aspect of marriage,

closely followed by 17 per cent who highlighted the importance of commitment, and 15 per cent for whom trust and security was paramount. When couples were asked why they have succeeded in staying together, commitment once again showed strongly as a factor, with 38 per cent citing this; it was second only to the 39 per cent who found complementary personalities most important. Getting married and committing to marriage vows was considered considerably less meaningful at just 15 per cent.

Almost a third of interviewees (some 30 per cent) said that the key to a long term marriage or partnership is communication, talking and being open with each other. Twenty-eight per cent thought that it was important to work at the relationship and a further 22 per cent advised the need for trust and honesty in the relationship. Significantly, younger partners more often advised communication whereas older couples were more likely to advise commitment and no contemplation of separation, along with faithfulness.

This generational distinction was reinforced in answers to the question, 'What is the main reason people get divorced nowadays?'. Older people were more likely to consider lack of commitment as the main cause of divorce, while younger ones cited lack of communication followed closely by infidelity as the main causes of divorce.

### **The current framework**

Throughout the United Kingdom, people can marry through religious or civil ceremonies. But there is an extraordinary diversity of rules and regulations, and of behaviour. For example, in England and Wales, more people opt for civil weddings than religious ones, whereas in Scotland and Northern Ireland religious weddings are still slightly more popular.<sup>86</sup>

In England and Wales people can choose a religious marriage,<sup>87</sup> or instead opt for a civil wedding ceremony, which since the 1994 Marriage Act can now take place either in register offices or 'officially approved places' such as stately homes and hotels.<sup>88</sup> In the case of religious weddings, non-Anglican denominations must first seek

authorisation from the state to be officially licensed to marry couples. Jews and Quakers are the only exception and they are extended the same legal privileges as the Anglican Church.<sup>89</sup> The Marriage Act of 1949 also lays down legally prescribed declaratory and contracting words popularly referred to as marriage vows, for all marriages which take place in England and Wales. The Anglican Church is exempt, as are Jews and Quakers. (The Marriage Ceremony (Prescribed Words) Act of 1996 which came into force on 1 February 1997 has brought a greater degree of choice by simplifying the declaratory words and giving a choice of three alternative phrases for civil marriages and non-Anglican religious denominations.)<sup>90</sup>

Whereas in England and Wales, it is the place of worship or the building where the marriages take place which is important, in Scotland the emphasis is on people, not places. There is a much greater degree of freedom and autonomy vis a vis religious weddings in Scotland compared to England and Wales, in contrast civil ceremonies are more tightly regulated.<sup>91</sup> Religious marriages can take place anywhere – at home, in hotels or even outside – so long as the couple are members of the opposite sex and over the age of sixteen. Two witnesses need to be present, and the marriage has to be solemnised and facilitated by an authorised religious representative. Unlike England and Wales, there are no officially prescribed legal contracting or declaratory words<sup>92</sup> and people are able to say what they want so long as an exchange of words is made, and the marriage celebrant makes a declaration that they are husband and wife.<sup>93</sup> In a similar vein to the situation of non-Anglican denominations in England and Wales, non-prescribed denominations such as Brethren Churches must apply to the Registrar General in Scotland to first have their celebrants licensed. Civil weddings are more tightly regulated and must take place in the register office. The ceremony is solemnised by a registrar or one of the assistant registrars, although there are no legally laid down forms of words to the marriage ceremony.

Northern Ireland has a different set of rules and regulations concerning religious and civil weddings. In the case of religious weddings, only the Church of Ireland (the equivalent of the Anglican Church in

Northern Ireland), the Presbyterian Church and the Roman Catholic Church have the legal authority to perform a marriage without seeking permission from the state: all other denominations must first go to the local registrar to seek license to marry a couple.<sup>94</sup> Civil marriages are still held in register offices and the deregulation in England and Wales does not apply to Northern Ireland. The legally binding declaratory words incorporated into wedding vows are laid down only for civil weddings. Religious denominations are free to choose their own words so as not to infringe people's right to express themselves.<sup>95</sup>

### **The history of modern marriage**

This complex and inconsistent legal framework for marriage has its origins in the eighteenth century in the shift to industrial society. To understand how we might refashion marriage to suit a post-industrial society, it is helpful to understand how the current model of marriage came into being.

By the mid eighteenth century, there were many different rituals to mark people's commitments to each other. But there was a perceived need to order, regulate and streamline the legalities of the marriage process in a society where birthright, property and inheritance rights were becoming increasingly important. Up until this period, there was much legal confusion between the status of common law marriages and marriages conducted within a religious framework, particularly in England and Wales. Illicit and clandestine marriages were relatively common but caused problems in terms of guaranteeing property rights and inheritance.<sup>96</sup> In an effort to regulate and streamline the marriage ceremony, between 1666 and 1718 no fewer than ten bills were introduced in Parliament.

This legal confusion ended when the state took over the task of regulating the marriage ceremony, and formulated its own rules through the terms of the Lord Hardwick Act of 1753, which applied only to England and Wales. Marriage now was not only a public affair but one which needed sanctioning from the state. According to Aries, this act 'dragged marriage into the region where the fundamental institutions

of our written culture and public life., of which it is now one of the pillars, have their being.<sup>97</sup>

The bureaucratisation of marriage marked a further step in the journey of marriage from being an essentially private affair to one which needed to be heavily regulated by the state. By 1837 civil and non-conformist marriage became available in England and Wales. Scotland was quite different altogether. In 1855 civil registration of births, marriages and deaths was introduced at which point couples who married each other in front of two witnesses, a practice called ‘irregular marriage by declaration’, were obliged to notify the registration service within three months of the marriage ceremony if they wished the marriage to be considered legal by the state. It was not until the Marriage Act of Scotland in 1939 that irregular marriage by declaration was abolished and civil weddings were brought within the confines of the local register office, similar to England and Wales. In Ireland, civil marriage became available in 1844 under the terms of the Marriages Ireland Act, subsequently modified to the 1863 Marriage Law Ireland Amendment Act.<sup>98</sup> When Northern Ireland became part of the United Kingdom, the civil marriage framework for England and Wales was applied to it. Since then, there have been numerous legislative reforms and new regulations within the United Kingdom, most recently with the 1996 Marriage Ceremony (Prescribed Words) Act for England and Wales, but all within the framework set in the eighteenth century.

Industrialisation brought far more than just a legal framework for marriage. Marriage acquired an important role as a social institution. According to one historian: ‘Marriage was virtually the only means of achieving the satisfaction and status of adulthood’<sup>99</sup> and the period from 1850 to 1960 was an era when monogamous marriage became virtually mandatory.<sup>100</sup> Sex before marriage was frowned upon and marriage and motherhood were welded seamlessly together to guarantee property and inheritance rights. Marriage also became important for women’s financial security. Father and son sought their gratification outside the home, at work, in the pub or on the football ground while wives were confined to the home. Neither men nor women expected to find companionship in marriage. As we have already seen,

these expectations were still strong in the 1950s, a decade which historians now recognise as ‘the heyday of what we now call the “traditional” family with the emphasis on fulfilling the roles of husband and wife, mother and father, rather than the pursuit of personal happiness.’<sup>101</sup>

Many historians have seen the era which Lord Hardwick’s act initiated as ‘a uniquely authoritarian assertion of the economic and political interests of parents over their children.’<sup>102</sup> The act certainly reinforced patriarchy by giving the father more power of veto than the mother and vesting matrimonial powers with the father. It also reinforced the move to a more rigid sexual division of labour which was accompanying the shift to industrial society by suggesting that daughters remained essential objects of commerce in the accumulation of property.

### **The inadequacies of the framework**

Today, the themes of the Hardwick Act continue to shape the legal framework for marriage. But more and more have been overtaken by social change.

### **The declining legal function of marriage**

While it once existed for women’s financial security, changing gender roles and women’s greater economic freedom mean that the economic basis of marriage is in decline. Where once it was the institution within which the rights and responsibilities of parenthood were conceived, now parental rights and responsibilities are enshrined elsewhere through, for example, the Children Act 1989. Whereas in the past marriage existed to regulate property rights and rights of inheritance, increasingly these are coming under challenge to be regulated elsewhere.<sup>103</sup> Many of the traditional legal functions marriage performed are thus waning in importance, at the same time as the ceremony itself is being challenged.

### **The challenge of secularism**

The first challenge comes from an increasingly secular society where pre-marital sex and cohabitation have become the norm.<sup>104</sup> Our

survey found that as many as 61 per cent of women and 67 per cent of men aged between 18–34 practically never attend religious services, explaining why less than 50 per cent of marriages in England and Wales now take place in a church and why even in the more religious regions of Northern Ireland and Scotland, civil marriages are closing the gap.

### **The challenge of a multi-ethnic, multi-faith society**

The second challenge comes from the diversity required by a multi-faith, multi-ethnic society. The Anglican Church has been slow to adapt leaving it to the other smaller, less traditional denominations to accommodate increasing numbers of inter-faith couples. At the same time inter-faith marriages are becoming increasingly common not least because of the changing demographic base of our population. (10 per cent of the UK population will be from an ethnic minority by 2010).

The Rites UK Internet mailing list clearly confirms that many people find it difficult to find information about how to go about this and are often dependent on the response of local religious leaders. Perhaps because of this, many multi-faith and multi-ethnic couples opt to marry in a civil setting or to marry in smaller, more flexible denominations such as the Unitarians.

Adherents of other religions, such as Hinduism and Islam, resent having to express the legally prescribed vows in English because it means that they often have to break out of their own mother tongue with the result that many opt for a civil wedding to be legally married and then embark on their own rituals in their own way afterwards.

### **Marriage as confirmation of a successful partnership**

The third challenge arises from the changing meaning of the ceremony itself and the shift to a partnership model of marriage. The marriage ceremony has traditionally marked the beginning of a relationship, a life together and the institution within which to have and bring up children. Today, however, all of these links with marriage have



become more tenuous as young adults live together before marriage and increasingly bear children outside it. In consequence the meaning of the ceremony itself has fundamentally changed. In short, 'marriage has been transformed from a ceremony heralding the start of a partnership to one that confirms the partnership.'<sup>105</sup>

The traditional religious wedding has suffered the most from this change. The symbolism of the virgin bride is increasingly out of sync in a society where pre-marital sex and cohabitation have become the norm. The Anglican Church (and to a lesser extent other denominations) have been slow to adapt their attitudes particularly in relation to cohabitees. A survey of Christian and non-Christian cohabitees confirmed that almost all of the 111 respondents felt that the Church's attitude towards them was negative.<sup>106</sup> Similar problems affect many divorcees who wish to remarry but who are worried about rejection by local clergy.<sup>107</sup>

The idea of partnership also implies a coming together of equals, a statement of friendship, love and commitment, yet the Anglican Church's standard rituals are value laden and have not been modernised. The giving away of the daughter by the father to the husband often seems out of keeping when the daughter has already left home and become an adult in her own right. Some couples may already have children.

In the midst of increased competition from the Registration Service and more flexible religious denominations such as the Unitarians, there are now signs that the Church of England has begun to respond. While it still appears to see increasing cohabitation as a 'challenge to the church to articulate its doctrine of marriage in ways so compelling, and to engage in a practice of marriage so life-enhancing that the institution of marriage regains its centrality',<sup>108</sup> it has nevertheless agreed to stop using the pejorative phrase 'living in sin' as it is 'a most unhelpful way of characterising the lives of cohabitees'.<sup>109</sup>

All of these factors explain why the march away from the traditional white wedding day continues in favour of civil marriage ceremonies and why other less well known denominations are gaining new recruits. The Unitarian Church is to our knowledge still the only

church to actively experiment both with the rewriting of the marriage vows (albeit still within the legally prescribed limits) and with more personalised rituals. Anyone can conduct a marriage ceremony in a Unitarian Church provided permission has been granted by the local congregation and this individual can be a lay person or a member of the clergy. (They keep within legal limits because the authorised religious representative is present to witness and solemnise the service.) The Unitarians have also been known to conduct marriages for anarchists who wish to have the marriage ceremony but who object to abiding by the legally prescribed words and for same sex couples who cannot legally marry but who nevertheless wish to have the ritual and public affirmation of the marriage ceremony. In many ceremonies, there is no mention in the vows of 'til death us do part'.<sup>110</sup>

### **The limits of civil ceremonies**

But if traditional Anglican marriages (and others) are finding it increasingly difficult to keep pace with people's changing values, civil marriage ceremonies have their own weaknesses.

### **Lack of setting and ceremony**

Civil ceremonies have been criticised as bureaucratic and antiseptic, more like a visit to the DSS or tax office, than an opportunity for couples to make one of the most important commitments of their lives.<sup>111</sup> Research has shown that many people opt for a religious wedding because they prefer the pomp, setting and ceremony.<sup>112</sup> In recognition of these perceived weaknesses, the government published a white paper on modernising the Registration Service in 1990, and subsequent reforms have been introduced in England and Wales (although not in Scotland and Northern Ireland) through the 1994 Marriage Act. This has brought about a greater degree of choice and liberalisation by allowing civil wedding ceremonies outside register offices in 'officially approved places' such as hotels, the Royal Pavilion in Brighton and stately homes, following on from the experience of other countries such as the Netherlands. (In the first year of the Act, over 3,500

marriages took place in approved places and over 1,500 sites have been approved, including for example suites in ; football grounds.)<sup>113</sup>

### **New forms of spirituality**

In addition, the Registration Service is still constrained in law from allowing any expression of spirituality or religion in the civil marriage ceremony anywhere in the UK. This is a source of tension among many couples today who may well be rejecting traditional forms of religion but who, as we have seen, are nevertheless experimenting and seeking out new religions and new forms of spirituality and meaning and who may well simply be wanting a menu of options.<sup>114</sup> People who wish to marry in their own special and unique religious ceremony find the civil ceremony greatly lacking.

### **Personalising the marriage ceremony**

While civil marriage ceremonies have been somewhat freed up by the 1994 Marriage Act in England and Wales, this act leaves many restrictions in place. Couples wishing to marry are very much dependent on the extent to which local authorities have approved other venues.<sup>115</sup> For example, Cheshire has registered more than 60 establishments and Westminster more than 40, but a number of London boroughs have none at all and many metropolitan districts in the West Midlands and North Wales have very few. Thus, the distribution of registered premises offers little meaningful choice to a significant proportion of couples seeking marriage ceremonies outside register offices without having to travel around.

Similarly, although the white paper encourages register offices to allow greater scope to personalise the civil ceremonies, this is still dependent on the discretion of local Superintendent Registrars. Similar criticisms can be made of the Marriage Ceremony (Prescribed Words) Act 1996.

The fact is that government still has a firm grip on civil marriage. You still can't marry in your own home or outdoors. You can't marry in your favourite park or on your favourite hill or beach, nor can your

marry in the place you first consummated your love. You can't choose your own vows, and you can't freely choose who will conduct the ceremony.<sup>116</sup> The ceremonies that are available and the vows that must be made do not adequately cater to a diverse group of people, more and more of whom desire autonomy, freedom, and individuality and who are seeking new rituals, and new forms of spirituality to bring authenticity to their own very special day. Many people must therefore either duplicate the state civil wedding with their own personal ceremony, their 'real wedding', or opt for an expensive church wedding that fails to reflect their values. And of course, the absence of a legal right to same sex marriage means that many lesbian and gay couples who wish to affirm a legal commitment to each other are even more restricted than heterosexual couples.

### **The cost of marriage**

Perhaps the final weakness of the current marriage framework is that there is too little competition in what amounts to a business worth several billion pounds per annum. The absence of competition limits choice and keeps the costs high. Some sources put the cost of a traditional UK wedding as high as £10,000 to £12,000, perhaps explaining why the overseas wedding market is booming with marriage entrepreneurs promising unique weddings along with honeymoons in places like the Seychelles for as little as £2,000.<sup>117</sup> While one might have hoped that greater choice promised by the 1994 Marriage Act in England and Wales would bring down costs, registrars charge anything between £150 and £250 to conduct the ceremony (in contrast to an average fee of between £44 and £63 at the register office),<sup>118</sup> and the cost of registering a place for weddings is anything between £650 and £1,200 (excluding any extra health and safety adjustments required of its owners to gain a licence). One stately home faced a cost of £1,500 to fire proof their curtains alone. (Not surprisingly they withdrew their application.) A recent British Humanist Association document damningly concluded that 'a non-religious wedding conducted away from a register office has thus become a luxury for the wealthy few, which is

presumably the reverse of what the Act was designed to make possible.<sup>119</sup>

### **The search for authentic marriage**

Underlying all of the trends we have described – the search for new forms of spirituality, manifestations of a DIY culture, and the desire to personalise the marriage ceremony – is a search for authenticity.

That there is a demand for a wider range of alternatives is proven not just by the anecdotal tales of people marrying abroad in countries like the USA through agents such as Virgin Weddings (and the newly established Virgin Bride company)<sup>120</sup> but also with other organisations such as Garlands which specialises in ‘marriage in unusual places’.<sup>121</sup> There is also evidence of a demand for religious wedding ceremonies which allow for a greater degree of personalisation, a vacuum which is currently being filled by smaller denominations such as the Unitarians. There is also evidence of a thriving subculture of diverse rituals and alternative ceremonies carried out by celebrants from the British Humanist Association, arts groups such as Welfare State International and the Family Covenant Association. These organisations are developing alternative ceremonies to mark not only marriage but many other crucial rites of passage through people’s lives, but they lack the legal authority to marry people. And of course, there are numerous ideas and ceremonies developing around New Age religions.

# The secret history of marriage

It's clear that the traditional model of marriage that we have grown up with is becoming out of sync with people's values. It's also clear that unless our rituals for marriage are modernised people will vote with their feet and opt out of marriage. But is this inevitable? And has marriage always been the fixed, inflexible, unchanging institution that we often assume?

One of the biggest barriers framing almost all debates about marriage is the assumption that the model of marriage that we have inherited today is the way it has always been – that it is not malleable as an institution and cannot be reshaped. Yet if we look back at history we find a wide variety of forms, and ways in which it was consistently reshaped in a continuing battle between local rituals and national regulation, conformity and non-conformity.

– The changing balance between public and private marriage

Throughout history, there has been an ever shifting balance between public and private marriage. Medieval marriage, for example, was essentially a 'private function, a sexual union, organised with a view to family alliances, to be made or broken in accordance with family interests'<sup>122</sup> and the ceremony itself was conducted in private behind closed doors – 'a domestic function taking place within the house or even the bedroom.'<sup>123</sup> The symbolism we now associate with marriage was largely absent. Even the priest's role was marginal. As Aries points out: 'All that the priest was expected to do was to bless the

nuptial bed and the couple in it. The aim was to ensure the fecundity of the “seed”, a word constantly repeated.<sup>124</sup>

During the Middle Ages, however, marriage was transformed from being a very private to a very public function, elevated to the ‘lofty status of sacrament, equal to baptism and ordination.’<sup>125</sup> As the function of marriage changed, so the scene of the ceremony moved from its traditionally private location to the door of the church, a very public location. The role of the priest now moved centre stage. And for the first time, ritual was institutionalised into the marriage ceremony. The final step in the transition from a private to a public function came towards the seventeenth century when the whole ceremony moved inside the church, where it has remained ever since.<sup>126</sup>

The problem was that the medieval laws of marriage remained intact until 1753. The discrepancies between ecclesiastical and common law became so great, that large numbers of people were quite unsure whether they were properly married or not, and legal confusion meant that a person’s marriage was valid under one law but not the other. Different classes relied on different models of marriage. The poor, who made up the mass of the population, did not have property and so had no need for the official mode of marriage. The elite continued to arrange and negotiate their marriages, often with contracts as a preliminary ritual of betrothal which were then followed by a church ceremony.<sup>127</sup> In consequence, there were two culturally acceptable forms of marriage in England throughout the Middle Ages. The church weddings coexisted with what the historian Lawrence Stone calls ‘the popular mode of verbal contract or spousals, accompanied by folk ritual.’<sup>128</sup> So although marriage was a public affair, ‘it is fair to say that before 1753, marriage was to a considerable extent out of the control of either church or state.’<sup>129</sup>

It was only in the shift to industrial society, when marriage became fundamentally associated with the transmission of family property, that the legal status of marriage became all-important. According to the historian David Lemmings, the situation was ‘unsatisfactory to elite families, who wanted to ensure that parents, guardians and friends, rather than children, controlled decisions which affected the transmission of family property and it was increasingly unsatisfactory

to the church and state authorities, which were powerfully influenced by the social elite.<sup>130</sup> These pressures, and the scale of illicit and clandestine weddings and other irregular unions, eventually precipitated the shift to state regulation with the Hardwick Act of 1753.

### **The struggle between autonomy and control**

Just as there has been a changing balance between public and private marriage, so too throughout the ages, there have been constant struggles over who had control of the marriage ceremony and process itself. The people have consistently sought to keep marriage within their control, out of the hands of authorities.

Thus in the long slow transition of marriage from the private to the public sphere, illicit and clandestine marriages continued, especially lower down the social scale. They even occasionally served to facilitate marriages among runaway heiresses in defiance of their parents. During the Middle Ages, the church had relative success in shifting a significant proportion of the population from being 'married in the eyes of God' to 'being married in the eyes of God and the Church' (this is, into formal public weddings in a church presided over by a clergyman). However, this progress was halted (and indeed went temporarily into reverse) during the Cromwellian era. During this time, the church courts were abolished, church weddings were forbidden and there was a revival of the early Middle Age practices of verbal contracts, spousals, and illicit and clandestine marriages. Even after 1660 when the church courts were restored they were unable to contain the revival of clandestine weddings which were now the most popular way of avoiding formal church marriage. John Gillis, the historian, chronicles how from the sixteenth century onwards 'clandestine practices were everywhere, in rural areas as well as in large towns. While irregular forms of marriage had been a problem throughout the Middle Ages, the scale of clandestineness from the sixteenth century onwards was unprecedented.'<sup>131</sup>

The Hardwick Act of 1753 was strongly resisted by many ordinary people, and its passage was 'one of the most controversial and divisive measures that passed into law during the eighteenth century.'<sup>132</sup> Not



only did it divide the government, it provoked mass demonstrations in London as people rallied to protect the principle of freedom to choose to marry the partner of their choice in their own way. And although the law made it illegal to marry anywhere that was not officially regulated by the state, in practice it took until the end of the nineteenth century for clandestine and common law marriage practices to die out. The new law on marriage was effectively 'looked upon as no more than a ballad and was openly defied'.<sup>133</sup>

In Scotland, the desire for privacy and autonomy was so deeply entrenched that in numerous border towns people got married illicitly. The 'marriers' of Gretna Green became part of popular mythology because ordinary folk could get a quick, cheap and private union. In England a new common law practice became widespread, known as 'living in tally' which 'was clearly distinct from casual cohabitation and formal marriage. It conveyed a notion of [a] definite, if not conditional, contract or "bargain", based on the consent of both parties.'<sup>134</sup> Privacy continued to be an important factor. In 1867, an archdeacon, Sir George Prevost, told the Royal Commission on Marriage: There is a very general feeling among the poor of wishing to keep their marriages private and there was a feeling in some parts of the country that a public wedding was in some senses "distasteful"<sup>135</sup>

### **Standardisation versus diversity in marriage rituals**

Resistance to the increasingly public weddings – both during the Middle Ages and in early industrial society – also reflected tensions around standardisation. Rituals varied from region to region. In Wales the ceremony was known as a 'besom wedding' which entailed jumping over a broom set aslant in an open door way in the presence of witnesses to signify marriage (and back over to signify divorce). Further south a ritual referred to as the 'little wedding' existed. In the north the symbols became 'jumping brush and steel', which were more appropriate to the industrial features of the area.<sup>136</sup>

In Scotland, where betrothals were commonplace, the rituals around them were called 'handfasting', and proved a popular way of testing the

‘conjugal waters’ before marriage, rather like long term cohabitation today. At the ceremony, which often took place at country fairs, the man and woman joined hands and, in front of witnesses, undertook to stay together for a year and one day. If the experiment was successful, they married at the end of that time. If not they were free to separate. In Orkney pledges were made by joining hands through a hole in the wooden stones. Elsewhere couples betrothed by sharing a piece of cake<sup>137</sup> or, as Henry Mayhew found in the East End of London, people simply exchanged handkerchiefs. In Yorkshire it was sufficient to exchange the words ‘If thee tak, I tak thee’.<sup>138</sup>

A new set of secular divorce rites also developed. In some areas returning one’s wedding ring in public released one to remarry. In Shropshire couples who were not married were instead ‘leased to one another’.<sup>139</sup> A popular sixteenth and seventeenth century practice known as ‘the wife sale’ involved elaborate rituals and symbols which emphasised the final nature of the transfer of property and tried to make the sale appear as legally binding as possible.<sup>140</sup>

Many of these rituals were conducted in public places – ale houses, coffee shops, prisons or even brothels – and were generally held outside the hours of 8.00am and 12.00pm.<sup>141</sup> Many sought ‘marriers’ who were essentially lay people, but there were also a growing number of ‘lawless churches’ where clergy would take the liberty of marrying people without either banns or licence, the most famous of which were the so-called Rules of Fleet Prison where clandestine marriages were conducted in the prison chapel. The area that surrounded the Fleet Prison was littered with ‘marriage houses’ where clients shopped for the best bargain, sometimes finding a ‘marrier’ who would perform the service for as little as two shillings and six pence.<sup>142</sup>

### **Rituals of public commitment**

Throughout the ages, people have sought their own rituals of commitment, often without the sanction of parents, the church or the law. Although many were considered illicit and clandestine because they lacked legal backing, to the couples and the communities of which

they were a part, these rituals of commitment were binding. Lawrence Stone describes couples in the late seventeenth and eighteenth centuries whose relationships began as a free courtship and exchange of gifts, culminating in a contract or spousals, sometimes carried out without the consent of the parents and even without witnesses, rituals which symbolised their being 'married in the eyes of God'.<sup>143</sup>

Yet even without the force of the law, Aries argues that the silent mass of lesser folk throughout the seventeenth century accepted the idea of the indissoluble 'ecclesiastical' marriage with apparent ease. To some extent, therefore, the sanction of canon law, and later the Hardwick Act, simply upheld popular beliefs and practices.

The key lesson is that these historical trends have their parallels in the present. The diverse rituals that are beginning to develop in the UK and elsewhere – autonomous and in defiance of the state and official religion – are in many ways respects reminiscent of the different rituals their ancestors chose to mark their own wedding day, resisting attempts at standardisation both from the Church and state.

# Lessons from overseas

If history gives us numerous examples of the potential diversity of marriage, so in the 1990s does experience abroad.

## **Distinguishing between legal marriage and the ceremonial aspect of marriage**

In Europe, many maintain a rigid distinction between the legal framework of marriage and its ceremonial aspect. In countries such as France, Belgium and the Netherlands, the affairs of church and state have been separated and the only legal marriage is civil. In France, which is often cited as a model for reform in Britain by organisations such as the British Humanist Association, civil weddings take place in town halls. The only ritualistic component is that the door of the town hall must be left open to allow for public objection. In the Netherlands individual regions can determine their own regulations for civil marriage. In Rotterdam, for example, people can marry in officially designated places, although only eleven places are registered, including their famous football stadium.

The appeal of this model is that it separates the affairs of church and state and does not privilege some belief systems over others. But there are three main objections to this model of marriage.

The first is that in Britain people have continually wanted to escape the bureaucratisation of marriage. Separating marriage from beliefs

and ceremony runs counter to people's evident desire for authenticity. Another more practical weakness of this model of reform is that many couples still effectively must have two weddings.<sup>144</sup> Thirdly, it is unclear how this framework helps to bring down costs.

Instead of looking to Europe, it is to the experience of three other countries that we must look to seek inspiration.

### **Democratising marriage: giving it back to the people**

Canada, the USA and Australia have all been experiencing similar trends to the UK – declining marriage rates, high rates of divorce, and a rise in cohabitation. But these countries have taken a much more positive attitude to marriage and have modernised it to make it fit people's values better. In some key respects, precisely because of their historical relationship to Britain, they share a common heritage and culture but they have also benefited from being able to unburden themselves of the legacies of the past and think creatively anew.

In all of these countries the aim has been to reduce the state's involvement in marriage. All have separated the affairs of an established church and state but they have also gone further.

In Canada, as in Britain, there is a distinction made between civil weddings and religious weddings with the exception that *all* religious denominations must first seek authority from the state to marry people. The city hall is the first port of call for a marriage licence. You can either be married in the case of civil ceremonies by a judge or a magistrate or in the case of religious weddings by a legally authorised religious representative. In both cases, marriages can be performed anywhere so long as this is acceptable to the designated authorities. Our understanding suggests that there are no legally prescribed declaratory and contracting vows, and people have considerable leeway, certainly with respect of civil ceremonies. Most mainstream religious denominations still insist on the 'til death us do part' component, and even in the case of civil ceremonies, a stern warning is issued by the officiating representative as to the gravity of the commitment being made.<sup>145</sup>

In the USA, where regulation of marriage is handled by individual states, there is much diversity and a wide range of interesting initiatives. In California, for example, the state allows you to marry anywhere you want, even on a plane. It also allows you to marry 'confidentially' and charges an extra \$5 compared to a public marriage licence which costs \$69. Legally prescribed marriage vows are laid down, but you can add to these vows subject to the discretion of the public authorities.<sup>146</sup> In Las Vegas, which conforms to rules and regulations from the Reno County Clerk, only justices of the peace and religious representatives can marry people, and in the inner city areas, only deputies of the chief county clerk. But there is nevertheless a thriving wedding business in the form of 'marriage chapels', the owners of which must simply prove that the 'chapel' has a congregation. If they cannot prove this, they must simply hire a religious minister (effectively a religious celebrant) who is licensed by the county clerk to marry. The legally prescribed marriage vows can be added to, but once again this is at the discretion of the Minister or JP who is conducting the marriage ceremony. The USA has often suffered from criticism about quickie Las Vegas marriages, and this has often been a major stumbling block to reform in Britain where the fear of crass commercialism runs high.<sup>147</sup>

It is really to San Francisco that we should look to locate a model of reform which offers not just the most radical and imaginative reform but one which also promises to introduce authenticity to each individual ceremony. Like the examples outlined above, there is flexibility in the rewriting of marriage vows and you are allowed to marry where you want. But perhaps the most exciting and unique innovation is that San Francisco has waived the state-wide rules to enable the city's marriage commissioner to grant a \$50 one day special licence which authorises any person to marry a couple. In effect, you can choose your best friend to marry you. America however suffers the weakness of many federal systems in the sense that much confusion exists about the legal status of marriage. People may be legally married in one state but not in another.

Australia offers the most innovative attempt at modernising and reforming the marriage ceremony. Church and state are completely

separate but all clergy can be licensed as civil celebrants for legal purposes. These appointments are made by the Attorney General of Australia. People can also choose their own celebrant, ceremony, time and place. And Australians are actively encouraged to write their own vows. Although the Marriage Act has specific declaratory words, it includes a caveat – or ‘words to that effect’ – which in the judgement of Dally Messenger, President of the Australian Federation of Civil Celebrants gives people an extremely wide choice.<sup>148</sup> Australians thus have complete freedom to choose to be married in church or other place of worship, in a location of their choice by a non-religious civil celebrant, or in a register office by a state official (in effect, the state’s celebrant). The latter option is fast declining and in 1994, 43.1 per cent of all weddings were performed by non-religious celebrants.<sup>149</sup>

The story of how Australia came to this model of marriage is in itself interesting. The impetus for reform came in the late 1950s with the aim of unifying the diverse marriage acts which existed in the various states.<sup>150</sup> It led to the Commonwealth Marriage Act of 1961 which in turn stimulated a broader discussion about the provisions for non-believers and non-church goers. Reminiscent of similar debates here in the UK, the register office – the main alternative for non-believers and divorced Anglicans and Catholics – was universally described as ‘dry and legal’, and the churches came in for increased criticism because of their failure to accommodate mixed marriages. In the Catholic Church, for example, such couples were only permitted to marry ‘behind the Altar’.<sup>151</sup> In the 1960s and early 1970s women’s groups increasingly voiced dissatisfaction with the secondary role that women were given in many religious ceremonies, especially marriage. This led in 1973 to the incoming Whitlam Government honouring the initial aims of the 1961 Marriage Act which allowed them to appoint marriage celebrants, thus giving birth to the Australian Civil Marriage Celebrant Programme.

Lionel Murphy, the attorney general and the main personality behind this initiative, was driven by the desire to accommodate the need for ‘a ceremony consistent with the couple’s beliefs, [and] freedom of choice of celebrant, place and time’. He saw the idea of personalised

ceremonies as developing the culture of the country and the ceremony itself as strengthening the relationship between the couple. Its initial success quickly became apparent: statistics for civil celebrants began to soar, reaching a high point in 1981.

This reform of the marriage ceremony did not occur without consideration also being given to divorce law, which led to a shift to no-fault, equality-based divorce under the terms of the Family Law Act. Later, different states in Australia sought to equalise the legal status of cohabitantes in respect of their responsibilities to children and to property and finance issues in the event of relationship breakdown. Rather than penalising couples who wish to divorce or cohabitantes who have chosen not to marry, the emphasis has instead been on giving people positive reasons to opt into marriage by emphasising the importance of commitment and communication starting with the marriage ceremony itself.

The shift to civil celebrants is not a story of wholesale progress, nor one which tells a story of an onward march to a more secular society. It has led to increased competition between those who perform religious and civil marriages by encouraging each to be mindful of the constituencies they serve. Thus, by the early 1990s, the impact of changes to the fee system for celebrants and criticisms of lack of professionalism strengthened the hand of religious marriage ceremonies. Never again have civil celebrants reached their 1981 highpoint, although they still perform the vast majority of marriage ceremonies today. But the loss of faith by many members of the Australian public had its own positive effect. Since 1990, attention within organisations such as the Australian Federation of Civil Celebrants has focused once again on maintaining standards of service and on the importance of the quality of rituals.

Cost is also an important issue. The National Committee of the Australian Federation of Civil Celebrants recommends a minimum wedding fee of \$150, (about £100), a fee of \$185 for a standard wedding and \$250 for a quality wedding including consultations, various booklets advising on wedding ceremonies and the writing of vows, rehearsal on site and a personalised legal wedding certificate.<sup>152</sup>



Following their reversal of fortunes, humanist associations have begun to give attention to developing other rituals – rituals of betrothal as well as divorce, birth naming rituals, family welcoming rituals, and housewarmings, all of which reinforce the need to consistently reaffirm the changing nature of partnerships in the light of family formation and rites of passage through the life cycle. In turn, some of the more liberal religious denominations have begun to respond.

# The proposal: giving marriage back to the people

What lessons can we draw for marriage in Britain in the 1990s? The main lesson to be learnt from history and from overseas experience is that if the institution of marriage is to be revitalised, and given a new lease of life and new energy, it must be put in the hands of the people for whom it exists – the couples who wish to make commitments to each other, and who wish to choose their own rituals – *but in the context of a legal framework*. Below I set out some of the guiding principles for marriage in the next century before drawing out the specific policy implications.

## **Separating church and state**

The first principle is that church and state should be separated and all ceremonial privileges to all other religious denominations removed. All religious representatives should be licensed by the state in order to be legally authorised to marry people. The distinction between ‘religious’ and ‘civil’ marriage will thus be removed. People would be able to choose a ceremony that reflects their own belief system, including both religious and secular elements if they want.

## **Extending marriage**

The second principle is that society has an interest in encouraging couples to make commitments to one another through the life course.

Couples who wish to marry – including same sex couples – should be free to do so and to make a legal commitment to one another.

### Putting the couple in control

The third principle is that the wishes of the couple who marry are all-important. This is why we need a comprehensive deregulation of the rules and regulations concerning the marriage ceremony allowing freedom of choice of celebrant, place and time and vows. This is an important recognition of the multi-faith, multi-ethnic society that we have become.<sup>153</sup> A basic legal framework for such an approach already exists in Australia which provides a useful template for UK reform. But as we make clear, we favour an even broader democratisation than that offered in Australia as a whole. How might this be done?

### A new framework for marriage

To achieve these principles, and a new model of marriage, we need:

- legislation to require that **all religious representatives** who are currently exempt from any licensing requirements to perform marriages (such as Church of England ministers), **must be licensed as celebrants by the state**.
- legislation to extend the rights and responsibilities of marital status to all same sex couples over the age of eighteen, or over sixteen (subject to parental consent).
- legislation to establish a uniform state licensing system whereby a range of celebrants, including people with no previous experience,<sup>154</sup> are authorised to solemnise and officiate over the marriage ceremony. A detailed appendix at the end of this report sets out the key policy implications of this step and spells out how it might work in practice.

# A new culture of marriage and new forms

These new policy frameworks would underpin a changed culture of marriage: based on choice, personalisation, and making an ancient ritual relevant, modern and meaningful. By encouraging people to write their own vows, and devise their own ceremonies, communication within relationships is emphasised, encouraging the broader shift towards developing the life skills and interpersonal skills that are so invaluable in negotiating successful and durable marriages today.

So what sort of marriages would result from these changes? Part of the virtue of encouraging innovation is that it is impossible to predict precisely what might happen. But extrapolating from some of the value shifts and trends I have detailed in this report, we should expect to see:

- imaginative and creative uses of different places for marriage ceremonies – everything from supermarkets to nightclubs, from planes to hilltops, from ancient burial sites to churches, from restaurants to people's own homes, from street ceremonies even to cemeteries.
- inventive forms of rituals which allow people to blend the secular with the religious, and the marriage ceremony with other rituals – from family covenant pacts where individuals commit to love and support each member of the family through to birth-naming ceremonies for newborns. Perhaps

too, we will see family commitment ceremonies (especially for blended families and children of cohabiting couples), family welcoming ceremonies (for blended families and particularly for involving and welcoming step-parents), renewal of vows ceremonies with friends and family (for people who have already married but who wish to reaffirm their vows), betrothal ceremonies (for friends who have decided to ‘live together for a year and one day’), and even divorce rituals with former partners.

We are also likely to see a flowering of innovations with a shift to inter-faith rituals and multi cultural ceremonies which capture the diversity of our society today, and actively celebrate it. All of these rituals could complement the marriage ceremony itself, reinforcing the message that marriage is fundamentally a social institution, and one which has consistently adapted to take account of people’s changing needs.

- But perhaps the most important culture shift that we are edging uncertainly towards is the recognition that the institution of marriage cannot be rebuilt if people continue to make commitments they cannot sustain. In turn, this may lead to a recognition by some people that they cannot commit to lifelong marriage, but do feel they can commit for a specific time period at the end of which they can renew and renegotiate their marriage vows.

Individuals and couples who do not have children may wish to experiment with time-limited marriages, perhaps typically for ten years.<sup>155</sup> These would explicitly reject the idea of marriage as indissoluble<sup>156</sup> but would emphasise the importance of renewing, reaffirming and even renegotiating marriage vows in recognition of the fact that over the course of a lifetime, people are bound to change. However, serial marriage would be encouraged.<sup>157</sup> So too, some may feel the need to combine personal vows with personalised marriage contracts.<sup>158</sup>

For many people, this may well seem like a step too far on a downward spiral of moral relativism from which we will never recover. Others will see it as introducing ‘two tier’ marriage – a distinction between lifelong marriage and conditional marriage – each of which undermines the validity of the other. But ponder these rather important facts. Seventy-five per cent of divorced men and women say that the problems which led to divorce began in the first five years. The number of children under five whose parents divorce has increased by 65 per cent since 1977 and perhaps most important of all, in 1993 almost half of all divorces were granted to people who had not reached their tenth wedding anniversary.<sup>159</sup>

In this context alone, a successful ten year marital commitment would be more than many people are managing to achieve already and it sets the tone for open, honest and realistic communication in relationships, and for more responsible commitments.

- The issue of commitment and renegotiation throughout life is key. And in my view, it should involve not just the couple themselves but also the celebrant. The celebrant is someone to turn to in times of need. For some people, the celebrant will be a best friend, or a godparent or family member. Others will have opted for professional celebrants. But in each case, the couple will have chosen them with care because hopefully the celebrant is someone who commits not just to helping the couple before and on the wedding day, but to helping them negotiate difficult times or adapt to change in the future. Thus, celebrants – friends or professionals – should be equipped to know how to help or how to find help for couples in times of difficulties.

At a minimum, they could act as the couple’s interface with a range of support services to aid and continue the process of communication and negotiation which the act of personalising and designing your own marriage ceremony

has facilitated. (The Registration Service which is the first port of call for any chosen celebrant when they register the couple's desire to marry should provide information packs and advice books about the range of marriage support services on offer.)<sup>160</sup> Some professional celebrants may wish to take this a step further by actively cultivating a wider range of services and skills – offering pre-marital advice, workshops on conflict resolution skills for couples before and after marriage, and even mediation services, effectively acting as a modern day guardian angel for the couple. Through these means, the central role played by the celebrant is intimately connected with the wider issue of ongoing communication and support in relationships.

These reforms would also accelerate the important shift in our political culture which occurred last year during the passage of the Family Law Act, when the government actively committed itself to funding marriage support services in recognition of the fact that for every £1,000 the Exchequer spends in picking up the pieces, less than £1 is spent on funding marriage support services.<sup>161</sup>

### **Conclusion**

Amidst rising divorce rates, and widespread cohabitation, many people are clinging steadfastly to the notion of marriage for life making the case for marriage as 'a binding tie, monogamous and indissoluble'.<sup>162</sup> Meanwhile, a younger generation seems to be facing a crisis of confidence about an institution which was once an integral part of the fabric of British life. This is why it is important to remember that marriage is a social institution that has existed for millennia. During that time it has changed its form repeatedly, often in response to people's changing needs and desires.

The argument made here is that marriage does not need to become obsolete. Perhaps now more than ever, it has an important role to play

## **The Proposal: Giving marriage back to the people**

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as a public commitment, and as a shared ritual, a celebration of love, friendship and partnership between two people. But to play its role it needs to be brought up to date, liberated from the grasp of the church and the state,<sup>163</sup> and given to the people whose interests it should serve. I do hope that you will accept my proposal.



# Appendix

## **The proposal: a uniform licensing system whereby a range of celebrants are authorised to solemnise and officiate over the marriage ceremony**

Under this proposed model the state's legal role is in effect handed down to the individual celebrant who is licensed to marry. I have modelled our proposal on the experience of Australia but I would favour a further expansion along the lines of the San Francisco model whereby people such as best friends can be authorised, for one day, to marry people. This model allows even greater freedom and flexibility for today's couples than the Australian one.

In this scenario, the Registration Service's role is mainly administrative: to observe that legal preliminaries have been made, to license celebrants, and to officially register the marriage once they have been notified by the celebrant that it has taken place.<sup>164</sup> The state, through the Registration Service in the UK, should still be available to act as celebrants by marrying people in register offices if this is what the couple desire, although the Australian reform suggests that this is the least likely option, and is likely in the long run to be increasingly unpopular.

Superintendent registrars in local register offices should be authorised to issue a one day licence for an individual (in general a friend or family member) to marry the couple at their request and also a working licence for professional celebrants who are dependent (in part or in total) on this as the main source of their income.

Organisations such as the British Humanist Association favour professional celebrants, and are resistant to the idea of inexperienced and untrained individuals overseeing the ceremony of commitment. I disagree and believe that there is room and space for a range of options to accommodate the diverse needs of couples who wish to marry today.

And while I recognise that a distinction needs to be maintained between people who act as celebrants for the day and professional celebrants, I believe that this distinction can be drawn by operating a dual licensing system, which sets out specific criteria for working celebrants so that quality control and professionalism within the industry as a whole is maintained.<sup>165</sup>

In reality, I anticipate that many couples will choose to combine both options: seeking the professional advice and services from a professional celebrant in the run up to the wedding day but perhaps then opting to have a close friend or member of the family actually perform the wedding ceremony itself on the day.<sup>166</sup>

Doubtless, there are many people, particularly within the Registration Service in the UK, who will argue that this model of reform is unviable and would simply not work, or would open the gateway to rampant commercialism. Such claims are highly debatable. In Australia, a country which shares a common heritage and culture, this has not occurred, and the system has proved highly workable. If there is a criticism of the Australian model, it is that adequate safeguards were not built in at all times to maintain quality. Not only has this issue been addressed there, I am also proposing that a celebrants' ombudsman should be appointed and should report annually.

The Registration Service through the network of local register offices should make available in their local offices a list of the telephone numbers and addresses of professional celebrants and their related associations. Advice books about marriage support services should also be made available in local register offices to encourage couples to think about the importance of maintaining open channels of communication. It's also worth pointing out that when standards in Australia fell, religious denominations benefited. In turn this gave an incentive to civil celebrant voluntary associations to get their own houses in order.

But perhaps the strongest argument for the workability of this reform is the fact that within the UK, a precedent has been set for a registration service with this minimal, oversight role. Until as late as 1855, 'irregular marriages by declaration' were considered legally binding by the Scottish Registration Service so long as the marriage was registered within three months of taking place. This practice was only outlawed altogether in the first few decades of this century.

The celebrant's role should be to take care of the legal preliminaries – for example, registering the couple's wishes to be married at the local register office, and providing all paperwork and evidence to ensure that the couple can legally be married, and finally returning a certificate of marriage, signed on the wedding day itself, to be kept as a record in the Registration Service.

In the long term, this may well imply a slimmed down Registration Service. The main function of the service will be to focus solely on dealing with the legal preliminaries, and conducting all the necessary legal paperwork associated with registering and recording a marriage. However, this reform does nevertheless suggest an expansion of their licensing role now that they must license all religious representatives and all humanist representatives. Acquiring the legal authority to marry should be as simple and painless as acquiring a passport.

If the idea of personal celebrants takes off, the time spent by the Registration Service conducting the actual civil ceremony will possibly be reduced. This has the potential to reduce costs or the state. Certainly my hope is that the greater competition introduced into the system will not only serve to raise standards and reduce the costs of wedding ceremonies for individuals, but will also better serve the needs and wishes of the couple marrying. Restrictions on the place of the wedding ceremony should be removed as has been done in Canada, the USA and Australia, and there should be complete freedom on the time people can marry, as in Australia. This process of competition and greater freedom may also bring down costs.

Finally, the state should be actively encouraging couples to write their own vows rather than handing them down from on high. Obviously I recognise that marriage is in essence a contract between

two people and must be legally binding. But the contracting and declaratory words should be as simple, and value free as possible. The Marriage Regulations (Prescribed Words) Act of 1996 for England and Wales has been important for neutralising the tone and content of these declaratory and contracting words, and gives a choice of three. We now need to ensure that people can choose to say these words, and make up their own vows, in the language they wish, in recognition of the increasingly multicultural society that we have become. It should be the responsibility of the celebrant who conducts the wedding to confirm that the legally declared words have been abided by.

The question of vows is an important one. Those who choose to marry within the frame of reference of a religious denomination may find that they have less flexibility than other people to rewrite their vows. The implication is that the more traditional or inflexible religious denominations who insist on the commitment to vows such as 'til death us do part' may well find themselves losing out to other religious ceremonies such as those conducted by Unitarians or by humanist celebrants. This is the logic of the democratisation of the system which this proposal opens up. But at least, those institutions can take comfort from the fact that people have freely chosen a ceremony and a set of vows which is authentic and meaningful to them, by which they are prepared to abide.

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  27. For the qualitative research from which this report has drawn see: Wilkinson H, Mattinson D, and Cooke V, 1995, *Continuity and change among 18–34 year olds: a qualitative research study*, Demos, London.
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  29. *The MacKay report, young adults*, MacKay Research, Sydney, 1995, 26.
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  31. This data was cited in: Kieman K and Estaugh V, 1993, *Cohabitation: extra-marital child-rearing and social policy*, Occasional Paper, Family Policy Studies Centre, London, 7–8.
  32. See note 15 (51–52).
  33. It is important to recognise that in inner cities it is much easier for lesbian and gay couples to come out than, for example, in small, close knit communities. There are also substantial differences by region. For example in Northern Ireland and in Scotland gay affirmation ceremonies still take place behind closed doors because the social taboos are still very strong.
  34. See note 28 (Wellings et al, 1994, 195).
  35. Ahrendt D and Young K, 1994, *British social attitudes, the eleventh report*, Dartmouth Publishing, Aldershot, 186. See also note 28 (Wellings et al, 1994).
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  37. Survey evidence cited in: see note 9.
  38. Social and Community Planning Research, *British social attitudes: cumulative sourcebook—the first six surveys*, Gower Publishing, Aldershot, 1992, N.1–14. In 1990 the European Values Survey also found that mutual respect, appreciation and faithfulness, understanding, tolerance and a happy sexual



- relationship were deemed the four most successful elements of a happy marriage. More practical factors such as good housing, an adequate income, and living apart from the in-laws were much lower down the list. Cited in: see note 9.
39. See note 27.
  40. Lewis J, Clark D and Morgan D, 1992, *Whom God hath joined together*, Routledge, London. This book gives a detailed analysis of the defining characteristics of marriage as an institution to marriage as a relationship.
  41. *The individualizing society: value change in Europe and North America*, 1993, Tilburg University Press, Tilburg, Netherlands.
  42. Aries E, and Bejin A, 1985, *Western sexuality: practice and precept in past and present times*, Basil Blackwell, Oxford, 157.
  43. Penny Mansfield, Director of One Plus One, made the very important point at a seminar to discuss a draft of this paper that we need to emphasise the concept of partnership rather than relationship in the 1990s because the former implies a common shared commitment which needs to be worked at.
  44. See for example, Weeks J, Donovan C and Heaphy B, 1996, *Families of choice: patterns of non-heterosexual relationships*, Social Science Research Papers No 2. South Bank University, London. This study is ongoing.
  45. Stuart, E, 1992, *Daring to speak love's name*, Hamish Hamilton, London.
  46. The issue of same sex marriage and registered partnerships is extremely current in a number of countries.
- In Europe for example, Denmark passed a partnership law in 1989. Since then, Norway (1993), Sweden (1995) and Greenland (1996) have followed suit. In these countries a registered partnership is almost the same as a civil marriage except that it is called partnership instead of marriage. You cannot register your partnership in church, one partner must be a citizen of the host country if the marriage is to be considered legal and the right to adopt is specifically included. The main argument against these partnership laws are that by creating a separate institution for same sex couples, lesbians and gay men are ghettoised. Elsewhere—in the USA and the Netherlands—lesbians and gay men have been campaigning for the right to marry rather than opt for separate registered partnerships. In the USA this has been done by means of a test case brought by three couples in Hawaii on the grounds of sex discrimination, although according to a report in the *Guardian*, ‘Gay weddings “legal” in Hawaii’, it has inspired a backlash with laws banning same sex unions introduced in 37 states (albeit only passed in six-teen). The Republican-dominated Congress also passed the Defence of Marriage Act which among other things permitted states to refuse to recognise same sex couples. President Clinton infuriated the gay community when he declared that the bill discriminated against gays but still signed it. Meanwhile in the Netherlands, the Dutch Parliament recently voted in favour of giving

- lesbians and gay men the right to marry. A commission has now been set up to examine the international implications if they do so. A bill recommending gay marriage has also been introduced in the Luxembourg Parliament by Green Party MP Renee Wagner. A third option is to 66. The proposal recognises relationships and opt for recognising de facto gay couples as well as heterosexual couples. Hungary has opted for this route since 1996. The granting of cohabitation rights however does little to cater for those couples who wish to make a public and legally recognised declaration of commitment. This information comes from a Stonewall factsheet. See also: Lind C, 'Time for lesbian and gay marriages?' in *New Law Journal*, 20 October 1996, which provides a comprehensive overview of the different policy approaches of other European countries; and Sullivan A, 1995, *Virtually normal*, Picador, London, which makes a passionate case for the right of lesbians and gays to marry and also 'Wedded bliss' in *Gay Times*, July 1996, 22–34. Stonewall is currently conducting a survey of lesbian and gay communities in the UK to establish whether lesbians and gays in the UK want to opt for the legal route of 'registered partnerships' or to lobby for the right to marry.
47. Zeldin T, 1994, *An intimate history of humanity*, Sinclair Stevenson, London.
  48. For more detailed work on changing values see: Wilkinson H, 1994, *No turning back: generations and the genderquake*, Demos, London, see also note 26 (Wilkinson and Mulgan, 1995).
  49. These figures come from a nationally representative survey of 2,143 adults (15-plus) conducted in September 1994 by MORI at 225 sampling points. These figures are published here for the first time.
  50. See for example figures on attendance in the *UK Christian handbook 1996–97*, Christian Research, London, 1996.
  51. Interview with the Information Network Focus on Religious Movements (INFORM), by George Lawson, Demos researcher, November 1996.
  52. I am aware of the limitations of relying solely on the Rites UK material. Internet usage is still at an early stage and much of the material is from North America. Nevertheless, it reinforces or other quantitative information drawn on for this report.
  53. See for example, Toynbee P, 'Divorce: our century's great liberator', *Independent*, 20 March 1996.
  54. Stanton GT, 1995, *Only a piece of paper? The unquestionable benefits of lifelong marriage*, Research Report, Public Policy Division, Focus on the Family, Colorado Springs. Cited in Maley B, 1996, *Wedlock and well-being*, Centre for Independent Studies, Sydney.
  55. 'Singles at risk from drinking and suicide', *Independent*, 28 October 1996.
  56. Although it is important to recognise that many of these cohabiting couples do go on to marry.

57. See note 18 (Buck and Scott, 1994). See also note 15. In her study, McRac found 23 per cent of her sample saw cohabitation as a viable alternative to marriage precisely because it gives the individuals concerned greater freedom and autonomy without the legal ties.
58. See note 28 (Wellings et al, 1994, 116).
59. Cited in *The Australian*, 12 July 1994 and in: see note 54 (Maley, 1996, 6).
60. See note 7. This figure comes from the House of Commons Research Library, 1996, following a Parliamentary Question tabled Malcolm Wicks MR This breaks down as follows: £3.3 billion in social security benefits, million in social services, £320 million in legal aid and advice including court costs, £138 million in tax allowances and £190 million in health service costs.
61. Dormor D , 1991, *Marriage and partnership*. One Plus One, London.
62. See Walker J, 1995, *The cost of communication breakdown*, Relate Centre for Family Studies, Newcastle Upon Tyne.
63. See note 7.
64. See for example, Utting D, 1995, *Family and parenthood: supporting families, preventing breakdown*, Joseph Rowntree Foundation, York. This provides a systematic and detailed analysis of research in this field. See also 'When the talking has to stop', *Guardian*, 22 February 1995, and Cockett M and Tripp J, 1994, *Children living in reordered families*. Social Policy Research Findings 45, Joseph Rowntree Foundation, York. See also Morgan P, 1996, 'Conflict and divorce: like a horse and carriage?' in *Home repairs: building stronger families to resist social decay*, Centre for Independent Studies, Sydney; and Morgan P, 1995, *Farewell to the family: public policy and family breakdown in Britain and the USA*, Institute of Economic Affairs, London, for a more controversial interpretation of these research findings.
65. Demos has already recommended a range of ways in which the costs of relationship breakdown can be alleviated, by granting parallel rights and responsibilities to married couples, a process we also believe may help children. For the detailed discussion see note 26 (Wilkinson and Mulgan, 1995).
66. For a classic exposition of this view see note 64 (Morgan, 1995).
67. This was called for in 1996 by various Conservative women's associations.
68. Mandelson P and Liddle R, 1996, *The Blair revolution*, Faber, London. See also 'Mandelson urges state "dowry" for couples', *Guardian*, February 1996; and Wilkinson H, 'Money can't buy you love, Mr Mandelson', *Independent*, 26 February 1996.
69. For this see: Wilkinson H, 'We'd prefer the horse and no carriage', *Independent*, 1 April 1995 and also note 68 (Wilkinson, 1996).
70. Even social conservatives recognise that changing gender roles and women's enhanced economic status means that women have less need of marriage. See for example, note 54 (Maley, 1996).
71. See note 10 (Mattison, 1994).

## The Proposal: Giving marriage back to the people

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72. Ermisch J, 1993, 'Familia oeconomica, a survey of the economics of the family' in *Scottish Journal of Political Economy*, vol 40 no 4, 357–358.
73. See note 68 (Mandelson and Liddle, 1996) and (*Guardian*, 1996).
74. Estimates vary. A recent article put the figure of a traditional UK wedding at between €10,000 and £12,000. See for example, 'Overseas Wedding Market' in *Travel Trade Gazette UK*, 17 July 1996, 39. Another study put the average cost of a white wedding in south east England at between £8,500 and £9,000. See, for example, 'Cover for wedding mishaps', *The Times*, 18 March 1995. For a comprehensive demolition of the idea of the state 'dowry' see McCrone A, 'The woe of state and marriage', *Financial Times*, 11 March 1996.
75. McCrone A, 'How tax system keeps wedlock in an armlock', *Financial Times*, 29 March 1996.
76. It is important to recognise that there are currently disincentives in the benefits structure which means that many low income couples are discouraged from marriage.
77. See note 15 (46). Those most deterred by the high cost of a big white wedding were the youngest of the long term cohabiting mothers and were the least likely to hold qualifications or to be in paid work.
78. See note 9 (Mattison, 1994). See also: 'Recession takes a toll on love and marriage', *Sunday Times*, 23 August 1992.
79. Citation taken from: see note 54 (Maley, 1996). In the UK, this view is beginning to gain ground. The Centre for Policy Studies is planning to publish a pamphlet by Ruth Deach, Principal of St Anne's College, making similar arguments. In the UK the recent Family Law Act was opposed on the grounds of substantially removing fault-based divorce, albeit that it was criticised by liberals for making it harder to marry.
80. This is a brief summary of a debate on 'Start the Week', Radio 4, with Ruth Deach, Principal of St Anne's College, Oxford, broadcast on 6 January 1997. Ruth Deach recognised that the question of how one enforced had yet to be resolved. She is currently preparing a pamphlet on the new marriage contract for the Centre for Policy Studies.
81. 'New code for children will snub values of the family', *Mail on Sunday*, 22 September 1996.
82. 'Moral guidelines for schools says marriage is best', *Independent*, 20 December 1996.
83. France M, 'Trouble and strife', *The Scotsman*, 27 April 1996. The author cites a MORI poll which shows that people under 35 think that marriage will be a weakened institution by the year 2000.
84. For the importance of communication see: Walker J, 1995, *The cost of communication breakdown*, Relate Centre for Family Studies, Newcastle Upon Tyne and also note 2 (Walker and Hornick, 1996).
85. *The sixty minute marriage NOP surveys*, Care for the Family, Cardiff, 1997. These results are strictly embargoed until 8 February 1997.
86. In 1995, 46.4 per cent of all marriages in Scotland were civil.

- Figures provided by the Registrar General Annual Report 1996, Registrar General, Edinburgh, 1996.
87. If one marries through the Church of England, the whole process is managed and legitimated by them: from the reading of the banns through to the ceremony itself. All other religious denominations (including Jews and Quakers) must inform the Registration Service of a pending marriage and all non-Anglican denominations in England and Wales must seek authorisation from the state to solemnise a wedding ceremony (except Jews and Quakers).
  88. This act has been criticised especially by the Society for Registration Officers who feel that they were not adequately consulted. See 'DIY wedding chaos'. *Independent on Sunday*, 12 March 1995.
  89. This exemption was initiated under the terms of the Lord Hardwick Act of 1753. Jews and Quakers can be married where they want, by whom they want and make what vows they want subject to their own religious traditions.
  90. The choices of declaratory and contractual words are as follows. Declaratory words: a) I do solemnly declare that I know not of any lawful impediment why I, AB, may not be joined in matrimony to CD; b) I declare that I know of no legal reason why, I, AB, may not be joined in marriage to, CD; c) by replying 'I am' to the question 'Are you, AB, free lawfully to marry CD?'. Contracting words: a) I call upon these persons here present to witness that I, AB, do take thee, CD, to be my lawful wedded wife (or husband); b) I AB take you CD to be my wedded wife (or husband); c) I AB take thee CD to be my wedded wife (or husband). A major sticking point for ethnic minority communities in England and Wales is that they are obliged to say the words in English or Welsh, which often means that they have to switch from their mother tongue or indigenous language to English or Welsh and then back again. Information provided by the General Register Office for England and Wales, January 1997.
  91. Scotland has always been treated separately compared to England and Wales and it was only in 1855 that the first requirement was made for marriages to be registered.
  92. This legal situation was confirmed to Demos in a telephone interview with the General Register Office for Scotland.
  93. The vows obviously can be personalised but the discretion of the marriage celebrant is also important. In addition, a marriage licence must have been issued by the registrar and completed. The basic document on Scottish marriage law is the Marriage (Scotland) Act of 1977. Briefing provided by Andrew Hill, Unitarian Minister in Edinburgh.
  94. A number of Churches can apply for special licence facilities for special occasions. These include: the Church of England, Presbyterian, Baptist, Methodist, Congregationalists, and the Society of Friends.
  95. The declaration and words of contract required by Sections 29

- and 30 of the Marriage (Ireland) Act of 1844 pertain only to marriages solemnised in a register office or in a building registered for marriages in the presence of a registrar according to the General Register Office for Northern Ireland, Belfast.
96. Stone L, 1990, *The road to divorce*, Oxford University Press, New York, 93–117.
97. See note 42.
98. Confirmed in telephone conversations to staff from the General Register Office for England and Wales, Scotland, and Northern Ireland.
99. Gillis J, 1985, *For better, for Worse: British marriages 1600 to the present*, Oxford University Press, Oxford, 299.
100. See note 99.
101. See note 9 (7).
102. Lemmings D, 1996, 'Marriage and the law in the eighteenth century: Hardwick's Marriage Act of 1753' in *Historical Journal*, vol 39, 342.
103. Increasingly, couples who are living together are choosing to regulate these rights through cohabitation contracts (although there is concern within the legal community that these contracts are not always enforceable in law). The Law Commission has been investigating extending similar legal rights to cohabitantes because of concerns about the inadequacies of the current framework in the event of relationship breakdown. Their report, *Homesharing*, will be published in May 1997 but is expected to stop short of giving cohabitantes parallel rights to married couples.
104. It is important to recognise regional differences. Scotland and Northern Ireland are both more religious in this respect.
105. See note 31(64).
106. See note 13 (117).
107. It is important to recognise that the Church of England is quite trenchant in places.
108. See note 13 (118).
109. See note 13 (117).
110. This briefing was prepared for Demos by Reverend Steve Dick, the Unitarian London District Minister. Underpinning all these initiatives towards personalising the ceremony is the Unitarian conviction that religious authority rests in the individual and that religious understanding is a continuous and changing revelation. See also: Hill A, 1993, *Celebrating life: a book of special services for use in the Unitarian and Free Christian tradition*, The Lindsey Press, London; Smith M, articles in *SCM Movement Newsletter*, 1993, and in *Best Magazine*, 9–13 July 1996, about same sex marriages.
111. This is certainly the view of the British Humanist Association who are campaigning for a separation of the legal function of marriage from its ceremonial nature, whether religious or humanist.
112. See for example, House of Commons' Parliamentary debate on the Marriage Bill, 15 July 1994. Mr H Cohen MP cites a survey by the organisation *Garlands* which reported that more than one in five couples with no religious beliefs married in church because they wanted the tradition and pomp

- of a church ceremony and that 60 per cent were not able to have their first choice of wedding venue because of Britain's current restrictive marriage laws. See also: Parliamentary Debates, House of Commons Official Report, Standing Committee C, Marriage Bill, First Sitting, Wednesday 6 July 1994, HMSO, London.
113. Statistics provided by the General Register Office for England and Wales.
114. This is a legal minefield. Some forms of New Age spirituality might be considered secular and should therefore be incorporated into the civil ceremony. But there is a certain degree of ambivalence and uncertainty about this with the result that many couples are dependent on the discretion of the local registrar general.
115. That aspect of the Marriage Act of 1994 which allows people to marry in register offices outside of the area in which they live has helped to ease this restriction but there have been criticisms, in particular by the British Humanist Association.
116. With the obvious exception of Jews and Quakers who are exempt.
117. See for example, 'Overseas wedding market' in *Travel Trade Gazette*, 17 June 1996, 39.
118. These figures were provided by the General Register Office for England and Wales. It costs on average some £44 to marry a couple who both come from the same district and £63 to marry a couple who come from different districts.
119. Pearce J, 1996, "The Marriage Act of 1994: Memorandum from the British Humanist Association to the Parliamentary Humanist Group'.
120. 'Virgin unveils nuptial delights', *Guardian*, 4 November 1996. This article made the point that 38 per cent of the marriage market is in second marriages and many of the brides are older, professional women who want an informal, unusual wedding and haven't got time to organise it themselves.
121. Promotional literature from Runnings Park in West Malvern also specialises in alternative weddings promising people the ability to 'design' and write their own ceremony, stay in a beautiful bridal room and accommodate guests with heated pool saunas and massage.
122. See note 42 (144).
123. See note 42 (153).
124. See note 42 (154).
125. See note 42 (144).
126. See note 42 (155).
127. See note 96 (154).
128. See note 96 (53).
129. See note 96 (11).
130. See note 102.
131. See note 99 (92).
132. See note 102 (340).
133. See note 99 (190–206).
134. See note 99 (206).
135. See note 96 (100).
136. See note 99.
137. See note 83.
138. See note 99 (204).
139. See note 99 (207–210).
140. See note 96 (145).
141. See note 96 (96).

## The Proposal: Giving marriage back to the people

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142. See note 99 (92). From the 1600s until it was suppressed in 1754 the Fleet is estimated to have conducted as many as 300,000 unions.
143. See note 96 (57).
144. Our research suggests that this is certainly a major source of tension between the generations. This is also evident on debates on the Rites UK Internet Mailing List.
145. I am grateful to Bob Jessop, Executive Director of Programmes and Research at the Vanier Institute for Family Policy for providing me with this briefing.
146. You must first ask the commissioner who then seeks permission from the superintendent of marriage licences to authorise them. However, as in England and Wales, discretion still lies in this instance with the commissioner who can veto any changes if he or she deems them inappropriate.
147. See for example the debates that accompanied the passage of the Marriage Act of 1994 for England and Wales. House of Commons' Parliamentary debate about the Marriage Bill, 15 July 1994 and Parliamentary Debates, House of Commons Official Report, Standing Committee C. Marriage Bill, First Sitting, Wednesday 6 July 1994, HMSO, London.
148. Briefing prepared by Dally Messenger, National President of the Australian Federation of Civil Celebrants Inc, Melbourne, January 1997.
149. See note 148.
150. Although Australia is not strictly comparable with Britain because it has a federal structure, even within the UK there is a lack of uniformity between different regions such as Scotland, Northern Ireland, and England and Wales.
151. Messenger D, 1997, proposal for an MAor Doctoral Thesis on 'Civil Celebrations and Civil Celebrants in Australia', unpub-lished. The details in this section are drawn from this paper.
152. Guidelines on the fee structure 1997, Australian Federation of Civil Celebrants Inc, Melbourne, 1997.
153. Jews and Quakers as we have seen are given comparable privileges to the Anglican Church. There are all sorts of discrepancies in the UK, as we have seen, both in terms of religious and civil weddings. For example, Scotland has another set of procedures as does Northern Ireland. This is clearly messy and unsatisfactory for people who have non-religious belief systems.
154. In this sense I am recommending something of a hybrid, and merger of the principles underlying the San Francisco model and the Australian legal framework.
155. Obviously, this should not be an option available for couples who already have children. Within the ten years of course it is possible that couples will have children, but this is comparable to couples who have children while cohabiting. At the end of this ten year period if the couple do not reaffirm their vows, they will not retain their legal status of married couple.
156. Tariq Ali in his provocative article, 'Better red that wed' (*Guardian*, 29 October 1996), argues that there is already a new model contract for



- marriage which could apply to both hetero and homosexuals which runs as follows We, X and Y, of our own free will, marry for the duration of our mutual affection. We wish and intend to put our fortunes in a common fund, but reserve the right to separate them again for the benefit of any children we may have, either in common, or separately. We recognise that our property belongs to our children by whomsoever we may have had them and that all of them have the right to the name of whichever parent acknowledges them.' The author of these words was Olympe des Gouges who was a radical pamphleteer during the brutal excesses of Robespierre and Marat. She was guillotined in November 1793.
157. Denise Knowles, press spokesperson for Relate, makes the important point that we need to add to the emphasis on the traditional three 'R's in education, a fourth R: that of relationships. People, she argues, need to be made to be more realistic about marriage. If people still aspire to a lifelong 70 year marriage, they need to become more realistic about what this means (interview with Denise Knowles by Helen Wilkinson, January 1997). People have to learn to grow, adapt and adjust which is why the idea of renewable contracts or reaffirming vows are important staging posts.
158. In this recommendation, I am forging a common ground between people who believe that marriage is an important act of commitment and others who feel that marriage is in anachronism because in the words of Liz Hodgkinson, author of *Unholy matrimony*: 'There has never been a society in the whole history of the world where human beings will stay married without the most stringent laws to make them do so.' She advocates replacing marriage vows with renewable contracts, tailor made to suit individual couples' requirements. I propose a merger of the rituals of marital commitment with the option to set out a detailed, transactional and conditional contract just as ordinary people did in the pre-industrial period. Liz Hodgkinson is cited in: see note 83.
159. See note 7.
160. A change of regulations in August of last year allows register offices to house some information about marriages but there are still limits on genuinely supportive marriage manuals such as the one provided by One Plus One.
161. See note 7.
162. See note 42.
163. The state's role is to regulate the rights and responsibilities of married couples, not to determine the nature of the marriage ceremony.
164. We obviously recognise that some basic legal preliminaries need to be established but see no reason why these cannot be dealt with by the chosen celebrant and the couples themselves in advance of the wedding day, with a scaled down registration service.
165. This is in recognition of the different role and function played

by professional celebrants and 'friendly celebrants' and also in recognition of the lessons to be gleaned from the Australian experience of declining standards among civil celebrants. There is no need for the rules and regulations concerning who can marry to change, other than extending the same rights to same sex couples.

166. While I accept the argument of the British Humanist Association that skills and practice are needed to lead a wedding – by helping prepare the ceremony, advising on music and readings, advising on vows, and so on – it is still possible for people to seek the advice and services of a professional celebrant before the wedding but then ask a friend to marry them on the day.