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1. Introduction

Marriage for same-sex couples

Homosexual cohabitation has been the object of comprehensive theological reflection for several decades. The Church of Sweden was ahead of the rest of society in terms of dealing with this issue. In 1972, the Bishops' Conference appointed a commission of inquiry with Holsten Fagerberg as chairman that resulted in the book *De homosexuella och kyrkan* (Homosexuals and the Church) (1974). In this book, conclusions were drawn that were radical for their time. For example, it stated that from "a psychological standpoint it is important that homosexuals are able to form lasting and stable relationships". Furthermore, a consequence of the inquiry's deliberations was that "in principle, no obstacles should lie in the way of a homosexual individual holding a position in the Church". It was also said that a blessing ceremony in some form could be considered as a possibility.

Since then the issue has been the object of several motions in the General Synod. In 1988 a motion (KMot 1988:1) was brought before the General Synod on drawing up a proposal for a blessing ceremony in church for homosexual couples. A commission of inquiry was appointed to deal with the matter, resulting in the *Kyrkan och homosexualiteten* (The Church and homosexuality) report in 1994. The issue had simultaneously been moved up the Church of Sweden's agenda due to the Riksdag (Swedish Parliament) adopting the Registered Partnership for Homosexuals Act in the same year. When the Act came into force on 1 January 1995, the Bishops' Conference issued *Pastoral rådgivning angående förbön för dem som ingått partnerskap* (Pastoral advice on prayer for those who have entered into partnership).

In 1997 a motion was brought before the General Synod on a public ceremony of blessing for homosexuals in church (KMot 1997:39). Due to the matter being taken up by the General Synod, the Central Board of the Church of Sweden, in consultation with the Bishops' Conference in March 1998, tasked the Church of Sweden's Theological Committee with continuing to treat matters of principle regarding homosexual cohabitation. This led to the dialogue document *Homosexuella i kyrkan* (Homosexuals in the Church) being presented to the General Synod in 2002. The document was then sent to dioceses and parishes as part of a broad dialogue process.

In 1999 the bishops revised their pastoral advice. In the revised edition, the prayer service was given a more distinct profile and it was made clear that relatives could be given the opportunity to be present.

In 2003 a motion (Mot 2003:58) was brought before the General Synod on designing a church wedding ceremony that could be used for both heterosexual and same-sex couples. The motion was rejected, but the General Synod tasked the Central Board of the Church of Sweden with presenting at the 2004 General Synod a draft of a church ceremony for entering into partnership that would have legal force in civil law. Such a draft was presented at the General Synod in 2004 as an appendix to the Central Board's communication *Kyrklig akt för partnerskap och därmed tillhörande frågor* (Church ceremony for partnership and associated issues) (KsSkr 2004:10). The draft was discussed by each diocese at seminars during the General Synod.

The Theological Committee has worked on cohabitation issues since it was tasked with doing so in 1998. This task was reported on in 2002 through the dialogue document *Homosexuella i kyrkan* (Homosexuals in the Church). In 2002

the General Synod subsequently decided to make the remit broader and more in-depth by, for example, including issues relating to changes in marriage and forms of cohabitation.

The Theological Committee organised a public hearing on love, cohabitation and marriage in September 2004, with the aim of bringing about a dialogue with researchers and other experts, as well as representatives of societal institutions, and various churches and faiths. The material from the hearing was published in the extensive report *Kärlek, samlevnad och äktenskap* (Svenska kyrkans utredningar 2005:1) (Love, cohabitation and marriage (The Church of Sweden's reports 2005:1)).

In a communication to the Central Board in March 2005 (*Teologiska kommitténs fortsatta arbete med samlevnadsfrågor* – The continued work of the Theological Committee on cohabitation issues), the Theological Committee came to a number of conclusions about the theological work done up to that point. These included there being grounds for testing a ceremony for blessing partnerships in church. It was also asserted that broader, more in-depth theological reflection on cohabitation issues was necessary, and directives for continued theological work on these issues were proposed. Subsequently, in April 2005, the Central Board approved directives based on the Committee's proposals. The results of this work include two anthologies produced with the help of theological experts.

Feedback on the dialogue process in the Church of Sweden concerning the document *Homosexuella i kyrkan* (Homosexuals in the Church) initiated in 2002 was presented to the General Synod in 2005 in the Central Board communication 2005:9 *Samlevnadsfrågor* (Cohabitation issues). It was also suggested in this communication that an order of service for blessing partnerships should be drawn up, and that the General Synod should back certain statements regarding homosexuals in the Church. These included the Church actively working to combat discrimination on the grounds of sexual orientation and that a life in partnership does not constitute grounds for refusing ordination. The General Synod decided to support these statements and tasked the Central Board with drawing up an order of service for blessing registered partnerships. Such an order of service was adopted by the Central Board of the Church of Sweden in December 2006.

In March 2007, the Swedish government report *Äktenskap för par med samma kön – Vigsselfrågor* (SOU 2007:17) (Marriage for same-sex couples – Wedding issues) was presented. Leading the inquiry was former Swedish Attorney-General Hans Regner. Among other things, the report proposed that Sweden's Marriage Code and Partnership Act be merged into a single Act with the same legal implications, and that the word 'marriage' also be used to refer to relationships between same-sex couples. The report was circulated for comment to a number of bodies including the Church of Sweden. With the aim of providing a basis for the Central Board to adopt a position on the matter, the report was subsequently circulated for comment to all chapters and diocesan boards as well as to the Parish Association and Church of Sweden Youth.

The Central Board of the Church of Sweden maintained in its response that the word 'marriage' should only be used to denote a relationship between a man and woman. It was noted, however, that there are diverging opinions about this within the Church of Sweden, a fact which is clear from the responses received from the dioceses. Several members of the Central Board also protested against

the decision in favour of the option of marriage also being made available to same-sex couples.

The Central Board agreed with the inquiry's proposal of merging marriage and partnership legislation into a single act. The Central Board also assumed that the Church of Sweden would be prepared to register partnerships if this could be done within an order of service determined by the Church itself. There were several dissenting opinions regarding this issue.

In November 2008 the Swedish government put forward a bill on *Marriage issues*, and it was also clarified at that time that, through motions in the Riksdag, it would be proposed that marriage should be extended to also cover same-sex couples. The intention was for the new legislation to come into force on 1 May 2009.

With the aim of giving the General Synod room for options, the Central Board tasked the Central Church Office in December 2008 with drafting a proposal for an order of service for marrying same-sex couples, along with proposals for any necessary consequential changes to the Church Order, and with circulating these for comment in the dioceses. In these documents it was emphasised that their purpose was to give the General Synod options, and that the theological dialogues necessary for making a decision on introducing an order of service for marrying same-sex couples had not been concluded. It was stressed that the Central Board of the Church of Sweden had not yet decided on the issue. The documents were circulated on 12 January. (The outcome of this process is described in Chapter 3, which is not included in this translation.) While the issue was under consideration within the Church of Sweden, the Riksdag adopted new marriage legislation applicable from 1 May, including that marriage also covers same-sex couples and that it is no longer possible to register a partnership.

At the request of the Central Board, the Theological Committee has expressed its opinion on the approach the Church of Sweden should take towards marriage being opened up to same-sex couples under the new marriage legislation. The Committee's considerations were reported in a communication to the Central Board dated 21 April 2009 (revised 29 May 2009, ref. no. Ks 2005:284), which constitutes Appendix 3 of the present communication.

Ecumenical contacts on the matter

Information on the Church of Sweden's work on what position it should adopt regarding the new gender-neutral marriage legislation has been presented to other churches in various contexts. The Archbishop has written a letter to the Porvoo churches in which this work is described. He has also met the papal nuncio of the Nordic region to present the Church of Sweden's position. Further, information was provided to the Nordic archbishops at a conference in Iceland. The process within the Church of Sweden has also been presented to the Board of the Christian Council of Sweden. A meeting is being planned within the Council to discuss issues of weddings and marriage with the member churches. The Church of England's Council for Christian Unity has also been contacted. When the Central Board's communication on wedding issues is completed, the intention is to translate it into English and send it with an accompanying letter to the Church of Sweden's partner churches in various parts of the world. A consultation regarding theological aspects of sexuality and cohabitation – with a presentation of what has been done in this area in various churches – is scheduled in the Porvoo Communion for 2010.

Issues relating to the Church of Sweden's right to conduct marriages

During the Middle Ages, marriage in Sweden was an uncomplicated ceremony that was not dependent on being carried out by the church for its legality. During the 16th century, the betrothal, which had previously been an independent ceremony in the home or at the door of the church, was merged with the church ceremony in the form of a blessing or wedding mass. Betrothal was, however, so well established that it continued in parallel to church weddings with the same legal force up until 1734, when a church wedding became compulsory for the marriage to be considered fully legal. Through the Act on Entering into Marriage of 1908, the possibility of civil marriage was introduced, and with the Freedom of Religion Act of 1951, other faith communities were given the right to apply for authorisation to conduct marriages.

When the church-state relationship changed in 2000, the Church of Sweden maintained a special position in relation to other faith communities through the fact that all priests in the Church of Sweden continued to be authorised wedding officiants under the Marriage Code. Other faith communities are required to apply for authorisation to conduct marriages, both for the community and for the individual officiant.

Issues relating to the Church of Sweden's right to conduct marriages have been addressed on several occasions at the General Synod. The Canon Law Committee stated in both 2001 and 2002 that church weddings are of major importance, being deeply rooted in the church and in society in general. The 2003 General Synod included two motions demanding that an appeal be made to the Swedish government on maintaining the Church's right to conduct marriages. The background to the motions was information on the Government Offices of Sweden drafting an amendment to the law that would involve the introduction of compulsory civil marriage. The Doctrine Commission made the following judgement:

According to Lutheran teachings, marriage belongs to the order of Creation, in which God acts. According to the creed and tradition of our Church, it is possible to have different forms for entering into marriage.

The General Synod tasked the Central Board with notifying the government of the Church of Sweden's wish that both church and civil weddings would continue to be offered. The General Synod's opinion regarding the Church of Sweden's right to conduct marriages was presented to the Minister for Justice in February 2004.

In March 2007, the above-mentioned government report *Äktenskap för par med samma kön – Vigselsfrågor* (Marriage for same-sex couples – Wedding service issues) (SOU 2007:17) was presented. According to the terms of reference of the inquiry, it was to be examined whether the current choice between civil marriage and marriage within a faith community should be abolished in favour of an arrangement in which only civil marriage would be legally valid. In this context it was also to be investigated whether marriage could be replaced by simple registration.

Regarding the latter issue, the inquiry referred to a UN convention ratified by Sweden that makes certain demands on how marriage is entered into. According to the convention, it is necessary to ensure that both parties consent to the marriage of their own free will. Consent shall therefore be given in person to the marriage authority in the presence of witnesses. The leader of the inquiry also held that people in general set great store by the circumstances under which marriage

takes place, and that a registration procedure may therefore be perceived as a drastic simplification of the marriage procedure. Couples wishing to marry within a ceremonial framework would additionally be forced to undergo double procedures. In view of this fact, this option was rejected.

Regarding the issue of compulsory civil marriage, the inquiry came to the conclusion that the present system of a choice between marriage within a faith community and civil marriage should be maintained. The grounds for this included that it would otherwise constitute a deviation from the arrangement used in the rest of the Nordic countries, that public opinion is broadly in favour of such an arrangement, and that a change would necessitate increased resources for the authorities charged with conducting civil marriages.

At the 2007 General Synod, two motions were discussed that proposed an investigation of the consequences of the Church of Sweden relinquishing its right to conduct marriages. The Liturgy Committee stated at that time that there were arguments for and against maintaining this right. The deciding factor for the Committee was the question of “the significance assigned to the right to conduct marriages for the issue of how the Church of Sweden can best remain an open national church”. The General Synod resolved to reject the motions by 163 votes to 73. One member declined to vote.

In the report that the Central Board of the Church of Sweden subsequently circulated for comment prior to giving its response to the inquiry, it emerged that the bodies consulted were not in consensus on the issue of a future right to conduct marriages. Fourteen bodies considered that the Church of Sweden should maintain its right. Four were of the opinion that the Church of Sweden should relinquish its right to conduct marriages if gender-neutral marriage legislation were to be introduced, and six recommended a system in which application for a declaration of no impediment and a licence to marry would be expanded into a civil registration procedure, which could then be followed by a more formal ceremony that could either be church or civil. A couple of bodies consulted declined to state their position on the issue. In its response to the government, the Central Board wrote:

One argument that can be advanced in favour of the Church of Sweden relinquishing its right to conduct marriages is that, according to the Evangelical Lutheran perspective, marriage is a civil institution and it is therefore important to clearly differentiate between entering into marriage in civil law and the church blessing. Another argument is that the Church’s right to conduct marriages can be perceived as a relic of the former religiously uniform society.

On the other hand, the fact that church weddings are an important and valued tradition deeply rooted among the populace supports the argument in favour of the Church of Sweden maintaining the right to conduct marriages. This is clearly evident from the survey carried out by the government commission of inquiry that shows that only 14% of respondents recommend an arrangement solely offering civil weddings. Furthermore, church weddings are an important interface for the Church of Sweden as a national church. The size of this interface would decrease, as it is reasonable to suppose that a significant proportion of those who now choose to get married in church would not ask for a church blessing service if they first needed to have a civil ceremony.

The Central Board was of the opinion that the arguments in favour of maintaining the right to conduct marriages held more weight than those against, and therefore

agreed with the leader of the inquiry's proposal that the present system, with a choice of marriage within a faith community or civil marriage, should be maintained.

On 1 April 2009, the Riksdag decided on new marriage legislation in accordance with the proposals in the Swedish government report *Äktenskap för par med samma kön – Vigsselfrågor* (Marriage for same-sex couples – Wedding issues) (SOU 2007:17). This means that the proposal to replace marriage with a simple registration procedure has been rejected, and that the faith communities maintain their right to conduct marriages. The difference in relation to the situation that has prevailed up until now is, as mentioned above, that the Church of Sweden – provided that it wishes to utilise its statutory right to conduct marriages – will need to apply for authorisation to conduct marriages, and that priests in the Church of Sweden must be authorised on an individual basis as wedding officiants by the Swedish Legal, Financial and Administrative Services Agency.

A memorandum with questions regarding authorisation of both denominations and individual priests to conduct marriages was part of the report circulated for comment in January 2009. These issues are discussed later in the present communication.

2. Marriage and other contemporary forms of cohabitation

In the article *Konstans och förändring. Några tankar om värderingar och demografi rörande tvåsamhet i Sverige* (Constancy and change. Thoughts on values and demography relating to couplehood in Sweden), part of the anthology *Kärlekens förändrade landskap* (The altered landscape of love) (2009), Erika Willander and Bo Lewin state that marriage frequency in Sweden at the start of the 1900s had been in a state of gradual decline from as early as 1750, with the pace having quickened since the 1830s. For a few decades after that, however, the frequency rose, and in the 1940s it was at the same level as in the 1750s, but subsequently fell again. Since the start of the 1950s, with a certain amount of variation, between 40,000 and 50,000 marriages have taken place annually. During the same period, the population has grown by over 25% from 7.1 million to 9.2 million; there has not been a corresponding increase in the number of marriages. Statistics from 1968 onward also show that an ever-decreasing proportion of the population is married.

During the latter part of the 20th century, marriage and family formation have become separate concepts. A former convention changed when, as a result of widespread social change and associated insecurity regarding social norms, it was no longer seen as compulsory to get married before moving in together and above all, before starting a family. The substantial decrease in marriage frequency during the 1970s can to a large extent be explained by an increase in the number of unmarried people living together as partners. Today, marriage is a confirmation rite rather than an initiation rite: it confirms the family formation that has already taken place. In 1997, the average time between the birth of a couple's first child and their marriage was just under two years.

Based on a survey carried out in 2000–2001, the proportion of unmarried people living together as partners when all those living as a couple in 2000 were considered was estimated to be 29%. Around half as many people were classed as single as those who were married or living with a partner. The fact that the proportion of one-person households grew during the latter part of the 20th century is linked to households including unmarried relatives, servants and other adults becoming uncommon.

On the other hand, it has become more common to find households in which, as a result of changes in family structure, there are children from one or more previous relationships. However, most children – 73% in 2005 – live with their biological parents. In the same year, parents of 47,000 children (3% of all children in Sweden) separated or got divorced, a decrease of 7,000 children since 2005. Parents aged 22 or younger when their first child was born – both married and unmarried but to greater extent the latter – run the highest risk of separation.

Statistical data from Statistics Sweden show that 3.6% of the adult population of Sweden in 1968 were divorced. In 2007, the corresponding percentage was 11.9. Divorce often takes place three to four years after marriage. Among those counted as divorced in the statistics, there are probably a large number living with a new partner without being married. Those who have married again after divorce are, however, not reported in the statistics as divorced. There are no statistics on partner relationships without children, but it is reasonable to assume that the number of such separations is larger than the number of dissolved marriages.

Overall, this gives a picture of flexibility in cohabitation forms. A large section of the adult population has experience of separations, with or without children, and the decision to marry marks a thoroughly considered investment in a long-term relationship.

The number of marriages reached an all-time low in 1997, according to Willander and Lewin. After that, the number of marriages increased once again to the normal level. According to church statistics, the proportion of marriages in the Church of Sweden has at the same time decreased from 61.6% in 1997 to 46.2% in 2007 (in 2006 the percentage fell below 50% for the first time). During the same ten-year period, the proportion of the population belonging to the Church of Sweden has decreased from 84.8% to 74.3%. The number of people leaving the Church of Sweden has increased sharply (from 13,000 in 1997 to 56,200 in 2007), but this decline in membership is primarily due to the population having become increasingly mixed in terms of ethnicity, culture and religion over a long period. According to Statistics Sweden people from a non-Swedish background made up 17% of the population (1.6 million people) in 2007. This figure pertains to people who were themselves born in a different country or whose parents were born abroad. In the age range 25–34, the proportion was 24%.

Willander and Lewin comment that the fact that the total number of marriages has once again increased over the past ten years shows that there still seems to be a need to mark a change in life circumstances with a formal public ceremony. In a society in which social mobility has increased and welfare policy is decidedly focused on the individual, marriage still seems to be an attractive option. The decrease in the number of marriages conducted by the Church of Sweden is a break with tradition to the extent that a classic church wedding is no longer the given form for couples wishing to have a formal ceremony. The growing wedding industry both presupposes and reinforces couples' desire to give their ceremony a personal touch.

In this context, the opportunity to get married in church is one of several alternatives, albeit a valued one. This involves a change in relation to previous practice, in which church weddings were long seen as an obligatory norm. Church weddings are a tradition that a significant number of couples wish to preserve, even at a time when they are no longer seen as a given.

In his book *I glädje och sorg* (For better or for worse) (2009), pastoral theologian Jan-Olof Aggedal comments that many of the couples that choose a church wedding have otherwise no strong relationship with the church. With reference to English research, he notes that reasons behind a couple's decision to get married in church include that God's participation is seen as providing extra support for the relationship, and that the church is a holy place that is especially intended for special events in life such as weddings.

Same-sex couples most likely have similar considerations to those of heterosexual couples when they are on the verge of getting married. Until now, the number of couples who have requested a church blessing of their registered partnerships has been limited: out of the over 300 couples that formed partnerships in 2007, 50 such blessing ceremonies took place in the Church of Sweden's parishes that year.

In 2007 just under 2,500 men and just under 2,200 women lived in a registered partnership. So far during the 21st century, growth in the number of partnerships has corresponded to the growth in the number of marriages, and it is reasonable to assume that a free choice of a church or a civil wedding will lead to same-sex couples choosing a church wedding to a greater degree than they have chosen a blessing ceremony after becoming registered partners thus far.

The Registered Partnership Act came into force in 1995, and after around 700 people registered their partnerships in the first year (500 of which were men), a substantial decline was observed. Since the turn of the millennium, however, there

has been a clear increase, and in 2007 650 people (of which the majority – 388 people – now were women) registered their partnerships.

In conclusion, it can be stated that during recent decades, there have been major changes in forms of cohabitation. Living with a partner has been established as the form that most people choose initially, while marriage can be seen as a confirmation of the relationship that is decided on after a number of years of living together. For same-sex couples, partnership has for several years functioned as a form of cohabitation equal to marriage, and those couples not wishing to convert their partnerships into marriage will continue to be registered partners, even if no new partnerships will be entered into after marriage is opened up to same-sex couples as of 1 May 2009. In addition to this, there are couples living separately and a large number of single people with various living circumstances.

This situation is by no means unique to Sweden. It is likely that all churches and faith communities in various countries and of various confessional traditions are working actively to address the issues of marriage and family that arise due to changes in traditional patterns of cohabitation. In a *Draft Social Statement on Human Sexuality* from the Evangelical Lutheran Church in America (ELCA) from 2008, the value of family stability, for example, is accentuated. Marriage is assigned particularly high value: the lifelong vows and marriage's legally binding status allow spouses to mutually share their assets, take care of their children, make joint decisions and plan their future. However, it is also stated that the most important thing is not whether the family has a conventional form. On the one hand, not all traditional families function as they should, and on the other, other family constellations can also fulfil the same crucial basic needs of security, trust and intimacy. In its efforts to act as a positive force in society, the church must carefully consider which changes underpin trusting relationships and which undermine them.

4. Right to conduct marriages, marriage for same-sex couples, order of service for marriages, etc.

Proposal of the Central Board of the Church of Sweden: In view of what has been presented above regarding the General Synod's position on the issue of the Church of Sweden's right to conduct marriages, and by virtue of the responses to the report circulated for comment, the Central Board proposes that the Church of Sweden utilise the opportunity available in the legislation to continue to officiate at weddings. The Central Board should be tasked with applying to the Swedish Legal, Financial and Administrative Services Agency for the right for the Church of Sweden to conduct marriages.

The Church of Sweden should also marry same-sex couples. The introduction to chapter 23 in the Church Order should be changed as a consequence. Special provisions on blessing registered partnerships should be retained during a transitional period.

It is proposed that the General Synod draw up instructions for how the Book of Worship's order of service for marriages should be adapted to accommodate same-sex couples. It is proposed that these instructions constitute an addendum to the current Book of Worship.

Right to conduct marriages

As stated above, the General Synod has on several occasions expressed its support for an arrangement that makes it possible to get married in church. In its response to the government report *Äktenskap för par med samma kön – Vigselsfrågor* (Marriage for same-sex couples – Wedding issues) (SOU 2007:17), the Central Board of the Church of Sweden wrote that church weddings are an important interface for the Church of Sweden as a national church, and that the arguments in favour of maintaining the right to perform marriages held more weight than those against. It therefore agreed with the inquiry's proposal on continued freedom of choice between marriage within a faith community and civil marriage. This position was supported by the report that had subsequently been circulated to the dioceses and other bodies. However, several of these would have preferred an arrangement in which application for a declaration of no impediment and a licence to marry was extended into a civil registration, which could then be followed by a more formal ceremony, either church or civil. Some of the referral bodies considered that the Church of Sweden should relinquish its right to conduct marriages.

In the report circulated to the dioceses in January 2009 on *Konsekvenser av förmodad ny äktenskapslagstiftning* (Consequences of the presumed new marriage legislation), there were no explicit questions on whether the Church of Sweden should continue to utilise its right to conduct marriages. However, the issue came up in several responses. Of the bodies officially consulted, only the Diocesan Board in Växjö is of the opinion that the Church of Sweden should renounce its legal right to conduct marriages. However, it appears from the outcome of the circular that there have been differences of opinion on the issue within several bodies.

It is clear that opinion in the Church of Sweden regarding compulsory civil marriage has been influenced by the Riksdag not meeting the requests for simple registration put forward by several parties, including in the responses to the report

circulated for comment in 2007. Among those who were previously in favour of such a solution, there are now several that think that the decision of the Riksdag gives them reason to reconsider the issue. This is apparent in the responses from the chapter and Diocesan Board in Lund diocese and the Gothenburg chapter, for example.

The Central Board of the Church of Sweden considers that there is no reason to review the decisions previously made by the General Synod and Central Board on the right of the Church of Sweden to conduct marriages. The Central Board therefore suggests that the General Synod task it with applying to the Swedish Legal, Financial and Administrative Services Agency for the right for the Church of Sweden to conduct marriages.

Marriage for same-sex couples

Regarding marriage for same-sex couples, the Church of Sweden and other churches and faith communities stated in their responses to the report *Äktenskap för par med samma kön – Vigsselfrågor* (Marriage for same-sex couples – Wedding issues) (SOU 2007:17) that the word ‘marriage’ should not be used for same-sex couples. The Central Board can now confirm that legislators have not taken these views into account. However, it should also be emphasised that there was a large minority that would have preferred the Central Board to accept a broadening of the term marriage. It can also be concluded that the order of service for blessing registered partnerships approved by the General Synod of 2006 cannot be used for same-sex couples who enter a legal partnership after 1 May 2009.

As the Theological Committee states in its communication, there are in this situation three possible ways of dealing with same-sex couples who approach the Church:

1. Provide a choice between a wedding service or a blessing of a civil marriage.
2. Only offer blessing of civil marriages (which can then be given a different name in the blessing ceremony). This option corresponds with the current arrangement with blessing of registered partnerships. It may become relevant if the conclusion is drawn that the Church of Sweden should not officiate at weddings at which same-sex couples are to be married because it is perceived that the broadened concept of marriage does not concur with the Church’s view of marriage, but that the Church still wishes to be able to bless the couple’s relationship.
3. Also decline to offer blessing of civil marriages due to the concept of marriage in the legislation not concurring with the Church’s view of marriage.

In the responses to the report, there is strong support for electing to marry same-sex couples at this point. In the compilation of responses, the referral bodies generally presuppose that the General Synod will decide to broaden the concept of marriage, and it is also clear that this is a step that is supported by the bodies consulted and seen as clearly positive, or at least logical and consistent.

According to Lutheran tradition, marriage is part of the secular regime and has nothing to do with salvation. It has undergone various changes throughout history. Those who would have preferred to see the term ‘marriage’ reserved for the relationship between a man and woman must now in the current situation decide whether the broadened concept of marriage is such an important issue that

it should result in the Church declining to apply for the right to conduct marriages. In such case, they must also decide on the approach the Church is to take towards same-sex couples who come to the Church to ask for a blessing of a civil marriage.

The Church does not control marriage legislation, nor is this desirable in terms of Lutheran theology and the Lutheran outlook on society. The Church of Sweden must deal with the fact that the Riksdag has decided to broaden the concept of marriage to include same-sex couples. In this context, the Central Board wishes to refer to the conclusions drawn by the Theological Committee in its assessment. The Committee writes:

Following a general assessment of the arguments that [...] have been presented, the Theological Committee confirms that there are theological grounds for the Church of Sweden to accept the legislation laid down by the government that involves marriage also encompassing same-sex couples.

In the view of the Evangelical Lutheran Church, marriage is a social institution regulated by the civil authorities. From a Creation theology perspective, the purpose of marriage is to support the mutual relationship between the spouses and provide a secure framework for bringing up children. These needs also exist in relationships between people of the same sex. From the perspective of biblical theology, the love commandment is superior to all other commandments and prohibitions in the Bible. The decisive factor where forms of cohabitation are concerned is therefore not individual bible passages but what is of benefit or of harm to people. This means that when the Church is to form an opinion on marriage for same-sex couples, the relevant question to ask is whether this harms or benefits people.

According to the Theological Committee, provided that it chooses to accept the right to conduct marriages in the form in which it will be offered, the Church of Sweden should be able to marry same-sex couples and offer them blessings of civil marriages.

In light of what is stated above and the position of the Theological Committee, and with support from a significant majority of the referral bodies, in a situation where the legislation has been changed, the Central Board of the Church of Sweden does not wish to oppose the concept of marriage being extended to cover same-sex couples. The Central Board sees this as a good way for society to support people. Same-sex couples should therefore be able to be married by means of a church wedding.

5. Authority and obligation to conduct marriages

Proposal of the Central Board of the Church of Sweden: Provided that the Church of Sweden is given the right to conduct marriages, an application for authorisation to officiate at weddings is to be submitted to the Legal, Financial and Administrative Services Agency. The application shall in principle cover all those authorised to conduct marriages as priests in the Church of Sweden.

The Chapter shall notify the Central Board of which persons the application shall cover. The Central Board is responsible for sending these details to the Legal, Financial and Administrative Services Agency. A corresponding procedure shall apply even in cases where priests relinquish their authorisation as wedding officiants.

No priest should be obliged to officiate at the wedding of a same-sex couple.

Obligation to conduct marriages

In Chap. 4 §3 of the Marriage Code, it is stated that a priest or other authorised wedding officiant in a faith community is not obliged to conduct marriages. In government bill 2008/09:80 *Äktenskapsfrågor* (Marriage issues), the possibility of weddings requested by couples in a certain faith community in some circumstances not being able to take place in that community, despite the fact that the couples meet the requirements of the Marriage Code, is described as having been accepted for a long time. Where the Church of Sweden is concerned, this arrangement has only applied formally since the change in the church-state relationship. However, it is stated in the bill that this has been considered to be an issue within the Church even prior to this date.

The government is of the opinion that no obligation for faith communities or their wedding officiants to conduct weddings should be introduced. On the contrary, in line with the proposal in the report *Äktenskap för par med samma kön – Vigsselfrågor* (Marriage for same-sex couples – Wedding issues) (SOU 2007:17), it is stated in the bill that there is reason to clarify in the Marriage Code the prevailing rules regarding the obligation to officiate at weddings. Where this point is concerned, the Riksdag has aligned itself with the government's viewpoint. In the bill there is no more in-depth discussion of how faith communities should deal internally with the issue of the obligation to officiate at weddings.

In the report it is stated that a wedding officiant within a faith community does not have a statutory obligation to marry a heterosexual or a same-sex couple that is entitled to marry under the Marriage Code. "Whether such an obligation exists, along with other conditions for a couple being entitled to get married in a faith community, is instead determined by the rules applicable in the faith community in question." The issue of any *intra-church* obligation to conduct marriages is thus not regulated in law.

In the response it submitted, the Church of Sweden's Parish Association proposes that a change be made in provision §2 in SvKB 2006:16 on the right to decline from participating in blessing a registered partnership. This right currently applies to individuals who consider that such participation would conflict with their own personal conviction. The Parish Association considers that the option to decline to participate should be unconditional and applicable to all priests. It is of the opinion that a priest should be able to say no to participating for reasons

other than those regarding doubts about marrying same-sex couples, and proposes in SvKB 2006:16 and “any possible follow-up” it should be stated without any reservation that there is no obligation for a priest to participate.

The opinion that the Parish Association expresses on the entitlement of priests to refuse for various reasons to participate in a blessing ceremony, which must also be understood to apply in the case of the marriage of same-sex couples, seems to be based on the Marriage Code’s provision also applying internally within a faith community. In light of what has been said above from the inquiry’s report, there is reason to question such an interpretation. Regarding staff other than priests, the Parish Association agrees with the considerations on labour law that the Central Board expressed in its communication 2005:9 *Samlevnadsfrågor* (Cohabitation issues) regarding obligation to do service and that the Board still considers applicable in principle.

General labour-law principles mean that an employee is generally obliged to perform the tasks that he or she is assigned. In some cases it has been discussed whether priests should be obliged to perform certain tasks that conflict with their own convictions, and special measures have also been taken in such cases. The discussion has mainly concerned the situation of priests. It is unlikely that special measures have been taken that are common to the Church as a whole and are applicable to other groups of employees. The same basic principles of labour law apply to all employees, e.g. priests, musicians and vergers. Priests have a special role as leaders of church services with a responsibility linked to their vows for the content and structure of the service. In view of this, it is natural that it is mainly the duties of priests that have been particularly discussed when there have been conflicts between the opinions held by individual priests on what should apply and established rules.

In our opinion it is important that each individual priest is given the opportunity to decide whether he or she wishes to participate in blessing partnerships. Having a blessing ceremony led by a priest who is not doing it of his or her own accord and based on his or her conviction is not likely to be an attractive option for the couple to whom the blessing applies. In addition, it is a question of such a limited number of occasions that it is unnecessary to distribute the work among all the priests in a parish. Where other employees are concerned, the rules that should apply are a matter for discussion. This is primarily an issue for the person who leads the work. It is reasonable in this context to take into consideration which individuals are directly involved in performing the blessing ceremony and which have other tasks. Apart from priests it is mainly church musicians who participate directly and who themselves should decide whether or not they wish to participate. There may be reason for the same to apply to vergers.

Authorisation to conduct marriages

A faith community with a permit to officiate at weddings can apply to the Legal, Financial and Administrative Services Agency to authorise a priest or other official in the community as a wedding officiant. Where the Church of Sweden is concerned, it is clearly stated that this should apply to the Church’s priests. Before

a person becomes authorised as a wedding officiant, the Agency is to consider whether he or she has the knowledge necessary for the task. The Agency may, however, task the faith community with examining this. When the Church of Sweden's applies for authorisation to conduct marriages, it should also request that the Legal, Financial and Administrative Services Agency tasks the Church of Sweden with carrying out the examination of the individuals being authorised as wedding officiants. Authorisation applies until further notice unless its validity has been limited to a specific period.

In the legislation on the right to officiate at weddings within a faith community, there are further provisions on the Legal, Financial and Administrative Services Agency being able to revoke the overall permit for a community. The Agency can also revoke the authorisation of individual officiants who neglect their task. Further, the Agency shall revoke authorisation at the request of a faith community. If the Agency decides to revoke authorisation due to neglect on the part of the individual officiant, it should also consider whether the faith community's authorisation should be revoked. A faith community shall notify the Agency if a person authorised to officiate at weddings dies. Individuals with such authorisation are to keep the Agency informed of their postal addresses.

A memorandum entitled *Vissa frågor om vigselrätt och förslaget till ändring av äktenskapsbalken m.m.* (Certain questions on the right to perform marriages and the proposal for amendment of the Marriage Code, etc.) was included in the report circulated for comment in January. In it, questions were discussed regarding the practical management of applications for authorising priests as wedding officiants. Two such questions now need to be answered: which priests the application should concern, and who in the Church of Sweden is to be responsible for the application and for notifying if authorisation is to cease.

Under the current rules, there has been a direct link between authorisation to carry out the ministry of a priest and authorisation to be a wedding officiant and therefore to conduct a wedding service in accordance with the Church of Sweden's rite. The same can also be said to apply to other church ceremonies and services. Provisions on who is authorised as a priest in the Church of Sweden can be found in Chap. 31 §1 in the Church Order, which states that an individual who has been ordained a priest according to the rite of the Church of Sweden, or has been authorised by a chapter, holds such authorisation. The currently applicable provisions can thus be said to mean that authorisation to officiate at weddings is given at ordination or through the chapter declaring a priest to be authorised.

The Central Board of the Church of Sweden is of the opinion that an individual who is a priest in the Church of Sweden should continue to be able to conduct wedding services. The content of the ministry of a priest is not something to be determined by the individual priest. The application for authorisation as a wedding officiant should therefore in principle cover all those authorised as priests in the Church of Sweden. This is also supported by the bodies which were consulted. The fact that the application should 'in principle' relate to all priests means that there may be individual exceptions (e.g. in the case of dementia) where an application should not be made. Each application for authorisation as a wedding officiant must be based on certainty that the individual the application concerns is truly able to perform the task. It is not a question of the individual priest determining whether he or she wishes to officiate at weddings; rather, an assessment must be made by the chapter in its supervisory capacity.

In the future there will thus no longer be a direct link between authorisation to officiate at weddings and authorisation as a priest in the Church of Sweden. Even

if all priests are authorised as wedding officiants, it is still always authorisation from the Legal, Financial and Administrative Services Agency, not authorisation to minister as a priest, that entitles a priest to officiate at weddings. Efforts should be made to ensure that the Agency's authorisation is given as close as possible to the time when an individual becomes authorised as a priest, but it may still occur that an individual may be a priest in the Church of Sweden for a short period of time without being an authorised wedding officiant. In addition, it cannot be ruled out in advance that a situation will occur in which it is deemed that a certain priest should not retain his or her authorisation as a wedding officiant.

In Chap. 23 §2 of the Church Order, it is stated that a wedding service shall be led by an individual authorised as a priest in the Church of Sweden. In the light of the above, it should be added to this text that, in addition to being priests in the Church of Sweden, individuals leading wedding services must be authorised wedding officiant. On this point, the Central Board of the Church of Sweden comes to a different conclusion than the chapter and Diocesan Board in the diocese of Linköping, which are of the opinion that the addition need not be made since authorisation to conduct marriages is to be linked to the ministry of priest.

A change should consequently also be made in Chap. 56 §2 of the Church Order, in which there are provisions regarding the purposes of the Church of Sweden's register other than recording church membership and pastoral rites (these are dealt with in §1 of the same chapter). The Central Board considers that the purpose of applying for authorisation as a wedding officiant is of such nature that it should be included in the list in §2.

Responsibility for applying for authorisation as a wedding officiant

In §2 of the legislation on the right to conduct marriages within a faith community, it is stated, as mentioned above, that a faith community can apply to the Legal, Financial and Administrative Services Agency to get priests within the community authorised as wedding officiators. Informal contacts with the Agency also indicate that, on their part, they expect to be able to communicate with a representative of the Church of Sweden.

In the responses it is generally recommended that the chapter should be responsible for applying for authorisation of individual priests as wedding officiants. The chapter is the body within the Church of Sweden that makes decisions on issues of authorisation as a priest in the Church of Sweden. With the division of responsibility that applies within the Church of Sweden, it is natural that the chapter has responsibility in the issue of for whom the Church shall make applications for authorisation as wedding officiants. At the same time there needs to be a procedure whereby the Legal, Financial and Administrative Services Agency does not need to have contact with thirteen different chapters on issues regarding the right to conduct marriages. The more detailed practical management of this must be structured in consultation with both the Agency and the chapters.

Similar conditions apply to the issue of the church membership fee. In this case, decisions are made about the size of the fee by parishes, associations of parishes and dioceses. However, the Central Board of the Church of Sweden collates this information and sends it on to the tax authorities. There are provisions in the Church Order on the obligation for parishes, associations of parishes and dioceses to inform the Central Board of the fee decided on. Even when it comes to reporting information to the Agency's register of faith

communities, the Central Board is responsible for the reporting carried out by the Church of Sweden. The specific details to be registered in the Church's Organisation Register, however, are the responsibility of each parish, association of parishes or diocese. An equivalent procedure should apply to issues regarding the authorisation of priests as wedding officiants. The Central Board therefore proposes that new provisions be added to Chap. 23 §4 of the Church Order on the obligation of the chapter to provide the Central Board with information on the priests for whom the applications are to be made. Even if the Central Board makes the formal application, the basis for such an application shall always be the information from a chapter. The intention is for the Central Board not to have to carry out its own investigation of the chapter's information. The chapter should also be obliged to inform the Central Board if a priest will no longer be retaining his or her authorisation as wedding officiant. There need to be provisions on this in the Church Order as in Chap. 6 §8, it is stated that the chapter shall independently carry out the tasks specified in the Church Order. Any further tasks can consequently not be imposed on the chapters.

Pastoral and other aspects regarding the authorisation of priests to conduct marriages, etc.

The Central Board has presented its opinion above that authorisation to officiate at weddings shall be linked to authorisation to practise as a priest, so that in principle all of the Church of Sweden's priests should also be authorised wedding officiants. This clearly shows that the right to conduct marriages is not assigned to individual priests but to the entire Church. The chapters play a key role in this, as stated above.

It is the responsibility of the entire Church to ensure that the right to conduct marriages works in the best possible way in a pastoral sense. All couples, regardless of gender, shall encounter the same openness and consideration if they expressly request a wedding service. This should be the basic approach and pattern of action in the Church of Sweden.

Loyalty among colleagues from the professional categories concerned – office staff, church musicians, vergers and priests – prior to and during a wedding service is of the utmost importance. The respective senior priests are to take overall responsibility at a local level for ensuring that this loyalty functions properly. If they take this responsibility seriously, it should be entirely possible to avoid conflicts arising due to views on marriage or other reasons.

The senior priest also has local responsibility for ensuring that those wishing to get married in church are able to do so. This follows from the provisions in the Church Order on the senior priest's task of leading the parish's activities. Under the current provisions (Chap. 2 §6) the senior priest leads the parish's activities where church services are concerned. According to the proposal of the Central Board in communication 2009:5 *Styrning och ledning* (Management and leadership), the senior priest should lead all activities in a parish. In both cases the leadership responsibility involves an obligation for the senior priest to ensure that a priest within or from outside the senior priest's own parish is able to serve as wedding officiant.

In Chap. 17 §2 of the Church Order it is stated that members of the Church of Sweden are entitled to take part in the church ceremonies of baptism, confession, confirmation, weddings and funerals in their parishes under what is stated in the Church Order. The provision involves an obligation for the parish, in the first instance the senior priest, to ensure that a duty priest is available so that those

belonging to a parish can participate in these ceremonies. If the senior priest assesses that none of the parish's priests are capable of conducting a particular wedding service, he or she must have the possibility of engaging another priest.

It is also stated in Chap. 42 §8 that decisions on the right to a wedding service are made by the senior priest in the parish in which the wedding service has been requested. The senior priest may also task another priest in the parish with making this decision. Under §11 of the same chapter, a decision rejecting a request for a wedding service can be appealed to the chapter. The responsibility of the senior priest is therefore to ensure that a wedding can take place or, if there are reasons for doing so, to reject a request for a wedding service. It should be noted that a request for a wedding service from an individual belonging to the Church of Sweden may only be rejected if there are 'exceptional reasons'. This means that a request for a wedding service may only be rejected in exceptional cases and under very special circumstances. When it comes to conducting a wedding service themselves, senior priests have the same responsibilities as other priests.

In the responses, several bodies state that they would like to see some form of a 'right to decline' for those for whom marrying same-sex couples is not an option, and that this right should be included in the Church Order or documented in some other way. This is a question of ecclesiastical regulation of a kind that, according to what has previously been stated, is not regulated in law. The provisions of the Marriage Code on there not being any obligation to conduct marriages apply in a general sense.

There is reason to emphasise in this context that it is the Church of Sweden that applies for and is expected to be given the right and thereby the obligation to conduct marriages. There is consensus within the Central Board on no priest having to go against his or her own personal conviction of what is right and being forced to marry same-sex couples. This follows from the Church of Sweden recognising that various views of marriage can be accommodated within the Church. Nor should the issue of how an individual views marriage of same-sex couples have any significance; for example, when candidates are being considered for the priesthood or when employing priests, musicians, vergers or other church staff. This does not mean that the same conditions are to apply to all employees where the obligation to perform various tasks connected with a wedding are concerned. Priests who conduct and thereby are responsible for the wedding service as such occupy in this context a different position than those performing tasks of a different nature, such as ensuring that the premises for the service are open and in good condition or that it is noted in the parish register that a certain ceremony has taken place. The priest leads the prayers and the making of the vows, and declares that marriage has been entered into. These are tasks of an entirely different nature to those applicable to others who also need to perform certain tasks in connection with a wedding. For this reason, the Central Board is of the opinion only priests should not be obliged to participate in a wedding by leading a wedding service.

However, various assessments can be made of the appropriateness of a 'right to decline' regulated in the Church Order. What will apply where marrying same-sex couples is concerned can be compared with what has long applied to marrying divorcees. Even in this area, there have been varying views among the Church of Sweden's priests on how the right to conduct marriages should be handled. In around 1970 the issue of obligation to conduct marriages was heard in court when a priest had refused to marry a couple who were divorcees. The court found

that there was an obligation to conduct the marriage and the priest was fined. To avoid similar situation, but without otherwise changing the provisions, the Ordinance on wedding officiants in certain cases (1975:1047) was introduced. This Ordinance stipulated that each chapter should inform of which wedding officiants needed to be authorised in order to meet the wedding needs within parishes in the diocese as envisaged in the Marriage Code. It appears from the above that the senior priest now has an equivalent obligation. In the Church Order communication to the 1999 General Synod (CsSkr 1999:3), the Central Board of the Church of Sweden also stated that the issue of wedding officiants should be handled by the senior priest, whose task it is to manage the parish's activities, including where church services are concerned. The Central Board saw "no reason to enter any provisions in the Church Order on a priest's obligation to conduct marriages" when the previously mentioned Ordinance was to be rescinded. It has mainly been possible to avoid conflicts on the issue of marrying divorcees, which should be significantly more common than marrying same-sex couples, without any formal 'right to decline' being codified in a statute.

After an overall assessment the Central Board proposes that such a 'right to decline' should not be written into the Church Order at this point either. As described above it has been possible to manage various means of viewing and dealing with the issue of marrying divorcees without any provisions on a 'right to decline'. When an acute conflict arose, a procedure was regulated that ensured that the weddings could take place. The chapter was obliged to ensure that this was made possible, but this obligation now rests with the senior priest, as previously stated.

The Central Board as a whole has made a decision to ensure that no individual is forced to marry same-sex couples. There has been no previous absolute obligation to conduct marriages for those employed as priests in the Church of Sweden, either. There are no grounds for changing this at this point in time. Other situations may also arise in which there are well-founded reasons for a priest not needing to take responsibility for performing certain church ceremonies. There are undoubtedly many examples of when a priest cannot handle a group of confirmation candidates, for example, or when there are personal reasons for a priest not being required to take responsibility for a particular church ceremony of a different nature. Situations of this kind, which admittedly can be of a different nature to those relating to marrying same-sex couples, must be dealt with by the senior priest in a manner that is sensible in pastoral terms, without support from a few special provisions in the Church Order. This also applies to dealing with personal convictions that are not shared by all but that are still accommodated within the scope of the Church of Sweden's faith, creed and doctrine. It is therefore not appropriate to introduce at a certain point an explicit provision in which priests are not required to carry out their duties at certain types of church ceremonies because they conflict with the individual priest's personal convictions. Regardless of the reason presented, this could lead to the perception that marriage holds a special position and that similar assessments could not be made in other contexts. It is not appropriate to attempt to determine through rules in the Church Order how a senior priest is to practise his or her leadership in relation to individual employees.

Discrimination issues

Questions have been raised regarding whether a wedding officiant who refuses to marry a same-sex couple is guilty of unlawful discrimination due to the couple's sexual orientation. There are provisions with the aim of counteracting discrimination in the Swedish Discrimination Act (2008:67). The Act prohibits discrimination on various grounds and in various areas of society. However, it does not contain any express prohibition of discrimination on the grounds of sexual orientation that covers the activity that a wedding constitutes.

Refusal to marry a same-sex couple is thus also unlikely to fall under the penalty clauses on unlawful discrimination in Chap. 16 §9 of the Criminal Code. Persons who are able to commit the crime of unlawful discrimination admittedly include those who are employees in public service or those holding public positions, but 'public positions' refer in the eyes of the law to politically elected representatives and not cases in which the exercise of authority has been delegated to private subjects.

Nor should a refusal as a public representative to marry homosexuals be considered as discrimination under EU law or any of the international conventions that Sweden has ratified. For a wedding officiant in a faith community to be obliged to perform marriages in the cases concerned, it is necessary for the authorisation to conduct marriages to be associated with obligation for the individual wedding officiant to conduct marriages.

Appendix 3. The Theological Committee's Considerations regarding marriage for same-sex couples

At the request of the Central Board of the Church of Sweden, the Theological Committee is presenting in this communication a theological assessment of what approach the Church of Sweden should take to marriage being opened up to same-sex couples under new legislation.

By way of introduction, a short summary will follow of how the task of theologically dealing with issues relating to cohabitation has been carried out.

1. The Theological Committee's task regarding cohabitation issues

The Theological Committee has been tasked with working on cohabitation issues since the late 1990s. Due to a motion at the 1997 General Synod, and in consultation with the Bishops' Conference, the Central Board of the Church of Sweden tasked the Church of Sweden's Theological Committee with continuing to treat matters of principle regarding homosexual cohabitation. This was reported on in 2002 in the dialogue document *Homosexuella i kyrkan* (Homosexuals in the Church). In 2002 the Central Board subsequently decided to make the task "broader and more in-depth by bringing related issues into the context, e.g. the theology of marriage, the 'sacramentality' of love, changes in forms of cohabitation and the legislation, etc".

As a first step in this new approach, the Theological Committee organised a public hearing on love, cohabitation and marriage in September 2004. The aim was a dialogue with researchers and other experts, as well as representatives of societal institutions, and various churches and faiths. The material from the hearing was published in the extensive report *Kärlek, samlevnad och äktenskap* (Svenska kyrkans utredningar 2005:1) (Love, cohabitation and marriage (The Church of Sweden's reports 2005:1).

In a communication to the Central Board in March 2005 (*Teologiska kommitténs fortsatta arbete med samlevnadsfrågor* – The continued work of the Theological Committee on cohabitation issues), the Committee came to a number of conclusions about the theological work done up to that point. These included there being grounds for a trial of a ceremony for blessing partnerships in church. It was also asserted that broader, more in-depth theological reflection on cohabitation issues is necessary, and directives on how theological work on these issues should continue were proposed.

Subsequently, in April 2005, the Central Board approved directives for this continued work based on the Committee's proposals. To support the Theological Committee in this work, lecturer Johanna Gustafsson Lundberg from Högskolan Dalarna and senior lecturer Mikael Lindfelt from Åbo Akademi were brought in to provide theological expertise. As a starting point for this work, in November 2005, the Theological Committee invited a number of university theologians from the Nordic region who had been working on cohabitation issues to a symposium to deepen theological discussion on the overall theme of "love, cohabitation and marriage" together with the Church of Sweden's Theological Committee and the experts that had been brought in.

Gustafsson Lundberg and Lindfelt then took the initiative to ensure that the initial results of their research would be published in an anthology in which they

also invited a number of colleagues from various theological disciplines to participate. A first anthology was published in 2007 with the title *Uppdrag samliv. Om äktenskap och samlevnad*. (Mission: Life Together. On marriage and cohabitation.) A further anthology was published in May 2009 with the title *Kärlekens förändrade landskap. Teologi om samlevnad* (The altered landscape of love. Cohabitation theology). In the case of both anthologies, the Central Board's instructions and the Theological Committee's coordination of the work have concerned which areas and issues should be examined, not which results should be achieved. The editors and other writers are responsible for their own texts.

As a further phase of the Theological Committee's work on cohabitation issues, a consultation on same-sex relationships was arranged within the Porvoo Communion in December 2006. Thirty theologians from the British Isles, the Nordic region and the Baltic States participated in the conference, which was held at the Sigtuna Foundation.

2. Previous considerations regarding homosexual cohabitation

As a starting point for adopting a position on the issue of same-sex marriage, the Theological Committee wishes to refer to earlier statements on homosexual cohabitation. In the above-mentioned communication to the Central Board in March 2005, the Committee stated, among other things, the following:

According to the Theological Committee there are convincing theological arguments supporting the opinion that all people, whether heterosexual or homosexual, should be able to live in faithful, equal relationships. Partnership promotes such relationships. Certain passages in the Bible have been used as an argument against homosexual cohabitation. From an exegetic and hermeneutic perspective, the Committee is of the opinion that these passages do not constitute a basis for rejecting such relationships. On the contrary, the Bible's message of love offers the presupposition for recognising mutual, responsible relationships characterised by love and kindness between people of the same sex.

It was indicated that there were grounds for testing a ceremony for blessing partnerships in church. In addition the Committee suggested that it should:

... be considered whether a proposal should be presented for statements by the General Synod on certain issues regarding homosexuals in the Church where there is broad consensus within the Church of Sweden. This includes some of the conclusions drawn in the dialogue document *Homosexuella i kyrkan* (Homosexuals in the Church). For example, it could be said that the Church of Sweden, like other churches, has participated in discrimination of homosexuals and that there are grounds for abandoning its tradition in this respect. In addition, it should be clarified that it is prohibited to condemn homosexual individuals or lay a burden of guilt on the homosexual orientation, and that there is complete agreement that the Church must actively work to counteract discrimination of individuals on the grounds of their sexual orientation. It should also be clarified that the Church of Sweden should neither sanction nor run any organised activity that has the purpose of 'curing'

homosexuals of their orientation. An issue that should also be considered is that the General Synod should be able to state that homosexual orientation, or a life in partnership, is not grounds for being denied ordination.

The 2005 General Synod tasked the Central Board with preparing an order of service for blessing registered partnerships to be used in the parishes. It also backed the statements regarding homosexual cohabitation quoted above. An order of service for blessing partnerships was adopted by the Central Board in December 2006.

By virtue of the General Synod's decision in 2005, it can be said that the Church of Sweden is in theory positive towards cohabitation among people of the same sex and towards this being supported in legislation. The decisive step was taken by offering a blessing of registered partnerships.

Until now, the type of legal arrangement in question has been registered partnership. From 1 May 2009, however, the option of registered partnership will no longer be available. The Church of Sweden must therefore decide whether to marry same-sex couples or bless their marriages.

3. Marriage from a historical perspective and in Evangelical Lutheran tradition

The Bible and early Christian tradition

In the Bible there are no uniform views on marriage. Polygamy is common in the Old Testament. In the New Testament, lifelong, monogamous marriage is seen as exemplary. It can be seen in the Gospels that issues of divorce and remarriage were subjects of contemporary discussion in the time of Jesus and that they were placed in the context of an ongoing discussion at that time on the resurrection of the dead.

The passages in the Bible that are often referred to when commenting on marriage are taken from the two stories of Creation in Genesis 1. The following passages are quoted particularly frequently:

So God created man in his own image [...]; male and female he created them (Genesis 1:27).

God blessed them and said to them: "Be fruitful and increase in number; fill the earth and subdue it ..." (Genesis 1:28).

For this reason a man will leave his father and mother and be united to his wife, and they will become one flesh (Genesis 2:24).

These passages are also quoted by Jesus in the New Testament when he says: "Haven't you read," he replied, "that at the beginning the Creator 'made them male and female,' and said, 'For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh'? So they are no longer two, but one. Therefore what God has joined together, let man not separate" (Matthew 19:4–6).

Another passage from the New Testament that has been used to understand marriage is from Ephesians:

"For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh." This is a profound mystery – but I am talking about Christ and the church (Ephesians 5:31–32).

For the first Christians, marriage was a self-evident phenomenon in the surrounding society. However, there were different emphases in Jewish and Roman law and culture, and it took a long time before a more specifically Christian understanding of marriage emerged.

In Jewish tradition, marriage was seen as a bond entered into through betrothal, when the marriage contract was drawn up, and it was consummated at the wedding when the sexual life of the spouses was initiated. Marriage was primarily a matter for the spouses' families, but through links to the religious legislation and cult, it can be said that marriage had a religious dimension.

Also in Roman culture, marriage was a private matter whose function was not least to ensure children's inheritance rights. Marriage did not regulate sexuality or cohabitation generally in society; rather, it was reserved for those with Roman citizenship, which was only granted to all free men and women in the empire in the third century. (Slaves and freed slaves could therefore still not marry after this time.)

In the early church, the Jewish marriage traditions in which sexuality formed the basis of marriage were continued. The words of the Gospels on divorce and remarriage led to a restrictive approach to these issues, but what distinguished the early church were the strongly ascetic characteristics combined with strong eschatological expectations. These are expressed, for example, in the following words of Paul:

... the time is short. From now on those who have wives should live as if they had none; those who mourn, as if they did not; those who are happy, as if they were not; those who buy something, as if it were not theirs to keep; those who use the things of the world, as if not engrossed in them. For this world in its present form is passing away ... (1 Corinthians 7:29–31).

This perspective led to an emphasis on the personal faith and morals of the individual and to a relativisation of marriage and family. For those belonging to the Christian fellowship, celibacy was stressed as an ideal at the same time as marriage was seen as being blessed by God.

The view of sexual union as constitutive of a marriage continued, and theologically it was emphasised that God joins spouses together. We can observe a gradual shift in the ecclesiastical form of marriage from the almost private blessing at the betrothal to a legitimisation of the marriage in church closely linked with the wedding. Theologically, it was expressed that a marriage unites spouses in a re-establishment of the harmony that prevailed in Creation before the Fall.

As far as into the 6th century AD, the Roman emperor maintained that no ceremonies or acts were necessary for a marriage to be constituted, and the earliest remaining liturgical texts for marriage services are from the 7th century AD. The Eastern and Western church went in different directions, with a more pragmatic and egalitarian line in the East – including the possibility of divorce and remarriage for both spouses – and a stricter, more manifestly patriarchal orientation in the West, where until the 9th century it was possible for a man under certain conditions to demand a divorce and remarry, but not for a woman. When in the 9th century the Western church determined the particular interpretation of marriage that maintained that a divorce never entirely dissolved a marriage, this was justified to a large extent using arguments that went back to Augustine. He based his view of marriage as indissoluble (for both men and

women) on the parallel he drew with baptism and the relationship between Christ and the church. With the sacramental theology that developed in the Roman Catholic tradition, marriage came to be regarded as one of the church's sacraments.

During the early history of the church, sexuality was primarily justified by procreation, and marriage was primarily justified as a means of controlling and disciplining human sexuality. The exact manner in which sexual intercourse was a constitutive part of marriage remained, however, a matter of ecclesiastical debate long into the Middle Ages.

Luther and Lutheran tradition

Martin Luther was clear about marriage belonging to this world and this life. It is "ein weltlich Ding" and has nothing to do with salvation. Nor, therefore, is it seen as a sacrament in the Lutheran theological tradition. Marriage existed before the biblical revelation. The wedding rite states that marriage is a gift from God instituted for the continuance of society. This means that marriage is part of the life given by God. Marriage is a universal phenomenon. All over the world in various different cultures, people form families. According to Luther, one of the tasks of marriage was to control sexuality. In his thesis *Luthersk äktenskapsuppfattning* (Lutheran interpretation of marriage) (1959), Olof Sundby worded this in the following way:

God's creative activity in this area consists of ensuring that an institution is established that takes this given drive into its service but at the same time is a check against the perverted drive. [...] Through marriage as an institution, God's will for Creation is still realised. The continuance of the species is secured ... (page 22).

In other words, marriage is part of the secular regime. God acts through two regimes: the spiritual (the church) and the secular. According to Luther it is important not to mix the two, as this can result in inappropriate claims for power on the part of the church, or that that state sets itself above the church. It is important, however, that there is a dialectic between the two regimes. This creates the conditions for critical scrutiny of society on the part of the church. Within the secular regime, reason is to prevail. Luther decidedly opposed biblical commandments forming the basis of social order. This is usually called 'the third use of the law' and is normally seen in Lutheran tradition as a confusion of law and gospel.

The law (according to its first use) aims to create social order in order to protect human life. Within this framework there are various callings to serve fellow human beings. The aim is that life is to be protected and encouraged. This also applies to marriage. A person is loyal to his or her calling by meeting the demands of the secular regime. Through these demands, God maintains his Creation. (The 'second use' of the law consists of creating insight into our insufficiency regarding living up to the demands the law imposes on us, in order in this way to drive us towards Christ so that we can be liberated.)

To protect the woman as the weaker party, it was important in Luther's view that a marriage was conducted in public. Otherwise, the woman could be lured into a relationship in which she was then abandoned. It was also important that the marriage was entered into of free will. Parents should not choose spouses for their children with the aim of furthering their own interests.

Luther's view of marriage means that it is perceived as a kind of independent subject. In his book *Luthers lära om kallelsen* (Luther's teachings on Vocation (1942), Gustaf Wingren interpreted this in the following way:

... in marriage a power is active that forces a spouse into self-sacrifice for the other spouse and children (page 16).

This idea then becomes central to Sundby's analysis of marriage. He differentiates between marriage as a morally obligating arrangement on the one hand and a contemporary notion of marriage as a contract on the other. He writes:

What distinguishes [marriage as a contract] is that the individuals have, so to speak, been placed before and above the marriage: it is intended to serve the parties and their interests and continues only as long as they themselves consider the arrangement to be in line with their interests (page 201).

According to Sundby it is obvious that this view differs a great deal from Luther's perception of marriage.

Here [according to Luther] marriage is seen as a divine institution or one that is, so to speak, placed above the individuals, to which they gain access and in which the meaning of life in marriage is not primarily the parties' own interests as they themselves understand them and determine them, but rather the service of a new unit [...] that, through the joining of the individuals, has come into being (page 201).

However, Sundby also makes it clear that it is the state – not the church – that is responsible for drawing up marriage legislation. He opposes an arrangement in which the state bases civil legislation on the church's understanding. This would mean that the perspective of faith would be legalised and the dialectic sought between the spiritual and the secular regime would be lost.

Marriage as a God-given gift and institution does not need to be interpreted statically. A dynamic interpretation is also possible. God, who created the world, continues his Creation, at the same time as humanity is given the task of ruling over what God created. You could say that, by maintaining life and structures crucial to life, God is continuously engaged in an act of Creation. The way this takes place includes people being called upon in various ways to meet the needs of our fellow human beings. New arrangements come into force as society changes and new types of human needs become pressing.

Such an interpretation may link to how Luther perceived ethics based on the First Article of Faith with focus on the needs of fellow humans. Gustaf Wingren has developed his view of Creation in accordance with this line of reasoning. In his social ethics, Wingren strives to unite two aspects: stability and flexibility. This is not least evident in *Skapelsen och lagen* (The Creation and the Law) (1958). Stability is represented by love in the sense of caring for our fellow human beings, while flexibility is an expression of changes in cultural and social circumstances and institutions. Using love for our fellow humans as a starting point, criticism of existing laws, institutions and arrangements can be formulated. This, in turn, leads to new law, institutions and arrangements.

To sum up, marriage according to the Evangelical Lutheran tradition is an institution in Creation and in society, not a sacrament. This means, among other things, that marriage is perceived as the same thing, regardless of whether it is a civil marriage or a marriage within a faith community. What is constitutive for a marriage are the mutual vows and a public declaration of consent. The blessing and prayers specific to a church marriage compared with a civil one have

significance for those entering into marriage, but these elements are not constitutive for marriage.

In the Church of Sweden, God's blessing is given to the congregation in church services, to those who get baptised, confirmed, married or enter registered partnerships, and to those ordained. When marriages are blessed it shows that the Church wishes to assure the spouses of God's support in their life together.

Historical changes in marriage

Since the Reformation, major social changes have taken place that have had a bearing on marriage. In the agrarian society, which characterised the time up until industrialisation, the household was the primary unit for economics, production and reproduction. It also attended to healthcare and care of the elderly. The household also included servants, in the form of maids and farmhands, and the older generation.

The transition to the bourgeois society that took place through industrialism entailed a division between the private and the public sphere. Production was located outside the home. The household came to be replaced by what we now call 'the nuclear family'. Marriage was reduced to primarily encompassing personal relationships.

At the same pace as the economic changes in society – which also involved urbanisation with major population relocation – people's view of society and existence in general also changed. At the same time, a shift took place from a static to a historical/dynamic view of reality.

Society moved in a democratic direction and through liberalism, it came to be perceived as an alliance between individuals with natural rights, based on a kind of contract between equal parties. The role of the authorities was taken over by democratically elected institutions.

Even the church's role changed. In the earlier religiously uniform society, there had been a symbiosis between church and state. Gradually, the church came to be perceived as an alliance of individuals. From the mid-20th century, a radical transformation of Swedish society took place through extensive migration of labour and, at a later stage, of a large number of refugees. This has meant a shift from a monocultural to a multicultural, multireligious society. Issues relating to gender roles, family formation and relationships between older and younger generations have thus become relevant in new contexts. The meeting of cultures in Sweden today relativises customs and patterns of cohabitation that have previously been taken for granted or perceived as indissolubly linked to a certain religious tradition. This applies both to immigrant groups and to society as a whole.

A further important change with significance for marriage is equality between women and men. From women previously being subordinate to their husbands – a married woman did not become legally competent in Sweden until 1921 – men and women united in marriage have gradually come to be seen as two equal, economically independent parties with a joint responsibility for children and the home. Women are no longer dependent on men providing for them. Through contraception and the economic independence of women, sexuality has also been assigned a different role. The clear connection with reproduction has been weakened, and a sexual relationship has increasingly been seen as an expression of intimacy, pleasure and gratification.

The process of change towards gender equality is a long one. In the 1693 Book of Worship, it was stated that a man is a woman's head (rationality) and leader. As early as in the order of service for weddings from 1811, however, mutuality in the relationship was emphasised.

A man's duty is to love and honour his wife [...] Thus, a wife should also meet her husband with love and devotion. [...] A man and his wife should [...], through careful attention to themselves and their duties, seek to earn each other's respect and love, and always set a good example to each other in true devoutness.

This view was extremely radical in its day. The rite also received a great deal of criticism within and outside the church. Critics wished instead to highlight the subordination of women. At the 1873 General Synod it was therefore discussed whether the word 'devotion' should be replaced by 'subordination'. In the Book of Worship adopted in 1894, however, it was decided to keep to the word 'devotion'. This can be seen as an example of a church reform in the area of gender equality contributing positively to a change in cohabitation patterns in society.

4. Arguments that can be used in favour of opening up marriage to same-sex couples

Until a couple of decades ago, it was seen as obvious that marriage referred to a relationship between a man and a woman. However, this has come to be questioned, and 'gender-neutral' marriage legislation has been introduced in several countries, including the Netherlands, Belgium, Spain and South Africa. Norway introduced such legislation in 2008, and in Sweden, the Riksdag resolved on a corresponding change in the law on 1 April 2009.

As the Central Board stated in its response to the report *Äktenskap för par med samma kön – Vigsselfrågor* (Marriage for same-sex couples – Wedding issues) (SOU 2007:17), there are different opinions within the Church of Sweden on the word 'marriage' also being used to describe relationships between same-sex couples. This lack of consensus is due to the fact that based on theological arguments it is possible to reason in different ways.

As has been asserted above, marriage according to Luther is something that is part of Creation. It is a 'worldly thing', not a sacrament. The basic perspective of an Evangelical Lutheran church is thus the Creation theology perspective. However, in the Christian church, marriage has been explained by reading passages from the Bible and interpreting these within the scope of the wedding service. This means that it is also relevant to adopt the perspective of biblical theology. To this can be added further aspects, for example, a children's perspective, when making an assessment.

Creation theology perspective

A Creation theology argument in favour of marriage only designating a relationship between a man and a woman is often based on the idea that the purpose of sexuality is to bring about new life. Through the union of a man and a woman being able to give rise to new life, people become co-creators with God. The ability to reproduce is the key to the continued existence of humanity.

Marriage is seen here as a God-given model in Creation, regardless of legislation in society. In his book *Rättvisa. En lära om samhällsordningens*

grundlagar (Justice. Teachings on the fundamental laws of social order) (1945), the German theologian Emil Brunner expresses this as follows:

The law of marriage is not an agreement, a human convention, but rather something given to people, that they should acknowledge and implement (page 92).

Marriage is perceived as a normative arrangement in life and an expression of God's unchanging creative will.

People have been created as men and women with the ability to ensure the survival of humanity by having children together. Men and women complement each other in this respect. Children need stable and secure care to be able to develop. There are structures in Creation that maintain life. When a child is born, it needs to be brought into a context in which it can receive love, care and security. An important function of marriage is to constitute a structure into which a couple's children can be received and in which they can be raised. The term *complementarity* can among other things express the man's and woman's ability to bring forth and receive new life. Such complementarity is perceived as a basic intention in Creation. The aim is to maintain life.

The theologian Ragnar Holte summarised this view of marriage in three points at the Theological Committee's hearing *Kärlek, samlevnad och äktenskap* (Love, cohabitation and marriage):

(1) Marriage between a man and a woman corresponds with God's creative purpose and is a requirement for the survival of humanity [...] only in a man and a woman's life together can children be begotten and born in a natural way, and through the parents' love for each other and their issue, a secure home environment in which to raise children is created. (2) Each individual human being is created in God's image, but a man and woman united as *one* represent a more complete form of humanity and, in this way, are an image in a special sense of the God of Love. (3) Ideally, marriage is a loving relationship that lasts a lifetime and is therefore entered into with the vow of fidelity "till death do us part" (page 166–167).

Holte was of the opinion that homosexual partner relationships cannot constitute a marriage in the Christian sense. "The whole idea of union of the two sexes in a relationship in which they jointly give rise to new life has no application." Nor, according to Holte, can a homosexual relationship give expression to the two-gendered relationship's special function of being in God's image. He also considers that it is unreasonable to demand lifelong vows of fidelity.

It is important to stress that this view of marriage can very well be united with a positive view of homosexual cohabitation. This is the case in Holte, for example. Homosexual orientation and homosexual cohabitation can be interpreted as a positive expression of diversity in Creation and do not need to be perceived as some kind of imperfection in the pattern of Creation. However, the view remains that a homosexual relationship is something other than marriage.

On the other hand, a Creation theology perspective can also be used to argue in favour of marriage being opened up to same-sex couples. One relates then to the dynamic theology of creation mentioned above. Marriage and sexuality have purposes in addition to bringing about new life. These include providing a framework for supporting, protecting and developing mutual love between spouses and giving them support in their life together. These purposes are also relevant to relationships between people of the same sex. As outlined above, marriage has been understood in different ways over time. Both in a theological

context and in people's general consciousness, a shift of emphasis has taken place in recent times, with love and fellowship between spouses being assigned an increasingly central role. Marriage as a fellowship between persons has also been highlighted in Catholic theology. The Catholic theologian Walter Kasper writes in his book *Kärlek och trohet. Om det kristna äktenskapets teologi* (Love and fidelity. On the theology of Christian marriage) (1977):

... we no longer consider procreation as the integrating factor but rather mutual love and fidelity. We must therefore try to determine the meaning of marriage and of the human person, not in terms of an abstract 'nature' but rather relationally (page 17).

Instead of a biologically based complementarity concept, a starting point can be complementarity anchored in the personal fellowship between spouses. Carl Reinhold Bråkenhielm, Mikael Lindfelt and Johanna Gustafsson Lundberg write in *Uppdrag samliv* (Mission: Life Together):

An alternative way of thinking, however, is to emphasise the *fellowship between persons* as the primary human relationship instead of sexual union. Love, kindness and emotional commitment do not only exist between men and women. And sexual acts can express such a loving relationship regardless of biological gender. People are created in God's image, created for a personal fellowship between 'you and I'. The relationship between a man and a woman exemplifies such a fellowship, but this does not rule out that such a relationship can also exist between people of the same sex. [...] Fellowship between persons – and not sexual union – is the basic metaphor – root metaphor – for God's love for humanity (page 19).

It can also be added that homosexual couples – even if they are unable to produce biological children together – on many occasions have joint responsibility for caring for and raising children. Through this, they participate in reproduction in the broad sense. Regarding the notion that a man and a woman together constitute a complete form of humanity, it can be stressed that according to the New Testament, Jesus lived as a single man with no children without being a less complete person than those who were married. On the contrary, he is known as the exact likeness of God's very being (Hebrews 1:3).

Therefore, according to this way of thinking, the purpose of the arrangements of Creation, including marriage, is to serve people – they are to help us show love to our fellow human beings. God continues his Creation with people as co-creators. As Gustaf Wingren emphasised, the structures of the Creation are flexible – and must be so in order to be an instrument of God's actions through arrangements that focus love on the needs of our neighbour (see "Reformationen och lutherdomens ethos" (The Reformation and the ethos of Lutherdom) in *Etik och kristen tro* (Ethics and Christian faith) 1971, page 133–134).

Does this mean, then, that we need to accept all kinds of changes in social structures and interpret them as an expression of a dynamic Creation? This is not the case at all. However, there are no simple criteria for decisions about which changes represent something good. An important touchstone according to Wingren is that an assessment must be made on the basis of care for the weak in the world (Wingren 1971, page 118). Issues of limits to what is acceptable regarding changes in the concept of marriage will be discussed later on in this communication.

Principles of biblical interpretation

An important starting point when interpreting individual Bible passages in an Evangelical Lutheran tradition is that the interpretation must be based on the Bible's overall message of God's love and people's salvation, as it is expressed in the passages that are usually seen as central for understanding Christian faith. These key passages include John 3:16: "For God so loved the world that he gave his one and only Son, that whoever believes in him shall not perish but have eternal life" and Romans 4:25: "He was delivered over to death for our sins and was raised to life for our justification", among others. Individual passages from the Bible must be related to this interpretation of the centre of the Scripture (*Mitte der Schrift*). They therefore find their place in the whole in relation to this centre. All Bible passages relevant to an issue must, however, be taken seriously, even if they do not clearly express the central message. A relative importance must then be attached to them. The central message's clarity (*claritas scripturae*) elucidates the texts and gives their interpretation the necessary nuances. If an individual Bible passage does not directly convey the central message, this should not be seen as justification for sifting it out. Instead, it gives us reason to work on its significance, albeit secondary, within the overall picture.

In addition to this, all Bible texts must be interpreted with awareness of the difference between the situation in the passage and the present-day context. The central message speaks to people in all eras and environments. Other passages are to a greater extent bound to a completely different set of values than in later times. This applies, among other things, to certain statements in the Epistles on the superior status of men over women. Furthermore, it is crucial not to interpret individual Bible passages on marriage, for example, as answers to current questions that were not relevant in the original situation. Applying them to a current situation requires careful consideration and a combination of insight into the context of the original text and sensitivity to present-day issues. We will return to this matter shortly.

It is important to distinguish between law and gospel, and between what is based on a certain historical period on the one hand and the enduring message of Jesus being the liberator of humanity on the other. We need to take into consideration the fact that the authors of the Bible did not have the knowledge of homosexual cohabitation that we possess today. We can therefore have reason to take a critical approach to individual passages in the Bible on homosexuality. These need to be related to the Bible's overarching message, including the Great Commandment of Love, and to what the biblical authors have expressed in other contexts.

Paul writes: "... if righteousness could be gained through the law, Christ died for nothing!" (Galatians 2:21). For exactly the reason that God does not need our works for his own sake, Paul is able to write that the entire law can be summarised in a single commandment: "Love your neighbour as yourself" (Galatians 5:14). In the words of the Sermon on the Mount: "So in everything, do to others what you would have them do to you, for this sums up the Law and the Prophets" (Matthew 7:12). And in those of the Gospel according to John: "A new command I give you: Love one another" (John 13:34). The old commandment is called new, as the yardstick and motivation are new: "As I have loved you, so you must love one another." The three dominant traditions in the New Testament – Paul, the synoptic Gospels and John – are all in agreement on the commandment

of love being superior to all other commandments and prohibitions. According to the New Testament, the relevant issue where forms of human cohabitation are concerned is therefore not individual passages from the Bible but rather what is of benefit or of harm to people. For the Church, this issue is part of the current discussion: does the Church harm or benefit people by supporting and blessing faithful relationships between same-sex couples as between a man and a woman?

In addition, questions concerning the assessment of homosexual acts must be related to other sources of Christian faith and ethics. Individual statements in the Bible must always be set in relation to other Bible passages, central moral convictions and various types of knowledge. This is expounded on in the dialogue document *Homosexuella i kyrkan* (Homosexuals in the Church), in which the Theological Committee writes that, in this respect, we can take Paul himself as our role model:

... sometimes we should do what Paul does and not always simply repeat what he says. Working as Paul does means an openness towards being able to reach a different conclusion than Paul himself did on issues of homosexuality and the church. Correspondingly, the Bible also functions as a model for how our faith and ethics are shaped, not only for what faith and ethics contain. Just as it was for those who wrote the Bible passages, it is our task today to together determine what a life close to God and following Christ means (page 36).

Interpretation of the traditional passage on marriage in the wedding service

As has been pointed out above, marriage from an Evangelical Lutheran point of view is a civil arrangement and can be justified based on Creation. Marriage is a universal phenomenon that existed prior to the biblical revelation. This fact is also expressed in the passages in the Bible that are usually cited in reflections on marriage in biblical theology. These passages can be interpreted such that they place marriage in a Creation theology perspective.

According to the stories of Creation in Genesis 1 and 2, people were created as man and woman and it is said that they become one. These words are subsequently confirmed by Jesus in Mark 10 (with parallels in Matthew 19). These passages have held a prominent position in the Church's theological reflection and preaching on marriage. It can be claimed that the words of Jesus "what God has joined together" clearly refer to a man and a woman and that it cannot be applied to a homosexual couple. In Ephesians 5, a parallel is drawn between a man and a woman as one in marriage on the one hand and the relationship between Christ and the church on the other. This has also been interpreted as marriage necessarily denoting a relationship between a man and a woman.

The idea of complementarity between a man and a woman in marriage described above finds some support in passages from the Bible. These include the statement in Genesis 2 about Adam needing a helper. "It is not good for the man to be alone. I will make a helper suitable for him." The notion of complementarity is also expressed in Ephesians 5.

This has been the traditional manner of interpreting these passages. However, it is possible to interpret them differently. Where passages are concerned that are usually used as support for complementarity, it can be stated that the complementarity between a man and a woman that is expressed in both Genesis 1 and in Paul does not necessarily need to be gender-related. Two people of the

same sex can also complement each other in a fellowship of persons. Margareta Brandby-Cöster writes in *Uppdrag samliv* (Mission: Life Together):

In Genesis 1 (2:18), God says: “It is not good for the man to be alone. I will make a helper suitable for him.” The Hebrew word (*kenägdo*), which is translated by “who befits honom” (suits him), also means “who is his equivalent”, “who corresponds with him”. It is therefore not a question of the man having the woman as a servant or sexual partner but rather of a person – a man or a woman – not being able to live without there being someone to answer when he or she speaks. [...] It is the relationship that means that we can talk and receive an answer, that we can share life with each other on an equal footing, and thus form a strong bond with each other. Whether this bond is formed between people of different sexes or of the same sex does not alter the strength evident in the bond, in the relationship (page 70).

Mark 10 (with parallels in Matthew 19) has been the time-honoured passage for interpreting marriage within the church. Jesus talks here about the relationship between a man and a woman. It is apparent from both the broader context of the passage and from its content that according to the gospel tradition, he is perceived as expressing God’s original intention for marriage. Marriage is described as an institution for the relationship between a man and a woman with fidelity as a necessary requirement.

It would be anachronistic to interpret this as Jesus adopting a position against relationships between people of the same sex. However, it does not mean that the words of Jesus are of no relevance to the issue of same-sex marriage. We can assume that Jesus wanted to say something fundamental about the intention of marriage, even if the situation in the passage is different than our situation today, with our deliberations about the possibility of offering marriage to people of the same-sex.

That Jesus himself viewed and that the Christian interpretation of his words thus far has viewed marriage as a faithful relationship specifically between a man and a woman in accordance with God’s original intention would seem to be obvious. If the point is that fidelity has been part of the intention from the beginning, this passage can actually be made relevant to the issue of marriage between people of the same sex. In such case, that would mean that the kind of lifelong relationship that Jesus speaks of as one of the intentions of Creation could also be entered into by same-sex couples. The decisive factor in the relationship that enables such an interpretation would then be the kind of fellowship between persons described above.

In other words, the words of Jesus on marriage between a man and a woman do not need to exclude the option of faithful marital relationships between people of the same sex. Jesus’ words give us no clear definition of the meaning of marriage in relationships other than those that were relevant when he talked about marriage almost 2000 years ago.

Other relevant perspectives

There are also other aspects of relevance to adopting a position on the issue of whether marriage can also encompass same-sex couples.

The perspective of the needs of children

Children have a special position in Christian faith. It is therefore important to take the perspective of children into account when deciding on issues affecting them in various ways. Those who see marriage as a relationship between a man and a woman have often based their arguments on reproduction and support for new generations as being an important fundament for marriage. Only in the union between a man and a woman can a new human life be created in biological terms. It has also been claimed that, for the child to feel rooted, it is an advantage for it to grow up to the greatest extent possible with its biological parents, and that the relationship between a man and a woman should therefore occupy a special position in legislation.

It can, however, also be pointed out that homosexual couples now have the right to apply to adopt children, and lesbian women can be assisted with insemination, and that there are children from previous relationships in many homosexual families. Further, one of the parties in a homosexual relationship can have children with a person of the opposite sex. This means that a significant number of children grow up in homosexual families. From a child's perspective it can be claimed that it is important to highlight issues regarding care of the child and not dwell solely on biological parenthood. Society has a duty to support and protect children, for example through legislation. Giving homosexual couples the opportunity to marry can constitute support for children growing up in such families. At the Theological Committee's hearing on *Kärlek, samlevnad och äktenskap* (Love, cohabitation and marriage), the then ombudsman against discrimination on the grounds of sexual orientation (HomO), Hans Ytterberg, said:

And if it actually is the case that marriage is the ideal framework for children to grow up in, it then constitutes unacceptable discrimination of children with homosexual parents if they are denied the opportunity to grow up in a family constellation in which marriage makes up the framework (page 132).

An equity perspective

An important argument for opening up marriage to same-sex couples is that of the demand for equity. Making it possible for same-sex couples to marry would constitute support for a vulnerable group in society. It would clarify that society considers homosexual relationships fully equal to heterosexual ones.

Among homosexuals there are various views on the ways in which homosexual relationships should be dealt with legally. Like HomO, the Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights (RFSL) recommends that marriage be opened up to same-sex couples. On the other hand, others are of the opinion that as a homosexual relationship is different from a heterosexual one, different terms should be used in the legislation. Some homosexuals consider marriage an institution belonging to a patriarchal, hierarchical system, and that a relationship between people of the same sex should be free from such negative implications.

In an equity perspective, there is also a human rights dimension. In a strictly legal sense, it can be claimed that the Registered Partnership Act already corresponded with the demands made in international conventions regarding each individual's right to marry and start a family. However, this applies to the same extent to the new legislation in which the concept of marriage has been broadened

to also include same-sex couples. The special treatment that partnership has entailed has been perceived by many – heterosexuals and homosexuals alike – as discriminating, and the legal change that has now taken place marks an underlying shift in opinion in which the equal value of homosexual individuals and couples in society has been expressly confirmed. Thus far, the legislation can be seen as bolstering human rights.

Tradition and ecumenism

As is apparent from the above, according to a long tradition within the Christian churches, marriage has been interpreted as a relationship between a man and a woman. The same perception can also be found in other world religions. Marriage as a legally regulated form of cohabitation between a man and a woman with protection of the growing family exists in most contemporary societies, regardless of culture and religion.

Among Christian churches and denominations there is very broad acceptance of the term ‘marriage’ referring to the relationship between a man and a woman. This applies both to the Christian Council of Sweden and internationally, e.g. within the Porvoo Communion and the Lutheran World Federation. For a long time, the Church of Sweden has at various levels taken part in exchanges of information and theological discussions on the attitudes of different churches to homosexual cohabitation, including in the above mentioned contexts. The Theological Committee has, for example, arranged a consultation for the churches in the Porvoo Communion. There are various opinions on how comprehensive such an exchange should be to be considered sufficient. There are also various opinions regarding whether a church should take the lead in a certain process, or whether action should only be taken when a consensus on controversial issues has been reached between those churches having agreements with each other.

Cooperation with other churches would be put under strain if the Church of Sweden were to accept marriage for same-sex couples. If such a decision is made, however, it is important that the ecumenical dialogue continues, despite any differences of opinion and any critical objections to the process. It is very important to promote ecumenical contacts and to work for greater fellowship between Christians. Providing support for a group that is neglected both in society and in the Church is, however, also extremely important. Continued dialogue and cooperation is crucial, both for ecumenism and for homosexual people.

5. The Church of Sweden and the new marriage legislation

It has become evident that there are arguments in favour of marriage being opened up to same-sex couples. At the same time, it is still possible to come to other conclusions using other arguments. In its response to the report *Äktenskap för par med samma kön – Vigsselfrågor* (Marriage for same-sex couples – Wedding issues), the Central Board of the Church of Sweden recommended that the word ‘marriage’ only be used for designating the relationship between a man and a woman, even if there was a significant minority within the Board that recommended that the proposal of the report should also have been accepted regarding this point. Both views are also reflected in the responses to the report subsequently circulated for comment to the dioceses, although with a slight majority in favour of the word ‘marriage’ only being used for heterosexual couples.

Through the Riksdag's decision of 1 April 2009 to broaden the term 'marriage' to also include same-sex couples, it must be stated that legislators have not taken into account the views presented by the Church of Sweden and other churches and denominations on this point. It must also be concluded that the order of service for the blessing of registered partnerships adopted by the 2006 General Synod can no longer be used, since it will no longer be possible to enter into 'partnership'. In this situation, the Church of Sweden must make a decision on whether it will continue to utilise its right to conduct marriages, and in such case whether it will marry same-sex couples or offer blessing of their civil marriages.

In these circumstances, the Church of Sweden can make a new assessment of the arguments and reconsider its position. But even if, following a new appraisal of the arguments for and against a change, the Church of Sweden concludes that it would prefer there to be a different designation of the relationship between same-sex couples than 'marriage', e.g. 'partnership', it needs to decide what approach to take towards same-sex couples who wish to marry or who are already married. Providing that the Church of Sweden does not relinquish its right to conduct marriages, there are three possible ways of dealing with same-sex couples who approach the Church:

1. Offer a choice between marriage or the blessing of civil marriage.
2. Only offer the blessing of civil marriage (which can then be designated differently in the blessing ceremony). This option corresponds with the current arrangement of blessing registered partnerships. It may become relevant if the conclusion is drawn that the Church of Sweden should not officiate at weddings at which same-sex couples are to be married, as the perception is that the broadened concept of marriage does not concur with the Church's view of marriage, but that the Church still wishes to be able to bless the couple's relationship.
3. Also decline to offer the blessing of civil marriage based on the fact that the concept of marriage in the legislation does not concur with the Church's view of marriage.

This situation has a great deal in common with that faced by the Church of Sweden at the start of the 20th century, when it to decide what position to adopt on legislation permitting remarriage. This debate has been studied by Olof Sundby in *Luthersk äktenskapsuppfattning* (Lutheran view of marriage). As is evident from the above, Sundby makes a distinction between the church's view of marriage as a morally obliging arrangement and the legislation adopted by the state, according to which marriage is seen as a contract. According to Sundby, the latter view is in 'diametrical opposition' to a Christian or ecclesiastical view of marriage. He writes:

A problem arises [...] when church and state begin to diverge *in their perception of marriage as civil institution*. A point may be reached at which the church no longer can participate in the civil context because civil legislation has become secularised ... (page 209).

However, Sundby stresses at the same time that marriage is a worldly institution and decidedly opposes, as can be seen above, the idea that the church's view of marriage should form the basis of state legislation. This would mean confusing the spiritual and secular regimes through which God realises his objectives. As marriage is part of the secular regime, it is not the task of the church to determine the forms of marriage. According to Sundby it is important, however, that there is

a dialectic between the two regimes. The church has an important role to play in its critical assessment of the laws of society.

Those who in the current situation would have preferred to see the term 'marriage' reserved for the relationship between a man and woman must now ask themselves whether the broadened concept of marriage now has such significance that the church should 'leave the civil context'. If the Church of Sweden were to take this step, it still must decide on the approach it is to take towards same-sex couples who come to the Church to ask for a blessing of a civil marriage.

Is there any limit to how marriage can be changed?

It may be asked whether the Church of Sweden can accept all types of changes in marriage legislation and still continue to conduct marriages. For example, how should it deal with legislation that allows marriage to be opened up to more than two people? Proposals for such changes have been presented by RFSL and certain political youth associations.

The idea that polygamy would by extension be permitted has sometimes also been used as an argument against opening marriage up to same-sex couples. The argument has then been that such a step would pave the way for also opening marriage up to relationships between several people. This line of reasoning follows the 'slippery slope argument', in which a decision is predicted to pave the way for a second, a third and so on until a state of affairs is gradually achieved that in the beginning was clearly seen as reprehensible.

As is apparent from the above, there are examples of polygamy in the Old Testament, where one man has had several wives – polygyny. As mentioned above, this is already questioned in the New Testament and texts contemporary with it. In Christian tradition, there has been a gradual adjustment of the superior and inferior statuses of men and women in favour of a more equal view. An acceptance of polygyny would mean a return to a completely anachronistic patriarchal order. Nor is polyandry (i.e. one woman with several husbands) consistent with the contemporary ideal of gender equality.

Further, it can be strongly questioned whether the mutual love and fidelity that should characterise a marriage can develop in a relationship between several people. Love has several forms of expression and can be directed in various ways: at children, parents, other people and at God. Marital love has, however, a particular character that differs from other forms of love. This includes the sexual fellowship that deepens the relationship. This love can hardly be directed towards several people simultaneously. Marriage is a fellowship between two people that in this respect are unique for each other. As previously emphasised, the aim of marriage is for it to be a lifelong fellowship between two individuals. There is therefore no reason to fear that, if the Church was now to accept marriage being opened up to same-sex couples, it would lead by extension to an acceptance of polygamous relationships.

The theologian Werner Jeanrond writes in *Kärlekens förändrade landskap* (The changed landscape of love):

When we love, we seek the other person. Love wishes nothing else than to relate to the other person, get to know the other person, admire the other person, take part in the other person's life, be together with the other person. No-one can love in my place. There is no love by proxy. Love requires a particular active person, a loving subject.

In this characterisation, it is continuously assumed that love is directed towards one person. We would not accept that the person we love has the same love for another. It is important to feel unique to the person we love.

To adopt a position on issues regarding how the arrangements of society can and should be changed, we need to go back to the purpose they are to serve. As mentioned above, this is not least a question of protecting the weak. It is hard to imagine that polygamy would serve such a purpose.

6. The Theological Committee's conclusions

Following a general assessment of the arguments that have been presented, the Theological Committee affirms that there is reason on theological grounds for the Church of Sweden to accept the legislation passed by the state that implies that marriage also encompasses same-sex couples.

In an Evangelical Lutheran understanding, marriage is a social institution regulated by the civil authorities. From a Creation theology perspective, the purpose of marriage is to support the mutual relationship between the spouses and provide a secure framework in which to bring up children. These needs also exist in relationships between people of the same sex. From the perspective of biblical theology, the commandment of love is superior to all other commandments and prohibitions in the Bible. The decisive factor where forms of cohabitation are concerned is not individual bible passages but what is of benefit or of harm to people. This means that when the Church is to form an opinion on marriage for same-sex couples, a relevant question to ask is whether this harms or benefits people.

According to the Theological Committee, the Church of Sweden – provided that it chooses to accept the right to conduct marriages in the form that will be offered – should be able to marry same-sex couples and offer blessings of civil marriages of same-sex couples.