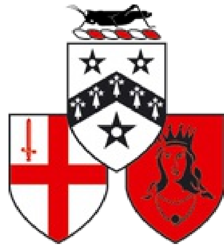

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Family Relationships and the Law: Civil Partnership

The Baroness Deech of Cumnor DBE, Gresham Professor of Law

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It has been estimated that some 5% of the population is gay. From the Buggery Act 1533 until 1861 some homosexual activity (albeit always limited to men) carried the death penalty. We recall the famous case of the Marquess of Queensberry whose accusations against Oscar Wilde led to the latter's being charged and convicted in 1895 to two years' hard labour. Only half a century ago homosexual activity was still a crime. In 1953 2267 men were prosecuted for homosexual offences; in 1956 118 out of 300 convicted men who were in a consenting relationship were sent to prison. In those 50 years or so homosexuality has moved from criminal status to legalisation, from legalisation to acceptance and equal respect with heterosexual relationships. (On this history, see S. Cretney,*Same Sex Relationships* (OUP 2006)). Liberalisation came, as ever, in the form of a Report by a member of the establishment, in that period when so much changed, the late 1950s and the legislative reform period of the 1960s. The Wolfenden Report of 1957 opined that "there should remain a realm of private morality and immorality which is, in brief and crude terms, not the law's business" (para 13.) John Wolfenden was Vice Chancellor of Reading University, in the very town where Wilde had been incarcerated. His recommendations led to the Sexual Offences Act 1967 which legalised homosexual acts in private between consenting adults.

Since then acceptance and recognition has grown, advanced by the Human Rights Act 1998 and the Equality Bill 2010. Gay couples may adopt children (Adoption and Children Act 2002); they have access to fertility services and full parentage of donor conceived children (Human Fertilisation and Embryology Act 2008). Same sex childless couples are deemed to be a "family" for the purpose of succeeding a deceased partner to a tenancy (*Fitzpatrick* v *Sterling Housing Association* [1998] Ch.304). This trend culminated in the legislative establishment of civil partnerships in the Civil Partnership Act 2004, creating a union almost identical to, but not marriage.

The Equality Bill of 2010 will further protect such rights. There has been such a sea change that the Conservative leader has promised that civil partners will benefit from extended paternity and maternity leave (in the case of adoption or artificial insemination babies) in the event of an election victory. The Tory leader also promised that proposals to extend flexible working and married couples- tax breaks would be granted as well. He has stated that the party is no longer hostile to same sex couples. The question now is not the public acceptance of the union of two people of the same sex, but whether this legally recognised union should be called marriage and be exactly the same as marriage.

The famous legal definition of marriage is given by Lord Penzance in the case of *Hyde* v *Hyde* [1866] LR (1P&D) 130 (HL): "I conceive that marriage, as understood in Christendom, may for this purpose be defined as the voluntary union for life of one man and one woman, to the exclusion of all others." Such is the transformation of family law and family life that not one word of this remains true. Christianity is not the only form of marriage nor the only concept accepted; marriage is not for life but only until one or other party exercises rights under divorce law; it is not to the exclusion of all others in the sense that not all adultery leads to divorce and some polygamous marriage are allowed to exist here when the family has come from a country abroad where it is recognised; only the voluntariness of the union remains and even that is under threat if cohabitation is placed under a legal regime. And now it is the one man and one woman element that is ceasing to matter.

It is, however, odd that same sex couples, or some of them, should be so exercised about wanting the right to *marry*, as distinct from entering civil partnerships, which are just as replete with rights and responsibilities as marriage; for this is an age when heterosexual couples are apparently deserting marriage in favour of cohabitation, and when we are told that marriage is nothing but a piece of paper, which may be ignored or overlooked; or that it is a male plot to dominate women and preserve free household labour and childcare, a cloak for abuse and overwork. Some feminists do not like marriage, because it stands for the power of a man, privileged status, the privatisation of care, the cult of romance and opportunity for domestic violence (albeit that their claims for money from the man when the marriage or cohabitation ends are unabated.) Yet their lesbian sisters want to be able to choose to get married. Many same sex couples today reject the notion that civil partnerships are different but equal, rather as American blacks rejected that same equivalence ('separate but equal') in the days of segregation. The concept was overturned by the civil rights movement.

The differences are fast dwindling. Marriage is no longer defined as related to procreation, for many heterosexual couples do not or cannot have children, whereas many same sex couples do, either from a previous relationship or by donor insemination or other artificial reproductive technology. Marriage has declined in numbers: remaining single is more acceptable than it used to be. Both Labour and Conservative governments have incrementally removed the differences between married, cohabiting and same sex couples by e.g. removing the tax allowances for married couples, allowing singles and same sex couples to adopt, extending domestic violence legislation to all couples, calculating benefits by household occupation rather than status, extending occupation rights to partners and parental responsibilities to all categories of persons. A marriage certificate is not required for partners- rights in relation to banks, income tax, pension schemes, gym membership, hospital decisions. Judges tend to agree that giving rights to same sex couples does not harm the concept of marriage and indeed, they are rather cynical about marriage itself. Said Lord Millett in *Ghaidan* v *Godin-Mendoza* [2004] UKHL 30, a case about the right of a gay partner to succeed to a protected tenancy, "Marriage is the lawful union of a man and a woman . . . this is the very essence of the relationship, which need not be loving, sexual, stable, faithful, long lasting or contented." A persuasive alternative view is presented below, coming from S Africa, but it has also been argued that the desire for the marriage facility is odd. Despite the crumbling of the once sacred image of marriage, same sex couples want to enter that status, although one may wonder whether it is in order to reform it, as feminists have called for, or to capture the "fantasy", as it has been called, for themselves. Some writers are surprised that same sex couples want to consider marriage, because it is a devalued relationship, not worth bothering about and too outmoded. The argument against this will be presented shortly.

Parliament has legislated for civil partnerships. They are different from marriage in just two respects. A civil partnership can only be civil, never religious, as a marriage may be. And adultery is not a ground for dissolution of a civil partnership, nor is consummation a criterion for validity, either because of the difficulties of definition or, as some have alleged, because notions of fidelity are deemed to be different in same sex relationships. Infidelity could be subsumed under unreasonable behaviour as a ground for seeking dissolution even though not available in its own right. (E. Davies, "The Marriage Debate" (July 1999) *Stonewall Newsletter*).

It has been argued that many heterosexual unions would happily dispense with religious possibilities and the ground of adultery too, and that what one should do is make marriage more like civil partnerships rather than the other way round. The number of weddings has fallen to a record low since the late 19th century; it seems that people no longer care for these types of formalities, because religion is a waning force, women have financial independence, there is state support for lone parents, children are no longer classified as illegitimate, divorce is easy and there is no recrimination over sex and birth out of wedlock. Finding the essence of marriage as traditionally understood and how it might be different from a civil partnership is difficult in these circumstances. Nevertheless the fact that a civil partnership is designated as not marriage seems to some commentators to indicate that it is inferior.

The CPA 2004 provides for the registration of a union between two persons of the same sex, with qualifications like a registry office marriage. They must not be under 16, or within the prohibited degrees, or already married or in another civil partnership. They are qualified to adopt, can become step parents of the children of the other, can apply for residence and contact orders in relation to children, and financial provision for themselves and children on dissolution of the union; there is provision for wills, birth registration, tenancies and social security as if married. Under s.27 the court can make a dissolution order where the partnership breaks down, or annul it if it is void or voidable. Like married couples, there can be no dissolution until one year after the union. There can be residential home orders, non molestation orders, pension splitting and property orders. I know of no reported cases; but 180 civil partnerships were dissolved in 2008 compared with 42 in 2007, and most involved female couples, according to 2009 figures from the Office for National Statistics. I imagine there may be difficulty in assessing the proper financial provision to be made on dissolution because the usual judicial assumptions about economic dependence cannot be made. In 2006 18059 civil partnerships were entered into, in 2007 8728 and in 2008 7169, and a total of 33,956 since the Act of 2004. In 2008 men made up 53% of those forming civil partnerships, with the largest number being registered in Westminster and Brighton.

The issue now is whether human rights legislation means that same sex couples can require their unions to be entered into by marriage and be marriage. At the moment the prohibition remains - s. 11(c) of the Matrimonial Causes Act provides that a valid marriage can be entered into only by a male and a female. This might be said to be inconsistent with the articles of the Equality Bill that prohibit discrimination in areas of family and private life and between the sexes. If so, is it for the judges or for Parliament to take that final step for same sex couples? The religious factions have fought successfully for their existing exemptions to be retained in the Equality Bill 2010, in order that they may make choices determined by faith in employment and services offered.

At the last minute in its passage, however, and promoted by a defender of gay rights and religious supporters, there was an amendment that would permit churches, if they wished to, to allow same sex couples to have a ceremony in church. The House of Lords voted for this by a substantial majority, and it remains to be seen whether MPs will follow suit. Amendment 53 to the Bill, moved by Lord Alli and supported by Baroness Butler-Sloss, provided that a new clause should be inserted in the Civil Partnerships Act 2004 to remove the prohibition on civil partnerships taking place in religious buildings and put in the necessary regulations to allow religious buildings to be use to host civil partnerships. But the amendment expressly does not oblige religious organisations to allow civil partnership ceremonies in their buildings. The debate recognised that Liberal Jewish congregations, Unitarians and Quakers were prepared to do this, but it was likely that many Church of England and most Catholic churches would not. The opposition arguments were that the law so far had carefully preserved the distinction between civil partnership and religious or civil marriage and that this amendment would blur the difference without explicitly raising the question. The other objection was that once such religious settings for civil partnership celebrations were permitted, it would be regarded as discriminatory on the part of an individual vicar to refused to hold such a ceremony in his church, because he, the vicar, was availing himself of the right to refuse in the amendment, but that he could undertake the ceremony and was therefore open to legal action on the ground that he was discriminating on the grounds of sexual orientation in the provision of services. The charge of discrimination by an individual would trump the exemption in the amendment. The legal detail of the amendment means that the partnership may be celebrated but still not along religious lines, for that is still not allowed under the Civil Partnerships Act; it is not clear whether an individual registrar with objections would be able to opt out of performing a ceremony at religious premises, and whether the decision to allow the use of religious premises would belong to the church or the individual religious officiant. The Government indicated little support, wanting more open discussion on the whole topic. But given the shortness of time before the general election and the rush to get the Equality Bill through both Houses before dissolution, it may be that the amendment is accepted.

It must then follow as a matter of logic and non-discrimination that a heterosexual couple who reject the notion of marriage whether in church or in a registry office, should also have the option of a civil partnership. Tom Freeman and Katherine Doyle challenged in 2009 the ban on opposite-sex civil partnerships by asking for one at their local registry office. Having been refused they are preparing to go to the ECHR on breaches of arts. 8, 12 and 14.

S.3(1) of the HRA 1998 requires statutes to be interpreted as far as possible in the light of human rights but if the statute prevents this, then the judges can only note the incompatibility and leave the change to the legislature. Art 8 requires respect for private and family life and Art 12 protects the freedom *of men and women* to marry and found a family. The articles are subject to qualification, in that the government must not interfere with the rights, and that any restriction on them in national law must be justifiable as proportionate and necessary; and the European court allows each nation some flexibility to express its national customs - the margin of appreciation. The European Court judgments have not, so far, gone beyond recognising same sex couples' private life, and stopping discrimination against them in that area. The Court has not extended its reach into the way states treat same sex couples as a public issue or status. So the Court has disapproved of discrimination against individuals in for example child custody decisions or the criminalisation of homosexuality, and accepts that sexual orientation is a ground of discrimination open to attack under Art 14. But Art 14 only prohibits discrimination on various grounds where a substantive right in the Convention is in issue, and so far the court has not raised the issue of the public standing of same sex unions (*Karner* v *Austria* [2003] FLR 623.)

There have been two major cases in our courts on the status of same sex couples since the HRA. The first was *Ghaidan*, which I have already mentioned, before the House of Lords. It concerned the right to take over a protected tenancy after the death of the tenant, who in this case had been the male partner of the claimant. The Rent Act 1977 permits this when the claimant was living with the former tenant as husband or wife. In the *Fitzpatrick* case, already mentioned, it had been held that this right did not extend to same sex couples, although they could be treated as "family" for the purposes of the Act. This new case was an effort to overturn that decision, now that the Human Rights Act was in force. The claimant based his claim on Art 8, the right to a private and family life, coupled with Art 14, that there should be no discrimination in the rights granted by the state. The majority of their Lordships could find no good reason for treating the same sex partner of the tenant any differently from the opposite sex partner when it came to succession, and held that the law should be interpreted so as to avoid that sort of discrimination. Baroness Hale said that "homosexual relationships can have exactly the same qualities of intimacy, stability, and interdependence that heterosexual relationships do". 'some people, whether heterosexual or homosexual, may be satisfied with casual or transient relationships. But most human beings eventually want more than that. They want love. And with love they often want not only the warmth but the sense of belonging to one another which is the essence of being a couple. And many couples also come to want the stability and permanence which go with sharing a home and a life together, with or without the children who for many people go to make a family. In this, people of homosexual orientation are no different from people of

heterosexual orientation." Clearly when it comes to housing there could be no objective justification for treating these couples differently.

The next case was that of the marriage in Vancouver in 2003 of Professor Celia Kitzinger, Director of the Feminist Conversation Analysis Unit of York University (author of *The Social Construction of Lesbianism)*, and Sue Wilkinson, Professor of Feminist and Health Studies at Loughborough University. They were married six weeks after same sex marriage was legalised in British Columbia. They came to the UK and wanted the Canadian marriage recognised as such here. They sought from the court a declaration under s.4 of the Human Rights Act that s. 11(2) of the Matrimonial Act, which provides that a marriage must be of a man and a woman was incompatible with Arts. 8, 12 and 14 of the Convention on Human Rights; likewise s.215 of the Civil Partnership Act providing that relationships formed overseas, even if regarded as marriage there, would be treated as civil partnerships in the UK, ie not marriages. The consolation prize, they said, of a civil partnership was offensive and demeaning; they did not accept that those unions were separate but equal, because they are not equal symbolically or internationally. The lost the case [2006] EWHC 2022. The President of the Family Division held that there was no breach of Art 8, the right to a private life, because a civil partnership would give them all the benefits of marriage save the name. No Strasbourg case had held that childless same sex couples amounted to a family for those purposes. He held that there was no breach of the right to marry in Art 12, because it specifies men and women, or even if it could be otherwise interpreted (bearing in mind the marriage rights of transsexuals, which I will deal with shortly), this was still an area where national law could determine who could marry whom, and there could be justification for discrimination.

In the passage of the few years since this judgment, it is possible that societal views have shifted sufficiently so that an appeal on the same grounds might have a different outcome. Whatever might be held, one still concludes that English law has lost any clear concept of marriage. I have pointed out how the differences between marriage and cohabitation, marriage and civil partnerships have been eroded; but in my last lecture I also found it inequitable that sisters, living at least as companionably and interdependently as any two same sex partners, are denied any sort of benefits. Children are no longer the touchstone of marriage or legally recognised unions; nor is fidelity, or the same household. One is left with the conclusion that the only relationship that English law protects is sexual - the mistress who may claim from the estate under the Inheritance (Provision for Family and Dependants) Act 1975; the civil partner, the spouse, and sometimes the cohabitant. The family member, the carer, the grandparents and siblings, they are pushed back behind the veil and left to their own devices.

Transsexuals, of whom it is estimated there are 2000 in the UK, also have new rights. Originally they were treated as forever legally the gender which appeared on the birth certificate, which could not be altered. The leading case was *Corbett* v *Corbett* [1971] P. 83. Arthur Corbett married April Ashley in 1963, knowing that April had had surgery in Casablanca to reassign her from male, George Jamieson as she was born, to female. After living together for 14 days the future Lord Rowallan sought to have the marriage annulled, and succeeded. Ormrod J, a judge with medical qualifications, held that the determination of sex at birth by chromosomes was unchangeable and that April was still a man in the eyes of the law. So the law remained until very recently.

In *Bellinger* v *Bellinger* [2003] UKHL 30, the House of Lords declared that s.11(c) of the Matrimonial Causes Act limiting marriage to men and women was incompatible with Arts. 8 and 12 of the ECHR in so far as it made no provision for recognition of the right to marry of a person who had changed sex. This led to the Gender Recognition Act 2004. This followed the case of *Christine Goodwin* v *UK* before the European Court of Human Rights (2002) 35 EHRR 447. Ms Goodwin had been born male but had had gender reassignment surgery on the NHS and was now a woman. While a man she had been married, and had children but was now divorced. She alleged discrimination in that her birth certificate remained that of a man, and precluded her or embarrassed her in matters relating to pensions, social security, insurance and so on. And of course she could not marry a man. The court found that Arts 8 and 12 were breached by the law in England as it stood then. The Gender Recognition Act 2004 allows transsexuals a new birth certificate and gives them all the rights and status of the new sexual identity. The descent of peerages is excepted and clergymen of the C of E may refused to marry transsexuals on grounds of conscience. A Gender Recognition Panel has to certify that the person has changed sex, and has spent 2 years in the new sexual identity. By the end of 2008 102 certificates had been issued. The anti-discrimination provisions of the Equality Bill 2010 extend to transsexuals.

Other countries face the same issues and reach different solutions. Same sex marriage is permitted in S Africa, Mexico City, Holland, Ontario, Quebec, British Columbia, Spain. In Israel a same sex marriage entered into elsewhere may be registered as such, although not recognised for all purposes (*Ben Ari* v *Director of Population Administration in the Ministry of the Interior* HCJ 3045/05). The most interesting case is that of Massachusetts, that most liberal of all US states. Julie and Hillary Goodridge and 6 other same sex couples attacked the constitutionality of the state ban on same sex marriage. In its judgment (*Goodridge* v *Dept of Public Health* (2003 798 NE2d 941) the court agreed that there was no constitutionally valid reason for

denying marriage to same sex couples and gave the legislature 180 days to change the law to rectify the situation. It did not. Over 6000 couples rushed to take advantage of the new permission to marry, 2/3 of whom were women. The legislature responded by supporting a constitutional amendment prohibiting same sex couples from marrying but enabling civil unions; this failed to pass, as did other legislative bills, with the result that same sex marriage is legal in Massachusetts until 2012 at least, when further laws may be introduced. These marriages are not necessarily recognised in other states however, because of the Defense of Marriage Act 1996, enacted by President Clinton, which says that states need not recognise same sex marriages valid in other states, an exception to the general rule whereby states recognise each other's acts. At the moment Connecticut and Iowa have same sex marriage and a few states have civil unions, but the majority do not have provision for same sex unions. In essence therefore if a same sex couple marry in Massachusetts, in a perfectly legal ceremony, they are married in Mass. for state purposes but not so in many other states and not so for federal law purposes. Under US federal law, a marriage is defined as a man and woman relationship. Nevertheless a successful legal challenge to this going all the way to the Supreme Court looks likely and with good chances of success. Californian voters approved Proposition 8 in 2008, which decreed that only marriage between a man and a woman should be recognised in that state. The Californian Supreme Court rejected a constitutional challenge to the validity of the Proposition, and constitutional attempts to overturn it have so far failed, but the situation seems likely to head to the US Supreme Court too.

The most powerful and far reaching judgment yet given is in the S African Constitutional Court case of *Home Affairs* v *Fourie* (2005). It was given by Justice Albie Sachs, himself a hero of the fight against apartheid, and perhaps all the more moving and persuasive for that. It is vital reading but time allows for the citation of only a few sentences in a judgment that held that the denial of marriage to persons of the same sex was a breach of their equality rights under the S African constitution. He said at para. 71

"The exclusion of same sex couples from the benefits and responsibilities of marriage, accordingly, is not a small and tangential inconvenience resulting from a few surviving relics of societal prejudice destined to evaporate like the morning dew. It represents a harsh if oblique statement by the law that same sex couples are outsiders, and that their need for affirmation and protection of their intimate relations as human beings is somehow less than that of heterosexual couples. It reinforces the wounding notion that they are to be treated as biological oddities, as failed or lapsed human beings who do not fit into normal society, and, as such, do not qualify for the full moral concern and respect that our Constitution seeks to secure for everyone. It signifies that their capacity for love, commitment and accepting responsibility is by definition less worthy of regard than that of heterosexual couples. It should be noted that the intangible damage to same sex couples is as severe as the material deprivation. To begin with they are not entitled to celebrate their commitment to each other in a joyous public event recognised by the law. They are obliged to live in a state of legal blankness in which their unions remain unmarked by the showering of presents and the commemoration of anniversaries so celebrated in our culture. It may be, as the literature suggests, many same sex couples would abjure mimicking or subordinating themselves to heterosexual norms. Others might wish to avoid what they consider the routinisation and commercialisation of their most intimate and personal relationships, and accordingly not seek marriage or its equivalence. Yet what is at issue is not the decision to be taken, but the choice that is available. If heterosexual couples have the option of decising whether to marry or not, so should same sex couples have the choice as whether to seek to achieve a status and a set of entitlements and responsibilities on a par with those enjoyed by heterosexual couples. It follows that, given the centrality attributed to marriage and its consequences in our culture, to deny same sex couples a choice in this respect is to negate their right to self definition in a most profound way." Note that there was no civil partnership in S Africa and that the court then called on Parliament to change the law, failing which the Marriage Act would be read henceforth as allowing same sex marriage, although the churches would not have to perform the ceremonies if they objected.

There are two issues in all this which give me unease, and I have referred to them publicly before in the context of the amendments in 2008 to Human Fertilisation and Embryology law. One is the new possibility of birth certificates for children born to couples of the same sex, naming two persons of the same sex as their parents. This is logical following on the extension of rights to same sex couples, but there is an issue of principle here, which is the truth. Sections of the 2008 Act even allow a dead woman, never known to the baby and not related, to be named with her previous consent on the birth certificate by the choice of the birth mother, while preventing the child from having a father. Birth registration is about genetic inheritance (albeit that sometimes the truth is not told) and about the welfare of the child, not about the relationship, legal or otherwise, between the adults whose will gave rise to it. The birth certificate that names two female parents will disclose to anyone perusing it that the child was necessarily born from donor sperm or a donor embryo or a surrogate mother. The facts and circumstances apparently accompanying this will be broadcast wherever the birth certificate has to be produced - government agencies, passport offices, schools and so on; to gain nationality and overseas. (There is of course the option of the short birth certificate

which does not name parents at all, as a way around this.) It could even result in deception to exclude the natural father where the mother conceived naturally but uses this provision to cut him out of the child's life. There are other ways for two adults of the same sex to gain parental responsibility over a baby and it should not have been the birth certificate. It puts the demands of the adults ahead of the rights of children to know and benefit from both sides of their genetic makeup. It sits uneasily with the ending of donor anonymity in reproduction generally, and for the call for mothers to name fathers on birth certificates.

Not all unions between two adults can be the same, or must be treated the same, for all purposes. UK law does not recognise for example underage, incestuous or polygamous marriages. If two parties of the same sex have to seek legal responsibility for a child, the court will at least consider the welfare of the child; it should not rest on the fact of birth registration. Arts 7 and 8 of the UN Convention on the Rights of the Child provide for the right to know and be cared for by both his/her parents; and the right of the child to preserve his or her identity. These rights are threatened by the provisions of the HFEA 2008. This is not a moral issue; it is about disguising true facts, and it is about confusing biological parenthood, legal and social parenthood. Civil partnerships do still differ from marriage a little, and this is an area where the difference ought to be preserved with justification. Titles of honour are exempted from the new provisions about registering two people of the same sex on the birth certificate; if it is important to preserve the truth for titles, then it is important for everyone else. Birth certificates are about origins, not statements of commitment. The breach in this principle occurred some time ago when as a result of donor insemination practices, the name of the husband, who had consented to the practice, is entered on the birth certificate, and not the name of the sperm donor, who remains anonymous in any case for the time being. This highlights the need for a fresh and comprehensive review of the function that birth certificates should be carrying out: genetic records, statements of legal responsibility for children or records of partnerships.

The other area of regret for me is the removal from the law of the provision in the HFEA 2000 that when a doctor is considering whether or not to give infertility treatment to a woman, he or she had to consider the welfare of the potential baby, "including the child's need for a father." It was removed on the ground that it was discriminatory against single mothers and lesbians, and replaced by the need to check for 'supportive parenting', whatever that may mean. Reproductive services are in fact quite readily available to single women and it is thought that about 25% lesbian couples have children. I regret the downgrading of the father as a person of importance - the legislative dismissal of the contribution of half the population to the upbringing of the next generation. The removal of the requirement to consider the need for a father is to make a fresh statement that the child does not need a father, no matter how liberally the old law's requirement was interpreted. It sends a message to men, at a time when many of them feel undermined as providers and parents, contrary to government policy in this field. Government policy is that men should take financial responsibility for their children and stay in touch with them after separation; that they should take paternity leave and be involved. There is a wealth of research showing that children need fathers, not just two parents. Children need to see complementary roles, the relationship between the sexes, a microcosm of society, as they grow up. Recent reports have placed Britain at the bottom of international league tables for the welfare of children and we know that boys without fathers do worse at school and turn to worse role models. Research shows that their presence gives girls as well as boys advantages in educational and social development. The research is onwww.care.org.uk/fathers. The limit to same sex relationships is that they cannot be a reproductive unit in a way that is best for the welfare of the child if they cut out all contact with members of the other sex or falsify the birth registration. Tolerance of both types of parenting has to be ensured.

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