

Searching for Justice in Marriage

Review by David R. Larson

Because it criticizes marriage as customarily understood and practiced, this book will unsettle many who oppose same-sex marriage and many who favor it. This is why we should read and discuss it. If any publication can prompt all of us to reexamine our positions on this controversial issue, this is it.

Marvin M. Ellison is an ordained minister who describes himself as gay, Presbyterian, and progressive. He serves as Willard S. Bass Professor of Christian Ethics at Bangor Theological Seminary in Maine, a Congregational school for the preparation of clergy founded in 1814. He has written several other books about sexual ethics.

"As someone who was once married heterosexually," Ellison writes, "I confess that I never found marriage personally liberating or particularly user-friendly" (141). He dedicates this book to Frank Brooks, his life partner, with the observation that "loving requires work and play, but not necessarily a marriage license" (vi). He anticipates that, "if and when the marriage option becomes legally available, we will choose not to wed" (149).

This book's seven chapters fall into three clusters. The first two highlight the various forms of marriage and focus upon justice as the norm by which to judge these constantly changing arrangements. Using this standard, the middle three chapters examine and evaluate as many contemporary schools of thought: (1) opposition to same-sex marriage, (2) advocacy of same-sex marriage, and (3) criticism of marriage as an oppressive institution.

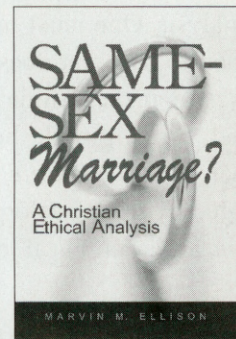
Although he is least sympathetic with the first

option, more so with the second, and most of all with the third, Ellison's summaries and judgments are evenhanded. His final two chapters outline his criticisms of the primary trends in the history of Christian sexual thought as well as his call for a paradigm shift in Christian sexual thinking. Throughout the volume, he addresses the pertinent theological and legal literature in ways that inform.

It is tempting in discussions like this to compare the best homosexual unions with the worst heterosexual ones, or vice versa. Ellison resists this temptation. Regrettably, however, the entire body of Christian sexual thought from Augustine in the fifth century through Karl Barth in the twentieth is disappointing at best and disastrous at worst.

The one exception of which I am aware is Jeremy Taylor's very brief account in seventeenth-century England of the natural benefits of marital sexual intimacy in *The Rule and Exercises of Holy Living*. This sad reality justifies Ellison's call for a paradigm shift without settling what shape it should take.

I think Ellison's critique is not as telling as it might be because it tends to equate the institution of marriage with the oppression of women. Given the entire history of Christian sexual thought and practice, this proclivity makes much sense. Nevertheless,



Marvin M. Ellison,
Same-Sex Marriage?
A Christian Ethical
Analysis.
Cleveland, Ohio:
Pilgrim Press,
2004.

it underplays the attempts of many contemporary heterosexual couples, Christian and otherwise, to envision and establish egalitarian marriages. Ellison acknowledges this more recent development; however, it does not generally inform his ethical analysis.

Ellison holds that justice involves more than formal equality or fair distribution. It "is best grasped as an ongoing process of active intervention to correct injustices by reordering skewed power dynamics," he writes (49). He identifies three things he considers unjust: (1) our negative, or at least pathologically ambivalent, attitudes about almost everything sexual; (2) our identification of heterosexuality as the standard by which we judge all other forms of human sexuality; and (3) our tacit approval of sexual abuse, exploitation, and violence. His paradigm shift would reverse all three patterns.

Ellison's analysis helps us understand why the question of same-sex marriage prompts such intense feelings on all sides of the issue. "Injustice happens less from efforts to keep gay people 'in their place,'" he writes, "and more from having no place in which gayness is visible and represented as a valid way of being human" (50).

Ellison holds that legalized marriage could provide homosexual men and women who live together in committed relationships more than the tangible benefits of being married. It could also give them a respected place in society. Increasing benefits is important; enhancing status is more so. My only hesitancy about this valuable insight is that it may leave the impression that "gayness" is a singular and uniform way of life. As Ellison makes clear elsewhere, it is not.

Those who write about such things often distinguish between "thick" and "thin" theories of justice. My view is that Ellison's theoretical treatment of this important principle and virtue is very slender. He depicts justice as "an ongoing process of correcting injustices" (53). This presumes that we already know what sexual justice requires. We don't, at least not entirely. We agree that rape is unjust; however, we are of more than one mind about whether reserving legalized marriage for heterosexuals is also unjust.

Our uncertainties about these matters gave Ellison an opportunity to take advantage of the rich literature that has surfaced since John Rawls published *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), a classic. Unfortunately, probably because it is impossible to do everything in one book, this volume neither advances a comprehensive theory of justice nor adopts another. This disappoints

me. Nothing is more practical than a good theory!

My views about homosexuality differ from Ellison's in some important ways. I believe that the homosexual orientation is one of many sorry omens that we live in a flawed world, but he apparently disagrees. As I see it, the entire cycle of human life, from conception and birth to old age and death, takes place most naturally, and therefore most easily, in the context of loving and just heterosexual unions and that for this reason they should be our first choice, when we have one.

More than I do, Ellison holds that the ways we typically live and die are not natural but socially constructed in order to benefit the rich and powerful. I also believe that this is so, but not to the extent that Ellison contends.

I am persuaded that homosexual men and women suffer greatly and that their suffering is largely but not entirely caused by the irrational and immoral bigotry of others. This suffering is also an indication that our world is imperfect or "fallen" and that, for a variety of reasons, only some of which we can control, things do not always turn out as they naturally should. When such misfortunes occur, I believe that we ought to do all that we can to foster the flourishing of those who experience more than life's usual difficulties.

To use an expression John Rawls developed in his theory of justice, we should attempt to mitigate the adverse consequences of life's "natural lottery." For me, this means that our public policies should strive to make it equally convenient and beneficial for heterosexuals and homosexuals to establish loving and just unions that are egalitarian, permanent, sexually exclusive, and fruitful in the broad sense that they enhance the lives of others. This should be the case, I believe, no matter what our various religious groups require of their members.

Whether our public policies should call such stable relationships "marriages," "civil unions," "domestic partnerships," or something else is an issue about which I vacillate. What matters most of all, I believe, is that these regulations should apply equally to all of us, as though when formulating them we did not know whether we were lesbian, bisexual, gay, transgender, or straight. To my way of thinking, that would be true justice. I suspect that Ellison would agree!

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