

**Marriage and Legal  
Recognition of Same-sex Unions**

**Submission of the**

**Seventh-day Adventist Church in Canada**

**To The**

**House of Commons Standing Committee on  
Justice and Human Rights**

**Dated**

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## **Introduction**

The Seventh-day Adventist Church is a worldwide Christian protestant denomination with established work in 209 countries and some 12 million adult adherents. The Seventh-day Adventist Church in Canada (the Church) has nearly 52,000 adult members in 330 congregations. Throughout our history we have emphasized that Christian ideals are an intricate part of the whole individual. The Church sees Christianity not merely as a belief but a lifestyle. For this reason the church operates institutions to assist all areas of life. In Canada we run 55 elementary, junior and senior high schools; an accredited university college in Alberta; nursing and retirement homes throughout the country.

The Church is also concerned about the physical needs of our fellowmen – we operate the Adventist Development and Relief Agency (ADRA) providing disaster and development relief projects around the world (with the help of Canadian International Development Agency (CIDA)). A large number of our 330 congregations throughout Canada operate food banks and clothing distribution centres.

As the needs arise the Church has worked in areas of human rights and social concerns. The Church has seen it necessary from time to time to become involved in areas of religious freedom by making presentations to legislative bodies and intervening in key cases before the judiciary.

Given the recent discussions in Canada on the issue of marriage the Church has felt it necessary to make its views known on the matter.

## **Discussion Paper**

In its November 2002 discussion paper<sup>1</sup> the Department of Justice outlined several approaches to marriage:

Marriage could remain an opposite-sex institution, either by:

- Legislating the opposite-sex requirement for marriage; or by
- Restating the opposite-sex meaning of marriage in the preamble of a new piece of legislation that would create an equivalent to marriage for federal purposes (either civil union or domestic partnership) for other conjugal relationships; or

Marriage could be changed to also include same-sex couples by:

- Legislating to give same-sex couples the legal capacity to marry; or

With the cooperation of the provinces and territories, Parliament could leave marriage to the religions by:

- Removing all federal references to marriage, and replacing them by a neutral registration system for all conjugal relationships, leaving marriage exclusively to individuals and their religious institutions.

## **Our Response To The Position Paper**

It is our recommendation to Parliament that marriage not be redefined to give same-sex couples the legal capacity to marry for the reasons we outline below.

## **Seventh-day Adventist Position on Marriage**

The Church accepts the Bible as the sole authority of its teaching on marriage. We see marriage as a divine institution established in Eden and affirmed by Jesus Christ to be both monogamous and heterosexual, a lifelong union of loving companionship between a

man and a woman. In the culmination of His creative activity, God fashioned humankind as male and female in His own image; and He instituted marriage, a covenant-based union of the two genders physically, emotionally, and spiritually, spoken of in Scripture as "one flesh." (Genesis 2:24)

Arising from the diversity of the two human genders, the oneness of marriage images in a singular way the unity within diversity of the Godhead. Throughout Scripture, the heterosexual union in marriage is elevated as a symbol of the bond between Deity and humanity. It is a human witness to God's self-giving love and covenant with His people. (Isaiah 54:5; 62:5; Jeremiah 3:14; Hosea 2:19; Matthew 22:2; 25:10; Revelation 19:7)

The harmonious affiliation of a man and a woman in marriage provides a microcosm of social unity that is time-honored as a core ingredient of stable societies. Further, the Creator intended married sexuality not only to serve a unitive purpose, but also to provide for the propagation and perpetuation of the human family. In the divine purpose, procreation springs from and is entwined with the same process whereby husband and wife may find joy, pleasure and physical completeness. It is to a husband and wife whose love has enabled them to know each other in a deep sexual bond that a child may be entrusted. Their child is a living embodiment of their oneness. The growing child thrives in the atmosphere of married love and unity in which he or she was conceived and has the benefit of a relationship with each of the natural parents.

The monogamous union in marriage of a man and a woman is affirmed as the divinely ordained foundation of the family and social life and the only morally appropriate locus

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<sup>1</sup> Department of Justice, "Marriage and Legal Recognition of Same-sex Unions," November 2002.

of genital or related intimate sexual expression. However, the estate of marriage is not God's only plan for the meeting of human relational needs or for knowing the experience of family. Singleness and the friendship of singles are within the divine design as well. The companionship and support of friends looms in importance in both biblical testaments. The fellowship of the Church, the household of God, is available to all regardless of their married state. Scripture, however, places a solid demarcation socially and sexually between such friendship relations and marriage.

To this biblical view of marriage the Seventh-day Adventist Church adheres without reservation, believing that any lowering of this high view is to that extent a lowering of the heavenly ideal. Because marriage has been corrupted by sin, the purity and beauty of marriage as it was designed by God needs to be restored. Through an appreciation of the redemptive work of Christ and the work of His Spirit in human hearts, the original purpose of marriage may be recovered and the delightful and wholesome experience of marriage realized by a man and a woman who join their lives in the marriage covenant.

## **Concerns**

Over the last number of years Canadian society (indeed Western Civilization) has been called upon to re-evaluate the institution of marriage. Remonstrations are being made to the courts and legislatures to remove the historical privileges and understandings of marriage. For millennia our civilization understood marriage as that taught by the Christian faith. However we are asked to reject our previously accepted norms and step out to embrace a reconfiguration of the society's basic unit to include "any two persons."

A number have argued that churches and religious people have no say in the matter because,

Religious doctrines must be deemed absolutely irrelevant in determining the content of secular laws and human rights. A separation between law and religion is a defining principle of every liberal democracy. Without such a principle, there can be no freedom of conscience and religion, for the beliefs of the religious majority will be imposed on how they execute the law...

The religious majority may seek to have their beliefs reflected in secular laws but they must do so through reasoned secular arguments. Religious text or doctrines must be excluded from legislative and judicial debates, because unlike secular law, they rely on inaccessible, extra-democratic source of authority, which cannot be challenged or overturned by reasoned arguments.<sup>2</sup>

The Seventh-day Adventist Church has always recognized that the God-given right of religious liberty is best maintained when church and state are separate. We view government as God's agency to protect individual rights and conduct civil affairs. However it is our view that the Church and its members have every right as any other citizen to express its views on matters of public policy. In the end the government must decide what public policy will be the basis of its legislation. The Church can only present its view, it has no means nor does it desire means of compulsion – even when its view is diametrically opposed to that of government.

## **Legislating Morality**

Laws are the not the sole domain of the “secular”. All law is an expression of society's morality of right and wrong. Discussions on morality without the views of religious

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<sup>2</sup> Dr. Robert Wintemute's comments at the Bertha Wilson Lecture, 2002, on February 12, 2002, as quoted at [www.samesexmarriage.ca/equality/bertha\\_wilson.htm](http://www.samesexmarriage.ca/equality/bertha_wilson.htm).

groups would hardly be enlightened but rather an imposition of one view of morality over another. Especially is this so when our civilization's understanding of right and wrong on the issue of marriage and same-sex relationships has been constant not for 10 or 20 years but for millennia. The question becomes whose morality do you enforce?

### **Society's Base That Pre-existed Law**

Society has historically relied upon the institution of marriage to perpetuate humanity through procreation and for the raising of the next generation. Marriage is the only institution we have of meeting those needs. The Attorney General's Factum in the current **Halpern** case<sup>3</sup> under appeal in Ontario, states:

Marriage remains the most stable unit for family formation (in contrast, 50 percent or more of common law unions in Canada end in dissolution), and the majority of Canada's children – around 73 per cent as of 1996 – continue to live in families of married couples with women who marry having twice as many children (2.87) as those in common-law relationships (1.44).<sup>4</sup>

The issue of same-sex marriage before Parliament is not akin to a money bill or public works legislation – it is a revolution of social norms. What is being asked is not merely to redefine an institution set in place by law but rather an institution that goes back to the beginning of human civilization pre-dating any legislation of our modern age. The *Constitution Act, 1867* did not create marriage but acknowledges its existence. This is evidenced by the authorization of federal and provincial legislation in respect of

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<sup>3</sup> **Hedy Halpern et. al. v. Attorney General of Canada et. al.**, Ontario Court of Appeal, Court File No. C39172 & C39174.

<sup>4</sup> AG Canada Factum, para. 11.



“marriage”.<sup>5</sup> Parliament did not create marriage; the *Constitution* did not create it; the judiciary did not create it – it simply is.

This has been recognized in a number of famous English cases including **Hyde v. Hyde**<sup>6</sup> wherein Lord Penzance stated:

Marriage has been well said to be something more than a contract, either religious or civil – to be an institution. It creates mutual rights and obligations, as all contracts do, but beyond that it confers a status. The position or status of “husband” and “wife” is a recognised one throughout Christendom: the laws of all Christian nations throw about that status a variety of legal incidents during the lives of the parties, and induce definite rights upon their offspring. What, then, is the nature of this institution as understood in Christendom? Its incidents vary in different countries, but what are its essential elements and variable features? If it be of common acceptance and existence, it must need (however varied in different countries in its minor incidents) have some pervading identity and universal basis. 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.

In a more recent English case **Corbett v. Corbett**,<sup>7</sup> Justice Ormrod said:

The fundamental purpose of law is the regulation of the relations between persons, and persons and the State or community. For the limited purposes of this case, legal relations can be classified into those in which the sex of the individuals concerned is either irrelevant, relevant or an essential determinant of the nature of the relationship...sex is clearly an essential determinant of the relationship called marriage because it is and always has been recognized as a union of man and woman. It is the institution on which the family is built, and in which the capacity for natural heterosexual intercourse is an essential element. It has, of course, many other characteristics, of which companionship and mutual support is an important one, but the characteristics which distinguish it from all other relationships can only be met by two persons of opposite sex.

Speaking as a Supreme Court of Canada Justice LaForest wrote in the **Egan**<sup>8</sup> case the following:

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<sup>5</sup> *Constitution Act, 1867*, ss. 91(26) and 92(12).

<sup>6</sup> **Hyde v. Hyde and Woodmancee** (1866), L.R. 1 P & D 130 at 35.

<sup>7</sup> **Corbett v. Corbett**, [1970] 2 All E.R. 33 at p. 48.

<sup>8</sup> **Egan v. Canada**, [1992] 2 S.C.R. 513 at para. 21.

My colleague Gonthier J. in *Miron v. Trudel* has been at pains to discuss the fundamental importance of marriage as a social institution, and I need not repeat his analysis at length... Suffice it to say that marriage has from time immemorial been firmly grounded in our legal tradition, one that is itself a reflection of longstanding philosophical and religious traditions. But its ultimate *raison d'être* transcends all of these and is firmly anchored in the biological and social realities that heterosexual couples have the unique ability to procreate, that most children are the product of these relationships, and that they are generally cared for and nurtured by those who live in that relationship. In this sense, marriage is by nature heterosexual.

It must be recognized that marriage is not a creation of positive law. Rather it comes from the intuitive understanding within our civilization of the natural or moral law. An institution that predates our Canadian society – one that is defined as one man, one woman to the exclusion of all others.

### **Religious Freedom**

The impact of this social revolution upon religious communities must be recognized. The members of our clergy will need protection due to their being unable and unwilling to solemnize a “marriage” of same-sex partners. Given the recent challenges by the gay rights community against church run institutions,<sup>9</sup> we are not at all comforted by statements that they will not subsequently challenge the rights of churches and individual members to practice their beliefs without further harassment.

Can it be honestly said that the following religious freedoms will not be left in a precarious position as a result of redefining marriage? Such freedoms as the right to: refrain from solemnising redefined marriages; continue to speak, teach and write against the immorality of same-sex relationships; maintain separate school systems without fear

of the state imposing a new curriculum requiring students to be “sensitized” to or “endorse” same-sex relationships.<sup>10</sup> Consider also this statement of law professor Bruce MacDougall,

Even children being raised in a particular religious tradition should not be exposed to ideology that excludes and refuses to accommodate homosexuality in their education. The state has an interest in all education of the young and the state ideals should prevail.<sup>11</sup>

Should Canada redefine marriage there can be no doubting that the religious freedom of those who disagree with Canada’s new morality will be compromised. Already those who hold views differently from the homosexual community are labelled with such terms as “heterosexist” and “homophobe.” Such language does not engender a spirit of goodwill. Rather it attacks those who view heterosexuality as the norm putting them into a category akin to racists.

## **Conclusion**

Those who disagree with society’s current trend on this matter will face increasing pressure in the coming days to conform. Christianity as a religion faced similar situations where it was at odds with a secular society demanding conformity. History has shown a continuum of principles that have motivated the Christian conscience to stand firm despite the waves of intellectual and social criticism – among those is the authority of the

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<sup>9</sup> Consider the following cases: **Hall (Litigation guardian of) v. Powers**, (2002) 59 O.R. (3d) 423; **Trinity Western University v. College of Teachers (British Columbia)**, 2001 SCC 31.

<sup>10</sup> Justice MacKinnon in **Hall (Litigation guardian of) v. Powers**, (2002) 59 O.R. (3d) 423 ominously quipped: “Even schooling that is not funded by the government must still respect the right of the province to insist on certain minimal requirements in the education of all students.”

<sup>11</sup> Bruce MacDougall, “Silence in the Classroom: Limits on Homosexual Expression and Visibility in Education and the Privileging of Homophobic Religious Ideology,” (1998), 61 Sask. L. Rev. 41, at note <sup>166</sup>.

words of Christ concerning the institution of marriage, “What therefore God hath joined together let not man put asunder.” (Matthew 19:6)

For the Christian, marriage is the fundamental institution of society. As noted in the above court decisions of yesteryear there existed a common understanding throughout Christendom of what marriage meant. Our country over the last half-century has collectively moved away from its Christian roots. It now seeks to establish law independent of religious moral view, in particular the historical Christian worldview. It is a grand experiment. Only time will tell whether this social revolution will be in our collective best interests. If history is any guide to how we ought to live today – then it clearly shows that the grand experiment will be a grand failure.

In the end the Seventh-day Adventist Church will continue to seek the freedom of its membership and its institutions to maintain their faith on this and other issues of morality.

## Appendix A

### Affirmation of Marriage

Issues related to marriage can be seen in their true light only as they are viewed against the background of the divine ideal for marriage. Marriage was divinely established in Eden and affirmed by Jesus Christ to be both monogamous and heterosexual, a lifelong union of loving companionship between a man and a woman. In the culmination of His creative activity, God fashioned humankind as male and female in His own image; and He instituted marriage, a covenant-based union of the two genders physically, emotionally, and spiritually, spoken of in Scripture as "one flesh."

Arising from the diversity of the two human genders, the oneness of marriage images in a singular way the unity within diversity of the Godhead. Throughout Scripture, the heterosexual union in marriage is elevated as a symbol of the bond between Deity and humanity. It is a human witness to God's self-giving love and covenant with His people. The harmonious affiliation of a man and a woman in marriage provides a microcosm of social unity that is time-honored as a core ingredient of stable societies. Further, the Creator intended married sexuality not only to serve a unitive purpose, but to provide for the propagation and perpetuation of the human family. In the divine purpose, procreation springs from and is entwined with the same process whereby husband and wife may find joy, pleasure and physical completeness. It is to a husband and wife whose love has enabled them to know each other in a deep sexual bond that a child may be entrusted. Their child is a living embodiment of their oneness. The growing child thrives in the atmosphere of married love and unity in which he or she was conceived and has the benefit of a relationship with each of the natural parents.

The monogamous union in marriage of a man and a woman is affirmed as the divinely ordained foundation of the family and social life and the only morally appropriate locus of genital or related intimate sexual expression. However, the estate of marriage is not God's only plan for the meeting of human relational needs or for knowing the experience of family. Singleness and the friendship of singles are within the divine design as well. The companionship and support of friends looms in importance in both biblical testaments. The fellowship of the Church, the household of God, is available to all regardless of their married state. Scripture, however, places a solid demarcation socially and sexually between such friendship relations and marriage.

To this biblical view of marriage the Seventh-day Adventist Church adheres without reservation, believing that any lowering of this high view is to that extent a lowering of the heavenly ideal. Because marriage has been corrupted by sin, the purity and beauty of marriage as it was designed by God needs to be restored. Through an appreciation of the redemptive work of Christ and the work of His Spirit in human hearts, the original purpose of marriage may be recovered and the delightful and wholesome experience of marriage realized by a man and a woman who join their lives in the marriage covenant.

*This statement was approved and voted by the General Conference of Seventh-day Adventists Administrative Committee (ADCOM) on April 23, 1996. [http://www.adventist.org/beliefs/main\\_stat16.html](http://www.adventist.org/beliefs/main_stat16.html)*

## Appendix B

### HOMOSEXUALITY

The Seventh-day Adventist Church recognizes that every human being is valuable in the sight of God, and we seek to minister to all men and women in the spirit of Jesus. We also believe that by God's grace and through the encouragement of the community of faith, an individual may live in harmony with the principles of God's Word.

Seventh-day Adventists believe that sexual intimacy belongs only within the marital relationship of a man and a woman. This was the design established by God at creation. The Scriptures declare: "For this reason a man will leave his father and mother and be united to his wife, and they will become one flesh" (Gen. 2:24, NIV). Throughout Scripture this heterosexual pattern is affirmed. The Bible makes no accommodation for homosexual activity or relationships. Sexual acts outside the circle of a heterosexual marriage are forbidden (Lev. 20:7-21; Rom. 1:24-27; 1 Cor. 6:9-11). Jesus Christ reaffirmed the divine creation intent: "'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"' (Matt. 19:4-6, NIV). For these reasons Adventists are opposed to homosexual practices and relationships.

Seventh-day Adventists endeavor to follow the instruction and example of Jesus. He affirmed the dignity of all human beings and reached out compassionately to persons and families suffering the consequences of sin. He offered caring ministry and words of solace to struggling people, while differentiating His love for sinners from His clear teaching about sinful practices.

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*This statement was voted during the Annual Council of the General Conference Executive Committee on Sunday, October 3, 1999 in Silver Spring, Maryland.*

[http://www.adventist.org/beliefs/main\\_stat46.html](http://www.adventist.org/beliefs/main_stat46.html)

## Appendix C

### Religious Minorities and Religious Freedom: A Statement of Commitment and Concern

Throughout history religious minorities have often been subject to discrimination and outright persecution. Today religious intolerance and prejudice are again on the rise. Notwithstanding the affirmation of the freedom of everyone to hold and disseminate religious views and to change one's religion—an affirmation sustained in the United Nations instruments and documents comprising an "International Bill of Rights"—many countries deny this right to their citizens.

International instruments condemn discrimination against minorities, but tragically, some nations have published lists of religious groups described as potentially dangerous sects. Anti-sect commissions have been set up, investigative personnel have been trained, and restrictive laws passed. Hundreds of thousands of innocent believers are now under official suspicion and are treated as second-class citizens. All this violates religious freedom, which is the most basic and essential of the fundamental rights of humankind. Seventh-day Adventists believe in obeying the laws of the land as long as they do not conflict with the laws of God. However, we oppose any law, policy, or activity which discriminates against religious minorities.

The Seventh-day Adventist Church stands for religious freedom for everyone, as well as for the separation of church and state. Scripture teaches that the God who gave life also gave freedom of choice. God only accepts homage that is freely given. Seventh-day Adventists further believe that the law must be applied evenly and without capricious favor. We submit that no religious group should be judged because some adherents may appear to be extremists. Religious freedom is limited when aggressive or violent behavior violates the human rights of others.

In support of Article 18 of the United Nations Universal Declaration of Human Rights and other international instruments, and in harmony with its beliefs and its history, the Seventh-day Adventist Church is fully committed to promote, defend, and protect religious freedom for everyone, everywhere. To that end, we will continue to cooperate with the United Nations Human Rights Commission and other international agencies and religious organizations to encourage every nation to implement the fundamental right of religious freedom. In addition, we will continue to promote dialogue and better understanding between governmental authorities and people who belong to religious minorities.

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*This statement was voted during the Annual Council of the General Conference Executive Committee on Wednesday, September 29, 1999 in Silver Spring, Maryland.*  
[http://www.adventist.org/beliefs/main\\_stat45.html](http://www.adventist.org/beliefs/main_stat45.html)

## Appendix D

### A Statement on Religious Freedom

For more than a century Seventh-day Adventists have been active promoters of religious freedom. We recognize the need to champion freedom of conscience and religion as a fundamental human right, in harmony with the instruments of the United Nations.

The Seventh-day Adventist Church has a presence in 209 countries. With some exceptions, however, Adventists constitute a religious minority, and have at times been subject to restrictions and discrimination. Consequently, they have felt it necessary to stand up for human rights.

As loyal citizens, Adventists believe they have the right to freedom of religion, subject to the equal rights of others. This implies the freedom to meet for instruction and worship, to worship on the seventh day of the week (Saturday), and to disseminate religious views by public preaching, or through the media. This freedom further includes the right to change one's religion, as well as to respectfully invite others to do so. Every person has a right to demand consideration whenever conscience does not allow the performance of certain public duties, such as requiring the bearing of arms. Whenever churches are given access to public media, Adventists should in all fairness be included.

We will continue to cooperate and network with others to defend the religious liberty of all people, including those with whom we may disagree.

*This statement was approved and voted by the General Conference of Seventh-day Adventists Administrative Committee (ADCOM) and was released by the Office of the President, Robert S. Folkenberg, at the General Conference session in Utrecht, the Netherlands, June 29-July 8, 1995.*  
[http://www.adventist.org/beliefs/main\\_stat19.html](http://www.adventist.org/beliefs/main_stat19.html)



## Appendix E

### Statement on Home and Family

The health and prosperity of society is directly related to the well-being of its constituent parts—the family unit. Today, as probably never before, the family is in trouble. Social commentators decry the disintegration of modern family life. The traditional Christian concept of marriage between one man and one woman is under assault. The Seventh-day Adventist Church, in this time of family crisis, encourages every family member to strengthen his or her spiritual dimension and family relationship through mutual love, honor, respect, and responsibility.

The church's Bible-based Fundamental Belief No. 22 states the marital relationship "is to reflect the love, sanctity, closeness, and permanence of the relationship between Christ and His church. ... Although some family relationships may fall short of the ideal, marriage partners who fully commit themselves to each other in Christ may achieve loving unity through the guidance of the Spirit and the nurture of the church. God blesses the family and intends that its members shall assist each other toward complete maturity. Parents are to bring up their children to love and obey the Lord. By their example and their words they are to teach them that Christ is a loving disciplinarian, ever tender and caring, who wants them to become members of His body, the family of God."

Ellen G. White, one of the founders of the church, stated: "The work of parents underlies every other. Society is composed of families, and is what the heads of families make it. Out of the heart are the 'issues of life' (Prov.4:23); and the heart of the community, of the church, and of the nation is the household. The well-being of society, the success of the church, the prosperity of the nation, depend upon home influences." —*The Ministry of Healing*, p. 349.

*This public statement was released by the General Conference president, Neal C. Wilson, after consultation with the 16 world vice presidents of the Seventh-day Adventist Church, on June 27, 1985, at the General Conference session in New Orleans, Louisiana. [http://www.adventist.org/beliefs/main\\_stat32.html](http://www.adventist.org/beliefs/main_stat32.html)*

## Appendix E

### Statement on Tolerance

Seventh-day Adventists support the United Nations proclamation of 1995 as the *Year of Tolerance*. This proclamation comes at an opportune time when intolerance is abounding on all continents—bigoted religious extremism, racism, tribalism, ethnic cleansing, linguistic enmity, and other forms of terrorism and violence. Christians carry their share of the blame for prejudice and inhumanity toward humans.

Tolerance, the capacity to *endure* unfavorable circumstances, is only a beginning. Christians and all people of good will, must go well beyond this negative concept and develop sympathy for beliefs or practices that not only differ, but even conflict with their own. Dialogue is certainly much better than diatribe. Human beings must learn to agree or disagree without violence; they must be able to discuss varying viewpoints without hate or rancor. This does not mean docility or abject submission, but partnership and respect for the equal rights of others. Every person has the right and the responsibility to express both ideas and ideals with verve and vigor, but without reaching the boiling point of violent words or actions.

Finally, tolerance at its best means not only acceptance of other views and people, but moving in benevolence, responsiveness, and understanding toward others—every other human being.

*This statement was approved and voted by the General Conference of Seventh-day Adventists Administrative Committee (ADCOM) and was released by the Office of the President, Robert S. Folkenberg, at the General Conference session in Utrecht, the Netherlands, June 29-July 8, 1995. [http://www.adventist.org/beliefs/main\\_stat27.html](http://www.adventist.org/beliefs/main_stat27.html)*