

A Submission from Tasmanian Baptists
to the Senate Committee Inquiry
into the Marriage Equality Amendment Bill 2010

March 2012

INTRODUCTION

Tasmanian Baptists are strong supporters of marriage as it is currently defined in the Marriage Act 1961. Marriage is a social institution that reflects the biological complementarity of men and women. It has traditionally involved solemn, sacred and binding vows that recognise the importance of permanence, exclusivity, sanctity, commitment and complementarity. It is the pillar on which the indispensable social unit of the family has been founded. The family, as we currently understand it, has been found by countless different societies over the centuries to provide the best context for bringing children into the world and raising them in an environment that best provides for their physical, intellectual, psychological, emotional and social development.

Regrettably, the unique and distinctive nature of marriage has been markedly diminished over the last generation or two by developments such as easier divorce, which has undermined the concept of permanence; sexual libertarianism, which has undermined the concept of exclusivity; a drift away from church marriages, which has undermined the concept of sanctity and the softening of marriage vows, often to the point of ‘because we love each other we can each do as we please and everything will be alright’, which has undermined the concept of commitment. This latest proposal would in turn undermine the concept of the complementarity of a man and a woman.

We believe that the detrimental consequences of the recent diminishment and, in many cases, even abandonment of marriage on society are already starting to become apparent in the form of high divorce rates, even higher separation rates for de facto couples, broken families, child neglect and abuse, homelessness, rebellious youth and dysfunctional communities. These developments can be expected to become much more serious if our understanding of marriage is further diluted until its uniqueness and deep significance is no longer recognised and we reach the point where any relationship can be represented as marriage. We believe that any move to re-define it to include same sex couples would be a regrettable further step along this path.

We believe that this proposal, which has a low priority in the thinking of most Australians, has already attracted far more attention than it deserves, but welcome this opportunity to put forward what we believe is the overwhelming case to retain the present definition in the Marriage Act.

THE CAMPAIGN TO CHANGE THE MARRIAGE ACT

Perhaps the most remarkable thing about this proposal is that it has got as far as this, whereas logic dictates that it should have been dismissed out of hand from the beginning. That it has done so is testimony to the ability of its supporters, including the Greens, to manipulate public opinion. If anyone proposed that ‘blue’ should be re-defined to include yellow, or that ‘cats’ should be re-defined to include dogs the proposal would be given short shrift. Yet, by means of a clever campaign designed to mislead people into thinking that this has something to do with equality (Australians are noted for their egalitarianism) many people have not only been persuaded to take this proposal seriously but also that justice requires it to be implemented. But we believe that deeper consideration is needed before embarking on such a radical change.

There are many good reasons why the proposed change should not occur and some of these will be outlined later. However, Tasmanian Baptists believe that this campaign is founded on the denial of two indisputable facts:

- That a same sex partnership is fundamentally different from a heterosexual marriage,

- That permitting same sex marriage is not necessary to achieve ‘marriage equality’, which we already have under the current legislation.

The term ‘marriage equality’ that has been used in this campaign (and indeed in the title of the Bill itself) is an Orwellian misuse of language in order to mislead. In fact, all Australians have equality of access to marriage under current law, but none of us has the unfettered right to marry whoever we wish or to represent any relationship we may adopt as a ‘marriage’. We are only entitled to marry an unmarried consenting adult of the opposite sex who is not a close relative. It is not a denial of equality to prohibit the representation of relationships that do not satisfy these requirements as marriages.

In fact, this proposal has nothing whatsoever to do with achieving equality, but is really about changing the very nature and meaning of marriage.

There is undoubtedly a political and ideological campaign under way, not to abolish marriage but to diminish its uniqueness by having same sex partnerships regarded in every possible way as no different from marriages. The ultimate objective is to ensure that same sex partners can enjoy all the privileges that were originally designed to reinforce and assist the traditional family, headed by a mother and a father, in its unique role of bringing children into the world and raising them. If the Bill was passed this would undoubtedly lead to claims that ‘married’ same sex couples have a right to acquire children, be it by adoption, donor insemination or IVF. There is a strong body of evidence that this would be contrary to the best interests of the children concerned.

THE CONSEQUENCES OF PASSING THIS BILL

While we don’t wish to trivialise the debate, to argue, in the name of ‘marriage equality’, that marriage should be re-defined to include same sex relationships despite the fundamental differences between them makes no more sense than to argue, in the name of ‘pet equality’, that dogs should be re-defined to include cats despite the fundamental differences between them. If some people don’t feel attracted to others of the opposite sex that is no reason why we should re-define marriage to suit their wishes. If we acquiesced to this demand then how could we refuse demands for other forms of relationship, such as those involving children or multiple partners, or perhaps even more outlandish unions to be recognised as marriages?

The number of people who may take advantage of this change if it were to be implemented would amount to well under one per cent of our total population. But if marriage is re-defined this new definition will apply not only to this tiny minority but to all other Australians, including millions who have entered into marriage with a quite different understanding of what it means, one that has been shared by countless civilisations over many centuries. It would be an abrogation of democratic processes, and cause grave offence to many for whom marriage has deep cultural significance if, in order to please a tiny minority, its meaning was changed to something quite different.

EIGHT GOOD REASONS FOR REJECTING THE BILL

The arguments for rejecting this Bill are many, but the main ones can be summarised as follows:

1. By definition, a same sex relationship is not, never has been and never can be a marriage. To create a legal fiction that it is would cause a conflict between the legal and everyday meaning of the term and declare the law to be an ass.
2. Recognising same-sex relationships as marriages would remove no injustices for people in those relationships. That is best achieved by other measures which have already largely been implemented in Australia.

3. For the vast majority of people, marriage, as currently defined in the Marriage Act 1961, is a unique undertaking involving solemn vows that recognise the natural complementarity of a man and a woman. To diminish its treasured uniqueness and cultural significance by expanding the definition to incorporate same-sex unions would be a grave injustice to them.
4. Regardless of any changes to the law, most people would still not regard a same-sex relationship as a marriage anyway. Some may even feel forced to invent a new word to describe genuine marriage if the current term is effectively stolen from them.
5. Most people have no problem in accepting same-sex relationships for what they are. It is only a section of the gay lobby which has a problem with self-acceptance that wants to pretend that their relationships are something they are not, namely marriages.
6. If the definition of marriage that has held for centuries in all western countries can be so lightly discarded, then the door will be opened to claims that in fairness it should also be thrown open to other relationships, such as those involving multiple partners, minors or close relatives.
7. The call for same-sex marriage has arisen, not from the general public, but from a militant section of the gay community – a fraction of a very small minority. It would be fundamentally unjust and undemocratic to allow them to call the tune and expect everyone else to dance to it.
8. Overthrowing a definition that has been recognised for ages would confuse the meaning of ‘marriage’ and could create all sorts of problems in interpreting writings of all sorts that pre-dated the change. What interpretation would be placed on wills, for example, that have been written on the clear understanding that marriage is an exclusive union between one man and one woman?

A RESPONSE TO SOME OF THE MAJOR ARGUMENTS PRESENTED IN FAVOUR OF THE BILL

Invalid arguments

Some of the main arguments presented by the proponents of this change and the reasons for rejecting those arguments are presented below.

Allowing same sex couples to marry is a basic human right.

The concept of human rights has been greatly debased in recent times by countless lobby groups claiming a ‘right’ to have whatever it is that they currently want, regardless of the merits or otherwise of their claims. Parliament should not allow itself to become complicit in the process of diminishing the concept of genuine human rights. This newly invented ‘right’ has never been recognised as such and indeed the European Court of Human Rights has recently rejected a claim that such a right exists.

This change is necessary to ensure equality in marriage for all.

Although appealing to many, this argument is utterly spurious as all Australians currently have equal access to marriage as it is currently defined. The real aim of this Bill is to change the definition and hence the very nature of marriage. No need has been demonstrated for such a change and we believe it would ultimately prove detrimental to society.

It is right and good to provide homosexual couples with an opportunity to declare their love and commitment to each other.

There is currently nothing to prevent them from doing so, but any such ceremony must not be misrepresented as a 'marriage' and the couple should not be entitled to describe themselves as 'married'. Love and commitment are necessary but not sufficient pre-conditions for marriage, otherwise people could marry their pets, for example.

Preventing same sex couples from marrying is discriminatory

Yes it is, and so it should be. Discrimination is not a synonym for injustice. If we want a fairer, more just and more orderly society we need more discrimination, not less. Our courts must discriminate between the innocent and the guilty; our social services must discriminate between the needy and the well-off; our licensing authorities must discriminate between qualified and unqualified surgeons, pilots and engineers. Discrimination is indispensable to civilised society in countless other areas including voters discriminating between good and bad governments. It is right and proper that we should discriminate between those who have legitimate claims to marry and those who don't.

The Act must be changed to ensure freedom of sexual orientation and gender identity

This claim that was presented in the Explanatory Memoranda for the Bill is simply nonsensical. Excluding same sex couples from marrying in no way inhibits their freedom of sexual orientation and gender identity.

We should do it because other jurisdictions have done it.

This is perhaps the weakest argument of all. It is up to the Australian parliament to make its own decision on this matter in the interest of the Australian people, regardless of what other jurisdictions have done. Furthermore, if we were to follow the lead of other jurisdictions we would continue to prohibit same sex marriage, as the vast majority of them have done.

Valid arguments

A complete list of all the valid arguments in favour of same sex marriage is presented below:

CONCLUSION

Tasmanian Baptists believe that there is absolutely no valid justification for the proposed change. It would represent another step in the diminution of the concept of marriage which has served us well for centuries. This diminution is already having adverse consequences on our society, which can be expected to worsen. We therefore join with Christians and many others of diverse faiths or none at all in urging the Committee to recommend that this Bill not be proceeded with.

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