

## **Implications of marriage equality for Australians who are not in same sex relationships**

I support the Hanson-Young *Marriage Equality Amendment Bill 2010*. I also support the related bills at the committee stages in the House of Representatives: the Bandt/Wilkie *Marriage Equality Amendment Bill 2012* and the Jones *Marriage Amendment Bill 2012*.

I am not in a same sex relationship, but this issue is personally important to me. I am sure you will receive many submissions that focus on the benefits of marriage for same sex couples, or the supposed detrimental effect that allowing same sex marriage will have on opposite sex marriage. I will briefly respond to some of the most common arguments being made against same sex marriage, but first I would like to point out how the proposed amendments to The Marriage Act can actually benefit people who are not in same sex relationships. The Marriage Act in its current form discriminates not only based on sexuality, but also based on sex, gender, and religion. I believe the majority of Australians would agree with me that none of this discrimination is acceptable.

### **Amending the Marriage Act will promote gender equality.**

The discrimination in the federal Marriage Act is discrimination on the basis of sex, as well as discrimination on the basis of sexuality. The old rigid and asymmetrical concept of "Man and Wife" is not what I want marriage to be in Australia. I believe a modern Australian marriage should be a loving partnership of equals. Removing the sex discrimination from The Marriage Act reinforces gender equality within heterosexual marriage as well, providing important symbolic equality for women in heterosexual relationships, as well as more tangible equality for same sex couples.

Restricting marriage to couples with one man and one woman sends a very negative and inflexible message about the roles which people of either sex are able to play in society as a whole. The average woman has a very different set of skills to the average man, but many women can be successful in traditionally male roles (such as business or political leadership) and many men can be successful in traditionally female roles (such as parenting). Our laws should reflect this freedom and flexibility, and allow every individual to reach their own full potential without the restrictions of rigid gender roles. The 1961 Marriage Act is the part of our law that most blatantly discriminates based on an individual's sex; the proposed amendments remove this sex discrimination. Removing sex discrimination from our laws is important for encouraging members of both sexes to reach their full potential.

A strong and healthy relationship does not require one person of each gender, just two individuals with complimentary personal strengths. For almost every human trait, the variation between individuals is far greater than the difference between the averages of the sexes. The biology of reproduction is the only exception to this. Obviously same sex couples are not able to have their own biological children together, but nor are infertile heterosexual couples. No one has seriously suggested the possibility of preventing all infertile couples from marrying, and I hope no one would even consider an upper age limit on the legal marriage age for women. The argument that same sex marriage should not be recognised because same sex couples cannot produce children together is inconsistent and does stand up to scrutiny. If we have the compassion to allow marriage for infertile heterosexual couples and older women, we can have the compassion to extend marriage to same sex couples.

People with a narrower view of marriage are free to play the gender roles that are prescribed by their religion or culture in their own married life (with the exception of violent spousal abuse, which is criminalised in other sections of our law), but the law of the land with regard to marriage should be secular and inclusive.

### **The Marriage Act in its current form curtails religious freedom.**

Some religious groups claim that defining marriage more broadly threatens their freedom to practice their religion, but it does not. If we define marriage narrowly then people whose view of marriage falls outside that - including me - have their freedom curtailed, but if we define marriage broadly, then people with a

narrower view of marriage are free to define marriage more narrowly within that broad secular legal definition.

In the 2006 national census 18.7% of the population identified their religion as "No Religion", this makes us the second largest group after Christians (all denominations combined). When Christian denominations are counted separately the only group larger than "No Religion" is Catholics at 25.8%, the next largest group is Anglicans, which equal "No Religion" at 18.7% of the population. The proportion of people identifying as "No Religion" is expected to rise in the 2011 census, with results due to be released later this year.

In section 46 of the Marriage Act in its current form, the definition of marriage which every secular celebrant is legally obliged to recite at every secular wedding ceremony is, "Marriage, according to law in Australia, is the union of A MAN AND A WOMAN to the exclusion of all others, voluntarily entered into for life." This contradicts the more inclusive view of marriage held by over 60% of Australians (60% and 62% of respondents agreed with the statement "same-sex couples should be able to marry" in 2009 & 2010 respectively, in Galaxy polls commissioned by AME and PFLAG).

A more inclusive view of marriage - contradicting the prescribed "a man and a woman" definition - is held by an even greater proportion of non-religious Australians, but non-religious Australians are disproportionately affected by the prescribed marriage ceremony, since it is only secular celebrants who are bound by this wording (approved ministers of religion are allowed to use an entirely religious ceremony and omit the legally prescribed definition of marriage in section 46 of the Marriage Act). The amended version of the definition, which secular celebrants would recite if the Hanson-Young, Jones, or Bandt/Wilkie bills passed is, "Marriage, according to law in Australia, is the union of TWO PEOPLE to the exclusion of all others, voluntarily entered into for life." This is a better reflection of the values held by most non-religious Australians, whose celebrants are legally bound by the wording in The Marriage Act.

People with more restrictive views of marriage are free to have a religious wedding ceremony, which is not bound by the prescribed wording in section 46 of the Marriage Act. Religious ministers are also free to exclude any couple from the sacrament of marriage if the couple does not fit their religion's ideal of marriage (as supported in section 47 of the Marriage Act 1961, and retained or reinforced by all 3 of the proposed amendment bills currently under consideration). Broadening the legal definition of marriage does not threaten the religious definition of marriage, but a maintaining the narrow legal definition of marriage unjustly excludes the broader definition of marriage held by many Australians.

It is not only non religious Australians who believe marriage should include same sex couples, 53% of Christians and 62% of people of other religions are in favour of extending marriage rights to same sex couples (according to a 2011 Galaxy Research poll). I see from the published submissions that you have already received many submissions from a broad range of religious individuals and groups supporting same sex marriage. Preventing these people from freely practicing their religion as they see fit is an unjustified restriction of religious freedom.

Other submissions to this committee, occasionally mention the concept of completely abolishing "marriage" as a civil concept, making "civil unions", or a similarly named concepts the only form of legally sanctioned coupling, and making "marriage" an entirely religious domain. This is not a solution. We should not suddenly change what we call a well established cultural and legal concept. This would completely exclude all non-religious Australians from marriage, which would be blatant discrimination on the basis of religion (discriminating against people for not following a religion). Marriage is more than a religious concept. Marriage is an important cultural institution, which is valued by many non-religious people, including me. Excluding nearly 1 in 5 of our citizens from this important cultural practice is not acceptable. The solution is for the law to define marriage broadly, and allow religious organisations to define marriage more narrowly within that broader legal definition.

Converse to what the opponents of this bill say, amending the Marriage Act does not threaten religious freedom, but leaving the marriage act as it is does threaten religious freedom. Legally curtailing religious freedom is justified in some rare cases where there is a risk of real and serious harm, but the foreseeable

harm which would be caused by legal recognition of same sex marriage is negligible (if it exists at all), and is far outweighed by the benefits.

### **Is same sex marriage a threat to public health?**

Many of the published submissions in opposition to these amendments claim that the law should not show public approval of same sex relationships because homosexuality is somehow dangerous. One of the only concrete examples they have given is the rate of sexually transmitted disease (STD) transmission among men who have sex with men, but these arguments are not well thought through. It barely needs stating that encouraging life-long monogamy will not increase the risk of STD transmission.

Allowing same sex couples to marry will most likely have no effect on STD transmission - since it will recognise pre-existing relationships rather than having a direct effect on sexual behaviour - but if legal and social recognition of same sex relationships as marriages has any effect on STD transmission, it is more likely to reduce the transmission rates. Public recognition of a lifelong commitment to monogamy may provide strength and security to same sex relationships, improving fidelity and reducing the risk of relationship breakdown. Long-term faithful monogamous relationships are one of the best ways to reduce STD transmission. Encouraging lifelong monogamy in all groups of the population is more likely to actually have a protective effect against the spread of STDs.

### **Are children of same sex couples at a disadvantage?**

This issue has been covered at length in other submissions (such as #14 by Doug Pollard, #50 by Benjamin Heathwood, and others), so I will only briefly relate this issue to my previous points.

A strong relationship does not require people of two different genders, just two people with complimentary personal strengths. What is important to a strong family unit is two parents who love and respect each other. (It is even possible that the disrespectful and inequitable male to female relationship endorsed by old-fashioned marriage is itself detrimental to children, by diminishing the possibility for genuine mutual respect between the parents.) Same sex marriage would also provide greater stability and security (the benefits of marriage frequently promoted by conservatives) for children already being raised by same sex couples.

### **What is the historical definition of marriage?**

Many opponents of same sex marriage argue that one man and one woman is the way marriage has always been, and the way it should always be. But culture and language both change, and marriage has not been an exception. Historically human cultures have been polygynous (one man and multiple wives, but only one husband for each wife) nearly as often as they have been monogamous, possibly more often polygynous. Western culture has since then narrowed the definition of marriage to require monogamy for both sexes. Cultural practices change, marriage has not been exempt, and should not suddenly become exempt. We cannot and should not freeze culture in time.

### **Conclusions**

The Marriage Act 1961 currently discriminates on the basis of sex, gender, religion, and sexuality. The arguments against legally recognising same sex marriage are insufficient to justify continuing this discrimination. The proposed amendments to the Marriage Act protect religious freedom and gender equality, without preventing people from practicing more conservative religious and cultural traditions if they choose to do so.

Thank you for taking the time to read my submission.

Sincerely,

Kirstin R. Hanks-Thomson