

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Parliament House
Canberra ACT 2600

Dear Secretary

Inquiry into the Marriage Equality Amendment Bill 2010

Thank you for the opportunity to make a submission to the Committee's inquiry into the Marriage Equality Amendment Bill 2010. I make this submission in my capacity as

- a straight mother of an only son who happens to be gay
- an authorised civil marriage celebrant
- a citizen concerned about the negative economic impact of continued discrimination against an estimated 10% of the Australian population.

A mother's point of view

My son came out to me as a young teenager. As I said to him at the time, his sexuality was not a matter of his choice, and there was no way I was going to be judgmental, think less of him, or love him less. But I also recognised that his life would be harder as a result of government discrimination and social attitudes.

At the age of 18 he left Queensland, which at that time had draconian homophobic laws, and eventually moved overseas for an extended period. As a direct result of the differential treatment accorded to gay men both by society and by Australia's legal and political framework I have missed out on the joy of sharing the minutiae of my son's life for more than half of it, and, although Australia educated him both at school and university, this country has not been able to realise the full return on that investment. The gay skills drain to other countries is a hidden export Australia can ill afford.

On a recent visit to my GP I was asked for the details of my next-of-kin and was told that they needed the details of someone local and accessible, preferring a neighbour or friend over my son. This brought into sharp focus the realities for me, and for the government, of care as I age. Those who have no kin easily accessible tend to need to go into institutional care earlier than those who have family members who can support them to stay in their own homes. As a fiercely independent and rather private person the prospect weighs heavily on my mind. It is not just the higher level of depression, increased suicide rates, and impact of under-realisation of potential that is evident among same-sex attracted youth that has an impact on national and state budgets, but also the potential for aged parents to require more public resources to support them in old age because their children have moved to a more gay-friendly environment.

A celebrant's point of view

In my role as a celebrant I have solemnised hundreds of marriages of heterosexual couples and conducted many commitment ceremonies for gay and lesbian couples. If a couple was to come to me and I refused to marry them because they are of two different races or because one had a physical disability, I would be in breach of the law and liable to be deregistered. Yet I am required to deny marriage on the grounds of gender or sexual orientation – which would be illegal in delivery of any other service.

When I explain to straight couples that it is a legal requirement that I say in their ceremony "*Marriage, according to law in Australia, is the union of a man and a woman.....*" more than 60% of them express distress they feel at the pain that statement will cause gay and lesbian friends and relatives present because, in a ceremony that aims for inclusion, the statement highlights exclusion. Many have gone so far as to ask me to allow them to include a statement that they hope that same sex marriage will be legalised soon.

I carefully watch the faces of the guests when I read the required portion of the Marriage Act that defines marriage. And I see the disappointment and hurt on the faces of guests who I know to be same-sex attracted. When I read the couple's counter statement – that they feel privileged to be

able to express their love in marriage and hope that this choice will soon be available to all – there are smiles all round, often tears, and often spontaneous applause.

When I conduct a commitment ceremony I am required to ensure that no-one present believes the ceremony creates a legal marriage. This requires making a statement to that effect and no matter how hard one tries to put a positive spin on it just having to do so highlights that our society believes that the love of same sex couples is less meritorious, less valid, than the love between a man and a woman.

Yet the love I see on their faces, the heart-felt emotions they express, the wonder and beauty of the commitment of older couples who have been together for a quarter of a century or more (compare that with the average length of a straight marriage!) and who have finally given up waiting for a legal marriage to be possible so have settled for what they can have, by no stretch of the imagination can be regarded to be a diminished or less profound expression of the power of love and commitment.

However gently I put it (and there are celebrants who aren't gentle about it) basically what I have to tell couples is that their love isn't worthy of recognition in the eyes of the law. I have had couples come to me in tears after seeing other celebrants who have told them they HAVE to say "you two can never get married" as part of the ceremony. Discriminatory legislation gives celebrants the right to claim they have to be mean-spirited in the wording of the ceremony. It also gives the general public the right to feel justified in vilifying or even physically harming homosexuals.

The Marriage Act doesn't require a marriage to be consummated to be legal. Nor does it require that the couple are capable of reproduction. But these are the arguments raised against same sex marriage together with extravagant claims about the dangers of children not having opposite-sex parents in their lives. I am intrigued that no such claim is made about the potential for creating fatherless children by sending our troops into war situations. Research appears to strongly support the conclusion that same-sex couples foster the same wholesome environment as opposite-sex couples and suggests that the traditional notion that children need a mother and a father to be raised into healthy, well-adjusted adults is based more on stereotype than anything else.

The legal protections of a civil partnership or union fall short of the legal protections of marriage. Straight couples who marry automatically and immediately gain all the privileges marriage brings with it. When a gay or lesbian couple commits to one another they get to have to "prove" their commitment by jumping through other hoops, including providing proof that they have been a couple for some time. Even where civil partnerships or unions are available, unlike marriage, couples find themselves having to explain what that means.

The situation in Queensland, where a change of government is likely to result in the unprecedented repeal of the recently enacted civil partnership law, highlights the deficiencies of a two-tier system under the control of two different levels of government. Marriage equality is the only way to ensure that recognition of same-sex relationships will have a measure of reliability.

It causes me great pain that I can solemnise the marriage of any man over 18 not already married to someone else to any woman over 18 not already married to someone else, but I can't do the same for my never-been-married son because he just happens to love someone who is also over 18 and not already married, but of the same gender.

And what does all this discrimination achieve? Precisely nothing. No heterosexual marriage is either strengthened or weakened by the legislation. And worse. I've had same-sex couples express concern that since July 1, 2009 they need to tell Centrelink and other government authorities that they are gay because they wonder if some sort of database that can be used to discriminate against them in other ways is being developed. Marriage equality would put that fear to rest once and for all, and would send a powerful message of acceptance to the community at large.

The arguments offered by those who oppose marriage equality do not hold water. These arguments tend to revolve historical precedent, religion, a claim that marriage equality will diminish the marriages of heterosexual couples, and what can only be classified as a purely etymological

approach. A dictionary is a snapshot of a language at the time of compilation, not a stone tablet of divine origin.

Marriage has meant many things over many millennia. The current narrow definition as a legal relationship between one man and one woman is not the reality in many cultures and countries.

Marriage in Australia is a civil matter. The fact that Australia allows religious groups to perform legal marriages as agents of civil government is immaterial. Churches already have dispensation to impose additional conditions on couples seeking to marry according to the rites of a particular denomination, together with the right to refuse marriage to couples that do not meet their standards. For example, as a civil celebrant I cannot refuse to marry a couple on the grounds that one or both is divorced. The churches can.

In addition, how marriage is viewed within Australian society has been evolving. Numerous polls have shown that support for marriage equality far outweighs opposition to it, numerically speaking, and support is growing. In common with many other countries, inter-racial marriages, de-facto relationships inter-faith marriages, and divorce, seen as a threat to society and therefore previously banned or stigmatised, are no longer an issue. Many social reforms have de-privileged marriage in comparison with de facto relationships. For example, the Federal Government, through various reforms, including to conditions under which Centrelink payments are made, has progressively made it easier for heterosexual couples to decide not to marry despite living in a committed relationship

I find it curious that those who cite biblical prohibition fail to mention that our current Marriage Act allows marriages between aunt and nephew, or uncle and niece, both relationships that are the subject of absolute prohibition and classification as a sin in the Bible, whereas homosexual relationships are classified as an abomination, which is a transgression against ritual purity, but not a sin. As such it is on a par with wearing garments of mixed fibres, or eating pork.

Those who argue that marriage equality will lead to polygamy, incest, bestiality and the like have only to look to countries like the Netherlands where no such thing has happened. They should also look to history. Every social reform has been preceded by dire predictions that never eventuated. For example, women and non-landholding working classes have had the vote for a century and the world did not come to an end, nor are cats, dogs, budgies, or children lining up to vote.

Those who argue against marriage equality in the interest of preserving the narrow definition of marriage as being between a man and a woman are making a positive stand for continuing treatment of a significant proportion of the Australian Electorate as second class citizens who nonetheless are required to meet all the civic obligations expected of those it classifies as first class citizens.

Those who argue against marriage equality fail to appreciate the economic benefits of marriage equality. In addition to mental health and wellbeing benefits that would reduce government expenditure, the pink wedding dollar is potentially a source of significant economic benefit to the wedding industry (potentially at least 10% increase in an industry already worth billions) both by reducing leakage of the pink wedding dollar overseas, and by increasing the wedding spend expenditure in Australia.

Adherence to a narrowly-perceived meaning of a single word should not be allowed to trump the legal and moral right of all adults in Australia to be treated equally. It is time to get rid of state-sanctioned discrimination against same-sex couples. Norway has it right – their marriage processes no longer specify gender.

Yours sincerely

Jennifer Cram
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