

Monday 2 April 2012

Committee Secretary

Senate Legal and Constitutional Committee

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RE: SENATE INQUIRY ON THE MARRIAGE EQUALITY AMENDMENT BILL 2010

Dear sir/madam

I write to make the following submission in support of the Marriage Equality Amendment Bill 2010, which seeks to remove all discriminatory references from the *Marriage Act 1961* to allow all people, including same sex couples, the right to marry. My support for this Bill is based on three considerations:

1. The fluid nature of the institution of marriage

Firstly, I reject the argument that marriage is a static institution unable to change over time.

The institution of arranged or forced marriage—set to become a crime under the *Crimes Act 1914*, following comments this morning from the Attorney-General—has been acceptable in many cultures throughout much of human history, yet is no longer culturally or socially acceptable in contemporary Australian society. Fathers are no longer expected to make valuable gifts to the families of their daughters' betrothed in exchange for their agreeing to the proposed marriage. The idea of marriage based on romantic love is also a relatively recent invention in historical terms; it would have been wholly alien to most previous human societies, whose institutions of marriage were often based on such diverse concerns as dynastic succession, familial connections and integration, care and service needs, the need for labour, integrity of property parcels, cultural and ethnic considerations and professional association and continuity.

The point of these examples is to highlight that the institution of marriage is not conceptually static, but is fluid and able to change in response to the social and cultural preferences of the host social group. Contemporary Australia is mature enough to accommodate an institution of marriage

which is broader and more inclusive than those which have preceded it. Given inclusiveness is one of the features of Australian society on which we base our national identity, I wholeheartedly support the proposal to extend this salutary concept to the institution of marriage.

2. The purpose of marriage

A further argument against marriage equality which is frequently ventilated is that marriage's central purpose should be procreation and child rearing, and consequently that any marriage which is not geared towards these is invalid. I can see two compelling arguments against this proposition.

Firstly, advances in technology (in particular, those which have given us effective and reasonably reliable IVF treatment) and rolling reforms to surrogacy laws throughout Australia (for example, the *Surrogacy Act 2009* (Qld)) mean that no couple—including same sex couples and infertile heterosexual couples—is ipso facto prevented from procreating and raising children (not taking individual circumstances into account). Every relationship is therefore potentially a procreative one; as a corollary, no relationship, according to the argument cited above, is an invalid one.

Secondly, even the premise that a relationship's ultimate purpose should be procreation and child raising is itself unsustainable. Love, partnership and belonging are human needs. Those relationships which are not intended to—or for some reason do not—result in issue are not because of issue's absence invalid. Rather, by providing a vehicle for the fulfilment of a fundamental human need, they are achieving a different but equally valid purpose. Again, I would cite Australia's maturity as a society as a reason for believing we are capable of accepting that people in same sex relationships are just as entitled as heterosexual couples to enter what can be a vehicle for delivering a profound human experience.

3. The sanctity of marriage

Finally, the sanctity of marriage is cited as a further reason for believing it should be restricted to what are considered sanctioned relationships. The wishes or imperatives of an external agent—variously argued as a divine force, the natural order or the needs of society or the species—are often cited by opponents of marriage equality as the sources of the validity of a particular form of

marriage, with those marriages which do not accord with the exigencies of the external agent being invalid to the extent of their divergence.

Again, I would refute the validity of this argument. In this I speak from experience – I have been married, and I am convinced by my experience that the sanctity of marriage is not inherent in the institution itself, nor is it supplied by the marriage's concordance with a third party's plan or expectations. Rather, it arises from the quality of the relationship between the parties and the ability of their love and affection to generate something special. That my marriage eventually failed further reinforces for me that it is those things which a couple—individually and together—bring to a relationship, rather than any external forces, expectations or standards, which determine whether their marriage is sanctified, transcendent and deeply purposive.

As it is generally understood that homosexuality is not a lifestyle choice but a biological fact, and that feelings of same sex attraction differ from opposite sex ones only in their object and not in their strength or operation, it is just as open to same sex couples to achieve this state of sanctification. I would once again appeal to Australia's maturity, this time manifested in our firm commitment to justice and a fair go, to argue that same sex couples should enjoy the same right as I enjoyed—and continue to enjoy—to achieve what our society understands as a profound expression of the human experience.

Thanks in advance to the members of the Senate Legal and Constitutional Committee for their consideration of my submission.

Kind regards

Ryan Robertson