

Tabled 3/5/12 Assembly of Confessing Congregations
within the UCA
UCA - Marriage Equality Amendment Bill 2010

Presentation to the Inquiry into the Marriage Equality Amendment Bill 2010

The Bill seeks to amend the Marriage Act 1961 'to remove discriminating references based on sexual orientation and gender identity; and allow marriage regardless of sex, sexual orientation or gender identity.'

- **UCA position on marriage (1997)**

Marriage is a special covenant (which) 'is the freely given consent and commitment in public before God of a man and a woman to live together for life.' (It) is intended to be the **mutually faithful lifelong union of a woman and a man expressed in every part of their life together (in which) they 'seek to encourage and enrich each other through love and companionship.'** ... **In their sexual union '... the partners seek to express their mutual delight, pleasure and tenderness, thus strengthening the union of their lives together; ... children may be born and are to be brought up in love and security, thus providing a firm foundation for society.'** ... Marriage is also 'the unique sign of the unity which is promised in Christ.'

This position has been repeated publicly by President Alistair Macrae on many occasions.

- **Comments on the Concept of 'Equality'**

The term 'Marriage Equality' is misused in relation to same-sex relationships. The complementary structure of the body, as male or female, and its marital purpose in creating and nurturing life and forming community, clearly demonstrates that, contrary to the presupposition of the proposed Act, there is **'no equivalence' between same-sex sexual relations and marital relations between men and women.**

This position, which has strong theological roots in Jewish and Christian Scriptures, can also be argued on the basis of **common ethical reason** – as advanced by Canadian ethicist, **Margaret Somerville** (The Case Against "Same-Sex Marriage," 2003) and **S. Girgis, Robert P. George and Ryan T. Anderson**, in 'What is Marriage?', (Harvard Journal of Law and Public Policy Vol 34 (1) 2011, pp. 245-287.

They argue that it is not discriminatory (and thus not a violation of human rights) to insist that marriage between men and women must receive special legal protection because it alone of all sexual relations connects the welfare of children with their biological creation.

It is instructive that the **European Court of Human Rights** and the **French National Assembly** have both rejected the idea that the restriction of marriage to the relation between a man and a woman is a violation of the human rights of same-sex couples who wish to marry.

The French can hardly be accused of being bigoted in matters of sexuality! The 142 page **Report to the French Parliament** (No. 2832) highlighted **Articles 3, 7, 9, 18 & 21 of the UN Convention on the Rights of the Child (1989)** and said that, because children represent the future of society, they should 'not suffer as a result of situations imposed on them by adults. **The interests of the child must outweigh the exercise of freedom by adults ... whatever life choices are made by parents.'**

French law allows for three forms of organization for couples: Common law, Civil unions, Marriage. Each has its own set of proportionate rights and obligations. **"Marriage is thus not only the contractual recognition of a couple's love. It is a demanding framework with rights and obligations designed to welcome the child and provide for his or her harmonious development."** Because of the filiative nature of marriage (the fact of being the child of certain parents), it is essential that the male-female nature of marriage be preserved. This **"corresponds to the biological reality – the infertility of same-sex couples – and the vital need to construct an identity for the child necessarily resulting from the union of a man and a woman."**

- **Implications:**

1. The argument that **'a biological relationship between parent and child isn't essential to raising a healthy child'** (Charlotte Patterson, Children of Lesbian and Gay Parents, 1992) and the claim that same-sex marriage **'strengthens families and gives greater stability for children'** (Hercock S249; cites one article by Lee Badgett) are misleading.

- a. **More refined quantitative research is needed.** In their analysis of articles and research papers, Robert Lerner & Althea Nagai, in *'No Basis: What the Studies Don't Tell Us about Same Sex Parenting'* (The Marriage Law Project, Washington 2001) conclude that insufficient variables were taken into account in assessing results; same-sex households were usually compared only with single parent homes (not traditional families); and little evidence was produced to conclude that there were 'no significant differences' or to determine which scored higher or lower on a range of indices (eg education, class, income, family). ... **In the French Report, studies claiming that there were no negative effects on children raised by same-sex couples 'were widely criticised and disputed at the hearings ... the lack of objectivity in this area was blatant.'**
- b. The **long-term effect** of legalising marriages which, by definition, cannot fulfil the reproductive function of marriage, may cause social problems akin to those now experienced by indigenous children placed in white families, children born through IVF and adopted children. (eg Tangledwebs)
- c. Current moves to **replace 'father' and 'mother' on birth certificates** with 'parent 1' and 'parent 2' and the likelihood that more than two people will be named as 'parents' (biological, social, surrogate eg Elton John) is extremely likely to contribute to this loss of identity as children grow older.

What will be the effect of establishing a legally binding marital relationship that, from the outset, excludes one sex? In fifty years time will we be having Royal Commissions into what may then be regarded as the shameful practice of denying children the right to be born and nurtured by a mother and a father?

2. **If there is assumed to be an 'equivalence' of 'romantic love' that is indifferent to self-chosen forms of sexual stimulation**, then, eventually, legislation will have to be enacted to approve of polyamory, polygamy and adult incest (*provided that, in all cases, mutual consent is safeguarded*). If that is the direction favoured by the Parliament then social chaos will inevitably follow. If this spurious concept of 'equality' succeeds in this case, then, in principle, there can be no end to the re-definition of 'marriage.'
 3. The argument that traditional marriage laws (Marriage Act 1961), which exclude same-sex partners, are equivalent to laws banning **interracial marriage** is fallacious. Sex, unlike race/ethnicity, is relevant to what constitutes marriage. Anti-miscegenation laws were a wicked denial of human rights precisely because, in the interests of white supremacy, they forbade the union of male-female relationships which are constitutive of marriage.
- **Impact on Migrant-Ethnic and Indigenous members of the community**
 1. **Multiculturalism:** We have large numbers of migrants from Africa, Asia, Middle East and the Pacific. They represent diverse cultural, social and religious traditions. For most of them same-sex sexual relationships are culturally (and religiously) taboo because they defy the clear evidence of nature.
 2. **Indigenous Australians:** Likewise, same-sex sexual relations are culturally (and religiously) taboo. The UAICC of the UC Assembly (2006) has consistently opposed the acceptance of same-sex sexual relationships in the church.

Both groups are already marginalised in the Australian community. Their silence in public debates should not be construed as consent to 'Marriage Equality.' Many are unable to speak publicly, feeling intimidated by the aggression of media-savvy activists who argue on the unfamiliar ground of individual rights.

- What will be the impact on social and cultural harmony if the Australian Parliament legalises marriage between same-sex partners? The possibility of widespread social unrest shouldn't be underestimated!