

**LUTHERAN CHURCH OF AUSTRALIA
COMMISSION ON SOCIAL & BIOETHICAL QUESTIONS
DR ROBERT POLLNITZ (chair)
MEMORIAL MEDICAL CENTRE
1 KERMODE STREET
NORTH ADELAIDE SA 5006**

**TEL 08 8267 5333
FAX 08 8267 3811**

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Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
PO Box 6100
Parliament House
Canberra ACT 2600
Email : legcon.sen@aph.gov.au

Dear Committee,

RE - MARRIAGE EQUALITY AMENDMENT BILL 2009

Thank you for the invitation to make a submission re this proposed Bill. I write on behalf of my commission to express our concern that this Bill is contrary to the best interests of our Australian society in general, and that in particular the Bill (if passed) could endanger the welfare of our Australian children.

We read that the Bill (proposed by Greens Senator Sarah Hanson-Young) wishes to amend the Marriage Act 1961 to provide "marriage equality for people regardless of their sex, sexuality or gender identity". The referral to "husband and wife" in the Act is considered "discriminatory" and is to be changed to "two people". It is further proposed that same-sex "marriages" performed overseas should be recognised in Australia.

We have no problem with people in committed long-term relationships receiving equal treatment in general laws regarding financial and other benefits. However, we believe that our laws in this area should focus on the long-term domestic co-dependent relationship, so as not to exclude people such as two sisters who choose to live together in a non-sexual relationship. All of the attention appears to be focused on same-sex couples, and we are concerned that other domestic co-dependents should benefit equally from any legal reform. Surely it would be inappropriate for our government to be seen to discriminate against people because of a perceived lack of sexual activity.

Our Prime Minister Kevin Rudd has been careful to maintain the definition of marriage as an exclusive relationship between one man and one woman voluntarily entered into for life. We are concerned that this Bill sends a clear message to society that marriage (that being a wife or a husband) has no special value in our community or in our law. Given all the evidence that lasting heterosexual marriage is important to the stability of any society, we would argue that the Bill is taking Australia in the wrong direction.

By weakening the status of traditional marriage, this Bill can be seen as failing to meet the standards expressed by the United Nations. Article 16 (3) of the Universal Declaration of Human Rights reads: "The (traditional) family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

Similarly Article 3 (1) of the Convention on the Rights of the Child reads: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

Although the Bill does not specifically provide for access to reproductive technology, it can be seen as a first step towards gay and lesbian singles or couples being allowed access to assisted reproductive technology (including surrogacy) and to adoption in order to secure a child to raise as their own. The website of South Australia's Lobby for Equal Rights For Same Sex Couples (www.letsgetequal.org.au) indicates that seeking such an amendment is a part of their agenda.

Since children are not property to be owned, we would submit that no-one can claim the "right" to have a child. Our assisted reproductive technology laws were originally designed to help infertile heterosexual married couples to have a child, but even they cannot claim "the right to a child". Parents are the custodians of their children, and we believe that nobody can claim the right to a child in the same way that no person can claim ownership of another person.

By its implication that marriage between a man and a woman has lost its special value, we believe that the Bill fails to respect the best interests of our Australian children. My views on this issue are shaped by over thirty years experience as a specialist doctor caring for children. Throughout this time I have observed that children develop best, both physically and emotionally, when they are reared in a stable heterosexual two-parent family. Without criticising single parents or making judgements about people's situations or experiences, when families fracture we professionals in health and education see large increases in health problems, emotional imbalances, learning disorders, defiant behaviours, drug use, sexual promiscuity, and criminality.

When my paediatric colleague Professor Fiona Stanley was Australian of the Year in 2003 she spoke of the crisis proportions of children in our society damaged by family dysfunction, and of the urgent need for all of us to examine closely whether our policies and legislation are supportive of families.

We are aware of claims that gay and lesbian parenting is as successful as that of heterosexual couples. We have read various studies alleged to support this, and they are either inconclusive or subject to major methodological flaws. In contrast, there is a large body of social science evidence to support the view that children are best raised by their own mother and father. This is not a new concept – for about five thousand years societies have valued marriage between a man and a woman as the social nucleus in which children are best born and raised. Our reading indicates that respect for traditional marriage is a value shared by all enduring societies and all major religions around the world.

Various state reproductive technology and adoption acts focus on the welfare of the child to be created or placed. We would argue that this key principle that the rights and interests of the child are paramount should not be bent to meet the desires of single persons and same-sex couples. A baby being created or placed in our society should have the reasonable expectation, other things being equal, of the care and affection of both a mother and a father. We believe that our children are too important to be treated as social guinea pigs to appease the demands of a tiny if vocal minority.

If you wish me to expand on any aspect of this submission please feel free to contact me.

Please keep me on your mailing list for any reports that arise from your inquiry.

Yours sincerely,

DR ROBERT POLLNITZ

Chair, Commission on Social & Bioethical Questions, Lutheran Church of Australia