



Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

28 August, 2009

**RE: Inquiry into the Marriage Equality Amendment Bill 2009**

We appreciate the opportunity to comment on the above Bill and write on behalf of the Anglican Church Diocese of Sydney. The Social Issues Executive is an advisory group within the Diocese on bioethical and social issues, and matters of public policy.

As the Committee considers the Marriage Equality Amendment Bill 2009, we ask the Senators to consider that:

- a) The Bill imagines governments can reinvent central aspects of human social ecology.
- b) The Bill misconstrues the nature of equitable treatment of citizens.
- c) A 'marriage equality' amendment is likely to result in social disharmony.

**On the basis of these considerations we urge the Committee to recommend that the Marriage Act remain unchanged.**

In the following section we wish to expand on these points:

***a) Social ecology***

Marriage has, until recently in the West, been understood as a way of life that includes several aspects, such as:

- lifelong companionship;
- the expression of complementarity between the two genders;
- the proper place for sexual expression;
- an openness to procreation during the course of the relationship;
- a stable environment for the raising of children in a secure relationship with a mother and a father; and
- public recognition and affirmation.

Parameters of marriage along these broad lines have been readily identifiable in every manifestation of human society. The exceptions occasionally seen in some cultures, and in some marriages or families, do not efface the way this 'institution' is obviously a central aspect of human social ecology.

The churches' deep interest in marriage should not be regarded as a case of religious special pleading. Christians do read the Bible as the authoritative interpreter of marriage: for example, biblical authors ultimately rejected polygamy, loveless male dominance, and sexless marriage, since all these reinventions fall well short of what is best for humanity. But these insights have persuaded others and in this way religious thought about marriage has contributed to the good of society, and should not be sidelined simply because it is 'religious'.

Government recognition of marriage is only a response to this place of marriage in our social ecology. The law cannot seriously expect to reinvent this 'institution' any more than it could dictate, say, that the rainforests should grow faster.

But Western societies have lately reimagined marriage as simply 'a publically affirmed companionate union', forgetting other aspects of its nature. Only against this backdrop can 'equal recognition' of same-sex relationships (as just another kind of companionate union) seem reasonable.

When a government privileges marriage, it recognises that this lifelong, gender complementary, sexually exclusive, procreative and child-oriented project is actually quite hard, but that such unions help the common good. Legal support of this project is a form of 'positive discrimination' toward this distinctive entity. No apology is needed for this instance of 'positive discrimination'.

In a liberal society, people are free to remain single and celibate, to have temporary sexual relationships, to have multiple concurrent sexual relationships, to engage in same-sex relationships, to avoid having children, and to attend only to adults. Legal redress against any of these ways of life is inappropriate. But 'marriage' simply marks out a particular and special terrain, populated by those who take part in a special journey of united, lifelong, gender complementary, sexually exclusive, procreative and child-oriented companionship.

The *Marriage Equality Amendment Bill* imagines that a government can reinvent marriage. Of course the logic of such reinvention opens the way for all sorts of other versions of 'marriage'. It is not particularly fanciful or offensive to imagine them. They are simply the result of the habit of reinvention. But we cannot reshape social institutions like plasticine: good leadership recognises and serves the best in our social institutions.

#### ***b) Equality***

The *Marriage Equality Amendment Bill* is also motivated by a desire to enable same-sex couples to feel good about their relationships. We ask the Senators to consider whether that psychological consideration is the proper provenance of government.

Same-sex couples currently enjoy equitable treatment in all aspects relevant to de facto couple status. Recent changes to Federal law were enacted with the tacit cooperation of even socially conservative Australian Christian churches, who have been realistic enough to accept that in a liberal democracy, the law needs to function for all Australians.

The use of the term 'marriage' for the way of life described above serves to note its particular and special place in society. Same-sex couples could join in accepting this recognition. When a society chooses to uphold particular people in a special way, it does not automatically follow that others are less important. (Single people, for example, are not 'second class citizens' simply because they have not married.)

***c) Social disharmony.***

As noted, many Australian Christians agreed with same-sex claims for equal treatment before the law, with respect to financial and other entitlements due to adult couples. We accepted legal alterations as necessary for the common good, despite our conservative views about sexual ethics.

Adoption of the proposed amendment is likely to incite some social disharmony, since many religious groupings cannot accept same-sex unions as a true form of marriage. The parliament will need to consider how best to handle the legal and community disputes that will arise. Some will undoubtedly argue that such disputes are the fault of 'homophobic' people who should change their attitudes; but not all opposition to this same-sex initiative is 'homophobic', and the fact remains that the 'marriage equality' amendment will heighten community tensions when it seriously changes our social arrangements.

We ask the gay and lesbian community for a degree of detente in this matter, and we think it is time for the business of government to move on.

We wish the committee well in its deliberations.

Yours sincerely,

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for and on behalf of the Social Issues Executive  
Anglican Diocese of Sydney