

## Submission

### Senate Legal and Constitutional Affairs Legislation Committee

### Marriage Equality Amendment Bill 2009

***“Knowing that marriage and the family constitute one of the most precious of human values, the Church wishes to speak and offer her help... to every person who wonders about the destiny of marriage and the family.”<sup>1</sup>***

Marriage and the family constitute the first and vital cell of our society.<sup>2</sup> To do harm to the natural reality of marriage is to harm the very foundation of the state itself. For the benefit of all Australian’s we ask the committee to consider why the Catholic Church proposes that:

- marriage can only be between a man and a woman,
- altering the definition of marriage harms families and that
- upholding the definition of marriage as being between a man and a woman is not a form of unjust discrimination.

#### **Why can marriage only be between a man and a woman?**

While the commitment of spouses has always been fundamental to our notion of marriage, it has never been its sole criterion. As the natural environment in which the mutual love of a husband and wife expresses itself in children to whom both are genetically and socially bound, marriage is unique.

For this reason, civilised cultures have always given special protection to this relationship in recognition of its critical role in securing the future of the entire community.

The current status of marriage in Australian law corresponds to major features of the Biblical paradigm of marriage as the basic unit of society, constituted of man and woman in an exclusive union, joined to one to another through various (including financial) bonds both during and after the time of their marriage; and as the context for the bearing and raising of children, and the provision for children both during and after the marriage. The Biblical notion of marriage between a man and a woman, the

complementarity of a man and a woman within their union, and the intended fruitfulness of that union resonate within the Australian community.

The definition of marriage upheld by the Australian Parliament – that marriage is the “union of a man and a woman, to the exclusion of all others, voluntarily entered into for life” – is the expression of the democratic majority. The logical corollary is that children are best served when raised by both a father and a mother. It would be inconsistent to separate these two issues in any legislative protection of marriage.

While homosexual couples care for each other, and may be committed to one another, their relationships are of their very nature, biologically incapable of producing children who are the fruit of sexual complementarity or with whom they are equally bound in the unique inter-generational, biologically and socially connection found in natural parenthood.

It is a matter of reality that a homosexual union is of its nature unable to produce children, and it is also unable to provide for a child the relationship of both mother and father. Even an infertile union between a man and a woman can still provide the roles of both mother and father that are lacking in a same sex union.

For this reason, the marriage of a woman and a man is naturally and fundamentally different to a homosexual relationship. They are entirely different realities. Recognising this critical difference means that a same sex union cannot be a “marriage” properly understood.

### **How would changing the definition of marriage harm society?**

Laws can play an important and sometimes decisive role in influencing behaviour.<sup>3</sup> A law that removes the natural parental dimension from our collective understanding of marriage implicitly devalues parenthood.

Implicit in this bill is the assumption that mothers are of no importance in raising children given it espouses two men are no different to a man and woman. Equally, it suggests fatherhood offers nothing to children as two women might equally make that contribution. Such an assertion flies in the face of social science and common sense.

It does not follow that because some parents succeed in the difficult work of raising children in the absence of a spouse, that the best interests of a child are served by the absence of a healthy relationship with their biological father and or mother.

Amid a social context in which governments across our country struggle to fill the breach created by escalating family breakdown, to propose that motherhood is irrelevant or that fatherhood has no value, would be harmful to the common good and is diametrically opposed to any notion of good government.

### **Why upholding marriage between a man and a woman is just.**

In relation to marriage, prudence demands that we discriminate from a sense of care for the common good. In matters pertaining to marriage we recognise the importance of age discrimination to protect children. We also acknowledge the need for discrimination with respect to blood relatives to protect the genetic health of offspring. We also discriminate in relation to those already legally married.

We should continue to make these distinctions together with those of gender, for the greater good of all Australians.

While there is no fundamental “right to sexuality”, the Declaration of Human Rights does recognise a fundamental right for men and women to found a family.<sup>4</sup> Marriage is the institution through which this universal human right is exercised and protected.

We discriminate for the greater social good. Discriminating in favour of the natural union of a man and a woman in marriage is not unjust. It affirms the natural and time honoured reality of the family’s place society.

### **Recognising Caring Relationships**

When people develop a caring relationship of a mutually dependant and supportive nature, then they ought not be deprived of benefits such as access to financial and work-related entitlements, the right to take carer’s leave to look after the other during illness, access to the Medicare and PBS Safety Nets, tax concessions, access to superannuation and workers’ compensation death benefits, pension entitlements and access to aged care that recognizes their caring relationship.

Such benefits should be made available to any established caring relationship, and could, for example, apply to a grandparent and adult grandchild who are living together and caring for each other.

There would be no difficulty with the Commonwealth recognising caring relationships where a caring relationship is a relationship, which is a between two adults whether or not related by family relationship (other than marriage or de facto marriage), where one or each of whom provides the other with domestic support and personal care without fee or payment.



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Such a recognition would remove some injustices, but it is important that the state not endorse a sexual relationship, other than a marital relationship, because the state has a strong interest in the marital relationship because of its capacity to produce children and the harm that may be done to children if that relationship is not protected and secured. It is important that the status of marriage be reserved for the union between a man and a woman because that is the only relationship that is capable of producing children. It provides the paradigms of motherhood and fatherhood so important to the nurture of children.

The real purpose behind the drive for giving marital status to same sex relationships would seem to be more about the desire for legal approval of the same sex sexual intimacy and not about justice issues in relation to entitlements because they can and are being given, in any case, without granting marital status. There is no reason for the State to intervene in same sex unions as they lack the importance of giving rise to motherhood and fatherhood and the need that there is to encourage and to secure such unions for the sake of children.

We offer these thoughts together with our prayers for your deliberation.

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<sup>1</sup> Familiaris Consortio (The Role of the Christian Family in the Modern World) #1

<sup>2</sup> Ibid #42

<sup>3</sup> Considerations Regarding Proposals to Give Legal Recognition to Unions Between Homosexual Persons #6.

<sup>4</sup> Declaration of Human Rights, Article 16