



# The Australian Family Association

Western Australian Division

## SENATE INQUIRY

### MARRIAGE EQUALITY AMENDMENT BILL 2010

(Submission)

#### 1. Introduction

Less than two years after a proposal to introduce Same-Sex 'Marriage' (SSM) in Australia was decisively defeated in the Senate by 45 votes to 5, Greens Senator Sarah Hanson-Young has once again called for a Senate Inquiry into the matter; as a prelude to introducing a Bill to amend the Marriage Act(1961).

The question which needs to be asked is whether there has been a dramatic shift in community support for SSM which has led to a pressing need to re-open the debate. Superficially at least, there appears to be some evidence to support such a stance. Since the federal election in 2010 the Greens, with 9 seats, now hold the balance of power in the Senate; as well as one seat in the House of Representatives. In addition the ALP, at its 2011 National Conference, voted narrowly (by 205 votes to 184) that its members be permitted a conscience vote on the issue.

Against that, it should be remembered that the ALP government is a minority government, which tenuously clings to a slender majority through Greens and Independent support. We would argue that the government, in these circumstances, does not have a mandate to introduce controversial legislation; of which SSM is a highly volatile example.

Independent polling indicates that support for the government in the electorate is running at 47%, on a two-party preferred basis. Taken together with the 2011 ALP Conference result, this suggests that less than 25% of MPs are committed to SSM on the government side. Almost immediately after the ALP minority government was elected in 2010, Greens MP Adam Bandt moved, successfully, that all members of the House of Representatives contact their electors with a view to determining support for SSM. When members came to report their findings to the House, it transpired that of the 30 who spoke, only 7 found that their constituents supported SSM, with 20 against, and 3 undecided. This result indicates that less than 26% of MPs favour SSM.

Clearly the support for SSM in the community is minimal.

The proper course of action for the government, in our view, is to subject the proposal to the people, via a Constitutional referendum to amend Section 51 of the Constitution. At present, the Constitution implies that marriage consists of the union of a man and a woman.

In order to argue for the retention of the status quo, and to oppose the introduction of a Bill for SSM, we provide the following information.

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## **2. The Nature of Marriage**

As is well known marriage, as an institution comprising one man one woman and their children, has been the basis of the family across cultures and religions for millennia (UN Declaration of Human Rights, Section 16; UN Convention on the Rights of the Child, Article 7). It has been observed, qualitatively and quantitatively, that societies flourish, or conversely decline, depending upon monogamous marriage and the health of their families. It was this fact which led to the family receiving special recognition by nation states when they began to evolve comparatively recently. As might be expected, Australia was in the forefront of measures designed to promote the family through: registrations of marriages and births, maternal benefits, tax deductions, child endowment, pensions and the like. These incentives were designed to encourage strong family formation; the underlying expectation being that the nation would be strengthened, and thereby develop the capacity to withstand external threats to its viability. This was certainly borne out in Australia in the first 70 years of its existence. However, since that time the situation has changed markedly: for the worse.

Commencing with direct assaults arising from the acceptance of abortion and no-fault divorce - and proceeding through co-habitation, de-facto relationships and reproductive technology - marriage and the family have been progressively stripped of their privileged status under successive governments, culminating most recently in the paid-parental leave fiasco. Under this scheme, maternal benefits are provided for mothers: but only if they are able to establish a satisfactory workplace history; mothers who decide to remain at home and care for their own children are, in general, ineligible for benefits. This is patently unfair, but serves to demonstrate how marriage and the family have suffered over time. Indeed, marriage as an institution has been so mortally wounded that, as a result, predators - including the homosexual movement - are circling for the kill.

One of the legal tests applied to determine whether a couple are validly married or not is to ascertain whether the marriage has been consummated. If it can be shown that the marriage has not been consummated, then no marriage can be said to exist. How is this provision of marriage to be complied with in SSM; especially in the case of two lesbians?

If society and the nation are to flourish once again, marriage must be restored to its rightful place in society; which means that any set of relationships which masquerade as marriage - including SSM - must be resisted.

## **3. Discrimination or Qualification**

One of the most frequent ploys, used by the homosexual lobby, in pressing for SSM is that, in denying them marriage, society discriminates against them. Can such an argument be sustained? Recourse is made to an imagined equivalence with the civil-rights movement which led, successfully, to the elimination of discrimination on the basis of skin-colour. However, the major difference between the two positions is that while skin-colour is a characteristic which a person is not able to choose, the same cannot be said for homosexual behaviour. Many research studies exist to show that there is no genetic pre-disposition to homosexuality; and that, furthermore, the life-style is chosen quite deliberately. Moreover, and this is something which the homosexual lobby vehemently denies, it is possible for a person to change a homosexual orientation to one which is heterosexual. Many research

studies have been conducted to verify this fact; one of the latest being in 2007 by Jones and Yarhouse (<http://exgaystudy.org/>).

If anything, proponents of anti-miscegenation laws have more in common with proponents of laws to permit homosexual 'marriage' than the homosexual lobby cares to admit. Both groups seek to re-create marriage to cover situations which are not fundamentally related to it.

We are all aware of a range of situations in which qualifications are required for activities in which people engage. Thus, for example, one is not permitted to practice in professional occupations without undertaking a course of study leading to the award of an appropriate qualification. Or, people are not permitted to drive motor vehicles unless they have reached a particular age, and so on.

Similarly, as with many other public activities, there are qualifications surrounding marriage; qualifications which are designed to protect the institution of marriage, the children produced from it, as well as the public at large. So, for example, people are not permitted to marry until they have reached an appropriate age (usually sixteen); they are not permitted to marry within certain levels of kinship - a father cannot marry his daughter (incest); nor can a person marry another while concurrently married to a third party (bigamy).

We would argue that to allow SSM, on the basis that not to do so would be discriminatory, is tantamount to allowing similar claims to be raised about any, and every, relationship between people.

#### **4. Other Discrimination**

If we consider, hypothetically, that SSM was to be legalized because of perceived discrimination against same-sex couples, how long will it be before the charge of discrimination is levelled by those arguing for 'marriage' between the following:

A bi-sexual person who wishes to 'marry' two partners of opposite gender.

A man who wishes to 'marry' a number of women - polygamy.

A woman who wishes to 'marry' a number of men - polyandry.

A group of people who wish to 'marry' - polyamory.

A person who wishes to 'marry' a close relative - incest.

A person who wishes to 'marry' an animal - bestiality.

A person who wishes to 'marry' an inanimate object.

Or, indeed, combinations of all of the above

Consideration of these examples suggests, very strongly, that if the intrinsic nature of marriage is to be changed to include any, and every, conceivable relationship - which would undoubtedly occur - then marriage as an institution becomes meaningless.

We would suggest, therefore, that in order to protect children, families, society and the nation, the definition of marriage should not be extended to include SSM.

## 5. Love

The argument that marriage should be permitted between all people who love one another is seriously flawed. In criticizing this definition as the sole reason for marriage David Blankenhorn in his book: "The Future of Marriage" states (p15): "I am not an unusually gregarious person but I have expressed love to quite a few people in my life. I have a number of profound friendships and some intense personal commitments, all of which seem to me to be emotional enterprises. I am involved in a number of mutually supportive relationships, many of which, I am sure, enhance social stability. But none of this information tells you to whom I am married or why".

In essence Blankenhorn considers describing marriage in terms such as: "...the utmost expression of a couple's commitment and love...."; and, "....providing social stability...", as insubstantial, and which, furthermore, obscure the fundamental definition of marriage: socially approved sexual intercourse between a man and a woman, together with responsibility for the children which they mutually bring into the world.

Let us examine how SSM measures up to the notion of marriage as defined in the preceding paragraph.

Whether or not marriage is viewed, by all who enter into it, as a lifetime commitment may be a moot point, but what can safely be asserted is that the majority of those who seek to be united by its bonds in fact do so for this reason (according to the Institute of Family Studies 72% of Australian families with children under 18 years are intact, biological families, that is about 2.1 m families). Can the same be said about same-sex couples? While there may be cases where same-sex couples pair for life, this would appear to be the exception rather than the rule. The homosexual lifestyle, by its adventurous nature, lends itself to numerous liaisons. The experience of SSM, after legalisation in the Netherlands, provides compelling evidence of this fact. In the first five years after legalization, only 4 percent of the homosexual population in that country had availed themselves of it.

If we use this statistic as representative of homosexuals wishing to 'marry' in Australia, where homosexuals represent perhaps 1.5 percent of the population, the Bill proposed by Senator Hanson-Young will affect around 6 people per 10,000 of the population. What of the remaining 9,994? Are their wishes to be ignored?

Let us now consider the other important reason for which people marry: children. These are not a high priority with SSM. Certainly, reproductive technology has made it possible for same-sex couples to have children; and some, like Sir Elton John and his partner, have made use of it. But, however capable two men in a SSM may be in fulfilling the role of a father, one of them can never be the child's mother; nor can two lesbians ever provide a father for their child. Research has shown, consistently over time, that children who live in close familial relationships with their biological mother and father perform best on a range of social indicators.

Prof Patrick Parkinson who has been, among other things, chairman of the Family Law Council, in an article: "Another Inconvenient Truth: Fragile Families and the Looming Financial Crisis for the Welfare State", Family Law Quarterly, Vol 45, No3, pp329-352, 2011, is no doubt when he states "...and the most stable, safe and nurturing environment for children is when their parents are, and remain, married to one another....." However, the proponents of this Bill, in their quest to subject the families of this country to needless experimentation, are prepared to ignore this advice. In addition it should be noted that 86 percent of Australians, when surveyed in a 2009 Galaxy Poll, agreed with the proposition: "Ideally, wherever possible, children should be raised by their biological mother and biological father?"

The argument that many marriages are childless, often used to defend a 'right' to SSM, can also be shown to be irrelevant by recourse to the following analogy. Many people who gain professional qualifications choose not to practise in their fields of study. This does not mean that all and sundry, especially those who do not meet the qualifications criteria, should thereby be allowed to practice in order to fill the void.

Because producing and rearing children are vital to the future of the nation, we hold strongly to the opinion that SSM, if it is introduced, will produce further dysfunctionality in the families of the nation, jeopardizing its future.

## **6. Lifestyle**

Up until 1973 homosexual attraction was considered by the medical profession to be a disturbance of the mind. However, in that year, and despite the fact that many people were able, with counselling, to change their sexual orientation from homosexual to heterosexual, the American Psychological Association (APA) decided that same-sex attraction no longer constituted a mental aberration. The consequences of that decision were as predictable as they were alarming. Society experienced an upsurge in homosexual activity; so much so that there are now upwards of five descriptions used to denote variations of it: Gay, Lesbian, Bi-Sexual, Intersex and Queer. Such people think nothing of changing from one of these descriptions to any other without compunction; usually with the help of the medical profession, which assists with cosmetic surgery at exorbitant cost.

As an aside, in order to accommodate these newly defined genders, public utilities are now faced with the problem of providing separate public toilets for each group; and in deciding on the best definitions for persons seeking admission to each.

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If mental problems associated with the homosexual group are a cause for concern, then associated physiological problems assume gigantic proportions. *Strained Relations*, a book on contemporary homosexuality by Bill Muehlenberg depicts, with supporting evidence, the scale of the health problem experienced by the homosexual sub-culture. Starting with

HIV/AIDS and proceeding through STDs, substance abuse and other exotic diseases it is perfectly clear that homosexuals are over-represented as a group in all the most pernicious diseases. As might be expected, average life expectancies are estimated to be between 8-20 years less than for heterosexuals.

Extending social approval to the homosexual group, by granting SSM, is seen as a prescription for disaster. Health services, already stretched to capacity, will be at breaking point. The costs of these services will most certainly increase, and so also inevitably will taxation.

## **7. Consequences**

A fallacy currently circulating among the homosexual sub-culture, and its supporters, is that SSM is inevitable; and the heterosexual majority had better get used to it. In any case, things are not going to change substantially when legalization has been achieved, so there is no need for society to worry. As with all statements which seek to allay fears of unintended consequences, this one should be taken with a grain of salt.

We have already alluded (**4. Other Discrimination**) to the likely consequences if legalization of SSM is based on perceived discrimination of a minority group; and the repercussions arising in the health sector as a result of widespread acceptance of the lifestyle (**6. Lifestyle**). However, as serious as these may be, there are far more fundamental issues at stake.

The first casualty of SSM will be freedom of speech; through the imposition of so-called 'hate crimes', applicable to any person voicing a criticism of homosexuality. Prosecution of these 'crimes' will occur through Human Rights and Equal Opportunity (HREO) Acts.

In case this appears fanciful, it should be remembered that many religious groups consider homosexual behaviour to be sinful. Pastors who have voiced this view, in countries such as Scandinavia, have found to their cost that describing homosexuality in this way is not tolerated by the courts.

Owners of establishments who prefer not to lease their premises to homosexuals will not only be forced to comply, but will also face the legal consequences of daring to refuse same-sex couples their 'rights'. This has already occurred in Victoria, despite the current proscription on SSM.

Similarly with marriage celebrants who dare to express a preference for performing traditional - as opposed to same-sex - marriages. Not only will legal sanctions be applied to these celebrants, but they will also be eligible, as occurs in the UK, for demotion or outright sacking. With the UK government determined to introduce SSM in churches by 2015, it is manifestly clear that similar pressure will be applied to withdraw exemptions which may initially be granted to religious celebrants under this proposal in Australia.

If SSM is legalized in Australia, there are bound to be repercussions in the education system. The Australian Education Union (AEU) has already foreshadowed its intention of introducing same-sex topics into sex-education curricula. As if this was not bad enough, experience from overseas indicates that, in countries which have legalized SSM, parents who have objections to their children receiving this instruction are, in many cases, charged with 'hate crimes'.

Religious schools in Australia are granted exemptions from HROE legislation which would otherwise require them to employ staff who do not share the ethics and value systems of the school. The ALP governments of Victoria and WA were proposing to amend their HREO legislation to exclude such exemptions prior to their dismissal from office. If such action can be contemplated without SSM, the case for introducing such an amendment will be much stronger under SSM.

Many other examples can be given of the deleterious consequences which will arise following the introduction of SSM. However, what is abundantly clear is that SSM will not slip seamlessly into society, as its protagonists would have us believe.

## **8. Summary**

The present Australian minority government does not possess a mandate to amend the Marriage Act to allow SSM. As well, there is no majority demand for SSM from the electorate. Because of the fundamental nature of marriage in society, the process which should be followed, is to put the matter to a referendum; with a view to amending Section 51 of the Australian Constitution.

Marriage has been recognized across cultures, religions and millennia as the union of one man and one woman, who are responsible for the children whom they bring into the world. Until forty years ago, marriage and the family received special recognition from nation states and the UN because of the unique contribution which the family makes to society, the nation and the international community. No longer is this the case: marriage as an institution has been progressively decimated, and will be rendered meaningless if the proposal for SSM is successful. Unless, and until, marriage regains its former standing in society, the inherent stability which has hitherto characterized the nation will deteriorate further.

If SSM succeeds because homosexuals are considered to be discriminated against, the floodgates will be opened for similar action to be launched by: bi-sexuals, polygamists, polyandrists, polyamorists and those who subscribe to incest, bestiality or a combination of all these activities. In the process, the notion of marriage will be rendered meaningless.

The idea that marriage should be allowed between all people who love one another, produces, as we have seen, all sorts of anomalies, as well as ignoring some of its fundamental purposes: children and families. Because some marriages remain childless does not mean that marriage should be extended to all relationships, especially those which of their very nature cannot be fertile. The propensity for homosexuals - a small minority - to 'marry' where SSM has been legalized is extremely rare; suggesting that this whole exercise is something of a storm in a teacup.

Until 1973 homosexuality was considered to be a mental disorder. The current behaviour of many in the group suggests that the original diagnosis was not far from the mark. The lifestyle is not conducive to longevity. Apart from HIV/AIDS, homosexuals suffer higher rates of incidence of a variety of pernicious diseases; as well as reduced life expectancy. Acceptance of SSM will increase pressure on health services; raising their cost and causing a hike in taxation rates.

Although we are assured that SSM will not impact adversely on society, the reality, in states and nations which have adopted it, is quite another matter. One of the first casualties will be freedom of speech. Statements critical of homosexual behavior will be branded 'hate crimes'; and the 'culprits' prosecuted accordingly. Sex education curricula in schools will be revised to include homosexual topics; and parents who object to their children receiving such instruction will be charged, probably under HREO Acts. If the UK is any yardstick, religious marriage celebrants will come under pressure to perform SSM in churches. Religious schools in Australia have already been targeted with proposed amendments to HREO Acts which seek to strip them of exemptions which can currently be invoked when employing staff sympathetic to the moral values and ethos of the school.

## **9. Conclusion**

The vast majority of countries in the world – 183 out of 193 - reject SSM; France, Hungary and the cities of Moscow and St Petersburg being the latest to do so. There is very little evidence that the Australian electorate is in favour of introducing it. The impetus for change is coming from the Greens, who are exploiting an electoral advantage which they have gained in the Senate. Australian society will be the loser, and children and families will suffer, if this unnecessary experiment is inflicted upon it. On balance, we strongly recommend against the Bill's acceptance; since all it will do is serve the vanity of an exceedingly small minority of the electorate.

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