

Senate Legal and Constitutional Affairs Committee
Online submission

25 March 2012

Dear Committee,

Re: Inquiry into the Marriage Equality Amendment Bill 2012 and Marriage Amendment Bill 2012

Thank you for the opportunity to write a submission to the Committee regarding the Marriage Equality Amendment Bill 2012 and Marriage Amendment Bill 2012.

I have read over the previous submissions received by the Committee as published online at http://www.apf.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=legcon_ctte/marriage_equality_2012/submissions.htm and felt of the concern and emotion of individuals and groups both for and against amending the Marriage Act of 1961. It is clear that the decision made by the Committee at this time is of great importance and interest to many Australians.

I understand the objects of this Act are to:

- (a) Remove from the Marriage Act 1961 discrimination against people on the basis of their sex, sexual orientation or gender identity; and
- (b) Recognise that freedom of sexual orientation and gender identity are fundamental human rights; and
- (c) Promote acceptance and the celebration of diversity.

I also understand that this Act states that these objectives will be realised by amending the Marriage Act of 1961 in the following ways:

- Repealing the definition of marriage (subsection 5 (1));
- In subsection 45(2) after “*or husband*”, insert “, *or partner*”;
- In subsection 46(1) omit “a man and a woman”, substitute “two people”;
- In subsection 72(2) after “*or husband*”, insert “, *or partner*”;
- In section 88EA repeal the section; and

- In part III of the Schedule (table item 1) omit “a husband and wife”, substitute “two people”.

I do not believe that amending the Marriage Act of 1961 will achieve these outcomes. I do not believe that: the Marriage Act of 1961 currently discriminates against people on the basis of their sex, sexual orientation or gender identity; that a change to the Act breaks any fundamental human rights; or that changing this Act is an effective way of promoting acceptance and the celebration of diversity for same sex couples.

The Marriage Act of 1961 does not discriminate. The Marriage Act of 1961 is exactly as stated, an Act regarding marriage. Marriage is defined by the Oxford dictionary as the: “the formal union of a man and a woman, typically as recognized by law, by which they become husband and wife” (Oxford University Press 2012, *Marriage*, Oxford University Press, accessed 25 March 2012, <http://oxforddictionaries.com/definition/marriage?q=marriage>). To define marriage as between something other than a man and a woman is to define another act. By meeting the true definition of marriage this Act seeks neither to discriminate nor discount other orientations or identities.

The Marriage Act of 1961 does not break any fundamental human rights. This Act meets the United Nations Universal Declaration of Human Rights, a common standard of achievement for all peoples and all nations. In article 16 of this declaration it states:

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution;

(2) Marriage shall be entered into only with the free and full consent of the intending spouses; and

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State

(United Nations, *The Universal Declaration of Human Rights*, The United Nations, accessed 25 March 2012, <http://www.un.org/en/documents/udhr/index.shtml>).

The Marriage Act of 1961 complies to all three requirements of the Universal Declaration of Human Rights, article 16 regarding marriage.

Changing the Marriage Act of 1961 is not an effective pathway to promoting acceptance and celebrating diversity in our nation for same sex couples. As stated earlier, this Act currently meets the fundamental human rights for marriage (the formal union of a man and a woman). If we are truly seeking to promote acceptance and celebrate diversity in our nation, and

specifically regarding same sex relationships, then we need to look for other avenues to achieve this.

I strongly believe that each Australian should be afforded the freedom to believe how, where or what they may. I also believe in honouring, obeying and sustaining the law. As such, I understand that this Committee holds a solemn responsibility to ensure that the laws of this land reflect the best interests of all Australians protects the rights and beliefs of all Australians and seeks the best for current and future generations.

As such, I beseech you to keep the Marriage Act of 1961 as it stands today with no alterations.

Yours Sincerely,

Melinda Beasant-Commerford