

IN DEFENCE OF MARRIAGE

A private submission to the

Senate Legal and Constitutional Affairs Legislation Committee
Inquiry into Senator Hanson-Young's Marriage Equality Amendment Bill 2010

By

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executiue summary

Australian society is coherent and peaceful. But it is founded on firm principles. Traditionally 'marriage' has meant the exclusive, life-long union of a man and a woman. It derives its legitimacy from the very nature of who we are as human beings, which from the beginning has expressed that primordial human diversity: male and female. Other dimensions of human diversity are secondary. To subjugate this principle for the sake of sentiment, ideology or vocal group-interest dishonours the institution of marriage and those who see it as life-vocation. It dishonours the people of Australia and it dishonours the Parliament itself.

Proponents of change cite equality, discrimination and rights, and compassion as sufficient justification for change. However equality is a characteristic of human beings, not relationships. Relationships are never equal nor equivalent. Discrimination is the unjust denial of the rights of the person. That a person may live as he or she chooses does not generate a right to access to marriage, nor are parenting rights universal. They belong to the parenting relationship. Finally, enduring principles are the proper basis and reason for legislating, not 'compassion' or accomodation to those who claim to be excluded by those very principles. <>

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the Australian context

Australia is both a multi-cultural and multi-value society, and rightly prides itself on the freedom and peace we all enjoy. That freedom is one of the fundamental columns supporting the nation. Respect and legal protection are given to diverse cultures, opinions and lifestyles and Australians are relatively free to choose how they live and with whom. However, ‘multi-value’ does not mean ‘value-less’: a society whose landscape would be as barren and featureless as The Great Desert. The social coherence and peace we enjoy is not ‘pax romana’. It is not founded on denying the differences that we express but on allowing them to co-exist, even if these are sometimes incompatible or inconvenient. ‘Universal inclusiveness’ is not the founding principle of the nation, nor even a fundamental value *per se*. ‘Inclusive’ should not be employed to the detriment of the moral fibre and traditional values that have given life to our society, especially when applied to relationships, not persons.¹ Everyone is included; but not every action is accepted. Distinction and difference are essential.

No single group, be it political, religious, social, commercial or legislative, defines the character of our nation or its moral landscape. The unity of the nation flourishes in the midst of our diversity, and the primary role of government is not to re-draft national values and re-engineer moral structures, but to strengthen and support the values that already exist, our national treasure.

But now Australia is on the cusp of losing one of its greatest treasures. And while that happens, the voice of protest or dissent is hardly heard, either in the streets or in the halls of the legislature. In

¹ Indeed, “inclusiveness” is a ridiculous demand. One could equally argue all visitors to Australia should be accorded citizenship, every soldier given the V.C. so they feel accepted and appreciated, every student awarded a PhD “to be inclusive.”

its absence we may be silently dispossessed of the great heritage that binds our society and each generation to the next, the bond of past and future. Were our territory threatened by foreign powers, the military would quickly mobilise. Were there a natural disaster, resources and personnel would race to defend life and home. But this disaster comes not by the hand of strangers, nor from nature. It is of our own making, and is permitted only by our silence and tacit consent. And who are the agents of this unfolding tragedy? those who themselves do not believe that marriage - the union of man and woman, voluntary and for life - is unique among all the relationships and unions two adults may freely enter. Sadly the day will come when history will pay the price for what is being played out now, for the loss will be great, both for this generation, and long into the nation's future.

At the heart of this tragedy lies the question of who we are as a people and as human beings. Currently there are three bills before the Federal Parliament,² each seeking to re-define the very meaning of marriage. Their proponents claim that equality, diversity and a growing social awareness necessitate amendments to Australia's marriage laws, the 'setting right' of a perceived wrong. 'Marriage equality' is their cry. They would extend the definition of 'marriage' to include same-sex unions, amendments that may appear slight and inoffensive, especially in the light of our open and egalitarian society. But this is a trojan horse. These changes are not just about terminology, but about meaning. Under the guise of correcting inequality and defending human rights, they would tear down one of our society's most solid and enduring institutions and destroy the absolute and paramount position that marriage between man and woman has enjoyed for millenia.

This trojan horse conceals two insidious threats: the first would dilute the dignity and privilege of marriage, and the second soften the way for further changes, enabling unrestricted access for same-sex couples to a host of claimed 'marriage and family rights' comprising relational, parenting, inheritance, fertility and adoption 'equality' claims, etc.

The underlying principle here is no longer the very nature of who man and woman are, but rather only what they want. Human nature becomes some amorphous, abstract value, defined not by the flesh and blood of our existence, nor by the truth of a genuine conjugal union, but by 'diversity', by choice and preference and wants. In their world, the marriage of man and woman has no special meaning beyond that of any two adults sharing intimacy. Man ceases to exist as man, and woman ceases to be woman, their difference of no consequence. Both are reduced merely to 'persons',

² (a) Senate: The *Marriage Equality Amendment Bill 2010* (Hanson-Young). (b) House of Representatives: *Marriage Amendment Bill 2012* (Jones) and the *Marriage Equality Amendment Bill 2012* (Brantt / Wilke).

equal but indistinct, neither needing the other.

The current Act³ interprets marriage as the 'exclusive union of a man and a woman, voluntarily entered into for life.' That interpretation enshrines four essential values: it must be voluntary, exclusive, life-long and the union of a man and a woman. This is part of how we in Australia understand ourselves, a view shared by most of the developed world. It is a relationship built on free choice, a commitment for life, a man and a woman united, to the exclusion of all others. Though other cultures may permit polygamy or open or 'blended' marriages, till now such values have never been considered by our legislators. Nor should they be.

The legislation also recognises traditional (indigenous and other) marriages as valid, in as far as they fulfill those four essential values. However, where migrants have come from other cultures that maintain polygamy/polyandry, it is expected that newcomer will opt for one wife/husband as the true marriage for Australian legal purposes.

human diversity

Much has been written on human diversity. We differ in race and culture and language, in temperament, age and self-awareness, in abilities and lifestyle choices. Legislation ensures a coherent society free from discrimination and injustice, especially against minority groups. But there is one difference between persons which is more important than all of these.

Human diversity at its most basic level, primordial diversity – that is, the diversity that arises from the very centre and beginning of human life – is not orientation or preference or personal characteristics. These aspects are secondary and tend to cloud this issue. The most profound diversity we encounter is the distinction between male and female, as it marks every human being on the planet. Old and young, rich or poor, sick or well, regardless of ethnicity or origins or condition, regardless of lifestyle or preference or desire, all human beings fall into either one or the other: male or female.⁴ Human life has always expressed this distinction: we are born either male or female, man or woman; so very different, and yet so profoundly equal in dignity and rights;

³ *Marriage Act 1961* (as amended). It is pertinent that Commonwealth only took over administration of marriage from the States in 1961, inheriting the traditional understanding of marriage enshrined in State legislation. The current Act relates to solemnizing of marriages and family issues. It does not attempt to define marriage *per se*. Rather it gives an 'interpretation' of the term for the purposes of that particular legislation. However in parts it does set the boundaries of what is not marriage: such as the age, consent and gender requirements etc.

⁴ Great efforts are often made to fog this distinction. It is not about personal identity or freedom, but about human nature. Proponents of change coin the acronym "GLBTI" grouping these differentiated 'personal gender identities' as if they were all the same. This is not so 'I' (Inter-sex, those whose gender is unclear, either for physical or psychological condition) is the only group that might question the primordial human diversity between man and woman.

complementary and yet distinct. And this distinction is an essential part of our human experience.

Man and woman are fundamentally different, at the very core of their being. Each expresses something unique about human nature. They may undertake similar roles, have similar interests and education and share similar goals, but they are different. Man cannot be woman, however strong the desire or whatever choices are made. He lacks 'woman-ness', which cannot be synthesized or chosen at will, like one's clothing. So too woman cannot be man. It is beyond their abilities to be other than what they are: man or woman. Anything else is only feigned. Two men regardless of what roles each are still two men, and two women remain two women. But man with woman there is something new.

This is what marriage is. When a man and a woman enter into that conjugal, exclusive lifelong union, the two primordial dimensions of human nature, manhood and womanhood in flesh and blood, heart and soul, come together to express human nature in its entirety. Each is already fully human, but not possessing the fullness of our nature each remains impoverished by what they lack. Man lacks what is exclusive to woman, as she too lacks what is only found in man. Even their way of loving is distinct. Woman is the fecund and faithful garden, the one open to receive and nurture, the place where new life begins. When she unites with man, she enriches him with the gift of her kind. And man, the seed, the one who implants, the protector, the strength. In union with woman, he too enriches her. Together they are far greater than the limitations of their own kind: the sum greater than the two parts.

There is no other relationship that is the par or equivalence of the uniting of those two. No other union between two persons expresses the unifying of the primordial diversity we all share and no other union of persons makes of the two something greater than both. That is why the marriage of man and woman is different from every other union. Two men may join together as partners, but neither can bring into the relationship that which only woman boasts. Nor can two women bring what only man has. Compared with a true marriage, the same-sex union remains fundamentally impoverished in what each can bring to it: there is no going-beyond the limitations of that sex, no enriching with the dignity and gifts of the opposite dimension, regardless of intention or desire or legal or social constructs. And the expression of human nature is thus less than full. What is lacking may be feigned or imitated, but that is only pretense. Human nature is not malleable to the will of man, and even less so to the laws of the land.

the vocation of marriage

Marriage – in its true meaning - is not merely a partnering of two persons cohabiting and sharing

intimacy. It is the uniting of difference.⁵ A new life is created of two persons fundamentally distinct, and yet who because of their differences, choose to bring together in fulness both dimensions of humanity. This is social coherence at its most basic and important level: that man and woman, despite their great differences in body and soul and heart, will not only live together in love and peace, but united in marriage, each finds completion in the other and together they give rise to a new existence and to new life. Children are only born of this relationship.

It is from this perspective that most couples enter into marriage. It is not merely a social occasion and much less the harnessing together of identical souls. Millions of couples choose marriage as a life-transforming union, setting out on 'the unknown journey', which they undertake with deep faith in each other and in the truth human nature has written in the core of their being. They have undertaken to risk, to allow the other dimension to define them, to give and accept whatever life together may bring them, drinking no longer from separate wells, but from one single pool. That is the place where human history unfolds and is renewed generation after generation.

Marriage is acceptance, not only of 'the other', but of themselves too, of the true depth of their nature. Each acknowledges who he or she really is: man in his fulness and woman in hers. That truth is the first gift they bring into love's exchange. Without that personal acceptance, the partners remain less committed and less truthful than they are capable of being. This is not a question of desire or intention, but of acknowledging the underlying truth of one's being and responding to the call of that fundamental truth. It is a calling and an acceptance: a vocation.

It is not difficult for people of faith to understand marriage as a vocation, and with a unique spiritual dimension. But even those who profess no particular faith will still identify this truth. It is not about attraction or will. It is far deeper, beyond the reach of our passing desires: human essence as a law written in the very core of our being. When man and woman marry, they are obedient to that law, respectful to who they are as persons and as human beings. This is the immutable, undeniable essence of the person.

equality a human value

Many claim that the fundamental equality of human beings should oblige legislators to recognise same-sex unions as equal in value and importance with marriage – that there is no real difference between them, except in the sexual orientation of those involved. This is fundamentally dishonest.

⁵ In many other aspects of life we employ the term 'marriage' to describe the bringing together of two distinct elements, like the alloy of different metals or the 'marriage of convenience' of two commercial entities. It describes a coherence of seemingly incompatible differences, working for mutual benefit: a synergy.

It is true that freedom and equality allow men and women to choose the way in which they live, and with whom, and guarantees certain rights and resources. But equality is about human dignity while freedom is about human action: an important distinction. Without diminishing the dignity of the human person, we recognise some acts are good, others not; and not all unions nor all relationships are of the same value or importance. "Marriage equality" is a false claim because equality is not about comparing relationships. Marriage – that exclusive union of man and woman, entered into voluntarily and for life – is unique, not because it is merely another human action of two persons, but because it expresses something more profound than other unions do not. Marriage – as it stands now – beautifully conveys the equality of the human partners, the equality of man and woman and their joining in union as one, and only together expressing the completeness of human nature.

The fabric of human history, the joining of generations, the heritage passed on with each new spark of life, carries the imprint of what it is to be human: the fusing of the male and female, the melting together of two distinct DNA streams into one. Physically that is who we are, human, a product of two lives joined as one. And physically - without intervention from other agents or third parties - there is only one profound adult union where that may take place naturally. That is also why marriage is unique. No other union is equal to it, neither in value nor in outcome, nor in the truth of its expression. Other unions only simulate that truth.

honouring truth

In the 'marriage equality' cause, much is claimed about diversity and rights. Every new child born into this world comes from the joining of male and female as one. It is the nature of who we are, and it is what separates marriage from all other unions. To claim that any other union of two consenting adults is its equivalent, simply dishonours the true dignity of that one, profound expression of our human nature.

Although some societies give recognition to other unions between adults, including exclusive, long-term same-sex unions, that of man and woman united together is paramount. There is a great beauty in the coming together of man and woman. The fabric of human tapestry is formed from this primordial human diversity: two distinct threads that separate from the first spark of life, come to be joined again and knotted in marriage; one expressing his fullness as man, the other as woman, true diversity and true unity.

Only in this union is the fullness of human nature reunited. Humanity without both is not fully expressed. This is the one, unique knot that ties together generation after generation throughout the entire fabric of human history. There is no other tie that is fecund with new life, no other coming

together of flesh that can create new flesh, no joining that can even simulate that deepest truth of our human existence. To suggest otherwise dishonours both marriage itself and all who hold it sacred. A man may choose to join with another man, or a woman with another woman, but because of their physical nature, those unions are different from that of a man with a woman. It is not as if human beings are dis-embodied hearts, moulding their nature by choice and decision without recourse to the flesh and blood of their existence. It is the person as a whole – the entire nature – that acts; and only the joining of male and female truly expresses the nature of who we are. A man meets in woman what he is not, and in that meeting he is enriched; so too the woman. And only from that meeting does new life generate. Desire or preference do not change the fundamental nature of humanity: two threads intertwined: male and female, man and woman.

Re-drawing the boundaries of marriage dishonours the institution, and it dishonours those who have given their lives to it. It dishonours the fabric of Australian society. And so too does it dishonour the parliament that would sacrifice a great treasure for the sake of sentiment or to satisfy the interests of a dissenting number, who do not even believe in marriage as it is. It would be a farce.

changes yet to come: parenting rights, family rights

It is not unknown for same-sex couples to seek to adopt children to fulfil their sense of being-family. Indeed, experience in some countries shows preference being given to same-sex couples in adoption and fertility matters, often justified because they are 'reproductively deprived.' Suddenly the deciding principle is no longer human nature, but human choice. They would have us believe that, since a child cannot be naturally conceived in an exclusive, same-sex union, then there is a moral imperative for society to provide them in some other way – by adoption or fertility treatment or surrogacy - and transform the same-sex union to be indistinguishable from the hetero-sexual couple. It is as if the nature of each union, and the truth of human sexuality itself, is of no consequence: only 'equality' of outcome matters. But that mocks the truth of our human origins. Man and woman co-operate in the generation of life, and each union – same-sex or hetero-sexual – has its own truth. It is unjust to expect society to provide what the same-sex union excludes, by its very nature: fecundity.

This is why 'parenting rights' are wrongly attributed to same-sex unions. They are in fact borrowed from the hetero-sexual couple. Every child is born of the male/female coupling at the cellular level and this is universally true, even when that union is manipulated through medical intervention or performed anonymously. Every child born has that male-female coupling fused indelibly into their DNA, and each one carries the signature of a 'natural' male parent and a 'natural' female parent – seared onto the very nature of the child - regardless of who may later adopt or claim or raise that

child, or what choices a person may later make. It is an undeniable character.

Only a dishonest value-system would blend the frontiers between marriage and other unions and claim that none is distinct. Some persons may experience a sexual preference different from the norm – or claim that 'the norm' is itself merely a social construct. But it is important to affirm that each relationship has its own natural fruit: to marriage properly and naturally belong children and parenting. It derives from the relationship between man and woman. Other unions may give commitment, love and companionship, but a single-sex union cannot naturally conceive a child. It is physically impossible; there must be a mother and a father, or at least genetic material brought together from a male and a female. Every child born is derived from that union and only that union. Other couples may be loving and supportive and may display positive parenting or maternal qualities. But that does not condone usurping what naturally pertains to the union of man and woman. There will always be a link to that 'other person': the natural parent of the opposite sex. It is not humanly possible to be otherwise.

'Parenting rights' do not belong to everyone, but arise from the needs and the dignity of the child. While it is true that a married couple have a right to form a family and bring children into the world, that right derives from the nature of the relationship as the uniting of man and woman, because a natural consequence or fruit of that union is the possible generation of new life. Only when a man and woman come together, in the mystery of that coming together, a child may be naturally conceived.

Rights do not arise from human actions: rights belong to the human person. There is no right 'to have a child', simply because a person is in a life-union with another, as if the child were a possession or a decoration, or an annex to the family home. Children arise from man and woman together, not from man with man nor woman with woman, despite the most fervent desires or efforts they may express. Furthermore, the rights of the child must always be paramount and protected. If the child carries his/her human precedence written in the very DNA, it offends the dignity of that child to obscure his or her true identity, especially by granting 'parenting rights' to a same-sex couple out of some misguided ideological notion or affirmative discrimination. It is a serious offence against the child and against human dignity itself to allocate adoptive children purely on the basis 'politically correct' decisions.

'Parenting rights' are not universal – they only exist in the parenting-relationship, that is, the natural union of man and woman, where new life is conceived. Each child has the right to live the nature he or she bears, and to grow within a supportive and loving environment conducive to the full development of his or her nature, as man or woman. The child has a right to be born in the womb

of the mother, generated from the union of male and female, not manipulated by the whim of medical science or social 'diversity' that denies the very dignity of marriage. The child is a human person, not a possession to be determined or manipulated or shared out to satisfy the needs and wants of those who themselves choose not to enter into a parenting-relationship. Only to parents does that right belong, and others who claim it do so falsely.

Conclusion

Many assertions are already being made in support of changing the legislation to include same-sex unions within status with marriage. But marriage – as between man and woman – is a unique conjugal relationship and union that has no par. Words can be changed and laws re-written, but the fundamental truth of marriage cannot be altered. There is no human competence to re-write the very nature of who we are.⁶ No other union is the equal or equivalent to marriage, and none other has stood the test of time over the centuries. When a man and a woman come together, the primordial human diversity is re-united, and life is once again sealed with its true character. We are human, male and female. Regardless of the terminology conceded to a same-sex union, the only true marriage is that between a man and a woman.

There is a difference.

Peter J Murphy

⁶ In the words attributed to Sir Thomas More 1535, (as found in Robert Bolt's *'A Man For All Seasons'*): "...Parliament hath not the competence...if it were to pass a law that the sky is no longer blue, would it still not be blue?"