



# The Salvation Army

Australia Southern Territorial Headquarters

Office of the Commissioner

30 March, 2012

Committee Secretary  
Legal and Constitutional Affairs Legislation Committee  
Australian Senate  
Parliament House

## **Re submission to the Senate Legal and Constitutional Affairs Legislation Committee re the Marriage Equality Amendment Bill 2010**

The Salvation Army Australia Southern Territory appreciates the opportunity to submit its views to this Senate Committee in relation to the Marriage Equality Amendment Bill 2010. The Salvation Army's Southern Territory comprises the states of Victoria, Tasmania, South Australia, Western Australia and the Northern Territory and this submission is made on behalf of these states.

Noting the objectives of the Bill, namely,

- (a) to remove from the Marriage Act 1961 discrimination against people on the basis of their sex, sexual orientation and gender identity; and
- (b) to recognise that freedom of sexual orientation and gender identity are fundamental human rights; and
- (c) to promote acceptance and the celebration of diversity

We comment as follows:

The Salvation Army, both internationally and within Australia, has a long history of non-discriminatory action. We firmly believe in assisting and working with all persons, regardless of sexual orientation or gender identity, and our history demonstrates this fundamental belief.

Saying that, we retain our very firm conviction that the institution of marriage is, by definition, an act solely between a man and a woman. This should not be altered in any way.

To hold this position is not to make any comment about gay and lesbian relationships; it is, rather, to strongly affirm and uphold the sanctity of marriage as being only and always between a man and a woman.

The Salvation Army's Positional Statement on marriage articulates this very clearly:

**In spite of changing lifestyles and values, the family unit - father, mother and children - is still the ideal social institution in contemporary Australian life.**

**By marriage the family remains the basic source of nurture, of love, of economic and other life supports, of fundamental education and socialization and of spiritual and moral development. Other social institutions serve best as supportive resources.**

**In the face of emerging alternative lifestyles and modes of living, which in recent years have grown in incidence and open acceptance, The Salvation Army affirms its absolute conviction that the marriage of one man to one woman is a sacred institution ordained by God and that a traditional good-faith commitment to an indissoluble union is one of the most rewarding of life's decisions for any man or woman, providing the optimal conditions for family life.**



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**We encourage married couples to continually seek ways to enrich their relationship and to seek counselling quickly should difficulties arise.**

**We encourage parents to discover how best to develop a close relationship of mutual trust and respect with their children and to accept responsibility for their children's physical, moral and spiritual growth and well being.**

**The Salvation Army acknowledges that many people today find themselves in situations outside the ideal stated above. Persons in such circumstances should always be encouraged to feel totally accepted within The Salvation Army.**

**Thus The Salvation Army, through all its programmes and services, seeks to strengthen marriage and enrich family life.**

The Salvation Army, therefore, respectfully calls upon the Australian Parliament to hold strongly to the Marriage Act, 1961, and to resist any move to amend it as per the Bill being considered here by the Senate Committee.

Our view, while founded in our Biblical theology, is reinforced every day through our engagement with thousands of individuals and families throughout Australia. To tear down a foundational stone of society in this manner would only add to the sense of brokenness and dislocation which already exists in Australian society.

To suggest that the fundamental destruction of the foundational institution of marriage would in some way be a "celebration of diversity" is to completely misunderstand the nature of the institution of marriage. Diversity and acceptance are encouraged within society, but always within appropriate limits decided upon and observed by the vast majority for the common good. To somehow suggest that the establishment of appropriate mores and laws for the common good is to infringe upon human rights is to see the issue from only one limited perspective and not through the lens of the greater, common good of society.

The Salvation Army calls upon the government and all members in the Australian Parliament to oppose these amendments. We also supply with this letter a more comprehensive document, *Marriage and the Recognition of Same-Sex Unions*, as an addendum. This expands upon the statements made in this more concise submission.

Yours most sincerely,

Raymond A. Finger (Commissioner)  
Territorial Commander  
Australia Southern Territory  
(Incorporating: Victoria, South Australia, Western Australia, Tasmania, Northern Territory)

# Marriage and the Recognition of Same-Sex Unions

## who we are \_\_\_\_\_

The Salvation Army is an international Christian church. Its message is based on the Bible; its ministry is motivated by love for God and the needs of humanity. This presentation is being made by the Australia Southern Territory of The Salvation Army, which provides a broad range of social services in Victoria, Tasmania, South Australia, Western Australia and the Northern Territory.

These include family and community services, services to the homeless, services to victims of crime and abuse, services to those in conflict with the law, services to persons with addictions, emergency and disaster services, as well as health-care services through hospitals, nursing homes, hospices and other institutions.

Through these avenues The Salvation Army reaches out in Christian love to those who are suffering or socially disadvantaged. It does so without discrimination on any other basis than the extent of the need being met. It has declared this in its position statement on gay and lesbian sexuality, which states: "The Salvation Army upholds the dignity of all persons. For this reason, and in obedience to the example of Jesus Christ, whose compassionate love is all-embracing, The Salvation Army does not discriminate on the basis of sexual orientation in the delivery of its services."

## the question \_\_\_\_\_

We recognize that close inter-personal relationships have changed within Australian society to the extent that present legislation may not be aligned with the interest of government in providing for the integrity and solidarity of such relationships, or for the economic interdependence as well as the emotional and physical security needs of those involved in them. For those reasons and others, government may wish to introduce new legislation, or make present legislation more inclusive to accommodate the needs of a changing world.

Within that context, and in response to the legal challenge to the constitutionality of the requirement that marriage is "between one man and one woman", The Salvation Army understands that government has been asked to redefine the institution of marriage to include same-sex couples.

## our position \_\_\_\_\_

The Salvation Army holds the position that marriage is the covenanting together of one man and one woman for life in a voluntary union characterized by faithfulness, mutual affection, respect and support. It makes this view known in its published Position Statement (see Appendix A).

We also recognize the social importance of marriage by stating that it must be established by an authorized public ceremony. Marriage is not just a private commitment between two people who love

each other, nor is it a strictly religious ceremony, such as baptism or Bar/Bat Mitzvah. It has a public dimension that is part of the fabric of western civilization. It is solemnized in various ceremonies of deep cultural resonance that, although beautifully divergent in their religious expression, have throughout history consistently maintained that marriage is the union of a man and a woman. That belief has also been one of the areas where most notably the state's view and that of religious institutions has been coincident.

The sexual union of male and female is inherently fundamental to the notion of marriage, and millions of people have defined their spousal relationship as one where male and female uniquely become "one flesh". So we aver that the publicly recognized union of male and female is not extrinsic to the common understanding of the institution of marriage, and that marriage is intrinsically heterosexual. To redefine it in terms that deny this quality will make it inauthentic and other than what it truly is, and empty the term of its fundamental meaning.

Marriage thus understood is for the common good. It has proven that it provides a socially indispensable environment for nurturing children and caring for the elderly and infirm. Because of its exclusivity, and within the context of mutual respect and faithfulness, marriage provides security. We believe that the differences between the sexes make the union of each with the other in a life-long covenant a benefit to both partners, and to society as a whole.

In saying this we are not advocating a return to traditional marriage roles. We recognize that gender roles have changed and diversified in terms of intimate personal relationships. The Salvation Army, with its historic commitment to the equality of men and women, has encouraged the emergence of "peer" marriage relationships, in which each person is able to develop complementary and supplementary gifts that make the worth of marriage to society greater than the sum of each spouse's separate gifts.

Because it includes both sexes in a mutual covenantal relationship, marriage represents a model of inclusivity, within which an understanding of the differences between men and women and respect for each sex is naturally passed on to succeeding generations. Such inclusivity, understanding and respect are essential to a healthy society and are among its fundamental attributes.

Many marriages are imperfect, and many loving relationships are flawed. We ought not to infer from this that the institution of marriage itself has failed, or that governments should cease to recognize it in law and public policy. Rather, we believe that marriage must be recognized in law, and that governments should support married couples through the development of public policies designed to foster the long-term commitment and stability that serves the best interests of society.

### ***why we take this position***

The Salvation Army anticipates that some will assert that the arguments advanced in this submission in support of the institution of marriage apply equally to same-sex couples. The Salvation Army maintains that for important theological, philosophical, historical, social, legal, cultural and anthropological reasons, the institution of marriage ought not to be redefined in this way.

The Salvation Army's position on marriage is based on its understanding of what the Bible and Christian tradition teach about human relationships and sexuality.

We believe that marriage is for mutual comfort, where sexual intimacy, the most vulnerable of intimacies, may be expressed within a secure and trusting environment, recognized in law, and that governments should support married couples through the development of public policies designed to foster the long-term commitment and stability that serves the best interests of society.

We also believe that its potential for procreation embodies the natural order for creation as ordained by God. The typical (though not necessary) connection between marriage and the possibility of children speaks to us of God's desire that the love of a man and a woman for each other naturally flow over into love for others, too. For us, therefore, marriage is a gift of God providing for the covenantal union of one man and one woman in an exclusive, life-long relationship characterized by mutual affection, love, respect and faithfulness towards each other, and a gracious attitude towards larger society.

As such, marriage stands as an icon of the relationship of God with the people of this world, and of Christ with his Church. As the union of a man and a woman, marriage has been embedded in the culture and tradition of the western world since the beginning of its recorded history. Redefining it to include same-sex couples may appear to be a simple solution to a perceived present-day inequality, but the notion of marriage as an opposite-sex relationship is so deeply rooted in our society that its redefinition may have far-reaching effects on the future development of our society that cannot be predicted, while to do so will offend the conscience-driven position of the vast majority of married persons.

We believe that marriage is a public relationship, entered into not only for benefit of the partners to it and the potential children of it, but also for the sake of the families thus united, and the wider community surrounding and embracing the married couple. This enables the full and rich development of the gifts of all who commit themselves to each other in this way, which is to the benefit of society.

The importance of long-term, committed and stable relationships to the well-being of our society is supported by the experience of The Salvation Army in its social services and in its daily work providing support to families and individuals in need. It is also documented by statistical evidence that indicates a strong correlation of positive social outcomes with marriage.

The state did not create the heterosexual institution of marriage, but it did recognize it as such and gave it status in law. In doing so, it did not remain neutral, but chose to affirm that marriage is a heterosexual union. This common-law understanding has been regularly confirmed by the courts, until its constitutional challenge in recent times.

The state's contribution to our society's understanding of the inherent nature of marriage is important, but its interest is not exclusive. Ministers of religion who solemnize marriages do not do so merely as instruments of the state. The state has become their adjunct and has thereby validated and upheld the marriage institution by its presence at the exchange of vows, but religious bodies represent ancient traditions that have great importance for most of those who marry.

The majority of marriages in this country are solemnized by religious leaders. People who do not regularly attend worship services will approach religious leaders to perform their wedding ceremony. The importance to many of its redefinition may have far-reaching effects on the future Canadians of making solemn vows, especially when the development of our society that cannot be predicted couple anticipates having children, cannot be overestimated. The continuing religious significance of marriage means that religious institutions will have a role to play in counselling, educating and supporting couples who are engaged, and in solemnizing marriages and supporting married couples in the fulfillment of their vows.

The pre-marriage counselling that customarily takes place before a marriage is solemnized in a religious service also increases the probability of permanency in the marriage relationship.

The Salvation Army would therefore expect that any redefinition of marriage to include same-sex couples would be accompanied by appropriate measures to ensure that religious institutions are not required to solemnize unions not in accordance with their doctrine and teachings.

***are we being unfair?***

We do not accept that it is unfair to deny the state of marriage to those who do not qualify for it because they are of the same sex, just as we do not believe it is unfair to deny it on the basis of consanguinity. Equity does not require uniformity, and redefining marriage to create uniformity will not hide true and abiding differences. We anticipate that new vocabulary will emerge to describe types of intimate personal relationships that are akin to, but not the same as, marriage. This enriches the language, recognises the pluralism of our society, and does not devalue the definition of marriage by applying it uniformly to relationships that were never understood to be included in it.

Nor do we believe that by wishing to deny the use of the word “marriage” to describe same-sex relationships we are advancing a proposal that violates any human or Charter equality rights of gays and lesbians who cohabit. The Salvation Army believes it healthy and a public good for people to be in loving and faithful relationships, but that not all loving and faithful relationships, of however deep a commitment, have the necessary qualities to be called marriage.

We fail to see how an opposite-sex understanding of marriage necessarily entails arbitrary discrimination. Over time governments rethink the grounds on which they accord various legal benefits and burdens. As we know, parental responsibilities that at one time fell only to married persons with children were extended to unmarried cohabiting couples too, because it was seen that the proper ground of the legal duties were not marriage per se but protection of children. More recently governments have extended pension survivor benefits to some same-sex couples that applied previously only to those who were married. The way we interpret this is that governments came to believe that economic dependency, not marriage, was the rational basis on which to say people were eligible for these pension benefits.

This is not a bad evolution, and may well lead to further extensions in pension entitlements when the same rational bases obtain. The point is that the opposite-sex nature of marriage does not preclude government from making any decisions about the distribution of legal benefits and burdens that it finds Equity does not require uniformity itself justified in making.

What is left of marriage then? Are we insisting that the law retain “marriage” as an empty concept, a distinction without a difference? No. Our contention is that marriage is in its constitution a union of woman and man. That this might matter very little in the way the government distributes benefits does not mean that it matters very little in total. Government and laws are after all only a part of the total human reality. Marriage is a powerful, time-tested institution and its “symbolic” importance ought not to be underestimated. Were the state to “get out of the marriage business” — that is, were government to issue the edict that marriage no longer exists in Australian law, — we think the effect on the fabric of Australian society would be shocking and largely deleterious.

### ***alternatives to redefining marriage***

It is possible to address the needs of unmarried cohabiting couples, and gay and lesbian couples, without redefining the institution of marriage. The law has long made a distinction between the institution of marriage and the incidents of marriage, that is, various rights and obligations conferred on each party to the marriage. Historically, ecclesiastical and civil authorities both exercised considerable jurisdiction over married couples, with ecclesiastical authorities being primarily concerned with the institution of marriage and civil authorities being primarily concerned with conferring certain rights and obligations on the married persons. Under our present constitution, civil authority with respect to the institution of marriage is divided between the federal and provincial governments. Legislative jurisdiction with respect to the institution of marriage, that is, who may and may not marry and the conditions under which a marriage may be dissolved, belongs with the federal government.

### **in conclusion \_\_\_\_\_**

It is the responsibility of government to legislate for the common good, and The Salvation Army believes governments have a role to play in promoting, fostering and encouraging long-term, committed relationships that are stable. It is the opinion of The Salvation Army that the permanent conjugal relationship of a man and a woman in marriage is the most stable and enduring relationship within society.

So, The Salvation Army hopes the federal government and will uphold the institution of marriage as presently defined and will continue to find ways of supporting married couples. The Salvation Army, therefore, urges that the definition of marriage as the voluntary, life-long, covenanted union between a woman and a man to the exclusion of all others be upheld in Australian law.

## **APPENDIX A**

### **Position statement of The Salvation Army in Australia**

#### **Marriage and Family Life**

**In spite of changing lifestyles and values, the family unit - father, mother and children - is still the ideal social institution in contemporary Australian life.**

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