

Margaret Mayman representing Uniting Church LGBTIQ Network (Uniting Church in Australia) –
Submission to Senate Enquiry on Same Sex Marriage Amendment Bill.
Questions on Notice - Monday 30 January 2017

In response to Senator Fawcett's question about my claim in an article in the *Sydney Morning Herald* that Christians would not be harmed by marriage equality legislation, the Senator referred to an unnamed New Zealand example in which an NGO was apparently negatively affected.

A colleague has examined the 77 online submissions and the only publicly available example with reference to New Zealand is a case relating to Family First. I presume this is the example to which the Senator was referring.

This case is not an example of a negative impact on Christians following the passage of same sex marriage legislation in New Zealand.

Family First was deregistered as a charity in 2013 because it did not meet the requirements to be a registered charity under New Zealand law. At that time, any organisation that spoke out on political issues could not be a registered charity. Apparently Family First's political advocacy on the issue of marriage, and its lack of other charitable work, drew the attention of members of the public and government officials to their charitable status and it was deemed not to be a charity. Other NGO's whose purposes included influencing political decision-makers lost their charitable status when the law changed to limit political expression by charities in 2010. Two prominent examples were the NZ National Council of Women and Greenpeace NZ.

The successful High Court case taken by Family First (and another similar case taken by Greenpeace) challenged the law that applied to all charities and the court decided was that it was too restrictive of charities' right to free speech. The Court made no decision on whether Family First would or would not meet the criteria of a charity following the judgement.

The Court's judgement benefitted Family First and many other charitable NGOs.

[Source: http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11473926]

It is important to note that here is nothing in Christian faith that forbids Christians providing goods and services for people with whom they have theological disagreements. In fact, there is much in biblical and theological teaching to suggest the opposite.

There appear to have been very few cases involving loss of religious freedoms in the 23 nations where marriage equality has become law. Many of those referred to by opponents of marriage equality are not about marriage equality per se, but about some other aspect of law, as in the case of Family First. Similarly, marriage equality legislation has not been the cause of litigation around anti-discrimination laws. The Delaney/Porteous case in Tasmania did not involve claims about marriage. The complainant accepted the right of the church to hold its theological view on marriage. At issue was language that demeaned the humanity of LGBTI people and rhetoric about the ability of LGBTI people to raise and care for children, and whether these claims were acceptable under Australian anti-discrimination law.

On the other hand, in countries where the law has changed, marriage equality has enhanced religious freedom for LGBTI affirming churches who are now able to act according to their faith, treating all couples equally. It provides a freedom that did not previously exist for these churches where previously the law had privileged one religious view over another.