



CATHOLIC WOMEN'S LEAGUE AUSTRALIA INC.

*Member Organisation of the World Union of Catholic Women's Organisations (WUCWO)
NGO in consultative (Roster) status with the Economic and Social Council of the United Nations*

Submission from
Catholic Women's League Australia Inc.
to the
Senate Legal and Constitutional Affairs Committee
inquiry into the
Marriage Equality Amendment Bill 2010.

April 2, 2012

1. Introduction

Catholic Women's League Australia Inc. (CWLA) is the national peak body representing the League's seven member organisations located throughout Australia. We are a Non-Government Organisation and have consultative (Roster) status with the Economic and Social Council of the United Nations. We are also a member organisation of the World Union of Catholic Women's Organisations.

As a Christian organisation within a democratic society, we recognise our right and responsibility to express a view on matters of public policy. In relation to marriage CWLA unites her voice with the broader Church who has a special interest in all vulnerable people and especially children.

This submission to the Committee is organised around the stated objects of the Bill:

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

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2. Object (a) to remove from the *Marriage Act 1961* discrimination against people on the basis of their sex, sexual orientation or gender identity

2.1 The *Marriage Act 1961*, section 5, defines marriage as “the union of a man and a woman to the exclusion of all others, voluntarily entered into for life”. This is consistent with the commonly held understanding of marriage as “the union of a man and a woman who make a permanent and exclusive commitment to each other, of the type that is naturally (inherently) fulfilled by bearing and rearing children together.” (Girgis, George & Anderson, 2010, p.246)

2.2 Despite minor variations in expression, this concept of marriage is consistently found across cultures, throughout history. In particular, marriage has always only described permanent and exclusive *heterosexual* relationships. This is because marriage is, by its very nature, the kind of relationship which is deeply and uniquely oriented to bearing and rearing children. Two men or two women cannot participate in marriage because their union lacks an essential and natural orientation to children. Therefore, the *Marriage Act 1961* appropriately discriminates between heterosexual and homosexual unions.

2.3 The state rarely is involved in recognising and regulating personal and private relationships. It does, however, have an interest in recognising and regulating marriage because it is a social institution which is inherently linked to the welfare of children, and as a result, important to the common good. (Girgis et al, 2010)

2.4 Every child should have a reasonable expectation, all things being equal, of being born and raised by his or her natural mother and father. Unlike permanent and exclusive same-sex unions, marriage can provide children with a biological link to both parents, and the security and identity of relationship that this brings with it. Marriage also provides children with a role model of the human love of their parents relating as man and woman and an experience of differences between motherly and fatherly love. (*Revising Marriage*, 2011, 3.6)



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The family environment provided by marriage allows children to grow, mature, and flourish. It is a seedbed of sociability and virtue for the young, who learn from both their parents and their siblings. Specifically, the married family satisfies children's need to know their biological origins, connects them to both a mother and a father, establishes a framework of love for nurturing them, oversees their education and personal development, and anchors their identity as they learn to move about the larger world. These are not merely desirable goods, but *what we owe to children as vulnerable beings filled with potential*. Whenever humanly possible, children have a natural human right to know their mother and father, and mothers and fathers have a solemn obligation to love their children unconditionally. (Witherspoon Institute, 2008, p.6)

2.5 During the last two decades, a large body of social scientific research has emerged which confirms the widely held view that children fare best on most indicators of health and wellbeing when reared by their mothers and fathers in a married, intact family. (Witherspoon Institute, 2008)

...research clearly demonstrates that family structure matters for children, and the family structure that helps children the most is a family headed by two biological parents in a low-conflict marriage. Children in single-parent families, children born to unmarried mothers, and children in stepfamilies or cohabiting relationships face higher risks of poor outcomes than do children in intact families headed by two biological parents. Parental divorce is also linked to a range of poorer academic and behavioural outcomes among children. There is thus value for children in promoting strong, stable marriages between biological parents. (Kristin Anderson Moore et al. 2002)

2.6 Changing the legal definition of marriage to accommodate same-sex relationships, would involve a radical revision of the public understanding of marriage. Some of the ways this would affect society's understanding of and support for the institution are as follows.

- I. The law would teach that marriage is not about generating and nurturing children, but rather meeting the needs of adults. It would place adult sexual choice and emotional commitment at its centre, and the norms of marriage would make less and less sense. People would become increasingly unable to

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understand why, in the absence of consistently strong feeling, there is any reason for marrying or staying with a spouse. And that would likely erode people's adherence to marital norms of permanence, monogamy and exclusivity that are essential to the common good. (Girgis et al, 2010, p.261)

- II. The law would no longer fulfil the function of establishing and affirming the environment which provides the best outcomes for children. The idea that the union of husband and wife is the most appropriate environment for the bearing and rearing of children would be lost. The notions that children need both a mother and father; that men and women on average bring different gifts to the parenting enterprise; and that boys and girls need and benefit from fathers and mothers in different ways, would also vanish. (Girgis et al, 2010, p.263)
- III. The inevitable outcome of the State endorsing same sex marriage through legislation would be the State being forced to view those defending traditional marriage as bigots who make groundless and invidious distinctions. This would undermine religious freedom and the rights of parents to direct the education and upbringing of their children. (Girgis et al, 2010, p.263-4)

2.7 There are good reasons, therefore, why the State distinguishes marriage from faithful and exclusive same-sex relationships. The assumption that any distinction is unjust discrimination should be rejected. Otherwise the campaign for same-sex marriage should, in principle, be extended to other types of unions, including polyandrous, polyamorous, and even incestuous unions.

3. Object (b) to recognise that freedom of sexual orientation and gender identity are fundamental human rights

3.1 *The Marriage Act, 1961* does not unjustly discriminate against people on the basis of sexual orientation and gender identity. Persons may form different types of relationships, but "marriage" is a term reserved for a particular kind of relationship



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which is deeply and uniquely oriented to bearing and raising children. No one is disadvantaged when a society retains a distinctive name for these relationships.

3.2 Despite assertions, there is no basic human right to same-sex marriage. The European Convention on Human Rights recently repeated the ruling that member states' governments are not required to grant same-sex couples access to marriage. (*Gas and Dubois v. France*, March 2012)

3.3 In the last few years Australian Parliaments have legislated to remove unjust discrimination towards same sex couples by granting them the same entitlements to freedom and to services as any other married or de-facto couple. This includes 84 pieces of legislation amended by the Federal Parliament in 2008.

3.4 Same-sex households in which there are children, either from previous relationships or through the use of reproductive technology, represent only one in a thousand couples with children. (Tonti-Filippini, 2011) Revising marriage to include same sex relationships would not advantage these children in any substantive way because the law already protects the relationship between the child and the substitute parents, and from that relationship they draw the same entitlements as other families. (*Revising Marriage*, 2011, 4.52).

4 Object (c) to promote acceptance and the celebration of diversity

4.1 Far from promoting 'acceptance and the celebration of diversity', changing the legal definition of marriage to accommodate same-sex relationships would be extremely divisive within Australian society. There is strong opposition to same-sex marriage. Feedback to Parliament initiated by Green MP, Adam Bandt, revealed that only 6 out of 30 Members said that their constituents supported same-sex marriage. Around the world only around 10 countries have legalised same-sex marriages.

4.2 Redefining marriage has potential serious consequences for religious freedom and freedom of conscience. The European Court of Human Rights has said that in

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jurisdictions where same sex marriage is legal, any church that offers weddings will be guilty of discrimination if it declines to marry same-sex couples. (*Gas and Dubois v. France, 2012*)

Describing the situation in Canada following the legalisation of same-sex marriage, ethicist Margaret Somerville writes:

We also need to consider the wider effects of legalizing same-sex marriage. It can result in restrictions on freedom of conscience and religion, and freedom of speech, as we've seen happen in Canada. Complaints have been filed before Human Rights tribunals or courts, and sometimes they have resulted in substantial penalties. Those targeted have included civil marriage celebrants for refusals to conduct same-sex marriages; a teacher and an author of a letter to the editor questioning the morality of homosexuality; a Roman Catholic organization which rescinded an agreement to rent a church hall for a reception when it discovered it was to be used for a lesbian wedding; and school trustees for their decision not to include books on homosexual families on a recommended reading list for kindergarten students. (Somerville, 2011)

4.3 The proper way of recognising diversity is to call things by their proper name. By their very nature, same-sex unions are different to, and can never be 'marriages.'

5 Conclusion

5.1 The *Marriage Act 1961* defines marriage as “the union of a man and a woman to the exclusion of all others, voluntarily entered into for life” because marriage is a social institution which is inherently linked to the welfare of children.

5.2 The *Marriage Act* does *not* unjustly discriminate against people on the basis of their sex, sexual orientation or gender identity. Neither does the Act constrain freedom of sexual orientation and gender identity, nor the acceptance and celebration of diversity.



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5.3 Catholic Women's League Australia Inc. recommends that the *Marriage Act 1961* should *not* be amended to recognise permanent and exclusive same-sex unions as marriages. The *Marriage Equality Amendment Bill 2010* should be rejected.

Thank you for the opportunity to make this submission. We wish the Committee well in its deliberations.

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