



Submission
to the
Government and Administration Selection Committee
on the
Marriage (Definition of Marriage) Amendment Bill

Who we are

1. This submission on the Marriage (Definition of Marriage) Amendment Bill ("the Bill") is made by the New Zealand Catholic Bishops Conference. The New Zealand Catholic Bishops Conference is the national body for the Catholic Bishops of Aotearoa New Zealand.

Introduction

2. We believe that the term 'marriage' signifies a particular reality; that of a public, committed, permanent and loving relationship between one man and one woman, a relationship which has a natural orientation towards the procreation of new human life.
3. We are seeking to protect the current legal understanding of the nature of marriage as being a union between one man and one woman.
4. The Catholic Church has long promoted marriage as a stable and loving environment for the nurture of family and children, and the consequent good of society. To this end we have supported the institution and practice of marriage through marriage preparation courses, counselling, support for married couples in difficulty, and accompaniment for those who suffer loss of a spouse through death or separation.
5. This is not a debate about homosexuality. Our stance on marriage is not a denigration of persons who are homosexual.
6. The Catholic Church is one voice in a pluralistic society. We have a right to participate in the debate and to be treated fairly and with respect, just as any other group in society.

The Nature of Marriage

7. No church, faith community, or state invented marriage. Marriage is a basic human institution that existed before legal and religious constructs were put around it to

formalise the institution in society.

8. Marriage derives from the nature of the human person; male and female are sexually different in ways which are complementary. Sexual difference affects all aspects of human existence – biologically, psychologically, genetically, and socially. Marriage is founded on sexual difference. The traditional definition of marriage reflects this fact.
9. Marriage is unique; it is a committed union between a man and a woman which has a natural orientation towards the procreation of new human life, and which has the potential to result in children who are fully genetically connected to their parents. This uniqueness requires a name and definition which distinguishes marriage from any other form of relationship.
10. Marriage is not defined in the Marriage Act 1955 specifically as being between a man and a woman. This reflects the reality that people understand the sexual difference of man and woman to be integral to marriage, to the extent that it did not need legal definition in the Act. Prior to the changes made to the Marriage Act 1955 by the Civil Unions Act 2004, the “Forbidden Marriages” listed in Schedule 2 of the Marriage Act were solely between males and females, evidence of society’s clear understanding of marriage.

Individual choice

11. The case for redefining marriage is ultimately premised on an assumption that the individual has the “right to choose”, and that this “right” is not limited by any prior given (other than what society, exercising its “right to choose” has already determined).
12. There *are* givens, prior realities, which constitute boundaries within which we are entitled to make our choices.
13. The given or prior reality which exists in the case of marriage is the physical difference between the partners. Neither individual choice, nor societal choice can make sexual differentiation irrelevant, which is what the proposed redefinition of marriage effectively seeks to do.
14. If the “right to choose” allows a given to be ignored, there is no limit to how marriage might be redefined from time to time.

“Rights, equality, discrimination”

15. Catholic teaching acknowledges a “right of marriage” which no human law can abolish. The right of any person to enter into marriage depends upon fulfilling the criteria which characterise the true nature of marriage.

16. The sexual difference between man and woman makes marriage unique. Sexual activity involving a man and a woman has a natural orientation towards the procreation of children. No third party is needed to provide eggs, gestational carrier or sperm.
17. If a person desires to 'marry' someone of the same sex the relationship does not meet a defining requirement for marriage, i.e. the sexual difference essential to the complementarity which gives marriage its uniqueness.
18. Same-sex unions may meet the requirement for a loving, lifelong commitment which is essential for marriage. Same-sex unions cannot meet the defining requirement of marriage, the sexual difference and complementarity of the partners which is ordered to the procreation of children.
19. The union of a man and a woman in marriage is not the same as a same-sex union. It is not discrimination to treat different things differently.
20. Equality cannot be achieved by calling two things which are essentially different by the same name.

Adult choice and children

21. Marriage is the context for both the generation of new life *and* the nurture of children.
22. The Bill opens a pathway for homosexual couples to adopt the child of one of the partners or a child who is being placed for adoption. A child born to one of the partners and adopted by the couple will be deliberately deprived of the close parenting of either a mother or a father. A child placed for adoption with a homosexual couple will not experience the parenting of both an adoptive mother and an adoptive father.
23. Psychiatrists assure us that the love of the father and the mother are different, and contribute differently to a child's development. Children need to experience the love of a mother and the love of a father, and their love for each other.
24. The loss of a child's parent, precisely as father or as mother actively involved in parenting the child, is a loss to that child's development and well-being.
25. However much children brought up by homosexual partners may be loved and cared for, no one has the right to intentionally deprive them of a father's love or a mother's love or the parenting of either a father or a mother.
26. Too often children suffer because of the ways adults pursue their own interests and desires. An adult's claim to a "right to choose" inflicts a penalty on the child.

27. Marriage protects the right of the child to be raised, wherever possible, by his/her biological parents, and to fully experience the parenting of a mother and a father. Circumstances may mean this ideal is not always be able to be met, but it should not be deliberately set aside in order to satisfy adult desires.

Freedom of conscience

28. There have been public assurances from the Bill's author, Ms Louisa Wall, that churches will not have to solemnise the marriages of same-sex couples.

29. Section 29 of the Marriage Act states "a marriage licence shall authorise but not oblige any marriage celebrant to solemnise the marriage to which it relates."

30. Currently religious ministers are free to refuse to perform marriages that are not in accordance with their religious beliefs, without breaching the unlawful discrimination provisions of the Human Rights Act (HRA). According to the Human Rights Commission, if the Bill becomes law no religious minister would be required to officiate at the marriage of a same-sex couple, anywhere, including in a church. Ceremonial or consecrated spaces, or any other religious premises that are not made available for the public to hire, are not covered by the HRA.

31. The Human Rights Commission opinion on how the Marriage (Definition of Marriage) Amendment Bill, if passed, would operate for churches, is partially reassuring. However we can only be fully reassured if the protection of religious beliefs in relation to same sex unions designated as marriages is enshrined in the Bill.

32. We are concerned about potential conflict, should the Bill be passed, between the state and religious institutions as a result of the difference in the definition of marriage. As a legitimate group in a democratic society we would want a legislated guarantee that we can teach and publicly promote Catholic teaching on marriage without penalties such as being excluded from benefits accorded to other institutions, or compelled to provide services to same sex couples via our agencies where these conflict with our religious beliefs.

33. We cannot help but be sceptical that without specific legal protection in this Bill the reassurances of Louisa Wall and other MPs will, over time, be worthless. During the debate on the Civil Union legislation many MPs gave assurances that marriage would remain unchanged. Eight years later these assurances mean nothing.

Conclusion

34. A same sex partnership can be loving and committed. It can never, however, meet the other essential and defining characteristic of marriage, the sexual difference and

complementarity between the two partners that has a natural orientation towards the procreation of new human life.

35. Marriage as it is now protects the right of the child to be raised, wherever possible, by his/her biological parents, and to fully experience the parenting of a mother and a father.

36. The Marriage (Definition of Marriage) Amendment Bill presents the current understanding of marriage as discriminatory, and this as justification for the Bill. There are some similarities between marriage and same sex unions; nevertheless, marriage and same sex unions remain fundamentally different and therefore should not both be covered by the term "marriage".

37. The sexual differentiation between the partners in marriage is why other faithful, caring, committed relationships are not termed marriage. Marriage has its origins in human nature and for this reason it is beyond the redefinition being proposed by the Bill.