INQUIRY INTO SAME SEX MARRIAGE LAW IN NSW

Organisation: Knights of the Southern Cross (NSW) Inc
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SUBMISSION FROM

THE KNIGHTS OF THE SOUTHERN CROSS (NSW) Inc.

Summary

The Knights of the Southern Cross (NSW) Inc. (see Appendix) is strongly opposed to same sex “marriage” for both religious and secular reasons.

We oppose the attempt by State legislation that would change the definition of marriage to allow the passage of same-sex “marriage” into society.

The definition of marriage is based both on its context in Australian society and on the Christian perspective. Some serious societal impacts would be expected to result from a change in the definition of marriage.

Our concerns are focused on the potential conflict between State/Federal laws and the laws, teachings, interpretations and traditions pertaining to marriage among the various Religious Faiths.

In a secular sense, we pose that a change in the definition of marriage is such an important concept for society, that it requires informed debate such as that required for a referendum or even a referendum itself.

Non-discrimination

Discrimination concerning homosexuality is outlawed in Australia. Denying same-sex “marriage” is not discrimination. The United Nations recognizes that.

Potential conflict between State/Federal laws

"From Federation in 1901 until 1961, each state and territory was responsible for regulating marriage. This resulted in a fractured system where each state and territory had its own marriage law, meaning that the legality of one’s marriage could change when crossing a border. Sir Garfield Barwick, then Attorney-General, wrote in 1962 that:

At present there are nine separate systems of marriage law in the States and these Territories; systems which, although possessing many features in common, display considerable diversity in principle and detail.2

A person’s eligibility to marry could change from one state to another at different points in time...

In 1961, the Australian Parliament, using its power to legislate with respect to marriage under Subsection 51(21) of the Constitution, passed the Marriage Act 1961 (the Marriage Act) to regulate marriage law uniformly across the country."

Consequently, we consider that it would be contrary to the national interest for the New South Wales Parliament to enact laws in relation to marriage that do not comply with the provisions of the Marriage Act.

The Marriage Amendment Act 2004 inserted Section 88EA into the Marriage Act to prohibit the recognition in Australia of same-sex marriages performed in foreign countries. We consider that there should be no departure from this provision.

Concerning the Definition of Marriage

The definition of Marriage under Subsection 5(1) of the Marriage Act is as follows:

Marriage means the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.

Any State or Federal legislation which alters the definition of marriage in the context of would-be same-sex legislation would bring that legislation into serious conflict with the laws, teachings interpretations and traditions of many Religious Faiths.

The laws, teachings, interpretations, and traditions concerning marriage of many Religious Faiths date back millennia.

More than 70% of Australians have a religious faith and the majority of these are of the Judeo-Christian ethic. Existing State and Federal laws related to the definition of marriage are derived from the Judeo-Christian teachings, interpretations and traditions applied to centuries-old English law.

There is presently no serious conflict between the secular and religious laws pertaining to the definition of marriage.

Marriage and family are the foundation of society and the most socially desirable form for the transmission of human life. All civilised nations on Earth recognise this.
Marriage is an important concept for society, and informed debate such as that required for a referendum, or even a referendum itself, would be the appropriate process for obtaining national sentiment. However, it is considered highly unlikely that, after a period of informed debate, the requisite majority of the Australian people would support such a referendum.

From a Catholic Perspective

As Catholic men, we hold strong convictions that marriage is an institution between a man and a woman, open to the natural procreation of children. It is the cornerstone of the family and blessed by almighty God. The path to marriage is through the sacrament of Matrimony and it is validated through the act of consummation. It is incumbent on our Members to form their consciences to be in alignment with the teachings of the Church. These teachings can be summarised as follows:

- “...First, the Church has always taught that the sexual (genital) expression of love is intended by God's plan of creation to find its place exclusively within marriage between a man and a woman…”

- “...The Church therefore cannot in any way equate a homosexual partnership with a heterosexual marriage…”

- “...Secondly, the sexual (genital) expression of love must be open to the possible transmission of new life…”

- “...The Church teaches that there can be no moral right to homosexual acts, even though they are no longer held to be criminal in many secular legal systems…”

- “...No individual, bishop, priest or layperson, is in a position to change the teaching of the Church which she considers to be God-given…”


Consequential Impacts

The consequential impacts of changes in the law that would allow same-sex “marriage” could be expected to be as follows:

- The moral teaching value of the law would be lost to Australian society.

- The institution of marriage and the family as the foundation of society could be diminished and undermined.
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- The term *marriage* could become devoid of its most fundamental guiding principles including its unique role in the procreation of children.

- It would create a conflict between the Christian teaching and the secular/legal teachings concerning the definitions of *marriage* and sexual morality. This is a matter of grave concern for Catholics.

- Changing the definition of *marriage* could become a serious secular strand for division within society.

- The confusion that follows could be expected to impact the direction of sexual development and possibly sexual orientation in youth and young adults at least. This is not in the best interests of society nor the nation.

- It seems more appropriate that the human effort and cost that would be associated with the administrative and legal changes across the whole spectrum of society, be applied instead to priority items that benefit Australian society, rather than one which is so likely to cause division.

- The rejection of same sex “marriage” would not be harmful to the common good, since nothing changes.

APPENDIX

About the Knights of the Southern Cross

The Knights of the Southern Cross is an association of Catholic men who enjoy the confidence of the Australian Catholic Bishops. It was formed in 1919 at a time of significant social and economic discrimination against Catholics in NSW and elsewhere throughout Australia. Our members played a significant role in ridding the Nation of this sort of discrimination.

The Objects of the Knights of the Southern Cross are:

1. To promote the Advancement of Australia;
2. To foster the Christian way of life throughout the Nation;
3. To promote the welfare of Members and their families;
4. To encourage spiritual, social and intellectual activities amongst its Members; and
5. To conduct and support educational, charitable, religious and social welfare work.

The Knights of the Southern Cross is committed to its 90 years plus role of the Advancement of Australia and fostering the Christian way of life throughout the Nation.