

INQUIRY INTO SAME SEX MARRIAGE LAW IN NSW

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SUBMISSION TO ENQUIRY ON SAME-SEX MARRIAGE LAW IN NSW¹

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Introduction and summary

The movement to institutionalize homosexual practice in contemporary society, all the way up to bringing about homosexual marriage, is not one pursued wholly or perhaps even primarily by homosexuals. It is not so much the work of an interest group as a political movement with a social philosophy, which has already impacted on our society. This booklet critically examines that impact with reference to the thought of a number of major contemporary thinkers.

Its first area of impact is upon our treatment of the human being and human values. Rabbi Menachem Mendel Schneerson, one of the great religious leaders of our time, argued that this movement poses a betrayal of, and harm to, the homosexual person him- or herself. The movement seeks also to obscure the traditional, universal and biblical values which are at the basis of our society. The former Chief Justice of Australia, the Hon Murray Gleeson, argues that these values necessarily inform the institution of marriage.

The movement has already impacted on the family in Australia via new legislation in relation to de facto relationships. These have been given, as Professor Patrick Parkinson of the University of Sydney points out, the benefits and obligations of marriage, even where they have not been “voluntarily entered into for life” as is marriage.

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With supplementary IVF and surrogacy legislation, it has also ruptured the biological relationship of parents and children. The second area of social impact of the movement is upon children, with new programs of school sex education. These teach homosexual practice as equally ethically normative with heterosexual, gender-identity and sexual-orientation as fluid, and endorse generally unrestricted sexual activity for children, at an early and uncertain time of personal identity.

It has impacted finally on freedom of conscience in the professions and intellectual discussion in the Universities. One of America's leading psychologists, Professor Stanton Jones, comments on how and why the movement seeks to ban provision of "reparative therapy" for those individuals who *wish* to struggle with homosexual impulses.

This submission begins by considering the weight and significance which should be attributed to the trends and attitudes attending the legislation of homosexual marriage in other jurisdictions.

Overseas' same-sex marriage legislation: a reason to change or a symptom of decay?

The terms of reference of the "Inquiry into same-sex marriage legislation in NSW" include (1) issues of its impact with other existing law. This issue is insignificant for this submission, as it takes the view that same-sex marriage is an undesirable thing and should not be enacted. The remaining three terms of reference relate more directly to the issue of same sex marriage. Point (3) of the terms reference is whether there are legislative alternatives to same sex marriage, such as Civil unions. This is also not discussed here since all the points raised in this submission relate equally to civil unions. Homosexual unions also pose similar kinds of transformation of society and culture arising from the attempt to relativise and plasticize (make malleable) the basic atom of society, the committed union of man and

woman. In this section I want, however, briefly to refer to two of the terms of reference: (2) The response of other jurisdictions both in Australia and overseas to demands for marriage equality and (4) Changes in social attitudes (if any) to marriage in Australia.

The existence of a social trend or change in attitude in a particular direction does not necessarily mean that the trend or the attitudinal change is a good one. It could be sign of ideologically questionable thinking and of fundamental social decay. The Abrahamic world faiths, the adherents of which together constitute the majority of the world's population – Judaism, Christianity and Islam – have deeply shaped world culture, including our own society. All, in their traditional expressions, are opposed to homosexual marriage. This has not so much to do with reason as with the idea of a guide and perimeter for reason itself. The Maker of the human being fashioned and assigned the human being a moral compass, which is to guide not only peaceful and civilized human conduct, but also to educate finite human “reason” itself. It includes the provision of ethical first principles which reason cannot, and does not, find in itself. A trend or social attitude which runs contrary to that ethic may not be progress but rather an eclipse of the spiritual beacon which has guided reason and civilization for thousands of years.

What is the new trend and the new attitude? There is a trend towards the weakening of marriage as an institution. There is an attitude which rides on the catchword of “equality”, where is here applied to introduce a new plasticity into the idea of marriage. The trend and the attitude have been espoused – in legislation or legislative ambition - by the leaders of societies which have been the bulwarks of western civilization. The Prime Minister of Great Britain, David Cameron, drove through the British House of Commons a bill enacting homosexual marriage in. So did the President of France in the French Assembly. The President of the United States of American, Barak Obama,

in his second inaugural address, has set his course towards it with a new argument of “equality”. Let us look at some of the features of these societies and the statements of their leaders.

David Cameron, whilst admitting the “equality” argument, has stated as his primary reason for introducing same-sex marriage legislation, that it will “strengthen marriage”. A similar rationale is attributed to the French proponents of this legislation. What is the state of marriage in England and France? One of the indicators of the strength or weakness of marriage in a society is the rate of ex-nuptial births (births out of wedlock) in a society. English society has a rate of ex-nuptial births of 50%. That is, one in every two children born in England are born out of wedlock. The figure for France is higher, 51.7%. This bespeaks either a general weakness of marriage in these societies or a major rift, or new class distinction, between the “familied” and the “family-less”.

The Abrahamic religions – of which the Judeo-Christian strand has been foundational in western society - endorse marriage as an institution. They also disapprove of homosexual marriage. The two concepts are in contradiction. In terms of the Abrahamic religions homosexual marriage could never strengthen marriage, for the simple reason that it represents an *eclipse* of the very ethic which supports the family. How for the “secularist” leaders of England and France, who have abandoned the Judeo-Christian tradition in this point at least, is homosexual marriage meant to strengthen marriage in general? If admitting more forms of marriage, at variance with the traditional concept of marriage, somehow “bolsters” marriage as an institution, then consider the Swedish case. Sweden has not only homosexual marriage (since 2009), but to my knowledge is the only society in the world which has *incestuons* marriage. Siblings with one common parent may marry. The society which has gone furthest to “plasticize” and metamorphosize marriage had a rate of ex-nuptial births

in 2010 of over 54%, more than Britain or France. The social willingness to metamorphose marriage into new variants appears to correlate with weaker marriage in general.

Let us consider finally, the attitude which supports same sex marriage, as expressed by both the British and French leaders, as well as in President Obama's second inaugural address. In it he said, "Our journey is not complete until our gay brothers and sisters are treated like anyone else under the law – for if we are truly created equal, then surely the love we commit to one another must be equal as well." The meaning of "created equal", for earlier Presidents, who adhered to the Judeo-Christian ethic, refers to the intrinsic dignity and equality of each person to exercise the rights, prerogatives and moral imperatives *endowed by the Creator within the Creator's moral compass*. There is no right in that ethic for a person to marry *any* person that one "loves". And yet President Obama's argument – "the love we commit to one to one another must be equal as well" – is an argument fully deployable for Swedish-style incestuous marriage as well as homosexual marriage. It is reason, led ultimately by a materialistic hedonism, which wants to grant "love" all its objects, casting off the moral compass with which the great Abrahamic world communicated to civilization. Many in America oppose this view of President Obama and because the Judeo-Christian ethic is stronger in America than in France or Britain, so is marriage. The rate of ex-nuptial births in the US in 2010 is 40.7%.

The Federal Australian Parliament voted against same-sex marriage. The British and French Lower Houses have passed it. The American leader is driving towards it. Marriage is weaker in Britain, France and America (with respective ex-nuptial birth rates of 50%, 51.4% and 40.7%) than in Australia (which has an ex nuptial birth rate of 34%). The leaders of Britain, France and America, in this matter, overtly turned their backs on the Judeo-Christian ethic. Both the Australian Prime Minister and the Leader of the

Opposition have consciously referred to Biblical values. We see what goes with what. One package is an adherence to the ethic which has guided civilization for millennia. It is associated with greater social cohesion family solidarity. The other rejects that ethic and is associated with social, and particularly family, breakdown. It would seem quite clear that the overseas legislation or aspiration for same sex marriage is more a warning than a model for Australia. Any “changes of attitude in Australia towards same sex marriage” might simply be local variants of a destructive world view, which has run its course more dramatically overseas.

The impact on the concept of the person and the values underlying social institutions

The realization of the human being

One of the great spiritual leaders of modernity, called by many the “Moses” of our generation, was Rabbi Menachem Schneerson, known also as the Lubavitcher Rebbe. Based in New York, he was awarded the Congressional Gold Medal throughout American history. A national Education and Sharing Day was enacted by the Congress to mark his birthday. The thrust of his remarks about the phenomenon of homosexuality are driven by a palpable love of human beings – amongst all humanity - who have homosexual impulses. His argument¹ is that the attempt to treat homosexuality wherever possible and not to institutionalize it as a social ideal is motivated by a genuine concern for homosexuals themselves.

Because every human being has a soul made in the image of its Creator, every human being should be loved and his or her best potential sought and helped into actuality. This love is the real source and meaning of tolerance. The false meaning of tolerance is moral relativism with its argument that I must respect another’s practice because who knows what the truth is – maybe s/he has it and not I? The human soul and human tradition resonate over time with a set of

universal norms – a Divine moral template – through which the human being models or images the Divine. One of these norms is the law of permitted sexual unions, specifically the heterosexual union of man and woman.

As with all norms, there are impulses in the human being which fight this norm, sometimes overpoweringly. We can struggle with it, sometimes people cannot even struggle with it, and this can be viewed with much compassion. Still the indulgence of the homosexual impulse in practice was prohibited by the Creator and the small mirror of the Creator, the human soul (where in use) knows it. The soul has been submerged in much contemporary culture. To become aware of the soul, of the tradition of the human spirit, of what is required of a person by his or her Creator - all that requires a discussion for which this is not the place.

The actualization of Divine image in the person requires one to engage in a struggle with impulses - a struggle which at the least should aim to contain impulses which, if carried into practice, run contrary to the universal ethics; and at best to overcome and transform them. This may involve pain and difficulty. But the solace in this is the ultimate satisfaction of achieving an inner harmony with that which the human soul and conscience requires of the human being. There is no deeper equilibrium than this. We do not do a favour to anyone by encouraging an impulse which is destructive of that image and ideal. Love is not indulgence; love is assistance to fulfilment of the potential of the human spirit, and all kinds of assistance (educators, mentors, counselors and therapists) should be invoked to help towards it. The ultimate friendship, for which one is appreciated and thanked, is in helping another to *both* material and spiritual goods.

This is especially so, where the risks of indulgence of a destructive trait are also often a profound psychological dissonance and the dangers of disease, which have been associated with homosexual practice. Yet here a strange inversion has been undertaken. What is essentially a

deviation from an ethical norm of the human spirit throughout history, has been taken to constitute an “essence” and hence a “right” of the human being. Psychophysical impulses which set out, within the person, to subvert a spiritual ideal are taken as an ideal and fostered.

The choice to embrace, and to work towards actualizing, an ethical ideal – the desisting from actualizing homosexual impulse or attaining a lawful heterosexual union – is granted by human freedom. Freedom exists only because the person is a mixture of the spiritual and the physical. If a person were solely spiritual, there would be no freedom to deviate from the spiritual ideal; if one were solely physical, one would be determined by physical impulse, or as many have put it in regard to homosexuality, an “emergent characteristic”. Freedom and responsibility are actualized in engaging in this conflict of the spiritual and the physical. The human being was created and is sustained by G-d, Who at the same time, addresses certain ethical requirements to the human being. It is impossible that the Creator of the human being should bid the human being to do something in a situation in which he or she cannot do it.

To encourage homosexual practice, the submission to homosexual impulse in the human person, as realization of the “essence” of such persons, is in fact a source of harm to the homosexually impelled person. That person, spiritually, is not a homosexual. But the school of thought which closes his or her possibilities and fixes this as his or her destiny, has robbed the homosexual of freedom and imposed a “fate”. It has deprived the homosexual of his or her highest identity, a spiritual identity, which is assuredly not homosexual. By removing the soul from the picture of the person, this movement takes away from the homosexual what resides in the soul: peace, a moral compass and the greatest resource for transformation or at least self-control in practice. In this it betrays the homosexuals.

The universal meaning and source of marriage

The concept of ethical conduct arising from the human soul's mirroring of its Creator is not simply an abstract concept. It expresses itself in basic and universal laws, which have come down through thousands of years of tradition. The former chief justice of the High Court of Australia, the Hon Murray Gleeson has spoken of these universal laws or ethics. He explains this in terms of the way the "positive laws", i.e. the laws enacted by societies and applied by judges are in fact *informed* by "universal laws".

... universal ethics *inform the content and the practical application of positive law*. In our positive law, whether it is judge-made law or statute law enacted by Parliament, there are many values from the tradition of universal ethics, that inform the law and are taken into account by judges when they interpret and apply the law... How do you tell the difference between a good law and a bad law except by appeal to some value or standard outside the law which you are judging? ... In conclusion, our positive law is suffused with values and principles that come from universal standards, universal ethics. And whether you find them in natural law, in Noahide law or more recently in declarations of universal human rights you are appealing to some standard outside the positive law².

What this means is that there is standard outside and above the legislative and judicial activity of nations which civilization has ratified. A case of this is marriage itself. In the words of the Hon Murray Gleeson,

The area of marriage provides a good example of the astonishing lack of reflection upon how and why [the law of marriage] got there. We have a definition in the Marriage Act which defines marriage as the union of a man and a woman to the exclusion of all others voluntarily entered into for life. Where does that come from? ...The Commonwealth Parliament in the Marriage Act has declared that marriage is an institution that needs to be *preserved and protected*. Again, where did that come

from? Well, the answer, as a matter of history, is obvious. Until the nineteenth century, family law, the law of divorce and other aspects, was not administered by the ordinary Courts. It was the concern of ecclesiastic authorities, the Church court. That definition of marriage and recognition of marriage as an institution came into our law from Rome and it was the Church and the ecclesiastical courts which administered it. The Church took it from the Judaic tradition and the Judeo-Christian approach to marriage. [This] has entered into our law and is now described as an “institution” that needs to be preserved and protected. ...That seems to me to provide a textbook example of a value that has come into law from a universal value, and that has not been widely appreciated³.

The former Chief Justice goes on to specify that this concept of marriage – “the union of a man and a woman to the exclusion of all others voluntarily entered into for life” - is linked to the notion of reproduction, as a relationship of parents and children:

The institution of marriage was not devised to cater for sex, but for the consequences of the procreative potential of sex. Specifically, it was a means of obliging males to take responsibility for their offspring. The family unit was considered the optimal environment for the care and nurture of children. If society is to sever, formally, the relationship between procreation and marriage, why should it retain the institution at all?⁴

The teaching of the universal ethics at the root of the great world religions is that marriage expresses the unique complementarity of man and woman. It is this complementary union alone, and not any other union, which is appropriate to marriage. In practical terms their complementarity is expressed in their unique ability to reproduce and propagate humanity. In the procreative outcome of the union of man and woman, the human being has an enduring identity.

In this teaching, the human being becomes an “entire” person through acquiring this complementary relationship of union with a member of the opposite sex in a committed relationship. The union of two men or two women, or of a person and an animal, does not in itself have the ability to propagate at all, or in the case of an incestuous couple, to produce strong and resilient offspring. The generic inability to propagate shows that these other kinds of union miss the Divine point intended in the union of marriage, as follows.

The Bible states that “a man shall leave his father and mother and cleave to his wife and become one flesh”. This is explained to mean that man and woman become “one flesh” in the person of their offspring. Two people have become “one”. This, which is possible only with a man and a woman, means that aside from expressing their union with one another, they achieve their union outwardly through having children and creating a family. A person gains an “extension” and a “projection” through his or her children: in heterosexual marriage, the person has not only his or her past (and origin) but also a future, in biological children.

Just as the parents identify *their* union in their child, so reciprocally, the child identifies *itself* significantly as the offspring of its parents. Not only do having a mother and a father supply essential formative and complementary supports for the child, but the child is sustained and nourished by the knowledge that *these* individual people are his or her parents. The child turns to them, seeks to learn from them and find strength in them. The reciprocal identity of parents and children – to which both are entitled - is found only in heterosexual marriage.

The impact of the movement on society

The impact on family law

Short of achieving homosexual marriage, the movement which has driven to institutionalize homosexuality has already had a profound impact on Australian family law,

through legislation in regard to de facto relationships and relationships registers. Because the Commonwealth Marriage Act of 1973 defined marriage as the union of a man and a woman, to the exclusion of all others voluntarily entered into for life, marriage has been unavailable for homosexuals. In order to achieve all the practical benefits and entitlements of marriage, the movement to institutionalize homosexuality found an alternative strategy.

This was to remake the law of de facto unions and to supplement it with a “relationships register”. This (as evidenced in the Victorian Relationships Bill of 2008) was accomplished by grafting sections of the Marriage Act (specifically laws of maintenance) into the law of de facto unions. Now, not only property division, but also maintenance provisions would follow upon break-up of a de facto relationship. Not only would the de facto couple have all the benefits of marriage during their relationship (medical, pension, superannuation, tax concessions), but also those which followed its break-up.

The law of de facto unions had to be able to identify such a union. This had been done either through documentation of a cohabitation for two years or that a child had issued from the union. The novelty of the relationships register was to prove the existence without any further requirements. Secondly the register (and the revamped de facto unions law), allowed for people of the same sex to constitute such a union with its entitlements, something which was impossible under federal marriage law.

The question now is, what is the difference between a de facto union endowed with all the benefits of marriage and marriage itself? In the words of the Commonwealth law, marriage is a union entered into “voluntarily for life”. That is to say, even though divorce can and may occur, marriage partners freely and formally commit themselves to an *enduring* union, to be dissolved only by death or divorce. This is not expressly the case with a de facto union. Professor

Patrick Parkinson, Professor of Law in the University of Sydney, comments,

... there is pretty much no difference in law between being married and living together outside of marriage. The status of marriage – with its rights and obligations – devolves upon the *de facto* couple once they have lived together for more than 2 years, or if they have a baby; or alternatively (without either of these) if they register their relationship. Now, if by about two years of living together you are considered as if you are married you can imagine the shock that people feel when, through the practical effect of the legislation, they realize it. Many couples don't want to be married. They are testing it out, they are living together in case they might marry. They might marry someone one day, but at the moment they are just living together – no ties. Yet, in the law they are treated as if they are already married once they have been living together for two years...

With regard to the Australian and New Zealand legislation, I agree that once a couple has a child, they ought to be treated as if they are married in terms of property division and maintenance. This is because women typically bear the burden and pay the price if the relationship breaks up and we need to support women and children. However, in a situation where the couple are living together without a child, I strongly argued that we don't need to take away their freedom of choice because people should decide whether they want to be married or not. I felt that we should not impose those obligations upon them. I'm a voice crying in the wilderness here and I certainly lost that debate.⁵

The question here is, does the fact, that under the new law a *de facto* union has the benefits and obligations of marriage, increase or decrease in them a sense of commitment of the partners of that relationship? Do fewer or more people embark upon these relationships because of the benefits and obligations? This is a question which is very relevant to the

lives and futures of children born to de facto relationships, statistically more prone to break-up than marriages. Certainly the *voluntary* acceptance of obligations and commitment to an *enduring* union is not required of the new “marriage-like” law of de facto unions.

The second area of impact by this movement on the family has come with the legislated extension of artificial reproductive technologies (IVF with donor gametes and surrogacy arrangements) to homosexual couples. The attempt to “replicate” childbearing for homosexual couples is through “commissioning children” without any, or with an incomplete, biological relationship to their “take home” parents. This deprives children of essential identity - to know and grow up in a relationship with their biological parents. But it also creates identity problems for the biological parent. On this Professor Parkinson comments:

One of the issues that has come up, quite often now, is homosexual men who donate their sperm to lesbian couples in order to help a woman in the partnership, have a baby and then they say, ‘hey I want to see the kid, I want to be a father or uncle figure.’ ‘I want to see them regularly’ or ‘I want to be able to send birthday presents’. ‘I want this child to know I am the father’. This has been the source of very considerable conflict and difficulty in the same sex relationship community.

We’ve made an enormous mess of things by moving so far away from the foundational values, which have been formed not only by Judeo-Christian societies but by other societies around the world. We’re now reaping the whirlwind that we have sown.⁶

The impact on the sex education of children

The movement to institutionalize homosexuality understands that a key aspect of its program is the education of young school children to accept homosexuality as equally normative with traditional heterosexual relationships. This educational initiative which a number of State Governments

have been persuaded to pilot with various programs in selected schools, got its initial acceptance by appealing to one of the noblest of human feelings, compassion. The argument is that these programs are required to alleviate the bullying of homosexually oriented children, which is a factor in the impaired mental health of many of these children.

Any bullying of homosexually inclined children must indeed be eradicated. So must all bullying, on any grounds. But there is here a methodological and political sleight of hand. The programs require that in order to stop this bullying, schools must teach children to “celebrate” sexual diversity, including homosexual practice, making it equally normative with heterosexual unions. Yet established methodologies of “bully blocking” operate without extolling the characteristic, on account of which a child is bullied. We do not stop the bullying of the obese child, by celebrating obesity. We do not stop the bullying of the child who stole, by celebrating theft. There are generic methods of blocking the bully. If, as part of a policy of bully blocking, one wants to impart a positive teaching, we can speak of the inherent worth of all human beings. But to use the bullying of these children as a pretext to inculcate in *all* children an acceptance of a homosexual norm is a political move. It runs against universal ethics and the freedom of children to be raised and educated by their parents in the various world religions. These religions uphold a universal ethics, that oppose homosexual practice as an ethical norm.

The programs, secondly, capitalize on a stage of developmental fluidity and confusion in the sexual identity and self understanding of children. The American College of Pediatricians notes that up to 26% of young children have sexual identity uncertainty. 2 to 3% of the adult population have settled into homosexual practices. This means that the homosexual school program potentially works to encourage the remaining 23 to 24% of children at this stage to the position that homosexual life styles are an acceptable option. Programs invite children to identify their sexual orientation,

offering the real possibility of locking children into sexual identities other than the heterosexual role, into which they would otherwise normally be socialized. The effect of these programs can very likely be to cultivate homosexuality.

The movement to normalize homosexuality amongst children, thirdly, dovetails with a general sexualization of children found in sympathetic organizations. “Family Planning Victoria” poses the question for children “Am I ready for sex” and answers it as follows: “Sex is your decision. Only you can choose what's right for you. You can decide: if you want to have sex[,]if you don't want to have sex[,]if you don't want to have sex[,] who you want to have sex with[,] what type of sex you want to have[,] when and where you want to have sex”. A number of contemporary sex education programs endorse for children de-restricted sexual activity, both “quantitatively” (when) and “qualitatively” (how). This is ethically objectionable to many parents, and notwithstanding the practical and explicit advice for “safer sex” offered by the programs, opens up increased dangers of sexual transmitted diseases.

Fourthly, the educational programs seek to reconceptualize “gender” in a way which enables a children to be acculturated into a variety of non-heterosexual lifestyles. Gender roles and characteristics are dismissed as mere “social” constructs. According to this view, gender is how you see yourself and sexual orientation is what you feel - not what you biologically are. According to this disconnection between biological sex and self-concept of gender and sense of sexual orientation, homosexual relationships are educationally justified. More radically, persons with transgender inclinations (biological men who feel wholly like women, and biological women who feel wholly like men) could through this be given encouragement to pursue major surgery and hormone treatments to actualize self-perception or feelings.

The tradition of universal ethics, on the other hand, sees the disconnection of biological sex and gender identity as a

problem rather than a virtue: it *seeks* their harmonious ethical integration or the best possible resolution. Masculinity and femininity have individual and unique strengths. Generally women have a greater empathic and nurturing quality. For this reason a woman would and should normally be accorded custody of young children. High, active and fixed focus is a more male characteristic, and therefore it will normally be for a man to engage in frontline combat. Whilst these are not without exception, the *relativisation* of gender identity by the movement denatures both male and female qualities. The undoing of gender identity in general has been a concomitant of child education programs for the institutionalization of homosexuality.

The impact of the movement on professional and intellectual freedom

The politicization of the professions and the university

The movement to institutionalize homosexuality has a series of fundamental belief positions, amongst which is the claim that sexual orientation is determined at birth, and that any effort to change it is harmful. One does not have to contest these beliefs totally. There may indeed be a strong homosexual inclination, and therapy may sometimes fail. What one can and must contest from the standpoint of the tradition of universal ethics is the suggestion that the human being exists only in a material – a psychophysical dimension – and not also in a spiritual dimension. From this standpoint, the human being does not have to “resign” to a physical condition or disposition. The human being, who also has a soul or conscience, has in this a resource with which to struggle for his or her own identity.

The movement to institutionalize homosexuality in the psychological professions themselves asserts professionally that a homosexually inclined person cannot and should not try to change that inclination through “reparative therapy”. The notion “that practical homosexual orientation can be

cured” was demonstrated in a psychological research paper published by Dr Robert Spitzer in 2003. Thirty years earlier Dr Spitzer was integral in having homosexuality declassified from the American Psychiatric Association’s Diagnostic and Statistic Manual (DSM) of Mental Disorders. Spitzer was at once assailed by the APA and various lobbies for his new research, and over time a number of recantations were elicited from him.

The primary objection which was used to disqualify Spitzer’s new work was that his sample of interviewees was drawn from highly religiously motivated individuals who sought to change their homosexual orientations – a sample, it was argued that did not represent average homosexuals. And yet this is precisely the point: because these individuals had a conscious spiritual identity, their identity included a higher self which modelled the Creator’s moral template, which negates homosexual conduct. With this self many are able successfully to engage and transform a physical self with a contrary impulse. It is (unfortunately, a mainstream) materialist and reductionist psychology, which ignores the soul dimension, that reduces the homosexual “person” to a determinate, unfolding “emergent characteristic” of homosexuality. Without any concept of an autonomous spiritual self, capable of struggle with psychophysical impulse, this “science” necessarily rejects freedom, choice and cure in homosexuality.”

Spitzer – very possibly through intense public and collegial pressure, personal illness and possibly his own lack of religious experience of the reality and power of the human soul - has recently been induced to “recant” even this last position and to “apologize” to the homosexual movement. Still, another prominent American academic psychologist with a strong experience and acknowledgment of the spiritual in the human being, Professor Stanton Jones, Provost of Wheaton College, Illinois, USA, has produced important research, which shows that reparative theory can be understood, warranted and in cases be successful.

He puts it this way,

I think that it's become most obvious in a sort of colloquial wisdom that you often hear doled out in public education campaigns – even to young children increasingly in public school education programs. Its notion is that you just simply discover who you are, and you can discover that at a very early age. There is a sort of complacency built in to it, that whatever you experience yourself to be, that is what you are - as if there were no conflict and no complexity built into it.

On the other hand, various religious views, especially the great religions of the book, Judaism and Christianity, and to a certain extent perhaps even Islam, believe that to be a human is to be in a sense in a conflicted situation. That means where and what we are is not necessarily what we're meant to be or called to be. This actually came out in a report from the American Psychological Association⁷ in a very profound way, where a group of gay activist researchers talked about the potential conflicts between psychological and religious views of a person. They talked about how the gay-affirming view - the psychological view-- believes in what they call a sort of *organismic congruence*, that is that a fundamental purpose of our human life is to embrace what we experience ourselves to be as defined by our instincts, by our biological urges. They contrasted that with what they called *telic congruence* that is common in religious groups, coming from the Greek word *telos*, namely, the purpose or ultimate goal of our existence. I think they are pointing to something that is really true: that the great religions confront us with the fact that we are not what we're meant to be and we have to sort out what G-d's calling is; what the true calling of our humanness is - in our experience of this conflictedness⁸.

In short, the concept of illness does not have to do only with mental or emotional anxiety or other distress. It has to do also with experienced conflict between moral ideals and

contrary mental states and physical drives. The failure to feel that conflict can itself be a pathology. Some German guards, who by day participated in atrocities in the concentration camps during the second world war, could come home and spend a tranquil family evening listening to Mozart. They may have presented as balanced, but they were pathologically disconnected from conscience. To *experience* a conflict between conscience and impulse or behaviour as an illness and to seek help for it, is surely reasonable. The fragile psychological state of homosexuals may sometimes be due in part to social rejection, or worse, bullying. But it is equally likely to be the product a deep internal dissonance, between (at some level) a spiritual sense of the ethical normativeness of heterosexuality and their own psychophysical conflict with that norm – as strangeness or “queerness”.

Notes

Bibliographical note. Some of this essay repeats *verbatim* text from letters and pieces I wrote for the *Australian Jewish News* in 2012 and my article, “The homosexual “anti-bullying” program for schools: An unconscionable stratagem”, *Journal of the Family Association of Australia*, 2011.

¹ Rabbi M M Schneerson, “Rights or Ills?”, translation of an address held in Purim 5746 (1986)

² “Ideals of a Justice System” *A forum with the Hon Murray Gleeson AC, former Chief Justice of the High Court of Australia in conversation with Rabbi Dr Shimon Cowen*, Melbourne,: Institute for Judaism and Civilization, 2012.

³ *Ibid.*

⁴ *Ibid.*

⁵ “Marriage in contemporary Australian law” *Professor Patrick Parkinson in discussion with Rabbi Dr Shimon Cowen* in Rabbi Dr S. D. Cowen and Professor P Parkinson, “The biblical concept of marriage and contemporary family law in Australia”, Melbourne: Institute for Judaism and Civilization, 2012.

⁶ *Ibid.*

⁷ American Psychological Association (2009). *Report of the APA Task Force on Appropriate Therapeutic Responses to Sexual Orientation*, page 18; at <http://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf>.

⁸ Transcript of a radio interview held by Rabbi S Cowen with Professor Stanton Jones in 2012 (reviewed by Professor Jones).