

MARRIAGE AND CIVIL PARTNERSHIP (SCOTLAND) BILL

SUPPLEMENTARY SUBMISSION FROM FAMILY EDUCATION TRUST

We are grateful to have had the opportunity to present oral evidence at the meeting of the Equal Opportunities Committee on 26 September.

Having reflected on the proceedings, we wish to submit a few further thoughts on some of the matters that were discussed and to make some additional comments on issues that were not raised at the oral evidence session.

The legal definition of marriage

In the course of the evidence session, John Finnie MSP asked for the source of the statement made in our original submission that:

‘There are four key components in the definition of marriage: it is voluntary, heterosexual, monogamous and lifelong.’

The simple answer to that question is that each of these components lies at the heart of the legal definition of marriage – a definition which reflects the very nature of marriage. For generations in free societies throughout the world, marriage has been recognised as the union of one man to one woman, for life, to the exclusion of all others, and it must be freely and voluntarily entered into.

Mr Finnie went on to enquire about the basis for our submission that:

‘The Scottish Parliament should no more legislate for same-sex marriage than it should legislate for forced marriage, polygamous marriages, or temporary contract marriages.’

The reason for this statement is that any legal change to any of the four key components in the definition of marriage would be put the law on marriage at variance with the nature of marriage. We reject the suggestion that this is an offensive view. We are not equating same-sex marriage with a forced marriage any more than we are equating polygamous marriages with temporary contract marriages. The point being made is that the four key components of marriage are indivisible and belong together. The state should not therefore tamper with any one of them.

The nature and purpose of marriage

We are concerned that the Bill demonstrates a deeply defective understanding of the nature and purpose of marriage. A concept of marriage that is not rooted in the sexual union of a man and a woman and the basic need of children for both a mother and a father cannot really be said to be marriage at all - certainly not in the sense that marriage has been understood historically and universally. To reconstruct marriage around the desires of empowered adults for the recognition of their relationships is to invert it.

The primary way in which marriage serves adults is by providing a secure environment for the adults of tomorrow to enjoy a happy and ordered childhood, ideally with maternal and paternal input. It also serves adults because stable families founded on the intergenerational support that marriage provides makes an indispensable contribution to building a prosperous, productive and peaceful society with a future.

By helping to put the interests of mothers and children first, a *gendered* understanding of marriage puts the interests of society first in a way that a *genderless* understanding of marriage never can. Marriage is a bond of solidarity between one man and one woman, and between one generation and the next. It encourages fathers to take responsibility for their children, and in health terms provides the only truly safe context for sexual activity.

Elaine Smith MSP and others have remarked that if 'love' provides a sufficient basis for the state to recognise a relationship as a marriage, then there is no logical reason for preventing more than two people from marrying each other. Although critics have been swift to label anyone who makes this observation 'homophobic', the point being made merits careful and sober reflection. The Scottish Parliament needs to consider what are the practical, philosophical and moral criteria by which it determines which types of union may be considered 'marriages' and which types may not. In our view, it is not possible to make any such determination without taking full account of the socio-biological purpose of marriage. It may well be that it would be unthinkable for the Scottish Parliament to legislate for polygamy at the present time, but not so many years ago, the current Bill would have been unthinkable.

'Genderless marriage'

The terms 'same-sex marriage', 'gay marriage' and 'equal marriage' are used interchangeably in the context of the current debate. However, a more accurate term would be 'genderless marriage'. What the Bill is seeking to do is to introduce a concept of marriage devoid of any recognition of sexual complementarity and difference, and that does not recognise the need of co-operation between the male and the female sexes. The Bill would remove from marriage any appreciation of the real and positive reality of sexual difference and, indeed, the place of sexual union itself. As such, the present proposals may be viewed as part of a wider ideological assault on the very idea of gender difference, and on our identities as male and female.

The ideological genesis of the concept of 'genderless marriage' is rooted less in simple gay rights thinking than in various Marxist theories such as gender theory and critical theory, with undemocratic and radical intent.

A divisive Bill

The recent evidence sessions have underscored the wide range of issues raised by the Marriage and Civil Partnership (Scotland) Bill. It has become the source of a great deal of concern and distress for very many people of goodwill throughout the country and it is hard to remember a time when a single subject galvanised so many people across Scotland's religious, racial, class and even political boundaries. At a time when politicians are frequently accused of arrogance and elitism, this Bill risks driving a greater divide between our elected representatives and the people they represent.

Conclusion

If the Marriage and Civil Partnership (Scotland) Bill were to become law, it would present conflicts and difficulties for many people in many walks of life: for parents, teachers, public servants and even private sector employees. It would do so for the very simple reason that marriage is not a malleable and arbitrary legal or political construct. Indeed, the relationship between the state and marriage is tangential, not essential.

Since marriage is not essentially a legal institution and pre-dates the legislature, the question 'What is marriage?' cannot be answered by the law and must be addressed from an anthropological, philosophical and religious perspective. However, the vast majority of substantial and established anthropological, philosophical and religious perspectives on marriage are diametrically opposed to the concept of marriage set out in the Bill. To require the people of Scotland to submit to such a radical and objectively contradictory construction of marriage would conflict with the principles that lie at the heart of a free country in which religious and philosophical freedoms are paramount.

It is our sincere hope that the Committee will recommend that this Bill does not proceed, or, at the very least, that it should be delayed to allow further time to carefully consider the many far-reaching issues it raises. This would give the Scottish Parliament the opportunity to evaluate the impact and consequences of the introduction of same-sex marriage in England and Wales. A change as seismic as the legal redefinition of marriage demands years of calm, reasoned debate, not a few short months of emotive and often manipulative campaigning.

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