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5 August 2004

Helena Strange
Justice and Electoral Select Committee
Parliament Buildings
WELLINGTON

*Submission to the Justice and Electoral Committee on
the Civil Union Bill and the Relationships (Statutory References) Bill*

Dear Ms Strange

Introduction

1. This submission is on behalf of PrideAlliance.
2. PrideAlliance is the Queer Network of the Alliance Party. It is an autonomous organisation for party members and sympathisers who do not conform to traditional heterosexual stereotypes, and its views do not necessarily reflect those of the wider party.
3. The full membership of PrideAlliance has had opportunity to comment on this submission before it was presented, and no objections were raised.
4. Our organisation would like to make an oral submission to the Committee.
5. We understand that our submission may be made publicly available if submissions are requested under the Official Information Act 1982.

Summary of Position on the Bills

6. Our organisation fully supports both the Civil Union Bill and the Relationships (Statutory References) Bill. Although flawed, the Bills present a clear improvement over the status quo.
7. We have a number of recommended changes to the Bills. However, our support for the Bills is not conditional upon the adoption of any of these changes. We strongly believe that both Bills should both be passed, even if no changes are made to the current texts.

Reasons for Support of the Bills

8. Legal recognition of same sex relationships is an important step forward for tolerance and acceptance of diversity, the reduction of discrimination based on sexual orientation, and human rights in general. This benefits all of us.
9. The Civil Union Bill provides an option to legally register relationships without participating in the institution of Marriage, which has religious, cultural, and historical associations to which many people object. This is of benefit to both same sex and mixed sex couples.
10. The Bills bring the law in to line with reality. Same sex relationships exist, and should be recognised irrespective of whether or not they have public approval.
11. The Bills further the separation of church and state. The beliefs of one specific church should not be imposed upon the entire population of New Zealand, which consists of followers of many different religions and of no religion.

Problems with the Bills

Marriage

12. The Bills do not end discrimination against same sex couples. Retaining Marriage as an exclusively heterosexual legal institution sends a message to society that same sex relationships are still not worthy of the same level of recognition and acceptance as heterosexual relationships.
13. Actual Marriage is important to many same sex couples for many of the same reasons espoused by opponents of same sex Marriage. The special cultural, social, and religious significance of Marriage can be valued by same sex couples just as much as by heterosexual couples.
14. There is no practical need for separate, parallel Marriage and Civil Union legislation. The two laws serve exactly the same purpose, and there is no logical justification for the duplication.

15. Marriages involving transsexual or intersexed individuals remain problematic. While requiring Marriages to be converted to Civil Unions in order for one partner to correct their legal gender is an improvement on requiring the Marriage to be dissolved, it is still unacceptable discrimination. While the legal ramifications are limited, Marriage may have strong social, cultural, or religious importance to the affected couples.

De Facto Relationships

16. We are highly concerned at the Relationships Bill's extension of recognition of De Facto relationships. The new option of Civil Unions removes most impediments to official registration of relationships. Those who object to the religious or historical connotations of Marriage have no such reason to avoid Civil Unions. Same sex couples will be able to enter in to Civil Unions. This leaves an active aversion to state interference in a relationship as primary reason for keeping a relationship as De Facto.
17. The requirement for the state to identify De Facto relationships is a serious invasion of privacy. Same sex couples in particular may have good reason to prefer that their relationships not be made public, in a country where homophobia is still a significant problem.
18. The potential for the state to force involuntary financial dependence upon a De Facto partner, eg by withdrawing benefits, is both unfair and socially harmful. For two individuals to become financially interdependent should be a free choice, not something imposed by an outside agency. The Orwellian snooping required to enforce reporting of relationships is most unwelcome in New Zealand.
19. Relationships can be challenging at the best of times. The additional stress produced by the possibility that the state could declare a relationship to be "in the nature of marriage" and impose financial dependence irrespective of the opinions of the people involved is likely to make it even more difficult to establish and maintain stable, healthy relationships.
20. If De Facto relationships are given full legal status, what need is there for Civil Unions, or indeed legal Marriage?
21. There should not be an age limit on De Facto relationships. A dictionary definition of De Facto is "existing in fact whether with lawful authority or not". Any opinion we may have on the appropriateness or otherwise of underage De Facto relationships makes no difference to the actual nature of such a relationship. Legally defining "De Facto" relationships in contradiction with the actual facts of the situation is blatantly ludicrous.

International Recognition

22. The addition of Civil Unions as a secondary form of legal registration for relationships fails to live up to the standards set by countries such as the Netherlands and Belgium, who have extended the right to marry to same sex couples.

23. Civil Unions performed in New Zealand will not necessarily be afforded the same recognition overseas that Marriages currently enjoy. Although the power of New Zealand law to affect this is obviously limited, it is a serious human rights issue. The only options available to address this that we can see are to either extend the right to marry to all couples regardless of gender, or to completely replace Marriage with Civil Union to eliminate the argument that Civil Union is a state inferior to Marriage and therefore not requiring recognition.
24. The Bills make no provision for recognition of Civil Unions or other forms of registered partnership entered in to overseas. This is unacceptable discrimination, and must be rectified.

Recommended Changes to the Bills

25. We recommend that the Civil Union Act be made a replacement for the Marriage Act, with all existing legal Marriages to be automatically converted in to Civil Unions. This would not mean currently Married couples would no longer be Married, it would simply place their marital status outside the jurisdiction of the state. Religious organisations would then be free to define Marriage in accordance with their own beliefs without legal contradiction or interference. There is no need for two parallel Acts serving the same function, and it makes sense to separate legal recognition of relationships from the religious institute of Marriage.
26. We recommend that the Relationships Bill be altered to replace all references to Marriage in New Zealand law with references to Civil Union, rather than adding Civil Union as equivalent to Marriage.
27. Failing the previous two changes, we recommend that the Relationships Bill be altered to ammend the Marriage Act to extend the right to marry to same sex couples. Retaining Marriage as an exclusively heterosexual legal institution denied to same sex couples is not acceptable.
28. We recommend that all reference to De Facto relationships be eliminated from the Relationships Bill. The introduction of Civil Unions eliminates most barriers to official registration of relationships, and the state has no business invading the privacy of those who chose not to register. We acknowledge that there are cases in which a vulnerable or disempowered individual in a De Facto relationship is exploited or abused by their partner, but do not believe that applying a blanket official status to all De Facto relationships is an appropriate or sufficient response to such problems.
29. We recommend that the Civil Union Bill include a statement that Civil Unions are in all respects legally equivalent to Marriage, and a request that they be recognised as such internationally.
30. We recommend that any Marriages, Civil Unions, or other forms of registered partnerships entered in to overseas by visitors to New Zealand should be treated as equivalent to Civil Unions under the Civil Union Act.

31. We recommend that any Marriages, Civil Unions, or other forms of registered partnerships entered in to overseas by New Zealand residents should be able to be registered as Civil Unions under the Civil Union Act without a requirement for additional solemnisation. The commencement date of such Civil Unions should be taken to be that of the overseas registration, rather than the date on which the union is registered in New Zealand.

Closing

32. Thank you for the opportunity to submit on these two Bills.

Yours sincerely

Kelly Buchanan
PrideAlliance Spokesperson