



Legislative Council Standing Committee on Social Issues:

Inquiry into de facto relationships legislation.

Submission on behalf of the Church and Society Committee of UnitingCare, November 1998

In 1997, the NSW Synod of the Uniting Church in Australia adopted a Family Ministry Policy. This policy values marriage and biological relationships, but recognises that for some people family takes other forms. The policy recognises the value of all forms of non-exploitative relationships in which people care effectively for one another.

Principle 9 Family ministry respects people's own definition of family

Whether it is pastoral ministry or a community based ministry, family ministry needs to be based on people's own experience and definition of family. "Family" is, in the broadest sense, whoever people

- define to be their family. "Family" includes adults and the children for whom they are responsible,
- and, by extension, the other people who are biologically related to them. It includes these
- relationships through the various stages of life, as people pass through childhood, live as mature
- adults and grow old. However, in our society there are groupings of people who fulfil the role of
- family for one another, although there are not the formal ties of marriage or biological kinship, and
- who are considered by their members to be their family.

Principle 5 of the policy includes the statement that

The church is called to follow Christ's example in his telling of the story of the Good Samaritan, by

- affirming and encouraging all those in our society who act as neighbour by caring as "family" for
- others, whether or not there are legal or biological ties between them. The church has a responsibility
- not to dismiss caring people by labelling them on the basis of their unconventional relationships.

We therefore believe that legislation recognising the rights and obligations of people in interdependent personal relationships other than those already defined in the De Facto Relationships Act 1984 may well be appropriate in some circumstances. Such recognition does not in itself undermine marriage.

Many gay and lesbian people in long-term relationships want and need those relationships to be recognised at law. The current lack of recognition not only creates heartache for many people, but also injustice. There are also some people in other long term domestic relationships who would benefit from and desire such recognition at law.

However, we believe that **it is important that any proposed legislation meet the following conditions:**

- that it be framed in a way that does not imply any undermining of marriage; and
- that it be developed through wide, informed consultation with those who will be affected by it.

Informed consultation is crucial, since legislation may have disadvantages as well as advantages for people. This is evident from, for example, the research reported by Sotirios Sarantakas "Legal recognition of same sex relationships" in *Alternative Law Journal* 23:5 October 1998.

The inquiry does not constitute adequate consultation with the community, because the submission package does not give adequate information about either the current de facto relationships legislation or the proposed changes. Most members of the general public (including those groups most affected by this legislation) do not have the skills to understand or assess legislative proposals without some help. **There needs to be a consultative process with all groups likely to be affected, after providing information along the following lines:**

What does the de facto relationships legislation currently do? What rights does it give people? What obligations does it impose on people? Under what circumstances?

Who introduced the amendment bill into the Legislative Council? (While this is given in the package, one has to look hard to find it). What arguments did they make in favour of the legislation?

What problems is the bill intended to deal with? How does the bill resolve those problems for people? What rights and obligations does it give, to whom, under what circumstances? Will it affect all people in domestic relationships, or only those who in some way choose to be affected? If there is a choice, how and when do people make the choice and how does it come into effect?

Why was this particular approach chosen in preference to other possible approaches?

What known problems of recognition of relationships will this bill not affect?

We suggest that **the Inquiry should produce a Discussion Paper to inform people and create genuine consultative processes, and then allow a further period for responses to the Discussion Paper before producing a final report.** That is, a similar model of consultation should be followed to that on Aboriginal Participation in Parliament.

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