

PE1624/B

Submission from Akri Jones - 20 February 2017

I would like to take the opportunity to thank the Scottish Government for their response letter dated January 12th 2017 in regards to my Petition No. PE01624 – calling on The Scottish Parliament to amend the current definition of adultery within legislation so that it is not restrictive to gender status. Having read this letter, the current definition of adultery is not in keeping with the Human Rights Act 1998 and Equality Act 2010. There is a requirement that the law needs to be read in line with these legislations, and deterring from that is a direct breach. The Marriage and Civil Partnership (Scotland) Bill was introduced to keep in line with human rights and equality, therefore, equality in marriage should mean there should be equality with divorce and the Divorce (Scotland) Act 1976 should be amended to reflect this.

The Human Rights Act 1998 places a duty on the Government, the Courts, and all other public bodies to respect and safeguard existing human rights. The Equality Act 2010 reinforces this to ensure that an individual is protected from direct and indirect discrimination, to ensure that an individual is not treated less favourably or placed at a disadvantage.

In this matter, there needs to be more recognition from the Government that in accordance with certain religions and traditions where adultery needs to be cited as grounds of divorce, that the right to use adultery is not restricted or prohibited to individuals which it is under the current legislative definition. An individual's human dignity is a fundamental right within the wider human rights framework; therefore, an individual's choice on how to dissolve their marriage and their right to use adultery as grounds for divorce in keeping with their religion and tradition needs to be protected and respected, and not placed in a position of accepting 'unreasonable behaviour' as alternative remedy. Furthermore, using 'unreasonable behaviour' can be defined very widely as it does not only apply to infidelity; it has been used as common grounds for divorce in UK divorce law for incidents that covers antisocial behaviour, domestic violence, substance misuse, not financially providing, work alcoholic, running up debts etc. For an injured party adultery is not just a personal offence; it is an offence against morality laws that has enormous consequences for the rest of

society, devaluing the importance of faithfulness within a marriage. Being able to cite adultery as grounds for divorce becomes a means of justice and closure for the injured party; and yet under its current restrictive definition, one part of society will be treated less favourably than the other as they will not be able to cite adultery in certain circumstances whereby the extra-marital relationship involved someone of the same-sex.

Marriage equality should mean equality in all aspects, there should be no violation to this fundamental principle.

It is my opinion that this matter needs to be opened to further debate by the Government and referred to The Scottish Law Commission as a potential project for future law reform.