I write both in my capacity as a long-time lecturer at the University of Aberdeen, still involved in counselling students, even though I am now retired, and in my capacity as a general and observant citizen.

I am willing that my evidence be public, and in my name. I am willing to be contacted in regard to it.

Since it concerns the matter of equality, and the prospect of unending litigation, public protest, and even continuing civil disobedience, my views on the questions about marriage and same-sex marriage are not the concern of this letter - they are quite complex and nuanced, whereas the issue of equality is quite straightforward.

My comments relate to two of the questions raised by the Committee.

Firstly, they relate to Question 12: Would you like to comment on the wider issue of protections for those in society who may have concerns about same-sex marriage?

Secondly, they relate to Question 13: Would you like to comment on the wider issue of freedom of speech?

Throughout the discussion both in public and in the two Parliaments, the Scottish and the United Kingdom Parliaments, two different issues have constantly got confused. The first is of the meaning of marriage and the legitimacy of same-sex marriage, and second is of Freedom of Speech and Expression of Opinion in regard to the issues concerned. This letter concerns the equal right to hold and express opinions in regards to the matters concerned.

Beliefs about the nature of marriage and legitimacy of same-sex marriage are plainly beliefs about a religious or serious life style matter, and could therefore plainly be protected under any Equality Acts whether in Scotland or the UK as a whole. There are plainly a great many people who hold opinions on these matters with the kind of seriousness that relatively orthodox Christians, Muslims, Jews, and Hindus hold it, even though they would not describe their belief as "religious".

The problem arises both in the sphere of Public Service, and in the sphere of private employment.

The first problem is that the Equality Act does not clearly distinguish when a public servant is speaking in a public capacity and when not.

There is also a problem when students and others begin to feel reserved in expressing their opinions in case what they say be taken into account in job applications, whether for public or private service.
It is also obscure when a person should be considered as acting in a public capacity and when not.

When I have given a class teaching philosophy on a disputed serious matter I have made it clear that there are two or more views and given reasons of either side. But outside the teaching context I have felt quite free.

I think it would be very bad if everybody who might in future apply for jobs should have to be worried in the years before they had even decided what they wanted to do.

This is a quite separate matter from principle of the acceptability of same-sex marriage itself, on which, judging there are plainly disagreements. The question is of the equality of treatment of those who hold opposite opinions on the questions concerned.

People have different opinions on the matter of same-sex marriage, and here Parliament may decide in accord with its conscientious view (it should be a matter of a free vote), taking account of desired liberties, and also of the majority opinion amongst the public.

The question of the Equality Act is quite different and affects freedom of speech in unforeseeable ways - the decisions of the European court have been quite surprising (it has nothing to do with the EU and its court at the Hague, but has to do with the quite separate European Convention on Human Rights originating with the council of Europe with its court sitting in Strasburg)

I predict that if the two matters are not separated there will be an unending series of legal cases and unending problems with civil disobedience involving Muslims and Hindus as well as Christians, going on for years.

There will also be a constant insecurity in making job applications and in giving response in interviews as to whether opinions in this area are going to be taken into account. The law ought to make it clear that they are not going to be taken into account, except in so far as they are relevant to limited areas of Public Service.

To avoid these evils what is required is a extension of the protected areas of belief indicated in the 2010 Equality Act, Chapter 10 - or other provisions in the law which have the effect of introducing such an extension in protection.

David Braine
23 August 2013