

Future of Catholic weddings in Britain in doubt, MPs and Peers told

THE future of Roman Catholic weddings in England and Wales is now in doubt because of David Cameron's gay marriage bill, the church's chief legal adviser on the issue has disclosed.



Future of Catholic weddings in Britain in doubt, MPs and Peers told Photo: Alamy

Prof Christopher McCrudden said that there are serious questions over whether the 120-year-old legal basis on which 8,500 Catholic weddings a year are performed can even “survive” the passage of the bill currently before Parliament.

He told MPs and peers that, unless urgent changes are made, Catholic bishops may have to reconsider whether priests can carry on performing weddings, in effect, on behalf of the state.

The barrister said his advice to senior bishops is that proposed protections for churches against legal challenges under human rights or equalities laws for refusing to marry gay couples completely overlook the position of Catholics and other denominations.

It means that the entire legal basis for Catholic weddings, operating since the late 19th century, could be “unpicked” with “very uncertain consequences”, he warned.

One possible outcome could even be a complete separation of church and civil weddings, such as

happens in France where couples are married in the town hall with a separate service in churches, he said.

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“The stakes could not be higher,” he told the Joint Committee on Human Rights, which is scrutinising the bill.

“If we want to keep the current *modus Vivendi* it is imperative that unintended consequences that may undermine this system should be addressed now and not left until later.

“Immediately the Bill is passed, the Catholic Church will have to consider how exposed to legal risk it is and whether it can continue to work the existing legal system based on that assessment.”

Although the Archbishop of Westminster, the Most Rev Vincent Nichols, and other bishops have been vocal in their opposition to gay marriage, Prof McCrudden’s comments are the first indication that there are discussions behind the scenes about the future of Catholic weddings themselves.

The problem, he said, is that under a system in place since 1895, Catholic priests act as an “authorised person” to marry couples in place of a registrar.

As such, they are recognised in recent case law as a form of public “official” carrying out a function on behalf of the state, he said.

Yet the possibility that they might, therefore, be open to a discrimination claim by a gay couple or judicial review attempts, possibly by campaign groups, has so far been overlooked, he said.

Even if a challenge did not succeed, the cost of fighting it in the courts might be so “enormous” as to force the Church to reconsider continuing to perform weddings under the current arrangements, he said.

“We are concerned not only that with successful claims but also the threat of litigation which would be enormous,” he said.

Professor Julian Rivers, an academic lawyer at Bristol university, agreed that the risk existed and said options might include either forcing priests to call in registrars to supervise church weddings or even a complete separation of civil and religious marriage.

Prof McCrudden agreed, but added: “In that context it looks like the tail wagging the dog.

“This was supposed to be a measure that was relatively quick and relatively uncontroversial and it now looks as if the whole system is being unpicked in terms of the historic compromise of the 19th century that was meant to solve the relationship between religious and civil marriage, if you want to call it that.

“Unpicking it is a considerable process and one with very uncertain consequences.”

John Bingham - The Telegraph