

I write to you as a straight private citizen who feels deeply and passionately that equal marriage is an important and crucial reform for Australia. In my submission I intend to support the Marriage Equality Amendment Bill and thoroughly put forward a case for full and equal marriage rights for all LGBTI Australians. In the process I will rebut arguments against this proposed reform.

Summary:

- It is my personal experience that this is a serious issue that deeply affects LGBTI people. Banning them from getting married may be holding back their potential and affecting their health by denying them of the 'social bases of self respect'.
- Marriage equality is a matter of justice. The state must treat citizens equally and must promote equality and freedom, including the right to marry.
- Marriage equality will promote social harmony and family values by legitimising existing relationships and welcoming same sex couples into the mainstream. Evidence suggests that in countries that have legalised same sex marriages, social exclusion has diminished.
- Other evidence from countries where same sex marriage is legal has shown that none of the claimed potential negative effects of equal marriage have been realised. Divorce rates are the same and there has been no spike in polygamy, incest or other paedophilia that opponents of marriage equality outrageously claim will happen.
- Marriage has always evolved with community standards and evidence shows that community standards have now shifted to accept equal marriage. Upwards of sixty percent of people regularly support equal marriage in polls.
- Marriage is not a rigid religious institution. Christian churches do not get to define marriage. The state does not allow Christian churches to determine other aspects of marriage, for example divorce laws. Even regular Christians do not agree with the arguments put out by groups who claim to represent them like the Australian Christian lobby; over fifty percent of Australian Christians support equal marriage.
- The Marriage Act as it stands restricts the religious freedom of churches which wish to marry LGBTI members of their congregation. My family's church is one such church. Amending the Marriage Act would not force churches to conduct or recognise same sex marriages but would allow them to if they wished; therefore it would promote religious freedom.
- Children are not a necessary aspect of marriage. Having said that, same sex couples are just as capable of raising children as heterosexual couples and all available evidence backs this up.
- Marriage equality is not a fringe issue. There are likely more LGBTI Australians than there are workers employed in the manufacturing and mining industries combined. This is a civil rights issue that effects a large section of society and must be dealt with urgently.

My personal experience: I wish to start by telling you of the pain and hurt my young LGBTI friends feel and experience from what could reasonably be described as state sanctioned discrimination. Lest anyone contend that this is a fringe issue or a non important one, I study at the University of Melbourne and the young gay and lesbian people I call friends are future lawyers, politicians, professors, journalists, bureaucrats, scientists and prominent Australians. Do we really want to be telling these people that they are less than us? And trust me that is what they feel. And how could anyone feel any differently when they are denied the same legal rights as others? I have seen tears on this issue. When it comes to the people that I know, it's not that they are desperate to

marry. They are young like me and probably aren't thinking of marriage in the short term. It is that they want to be able to marry *one day*. The idea that they cannot causes serious distress. John Rawls, the pre-eminent political philosopher of the twentieth century, gave an account of primary goods which are of fundamental importance to the public and private lives of citizens and hence should be promoted by the state indiscriminately as a matter of serious consequence. Rawls described "The social bases of self-respect" as perhaps the most important of all primary goods. This is the recognition by social institutions that gives citizens a sense of self-worth and the confidence to carry out their fulfilling and personal plans and goals (*Justice as Fairness: A Restatement*, pp.58-59). The denial of the social bases of self-respect is exactly what my friends feel so deeply; and it tears them up inside. My friends are strong, but this state sanctioned denial of self worth definitely makes it harder for them to function. I have faith in them to overcome it, but would it be any surprise if they faltered, fell into depression as so many young LGBTI people do, and failed to become the prominent Australians that they are capable and perhaps otherwise destined to be? Australia, by denying these people the social bases of self respect, could well be denying itself a future group of leaders, of scholars, or entrepreneurs.

Marriage equality as a matter of justice: Before I get to specific arguments and examples and I will continue to use the work of John Rawls to outline the moral and theoretical case for marriage equality. John Rawls famously argued that society should be organised by people as if they were behind a "veil of ignorance" (*A Theory of Justice*). This veil would make people ignorant of facts that may cloud their judgements as to what justice is. Such facts should include gender, race, income, religion, talents, preferences and, yes, sexuality. The aim is to make people rational and impartial and therefore eliminate bias in people's arguments about justice. What people can agree to under the veil of ignorance would be how society should be organised. This is an invaluable tool because surely all reasonable people can agree that justice - how society should be arranged - should involve impartiality. I may think, as many men did last century, that my gender makes me more capable of making decisions and for that and other reasons women should not be allowed to vote. However it would not be reasonable or legitimate for me to argue this. Indeed if I was being rational and arguing from under a veil of ignorance I would never argue this, even if I was a purely self interested being, because I would not know that I was in fact a man. If there was a chance that I was a woman, my eyes would be opened and I would adopt an entirely new perspective.

Similarly, people who argue against equal marriage do so from a biased and skewed position. They would not argue such a case if they did not know their own sexuality, if they were behind a veil of ignorance, because there would be a chance that they themselves might be gay or lesbian. A neutral and rational state must make such institutional decisions impartially and not let people who are caught up in their own biased perspectives influence things to the detriment of others. Even if people with such bias positions on justice, those opponents of marriage equality, were in the vast majority (and I will show later that they are definitely not) to let them influence the state would still be unjustified. Democratic theorists for centuries, for example John Stuart Mill, have argued against the "tyranny of the majority" and in favour of minority protections and rights. We would all agree that we would want to be free to marry and under a veil of ignorance we, not knowing our own sexuality, would agree that sexuality shouldn't determine who we can marry. Therefore justice demands that we allow equal marriage. It demands that we strip backs arbitrary and unchosen characteristics such as gender and sexuality from the argument. The state is being

unjust and denying equality and freedom unfairly by banning equal marriage. Marriage equality is an urgent and essential reform for a society that cares about justice.

Marriage equality improves family and community relations, and promotes harmony and stability: I argued earlier that the ban on same sex marriages is akin to state sanctioned discrimination and that removing this ban by amending the Marriage Act would improve the lot of at risk LGBTI Australians and I wish to further this point here. Most of the poor self esteem and depression that afflicts the LGBTI community comes directly from negative attitudes expressed about and towards them by the broader heterosexual dominated society. Bullying, stereotypes and simple lack of understanding are widespread. The Marriage Act as it stands gives state legitimacy to such attitudes and most of the arguments for continuing the Marriage Act unamended derive from such attitudes. The Marriage Act enforces the idea that same sex relationships are second class and that LGBTI people are somehow inferior, have something wrong with them which makes them unequal to the rest of us. This is also why Civil Unions are not good because they do the same thing, they continue to make same sex relationships inferior and second class.

If the parliament cares about the mental health, the physical health and the freedom and prosperity of the LGBTI community then they must take a stand against these attitudes. Amending the marriage act is one way to do this. It has been shown that in other countries such as Canada, Spain, Portugal, Norway, Belgium, Argentina, The Netherlands and South Africa that these negative attitudes against LGBTI people have diminished once marriage equality has been legislated. Professor M. V. Lee Badgett has argued in her book *When Gay People Get Married: What happens when societies legalize same-sex marriage* that the right to marry reduces the sense of social exclusion of gay men and lesbians. Gains from inclusion include improvements in the mental and physical health of gay people by reducing “minority stress” and increasing social support for gay couples.

In addition, support for marriage equality in polls has always continued to rise once reform has been enacted, improving relationships between broader society and the LGBTI community with increased acceptance. This promotes social stability and harmony in several ways. It leads to more caring neighbourhood relations as more members of the community are accepted and welcomed into the fold of broader society.

By fostering harmonious social relations, support for same sex relationships improves family values. Amending the Marriage Act will tell disapproving parents that they are out of touch with legitimate social norms to refuse to recognise their gay children’s same sex relationships. Helping parents realise this will bring families closer together. I know gay couples who stay away from their family’s social events such as barbeques because they will be judged and feel they have to hide who they are. If we allowed same sex couples to marry then families would be more likely to welcome their own children and their partners into the family. Their children’s partners will become ‘sons-in-laws’ and ‘daughter-in-laws’ and family bonds will strengthen. The evidence from other countries where same sex marriage is legally recognised has backed this up; sixty-two percent of same-sex couples agreed that their families have become more accepting of their partner as a result of being married (*When Gay People Get Married: What happens when*

societies legalize same-sex marriage). Family is important and we should help the many thousands of families that include gay couples to function better together.

More positive evidence from countries that have removed the ban on same sex marriage:

In the last decade or so we have seen ten countries that have legislated marriage equality, and other states and cities such as the US states of Iowa, New York and Massachusetts amongst others and in various cities such as Mexico City. The evidence, for example that compiled by Professor Badgett, a professor of economics at the University of Massachusetts and the research director of the Williams Institute at UCLA, from these places is overwhelmingly positive. We have not seen a decline in heterosexual marriages in these countries, indeed the rate of heterosexual marriages amongst young people have actually increased (*When Gay People Get Married: What happens when societies legalize same-sex marriage*). We have not seen the levels of commitment or happiness between heterosexual relationships lowered nor have the divorce rates climbed at a higher rate than they were previous to the introduction of marriage equality. It should be obvious enough that removing the ban on same sex marriages will have no adverse affects on the broader community.

Furthermore we have seen that same sex marriages have worked. For example in the Netherlands, where same sex marriage has been legal since 2001, the rates of divorce for homosexual married coupled has been exactly the same as those in heterosexual married couples. There is absolutely nothing about same sex relationships that makes them less likely to succeed or be monogamous. (Gottlieb, S., "Five years of gay marriage", Radio Nederland Wereldomroep, 2006. See: <http://static.rnw.nl/migratie/www.radionetherlands.nl/currentaffairs/gay060403-redirected>)

In these countries we have seen no political or legal proposals for polygamous or incestuous marriage nor is there any evidence of an increase in informal and unrecognised polygamy, incest or paedophilia. Arguments that marriage equality may lead to incest or polygamy or paedophilia, in addition to being highly offensive, are ridiculous because they are not based on any evidence and indeed are proved wrong by all available evidence.

These slippery slope arguments are also illogical, containing classic logical fallacies. The burden of prove lies on the person arguing that same sex marriages could lead to polygamy or incestuous marriages to show how they might. Simply asking 'If same sex marriage then why not polygamy?', as the Australian Christian Lobby does on its website, does not classify as an argument and merely serves to spread opposition by association with obviously wrong things. Slippery slope arguments can be logical if a direct causal chain is established, but it is a mere rhetorical device if no link is established. It seems clear that there is no link. There is an obvious and non arbitrary middle ground between allowing only heterosexual marriage and allowing marriage between anyone and anything. This middle ground is allowing both heterosexual and same sex marriage. The slippery slope argument suggests that either no middle ground if possible or that it is arbitrary. The reason why stopping marriage reform at same sex marriage, and not slipping into allowing marriage between anyone and anything, should be obvious and sensible enough. Incest and paedophilia are abusive, exploitative, generally lack consent and involve unequal power relations. These characteristics do not apply in same sex relationships any more than they apply in heterosexual relationships. Polygamy is also usually about unequal power relations, involving one man dominating and controlling multiple women. Furthermore, suggestions that marriage equality starts a slippery

slope all the way to allowing marriage to animals or inanimate objections is even more ridiculous. Marriage is a legal contract and neither animals or objects (nor for that matter children) can have legal standing in such contracts.

The fact is, polygamy and homosexuality are so far removed from having anything to do with each other that it is a serious grasping at straws to claim that they do. In countries that do allow legal polygamy like Nigeria and Saudi Arabia, it is illegal to be homosexual and LGBTI couples can be put to death. Indeed if we are worried about polygamy then it is those who think the Bible should determine what marriage is that we should be worried about. After all there are many examples of polygamy in the Bible and God *gave* David more than one wife in Genesis 2:24.

Marriage evolves with community standards: Marriage is a dynamic and evolving institution not a rigid religious one. It always has, and should continue to, evolve with community standards. Most states up until the 1930s and in some cases up until 1959, when Robert Menzies personally called it an outrage, banned aboriginal Australians from marrying white Australians (<http://www.abc.net.au/unleashed/2778326.html>). Australian servicemen in Japan after the Second World War were banned from marrying local Japanese women they begun relationships with. In the United States, inter-racial marriage bans existed in many states until the Supreme Court overturned such laws in 1967. In the case of inter-racial marriages, community standards changed and governments amended laws controlling who could marry who, to keep up with the times. Marriage has always evolved.

In marriage, wives used to be the possession of their husbands. Just because it once was, doesn't mean it should continue to be. Marriage evolved and now men and women are seen as full and equal partners in love. In the same vein we banned rape in marriage when some said that rape in marriage was not possible because women give sexual consent when they marry. Maybe this was once an acceptable belief but now it seems outdated and absurd.

Similarly, on the issue of same sex marriage community standards have evolved. Polls show consistently that support is at or above 60 percent in Australia. Social change on this issue has been rapid but will be lasting. Australia's legal framework must get with the times. It is no longer same sex marriage that is controversial; it is failure to act on same sex marriage that is controversial.

The evolution of marriage not only does *not* weaken the institution, such evolution is indeed essential for the institution to survive. The changes that have occurred in the past in regards to marriage show us that. Imagine if marriage still involved a wife being her husband's property? No one would freely choose to get married. The real threat to marriage comes from those who seek to have it associated with discrimination and prejudice and hence make it as outdated and irrelevant as those old fashioned views are quickly becoming.

Marriage and religion: Most of the arguments against marriage equality are from the point of view of religion. To put it frankly, marriage is not about religion. Marriage is about loving commitment. Marriage pre-exists all modern religions. Marriage was not invented by Christians, and does not get to be defined by Christians and in particular does not get to be defined by the minority of Christians who vehemently oppose marriage equality. Marriage is a legal and state institution and therefore must be considered a secular institution. That is not to say that it doesn't have religious

elements or cannot have religious elements, but at the same time, it may be free from religious elements if the married couple wish it to be so. Indeed this interpretation of marriage fits in with contemporary attitudes in society and is backed up by the way people choose to conduct their marriages. According to the Australian Bureau of Statistics, 65 percent of marriages in Australia in 2008 were performed by a civil celebrant rather than a minister of religion (<http://www.abs.gov.au/Ausstats/ABS@.nsf/Latestproducts/3310.0Main%20Features22008?opendocumentandtabname=Summaryandprodno=3310.0andissue=2008andnum=andview=>).

Australia's constitution explicitly prohibits parliament from making laws for establishing any religion, imposing any religious observance, or prohibiting the free exercise of any religion. It is clearly in the spirit of our common law that religious arguments in favour of a law not be given undue weight. Specifically, appeals to arguments in the Bible against same sex marriage should not really apply to parliamentary debates, at least not at the expense of other secular arguments.

The idea of marriage as separate from religious institutions is consistent with how we treat marriage in other ways. For example we allow divorce even though the Catholic Church is against it and Jesus spoke against it.

The idea that marriage equality will restrict freedom of religion is absurd. Marriage celebrants who will continue to be able to refuse to marry same sex couples if they wish to do so. So amending the Marriage Act could only be viewed as restricting religious freedom if one thinks religious freedom includes having everyone else follow the norms of one's own religion. This is clearly absurd and not included in the reasonable demands of the religious for their freedom. Indeed overturning the ban on same sex marriage will increase freedom of religion in this country. This is because there are churches and religious marriage celebrants who wish to express their religion, which they interpret as advocating tolerance and love of all, by marrying same sex couples. Under the current federal law, they are banned from expressing their religion in this way. In 1981 the High Court dealt with an issue of religious freedom and said that section 116 of the constitution does not prohibit laws that will establish religious teaching generally but may prohibit laws establishing a specific religion. I do not raise this to claim that the Marriage Act is unconstitutional but simply to show that the purported spirit of promoting religion generally via the Marriage Act is unsound logic because the Marriage Act establishes the beliefs of specific religions, those of the Catholic Church and evangelical protestant churches who are against marriage equality, over those of other religions who support marriage equality.

There are several religions and churches that have official positions in favour of marriage equality. In Australia they include the Society of friends (Quakers), the Metropolitan Community Church, many Jewish synagogues, and many individual congregations within the Uniting Church, Anglican Church and Baptist Churches. I have personal experience with such churches; my family's church, the Community Church of St. Mark (Clifton Hill Baptist Church) supports marriage equality, looks forward to the day when we can perform same sex marriages in our church and shows the LGBTI rights Rainbow sticker in our window as a sign of our support. My parents and their church friends feel that their religious freedom is being curtailed by the state ban on same sex marriages.

Furthermore, religious leaders and lobby groups such as the Australian Christian lobby (ACL) do not accurately represent the views of Australian Christians and religious people generally. In August 2011 Galaxy Research polled 1,060 people and found that of the Christians surveyed 53

percent believed that same-sex couples should be allowed to marry. Only 41% of Christians believed that same-sex couples should not be allowed to marry. The poll also showed that 62% of people who followed other religions agreed that same-sex couples should be allowed to marry. 67% of non-religious people supported the right of same-sex couples to marry. In addition, the ACL lacks the political legitimacy they are widely given. Barely 20 people showed up to an ACL 'meet your candidates' forum in the Queensland state election in the key seat of Ashgrove.

The views of Christians towards same sex marriage are complex and varied and the minority of Christians who loudly oppose equal marriage should not be given much weight, especially given the place of marriage in the secular and legal framework of modern Australia.

Same sex couples and children: Same sex couples can and do have children through adoption and IVF, and they do just as good a job of raising them as anyone else.

It is a common argument against marriage equality that marriage is about children and since same sex couples cannot on their own have children, they should not be allowed to get married. This argument is flawed in many ways. Marriage is not about children. Of course, having children is a common aspect of marriage and many married couples have children. However many married couples also do not have children, *and* many couples who are not married have children. Many people get married who cannot or simply do not want to have children and the state does not prevent them from getting married. We allow infertile couples to marry, the elderly to marry and couples that use contraception throughout their whole marriage to marry. Children are obviously not an integral or necessary part of marriage. In addition, marriage is not essential for raising children. Indeed in Australia according to the OECD, more than a third of children are born to unmarried children (<http://www.oecd.org/dataoecd/38/6/40278615.pdf>.)

Yet through adoption and IVF same sex couples have the same ability as other couples to raise children if they wish to. Indeed as many as 25 percent of long term same sex couples are raising children in Australia now. To recognise these families under the law would be for the benefit of these children. In countries where marriage equality has been recognised, 93 percent of same sex households agreed that their children are happier and better off as a result of their marriage (*When Gay People Get Married: What happens when societies legalize same-sex marriage*). Many parents reported that their children felt more secure, protected and a greater sense of stability once they were married as compared to when they were not legally allowed to marry. So given that we allow same sex couples to raise children, if for nothing else, for the benefit of the children we should allow these parents to marry if they wish to. Opponents of marriage equality claim to care about families and children but they ignore these children.

The idea that children need a mother and a father is dead wrong. I can tell you from personal experience. I have coached basketball teams for years now and so far have had at least two children with lesbian parents under my supervision. They both were just as capable in all areas as the other children including confidence and social skills. Overwhelming evidence backs up my personal experience:

The Australian Psychological Society in 2007 found that -

"...parenting practices and children's outcomes in families parented by lesbian and gay parents are likely to be at least as favourable as those in families of heterosexual parents, despite the reality that considerable legal discrimination and inequity remain significant challenges for these families."
(: <http://www.psychology.org.au/Assets/Files/LGBT-Families-Lit-Review.pdf>)

This study suggests that far from harming children, allowing marriage equality will as argued above support those children being raised by same sex couples.

Other studies have found that:

"a considerable body of professional literature provides evidence that children with parents who are homosexual can have the same advantages and the same expectations for health, adjustment, and development as can children whose parents are heterosexual."

American Academy of Pediatrics, "Policy Statement: Co-parent or Second-Parent Adoption by Same-Sex Parents," *Pediatrics*. 109(2002): 339-340. (Reaffirmed 1 February 2010).

(Research shows) no discernible differences in the children of heterosexual or homosexual parents regarding children's sex role identification, level of happiness, level of social adjustment, sexual orientation, satisfaction with life or moral and cognitive development."

Tauber E and Moloney L, "How is the issue of lesbian and gay parenting addressed in family reports", *Australian Journal of Family Law*, 16(3) December 2002, p 187.

(S)cholars have achieved a rare degree of consensus that unmarried lesbian parents are raising children who develop at least as well as their counterparts with married heterosexual parents ...

(C)laims that children need both a mother and father are spurious... At this point no research supports the widely held conviction that the gender of parents matters for child well-being."

Biblarz, T.J. & Stacey, J. (2010). "How does the gender of parents matter?", *Journal of Marriage and Family*, 72 (February 2010): 3-22.

Findings from research suggest that children with lesbian or gay parents are comparable with children with heterosexual parents on key psychosocial developmental outcomes."

Tasker, F. (2005) "Lesbian mothers, gay fathers, and their children: A review." *Journal of Developmental and Behavioral Pediatrics*, 26(3), 224-240

Arguing that it is a "right" of children to have a mother and a father goes against all evidence. Children are not an essential part of marriage and even if they were, same sex couples can raise children just fine.

Marriage equality is an important issue: The idea that this is a non-issue, a fringe issue, outside of the mainstream and won't affect many people and is therefore not urgent or important is silly. The Australian Bureau of Statistics says about 50,000 Australians register their same sex relationship on the census. It also acknowledges that this is a gross under estimate of the number of same sex couples in Australia. The ban on marriage equality directly affects the much larger number of LGBTI Australians who are not in a relationship at the moment, and the even greater number of people, such as myself, who have friends and family who they care for and love that are same sex attracted. Furthermore, several studies in the UK and USA suggest that in general somewhere between 6 and 18 percent of people are LGBTI (*Sexual Behaviour in the Human Male* by Indiana University researchers Alfred C. Kinsey, Wardell B. Pomeroy, and Clyde E. Martin; *Homosexuality / Heterosexuality* by David P. McWhirter, Stephanie A. Sanders, and June Machover Reinisch). This increasingly cited idea that around one in ten people are gay or lesbian was humorously but insightfully played out in an episode of *Glee* where it was said "evidence shows that 1 out of every 10 people is gay. That means at least 1 of the 12 apostles was gay". Well I'm not sure about the twelve apostles but it does mean that over a million, and potentially several million, Australians are gay or lesbian. That is more than the number of workers employed in the manufacturing industry and mining sector combined. This is not a fringe issue. It affects a very large amount of people and the amount of time we spend arguing for this and debating this is justified.