

Dear Senate Legal and Constitutional Affairs Committee,

Following is a submission by the Queer Officer of the Sydney University Law Society, endorsed by several notable students within the Law School community.

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Unjustifiably discriminatory legal regimes besmirch any nation.

Of course, as trainees of the legal profession, we are not so naïve as to think that equality in all circumstances is fitting. Nonetheless, be that as it may, it must remain the *prima facie* position that where the law treats x and y differently there must be some justification that we as the subjects of the law can look to in order that we feel satisfied that the law is doing that which is fair and just in the circumstances.

In regards to the position of same-sex couples in Australia, though, such a legitimate justification is missing.

There is no rational basis on which, on the one hand, homosexual couples can be told that they are an acceptable, normal and welcome part of our nation and yet, on the other, are denied equal marriage rights. It does not reduce the matter too much to ask: are same-sex couples equally valid or not? For if they are, let them have equal recognition. And if any person should answer that they are not, then let the fullness of their opposition to homosexuality be known so that they may be judged by all not as a tolerant, accepting person, but rather in the fullness of their bigotry.

We are told that, perhaps, the religiousness of marriage as an institution justifies the exclusion of same-sex couples. But the cogency of this conception is so frail that it should be obvious that no legally trained mind would accept it for a moment; for, after all, are there not atheist marriages, Buddhists marriages, Hindu marriages, couples where one is agnostic and the other devoutly Catholic and so on? In fact there are many who have the right to marry who are not Christian. To say that the law should intervene to exclude from marriage all but those passing the test of certain interpretations of Christian religious canons for acceptability is laughable.

Alternatively we are told that same-sex couples are not any less valid but merely different. That they are entitled to the same substantive rights but not the same name (to *de facto* status and accompanying benefits, but not 'marriage', *per se*). Yet, we think that everyone knows the value of words. For a man to call his loved one his husband, or a woman, hers, her wife has a normative power that is clear to all. And we would argue that this is precisely why, in reality, some would prefer to give same-sex couples a different name, since to call them the same would be to truly accept them.

It remains patently clear, then, to young Australians that the exclusion of same-sex couples from marriage has at its heart the strong and lingering bitterness of homophobia.

Are legislators so out of touch? Are they deaf to the stutter of incredulity that echoes through the ranks of young Australians when the topic is raised? Many do not speak out strongly on the issue because they believe it to be a) so pre-eminently obvious that same-sex couples ought to have equal rights that they do not bother to consider their plight and b) merely a

matter of time until the oldness of the politicians renders them retired and until change will come. Do not confuse this silence for concurrence. After all, in our interactions with some of tomorrow's brightest legal minds we have yet to find any who could rationally explain the difference with which same-sex couples are treated (in any way other than by recourse to the cynicism of politician's keen to keep their votes).

We, representatives of tomorrow's Australia, reject discrimination and call for equality in the form of equal marriage rights for same-sex couples. For it will one day be so, let it be so now, lest one day we reflect, and hang our heads in shame.

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