

## ***Senate Inquiry Marriage Equality Amendment Bill 2009***



### ***Submission by Coming Out Proud Program State Steering Committee***

**As a minority group the incidence of health and well being issues including self harm and suicide prevention is at a substantially higher level in the sexually and gender diverse community than in other sections of the Community. There is a strong connection between discrimination/inequality and poor social/wellbeing indicators for the LGBTI Community. Establishing equality in all things will restore our Community to wellbeing. Establishing equity at law in relation to the Marriage Act 1961 will restore our community to mainstream equality through respect for our relationships and contribute to improvements in the LGBTI health and well being indicators.**

**Committee Secretary  
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## ***Introduction***

The Coming Out Proud Program unconditionally supports the private senator's bill that seeks to remove all discrimination from the Marriage Act 1961 on the basis of sexuality and gender identity and to permit marriage regardless of sex, sexuality and gender identity.

As a minority group the incidence of health and well being issues including self harm and suicide prevention is at a substantially higher level in the sexually and gender diverse community than in other sections of the Community. There is a strong connection between discrimination/inequality and poor social/wellbeing indicators for the LGBTI Community. Establishing equality in all things will restore our Community to wellbeing. Establishing equity at law in relation to the Marriage Act 1961 will restore our community to mainstream equality through respect for our relationships and contribute to improvements in the LGBTI health and well being indicators. It will destroy one of the last marks of stigmatization that we have to endure and contribute to community normalisation and the reduction of discrimination and victimization. If the Federal Government is seen to respect our right to equality of relationships then others will have an example to follow and no excuse to do otherwise.

The sexual & gender diverse community in Australia has always been second-class citizens and our relationships have been categorised by the churches as 'immoral and decadent'. This fabrication of the churches and fascist sections of the community has led to serious health and well being problems from the poor self-image and hidden and unhealthy underground life that our community has had to lead. In some ways we have only been second to the Aboriginal Community in remaining an underclass without recognition or any dignity. The Government has simply followed the Churches' bad example and in placating them denigrated and victimised the GLBTI Community. In some ways such as marriage we are more disadvantaged and victimised as second class than any other section of the Australian community.

The promise of equality to the sexual & gender community by the Rudd Government through the removal of legal sanctions in the areas of Federal arrangements in a series of areas excluding marriage is a cruel hoax deeply resented by our community as the final indignity. We now pay as equals but are not even entitled to have our unions sanctioned by the Government and can only remain as 'de facto'. This is not only unjust it is an insult. Our Community is rarely consulted by gay and lesbian lobbyists and has things done to them or for them without the respect of self-determination. This is also resented and so damaging to our sense of self worth and engagement with changing our destiny by working for our own self worth collectively. This has become a comfortable relationship for the Government in using lobbyists to placidly accept part solutions to LGBTI inequality.

It is important at the outset to say that many in the LGBTI Community do not support incremental changes as recently attained through the removal of discrimination from a range of Commonwealth laws re taxation, superannuation, and social security provisions. These changes are piecemeal and while the GLBTI has accepted the responsibility to be on an equal level in these areas with the mainstream community they have not achieved equity in the major area of partnership and marriage equity provisions. In fact to some extent these changes have further disadvantaged the community and destroyed an incentive to enable equity in relation to the Marriage Act

by the Australian Government. The changes have been very badly implemented at local & regional levels as to achieving educational and cultural awareness strategies including marriage.

## **COPP DEVELOPING POLICIES TO IMPROVE GLBTI RIGHTS & PROTECTION AT REGIONAL & STATE LEVELS**

The intent in establishing the Coming Out Proud Local Forums<sup>1</sup> has been in part to develop management plans in the local areas & regions of Tasmania in partnership with Local Government to provide for strategies that will allow GLBTI people in the Region to 'come out with pride' and live in their community with dignity as fully respected and participating members. One of the major objectives of COPP is to 'support the GLBTI Community create a climate where they are accepted and celebrated as full, contributing and proud members of the general community'. Following the dedicated work of activists and the resulting law reform and development of anti-discrimination and partnership legislation there is maturity and an expressed, but yet unfulfilled, desire of the GLBTI Community to self determine their participation in the State Community. There is also a desire amongst members of the GLBTI community to represent and conduct their own affairs including inequality issues at state, national and international levels from a franchised and representative local base upwards. It is critical to establish a 'unity of purpose and intent' on the part of the GLBTI Community to the development of comprehensive and coordinated enactment and practice regarding human rights, security & well being issues for our Community through a process of self-determination. The four regional COP Community Liaison Committees aim as follows;

- Engage the Government and the GLBTI Community in a conversation that engages all stakeholders as to effective, efficient and appropriate 'inclusion strategies' for developing policy and practice that will ensure the security, and wellbeing of the GLBTI Community.
- Engage the Tasmanian Community in a conversation at local and regional levels as to the benefits of including LGBTI people 'without prejudice' at all levels of community life.

The COPP is managed by Community Liaison Committees (CLC's) that are being established at local or regional level with the endorsement of the local government authorities but self-funded and owned by the local GLBTI community. The CLC's act as a coordination, consultation and evaluation base for the GLBTI community to develop a Management Plan to ensure that active strategies on the part of Federal, State/Local Government and GLBTI organisations are being delivered in the region in an efficient, effective and appropriate way. There has been an initial regard for the integration of local educational, legal, welfare, health, and social issues in the management plans being developed. This is regarded as important in the holistic solution to improving human rights, security and well being for the LGBTI Community.

It is proposed that the GLBTI State Consultative Council, which is being developed with representation from the local, COPP Community Liaison Committees as well as funded support organisations e.g Working It Out & TasCAHRD will act in concert with the State GLBTI Reference Group in implementing the State Government's GLBTI Framework in both government and community services. In establishing an agreement of 'unity of purpose and intent' the State Council is an important meeting point to achieve improved self-determined social justice strategies to ensure the

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<sup>1</sup> [www.comingoutproud.org](http://www.comingoutproud.org)

security and well being are achieved through the necessary cultural changes in the Tasmanian Community. Community Liaison Committees exist and are endorsed and supported by local government as follows;

- Southern Kingborough/Huon
- Greater Hobart including Glenorchy
- West Coast/West Coast (Cradle Coast)
- Greater Launceston

The League of Gentlefellows (LOG) [www.logtas.org](http://www.logtas.org) with a base membership of over 1500 members has invested over \$14,000 raised from social functions in the COPP Trust. The COPP Trust is an important funding strategy to encourage the development of human rights, security and well being strategies at local and regional level to achieve cultural change. Moreover LOG is a strong and important consultative base for the consideration and implementation of social justice strategies.

COPP is a most representative, consultative advocacy base for sexual and gender diverse people in Tasmania. At every regional & local level people see the issue of respect acknowledgement and celebration of same sex marriage/civil union as a fundamental inequality to be changed. It is expected that COPP would be consulted as a major stakeholder representative group in Tasmania in relation to same sex changes or implementation to the Marriage Act.

### **IMPORTANT RIGHTS FOR THE LGBTI COMMUNITY AS FOR EVERYONE**

Human rights including marriage and civil union equity are only integral when they are universal. Until they are universal for all sections of the community and until they are achieved, acknowledged and celebrated at all sections nationally then in reality we do live with a strong degree of 'segregation' and 'separation'. If some sections of the community have not equal rights, then justice is not a 'seamless garment'. This universal acceptance, acknowledgement and enactment are essential to the wellbeing of the whole community and until achieved is not a national reality.

Universal enactment of equity is very important for GLBTI people in Australia because our community still experiences strong discrimination and intimidation (see attachment A). We are all entitled to the enjoyment of human rights without discrimination of any kind, including discrimination on the basis of sexuality, sex identity or gender identity. Human rights and freedoms not universally enacted and particularly relevant to GLBTI people include the right to:

- Equality of LGBTI people before the law
- Equality of relationship recognition e.g. Marriage Act
- Equal access to work and equal treatment in workplaces for sexual & gender diverse people.
- The highest attainable standard of physical and mental health and social security for our community
- Freedom of expression and cultural diversity
- Privacy applying universally to the GLBTI Community
- Right of association and political expression
- Right to recognition of Family life.

- Right to protection of sexual & gender diverse people to their culture and self-expression within institutional care or institutions.

The principle right to have our unions sanctioned at the same value, as marriage is a basic right that needs to be redressed at law and upon which most other inequalities will change. It is the principle cultural change that will redress vilification and hatred at local & regional levels. It is a major point of respectability and equity within the national community.

## **THE GLBTI COMMUNITY STILL EXPERIENCES DISCRIMINATION & INTIMIDATION:**

COPP is developing management plans at local & regional level to eradicate discrimination and achieve cultural change. COPP has used the process of conciliation described and implemented in the Tasmanian Anti Discrimination Act 1998 to achieve cultural change, so necessary in turning around the incidence of self harm and suicide in the GLBTI Community in Tasmania<sup>2</sup>. Equality in marriage is the most important. The lack of Federal law to formally recognise the relationship between same-sex couples (for example through marriage) leads to continuing equality and cultural mainstream recognition as well as continuing discrimination as follows.

- Young, adult and older GLBTI people still experience harassment, bullying and discrimination within the general community
- GLBTI young people 'in care' or institutions e.g prisons are very vulnerable to physical and psychological abuse.
- There is discrimination in the workplace, including harassment, constructive dismissal and diminished career opportunities
- There is discrimination in accessing aged care facilities, with aged care policies not adequately addressing the needs or respect of GLBTI people in Australia
- There are significant and unacceptable levels of homophobia and 'hate crime' in the community which escalates in rural and remote areas in Australia
- People who are sex and gender diverse face difficulties in obtaining official documents that record the sex or gender in which they live.

### ***Same Sex Marriage or Civil Union***

Central to this local and regional COPP planning is the restoration of same sex relationships to a position of equality with opposite couples. The exclusion of our relationships from the possibility of Marriage has stigmatised and damaged our communities well being as follows

- Same sex relationships are not perceived as of the same quality as

<sup>2</sup> According to a study of health compromising and suicidal behaviours among young gay and bisexual men in Tasmania conducted at the Division of Community and Rural health and issued in October 1999, The young Tasmanian gay and bisexual men surveyed were two and a half times more likely to seriously consider suicide than their heterosexual peers,

- opposite couples given their exclusion from the Marriage Act 1961.
- Same sex couples are made to feel that they are 'not worthy' of the same quality of relationship. Some Churches actually regard people as outside the marriage relationship as 'infamous' and their children as 'spiritually illegitimate'.
- Conservative religious organisations have been allowed to dominate through the Marriage Act the status of marriage and exclude for their own discriminatory narrow moral rules same sex couples. This is demonstrated by the automatic recognition of Religious Celebrant as Civil Celebrant with the right to exclude some sections in the community including LGBTI people from marriage.
- Same sex couples that have a spiritual aspect to their relationship are excluded from celebrating or acknowledging this in the Community.
- Children in same sex families are often victimised because they are not acknowledged as equal as children in opposite partner relationships because their parents are incapable of marrying.

Same sex couples being included in the Marriage Act would fulfil the most conservative view of marriage from a theological/philosophical perspective. This is defined in the primary and secondary ends of marriage being the 'procreation and rearing of children' alongside the secondary end of 'fostering mutual love'. Most would challenge this primary and secondary end view or at least reverse them.

Even by this most conservative and male oriented clerical view of Thomistic moral theology same sex couples can fulfil both goals and achieve and 'live out' family and domestic bliss in achieving the potential to most conservative views as do some opposite couples. Some would claim that same sex couples realise a more faithful union because they have to struggle to achieve respect for their relationships. This apart, the denial of marriage to same sex couples is an idiotic sham that has only prejudice for justification, there is certainly no realistic sense of justice or equality.

While established churches in Australia have a privileged position in the joint registration of Civil & Religious Marriage Celebrants despite the separation of Church & State; the federal Government excludes same sex couples from any civil recognition of their union. When State Governments attempt to get State recognition of same sex couples marriage the federal Government opposes this on the grounds that it is a federal sphere of law.

### ***Exclusion from Marriage for Same Sex Couples – Community Inequity and Family Disruption***

The 'fear factor' of being disclosed as being gay or lesbian, complicates health and well being objectives as it applies to the GLBTI Community. It has pushed a significant section of the GLBTI community into 'opposite couples' 'sham marriages'. Anecdotal experience in Tasmania indicates that one in four gay men have entered and dissolved opposite couple's marriages. This frightening accommodation made to escape the denigration of being in a same sex relationship causes awful affects leading to the eventual break up of marriages and community disruption as follows;

- Opposite partners are led into a marriage that is a sham causing both partners great disadvantage stress, mental depression and economic turmoil sometimes suicide.
- Children born to the marriage are confused and disturbed about the marriage divorce and separation of their parents.

- Dissolution of the marriage causes major disruption to peoples lives for many years with questioning of the partners life capacity and self confidence
- Property division and normal life is disturbed for both partners for long periods and from which they often do not recover economically, psychologically or physically.

Other areas of inequity that result from a restricted view and exclusion of same sex couples from marriage include the following;

- Professional and counselling support in preparation for life long unions is not provided or readily available.
- Professional and counselling support in maintaining relationships at times of crisis in relationships or support of children is not readily available or considered
- Domestic violence in same sex relationships is not negotiated within the community to the same degree of opposite couples.
- Because same sex marriage/civil union is not accepted at law most sexual and gender diverse people are not able to put a similar value on their relationships.

The denigration and homophobia existing in many communities seriously affects the wellbeing and therefore the general health of the whole GLBTI Community. This is especially true in most Tasmanian communities that have sections of 'religious fundamentalist', 'neo Nazi' and homophobic groups encouraging hatred, violence and victimisation of all associated with the GLBTI Community. This factor makes disclosure to authorities of hate and discrimination very difficult for most GLBTI people in the community and can only be resolved by a 'courageous' stand. Most people are not able to take this stand and would be unwise to do so without very good self-protection skills. Only a concerted and planned community approach in relation to issues of equity with highly developed strategies will work to improve health and well being factors. Respect and acknowledgement for 'same sex' unions /marriage would be the last barrier to discrimination in our communities being the cause of increased health problems and legalised abuse for sexual and gender diverse people.

### ***Recommendations***

- The Coming Out Proud Program unconditionally supports the private senator's bill that seeks to remove all discrimination from the Marriage Act 1961 on the basis of sexuality and gender identity and to permit marriage for same sex couples.
- Recommends that the Bill be a 'matter of conscience' in the House of Representatives and Senate.
- That Civil Celebrants be especially trained to conduct a ceremony in accord with cultural sensitivity to the sexual and gender diverse community.
- Civil Marriage ceremonies be prepared that engender and are respectful of the cultural sensitivity and spiritual sentiments of same sex couples entering a life long union.
- That special professional counselling and marriage/civil union preparation courses be provided that assist same-sex couples entering into a civil union that equates with marriage.
- That sensitive divorce and property settlement arrangement's are recognised at law for same sex unions or marriages that break down irresolvibly
- Parenting and adoption arrangements for same sex couples that equate with

children of opposite couples are adopted at law.



## **ATTACHMENT A: POSITIVE EXCLUSION AND DISCRIMINATION OF GLBTI COMMUNITY LEADING TO SELF HARM & SUICIDE – A WELL BEING PROFILE**

In 2005, here in Australia, a major study found that:

- 80 per cent of respondent gay, lesbian, bisexual, transgender and intersex (GLBTI) people had experienced public insult
- 70 per cent had experienced verbal abuse
- 20 per cent had experienced explicit threats
- 13 per cent had experienced physical assault

(McNair, R., Thomacos, N., *Not Yet Equal: Report of the VGLRL Same Sex Relationships Survey*. 2005. Victorian Gay and Lesbian Rights Lobby.)

Research in Australia also shows the results of this harassment:

- 55 per cent of gay men and lesbians had contemplated self-harm as a direct result of bullying
- 40 per cent had attempted self-harm or suicide on at least one occasion
- 30 per cent had done so more than once.

(Rivers, I., *The Bullying of Sexual Minorities At School: Its Nature and Long Term Correlates*. Educational and Child Psychology. 2001 Vol 18. P39)

- 64 per cent of non-operative transgender people had contemplated suicide on at least one occasion in their lives
- 37 per cent had made at least one attempt

(Singer et al 1997, Xavier 2000, Kenagy & Bostwick 2001, Nemoto et al 2001, Clements-Nolle et al 2001, Risser & Shelton 2002. Cited from [www.nctequality.org](http://www.nctequality.org))

- Same sex attracted young people (SSAYP) are three times more likely to attempt suicide than heterosexual youth

(Howard, J. et al, *Same Sex Attracted Youth in Mental Health Promotion and Young People: Concepts and Practice*. 2002. Eds Rowling, L, Martin, G., Walker, L. McGraw Hill, Australia)

- Rural SSAYP are six times more likely to attempt suicide than the population as a whole

(Quinn, K., *Rural Youth and Same Sex Attracted Youth: Issues, Interventions and Implications for Rural Counsellors*. Rural and Remote Health. 2003 Vol 3.)

- 30 per cent of all homeless young people identify as gay or lesbian

(*As long as I have my doona: A report on lesbian and gay youth homelessness* [1995]. 2010 Gay and Lesbian Youth Service and the Australian Centre for Lesbian and Gay Research.)

And yet;

- 67 per cent of Australian doctors surveyed knew of instances where GLBTI patients had either been refused care or received substandard care as a result of their sexual orientation or gender identity

(Thomacos, N., *Enhancing and Promoting the Health and Wellbeing of all Gay Men and Lesbians in Victoria*. Lecture: University of Melbourne, Sept 2006)

***This exclusion and positive discrimination is also reflected in Tasmanian Statistics as follows***

## **PERCENTAGE OF GLBTI PEOPLE WHO HAVE EXPERIENCED ASSAULT BASED ON SEXUAL ORIENTATION**

### **TASMANIAN RESEARCH**

#### **Research Period Five Years or Over**

- a) **46%** amongst 16-26 year old Tasmanian gay and bisexual men (Menzies Centre for Population and Rural Health, 1998, sample=120)
- b) **46%** amongst 14-18 year old same sex attracted people in three Tasmania High Schools (La Trobe University Centre for Sex, Health and Society Research, 1998, sample=300)
- c) **32%** amongst 15-25 year old southern Tasmanian lesbians (Department of Community and Health Services and Hobart Women's Health Centre, 1998, sample=30)

#### **Research Period Previous Twelve Months**

- d) **12.5%** amongst gay men ("Tasmanian Council on AIDS and Related Diseases, CARD's Men who have sex with men survey", 1998, sample=88)
- e) **15%** amongst Tasmanian gay men (Project MaleCall, Macquarie University Centre for HIV social research, 1996, sample =140)

### **NATIONAL OR INTERSTATE RESEARCH**

#### **Research Period Five Years or Over**

- f) **33%** of lesbians (NSW gay and lesbian community study, "Off our Backs", 1992,

sample=40)

- g) **20%** amongst gay men and **11%** amongst lesbians (NSW Anti-violence Project, "Street Watch Report", 1997, sample=unsure)
- h) **20%** amongst gay men and **11%** amongst lesbians (Victorian gay and lesbian community survey, 1994, sample=1000)

### **Research Period Previous Twelve Months**

- i) **14%** amongst gay men and **12%** amongst lesbians (NSW Police gay and lesbian community survey, "Out of the Blue", 1995, sample=297)
- j) **11%** amongst Australian gay men (Project MaleCall, Macquarie University Centre for HIV social research, 1996, sample =3039)

## **PERCENTAGE OF GLBTI PEOPLE WHO HAVE EXPERIENCED ASSAULT AND VERBAL ABUSE BASED ON SEXUAL ORIENTATION**

### **TASMANIAN RESEARCH**

#### **Research Period Five Years or Over**

- k) **94%** amongst 16-26 year old Tasmanian gay and bisexual men (Menzies Centre for Population and Rural Health, 1998, sample=120)
- l) **91%** amongst 15-25 year old southern Tasmanian lesbians (Department of Community and Health Services and Hobart Women's Health Centre, 1998, sample=30)

#### **Research Period Previous Twelve Months**

- m) **47%** amongst Tasmanian gay men (Project Male Call, Macquarie University Centre for HIV social research, 1996, sample =140)
- n) **42%** amongst gay men ("Tasmanian Council on AIDS and Related Diseases, CARD's Men who have sex with men survey", 1998, sample=88)

### **NATIONAL OR INTERSTATE RESEARCH**

#### **Research Period Five Years or Over**

- o) **70%** of gay men and lesbians (Victorian gay and lesbian community survey, 1994, sample=1000)
- p) **79%** of gay men and lesbians (Victorian gay and lesbian community survey, 1999, sample=1000)
- q) **83%** of gay men and lesbians (NSW Police gay and lesbian community survey, "Out of the Blue", 1995, sample=260)
- r) **91%** of lesbians (NSW gay and lesbian community study, "Off our Backs", 1992, sample=40)

### **Research Period Previous Twelve Months**

- s) **40%** amongst Australian gay men (Project MaleCall, Macquarie University Centre for HIV social research, 1996, sample =3039)

### **PERCENTAGE OF GLBT PEOPLE WHO HAVE EXPERIENCED DISCRIMINATION BASED ON SEXUAL ORIENTATION**

#### ***Research Period Five Years or Over For All Studies***

#### **TASMANIA**

- t) **95.5%** amongst 15-25 year old southern Tasmanian lesbians (Department of Community and Health Services and Hobart Women's Health Centre, 1998, sample=30)

#### **NATIONAL OR INTERSTATE**

- u) **87%** of gay men and lesbians (Victorian gay and lesbian community survey, 1994, sample=1000)  
v) **84%** of gay men and lesbians (Victorian gay and lesbian community survey, 1999, sample=1000)

#### **DISCRIMINATION IN EMPLOYMENT (ALL INTERSTATE)**

- w) **59%** of gay men and lesbians in employment (Sydney University gay and lesbian community study in NSW, Vic and ACT, 2000, sample=1000)  
x) **45%** of gay men and lesbians in employment (Victorian gay and lesbian community survey, 1994, sample=1000)  
y) **40%** of gay men and lesbians in employment (Victorian gay and lesbian community survey, 1999, sample=1000)

#### **OTHER RELEVANT STATISTICS**

#### **DISCRIMINATION AND HARASSMENT IN SCHOOLS**

According to a study of attitudes to homosexuality amongst 300 students at Hobart's Elizabeth College released in September 1999,

- **8%** of students admitted to being homosexual or bisexual
- **32%** of males and **20%** of females admitted feeling uncomfortable around a homosexual person
- **16%** of students admitted to physically or verbally abusing someone on the basis of their sexuality.

#### **THE EFFECTS ON YOUNG GAY AND BISEXUAL PEOPLE**

According to a study of health compromising and suicidal behaviours among young gay and bisexual men in Tasmania conducted at the Division of Community and Rural health and issued in October 1999,

- The young Tasmanian gay and bisexual men surveyed were two and a half times more likely to seriously consider suicide than their heterosexual peers,
- **62%** of the young Tasmanian gay and bisexual men surveyed had experienced physical assault, and **94%** had suffered verbal abuse because of their sexual orientation,
- The young Tasmanian gay and bisexual men were more likely to experience conflict with parents and peers, lose friends because of coming out, abuse alcohol and have unsafe sex.

### **MENTAL HEALTH STUDY**

A study - conducted by the Australian Research Centre in Sex, Health and Society found that up to 31 per cent of gay people suffered anxiety disorders and depression compared with between 4 and 14 per cent of heterosexuals. Seventeen per cent of young gay women had tried to harm or kill themselves in the previous six months, compared with 2 per cent of straight women.

### **JULIAN PUNCH AM - COMING OUT PROUD PROGRAM STATE STEERING COMMITTEE**

<http://www.comingoutproud.org/>