



AUSTRALIAN COALITION FOR EQUALITY

Equality For Australia's Lesbian, Gay, Bisexual, Transgender & Intersex People

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Friday 28 August 2009

Committee Secretary
Senate Legal and Constitutional Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Via email - legcon.sen@aph.gov.au

Thankyou for the opportunity to make a submission in relation to your committee's inquiry into the the Marriage Equality Amendment Bill 2009.

Due to the volunteer nature of our organisation the below submission is a brief synopsis and overview. We acknowledge that range of LGBT organisations, including those specifically dedicated to the issue of marriage equality, will have provided the committee with substantial information for this inquiry.

Marriage Equality Amendment Bill 2009

The Marriage Equality Amendment Bill 2009 seeks to reverse a decision of the Australian Parliament made in 2004 to legislate that marriages recognised in Australia should be restricted to between a man and a woman. Further the bill seeks to remove the requirement for couples to state specific words as part of the process of being married.

The bill broadly makes the following three changes:

Update to the definition of marriage

The Australian Coalition for Equality broadly supports the intention of this amendment. However, we would propose the use of the term "sexual orientation" instead of sexuality. Sexual orientation is a term used in international law and we believe a more appropriate representation of the objectives provided for here.

Allow for couples to choose their own words as part of wedding ceremony

The Australian Coalition for Equality supports the concept of choice. In these two changes to the bill couples will no longer be required to say words of the governments choosing. This is respectful of various human rights principles including freedom of religion, where a traditionally religious couple may choose a set ceremonial service as outlined by their particular religious doctrine.

Further this change allows couples marrying in a ceremony performed by a civil celebrant to symbolically choose their own words to form both the legal and social bond of their marriage.

Allow for the recognition of overseas same-sex marriages

The Australian Coalition for Equality strongly believes that the Australian Government should make this change in order to be compliant with the principles of the Hague Convention of recognising overseas marriages.

Further it is the opinion of ACE that visitors and residents of Australia who have been legally married in Australia should face the humiliation of having their marriage not legally recognised whilst on Australian soil.

Case for Marriage Equality

Marriage as defined by the Marriage Act 1961 is a legal union between two people. It provides not only legal recognition between two people (as does recent defacto law changes) but it also provides a commonly understood opportunity to publicly declare and celebrate the union between two people.

The institute of marriage has changed over 200 year history of Australia. No longer is marriage allowed between men and a 12 year old girl. Consenting adults may now choose who their partner for life is, rather than being forced into an "arranged marriage". Women are no longer denied legal rights nor treated as property during a marriage transaction of business. Couples of mixed-race may now be married and recognised by the law. Marriages between people of Aboriginal heritage are no longer restricted as they were previously. People from differing religious backgrounds are no longer frowned upon by society if they enter into a commitment for life. Society in Australia now recognises and accepts divorce.

The 2008 reforms to remove discrimination against same-sex defacto couples, largely provided the same rights and responsibilities for all defacto couples compared with the traditional recognition of heterosexual married couples. Australia has celebrated these changes as an appropriate step towards the recognition that all couples deserve equal treatment before the law.

Yet individuals within Australia who desire the highest form of commitment between two people are excluded if their partner is of the same-sex. This is both discriminatory and contradictory to the Australian principles of a fair go.

Often it is stated that same-sex couples may not wish to enter into a civil marriage. In some small cases, this is true. A cornerstone to a free society is the freedom of choice for one's self. However, I would refer the committee to surveys of the gay & lesbian community conducted by the NSW Gay & Lesbian Rights Lobby in 2007 that indicated 74% of respondents believe the choice should be available to same-sex couples.

Equality is not a concept that should be served in halves. You are either equal or you are not. Recent surveys have shown that the Australian population supports equal marriage laws at an increasing rate. A poll conducted by Galaxy research in 2007 indicates that 60% of Australians support same sex marriage laws.

This increasing acceptance and evolution of the institute of marriage is not new phenomenon. Marriage has changed many times in the last 200 years to reflect changing

social attitudes. For example, adult men can no longer marry 12yo girls, people are no longer forced into arranged marriages, married women are no longer treated as property or denied legal rights, couples of mixed-race can now marry, marriages of mixed religion are no longer frowned upon and divorce is now permissible.

Australia is a civil society with no official national religion. The Australian Coalition for Equality would like to emphasize the point that the introduction of non-discriminatory civil marriage should not interfere with the religious freedom of doctrines that do not recognise same-sex unions.

We would refer the committee to various jurisdictions overseas where specific legislative protections have been made to ensure that no religious institution would be required to perform a same-sex ceremony against the principles of their doctrine. If the infringement on the human rights of people of faith is of concern to the committee, we would be more than happy to expand how this might be achieved.

We would remind the committee of the increasing number of religions in Australia who recognise same-sex unions. Religions who would welcome the opportunity to sanctify the union between two members of their church in a same-sex religious marriage. The continued denial to allow such religions to recognise a same-sex marriage in law borders dangerously on elevating some religious beliefs over other religious beliefs.

Further, the Australian Coalition for Equality would refer the committee to statistics available from the Australian Bureau of Statistics that showed 62.9% of marriages performed in 2007 were conducted in a civil ceremony, rather than a ceremony by a minister of religion. This compares to 40.3% twenty years earlier in 1987.

Often opponents to the principles of marriage equality refer loosely to social research that purports to outline the benefits of marriage.. Whilst unable to specifically respond to individual research provided to this inquiry, ACE would like to simply point out that this research seem to support the premise that marriage should be available to all couples to provide the maximum benefits for their relationships.

ACE would like to emphasize however that it does not support the premise that marriages or defacto relationships are more or less valid in and of themselves. It is the commitment between two people in the relationship that primarily influences the benefit of the relationship.

Conclusion

ACE takes the opportunity to once again thank the Senate committee for the opportunity to provide this brief submission.

ACE is happy to provide further information to the Legal & Constitutional Affairs Committee should this be required. ACE would also be pleased to appear before any hearings that may be held to expand on this submission or discuss any particular matters of interest to the inquiry.

Please feel free to contact me further on the details below as required.

Yours faithfully

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