



# **The case for allowing same-sex couples to marry**



**AUSTRALIAN  
MARRIAGE  
EQUALITY**

## MARRIAGE EQUALITY SUPPORTERS

**Clover Moore** Lord Mayor of Sydney

**Bill Hayden** former Governor-General

**Derryn Hinch** radio host

**Michael Kirby** former High Court judge

**Bronwyn Pike** Victorian Education Minister

**Alastair Nicholson** former Family Court Chief Justice

**Matthew Mitcham** Olympic gold medallist

**Kerryn Phelps** former AMA president

**Rob Mills** singer

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I have full confidence that one day gay marriage will be legal in this country. I have confidence in this because it's the right thing to do. But right now Australia has a choice. We can help lead the world, or we can be dragged reluctantly out of the dark ages.

**Wil Anderson**  
COMEDIAN

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# Why marriage equality?

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Australians believe in a fair go for everyone. That is why 62% say same-sex couples should be allowed to marry.

But the law still stops same-sex partners from declaring their love and commitment to each other, publicly and officially.

In 2004 the Marriage Act was amended to make it clear that marriage in Australia can only be between a man and a woman.

Even the recognition of overseas same-sex marriages is banned.

Australian same-sex couples can qualify as de facto partners and, in some states, enter civil partnerships. But this just highlights inequality in marriage.

This inequality sends out the false message that there is something second-rate about the love and commitment between same-sex partners. It reinforces discrimination against them and their families. It says Australia is not the tolerant, egalitarian nation we aspire to be.

## THE ACTION PLAN

Australian Marriage Equality (AME) has a plan to achieve marriage equality. We seek a conscience vote on reform from both major parties, as supported by 78% of Australians. This will allow the many members of parliament who personally support reform to vote for it.

But we also need public support to convince a majority of MPs to stand up for equality. If we all take action, equality will be achieved.

## FACTS AT A GLANCE

- 62% of all Australians, 72% of Australians with children, 48% of Liberal voters and 74% of Labor voters believe same-sex couples should be allowed to marry.
- 55% of Australian same-sex couples would marry if they had the choice and 80% support that choice.
- Same-sex couples can marry in other countries including Canada, Spain, South Africa, Portugal, Argentina, the Netherlands and Norway, as well as several US states.
- In Europe and North America the overall rates of marriage and divorce have not been adversely affected by allowing same-sex couples to marry.
- Major American and Australian psychological associations have found that same-sex relationships are as stable and committed as opposite-sex relationships and children are not disadvantaged by being raised by same-sex couples.
- 15% of male same-sex couples and 25% of female same-sex couples are raising children.
- 65% of marriages in Australia are performed by civil celebrants.
- The ban on same-sex marriages in Australia includes a ban on the recognition of overseas same-sex marriages and even on the documents Australians need in order to enter overseas same-sex marriages.

# The problem

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It is a dream of many same-sex partners to have that special day when they publicly and officially commit to each other in front of friends and family members.

But marriage equality is also about more than two men or two women walking down the aisle together. In the absence of a marriage certificate, same-sex partners can have problems proving they have legal entitlements.

## ALLAN'S STORY

I have a gay son. I have always loved him and always will, regardless of his sexual orientation. I feel that for him not to have the fruits of marriage, as I have for the last 30 years, simply goes against all democratic and basic fundamentals of life.

**Allan Swanepoel**

Studies have shown that exclusion from such a core social institution as marriage fosters discrimination in other aspects of life and has a negative impact on the health and well being of same-sex partners.

Exclusion from marriage is hurtful to those gay people who hold the institution in high esteem and seek to uphold its values.

## WHO ELSE IS AFFECTED?

**Same-sex partners who do not wish to marry.** The ban on same-sex marriages sends out the message that all same-sex relationships are second-rate, and is used to justify discrimination against gays and lesbians in other parts of life.

**Gay and lesbian youth.** Discrimination in marriage sends young gay people the message they are less valuable members of society and they hope in vain to fall in love and have a happy family life. Research shows this message contributes to the higher-than-average rate of suicide among gay and lesbian youth.


**The families of same-sex partners.** Parents, family and friends of gay people are denied the joy of seeing their loved one wed. Their children are denied the security and recognition that comes with having parents who are married.

**The institution of marriage.** Marriage is demeaned when it is used as a vehicle for prejudice and discrimination. It is doomed to irrelevance if it fails to embrace growing acceptance of same-sex relationships.

**The nation.** Australians value a fair go and equality before the law – values which are compromised by marriage discrimination. As Australia grows increasingly out of step with world opinion, our reputation as a tolerant country will suffer.

**Visit [www.australianmarriageequality.com](http://www.australianmarriageequality.com)**



A background image showing a crowd of people at a pride event. A large rainbow flag is visible on the left side. In the foreground, a young man with dark hair is smiling, and a woman with red hair is looking to the left. Other people are visible in the background, some wearing sunglasses.

**2001** The Netherlands allows first same-sex marriages in the world.

**2003** Same-sex marriages allowed in some Canadian provinces where they are open to foreigners. Two Australian couples married in Canada seek to have their marriage recognised by an Australian court.

**2004** Howard Government proposes Marriage Act amendment entrenching marriage as a male/female union and banning court recognition of overseas same-sex marriages. Labor Opposition supports the ban and it becomes law.

Massachusetts becomes first state in the US to provide marriage equality.

**2005** Same-sex marriages allowed in Spain and across Canada.

**2006** South Africa becomes first developing nation to allow marriage equality.

**2008** Same-sex de facto couples recognised in Australian federal law.

**2009** Rallies for marriage equality draw over 10,000 in cities across Australia.

Senate inquiry into Greens Marriage Equality Bill is largest in history with over 11,000 submissions in favour.

Victorian and Tasmanian state Labor conferences support same-sex marriage.

Marriage equality allowed in an increasing number of places from Norway to Iowa.

**2010** Catholic Portugal and Argentina provide marriage equality.

Marriage equality figures prominently in Australian federal election. Election of minority federal government with Green support opens up possibility for conscience vote.

Poll shows 62% of Australians support marriage equality and 78%, a conscience vote.



Flick and Claire at their ceremony in February 2010.



# The solution

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The Marriage Act is the last federal law that discriminates against same-sex couples.

A simple amendment to the Marriage Act allowing same-sex partners to marry and recognising overseas same-sex marriages will solve the problems caused by current marriage discrimination, and remove the one last major obstacle to full legal equality for same-sex partners. All the other aspects of marriage will remain the same.

Marriage equality will not force religious celebrants to solemnise same-sex marriages. They are already free to refuse to marry partners for whatever reason, and that freedom will continue.

## NO SUBSTITUTE

Studies from Britain and the US have shown that alternative forms of relationship recognition, whether they are called civil unions, civil partnerships, registered relationships or domestic partnerships, are not a substitute for marriage equality.

They do not have the same level of recognition as marriage, are misunderstood, considered 'the gay option' or dismissed as second best. This means that the legal rights of couples in these unions are sometimes not respected.

In the absence of marriage equality, other schemes for recognising same-sex relationships effectively label them as 'lesser' or 'different', reinforcing the second-class status marriage equality is designed to overcome.

This is why Australia's same-sex partners do not want any substitutes for marriage equality.

A national survey found 60% of same-sex partners in overseas civil unions and 78% of partners in Australian state civil unions would prefer to be married under Australian law.

'While marriage is universally recognised by the public, civil union status must be explained repeatedly to employers, doctors, emergency room personnel and the children of civil union partners.' **New Jersey Civil Union Review Commission**

'Nobody writes songs about civil unions.' **Beth Robinson, US activist**

Civil union schemes other than marriage serve an important purpose, giving couples who do not wish to marry a choice about how their relationship is recognised.

But if enacted at a federal level before there is equality in marriage, such a scheme would clearly be intended as a poor substitute for marriage rather than an alternative to it.

Some people believe a national civil union scheme would be a stepping-stone to full equality, but this has not been the case in places like Britain or New Zealand, and we already have alternative schemes at a state and territory level.

# Marriage and love

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Same-sex partners decide to marry for all the same reasons other couples marry – for legal security, to publicly celebrate their commitment, to provide greater legal protection for their children, or simply because they are in love.

Marriage remains the most important way we celebrate love and commitment in our society. Terms like ‘husband’ and ‘wife’ are universally recognised as connoting love, commitment and a shared life together.

When same-sex partners are told they cannot share in such an important and universal institution, they are effectively told their love and commitment is of a different and lesser quality. This is not true.

Same-sex partners love each other and make sacrifices for each other the same way all partners do. It’s time for the law to acknowledge this reality by allowing same-sex couples to marry.



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## MYTH & REALITY

### **Same-sex couples already have enough rights.**

Same-sex de facto couples have trouble proving they have rights when challenged. The rights of partners in civil unions or in de facto relationships are often not widely understood or respected. Only marriage equality provides same-sex couples with full legal equality and full recognition of their spousal rights.

### **Marriage will be demeaned.**

There is no evidence that heterosexual marriages have suffered, or that marriage is held in lower esteem, in those countries where same-sex couples are allowed to marry. The same argument was made against allowing interracial couples to marry and was proven baseless.

### **It will be a 'slippery slope'.**

In none of the countries that allow same-sex partners to marry have our predictions of slippery slope to incestuous marriages or human/animal marriages been proven right. Marriage equality is about equity between same- and opposite-sex couples, not a free-for-all.

### **Marriage is unchanging.**

Marriage laws once prohibited divorce, made wives the property of their husbands and banned interracial unions, but this has changed to ensure greater equity. Marriage equality for same-sex partners will make marriage more relevant to a society increasingly accepting of same-sex unions.

### **Same-sex relationships are short lived.**

In countries that allow same-sex marriages, divorce rates are the same for opposite- and same-sex couples. Large-scale studies of same-sex couples show their relationships are of the same quality and duration as other couples'.

## FREDERICK'S STORY

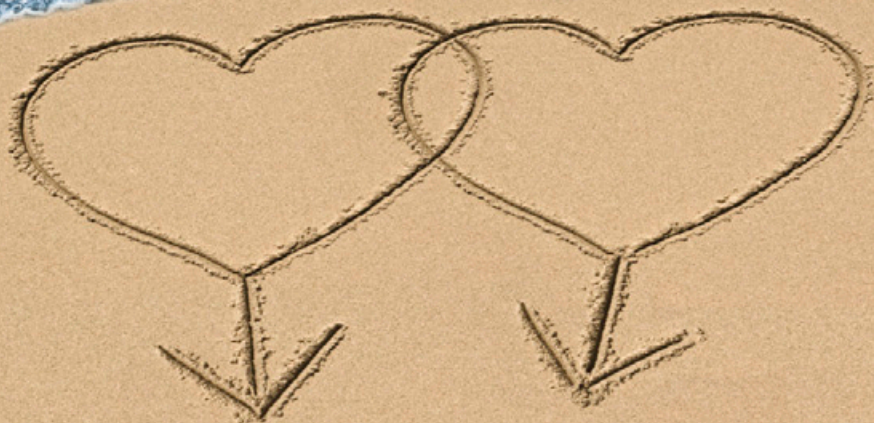
I have been in a happy relationship for 38 years. My partner and I were both migrants arriving to Australia in the 1950s. We were a controversial pair. He was German and I was Jewish. Not so long before, I spent my childhood and adolescence in a concentration camp. Yet we overcame a great obstacle because we found love was stronger than hate.

We built our lives together. We brought family to Australia, who in turn prospered and had families of their own. We lived in the same house we bought and had a wonderful relationship with our neighbours and people

at large. Our foundation was solid. We did not shake any heterosexual foundations.

We would have loved to be married and be part of society instead of outsiders. I think that in a more enlightened world there should be more understanding and tolerance for persons of the same sex to be allowed to marry and live equal as heterosexuals. With the staggering number of divorces around me I wonder how much stronger our foundation was by comparison.

**Frederick Weisinger**



# Marriage and society

Marriage not only fosters bonds between two partners in a relationship. It is also one of the most important institutions through which we find connection and a sense of belonging with our families and communities.

An example of this is the fact that marriage conventionally creates kinship between families as well as partners, hence terms such as ‘mother-in-law’ and ‘brother-in-law’.

This sense of inclusion and belonging results in real benefits. For example, research in those countries that allow same-sex marriages has shown that same-sex partners overwhelmingly:

- Felt marriage had increased their commitment and their sense of responsibility, and had generally strengthened their relationships, and
- Felt participation and acceptance in their extended families and communities had increased because of their marriage.

Families and communities also benefit when their gay and lesbian members have a stronger feeling of inclusion.

## STRONG PUBLIC SUPPORT

Year	Support
2004	36%
2007	57%
2009	60%
2010	62%

Independent national polls show support among ordinary Australians is growing. A majority of Liberal and Labor voters support equality, and three in four (78%) Australians believe that there should be a conscience vote when a bill to allow same-sex couples to marry is introduced in parliament.

## KIM'S STORY

I live with my partner, who is also female. According to the new laws, she is my ‘de facto’. But I really don’t think that that term even begins to describe what we have together. Our relationship has survived everything that has tried to pull us apart. We survived when I moved to a new state, with no money or work. In turn, I support her now, when she cannot work due to an injury. I take care of her on the days that she is in too much pain to move.

I drive her to all of her appointments, and I console her on the days when it’s all too much. I love her, and I would be honoured to call her my wife. Is this extraordinary? No. It’s just what any couple should do for each other. We have our good times, and our bad times, and we stick together always. How are we less than worthy? How are we not enough?

**Kim Burman**



# Marriage and the law

Same-sex partners will not have legal equality until the Marriage Act is amended to allow them the same recognition as opposite-sex couples. They also face practical legal problems because they cannot marry.

In the absence of a marriage certificate, they can have problems proving they have legal entitlements. This can be a problem in medical emergencies or other situations where one partner has to make decisions for the other.

## JULIANNE'S STORY

I married my partner of the same sex overseas in 2006. But the moment I stepped back onto Australian soil, my marriage was not recognised. My partner was hospitalised in 2007 and I was informed I had no more rights than a friend, hence I was only allowed in during visiting hours.

**Julianne Clark**

Another legal problem is that rights for same-sex de facto partners vary between states and between countries. Only marriage provides couples with certainty and consistency.

The failure of the law to recognise overseas same-sex marriages means the solemn vows made by same-sex couples who have gone to the trouble and expense to marry overseas count for nothing the moment they walk back through Australian customs.

## RELIGION AND MARRIAGE

In Australian law there has always been a clear distinction between civil and religious marriages. Today two-thirds of Australian marriages are performed by civil celebrants and not in churches.

This distinction is why the law allows marriages between people of different faiths or no faith. It is why the law allows divorce although Christian teachings condemned it, and why polygamy and child betrothal is not allowed, even though they are common in the Old Testament.

Denominations like the Quakers and individual celebrants in other faiths already marry same-sex couples. Their freedom of religion is violated as long as the law fails to provide the same-sex marriages they solemnise with the same recognition as the opposite-sex marriages solemnised by other faiths.



CREDIT: JESSIE BROOME



### DAVINA AND BECK'S STORY

By refusing to acknowledge our legally witnessed marriage overseas, you tell us we are not equal citizens in Australia. You tell us and the rest of the community that somehow our love and marriage is 'less than' the rest of heterosexual Australian society.

You make us feel unwelcome in our place of birth, compared to the compassion and understanding we receive in other countries that have true equality.

My partner and I were recently married in Canada, but upon flying home to Australia, our marriage is not recognised and this has brought significant sadness to not only our lives, but to both of our families, who were unable to travel to Vancouver to be with us on our special day.

We spent a small fortune to be legally married. This was money we had been saving to put towards our first home, but we made the decision to dip in to these funds to be married in a country where it was legally recognised and neither of us regret this for an instant.

It might be hard to comprehend if you are not in a same-sex relationship, but we are often not even sure what our rights are a lot of the time, especially in different states.

It is very sad that in this day and age in Australia, the land of the 'fair go', there is still a group of citizens like us who have to regularly devote significant chunks of time to working out what our rights are in different parts of Australia whenever we move interstate, buy a house or have children.

# Marriage and children

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There is no legal requirement or expectation that married partners must have children. That is why the law allows partners to marry if they are infertile, past child-bearing age, or just don't want children.

We should apply the same standard to same-sex couples. Their incapacity to conceive through their partner is not a reason to deny them the right to marry.

However, there is a widespread belief in society that marriage benefits children by providing them with a greater sense of security and recognition. Again, this should be applied

equally to same-sex couples and their children. Roughly 15% of male same-sex couples and 25% of female same-sex couples are raising children. These children should have the same opportunity as other children to enjoy the security and recognition that comes with having married parents.

The American and Australian psychological societies have reviewed the scientific literature on same-sex parenting and concluded that children raised by same-sex couples have the same level of intellectual, emotional, social and sexual adjustment as their peers.

A photograph of a baby's nursery. In the upper left, a white mobile with yellow and blue fabric pieces hangs against a blue background. To the right, a small bouquet of pink and white flowers is visible. The lower half of the image shows a white crib with blue vertical slats. On the crib's surface, there is a blue stuffed crab with a red crab on its back and pink flippers.

## ELIZABETH'S STORY

I lived with my mum and her same-sex partner from the age of 10. I could not have had a better set of parents. They are my role models when it comes to how a long-term relationship should look, and I hope my husband and I are as happy as they when we have been together for 20 years. Yet these women, who

I love dearly, are denied the opportunity to legally marry. They came to my wedding and celebrated with me — yet I cannot celebrate the same happy occasion with them. Their union is like a marriage in every sense, so why are they denied that legitimacy? Why was I denied the legitimacy of my parents being married?





## THE SITUATION GLOBALLY

The number of countries that allow same-sex marriages is growing so quickly that the table to the right will soon be outdated. In some places equality has been achieved by court decision, but in most by a vote of parliament.

## THE ECONOMIC CASE

- Gays and lesbians experience higher than average levels of prejudice, discrimination and hate crime — problems with a significant economic cost which are exacerbated by exclusion from a core social institution such as marriage.
- In its case for marriage equality, 'The Economist' magazine said: 'Marriage remains an economic bulwark. Single people are economically vulnerable, and much more likely to fall into the arms of the welfare state. Furthermore, they call sooner upon public support when they need care. Married people, the numbers show, are not only happier but considerably healthier.'
- It has been estimated that if the 55% of Australian same-sex couples who wish to marry spent the national average on their wedding, there would be a \$7 billion injection into the Australian economy.
- Because marriage equality makes sense in terms of social capital, the workforce and the economy, many major Australian employers recognise the same-sex marriages of their employees. These include ANZ, Commonwealth Bank, Westpac, St George, IBM Australia, Qantas, Seek, ING Australia, Telstra and the City of Sydney.

## Places that allow same-sex marriages and the date on which they were first performed

Netherlands	2001
Belgium	2003
Canada	2003–05 <sup>a</sup>
Spain	2005
South Africa	2006
Norway	2009
Sweden	2009
Mexico City (Mex)	2010
Portugal	2010
Iceland	2010
Argentina	2010
Massachusetts (US)	2004
California (US)	2007–08 <sup>b</sup>
Iowa (US)	2009
Vermont (US)	2009
Washington DC (US)	2009
New Hampshire (US)	2010

## Places where same-sex marriages are recognised but not performed

Israel	2006
Rhode Island (US)	2007
New York (US)	2008
Mexico <sup>c</sup>	2010
California (US)	2007–08 <sup>b</sup>
Maryland (US)	2010
Tasmania (Aus)	2010

## Places where same-sex marriages are imminent

Finland	Slovenia
Nepal	Paraguay

a. Provincially in 2003, nationally in 2005

b. Now pending

c. Performed in Mexico City state

# Take action

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- 1 Take the AME pledge.** We want as many Australians as possible to show they support marriage equality.
- 2 Write to your newspaper.** It's easy — just go to the AME website for information about how to make a difference where you live.
- 3 Support a conscience vote.** Visit [www.freevote.org.au](http://www.freevote.org.au) and send a letter to your member of parliament.
- 4 Start a conversation about it.** The most important change we can make is in those around us.
- 5 Make a statement at your wedding.** If you have gay friends or relatives, or just support equality, take a moment at your wedding to explain to others why everyone should be able to marry.
- 6 Share your story.** AME is collecting the marriage equality stories of ordinary Australians for future publication. Please send us yours.
- 7 Attend a rally.** There are regular rallies and other public actions for marriage equality. Check the AME website for details.
- 8 Learn more about marriage equality.** Be the best supporter of equality you can be. Take some time to read up on why equality is important.
- 9 Donate for equality.** Become a regular donor and watch your contribution help achieve equality.

## EQUALITY BOOT CAMP

AME conducts regular workshops to provide supporters of marriage equality with more information about the issue and to help them improve their advocacy and lobbying skills.

The workshops are a fun and educational way to improve your knowledge and skills and meet other people who share your passion for making Australia a fairer society.

[www.australianmarriageequality.com](http://www.australianmarriageequality.com)





Simon and Jonathan at their ceremony in 2004.

## BILL HAYDEN'S POINT OF VIEW

Yes, homosexual love is now tolerated by the law, but not marriage. There is a 'relationship certificate' available for them in Victoria, Tasmania and the ACT, the short end of the leash, civil partnerships.

These offer some protections but do not pass muster as real equality for gays which requires the provision of marriage rights.

If an Australian same-sex couple go, say, to Canada they can get a marriage certificate which is universally recognised and understood as symbolising the solemn commitment between two people.

The Labor Party had the chance to do something meaningful on this at its last national conference but squibbed it. Has it lost the belly fire for the big challenges of major progressive reform and the enshrinement of basic liberties for which I have so long admired it?

It is not as if Labor is uncaring. In 2008 it did remove discrimination against same-sex

couples in some 85 laws. But it is the big one, full recognition of gay people's marriage rights, which will really establish the depth of Labor's commitment to the principle of people's entitlement to be different but still fully valued law-abiding members of our society.

**Bill Hayden AC, former Governor-General**





Chris and Jozef at their wedding in 2006.



# About AME

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Australian Marriage Equality (AME) has been at the forefront of the movement for marriage equality since it was formed in 2004.

AME has a national committee which is responsible to a large and growing membership of gay and straight Australians.

## **AME's achievements include:**

- Securing recognition of overseas same-sex marriages by major companies and the Bureau of Statistics
- Commissioning regular opinion polls showing strong public support for marriage equality
- Initiating grassroots action
- Keeping the issue before the federal parliament and in the media

## **OTHER GROUPS FOR MARRIAGE EQUALITY**

- Parents and Friends of Lesbians and Gays  
**[www.pflagaustralia.org.au](http://www.pflagaustralia.org.au)**
- Equal Love  
**[www.equallove.info](http://www.equallove.info)**
- Australian Human Rights Commission  
**[www.hreoc.gov.au](http://www.hreoc.gov.au)**
- Law Council of Australia  
**[www.lawcouncil.asn.au](http://www.lawcouncil.asn.au)**
- Religious Society of Friends  
**[www.quakers.org.au](http://www.quakers.org.au)**
- Australian Coalition for Equality  
**[www.coalitionforequality.org.au](http://www.coalitionforequality.org.au)**
- National LGBT Health Alliance  
**[www.lgbthealth.org.au](http://www.lgbthealth.org.au)**



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Julie and Jayne at their wedding in 2010.



CREDIT: LISA ROWLINSON

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