

Same Sex Marriage in Australia

Australian law in relation to same sex marriage is effective to a certain extent due to the law reforms supporting de facto couples. However, the law remains largely ineffective as it fails to protect individual rights, adhere to new concepts of justice and reflect society's changing morals and values towards same sex marriage.

Marriage is the the legal or formal recognition of a union between two people as partners in a personal relationship. Traditionally, this union is specifically between a man and a woman. The definition of marriage has changed overtime and in order for the law to be deemed accurate and fair, it must adapt and change in order to reflect society's morals and values in today's modern world. Australian law has been reformed in order to accommodate these new changes in one aspect as it has introduced the concept of a de-facto relationship. A de facto relationship is defined in Section 4AA of the Family Law Act, 1975. The law requires that an individual and their former partner, who may be of the same or opposite sex, have a relationship as a couple living together on a genuine domestic basis. This reform proves that the law is effective because it recognises same sex couples and the changing values and morals of society.

This recognition is important because it also introduced and granted legal rights to same sex couples, as many are in de facto relationships. Under the 'Family Law Act', de facto couples have the same rights as married couples in regards to the division of property. The act itself also outlines the laws regarding property division, maintenance, financial agreements and the superannuation of people in de facto relationships. Unfortunately, a reason that the law is limited in its effectiveness in relation to same sex couples in this instance, is the fact that Australian law is lagging behind the ever changing values of society as countries such as America and more recently Germany, embrace marriage equality. "Two-thirds of Australians think that everybody should have equal access to express their love and commitment to their partner through marriage if they choose." (Amnesty International, 2017) The fact that so many Australians are accepting same sex couples and protesting for marriage equality alongside a major agency of law reform such as Amnesty International, proves that the legal system must also be willing to implement new and improved reforms as the number of supporters increases.

However, the law is still limited in relation to marriage equality because it has only reformed to recognise de-facto couples and does not completely take into account the rights of other individuals - mainly those in same sex relationships that seek a legal marriage in Australia. The quote mentioned previously by Amnesty International also links to this aspect because the law is clearly lacking, as it is unable to protect the individual rights of same sex couples. They do not have the fundamental rights of freedom of choice, freedom of expression and freedom from discrimination and the legal system is in a sense, discriminating against same sex couples because it does not allow them to have equal access to the law, fairness or equality because they do not have laws to apply/implement into their lives like other citizens or couples in society. An article published by 'The Weekend Australian' that has been shared countless times throughout the media, details how "72 percent of Australians strongly

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Lei Huang

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