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ALHR Supports Labor Conference Resolution on Same Sex Marriage

Stephen Keim, President of [Australian Lawyers for Human Rights](http://www.alhr.asn.au/) (ALHR), today, said that the organisation supported the decision of the Australian Labor Party conference to commit the Party to a policy of lifting restrictions on same sex marriage.

Mr. Keim said that ALHR particularly welcomed Senator John Faulkner’s statement at the ALP National Conference that:

“It is not for governments to grant human rights but to recognise and protect them. Human rights can never be at the mercy of individual opinion or individual prejudice.”

Mr. Keim said: “From a human rights perspective, the issue of same-sex marriage is pretty straightforward. All human rights are derived from the core principles of freedom and equality. Freedom includes the ability to express one’s sexuality. Equality means the right not to be discriminated against on the basis of sexuality. Denying someone legal status or recognition because of their expression of their sexuality is a violation of their human rights.”

“As we approach the sixty-third anniversary of the adoption of the Universal Declaration of Human Rights, it behoves us well to remind ourselves that the very first article of the Declaration reminds us that ‘all human beings are born free and equal in dignity and rights’. In the same way, the seventh article of the Declaration provides that ‘all are equal before the law and are entitled without any discrimination to equal protection before the law’.”

Mr. Keim said that he was aware of the argument that marriage had a fixed meaning that related to the union of a man and a woman in physical and social intimacy and, thereby, could and should not be changed. “This argument, however,” said Mr. Keim, “did not reflect the reality of the concept, of history, or of the law. Marriage, and the law which defines it, have, thankfully, evolved to recognise that children and women are more than just chattels of the male head of the family, a situation that subsisted in law and in fact in the not too distant past. Equally, the law has evolved to recognise the idea that women are partners in the relationship with their respective husbands and not prone to be called upon for sexual favours when or wherever the husband so pleases. An indication as to how recent this latest evolution occurred may be gained from the fact that it remained the effect of the law in Queensland, [until the late nineteen-eighties](http://www.brissc.org.au/resources/for/for_7.html), that a husband could not ever be guilty of raping his wife. Marriage will continue to evolve but now is the right time to recognise that people should no longer be excluded from accessing the institution simply because they are not from different sexes”.

“Gay men and women were forced by the criminal law and social exclusion, for a long time, to be silent and invisible in our community. Through their suffering and their struggles, the rights of gay men and women have been recognised in other aspects of social life. As AC Grayling has written in his excellent 2007 book, [*Towards the Light*](http://www.independent.co.uk/arts-entertainment/books/reviews/towards-the-light-by-ac-grayling-400626.html), the best argument against oppression and in favour of rights is not philosophy or logic but the blood and struggles of those who have fought to free themselves from that oppression. Gay people have shed their blood in support of their rights, well before the [Stonewall Riots](http://en.wikipedia.org/wiki/Stonewall_riots) of 28 June 1969, and have done so many times since in many parts of the world” said Mr. Keim.

“This history of sacrifice also dispenses with another argument against reform”, said Mr. Keim. “It is a poor argument that same-sex couples are not seriously deprived by this specific form of recognition of their commitment to partnership. It is because marriage is valued, whether for social and economic, or purely symbolic, consequences that flow from marriage, that it should not be withheld by the community. To withhold marriage on the basis that other civil advances have been made is a little like denying Afro-Americans or Aboriginal Australians the right to vote on the basis that, in the case of one, they are no longer slaves and, in the case of the other, their lives are no longer controlled by the Department of Native Affairs”, said Mr. Keim.

“The argument that marriage is an institution created for the procreation of children also lacks validity”, said Mr. Keim. “Such an argument is not only an insult to gay people who have successfully raised children in either same sex or heterosexual relationships: it is also an insult to many happy partnerships and marriages who have, through either choice or necessity, not been blessed by children”.

Mr. Keim said that ALHR had no particular views on whether the changes to the law should pass through the Parliament by way of free or binding votes as long as they passed in the relatively near future. He called on other mainstream political parties to address the issue as had the Labor Party conference.

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