

# Peter Tatchell Foundation

promoting human rights

**Peter Tatchell**  
Director

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Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

2 April 2012

Dear Secretary,

## **Submission re the inquiry into marriage equality**

My name is Peter Tatchell. I was born an Australian citizen in Melbourne in 1952. In 1971, I moved to live in the UK. I am very proud of my Australian heritage, regularly return to Australia to see my family and follow keenly Australian current affairs.

I am the Director of the London-based human rights organisation, the Peter Tatchell Foundation. I am also the national coordinator of the Equal Love (UK) campaign, which is working to end the UK's twin legal bans on same-sex civil marriages and opposite-sex civil partnerships.

For 20 years, I have been advocating, writing and campaigning in favour of ending the UK's ban on same-sex civil marriage; organising the first attempt by UK same-sex couples to apply for civil marriage, at Marylebone register office in London in 1992.

As you know, same-sex civil partnerships were legislated in the UK in 2004 and the first such partnerships took place in 2005.

Under UK statute, only same-sex couples can have a civil partnership. Opposite-sex couples are banned by law. The British government is planning to legalise same-sex civil marriages by 2015. However, it not proposing to permit opposite-sex civil partnerships (a curious and very wrong anti-heterosexual bias).

Civil partnerships were always seen by many lesbian, gay, bisexual and transgender (LGBT) people, and by many politicians, as a compromise and halfway house - an interim measure on the road to genuine equality ie. to equal marriage rights for all.

In 2004, it was argued by the then Labour government that same-sex civil marriage did not have majority public support and would have been impossible to get through parliament because too many MPs and peers opposed it. Civil partnerships were, it was claimed, the only practical, achievable option.

This calculation may have been true at that time. However, there was never any credible research of MP's voting intentions to demonstrate that it was true and, when the legal recognition of same-sex relationships was first mooted, there had been no authoritative opinion polls to measure public support for same-sex civil marriage.

In short, the government's rationale for civil partnerships was dubious and uncertain. It was also a tacit acknowledgement that they were not the ideal and ultimate objective; that civil partnerships were merely a pragmatic solution and a stop-gap measure until such time as there was definitive majority public and parliamentary support for marriage equality.

During the legislative process, no one ever tried to claim that same-sex civil partnerships were genuine equality. They were always deemed to be a compromise. Some people accepted this compromise; albeit often reluctantly. They conceded that it was not equality but that, at the time, something was better than nothing. In contrast, many other people saw civil partnerships as unequal and unacceptable from the outset. They never concurred with the compromise involved.

Now, with hindsight, and with the passage of less than seven years since the first civil partnerships, many LGBT people and politicians have expressed regret that they did not aim for marriage equality from the beginning, rather than settle for the second best option of civil partnerships. They conclude that same-sex civil marriage might have taken an extra couple of years to achieve but it would have resulted in equality.

If the UK was today considering the issue of civil marriages versus civil partnerships for the very first time, only a minority of people (mostly straight) would agree with civil partnerships as an acceptable compromise. In the UK, as in Australia, there is very strong LGBT and heterosexual support for marriage equality.

UK public opinion is overwhelmingly in favour of same-sex marriage. A Populus poll in March 2012 found that 65% of the public believe that: "Gay couples should have an equal right to get married, not just to have civil partnerships." Only 27% disagreed. This represents a steady increase in public support for marriage equality and a decline in public opposition, compared to the same poll question in 2009.

See here:

[http://www.populus.co.uk/uploads/OmGay\\_Rights.pdf](http://www.populus.co.uk/uploads/OmGay_Rights.pdf)

Most British people now acknowledge that civil partnerships were a compromise, to stave off demands for same-sex civil marriage and to appease the religious right.

Having two separate, mutually exclusive and discriminatory systems - civil marriages and civil partnerships - is seen by more and more people as unnecessary and unjustified. The consensus is that both systems should be open to everyone.

Civil partnerships are viewed as marriages by a minority of people (mostly by those who have had them). They are not publicly or officially recognised as marriages. Nor are they deemed by most people to be on a par with marriage.

One of the biggest practical complaints is that unlike civil marriages UK civil partnerships are not recognised abroad. This means that when civil partners go overseas on holiday, or relocate to another country, they have no legal recognition or rights. This creates serious problems when one partner falls ill, has an accident or dies.

Not surprisingly, many existing UK civil partners have expressed a wish to convert their civil partnerships into civil marriages when the British government legalises marriage equality. This is further evidence that civil partnerships are perceived by most LGBT people as second best, inferior to marriage and unsatisfactory.

In countries like Australia where there is already majority public support for marriage equality it is hard to see the need or justification for the "stepping stone" of legislating same-sex civil partnerships now and same-sex civil marriages a few years later. Why compromise and deny LGBT citizens equality when the consensus of Australian public opinion favours fairness and equality?

Nevertheless, some Australian politicians continue to insist that UK-style civil partnerships are sufficient for Australian LGBT couples.

This is, I regret, somewhat hypocritical. These politicians would never accept a ban on black people getting married. They would never agree with a law that required black couples to register their relationships through a separate system called civil partnerships.

It would be racist to have separate laws for black and white couples. We'd call it apartheid, like what used to exist in the old South Africa. Well, black people are not banned from marriage in Australia but same-sex couples are.

If a ban on black marriages would provoke an outcry, surely the ban on gay marriages should provoke similar outrage?

If MPs would not expect black couples to submit to civil partnerships, why should they expect LGBT couples to submit to them?

In Britain, most LGBT people feel that they have been fobbed off with a separate, discriminatory system - civil partnerships - which reinforces and perpetuates division and discrimination. Separate is not equal.

As I mentioned previously, under UK law same-sex couples are banned from marriage and only allowed civil partnerships. Opposite-sex partners can only marry and are barred from civil partnerships. These British discriminations based on sexual orientation are injustices that Australia should not repeat.

Having separate legal institutions for LGBT people and heterosexual people creates an artificial divide and perpetuates social division. It ignores the reality that love and commitment are universal and transcend sexual orientation.

For couples who want to marry, civil partnerships are not adequate and are not certainly equality. They are a form of discrimination and segregation.

Marriage is the internationally recognised system of relationship recognition. It is the global language of love. Civil partnerships are not.

When most people are young they dream of one day getting married. They don't dream of having a civil partnership.

Why penalise Australian LGBT youth by denying them the dream of marriage that is taken for granted and enjoyed by their heterosexual friends and families?

In Australia, there are already civil partnerships in some states and strong protections for common law partners, including same-sex ones.

It makes no sense to add another layer of discrimination by enacting a national civil partnership scheme that would perpetuate the differential legal status of gay and straight couples. Such segregation in law would be a backward step. It would be a form of 'sexual apartheid' to have different laws for same-sex and opposite-sex couples. In a democratic society, we should all be equal before the law. This means marriage equality for everyone.

LGBT people are expected to pay taxes, obey the law and, if necessary, defend their country, just like everyone else. In return, surely the state should accord its LGBT citizens the same rights and responsibilities as every other citizen?

Personally, I don't like marriage. I share the feminist critique of its history of sexism and patriarchy. I would not want to get married. But as a democrat and human rights defender, I support the right of others to marry, if they wish. Everyone should have a choice. No one should be subjected to enforced inequality.

That's why I believe that civil marriage should be open to everyone without discrimination.

Same-sex marriage is an idea whose time has come. It is the growing trend all over the world.

It's time for Australia, as a secular democracy, to legislate for marriage equality.

Yours Sincerely,

Peter Tatchell  
National Coordinator, Equal Love (UK)  
Director, Peter Tatchell Foundation